

## SENATE JUDICIARY COMMITTEE

## MINUTES OF MEETING

April 16, 1975

The meeting was called to order at 8:30 a.m. Senator Close was in the Chair.

Present: Chairman Close  
 Senator Wilson  
 Senator Bryan  
 Senator Sheerin  
 Senator Dodge  
 Senator Foote  
 Senator Hilbrecht

SJR-19 Delete provision that county clerks are ex officio clerks of court.

Mr. James Ginnen, District Judge from Reno informed the committee that this provision originated and has been in the constitution from the beginning as an economy measure. At the time the constitution was adopted, it was possible for the county clerk to handle both positions. In Washoe County, it is now impractical. We have an elected court clerk and the court cannot, I believe, operate efficiently unless we can appoint our own clerk. If you are fortunate enough to have a clerk elected that will cooperate and follow the wishes of the district judges, then the problem does not exist. We are not concerned over what the person does as county clerk but we are concerned over what they do as court clerk as it affects us directly.

Senator Close questioned having several courts in each district and what would each judge do in that case, appoint his own court clerk.

Mr. Ginnen stated that you would have one court clerk and many deputy clerks. The court clerk would control all the files and matters in the office itself. In Washoe County we have taken what steps we can under the present provisions to separate those two offices. We have hired a court administrator but his job is being made more difficult because he cannot get the cooperation from the court clerk.

Senator Hilbrecht indicated it could be construed that each judge will believe it is their prerogative to appoint their own clerks. We will have to provide the framework by statute.

Due to the problems that many of the committee members there was no action taken on this bill and it would be discussed at a later meeting.

SB-428 Requires restitution to victim by person convicted of issuing fraudulent instrument and provides other liability.

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Fran Breen, Nevada Banker's Association, stated that she would like to draft some amendments to Section 4. She also stated she would like to confer with some people in the banks about the problems that the committee had with this bill.

Action was deferred by the committee until Ms. Breen could refer back to the committee on the above amendment and questions the committee had with such language as "Refer to Maker", "account closed" and "insufficient funds" as related to the bill.

SB-483 Makes private use of county motor vehicles unlawful.

Russ McDonald, Washoe County Manager, stated that the thrust of this bill is an attempt to adhere to good administrative procedures with respect to the use of county vehicles. In searching N.R.S. I found that the improper use of a county vehicle would not be criminal.

Answering questions from the committee Mr. McDonald stated that up until 24 months ago there was no restrictions placed on county officers as to when they could use their assigned vehicles. The problem became apparent during the energy crisis when more and more citizens began calling to complain about personal use of county vehicles.

There was no action taken on SB-483 during this meeting.

SB-484 Exempts deputy district attorney and deputy public defenders from county merit personnel systems.

Russ McDonald also testified on this bill stating that at the moment there are two counties, Clark and Washoe, where the law mandates the institution of a merit system for county employees. We fought this thing a couple of years ago, trying to rationalize that it might not be good to have a corpse of lawyers in the classified service who are there and are standard or just on the line of under the classification system and we can't get rid of them.

Senator Bryan noted concern about job security. In Clark County they have developed a corpse of career people that wish to stay with the District Attorneys office. Now what happens if every four years, with the change of administration, we lose these people. In the past there was always a mass exodus and I don't feel that works in the best interest of the public.

Russ McDonald noted that this was a good point and has been argued before. He feels that this problem is especially difficult when working with professional people.

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SB-485 Authorizes certain district attorney's county public defenders, their deputies and assistant attorneys to engage in private practice of law with consent of county commissioners.

Mr. Dale Murphy, Public Defender for Washoe County spoke in favor of the bill. He noted that the primary aim of the public office is to establish continuity and in order to avoid a heavy turnover we are requesting this legislation.

The policy of Washoe County is that an attorney may engage in private practice during his own time but is not allowed to interfere in the work of the public defender's office.

Mr. Morgan, Washoe County Public Defender's office, also spoke in favor of SB-485. He feels that the deputy defender should be able to practice law on his own time as this keeps them alert and ever aware of the changes in law. He also stated that this decision should be left to the local authorities.

Mr. Cal Dunlap, Assistant District Attorney for Washoe County, stated that they were in favor of SB-485. He concurred with the testimony given by Mr. Murphy and Mr. Morgan.

Senator Dodge asked what the salary range was and Mr. Dunlap indicated that at the recruiting level it is \$13,000. and the District Attorney himself receives \$26,000.

Mr. McDonald pointed out to the committee that the bill only points to the deputy's as the District Attorney is an elected official. You are all aware of the financial difficulties in Washoe county at the present time with the tax rate problem and it looks as though there may be a drastic cut. The Commission has suggested that you look at the bill in that it may help some of the problems that Washoe county is now facing.

Action was not taken during the meeting.

