MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-fifth Session
May 14, 2009

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:40 a.m. on Thursday, May 14, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Terry Care, Chair
Senator Valerie Wiener, Vice Chair
Senator David R. Parks
Senator Allison Copening
Senator Mike McGinness
Senator Maurice E. Washington
Senator Mark E. Amodei

GUEST LEGISLATORS PRESENT:

Assemblyman William Horne, Assembly District No. 34

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Bradley A. Wilkinson, Chief Deputy Legislative Counsel
Janet Sherwood, Committee Secretary

OTHERS PRESENT:

Eric A. Stovall
Connie S. Bisbee, Chair, Board of Parole Commissioners
Howard Skolnik, Director, Department of Corrections
Stefanie Ebbens, Legal Aid Center of Southern Nevada
Ernest K. Nielsen, Washoe County Senior Law Project

CHAIR CARE:
We will open the hearing on Assembly Bill (A.B.) 500.

ASSEMBLY BILL 500 (2nd Reprint): Revises provisions relating to domestic relations. (BDR 11-1156)

ERIC A. STOVALL :
I am a private attorney in Reno and a fellow of the American Academy of Adoption Attorneys. A large part of my practice deals with adoption law; I have done over 180 adoptions in the last two years. Adoption issues are the forefront of my practice.

Assembly Bill 500 seeks two changes to statute. The first change is in section 2 to correct an omission in current adoption law. In Nevada, there are two ways for people to adopt a child. The first way is through agency placement and the second way is through private placement or independent adoption. In an agency adoption, statute says the agency has legal custody and responsibility for the child. However, in a private or independent adoption, state law is silent as to who has legal custody and responsibility of the child. Under Nevada law, the birth parents do not have custody or responsibility because they have signed a consent allowing the adoptive parents to take the child and eventually adopt the child in six months. But during those six months, there is no one legally responsible for the child under current law in a private adoption scenario. Section 2 of A.B. 500 adds provisions that state the adoptive parents are legally responsible for the child pending court approval or disapproval of their adoption. This is an important change to current law. If a child is neglected or hurt before the adoption is finalized, there is no one responsible for that child under current law. Assembly Bill 500 fixes that problem.

Adoptive parents can obtain benefit through section 2. Many times the child is placed with the adoptive parents before the adoption is finalized. During the six months before they are able to finalize the adoption, the parents often want to add the child to their health insurance. Usually health insurers ask for proof of responsibility for the child. As it stands right now, we are not able to point anywhere in statute where the adoptive parents are legally responsible for the child. In order for the child to be added to their health insurance, I write the insurance company a letter explaining the peculiarities of Nevada law and why these adoptive parents are responsible for the child.

Section 11 seeks a change in current law dealing with the advertising of these facilitators. There is an epidemic of unlicensed businesses and individuals seeking to sell adoption services. In the trade, they are referred to as facilitators. These facilitators may or may not be licensed in some other state. Oftentimes, they are not licensed by any state, and yet they are asking Nevadans to shell out $10,000 to $15,000 to find them a child through adoption. These people are unregulated. Adopting parents stand to lose a lot of money should a placement be made that is unsustainable or improper. There is no recourse for these parents. Similarly, birth parents are trying to put their child up for adoption because of their life circumstances. They run afoul of these advertisements by unlicensed facilitators. They can be promised services and assistance for their placement for the birth of the child and left with getting nothing or next to nothing from the facilitators. These birth parents have no recourse. Section 11 seeks a change in current law dealing with the advertising of these facilitators.

The adoptive and birth parents are finding these facilitators through the Yellow Pages. I looked in the Washoe County Yellow Pages and counted 24 ads for facilitators, of which only four were licensed. In the Las Vegas Yellow Pages, there are at least 75 advertisements for these facilitators. There are only six licensed agencies in the State. Assembly Bill 500 seeks to hold the publishers of these publications responsible if they knowingly take an advertisement from someone offering adoption services who is not licensed by the State of Nevada. Under current Nevada law, publishers, even if they know that these facilitators are not licensed, can take their money and put their advertisement in their publication without any accountability. Assembly Bill 500 seeks to remedy this situation. Nancy O'Neill, Social Services Program Specialist with the Adoption Division of the Division of Child and Family Services, said the Division is in favor of this change to statute.

CHAIR CARE:
Section 2 states, "... at the time the consent is executed ... ." Can you explain what is meant by "is executed?"

MR. STOVALL:
At least 72 hours after the birth of the child, the birth mother is presented with a consent-for-adoption form from the attorney for the adoptive parents. At that time, the birth mother signs the consent and it becomes the legal document which makes the placement to the adoptive parents.

CHAIR CARE:
Section 2 would provide a gap in existing statute?

MR. STOVALL:
Correct.

CHAIR CARE:
Section 11 would address chapter 127 of the *Nevada Revised Statutes* (NRS). I want to disclose that I came from the world of newspapers, radio and television stations. Let me present an analogy. Political speech enjoys certain freedoms that commercial speech may not. Television stations will run a political ad even if the candidate is lying. They can do that, but it raises the issue of whether a legitimate newspaper, as opposed to an illegitimate publication, has a duty to review the truth or falsity of an advertisement before it is placed in a newspaper. Anybody can take out an advertisement in a newspaper for anything, and buyers beware. You are talking about publications not on par with the *Reno Gazette-Journal*, for example, which have ads that can be misleading and even false in some cases. Opening up this door is problematic. There is no way we can distinguish those specific publications you are talking about as opposed to a radio or television station.

SENATOR WIENER:
In the Yellow Pages, many advertisements for contractors contain license numbers to show a level of accountability. Are the facilitators given a number for licensure?

MR. STOVALL:
I believe they are.

SENATOR WIENER:
Could we require a licensure number for advertisement?

CHAIR CARE:
We do not have any language other than what is before us in the second reprint of the bill. I know this Legislature has passed out legislation in prior sessions that have dealt with truth in advertising which is a bit different than an entire publication which is intended as an advertisement.

MR. STOVALL:
I would point out to you that subsection 3 of section 11 states, "... unless the periodical, newspaper, radio station or other public medium knew that the advertisement violated the provisions of this section." I would envision that the State would send a letter to the publications identifying the licensed child-placing agencies in Nevada and that no ads could be accepted legally by any facilitator not on that list. Senator Wiener's comments about requiring the license number of the agency appearing in their advertisement is an acceptable way of accomplishing the same thing. We want to keep the unlicensed facilitators from running their advertisements.

CHAIR CARE:
I think this is the subject of another bill, if this is as problematic as you say. We have not heard anything in this Committee along those lines, but from your testimony, it sounds like there is a rampant problem. I am uncomfortable putting a burden on a legitimate medium of publication. I do not know where these ads will appear. It raises the issue of whether or not the publication knew the facilitator was licensed. Do they have a duty to determine whether it is legitimate?

MR. STOVALL:
There is no liability on a newspaper unless it knowingly violates the law. There is no requirement for them to seek out information.

SENATOR WIENER:
If we are moving forward, my thought would be to have an amendment that would take the burden off the publication. To address your concern about burden and liability, I suggest we require that those who advertise include their license number for public awareness. As a consumer, I would be curious why one facilitator has a license number and another does not.

MR. STOVALL:
I think that amendment would have merit. I suggest such an amendment include language to state that publishers would only be able to accept ads from businesses or agencies that state their license number in the advertisement.

CHAIR CARE:
There is no one else signed in to testify on the bill. I do not see any objections from the Committee to section 2.

SENATOR WIENER:
This is a new subject; therefore, I would like time to study this bill. I propose we have a meeting at the bar during the floor session tomorrow to determine what action to take.

CHAIR CARE:
Mr. Stovall, tomorrow is the deadline for bills to be passed out of Committee. Sometimes we convene the Committee over by the bar where the press is located so it is open to the public. We will probably act on the bill tomorrow so you will meet the deadline. There is contemplation of an amendment. If we do not act today, the bill is still okay. We will close the hearing on A.B. 500.

We will go to work session. We have four bills in your work documents (Exhibit C, original is on file in the Research Library). We will begin with A.B. 218.

ASSEMBLY BILL 218: Authorizes the Nevada Gaming Commission to prescribe the manner of regulating governmental entities that are involved in gaming. (BDR 41-603)

CHAIR CARE:
There were no offered amendments. I am aware that representatives in this building are seeking to amend this bill at some point. Any such amendment deserves a complete hearing by this Committee.

SENATOR AMODEI MOVED TO DO PASS A.B. 218.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:
Let us move to A.B. 350.

ASSEMBLY BILL 350 (1st Reprint): Makes various changes relating to common-interest communities. (BDR 10-620)

This was the last common-interest community bill under NRS 116. You will recall that Michael Buckley offered his comments. I discussed this with Assemblyman Harvey J. Munford in October when the BDR was published. He called it the homeowner's bill of rights. It has been whittled down to some degree. We have had so many bills under NRS 116 that, to an extent, much of what is in here is contained in other bills.

> SENATOR AMODEI MOVED TO AMEND AND DO PASS AS AMENDED A.B. 350 WITH THE AMENDMENT BEING TO HAVE A PROVISION THAT PROVIDES FOR NO PUNITIVE DAMAGES AGAINST BOARD MEMBERS AND TO RETAIN SECTION 9.

CHAIR CARE:
Section 9 deals with the interest that could be charged by the association for late assessments and special assessments. The issue was whether the association could set its own fee or should apply the legal rate which can change every six months. The formula is contained in section 9, subsection 3. Senator Amodei's motion is to retain section 9 and add a provision of no punitive damages against board members. Is that right?

> SENATOR WIENER SECONDED THE MOTION.
>
> THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:
Let us go to A.B. 471.

ASSEMBLY BILL 471 (1st Reprint): Revises provisions relating to the sale of real property. (BDR 3-1138)

This was Assemblyman Marcus Conklin's bill. We have been handed a proposed amendment (Exhibit D) to A.B. 471 from Dennis Flannigan on behalf of the Nevada Credit Union League.

SENATOR AMODEI:
I spoke with Assemblyman Conklin after the hearing. He shared with me that credit unions in Nevada have less than 2 percent of the mortgage market.

Mr. Flannigan testified that credit unions are sustained by money loaned which is monies deposited by members. Credit unions are not a stock-sale entity; they are self-sufficient. I am not a big fan of making people special, but credit unions make up almost 2 percent of the mortgage market in the State and are a key part of the financial institution mix in a few communities in the State. Credit unions are attempting to make loans on workouts that are north of the equity, making 80- to 90-percent loans to save their capital.

I asked this amendment be brought forward with the idea that credit unions are less than 2 percent of the market, and the bill addresses the other 98 percent of the market. The testimony on raising and generating money from members in credit unions was persuasive. If there is abuse, it does not make the playing field level for mortgage marketing purposes in the State, but it is something that can be fixed with specific data which would be available to any successive Legislative Session. I was persuaded by the different ways credit unions raise and account for money in their financial operations. This amendment excludes credit unions from the provisions of the bill concerning deficiencies in the context of foreclosures on home loans.

Mr. Flannigan testified that in 30 percent of the cases where credit unions get a deficiency judgment, they actually get something out of that judgment. Credit unions have 1.8 percent of the market. Whatever percent of that 1.8 percent that goes to foreclosure, 30 percent of that is what actually affects somebody. Those numbers are getting so small so as not to frustrate the purpose of Assemblyman Conklin's bill in terms of financial institutions and relief for people with mortgages in this State.

> SENATOR AMODEI MOVED TO AMEND AND DO PASS AS AMENDED A.B. 471 WITH THE AMENDMENT THAT EXCLUDES CREDIT UNIONS.
>
> SENATOR PARKS SECONDED THE MOTION.

SENATOR WIENER:
Credit unions have about a 2-percent market share in Nevada. If they rise to 2.1 percent, will they crash because they went over by a tenth of a percent? Does the market drive the percentage?

SENATOR AMODEI:
Yes, it is how competitive you are in the market. Your percent of the market is a function of the size of your state. When you look at Nevada and some of the categories we lead the nation in at the moment, let us try this bill without this sub 2-percent section and see how it goes.

SENATOR COPENING:
This does not fall under Rule 23, but in the spirit of full disclosure, I am a member of a credit union. I agree with Senator Amodei. It is important that these credit unions be exempt as they do not have ways to recoup their dollars.

SENATOR WASHINGTON:
I am also a member of several credit unions and I plan on voting.

THE MOTION CARRIED. (SENATOR CARE VOTED NO.)

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CHAIR CARE:
Senator Copening will take the floor on A.B. 471. Let us move to A.B. 474.

ASSEMBLY BILL 474 (1st Reprint): Revises parole eligibility for certain offenders. (BDR 16-1127)

BRADLEY A. WILKINSON (Chief Deputy Legislative Counsel):
Yesterday, there was a discussion of how this bill applied in a circumstance where there was still a consecutive sentence to be served. The bill requires a technical clarification of the language. The intent is to apply to circumstances where there is not a consecutive sentence; you are paroling someone to the street as opposed to an institutional parole. Unless Assemblyman William Horne has a different intention, that is how I believe this statute is intended to be interpreted. To clear up any ambiguity, a simple clarification to refer to cases where a consecutive sentence is not going to be served as is in section 3, subsection 1 of the bill would fix that problem.

CHAIR CARE:
It was a defendant with consecutive sentences. I stand corrected. Assemblyman Horne, I do not know if you are privy to the conversation we had yesterday in the Committee.

ASSEMBLYMAN WILLIAM HORNE (Assembly District No. 34):
There was no intention for anyone to be absolved of their consecutive sentence. One could be paroled to begin that consecutive sentence. With youths, if they have an equal and consecutive sentence of ten years to life, they would be paroled to begin their second ten years to life if they had a consecutive sentence. If they did not have a consecutive sentence, they would be considered for parole. The Parole Board would still have that mechanism to deny them parole if they are deemed to be a danger to the community. That was left in the bill.

CONNIE S. BISBEE (Chair, Board of Parole Commissioners):
Our only concern was that if it was not a consecutive sentence. We had no problem with the sex offenders because they must be certified by the Psychological Review Panel on that sentence. If they are both life sentences, I do not see it being an issue if you go to consecutive life sentences. We would have the problem with the sex offender if it was intended to go to a less than life sentence. The only problem I panicked about was if a life sentence qualified going into a less-than-a-life sentence with sex offenders.

ASSEMBLYMAN HORNE:
I appreciate the concern with sex offenders, but that is why we have that consideration. They still have to do the Psych Panel if they are deemed to be a risk; that is still in the bill. Regardless if they are consecutive sentences, they still have to serve a life sentence or a simple two-to-five years. Those provisions would still be there for the State Board of Parole Commissioners to use in making that determination. I do not understand this concern because I have not taken any tools away from the Board.

CHAIR CARE:
Mr. Wilkinson, do we need a technical amendment?

MR. WILKINSON:
It is the mandatory parole statute we are amending, not the institutional parole. This is for release onto the street. This provision talks about conditions for the orderly conduct of the parolee upon his release and close supervision. This statute contemplates the scenario where you are releasing someone onto the street. It can apply in that context, but it sounds like Assemblyman Horne is indicating his intent was to have it also apply to consecutive sentences in which somebody would not be released onto the street, in which case, this is probably

not the appropriate place for this language. We would need to add another provision indicating those circumstances where there was still a consecutive sentence to be served. The criteria could be the same as set forth in here: prisoners serve the minimum term and complete this program, do not pose a security threat, do not have a major violation of the regulations or have not been in disciplinary segregation. It would need a technical clarification.

ASSEMBLYMAN HORNE:
The population this would capture was five to six individuals. Of those individuals, I do not know if any of them have consecutive sentences or if they may have begun serving their consecutive sentence. They may have already termed out on their first sentence or been paroled to their second. The universe is small.

SENATOR WIENER:
Are you okay with making the clarification? I want to be sure they are held accountable to a second or subsequent sentences and that they are not let off the hook for the accountability of those sentences. If we need to tweak the bill, is that okay with the sponsor?

ASSEMBLYMAN HORNE:
Yes.

> SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 474 WITH THE AMENDMENT BEING THE CONSIDERATION OF THE TECHNICAL CORRECTION TO ADDRESS SENATOR WIENER'S CONCERNS.
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> SENATOR COPENING SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:
Assembly Bill 271 and A.B. 491 were called up in an earlier work session, but nobody made a motion on either of them.

ASSEMBLY BILL 271 (1st Reprint): Makes various changes relating to the collection of fines, administrative assessments, fees and restitution owed by certain convicted persons. (BDR 14-903)

ASSEMBLY BILL 491 (1st Reprint): Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-948)

CHAIR CARE:
Assembly Bill 271 came to us on behalf of the Advisory Commission of the Administration of Justice.

SENATOR WIENER MOVED TO DO PASS A.B. 271.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:
I want to ask Howard Skolnik about A.B. 473.

ASSEMBLY BILL 473: Revises provisions relating to medical and dental services for prisoners. (BDR 16-1128)

There was reference made to ongoing federal litigation involving the Ely State Prison.

HOWARD SKOLNIK (Director, Department of Corrections):
That is correct.

CHAIR CARE:
We have a letter from Janet Trout, Senior Deputy Attorney General, stating, "I have concerns whether this bill will come into play in the *Riker B. Givens et al* litigation." Is that the same suit that was made reference to?

MR. SKOLNIK:
I believe so.

CHAIR CARE:
The letter continues:

> Which alleges that the State of Nevada has not provided sufficient medical care to inmates. Given that Director Skolnik has informed us that the legislative audit is being fully implemented, we are not sure that this bill is necessary.

CHAIR CARE:
The bill has gone out. Has it been reported to the floor?

MS. EISSMANN:
Not yet.

CHAIR CARE:
I can report it to the floor. Please get word to the Office of the Attorney General that I will need to have discussions to determine what we do with this bill.

MR. WILKINSON:
I will do that.

CHAIR CARE:
Has Assemblyman Horne, the sponsor of this bill, seen this letter?

MR. SKOLNIK:
I do not believe so.

CHAIR CARE:
Could you see that he gets a copy?

MR. SKOLNIK:
I will do that.

CHAIR CARE:
The remaining bill this Committee took no action on was A.B. 491. Is there any interest in doing something with this bill?

SENATOR PARKS:
Yes.

MS. EISSMANN:
After I wrote this work session page, the mock-up came from the Legal Division. It is attached to your work session documents (Exhibit E, original is on file in the Research Library).

CHAIR CARE:
What are the differences between the two?

MR. WILKINSON:
The difference between the two versions is the addition of section 2.5 on page 4 in proposed Amendment 4936, Exhibit E. It is designed to address some of the concerns of the collection association presented by John Sande in previous testimony. I was not involved in those discussions.

CHAIR CARE:
We had two amendments proposed by Bank of America, one of which is in here. That goes to immunity for the institution, correct?

MR. WILKINSON:
They are both there.

CHAIR CARE:
What about the use of the declaration as opposed to an affidavit? Is that in the mock-up too?

MR. WILKINSON:
Yes. That was addressed in a previous mock-up, which is included in this one, Exhibit E.

CHAIR CARE:
I do not remember the testimony on that issue. I just remember the declaration in lieu of affidavit.

MR. WILKINSON:
Right. Stefanie Ebbens spoke about that issue at the last hearing. She is in Las Vegas.

CHAIR CARE:
Ms. Ebbens, please refresh my recollection. I understand the issue of immunity, but please explain the declaration in lieu of affidavit. I know it did not come from you.

STEFANIE EBBENS (Legal Aid Center of Southern Nevada):
The interrogatories that the banks fill out are currently required to be notarized. Nevada Revised Statute 53.045 applies across the board to every sworn declaration and allows you to do, under penalty of perjury, an unsworn declaration and does not require a notary.

CHAIR CARE:
Will this go to the interrogatories in every single instance of execution and garnishment upon a bank account including those not contemplated in this legislation?

MS. EBBENS:
It just alters the forms. Rather than a notary line, it is an unsworn declaration under penalty of perjury line. It just changes the signature line.

CHAIR CARE:
I have concern about the dollar amount in section 2, subsection 1. The amount was $2,500 and is now reduced to $2,000. Many comments have been made on this bill suggesting the amount should be $1,000 as opposed to $2,000. Other comments questioned whether subsection 2 creates an additional funny money or wild card. Should the amount in section 2, subsection 1, remain at $2,000? Should subsection 2, of section 2, remain in the bill? Does it create an additional exemption?

ERNEST K. NIELSEN (Washoe County Senior Law Project):
This $1,000 in subsection 2 of section 2 is intended to be the same $1,000 that exists in current law. Current law has been referred to as the "wild card exemption." This puts that into action by presuming the person is going to claim that $1,000 wild card with respect to this garnishment. That is why the $1,000 is there.

CHAIR CARE:
We are saying you cannot take additional accounts, a second, third and fourth account, and increase that sum.

MR. NIELSEN:
That is correct. I will defer to Ms. Ebbens who has worked on that issue more than I have.

