

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

**Seventy-Fourth Session
May 23, 2007**

The Committee on Judiciary was called to order by Chairman Bernie Anderson at 9:06 a.m., on Wednesday, May 23, 2007, 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/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Bernie Anderson, Chairman
Assemblyman William Horne, Vice Chairman
Assemblywoman Francis Allen
Assemblyman John C. Carpenter
Assemblyman Ty Cobb
Assemblyman Marcus Conklin
Assemblywoman Susan Gerhardt
Assemblyman Ed Goedhart
Assemblyman Garn Mabey
Assemblyman Mark Manendo
Assemblyman Harry Mortenson
Assemblyman John Ocegüera
Assemblyman James Ohrenschall
Assemblyman Tick Segerblom

GUEST LEGISLATORS PRESENT:

Senator William Raggio, Washoe County Senatorial District No. 3
Assemblywoman Barbara Buckley, Clark County District No. 8

Minutes ID: 1333



STAFF MEMBERS PRESENT:

Jennifer M. Chisel, Committee Policy Analyst
Risa Lang, Committee Counsel
Darlene Rubin, Committee Secretary
Matt Mowbray, Committee Assistant

OTHERS PRESENT:

Sherry Powell, representing Ladies of Liberty
Alecia Biddison, Managing Partner, The Busick Group
Vinson Guthreau, representing Nevada Association of Counties
Laurel Moser, Deputy Clerk, Washoe County Clerk's Office
Alan Glover, Clerk/Recorder, Carson City

Chairman Anderson:

[Meeting called to order. Roll called.]

We have posted this as a work session; however, there are two bills that are still in the province of the Committee; one is here by virtue of a waiver ([Exhibit C](#)). Madam Secretary will have the waiver for the joint standing rule for Senate Joint Resolution 2 of subsection 3 of the Joint Standing Rule Number 14.3 that is a requirement of final committee passage of the Second House by the 103rd day. That was granted on May 21, 2007 and signed by the Majority Leader of the Senate, Senator William Raggio, and the Speaker of the Assembly, Assemblywoman Barbara Buckley. Please place it in the official record for the day.

The other piece of legislation is ours by the fact that it was exempted, and we have not yet found resolution.

Let us turn to further discussion on Senate Joint Resolution 2.

Senate Joint Resolution 2: Proposes to amend the Nevada Constitution to revise provisions relating to the selection of justices and judges. (BDR C-177)

This is the bill we last discussed on Friday, May 18, 2007, and which failed to reach the necessary majority of the Committee for a Do Pass. We will now open S.J.R. 2 and ask you, Senator Raggio, if you have additional information you would like to present to the Committee. I note you have a handout ([Exhibit D](#)) which you have given to the Committee and which we will ask be

put in the record. Is there any additional information you would like to get on the record?

Senator William Raggio, Washoe County Senatorial District No. 3:

Let me express my appreciation to you as Chairman and to this Committee for your agreement to again hear this measure. I also express my appreciation to Speaker Buckley for agreeing to sign the waiver to allow this to be heard once more. Speaker Buckley has indicated to me that she supports this measure and that was the reason she was willing to sign a waiver resolution. As you know, this has to pass two legislative sessions and then would go on the ballot for voter approval or disapproval.

The first page of the material I submitted is an editorial dated April 11, 2007, published by the *Reno-Gazette Journal*. It clearly states the position that I spoke to you about. This is probably a vast improvement over previous proposals to adopt something akin to what is termed the "Missouri Plan" for the initial selection of judges, Justices of the Supreme Court, and judges at the district court level. We do this now for filling appointments to those positions and this would apply to the initial selection of judges. For those who have a strong feeling that somehow this takes away the right of voters, let me reiterate that under this proposal there is a complete process for the initial selection through a commission. There is also the retention election whereby voters will have the opportunity at the end of a term of a judge who wishes to seek reelection, to review that judge, to review the record, and a report issued to the public. The public then has the right to determine by ballot whether or not that judge should be retained. Under the provision, the judge would have to receive 60 percent of the vote in order to be retained; otherwise, the selection process would apply again.