SB-486 Specifies number of law library trustees in various counties.

Kathy Slocum, Clark County Law Librarian testified, representing the Clark County Board of Law Library Trustees and the Clark County Bar Association. The President of the Bar Association, James Pekoe wanted Ms. Slocum to extend his apologies for not being able to testify on this bill. (See the attached testimony prepared by Ms. Slocum).

There was no action taken on this bill during the meeting.

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SB 487 Authorizes county commissioners to collect costs of care support from parent, guardian of child detained in detention facility other than pursuant to court order.

Mr. McDonald testified on SB 487. The problem with the recovery for the care and maintenance for non-ordered juveniles in detention homes is brought out by one of our independent audits. It has been the practice in Washoe County in the past to attempt to recover from parents and other responsible persons when they apprehend a runaway or some other individual juvenile, who is incarcerated but not subject to the juvenile court order. We have been attempting to collect and did collect. The auditors question the authority of the county and again I drafted this in a way that would seem to me our juvenile master attempts to order the parent or guardian when he's got jurisdiction to make payment to the county. The pick up here would give us a chance to at least ask the parent and if he is financially responsible, it would be worthwhile pursuing -- particularly at the local level.

Senator Close asked what is the cost per day?

Mr. McDonald stated that they eat pretty well. I'd say our average costs run around \$4.00 per day. He added that they did have school problems also. Most of them, however, are long term and are subject to the jurisdiction of the juvenile court. This bill is an attempt to fill this in because it is a means of revenue. This is a situation where we could generate some funds.

Action on SB 487 was taken later in the meeting.

SB 369 Limits deficiency collectible on repossessed vehicle.

Fran Breen of the Nevada Banker's Association stated that he is opposed to Subsection 3 of Section 1. He informed the Committee that the notice required in NRS 482.516 was extremely complicated in its specifications, for example, it has to be in 8 point bold type, contain certain specified language, etc. He stated that these specifications have nothing to do with whether or not the vehicle in question has been sold in a commercially reasonable manner. He stated that he was not arguing the theory of this bill, but rather the specifics of it. The way it reads now, if one of these items is omitted, the individual can come back and say that he did not receive proper notice. Additionally in this section, it says that the debtor has the right to recover "in any event", that is a strict penalty even if he is not damaged. The way this is written, the debtor would have the right to recover in the form of a penalty even though no damage occurred.

No action was taken at this time.

SB 455 Provides that the district attorney and sheriff of each county serve on the county license board.

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Senator Close stated that he had talked to the District Attorney in Clark County and he had indicated that he wanted to go on the Board.

Senator Bryan said that the Sheriff indicated that it was no big deal for the district attorney -- that he did not care one way or the other.

Senator Hilbrecht said that from what he had heard, the District Attorney was not particularly interested in it. There is some reason for keeping some semblance of an adversary proceeding involved with the Board who is called upon to make a judicial determination. The Sheriff, who would be a resource person, might sit on the Board. On the other hand, someone has to advance the position before the Board and it seemed to him that the logical person would be the District Attorney or his delegate.

Senator Bryan thought there might be a factual distinction. The Sheriff is the only Sheriff who does not serve on the Board at the present time, but there are no district attorneys sitting on any Board anywhere.

Senator Dodge stated that he agreed. Also, in further elaboration, doesn't the district attorney get involved in many of the cases resulting from the actions of the Board.

Senator Hilbrecht said that he would prefer to amend the bill to delete the district attorney. Also, he would like the record to reflect that there were objections to the restoration of the Sheriff by members of the County Commission, among others. When ever I was confronted with this, I told them to appear and give evidence before this Committee if they had any objections and the reasons for those objections. He thought the record would reflect that with the exception of the City of Las Vegas, no such presentations were made. For that reason he felt he had no other alternative then to be guided by the evidence that had been presented before the Committee.

Senator Dodge stated that he would like to go further and indicate, that while I have no direct interest, I made a specific request following the hearing of Mr. Adams, that if they really had some substantive reason for not wanting the Sheriff, that some of the members of the City Council should appear and indicate what those reasons are, because I thought that the Sheriff made a prima facie case the other day.

Senator Hilbrecht again stated that he would like all of the remarks entered into the record because he didn't want someone to allege that there were politics involved. It was perfectly clear that everyone, if they really felt that there was some difficulty with this, had an opportunity to appear. We have held this thing for a week now for this purpose.

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Senator Bryan agreed and that he had held discussions with several of the Commissioners who had voiced some objections; and he had invited them to testify and notified them of the hearing.

Senator Wilson stated that he thought the record should also reflect that all the County Commissioners were in the City during this time and were available to testify, but did not. We must legislate on the record; we cannot legislate on conversations. The record should disclose to the public the reasons for the actions taken and the record should be available for public scrutiny. I think the record should be clear in that respect. I think Senator Dodge is correct when he says that the Sheriff presented a prima facie case without opposition.

