

MINUTES

JUDICIARY COMMITTEE

February 21, 1977

9:00 a.m.

Members Present:     Chairman Barengo  
                          Vice Chairman Hayes  
                          Mr. Coulter  
                          Mrs. Wagner  
                          Mr. Sena  
                          Mr. Ross  
                          Mr. Polish  
                          Mr. Banner

Members Absent:     Mr. Price

Chairman Barengo brought this meeting to order at 9:00 a.m.

Mr. Frank Daykin, Legislative Counsel, then advised the committee on various bills.

Assembly Bill 222:

Mr. Daykin stated that this bill was that of the State Health Officer's bill. This bill, he explained, conforms and separates out two separate offenses with respect to any person who applies for, possesses the birth certificate of another is merely guilty of a gross misdemeanor. One who manufactures, advertises or otherwise, traffics in these false identity documents or uses such a document is guilty of a felony, punishable by 1 to 6 years. A person who uses the false document in the commission of another offense will be punished by a fine or imprisonment equal to that required by statute for the primary offense. This is to separate out more clearly the provisions which were formerly in 447.465. The other part of the bill was a concern by the State Health Officer that he might be prohibited from disclosing ordinary in-house data. Considerable questions and discussion followed.

Mr. Jack Homeyer, Chief of Vital Statistics and Statistician for the Health Department, then testified on this bill stating that essentially this bill was drafted by his section of the Health Department. He stated that the reason for Section 1 of this act, is that according to a recent Attorney General's opinion, the current law states that the records are open for inspection, subject to the provisions of this chapter. The only prohibition that appears in Chapter 440 is against the issuing of certified copies and there, they are restricted to issuing certified copies only in a direct and tangible interest which they have found to mean a relative or someone with a legal or financial interest in the case. What this, in effect, means is that anyone may come to their office and request to see someone's death certificate and they are required to present this to them for inspection. Considerable discussion followed.

Assembly Bill 219:

David Hagen, Esq., State Bar Association, then testified on this bill stating that this is a mandatory Article 9 of the Uniform Commercial Code. The problem with improving on the language of the Uniform Commercial Code is not that it is not truly an improvement, but rather, that the Code then becomes non-uniform with the other 49 states. Mr. Hagen explained in further detail to the committee. Chairman Barengo asked Mr. Hagen if he could assist him in drafting the language for an amendment to the bill, having explained that this committee passed this

bill out of committee on Friday, February 19, 1977.

Assembly Bill 217:

Mr. David Hagen testified on this bill, making reference to page 5, he said that both in the case of a foreign corporation, we eliminate the requirement that the original documentation filed in the foreign state, need no longer be filed in Nevada, but, rather they just file a statement signed by an officer of the corporation before someone who was authorized to give the oath. He said that that might be fine, however, it eliminates from the records of the Secretary of State for future foreign corporations qualified to do business in Nevada, the opportunity to see what documents were filed in the foreign state. He feels that in this bill you will lose the opportunity to look at every piece of paper filed in order to cause that corporate existence to come about.

Secretary of State, William Swackhamer, testified on this bill stating that the purpose of this bill is two-fold. The principle thrust of the bill is to make some modest increases in charges for filing corporations in Nevada and to increase the fees for filing of the annual list. He explained the financial reasoning behind this stating that there are a large amount of corporations filed in Nevada with the minimum fee attached. Mr. Swackhamer explained in detail to the committee the very desirable corporation laws in this state. He stated that the last time the fees were raised was in 1959 and that their costs are going up each year. He discussed in detail the request for advertising fee and the fact that it is a very expensive type of operation and, he stated, that he didn't really think it did any good. As a result of that thought, Sen. Hilbrecht has introduced a bill in the Senate (S.B. 2) regarding this advertising practice.

