

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

**Seventy-Seventh Session
May 23, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:20 a.m. on Thursday, May 23, 2013, 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 nelis.leg.state.nv.us/77th2013. 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 Jason Frierson, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Lesley E. Cohen
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblywoman Ellen B. Spiegel
Assemblyman Tyrone Thompson
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Tick Segerblom, Clark County Senatorial District No. 3
Senator Barbara Cegavske, Clark County Senatorial District No. 8

Minutes ID: 1259



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Thelma Reindollar, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Jon D. Ponder, Founder, CEO, Hope for Prisoners, Inc.
Brian Connett, Deputy Director, Industrial Programs, Department of Corrections
Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office
Kristina Pickering, Chief Justice, Supreme Court of Nevada
James W. Hardesty, Associate Justice, Supreme Court of Nevada
Ben Graham, representing Administrative Office of the Courts
Andres Moses, representing Eighth Judicial District Court of Clark County
Michael L. Douglas, Associate Justice, Supreme Court of Nevada

Chairman Frierson:

[Roll was called. Committee protocol and rules were explained.] We will stay in order and open the hearing first on Senate Bill 423.

Senate Bill 423: Revises provisions relating to offenders. (BDR 16-1112)

Senator Tick Segerblom, Clark County Senatorial District No. 3:

Good morning, Mr. Chairman and members of the Committee. I have with me Senator Cegavske who came to me with the idea, and we sat down with Mr. Ponder who has a nonprofit agency which helps integrate prisoners back into society.

Senator Barbara Cegavske, Clark County Senatorial District No. 8:

Thank you, Mr. Chairman and members of the Committee. I am here today to present Senate Bill 423. This bill requires that the Nevada Department of Corrections (NDOC) provide photo identification to people who are being released from prison, if they request such a card. As you can see in section 1 of the bill, the director of the Department currently is required or authorized to provide certain other items at the time of release such as clothing, employment information, and information about getting a driver's license. These steps can be extremely valuable in helping people transition out of prison and into gainful employment. Unfortunately, people who are being released from prison often

do not have access to the official ID they need in order to move on with their lives. Providing a photo ID card upon request would help remove that barrier.

Starting in section 1, the photo identification card is defined in subsection 3, paragraph (b), as a document which includes the name, date of birth, and a color picture. The card would be issued by NDOC per section 1, subsection 1, paragraph (f), and it would be issued only if requested by the person being released. Section 2 allows the photo identification card issued by NDOC to serve as a photo proof of a person's legal name and age when applying for a driver's license or instruction permit. Section 3 allows such ID to serve as proof of a person's legal name and age when applying for an identification card from the Department of Motor Vehicles (DMV). In other words, when a person is released from prison, upon request for a photo ID from the NDOC, he will be allowed to show that ID as proof of name and age in order to get a driver's license identification card from the DMV.

As I mentioned earlier, this is important because many people coming out of prison may not have access to other official documentation such as birth certificates. In those situations, they need another option and this bill provides one. In short, S.B. 423 would enable former inmates to get the state-issued identification they need in order to obtain a job, a place to live, or other necessities. I urge your support for this legislation and would be happy to answer any questions. With that, I would like to turn it over to Jon Ponder down in Las Vegas with your approval, Mr. Chairman. I also know both Mr. Ponder and I would like to thank Senator Segerblom for allowing us to have one of his committee's bills to do this. We are very appreciative and we have enjoyed working with him on this issue.

Jon D. Ponder, Founder, CEO, Hope for Prisoners, Inc.:

Thank you for giving me the opportunity to speak about the importance of S.B. 423. This bill would help ex-offenders get reestablished as they return to our community. Hope for Prisoners provides reentry service to men, women, and young adults that are exiting various arenas of the judicial system and works very closely with many stakeholders in the reentry community including NDOC. I had the opportunity to speak with the staff at NDOC who expressed their full support of the bill. As a provider of reentry services, I see firsthand the challenges that are faced when someone is released without proper identification. They are not able to obtain the necessary documents to function, such as birth certificates and social security cards. They are not even able to access basic public assistance or secure employment, which brings additional barriers to the reintegration process. The longer it takes a person to reintegrate, the more likely it is for him to reoffend.

Although Hope for Prisoners has had a very successful track record in assisting ex-offenders return back to work and to their families, we feel that S.B. 423, if it passes, would increase our success rate, as well as decrease the overall recidivism in Nevada. When dealing with this segment of the population, we have an obligation to remove every barrier that we possibly can to help those who truly want to reintegrate back into society.

Senator Cegavske:

I want to make sure that the Committee was aware that the fiscal note had been removed.

Brian Connett, Deputy Director, Industrial Programs, Department of Corrections:

We also want to reiterate some of the issues that Mr. Ponder brought up. The NDOC and the director are certainly in full support of this and want to notify the Committee that we have removed any fiscal note that we had on this. Thank you.

Assemblywoman Spiegel:

I have two questions. It was not clear to me if the inmate needs to be notified that this would be available.

Brian Connett:

What the department does is have the ex-offender sign that he is acknowledging receipt of the documents that we are required to provide him upon his release. What we are talking about is providing them with their NDOC identification card which is a picture ID.

Assemblywoman Spiegel:

Would this ID card also be able to be used for travel purposes, or is it just something they would have until they could take it to DMV and get an identification card or a driver's license?

Brian Connett:

This inmate ID card from the NDOC would not allow that inmate to go through security at the airport.

Assemblyman Thompson:

Has DMV agreed that the photo ID is acceptable when an ex-offender applies for a Nevada ID in order to get social services?

Senator Cegavske:

We had communication with DMV as did the NDOC director. They are in full agreement that if they are able to get the identification card understanding what it contains, yes, they are very supportive.

Assemblyman Thompson:

If DMV is already in the loop, could we not work out something to where they can issue it on-site so ex-offenders can access services as soon as possible?

Senator Segerblom:

That was an option. In fact, we have been trying to do that for several years and the fiscal note always killed us, so last session we passed a law which allowed Religious Alliance in Nevada, a nonprofit religious group, to raise private money to assist inmates in getting their driver's license. They still had the problem of not having identification with them at the DMV. So now, the state agrees to provide an ID before the inmate leaves prison, at no cost. We will be able to work on that next piece you are talking about which is DMV being onsite at the prison.

Chairman Frierson:

Are there any other questions from the Committee? [There were none.] Mr. Ponder, did you have anything else that you needed to add?

Jon Ponder:

I would just like to reiterate that the successful passage of S.B. 423 will allow DMV to recognize the photo ID as valid identification and issue a Nevada identification card so the ex-offender will be able to start receiving immediate services.

Chairman Frierson:

Thank you, Mr. Ponder. For those of you who do not know, Mr. Ponder, in particular, is especially committed to reentry and has been for quite some time. When I read this bill, I could not think of anything more important for someone to reenter the community than making sure they have valid ID to be able to able to confirm who they are. I think this is a very important step and a continuation of the efforts that started last session.

I will now invite those here in Carson City to provide testimony in support of S.B. 423 to come forward.

Steve Yeager, Deputy Public Defender, Clark County Public Defender's Office:

We are in support of this bill. One of things that we attempt to do at the Clark County Public Defender's Office is to help clients on the back end once

they are released from prison. We have social workers who help in this area and one of the frustrations is the inability to get a state identification or driver's license. On behalf of them, we are very much in support of this legislation. We think it will help our clients on the back end be able to reintegrate in the community. I want to thank Senator Segerblom and Senator Cegavske for bringing this bill and also, Mr. Ponder, for the work that he does on behalf of the public defender clients. With that, I would take any questions.

Chairman Frierson:

Are there any questions from the Committee? [There were none.] Is there anyone else here or in Las Vegas wishing to offer testimony in support?

Brian Connett:

During this part of the testimony, NDOC is in support of this bill. Thank you.

Chairman Frierson:

[There is no opposition.] Senator Cegavske and Senator Segerblom, I appreciate your bringing the bill. With that, we will close the hearing on S.B. 423 and move on to Senate Joint Resolution 14 of the 76th Session.

Senate Joint Resolution 14 of the 76th Session: Proposes to amend the Nevada Constitution to create an intermediate appellate court. (BDR C-1013)

Senator Tick Segerblom, Clark County Senatorial District No. 3:

This bill allows the voters to consider again whether to have an intermediate appellate court. We all know it is really an important step in the modernization of Nevada. With that, I will turn it over to the Chief Justice.