Senator Bryan stated that the only exception would be the resolution by the City, but Senator Dodge had given them the opportunity to come in and testify before the Committee.

Senator Dodge stated that that was right. He had not only done it once, but twice.

Senator Bryan said that in fact it was at Senator Dodge's request that they held the bill up. This was concurred with by Senator Dodge.

Senator Bryan moved to "AMEND AND DO PASS."  
Senator Sheerin seconded the motion.  
Motion carried unanimously.

SB 487

Senator Sheerin moved "DO PASS"  
Senator Foote seconded the motion.  
Motion carried unanimously.

SB 485

Senator Dodge stated that he was opposed to this legislation in that it is against the thrust of everything we have been trying to do in recent years in regard to private practice.

Senator Dodge moved to "INDEFINITELY POSTPONE."  
Senator Hilbrecht seconded the motion.  
Motion carried unanimously.

SB 484

Senator Bryan stated that he was not persuaded by the testimony presented and requested that the Committee withhold action until he could research this further. It was his understanding that all the larger offices around the country have their attorneys on a merit system of some sort.

No action was taken at this time.

SB 483 Makes private use of county motor vehicles unlawful.

Bart Jacka, Las Vegas Metropolitan Police Department stated that he felt the option should be left up the county. In his case, he is assigned a car on a 24-hour basis because he has to be available at all times. There is no exemption for that in the bill.

Senator Wilson suggested amending the bill to allow the county commission or whatever authority, to use discretion as to when a vehicle is being used for private or official use. This would take care of Mr. Jacka's problem.

No action was taken at this time.

SB 442 Makes extensive revisions in provisions relating to securities.

Due to the fact that it is too late in the session to process this matter, Senator Dodge moved to indefinitely postpone.

Seconded by Senator Foote.

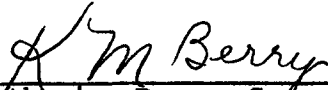
Motion carried unanimously.

SB 48 Requires public officers with legislative powers to abstain from voting on measures in which they have financial interests.


It was the general consensus of the Committee to rerefer this measure to Legislative Functions.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Katherine Berry, Secretary

APPROVED:

  
SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

CLARK COUNTY BOARD OF LAW LIBRARY TRUSTEES & CLARK COUNTY BAR ASSOCIATION  
POSITION STATEMENT & RECOMMENDATIONS REGARDING S.B. 486, CHANGING THE COMPOSITION OF THE GOVERNING BOARD OF THE CLARK COUNTY LAW LIBRARY

- 1. The Clark County Board of Law Library Trustees favors the proposition of broadening the base of involvement in the governing board of the Law Library within the Legal Community, in view of the fact that the Law Library is performing a vital service to a wide variety of legal entities, as well as individual attorneys.
- 2. The Board also approves the proposition of greater representation of the Clark County Bar Association on the governing board of the Law Library, in view of the rapid growth of the Clark County Bar Association and its need for an adequate Law Library facility.
- 3. However, since the Clark County Law Library is a supporting agency of the Courts, without which the Courts cannot effectively operate, and since the County Law Libraries were established primarily to provide the Courts with the necessary legal resources needed to perform their decision-making function, the Clark County Board of Law Library Trustees in conjunction with the Clark County Bar Association makes the following recommendations.

That S.B. 486 be amended to provide that 60% of the Clark County Board of Law Library Trustees be composed of the District Court Judges, selected by the District Judges thereof annually in January, and that 40% of the Clark County Board of Law Library Trustees be composed of members of the Clark County Bar Association, to be selected by the Bar Association at its January meeting.

The predominance of judiciary on the Board will insure that the Law Library will retain its essential character, that of a supporting agency of the courts, and will continue to properly serve the Courts in the proper administration of justice, and should insure continuity in the proper administration of the Law Library in regard to the acquisition and maintenance of needed legal materials.

The presence of Bar Association members on the Board who are appointed by the Bar Association will help the Board to keep pace with the needs of the growing Clark County Bar Association and the legal entities using the Law Library, and will insure that the Board will continue to be responsive to these needs.

The fact that the Clark County Law Library has been funded solely from civil action filing fees has minimized the involvement of the County Commissioners in the operation of the Law Library, since tax revenues and general fund monies are not available to the Law Library. The Clark County Board of Law Library Trustees does not anticipate requesting any general revenue fund monies nor ad valorem tax monies now or in the future for the operation of the Clark County Law Library. The sole involvement of the Clark County Administration in the operation of the Law Library has been to provide space for the Law Library, as required by statute. The Law Library has paid all operating expenses including, shelving, furniture and equipment, out of the Law Library Fund.