

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

**Seventy-Seventh Session
March 5, 2013**

The Committee on Judiciary was called to order by Chairman Jason Frierson at 8:14 a.m. on Tuesday, March 5, 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 Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Wesley Duncan
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblyman Andrew Martin
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

Assemblywoman Lesley E. Cohen (excused)
Assemblywoman Ellen B. Spiegel (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Karyn Werner, Committee Secretary
Gariety Pruitt, Committee Assistant

OTHERS PRESENT:

P. Michael Murphy, representing Clark County
Kristin Erickson, representing the Nevada District Attorneys' Association
James J. Jackson, representing the Nevada Judges of Limited Jurisdiction
Judge John Tatro, Justice of the Peace, Carson City Justice/Municipal Court; and representing the Nevada Judges of Limited Jurisdiction
Judge Tim Atkins, Justice of the Peace, Justice Court, Laughlin Township
Judge D. Lanny Waite, Justice of the Peace, Justice Court, Moapa Valley Township

Chairman Frierson:

[Roll was taken. Committee protocol and rules were explained.] We only have one bill on the agenda for today. The other bill that was on the agenda has been pulled. I will open the hearing on Assembly Bill 47.

Assembly Bill 47: Provides for two or more small townships in larger counties to share a justice of the peace. (BDR 1-393)

P. Michael Murphy, representing Clark County:

Assembly Bill 47 is a bill that enables the Clark County Commission to research the possibility of consolidation of some of the responsibilities of the justices of the peace within the rural communities. It is enabling legislation only. It is important to note that it is not doing away with any of the courts.

Assembly Bill 47 would give the commission permission to allow justice of the peace candidates to run for election and serve in more than one township at the same time. For example, A.B. 47 would allow the board of county commissioners to establish that one justice of the peace may serve in both Moapa and Moapa Valley at the same time. The justice of the peace elections would cover both townships, and the judge would hold court in both townships. Assembly Bill 47 concerns only Clark County.

What this bill does not do is it does not have any effect on the urban courts of Las Vegas, North Las Vegas, and Henderson. In fact, A.B. 47 would allow only consolidation of townships with fewer than 100,000 population, what we

classify as our smaller townships. The bill would not eliminate or change any township boundaries and would not consolidate any courts. If A.B. 47 is adopted by the Legislature, any actual consolidations would require a future affirmative vote of the county commission. No decisions have been made related to townships ever being consolidated for this purpose. The bill merely grants permission to the board of county commissioners to look at this.

It is important to note that Assembly Bill 47 would not affect the terms of current officeholders. The bill merely grants permission for the board to look into the concept of consolidation. It would be prospective only, and only apply to future justices of the peace elected by the consolidated townships. In effect, this would be the creation of a circuit judge. Assembly Bill 47 would not change court hours or staff. It is contemplated that the current courthouses in any township would be open in the same fashion as they are today, and local staff would remain at the respective courthouses. Citizens would still go to their local township court, just as they do now. The judge, however, would be a circuit judge traveling to each township for each week, potentially along with a traveling district attorney and a public defender, as appropriate. The goal is to consolidate the judge positions, not to affect the courts or to have any adverse effect on the citizens so the service to the citizens is seamless and remains in their jurisdiction.

I will close with the idea that these are difficult times, and they have required the government to look at things differently and to make decisions based on business models that have not been used in the past. The concept for governments in this day and age, with the financial situations that we face, is to look at things like a business, not like a government. How would business do this? We believe this will enable us to start the conversation and begin determining if this is appropriate.

Chairman Frierson:

Are there any questions?

Assemblyman Wheeler:

It looks to me like you are taking away districting from the Legislature and giving it to the county commissioners. That is what this bill comes down to. Would not A.B. 47 disenfranchise voters in the smaller townships? Obviously, we do our districting for a reason. We make sure each citizen gets good representation. This bill takes that away. How would someone from Jean get elected in Boulder City when Boulder City has the most constituents? I would also like to know what the caseloads are now and how a justice of the peace will be able to handle that caseload driving around the country.

Michael Murphy:

You have asked some good questions. The first issue is that there is no intent by this bill to disenfranchise any voter. The county commission, at this point, would have to make decisions about what townships and judge positions could be consolidated. It is the goal of the county commission to look at those townships that are neighboring and close to each other. They are neighbors and friends who know each other, such as Moapa and Moapa Valley, or Mesquite and Bunkerville. This would still give an opportunity for those voters to have a voice.

In reference to the caseloads themselves, when we talk about the number of days that the courts meet, different courts meet at different times, some one day a week, some one day a week four times a month, and some two times a month. Regarding the caseloads, the judges can explain that in more detail than I can. I would like to remind you that this is enabling legislation, and there are still details to be worked out.

Assemblyman Wheeler:

The way I read section 1, subsection 5 of the bill, it looks to me like the commission could decide that there would be no justice of the peace in any district. It looks like they can establish a procedure to stop the justices of the peace. I do not know if that needs to be changed, if I am reading it incorrectly, or if it is intentional. Would you please discuss that?

Michael Murphy:

I do not believe that is the intent of the way it is written. There has never been a comment made of that nature. It is the desire of the commission to research the possibility of consolidating and creating a circuit judge. That has always been the purpose of this bill.

Assemblyman Wheeler:

That is not the way it reads. You may want to clean up that language.

Assemblyman Hansen:

The ultimate purpose is financial, is it not? The idea is to consolidate to save the county some money. If that is the case, is there not a way to do that without eliminating the justices of the peace? Is there not some flexibility in the law to allow the county commissioners, or whoever determines salaries, to adjust those costs? I can see some real problems with this for the smaller townships. There are major issues between different size communities and who will determine who gets to be judge. If the real issue is financial, has this been explored? Has anyone presented any numbers for the potential savings if you eliminate some of the smaller justices of the peace?

Michael Murphy:

Those are good questions. In reference to the savings, this is generally considered to be a cost savings issue.

Assemblyman Hansen:

That is the purpose of it, right?

Michael Murphy:

Certainly. Without going into specific salaries, the average salary of a justice of the peace is about \$67,000 a year. If you eliminate one out of two, you will save \$67,000 a year. That is very straightforward. There is a benefit package that goes along with the salary, but that is the base salary. Conceptually, that is where we are. The legislation is designed to be enabling, so we can have further conversations about this. It may be that what you are proposing is another way to go. The concern is that when you start reducing salaries, you change the candidates who may be available.

Assemblyman Hansen:

If the opposing side presents evidence today that successfully shows that this does not save the county any money, that would potentially defeat the purpose of the bill. We are all in agreement that this is a fiscal measure. When crunching the numbers, the savings to the county is minimal.

Assemblywoman Dondero Loop:

While I recognize that we may be saving a judge's salary, we also have to pay for gasoline, a car, insurance, and three people's time out of another building, so I would like to know how that balances one way or the other. I need to see some numbers. I do not know how I feel about consolidation when people are traveling and not in their home office. That may work in some communities where the two are very close, but not in those that are not close. Would you please get me the information on the balance?

Michael Murphy:

I do not have an answer at this time, but I can certainly provide the information.

Assemblywoman Diaz:

I am concerned about disengaging our townships to the point that we are the ones appointing the judges instead of them electing their judges. I think there is a way the county commissioners could remedy this themselves. They have the ability to hold meetings in which they can get input from the communities they are affecting; to discuss expanding a township or absorbing a township into another township. Why are you not taking that avenue and seeking the public's input as to what sits well with them? I feel very uncomfortable making

a decision on behalf of people in Laughlin, Moapa, Moapa Valley, Boulder City, and so forth. Why is not the county commission taking the steps to remedy this in a way that gets everyone involved in the process?

Michael Murphy:

I think it is important to note that this legislation is designed to be enabling only. I do not think there is any desire on the county commissioners' part to combine any townships. By having enabling legislation, we would like to open that dialogue. It is the goal of the county commission to go into the communities and have open conversations with the citizens about possibly combining one or two judge positions so we can create this circuit judge. That is why we have come before you: to ask for permission to begin the process.

Assemblywoman Diaz:

I think this is a little backwards. We are enabling legislation before we receive input from the constituents. Not all communities are created equally; each township has its own culture. To assign a judge from outside of that community may not sit well with them. I think this is backwards; it does not sound like good policy making to me.