Kristina Pickering, Chief Justice, Supreme Court of Nevada:

I have with me my colleague, Justice James Hardesty, who created the business plan that this proposition is based on. I know that when we came to you before on the overview of the judicial branch, we covered much of what is in this slide handout that we have distributed for today ([Exhibit C](#)). I do not want to belabor things or bore you with materials that you are already familiar with, but I would like to briefly make a record of why this is so important and why we sincerely hope that we can gain, not just passage, but unanimous passage.

Let me begin with slide 1, which is the broad question of why we need a court of appeals. The basic proposition, and this has broad bipartisan support, is that now more than ever, Nevada needs to move into the twenty-first century and establish a court of appeals. It requires a constitutional amendment to do so

because the way our constitution was set up 150 years ago, we have district court judges and the Supreme Court, but we do not have a court of appeals in between. We are one of just ten states that is in that position but it does take a constitutional amendment.

Last session, the proposition to put this on the ballot passed the Legislature. It is back before you again this session. If it passes this body, it will go on the ballot in 2014. It must then gain a majority vote of the citizens of Nevada. So that is the position we are in today is urging you to pass this so it can go on the ballot and the voters can decide whether they agree with us and whether we can make a sufficient case to them. But this is necessary and appropriate at this point.

Here are the questions: (1) Why is the court of appeals needed? (2) How will it operate? (3) What will it cost? I can skip through the next several slides because they are familiar to you; I covered them earlier in the judicial branch overview. Let us go to slide 7 which is the Nevada Supreme Court Caseload Statistics and Analysis of Case Inventory, and then to slide 8 which follows. There is a series of slides in this segment that demonstrate in different ways, by graphs, by bar graphs, in words, all the same proposition which is that, year after year, month after month, the workload of the Supreme Court is increasing. It stands to reason that that would be so. We have what is called mandatory jurisdiction over every appeal from every district court judgment in the state. We must hear and decide all of those appeals. The subject matter can range from somebody whose driver's license has been revoked, they are unhappy about that, and they feel they got a bad shake before the Department of Motor Vehicles and on judicial review before the district court. We hear those cases. We also hear death penalty cases. We hear multimillion dollar disputes; we hear family law matters; we hear everything. So let us look at the numbers that we see here.

What slide 8 projects are the new cases filed each year and then below that, it shows the number of cases we have been able to resolve. It then shows where we will be at the end of the year in terms of the backlog of cases remaining. Sadly, what this absolutely predicts is, looking forward, assuming case filings continue their upward trajectory, we will not be able to keep abreast of the new cases filed, meaning we will be creating a big backlog.

[Chief Justice Pickering continued to read from ([Exhibit C](#)).]

The problem when you have the volume of cases that we have, you are forced into a situation where we do what is called "memorandum dispositions." They are published in the sense that they are certainly public record and anyone

who wants to read them can, but they are not able to be cited as precedent because they are short-form postcards from the court that say, "Here is how your case came out and here is a quick reason why." But it is not the in-depth treatment and the creation of precedent, so we have many fewer published dispositions relative to the total caseload. That is injurious to this court and to this state in terms of the development of the law, as well as people from out of state looking at our state and seeing what sort of justice system we have. Can you predict risk? Can you predict outcome based on the sparse published precedent that we have? We work very hard on the so-called published or precedential dispositions to make sure they are right and that they are clear, not just so they can be applied in actual litigated cases. Also, people can look at something and say, you know, I may disagree with you, but I can predict how this dispute is going to come out in light of the existing case law; I do not think my position is very sound, so let us compromise and move forward without even engaging the court process. That is very important to the business community, and if you look at the statistics, for example, the U.S. Chamber of Commerce has done a big study on this. One of the things that corporate counsel really look at in considering whether to locate in this state is what kind of published precedent do they have that gives judicial gloss to the statutes that are on the books so people can say if I get into a dispute with somebody in Nevada, how will it come out. Can I guide my affairs reliably? And that is very important.

[Chief Justice Pickering referred to slide 9 from ([Exhibit C](#)).] This illustrates what I am talking about in terms of authored opinions which are the published dispositions. It also gives you a feel for the breakdown of this subject matter of the cases that we address.

