

**MINUTES OF THE
SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION**

**Seventy-third Session
March 16, 2005**

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 1:36 p.m. on Wednesday, March 16, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Maurice E. Washington, Chair
Senator Barbara K. Cegavske, Vice Chair
Senator Dennis Nolan
Senator Joe Heck
Senator Bernice Mathews
Senator Valerie Wiener
Senator Steven Horsford

GUEST LEGISLATORS PRESENT:

Senator Dean A. Rhoads, Northern Nevada Senatorial District
Senator John J. Lee, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Leslie K. Hamner, Committee Counsel
Marshellah D. Lyons, Committee Policy Analyst
Patricia Vardakis, Committee Secretary

OTHERS PRESENT:

Laura A. Schroeder, Attorney, Pershing County Water Conservation District
Pamela B. Wilcox, Administrator and State Land Registrar, Division of State
Lands, State Department of Conservation and Natural Resources
Bob Milz, Board of Commissioners, Lyon County

Senate Committee on Human Resources and Education
March 16, 2005
Page 2

Ronald M. James, State Historic Preservation Officer, Office of Historic
Preservation, Department of Cultural Affairs
Greg Hess, Chairman, Board of Commissioners, Storey County
Michael A. (Bert) Bedeau, District Administrator, Comstock Historic District
Commission, Department of Cultural Affairs
Larry Wahrenbrock
Judge Gerald W. Hardcastle, Department D, Family Division, Eighth Judicial
District Court

CHAIR WASHINGTON:

We shall open the hearing for Senate Bill (S.B.) 81.

SENATE BILL 81: Makes various changes concerning protection of certain
significant historical resources. (BDR 33-428)

SENATOR DEAN A. RHOADS (Northern Nevada Senatorial District):

Senate Bill 81 was requested by the Legislative Committee on Public Lands to provide for the protection of certain significant historical resources in an attempt to effectuate the Humboldt Project Title Transfer and similar federal land transfers that will take place in Nevada. The bill's goal is to address the treatment of cultural and historical resources that may be found on land that is transferred from the federal government to the State of Nevada or its local governing bodies. The issue was brought to the Legislative Committee on Public Lands by the Pershing County Water Conservation District in an effort to complete the Humboldt Project Title Transfer. The Humboldt Project is a federal reclamation project to collect and store Humboldt River water in the Rye Patch Reservoir and other areas in the basin for the irrigation of farmland in and around Lovelock. Since 1940, the District has operated and maintained much of the project's facilities and has understood the title to the project would some day be transferred to the District. After years of coordination and efforts by federal, State, local government agencies, water users and the Legislative Committee on Public Lands, the United States Senate approved HR 5200 on October 17, 2002. This federal legislation transferred title to the Humboldt Project from the United States to the Pershing County Water Conservation District, Lander County, Pershing County and the State of Nevada.

Since the passage of HR 5200, the District has been working diligently to bring the title transfer to success. While the District is close to completing the transfer, a major roadblock has surfaced as it relates to the cultural and historic

resources that may exist on the proposed transferred lands. Under the National Historic Preservation Act there is an associated federal regulation that provides for an automatic adverse effect on cultural resources whenever a land transfer out of federal ownership is conducted. The regulation provides an exception to this adverse effect when the State itself protects the cultural resources on the lands within the transfer. The goal of S.B. 81 is to provide protection for important cultural and historical resources in transferred-land areas. This type of law would alleviate the need for Nevada to pay for cultural-resource excavation in areas where development is not occurring. Such a law would provide that any transferred land belonging to the State is automatically protected in terms of cultural resources until development on that land occurs.

The cost to excavate and annualize the cultural resources within the Humboldt Project for the portion transferred to the State is estimated to be at least \$1 million. A similar amount maybe required from the Pershing County Water Conservation District for its portion of the transferred lands. Without the legislation the entire Humboldt Project Title Transfer is in jeopardy. Senate Bill 81 as written may not entirely accomplish the goals set forth by the Pershing County Water Conservation District.

