

THE TWENTY-NINTH DAY

CARSON CITY (Monday), March 7, 2011

Assembly called to order at 11 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Al Tilstra.

Our God, in the midst of great activity today, we want to take some time to recognize the contribution of those who are our care takers—our nurses—how helpful they are using their skills for the betterment of our health. May their tribe increase. Then we ask You to remind us often of Your invisible presence:

That out of confused issues may come simplicity of plan.
Out of fear may come confidence,
Out of hurry may come the willingness to wait.
Out of frustration, rest and power.

This we ask in Your name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 50, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

APRIL MASTROLUCA, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 134, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM C. HORNE, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

March 4, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 10, 43, 54, 64, 72, 75, 76, 87, 97 and 99.

MARK KRMPOTIC
Fiscal Analysis Division

March 4, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 2, 11, 71, 104, 118 and 122.

MARK KRMPOTIC
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Neal, Daly, Frierson, Horne, Livermore, Munford, Ohrenschall, Pierce, and Segerblom:

Assembly Bill No. 236—AN ACT relating to common-interest communities; enacting provisions governing the imposition and collection of assessments for common expenses when a unit is purchased, owned or transferred by a municipality or nonprofit entity engaged in certain activities with respect to the unit; prohibiting the executive board of an association from imposing a fine for a violation of the governing documents if the unit's owner is a municipality or nonprofit entity engaged in certain activities with respect to the unit; and providing other matters properly relating thereto.

Assemblywoman Neal moved that the bill be referred to the Committee on Judiciary.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 237—AN ACT relating to counties; authorizing certain counties to issue securities to finance a program to provide financial assistance to persons to connect to the public water or sewer system; authorizing counties to issue special obligation bonds in connection with water projects and sewerage projects; providing for the maximum interest rate that may be paid on securities issued to finance the program to provide financial assistance; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By the Committee on Government Affairs:

Assembly Bill No. 238—AN ACT relating to local government finance; revising provisions concerning the refunding of municipal securities related

to infrastructure projects; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblymen Bobzien, Kirkpatrick, Benitez-Thompson, Smith, Pierce, Atkinson, Bustamante Adams, Conklin, Flores, Mastroluca, and Ocegüera:

Assembly Bill No. 239—AN ACT relating to meetings of public bodies; requiring under certain circumstances that a public body post on its website on the Internet, if any, the supporting material provided to the members of the public body for an item on the agenda of a meeting of the public body; requiring under certain circumstances that a public body post on its website on the Internet, if any, the minutes or audiotape recordings and any videotape recordings of the meetings of the public body; and providing other matters properly relating thereto.

Assemblyman Bobzien moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman Smith, Conklin, Ocegüera, Bobzien, Kirkpatrick, Aizley, Atkinson, Diaz, Goicoechea, Grady, Hardy, Hickey, Hogan, and Mastroluca:

Assembly Bill No. 240—AN ACT relating to public agencies; revising the restrictions on contracts with or employment of former or current state employees by a state agency; requiring state agencies to report all contracts for services as part of the budget process; requiring that a contractor with a state agency or with a school district have a current and valid business license; and providing other matters properly relating thereto.

Assemblywoman Smith moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

By Assemblywoman Smith, Conklin, Ocegüera, Bobzien, Kirkpatrick, and Diaz:

Assembly Bill No. 241—AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; reallocating money reverted from the State Distributive School Account; creating the Nevada System of Higher Education Stabilization Account; revising provisions governing the setting aside of reserves out of appropriated or other funds to meet emergencies; and providing other matters properly relating thereto.

Assemblywoman Smith moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 30.

Bill read third time.

Remarks by Assemblymen Hambrick and Dondero Loop.

Mr. Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 30:

YEAS—42.

NAYS—None.

Assembly Bill No. 30 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 33.

Bill read third time.

Remarks by Assemblymen Carlton and Hansen.

Roll call on Assembly Bill No. 33:

YEAS—42.

NAYS—None.

Assembly Bill No. 33 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assemblyman Conklin moved that the Assembly recess until 5:15 p.m.

Motion carried.

Assembly in recess at 11:20 a.m.

ASSEMBLY IN SESSION

At 5:27 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS, AND NOTICES

Mr. Speaker appointed Assemblyman Segerblom and Assemblyman Hansen as a committee to invite the Senate to meet in Joint Session with the Assembly to hear an address by Nevada Supreme Court Chief Justice Michael L. Douglas.

The members of the Senate appeared before the bar of the Assembly.

Mr. Speaker invited the members of the Senate to chairs in the Assembly.

IN JOINT SESSION

At 5:32 p.m.

President of the Senate presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present.

The President of the Senate appointed a Committee on Escort consisting of Senator Brower and Assemblyman Ohrenschall to escort the Justices of the Supreme Court into the Assembly Chamber.

The President of the Senate appointed a Committee on Escort consisting of Senator Weiner and Assemblyman Horne to wait upon the Honorable Chief Justice Michael L. Douglas and escort him to the Assembly Chamber.

The Committee on Escort in company with the Justices of the Nevada Supreme Court appeared before the bar of the Assembly.

The Committee on Escort in company with the Honorable Nevada Supreme Court Chief Justice Michael L. Douglas, appeared before the bar of the Assembly.

The Committee on Escort escorted the Chief Justice to the rostrum.

Mr. Speaker welcomed Chief Justice Douglas and invited him to deliver his message.

Chief Justice Douglas delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-SIXTH SESSION, 2011

Governor Sandoval, Lt. Governor Krolicki, Speaker Ocegueda, Senator Horsford, Senator McGinness, Assemblyman Goicoechea, members of the Senate and the Assembly, honorable Constitutional officers, and honored guests.

Tonight, I address you on behalf of my friends and colleagues on the Nevada Supreme Court: Associate Chief Justice Nancy Saitta, Justice Michael Cherry, Justice Mark Gibbons, Justice Kristina Pickering, Justice James Hardesty, and Justice Ron Parraguirre.

I also address you on behalf of the Nevada Judiciary—the municipal courts, the justice courts, and the district courts, as well as the nearly 2,000 Judicial Branch employees of the cities, counties, and state that make up those courts and provide service to the people of Nevada each day by affording a safe place for dispute resolution in civil, family, juvenile, and criminal proceedings to the individuals under emotional stress due to being entangled in the judicial system.

Also with us this evening are several of the state's judges including chief judges from our two urban judicial areas—Judge Steinheimer from Washoe County, and Judge Togliatti from Clark County, along with Chief Judge Bennett-Heron, Clark County Justice Court, their chief. Additionally, this evening we have Judge Tatro from Carson City Justice Court, who is also the President of the Nevada Judges of Limited Jurisdiction; Judge Montero, District Court Judge representing Humboldt, Pershing and Lander counties; Judge Rogers, District Court Judge from Churchill and Lyon; Judge Deriso from Sparks Justice Court; Judge Richards from New River Justice Court; Judge Tiras from Incline Justice Court, and Judge Nash-Holmes from Reno Municipal Court. Additionally with us is Steve Grierson, Chief Administrator of Clark County District Courts and Justice Court; Dean John White from the Boyd School of Law; Bill Dressel, President of the National Judicial College; Cam Ferenbach, President of the State Bar of Nevada, along with members of the Board of Governors.

Additionally, I would like to recognize Kathleen Harrington. Kathleen, I would like to ask you to stand. Kathleen just retired after 30-plus years of service to the state of Nevada, first with the Department of Prisons as its librarian; then with the National Judicial College; and thereafter, for 28 years, with the Nevada Supreme Court, the last eight of those years as the head librarian. It goes without saying that she will be missed by her coworkers, but more importantly by the people of Nevada whom she provided assistance to will miss you the most. Thank you for all that you did, and good luck and best wishes in the days ahead.

I have been provided with a challenge and opportunity to provide you with thoughts from the Nevada Judiciary. Since the Depression of the 1930s, we have not seen a more challenging time for the people of the state of Nevada than right now. Regardless of political parties and philosophies, one thing is clear—tough choices will be made as to the budget. To the extent necessary and possible, the Nevada Judiciary will do its share to support our state. The Supreme Court, an equal constitutional branch of Nevada government, has operated on less than 1 percent of the state's budget during the last budget cycle, and the Supreme Court has proposed its new budget with a 16.87 percent reduction. That is \$2.3 million for the years 2011 through 2013. It will be a challenge, but we will, once again, do more with less; we understand that Nevada is at a crossroads. No one envies the tough choices that have to be made by you, the Legislature, for the welfare of the people of Nevada, and it is clear that you have been chosen to find solutions—to think outside the box, if you will—for the people of Nevada who need your leadership at this time.

We should not forget the obvious; we are the Battle Born State, and we operate under a constitution and the rule of law that provides for stability and predictability for our free market and personal freedoms, unlike other places in the world. Under our state Constitution, each branch of government has its own responsibilities to the people. The Judicial Branch cannot pass laws like you. The Legislature and the Judicial Branch cannot approve or veto laws like the Governor. The Judicial Branch interprets and honors laws as passed pursuant to our Constitution.

To fulfill that responsibility, the Judicial Branch must be independent of politics and personalities and concerns as to public popularity. The Judicial Branch, the Court, has but one true allegiance—that is to the Constitution and the rule of law. That belief is captioned in the words of the Pledge of Allegiance, and you can find those words in the top of your Nevada Supreme Court rotunda—“Liberty and Justice for All.” It's just that simple.

Former United States Supreme Court Justice Lewis Powell once remarked: “It is perhaps the most inspiring ideal of our society. . . . It is fundamental that justice should be the same in substance and availability, without regard to status.” Thus, the core function, if you will, of the Judicial Branch is to resolve disputes under the rule of law—our Constitution—in a fair, impartial, and timely manner.

That is the Judicial Branch's responsibility under the Constitution, which is what we must do, despite the budget challenges we face today. Thus, in light of our challenges, I will not offer you a new vision of Nevada's judicial future. What I will do is state that your Judicial Branch

will continue to do its part and look at how we can better deliver dispute resolution service to the people of Nevada.

As to our service, dispute resolution, the Nevada Judicial Branch—municipal, justice, district and the Supreme Court—resolved over 2 million cases in years 2009 and 2010. The Nevada Supreme Court resolved 4,586 cases in that time period, with a 104 percent clearance rate. However, due to our caseload, we still had to carry forward 1,514 pending cases at the beginning of 2011, with the expectation that 2,050 new appeals will be filed in both 2011 and 2012. Thus, I note that old saying, “Justice delayed is justice denied.”

Additionally, I would point out that our caseload and the case types of the district courts don’t track the same. At the Supreme Court, 47 percent of our cases are criminal, 33 percent are civil, and 17 percent are others, with 3 percent being family and juvenile, while at the district courts, 51 percent of the cases are family, 28 percent are civil, 11 percent are juvenile, with 10 percent criminal—just something to think about.

But cases and case numbers don’t tell the whole story. Each of those 2 million-plus cases requires a sensibility to the needs of someone’s liberty and freedom, or the disposition of someone’s property, or the custody of someone’s children. The enormity of dealing with a person under stress with limited resources has become more daunting in these challenging times. Limited resources, increased work loads, greater case complexity, as well as more self-represented parties in court are just an overview of the issue. The nightly news provides pictures and sounds of the coming attractions for the court. Stories on the news related to drug use and violence, violent events, followed by stories of sagging businesses, unemployment, mortgage foreclosure, and child—domestic—and elder abuse, should give all of us pause as to the challenge of the state Judicial Branch.

The reality is that the state Judicial Branch must provide dispute resolution for all under the rule of law with limited funds. That will require us to think outside the box—outside of our normal comfort zone. That resolution requires more than just standing before judges or having jury trials.

In the criminal context, resolution might be a trip to specialty court. So what is specialty court? Specialty courts use problem solving processes designed to address the root causes of some criminal activity. Some of the prominent types of specialty courts are drug courts, mental health courts, DUI courts, and prison reentry courts. Specialty courts may additionally specialize to address the needs of adults, families, juveniles, and low-level repeat offenders directly affected by the root problem of drugs, alcohol, and mental health issues.

We have been blessed in Nevada by legislative support of the specialty court programs. Pioneer Judges like Peter Breen, Jack Lehman, John McGroarty, and Archie Blake have led the way. And new leaders like Judge Jackie Glass, Judge Andrew Puccinelli and Judge Cedric Kerns have followed with new programs to break the cycle of despair.

Specialty courts provide a direct benefit to all of us. Specialty courts benefit the county and state budget by reducing time in jail at taxpayers’ expense and allowing the individual to return to being a contributing member of our local communities. In 2009 to 2010, Nevada specialty courts had 5,167 persons enrolled, graduated 2,542 persons, had 133 drug-free babies related to participants, with 2,700 cases continuing into the start of this year.

So let me tell you a quick story about Las Vegas Municipal Court Judge Cedric Kerns. He has the YO Court—that’s Youth Offender Court. Individuals are both young and addicted to drugs. In one specific case, the female had been using crack; her mug shot from a year ago was that of a crack head. Her family had lost all hope. They thought she was going to die, but a new arrest and the YO court saved her. Judge Kerns created a year-long program with counseling, housing assistance, and court supervision that fights to keep the participants straight for a year with a plan on how to live. Judge Kerns says it’s a fight—a struggle—“We save what we can save” or we go down fighting. Youth Offender Court is a 20-defendant program; however they have 30 enrolled in the program, with funding provided by NRS 176.0613 and private funds. It is just

one of the specialty courts within our state that tries to resolve disputes outside the box. All Nevada counties have a specialty court program through the Nevada courts.

In the civil context, before the Foreclosure Mediation Program, a desperate homeowner might have had a problem finding anyone in authority with his bank or a lender willing to listen to his home payment problem; conversely the banks and the lenders were not getting responses from homeowners in default. You, the Legislature, created a program in 2009 to address that problem and asked the Court to run it, to allow a new form of dispute resolution as to owner-occupied mortgage defaults. The program provided an opportunity for the homeowners and the lender to discuss, through the mediation program, alternatives to foreclosure—new payment plans, cash for keys, short sales. The program uses no state funds and is run, at its inception, outside the courthouse, with both sides having a right of judicial review. As to that Foreclosure Mediation Program, in 2010:

- 79,232 notices of default were filed in our state (non specific as to owner-occupied)
- 8,738 requests for mediation
- 6,614 were assigned to mediation
- 4,212 mediations were completed
- 89 percent of mediations avoided foreclosure
- 74 percent of homes were retained by the owner

This program has been hailed as cutting-edge and is now a model for other states; that is dispute resolution outside the box, and it is also branches of governments working together for all Nevadans.

I end now, not because I am finished, but due to time. I would love to tell you more about the Judicial Branch, about Law Day Live and texting; the Court Improvement Program—CIP—designed to help welfare families and foster kids; or Access to Justice, with the private Bar pro bono attorneys helping poor Nevadans; or Nevada's other program that has drawn national attention, related to improving Indigent Criminal Defense; or our use of Technology in the Courts—webcast, public information portals, E-filing, E-tickets, and more. But, time is an issue. If I were to try to tell you about all the Judicial Branch does, we would be here until tomorrow, so if you have a question, give me or my fellow justices a call and we will be more than happy to talk with you about the courts' programs.

So let me close with this: Remember, justice belongs to all the people, not to either political party, and not to any special interest. A system of justice, the rule of law, is necessary to support our economy and to support our personal freedoms under our Constitution. A system of justice can only exist as long as the people have trust and confidence that dispute resolution will be fair, impartial, and timely.

The Judicial Branch of Nevada is committed to "justice for all" and the rule of law for all the people of Nevada.

Thank you for listening, and I know you will answer the challenge for Nevada in the coming days.

Senator McGinness moved that the Senate and Assembly in Joint Session extend a vote of thanks to Chief Justice Douglas for his timely, able, and constructive message.

Seconded by Assemblyman Brooks.

Motion carried unanimously.

The Committee on Escort escorted Chief Justice Douglas to the bar of the Assembly.

The Committee on Escort escorted the Justices of the Nevada Supreme Court to the bar of the Assembly.

Senator Kihuen moved that the Joint Session be dissolved.
Seconded by Assemblyman Carrillo.
Motion carried.

Joint session dissolved at 5:59 p.m.

ASSEMBLY IN SESSION

At 6:08 p.m.
Mr. Speaker presiding.
Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, March 7, 2011

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 7, 92, 109, 134.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 192.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 7.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 92.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 109.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 134.

Assemblyman Conklin moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 192.

Assemblyman Conklin moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Kirkpatrick, Smith, Oceguera, Conklin, and Atkinson.

Assembly Bill No. 242—AN ACT relating to state financial administration; requiring each quasi-public organization that receives money from a state agency to submit annually to the Legislative Commission a report detailing the disposition and use of that money; requiring that each state agency which conveys money to a quasi-public organization include an entry in the budget of the state agency summarizing that conveyance; providing an exception; and providing other matters properly relating thereto.

Assemblywoman Kirkpatrick moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Bobzien, the privilege of the floor of the Assembly Chamber for this day was extended to David Bobzien, Sr., Catherine Bobzien, and the following students and chaperones from Hug High School: Trevor Ray Bach, Guillermo Becerra, Arnold Adrian Cardenas, Brenda Cartagena, Luis Escalera, Mario Fitzpatrick, Estela Gerlinger, Xarius Hampton-McKinney, William Hilliary, Joseph Jaevis Johnson, Briana Lucas, Hugo Jair Maza, Cecilia Rocio Mendoza, Abraham David Miguel Gomez, Brandon Lee Mikoleit, Treyon Montgomery, Joshua Placencia, Eric Prisciliano, Jasmin Prisciliano, Abel John Santos, Carmen Soto, Selisha Tae Steele, and Pauline Acosta.

On request of Assemblyman Horne, the privilege of the floor of the Assembly Chamber for this day was extended to Danielle Barraza, Cam Ferenbach, and Kara Braxton.

Assemblyman Conklin moved that the Assembly adjourn until Wednesday, March 9, 2011, at 11 a.m.

Motion carried.

Assembly adjourned at 6:16 p.m.

Approved:

JOHN OCEGUERA
Speaker of the Assembly

Attest: SUSAN FURLONG

Chief Clerk of the Assembly