

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON JUDICIARY

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
April 2, 1981

The Senate Committee on Judiciary was called to order by Chairman Melvin D. Close at 9:00 a.m., Thursday, April 2, 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 Jean E. Ford
Senator William J. Raggio
Senator William H. Hernstadt
Senator Sue Wagner

COMMITTEE MEMBERS ABSENT:

Senator Don W. Ashworth

STAFF MEMBERS PRESENT:

Iris Parraguirre, Committee Secretary

S. J. R. NO. 31--Proposes to amend constitution to permit salaries of all justices of supreme court and district judges to be increased at same time.

Judge James Guinan, District Judge from Reno and Chairman of the Legislative Committee of the Nevada District Judges Association, stated they want to indicate their support of S. J. R. No. 31. It would have the effect of allowing judges salaries, both supreme court and district judges, to be raised during their term of office. Under the present bill, this would be possible at two year intervals. The problem now is there are six-year terms which were set by the legislature. Judge Guinan felt that was a long time to wait for a raise at 12 percent per year inflation. Even though the judges know what their salary will be, Judge Guinan stressed it is not a position that individuals will jump in and out of because they do not like the salary.

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Judge Guinan stated it is difficult to encourage people to go on the bench if they have a successful law practice if the salary is too low. There will be five vacancies in Washoe County possibly within the next couple of years. Another problem is that a judge who should retire may not do so at a low salary if he thinks he can get a higher salary later on because the retirement is based on the salary. Judge Guinan felt the bill should indicate more clearly that the salaries will be increased at the commencement of the term of any supreme court justice, since it does not specify when they will be increased.

Senator Wagner asked what the current salary of district judges is at the present time.

Judge Guinan replied it is \$43,000 a year, and that was set in 1977 effective in 1979 and could not be changed under the present constitution.

Senator Wagner asked whether Judge Guinan liked the six-year term. He replied that he likes the six-year term but would rather go back to a four-year term if the salaries cannot be raised during the term. They did not ask for six-year terms.

SENATE BILL NO. 440--Changes monetary amount for jurisdiction of courts and conforms certain statutory provisions to constitutional provisions relating to jurisdiction.

Judge Tom Davis, Municipal Justice of the Peace of Carson City and representing the Nevada Judges Association, stated they have no quarrel with the change to raise the limits from \$750 to \$1000 for small claims actions, but there is some fiscal impact which will extend to the smaller counties which could be absorbed without too much problem. However, the 15 to 20 increase in Reno and Las Vegas is awesome and is going to have a great deal of impact. He suggested the same changes be made in S. B. 440 that were made in S. B. 107 if the bill is to be considered for passage. Line 28 on page 2 should be changed to read, "no others except as provided by specific statute." Line 33 on page 3 should be changed to read, "all misdemeanors and no other criminal offenses except as provided by specific statute."

Judge Davis explained that to offset some of the costs that are going to occur in the counties to some extent, the civil fees should be changed. The increase in fees would support A. B. 340 having to do with the salaries of Justices of the Peace. He suggested changing the amount on line 7, page 1 to \$15.00; line 8 to \$25.00; line 9 to \$25.00; line 12 to \$15.00; line 16 to \$10.00; and line 20 to \$5.00. On page two, he suggested increasing the amount on line 4 to \$5.00; line 8 to \$10.00;

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line 11 to \$10.00; line 16 to \$1.00 per folio or deleting it since it is obsolete; deleting line 17 since they do not charge a fee for issuing a search warrant or commitment; line 19 to \$20.00; and increasing line 21 to \$5.00.

Judge Davis stated the amount of revenue the changes in fees will generate certainly will have some effect on income for the local entities and the amounts are not excessive. There are too many actions which are filed frivolously for small amounts which at times are "get even" suits. In cases where an individual cannot afford to advance the fees, there is a provision by statute whereby the fees can be waived. He stated from the period July 1981 to July 1982, they would expect to handle 1200 small claims actions, between 400 and 500 justice court civil actions and between 200 and 250 landlord-tenant actions, in addition to all other cases. The increase in fees should more than double the income.