As the editorial referred to previously indicates, in most cases appointed judges have probably been better judges. That is what I believe, and I have practiced law in excess of 50 years. I do not say that in a pejorative way about all judges who were elected, but the overall record would indicate that the judges who have gone through the appointment process probably overall have been superior. Their qualifications and their records have been examined by the appointing authority, that is, in the case of filling vacancies.

Page 3 of my handout is an article for your perusal from the *Las Vegas Sun* dated March 20, 2007, which references a lot of the issues that have taken place. Those of you who represent Clark County have particular reason to be concerned about some of the judges and some of the perceptions, particularly with the need to go out and seek contributions. Campaign contributions for judges come from limited sources: lawyers, law firms, litigants, and potential

litigants, for the most part. Unlike the rest of us who go to many areas to collect campaign contributions on a partisan basis, judges who are nonpartisan are limited as to what they can promise I would hate to see judges have to promise they were going to do something one way or another on issues to get campaign contributions, but there is that perception. There have been examples of judges selected by the election process who probably have not measured up to some of the standards that would otherwise be in play in an appointment process. I am not asking you today to give final approval, but I am asking you to at least let the measure pass the 2007 Legislative Session. It will also have to pass the 2009 Legislative Session. At some point, if that happens, the voters of this State would have the opportunity, as they did previously on the issue, to fill vacancies to adopt a policy to do so with the initial selection.

Attached to the handout is the list of 24 states that have some type of retention election such as that proposed here. The one we have here is superior to all of those processes in place in the other states.

Chairman Anderson:

Are there any questions? [There were none.]

Assemblywoman Barbara Buckley, Assembly District 8:

I wanted to come today to indicate my support for S.J.R. 2 and to thank this Committee and especially you, Mr. Chairman, for agreeing to look at the bill again. Senator Raggio and I come from different parts of the State; we started our legal careers in much different venues. I represented indigents in civil cases through Legal Aid. Senator Raggio was a prosecutor. Despite the paths of our legal careers, we share a keen love and respect for our legal profession and growing concern about the notion that justice is for sale. That is what we see more and more within our profession, that lawyers and special interests go to the judges before whom they practice to ask for campaign contributions. More and more seasoned lawyers, lawyers that you would be proud to seat on the bench, choose not to run because most of the public, especially in the larger communities, do not have the time to ascertain who would be the better jurist. Instead, it becomes more of a popularity contest, not about qualifications, not about the even-handed application of justice, but a system where popularity rules and those who gain the most campaign contributions from those who appear before them tend to win.

I know that in an appointed system you can point to examples where an elected judge may be a better jurist than an appointed judge; it is not to say that does not happen occasionally. But more and more throughout the State we are seeing that jurists with experience, with thoughtfulness, with a track record, with a knowledge of the cases that come before them are not being elected to

our seats. Who is paying that price? The public—those whose lives are at stake in the criminal proceedings, those whose livelihoods are at stake in civil proceedings—bears the burden.

I come here today as someone who loves their profession and wants to see the law respected, and to know people feel they can have a fair day in court. Our system currently is not working and by allowing the people to decide whether this will lead to a better system is an opportunity the people should be given a chance to weigh in on.

Sherry Powell, representing Ladies of Liberty:

We are a victims' organization. I have been watching this bill very closely because it is one close to home and very important. I am a paralegal; I work with many great attorneys, judges, and district attorneys from all walks of the legal system. I have also had a few bad experiences. I noticed a concern with the 60 or 70 percent retention, which, when you are not running against someone else, you should be able to retain—perhaps even 80 percent. Once you are actually in that position, you have done your job, you have shown the public what you can do, why would you not be able to retain that percentage?

I was able to go before the Judicial Selection Committee during Governor Guinn's term, and they were talking about rural communities not having the availability of judges. One of the appointees was from Elko. I lived in Elko for 25 years; half of the selections were bar members, the other half were appointees by the Governor. The committee listened to me about one particular person who was running for judge, a person I did not support. The committee also listened to the opposition against a person I did support. The selection process and the fact that the public is notified in the press of who is vying for each position, gives the public the opportunity to opine in writing or publicly; I did both. It is a great process, and I felt I had an excellent opportunity to express my views more strongly than by merely checking a ballot.

