

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

FEBRUARY 18, 1977

The meeting was called to order at 9:10 a.m. Senator Close was in the Chair.

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

ABSENT:

SB 199 Provides procedure for failure to appear in court on traffic citation.

For further testimony see minutes of meeting for February 17, 1977.

Howard Hill, Director, Department of Motor Vehicles informed the Committee that he and John DeGraff, Judicial Planner for the Supreme Court had reviewed the bill as per their request. It was their decision that for the time being they would only concern themselves with the driver's license and perhaps next session examine the possibility of red-flagging the vehicle registration as well.

He stated that they were requesting a fiscal note of \$240,000 for the biennium. This figure is based on the estimated number of outstanding warrants at a cost of \$5 each. The reason for an appropriation spreading over the biennium is that should they find later that this amount is not enough to cover the cost, they could come back for a supplemental appropriation or go to the interim finance.

He further stated that at the time they had originally submitted their fiscal note they had had an additional two positions for a computer programmer and systems analyst which they have since lost. Therefore they are going to have to contract this programming out, which will require \$50,000 as a one-time cost.

Senator Sheerin stated that the general philosophy of the bill is good but that he did not think it would go through with a fiscal note of \$240,000. It was his opinion that something should be done towards the end of having the person who has the outstanding warrant foot the bill.

Mr. Hill replied that that would be fine with him although they would still require start-up funds.

SB 199 Senator Close suggested that perhaps the city or county could add an additional \$5 to the fine which could then be forwarded to the state. This would also be a city/county ordinance and would avoid the problem of the funds being placed into the State Permanent School Fund as is done on state fines. Mr. Hill stated that he had no problem with that as long as there were some stipulation as to when the money would be paid back to the state in that they would have to have money to keep in operation.

Tom Moore, representing Clark County informed the Committee that the county is opposed to having to pay the \$5 fee per warrant up front. At the present time there is \$874,000 in uncollected fines in Clark County alone. However, he felt that the County would not be opposed to the bill if the fee could be handled as Senator Close suggested. He further stated that Bob Broadbent, Association of County Commissioners had asked him to express the concern of the smaller counties over this measure.

In response to a question from Senator Bryan as to the feasibility of having the individual pay the \$5 when they come in to have their license renewed, Leonard H. Winkelman, Chief of Administrative Services, Department of Motor Vehicles stated that this would probably create more problems than it would solve, both administratively and from a public relations point of view. He felt it would put the DMV in the collections business.

Senator Dodge suggested that the Committee should check with the counties and cities and see if they would be willing to reimburse the state \$5 out of the \$50 fine collected on the failure to appear warrant. He felt the Finance Committee would possibly appropriate the start-up money for this program if they knew a portion of it would be repaid to the state.

Senator William H. Hernstadt presented two new bills pertaining to this subject. One, BDR 6-616 concerns moving violations. If there were two or more unsatisfied warrants out on an individual, they would be arrested on the spot and their driver's license taken away. They would also not be able to register their car until the warrants were cleared. The other, BDR 6-617 involves parking violations. It provides that if there were 5 or more parking tickets on one vehicle registration number then the registration would not be renewed. He felt it was the responsibility of the owner of the vehicle to clear the violations whether he was driving the vehicle at the time or not.

He further stated that it was his feeling that the failure to appear problem is tied in to people who are non-insured motorist and who probably have a higher percentage of accidents. He felt that this was a state-wide problem and that there should be a comprehensive law enforcement program to combat it.

SB 199 In responding to Senator Hernstadt's proposals, Mr. Hill and Mr. DeGraff both felt that this would more than double the anticipated costs of the program. They also had no idea what the financial impact would be nor how to go about pinpointing which vehicles had more than 5 parking violations. Senator Ashworth commented that he felt parking violations should remain on a local level.

Richard Bunker, representing the City of Las Vegas expressed concern that there was no indication of the fiscal impact. In reading from the fiscal note he stated: This office cannot verify the estimate of 2,000 unanswered traffic tickets per month and is therefore unable to comment on the reasonableness of the estimate. He further commented that the City could not support this measure until more substantial figures were available.

Bob Warren, Nevada League of Cities agreed with Mr. Bunker's testimony.

Robert Taelour, Reno City Marshall testified in support of this measure. He stated that California has basically the same program. He suggested that the Committee extend the 30-day period for failure to appear warrants in that that was not an adequate time period. He felt 90 days would be more workable. In response to a question concerning his use of Scope, he stated that it was not economically feasible for him. He cited an example of a person being picked up in Las Vegas with an outstanding warrant of \$45. It would cost considerably more than that to bring him back.

