

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-Second Session
April 21, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8:30 a.m. on Friday, April 21, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Brittney Miller, Chair
Assemblywoman Elaine Marzola, Vice Chair
Assemblywoman Shannon Bilbray-Axelrod
Assemblywoman Lesley E. Cohen
Assemblywoman Venicia Considine
Assemblywoman Danielle Gallant
Assemblyman Ken Gray
Assemblywoman Alexis Hansen
Assemblywoman Melissa Hardy
Assemblywoman Selena La Rue Hatch
Assemblywoman Erica Mosca
Assemblywoman Sabra Newby
Assemblyman David Orentlicher
Assemblywoman Shondra Summers-Armstrong
Assemblyman Toby Yurek

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Bradley A. Wilkinson, Committee Counsel
Devon Kajatt, Committee Manager
Aaron Klatt, Committee Secretary
Ashley Torres, Committee Assistant

OTHERS PRESENT:

John R. McCormick, Assistant Court Administrator, Administrative Office of the
Courts
Melissa A. Saragosa, Chief Judge, Las Vegas Justice Court

Chair Miller:

[Roll was taken. Committee rules and protocol were explained.] Good morning, everyone. Welcome back to Assembly Judiciary. I know we have had a few days' reprieve as it is deadline week, and we are up against another deadline in a few days. Today, we have two bills that we are hearing. We are first starting with Senate Bill 55 (1st Reprint) presented by John McCormick, which revises various provisions relating to courts. With that, I will officially open the hearing.

Senate Bill 55 (1st Reprint): Revises various provisions relating to courts. (BDR 1-432)

**John R. McCormick, Assistant Court Administrator, Administrative Office of the
Courts:**

With me in Las Vegas is Judge Melissa Saragosa with Las Vegas Justice Court, and we are here today to present S.B. 55 (R1). I will say that this is primarily a cleanup bill, and obviously, we are going off the first reprint here. Section 1 was deleted by amendment. Section 2 of the bill changes the language regarding clerks of justice courts from "deputy clerk" to "clerk". It is a wording change and that occurs several times in the bill. Section 3 was deleted by amendment in the other house.

Section 4 deals with clerk of court and court administrators for justice courts, particularly large ones like Las Vegas. Section 5 of this bill amends the jurisdiction statute for justice courts to remove a provision that currently allows the Nevada Highway Patrol (NHP) to file tickets into all adjacent counties and townships. It would require that those citations are filed into the township in which they occur. Section 6 of the bill allows the transfer of cases in a justice court when the entire bench has to recuse or is disqualified. Judge Saragosa will have some examples on this; but say, for instance, when a member of the bench becomes a victim of an offense, none of the other judges on the court would be comfortable hearing that case. This would allow that case to be transferred to another justice court to be appropriately handled.

Section 7 is another section that deals with the "clerk" of court, "deputy clerk" of court language issue. Section 8 impacts the amount of credit people get for completing community service when ordered by the court. Currently, the statute requires that the courts must provide a credit of \$10 or the amount of the state minimum wage for that community service. We would like to change that so the amount of credit for community service is not less than the state minimum wage, but it would allow courts to give more credit than the current minimum wage of \$10.50 per hour. This is because that amount may not necessarily be appropriate in most jurisdictions. For example, the median hourly wage in Washoe County is \$25.36, in Clark County it is \$24.21, and Nevada's median wage is \$18.22. Therefore, it is just to update that language to allow an appropriate amount of credit for those community service hours.

Then we have sections 9, 10, 11, and 12 where it is again removing "deputy" from the clerk language; so, it is "clerk" of the court, not "deputy clerk". Finally, the bill repeals two sections of statute, those being *Nevada Revised Statutes* (NRS) 4.290 and 4.300, that have, I would wager to say, antiquated language dealing with successor justices of the peace; those who take over if an office becomes vacant. Standard practice is that the county commission for the county in which the township is located does an appointment process for vacant offices. This just repeals those sections that conflict with modern practice. With that, that is a brief overview of the bill, and I will turn it over to Judge Saragosa.

Melissa A. Saragosa, Chief Judge, Las Vegas Justice Court:

Mr. McCormick has presented most of what I had to say because this is what I would call a simple, almost boring bill, which is the kind I hope you like. Regarding section 4, I wanted to touch on this changing of the language from "deputy clerk" to "clerk" and give you a little historical perspective. Years ago, the clerk of the court actually fell under the county clerk; that separated years ago, and this language was just never updated. Therefore, it left us in a position where there is no statute that exists that either authorizes or says who the clerk of the court is. We have been using the chief judge that rotates every time we have a new chief judge come into place. In reality, the person who is the clerk of the court is the court administrator, and we did not want the court administrator to consistently be referred to as the deputy clerk. That is why we are trying to update that language since that separation from the county clerk took place. We have also stricken some language in here that required the clerk of the court to post a bond; that is not necessary. Thus, that is the purpose of changing that deputy clerk language.

I am going to skip ahead to section 6. As Mr. McCormick stated, in the Las Vegas Justice Court we have had several instances where either a family member of a judge or the judge themselves was the victim of an offense, and then that criminal case came into our court. Obviously, everybody on the bench has a personal relationship and there would even be the appearance of that case being handled unfairly if any one of us were to hear it. Yet, in this particular statute, NRS 4.3713, while it allowed for the transfer of cases in certain circumstances, that was not one of them. In order for us to handle that case properly and deal with our judicial canons, we would have to bring a senior judge in and pay a senior judge to

handle a case that could have been handled by one of our neighboring townships. That is the purpose there.

Then there is one other part that just did not make sense. In section 6, subsection 1, paragraph (a) it allowed us to transfer a case involving criminal conduct, but it required that the defendant had to appear before a magistrate before that happened. Well, if that magistrate is the one that has the conflict of interest, then that magistrate cannot hear the case and then transfer it. They should take no action on it whatsoever in order to be in alignment with our judicial canons. Therefore, that is why we have stricken that portion of paragraph (a).

Finally, I will just make one brief additional comment on section 8 where we discussed making the community service credit towards any fines and fees a floor instead of a mandate that is tied to minimum wage. When the minimum wage has a change, like the most recent increase to \$10.50, it is very hard to make that calculation. It is a lot easier for us to use a nice round number, like \$15 an hour or \$12 an hour, instead of having the part of a dollar involved. In fact, we at the Las Vegas Justice Court had looked amongst ourselves to make it \$15 an hour credit towards fines and fees, and we found we could not because of this statute. That was one of the other reasons for this particular change. I am happy to answer any questions you may have.

Assemblywoman Bilbray-Axelrod:

I appreciate the work from the as introduced bill to what we have now because one of my concerns was section 1, and I believe the intent in taking section 1 out is that we are not limiting municipal and justice courts to not be open on Sunday. Is that correct?

John McCormick:

Yes, that was the intent. That section got a little confusing, and we decided to axe it to make the bill significantly simpler. That is the idea, that justice courts are available at all hours to take applications, for protection orders in particular.

Assemblywoman Bilbray-Axelrod:

My other question was about the minimum wage and community service credit discussion. I am wondering, would it make more sense to have language such as basic market value or something akin to that? For example, not many folks are even getting \$15 an hour—you go to In-N-Out Burger and you are getting \$18 an hour. Therefore, maybe there is more permissive language that does not put a dollar amount because I do worry about that in statute when this does not get opened again for 15 years, and then we have to change it to \$50 an hour. That is my concern.

John McCormick:

The idea, at least in drafting, was that we made that the floor. Therefore, it can go up, and there is no ceiling. You can never give less than minimum wage, but a court is not prohibited from matching market value for lack of a better term.

Assemblyman Yurek:

My question comes in section 5 with the removal of subsection 6 referring to the NHP and the jurisdiction of the justice court. In my experience, I know they can be quite transient, especially now with the current shortages where they are having to cross their normal beat areas. I thought that this provision was in there to help them after an arrest in one area or jurisdiction from having to come back to that area to testify later. It looks like it has been crafted to try to simplify and make that process easier. Can you help explain a little bit further on the purpose of why that section is being removed?

