

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session
March 12, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:42 a.m. on Thursday, March 12, 2009, in Room 2149 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 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

STAFF MEMBERS PRESENT:

Linda J. Eissmann, Committee Policy Analyst
Bradley A. Wilkinson, Chief Deputy Legislative Counsel
Judith Anker-Nissen, Committee Secretary

OTHERS PRESENT:

Renny Ashleman, City of Henderson
Gail J. Anderson, Administrator, Real Estate Division, Department of Business
and Industry
Helen A. Foley, T-Mobile USA
Shirley B. Parraguirre, Clerk, Clark County
Lee Rowland, American Civil Liberties Union of Nevada

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CHAIR CARE:

I have a request from Senator William J. Raggio for a Committee introduction of a bill relating to prisoners establishing a program of parole secured by a surety bond and providing other matters properly relating thereto.

BILL DRAFT REQUEST 16-926: Establishes a program of parole secured by a surety bond. (Later introduced as [Senate Bill 221](#).)

SENATOR WIENER MOVED TO INTRODUCE BDR 16-926.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR CARE:

We have already had public testimony, but we may have questions regarding some of the measures.

I will open the work session on Senate Bill (S.B.) 51.

SENATE BILL 51: Revises provisions governing the subpoenaing of public utility records by a law enforcement agency. (BDR 58-337)

Ms. Eissmann or Mr. Wilkinson, would you like to tell us what we have in the work session binder for possible amendments?

LINDA J. EISSMANN (Committee Policy Analyst):

You may recall S.B. 51 is the bill regarding the subpoena for a public utility by a law enforcement agency in a criminal investigation. We had discussion regarding telephone toll records and the use of these subpoenas by a law enforcement agency. In the work session binder, I have a summary ([Exhibit C](#)) of the arguments in favor as well as the arguments opposed.

We had one amendment submitted to the Committee by Scott Jackson, Chief of the Investigation Division, Department of Public Safety. They suggest an amendment that would require the public utilities to provide the information because this bill concerns information beyond the statute. Additional information

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would be made available to the extent it is available to the law enforcement agency.

CHAIR CARE:
I will entertain a motion.

SENATOR WASHINGTON MOVED TO AMEND AND DO PASS AS AMENDED S.B. 51.

THE MOTION FAILED FOR LACK OF A SECOND.

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CHAIR CARE:
We will move on to S.B. 68.

SENATE BILL 68: Establishes responsibility for the maintenance of certain security walls within common-interest communities, subdivisions and developments. (BDR 10-281)

CHAIR CARE:
Ms. Eissmann, we have a proposed amendment from the City of Henderson; they also testified and now have an additional handout?

MS. EISSMANN:
Yes, Mr. Chair. You should have a more recent amendment ([Exhibit D](#)) from the City of Henderson that Renny Ashleman handed out. You may recall language in the original amendment was to make this applicable to common-interest communities created on or after October 1. However, the way the amendment was written made the entire chapter applicable only to common-interest communities created after October 1, and this was not their intent. This most current amendment, [Exhibit D](#), reflects that intent. It also adds to the definition of security wall in statute. It adds ornamental, iron or other fencing material. Those are the only differences.

CHAIR CARE:
Mr. Ashleman, please come forward. I will discuss the end of the proposed amendment, [Exhibit D](#), first. In section 6, we are still talking about common-interest associations created on or after October 1. This bill now would

also revise the statutory definition of a security wall. It would include ornamental, iron or other fencing material. Is that correct?

RENNY ASHLEMAN (City of Henderson):
That is correct.

CHAIR CARE:

We did not have testimony on that subject. Someone raised the question if that would include an ornamental, iron or other fencing material. Is it possible? I do not know if a homeowners' association could have an ornamental, iron or other fencing material that somebody might think a security wall—a stucco security wall 11 feet high. That is obviously a security wall. Might somebody look at a fence like this, an ornamental, and not know if that is a security wall?