LAURA A. SCHROEDER (Attorney, Pershing County Water Conservation District):
I am the attorney for the Pershing County Water Conservation District in Lovelock. For a number of years, we have been in the process of transferring the title of the Humboldt Project from the United States, to the District. This has involved piecing and parceling the land. The Humboldt Project comprises three parts: a pasture, the dam at Rye Patch and the surrounding reservoir, as well as the facilities to deliver water within the District. This project is going to be transferred not only to the district but also to the State. Part of the land in the Battle Mountain Pasture will go the State to form a wetlands park. Part of the land around Battle Mountain will go to Pershing County to establish an industrial park and some lands for its water treatment facilities. Part of the land lower in the valley will go to the Department of Wildlife for the purposes of fish and wildlife preservation and a bird refuge. Except for the Battle Mountain Pasture, all the places have been used by the State for that purpose. The Division of State Parks has used the land around that area for a number of years under a lease agreement. This would allow them to own the land. Pershing County would get a part of the land around Lovelock for its airport.

Each of these entities will receive this land. Prior to receiving the land under the congressional legislation, there must be compliance with the National Environmental Policy Act (NEPA). This includes cultural resources. The NEPA portion of this process is almost complete except for cultural resources. Our last hearing on the draft environmental impact statement was last evening. A final environmental impact statement and a record of decision will be issued this fall.

There are cultural resources left and that is the reason we are here. The extent of these cultural resources is phenomenal. It will cost more to do cultural resources than to buy equivalent land. In the first phase of the cultural resources, just on the portion of the District land, the cost will be \$960,000. There will be three additional phases: phase one B, phase two and phase three. The cost of these phases is not known. There are ranches available in the Battle Mountain Pasture for almost the same amount. Senate Bill 81 will assist us because the adverse effect will be removed. We will not need to complete all the phases of the cultural resources, but only complete them if the land is disturbed. When Pershing County puts in additional lanes or buildings for hangars at the airport, they will need then to comply with cultural resources on those lands. This will disturb those lands and a cultural-resource inventory will be required.

The purpose of S.B. 81 is to make the *Nevada Revised Statutes* (NRS) equivalent to the federal statutes. What would be required under federal statute would need to be done when the county made this land disturbance. Lander County would do the same when they disturbed the land for their industrial park and treatment facility. The district has managed this land for almost 100 years and there are no plans for land disturbance beyond the initial inventory.

I have provided the Committee with a copy of an e-mail explaining our concern about how the legislation is written ([Exhibit C](#)). The bill requires the State Historic Preservation Office (SHPO) to do the inventory and to do the cultural-resource work. It was not our intent for them to assume this work. The obligation should be borne by the entity moving the soil as it is under the federal legislation. The entity moving the soil has to pay the cost.

Senate Committee on Human Resources and Education
March 16, 2005
Page 5

CHAIR WASHINGTON:

We will hold the bill until you provide the Committee with an amendment. Is the purpose of the bill for the construction of the airport or taking into account Indian burial grounds?

MS. SCHROEDER:

The federal government and the reclamation trigger for cultural reserves require that once a title is conveyed it triggers their work unless there is a comparable state statute. This would affect everyone because once the state statute is in place the cultural reserves work does not begin until the land is disturbed.

PAMELA B. WILCOX (Administrator and State Land Registrar, Division of State Lands, State Department of Conservation and Natural Resources):

Senate Bill 81 would have much wider applicability than the Humboldt Project and the Pershing County transfers. Any time land is transferred from the federal government to the State, we face the same problem. Since the State does not have cultural-resources statutes equivalent to the federal statutes, the federal government wants us to mitigate every acre, which is expensive. We want to substitute a mechanism whereby the State can offer equivalent protection in a reasonable way that works well with the needs of state agencies and their political subdivisions. I have submitted to the Committee an outline of a draft amendment for S.B. 81 ([Exhibit D](#)). I have circulated the amendment language among the various concerned parties, but we need to finalize the language.

CHAIR WASHINGTON:

Does the federal requirement have any bearing on endangered species?

MS. WILCOX:

The Endangered Species Act applies to wildlife and plant species and is a separate law. This legislation applies to historic, prehistoric and paleontological resources. This is what we are trying to protect with S.B. 81.

CHAIR WASHINGTON:

Would the same procedure apply to endangered species?

MS. WILCOX:

Yes. This may happen at some future time. The state wildlife laws and state protection laws are fairly strong.

Senate Committee on Human Resources and Education
March 16, 2005
Page 6

CHAIR WASHINGTON:

We will close the hearing on SB. 81 and open the hearing on S.B. 82.

SENATE BILL 82: Revises provisions governing Comstock Historic District Commission. (BDR 33-399)

BOB MILZ (Board of Commissioners, Lyon County):

I have been a member of the Lyon County Board of Commissioners for eight years and we developed the criteria for construction within the Comstock Historic District. We have a manual ([Exhibit E](#), original is on file at the Research Library) that has been adopted. Our director is a historian and has the capabilities to carry out some of the menial tasks to follow the construction standards. For major construction and plan approval, they must come before the Board of Commissioners. We are requesting this be added to the legislation.

RONALD M. JAMES (State Historic Preservation Officer, Office of Historic Preservation, Department of Cultural Affairs):

For the last two decades, the Comstock Historic District Commission complied with the Open Meeting Law (OML) with a three-day notice. It also delegated responsibility for basic changes to be approved by the administrator of the Commission. The compliance with the OML and allowing the administrator to approve the simple projects made it easier on residents to adhere to the regulatory nature of the Commission. The regulatory nature of any architectural-review commission is sometimes onerous so we strive to make it as easy as possible. A contradiction in the NRS was identified, which caused the deputy attorneys general to advise us that we should adhere to the higher standard of a ten-day notice. A three-day notice would make it easier for residents to adhere to the regulatory authority of the Commission by a simple adherence to the OML. This law is intended to benefit the residents. If a majority of the residents were against this change, we would not be advocating such change.

GREG HESS (Chairman, Board of Commissioners, Storey County):

There are guidelines already in place for the Comstock Historic District Commission. A builder must qualify and build a historical home. There are times when changes in construction occur. There are times when contractors must wait as much as two months to go before the Commission. There are guidelines already in place that are followed. There is a lot of building occurring in Virginia City, Gold Hill, Silver City and the Dayton area. The district

Senate Committee on Human Resources and Education
March 16, 2005
Page 7

administrator is always in contact with the members of the Board of Commissioners. This bill would expedite the procedure.

CHAIR WASHINGTON:

Senate Bill 82 would expedite the process. What are the penalties for an owner who does not want go before the Board of Commissioners?

MR. HESS:

They would get a building permit without the Board of Commissioners' signature.

MR. MILZ:

We issue a certificate of appropriateness. Without a certificate of appropriateness, they cannot build. Then they would go to the building department of the county in which they are going to build.

CHAIR WASHINGTON:

There is an agreement between Storey and Lyon Counties.

MICHAEL A. (BERT) BEDEAU (District Administrator, Comstock Historic District Commission, Department of Cultural Affairs):

The purpose of S.B. 82 is to streamline the process. Over the past five years, I have administered the historical district and the complaint I have received from property owners and builders is the amount of time they must wait to have their projects approved. The Commission meets once a month. According to present statutes, I must give a ten-day notice. Depending on the timing, it could be as much as five weeks from the application filing to the project approval. We are suggesting that we return to a three-day notice and be in compliance with the OML. The second request is that the Commission be given the authority to designate staff to approve a range of small projects meeting the intent of the statute and the guidelines for the Commission. This would allow people to do small projects such as changing the paint color on their house, build a fence or pave a driveway. They could fill out the application, present materials required and we could approve the project in one process. Both changes would be in the interest of the residents and the Comstock Historic District. I urge the Committee's approval of S.B. 82.

CHAIR WASHINGTON:

Does the area have a short freeze-thaw window for construction?

MR. BEDEAU:

Depending on the weather, the construction window can be five or six months. It is a burden on people who are trying to get a project completed in the course of a season to have a five- or six-week wait. This is in addition to having to acquire a building permit. The change proposed in S.B. 82 will encourage people with small projects to come forward and go through the process rather than taking a chance on noncompliance. If the process is more convenient and accessible to the residents, then there will be a greater level of compliance.

LARRY WAHRENBROCK:

The Committee has been told there are delays in the permitting process; however, the Comstock Historic District Commission has not placed a stop-work order on any project in over two years. Rather than reducing the notice time legislatively, they could change policy and not have residents get in trouble for violative behavior. I have served on the board of commissioners. There are serious constitutional principles that become involved when private property is regulated. There has been arbitrary and capricious decision making depending upon the membership of the board of commissioners. I do not understand why the board of commissioners is coming before the Legislature with a problem that has not been addressed in the district. The construction of the Comstock Historic District Commission is unique. They have declaratory authority under the law. They do not advise people about what to do with their private property, they tell them. As a property owner, the only recourse a person has is to go to court or the Legislature. I have provided the committee with my written statement and other documents elaborating on my reasons for opposing S.B. 82 ([Exhibit F](#), original is on file at the Research Library).

CHAIR WASHINGTON:

I do not see any provision in the bill which precludes current state statute in the way the board of commissioners conduct business. The bill will reduce waiting time and comply with the OML, which is three days and have the hearing in ten days. The reason is because of the short construction window.

MR. WAHRENBROCK:

In current law, there is a specified ten-day notice. The board of commissioners is judge, jury and cop.

Senate Committee on Human Resources and Education
March 16, 2005
Page 9

CHAIR WASHINGTON:

The bill would not change that situation.

MR. WAHRENBROCK:

It emphasizes the necessity for the ten-day notice for materially affected property. The language can be found on lines 19 through 21 on page 4 of S.B. 82.

CHAIR WASHINGTON:

The notice will be mailed three days prior to the date set for the hearing.

MR. BEDEAU:

It would also include posting notices in public venues.

CHAIR WASHINGTON:

You must comply with the OML.

MR. BEDEAU:

Our intent is to comply with the requirements of the OML. We have done so for years under the assumption that the OML overrides the notice requirements in other statutes. There is no precedent or state law regarding how these conflicts are resolved; so we returned to the ten-day notice requirement. Moving to a three-day notice will reduce the time people will wait to have their items on the agenda.

CHAIR WASHINGTON:

The approximate time of the process from the time of posting and sending out notices is ten days.

MR. BEDEAU:

There is an additional two workdays for preparing the agenda, mailing and posting. Returning to three days would shorten the time, which is the intent.

SENATOR HORSFORD:

Would the certificate of appropriateness be submitted to the Commission if it did not meet certain historic guidelines?

MR. BEDEAU:

Yes. As an example, if an applicant wants to paint a residence and the paint colors chosen are appropriate nineteenth-century colors and in the staff's opinion they meet the guidelines, we would be permitted to issue a certificate of appropriateness. If the guidelines were not met, it would be referred to the Commission for ruling. If, in the opinion of the staff, the guidelines are met, the approval will be granted. This is a subjective process and is not civil code. The set of standards are designed to be interpreted. The Commission and the public must rely on the expertise of the staff. The new language has been constructed so the range of projects rests with the Commission. The Commission can decide not to give the power of approval.

SENATOR HORSFORD:

Is there language in S.B. 82 that states the Commission needs to develop some guidelines?

MR. BEDEAU:

The guidelines as depicted in [Exhibit E](#) go into a realm of specificity. It is difficult in an area as diverse as the Comstock to give precise answers for every possibility in every situation. There needs to be a level of flexibility. We incorporate a set of guidelines that are known as the Secretary of the Interior's Standards, which have been used by federal projects; they have been interpreted from those standards into our guidelines.