John McCormick:

I think that was originally the intent, but sometimes what happens is tickets get filed into a place that is very inconvenient for citizens. For example, I will use a couple of communities in eastern Nevada. An offense occurs, say in White Pine County; sometimes it would get filed into Eureka County. Therefore, people from Ely would then have to drive 70 miles to Eureka to appear in court and address the ticket. I understand trying to balance the issue with NHP and that issue, but I think we kind of erred on the side of access to justice, for lack of a better term, to make sure people are addressing their violations in the community in which it occurred. Frankly, with the passage of Assembly Bill 116 of the 81st Session and the shift to civil infractions, that has opened up the ability for much more business to be done online now. In fact, the Administrative Office of the Courts built an online traffic resolution system that a number of courts are now using. We are trying to expand that system, and the Las Vegas Justice Court is working on a similar initiative. Therefore, the idea was to clarify that if you got a ticket in White Pine County, it was filed in White Pine County, for example.

Judge Saragosa:

I wanted to add that there are two aspects at play when it comes to an officer's presentation of any testimony; first, if it is a civil infraction and it goes to a contested hearing, that officer is authorized to provide anything that is under an affidavit in writing. The words that are on the ticket itself, plus any narrative that they wrote on there and any narrative that they want to present to the court, may be done in writing and they would not have to travel to a different jurisdiction to present that testimony. Additionally, if it was a criminal traffic ticket, almost all our rural jurisdictions will allow them to testify via videoconferencing. Therefore, that would also eliminate the need for the officer to travel.

Chair Miller:

Not seeing any additional questions, I will open it up to support testimony for S.B. 55 (R1). Is there anyone wishing to testify in support? [There was no one.] Okay, then let us open it up for opposition testimony. Is there anyone wishing to testify in opposition of S.B. 55 (R1)? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] With that, I will close testimony on S.B. 55 (R1). The bill presenters are indicating that they do not wish to make any final comments, so I will go ahead and close the hearing on Senate Bill 55 (1st Reprint). Our next bill is Senate Bill 62 (1st Reprint) and is also presented by Mr. John McCormick. With that, I will officially open the hearing for S.B. 62 (R1).

Senate Bill 62 (1st Reprint): Revises provisions relating to the Commission on Judicial Discipline. (BDR 1-437)

John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts:

Hopefully, this will be even simpler than the last one. Speaking to the first reprint, what this bill does is clarify who has jurisdiction over potential ethical violations made by a lawyer who is running for judge. It clarifies that if there is a potential ethical violation during the campaign before they take the bench, that will be handled by the State Bar of Nevada and their office of discipline; and then if it is after they take the bench, then the Nevada Commission on Judicial Discipline will handle those. That leaves the question of non-attorney judges, which would remain under the Commission on Judicial Discipline's umbrella.

For a little background, this bill came out of the Supreme Court's Commission to Study the Statutes and Rules of the Commission on Judicial Discipline and Update the Nevada Code of Judicial Conduct. This was a recommendation out of that committee. That report has been provided as well if you have further questions on that [\[Exhibit C\]](#). With that, I will stand for any questions.

Assemblywoman Summers-Armstrong:

I did have a question about section 3, subsection (2) where it says, "If a judge is licensed to practice law in this State," could you please explain that? Is there any circumstance where someone is running for the position of judge in our state and they are not licensed to practice here?

John McCormick:

For district court judges, court of appeals judges, Supreme Court justices, there are statutory requirements that they have to be an admitted member of the Nevada State Bar with certain amounts of experience practicing in the state. Then for justices of the peace and municipal court judges in jurisdictions with a population over 100,000, generally, they have to be licensed attorneys and members of the Nevada State Bar. However, there are some smaller rural jurisdictions where the judge is not required to be an attorney, and that would be the only case. Generally, to be a judge where there is a statutory requirement, you have to be a lawyer, and you have to be a member of the Nevada State Bar. That is simply a necessary drafting element.

Chair Miller:

I would like to clarify, in those cases where we have judges who are not lawyers and not subject to Bar review, they, of course, would be under the judicial review?

John McCormick:

Yes, that is correct. The Commission on Judicial Discipline, in the absence of Bar jurisdiction, would retain it.

Assemblywoman Newby:

I was hoping to clarify, subsection 2 applies to when an offense is committed, correct? If there was something professionally that the judge did while they were a candidate for office, then that would still be under the Bar, even if it was discovered after they took the bench. Is that correct?

John McCormick:

Yes, it clarifies that if the alleged offense occurred when they were running for office—that is generally the primary concern—that would be subject to Bar discipline. Then when they took the bench, any subsequent event would be under the purview of the Commission on Judicial Discipline.

Assemblywoman Newby:

Therefore, if you are required to be a licensed attorney in the state of Nevada to be a judge, is it possible that the Bar could disbar you while you are a sitting judge?

John McCormick:

That would be the case, but I believe that could still occur now. If in the event an attorney judge did something that violated the attorney code of conduct, the attorney canons of ethics but not the judicial canon—I cannot think off the top of my head of a case where that would necessarily occur—they could be disciplined by the Bar up to disbarment and then they would no longer be qualified for the seat. If that were to happen, we would have a whole mess.

Chair Miller:

Are you saying it has not occurred?

John McCormick:

Correct. To the best of my knowledge that has not occurred because while the judicial canons are clearly more specific to judge behavior, very similar ethical obligations apply for attorneys. Another case I could point out to is, say it was an attorney who was managing a client trust account when they were still practicing and there was some alleged malfeasance there. That would not necessarily pertain to being a judge because judges obviously do not have that same trust account requirement. Then that would be a bar issue versus a judicial discipline issue.

Chair Miller:

For further clarification, let us say an attorney has violated attorney-client privilege. They then run for judge and become a judge, the Bar reviews it and revokes the license of this person who is now on the bench. If the Bar revokes that license, will that also remove their qualification to practice as a judge on the bench, even though they were elected?

John McCormick:

That is my understanding because it would then violate the statutory qualifications for the office to which they were elected. I think the Commission on Judicial Discipline would then have to get involved in that way.

Assemblywoman La Rue Hatch:

Are there any powers that the Commission on Judicial Discipline has that the State Bar does not? For example, if someone commits an offense that would warrant removal from the bench under the current system, if we adopt this and they did it before they took office, would the State Bar also have the power to remove them from the bench?

John McCormick:

The State Bar has the authority over their licensure as an attorney. Therefore, I think in that case—say the Bar said this alleged offense was so egregious, we are disbaring you—it goes through the appeal process, et cetera, and was found that they are no longer an attorney; then the Commission on Judicial Discipline would come into question because they are no longer qualified to be a judge pursuant to the statutory qualifications.

Chair Miller:

With that, I will go ahead and open it up for testimony in support of S.B. 62 (R1).

Melissa A. Saragosa, Chief Judge, Las Vegas Justice Court:

I did want to offer one piece of information in response to Assemblywoman Summers-Armstrong's question. For reference, the provision that talks about the qualifications of a justice of the peace comes from *Nevada Revised Statutes* 4.010 and it is in a county whose population is 100,000 or more, a justice of the peace must be an attorney who is licensed in the state of Nevada and have five years of legal experience prior to his or her election. However, for our smaller jurisdictions that have a population less than 100,000 in the county, they are not required to have those eligibility requirements. Their only requirement is a high school diploma.

Chair Miller:

Judge, we are in support testimony. Are you in support of the bill?

Judge Saragosa:

Yes, ma'am. I am in support of the bill as Mr. McCormick has presented it, and I do think that it makes a clarification for all judges that are running to have that distinction between who is responsible for handling any discipline. What has happened in the past is that problem where you have somebody running for the position and there is a potential violation, and nobody knows who is going to handle it; this would clarify that.

Chair Miller:

Is there anyone who would like to testify in opposition of S.B. 62 (R1)? [There was no one.] Then, I will now open it up for testimony in neutral. [There was none.] I will go ahead and close testimony, and Mr. McCormick is waiving his final remarks. With that, I will go ahead

and close the hearing on Senate Bill 62 (1st Reprint). Our last order of business today is public comment.

[Public comment was heard.]

I will say this is the first time I have had a half-hour committee meeting since I have chaired Legislative Operations and Elections. This may be our last time ever doing that, but we will see. We are scheduled for Monday at 8:30 a.m. Everyone, have a great weekend. This meeting is adjourned [at 8:59 a.m.].

RESPECTFULLY SUBMITTED:

Aaron Klatt
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a report titled "Commission to Study the Statutes and Rules Governing the Commission on Judicial Discipline and Update, as Necessary, the Code of Conduct," submitted by John R. McCormick, Assistant Court Administrator, Administrative Office of the Courts, regarding Senate Bill 62 (1st Reprint).