

Members Present:

Chairman Hayes
Vice Chairman Stewart
Mr. Banner
Mr. Brady
Mr. Coulter
Mr. Fielding
Mr. Horn
Mr. Malone
Mr. Polish
Mr. Prengaman
Mr. Sena

Members Absent:

None

Guests Present:

Barbara Bailey, Nevada Trial Lawyers
Sam Mamet, Clark County
Thomas R. Davis, Nevada Judges Association
Terry J. Reynolds, Administrative Office of the Courts
Doug Hill, Administrative Office of the Courts
Russell McDonald, Nevada Association of Counties
Will Diess, Las Vegas Police Officers
Joe Midmore, Nevada Consumer Finance Association
Tom Ainsworth, KOLO, KORK TV & AM
Bart Jacka, Department of Motor Vehicles
Ron Jack, City of Las Vegas
Jim Barrows, Las Vegas Sun
Stan Warren, Nevada Bell
Chuck King, Central Telephone
Larry Ketzenberger, Las Vegas Metro Police Department
Daryl E. Capurro, Nevada Franchised Auto Dealers Association
K. Galli
Assemblyman Robert Robinson

Chairman Hayes called the meeting to order at 9:04 a.m.

ASSEMBLY BILL NO. 134

Increases compensation of witnesses at hearings.

Testifying in regard to A.B. 134 were the following, with statements as follows:

Assemblyman Mike Malone, introducer of the bill, spoke in regard to the reason for its introduction. He noted the measure would increase the daily fee to witnesses testifying in civil matters from \$15.00 to \$25.00 per day per witness, and added that the present \$15.00 daily amount is not sufficient to persuade people to come into court; consequently, many cases are lost which is neither the fault of attorneys nor judges. Causation is that witnesses do not appear because the fee amount is not enough to encourage appearance, and cases are dismissed based on witnesses not appearing. He noted, too, that the \$25.00 is probably not enough either, but any less than that amount seems totally unrealistic. He also encouraged an increase in travel allowance from the present 15 cents/mile one way to 17 cents/mile each way, noting that the bill language had not included that increase because it was felt the fiscal impact might be too large.

In response to Mr. Horn's question, Mr. Malone answered that with the exception of police and highway patrol officers, city and state employees do not have to take leave of absence without pay in order to testify. The former (peace officers) are paid witness fees only when not on duty. He added that fiscal impact would reflect within local governments.

Mr. Fielding stated that he favors the bill but with amendments to increase the mileage amounts and travel coverage in both directions.

Next to appear was Bart Jacka, Director of the Department of Motor Vehicles. His concern was with administrative hearings DMV employees are required to attend, noting that present reimbursement by fees and mileage are inconsistent with what other persons are allowed under law. He advocated amounts of \$25.00/day fees and 15 cents/mile each way. He noted the fiscal impact to DMV presently, and stated that the amount budgeted by that Department of \$10,000 for a two-year fiscal period has been almost depleted, expenses to date being approximately \$9,700, noting that proportionate fiscal impact to the State.

Will Diess, representing the Las Vegas Police, stated that the increase in fees and mileage allowances would help both the peace officer and the private citizen, citing physicians and small businessmen as well. He added that the present rates do not even closely approach the minimum wage. He advocated raising both allowances in the bill.

Sam Mamet then presented information regarding the fiscal impact raising the witness fee to \$25 would have on Clark County. Figures he reviewed are noted on Exhibit A attached to these minutes, the total impact being an additional amount of \$158,710 in witness fees over amounts paid last year to witnesses. Consideration of mileage increases were not included in those figures.

It was noted that most employees of the county who are paid witness fees have the option of accepting those fees or regular salary, not both.

Mr. Mamet raised a point of information to the Committee relating to payment of out-of-state witness fees, citing provisions in two statutes, i.e., NRS 174.395 and NRS 50.235, the latter having been most recently enacted, stipulating limits of \$3.00/day witness fees and 10 cents/mile travel allowance.

Next to appear on A.B. 134 was Russ McDonald for the Nevada Association of Counties who addressed concerns of fiscal impact. He noted that local government must pay employees' witness fees whenever the witness appears under subpoena in a criminal matter, and projected budget for that item in Washoe County for the coming fiscal year is \$58,000.00 to cover the District Attorney's Office, Police, District and Justice Courts. The proposed statutory increase would add \$38,000.00 to that amount. He stated his feelings that more fiscal information should be compiled before passage of the bill, as each county within Nevada will be impacted, not necessarily uniformly. He added that doctors are usually called as expert witnesses, and there are special statutory provisions for payment of expert witnesses. Mr. McDonald added that with regard to civil matters, the losing party usually pays court costs. He suggested that all 17 counties should be given the opportunity to respond regarding their respective abilities to pay the increased costs if the bill amounts were raised to \$25.00 and 17 cents for fees and mileage and that those responses should be weighed before bill passage. He added that IRS allows 17 cents/mile and those deductible expenses might be individually absorbed by witnesses.

In response to Mr. Horn's earlier question, Mr. McDonald stated there is no fixed pattern regarding payment of Washoe County witnesses; rather, if an employee is subpoenaed in a criminal matter, payment of the fee and/or salary depends on the particular contract affecting that public employee. He stated further that voluntary witnesses do not have to be paid, only those subpoenaed. In answer to Mr. Brady's inquiry, Mr. McDonald said that traffic court is not a court of record, and payment of a police officer appearing in traffic court depends, too, on the contractual arrangement with the peace officer.

In answer to Mr. Stewart's question, Mr. McDonald said that provisions for payment of witnesses before passage of NRS 50.225 in 1971 were made under the Evidence Code.

In answer to Mr. Stewart's question, Mr. McDonald said that provisions for payment of witnesses before passage of NRS 50.225 in 1971 were made under the Evidence Code.

Next to appear was Ronald Jack, Deputy City Manager for the City of Las Vegas, who stated that Las Vegas employees have been paid regular salary when appearing as witnesses, a policy initiated two years ago. He added that Las Vegas Metro police are paid fees for appearances in municipal court. He felt that if the witness fee is raised, the raise will indirectly

affect that City in the form of demands within future contracts.

Chairman Hayes recessed the meeting at 9:35 a.m.; the meeting was reconvened by the Chairman at 9:41 a.m.

ASSEMBLY BILL NO. 28

Raises monetary limit of jurisdiction of justices' courts.

First to appear was the introducer of the bill, Assemblyman Robert Robinson. He stated the origin of the proposed measure was from a district court judge who had noted the span of matters applicable to small claims courts as contrasted with those applicable to district courts was too large. He stated the suggested \$1,200.00 justice court jurisdictional limit was thought to be equitable with the current cost of living index and projected 10 per cent per year increases for each of the next several years. He noted that similar legislation has been introduced this session in the Senate, and that the \$2,000.00 named in that proposed measure was deemed too high by some witnesses testifying before the Senate committee. He suggested this Committee might wish to amend the amount of \$1,200.00 under consideration if that, too, seemed inappropriate.

In answer to Mr. Stewart's question, Mr. Robinson answered that he had talked to one Clark County justice of the peace who felt the \$1,200.00 amount equitable. He added that raising the jurisdictional limit would most likely increase the justice courts' caseloads and would probably require more justices, an eventual fiscal impact. He added, however, that not increasing the limit would increase district court loads, a more costly fiscal consideration, wherein judges would have to be added to the district courts. Mr. Robinson further said that raising the justice courts' limit of jurisdiction would mean more attorneys would find litigation financially feasible in justice court, thereby decreasing the district court caseload.

Tom Davis, Justice of the Peace, Carson City, representing the Nevada Judges Association and Municipal Court Judges, stated that although he did not recommend any particular figure to which jurisdictional limits should be raised, the \$300.00 amount in the existing statutes was based on the average of three months' pay for a miner in Virginia City in the 1800's. Regarding caseload impact of the proposed increase, Judge Davis indicated that the hourly contribution of justices of the peace would be the same. However, increased numbers of cases would require additional personnel in order to prevent delay of case hearings; consequently, fiscal impact would come in the form of additional justices needed to keep the court calendar current. He noted that in Carson City, the part-time justice of the peace has his salary set only when the Legislature meets biannually, and the effects of an increased

caseload would demand more of his time without compensation, accordingly, unless provided by the Legislature concurrently with increasing jurisdictional limits of justice courts.

Mr. Brady noted that the present \$300.00 limit puts the small businessman in an unjust position. Justice Davis agreed that case amounts are often reduced by businessmen in order to come under the \$300.00 limit and apply to the small claims court category.

In answer to Mr. Horn, Justice Davis said the present caseload in his court approximates 800 to 900 cases annually for civil and small claims cases. In answer to Chairman Hayes' questions, Justice Davis said there are 60 justices of the peace in Nevada, 8 or 10 of whom are attorneys. He added that continuing in-service training is provided so that there should be no problem with present justices hearing these types of cases should the jurisdictional limit be increased for justice courts.