Slide 10 is another presentation of what I have been using words to describe. It shows the ever-climbing workload that we have and our efforts to soldier along and keep disposing of as many cases as we can. Our estimate though, even using fewer published dispositions, relying on staff, working in panels of three instead of a seven-justice court, we think we cannot fairly produce more than 2,270 dispositions per year. With the caseload that we have, since we can only decide cases in groups of three, we would have to keep up with the 2,500 new filings in fiscal year 2012. Each one of the justices would have to read, digest, review, write the disposition, or sign on to a colleague's. We would have to do three of those every day, 365 days per year, to keep abreast of that just to put it in numeric terms. That is Christmas, birthdays, and so on and that is a very tall order. The result is shown on slide 11 in terms of delay to disposition. That is obviously costly to the people involved. They need to have their disputes resolved. We are trying to keep up with the case of the filings but as you see, the age of the cases is increasing.

The next slide, slide 12, tries to chart out where Nevada is relative to the other states that do not have courts of appeals and, as you can see, Nevada has achieved No. 1 status in terms of numbers of cases per judge. This is dividing 2,500 by seven and assuming only one judge per case, but that assumption is inaccurate because constitutionally, we sit, at a minimum, in panels of three and we do not always agree with one another. Sometimes, there are dissents and that is part of the development of the law and part of the legal system. So the question is, how would this work?

[Chief Justice Pickering referred to slide 13 from ([Exhibit C](#)).] The constitutional amendment that we would tender to the voters and ask them is, do you agree with us that the time has come to establish a court of appeals in Nevada? The question would go on the ballot in 2014. If the voters pass it, there would be three new positions created, the court of appeals judges. Merit selection process would be engaged, and, assuming everything went quickly, those new judges would take office in the first week of January 2015.

The plan is different from some courts of appeals in other states and this is where Justice Hardesty has made such an incredible contribution to avoid creating additional bureaucracy. The vision is this: All cases would continue to be filed with the Supreme Court clerk, and we would enact what is called a push-down model. We would not then have two separate clerks' offices. The cases would be filed with the Supreme Court clerk who would then cull through them and, by rules adopted by the Supreme Court, push down a number of the cases that come in to the court of appeals where they could be resolved there and end there with only discretionary review to the Supreme Court in certain categories. That is very important because we do not increase the number of personnel. We still have the same number of cases filed, but some are rerouted to the court of appeals by the existing clerk's office so there is not a new cash outlay for personnel or a new clerk's office. We also have the entire seventeenth floor of the Regional Justice Center in Clark County, and the office space there would accommodate the three new judges on the court of appeals if the voters do pass it and this body passes the proposition. [Chief Justice Pickering referred to slides 15 and 16 from ([Exhibit C](#)).]

When we presented this to the Senate Committee on Judiciary, it passed unanimously with broad bipartisan support. We were asked following that presentation whether this should carry a fiscal note. It does not, by its terms, carry a fiscal impact in our estimation in terms of how it is defined in the statutes because it is contingent—it has to pass the voters to come online. If everything went perfectly so we have the court up and running in January 2015, the fiscal impact to this biennium would be \$791,644 to the best of our

ability to estimate, that being one-half of one year's personnel cost associated with this, plus a little for the merit selection process.

Slide 18 addresses various ways in which this could be funded and, ultimately, we would also go to Interim Finance Committee, if this passes. But we do emphasize that the Supreme Court has been frugal in trying to live within our means. We take up less than one percent of the General Fund, yet we have been able to marshal resources so that we have been returning reversions each year.

The benefits of the court of appeals have been woven throughout what I have said this morning, and I apologize to take so much time but I really am passionate about this. The Nevada Supreme Court and our districts have been very fortunate, historically. We have had many extraordinary jurists in Nevada. That is a gift to this system, but the court of appeals would allow us to continue to do that and keep Nevada on the map as a decent place to do business and a decent place to live. We want to maintain that high quality and we are at our capacity at this point. It will allow us to effectively manage all appeals, meaning not just time to disposition—it would certainly help in that—but also quality of disposition and the thought and reflection that goes into appellate cases. It would allow us to improve the production of our published dispositions. They take a lot of time and a lot of thought and effort. It may not be evident to the people who lose always, but the fact of the matter is, I practiced law for many, many years and contested cases some of which were really hotly contested. Nobody likes to lose, but if you understand exactly that the law was applied to you and it was applied in a reasonable, fair way, people understand that and they do not go away angry. They may go away disappointed, but they understand and respect the system and this would improve that.

The court of appeals would allow us to minimize delay. We would be moving off approximately 800 to 1,000 of the 2,500 cases in fiscal year 2012, as an example, so it would allow us to improve our productivity. It would ensure timeliness; the saying that justice delayed is justice denied is really true. Think about child custody cases. If your appeal takes three years to get through, the child has gone from 4 to 7, or 7 to 10, or 10 to 13. There needs to be closure for people, and that is not just true in the family law arena, but in all arenas. It would establish a traditional error correction court, and it would be operated at minimal fiscal impact to the state.

At the hearing before the Senate Finance Committee, Governor Sandoval sent a representative to state that we have the wholehearted support of the Governor's Office. We also had State Bar of Nevada President Frank Flaherty

who testified that we have the wholehearted support of the State Bar. And if this passes, we will do the best in educating our voters in why this is so essential.

Chairman Frierson:

Thank you, Chief Justice. Justice Hardesty, did you want to make any introductory comments?

James W. Hardesty, Associate Justice, Supreme Court of Nevada:

No, I have nothing further to add to the Chief's presentation except to respond to questions. Thank you.

Assemblywoman Spiegel:

Thank you for bringing this forward. You have done a really good job outlining the need for this court. I did have a question about the salaries that you used in the business model. In the other bill, it was starting at \$165,000. How was that arrived at? According to <www.payscale.com>, it was stated that a judge with 15 years' experience, which I think was the minimum that was required, and a salary of \$165,000 was in the top 84th percentile nationwide of compensation. Doing more research, as of December 2010, a judge with 10 to 19 years' experience, their pay scale ranged on the average from \$46,000 to \$147,000.

Chairman Frierson:

Ms. Spiegel, I do not think you are talking about this bill. The second bill goes into those figures so we can talk about that with the implementation.

Assemblywoman Spiegel:

Okay, then I can come back. Thank you.

Assemblyman Ohrenschall:

Good morning, your Honor, Justice Hardesty, and Justice Douglas. Thank you for working so hard on this issue. When I was in law school, many of the professors complained that, because our state is young and for other reasons, one being that we do not have an intermediate court of appeals, there was a gap and not enough case law. Could you speak to how the intermediate court of appeals, if the voters do establish it, will help us build that body of case law and maybe lead to less litigation if there is more case law?

Justice Hardesty:

As the Chief points out, one of the advantages we see to this proposal is to increase the number of published opinions. Currently, with the time to disposition that occurs in most appeals, which is quite lengthy frankly, the

justices are faced with a very difficult decision in many cases about whether, once they have decided the case, to publish the case as an opinion or resolve it by way of a memorandum, disposition, or order. Oftentimes, the decision is made to resolve the case as an order because of the time it has taken for the case to get thus far. These cases can affect children and many other people whose lives are impacted by the delays of these decisions. When we undertake a published opinion, the process itself is extraordinarily lengthy. Not only do the justices have to weigh in on how an opinion is drafted and researched but so, too, do our editing teams, and the process for generating an opinion can take months depending on the complexity of the case.

I think the most frustrating thing that every justice would tell you is the lack of time to write. It is so frustrating for me to have so little time to write because you are pushed from case to case to case to case and anybody who practices law or watches the legal system knows that the written word is the key to how we communicate in the legal business. Having the time to write opinions that are going to have precedential impact is so critical. If we could reduce our involvement in error correction cases, some 700, maybe 900 cases, it would increase our time to write and would allow us to seize those cases that are capable of becoming published opinions. I think we could increase the number of published opinions as a consequence.

Chairman Frierson:

Are there any other questions from the Committee?

Assemblywoman Cohen:

Thank you all for being here. I have a question about the mandatory mediation program. I have seen that it has been very effective. If there is an appellate court, will that be expanded to the appellate court? Will it remain in the Supreme Court?