SENATOR HORSFORD:

If a project does not meet the appropriateness based on the guidelines and the review of staff and needs to go before the Commission, what would be the time period for public notice?

MR. BEDEAU:

At the present time, it would be ten workdays before the meeting. If we go to the OML, it would be three workdays.

SENATOR HORSFORD:

I do not believe three workdays is adequate notice to an affected party. I am concerned about the precedent this may set, especially on an historic project.

MR. BEDEAU:

That is the reason we have established the precedent. This would affect projects of scale, size and character that have been determined and approved by the Commission. These would be within the published guidelines.

SENATOR HORSFORD:

I still have a concern with those projects that do not meet the guidelines.

MR. BEDEAU:

The applicant would apply with us and if their project needed to go before the Commission, the meeting notice would go out three workdays prior to the meeting.

CHAIR WASHINGTON:

Do you do a prescreening of the applicant?

MR. BEDEAU:

Yes. The applicant completes an application form and provides us with the information about the project. If they are to be approved at the time of application, they must provide us with appropriate documentation of the site and proposed work before they would get their certificate of appropriateness.

CHAIR WASHINGTON:

Does the staff make sure the application is complete?

MR. BEDEAU:

Yes, we do.

MR. JAMES:

The history of the Commission has been that they use three workdays and complied with the OML. This was true of the Commission under the tenure of Mr. Wahrenbrock. The three workday practice has been used for more years than the ten workday notice and has been tested. The problem that the Commission has faced is the delays in construction resulting from working with a higher standard of ten days. The three workday standard is not a lower standard of the OML. The majority of people in the district agree with reducing the time for notification. It gives flexibility in permitting the granting of minor projects to the district administrator.

SENATOR WIENER:

Do you remember when the notice was changed to ten days and why?

MR. BEDEAU:

The notice was changed based on a letter from Mr. Wahrenbrock which was received April 2003. It was subsequently discussed with our deputy attorney general concerning our OML and the preexisting language in our statute as well as the staff approvals. We received a decision from the Office of the Attorney General in June 2003. It was agendized and discussed in July 2003.

SENATOR WIENER:

How was the ten days selected as the appropriate time period?

MR. BEDEAU:

The history of the statute was originally promulgated in 1969 and was restructured in 1972. I do not know exactly when the ten-day notice went into effect.

SENATOR WIENER:

There was ten-day notice in the original statute. Then, you went to three days, back to ten days and now you are proposing the three-day notice again.

MR. BEDEAU:

Yes.

MR. WAHRENBROCK:

The reason I originally raised the question about the ten-day notice is because I perceived an administrative failing on the part of the District. It constituted a particular project that had been approved; there was a satellite dish applied to the building. I questioned the Commission about the dish, but I have had no resolution. During my research, I became aware of the ten-day notice procedure. It is not an uncommon practice when dealing with property-right issues to have a ten-day notice. Advisory boards always have a ten-day notice. The Board of Commissioners has the rule and force of law. They do not advise the property owners in the district. When a project has been reviewed and it has been reviewed prior to coming before the Commission, there are notations where various items have been changed. Legislation states the Commission may put a stop order on the project, but they are not obligated to do so.

Senate Committee on Human Resources and Education
March 16, 2005
Page 13

CHAIR WASHINGTON:

Senate Bill 82 is addressing changes in notification time and advisory boards.

MR. WAHRENBROCK:

The bill addresses the permitting process.

CHAIR WASHINGTON:

The permitting process is a function of the county. If the residents in the two counties wish to form an advisory board, they should approach the Commission with their request.

MR. WAHRENBROCK:

The residents are precluded from doing so by this legislation. The Department of Cultural Affairs is a state agency. The Legislature is the baseline elected authority for me to address my grievances.

CHAIR WASHINGTON:

I am sure the Commission would be sensitive if a number of citizens wanted to create an advisory board. The township I live in has an advisory board that reviews public works and then projects are sent to the council for approval. I do not want to delay the bill on the issue of an advisory board.

SENATOR NOLAN:

During your tenure, the same methods of the Board of Commissioners were in practice. Listening to the testimony there seems to be a difference in philosophical appreciation for what the current Board of Commissioners is trying to do.

CHAIR WASHINGTON:

I would encourage you to work with the Commission. If the minimum of a three-day notice is set in statute, there is nothing precluding the Commission from using five days to post notices.

MR. WAHRENBROCK:

I attend most meetings, but do not get the cooperation that I deem appropriate.

SENATOR NOLAN MOVED TO DO PASS S.B. 82.

SENATOR CEGAVSKE SECONDED THE MOTION.

SENATOR HORSFORD:

My concern is, in section 1 of S.B. 82, the Comstock Historic District Commission is asking for the latitude to authorize staff to issue certificates of appropriateness when projects come before them that are in compliance with standards. For projects that are not in compliance, they must go before the Board of Commissioners. The other issue the bill addresses reduces the time of public notice from ten days to a three-day notice. I can agree with the rationalization of the process for projects that are in compliance, but I do not agree that three-day public notice is sufficient time for those who are affected. It seems counterproductive to protecting our historical landmarks. I cannot support the motion. There should be language in the bill that states, "For projects that are not in compliance; that do not have compliance for staff review, they will have a minimum of a ten-day public notice." In large urban communities there is a 30-day notice when a project is not in compliance. In smaller communities there should be additional notice as well.

CHAIR WASHINGTON:

If you wish to offer an amendment, you can do so on the Senate floor.

THE MOTION CARRIED. (SENATORS WIENER AND HORSFORD VOTED NO.)

I will reopen the hearing on S.B. 81.

SENATOR CEGAVSKE:

Is the language on page 2, lines 26 through 28 of S.B. 81 necessary?

LESLIE K. HAMNER (Committee Counsel):

The language is modeled after the existing criminal provisions for similar provisions governing cultural affairs. This is to assure that nothing in the criminal provision is going to pertain to those who are validly excavating the land pursuant to the law. These individuals may be removing a significant historical resource and this language would keep them from being in violation and committing a crime.

Senate Committee on Human Resources and Education
March 16, 2005
Page 15

SENATOR CEGAVSKE:

There have been occasions of vandalism by individuals working for a contractor in our historic areas. Would that language protect them?

MS. HAMNER:

It would protect them if they were under the supervision of a state agency.

CHAIR WASHINGTON:

They would be a political subdivision of the State. As long as they are working under the purview of the State in their official capacity, they would be protected.

I will close the hearing on S.B. 81 and open the hearing on S.B. 149.

SENATE BILL 149: Revises provisions governing compensation for Board of Regents of University of Nevada. (BDR 34-774)

SENATOR JOHN J. LEE (Clark County Senatorial District No. 1):

The Board of Regents of the University and Community College System of Nevada consists of 13 members. They are responsible for 100,547 students, 16,580 class selections, 13,224 employees and 2,296 full-time faculty members. They oversee two state universities, one state college, four community colleges consisting of 14 campuses and the Desert Research Institute, which comprises three campuses. That is a total of 20 campuses.

In addition to those responsibilities, the Regents attend a variety of meetings each year in addition to the five to eight regularly scheduled board meetings. The additional meetings include: special meetings of the Board; meetings of the Board with other entities, such as the State Board of Education; standing committee meetings which include: academic research, student affairs, audit, budget, finance, investment; ad hoc committee meetings such as president/chancellor search, technology task force, health education committee, board development, state tax, foundation boards and the appeals committee for Millennium Scholarship. The Board of Regents also sits as the board of the various University and Community College System of Nevada (UCCSN) foundations and meets periodically to conduct foundation business. These are separate meetings, but they are normally conducted in the middle of a regular Board meeting.

It is projected that in ten years, the UCCSN enrollment will climb to 163,200 students which is an increase of 62 percent. The latest report indicates Nevada grew 4.1 percent last year; it is still the fastest-growing state in the nation. The growth of high school graduates statewide is expected to lead the nation.