MR. ASHLEMAN:

In the last hearing, we conferred with the people from the City of Las Vegas who were also concerned. The definition actually includes incidental ornamental iron that is part of an existing security wall. I was told as part of the security wall in certain areas, like golf courses where they wish to expand the view, there are extensive amounts of ornamental iron or fencing walls. They do significantly deteriorate and need replacement. The concern was to be more inclusive. It is not vital one way or the other to the bill. It does no harm to make it inclusive.

CHAIR CARE:

Have you had an opportunity to discuss the amendments with Senator Michael A. Schneider?

MR. ASHLEMAN:

Yes, I have.

CHAIR CARE:

He is agreeable?

MR. ASHLEMAN:

Yes sir.

CHAIR CARE:

Other questions were raised. One was what happens if you have a master association and a subassociation, is there an issue as to who maintains the security wall or is that going to be addressed in the covenants, conditions and restrictions (CC&Rs)?

MR. ASHLEMAN:

Ordinarily, you would address it in the CC&Rs. There would be no reason for the subassociation to be involved. The master association exists for this kind of issue, the roads and the overall concerns of the subdivision. All of these will be prospective so a drafter could deal with that on a particular configuration.

CHAIR CARE:

This was in the original amendment which abuts the common elements of the common-interest community. That would not necessarily be the case. Would any issue of ingress happen if there was such a case where you have a security wall that is entirely located on private property?

MR. ASHLEMAN:

It could happen. It is something you deal with in the CC&Rs. There are two answers to the egress of the wall for the purpose of repair. First of all, the CC&Rs assign the master association the responsibility to do the repair, under this bill. You would have an implied egress, but you could also specifically put the egress into your CC&Rs. I assume that would typically be done by the careful draftsman.

CHAIR CARE:

[Exhibit D](#) is the amendment from the City of Henderson.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 68.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

I will open the work session on S.B. 121. The Committee asked for some comment from the Real Estate Division, and we received a letter from Gail Anderson ([Exhibit E](#)).

SENATE BILL 121: Makes various changes concerning the sale of subdivided land in certain circumstances. (BDR 10-250)

Ms. EISSMANN:

Gail Anderson provided the letter, [Exhibit E](#), and she is in Las Vegas if the Committee has questions. After the meeting, Mr. Wilkinson met with gentlemen who were testifying on the bill to try and prepare an amendment for them. Since Mr. Wilkinson prepared it, I would defer to him to explain.

CHAIR CARE:

Mr. Wilkinson, have you also spoken with Ms. Anderson or anybody from the Real Estate Division?

BRADLEY A. WILKINSON (Chief Deputy Legislative Counsel):

Mr. Chair, no I have not, but I read the correspondence so I am familiar with the documentation.

CHAIR CARE:

Why not walk us through the mock-up ([Exhibit F](#)) prepared by Senator Washington and then I will ask questions of Ms. Anderson in Las Vegas.

MR. WILKINSON:

The mock-up, [Exhibit F](#), essentially clarifies we are talking about an undivided interest in raw land located outside the State of Nevada. They are selling it to people inside the State of Nevada, but the land itself is actually located outside the State. The bill, as originally drafted, would have applied to land both inside and outside the State, but that apparently was not the original intent. The amendment clarifies we are talking about land outside the State. It also indicates the land is the subject of a property report, issued by a governmental entity in another state, through a process similar to the Nevada process for a subdivision located in Nevada.

CHAIR CARE:

The bill now focuses only on where the real property is located in another state, but a Nevadan is the potential purchaser. Is that what we are talking about?

MR. WILKINSON:

Yes.

CHAIR CARE:

What exactly does the bill do when that situation arises? What jurisdiction does the State of Nevada have of the real property if it is located in another state?

MR. WILKINSON:

As the law currently stands, the land is not located in Nevada; it is being sold to Nevada residents. The sale is actually taking place here, and this is why it comes within the jurisdiction of Nevada.

SENATOR WASHINGTON:

Mr. Wilkinson, this basically sets up some type of reciprocity if the same procedures are similar to or greater than what is in the State of Nevada?

MR. WILKINSON:

That is correct. If you have a property report from another state that is similar to the Nevada process, you would substitute that report for what you would ordinarily get through the Nevada process.

CHAIR CARE:

Mr. Wilkinson, that is a jurisdiction issue. When you have a package in California actively marketed in Nevada to residents of Nevada, when would this constitute a security for purposes of registration? Someone said it does not. It may depend on the number of buyers.

MR. WILKINSON:

Proponents of the bill stated to me it is their position and the position of the Secretary of State's Office that it is not a security, so they do not go through that registration process.

CHAIR CARE:

Ms. Anderson, have you had an opportunity to look at the most recent mock-up?

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

Yes, I did have an opportunity to review the mock-up of the proposed amendment, [Exhibit F](#). That clarified some of my questions about this undivided interest. It definitely narrows that. In a review of that document and a couple of other attachments I received, I would point out one difference in the California disclosure law. It appears that California has a three-day rescission period for a buyer to withdraw their contract offer of sale. Nevada's rescission period is five days in Nevada Revised Statute (NRS) 119.182. That is one difference I noticed in scanning through a sample of an undivided interest in raw land public report issued by the State of California.

Two other things I would raise for the Committee's consideration: One, land sold to Nevadans is required to be transacted with a licensed Nevada real estate broker. Anyone can sell their own land. If that is what is happening here, that is not an issue. If they are selling land for others, then a Nevada broker is required in that transaction. Nevada also has a cooperative broker allowance which allows an out-of-state broker to cooperate and affiliate with a Nevada broker. That is a provision under NRS 645. It would depend—if it is an owner selling their own land, you do not need to use a broker or a licensee.

The second factor would be that exempted registration fees go to the General Fund for the State of Nevada. I have taken a look at the last several years, and our height of registration under NRS 119 was in fiscal year 2006, which was \$431,000 into the General Fund. Fiscal year 2008 closed out at approximately \$267,500. Those registration fees are General Fund revenues.

Those were the only issues I saw to raise for your consideration unless you have further questions.

SENATOR AMODEI:

Has your office had any problems with complaints, discipline or similar incidents in this area?

MS. ANDERSON:

Not usually because the purpose of the disclosure under NRS 119 is to ensure that any potential purchaser has an opportunity to review the extent of the amenities offered. This proposal is concerning raw land only. That becomes a more limited disclosure. They are not telling you whether they have electricity,

sewer, water or if there are CC&Rs. The whole purpose of NRS 119 is the public disclosure for potential buyers.

CHAIR CARE:

Ms. Anderson, let me be clear on the fiscal discussion. You mentioned the exemption. Is there a negative fiscal impact contained in this bill? As originally drafted, there was not.

MS. ANDERSON:

When I looked at the original bill and drafted my letter, [Exhibit E](#), which the Committee has, I did not know who this was capturing. There will be a fiscal impact. As to assessing that impact, the project section has not kept track of that type of filing. I cannot extract what might be impacted by the sale of undivided interest in raw land. The fees associated with the project filing are the basic \$500 annual registration fee for the issuance of the property report, based on up to 50 units. A graduated scale goes up from there.

The fiscal impact would be challenging to quantify. I had not attached a fiscal note until I understood a little more. Now I will try to extract what might be the impact. It is limited to the sale of undivided interests in the sale of raw land. I did consider a fiscal note, I did not know how to assess it when the bill originally came out.

CHAIR CARE:

How quickly would it take you to put one together?

MS. ANDERSON:

I will look at it today and tomorrow with my project chief and see if we have some idea. I could either get back to you or Senator Washington before I submit something unless you care to have discussion or do you want me to look at the fiscal note?

CHAIR CARE:

Let us know what that is when you have done your calculations.

On the licensing issue, you testified an owner can go ahead and do this. That does not require a broker by existing law. That is nothing we would address in this bill, correct?

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MS. ANDERSON:
That is correct.

SENATOR AMODEI:
Ms. Anderson, do you have any idea how many have registered undivided interest on unimproved land in the last year or two?

MS. ANDERSON:
I do not. I am going to talk to the project chief, see if she has some information and get back with the Committee members. Statistically, we do not separate it when we take registrations.

SENATOR AMODEI:
I would assume that your registrations are market dependent or market driven, is that a fair assumption?

MS. ANDERSON:
That is a fair assumption, and there has certainly been a decline in our annual registrations. We have seen a decline in the growth of new registrations. Many of the existing registrations, unless they have given up attempting to sell in Nevada entirely, would not have gone away. It is slower in the new development.

SENATOR WASHINGTON:
If this law was not enacted, what would be the procedure for undivided land in a different state? Would they have to file or is the law absent?

MS. ANDERSON:
I need some clarification. Are you asking me what other states do or what our procedure is in Nevada?

SENATOR WASHINGTON:
What is your procedure in the State of Nevada without this statute?

MS. ANDERSON:
The procedure in NRS 119.110 defines subdivision and includes undivided interests specifically. Our procedure requires a report be filed. It is very extensive for someone selling raw land with no improvements. Many sections

are not applicable. For example, there are questions about the sewer and water source. Some things will be applicable, some things will not.

For the sale of raw land, there is less detailed information. They do need to provide proof by a title, or preliminary title, that they have the right to sell the land. It is available on the Website, and they have to submit it physically. It is not electronically submitted. If the Real Estate Division has further questions, there might be some back-and-forth, but that is the process. Disclosure of the various things required in NRS 119 needs to be addressed.

SENATOR WASHINGTON:

Is that for the sale of raw land in the State of Nevada? What about raw land sold in adjacent states? Is there a dual filing? Do you have to file in the adjacent state as well as in the State of Nevada?

MS. ANDERSON:

I cannot answer for the adjacent state, but our definition of subdivision means any land or tract of land in another state, in this State or in a foreign country. The concept was if you market to a Nevada resident, there needs to be a disclosure as part of this marketing. I understand this law came out of some unscrupulous practices where land was sold that was not as represented.

Another component is that advertising information submitted for the land is also reviewed by the Real Estate Division to ensure it is not misrepresenting what was filed in the project.

SENATOR WASHINGTON:

The concern is the actual fee or revenue generated from the filings in this State. That is your concern right now, the loss of revenue?

MS. ANDERSON:

Loss of revenue was one of my concerns. Then Senator Care addressed what redress would someone who is potentially harmed by a misrepresentation have? They would not have it in this State. They would have it in the other state. One of the other requirements of the registration is a service of process that is required to be on file.

SENATOR WASHINGTON:

The requestors of this bill were looking for some type of reciprocity so they do not have to go through additional filing or paperwork. I am not sure they are concerned about the fees. They want to make sure they do not have to duplicate efforts. When you go through your fiscal note, can you show me how you extrapolate the cost so I can get an idea what you are doing?

MS. ANDERSON:

I will make every detail that I can.

CHAIR CARE:

Senator Washington, do you mind if we just hold this until we get the fiscal information? The Committee will table S.B. 121 until the next work session.

CHAIR CARE:

I will open the work session on S.B. 125.

[SENATE BILL 125](#): Prohibits the unauthorized possession, reading or capturing of another person's personal identifying information through radio frequency identification. (BDR 15-481)

SENATOR PARKS:

I did provide the Committee with a mock-up ([Exhibit G](#)) from the bill's sponsors.

In [Exhibit G](#), section 1, subsections 3, 4, 5 and 6, address the issues from individuals and other concerns, trying to be proactive as to where this technology is headed. The particular provisions do not apply.

There was also a proposal made by American Express to delete the wording on page 3 of S.B. 125, lines 2 and 3, "who has given permission for the financial transaction." Ms. Eissmann has addressed that issue in the work session binder.

I had a problem with the request by T-Mobile USA to change the definition. That would have required a whole other added definition. I did not include that.

SENATOR WIENER:

Could you give me an example of your intent with section 1, subsection 5 in your mock-up, [Exhibit G](#)?

SENATOR PARKS:

This was the issue brought up by the uber lobbyists from Clark County, expressing interest and concern relative to the airport requiring identification for its baggage-handling process. It is more like an individual commercial application. It is nothing different. They are a governmental entity. Trying to be proactive, I offered this additional wording. I was thinking about baggage handling. I was thinking about lost, misplaced or abandoned pieces of baggage in the airport someone could scan to identify the owner.

SENATOR WIENER:

My concern is that it may be broad, and based on what you are sharing for tracking purposes, there may be incidents captured by this that might be unintended in terms of the drafting.

SENATOR PARKS:

I would be willing to delete section 1, subsection 5. It is operated like any other commercial operation that uses radio frequency identification (RFID). The baggage tags are not the possession of the traveler. They are the possession of the airline that is flying the individual.

SENATOR WIENER:

I would be happy to work with you. My intent is to address the concerns raised by the incidents you and witnesses of Clark County shared. I do not know if it is all or nothing. To me this is too big. I do not know how we would work on that. Could we table this one? I would be happy to work with Senator Parks.

CHAIR CARE:

Senator Wiener, are your objections outside the scope of section 1, subsection 5 or are we talking about ...

SENATOR WIENER:

My concern is subsection 5, that it is too big.

CHAIR CARE:

Are there any objections amongst Committee members to the proposed amendments regarding subsections 1, 2, 3, 4, 6 and 7 as currently drafted? Senator Wiener's concern is about subsection 5.

SENATOR PARKS:

I would be happy to delete it.

SENATOR WIENER:

Mr. Chair, that is the decision of the sponsor of the bill. I was raising my concern that it was too broad. Should we address the issues raised by the County? I do not know if it is all or nothing.

SENATOR WASHINGTON:

Based on the testimony and the intent in subsection 5, there is a need to be addressed. I do not know what Senator Wiener had in mind. This is Senator Park's bill and amendment. The issue does need to be addressed. There may be language that will capture the intent of the airport. We should find a way to get consensus and address that issue.

CHAIR CARE:

Ms. Foley?

HELEN A. FOLEY (T-Mobile USA):

I did speak with the author of S.B. 125. We do not have a problem with the intention of the bill. Our concern is that by the definition of RFID, we could be sweeping in regular business with cellular phones. Every time someone picks up and uses a cellular phone, there is communication of personal identifying information between that phone and the network. This definition could prohibit that. We did not want to do that and have the unintended consequence. We provided an amendment—it is not the greatest amendment that they sent—of the one being adopted in the State of Washington. If there is better language, we can find it.

CHAIR CARE:

Members of the Committee, I would entertain a motion to amend and do pass the most current amendment in [Exhibit G](#), section 1, subsections 1, 2, 3, 4, 6 and 7. Then let the sponsor of the bill work on any additional amendment as to any scope, limited or otherwise, to what is currently subsection 5 and the issue raised by Ms. Foley. Does the Committee wish to amend and do pass sections 1, 2, 3, 4, 6 and 7 in [Exhibit G](#) in addition to the amendment contained in the work session binder from Chris MacKenzie of American Express ([Exhibit H](#))? The understanding is the sponsor will work with Senator Wiener and Ms. Foley for any additional amendments to be taken up on the floor.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 125.

SENATOR AMODEI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

I will open the work session on S.B. 130.

SENATE BILL 130: Revises certain provisions governing certificates of permission to perform marriages. (BDR 11-468)

CHAIR CARE:

We have proposed amendments as outlined in the work session binder ([Exhibit I](#)). George Flint is present as is Nicole Lamboley with the Secretary of State's Office. Ms. Eissmann please take us through the amendments.

Ms. EISSMANN:

Three amendments to this bill are in your work session binder.

The first was from Nicole Lamboley ([Exhibit J](#)) of the Secretary of State's Office. Ms. Lamboley said keeping a list of ministers is a cumbersome process. The Secretary of State's Office would like to revise that to make it similar to the voter list, an online database, that the county clerks can access.

The second amendment was from George Flint ([Exhibit K](#)), Chapel of the Bells. The amendment would exempt retired and senior judges, justices, ministers and others authorized to solemnize a marriage from NRS 122. Mr. Flint stated the intent of the amendment is to prohibit county clerks from capriciously reviewing and scrutinizing existing licenses. Mr. Flint cited some previous difficulties with the county clerks.

The third amendment was from Allen Lichtenstein with the American Civil Liberties Union (ACLU) ([Exhibit L](#)). He suggested authorizing notaries to perform marriages.

CHAIR CARE:

Have we heard from the bill sponsor on any of these?

Ms. EISSMANN:

No. It was Senator Warren B. Hardy II who brought the bill forward on behalf of the Clark County Clerk.

SHIRLEY B. PARRAGUIRRE (Clerk, Clark County):

I have no additional comments from those I presented when you first heard this. I am in total agreement with the amendment proposed by the Attorney General's Office concerning the online database. That would be a benefit for both the Attorney General's Office and the county clerks.

I do not have an issue with Mr. Flint's grandfathering in the ministers.

The issue I do have is with Mr. Lichtenstein's suggestion allowing notaries public to perform marriages. I spent a few minutes previously giving you some of the problems we are having with monitoring the ministers to make sure they are complying with the statutes. To open this up to notaries would double the work for us. We have approximately 2,500 licensed ministers in Clark County. I would not be in favor of this at all. I can see every notary, and there are hundreds and hundreds if not thousands, who might decide they want to do marriages. Then they would put up a sign, "notaries, marriages," and we would have all of those people to monitor too.

We certainly do not have a lack of ministers, at least not in Clark County. I do not see the need to open it up. We are in favor of the Attorney General's Office amendment. At one point, we also proposed it, but it did not reach you in time.

CHAIR CARE:

For the record, it is actually the Secretary of State's amendment, but I am sure we are talking about the same amendment. Mr. Lichtenstein's amendment is actually designed to defuse any First Amendment issue. I am going to leave that up to the Committee members. He laid out the legal argument that may be applicable to the existing law, not the bill.

Let us ask Staff. Is Mr. Flint's proposed amendment necessary?

MR. WILKINSON:

I spoke with Mr. Flint about the amendment. I understand his concern. My concern is what it seeks to accomplish in terms of not really grandfathering in someone. It is not about any specific provision of S.B. 130 going forward he does not want. It is more about the practice of the county clerks scrutinizing certain issues. I am not sure what language I would draft to address his concern, or how we would go about doing that.

CHAIR CARE:

But this would not do it?

MR. WILKINSON:

The proposed language of exempting them from NRS 122 is not his intent. That would do away with anyone's ability to perform a marriage ceremony, which clearly is not what he is intending to do. It is more accurately expressed when he said his intent was to not have clerks go back in and arbitrarily or capriciously scrutinize whether people are entitled to have their licenses. I am not sure if that is the subject for a statute or a matter of policy that should be made clear in the legislative record.

SENATOR AMODEI:

Is this something where there could be a request for a Legislative Counsel Bureau (LCB) opinion that could be forwarded to county clerks? What I heard you say Mr. Wilkinson is I recognize his concern and maybe this is not the way to get at it. But recognizing there is an issue, nothing can be done?

MR. WILKINSON:

I would need a better understanding of what is occurring as to the county clerks scrutinizing a license and somehow not following the law. I am not sure what provision of the law they allegedly are not following, or what they are doing that they should not be doing. I am not sure what I would look at without knowing more of the facts.