Next to speak regarding A.B. 28 was Terry Renolds, Judicial Planner with the Administrative Office of the Courts, followed by Doug Hill, Legal Advisor for that office.

Mr. Reynolds addressed potential caseload effects of the bill to the justice court system. He noted that a study of cases between 1968 and 1978 of district court civil cases showed the district court caseload had more than doubled in that time period, but the caseload in justice court had not increased appreciably during that same period. He distributed figures to the Committee which are noted on Appendix B, attached hereto. He added that dollar amounts involved in these cases could not be determined as court records do not contain those statistics. He added that presently a person filing a civil action in district court has only one court to go to. Increasing jurisdictional limits in justice courts would provide more courts for filing of civil matters and effect caseload distribution more favorably for the system. He further stated that it is unknown how many cases were not heard in district court because of presently prohibitive filing fees, and provided Exhibit C, also attached to these minutes, for Committee members' review. He suggested that if jurisdictional limits are changed, consideration might also be given to restructuring filing fees for respective courts, in order to lessen fiscal impact of the change.

Mr. Hill discussed legal aspects of proposed A.B. 28. He iterated the fact that present jurisdictional limits are the same as the 114-year-old basis in existing statute, thereby denying many people a proper forum in which to seek justice. He noted that if the bill is enacted, a special training program will be conducted by his office for new judges or those requiring training, that course to be scheduled before June to provide preparation for legislation which would become effective in July. He further asked Committee consideration to make justice court a court of record, since

numbers of cases appealed would probably increase with raised limits, also decreasing numbers of cases referred directly to district court for these sorts of matters. He indicated that the use of tape records could provide records less expensively than payment for a certified court stenographer's transcript. Records would then exist if cases were appealed.

In response to Mr. Brady's inquiry, Mr. Hill stated that he felt court costs for filing, answers, etc., might best be increased on a sliding scale according to the amount in question, and agreed with Mr. Brady that most people go into court on these sorts of cases as much for relief on principle as for the monetary considerations.

Chairman Hayes concurred with Mr. Reynolds in stating that to prevent creation of a "monster", the Committee should look closely at the figure to which limits might be raised, then look at the results in two years during the next Legislative session.

Judge Davis commented that his personal suggestions for limits would be small claims at \$750.00 and \$1,500.00 for civil actions in justice courts.

Sam Mamet read the pending list of filing fees under consideration by the Senate in this matter as follows:

Small Claims Court (under \$600.00)	
up to \$100 -	\$ 5.00 fee
\$101 to \$300 -	\$ 8.00 fee
\$301 to \$450 -	\$12.00 fee
\$451 to \$600 -	\$15.00 fee
Civil Action (\$601 to \$1,000) - Justice Court	
	\$25.00
Executions	\$ 5.00
Answers	\$ 5.00
Other Civil Action	\$10.00

Next to testify regarding A.B. 28 was Joe Midmore, for the Nevada Consumer Finance Association, in favor of the measure. He noted there is a large financial area in which it is not worthwhile to hire an attorney to go into district court, and many cases are dropped below the \$300.00 limit in order to be heard at the small claims court level, with substantial loss to the claimants.

Next to testify was Sam Mamet, Clark County, who submitted a report attached hereto as Exhibit D., prepared for consideration of S.B. 19, to show fiscal impact if jurisdictional limits were raised to \$2,000.00. He also advocated making justice courts courts of record in order to modernize the system in Nevada.

Ronald Jack, City of Las Vegas, appeared next and suggested also raising jurisdictional limits in municipal courts for two reasons:

(Committee Minutes)

1. Increase costs of goods and services;
2. Population increases that mandate more court resources.

He noted that among approximately 70 property damage cases to City property heard last year, more than 60 fell over the \$300.00 limit. He stated, too, that in instances where bail exceeds the \$300.00 and a person does not show up in court, the City has to address the bondsman for repayment for amounts over \$300.00. He further noted his feeling that municipal courts should also be made courts of record by means of tape recordings which would increase records without tremendous increase in staff overhead.

Stan Warren of Nevada Bell stated next that raising limits of justice courts jurisdiction to \$1,200.00 would handle 85 per cent of the situations encountered by Nevada Bell from cable damage and vehicle accidents. He noted that raising the limits to \$600.00 or \$700.00 would take care of the majority of collection problems faced by Nevada Bell and prevent rate increases to other consumers, in many situations.