It had come to my attention that these elected officials work countless hours to provide leadership and guidance in order to impart a world-class education for our Nevada students. I believe we should make the opportunity to serve on this Board available to all Nevadans who would love to give to our universities. My goal is to see that people holding various college degrees take advantage of the opportunity to serve in this part-time position. We never want to make our Board of Regents an elitist position excluding those who have graduated with a less prestigious degree yet, nonetheless have a unique perspective to offer the system. Some college degrees are labors of love and these degrees do not command the highest paid income levels, but they are valuable degrees offering a diverse tapestry of education in our State. My objective is that someone who has a desire to contribute be able to take time off from their job and be compensated for their time and efforts.

This bill will allow the Board of Regents to be compensated for their time. They would receive a salary of \$80 for each meeting attended, and the chairman of the Board would receive \$85. This compensation would be included into the next budget-process cycle in June 2005, which is budgeting for 2006. The biennial budget will be set for January 2006.

Regents have been compensated through host accounts at approximately \$2,500 per Regent. These funds are for expenditures concerning business and other higher education-related events. Regents need to be compensated for the meetings they attend and the host accounts should be eliminated.

SENATOR WIENER:

Are there other states of comparable growth where regents are compensated? Why have you chosen these specific amounts of compensation?

SENATOR LEE:

The Regents do receive a per diem for travel and food.

SENATOR WIENER:

I question whether \$80 or \$85 compensation would cover the loss of a days' wages.

SENATOR LEE:

There are some universities in other states that give \$15,000 to \$20,000 per year compensation to their regents. My goal was to compensate the Regents equally to the school boards in Nevada. I have submitted to the Committee a handout ([Exhibit G](#)) to support my position.

SENATOR WIENER:

Have you conferred with the Board of Regents and received a response from them?

SENATOR LEE:

I called each Regent and informed them. I proposed the idea to help them. The Regents did not initiate the concept.

SENATOR WIENER:

Did you get a reaction from the Regents in response to your introduction of this bill?

SENATOR LEE:

They appreciated the introduction of the bill, but they felt the compensation was not adequate.

SENATOR NOLAN:

The fiscal responsibility of S.B. 149 will be addressed by another committee. In regard to seeking fair remuneration for those who give their time and expertise, there are many positions where people are not compensated for their participation. From a policy perspective, I believe it is fair to compensate individuals for their time and efforts.

SENATOR HECK:

There is precedent in other state boards for \$80 compensation, but there is no other provision where the chairman makes a \$5 deferential. We should be consistent with other state boards.

Senate Committee on Human Resources and Education
March 16, 2005
Page 18

SENATOR LEE:

I patterned the compensation after the school boards in the two largest counties.

CHAIR WASHINGTON:

Do you want to amend S.B. 149?

SENATOR LEE:

I will agree with the Committee's decision.

SENATOR HECK:

I understand the precedent at the local level, but this is a state board and this should be patterned after them.

SENATOR NOLAN MOVED TO AMEND AND DO PASS S.B. 149.

SENATOR HORSFORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR WASHINGTON:

Last Legislative Session, the Senate Committee on Human Resources and Facilities heard a controversial bill concerning open and closed hearings for cases of abused and neglected children. There was a pilot project proposed at that time. We will hear a report on the progress of the pilot project.

JUDGE GERALD W. HARDCASTLE (Department D, Family Division, Eighth Judicial District Court):

I have provided the Committee with the technical assistance brief ([Exhibit H](#), original is on file at the Research Library) which is an expression of the fundamental arguments dealing with this issue. On page 12 of [Exhibit H](#), the State of Nevada is depicted differently because we had a pilot project in Clark County for the last two years. In Clark County, the review hearings have been open subject to the judge being able to close such hearings.

I shall read from prepared testimony ([Exhibit I](#)) explaining the three principles of open dependency proceedings and my experience with open dependency hearings.

CHAIR WASHINGTON:

The intent of the pilot project was to discover what actually occurred in the courtroom concerning the open courtroom in cases involving abused and neglected children.