MS. EBBENS:
The concern was that debtors would use the provisions of the automatic exemption and open accounts with $999 in multiple accounts at multiple financial institutions. The most recent change is to close that loophole to state that if the judgment creditor knows there is more than one account that the debtor is trying to hide his assets in, he can apply to the court for an ex parte application to freeze all the funds until a judicial determination can be made as to what, if any, of the funds are exempt.

CHAIR CARE:
That was the limitation of twice a year attempting to execute on the same account where you have exempt funds. Is that correct?

Ms. EBBENS:
Yes. It was a limitation on two levies if the first two levies did not garner any funds.

CHAIR CARE:
How is the judgment creditor going to know that after attempting twice or even once, there are funds being comingled that have come from another source and put into that account?

MS. EBBENS:
I am not sure I understand the question. Are there comingled monies in the account?

CHAIR CARE:
A creditor gets to try this twice. And the way page 14, line 16 of the mock-up reads in the new language, "... and is entirely exempt from execution." Unless I am misreading the bill, how is the creditor going to know that the money in that account is always going to be money that has come in from one of these exempt sources?

MS. EBBENS:
It is not assuming that all the monies that are ever going to be in the account are always exempt. There are two provisions: reason to know that all the monies are exempt and you proceed to levy regardless, and if you submitted two separate levies which were returned from the bank with no funds available for attachment, you could not continue to serve levies every 30 days until you could attach any funds whatsoever. You would know that upon return of the interrogatories from the bank that no money was being attached.

CHAIR CARE:
We are adding the exemptions. On page 11 of the mock-up, Exhibit E, section 5, subsection 1, paragraphs (dd) and (ee) state, "Money in a trust fund for funeral or burial services ...," and, "... Compensation that was payable or paid pursuant to chapters 616A ... ." Tell me why those should be exempt.

MS. EBBENS:
Those are monies already exempt under different provisions of Nevada law but were not listed under NRS 21.090 which is attempting to be a comprehensive list of exempt sources of funds and assets. They were already enacted, already included. It simply is putting them all into one place.

CHAIR CARE:
Based upon what I have just heard, I see two issues. Should the amount in section 2, subsection 1, remain at $2,000? Secondly, should there be a prohibition against attempting to execute on the same account twice in a calendar year?

SENATOR WIENER:
This is a complex bill. We started with $2,500. How did we get to $2,000 and how were those numbers picked? Do we have anything on record about how the sums were selected?

MR. NIELSEN:
The logic of the $2,000 is you start with a $1,000 base and the average federal exempt deposit is greater than $1,000. With the $1,000 in section 2, subsection 2 and a federal exemption with the average payment being greater than $1,000 on top of that, $2,000 was a legitimate compromise down from $2,500.

SENATOR WIENER:
To clarify, the $2,000 is inclusive of the $1,000 we have already been discussing in the other section, not in addition to.

MR. NIELSEN:
That is correct.

CHAIR CARE:
Does anybody want to make a motion?

SENATOR WIENER:
Would your concerns about the twice in a calendar year and retaining the $2,000 require an amendment?

CHAIR CARE:
I just threw it open for discussion whether $2,000 should be the amount.

SENATOR WIENER:
I will go with the $2,000 based on the back-and-forth discussion that has occurred. My concern was your issue with going after these accounts twice in a calendar year. Is that in the language or is that a new concern?

CHAIR CARE:
That is in the mock-up we have today, Exhibit E.

> SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 491 WITH AMENDMENT 4936.
>
> SENATOR PARKS SECONDED THE MOTION.

CHAIR CARE:
I oppose the motion. If it fails, I will make a motion which will be the same motion except to delete the provision as to the twice in a calendar year. Is there any other discussion on the motion?

> THE MOTION FAILED. (SENATORS AMODEI, CARE, McGINNESS AND WASHINGTON VOTED NO.)

CHAIR CARE:
I cannot make a motion. Do you want to try again, Senator Wiener?

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED A.B. 491 WITH AMENDMENT NO. 4936 BUT DELETING THE TWICE-IN-ONE-YEAR PROVISION.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR WASHINGTON VOTED NO. SENATOR AMODEI ABSTAINED.)

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CHAIR CARE:
If there is nothing further to come before the Senate Committee on Judiciary, we are adjourned at 9:43 a.m.

RESPECTFULLY SUBMITTED:

Janet Sherwood,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: