

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

KEVIN PAUL DEBIPARSHAD,  
M.D., an individual KEVIN P.  
DEBIPARSHAD PLLC, d/b/a  
SYNERGY SPINE AND  
ORTHOPEDICS; DEBIPARSHAD  
PROFESSIONAL SERVICES, LLC;  
ALLEGIANT INSTITUTE INC., a  
Nevada domestic professional  
corporation doing business as  
ALLEGIANT SPINE INSTITUTE;  
JASWINDER S. GROVER, M.D.,  
an individual; JASWINDER S.  
GROVER, M.D., Ltd., d/b/a  
NEVADA SPINE CLINIC,

Petitioners,

vs.

THE EIGHTH JUDICIAL  
DISTRICT COURT OF THE  
STATE OF NEVADA, COUNT OF  
CLARK AND THE HONORABLE  
JUDGE KERRY EARLY,

Respondents,

and

JASON GEORGE LANDESS a.k.a  
KAY GEORGE LANDESS

Real Party in Interest.

Electronically Filed  
Dec 09 2020 01:20 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No.: 81596

District Court Case No.: A-18-776896-C

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**APPENDIX  
VOLUME 1**

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**REAL PARTY IN INTEREST'S APPENDIX TO  
ANSWER TO PETITION OF WRIT OF MANDAMUS**

<b>Vol.</b>	<b>Date</b>	<b>Document</b>	<b>Pages</b>
1	1977	Legislative History	RP.APP 1-51

DATED this 9<sup>th</sup> day of December, 2020.

HOWARD & HOWARD ATTORNEYS  
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*ATTORNEYS FOR REAL PARTY IN  
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## **CERTIFICATE OF SERVICE**

I certify that on December 9, 2020, I submitted the foregoing APPENDIX VOLUME 1 for filing via the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

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*ATTORNEYS FOR PETITIONERS*

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

The Honorable Kerry Earley  
The Eighth Judicial District Court  
Regional Justice Center  
Department IV  
200 Lewis Avenue  
Las Vegas, Nevada 89101

*RESPONDENT*

/s/ Jill M. Berghammer

An Employee of Howard & Howard Attorneys

**S. B. 263—Raggio, Feb. 24.**

Summary—Revises procedures relating to recovery of costs and attorney's fees in civil actions. (BDR 2-758) Fiscal Note: Local Government Impact: No. State or Industrial Insurance Impact: No.

Feb. 24—Read first time. Referred to Committee on Judiciary. To printer.

Feb. 25—From printer. To committee. 3/15; 3/23; 3/25; 4/5; 4/6

Apr. 14—From committee: Amend, and do pass as amended.

✓Apr. 15—Read second time. Amended. To printer.

Apr. 16—From printer. To engrossment. Engrossed. First reprint.✓

✓Apr. 18—Read third time. Passed, as amended. Title approved, as amended. To Assembly.

Apr. 19—In Assembly. Read first time. Referred to Committee on Judiciary. To committee. 4/21; 4/28

✓Apr. 29—From committee: Amend, and do pass as amended. Placed on Second Reading File. Read second time. Amended. To printer.

✓Apr. 30—From printer. To re-engrossment. Re-engrossed. Second reprint.✓  
Placed on General File. Read third time. Passed, as amended. Title approved. To Senate. 5/2

May 2—In Senate. Assembly amendment concurred in. To enrollment.

May 4—Enrolled and delivered to Governor.

May 7—Approved by the Governor. Chapter 401.

**Effective July 1, 1977.**

SENATE BILL NO. 263—SENATOR RAGGIO

FEBRUARY 24, 1977

Referred to Committee on Judiciary

SUMMARY—Revises procedures relating to recovery of costs and attorney's fees in civil actions. (BDR 2-758)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: No.



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to recovery of costs and attorney's fees in civil actions; providing liens in favor of attorneys against judgments for payment of fees; providing procedures for dismissed attorneys to return property of clients; providing for payment of witnesses' fees without demand; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- 1 SECTION 1. Chapter 18 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 4, inclusive, of this act.
- 3 SEC. 2. *For the purposes of NRS 18.010 to 18.150, inclusive, the*
- 4 *term "costs" means:*
- 5 1. *Clerks' fees.*
- 6 2. *Reporters' fees for discovery depositions, including a reporter's fee*
- 7 *for one copy of each deposition, whether or not the original deposition*
- 8 *was used at trial, unless the court finds that the deposition was taken at*
- 9 *the instance of the prevailing party without reason or necessity.*
- 10 3. *Jurors' fees and expenses, together with reasonable compensation*
- 11 *of an officer appointed to act in accordance with NRS 16.120.*
- 12 4. *Fees for witnesses at trial, pretrial hearings and deposing witnesses,*
- 13 *unless the court finds that the witness was called at the instance of the*
- 14 *prevailing party without reason or necessity.*
- 15 5. *Reasonable fees of not more than three expert witnesses in an*
- 16 *amount of not more than \$300 for each witness.*
- 17 6. *Reasonable fees of necessary interpreters.*
- 18 7. *The fee of any sheriff or licensed process server for the delivery*
- 19 *or service of any summons or subpoena used in the action, unless the*
- 20 *court determines that the service was not necessary.*
- 21 8. *The fees of the official reporter or reporter pro tempore.*
- 22 9. *Reasonable costs for any bond or undertaking required as part of*
- 23 *the action.*

1 SEC. 3. 1. Unless fees are precluded by N.R.C.P. 68, a court may  
2 make an allowance of attorney's fees to the prevailing party and against  
3 an adverse party in any civil action or special proceeding in the nature of  
4 an action.

5 2. This section does not apply to any action arising out of a written  
6 instrument or agreement which entitles the prevailing party to an award  
7 of reasonable attorney's fees. Where there is such an instrument or agree-  
8 ment, the trier of fact shall determine the amount of attorney's fees to be  
9 awarded as an issue of fact.

10 3. In making an award of an attorney's fee pursuant to the authority  
11 granted in subsection 1 of this section, the court:

12 (a) May require the presentation of evidence of the reasonable value  
13 of the fees requested.

14 (b) If the action or special proceeding has been tried before a jury,  
15 shall require the prevailing party to serve and file a written motion for  
16 attorney's fees.

17 (c) If the action or special proceeding has been tried before the court,  
18 may pronounce its decision on an award of attorney's fees at the conclu-  
19 sion of the trial without written motion.

20 4. No oral application or written motion for attorney's fees alters the  
21 effect of a final judgment previously entered in the action or the time  
22 permitted for an appeal therefrom.

23 SEC. 4. Attorney's fees shall not be allowed in any action for the  
24 recovery of money or damages if the recovery is less than \$300, nor in  
25 any action to recover the possession of personal property the value of  
26 which is less than \$300.

27 SEC. 5. NRS 18.010 is hereby amended to read as follows:

28 18.010 1. The compensation of an attorney and counselor for his  
29 services is governed by agreement, express or implied, which is not  
30 restrained by law. [From the commencement of an action, or the service  
31 of an answer containing a counterclaim, the attorney who appears for a  
32 party has a lien upon his client's cause of action or counterclaim which  
33 attaches to a verdict, report, decision or judgment in his client's favor  
34 and the proceeds thereof in whosoever hands they may come, and  
35 cannot be affected by any settlement between the parties before or after  
36 judgment. There shall be allowed to the prevailing party in any action, or  
37 special proceeding in the nature of an action, in the supreme court and  
38 district courts, his costs and necessary disbursements in the action or  
39 special proceeding, including:

40 (a) Clerk's fees.

41 (b) Costs of depositions obtained by the prevailing party and used by  
42 him at the trial.

43 (c) Jury fees as provided in NRS 6.150.

44 (d) Witness fees as provided in NRS 50.225, and a reasonable fee of  
45 an interpreter not to exceed \$250.

46 2. The court may allow to the prevailing party the fees of not more  
47 than three expert witnesses in an amount not to exceed \$250 for each  
48 witness.

49 3. The court may make an allowance of attorney's fees to:



1 (a) The plaintiff as prevailing party when the plaintiff has not recov-  
2 ered more than \$10,000; or

3 (b) The counterclaimant as prevailing party when he has not recovered  
4 more than \$10,000; or

5 (c) The defendant as prevailing party when the plaintiff has not sought  
6 recovery in excess of \$10,000.]

7 2. *An attorney at law shall have a lien upon any claim, demand or*  
8 *cause of action, including any claim for unliquidated damages, which has*  
9 *been placed in his hands by a client for suit or collection, or upon which a*  
10 *suit or other action has been instituted. The lien is for the amount of any*  
11 *fee which has been agreed upon by the attorney and client. In the absence*  
12 *of an agreement, the lien is for a reasonable fee for the services which the*  
13 *attorney has rendered for the client on account of the suit, claim, demand*  
14 *or action.*

15 3. *An attorney perfects his lien by serving notice in writing, in per-*  
16 *son or by certified mail, return receipt requested, upon his client and upon*  
17 *the party against whom his client has a cause of action, claiming the lien*  
18 *and stating the interest which he has in any cause of action.*

19 4. *The lien attaches to any verdict, judgment or decree entered and*  
20 *to any money or property which is recovered on account of the suit or*  
21 *other action, from the time of service of the notices required by this*  
22 *section.*

23 5. *On motion filed by an attorney having a lien under this section, his*  
24 *client or any party who has been served with notice of the lien, the court*  
25 *shall, after 5 days' notice to all interested parties, adjudicate the rights of*  
26 *the attorney, client or other parties and enforce the lien.*

27 6. *Collection of attorney's fees by a lien under this section may be*  
28 *utilized with, after or independently of any other method of collection.*

29 7. *This section does not apply to an action for divorce, separate*  
30 *maintenance or annulment of a marriage.*

31 SEC. 6. NRS 18.020 is hereby amended to read as follows:

32 18.020 Costs shall be allowed of course to the [plaintiff upon a  
33 judgment in his favor, from any defendant] *prevailing party against any*  
34 *adverse party against whom judgment is rendered, in the following cases:*

35 1. *In an action for the recovery of real property.*

36 2. *In an action to recover the possession of personal property, where*  
37 *the value of the property amounts to \$300 or over; [such] the value*  
38 *shall be determined by the jury, court or master by whom the action is*  
39 *tried.*

40 3. *In an action for the recovery of money or damages, where the*  
41 *plaintiff recovers \$300 or over.*

42 4. *In a special proceeding.*

43 5. *In an action which involves the title or possession of real estate,*  
44 *or the legality of any tax, impost, assessment, toll or municipal fine,*  
45 *including the costs accrued in [such] the action if originally commenced*  
46 *in a justice court.*

47 6. *In an appeal, action, hearing on a writ or any special proceeding*  
48 *where the decision of a lower court is brought before a higher court for*  
49 *review.*

50 SEC. 7. NRS 18.050 is hereby amended to read as follows:

1     18.050 In other actions than those mentioned in NRS 18.020, costs  
2 may be allowed or not, and if allowed may be apportioned between the  
3 parties, or on the same or adverse sides, in the discretion of the court,  
4 but no costs shall be allowed in any action for the recovery of money  
5 or damages when the plaintiff recovers less than \$300, nor in any action  
6 to recover the possession of personal property when the value of the  
7 property is less than \$300; provided, that if, in the judgment of the court,  
8 the plaintiff believes he was justified in bringing the action in the dis-  
9 trict court, and he recovers at least \$150 in money or damages, or  
10 personal property of that value, the court may, in its discretion, allow  
11 the plaintiff part or all of his costs. [When there are several defendants  
12 in the actions mentioned in NRS 18.020, not united in interest, and  
13 making separate defenses by separate answers, and the plaintiff fails  
14 to recover judgment against all, the court shall award costs to such of  
15 the defendants as have judgment in their favor.]