JUDGE HARDCASTLE:

There is a tremendous outpouring of public sympathy and support for these children. There is a present case where the community is concerned about how child welfare is being handled. The courts need to be open and the public needs to understand the proceedings. It is not detrimental to children. The children appreciate the support. There was a perception when juvenile court started about judges being paternal. In today's courtroom, these are formal proceedings; the issues are difficult and it is a different process. It is a process that requires funding. It needs to have a greater priority in the community.

SENATOR WIENER:

How long has the project been in effect and how many children participated in the pilot project?

JUDGE HARDCASTLE:

The project has been in effect for two years. Presently, there are 1,800 children in foster care and the cases are reviewed twice a year, but only a portion of the 1,800 children have been reviewed through the process.

SENATOR WIENER:

Have you spoken to any children who have been through the process and are now experiencing the open court proceedings?

JUDGE HARDCASTLE:

No. Every child ten years of age or older is required to appear. I want to see them, talk to them, hear about their problems and how they feel about the situation. The children have been responsive. They do not have trouble expressing themselves. If the court feels that we are going into dangerous territory, then adjustments are made. I have not talked to them about their feelings about open hearings. In the courtroom, along with the child, there may

be parents, attorneys, a case worker, the case worker's supervisor and the court staff.

SENATOR WIENER:

Would this occur whether the case was open or closed? Would the child have a sense of their presence in the courtroom?

JUDGE HARDCASTLE:

What is expressed to the child is that all those present in the courtroom are for their benefit.

CHAIR WASHINGTON:

Have there been any requests by parents for closed hearings?

JUDGE HARDCASTLE:

The parent's discretion is not a basis for closing a hearing. The statute states it must be in the best interest of the child. There have been no complaints. I cannot recall a case when a parent felt uncomfortable. If this was expressed to me, I would close the hearing.

CHAIR WASHINGTON:

Have you had any feedback from other judges?

JUDGE HARDCASTLE:

I have not spoken to them. The project cannot continue indefinitely. A final decision should be made to make the project permanent.

CHAIR WASHINGTON:

Have any of the chief judges voiced their opinions about the project?

JUDGE HARDCASTLE:

The chief judge in the Eighth Judicial District Court is in support of this program. The operations of the Juvenile Court are a specialized function of the Family Court. They leave the operations to the judges of the Juvenile Court. The National Council of Family Juvenile Court Judges has not taken a position on this matter. The Council of Court Administrators and the Council of Chief Judges has supported the proposition.

Senate Committee on Human Resources and Education
March 16, 2005
Page 21

CHAIR WASHINGTON:

A decision should be made before the next Legislative Session.

We have a Bill Draft Request (BDR) 40-51. It was requested by former Senator Raymond D. Rawson and the Chair has agreed to introduce the BDR for him. It will require a two-thirds vote for passage.

BILL DRAFT REQUEST 40-51: Requires licensure by Health Division of Department of Human Resources of facilities which procure, perform tests on, store or distribute human tissues or organs for medical or dental education, medical or dental research or advancement of medical or dental science. (Later introduced as [Senate Bill 193](#).)

SENATOR WIENER:

Why is there a two-thirds vote required?

MS. HAMNER:

The two-thirds vote is required because there is a fee for licensing these facilities.

MARSHEILAH D. LYONS (Committee Policy Analyst):

This BDR does not relate to transplant material.

SENATOR NOLAN:

The University of Nevada School of Medicine maintains an anatomical repository for student studies. Is there still an active interest in the BDR? There have been problems in the past with the selling of body parts.

MS. LYONS:

Yes. There are groups actively engaged including the University.

SENATOR NOLAN MOVED TO INTRODUCE BDR 40-51.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Senate Committee on Human Resources and Education
March 16, 2005
Page 22

CHAIR WASHINGTON:

There being no other issues before us today, the Senate Committee on Human Resources and Education will adjourn at 3:31 p.m.

RESPECTFULLY SUBMITTED:

Patricia Vardakis,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: _____