

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

February 1, 1977

The meeting was called to order at 9:00 a.m. Senator Close was in the Chair.

PRESENT:            Senator Close  
                      Senator Bryan  
                      Senator Dodge  
                      Senator Foote  
                      Senator Sheerin  
                      Senator Ashworth  
                      Senator Gojack

ABSENT:

SCR 3      Requests development of plan to provide full state funding and unitary budgeting for court system and directs court administrator to submit additional budget.

SB 151    Changes salary and duties of State Court Administrator.

Chief Justice Cameron M. Batjer; John De Graff, Judicial Planner for the Supreme Court; Mike Brown, Assistant Judicial Planner; and Dave Frank, Assistant Judicial Planner testified before the Committee on these matters.

Chief Justice Batjer stated that they were in favor of this legislation but that it was necessary for the legislature to determine, before getting down to any unitary budget procedure, just how far they want to go with this. He stated that the mandate of the people called for a centralized court system but that in order to comply with this mandate, it was necessary to establish a Court Administrator and appropriate staffing.

In discussing the staffing necessary for a Court Administrator, Mr. De Graff stated that they would need a total of 11½ positions. At the present time, and currently being funded by LEAA grants are: (Items in parenthesis are equivalent titles)

Judicial Planner (equivalent to Court Administrator)  
Assistant Judicial Planner (Director of Management and Budget)  
Legal Assistant  
Program Coordinator (Court Planning and Coordinating Officer)  
Principal Account Clerk (Court's Bookkeeper)  
Senior Clerk Stenographer

New positions required are:

Senior Computer Systems Analyst

SCR 3 Security and Investigations Officer  
SB 151 Legal Secretary  
Secretary/Receptionist  
Fiscal Analyst  
Management Analyst

(Security Officer and Secretary/Receptionist are shared positions with the Supreme Court)

Senator Foote informed the Committee that this bill was brought about as the result of an Interim Study done on Court Funding. She stated that with federally-funded LEAA grants certain materials, records and statistics were required and at the present time, there was no place to get these. The courts in Nevada are not on any type of centralized system as far as information goes and that the judges in each county can operate as they please. She further stated that it was the intent of the Interim Committee to establish some sort of procedure for accumulating data on a systemized basis.

Senator Sheerin requested that inasmuch as the bill was a result of an interim study and not requested by the Supreme Court, Mr. De Graff and his staff review the two measures and prepare: 1) the ultimate plan, one which they would like to have and 2) a bare bones approach, one which would get them started on a centralized system. He also requested that Gerry Lopez, Legislative Council Bureau, attend the next hearing on this matter.

No action was taken at this time.

SB 150 Abolishes punitive damages in civil actions.

Eugene Waite, attorney in Reno, Nevada testified in favor of this bill. He stated that at the present time punitive damages in effect, allows the jury to act as a private policeman to declare conduct a crime and to assess fines on private conduct just as a judge would do without any limitation as to amount and without any guidance as to what constitutes the crime or how much the fine should be. This bill would leave it to the judges and the statutory law to decide what is a crime and how much the fine should be. It would place this in the hands of professionals who would carry out the concept of punishment.

He further stated that in the event the Committee does not act on this, it was his feeling that all attorney's fees received from awards from punitive damages be turned over to the State Treasury for the benefit of the school fund.

SB 150 Kent Robinson, Nevada Trial Lawyers Association, testified against this measure. He discussed the business aspects of punitive damages that don't relate to personal injury cases, such as land fraud, investment schemes, etc. Many times pain and suffering are not allowable in a business-type of litigation.

In response to Mr. Waite's suggestion that this be taken care of in civil and criminal courts he stated that at the present time the courts have their hands full and the civil fraud division is unequipped to handle this type of situation.

Senator Thomas R. C. Wilson testified against this bill. He stated that this issue was more than a controversy between the defense and plaintiff's bar. There is a basic question here of whether or not there is room in the law for civil punishment.

He further stated that he felt there was a place for punitive damages and that they were not freely given; they are hard to prove.

Senator Cliff Young testified against this bill. He distributed for the Committee's review, an article by Thomas F. Lambert, Jr. entitled "Commercial Litigation - The case for punitive damages."

He stated that in his experience and the experience of his law firm, there had never been any punitive damages awarded.

George Vargas, attorney, testified before the Committee on this measure. He stated that in 1965 the Nevada State Legislature enacted some guidelines which provided that "for any action for recovery of money damages except in an action for defamation, punitive or exemplary damages may be allowed only where: 1) the defendant or defendants are guilty of actual oppression, fraud or malice; and 2) compensatory damages are allowed." This was repealed during the 1967 legislative session.

He explained to the Committee the three types of punitive damages which exist in law. They are:

- 1) Economic damages called pecuniary damages.
- 2) Compensatory damages for pain, suffering, etc. and are not susceptible of precise definition or determination.
- 3) Punitive damages which are assessed for either punishing a defendant or setting an example for the public in general

He stated that they had to determine the advantages of perhaps making an example of one and punishing him as against, on the other hand, the difficulties which are encountered in this particular type of a concept.

Mr. Vargas felt that the question before the Committee should be whether or not the statute as it stands is sufficient; should it be amended further to set up additional guidelines. Those are more important questions than the question of whether or not punitive damages should be abolished.

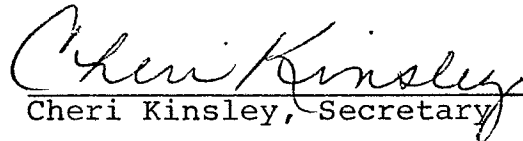
SB 150 Mr. Vargas cited several cases in which punitive damages were awarded. In particular, the case involving the Nevada Cement Company which he felt involved unreasonable punitive damage awards. He suggested that the Committee should decide whether or not punitive damages, to the extent they are allowable in Nevada, should not be insurable.

Further testimony on this matter will be taken on February 2, 1977.

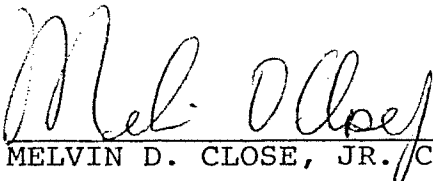
No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

  
MELVIN D. CLOSE, JR. CHAIRMAN