Mr. Vernon B. Willis, manager of Blyth, Eastman, Dillon & Co of Las Vegas, Nevada and founder of the Nevada Bond Club and former officer of the National Association of Security Dealers, then testified in support of this bill. Mr. Willis stated that he and other broker dealers with corporations do not feel that it would impede or restrict the business that they now do with corporations both in and out of state. They feel that there is no visible effect in these increases in cost and, additionally, it might prove to be helpful to all in the business if the office of the Secretary of State has enough money to handle the enormous amount of information requests that they in the industry give to them. He detailed his thoughts further for the committee. He mentioned the names of many firms along with his, that find no problem with the increases of this bill.

Assembly Bill 224:

Mr. Frank Daykin, Legislative Counsel, advised the committee on this bill, stating that this is one of the two large revisor's bills for this session. The purpose of it is to correct defective or conflicting amendments which were made in the session laws at the last session. He made reference to the fact that in no case are they amending NRS, but, amending some session law passed in 1975 or 1973. The language conforms each section of NRS which is effective to the way it is printed in the supplement. Mr. Daykin then went through this bill, section by section, detailing it for the committee, stating that none of these makes any change in the substance of the law and only conforms defective sections of the session laws to NRS as it was printed.

Assembly Bill 226:

Mr. Frank Daykin, Legislative Counsel, explained to the committee that this is purely a technical bill which he had recommended pursuant to the duty to draw attention to obsolete or conflicting statutes. He said that the Advance Sheets are not supposed to be distributed without charge under present law either to the Attorney General or to Supreme Court Justices, although, they are supposed to be given to every District Attorney and District Judge. The other change is delivering to the Supreme Court Law Library a number of copies of the Advance Sheets, as well as, the printed session laws appropriate to secure the exchange of similar publications. Mr. Daykin stated that they could add Municipal court judges to this bill if they saw fit to do so. There would be no objection to that.

Assembly Bill 232:

Mr. Frank Daykin explained to the committee that this bill is necessary to take account of Judge Bruce Thompson's decision that a County Recorder cannot properly refuse to record a conveyance, for example, a post office site, to the United States where the United States has exercised the power of eminent domain. This merely spells out what the Court has said a Recorder must do anyway.

Assembly Bill 234:

Mr. Daykin stated that this bill removes conflicting penalties for controlled substance conspiracies. This was the subject of a Supreme Court Decision which applied noted that there was a conflict, and applied the lesser penalty.

Assembly Bill 236:

Mr. Daykin explained that this bill simply corrects terminology which was adopted inadvertently at the last session.

Assembly Bill 238:

Mr. Daykin explained that this bill, again, corrects obsolete terminology. In the Evidence Code there had remained references to narcotics, dangerous drugs, which were correct when the Evidence Code was drafted but became incorrect because at that same 1971 session, narcotic and hallucinogenic drugs were brought together in the reference "controlled substance". Therefore, they have carried that reference down into the Evidence Code. He further detailed this for the committee.

Chairman Barenco then advised Mr. Daykin that the committee would like to get a resolution drafted to study all of the criminal codes of violations of the law that are in the NRS. He stated that it would probably take an in-house council to compile all of the sections and then the interim committee can look at them and view them towards making them uniform, putting them into one book, raising the lower limits on some of the misdemeanors and felonies, etc. They want to have some general legislative overview to have consistency in sentencing throughout all of the crimes and also a comparison between crimes.

Assembly Bill 236:

Chairman Barenco asked Mr. Daykin if they could have an amendment made to this, pursuant to a request by Mr. Thompson, Deputy Attorney General, wherein under

this waiver of sovereign immunity, there is no waiver under the 11th Amendment for state's liabilities. Apparently, they are having some problems with federal suits being sued in other jurisdictions under Nevada law. Mr. Daykin stated that there is no problem with that and that he, of course, could not put into a revisor's bill, but, Mr. Barengo can certainly appropriate the revisor's bill to make it carry the change as well.

