

ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA ASSEMBLY SESSION

MINUTES

April 29, 1975

This meeting was called to order Tuesday, April 29, 1975 by Mr. Barengo.

MEMBERS PRESENT: BARENGO, BANNER, HEANEY, LOWMAN,
SENA, HAYES, POLISH and WAGNER.

MEMBERS EXCUSED: HICKEY.

A Guest Register is attached to these Minutes.

Secretary of State William Swackhamer was present to testify before this Committee on S.B.499. He introduced Helen Stecker from his office. They maintain an active file and an inactive file, according to Ms. Stecker. These files are on rules and regulations. The active and inactive are in the same place and they need to separate them to be able to work with them more efficiently.

As to S.B.375, this bill is part of a three-bill package to strengthen security law and they had hearings before the Senate Committee. Mr. Swackhamer said that they had some witnesses who testified on the need for these bills. They do not want to make any value judgments on securities. A person will have enough information so reasonable men can make judgments as to whether security investments are good investments for the particular person involved. They would like to be able to better monitor the way the funds are spent.

Abner Sewell, representing the Secretary of State's Office, also testified on S.B.375. He is the Chief Investigator for the Office. These bills will give authority to halt what they might think is unregistered solicitations. They have a limited staff and must stop this procedure before it gets going. If they have the provision which is contained in this bill, then they can move just a little bit faster to take care of people purchasing these securities.

Mr. Swackhamer commented on A.B.416 and A.B.417, saying that they have not come out of the Senate yet, as amendments are being prepared. The Committee questioned Mr. Swackhamer as to the witnesses who testified before the Senate Committee.

William Beemer, Reno Township Justice of the Peace, and Richard Minor, Reno Township Justice of the Peace, testified as to A.B.718. Judge Beemer said that they were here to testify because they were interested in the measure itself. At this point he has no knowledge as to who brought this to the Legislature. It has merit, in his opinion. Justice courts through the years have been criticized severely for many reasons. In one area in particular--any reference to fees, but this is the very nature of the justices' courts.

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There was no provision when these courts came into existence to pay the judge for his services, other than to take it out of fees. Before very recently, the judges were divided on how they were paid. This situation has gradually changed. The court should perform those functions for which it is intended. And, doing away with fees in various areas would bring the justices' courts somewhat in line with the district judges. A.B.718, as he sees it, upgrades the situation further, and again it takes the justice of the peace out of the fee area. He feels that the marriage situation should possibly be excluded in regard to fees, or perhaps a portion of a fee for small claims. Judge Beemer feels that the justices' salaries should be tied to those of the district attorneys. Certainly the salaries should be made adequate if the Legislature is going to rule out private practice. He feels that if a man is precluded from practicing or working in an area in which he is trailed, then he should be properly paid. He feels the \$30,000-figure in Las Vegas is a good one. Passage of the bill would be a step forward, but he is concerned about adequate salaries.

Judge Richard Minor testified on A.B.718. He is more concerned with the job itself than he is with his own situation in the job. He likes the job, but also feels like Judge Beemer--that the pay level should be on a par with the district attorney. On this level you will have good people running the job and it will be an upgrading of the lower echelon of the judiciary.

Next, Justice of the Peace Tom Davis, Carson City, testified on A.B.718. He said he would like to comment that the Commissioners could be armed with the figures, and they know just how much work their justice of the peace does. They would have to consider that he would be receiving the same fees that a justice now does. He said he would like to repeat what the Sacramento Bee said, which was to the effect that they have been trying to be professionals--and, Judge Davis feels that it is time to get out of the fee system. He feels that with the Carson District Attorney's salary at \$20,000-, it would be acceptable to him and he feels it is fair.