SENATOR AMODEI:

If you had a specific request to LCB regarding some instances, could the LCB, based on the facts presented, render an opinion? I would not speak for you or Legislative Counsel Brenda Erdoes.

MR. WILKINSON:

If there were a specific set of facts, I would be happy to say how the law applies under those circumstances.

SENATOR PARKS:

I have had communications with an individual who had written e-mails relative to the process. I only bring up the fact of the State limiting who may marry tends to get into the issue of church and state. Ms. Parraguirre's concern is not getting the marriage certificate returned to the county clerk's office for recordation.

CHAIR CARE:

That point was made clear by Mr. Lichtenstein's testimony. If I am not mistaken, there was a suggestion that it might even be applicable to the existing statute.

LEE ROWLAND (American Civil Liberties Union of Nevada):

With respect to Ms. Parraguirre's testimony, one of our concerns is precisely what she mentioned about monitoring the ministers. We have received several complaints in our office from less traditional religions that they have been denied licenses for reasons such as they neither have a physical church nor recognize ministers as other religions. For instance, Mormonism, paganism and wiccans are all recognized religions by other aspects of the government, but they do not fit neatly into this section.

Our suggestion for notaries is to avoid those issues. We are concerned there is excessive entanglement between the county clerk's office and the ministers because of the monitoring. We have serious concerns about that. The notary was an attempt to be a safety valve. People with less traditional religions or nonbelievers who now have no option other than to get a judge have an option because it is not a clearly religious system. We do have concerns with the existing one.

CHAIR CARE:

Yes, I recall the testimony. I asked Clark County whether all religions are treated equally. You may get into that discussion as to what constitutes a religion, but the answer came back yes. Not one was favored over the other.

What about nonreligious marriages that are to be solemnized, if that is the correct terminology? That probably goes to what is also covered in the e-mail.

SENATOR AMODEI:

If there is much objection, I will stand aside. But can we hold this to the next work session? I understand what Ms. Parraguirre is trying to do and agree with that. But listening to the other testimony, maybe we really need to pass the bill the way it is.

I would appreciate the opportunity to look at it longer and think about some of the things said. See if we cannot take care of Ms. Parraguirre's issues, but even the point made by the ACLU is one I would like to think about more.

CHAIR CARE:

If there are no objections, we will table S.B. 130. Senator Amodei, we will entrust you with the task you inadvertently volunteered for.

CHAIR CARE:

I will open the work session on S.B. 141.

[SENATE BILL 141](#): Enacts the Uniform International Wills Act. (BDR 12-673)

CHAIR CARE:

You will recall opposition to the bill. I do not mind working with opposition even if it is my own bill, but I never received any subsequent follow-up.

I can represent to the Committee that I corresponded with Michael Kerr, Legislative Director for the Uniform Law Commission. He had not heard from the attorney. I had given the attorney Mr. Kerr's name. I checked my e-mails this morning, and there was no communication. I will entertain a motion.

SENATOR WIENER MOVED TO DO PASS S.B. 141.

SENATOR COPENING SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

I will open the work session on S.B. 149.

SENATE BILL 149: Exempts limited-purpose associations that are created for a rural agricultural residential common-interest community from certain fees. (BDR 10-771)

CHAIR CARE:

You will recall this was the bill from Senator Dean A. Rhoads with testimony from Senator Michael A. Schneider, and there have been follow-up communications. Ms. Eissmann, do you want to tell us where we are with this.

MS. EISSMANN:

I summarized this for the Committee in the work session document ([Exhibit M](#)). Last meeting you asked for some legislative history; S.B. No. 325 of the 73rd Session made changes to NRS 116.