Chairman Frierson:

It sounds like the intention is to do that after being enabled by this statute. What is the county's current ability to address this in the absence of legislative work? We have received tons of emails suggesting that the county could do this without this bill or any enabling legislation. What is your understanding of the county's ability to deal with this?

Michael Murphy:

I am not a legal person, but it is my understanding that our reason for coming before you now is that we need this legislation for us to move forward with this concept. I can only answer in that manner. I do not believe we would be here if we thought we could move forward without it.

Chairman Frierson:

The alternative may be that it is not cost effective, but the alternative might be to redraw the townships altogether. I do not know what would be involved with that or what the cost associated with it would be. Is redrawing the townships a more cost-prohibitive option?

Michael Murphy:

I cannot answer that question directly and tell you that I know what that cost would be. I am certain that there would be a cost associated with it. As was stated previously by Assemblywoman Diaz, I believe these townships

are steeped in a lot of tradition. I believe there are differences in each of the townships, and I do not believe there is any desire on the part of the county commissioners to redraw any lines or to move folks out of one township into another. That is not the goal or purpose; that is one of the reasons we are moving in this direction.

Assemblyman Carrillo:

Does the Clark County Commission already have the power to designate, draw, change, consolidate, or do whatever is deemed needed in the townships in Clark County?

Michael Murphy:

Are you talking about changing township lines?

Assemblyman Carrillo:

No, not as much the lines. Let me withdraw that because I am not sure how to state this.

Chairman Frierson:

I think I asked a similar question. Mr. Murphy indicated that he did not know, but would get that information for us.

Assemblywoman Dondero Loop:

Is this merely a financial decision? Is there an efficiency issue? I am thinking along those lines and would like to know where the concept came from, whether it was a dollar concept, or was it for efficiency. How do the justices feel about that concept? How do they perceive what they are doing, and could they be more efficient?

Michael Murphy:

In direct response to your question, it is my understanding that this is done in other places in the United States. It is my understanding that Washoe County has a traveling or circuit judge. I do not know how that came about, but I believe it is for some of the very smallest communities. This was looked at as a business decision, and the possibility of some consolidation of services. One of the topics of conversation has been, would there be an ability to consolidate other services in reference to the district attorney and public defender being able to attend certain courts at certain times, and would that provide them with any economy of scale also. I cannot address that in detail because this is our first step and we do not have all of the answers. We are looking for the ability to go out and get those answers. Ultimately, the efficiency of the courts will need to be addressed by the courts.

Assemblywoman Dondero Loop:

Would you check on that in Washoe County? I do not believe that is accurate, but I am not positive. It may be that way in smaller rural communities. We may have someone who needs to travel, but I would like to know if Washoe County is doing that. I would like to know what other states have found this to be an efficient way to operate.

Michael Murphy:

I will certainly do that. I do not want to misspeak, but it is my understanding that that had occurred; maybe I misunderstood the information. I will research that and provide the answer to you.

Assemblyman Duncan:

I know we chatted about this, and I am familiar with the circuit court model. I did this in the Air Force, and they used it effectively. I hope you can give us a little context in terms of the genesis of the bill. Was there something that came to the county commission's attention that made them decide they really needed to look into this? Was there a judge that was only working once a month? What was the trigger of the discussion? Is there a fear of reprisal for these judges who are subject to the county commission eliminating them? Are they worried about taking certain actions in a township?

Michael Murphy:

It is my understanding that this was triggered by a continued effort on the county commissioners' part, as well as the county management, to look into the efficiencies of government. These are hard decisions to make. As the coroner, I can tell you that we have eliminated all of our middle management and half of the first-line supervisors as a result of budget cuts. You have to look at the way we operate and ask if there is a better way.

In reference to fear of reprisal, these judges and the circuit judge would continue to be elected. If you combined two townships for one judge, those two townships would elect the circuit judge for that area. That is the concept that we are bringing forward.

Assemblyman Duncan:

At this stage, has the county contemplated what the circuits might look like? Ms. Dondero Loop talked about travel and such, so I am curious if they have some type of paradigm that they are working off of, or is this simply a trigger for them to have more discussions?

Michael Murphy:

The answer is that this is the trigger for them to have more discussions.

Assemblyman Wheeler:

A few minutes ago, we were handed a letter signed by eight of the justices of the peace in Clark County ([Exhibit C](#)). One thing really stood out for me. It says, "A.B. 47 was conceived, drafted and submitted to the Legislature without notice or input from the Judges, Town Boards, City Councils or constituents of the rural townships potentially affected by this measure." I would like to know if that is true. Did you come up with this bill without talking to the justices of the peace to see what the specific problems are in their areas?

Michael Murphy:

I cannot address that. I am here providing the information about the bill. I can tell you that the assistant county manager that coordinates with the courts brought this information to me, and I would have to ask him to get you an answer. I honestly do not have that answer.

Assemblyman Wheeler:

I would love to have that answer.

Assemblyman Ohrenschall:

I understand the need to save money at this time, and it does seem that every justice of the peace has a lot of knowledge, but someone riding circuit would have to get himself up to speed. If there was a consolidation, might there be the possibility that the more populous township would actually elect the justice of the peace, and the less populous ones would be diluted? Has the county thought about that at all?

Michael Murphy:

Certainly that is a possibility. Conceptually speaking, we are talking about the consolidation of the smaller townships, so there may be some equality in that process in what townships are put together. Part of that goes back to how far you would have the judges travel. I think all of that is in the infancy of conversation, and that is exactly what we are trying to look at.

Assemblyman Martin:

I am interested in the rationalization of the proposed bill. What is your opinion about this potentially increasing the impartiality of the judges? Essentially, it sounds like you are rotating them. You do not give a clean look at things or have a clean approach, but impartiality is very important. Is that part of the rationalization?

Michael Murphy:

I believe that our judges and justices of the peace do an excellent job in providing services to those communities. I do not know that that was a consideration when we were looking at this; this was more of a business model decision. That may be a side benefit, but they do an excellent job as it is.

Assemblyman Martin:

I lived in a rural area a long time ago and the judge, as in the only judge, was very strict and would hand out very strict sentences for very minor offenses. There were no checks and balances on that system. For instance, you could have a situation where in one jurisdiction the offense yielded three days in the local jail versus another judge making it three months. Impartiality was important, so that is where I am coming from. I am wondering if it is a good idea to rotate.

Chairman Frierson:

Are there any questions? I see none. Mr. Murphy, you addressed earlier that some justices of the peace spend only one day or two in court. What is the smallest number of days in court? Are these otherwise full-time jobs? Are they the same justice of the peace positions as in the urban areas?

Michael Murphy:

The justices of the peace in the outlying areas are all part time except for one. The justice from Laughlin is considered full time. I believe he is here today and can address that. The other townships have part-time judges. Searchlight and Laughlin met an average of four times a month; Goodsprings, Boulder City, Mesquite, Bunkerville, Moapa, and Moapa Valley met an average of two times a month in 2012.

Chairman Frierson:

Are the judges compensated the same whether they sit two times a month or four times a month? I realize this is not a money committee, but I am curious.

Michael Murphy:

The salaries of those individuals are public record, so I can provide those to you on each individual. They vary by time of service because of some longevity issues. One of them is considered a full-time judge and it is my understanding that the rest of them are part-time judges.

Chairman Frierson:

I happen to have traveled to some of these courts over the years and the farthest that I had to drive was about an hour and one half. If this bill was

to pass, and I know this might be guessing, how far would a person serving multiple townships have to travel?

Michael Murphy:

I think it is important for us to remember that the counties in Nevada are large. Clark County represents 8,060 square miles. I do not think it would be an overstatement to say that if you were in Laughlin this morning and you wanted to go to Mesquite in the afternoon, that is a minimum two-hour drive. It might even be more like 3 1/2 hours depending on how well you drive. I do not think it is the intent of the county commission to have a person be in Laughlin in the morning and Mesquite in the afternoon. I think the concept would be Moapa Valley and Moapa. They are neighbors and are separated by only a few miles. That may be a consolidation. Bunkerville and Mesquite, as an example, might be consolidated. These are things that I am putting forth, but a decision has not been made. This is just conceptual in nature.

Chairman Frierson:

Ms. Dondero Loop mentioned travel. Are those justices of the peace reimbursed for travel? I think part of her question was wondering if the balance would be reached with what you are paying versus what you would be paying for travel anyway.

Michael Murphy:

I will have to get you an answer to that question.

Chairman Frierson:

Are there any other questions for Mr. Murphy? I see none. Would you please stay around for any closing remarks?

We will now go to anyone here in Carson City to testify in support of A.B. 47. I do not have anyone signed in in Las Vegas, but is there anyone there? [There was no one.] Back to Carson City, and I will invite those in opposition. Ms. Erickson, were you coming forward?

Kristin Erickson, representing the Nevada District Attorneys' Association:

The District Attorneys' Association is neutral on this bill, but I believe I have an answer for Ms. Dondero Loop regarding traveling judges in Washoe County. Washoe County has four justice courts: Reno, Sparks, Wadsworth, and Incline Village. Each justice court has its own elected justice of the peace. They do not travel, although they help out other jurisdictions when needed.

Chairman Frierson:

If there is anyone in opposition to A.B. 47, please come up. Those in Las Vegas please come forward as well.

James J. Jackson, representing the Nevada Judges of Limited Jurisdiction:

I represent the Nevada Judges of Limited Jurisdiction (NJLJ). With me today are Judge John Tatro, Judge Tim Atkins, and Judge Lanny Waite. I will keep my comments very brief and then step away from the table so the two of the eight justices of the peace who are here from the rural courts in Clark County can speak. We have submitted some written documentation prior to the commencement of the hearing today ([Exhibit D](#)). I had the opportunity, along with Judge Waite and Judge Atkins, to meet with many, if not most, of the members of the Committee. The NJLJ—Judge Tatro is representing the president of that association—stands in opposition to this bill. You will hear the reasons why, in addition to the comments that have already come from the Committee, as well as those set forth in the documents and discussions that we had with you.

Judge John Tatro, Justice of the Peace, Carson City Justice/Municipal Court; and representing the Nevada Judges of Limited Jurisdiction:

I am the justice of the peace and municipal court judge here in Carson City. I have been for 18 years, was just reelected, and will be going into my fourth term. The Nevada Judges of Limited Jurisdiction's president, Alan Tiras, is out of town and could not attend, so I am sitting in on his behalf.

Our association, consisting of approximately 81 members—not all of whom were present—voted unanimously to oppose this bill. Those in attendance were judges from Las Vegas, Washoe County, and the larger urban areas, as well as many of the rural areas. Assembly Bill 47 would, as many of you have said, disenfranchise the voters. When you have townships ranging in size from 1,250 to 21,000, the people who live in the smaller towns would not be the ones who would elect a judge to represent them. I cannot imagine, since I am a judge in Carson City, a judge from another town coming to Carson City full time. I am very active in the community and I think that is very important. You need to understand the mores of your community, what goes on, and what resources are available. I am on the Boys and Girls Club board and on Partnership Carson City. I am also in Rotary just to have my finger on the pulse of the community, so when people come in front of me, I know what to do. Assemblyman Martin, you touched on the idea that a judge would be more objective if he knows the people. Yes, you are. You understand how the community functions. The main thing is to treat people fairly. As far as the disenfranchisement goes, voters would definitely be disenfranchised.

Assembly Bill 47 clearly erodes the line between the branches of government. Clark County, under this bill, would be given the power and discretion to eliminate any justice of the peace for any reason. Duly elected justices of the peace in Clark County would not be free to carry out their sworn duties without the fear of retribution from the county commission or the county staff. You have enough going on in your head as a judge when you are looking at a case, being objective, balancing everything, and applying the law and the facts. You have to keep that out of your head while you are trying to be fair and objective. Judges should answer only to their constituents and higher judicial authority if they are to remain truly independent. Assembly Bill 47 basically eliminates the checks and balances of the separation of powers doctrine set forth in the *United States Constitution* and the *Nevada Constitution*. It seemingly ignores the mandate in the *Nevada Constitution* for the creation and provision of the justice courts. These are the main reasons that our members voted unanimously to oppose this bill.

Judge Tim Atkins, Justice of the Peace, Justice Court, Laughlin Township:

As Tom said, judges in the rural areas interact with their towns, unlike the judges of larger towns. Those judges do not really interact with the people as much as we do. We go to the grocery store or gas station or whatever, and we get confronted by people every day. We have people coming up to our houses. We get phone calls asking questions. We interact a lot with our community. We are not any different from any other rural area as far as caseloads. We are not any different from judges in larger justice courts. The eight justice courts in Clark County that are in question pull their own weight. We put enough in the coffers to cover all of our own costs.

My final note is that we were never asked anything about this bill. Neither were our town boards or city councils. There was no input from any of the rural communities. I talked to one of our town board members from Laughlin, and he sent out an email this weekend about not being notified of anything.

Judge D. Lanny Waite, Justice of the Peace, Justice Court, Moapa Valley Township:

I am the justice of the peace for Moapa Valley Township, not Moapa Township; that is a separate township. I will give you the examples that I sensed you were asking for on the effects of this bill on those townships.

In 1864, the *Nevada Constitution* was ratified and, since that time, the Legislature has interpreted the *Nevada Constitution* to guarantee one justice of the peace per township, more if the population exceeds a certain number. To my knowledge and from my research the Legislature has never varied from that pattern and model. Assembly Bill 47 would ask this Legislature

to change the law to allow Clark County only to begin changing the structure of the courts throughout the state. Clark County would literally change, or propose to change through A.B. 47, a 149-year legislative and constitutional precedent and history.

In 1967 the Legislature commissioned a study of the courts. I was able to obtain that study. There were 80 pages studying the courts and looking at how they might make the courts more efficient. I took this from the pages of that report, and I would tell you that I think it is just as important today as it was in 1967. The commission determined that the vast majority of people who come in front of the courts in the state of Nevada will come in front of justice and municipal courts, what we call the "people's courts." They are called that because, the people appear more often than not in those courts, and the judges in those jurisdictions have always traditionally by legislative mandate been able to represent the people of their own township. The study determined that any changes to the recognized court structure, such as we have always had, should be guided by two fundamental principles: first-class justice for all and the concept of a people's court. I find it very difficult to understand or believe that if A.B. 47 were passed, somehow that would increase first-class justice for all and the concept of a people's court. In fact, we believe it does just the opposite. Mr. Murphy indicated that the county wanted to follow a more businesslike model, and with all due respect, a business model does not lend itself very well to justice. It may be great when considering fiscal matters, but when most fiscal matters directly affect the type of justice that will be meted out in those communities, it is a very poor model indeed.

I want to ensure that you understand the spreadsheet from our court administrator ([Exhibit E](#)) because we do not know how the county intends to implement this or what townships would be affected. However, to suggest that it is only for enabling ignores the fact that Clark County spent a great deal of time amongst themselves and not with any of us, the town boards, or the constituents of those townships, discussing, drafting, lobbying, and bringing this to your attention. To suggest that it is not going to be implemented or that that is not the intent would be a bit disingenuous.

Chairman Frierson:

If I may clarify that, I do not think that was the testimony. It was not that they were not intending to do it; it was that the bill did not demand that they do it. It was not mandatory, but it authorized them to do it. I do not think they would submit a bill that they never intended to use.

Lanny Waite:

The important thing from a fiscal standpoint to note here is that the spreadsheet we submitted is a picture of what it might be like if there were two, three, or four justices instead of eight. If you look at the spreadsheet and compare that with the current salaries of the existing judges, there might be some savings to the county in judges alone. As Ms. Dondero Loop indicated in her question, you have to add the travel expenses, and a minimum number of court managers who will now take on the responsibility of coordinating the travel, caseloads, and calendars of that judge. We also know that it will require additional bailiffs' help in the form of full-time bailiffs, which we no longer have. When you look at that, any cost savings to the county from that minimal standpoint would be nonexistent. In fact, it would cost the county more money. I think Judge Atkins touched on it, but I want to make sure you understand that those eight rural courts in Clark County bring in over \$5 million in forfeitures, fines, and fees. Of that, \$2.2 million goes into the general fund of Clark County completely paying for all court operational expenses.

Chairman Frierson:

I make it a practice not to get into fiscal matters since we are the policy side. The policy side for us is whether this bill would be a good policy independent of the fiscal impact.

Lanny Waite:

Let me just say then that the courts pay for themselves. This is not a burden on Clark County, and what I heard here was that this was done for fiscal reasons. Our courts have always paid for themselves. Clark County does not give us the money to operate our courts, except to give it back to us after we first give it to them.

We firmly believe that passage of A.B. 47 will do nothing to promote first-class justice in our communities. It will give the Clark County Commission almost unfettered power and control over a separate and coequal branch of government. It will diminish the concept of a people's court by disenfranchising voters of smaller townships and by adopting a one-size-fits-all philosophy. The example was given of Moapa and Moapa Valley Justice Courts. Moapa Valley Justice Court covers Overton, Logandale, and part of Echo Bay and Stewarts Point. There are 7,500 to 8,000 residents in Moapa Valley. Moapa is 12 miles away and is seated in Glendale. The population there is 1,500, and they have a separate town board. Any suggestion that the people feel the same way or think the same way is incorrect. You would find the people, particularly in Moapa, feel very strongly about having someone from Moapa Valley who was elected justice of the peace hearing the cases in Moapa.

For all of these reasons, we strongly believe that A.B. 47 should not be passed, and we ask the Committee not to pass this legislation.

Chairman Frierson:

Are there any questions? I had a question earlier that did not get asked. Would you describe the job requirements or qualifications for justices of the peace? What are the differences between the urban justices of the peace and those in the rural areas?

Lanny Waite:

The justices of the peace in the rural areas of the state are not required to be attorneys. In fact, the vast majority of judges in rural areas, which make up most of the judiciary, are not attorneys. They must be 18 years of age, be able to vote, and not be a felon. Other than that, there are no requirements. As justices of the peace, unlike our urban brethren and sisters who sit in those courts, our courts are on call 24 hours a day for search warrants and protective orders. Our clerks call us at all hours, day and night, with concerns and problems.

I want to make sure you understand, because there was misinformation given, that the least anyone sits in these courts in Clark County is one day a week. Some judges sit two days a week and some sit four days a week—which would be Laughlin and is considered full time. Our salary is 40 percent of what a Las Vegas justice of the peace would make. That is across the board with all of our jurisdictions, except Laughlin who makes more, but not full time like Las Vegas would make. We do not sit twice a month or once a month. The least anyone sits, and that is for a host of different reasons, is one day a week. We have worked for years with the district attorney's office, public defenders, the jail, and interpreters' offices to make sure they are coordinating all of those courts so they do not have to come out to Moapa on Tuesday, Moapa Valley on Wednesday, and Thursday to Mesquite. They all come out at the same time and service those courts. We are literally the face of justice in those communities, and unlike other areas, our responsibilities are 24 hours a day, 7 days a week.

Assemblyman Ohrenschall:

If this bill were implemented in Clark County, and Clark County consolidated some of the justices of the peace and had only one judge ride circuit, would there be cost savings in terms of the courtrooms, staff, and jails, or would it be only one judge's salary savings?

Lanny Waite:

Based on what we know to be the facts in those communities, there would be absolutely no cost savings, but an increase in cost because of the staffing needs. There would not be any decrease except as it may relate to judges' salaries. The commission already has the ability to set the salaries. They set our salaries in the first place. If that is the concern, let us bring that back on the table and have discussions about it. Let us tell them how we justify having that kind of salary as we did in the past when the county commission set our salary.

Chairman Frierson:

Has the chart that you provided with the fiscal analysis conducted by the rural courts been provided to Clark County?

Lanny Waite:

I am not sure. We can provide that to them.

Chairman Frierson:

Would you please? As a matter of practice, it helps us if all of the stakeholders are privy to the same information so they can answer questions relevant to those documents. We try to make sure we do not have surprises.

You mentioned that the *Nevada Constitution* has been interpreted to require one justice of the peace per township. Do you have a legal case that states that? I do not read the *Nevada Constitution* that way, so I would like to see a case that says that. I do not want to put my Committee in the position of considering an unconstitutional bill that would be subject to litigation.

Lanny Waite:

Based upon my research, I have not found any case law on this, and I have not seen anything that would suggest that the Legislature has ever interpreted it in any other way than at least one justice of the peace per township throughout the state. We checked with the librarian here and I have done my own research and there apparently were no cases, but there appears to have been studies. We tried to find legislative history, but they said this goes back so far there is no history on it. It is a practice that has been followed, and the interpretation has always been that way by the Legislature. Article 6, section 8 of the *Nevada Constitution* provides that the Legislature will set the number of justices of the peace in each township. *Nevada Revised Statutes* 4.020 is the legislation that has been passed by the Legislature that sets one justice of the peace per township, and it is that part of the law that has never been changed since 1866.