Mr. Dan Fitzpatrick, representing Clark County, discussed the fiscal impact of S. B. 440 on the Las Vegas Township Justice Court. He stated the judges feel the bill would increase their work load by 20 percent. See Exhibit C attached hereto. The Justice Court and its supporting staff spends approximately \$1,404,000 per year. Approximately 25 to 30 percent of the Justice Court time is spent in the areas covered by the increase in fees as suggested by Judge Davis. It presently costs approximately \$351,000 and approximately \$154,000 is collected for the services in all five of the Justice Courts in Las Vegas. If the fees are doubled and no new justices are required, they would about break even.

Senator Keith Ashworth suggested making the fees lower for the actions that are below \$750.00 and increasing the fees for those at \$1250.00.

SENATE BILL NO. 448--Reduces margin necessary for court to consider new sale of real property from estate of decedent.

Mr. John Cockle, Senior Vice President of Nevada National Bank in Reno and former head of their trust department and representing the Nevada Bankers Association Trust Division, stated the proposed bill reduces the amount by which a bid in open court must exceed the highest bid received to date from 10 percent to five percent before it can be considered by the court. The 10 percent rule has been in the statute since 1941.

Senator Raggio stated the five percent might be appropriate up to a certain point but in some instances, it might be better to consider a flat amount. He suggested that on amounts of

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\$100,000, the amount would have to be at least \$5,000

Senator Keith Ashworth suggested that the value as referred to on line 9 of page 1 should be the appraised value. Mr. Cockle explained that the value is not always the appraised value.

SENATE BILL NO. 450--Eliminates requirement for corroboration of victim's testimony in cases involving abortion or prostitution if witness is a peace officer.

Bill Curran of the Clark County District Attorney's Office stated S. B. 450 is primarily a bill requested by the metropolitan police department. He stated basically what the bill concerns is pandering. At the present time, it is all but impossible to successfully prosecute pimps who are the source of the problem of prostitution. In order to convict someone of pandering, the testimony of the complaining witness has to be corroborated or even if a female police officer is used, her testimony has to be corroborated. The purpose of the bill is not to deal with abortion but the law has combined abortion and prostitution for some reason. Mr. Curran explained that the bill would not have the effect of saying the police officer's word controls but simply means that the police officer be allowed to give his testimony. Under the present law, the testimony of a police officer is not enough and the case cannot be taken to court.

Mr. Larry Ketzenberger of the Las Vegas Metropolitan Police Department stated it was their vice section that asked for the bill. He explained it is difficult to get prostitutes to testify against pimps because they are scared to cooperate or have other reasons. In the cases they have taken before the court, it was ruled they could not proceed with the prosecution because the statute requires corroboration and the testimony of one female police officer was not sufficient. The bill does not affect the prostitutes themselves.

Mr. Curran stated he would rather see the whole section in NRS 175.301 repealed, but S. B. 450 would be a compromise. Chairman Close explained the rationale was that a girl would have to corroborate testimony if she was going to attempt to frame someone. The reference to abortion would be for illegal abortions and the bill itself relates to the trial.

Mr. Curran stated Nevada probably has the strictest requirements in the country in the area of corroborating testimony of accomplices.

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SENATE BILL NO. 440--Changes monetary amount for jurisdiction of courts and conforms certain statutory provisions to constitutional provisions relating to jurisdiction. (Exhibit D)

Regarding increasing the fees, Senator Ashworth suggested that on line 9, page one, there should be another fee for claims from \$750 to \$1250 in the amount of \$35.00. Chairman Close felt \$25 was adequate.

With regard to Section 4 on page 4, Chairman Close explained if a case was brought in district court and the recovery was not at least \$750, the costs could not be recovered because the case should have been brought in justice court. Senator Hernsteadt felt the \$700 on line 22 could be a proportionate award. Senator Raggio explained the deleted lines in Section 4 are unnecessary.

SENATE BILL NO. 440

Senator Raggio moved to amend and Do Pass S. B. No. 440.

Senator Hernstadt seconded the motion.

The motion carried. (Senators Keith Ashworth and Don Ashworth were absent for the vote.)

ASSEMBLY BILL NO. 297--Simplifies provision for verification of complaint for divorce.

Assemblywoman Karen Hayes stated A. B. 297 is a technical bill which was suggested by attorney Ted Marshall in Las Vegas.

Mr. Frank Daykin of the Legislative Counsel Bureau explained the problem regarding NRS 125.020 which arose requires a complaint under oath. In most other situations where a pleading must be anything more than subscribed, the rule refers to a verified complaint. NRS 15.010 prescribes that a verified complaint need not be executed before a notary public but is signed at the bottom under the penalties of perjury. He explained it is purely a matter of words. A. B. No. 297 changes the divorce statute to substitute verified complaint for complaint under oath, thereby conforming the language to most of the rest of the laws. In both instances the individual is attesting to the truth of what is on the paper. The complaint under oath is not limited to the signature. It is more than an acknowledgement before a notary public. If an individual swears before a notary public that the contents of the preceding affidavit or complaint are true, that is a complaint under oath. It simplifies the manner in which a divorce complaint may be executed by permitting the complainant to sign the

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declaration under penalty of perjury without having to have a notary public present. In all cases, NRS 15.010 is broader than the oath but it would include the oath because in all cases of verification of a pleading the affidavit of the party shall state that the same is true of his own knowledge, except as to information and belief. The affidavit may be in a specified form and need not be before a notary public. Verified complaint is the broader category and complaint under oath is the narrower category.

SENATE BILL NO. 448--Reduces margin necessary for court to consider new sale of real property from estate of decedent. (Exhibit E)

The committee further discussed the amendments to S. B. No. 448. Senator Raggio requested that in amounts over \$100,000, the minimum bid increments must be \$5,000.

Senator Hernsteadt moved the amend and Do Pass S. B. No. 448.

Senator Raggio seconded the motion.

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

SENATE BILL NO. 450 (Exhibit F)

Senator Hernsteadt moved to Do Pass S. B. No. 450.

Senator Raggio seconded the motion.

The motion carried. (Senator Don Ashwroth was absent for the vote.)

SENATE JOINT RESOLUTION NO. 31--Proposes to amend constitution to permit salaries of all justices of supreme court and district judges to be increased at same time.

Senator Wagner stated she felt the language in S. J. R. No. 31 has to be very clear and very simple.

Judge Fondi stated he did not feel the resolution by itself will be sufficient and S. J. R. 32 would have to be approved in order to make it work. It puts the district court on the same parody as the supreme court insofar as terms are staggered so that when one salary is raised, everyone is making the same money for the work they are doing. There is a question with S. J. R. 31, subsection 3, which takes care of the supreme court but does not take care of the district court. All district court judges run for six-year terms now and are all elected at the same time.

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That was part of Question 2 on the ballot that did not pass during the last election. Approval of S. J. R. 32 would be needed as well. A. J. R. 30 is a constitutional amendment proposal to remove prohibition against adding judges and changing districts during the term of an incumbent. It provides a change in the area which permits adding judges at anytime the legislature sees fit not diminishing the number of judges during a term.

Judge Fondi stated that in his opinion, judges have to work too hard, in some instances have too far to travel and simply cannot handle the loads placed upon them, as in the case of Judge Smart who was 40 years old and collapsed during a trial. They need help in all of the district court in Nevada. The present district boundaries are unrealistic from the standpoint of providing help where help is needed. In reply to Senator Hernstadt's question regarding whether an interim study is necessary, Judge Fondi stated there has to be some type of study but the problem is that a study takes time to achieve and the results are always subject to fluctuation depending upon what are unknown eventualities, such as MX. To get all judges together to discuss their needs would also be a difficult task.

ASSEMBLY BILL NO. 297 (Exhibit G)

Senator Raggio moved to Do Pass A. B. No. 297.

Senator Hernstadt seconded the motion.

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

There being no further business, the meeting was adjourned at 10:55 a.m.

Respectfully submitted by:


Iris B. Parraguire, Secretary

APPROVED BY:



Senator Melvin D. Close, Jr., Chairman

DATED: April 6, 1981

SENATE AGENDAEXHIBIT A

COMMITTEE MEETINGS

Committee on JUDICIARY, Room 213.
Day Thursday, Date April 2, Time 8:30 a.m.

AMENDED MEETING SCHEDULE

S. B. No. 440--Changes monetary amount for jurisdiction of courts and conforms certain statutory provisions to constitutional provisions relating to jurisdiction.

S. B. No. 448--Reduces margin necessary for court to consider new sale of real property from estate of decedent.

S. B. No. 450--Eliminates requirement for corroboration of victim's testimony in cases involving abortion or prostitution if witness is a peace officer.

S. J. R. No. 31--Proposes to amend constitution to permit salaries of all justices of supreme court and district judges to be increased at same time.

A. B. No. 297--Simplifies provisions for verification of complaint for divorce.

Considering a twenty percent (20%) increase in workload to the Las Vegas Township Justice Court, the following staff would be necessary:

Justice Court - Civil/Small Claims Division

2 Office Assistants I x \$12,000	=	\$24,000
Retirement/NIC/Group Insurance	=	<u>5,348</u>
Total		<u>\$29,348</u>

With increased workload one additional Justice of the Peace would be required. (Note: NRS 4.020 would need amendment to allow for addition):

Salary & Wages		\$135,481
Justice of the Peace	\$39,900	
Senior Secretary	15,600	
Bailiff	15,600	
Court Clerk	13,200	
Court Clerk (Back-up)	12,000	
Office Assistant	<u>13,200</u>	
Total Salary	109,500	
Fringe Benefits	<u>25,981</u>	
Rent & Utilities		69,000
Service & Supplies		13,863
Capital		<u>1,000</u>
Total		<u>\$219,344</u>

First year capital (new courtrooms, offices, equipment furniture)	\$275,000
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S. B. 440

SENATE BILL NO. 440—COMMITTEE ON JUDICIARY

MARCH 23, 1981.

Referred to Committee on Judiciary

SUMMARY—Changes monetary amount for jurisdiction of courts and conforms certain statutory provisions to constitutional provisions relating to jurisdiction. (BDR 1-1391)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to jurisdiction of courts; raising the monetary limit for jurisdiction of municipal and justices' courts and for actions for small claims; conforming certain statutory provisions to the provisions of article 6 of the Nevada constitution relating to the jurisdiction of courts of record; removing statutory provisions which conflict with or duplicate those constitutional provisions; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

1	SECTION 1. NRS 4.060 is hereby amended to read as follows:	
2	4.060 1. Justices of the peace are allowed the following fees:	
3	(a) On the commencement of any action or proceeding in	
4	the justice's court, other than in actions commenced under	
5	chapter 73 of NRS, to be paid by the party commencing the	
6	action:	
7	If the sum claimed does not exceed \$200.....	\$5.00
8	If the sum claimed exceeds \$200 but does not exceed	
9	[\$750] \$1,250.....	15.00
10	In all other civil actions.....	15.00
11	(b) For the preparation and filing of an affidavit and order	
12	in an action commenced under chapter 73 of NRS.....	5.00
13	(c) On the appearance of any defendant, or any number of	
14	defendants answering jointly, to be paid by him or them on	
15	filing the first paper in the action, or at the time of appearance:	
16	If the sum claimed does not exceed \$200.....	5.00
17	If the sum claimed exceeds \$200 but does not exceed	
18	[\$750] \$1,250.....	10.00
19	In all-other civil actions.....	10.00
20	For every additional defendant, appearing separately.....	1.00