Assemblyman Horne:

You brought up the retention rate of 60 to 70 percent if they were running unopposed. Would you be opposed to that percentage being lower? Our judges are often called to make rulings on unpopular measures and in retention elections; if that were to occur, I foresee a campaign against a particular judge because of a ruling he had made that may not have been a popular one. Now this judge is not running against an opponent but against an opinion. This judge is defending his record against a campaign saying he is not a good judge, the judge who let a bad person go free, or whatever the issue, and that judge may not get the 60 percent, not because the decision was wrong, but because it

may have been unpopular. Thus, that may be a problem with the 60 or 70 percent retention.

Sherry Powell:

In my career, I have had to handle some cases that went against my beliefs. However, as a paralegal, I must represent the client to the best of my ability. Judges and attorneys are allowed to give legal reasons why a particular decision was made. As a citizen, I would understand that dilemma. I understand the dilemma of a murder case where the judge has to go by the *Constitution*. The citizens of this State are looking toward constitutionality. There are hard decisions, even with the select few cases where not all my friends agreed with me. I would have to tell them that I had to do a certain thing because it was my job. My job is to make a case for them and abide by the *United States Constitution* and the laws of the State of Nevada. Therefore, because as a judge I would have the ability to explain why I made a certain decision or what laws applied, retention would not be that difficult. Laws are black and white, and people are losing faith in our system. We need to step up and give them more faith.

Alecia Biddison, Managing Partner, The Busick Group:

I was an invited participant in the drafting of S.J.R. 2. My company and I strongly support this bill and we are committed to forming a political action committee to help educate Nevadans as to why this bill is important and why this change is necessary.

On Monday, May 21, 2007, I sent you an email ([Exhibit E](#)) entitled "S.J.R. 2 Follow up on Comments—Why a modified Missouri Plan for Nevada?" I want to address Mr. Horne's comment about the 60 percent, and any other Committee members who may struggle with that. Currently when you run in an election, you are running against yourself, against an opponent, and against none of the above. There are actually three opportunities for someone to vote against you. They could choose to not vote at all. In a retention election I have two choices: I have a choice to vote for you or not vote for you. I am not out there selling my political position, or trying to get campaign contributions by promoting a bias of some sort or a political agenda. I am running against my record which is presented in a review format because a review will be published stating how my performance has measured up—what are my preemption rates, my appeals rates—and will give a report card of my performance. Thus, I do not have to stand on the merits of my political bias. I can stand on the merits of that which I have done in the years leading up to my retention election.

In Tennessee in 2006, there were 27 judges who ran in retention elections. All 27 received at least 70 percent of the vote. There were three Supreme Court

judges and 12 judges each for the Court of Appeals and the Court of Criminal Appeals. That is evidence that it is possible, that it is doable, and that it is being done. Can 60 percent be attained? Absolutely it can when 70 percent is being attained.

I will close unless there are any other questions.

Chairman Anderson:

There are a couple of questions. You said the voter had three choices, one of which was not to vote. In determining the 60 percent, does that include the people who voted on this particular section or the number of people who voted in the overall ballot? If I choose to skip this section of the bill, will that be considered to be a "no" vote because they have not had 60 percent of the total number of votes cast in the election? Or is it going to be 60 percent of those people who voted either "yes" or "no"? How do you perceive it to be?

Alecia Biddison:

I am not following you.

Chairman Anderson:

There are two different questions when you come to the ballot. Is it going to be the "yes" votes versus the "no" votes in determining the 60 percent? Or is it the "yes" votes versus the total number of votes cast for that election?

Alecia Biddison:

I would need to review the bill again to determine the exact language as to how it was constructed.

Chairman Anderson:

We have heard testimony from Ms. Powell which restated the question relative to her experience with the judicial panel. That is, her opportunity to know who was being considered. That is not in the bill, as I read it; you will not know who the potential candidates are going before the Judicial Commission; likewise, the notification inviting the public to give testimony is not in this bill.

Alecia Biddison:

I understand that. That is part of the commission's operating procedure. The commission is also not defined in this bill because the commission and its functions already exist within the statutes.

Chairman Anderson:

The commission and how it functions is open to the interpretation of the court and not of the Legislature. We will have to check on that.