As to A.B.672, Gene Milligan, Nevada Association of Realtors, said that their interest in the bill is on Page 3, Line 19, which proposes to amend the statutes regarding real estate licensing. Prior to the last session, the Nevada Association of Realtors reviewed the licensing law in view of requirements to obtain a license. They requested a change in the educational requirements, which requires some college credits from the applicant. They made a study that said 75% of the people who come into the industry are out of it within a few years. They feel that the brokers should be better prepared and made a number of other recommendations. They reduced the age for a salesman to 18 years, and left the 21 year requirements as the minimum age for a broker, as the broker shoulders quite a bit of responsibility. He is responsible for the acts of the salesmen. It is possible, because of the existing requirements, to now obtain a broker's license at 18. This is the reason that they oppose the reduced age for the brokerage provision.

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As to A.B.672, Jim Jackson, Nevada Physical Therapy Association, testified. He began with Page 3--the change of age from 21 to 18. Their Association considers whether this is a necessary act. It would be virtually impossible to meet their credentials at this reduced age. No applicant has ever been turned down because of age, because they have never had an applicant 18 years of age. They feel their malpractice insurance would be more expensive for them to obtain with the lowered age. He would like to see Line 4 taken out entirely and no age mentioned at all. Then, if a qualified person was 20 1/2 years of age, he could take the examination. He gave the requirements of their Association before a person can be qualified.

Assemblyman Jean Ford testified on A.B.667. This bill was drafted at the request of the Clark County Juvenile Court. The old language provided that the judge of the court could establish an advisory board to advise on child welfare matters. They are attempting to expand this and reflect some of the activities going on in the state regarding juvenile delinquency areas and make suggestions for better legislation in this area. They wish to change the board to "Youth Services Commission". In Clark Co. there is a very active Youth Affairs Office, and this needs to become coordinated with the County, as it is in the City of Las Vegas. The funds are available for the city program, in which the County should become involved. They added four things which their Commission could be concerned with:

(1.) The coordinating of the various agencies and organizations within the County. Mrs. Ford gave some examples.;

(2.) The development of necessary agreements. This group in Clark Co. has already proceeded in this matter regarding truancy.;

(3.) The initiation of other special projects. This would assist to get other organizations involved in this program. It would draw people in the County together to work in this area.;

(4.) The seeking out and securing of monies and resources. There are a considerable number of federal funds available for these areas. This is delinquency prevention money from Washington. There are more miscellaneous funds coming down the road in this National Delinquency Prevention Act.

Mrs. Ford feels this bill would be to the County's best interest, as it would prevent duplication of programs in the city and county by combining efforts. Mrs. Ford has been a member to the Advisory Board of this commission. Assemblyman Sena is now a member of the Board and was just appointed since the Legislature has been in session. Mrs. Ford commented that she thinks it unnecessary to put the city into the bill. The main reason for the bill is that the law was rather archaic to say just advise on child welfare matters, and they wanted it spelled out to include other matters.

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Mr. Orville Wahrenbrock testified on A.B.667, saying he represented the Youth Services Agency. They support this bill very much. There will be some federal money coming and they feel that it is a very positive approach to the whole program in Clark County. Clark County is the only county which has an active program such as this. If this bill is enacted, they will encourage other counties around the state to begin these type of programs, and they feel that the counties definitely need this input.

Next to testify was J. Kroll, Legal Advisor for the NIC, who testified on S.B.339. This bill is similar to the other bills being submitted. The Commission at the present time objects to the form of the bill. When an employee who is injured has an action against another person, this bill will try to restrict the amount of money granted to the person when the NIC is involved in compensating the injured party. But, on the other hand, there is a right of recovery against a third party. S.B.339 when it first was introduced in the Senate was ambiguous. He feels the present bill needs to be "cleaned up" in language, because you have to retain the rights of the insured claimant so he will not lose his rights for any claim which may be made against the third party tortfeasor. They recommend that this Committee postpone action on this bill until action has been taken on S.B.372. With the passage of the bill, the NIC would lose any of its rights to come after the third party if the insured claimant did not take any action. Mr. Barengo commented that S.B.372 is in the Labor and Management Committee.

