

The meeting was called to order at 10:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close  
Senator Hernstadt  
Senator Don Ashworth  
Senator Raggio  
Senator Sloan  
Senator Ford

ABSENT: Senator Dodge, Excused

SB 45 Substantially revises law on notaries public.

Captain Glen Vogler, Washoe County Sheriff's Department, testified in opposition to Section 15. He stated that part of the function of the Civil Division of the Sheriff's Dept. is the service of process. For each paper that is served, a notarized statement is made attesting to that service. His department makes approximately 45 notarized statements each day.

He further stated that in order to maintain the journal as required in Section 15, it would take approximately 3 hours each day and he did not have adequate staff or time to devote to such an endeavor. He felt that inasmuch as the records are part of the public record and can be subpoenaed at any time, there should be an exemption for that type of service.

Mr. William Swackhammer, Secretary of State, testified in support of this measure. He stated that there were 2 reasons that his office supported this:

- 1) The present notary act is completely inadequate; and
- 2) This measure is a draft from the Uniform Notary Act that has been prepared by the National Notary Association, a private organization.

The Committee requested that Mr. Swackhammer review each section of the bill with them.

Sections 2 and 3: Same as the present act.

In response to a question from Senator Hernstadt, Mr. Swackhammer stated that his office receives 5 or 6 requests each week for verification of signatures of notaries.

Section 5: Subsection 2 specifies a "registered voter." However, Article 15, Section 3 of the Nevada Constitution requires that a person be a qualified elector. Mr. Swackhammer expressed concern that a registered voter and a qualified elector may not be the same thing.

Senator Sloan stated that you don't have to be registered to be a qualified elector. A qualified elector includes, by necessity, a registered voter but not visa versa. This language would have to be amended.

Mr. Swackhammer stated that he thought there might be a problem in requiring a person to give their social security number.

Senator Sloan responded that the Federal Privacy Act might preclude a state from requiring divulgence of a social security number. He suggested that the Legislative Counsel Bureau be consulted on this.

Section 6: Same as the present act.

Section 7: Senator Close asked what the responsibility was of a person who endorses an applicant for notary public. Mr. Swackhammer responded that there was none. It was merely a personal recommendation.

Section 8: Requires that the applicant affirm that he has read the notarial law of the state.

Section 9: Senator Hernstadt asked how many notaries have had their bonds gone against in the past 5 years. Mr. Swackhammer stated that there had been none.

Senator Hernstadt questioned the need for such a bond. He felt that they were expensive and difficult to get and inasmuch as they were not being gone against perhaps making it a misdemeanor would be more appropriate.

Mr. Swackhammer responded that the bonds weren't being gone against because the present act does not identify what is illegal, unfair, or outside the scope of notarial authority. He further stated that it should be a policy decision of the Committee as to whether bonds should be required or to make it a misdemeanor. However, he felt that making it a misdemeanor would not get the person's money back who had been victimized by the notary.

Donald Klasic, Deputy Attorney General, stated that if this were made a misdemeanor, as a practical matter, you would not be able to find a District Attorney to bring prosecution. They are more concerned with the larger felonies.

The meeting was adjourned at 11:00 a.m. for the General Session. The Committee will reconvene immediately upon adjournment.

Senator Close called the meeting to order at 11:20 a.m. All members were present.

Discussion continued on SB 45 with Messrs. Swackhammer and Klasic.



Section 10: Mr. Swackhammer requested that this section be deleted. He felt that by requiring the applicant to sign the application as they will in practice, his office could reduce clerical work, make it easier on the applicant, and still have a copy of their signature on file. It was the consensus of the Committee to delete Section 10.

Section 11: Confidentiality section. Senator Close asked why this material should be confidential. He felt that the purpose of the act was to make it easier to get at the notary who was acting illegally. Mr. Swackhammer responded that this could be deleted if that was what the Committee desired.

Section 12: Mr. Swackhammer stated that this would allow his office to appoint notaries public for certain public areas and not have to charge a fee. Mr. Klasic stated that if this were read literally, it would prohibit one public agency from using a notary public of another public agency. He suggested that it be amended to read "A notary public appointed under this section may act only for state or local government offices."

Senator Don Ashworth questioned the need for differentiating between public and private notaries public in that the fees collected would be turned back into the state coffers anyway. Mr. Swackhammer responded that the average cost of cutting a voucher for a public notary public is between \$40 and \$50. He felt that by not requiring a fee for public notaries, the state could save some money.

Section 13: Same as the present law. Senator Close questioned the reference to "married woman" on line 25. Mr. Klasic stated that this was a re-enactment of NRS 240.060 and should be deleted.

Section 14: Senator Raggio stated that he was opposed to this entire section. By way of example, he stated that as his law firm was also a corporation, according to this section, his secretary would be unable to notarize his signature. He further stated that he did not see any reason why he should not be able to notarize his partner's signature if necessary. Mr. Swackhammer agreed that "employee" should be deleted but he felt that there could be serious violations if one partner was allowed to verify another's signature.

Senator Don Ashworth felt that perhaps Mr. Swackhammer was losing sight of the whole purpose of the notary public. He stated that the sole purpose was to notarize that the individual actually, and through no duress or undue influence, signed the document in his presence. It does not purport that there is no fraud or misrepresentation in the documentation itself.

Section 15: Mr. Swackhammer stated that as far as he was concerned, this was the heart of the bill.

Senator Close asked if entry into the journal by the notary or his signing of it would be a condition precedent to the notarization being valid.

No answer was given.

Senator Hernstadt stated that there are 50 or 60 broadcasting stations in this state that send out between 200 and 500 notarized bills per month. He asked if each of these bills would have to be individually entered into the journal.

Mr. Swackhammer responded that they would.

Senator Hernstadt felt that this would be creating an onerous burden on commerce.

Section 16: Senator Close stated that if the court orders you to do something, you do it. Anything less would be contempt of court.

Section 17: Senator Close asked if the person's signature is illegible, whether it still verifies the document. Mr. Swackhammer responded that it would.

Section 18: No discussion.

Section 19: Mr. Swackhammer suggested that there be only one fee schedule, regardless of the number of votes polled at the last general election.

Senator Don Ashworth felt that if the journal were approved, the fees should be increased to reflect the additional work load.

Section 20: Senator Hernstadt asked if the fees had to be collected at the time of notarization. He stated that there had been a problem in another state wherein an employee of a law firm had quit after 5 years and had then billed the firm for his services as a notary for that period of time. He questioned whether the fees could be collected retroactively.

Section 21: Mr. Swackhammer stated that this was all new material which provides for what a notary public does with the journal when he dies. He felt that there might be a problem with the storage of these journals. Senator Sloan suggested that that could be taken care of if you stipulated that each notary be buried with their journal.

Section 24: Mr. Swackhammer stated that this section provides for the revocation of a notarial commission.

Mr. Klasic stated that it was the recommendation of his office that subsection 9 be deleted.

Section 25: Mr. Swackhammer stated that this section broadens violations of notarial acts to employers if the employee was acting within the scope of his employment.

Senator Hernstadt stated that according to Subsection 1, not only is the bond forfeited but the notary could lose everything they had. He asked if that was the intent. Mr. Swackhammer responded that it was not. Mr. Klasic stated that that had happened in other states.

Senator Close pointed out that this bill had been referred to the wrong committee. It should have been sent to Government Affairs.

It was the decision of the Committee to retain this bill and make the necessary amendments.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman