

MEMBERS PRESENT: Chairman Horn
Vice Chairman Bedrosian
Mr. Barengo
Mrs. Cavnar
Mr. Hickey
Mr. Malone

MEMBERS ABSENT: Mr. Harmon (excused for another meeting)

GUESTS PRESENT: Lloyd Mann, Assemblyman
Samuel Mamet, Clark County
Kent Dawson, City of Henderson
Frank Daykin, Legislative Counsel
Patsy A. Becker
Lester Wisbrod, KLAS-TV

Mr. Horn called the meeting to order at 3:03 p.m. He then appointed a sub-committee to study AB 147.

AB 147: Changes certain provisions of law regarding place and notice of precinct meetings and bans appointment of delegates to certain party conventions.

He said the subcommittee will consist of Mr. Horn, Mr. Bedrosian, and Mr. Malone and this subcommittee will meet on February 20th at 3:00 p.m. in Room 222. He added that letters of invitation would be sent to Grant Sawyer, Marguerite Segretti and Didi Carson to meet with this committee to hear testimony from interested parties from the southern part of the state. He explained that another subcommittee meeting would be scheduled later for testimony from the rural counties and the northern part of the state.

AJR 8 of the 59th session: Proposes to amend Nevada Constitution by deleting public administrators from list of elective county officers.

Mr. Horn explained for the benefit of the new members that this bill was referred to the Elections Committee last session, that it passed both the Assembly and the Senate, but because it is a constitutional amendment, it must pass two legislative sessions.

Assemblyman Lloyd Mann from Clark County, chief sponsor of this bill, stated this bill basically addressed a problem in Clark County, but in testimony last session, other counties felt they should have this right also. He said that the problem in Clark County was that it cost more money to get the job done than the job was worth. He added that there was a need in Clark County for the commissioners to bring this problem within their own framework by making it an appointive position to which they pay the salary. He explained that Mr. Rosenthal, present Public Administrator for Clark County, has spent almost \$30,000 of his own money to make this office worthwhile, but he can no longer

deal with the massive amount of work with the unreasonable amounts of fees. He added that because this is a constitutional amendment, if the committee amended the bill in any way it would have to begin again and go through two sessions of the legislature. He said that this bill simply gives the people the opportunity to solve their own problems.

Mr. Horn asked Mr. Mann to give some background on this bill.

Mr. Mann stated that after one person was indicted for trying to pressure relatives of deceased persons to pay extra monies on the side, the Clark County Commission drafted this bill during the last session. He added that it was a major campaign issue for several senators and assemblymen last session because of this problem and also because of negative publicity concerning a man who bought his election to this position and then found it was not as profitable as he had thought.

Mrs. Cavnar asked if there had been any testimony in opposition to this bill last session.

Mr. Mann replied that he could not remember any negative testimony. He said that he thought the cow counties did not feel it was a bill they needed but were not against it. He added that in Reno they had somehow circumvented the constitution but it was not possible to do this in Clark County.

Mrs. Cavnar questioned why Mr. Rosenthal ran for reelection when he had so many problems in this position.

Mr. Mann answered that Mr. Rosenthal is a bright young man and he thought he could take the position and make it a paying proposition, but he has appeared before the commission asking for an increase in fees and additional support. He added that the County Commissioners feel that without the authority from the legislature to make this an appointive position, they are bound by the Constitution which says that this is a fee collecting office and they cannot take money from the general fund.

Mr. Barengo asked where it states in the Constitution that this is a fee collecting office and read where it stated this office could be abolished.

Mr. Mann suggested calling Mr. Frank Daykin, Legislative Counsel, because he remembered that Mr. Daykin had said that they could not do this, it must be a constitutional amendment.

Mr. Malone stated that Mr. Rosenthal was his next door neighbor and in talking with him, he felt Mr. Rosenthal thought that because he had spent \$30,000 of his own money some changes should be made but Mr. Malone did not think he wanted this position made appointive.

Mr. Hickey asked why Mr. Rosenthal was not present at this hearing if he was so interested in this bill and asked if he had been notified.

(Committee Minutes)

Mr. Horn answered that he felt that Mr. Rosenthal was aware of this hearing but that he had not been formally notified.

Mr. Barengo asked if all county administrators had been notified of this hearing.

Mr. Horn stated that county officials had been sent agendas for this meeting but administrators had not been formally notified.

Mr. Mann stated that two years ago all public administrators had been notified and there had been no opposition.

Mr. Barengo said that the same people were not in office now as were two years ago and as a courtesy these people should be notified.

Samuel Mamet, representing Clark County, gave copies of written testimony on AJR 8 to each member of the committee which is attached as Exhibit A. He also gave them a copy of a resolution from the Association of County Commissioners attached as Exhibit B.

Mr. Mamet summarized his written testimony and explained why the auditor was included in this bill. He explained that this was done to clarify this office as not being an elected office. He added that this bill was not directed at any individuals but was to correct an unworkable situation.

He stated that legislation would be introduced this session, contingent upon the passage of AJR 8 by the voters, which would allow Clark County to establish an appointive office of public trustee. He added that this legislation will also combine the various functions of the public guardian. He said that this bill is directed only to Clark County but there is a provision allowing other counties to do the same if they wish.

Mr. Barengo asked why, if there are other procedures in other counties where there is not an elected public administrator, can't this be done in Clark County.

Mr. Mamet said that this same question had been raised two years ago in the Senate Government Affairs Committee and quoted Mr. Daykin's response: "The only need for constitutional amendment in this case would be that if the legislature ever wanted to recreate the office or make it appointive, you could not do it unless you have taken it out of the mandatory elected law."

Mr. Barengo wondered why, if an appointive position of public trustee was to be created, could we not just say there is no job for public administrator, thus solving the problem without legislation.

Mr. Mamet said he wished it was that simple but that the attorneys that he had spoken with said that public administrator must be taken out of the constitution.

Mr. Malone asked what, if there are no steps to safeguard money and property by the public administrator as Mr. Mamet stated, does he go by.

Mr. Mamet stated that the problem is that NRS 253 does not define any direct line of authority relative to the public administrator. He added that the only thing this office must do is file quarterly financial reports to the Board of County Commissioners.

Mr. Horn stated that it was very serious business when the legislature is asked to tamper with the constitution especially taking the right from the people to elect a public administrator. He asked Mr. Mamet if had received instructions directly from the members of the Board of County Commissioners.

Mr. Mamet stated that their board had endorsed this concept through their sponsorship in the last session and through the support of the resolution passed by the County Commissioners Association in November. He agreed that it was serious business to change the constitution, but said, as a layman, he was trying to relay to the committee the legal analysis they had received which is, so long as the office is delineated as an elected office at the county level whether it says diminish, reduce, increase, alter, or whatever language, that the public administrator must be deleted to be legally free and clear.

Mr. Hickey said he had heard there were six unburied bodies in Clark County and asked what the county intended to do about this and would this bill address this problem.

Mr. Mamet answered that as in the past the county was stuck again and would have to take care of the situation. He added that in practical terms the situation was a mess right now. He added that the legislation they are having drafted now would certainly take care of this situation.

Mr. Hickey asked if it were true that if some people die without money they were not being serviced.

Mr. Mamet said he had been told this but did not know if it was true. He added that he did not want to cast any dispersions on Mr. Rosenthal. He added that for the record he wanted the committee to know that they have been in contact with the present public administrator since September. He explained that they have had several meetings with him in which they have stated their concerns and the administrator has given his suggested remedies. He added that there are some differences of opinion but they have kept contact.

Mrs. Cavnar asked what the reason was for deleting auditors as well as public administrators.

Mr. Mamet answered that as he understood it from discussion last session several counties have combined the office of the auditor with other offices and that in Clark County they have an appointed

a comptroller. He explained that the auditor was added to AJR 8 as an amendment in the Senate Government Affairs Committee last session to clear up the existing problem.

Mrs. Cavnar stated that she did not like having the auditors appointed because they are reviewing the procedures and monies of the same people who appoint them.

Mr. Horn asked Mr. Daykin to explain to the committee why the constitution must be tampered with to remove the office of auditor as well as public administrator.

Mr. Daykin stated that the legislature could by statute abolish the office of public administrator or auditor and that is the reason that it has provided for the option in some counties of having no auditor and appoint another officer in his place. It could also do away with the office of public administrator, but the proposal which gave rise to this amendment was to have the public administrator but to have him appointed instead of elected, and in order to achieve that you must amend the constitution because the relevant article of the constitution, which you have before you there, says provide for the election of and fix their compensation and duties. So if you are to have someone who is a public administrator under this, he must be elected, that is under the present constitution.

Mr. Barenco asked Mr. Daykin if another public official who was elected could be assigned the duties of a public administrator.

Mr. Daykin answered yes that by statute this can be done, but without a constitutional amendment you cannot do what the original sponsors of AJR 8 set out to do which was to have the office of public administrator appointive.

Mr. Barenco asked if this resolution does pass and goes to the voters, would it have any effect on public offices before the end of four years.

Mr. Daykin answered that a constitutional amendment, once adopted, takes effect, if the legislature so enacts, on the date of adoption.

Mr. Barenco said that, in reality, this bill would have no effect without companion legislation and asked if any such legislation had been drafted.

Mr. Daykin replied that he did not know of any such legislation, but he would be happy to entertain a request of the committee.

Mr. Horn asked what, if this resolution should fail, would be the recourse, could the office be redefined.

Mr. Daykin replied that the office could be abolished, duties could be redefined, schedules of fees could be altered, counties could be required to appropriate money.

Mr. Barengo referred to the bill which Mr. Mamet said would be introduced this session to appoint a public trustee.

Mr. Mamet stated that they planned to introduce a bill which would reconstitute both the office of public administrator and the public guardian into an office of public trustee.

Mr. Barengo stated that he felt this was different than the original situation.

Mr. Daykin said that he felt that the committee would be on safer ground, even to do what Mr. Mamet stated, if they passed and submitted this amendment to the people with respect to the public administrator as well as the public trustee.

Mr. Mamet stated that this was the point that their county counsel has been making, that to make it clear so that there is no question legally, this amendment should be passed and this will clear up the discrepancy once and for all.

Mr. Barengo asked with reference to the doctrine that you must contrue each word and its meaning to do what it says it will do, why is there not power to abolish.

Mr. Daykin replied that these offices could be abolished, but if you abolish an office, it means you judge the duties of that office not necessary. He added that if you consolidate offices, it means you feel one person can do the duties of two or three offices.

Mr. Horn asked Mr. Daykin if the public administrator is deleted, then there is no power to abolish that office.

Mr. Daykin answered no and said the real reason for the amendment lies in the sentence which reads "The legislature shall provide for their election by the people, and fix by law their duties and compensation."

Mr. Horn asked how, if the office were abolished, can an election be provided for it.

Mr. Daykin answered that if you abolish it by statute, you are not going to provide for the election or the appointment which was the problem in the outset.

Mr. Horn asked if the office were abolished by statute and a public administrator was appointed under some other name who performs those functions, would this create a problem because something was being done that had been abolished.

Mr. Malone asked Mr. Mamet just what the problems were that they had encountered.

Mr. Mamet stated that these were outlined in his written testimony (Exhibit A).

Mr. Horn said that AJR 8 would be rescheduled for February 26th and letters would be sent out to all public administrators in the state informing them of this meeting. He added that the committee would hear only new testimony at that time.

Mr. Barengo stated that he felt that before the committee could act responsibly on this bill, they should be apprised of any new amendments or laws to correct the problems in Clark County which this resolution will not do.

¹²¹
SB 131: Changes date of primary elections in charter of City of Henderson.

Mr. Horn said that SB 131¹²¹ was added to the agenda as an emergency item by a vote of 2/3 of the committee to waive the rule of 5-day notice. Mr. Horn contacted and received an affirmative vote from Mr. Barengo, Mr. Harmon, Mrs. Cavnar, Mr. Malone and himself.

Ken Dawson, City Attorney for the City of Henderson, stated that this bill provides for the dates of the primary election in the City of Henderson to coincide with those of the other entities in Clark County. He added at the present time they would be a week off schedule. He explained that the county handles all election work and the extra cost to hold a separate primary election would be between six and twelve thousand dollars. He added that they appreciated the committee making this an emergency item and, if passed, would allow them time for printing of ballots.

AB 212: Corrects conflicting statutory provisions relating to commission on crimes, delinquency and corrections.

There was no testimony on AB 212 and the committee decided to hold the bill until they learned who had requested it and why.

AB 13: Prescribes order of offices and questions on ballots for general elections.

Mr. Horn distributed the proposed amendments to AB 13 which are attached to these minutes as Exhibit C.

Mr. Hickey explained that this was the amendment suggested by Mr. Colton in his testimony on January 29th. He moved to AMEND and DO PASS, seconded by Mr. Malone and unanimously carried by the members present with Mr. Harmon absent.

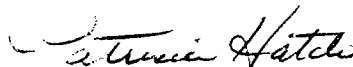
SB 121: Changes date of primary elections in charter of City of Henderson.

Mr. Barengo moved DO PASS, seconded by Mr. Hickey and unanimously carried by the members present with Mr. Harmon absent.

Mr. Horn said that the committee would not meet next Monday, February 19, because of the holiday and the next meeting would be on February 26th.

There being no further business, Mr. Horn adjourned the meeting at 4:10 p.m.

Respectfully submitted,



Patricia Hatch
Assembly Attache

60th NEVADA LEGISLATURE
ASSEMBLY ELECTIONS COMMITTEE
LEGISLATION ACTION

DATE FEBRUARY 12, 1979

SUBJECT AB 13: Prescribes order of offices and questions on ballots for
general elections.

MOTION:

Do Pass XX Amend XX Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Hickey Seconded By Mr. Malone

AMENDMENT: See Exhibit C.

Moved By _____ Seconded By _____

AMENDMENT: _____

Moved BY _____ Seconded By _____

VOTE:	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
BEDROSIAN	<u>X</u>	_____	_____	_____	_____	_____
BARENGO	<u>X</u>	_____	_____	_____	_____	_____
CAVNAR	<u>X</u>	_____	_____	_____	_____	_____
HARMON	<u>absent</u>	_____	_____	_____	_____	_____
HICKEY	<u>X</u>	_____	_____	_____	_____	_____
MALONE	<u>X</u>	_____	_____	_____	_____	_____
HORN	<u>X</u>	_____	_____	_____	_____	_____
TALLY:	6	0				

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

Attached to Minutes FEBRUARY 12, 1979

60th NEVADA LEGISLATURE

ASSEMBLY ELECTIONS COMMITTEE

LEGISLATION ACTION

DATE FEBRUARY 12, 1979

SUBJECT SB 131: Changes date of primary elections in charter of City of Henderson.

MOTION:

Do Pass XX Amend Indefinitely Postpone Reconsider

Moved By Mr. Barengo Seconded By Mr. Hickey

AMENDMENT:

Moved By Seconded By

AMENDMENT:

Moved BY Seconded By

Table with columns: MOTION (Yes, No), AMEND (Yes, No), AMEND (Yes, No). Rows include VOTE: BEDROSIAN, BARENGO, CAVNAR, HARMON, HICKEY, MALONE, HORN, and TALLY: 6, 0.

ORIGINAL MOTION: Passed XX Defeated Withdrawn

AMENDED & PASSED AMENDED & DEFEATED

AMENDED & PASSED AMENDED & DEFEATED

Attached to Minutes FEBRUARY 12, 1979

TESTIMONY ON AJR 8

The office of Public Administrator was created as an elected office at the time the State was small in population. In past years the State has experienced tremendous growth and the estates of individuals have become ever more complex. The office of Public Administrator has ceased to function as it was originally intended, creating an untenable situation with which we as County officials have to deal on a day-to-day basis. A good part of the problem lies in the fact that the position is mandated by the constitution as an elected office; a problem which is further compounded because the financial rewards under current law prohibit the proper operation of the office.

Today, we would like to discuss in some detail the concerns of Clark County with the administration of the office of the Public Administrator and to support AJR 8, which this committee is considering today.

STATUS OF THE OFFICE

Administering the estates of intestate deaths requires both financial and legal expertise. Yet among the contenders for the office and subsequent officeholders these prerequisites are seldom, if ever, met. The fault here lies both with the electorate, and state statute. Nowhere does the law mandate qualifications for officeholders and public ignorance as to the

scope and responsibilities of the office is great. It is not the kind of office which lures much public scrutiny, unless, of course, considerable improprieties surface which warrant front page coverage. The elective status which was once instituted to assure accountability has boomeranged to become the major aspect which allows abuses of the office to go undetected.

Neither the constitution nor NRS have allowed sufficient checks on this office, which although not glamorous or politically significant is a position of great responsibility considering its day to day contact with the personal property of citizens and visitors. This is an office, in our opinion, which requires a professional administrator, experienced in large metropolitan areas such as Clark County. It does not operate well in a political arena, and hence the office should not exist as a constitutional elective office.

FINANCIAL FRAMEWORK

As the office is structured by present law, it appears as if voters go to the polls to allow one of the contenders to establish his own business of intestate administration. The financial framework of the office allows no other assumption. Nowhere in the law is he given the support granted other elected officials and his sole remuneration is through fees collected off the estate as are granted other administrators and executors.

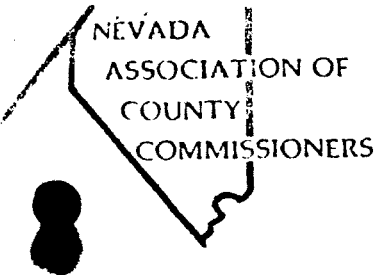
The initial amount a public administrator must invest is tremendous. Not only must he be bonded, but for each occurring

intestate death he must pay legal fees for acquiring letters of administration from the court, the warehousing necessary to preserve the personal property of the deceased, office space, supplies and any staff he may require according to workload. It has been estimated that the average monthly cost to operate the office effectively is \$4,000. All these expenditures must be met on a day-to-day basis and it will take a year, if not longer, until any income flows into the office.

After the most recent audit, that was done when the predecessor to the current public administrator resigned, this income appears meager indeed. During the six months this person was in office, 57 of the administered 82 estates were under \$300; that represents 70% of all the estates he handled. Estates of such small proportions will not even pay for the costs of each case, let alone afford the public administrator his 6% fee.

Confronted with such realities, it isn't surprising that officeholders are resigning with ever increasing frequency. Since May 1977, when the office became vacant after a long-time officeholder was relieved of his duties, Clark County has had four (4) subsequent public administrators. This high fatality rate has put the County Commission in the difficult position of finding a new public administrator every several months; a situation which prevents any kind of continuity or effectiveness in the operation of the office.

The argument that the most frugal solution is to retain the office at its elected status and amend state statute to



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STOREY COUNTY

VICE PRESIDENT
HAROLD DAYTON
DOUGLAS COUNTY

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- GARRY STONE
- SAMMYE UGALDE
- CHARLES VACCARO

EXECUTIVE SECRETARY
THALIA M. DONDERO
700 F. CARSON
LAS VEGAS NEVADA 89101

Regards Assembly Joint Resolution No. 8.

WHEREAS, Assembly Joint Resolution No. 8, as adopted during the 1979 Legislature, proposes amending Article 4, Section 32 of the Nevada State Constitution, by deleting the offices of public administrator and county auditor from the list of elected officials; and,

WHEREAS, those counties having elected public administrators have had difficulties in attracting and retaining officeholders due to the financial ramifications of the office; and,

WHEREAS, due to the complexities of present day governmental finance, county governments would best be served by an appointed county auditor.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Nevada Association of County Commissioners that:

The Association endorses the adoption of Assembly Joint Resolution No. 8.

1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Assembly	AMENDMENT BLANK
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to	Assembly
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Joint
Date:		Date:		Bill No. 13	Resolution No.
Initial:		Initial:		BDR 24-494	
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	Proposed by	Committee on Elections
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>		
Date:		Date:			
Initial:		Initial:			

Amendment N^o 29

Amend section 1, page 1, by deleting lines 9 through 15, inclusive, and inserting:

- "(a) Statewide partisan offices.
- (b) State senators and assemblymen.
- (c) County and township partisan offices.
- (d) Statewide nonpartisan offices.
- (e) District nonpartisan offices.
- (f) Township nonpartisan offices.
- (g) Questions presented to the voters of the state.
- (h) Questions presented only to the voters of a special district or political subdivision of the state."

Amend section 1, page 1, line 17, by inserting "statewide," before "county".

To: E & E
LCB File
Journal
Engrossment
Bill

Date 2-1-79 Drafted by JSP:sl