Dick Brennan, Credit Counselors, Reno, testified on A.B.684 and A.B.691. He would like to suggest that these bill be combined into one bill. In A.B.684 the recommended changes would be to eliminate the stipulated time on contracts because the fee for service is controlled by a 15% charge of the total debt owed-- to be adjusted and paid. Many times the income changes and it is difficult to determine at the start the income and payment. The banking division has recommended that this change be made. Rewriting and renewing contracts are necessary if employment and other family circumstances change. The banking division also recommends the 36 month provision be deleted. Mr. Brennan completely explained how his business operates and which procedures are followed with his clients. He proposed many amendments to the two bills, as he went through both bills with the Committee. He explained how they receive money and pay the client's bills and take care of retaining services within the home if they are at a point where they will be discontinued. The debt adjusting services' initial concern was to get a law on the books to control their industry. Two years ago they were able to get the law, and they are happy with Mr. Lowman's efforts to assist them.

Mr. Brennan testified that the only change which has been requested is that under the old system they had a contract for a given period of time and a given amount of money. The change would be that the debtor can terminate the contract any time with notice, and the fee would be determined on a prorated basis and he would have no continuing obligation to the debt adjusting firm.

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Mr. Lowman commented generally on A.B.684 and A.B.691, by saying that changes in the law would enable the debt adjuster to at least collect his costs.

Messrs. Barengo and Banner and Mrs. Hayes had to leave the meeting at this point to attend a meeting of the Labor and Management Committee. Mr. Sena was appointed by Mr. Barengo as acting chairman.

Mr. Lowman and Mr. Brennan explained the debt adjuster fee system in detail. Mr. Heaney asked Mr. Brennan what would happen if the Committee did not pass the recommended amendments, and Mr. Brennan replied that they would operate the same way as they have been all along.

A/S Barton Jacka, Las Vegas Metro Police Dept., testified on A.B.696 by saying that it was introduced by Assemblyman Darrell Dreyer at the request of the F.B.I. They still have problems with trying to comply with a 15 minute period of time to "Stop and Frisk" under the law. 15 minutes is an extremely restrictive amount of time, especially in the smaller counties and rural areas. When the F.B.I., who is the watch dog for the other police organizations, requests this bill, Mr. Jacka feels there is good reason for asking for the additional time. He urges due consideration and passage of this bill. He gave his beliefs on the history of the bill--where people in larger cities were detained for hours and hours.

Chairman Barengo returned to the meeting after Mr. Jacka's testimony.

John Madole, representing the Associated General Contractors, testified on S.B.499. They support the bill but would like to suggest an amendment because of something which happened last year. He presented information to the Committee, which is attached to these Minutes. The amendment would bring the agencies under the administrative act. The various agencies usually notify them of changes in regulations and codes. However, certain agencies will not notify them, and they have to check weekly with those particular departments. They request that any agency of local political jurisdiction keep them advised of any changes. Chairman Barengo questioned the scope of the agencies to be brought under jurisdiction of this bill. Mr. Madole commented that perhaps there are some technicalities proposed which he has not given thought to. Mr. Lowman said it seems that this proposed amendment is quite complex just to have notice given, which should be done as a courtesy. Mr. Heaney said perhaps something should be done on a local level--perhaps an ordinance should be drawn. Mr. Madole said any change in the building code should be made known to them, so that their people are advised.

Chairman Barengo commented on S.B.521, saying that this bill seems to be a bill drafter's decision as to which words were used. This bill came from Senate Judiciary Committee. He explained some of the minor changes which this bill would make. The state agencies cannot appeal an administrative action because they are not a "person". So, the bill proposes to change the wording to "party". Mr. Lowman

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moved DO PASS S.B.521, and Mr. Polish seconded. The vote indicated 6 in favor of the motion with 3 absent for the vote (Hayes, Hickey and Banner). Legislation Action Form is attached.

MOTION CARRIED DO PASS S.B.521.

Chairman Barengo commented on the medical malpractice bills, S.B.400, S.B.401, S.B.403 and S.B.405, by saying he would like to take some action on these bills today so he can get them on to second reading. He got a call from the Governor saying these should be passed and the threatened anesthesiologists' walk-out might be averted. Chairman Barengo discussed the contents of these bills in detail, saying that he had studied them previously. He only received the bills yesterday.

Chairman Barengo would like to meet at noon today. He said that May 1 is the cut-off deadline on the medical malpractice insurance. Mr. Heaney said that we have to do something about the problem. Copies of these bills are not in this Committee's bill books. He said the Committee will be able to review the bills and discuss them at 12:00 noon.

There being no further business, Chairman Barengo adjourned this meeting at 9:55 a.m.

November 26, 1974

RECEIVED

NOV 27 1974

NEVADA CHAPTER A.G.C.

Mr. Rowland Oakes
Secretary Manager
The Associated General Contractors of America
Nevada Chapter, Northern Nevada Division
P. O. Box 7315
Reno, Nevada 89502

RE: Your letter of November 11, 1974, regarding REGULATION CHANGES

Dear Mr. Oakes:

Pursuant to your letter of November 11, 1974, it is my understanding that the NRS 233B.060, Subsection 2, pertains to State government, not local government.

If you will please advise me what changes, adoptions, amendments or repeals of our regulations you are interested in knowing of, I will be glad to be of what assistance I can.

Sincerely,


ARTHUR S. KOUNTZ
Chief Building & Safety Inspector

ASK/jrw

NRS 233B.030 is hereby amended to read as follows:

Definitions. In this chapter, unless the context otherwise requires:

1. "Agency" means each public agency, bureau, board, commission, department, division, officer or employee of the executive department of the state government authorized by law to make regulations or to determine contested cases, any political subdivision of this state, any other special district, public corporation or quasi-public corporation of this state, and any agency, board or commission established by this state or any of its political subdivisions, except: (a) The governor. (b) Any penal or educational institution. (c) Any agency acting within its capacity as administrator of the military affairs of this state. (d) The state gaming control board. (e) The Nevada gaming commission. (f) The state board of parole commissioners. (g) The welfare division of the department of human resources.
2. "Contested case" means a proceeding, including but not restricted to ratemaking and licensing, in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing. Nothing contained in this section shall be construed to require a hearing where not otherwise required by law or regulations.
3. "License" means the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law. "Licensing" means the agency procedure whereby the license is granted, denied, revoked, suspended, annulled, withdrawn or amended.
4. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party in any contested case.
5. "Person" means any individual, partnership, corporation, association, political subdivision or public or private organization of any character other than an agency.

6. "Regulation" means each agency rule, standard, directive or statement of general applicability that implements or interprets law or policy, or describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior regulation, but does not include:

- (a) Statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public;
- (b) Declaratory rulings issued pursuant to NRS 233B.120;
- (c) Intra-agency memoranda;
- (d) Agency decisions and findings in contested cases;
- (e) Regulations concerning the use of public roads or facilities which are indicated to the public by means of signs and signals, or
- (f) Any order for immediate action, including but not limited to quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the state board of agriculture, the state board of health, the state board of sheep commissioners or any other agency of this state in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control.

ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA SESSION

LEGISLATION ACTION

DATE April 29, 1975

BILL NO. S.B. 521

MOTION: _____

Do Pass Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Lowman Seconded By Mr. Polish

AMENDMENT: _____

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved By _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Barengo	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Banner	_____	_____	_____	_____	_____	_____
Hayes	_____	_____	_____	_____	_____	_____
Heaney	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Hickey	_____	_____	_____	_____	_____	_____
Lowman	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Polish	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Sena	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Wagner	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____

Banner, Hayes & Hickey absent.

TALLY:

ORIGINAL MOTION: Passed Defeated _____ Withdrawn _____

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes April 29, 1975
Date