Chief Justice Pickering:

The Supreme Court settlement program has been enormously effective and it is part of what has allowed us to keep even marginally abreast of the new case filings. For those who are not familiar with it, we mandate that certain categories of cases go to settlement conference before they are fully briefed and argued and decided. Our vision is that we would continue to do that and handle by rule that proposition. I do not know for a fact whether it would all go forward at the Supreme Court level. My belief is that it would appropriately use the same program on the cases that are referred to the settlement program, would be referred to the settlement program without stumble or misstep at all. They are referred before they are looked at by a judge so that process diminishes the number of cases to the extent it produces settlements that

have to be resolved. So in no way would we back off of that program. What happens is people come out of the district court and one side has won and one side has lost so they are in a much better position perhaps to estimate likely outcome on appeal, and that is why that program has been as successful as it has been.

Chairman Frierson:

Are there other questions from the Committee? Seeing none, I invite those here in Carson City and Las Vegas wishing to offer testimony in support of S.J.R. 14 of the 76th Session.

Ben Graham, representing Administrative Office of the Courts:

I am here on behalf of the State Bar of Nevada and as the Chief reflected, the President of the State Bar testified in a prior hearing their full support of this. The business and labor communities have also come forward with exactly the reasons why we need this. The enthusiasm among the Bar and other people in our community will see that this is passed provided this body gives us an opportunity to do that. Thank you.

Chairman Frierson:

Are there any questions?

Assemblyman Duncan:

Good morning, Mr. Graham, and thank you for being here. I completely agree that if we are going to move forward as a state, we absolutely have to have an appellate body of the law and allow you folks the opportunity to be able to give us more opinions and to be able to spend that time writing those opinions. So I certainly support these efforts.

Mr. Graham, how are we going to educate the public that this is absolutely a necessity?

Ben Graham:

This has been a case where we have had to say, hold off, slow down. Our constituency, for the next several days, is 63. It would have been presumptuous for any of us to start anything before all of this comes to being. We have people in the business, labor, and judicial communities that are standing by and ready to start to work, not only with the committee, but then the almighty dollar fundraising. There would be a presence to support S.J.R. 14 of the 76 Session in every single county. The public is going to know and understand why it is important to them, not really the courts, but why it is important to the public that we get this thing off.

Justice Hardesty:

Mr. Chairman, may I augment that answer?

Chairman Frierson:

Please, Justice Hardesty.

Justice Hardesty:

Mr. Duncan, I appreciate your comments. Similar observations were made by senators during the Senate Judiciary Committee and, to the extent that you and other legislators find this to be a worthwhile proposition, it is my belief that the Legislature can play as big a role or more significant role, frankly, than the judges ever could in communicating with your constituents about the importance of this measure.

Chairman Frierson:

Thank you. Are there other questions? [There were none.]

Andres Moses, representing Eighth Judicial District Court of Clark County:

On behalf of our 52 district court judges, we are in full support of S.J.R. 14 of the 76th Session. Thank you.

Chairman Frierson:

Are there any other questions? [There were none.] Is there anyone else wishing to offer testimony in support? I see no one. Is there anyone wishing to offer testimony in opposition, either here or in Las Vegas? [There was no one.] Is there anyone wishing to offer testimony in a neutral position? Seeing none, if you have closing remarks, feel free. Obviously, we have been through this and I certainly recognize how incredibly important this is for the state. Having been a law clerk at the Supreme Court, the workload is tremendous and I know it has only gotten worse. And so we can use some help in this. It is something that certainly helps everybody across the state.

With that, I will close the hearing on S.J.R. 14 of the 76th Session and now open the hearing on Senate Bill 463 (1st Reprint), which I understand is the implementation mechanism for S.J.R. 14 of the 76th Session. Welcome, Justice Douglas.

Senate Bill 463 (1st Reprint): Provides for the implementation of the Court of Appeals. (BDR 1-1197)

Kristina Pickering, Chief Justice, Supreme Court of Nevada:

My colleagues, Justice Michael Douglas and Justice James Hardesty, are with me today. We are here to testify in support of Senate Bill 463 (1st Reprint) and to answer any questions that anyone might have.

Essentially, S.B. 463 (R1) is implementing legislation that would become effective when, and if, S.J.R. 14 of the 76th Session passes this body and is passed by the voters. This booklet searches and identifies the statutes where the words, "Supreme Court Justice," appear and then adds in, "Court of Appeals," so it adapts the existing statutory scheme to the creation of the Court of Appeals body.