Tom Davis, Justice of the Peace, Carson City representing the Nevada Judges Association testified before the Committee. He agreed that the \$5 fine will pose a problem especially if the counties are expected to pay up front. He stated that the failure to appear warrant is considered as a contempt of court charge and by law, all fines must go to the state. However not all counties have contempt laws. Senator Bryan asked if there would be any reluctance on the part of the counties in general to create a contempt provision. In terms of recovery of the fine, the problem could be solved by simply creating a general contempt power by ordinance and bringing the failure to appear under that. Mr. Davis replied that he did not think so. The legislature gave them very broad general contempt powers two years ago which allowed for a good deal of discretion on their part.

No action was taken at this time.

SB 201 Eliminate conflicting time period to appeal water rights judgment to Supreme Court.

Senator Sheerin informed the Committee that this measure arose out of a Carson City case where they were trying to drill wells in Douglas County and transport the water to Carson. An appeal was made to the Supreme Court and when filing an appeal, time is of the essence; jurisdiction is very important. If you miss the time dates, the court will throw the case out. In this instance the regular appellate statutes make reference to a 30 day time period while the water law allows for a 60 day period. Carson City filed in 50 days so they were under one time period but over the other. The case was resolved but this is the reasoning behind the bill.

Senator Bryan moved a do pass.
Seconded by Senator Sheerin.
Motion carried unanimously. Senator Ashworth was absent from the vote.

SB 163 Creates office and defines duties of public guardian.

Senator Close informed the Committee that he had spoken with Russ McDonald and that he had indicated that he did not want to get involved with trying to increase county officers salaries nor did he feel it was appropriate to give a percentage. He has drafted an amendment which will provide for no compensation.

In further discussion of the bill, it was the decision of the Committee to amend it further by making it discretionary for all counties rather than mandated for the large counties.

Senator Dodge moved to amend and do pass.
Seconded by Senator Gojack.
Motion carried unanimously. Senator Ashworth was absent from the vote.

SB 206 Increases interest rates on claims against estates and on judgments.

Senator William J. Raggio informed the Committee that this bill was suggested by Judge Charles Thompson in Clark County. This is an effort to update the statute, particularly the 3% interest rate on judgments in Section 2. The result of this 3% interest rate is that people would rather have their money out earning more interest and thus not pay the judgment.

The Committee agreed that the 3% figure should be raised to 7% but they felt it was inappropriate and inflationary to

SB 206 increase the interest rate to 9%. It was their decision to amend the interest figure to 7% in subsection 2 of Section 1 and in Section 2.

Senator Dodge moved to amend and do pass.
Seconded by Senator Gojack.
Motion carried unanimously.

SB 207 Guarantees employment of jurors following term of service.

Senator Raggio stated that this bill was also at the request of Judge Thompson. At the present time there is nothing in the law that protects a person from being discharged from his employment for serving on jury duty.

Senator Close expressed concern over lines 7-11 in that it does not specify how the employer is going to intimidate; whether it is coercion in favor of serving or coercion against serving.

Senator Gojack felt it should work both ways. You should not be coerced into doing your civic duty.

Senator Ashworth expressed concern over the situation where an employee who was called to jury duty and asked his employer to get them off and two weeks later the employee was fired for insubordination. He felt that this would give the employee a means of getting back at his employer.

Senator Bryan felt that there should be a strong public policy encouraging people to do their civic duty.

Senator Close suggested that by deleting "attempt" they could satisfy some of Senator Ashworth's concerns.

Dave Hagan, Nevada State Bar Association testified in support of this measure. He agreed with Senator Close that perhaps "attempt" should be clarified.

Members of the community who seek their remedy in court are deprived of a fair cross-section of jurors. The individuals with intelligence and incentive are usually very busy and they are precisely the people who should serve on these juries.

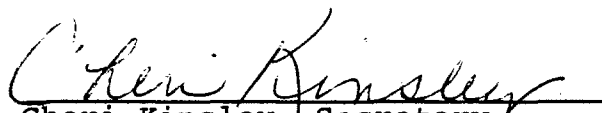
In further discussion of the bill, the Committee asked Mr. Hagan to return with some amendatory language that would clear up their concerns.

No action was taken at this time.

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There being no further business, the meeting was adjourned.

Respectfully submitted,


Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN