

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
February 10, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:02 p.m. on Tuesday, February 10, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 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 Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Michael Roberson
Senator Scott Hammond
Senator Ruben J. Kihuen
Senator Aaron D. Ford

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Lynette Jones, Committee Secretary
Julia Barker, Committee Secretary

OTHERS PRESENT:

Grant Hewitt, Chief of Staff, Office of the State Treasurer
Barry Smith, Executive Director, Nevada Press Association
Nicole Rourke, Clark County School District
Mary Pierczynski, Nevada Association of School Superintendents

Chair Brower:

I will open the hearing with Senate Bill (S.B.) 61.

SENATE BILL 61: Makes various changes to the Uniform Unclaimed Property Act. (BDR 10-461)

Grant Hewitt (Chief of Staff, Office of the State Treasurer):

Senate Bill 61 affects heir finders who attempt to access records of unclaimed property within the State Treasurer's Office. Law firms or heir finders initiate massive requests for records and make those records inaccessible to the public. The State Treasurer's Office intends to make it more cumbersome for these law firms or heir finders to request large amounts of records by increasing the amount-per-record charge. We also want a disclaimer at the top of every heir finder contract, notifying the citizen of free access to this information.

Chair Brower:

It is rare to have a member of the Executive Branch come before us and request assistance in making something more cumbersome for the public. Could you give more background information on heir finders?

Mr. Hewitt:

This bill is designed to encumber firms and groups that request large chunks of data on unclaimed property, not to hinder individual members of the public. An heir finder will request multiple records of unclaimed property to get rightful owners to claim that property. These heir finders normally charge a fee of 10 percent. Rightful owners have free access to records and do not need heir finders to locate records on their behalf.

Chair Brower:

Could you give an example of what an heir finder or firm does and what your office is trying to do?

Mr. Hewitt:

In 2013, an heir finder requested 1,800 different records of claims for one address. Once a request is made, the record is taken off the list available to the public; therefore, the rightful owner can no longer find it in the database. Our office wants to enact a fee that charges the heir finder per record instead of a \$20 flat rate for all records requested.

Chair Brower:

Is \$20 the current rate?

Mr. Hewitt:

Yes. We have a proposed amendment ([Exhibit C](#)), changing the cost per record from \$.50 to \$1.50 to make it more cumbersome on these firms and heir finders.

Chair Brower:

Where did those numbers come from?

Mr. Hewitt:

Under the public records statute, 50 cents per record is the maximum charge for a Nevada public record request. We would like to charge \$1.50 to impede groups that hijack claims, tying them up in the verification process.

Chair Brower:

Why not make it virtually impossible for heir finders and firms to make these requests?

Mr. Hewitt:

I doubt we can make it impossible because the records are public and available to everyone. Through the disclaimer on the contract, we want to make it clear to members of the public that they do not have to pay an heir finder or firm to access their unclaimed property.

Chair Brower:

Firms do these requests with the sole purpose of pulling files from the record?

Mr. Hewitt:

The heir finder or firm pulls the file and calls the individual, telling of an available claim they can make on behalf of that person for a fee. We want the contract the individual must sign—authorizing the heir finder access to the claim—to state that that person can receive their unclaimed property for free.

Our proposed amendment, [Exhibit C](#), also adds the Treasurer's Office phone number and Website to the disclaimer that would appear on the contract.

Senator Harris:

How do you determine the difference between heir finders and members of the public who have legitimate claims? Are they charged the fee and how does the Office determine whether they are acting in good faith?

Mr. Hewitt:

The Treasurer's Office identifies an heir finder by seeing a hundred-some different requests for records bearing many names going to one address. To check a record online does not cost anything. A person can check a record on the Treasurer's Website by entering his or her name, and the Website pulls up different records matching that name.

Senator Harris:

What is the database procedure? When a record is requested by an heir finder, why is that record no longer available to the public?

Mr. Hewitt:

The Treasurer's Office takes that record out of the queue process of publicly available records to verify that claim and avoid multiple requests on the same claim at the time the rightful owner is being determined.

Senator Hammond:

How long does the record stay out of the queue?

Mr. Hewitt:

Nevada Revised Statutes requires the Treasurer's Office to return the record to the queue or verify the claim within 90 days. Our Office time frame for this process is at 107 days per claim.

Senator Hammond:

If an heir finder makes a request for multiple records, notifies the person whose name is on the records that for a fee, the heir finder will collect the money, at what point does the Treasurer's Office become involved? Does the heir finder or individual notify your office? At what point does the Office inform the individual that he or she can access the money for free?

Mr. Hewitt:

I have to consult staff, but the heir finder normally contacts the individual. The individual must sign a contract so the heir finder can access the claim. The

disclaimer would appear on that contract. It would not be when the claimant comes to our Office.

Senator Kihuen:

Why have the proposed amendment, [Exhibit C](#), changing page 3, line 16 from \$.50 to \$1.50?

Mr. Hewitt:

The Treasurer's Office plans to make it more difficult for heir finders to request mass amounts of records.

Senator Kihuen:

What is the money collected from the fee used for?

Mr. Hewitt:

Administrative costs to work through the record requests.

Senator Kihuen:

Do you know how much money will be collected per year from this fee?

Mr. Hewitt:

I have to check with staff and get back to you.

Chair Brower:

What is the average amount of a claim?

Mr. Hewitt:

Claims range from \$.75 to \$100,000 in our process.

Chair Brower:

What is the Treasurer's Office process for notifying persons who have unclaimed property?

Mr. Hewitt:

The statute requires the Office to post all of the unclaimed property in the newspaper once a year. We also advertise on sites and social media where an individual can go to the Treasurer's Website to find out if he or she has a piece of unclaimed property. Unclaimed property is returned to the General Fund at the end of 12 months.

Chair Brower:

That happens 12 months from the date it is listed as unclaimed property?

Mr. Hewitt:

We transfer all claims once a year.

Barry Smith (Executive Director, Nevada Press Association):

Senate Bill 61 seems like the wrong solution to the problem. If making false claims on ownership of unclaimed property pulls records from the queue and denies individuals who do have legitimate claims access, charging everybody more to access that information does not seem like the proper way to address the problem. I question whether raising the amount from \$.50 to \$1.50 to makes it more difficult on those people making claims in bulk to apply for other people's property.

Mr. Hewitt:

People who request large amounts of records will be subject to the charge of \$1.50 a record because it requires the Treasurer's Office to send the documents in large formats. An individual claiming his or her property will not have to pay this.

Chair Brower:

This charge would apply to persons who are not the owner of the unclaimed property and acknowledge they are not the owner, but they pull the records to have information about that owner's unclaimed property so they can attempt to enter into a contract with the rightful owner.

Mr. Hewitt:

Yes.

Mr. Smith:

That clarifies my concerns.

Chair Brower:

We will close the hearing on S.B. 61 and open the hearing on S.B. 91.

SENATE BILL 91: Provides for the donation of unclaimed property by the owner for educational purposes. (BDR 10-462)

Mr. Hewitt:

The Treasurer's Office has discovered that individuals with claims under \$50, specifically claims under \$5, are not likely to go through the entire process of claiming that money. Senate Bill 91 would create a box the claimant can check which would donate that money to the Nevada Higher Education Prepaid Tuition Trust Fund. This would best suit Fast Track claims under \$50—that have attached social security numbers and birth dates. It is a quick process that can be done online. We have 238,763 claims under \$50 that qualify as Fast Track claims; these claims add up to just under \$4 million.

Chair Brower:

Under this bill, how would a claimant become aware that he or she could donate the money?

Mr. Hewitt:

It would be a check box on the form a claimant has to fill out.

Chair Brower:

This would be a claimant, aware of the unclaimed property to which he or she is entitled, who chooses to donate the claim to the State for educational purposes. Is that correct?

Mr. Hewitt:

Yes.

Senator Kihuen:

What is the process of finding out if a person has unclaimed property?

Mr. Hewitt:

There is a link to unclaimed property on the Nevada Treasurer's Website. The link contains a search engine wherein an individual types in the name, sees claims under his or her last name displayed, identifies the appropriate claim based on birth date or other identifiers and goes through the claiming process. If a social security number is not tied to that claim, the process is more cumbersome. For example, the individual would need to provide an affidavit and other documentation to verify ownership of the unclaimed property. A Fast Track claim only requires an individual's birth date and social security number.

Senator Kihuen:

Could a random person type in another's name, and if the individual knows the person's date of birth, to claim that property?

Mr. Hewitt:

That person would need the social security number. Fraud does occur, but we limit it by doing multiple background checks. The Treasurer's Office contends that fraud is less likely with amounts of \$50 or less.

Senator Ford:

What does the Treasurer's Office do with the money when a person verbally says that he or she does not want the claim?

Mr. Hewitt:

We cannot do anything with that money; it transfers back to the General Fund.

Senator Ford:

Why is there a limit of \$50?

Mr. Hewitt:

It is a number the Treasurer's Office came up with because people are less likely to go through the claiming process if the amount is \$50 and under. We would be open to larger amounts, but there must be a cutoff because fraud is more likely with much larger amounts.

Senator Ford:

Larger amounts induce the likelihood of additional fraud. Is this why one would not be eligible to check the box and donate a large claim?

Mr. Hewitt:

Yes.

Chair Brower:

Is there a fund or way for somebody to make a donation to the State General Fund outside of the unclaimed property system?

Mr. Hewitt:

I am not aware of a process that does that.

Chair Brower:

What is the typical type of unclaimed property? How do people find themselves on this list of unclaimed property?

Mr. Hewitt:

There are multiple ways.

Chair Brower:

Is a private entity that owes money to an individual, but for some reason cannot find the individual, required to put that money on the unclaimed property list?

Mr. Hewitt:

Yes. After 12 months of trying to locate and pay the individual, that money is then turned over to the State.

Chair Brower:

Are there also claims that result from the State owing money to an individual?

Mr. Hewitt:

Yes. Claims can come from anywhere—from casinos who found money left in a hotel room to abandoned bank deposit boxes to the State owing a person money.

Nicole Rourke (Clark County School District):

The Clark County School District supports S.B. 91.

Mary Pierczynski (Nevada Association of School Superintendents):

The Nevada Association of School Superintendents supports S.B. 91.

Chair Brower:

The Committee has received a letter from Dana Galvin, President of the Washoe County Education Association, on behalf of the Nevada State Education Association ([Exhibit D](#)), in support of S.B. 91.

Chair Brower:

I will close the hearing on S.B. 91 and ask for an introduction of BDR 14-162.

BILL DRAFT REQUEST 14-162: Provides for the continuation of the diversion program that allows certain probation violators to receive treatment for

alcohol or drug abuse or mental illness in lieu of revocation of probation.
(Later introduced as [Senate Bill 136](#).)

SENATOR FORD MOVED TO INTRODUCE BDR 14-162.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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Chair Brower:

I will adjourn the Senate Committee on Judiciary hearing at 1:31 p.m.

RESPECTFULLY SUBMITTED:

Julia Barker,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 61	C	1	Office of the State Treasurer	Proposed Amendment
S.B. 91	D	1	Nevada State Education Association	Letter from Dana Galvin