Alecia Biddison:

As it stands now, the process that currently applies to how judicial applicants for appointed seats fill a vacancy would be mirrored in this process. Specifically, there would be notification via the media that there was a vacancy, individuals would be allowed to apply for that vacancy, the media would be notified of the three candidates recommended, and the public would have the ability to petition the Governor which candidates they support or oppose.

Chairman Anderson:

Is that your hope?

Alecia Biddison:

That is how the process is currently.

Chairman Anderson:

We need to find out why it was not included in this bill. Are there any questions?

Assemblyman Mabey:

I want to clarify the part about what would be on the ballot: If I am the judge, the ballot will say "yes," he should be retained or "no," he should not be retained. There will be two spots on the ballot—"yes" or "no." Correct?

Alecia Biddison:

That is correct.

Chairman Anderson:

Those people who go by the ballot will be assumed to be in support, correct?

Alecia Biddison:

You would presume, unless that judge has been a poor performer, that judge would be retained.

Chairman Anderson:

If they do not vote, the net effect of skipping that section of the ballot is a "yes" vote. The only way to eliminate it is to vote "no."

Alecia Biddison:

Correct. That has been successful.

Assemblyman Mabey:

As I understand it, they will just count the number of "yes" votes and count the number of "no" votes. If the judge obtained 60 percent then he would be retained.

Chairman Anderson:

If you were confused about the issue and skipped over the question, the effect would be a "yes" vote because you are not voting against the person.

Assemblyman Mabey:

I do not see it that way. I think it would just be the yes versus the no votes.

Chairman Anderson:

Are there other questions? [There were none.]

On Friday, May 18, 2007, a Do Pass motion put forth by Assemblyman Conklin and Assemblywoman Gerhardt failed here in Committee. The other affirmative votes on the issue which failed were by Assemblymen Cobb, Segerblom, and Mortenson. Therefore, a motion to reconsider cannot come from any of those five because they were not on the prevailing side. Ten votes are needed for a motion by our Standing Rules and by Rule 161.4 of *Mason's Manual*.
[Opened the work session on S.J.R. 2.]

If any of you have amendments to propose I would suggest that you get them into writing so that you can propose them to the Committee and to the primary sponsor, if we are to move the bill out of Committee with an Amend and Do Pass motion, which will keep it alive and put it back in the Senate. An Amend and Do Pass motion does not require a motion to reconsider because it is a new motion not previously considered. The Chair is still uncertain as to what the Committee's feeling is.

Assemblyman Segerblom:

Right now we need someone who voted against the bill to make a motion to reconsider and if that motion were made then everybody could vote on it. If I receive ten votes, then we could go further and make an amendment to the bill or do whatever we wanted to do.

Chairman Anderson:

There is only one motion that requires a motion to reconsider and that would be the motion that failed. To keep ourselves in the clear, the whole process should receive that kind of motion to reconsider. A different motion—Amend and Do Pass, for example—would not require a motion to reconsider because it is substantially different than the original motion; an Amend and Do Pass motion is

by its nature substantially different. If there is a motion made by someone who voted on the prevailing side, anyone other than the five members who I named can move.

Assemblyman Mortenson:

Having voted on the prevailing side, I move reconsideration of the action we took on S.J.R. 2.

Chairman Anderson:

Mr. Mortenson, you did not vote on the prevailing side. You voted "yes" on the bill and the bill failed on a five to nine motion. The prevailing side would be the nine who voted the other way.

The Chair has a couple of questions, but I want to leave the opportunity for those who are thinking of developing amendments or have ideas about developing them.

Assemblyman Conklin:

Mr. Chairman, do we have to move this bill today? Do we have some time to discuss it?

Chairman Anderson:

We do have some time.

The waiver that we have that has been submitted and signed by the Majority Leader of the Senate and Speaker of the Assembly waives us from the rule in subsection 3 of Standing Rule 14.3, relative to out of final committee of the Second House. On Friday of this week, all bills from the Assembly must have cleared the Assembly; we are not waived from that rule so that means that we must make the decision—and I presume we can make it Friday morning. If the amendments were in proper form and this Committee did take such action, then we would be able to move forward. It would appear that we are going to be holding for awhile.