Assemblywoman Spiegel had questions about the pay scale and how that was arrived at. It grew out of the fact that district court judges, by statute passed by this body, had a salary of \$160,000. Supreme Court Justices had a salary of \$170,000, and \$165,000 was exactly halfway between. It was putting it in between the existing pay scale that is on the statutory books. We hope to attract highly qualified candidates for that—judges with experience, or lawyers with significant practice experience. And so, that is where that number came from and those are legitimate questions.

Beyond that, it is self-explanatory. All these statutes are on the books; they apply to the Supreme Court, and this fat booklet adapts that to the Court of Appeals. If you have any questions about it, my colleagues and I are happy to answer them. Thank you.

Chairman Frierson:

Ms. Spiegel, did you want to follow up on your question, or did that answer it?

Assemblywoman Spiegel:

No, that answered it. I did have another question. In section 13, subsection 1, it talks about that if the spouse of someone who had been retired and what happens with their pension and what remuneration they are entitled. It says they are entitled until the spouse's death or remarriage. I was wondering if we might not want to also look at including entering into a domestic partnership.

Justice Hardesty:

This language is consistent with the language that applies to the district court judges and the Supreme Court Justices. It would be inappropriate for me or, I am sure, my colleagues to offer an opinion about whether the domestic partnership statute enacted by this Legislature in 2011 does not already cover this. But I suspect that it does. We would be concerned if we manipulated this much more because that would involve Public Employees' Retirement System

adjustment and actuarial adjustments that have not been considered as part of this. We tried to make the judge who would sit on the court of appeals be placed in exactly the same position for retirement, benefit, or spousal benefits. I believe the domestic partner statute probably addresses this issue.

Chairman Frierson:

Are there any other questions from the Committee? Seeing none, I would welcome any comments that Justice Hardesty or Justice Douglas may have, if they have anything to add. Otherwise, the bill is what it is. We have to implement it, and I think it models existing language to the extent it is already in existing law with respect to other judges and justices.

Justice Hardesty:

I cannot think of a measure that has received more careful examination from a fiscal standpoint than implementing a brand new court of appeals at a cost that I think, by any measure, is significantly below the operating cost of any court of appeals in the United States. I think this is the most fiscally responsible measure that has ever been tendered, even though it is a slight increase in government, it is probably about as marginal as one could expect.

Michael L. Douglas, Associate Justice, Supreme Court of Nevada:

The Chief outlined our case, but in actuality, in human terms, I think she was dead on point. It is not about us. It is not about our caseload. We will labor and do the best we can for the people of Nevada no matter what. But in actuality, it is about the people of Nevada as she identified. If you have a child dispute, you do not want to see your child age two or three years while they are waiting to find out if they are living with mom or dad so many days of the week, or is mom or dad going to get an increase in child support. If I am an individual, I have to wait to find out if I will get paid for the fender bender or get my money back because someone hustled me in a business deal, or I am sitting in jail and I think I have a valid claim for relief for my sentence, I have to sit in jail an extra one or two years. We are talking about human consequence in the delay to the judicial system. That is the real issue for the citizens of the State of Nevada that you represent and we attempt to service.

Chairman Frierson:

Thank you, Justice Douglas. Your being here, and it is not often that we have three justices here, shows your commitment to this cause and how serious and how necessary this is. I appreciate your hard work in getting us to this point and your willingness to answer any questions we may have.

That said, I invite anyone here in Carson City or in Las Vegas wishing to offer testimony in support of S.B. 463 (R1) to come forward. [There was no one.]

Opposition, here or in Las Vegas? [There was no one.] Neutral? Seeing none, thank you very much. I appreciate your commitment and your being here. With that, I will close the hearing on S.B. 463 (R1) and briefly open it up for any public comment, if there is any. There being none, today's Assembly Committee on Judiciary is now adjourned [at 9:18 a.m.].

RESPECTFULLY SUBMITTED:

Thelma Reindollar
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 23, 2013

Time of Meeting: 8:20 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.J.R. 14 of the 76th Session	C	Kristina Pickering, Chief Justice, Supreme Court of Nevada	PowerPoint Slides