Assembly Bill 35:

Mr. William Mc Donald, District Attorney of Humboldt County, made some remarks to the committee on this bill. He stated that consolidating the municipal courts into the justice's courts would have the effect of establishing a jury trial for all misdemeanors committed inside city limits, which could have a devastating effect on traffic violation prosecution and the like. The present law does not allow a jury trial in municipal court and it is allowed in justice court. He stated that perhaps there should be some consideration of conforming justice court procedures to municipal court. Chairman Barengo advised all that he met with the Nevada Judges Association on Friday afternoon, February 18, 1977, and they indicated that they felt it had a good concept, but, it could cause many problems. He said that their association would support trying to consolidate the courts.

Assembly Bills 198 and 199:

Mr. William Mc Donald, District Attorney of Humboldt County, stated that they have a terrible problem knowing who is an ex-felon. He stated that they really need a very clear expression of who an ex-felon is for registration purposes, for possessing a firearm, for voting, etc.

Assembly Bill 215:

Chairman Barengo advised the committee in regard to the discrepancy of where this bill came from, he stated that he checked with Secretary of State Swackhamer and he had just forwarded this along with his package as a request and had forgotten about this one bill, as it was done in February of last year.

COMMITTEE ACTION:

Assembly Bill 224, Mr. Ross moved to DO PASS, Mr. Sena seconded it. This motion was carried unanimously.

Assembly Bill 226, Mr. Banner moved for a DO PASS AS AMENDED to include the municipal judges, Mr. Sena seconded the motion. This motion was carried unanimously.

Assembly Bill 232, Mr. Polish moved for a DO PASS, Mr. Ross seconded the motion. This motion was carried unanimously.

Assembly Bill 234, Mr. Polish moved for a DO PASS, Mr. Banner seconded the motion. This motion was carried unanimously.

Assembly Bill 238, Mrs. Hayes moved for a DO PASS, Mr. Ross seconded the motion. This motion was carried unanimously.

Assembly Bill 222, Mrs. Hayes moved for INDEFINITE POSTPONEMENT, Mr. Coulter seconded the motion. The following members voted "yea": Mr. Coulter, Mrs. Wagner, Chairman Barengo, Vice Chairman Hayes, Mr. Ross. The following members voted "no": Mr. Polish, Mr. Banner and Mr. Sena. Mr. Price was absent. The motion carried.



Assembly Bill 288:

Mr. Richard Dover, Southern Nevada Memorial Hospital Associate Administrator, then testified on this bill stating that the proposed amendment requires that the prisoner be responsible for providing any medical costs that are incurred. He stated that he really couldn't argue with that except for the fact that about 90% of them did not have the means to pay it and without stating a specific entity, county or whatever, to pay it in the event that they can't, the hospital is stuck with the bill. He would like to see some amendment where if the prisoner cannot pay, then the specific County entity would be responsible for that payment. Mr. Dover also stated that the County Commissioners are also opposed to that aspect. There followed considerable discussion and questions on how the hospital presently operates in this regard. Mr. Mc Donald, District Attorney for Humboldt County, also offered some remarks with respect to his county's situation. Mr. Mc Donald stated that the only time a sheriff pays is when a person is injured in the process of the arrest or is injured in the jail. Ultimately, Chairman Barengo stated, if there is an indigent prisoner, the county does pay. Mr. Dover stated that this is correct.

There being no further business, Mr. Ross moved for adjournment, Mr. Banner seconded the motion. Chairman Barengo adjourned the meeting at 10:45 a.m.

Respectfully submitted,



Anne M. Peirce, Secretary

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GUEST LIST

<u>NAME</u> (Please print)	<u>REPRESENTING</u>	<u>WISH TO SPEAK</u>	
		Yes	No
Jack Honeygar	Health Division	X	
Catherine Pinnegan	Supreme Court Library		
<i>Oliver</i>	<i>gov 227</i>		
<b>DAVID W. HAKEN</b>	<b>STATE BAR</b>		
Tom Moore	Clark County		
Joney Ginning			-
Olga Morgachkin	Vital Statistics		
Michael C. Dymms	" "		-
Wm Swadlow	Sec of State	✓	
VERNON B. WILLIS	<sup>NEVADA BOND CLUB</sup> BLYTH EASTMAN DILLON & CO	✓	