One of those changes took out exemptions which involved the rural agricultural residential common-interest communities. It took out the exemptions for the homeowners' associations which had previously been exempt from paying that fee to the Office of the Ombudsman, which is the subject now of S.B. 149 before this Committee. In the process, it also took out their necessity to comply with the Open Meeting Law. That then became the topic of conversation during the testimony. The testimony regarding that section of the bill was the only topic of testimony regarding the Open Meeting Law. There was no testimony by anyone whether they should be required to pay the fee.

One of the people who testified on that bill in 2005 and explained the original sections of S.B. No. 325 of the 73rd Session was Michael E. Buckley, the Chair of the Commission for Common-Interest Communities and Condominium Hotels of the Real Estate Division. You will notice that there is a letter ([Exhibit N](#)) from him supporting S.B. 149. Mr. Buckley also mentions Assembly Bill (A.B.) 207 which is a similar bill the Assembly is considering. Mr. Buckley supports S.B. 149.

ASSEMBLY BILL 207: Makes various changes concerning common-interest communities. (BDR 10-694)

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I hope that clarifies for the Committee what took place in 2005. If you have any further questions, I will answer them.

CHAIR CARE:

No, that is fine, Ms. Eissmann. I also spoke with Mr. Carpenter and he told me the same thing; the intent was to put the sons of guns under the Open Meeting Law but not the Ombudsman. The Chair will entertain a motion.

SENATOR MCGINNESS MOVED TO DO PASS S.B. 149.

SENATOR PARKS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

I will open the work session on Senate Joint Resolution (S.J.R.) 1.

SENATE JOINT RESOLUTION 1: Proposes to amend the Nevada Constitution to replace the State Board of Pardons Commissioners with the Clemency Board appointed by the Governor and to require the Legislature to provide for the organization and duties of the Clemency Board. (BDR C-552)

We have one proposed amendment. Senator Parks, do you want to speak on this?

SENATOR PARKS:

This was one of my bill draft requests that I donated to the Advisory Commission on the Administration of Justice. A proposal was advanced to amend the Nevada Constitution to replace the State Board of Pardons Commissioners with the Clemency Board.

We had testimony and an amendment proposed by Diane R. Crow, State Public Defender, ([Exhibit O](#)), that would allow current members to make appointments to the Clemency Board. Ms. Crow's suggested change in language is in our backup, it appears appropriate.

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SENATOR PARKS MOVED TO AMEND AND DO PASS AS AMENDED
S.J.R. 1.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

We will open the work session on S.J.R. 2.

SENATE JOINT RESOLUTION 2 OF THE 74TH SESSION: Proposes to amend the Nevada Constitution to revise provisions relating to the selection of justices and judges. (BDR C-177)

CHAIR CARE:

Mr. Wilkinson, Senator Amodei raised a "none of the above" issue.

MR. WILKINSON:

You wanted me to look at the issue of how this would interact with the "none of these candidates" option on the ballot. First of all "none of these candidates" only applies to statewide offices and presidential elections. It is not an issue with district court judges. We would be talking about Supreme Court justices and court of appeals judges if the court of appeals was created.

However, section 22 of the resolution provides that in a retention election, the question is to be presented in a form provided by law. Were this enacted and approved by the voters, enabling legislation would need to set forth the specific format for that question.

It would seem somewhat illogical and not in keeping with the purpose to have "none of these candidates" as an option on the ballot. The choice presented would be should this candidate be retained as opposed to a choice of candidates. I have looked back at the legislative history of A.B. No. 336 of the 58th Session from 1975 and S.J.R. 2 does need to have that option to accomplish the purpose of that original legislation.

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CHAIR CARE:

Any questions of the Committee on that issue.

SENATOR PARKS MOVED TO DO PASS S.J.R. 2.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS AMODEI, MCGINNESS AND
WASHINGTON VOTED NO.)

* * * *

The Committee is adjourned at 9:44 a.m.

RESPECTFULLY SUBMITTED:

Judith Anker-Nissen,
Committee Secretary

APPROVED BY:

Senator Terry Care, Chair

DATE: _____