Chuck King of Central Telephone Company said it was financially impractical for his company to go to court in matters under \$500.00 to collect those debts, as fewer than thirty-six of their collection problems from a total of eight hundred four last year were more than \$300.00, resulting in a small claims loss to his company of more than \$5,000.00. He agreed that changing the limits would assist his company to prevent raising consumer rates.

Daryl Capurro, Executive Director of the Nevada Franchised Auto Dealers Association agreed with raising the limit to \$600.00 or \$700.00 and taking a look at the fiscal impact of that raise over the next two-year period. He cited page 2, line 8, subsection k, with reference to mechanics' and garagemen's liens, covered by another statute, and suggested those liens should be increased accordingly.

Committee action taken this date was as follows:

A.B. 19

Motion: Mr. Sena moved, seconded by Mr. Stewart, for passage of the bill. The motion carried unanimously.

A.B. 94

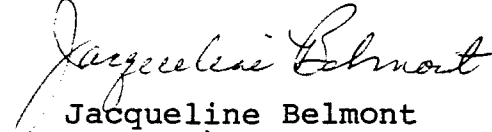
Motion: Mr. Stewart moved, seconded by Mr. Malone, for indefinite postponement of the bill. The motion carried unanimously.

A.B. 174

Motion: Mr. Polish moved for indefinite postponement, seconded by Mr. Horn. After some discussion, the motion was withdrawn by Mr. Polish, and Mr. Horn withdrew his second. The Committee decided to reconsider the motion on Friday, February 2, 1979.

There being no further business to come before the Committee, the meeting was adjourned by Chairman Hayes at 10:40 a.m.

Respectfully submitted,


Jacqueline Belmont
Secretary

OFFICE OF THE COUNTY MANAGER**BRUCE W. SPAULDING**
~~Assistant~~ County Manager

TO: ASSEMBLY JUDICIARY COMMITTEE

FROM: SAMUEL D. MAMET, MANAGEMENT ANALYST

SUBJECT: AB 134

DATE: JANUARY 31, 1979

This legislation would increase witness fees from the current rate of \$15 to \$25. In 1978 Clark County paid \$15 apiece to 15,871 witnesses for a total of \$238,065. If this rate were increased to \$25, this would mean an additional \$158,710 in witness fee costs.

For the committee's general information, Clark County last year paid a total of approximately \$386,000 in total witness fee reimbursements. This total includes not only the actual compensation, but hotel accommodations, food accommodations, mileage, and miscellaneous transportation expenses.

SDM/mg

ASSEMBLY COMMITTEE ON JUDICIARY
February 1, 1979

EXHIBIT A

FISCAL NOTE

BDR 4-886
A.B. 134
S.B. _____

• STATE AGENCY ESTIMATES Date Prepared January 26, 1979

Agency Submitting Administrative Office of the Courts

Revenue and/or Expense Items	Fiscal Year 1978-79	Fiscal Year 1979-80	Fiscal Year 1980-81	Continuing
	42,400	77,989	86,506	Yes
Total	42,400	77,989	86,506	Yes

Explanation (Use Continuation Sheets If Required)

The witness fees are growing at an estimated 11% per year. At present the growth is approximately the same as that for other court related costs. The cost estimates are based on review of local government budgets and audits. The lack of budget detail available for study prevents presentation of audited amounts.

Local Government Impact YES NO
(Attach Explanation)

Signature Mike Brown

SEE ATTACHED

Title Deputy Director

• DEPARTMENT OF ADMINISTRATION COMMENTS Date _____

Signature _____

Title _____

• LOCAL GOVERNMENT FISCAL IMPACT (Legislative Counsel Bureau Use Only) Date January 26, 1979

Increased witness fees	1979-80 \$31,289	1980-81 \$34,706
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According to information provided by the Administrative Office of the Courts, witness fees would increase by the above amounts if this bill is enacted.

Signature E. A. Schur

Title Deputy Fiscal Analyst

DISTRICT COURT CIVIL FILINGS
(CONTRACTS, TORTS, PROPERTY, ETC.)
FOR SELECTED JURISDICTIONS 1977

County

Clark	6965	(1978)
Washoe	3763	(1978)
Douglas	207	
Elko	152	
Carson	150	
Ely	120	
Fallon	100	
Humboldt	74	

JUSTICE COURT CIVIL FILINGS 1977

<u>Township</u>	<u>Small Claims</u>	<u>Civil</u>
Las Vegas	6,423	258
Reno	2,587	4,901*
No. Las Vegas	1,617	495
Sparks	1,082	223
Elko	528	19
Henderson	400	100
Carson	--	415**
New River	300	11
Ely	255	7
Union	209	4
East Fork	--	154**

* Includes evictions

** Civil filings are not broken down

DISTRICT COURT
Civil Filing Fees

	<u>Authorization</u>	<u>Fee</u>	<u>Disposition</u>
Civil	NRS 19.013(1)	\$32	County Clerk
Civil	NRS 19.020(1)	\$ 3	County Clerk
Civil	NRS 19.030(1)	\$15	State General Fund
Civil	NRS 19.031(1)	\$ 3	Legal Aid Program (County Option)
Answer	NRS 19.013	\$25	County Clerk

JUSTICE COURT
Civil Filing Fees

	<u>Authorization</u>	<u>Fee</u>	<u>Disposition</u>
Civil	NRS 4.060(1)	\$ 7	Justice of the Peace or County
Small Claims	NRS 4.060(1)b	\$ 5	Justice of the Peace or County
Answer	NRS 4.060(1)b	\$ 2	Justice of the Peace

OFFICE OF THE COUNTY MANAGER

TO: SENATE JUDICIARY COMMITTEE

FROM: SAMUEL D. MAMET, MANAGEMENT ANALYST

SUBJECT: SB 19

DATE: JANUARY 29, 1979

EXHIBIT C

Pursuant to the Committee's request, we have prepared the following fiscal impact information relative to raising the jurisdictional limit of justice court to \$2,000. This information was developed by our county budget office in cooperation with the clerk of the justice court.

Personnel

Small Claims Referee (1)	\$ 27,243	
Office Assistant I (6)	76,770	
Secretary (1)	<u>14,650</u>	
Sub-Total	\$118,663	(Incl. fringe benefits)
Rental costs for office space	<u>26,325</u>	
Final Total	\$144,988	

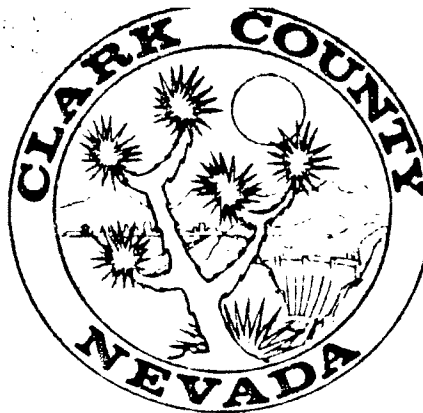
These estimates were based on a projection which justice court indicated it would have to have in terms of staff to meet the \$2,000 limit.

We cannot provide any information on the number of cases \$2,000 or less which have come before our district court. This information is just unavailable. However, our clerk of courts indicates that the number of cases is probably very few because of the prohibitive costs involved to a litigant in bringing a case of this value before district court, therefore, there might be some legitimacy to the argument that district courts workload will be lessened by increasing the jurisdictional limit of justice court. However, this is purely conjecture on our part.

As a matter of general information, attached you will find a very brief discussion of our justice court's budget which is taken from Clark County's Budget In Brief publication. We thought that you might find this of interest.

SDM/mg

Att.



CLARK COUNTY, NEVADA
FISCAL YEAR 1978-79
BUDGET-IN-BRIEF

COUNTY COMMISSION

Thalia M. Dondero
Chairman

David B. Canter
Vice Chairman

Manuel Cortez

R. J. "Dick" Ronzone

Jack R. Petitti

Robert N. Broadbent

Sam Bowler

ADMINISTRATIVE STAFF

Richard W. Bunker
County Manager

Bruce W. Spaulding
Assistant County Manager

Jed D. Christensen
Budget Officer

Patricia J. Speckmann
Staff Services Coordinator

Daniel R. Fitzpatrick
Staff Services Coordinator

BUDGET STAFF

David L. Funk
Senior Budget Analyst

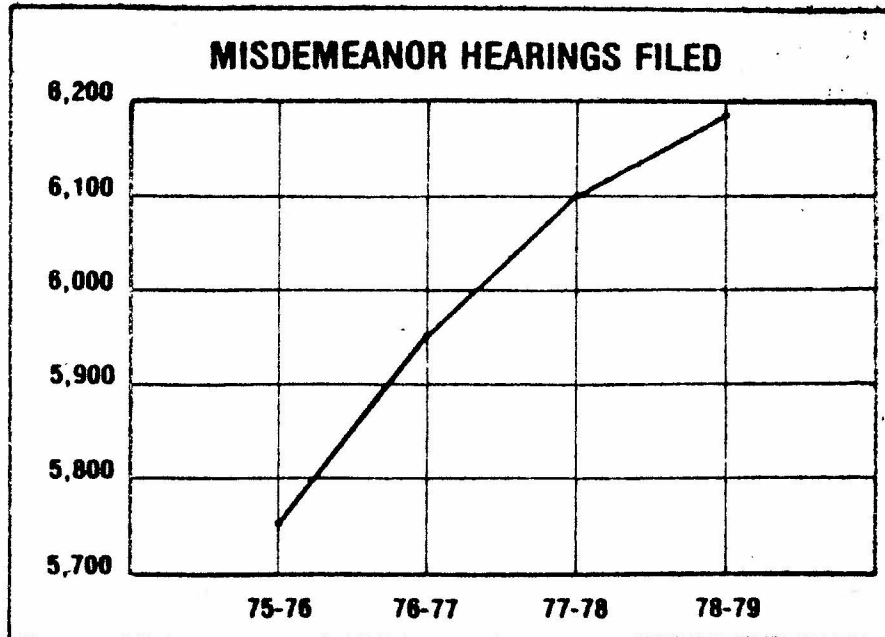
Ardel Kingham
Budget Analyst

ADOPTED BY THE COUNTY COMMISSION
ON APRIL 4, 1978

DEPARTMENT: JUSTICE COURTS

Department Description

The Justice Courts hear preliminary examinations, hold trials on misdemeanors, and handle all civil matters where the amount in controversy does not exceed \$300. They also perform other duties such as issuing search warrants, summonses, and arrest warrants.



Program Objectives

- To complete all misdemeanor cases filed.
- To ensure the judicious and efficient disposition of traffic cases set for trial or arraignment.
- To ensure the expeditious adjudication and processing of small claims cases.

Performance Indicators

Performance Indicators	FY 1976-77 Actual	FY 1977-78 Estimated	FY 1978-79 Projected
Misdemeanor hearings completed	4,383	5,286	6,189
Number of traffic citations issued	141,900	192,200	220,000
Number of small claims filed	10,100	10,975	11,300

Appropriation and Position Summary

Fiscal Year	1977-78		1978-79	
	Adopted Budget	Estimated Expenditures	Department Request	Final Adopted
Appropriation	\$1,484,207	\$1,390,514	\$1,697,360	\$1,739,869*
Positions				
Permanent	62		74	
CETA	10		9	

*This increase represents an increase in the number of Justice Courts from 4 to 5.



February 1, 1979

ROBERT J. MILLER,
DISTRICT ATTORNEY

REX BELL
ASSISTANT DISTRICT ATTORNEY

JAMES BARTLEY
COUNTY COUNSEL

CHIEF DEPUTIES

CHUCK PAINE

DONALD K. WADSWORTH

STEVE GREGORY

RAYMOND D. JEFFERS

MELVYN T. HARMON

DAN M. SEATON

BILL HAMMER

BILL CURRAN

JOEL M. COOPER

JOE PARKER
CHIEF INVESTIGATOR

KELLY W. ISOM
ADMINISTRATIVE OFFICER

Office of the District Attorney

CLARK COUNTY COURTHOUSE
LAS VEGAS, NEVADA 89101
(702) 386-4011

January 24, 1979

TO: PAT GALLAGHER, Administrative Aide
County Manager's Office

FROM: SCOTT W. DOYLE
Deputy District Attorney

Re: Legislation - parking restrictions

It is our understanding that an objection has been raised with respect to the proposed amendment to NRS 484.399(d) by numerous County officials. It is our further understanding that the objection is predicated upon the state-wide effect of the proposed amendment.

We have studied the language of the proposed amendment in light of these objections and make the following suggestion for further amendment:

"(d) Within 15 feet of a fire hydrant (;) where parallel parking is permitted, provided however, that local authorities may, by ordinance, restrict parking within 20 feet of a fire hydrant where angle parking is permitted."

The suggested amendment will eliminate the effect of the original amendment from having state-wide application and would, at the same time, allow counties experiencing problems with the original statute (where angle parking restricts access to fire hydrants by emergency vehicles) to remedy the situation by enacting local ordinances prohibiting parking within 20 feet of designated angle parking areas.

It is the opinion of this office that local authorities have authority to adopt such an ordinance pursuant to the provisions of NRS 484.779 although paragraph (3) of this section would require approval of such ordinances by the board of directors of the department of highways prior to the effective date of the ordinance.

SCOTT W. DOYLE
Deputy District Attorney

SWD: jm