S. B. 448

SENATE BILL NO. 448—COMMITTEE ON JUDICIARY

MARCH 25, 1981

Referred to Committee on Judiciary

SUMMARY—Reduces margin necessary for court to consider new sale of real property from estate of decedent. (BDR 12-1345)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to sales of real property from estates of decedents; reducing the margin necessary for court to consider new sale; and providing other matters property relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 **SECTION 1.** NRS 148.270 is hereby amended to read as follows:
2 - 148.270 1. Upon the hearing the court must examine into the neces-
3 sity for the sale, or the advantage, benefit and interest of the estate in
4 having the sale made, and must examine the return and witnesses in rela-
5 tion to the sale.
6 2. If it appears to the court that good reason existed for the sale, that
7 the sale was legally made and fairly conducted, and complied with the
8 requirements of NRS 148.260, that the sum bid is not disproportionate
9 to the value, and it does not appear that a sum exceeding [such bid] *the*
10 *bid by* at least [10] 5 percent may be obtained, the court shall make an
11 order confirming the sale and directing conveyances to be executed;
12 otherwise it shall vacate the sale and direct another to be had, of which
13 notice must be given and the sale in all respects conducted as if no pre-
14 vious sale had taken place.
15 3. But if a written offer of [10] 5 percent more in amount than that
16 named in the return is made to the court by a responsible person, and the
17 bid complies with all provisions of the law, [it is in the discretion of] the
18 court [to accept such] *may accept the offer*, and confirm the sale to
19 [such] *that* person, [or to] order a new sale [, or to] *or* conduct a
20 public auction in open court.

S. B. 450

SENATE BILL NO. 450—COMMITTEE ON JUDICIARY

MARCH 25, 1981

Referred to Committee on Judiciary

SUMMARY—Eliminates requirement for corroboration of victim's testimony in cases involving abortion or prostitution if witness is a peace officer. (BDR 14-835)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to trials; eliminating the requirement for corroboration of the testimony of a police officer or deputy sheriff in cases involving abortion or prostitution; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 **SECTION 1.** NRS 175.301 is hereby amended to read as follows:
2 175.301 Upon a trial for procuring or attempting to procure an abor-
3 tion, or aiding or assisting therein, or for inveigling, enticing or taking
4 away any person for the purpose of prostitution, or aiding or assisting
5 therein, the defendant [shall] *must* not be convicted upon the testimony
6 of the person upon or with whom the offense has allegedly been com-
7 mitted, unless [the]:
8 1. *The testimony of that person is corroborated by other evi-*
9 dence [.] ; or
10 2. *The person giving the testimony is, and was at the time the crime*
11 *is alleged to have taken place, a police officer or deputy sheriff who was*
12 *performing his duties as such.*

A. B. 297

ASSEMBLY BILL NO. 297—ASSEMBLYMAN HAYES
(by request)

MARCH 5, 1981

Referred to Committee on Judiciary

SUMMARY—Simplifies provision for verification of complaint for divorce. (BDR 11-905)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to divorce; simplifying the provision for verification of a complaint; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 125.020 is hereby amended to read as follows:
2 125.020 1. Divorce from the bonds of matrimony may be obtained
3 for the causes provided in NRS 125.010, by [complaint, under oath]
4 *verified complaint* to the district court of any county:
5 (a) In which the cause therefor [shall have accrued; or] *accrued*;
6 (b) In which the defendant [shall reside or] *resides or may be found*;
7 [or]
8 (c) In which the plaintiff [shall reside; or] *resides*;
9 (d) In which the parties last cohabited; or
10 (e) If plaintiff [shall have] resided 6 weeks in the state before suit
11 [be] was brought.
12 2. Unless the cause of action [shall have] accrued within the county
13 while *the* plaintiff and defendant were actually domiciled therein, no
14 court [shall have] *has* jurisdiction to grant a divorce unless either the
15 plaintiff or defendant [shall have] *has* been resident of the state for a
16 period of not less than 6 weeks preceding the commencement of the
17 action.
18 **Sec. 2.** This act shall become effective upon passage and approval.