Chairman Frierson:

The *Nevada Constitution* requires the Legislature to set it, and the Legislature did that in Chapter 4 of NRS by setting it the way the current law is, but there is no provision in the *Constitution* that prevents that statute from being amended. I do not want to leave any member with the impression that, in considering this, we would be violating the *Constitution*. We would be amending the statute that sets the number.

Lanny Waite:

And I would be less than forthright with you if I did not say that it is our position that the *Constitution* requires one justice of the peace per township in each of the townships of the state. We believe that any change to the courts' structure would require a constitutional amendment.

Chairman Frierson:

I am trying to get to where the provision in the *Constitution* that you cited limits the Legislature. I think it says that the Legislature can set it.

Lanny Waite:

I would not argue with that in any way. The Legislature can set it. The question is, can the Legislature set that number at zero? That is what would be done by the passage of A.B. 47, and that is the question.

Assemblywoman Dondero Loop:

Judge Tatro, would you tell me how much you are in court here in Carson City? How often do you sit since your area is slightly different from Moapa Valley for example?

John Tatro:

I sit five days a week. There are two justices of the peace in Carson City, but we are on call 24/7. We work on the weekends, which is similar in that respect. We are small, but we are between rural and urban.

Assemblywoman Dondero Loop:

I think the perception might be that some justices may sit one day a week, but I know there are those who sit four or five days a week. I was trying to get more information.

Tim Atkins:

To answer that question and give you an idea, when Mr. Murphy brought that up, he only mentioned the days we have the district attorney and the public defender there. I only get them in court one day per week. However, during that week I also have traffic court, temporary protective hearings,

civil hearings, and small claims. We also do misdemeanor juvenile hearings at least every other week. We do sit on the bench quite often and have callouts all the time on protective orders and warrants.

Chairman Frierson:

Are there any other questions for any of the justices of the peace? I see none. This has been an education. It dawned on me in the middle of the testimony that we had not talked about qualifications of justices of the peace in both the urban and rural areas.

I will invite others here in Carson City intending to testify in opposition to come forward. I see no one. I see no one in Las Vegas to testify in opposition to the bill, so I will come back to Carson City for anyone who wishes to testify in the neutral. Is there anyone in Las Vegas to testify in the neutral position?

James Jackson:

Mr. Hardy signed in as neutral, but had to go to another meeting and asked me to put on the record that he will submit his comments in writing to the Committee.

Chairman Frierson:

I appreciate that. With that, I will invite Mr. Murphy back up. I often ask the sponsor to come back up for any closing remarks, in particular on the financial information provided by the rural courts. Have you had an opportunity beforehand to see that information? I think the Committee would benefit from Clark County's response—not today—regarding the numbers that are in this document.

Michael Murphy:

We would be more than happy to continue to work towards a solution on this, specifically to look at those numbers, digest them, and provide you with a response.

In closing, we would ask that you would move forward with A.B. 47. We believe that the circuit model is a concept whose time has come. We think the voters should be making the decisions. All of the justices of the peace that are currently sitting would remain in place and they would finish their terms. During that period of time, we could have these conversations about what could be consolidated and what would be appropriate for consolidation. I think it is important to note that all of the courts in this model would stay in place, including the bailiffs and all of the court personnel. This is not a moving of those folks, this is a moving of the judges to different locations and for the justices of the peace to ride the circuit.

Chairman Frierson:

With that I will close the hearing on Assembly Bill 47. We do not have any other bills and I do not have any bill draft requests to introduce. I will allow some time for public comment if there is anyone who wishes to make comment. I see no one; therefore, I will adjourn today's meeting [at 9:25 a.m.].

RESPECTFULLY SUBMITTED:

Karyn Werner
Committee Secretary

APPROVED BY:

Assemblyman Jason Frierson, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: March 5, 2013

Time of Meeting: 8:14 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 47	C	P. Michael Murphy, representing Clark County	Letter in opposition dated February 26, 2013 Rural Justices of the Peace
A.B. 47	D	James J. Jackson, representing the Nevada Judges of Limited Jurisdiction	Letters of opposition
A.B. 47	E	Judge D. Lanny Waite, Justice of the Peace, Justice Court, Moapa Valley Township	Fiscal Information from Clark County