Assemblywoman Allen:

As I indicated two years ago in this Committee, I take great issue that we should not have popular election for judges, and I still firmly maintain that position. My problem is that I am not in support of the way S.J.R. 2 is currently drafted. If this Committee is going to amend the bill, I would ask to be a part of whatever working group is put together between now and Friday so that some of my concerns are addressed. In the interim I read just about everything in print on the topic. I think we can make it better, and I am willing to commit to doing that.

Chairman Anderson:

I was not anticipating putting together a working group. If you are of a mind to do so informally that would be an option to you. I have some feelings about it, and I want to explore those with the Research Division and the Legal Division to see whether there are other possibilities for this bill.

Assemblyman Manendo:

We heard testimony again that this will take money out of the campaigns for judges, and I still think that is an issue that we need to look at. Judges running to be retained still have to campaign, and they still will continue to raise funds and continue to spend money. I wonder if we can have the Research Division look into the average cost to run in the large counties and statewide in order for this Committee to have some understanding of such costs. I have not seen any information that indicates this bill would take away the fund-raising aspect of the campaigns.

Chairman Anderson:

The questions for the Research Division would be to look at four different counties: the costs to run for election in Clark, Washoe, Elko, or Carson City, and the less populated counties so there is enough variation. Another part of that question is how many of the judges in the last three elections faced an opponent in those same counties. The issue I am still concerned about is the Judicial Select Committee process and who controls it. Is it controlled by the courts, or is it a legislative mandate as to public notification? If it is controlled by the courts, they could appoint and then cut the public out. I am not going for that.

Assemblyman Ohrenschall:

I raised issue with some of the witnesses earlier who implied that voters are not as qualified to make these appointments or selections. We can all point to elected judges and to appointed judges who have turned out badly. Right now in Las Vegas there is an elected judge who has received a lot of bad publicity. During the late 1970s, President Carter's administration instituted merit appointments to the federal bench. Many of us may remember that one of his merit selections from Nevada to the United States District Court was the late Harry Claiborne, who went on to become a federal felon, was impeached and convicted by the Congress, and brought a great deal of shame on Nevadans. Accordingly, I tend to raise issue with some of the earlier comments.

Chairman Anderson:

Are there other comments or observations? [There were none.]

I will close the hearing on S.J.R. 2.

Let us turn our attention to an equally controversial piece of legislation, Senate Bill 131(R2).

Senate Bill 131 (2nd Reprint): Makes various changes regarding certain court fees charged by county clerks. (BDR 2-385)

This piece is one that is exempt—it was in our work session document last Friday, May 18, 2007, and we did not take it up. I believe it has possible amendments.

Jennifer Chisel, Committee Policy Analyst:

The Committee heard S.B. 131(R2) last week. The measure was requested by the Nevada Association of Counties and was presented Vinson Guthreau. Senate Bill 131(R2) authorizes the county clerks to charge an additional \$5 filing and recording fee for a bond of a notary public. This fee would be used to fund technology improvements for county clerks. Additionally, the bill seeks to increase various filing fees for court proceedings that would be deposited with the general fund of the county. This bill was considered in work session last Thursday, May 17, 2007, and there was no motion taken on the bill at that time. Based on some of the concerns, the Nevada Association of Counties (NACO) has submitted an amendment, which is included with your work session document, that would eliminate the fee increases from Section 2 of the bill and just retain the \$5 notary public filing fee for technology improvements. You will also see in your work session document a letter from NACO as well as an email, and the last page provides additional information on where that technology funding will go.

Vinson Guthreau, representing Nevada Association of Counties:

I really do not have anything to add that is not in your work session document. I appreciate you hearing this bill again. I think the bill is straight-forward and the benefits are there. We have proposed to amend some of the concerns that were raised, and NACO also sought to clarify some of the uses of the revenues that would be raised.

Chairman Anderson:

The amendment only deals with the elimination of court fees except for those proposed for the court recorder?

Vinson Guthreau:

We would still retain the \$5 increase on the notary that is charged by the clerk's office and is not really a court fee. It is up to the pleasure of the Committee if you wanted to maintain the bill in its original format. However, we have

introduced this amendment to clarify some of the concerns over where those court fees would go and access to the judicial system that were raised by you, Mr. Chairman, and other members of the Committee.

Assemblyman Cobb:

I reiterate my concerns with the bill and the testimony today has not alleviated those concerns. We had testimony from the clerk's office that suggested they need the money, but they did not explain how they were going use it. I do not think we should just be charging higher fees for the sake of potential uses. I think people requesting such a fee increase should present a specific plan as to how they would use the fees, and we have not received that from Washoe County. Therefore, I will be voting against this bill.

Assemblywoman Allen:

Along those same lines, in southern Nevada the clerk's office and the Clark County Government website is very comprehensive already. I am not clear on what the \$5 technology fee will be going for. Do they need a specific piece of technology, and we can put a sunset on this? I would feel more comfortable with that.

Vinson Guthreau:

There is an email in the work session document that outlines what the technology would be. There is a county clerk here from Washoe County who can verify that. It is hard to state particular brands of technology that would be used. There are several types available. I cannot speak specifically to the website in Clark County other than to know there is a difference between the clerk's and the recorder's websites. I have been told by both Washoe and Clark Counties and others that the digitizing of documents goes a long way in upgrading and requires technology to accomplish, and that seems to be specifically what the fee increase would be used for.

We have outlined some of the benefits to the citizens who would use the services of the clerk's office. That may seem to be a generalization; however, if you are in Clark County and expect documents to be accessible on the web but find they are not because they do not have the technology, then it would be necessary to drive several miles to get them. It is an inconvenience, and today people demand that technology be available, and also they would be getting a lot for the modest increase.

Chairman Anderson:

I am not a big fan of this bill, but the reality is that there is a dramatic difference between the operations of District 2 and District 8 and how the technology for the court clerks is handled. The other 15 counties of the State may need to

accumulate these dollars over time. The reason they cannot be specific about what they are looking for is that they are trying to figure out what they need, what they can afford, and how they can find matching dollars from the county. This is a potential revenue stream that they are going to be able to identify for themselves, and therefore it is a needed program. Moreover, it does not add to court filing fees, which was my concern. Since Districts 2 and 8 have those dollars going to the courts only, there is still a need for the county clerks to be able to meet their technological needs.

Assemblyman Mabey:

It seems to me that technology is supposed to save money. We invest in computers and fewer people are required to perform manual tasks.

Chairman Anderson:

It has always amazed me what has happened in the years since there was a great fear about a loss of jobs due to computer technology; it was the biggest single concern of people at the time. However, instead of job loss, it has been job creation. With the greater dependence on computer technology and with the population increase, an expectation has developed as well. Something that people were once content to wait to have delivered by mail is now expected instantaneously via computer.

Vinson Guthreau:

The proposed increase would not be paying for additional staff or hours. The county has made it clear it would not be hiring additional staff to do the digitizing.

Laurel Moser, Deputy Clerk, Washoe County Clerk's Office:

I work with the equipment that we have now, and I work with the public that is requesting information via the Internet website ([Exhibit F](#)). I really am here to answer any questions the Committee might have.

Chairman Anderson:

Mr. Cobb had earlier expressed his concern regarding how Washoe County was going to use the equipment. Have you provided him with that information?

Laurel Moser:

No, I have not. I am here to address any concerns. The Washoe County Clerk's Office does not have access to a technology fund. The Washoe County Recorder's Office does, the District Court does. We also need to be able to serve our citizens.

Chairman Anderson:

Ms. Moser, is that the information you gave us at the first meeting?

Laurel Moser:

Yes, it is. I can tell you how this would be used.

We would like to purchase the software that will help us scan the documents so that we can put them in a searchable format on the web.

Assemblyman Cobb:

Which software program would you get?

Laurel Moser:

We are still software shopping. We have documents in the clerk's office that have to be retained forever. Many of the counties have all of the information in the county seat; they do not have an alternate place. People are looking for convenience: they do not want to go downtown or travel miles to the county seat to get information. I cannot give you a specific software program. We do not know what we will have to spend on it. We do know that based on prior notary bond filings, the Washoe County Clerk's Office would garner between \$8,000 and \$9,000 a year.

Assemblyman Cobb:

So you know that you would have \$8,000 or \$9,000 a year, but you do not know what you can purchase with it.

Laurel Moser:

Right.

Chairman Anderson:

Is there anyone else who wishes to speak on this matter? [There was no one.]

I am closing the hearing on S.B. 131(R2) and bringing it to work session. What is the Committee's feeling on this?

I understand that at least three of you are not happy about the piece of legislation. Is there anyone who feels strongly about this?

ASSEMBLYMAN HORNE MOTIONED TO AMEND AND DO PASS
S.B. 131(R2).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Chairman Anderson:

We have an Amend and Do Pass S.B. 131(R2) motion from Mr. Horne, seconded by Mr. Carpenter. Is there discussion on the motion from Ms. Allen that there should be a sunset on the legislation?

Assemblywoman Allen:

I do not have a specific time frame in mind. Let us say four years, so that two legislative sessions from now we can readdress this. I do support the idea that technology increases public access, and that is a great thing. However, I do not support an increase in a fee forever for some unnamed technology program.

Chairman Anderson:

My concern is that if this is going to move forward, a four-year window of time for a smaller county may be very difficult because of the low volume of traffic, making the opportunity to collect \$5 per filing much lower. I do understand your reasoning that the fee increase should not last forever, but if it raises your comfort level, a sunset would probably raise mine also.

Assemblywoman Allen:

You may not need me as far as voting is concerned, but I am a "no" without a sunset.

Chairman Anderson:

Do you want to pick a time? Do not think in terms of Clark County—think in terms of Nevada.

Assemblywoman Allen:

If you prefer six years, I will defer to you on time frame.

Chairman Anderson:

Mr. Glover, I need to ask you a question regarding a smaller-volume county. What would be the average traffic for Humboldt or Elko Counties?

Alan Glover, Carson City Clerk/Recorder:

Carson, Lyon, Elko, Humboldt, and Nye are all about the same size for recordings, elections, and so forth. I assume we would bring in somewhere between \$1,500 to \$2,000 a year. We would anticipate that we would build that fund up and try to purchase software. If I were making the decision, I would pick ten years to be able to do that, but that is probably too long for you. We could pick some period of time and see how it goes, how much is collected, and it would probably be worthwhile. There are other options: you could spend all the money on scanning documents, scan as many as you can, and when you run out of money you quit.

Chairman Anderson:

There are three clerks in some of those judicial districts, so each county is going to collect this. Do you want to suggest an amendment to the maker of this motion? Six years?

Alan Glover:

Okay.

Assemblyman Horne:

I will withdraw my previous motion and make a new motion.

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS
S.B. 131(R2).

ASSEMBLYMAN CARPENTER SECONDED THE MOTION.

Assemblyman Carpenter:

I agree with the motion and the sunset. I think if it is in effect for six years it gives the counties the opportunity to go to the commissioners and request some money for the equipment they need. It is a very viable option.

Chairman Anderson:

I have an Amend and Do Pass motion from Mr. Horne, seconded by Mr. Carpenter. The amendments being those as suggested in the work session document as to limiting the \$5 fee increase earmarked for technological improvements, the bill being further amended to put a sunset on the collection of these fees to July 1, 2013.

THE MOTION PASSED (MR. COBB VOTED NO; MR. OCEGUERA
WAS ABSENT FOR THE VOTE).

Chairman Anderson:

The assignment of this bill goes to Mr. Carpenter.

Is there anything else before the Committee? [There was nothing else.]

[Meeting adjourned at 10:21 a.m.]

RESPECTFULLY SUBMITTED:

Darlene Rubin
Committee Secretary

Rachelle Myrick
Transcribing Secretary

APPROVED BY:

Assemblyman Bernie Anderson, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 23, 2007

Time of Meeting: 9:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Sign In Sheets
	C	Legislative Counsel	Waiver for SJR 2
SJR 2	D	Senator Raggio, Washoe County District 3	Reprint of article from Reno Gazette-Journal
SJR 2	E	Alicia Biddison, The Busick Group	Modified Missouri Plan for Nevada
SB 131	F	Laurel Moser, Washoe County Clerk's Office	Talking Points