

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 15, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 12:00 noon, Wednesday, April 15, 1981, in Room 213 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Melvin D. Close, Chairman
Senator Keith Ashworth, Vice Chairman
Senator Don W. Ashworth
Senator Jean E. Ford
Senator William J. Raggio
Senator William H. Hernstadt
Senator Sue Wagner

STAFF MEMBERS PRESENT:

Sally Boyes, Committee Secretary

SENATE BILL 501:

Establishes appraiser's lien on property appraised at request of owner.

Mr. Tim Morse, real estate appraiser in Las Vegas, representing the Society of Real Estate Appraiser, stated this bill is basically amending the lien law that is provided to architects, draftsmen, and engineers and adding real estate appraisers. He stated there is a need for this protection because there are many people that are aware the appraiser has no recourse to collect a fee once the appraisal is out of the appraiser's hands. The request for an appraisal is made so a homeowner can determine the worth of his property. Once that is done, the figures are put on paper with the assests of the property and the homeowner calls to find out the dollar amount of the appraisal. He stated his practice used to be to give that dollar amount on the phone. Either people are making deals of their own or they want that dollar figure for something else. Appraisers have spent time evaluating that property and put effort into the paper work. Repeated phone calls and letters go unanswered and the client is never heard from again.

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Senator Wagner asked if there was another means to remedy the situation. Mr. Morse replied small claim court is available. Some requests are verbal, being done over the phone, so no contract is signed. Some appraisal fees are very high. Small claims court is limited.

Senator Wagner asked how the fees were based. Mr. Morse stated it was done on the time factor and the expertise that is necessary to prepare the report. There are some standard fees. When there is a necessity to appear in court, the fee is based hourly.

Senator Hernstadt stated the small claims limit is \$750.00. The bill to raise that limit to \$1,000.00 is in Assembly. Should it pass and the Governor signs the bill, that will become law.

Mr. Morse stated if the outstanding fees are turned over to a collection agency, 50% of the fee is lost.

Mr. Steve Johnson, real estate appraiser in Reno, stated that most of the real estate appraisers in Reno favor this bill. He gave an example of an appraisal that had a \$3,000.00 billing. The person that ordered the appraisal was able to obtain the financing from another method and he walked away from it. He said he turned the outstanding bill over to a collection agency and did collect \$1,500.00; the collection agency received the rest of the fee.

Senator Hernstadt stated had he used a lawyer, the entire fee plus attorney fees would have been returned to him. Mr. Johnson stated he had used those means before and found that that type of case seems to take a low rating on the court calendar and various things come up to allow a continuance in the matter. It seems to be several years before the matter is completed.

Mr. Morse stated these are only a few problems, but as time goes on there will be larger fees involved. The bill should be amended to include appraisers as well as the other professionals.

Chairman Close asked what happens if a broker does not get his fee. Mr. Morse said that is a case that involves a contract. Chairman Close stated if the sale is not consummated, he has no lien on the property. His only recourse would be to go to court.

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Mr. Morse stated the intent of the lien law, as he understood it, was for people who provide benefits to increase the value of property, are entitled to compensation for the work they have performed.

Senator Ford asked if other professionals under this bill required a contract of some kind. Mr. Morse said it is a common practice to have verbal agreements. Senator Ford asked what evidence is there that would show work has been performed. Mr. Morse stated that would be the completed appraisal. Senator Ford stated the bill does not state that.

Mr. Ken Lamb stated that he concurred with the statements Mr. Morse and Mr. Johnson stated.

ASSEMBLY BILL 113:

Adds deputy constables to list of peace officers.

Mr. Will Diess, Vice President of the Nevada Constables and Past Constables for the Las Vegas township. He stated A.B. 113 would define deputy constables under the peace officers statutes. Presently, supervisors and administrators are spelled out in the bill. He referred to line 5, it states the sherriff and their deputies, line 10 it states inspector or field agents, line 13 states members and all inspectors employed by the public service commission, line 23 the state fire marshall and his assistance, page 2, line 3 it states the deputy director, superintendants, corrections officers and other employees of the department of prisons, line 12 the executive supervisory and investigative personnel of the gaming commission and on line 17 the director of division chiefs, investigators agents and other sworn personnel to the law enforcement assistance program. He stated he came before this same committee with the intention of adding another category to the peace officers status within this bill. At that time the baliff of the Supreme Court was a peace officer but the baliff of the Justice and District Courts were not peace officers. That bill was added to the law. After the merger of the police and sherriff's department, the municipal baliff officers, who were police officers, were left behind. Those eight baliffs carried out 2,000 arrests, served 12,000 summons and were not peace officers under the statutes. The constables and the deputies are facing the same situation. The constables are administrative; he

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nevers goes into the field. In the statute he is a peace officer but the individual doing the work is not. There is no cost or impact to the government with the amending of this bill. This situation is worked on a private contract basis; if papers are served, payment is made; if no papers are served, then there is no payment. The only thing the state covers on an individual deputy is N.I.C.

Senator Hernstadt asked if Mr. Diess' deputies were armed. Mr. Diess stated yes. Senator Hernstadt asked if a special permit had to be used for those deputies to carry weapons. Mr. Diess stated as long as the deputies were sworn in with a court clerk, police agencies recognize that, and the weapon is allowed to be carried; that is a court clerk in the county in which they work.

Chairman Close asked if deputies went to peace officers training school. Mr. Diess stated his deputies did, but he did not know if all of them did. They are required to go to the University of Nevada and complete 30 hours of class a year. They must participate in fire arms training once a month while the Metropolitan Police Department goes every other month.

Mr. Larry Ervine, President of the Las Vegas Police Protective Association, stated he is speaking on the behalf of the North Las Vegas Police Officers Association, Henderson Police Association, and Nevada Conference of Police and Sherriffs. All of these organizations support this bill. There are a number of instances in which constables are placed in jeopardy through the service of civil process. They do request assistance from various police services. This bill would help the associations because it would reduce the number of calls departments receive. With a peace officer status, arrests could be affected by the deputies. A number of the constables in the Las Vegas area are former police officers. Many of these people have already had training.

Chairman Closed stated this bill would allow deputies to carry concealed weapons. Would it also allow them to carry weapons when they were not employed as deputies; at night, for example. Mr. Diess stated Las Vegas is a 24 hour town. Chairman Close stated when a person is a peace officer they have the right to carry a weapon 24 hours a day. He asked if that is what is meant by this bill; to allow those additional peace officers to carry those weapons all the time. Mr. Diess stated it could be

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confined to their working hours or the normal work duties. He stated the situation is very dangerous and there should be some protection for those deputies. There are a lot of hostage situations. Those mens lives are on the line.

ASSEMBLY BILL 336:

Requires standard form to record convictions and permits use of form to prove prior convitions.

Chairman Close asked if there was a speaker on the bill. No one was there to testify.

SENATE BILL 501:

Establishes appraiser's lien on property appraised at request of owner.

Senator Hernstadt moved Do Pass S. B. No. 501.

Senator Wagner seconded the motion.

The motion carried. (Senator Keith Ashworth was absent for the vote.)

ASSEMBLY BILL 113:

Adds deputy constables to list of peace officers.

Senator Hernstadt moved to amend and Do Pass A. B. 113.

Senator Hernstadt stated the amendment should restrict the carrying of a concealed weapon to the working hours of the deputies. He asked the committee how should the in transit situation be handled.

Chairman Close stated line 14 of the amendment handled that.

Senator Ford seconded the motion.

The motion carried. (Senator Keith Ashworth was absent for the vote.)

SENATE BILL 447:

Authorizes probate of will as muniment of title.

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Senator Don Ashworth stated this bill basically relates to an estate that contains only real property. This bill would allow the estate to be probated without administration. It stops the necessity of putting property into joint tenancy to avoid probate. If the property is true joint tenancy property and not community property, and one of the owners would die, only half of the property would have a step up basis. If the property is community property and a person dies and there is a surviving spouse, then the entire property has a step up basis. This just stream lines the process. He stated this was a very fine measure.

Senator Raggio asked if a deed would be necessary. Senator Ashworth stated no deed would be needed, only the order of muniment.

Chairman Close asked what is meant by a formal administration on line 8. Senator Ashworth stated he felt that meant a full administration under the applicable code. Chairman Close asked if a set aside was temporary. Senator Ashworth said that is without administration.

Chairman Close stated the language of the bill does not tract; line 3 states before a will is admitted to probate as a muniment of title, and line 9 states the order is a muniment of title. He asked which one admits the will to probate; the will or the order. Both items cannot be documented evidence.

Senator Raggio stated documented evidence would have to show a legal description. Senator Ashworth stated that would be done in an order. Senator Raggio stated if the bill is processed like that, the order to admit the will would stand as muniment of title.

Chairman Close stated this applies to all property; a right to collect debts, transferring personal property and there is authorization for all people who owe money to the estate to pay it, the right to transfer assests on line 12. On line 14 a person entitled to the property under the will can deal with it in the same manner as if title is vested, without going to probate.

Senator Hernstadt asked if this was for an out of state resident. Senator Ashworth stated it could be used for that. Chairman Close asked Senator Ashworth to research this more.

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SENATE JOINT RESOLUTION 32:

Proposes to amend Nevada constitution to establish staggered terms for district judges.

Chairman Close asked the bill drafter what was meant on line 19 in regard to any officers whose salaries are fixed by the constitution; he stated the salaries of the governor, secretary of state, treasurer, controller, attorney general, justice of the Supreme Court, district judges, state senators and members of the assembly.

Senator Ford stated the constitution stated that can be done by law. It does not state salary.

Senator Wagner stated it meant constitutional officers. Chairman Close stated the amendment deleted lines 19 and 20. He further stated that time was set in the constitution but not salary amounts. Senator Hernstadt stated it could be changed but it would apply to prospective people.

Chairman Close stated line 24 on page 1 was deleted and lines one and two on page 2 would have new language. If the new language is adopted, there is no reason for adopting the language on line 26. Chairman Close suggested putting brackets around the language lines 13 through 17.

Senator Raggio moved to reconsider the previous act, S.J.R. 31, for the purpose of an amendment for both resolutions to a common purpose.

Senator Wagner seconded the motion.

The motion carried. (Senator Keith Ashworth absent for vote.)

Senator Raggio stated that all constitutional officers should not be on this bill.

SENATE JOINT RESOLUTION 32:

Senator Raggio moved to amend S.J.R. 32.

Senator Wagner seconded the motion.

The motion carried. (Senator Keith Ashworth absent for vote.)

SENATE JOINT RESOLUTION 23:

Proposes to amend Nevada constitution to permit operation of

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lotteries by state for specific purposes.

No action was taken on this bill.

There being no further business, the meeting was adjourned at
1:15 p.m.

Respectfully submitted by:

Sally Boyes
Sally Boyes, Secretary

APPROVED BY:

Mel D. Close Jr.
Senator Melvin D. Close, Chairman

DATED April 21, 1981

SENATE AGENDA

COMMITTEE MEETINGS

Committee on JUDICIARY, Room 213.

Day Wednesday, Date April 15, Time 8:30 a.m.

S. B. No. 501--Establishes appraiser's lien on property appraised at request of owner.

A. B. No. 113--Adds deputy constables to list of peace officers.

A. B. No. 336--Requires standard form to record convictions and permits use of form to prove prior convictions.