16     SEC. 8. NRS 18.070 is hereby amended to read as follows:

17     18.070 1. When an application is made to a court or master to  
18 postpone a *motion, pretrial hearing or trial*, the payment of costs,  
19 *together with reasonable attorney's fees*, occasioned by the postpone-  
20 ment may be imposed, in the discretion of the court or master, as a  
21 condition of granting the [same.] *postponement*.

22     2. *A court may impose costs and reasonable attorney's fees against*  
23 *a party or an attorney who, in the judgment of the court, purposely*  
24 *caused a mistrial to occur.*

25     SEC. 9. NRS 18.080 is hereby amended to read as follows:

26     18.080 When, in an action for the recovery of money only, the  
27 defendant alleges in his answer that before the commencement of the  
28 action he tendered to the plaintiff the full amount to which he was  
29 entitled, and thereupon deposits in court, for the plaintiff, the amount  
30 so tendered, and the allegations [be] are found to be true, the plaintiff  
31 [shall] may not recover costs [.] or attorney's fees, but shall pay costs  
32 to the defendant.

33     SEC. 10. NRS 18.110 is hereby amended to read as follows:

34     18.110 1. The party in whose favor judgment is rendered, and  
35 who claims his costs, must [deliver to] *file with* the clerk, and serve  
36 a copy upon the adverse party, within 5 days after [the verdict or  
37 notice of] the entry of judgment, [of the court or master,] or such  
38 further time as the court or judge may grant, a memorandum of the  
39 items of his costs [and necessary disbursements] in the action or pro-  
40 ceeding, which memorandum must be verified by the oath of the party,  
41 or his attorney or agent, or by the clerk of his attorney, stating that to  
42 the best of his knowledge and belief the items are correct, and that the  
43 [disbursements] costs have been necessarily incurred in the action or  
44 proceeding.

45     2. He shall be entitled to recover the witness fees, although at the  
46 time he may not actually have paid them. [Issuance or service of subpoena  
47 shall not be necessary to entitle a prevailing party to tax, as costs,  
48 witness fees and mileage, provided that such witnesses be sworn and  
49 testify in the cause.

50     3. It shall not be necessary to embody in the memorandum the fees



1 of the clerk, but the clerk shall add the same according to his fees fixed  
2 by statute.

3 4.] 3. Within 3 days after service of a copy of the memorandum,  
4 the adverse party may move the court, upon 2 days' notice, to retax and  
5 settle the costs, notice of which motion shall be filed and served on the  
6 prevailing party claiming costs. Upon the hearing of the motion the court  
7 or judge [in chambers] shall settle the costs.

8 SEC. 11. NRS 18.130 is hereby amended to read as follows:

9 18.130 1. When a [plaintiff] party in an action resides out of the  
10 state, or is a foreign corporation, security for the costs and [charges]  
11 attorney's fees which may be awarded against [such plaintiff] the party  
12 may be required by [the defendant,] any adverse party by the filing and  
13 service [on plaintiff] of a written demand therefor [within the time  
14 limited for answering the complaint.] at any time more than 30 days  
15 before trial. When so required, all proceedings in the action shall be  
16 stayed until an undertaking, executed by two or more persons, [be] is  
17 filed with the clerk, to the effect that they will pay [such] costs and  
18 [charges as may be awarded against the plaintiff] attorney's fees awarded  
19 by judgment, or in the progress of the action, not exceeding the sum of  
20 [\$500;] \$1,000, or in lieu of [such] an undertaking, the [plaintiff]  
21 party may deposit [\$500, lawful money,] \$1,000 with the clerk of the  
22 court, subject to the same conditions as required for the undertaking.  
23 [The] If the demand was made by a defendant before answer, the  
24 plaintiff, upon filing the undertaking or depositing the security, shall  
25 notify the defendant of [such] the filing or deposit, and the defendant,  
26 after receipt of [such notice, shall have] the notice, has 10 days or the  
27 period allowed under N.R.C.P. 12(a), whichever is longer, in which to  
28 answer or otherwise plead to the complaint.

29 2. A new or an additional undertaking may be ordered by the court  
30 or judge upon proof that the original undertaking is insufficient security,  
31 and proceedings in the action stayed until [such] a new or additional  
32 undertaking [be] is executed and filed.

33 3. Each of the sureties on the undertaking mentioned in subsection 1  
34 shall annex to [the same] it an affidavit that he is a resident and house-  
35 holder, or freeholder, within the county and is worth double the amount  
36 specified in the undertaking, over and above all his just debts and liabilities,  
37 exclusive of property exempt from execution.

38 4. After the lapse of 30 days from the service of notice that security  
39 is required, or of an order for new or additional security, upon proof  
40 thereof, and that no undertaking as required has been filed, the court  
41 or judge may [order the action to be dismissed.] dismiss the action.

42 SEC. 12. NRS 18.150 is hereby amended to read as follows:

43 18.150 1. When the state is a party, and costs or attorney's fees are  
44 awarded against it, they must be paid out of the state treasury.

45 2. When a county is a party, and costs or attorney's fees are awarded  
46 against it, they must be paid out of the county treasury.

47 SEC. 13. Chapter 7 of NRS is hereby amended by adding thereto a  
48 new section which shall read as follows:

49 1. An attorney who has been discharged by his client shall, upon  
50 demand, immediately deliver to the client all papers, documents, pleadings

1 *and items of tangible personal property which belong to or were pre-*  
2 *pared for that client.*

3 2. *A client who, after demand therefor, does not receive from his*  
4 *discharged attorney all papers, documents, pleadings and items of*  
5 *tangible personal property may, by a motion filed after at least 3 days'*  
6 *notice to the attorney, obtain an order for the production of his papers,*  
7 *documents, pleadings and other property. If the court finds that an*  
8 *attorney has, without just cause, refused or neglected to obey its order*  
9 *given under this section, the court may, after notice and hearing, adjudge*  
10 *the attorney guilty of contempt and may fine or imprison him until the*  
11 *contempt is purged.*

12 3. *An attorney who is in doubt as to the ownership of papers,*  
13 *documents, pleadings or other property may deposit the materials with*  
14 *the clerk of the court. The clerk shall immediately seal the materials to*  
15 *protect the privacy and privilege of the clients and interested persons*  
16 *and notify each interested person of the deposit. Upon a petition filed*  
17 *by a client or other interested person, any court shall, after giving at*  
18 *least 5 days' notice to all other interested persons, adjudicate the rights*  
19 *of persons claiming an interest in the materials and make necessary*  
20 *orders under the circumstances of the case.*

21 SEC. 14. NRS 50.225 is hereby amended to read as follows:

22 50.225 Witnesses required to attend in the courts of this state  
23 **[shall]** *are entitled to receive the following compensation:*

24 1. *For attending in any criminal case, or civil suit or proceeding*  
25 *before a court of record, master, commissioner, justice of the peace, or*  
26 *before the grand jury, in obedience to a subpoena, \$15 for each day's*  
27 *attendance, which shall include Sundays and holidays.*

28 2. *Mileage shall be allowed and paid at the rate of 15 cents a mile,*  
29 *one way only, for each mile necessarily and actually traveled from the*  
30 *place of residence by the shortest and most practical route, [provided:]*  
31 *but:*

32 (a) **[That no]** *A person shall not be obliged to testify in a civil*  
33 *action or proceeding unless his mileage and at least 1 day's fees have*  
34 *been paid him [if he demanded the same.] ; and*

35 (b) **[That any]** *Any person [being] in attendance at the trial and*  
36 *sworn as a witness [shall be] is entitled to witness fees irrespective of*  
37 *service of subpoena.*

38 3. *Witness fees in civil cases shall be taxed as disbursement costs*  
39 *against the defeated party upon proof by affidavit that they have been*  
40 *actually incurred. Costs shall not be allowed for more than two witnesses*  
41 *to the same fact or series of facts, nor shall a party plaintiff or defendant*  
42 *be allowed any fees or mileage for attendance as a witness in his own*  
43 *behalf.*

44 SEC. 15. NRS 18.040, 18.045 and 18.100 are hereby repealed.

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 15, 1977

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

PRESENT:                Senator Close  
                      Senator Bryan  
                      Senator Dodge  
                      Senator Foote  
                      Senator Sheerin  
                      Senator Gojack  
                      Senator Ashworth

ABSENT:

SB 116    Establishes the Department of Prisons.

Eugene A. Coughlin, Training Officer, Nevada State Prison appeared at the request of A. A. Campos, Chief Parole and Probation Officer, in support of this measure.

Following a brief discussion, Senator Gojack requested that Mr. Coughlin furnish the Committee with a copy of the memorandum submitted to the Human Resources and Facilities Committee which outlines in detail exactly what this bill accomplishes.

Mr. Coughlin will return with that information at a later date. No action was taken at this time.

SB 162    Revises law on compensation for victims of crime.

Maynard R. Yasmer, Chief of Staff Services, Rehabilitation Division of Human Resources testified in support of this bill. He stated that the Nevada Rehabilitation Division provides services to disabled persons towards the achievement of vocational goals. Victims of crime are only eligible for rehabilitation services under federal regulations if vocational goal objectives are possible or practicable. Their concern was for persons who did not fall in this category such as the very young, who cannot wait until they are in high school and be picked up under another federal program; the elderly; and the housewife who wishes to continue as a housewife. He also expressed concern over the inequities in services granted to the offender vs. the victim. He cited the Governor's proposed budget which grants over \$30 million to services for the offender and practically nothing to their victims, as an example.

SB 260 would be invalid because this is an economic area; not something like free speech or the right to vote where the equal protection clause requires a compelling state interest. This is a question of economic benefit and there, the United States Supreme Court has said that the rational classification is enough. There is a rational basis between the position of a public officer acting within the scope of his employment and in good faith and an ordinary person going about his own concern. There is a public interest in limiting the liability in the former case simply in order to secure the unintimidated performance by the officer of his duty. Therefore, he felt that the courts might well sustain that classification.

In further discussion of the bill, Senator Close suggested that "public officer" be broadened to include a part or full-time board or commission or similar body of the state or political subdivision.

Senator Ashworth moved to amend and do pass and rerefer to this Committee.

Seconded by Senator Bryan.

Motion carried unanimously.

SB 262 Allows additional peremptory challenges in certain cases.

Senator William J. Raggio testified in support of this measure. He stated that on occasion there are multiple parties involved and this will give each side as many peremptory challenges as there are parties. At the present time, the parties have to join in a challenge unless the court otherwise directs. He further stated that this bill was at the request of Clark County District Judge J. Charles Thompson.

Senator Dodge moved a do pass.

Seconded by Senator Gojack.

Motion carried unanimously.

SB 263 Revises procedures relating to recovery of costs and attorney's fees in civil actions.

William Raymond, Deputy Attorney General, Department of Highways testified in opposition to this bill. He stated that the Highway Department is the biggest single purchaser of real estate in the state and as a general rule, they settle or negotiate for approximately 95% of the property they acquire for highways. The remaining 5% goes to court. Should there be an award of attorney's fees in eminent domain actions, this will be paid



SB 263 entirely out of state funds as the federal government will not participate in any award for attorney's fees. Therefore, the cost to the state would be astronomical and on that basis they oppose the bill.

Grant Bastian, State Highway Engineer, Highway Department concurred with Mr. Raymond's remarks and further stated that should attorney's fees be awarded, it would remove the incentive for individuals to settle out-of-court.

Al Osborn, attorney from Reno testified in support of this measure. He stated that the bill sets forth some things in the law that have not been before. It defines what an attorney's lien is and more accurately defines what allowable costs are in an action. In response to Mr. Raymond's concern about the cost to the state, he felt that if the state was being fair in its offer they could file an offer of judgment and no court costs or attorney's fees would be awarded. If the state isn't being fair and is out of line, the court will take that into consideration. The present rule is that the courts do not have to award costs and fees. They can specify reasons wherein such costs are not appropriate.

Darryl Cappuro, Nevada Motor Transit Association stated that they were in opposition to this bill. He felt that this measure greatly expands the current fees provided in the law. Subsection 2, line 6 would legitimize what would amount to fishing expeditions in that depositions would be paid for even if they were not used during the trial. He stated that this was quite a departure from the present practice where the cost of depositions obtained by the prevailing party and used by him at the trial could be recovered.

In regard to Section 4, he stated that Oregon had enacted a similar law and the number of cases that eventually went to court increased considerably; there is no encouragement to settle out of court because you don't lose anything if you do. He further commented that because of the situation involving the use of federal funds and the rules and regulations under which the highway department has to operate, their appraisals and offers with regard to right-of-way acquisitions have been pretty fair.

Jack McAuliffe, attorney from Reno stated that he felt this bill imposes responsibility where it should be; it is characterized in terms of leaving it to the discretion of the court. It has been his experience in the past that the court tends to impose fees insofar as how legitimate the action was when it was brought or how legitimate the defense was. There were two aspects of the bill with which he did not agree:

SB 263 Section 11 which requires a foreign party to post a bond. As proposed, this makes it a party that resides out of state or is a foreign corporation. He felt that the present statute has been a workable solution to this problem. The other concern is the requirement that an attorney who has been discharged by his client must deliver his files upon demand. This is a particular problem in the area of personal injury cases where there is a contingency fee; there is not a fee until the conclusion of the litigation. It also does not provide any guidelines for the court in determining under what circumstances the attorney is required to deliver his files.

In response to a question from Senator Close as to what changes in the present law are being made, Mr. McAuliffe stated that Section 2, subsection 2 is a substantial change in that at the present time a reporter's fee for discovery is recoverable only if the original deposition is used at trial. He felt that this was an improvement because this is a real expenditure as far as parties to an action are concerned.

Subsection 3 would add the cost of the bailiff in charge of the jury rather than it being born by the county.

Subsection 4 is a change in that you will now be entitled to witness fees for pretrial hearings and deposing witnesses.

Subsection 7 is a change in that it will allow for recovery of fees paid to a licensed process server as well as to the sheriff. Section 3 is a new addition and a good one. More often than not, the judge makes his own decision as to what the allowable fee should be in a case. This clarifies that procedure. The court in its discretion can establish that amount or it may require a presentation of evidence.

In answer to a question from Senator Gojack regarding the Highway Department's observation as to the cost of this bill to the state, Mr. McAuliffe stated that the Constitution requires that a property owner receive just compensation for his property. If the Highway Department offers just compensation, they won't become involved in litigation. It has been his experience that there is generally a very broad spread between the staff appraisals of the Highway Department and what the property owner and independent fee appraiser think it is worth. His firm's standard fee is in the range of 1/3 of what they are able to get beyond the offer of the state and they have found this to be a profitable source of litigation. He felt that this suggests that judges and juries are not persuaded that the Highway Department is really offering just compensation. He further stated that it was his feeling that if a property owner is truly going to be compensated as he is required to be by the Constitution, then the Highway Department should be required to pay the cost of that litigation.



SB 263 In response to a question from Senator Dodge as to the expansion of recovery of attorney's fees and costs into other areas, Mr. McAuliffe stated that the courts presently feel that if there is a legitimate legal and factual dispute between the parties, they do not allow fees. But if the court feels that it is a case that either never should have been filed because there is no merit and there never was any merit or the defense that was interposed has no merit, then they will award fees.

Senator Bryan expressed concern that Section 4 would preclude the award of attorney's fees in justice court proceedings. Mr. McAuliffe replied that in district court if you have a recovery under \$300 you don't get attorney's fees but that he did not think that pertained to justice court. He further stated that this was part of the Civil Practice Act and that it would be applicable in justice court.

Charles D. Glattly, attorney from Reno stated that he used this statute on a daily basis. He felt that the ability to impose attorney's fees was often times the only club he had to settle disputes out of court in that the imposition of fees makes the opposing attorney think twice.

George L. Ciapusci, Property Claim Superintendent, State Farm Insurance Co. testified against this measure. He stated that since the advent of no-fault insurance the percentage of liability law suits has doubled and with that, the costs related to the defense of lawsuits has increased by 328%. This bill has an add-on of fees and costs which will be awarded upon judgment and in his mind this does nothing to help the consumer; these costs will have to be passed back on to the policy-holder. He felt that the only beneficiary of this bill would be the Plaintiff's Bar.

Fred Patzke, Manager, Brown Brothers Adjusters concurred with Mr. Ciapusci's remarks.

Senator William J. Raggio informed the Committee that this bill had been requested by Clark County District Judge J. Charles Thompson because in sitting on the bench, he has had an opportunity to see the problems that come up in these types of situations.

In response to the Committee's question on the \$300 figure in Section 4, Senator Raggio stated that this was to bring it in line with existing law that establishes costs recoverable where the recovery is \$300 or over.

Virgil Anderson, AAA Insurance concurred with Mr. Ciapusci's remarks concerning the impact on the cost of insurance. He also expressed concern over Section 3 in that he felt it was completely open-ended with respect to attorney's fees.

SB 263 Richard R. Garrod, Special Representative, Farmer's Insurance Group responded to a question regarding witness fees granted in California. He stated that the only fees that are allowed by law are those reimbursements to a state or local agency where a police officer or some technical person with a state, county or city agency is subpoenaed to appear before the court in an action.

Following a discussion by the Committee, Senator Ashworth moved to indefinitely postpone.

Seconded by Senator Sheerin.

Motion did not carry. The vote was as follows:

VOTING AYE:	Senator Dodge	VOTING NAY:	Senator Close
	Senator Sheerin		Senator Bryan
	Senator Ashworth		Senator Foote
			Senator Gojack

SB 264 Provides alternative method of selecting jurors in civil cases.

Al Osborn, attorney from Reno stated that this bill would implement the so-called "Arizona System" to make it mandatory in the district courts that peremptory challenges be made outside the hearing of the jury. He stated that as a practical matter, this is being done already. It is a much quicker process.

Senator William J. Raggio testified in support of this measure and concurred with Mr. Osborn's remarks.

Following a brief discussion, Senator Gojack moved a do pass. The motion was seconded and carried unanimously.

SB 272 Restricts persons who may have access to another person's safe-deposit box and establishes procedure for removal of any contents

Bill Isaef, Deputy Attorney General testified in support of this bill. He stated that this grew out of a lengthy investigation by the Churchill County Grand Jury into the handling of the estate of Virgil Coleman Cox who died in 1974. A part of the testimony received by the Grand Jury pointed out that after Mr. Cox died, the bank allowed entrance to his safe-deposit box by the county coroner who, in the opinion of the Grand Jury, had no legal right or proper responsibility for going into that safe-deposit box.

At the present time Nevada has no statutory provisions on this subject, primarily because we do not have the sort of death taxes that other states have which result in the immediate sealing of the box upon notification of death.

Senator Close expressed concern over several portions of the bill. He felt that the situation where a husband and wife

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 23, 1977

The meeting was called to order at 10:10 a.m. Senator Close was in the Chair.

PRESENT:        Senator Close  
                 Senator Bryan  
                 Senator Dodge  
                 Senator Foote  
                 Senator Sheerin  
                 Senator Gojack  
                 Senator Ashworth

ABSENT:

SB 23      Extends testamentary capacity to certain minors.

Senator Sheerin stated that he felt this was very limited legislation in that very few children have an estate that is large enough to be involved with estate planning. He suggested that the bill should provide that the will be approved by the district court.

Senator Bryan further suggested that upon application to the court, notice should go to the parent if the natural party is not the petitioning party.

Senator Sheerin moved to amend and do pass.  
Seconded by Senator Ashworth.  
Motion carried unanimously.

SB 167    Subjects grand jurors to civil liability for publication of prohibited report.

Senator Close read to the Committee the amendments proposed by Senator Dodge.

Senator Foote moved to indefinitely postpone.  
Seconded by Senator Ashworth.  
Motion carried. The vote was as follows:

VOTING AYE:    Senator Close  
                 Senator Bryan  
                 Senator Sheerin  
                 Senator Foote  
                 Senator Ashworth

VOTING NAY:    Senator Dodge  
                 Senator Gojack

SB 134 Amends procedure concerning persons incompetent to stand trial.

Senator Close informed the Committee that he had discussed this measure with Washoe County District Judge Roy L. Torvinen and he indicated that he did not see a need for this legislation at this time as the procedures outlined were already being done.

Senator Ashworth moved to indefinitely postpone.  
Seconded by Senator Sheerin.  
Motion did not carry. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Gojack
	Senator Sheerin		
	Senator Ashworth		

ABSENT FROM THE VOTE: Senator Dodge  
Senator Bryan

ABSTAINING FROM THE VOTE: Senator Foote

SB 272 Restricts persons who may have access to another persons' safe-deposit box and establishes procedure for removal of any contents.

Senator Ashworth stated that he was opposed to the attorney or adult child being able to gain entrance to the safe-deposit box. It was his feeling that no one should be able to get into a safe-deposit box without a court order. Senator Sheerin concurred with that and further commented that it was his feeling that the safe-deposit box procedure should be kept as simple as possible.

Senator Ashworth moved to indefinitely postpone.  
Seconded by Senator Sheerin.  
Motion carried unanimously. Senators Bryan and Dodge were absent from the vote.

SB 263 Revises procedures relating to recovery of costs and attorney's fees in civil actions.

Senator Close stated that he had talked to several people and they had all agreed that the attorney's fees section of this bill should be deleted. He also talked to Clark County District Judge J. Charles Thompson and he felt that the first section should be retained as it further indicates exactly what costs are. On section 2, Senator Close stated that the increase of witness fees by \$50 would have to be a policy decision of the Committee.



SB 263 however, he felt that the inclusion of the licensed process server was appropriate. Many times the sheriff is so busy that he doesn't have time to serve papers and the usual procedure is to hire a process server.

It was the decision of the Committee to delete Section 3. In further discussion of this section, Senator Sheerin suggested that the procedure for establishing attorney's fees should be as follows:

- 1) The attorney should file an affidavit indicating the number of hours he has on the case; and
- 2) The judge should take into consideration the affidavit, the complexity of the case and the result and let him make the decision on the amount of fees to be awarded.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MARCH 25, 1977

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

PRESENT:        Senator Close  
                 Senator Bryan  
                 Senator Dodge  
                 Senator Foote  
                 Senator Sheerin  
                 Senator Gojack  
                 Senator Ashworth

ABSENT:

AJR 21        Proposes to amend Nevada Constitution to expand classification of crimes for which bail may be denied.

Assemblyman Tom Hickey testified on behalf of this measure. It calls for imprisonment without possibility of parole when the proof is evident or the presumption is great. This was in the law until the recent U. S. Supreme Court rulings regarding capital punishment. If the new death penalty bills presently before the legislature should pass, there would be no need for this amendment to the Constitution.

In response to a question from the Committee regarding the constitutionality of this, Frank Daykin, Legislative Council Bureau stated that the only question of constitutionality would arise under the federal constitution and that has never said that there is any rigid or limited category of offenses in which bail must either be given or denied. Our constitution and those of a number of other states have provided that there will be no bail with respect to a capital offense. This amendment was proposed in light of the possibility that capital offenses would be very narrowly limited. The fact that the punishment is changed does not make the underlying offense any less serious. Therefore, it would seem to be permissible under the federal constitution now, if it had been in the past, to deny bail for the same offenses. This denies bail for a more limited class of offenses than before and that change should not run counter to the 8th Amendment.

Senator Dodge moved a do pass.  
Seconded by Senator Sheerin.  
Motion carried. The vote was as follows:



SB 44 Senator Dodge moved to amend and do pass.  
Seconded by Senator Ashworth.  
Motion carried unanimously.

SB 263 Revises procedures relating to recovery of costs and attorney's fees in civil actions.

For further discussion of this measure, see minutes of meetings for March 15 and March 23, 1977.

Senator Close expressed concern over the unlimited use of depositions.  
Senator Bryan suggested that they could limit the recovery of cost for depositions to those used at the trial or for a motion.

Senator Close suggested that they delete lines 1-4 on page 2, which modifies the fee schedule, but retain the procedure as to how fees are to be determined.

Senator Sheerin stated that he was opposed to the attorney's lien on lines 7-30, page 3.  
Senator Ashworth concurred and moved to delete those lines.  
Seconded by Senator Sheerin.  
Motion did not carry. The vote was as follows:

VOTING AYE:	Senator Sheerin	VOTING NAY:	Senator Close
	Senator Ashworth		Senator Bryan
			Senator Foote
			Senator Gojack

ABSENT FROM THE VOTE: Senator Dodge

Senator Bryan stated that he felt this was a necessary procedure for the protection of the client. At the present time, if a client discharges his attorney and that attorney does not release his files to the client, it could delay the trial and trial dates are difficult enough to get.

Senator Gojack moved to retain lines 7-30, page 3.  
Seconded by Senator Foote.  
Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Sheerin
	Senator Bryan		Senator Ashworth
	Senator Foote	ABSENT FROM	
	Senator Gojack	THE VOTE:	Senator Dodge

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SB 263 In further discussion, it was the decision of the Committee to delete subsection 7 of section 5 in that this is already covered by Chapter 125 of the NRS.

No action was taken at this time.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

APRIL 5, 1977

The meeting was called to order at 8:11 a.m. Senator Close was in the chair.

PRESENT: Senator Close  
Senator Bryan  
Senator Ashworth  
Senator Dodge  
Senator Gojack  
Senator Foote  
Senator Sheerin

ABSENT: None

SB 286 Senator Close stated that he needed a motion to kill this as they need a new bill.

Senator Dodge moved "do kill."  
Seconded by Senator Gojack.  
Motion passed unanimously. Senators Ashworth and Foote were absent from vote.

SB 412 REPLACES RAPE AND OTHER SEX-RELATED CRIMES WITH OFFENSE OF SEXUAL ASSULT.

Florence McClure, Director of Community Action Against Rape, serving the metropolitan area of Clark County submitted her testimony in writing (see Attachment A), as well as a paper on rape by A. Nicholas Groth and Ann Wolbert Burgess (see Attachment B). She wanted to bring out a recent case that was not in the testimony.

She said that she got a call from Karen Good asking her to meet a woman at the hospital. This woman was the mother of 8 children and made her livelihood working in an apartment building and cleaning rooms for new tenants. A man had gotten into the room where she was cleaning and had raped her. She was very traumatic and there was no way she could have paid that bill. Now they feel bad when they can't pay the bill. I would like to see us keep this one victim's assistance bill that was brought out in the last session. She would like the language changed where it states "if the county has an ordinance providing for the payment of such costs." She would like this language to be made mandatory in the bill. That is the only problem she has with this bill.

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Senator Close requested a motion to pass it.

Senator Gojack moved "do pass."

Senator Bryan seconded the motion.

Motion carried with Senators Close, Bryan, Sheerin and Gojack voting "aye" and Senators Ashworth, Dodge and Foote voting "nay."

SB 263

Senator Close stated we have worked on this considerably and modified it several times (see minutes of March 25).

Senator Ashworth moved "indefinite postponement."

Senator Dodge seconded the motion.

Motion did not carry because of a tie vote with Senators Ashworth, Dodge and Sheerin voting "aye" and Senators Close, Bryan and Foote voting "nay." Senator Gojack was absent from vote.

Amendments to SB 263 were gone over by the Committee. as follows:

1. Page 1, line 16--striking \$300 and putting it at \$250.
2. Page 2--take out lines 1 through 4.
3. Page 2, section 4, line 48--put a bracket after witness, and by so doing will leave in existing laws provisions regarding attorney fees.
4. Page 3, line 6--take out the bracket.
5. Page 3--delete lines 29 and 30.
6. Page 3--delete section 9.
7. Page 5, Section 11--delete section 11 in its entirety.
8. There was some discussion on Section 13, as to the liens and who actually is entitled to the papers, etc. The Committee decided to leave this section in but add on line 2 "after payment of the fees."

Senator Gojack moved "amend and do pass."

Senator Foote seconded the motion.

Motion carried with Senators Gojack, Foote, Close, and Bryan voting "aye" and Senators Sheerin and Ashworth voting "nay". Senator Dodge was absent from vote.

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Because time permitted no further testimony, the meeting was adjourned.

Respectfully submitted,

Virginia L. Letts  
Virginia Letts, Secretary

APPROVED BY:

Senator Melvin D. Close, Chairman

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

APRIL 6, 1977

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

PRESENT: Senator Close  
Senator Bryan  
Senator Dodge  
Senator Foote  
Senator Sheerin  
Senator Gojack  
Senator Ashworth

ABSENT:

AB 441 Deletes requirement that foreign corporations file annual business statements with county assessors.

William Swackhammer, Secretary of State requested the following amendment on page 1, line 5 after the word "business", insert ", 3 consecutive issues." This would be consistent with action taken on an earlier Senate bill (SB 2 which changes certain filing and publication requirements for corporations)

Senator Gojack moved to amend and do pass.

Seconded by Senator Ashworth.

Motion carried unanimously. Senator Sheerin was absent from the vote.

SB 419 Provides additional penalty for certain crimes against blind and aged persons.

Larry Hicks, Washoe County District Attorney and President of Nevada District Attorney's Association stated that the present penalties in the law for aggravated cases are adequate. If the victims are elderly or suffer from some sort of disability, these are considerations that go into longer sentences. He did not see a need for this as the maximum penalties are adequate.

Senator Ashworth moved to indefinitely postpone.

Seconded by Senator Gojack.

Motion carried unanimously. Senator Sheerin was absent from the vote.

AB 466 Permits deliberating juries to depart for home or be sequestered overnight at discretion of court.



- SB 368 Revises provisions relating to alimony and disposition of community property in divorce actions.

Senator Dodge stated that on line 40, someone had indicated that those changed circumstances might involve personal conduct. He disagreed with that and stated that he felt it meant a change in financial status but that that should be clarified.

Senator Bryan concurred but didn't feel that a change of circumstances should be limited to one fact pattern. He suggested language such as "including but not limited to."

Senator Close stated that he would get some amendatory language and report back to the Committee.

No action was taken at this time.

- SB 416 Prohibits certain acts involving personal property from which identification number is removed.

Senator Ashworth moved to indefinitely postpone.

Seconded by Senator Dodge.

Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Bryan
	Senator Dodge		Senator Foote
	Senator Gojack		
	Senator Ashworth		

ABSENT FROM THE VOTE: Senator Sheerin.

- SB 431 Prohibits under certain circumstances acceptance of incorporation documents for filing where name of corporation contains specified terms relating to engineering.

Senator Dodge moved to rerefer to Commerce and Labor.

Seconded by Senator Bryan.

Motion carried unanimously. Senator Sheerin was absent from the vote.

- SB 263 Revises procedures relating to recovery of costs and attorney's fees in civil actions.

For testimony on this measure, see minutes of meetings for March 15, March 23 and March 25, 1977.

It was the consensus of the Committee to amend, on page 2, lines 10-19, to permit the judge to make an award of attorney's fees in appropriate cases and allow him to require evidence but

SB 263 not mandate him to do so.

No action was taken at this time.

AB 383 Allows court to sentence certain habitual criminals to life imprisonment with or without possibility of parole.

For testimony on this measure, see minutes of meeting for March 31, 1977.

Senator Bryan moved a do pass.

Seconded by Senator Dodge.

Motion carried unanimously. Senator Ashworth was absent from the vote.

AB 366 Extends governmental immunity to fire districts.

Assemblyman Joe Dini testified in support of this measure and requested that the Committee amend the bill to further define political subdivisions to include other agencies.

Senator Gojack moved to amend and do pass.

Seconded by Senator Bryan.

Motion carried unanimously. Senators Ashworth and Dodge were absent from the vote.

SB 413 Makes substantial changes in procedure for disciplining physicians.

For testimony on this measure, see minutes of meeting for April 4, 1977.

Senator Close informed the Committee that he had received the amendments on this and suggested that the bill should be put out on the floor now and they could review the amendments then.

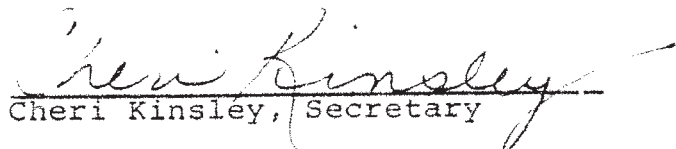
Senator Bryan moved to amend and do pass.

Seconded by Senator Gojack.

Motion carried unanimously. Senators Ashworth and Dodge were absent from the vote.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

Senate Bill No. 263.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

1977 Amendment No. 821A.

Amend section 1, page 1, line 2, by deleting "to 4, inclusive," and inserting "and 3".

Amend sec. 2, page 1, by deleting lines 7 and 8 and inserting: "*for one copy of each deposition, if used at trial or at a hearing upon a motion, unless the court finds that the deposition was taken at*".

Amend sec. 2, page 1, line 16, by deleting "\$300" and inserting "\$250".

Amend sec. 3, page 2, by deleting lines 1 through 22 and inserting:  
*"Sec. 3. 1. An attorney at law shall have a lien upon any claim, demand or cause of action, including any claim for unliquidated damages, which has been placed in his hands by a client for suit or collection, or upon which a suit or other action has been instituted. The lien is for the amount of any fee which has been agreed upon by the attorney and client. In the absence of an agreement, the lien is for a reasonable fee for the services which the attorney has rendered for the client on account of the suit, claim, demand or action.*

*2. An attorney perfects his lien by serving notice in writing, in person or by certified mail, return receipt requested, upon his client and upon the party against whom his client has a cause of action, claiming the lien and stating the interest which he has in any cause of action.*

*3. The lien attaches to any verdict, judgment or decree entered and to any money or property which is recovered on account of the suit or other action, from the time of service of the notices required by this section.*

*4. On motion filed by an attorney having a lien under this section, his client or any party who has been served with notice of the lien, the court shall, after 5 days' notice to all interested parties, adjudicate the rights of the attorney, client or other parties and enforce the lien.*

*5. Collection of attorney's fees by a lien under this section may be utilized with, after or independently of any other method of collection."*

Amend the bill as a whole by deleting section 4 and renumbering sections 5 through 8 as sections 4 through 7.

Amend sec. 5, page 2, by deleting line 48 and inserting: "witness.]"

Amend sec. 5, page 2, line 49, by deleting "3." and inserting "[3.] 2."

Amend sec. 5, page 3, line 6, by deleting closed bracket.

Amend sec. 5, page 3, by deleting lines 7 through 30 and inserting:  
*"3. In awarding attorney's fees the court may pronounce its decision on such fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.*

*4. No oral application or written motion for attorney's fees alters the effect of a final judgment entered in the action or the time permitted for an appeal therefrom.*

*5. Subsections 2 to 4, inclusive, do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees."*

Amend sec. 6, page 3, by deleting lines 47 through 49.

Amend sec. 8, page 4, line 18, by deleting "*motion, pretrial hearing or*".

Amend sec. 8, page 4, by deleting line 19 and inserting: "*occasioned by the postpone-*".

Amend the bill as a whole by deleting section 9 and renumbering section 10 as section 8.

Amend sec. 10, page 4, line 46, by deleting open bracket.

Amend sec. 10, page 5, line 3, by deleting "4.] 3." and inserting "4."

Amend the bill as a whole by deleting section 11 and renumbering sections 12 through 15 as sections 9 through 12.

Amend sec. 13, page 5, line 50, by deleting "*demand,*" and inserting: "*demand and payment of the fee due from the client,*".

Amend sec. 13, page 6, line 3, by deleting "*therefor,*" and inserting "*therefor and payment of the fee due from him,*".

Amend sec. 13, page 6, line 5, by deleting "3" and inserting "5".

Amend sec. 13, page 6, line 11, after the period by inserting: "*If the court finds that the attorney has, without just cause, withheld the client's papers, documents, pleadings or other property, the attorney is liable for costs and attorney's fees.*"

Amend the title of the bill to read: "An Act relating to civil actions; revising certain provisions for the recovery of costs and attorney's fees and for the payment of witnesses' fees; and providing other matters properly relating thereto."

Senator Close moved the adoption of the amendment.

Remarks by Senator Close.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 359.

Bill read second time.

The following amendment was proposed by the Committee on Finance: 1977 Amendment No. 648A.

Amend the bill as a whole by inserting new sections, to be designated as sections 1 and 2, preceding section 1, to read:

"Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. *The division of historic preservation and archeology consists of the administrator, the advisory board for historic preservation and archeology and any other necessary personnel.*

2. *The administrator of the division shall be appointed by and be responsible to the director and shall be in the unclassified service of the state.*

Sec. 2. NRS 232.090 is hereby amended to read as follows:

232.090 The department [shall consist] *consists of:*

1. The division of water resources.
2. The division of state lands.
3. The division of forestry.
4. The division of oil and gas conservation.
5. The division of state parks.
6. The division of conservation districts.
7. The state environmental commission division.



SENATE BILL NO. 263—SENATOR RAGGIO

FEBRUARY 24, 1977

Referred to Committee on Judiciary

SUMMARY—Revises procedures relating to recovery of costs and attorney's fees in civil actions. (BDR 2-758)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to civil actions; revising certain provisions for the recovery of costs and attorney's fees and for the payment of witnesses' fees; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. Chapter 18 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 and 3 of this act.
- 3 SEC. 2. *For the purposes of NRS 18.010 to 18.150, inclusive, the*
- 4 *term "costs" means:*
  - 5 1. *Clerks' fees.*
  - 6 2. *Reporters' fees for discovery depositions, including a reporter's fee*
  - 7 *for one copy of each deposition, if used at trial or at a hearing upon a*
  - 8 *motion, unless the court finds that the deposition was taken at the*
  - 9 *instance of the prevailing party without reason or necessity.*
  - 10 3. *Jurors' fees and expenses, together with reasonable compensation*
  - 11 *of an officer appointed to act in accordance with NRS 16.120.*
  - 12 4. *Fees for witnesses at trial, pretrial hearings and deposing witnesses,*
  - 13 *unless the court finds that the witness was called at the instance of the*
  - 14 *prevailing party without reason or necessity.*
  - 15 5. *Reasonable fees of not more than three expert witnesses in an*
  - 16 *amount of not more than \$250 for each witness.*
  - 17 6. *Reasonable fees of necessary interpreters.*
  - 18 7. *The fee of any sheriff or licensed process server for the delivery*
  - 19 *or service of any summons or subpoena used in the action, unless the*
  - 20 *court determines that the service was not necessary.*
  - 21 8. *The fees of the official reporter or reporter pro tempore.*
  - 22 9. *Reasonable costs for any bond or undertaking required as part of*
  - 23 *the action.*

1     SEC. 3. 1. *An attorney at law shall have a lien upon any claim,*  
2 *demand or cause of action, including any claim for unliquidated dam-*  
3 *ages, which has been placed in his hands by a client for suit or collection,*  
4 *or upon which a suit or other action has been instituted. The lien is for*  
5 *the amount of any fee which has been agreed upon by the attorney and*  
6 *client. In the absence of an agreement, the lien is for a reasonable fee*  
7 *for the services which the attorney has rendered for the client on account*  
8 *of the suit, claim, demand or action.*

9     2. *An attorney perfects his lien by serving notice in writing, in per-*  
10 *son or by certified mail, return receipt requested, upon his client and*  
11 *upon the party against whom his client has a cause of action, claiming*  
12 *the lien and stating the interest which he has in any cause of action.*

13     3. *The lien attaches to any verdict, judgment or decree entered and*  
14 *to any money or property which is recovered on account of the suit or*  
15 *other action, from the time of service of the notices required by this*  
16 *section.*

17     4. *On motion filed by an attorney having a lien under this section,*  
18 *his client or any party who has been served with notice of the lien, the*  
19 *court shall, after 5 days' notice to all interested parties, adjudicate the*  
20 *rights of the attorney, client or other parties and enforce the lien.*

21     5. *Collection of attorney's fees by a lien under this section may be*  
22 *utilized with, after or independently of any other method of collection.*

23     SEC. 4. NRS 18.010 is hereby amended to read as follows:

24     18.010 1. The compensation of an attorney and counselor for his  
25 services is governed by agreement, express or implied, which is not  
26 restrained by law. [From the commencement of an action, or the service  
27 of an answer containing a counterclaim, the attorney who appears for a  
28 party has a lien upon his client's cause of action or counterclaim which  
29 attaches to a verdict, report, decision or judgment in his client's favor  
30 and the proceeds thereof in whosoever hands they may come, and  
31 cannot be affected by any settlement between the parties before or after  
32 judgment. There shall be allowed to the prevailing party in any action, or  
33 special proceeding in the nature of an action, in the supreme court and  
34 district courts, his costs and necessary disbursements in the action or  
35 special proceeding, including:

36     (a) Clerk's fees.

37     (b) Costs of depositions obtained by the prevailing party and used by  
38 him at the trial.

39     (c) Jury fees as provided in NRS 6.150.

40     (d) Witness fees as provided in NRS 50.225, and a reasonable fee of  
41 an interpreter not to exceed \$250.

42     2. The court may allow to the prevailing party the fees of not more  
43 than three expert witnesses in an amount not to exceed \$250 for each  
44 witness.]

45     [3.] 2. The court may make an allowance of attorney's fees to:

46     (a) The plaintiff as prevailing party when the plaintiff has not recov-  
47 ered more than \$10,000; or

48     (b) The counterclaimant as prevailing party when he has not recovered  
49 more than \$10,000; or



1 (c) The defendant as prevailing party when the plaintiff has not sought  
2 recovery in excess of \$10,000.

3 3. *In awarding attorney's fees the court may pronounce its decision on*  
4 *such fees at the conclusion of the trial or special proceeding without writ-*  
5 *ten motion and with or without presentation of additional evidence.*

6 4. *No oral application or written motion for attorney's fees alters the*  
7 *effect of a final judgment entered in the action or the time permitted for*  
8 *an appeal therefrom.*

9 5. *Subsections 2 to 4, inclusive, do not apply to any action arising out*  
10 *of a written instrument or agreement which entitles the prevailing party to*  
11 *an award of reasonable attorney's fees.*

12 SEC. 5. NRS 18.020 is hereby amended to read as follows:

13 18.020 Costs shall be allowed of course to the [plaintiff upon a  
14 judgment in his favor, from any defendant] *prevailing party against any*  
15 *adverse party* against whom judgment is rendered, in the following cases:

16 1. In an action for the recovery of real property.

17 2. In an action to recover the possession of personal property, where  
18 the value of the property amounts to \$300 or over; [such] *the* value  
19 shall be determined by the jury, court or master by whom the action is  
20 tried.

21 3. In an action for the recovery of money or damages, where *the*  
22 plaintiff recovers \$300 or over.

23 4. In a special proceeding.

24 5. In an action which involves the title or possession of real estate,  
25 or the legality of any tax, impost, assessment, toll or municipal fine,  
26 including the costs accrued in [such] *the* action if originally commenced  
27 in a justice court.

28 SEC. 6. NRS 18.050 is hereby amended to read as follows:

29 18.050 In other actions than those mentioned in NRS 18.020, costs  
30 may be allowed or not, and if allowed may be apportioned between the  
31 parties, or on the same or adverse sides, in the discretion of the court,  
32 but no costs shall be allowed in any action for the recovery of money  
33 or damages when the plaintiff recovers less than \$300, nor in any action  
34 to recover the possession of personal property when the value of the  
35 property is less than \$300; provided, that if, in the judgment of the court,  
36 the plaintiff believes he was justified in bringing the action in the dis-  
37 trict court, and he recovers at least \$150 in money or damages, or  
38 personal property of that value, the court may, in its discretion, allow  
39 the plaintiff part or all of his costs. [When there are several defendants  
40 in the actions mentioned in NRS 18.020, not united in interest, and  
41 making separate defenses by separate answers, and the plaintiff fails  
42 to recover judgment against all, the court shall award costs to such of  
43 the defendants as have judgment in their favor.]

44 SEC. 7. NRS 18.070 is hereby amended to read as follows:

45 18.070 1. When an application is made to a court or master to  
46 postpone a trial, the payment of costs, occasioned by the postponement  
47 may be imposed, in the discretion of the court or master, as a condition  
48 of granting the [same.] *postponement.*

49 2. *A court may impose costs and reasonable attorney's fees against*

1 a party or an attorney who, in the judgment of the court, purposely  
2 caused a mistrial to occur.

3 SEC. 8. NRS 18.110 is hereby amended to read as follows:

4 18.110 1. The party in whose favor judgment is rendered, and  
5 who claims his costs, must [deliver to] file with the clerk, and serve  
6 a copy upon the adverse party, within 5 days after [the verdict or  
7 notice of] the entry of judgment, [of the court or master,] or such  
8 further time as the court or judge may grant, a memorandum of the  
9 items of his costs [and necessary disbursements] in the action or pro-  
10 ceeding, which memorandum must be verified by the oath of the party,  
11 or his attorney or agent, or by the clerk of his attorney, stating that to  
12 the best of his knowledge and belief the items are correct, and that the  
13 [disbursements] costs have been necessarily incurred in the action or  
14 proceeding.

15 2. He shall be entitled to recover the witness fees, although at the  
16 time he may not actually have paid them. Issuance or service of subpoena  
17 shall not be necessary to entitle a prevailing party to tax, as costs,  
18 witness fees and mileage, provided that such witnesses be sworn and  
19 testify in the cause.

20 3. It shall not be necessary to embody in the memorandum the fees  
21 of the clerk, but the clerk shall add the same according to his fees fixed  
22 by statute.

23 4. Within 3 days after service of a copy of the memorandum, the  
24 adverse party may move the court, upon 2 days' notice, to retax and  
25 settle the costs, notice of which motion shall be filed and served on the  
26 prevailing party claiming costs. Upon the hearing of the motion the court  
27 or judge [in chambers] shall settle the costs.

28 SEC. 9. NRS 18.150 is hereby amended to read as follows:

29 18.150 1. When the state is a party, and costs or attorney's fees are  
30 awarded against it, they must be paid out of the state treasury.

31 2. When a county is a party, and costs or attorney's fees are awarded  
32 against it, they must be paid out of the county treasury.

33 SEC. 10. Chapter 7 of NRS is hereby amended by adding thereto a  
34 new section which shall read as follows:

35 1. An attorney who has been discharged by his client shall, upon  
36 demand and payment of the fee due from the client, immediately deliver  
37 to the client all papers, documents, pleadings and items of tangible per-  
38 sonal property which belong to or were prepared for that client.

39 2. A client who, after demand therefor and payment of the fee due  
40 from him, does not receive from his discharged attorney all papers, docu-  
41 ments, pleadings and items of tangible personal property may, by a motion  
42 filed after at least 5 days' notice to the attorney, obtain an order for the  
43 production of his papers, documents, pleadings and other property. If the  
44 court finds that an attorney has, without just cause, refused or neglected to  
45 obey its order given under this section, the court may, after notice and  
46 hearing, adjudge the attorney guilty of contempt and may fine or imprison  
47 him until the contempt is purged. If the court finds that the attorney has,  
48 without just cause, withheld the client's papers, documents, pleadings or  
49 other property, the attorney is liable for costs and attorney's fees.

50 3. An attorney who is in doubt as to the ownership of papers,

1 documents, pleadings or other property may deposit the materials with  
2 the clerk of the court. The clerk shall immediately seal the materials to  
3 protect the privacy and privilege of the clients and interested persons  
4 and notify each interested person of the deposit. Upon a petition filed  
5 by a client or other interested person, any court shall, after giving at  
6 least 5 days' notice to all other interested persons, adjudicate the rights  
7 of persons claiming an interest in the materials and make necessary  
8 orders under the circumstances of the case.

9 SEC. 11. NRS 50.225 is hereby amended to read as follows:

10 50.225 Witnesses required to attend in the courts of this state  
11 **[shall]** are entitled to receive the following compensation:

12 1. For attending in any criminal case, or civil suit or proceeding  
13 before a court of record, master, commissioner, justice of the peace, or  
14 before the grand jury, in obedience to a subpoena, \$15 for each day's  
15 attendance, which shall include Sundays and holidays.

16 2. Mileage shall be allowed and paid at the rate of 15 cents a mile,  
17 one way only, for each mile necessarily and actually traveled from the  
18 place of residence by the shortest and most practical route, **[provided:]**  
19 *but:*

20 (a) **[That no]** A person shall *not* be obliged to testify in a civil  
21 action or proceeding unless his mileage and at least 1 day's fees have  
22 been paid him **[if he demanded the same.]** ; *and*

23 (b) **[That any]** Any person **[being]** in attendance at the trial and  
24 sworn as a witness **[shall be]** is entitled to witness fees irrespective of  
25 service of subpoena.

26 3. Witness fees in civil cases shall be taxed as disbursement costs  
27 against the defeated party upon proof by affidavit that they have been  
28 actually incurred. Costs shall not be allowed for more than two witnesses  
29 to the same fact or series of facts, nor shall a party plaintiff or defendant  
30 be allowed any fees or mileage for attendance as a witness in his own  
31 behalf.

32 SEC. 12. NRS 18.040, 18.045 and 18.100 are hereby repealed.

Senate Bill No. 139 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 263.

Bill read third time.

Remarks by Senator Close.

Roll call on Senate Bill No. 263:

YEAS—20.

NAYS—None.

Senate Bill No. 263 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 359.

Bill read third time.

Remarks by Senators Bryan and Wilson.

Roll call on Senate Bill No. 359:

YEAS—20.

NAYS—None.

Senate Bill No. 359 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 458.

Bill read third time.

Remarks by Senators Neal and Gibson.

Roll call on Senate Bill No. 458:

YEAS—19.

NAYS—Neal.

Senate Bill No. 458 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 21.

Bill read third time.

Roll call on Assembly Bill No. 21:

YEAS—18.

NAYS—Echols.

Not voting—Foote.

Assembly Bill No. 21 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 147.

Bill read third time.

Remarks by Senators Wilson, Dodge and Schofield.

Roll call on Assembly Bill No. 147:

YEAS—20.

NAYS—None.

Assembly Bill No. 147 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.



## MINUTES

ASSEMBLY JUDICIARY COMMITTEE  
April 21, 1977

Members Present: Chairman Barengo  
Assemblyman Hayes  
Assemblyman Banner  
Assemblyman Coulter  
Assemblyman Polish  
Assemblyman Price  
Assemblyman Sena  
Assemblyman Ross  
Assemblyman Wagner

Chairman Barengo called the meeting to order at 7:20 a.m.  
Those wishing to testify were sworn before giving testimony.

AB 744: Tom Moore, representing Clark County, was first to testify on this bill and he stated this bill was directed to the clarification of language in regard to the fees for appointed attorneys who represent indigents. He said this stems from a series of cases taken to the Supreme court of Nevada by Clark County and trying to comply with the federal statutes in this area. He stated that this would change the language from "unusual" to extraordinary circumstances so that it could be referenced in case law. He then explained the bill and some of the minor changes to it. He pointed out that they wished to have an amendment to subsection three so that it would read: "shall be paid a fee which shall not..." which they felt would eliminate any possibility of state impact.

In answer to a question from Mrs. Wagner, Mr. Moore stated that under common law a lawyer does not have a right to a fee for representing an indigent because it is an incident of his license to practice law and therefore those fees must be granted and set out statutorially by the legislature. He stated that between 1969 and 1975 there was a maximum on those fees of \$1,000 and then in 1975 that was raised to \$2,500, and above that a right to exceed that amount in unusual circumstances. Discussion followed on the different fees provided in the bill and Mr. Moore stated that they are not revising the fee schedule they are simply clarifying when those fees are to be paid and for what purposes. He stated that they recently had a case in Clark County where two attorneys were assigned to a very difficult case and the total fee came to approximately \$25,000 therefore, they are currently providing for payment in these kinds of difficult cases and they are not trying to change that with anything in this bill.

Mr. Moore stated that in subsection 4 the term extraordinary circumstances is defined to mean financial burdens and hardships far in excess of those normally found in the defense of an indigent person and comes from case law. He also pointed out that the new language in 4(b), page two is the codification of past case law. This subsection would also provide for the next judge of seniority would have the responsibility if the chief judge were the trial judge.



ASSEMBLY JUDICIARY COMMITTEE

April 21, 1977

Page Three

AB 160 and read it to the committee. The amendment is attached and marked Exhibit C. He stated that the amendment was agreed to by all the parties involved and they had stated that if it did not work they would come back in two years and change it. No direct action was taken on the amendment during the meeting.

AB 355: Chairman Barengo also introduced to the committee an amendment to this bill which is attached and marked Exhibit D. Mr. Bob Faiss also addressed the committee on this change and his remarks are attached and marked Exhibit E.

Chairman Barengo stated that he would have Bud Hicks come to the committee to comment on the amendment at the first available time.

SB 263: Senator Close testified first on this bill and stated that section one was basically the same as existing law. He stated that it has been changed to include reimbursement for the deposition, even if it is not used in the trial itself and this is on line seven of the bill. He also stated that they have included payment for interpreters. He also stated that they have expanded, on line 18, the current law to pay for service by a licensed process server.

He stated that Judge Thompson had suggested this bill because of problems which they were experiencing in that area and this bill would help clarify what was and was not covered as far as costs were concerned.

He pointed out that this bill provide a means by which an attorney could enforce a lien on a clients file by placing that lien on the judgement from the trial.

Senator Close then explained to the committee the portion of the bill which provides for proration of fees in the case an attorney takes the trial to the point which approximate the ceiling on fees and then deliberately causes a mistrial so that he can end the trial. He stated to the committee that this bill is not an attorney fee bill. He also pointed out that they really had not significantly changed existing law in this bill, but had, indeed, clarified it.

SB 506: Senator Close stated that this bill would provide that mobile homes would be included in the homestead provisions where they were not included at this time.

Mrs. Wagner pointed out that due to the scarcity of housing available, mobile homes are now beginning to appreciate as regular homes do, yet they are still taxed as personal property.

Senator Close also pointed out that this bill would provide that a single person could get a homestead filed on the property, and this was covered on lines 1 and 2 of page 2, if they are responsible for minor children.

ASSEMBLY JUDICIARY COMMITTEE

April 28, 1977

Members Present: Chairman Barengo  
Assemblyman Hayes  
Assemblyman Banner  
Assemblyman Coulter  
Assemblyman Polish  
Assemblyman Price  
Assemblyman Ross  
Assemblyman Sena  
Assemblyman Wagner

The meeting was called to order at 8:10 a.m. by Chairman Barengo. All witnesses wishing to testify were sworn before testifying.

SB 455: Justice of the Peace, Robert Miller of Clark County testified on this bill stating that it was very important to their office to increase the number of justices in their area because of the increasing case load. And, he stated, though he was in favor of the bill as it was originally introduced, stipulating 2 new justices, he felt this bill would be a move in the right direction. He presented to the committee a package of statistics concerning his area and their case load and that is attached and marked Exhibit A.

Mr. Tom Moore stated that both the District Attorney's office and the Clark County commissioners were in favor of the bill.

COMMITTEE ACTION:

SB 268: Mr. Ross introduced an amendment to the bill which would delete section 6 and also make conspiracy to sell marijuana a gross misdemeanor. Mr. Ross moved for a Do Pass as Amended. Mrs. Hayes seconded the motion and it carried.

AB 387: Mr. Ross made a motion to reconsider this bill. Mr. Sena seconded the motion and it carried. Mr. Ross read to the committee amendment 1078A which he proposed to the bill. Mr. Ross moved for a Do Pass as Amended. Mr. Sena seconded the motion and it carried.

AB 160: Chairman Barengo introduced to the committee and amendment on this bill and the committee concurred with the amendment and it will be added to the bill which is on the Chief Clerk's Desk.

SB 455: Mrs. Hayes moved for a Do Pass. Mr. Sena seconded the motion and it carried.

AB 355: Chairman Barengo stated to the committee that he felt the committee should include the amendment which would make this effective on passage and let the Senate side decide on the other amendments which had been proposed, the committee concurred. Mr. Ross moved for a Do Pass as Amended. Mr. Sena seconded the motion and it carried.

AB 10: This bill was merged with SB 220 and therefore no action was taken.

ASSEMBLY JUDICIARY COMMITTEE

April 28, 1977

Page Three

SB 394: Mr. Ross moved a Do Pass. Mrs. Wagner seconded the motion and it carried.

SB 386: Mr. Ross moved for a Do Pass as Amended. Mr. Sena seconded the motion and it carried. Mrs. Hayes did not vote.

SB 263: Mr. Ross proposed an amendment which would insert a period after the word deposition and deleting the balance of the section. Mrs. Hayes moved for Do Pass as Amended. Mr. Ross seconded the motion and it carried.

Chairman Barengo gave out to the committee copies of a letter from Stephen Boland, Deputy AG, concerning SB 152 and a copy of is attached and marked Exhibit B.

For the record the following votes were redone:

AB 24: Mr. Banner moved for a Do Pass. Mr. Sena seconded the motion and it carried. (Originally voted out on 3/29/77.)

AB 517: Mr. Sena moved for a Do Pass. Mr. Coulter seconded the motion and it carried. (Originally voted out on 4/12/77.)

SB 89: Mr. Sena moved for a Do Pass as Amended. Mr. Polish seconded the motion and it carried. (Originally voted out on 4/22/77.)

There being no further business, the meeting was adjourned at 10:30 a.m.

Respectfully submitted,



Linda Chandler, Secretary

boards; permitting the members of the district board to exercise certain powers;".

Assemblyman Murphy moved the adoption of the amendment.

Remarks by Assemblyman Weise.

Amendment lost.

Bill ordered to third reading.

Senate Bill No. 263.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1190A.

Amend sec. 2, page 1, line 6, by deleting "*discovery*".

Amend sec. 2, page 1, by deleting lines 7 through 9 and inserting: "*for one copy of each deposition.*"

Assemblyman Barengo moved the adoption of the amendment.

Remarks by Assemblyman Barengo.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 273.

Bill read second time and ordered to third reading.

Senate Bill No. 366.

Bill read second time and ordered to third reading.

Senate Bill No. 413.

Bill read second time.

The following amendment was proposed by the Committee on Commerce:

Amendment No. 1091A.

Amend sec. 14, page 6, lines 46 and 47, by deleting "*examination,*" and inserting "*investigation,*".

Assemblyman Demers moved the adoption of the amendment.

Remarks by Assemblyman Demers.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 437.

Bill read second time and ordered to third reading.

Senate Bill No. 439.

Bill read second time and ordered to third reading.

Senate Bill No. 447.

Bill read second time and ordered to third reading.

Senate Bill No. 467.

Bill read second time and ordered to third reading.

Senate Bill No. 480.

Bill read second time and ordered to third reading.

Senate Bill No. 511.

Bill read second time.



SENATE BILL NO. 263—SENATOR RAGGIO

FEBRUARY 24, 1977

Referred to Committee on Judiciary

SUMMARY—Revises procedures relating to recovery of costs and attorney's fees in civil actions. (BDR 2-758)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to civil actions; revising certain provisions for the recovery of costs and attorney's fees and for the payment of witnesses' fees; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. Chapter 18 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 and 3 of this act.
- 3 SEC. 2. *For the purposes of NRS 18.010 to 18.150, inclusive, the*
- 4 *term "costs" means:*
- 5 1. *Clerks' fees.*
- 6 2. *Reporters' fees for depositions, including a reporter's fee for one*
- 7 *copy of each deposition.*
- 8 3. *Jurors' fees and expenses, together with reasonable compensation*
- 9 *of an officer appointed to act in accordance with NRS 16.120.*
- 10 4. *Fees for witnesses at trial, pretrial hearings and deposing witnesses,*
- 11 *unless the court finds that the witness was called at the instance of the*
- 12 *prevailing party without reason or necessity.*
- 13 5. *Reasonable fees of not more than three expert witnesses in an*
- 14 *amount of not more than \$250 for each witness.*
- 15 6. *Reasonable fees of necessary interpreters.*
- 16 7. *The fee of any sheriff or licensed process server for the delivery*
- 17 *or service of any summons or subpoena used in the action, unless the*
- 18 *court determines that the service was not necessary.*
- 19 8. *The fees of the official reporter or reporter pro tempore.*
- 20 9. *Reasonable costs for any bond or undertaking required as part of*
- 21 *the action.*
- 22 SEC. 3. 1. *An attorney at law shall have a lien upon any claim,*
- 23 *demand or cause of action, including any claim for unliquidated dam-*
- 24 *ages, which has been placed in his hands by a client for suit or collection,*



1 *or upon which a suit or other action has been instituted. The lien is for*  
2 *the amount of any fee which has been agreed upon by the attorney and*  
3 *client. In the absence of an agreement, the lien is for a reasonable fee*  
4 *for the services which the attorney has rendered for the client on account*  
5 *of the suit, claim, demand or action.*

6 2. *An attorney perfects his lien by serving notice in writing, in per-*  
7 *son or by certified mail, return receipt requested, upon his client and*  
8 *upon the party against whom his client has a cause of action, claiming*  
9 *the lien and stating the interest which he has in any cause of action.*

10 3. *The lien attaches to any verdict, judgment or decree entered and*  
11 *to any money or property which is recovered on account of the suit or*  
12 *other action, from the time of service of the notices required by this*  
13 *section.*

14 4. *On motion filed by an attorney having a lien under this section,*  
15 *his client or any party who has been served with notice of the lien, the*  
16 *court shall, after 5 days' notice to all interested parties, adjudicate the*  
17 *rights of the attorney, client or other parties and enforce the lien.*

18 5. *Collection of attorney's fees by a lien under this section may be*  
19 *utilized with, after or independently of any other method of collection.*

20 SEC. 4. NRS 18.010 is hereby amended to read as follows:

21 18.010 1. The compensation of an attorney and counselor for his  
22 services is governed by agreement, express or implied, which is not  
23 restrained by law. [From the commencement of an action, or the service  
24 of an answer containing a counterclaim, the attorney who appears for a  
25 party has a lien upon his client's cause of action or counterclaim which  
26 attaches to a verdict, report, decision or judgment in his client's favor  
27 and the proceeds thereof in whosoever hands they may come, and  
28 cannot be affected by any settlement between the parties before or after  
29 judgment. There shall be allowed to the prevailing party in any action, or  
30 special proceeding in the nature of an action, in the supreme court and  
31 district courts, his costs and necessary disbursements in the action or  
32 special proceeding, including:

33 (a) Clerk's fees.

34 (b) Costs of depositions obtained by the prevailing party and used by  
35 him at the trial.

36 (c) Jury fees as provided in NRS 6.150.

37 (d) Witness fees as provided in NRS 50.225, and a reasonable fee of  
38 an interpreter not to exceed \$250.

39 2. The court may allow to the prevailing party the fees of not more  
40 than three expert witnesses in an amount not to exceed \$250 for each  
41 witness.]

42 [3.] 2. The court may make an allowance of attorney's fees to:

43 (a) The plaintiff as prevailing party when the plaintiff has not recov-  
44 ered more than \$10,000; or

45 (b) The counterclaimant as prevailing party when he has not recovered  
46 more than \$10,000; or

47 (c) The defendant as prevailing party when the plaintiff has not sought  
48 recovery in excess of \$10,000.

49 3. *In awarding attorney's fees the court may pronounce its decision on*

1 *such fees at the conclusion of the trial or special proceeding without writ-*  
2 *ten motion and with or without presentation of additional evidence.*

3 4. *No oral application or written motion for attorney's fees alters the*  
4 *effect of a final judgment entered in the action or the time permitted for*  
5 *an appeal therefrom.*

6 5. *Subsections 2 to 4, inclusive, do not apply to any action arising out*  
7 *of a written instrument or agreement which entitles the prevailing party to*  
8 *an award of reasonable attorney's fees.*

9 SEC. 5. NRS 18.020 is hereby amended to read as follows:

10 18.020 Costs shall be allowed of course to the [plaintiff upon a  
11 judgment in his favor, from any defendant] *prevailing party against any*  
12 *adverse party* against whom judgment is rendered, in the following cases:

13 1. In an action for the recovery of real property.

14 2. In an action to recover the possession of personal property, where  
15 the value of the property amounts to \$300 or over; [such] *the* value  
16 shall be determined by the jury, court or master by whom the action is  
17 tried.

18 3. In an action for the recovery of money or damages, where *the*  
19 plaintiff recovers \$300 or over.

20 4. In a special proceeding.

21 5. In an action which involves the title or possession of real estate,  
22 or the legality of any tax, impost, assessment, toll or municipal fine,  
23 including the costs accrued in [such] *the* action if originally commenced  
24 in a justice court.

25 SEC. 6. NRS 18.050 is hereby amended to read as follows:

26 18.050 In other actions than those mentioned in NRS 18.020, costs  
27 may be allowed or not, and if allowed may be apportioned between the  
28 parties, or on the same or adverse sides, in the discretion of the court,  
29 but no costs shall be allowed in any action for the recovery of money  
30 or damages when the plaintiff recovers less than \$300, nor in any action  
31 to recover the possession of personal property when the value of the  
32 property is less than \$300; provided, that if, in the judgment of the court,  
33 the plaintiff believes he was justified in bringing the action in the dis-  
34 trict court, and he recovers at least \$150 in money or damages, or  
35 personal property of that value, the court may, in its discretion, allow  
36 the plaintiff part or all of his costs. [When there are several defendants  
37 in the actions mentioned in NRS 18.020, not united in interest, and  
38 making separate defenses by separate answers, and the plaintiff fails  
39 to recover judgment against all, the court shall award costs to such of  
40 the defendants as have judgment in their favor.]

41 SEC. 7. NRS 18.070 is hereby amended to read as follows:

42 18.070 1. When an application is made to a court or master to  
43 postpone a trial, the payment of costs, occasioned by the postponement  
44 may be imposed, in the discretion of the court or master, as a condition  
45 of granting the [same.] *postponement.*

46 2. *A court may impose costs and reasonable attorney's fees against*  
47 *a party or an attorney who, in the judgment of the court, purposely*  
48 *caused a mistrial to occur.*

49 SEC. 8. NRS 18.110 is hereby amended to read as follows:

50 18.110 1. The party in whose favor judgment is rendered, and

1 who claims his costs, must [deliver to] *file with* the clerk, and serve  
2 a copy upon the adverse party, within 5 days after [the verdict or  
3 notice of] the entry of judgment, [of the court or master,] or such  
4 further time as the court or judge may grant, a memorandum of the  
5 items of his costs [and necessary disbursements] in the action or pro-  
6 ceeding, which memorandum must be verified by the oath of the party,  
7 or his attorney or agent, or by the clerk of his attorney, stating that to  
8 the best of his knowledge and belief the items are correct, and that the  
9 [disbursements] costs have been necessarily incurred in the action or  
10 proceeding.

11 2. He shall be entitled to recover the witness fees, although at the  
12 time he may not actually have paid them. Issuance or service of subpoena  
13 shall not be necessary to entitle a prevailing party to tax, as costs,  
14 witness fees and mileage, provided that such witnesses be sworn and  
15 testify in the cause.

16 3. It shall not be necessary to embody in the memorandum the fees  
17 of the clerk, but the clerk shall add the same according to his fees fixed  
18 by statute.

19 4. Within 3 days after service of a copy of the memorandum, the  
20 adverse party may move the court, upon 2 days' notice, to retax and  
21 settle the costs, notice of which motion shall be filed and served on the  
22 prevailing party claiming costs. Upon the hearing of the motion the court  
23 or judge [in chambers] shall settle the costs.

24 SEC. 9. NRS 18.150 is hereby amended to read as follows:

25 18.150 1. When the state is a party, and costs or attorney's fees are  
26 awarded against it, they must be paid out of the state treasury.

27 2. When a county is a party, and costs or attorney's fees are awarded  
28 against it, they must be paid out of the county treasury.

29 SEC. 10. Chapter 7 of NRS is hereby amended by adding thereto a  
30 new section which shall read as follows:

31 1. *An attorney who has been discharged by his client shall, upon*  
32 *demand and payment of the fee due from the client, immediately deliver*  
33 *to the client all papers, documents, pleadings and items of tangible per-*  
34 *sonal property which belong to or were prepared for that client.*

35 2. *A client who, after demand therefor and payment of the fee due*  
36 *from him, does not receive from his discharged attorney all papers, docu-*  
37 *ments, pleadings and items of tangible personal property may, by a motion*  
38 *filed after at least 5 days' notice to the attorney, obtain an order for the*  
39 *production of his papers, documents, pleadings and other property. If the*  
40 *court finds that an attorney has, without just cause, refused or neglected to*  
41 *obey its order given under this section, the court may, after notice and*  
42 *hearing, adjudge the attorney guilty of contempt and may fine or imprison*  
43 *him until the contempt is purged. If the court finds that the attorney has,*  
44 *without just cause, withheld the client's papers, documents, pleadings or*  
45 *other property, the attorney is liable for costs and attorney's fees.*

46 3. *An attorney who is in doubt as to the ownership of papers,*  
47 *documents, pleadings or other property may deposit the materials with*  
48 *the clerk of the court. The clerk shall immediately seal the materials to*  
49 *protect the privacy and privilege of the clients and interested persons*  
50 *and notify each interested person of the deposit. Upon a petition filed*



1 *by a client or other interested person, any court shall, after giving at*  
2 *least 5 days' notice to all other interested persons, adjudicate the rights*  
3 *of persons claiming an interest in the materials and make necessary*  
4 *orders under the circumstances of the case.*

5 SEC. 11. NRS 50.225 is hereby amended to read as follows:

6 50.225 Witnesses required to attend in the courts of this state  
7 **[shall]** *are entitled to* receive the following compensation:

8 1. For attending in any criminal case, or civil suit or proceeding  
9 before a court of record, master, commissioner, justice of the peace, or  
10 before the grand jury, in obedience to a subpoena, \$15 for each day's  
11 attendance, which shall include Sundays and holidays.

12 2. Mileage shall be allowed and paid at the rate of 15 cents a mile,  
13 one way only, for each mile necessarily and actually traveled from the  
14 place of residence by the shortest and most practical route, **[provided:]**  
15 *but:*

16 (a) **[That no]** *A* person shall *not* be obliged to testify in a civil  
17 action or proceeding unless his mileage and at least 1 day's fees have  
18 been paid him **[if he demanded the same.]** ; *and*

19 (b) **[That any]** *Any* person **[being]** in attendance at the trial and  
20 sworn as a witness **[shall be]** *is* entitled to witness fees irrespective of  
21 service of subpoena.

22 3. Witness fees in civil cases shall be taxed as disbursement costs  
23 against the defeated party upon proof by affidavit that they have been  
24 actually incurred. Costs shall not be allowed for more than two witnesses  
25 to the same fact or series of facts, nor shall a party plaintiff or defendant  
26 be allowed any fees or mileage for attendance as a witness in his own  
27 behalf.

28 SEC. 12. NRS 18.040, 18.045 and 18.100 are hereby repealed.

Senate Bill No. 185.  
Bill read third time.  
Remarks by Assemblyman Sena.  
Roll call on Senate Bill No. 185:  
YEAS—35.  
NAYS—Goodman.  
Absent—Bennett, Brookman—2.  
Not voting—Robinson.  
Vacancy—1.

Senate Bill No. 185 having received a constitutional majority, Mr. Speaker declared it passed, as amended.  
Bill ordered transmitted to the Senate.

Senate Bill No. 263.  
Bill read third time.  
Remarks by Assemblyman Barengo.  
Roll call on Senate Bill No. 263:  
YEAS—37.  
NAYS—None  
Absent—Bennett, Brookman—2.  
Vacancy—1.

Senate Bill No. 263 having received a constitutional majority, Mr. Speaker declared it passed, as amended.  
Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman May moved that Senate Bill No. 326 be taken from the General File and placed on the Chief Clerk's desk.  
Remarks by Assemblyman May.  
Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 386.  
Bill read third time.  
Remarks by Assemblyman Wagner.  
Roll call on Senate Bill No. 386:  
YEAS—36.  
NAYS—None  
Absent—Bennett, Brookman—2.  
Not voting—Hayes.  
Vacancy—1.

Senate Bill No. 386 having received a constitutional majority, Mr. Speaker declared it passed, as amended.  
Bill ordered transmitted to the Senate.

Senate Bill No. 413.  
Bill read third time.  
Remarks by Assemblyman Barengo.  
Roll call on Senate Bill No. 413:  
YEAS—37.  
NAYS—None.  
Absent—Bennett, Brookman—2.  
Vacancy—1.



SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

MAY 2, 1977

Meeting was called to order at 8:07 a.m. Senator Close was in the Chair.

PRESENT: Senator Close  
Senator Bryan  
Senator Ashworth  
Senator Dodge  
Senator Foote  
Senator Sheerin

ABSENT: Senator Gojack

AB 621 Changes qualifications of certain judicial officers.

Dave Frank stated that this amends the qualifications for District Court Judges and Supreme Court Justices. To bar anyone removed from judicial office from either being elected or appointed to either one of those offices. It is also in response to Constitutional amendments passed on the November ballot. It is directed at the question of what effect removal from judicial office should have, if any.

Senator Close questioned why we should do this, if the people elect him again even though he had been removed from office.

Mr. Frank stated there is the possibility that a bad judge can run a very good campaign. Also there is the possibility of the revolving door problem, where he is elected and finds himself running right into the same problems that got him removed in the first place.

Senator Sheerin stated the whole reason for the judicial review system is that the people don't know what a good judge is, or what a bad judge is. So if you want to put this back in, let's do away with the whole system.

Senator Dodge stated the people passed a Constitutional amendment and it seems to him the judgment and validity to that process, and the judgment of the discipline commission should justify this provision.

Mr. Frank stated it is a policy question. The amendment does not address as to what effect removal has and should it disqualify him from holding judicial office.

Senator Sheerin moved do pass.  
Seconded by Senator Dodge.  
Motion carried unanimously.

MINUTES OF MEETING

MAY ~~APRIL~~ 2, 1977

PAGE TEN

As they had to go into session Senator Close stated they would continue this as soon as they recessed. He had some amendments he wanted to go over quickly with the Committee.

SB 386 Prohibits judges who are removed from office from exercising judicial duties.

Page 2 line 6, delete "death". Committee concurred unanimously with amendment #1117.

SB 263 Revises procedures relating to recovery of costs and attorney's fees in civil actions.

Page 1 line 17 delete "discovery". Lines 7 thru 9 delete and insert "for one copy of each deposition". Committee concurred unanimously with amendment #1190.

SB 54 Authorizes payment of lodging allowances to jurors under certain circumstances.

Page 1 line 17 delete "75 miles" and insert "50 miles".  
Page 1 delete line 19 and insert "to receive a reasonable room rate in addition to daily requirements". The Committee stated that the second amendment was not their intent and they refused to concur with amendment #1187.

SB 185 Provides for retention of and access to certain medical records.

Page 2 lines 5 and 6, insert under section B "any authorized representative". The Committee felt this broadend their intent and refused to concur with amendment #396-A.

The meeting was adjourned at 10:00 a.m.

Respectfully submitted,

APPROVED:

  
Virginia C. Letts, Secretary

MELVIN D. CLOSE, JR. CHAIRMAN

Senate Bill No. 263—Senator Raggio

## CHAPTER 401

AN ACT relating to civil actions; revising certain provisions for the recovery of costs and attorney's fees and for the payment of witnesses' fees; and providing other matters properly relating thereto.

[Approved May 7, 1977]

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

SECTION 1. Chapter 18 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

SEC. 2. *For the purposes of NRS 18.010 to 18.150, inclusive, the term "costs" means:*

- 1. Clerks' fees.*
- 2. Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.*
- 3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.*
- 4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.*
- 5. Reasonable fees of not more than three expert witnesses in an amount of not more than \$250 for each witness.*
- 6. Reasonable fees of necessary interpreters.*
- 7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.*
- 8. The fees of the official reporter or reporter pro tempore.*
- 9. Reasonable costs for any bond or undertaking required as part of the action.*

SEC. 3. *1. An attorney at law shall have a lien upon any claim, demand or cause of action, including any claim for unliquidated damages, which has been placed in his hands by a client for suit or collection, or upon which a suit or other action has been instituted. The lien is for the amount of any fee which has been agreed upon by the attorney and client. In the absence of an agreement, the lien is for a reasonable fee for the services which the attorney has rendered for the client on account of the suit, claim, demand or action.*

*2. An attorney perfects his lien by serving notice in writing, in person or by certified mail, return receipt requested, upon his client and upon the party against whom his client has a cause of action, claiming the lien and stating the interest which he has in any cause of action.*

*3. The lien attaches to any verdict, judgment or decree entered and to any money or property which is recovered on account of the suit or other action, from the time of service of the notices required by this section.*

*4. On motion filed by an attorney having a lien under this section, his client or any party who has been served with notice of the lien, the*

*court shall, after 5 days' notice to all interested parties, adjudicate the rights of the attorney, client or other parties and enforce the lien.*

*5. Collection of attorney's fees by a lien under this section may be utilized with, after or independently of any other method of collection.*

SEC. 4. NRS 18.010 is hereby amended to read as follows:

18.010 1. The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law. [From the commencement of an action, or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon his client's cause of action or counterclaim which attaches to a verdict, report, decision or judgment in his client's favor and the proceeds thereof in whosoever hands they may come, and cannot be affected by any settlement between the parties before or after judgment. There shall be allowed to the prevailing party in any action, or special proceeding in the nature of an action, in the supreme court and district courts, his costs and necessary disbursements in the action or special proceeding, including:

(a) Clerk's fees.

(b) Costs of depositions obtained by the prevailing party and used by him at the trial.

(c) Jury fees as provided in NRS 6.150.

(d) Witness fees as provided in NRS 50.225, and a reasonable fee of an interpreter not to exceed \$250.

2. The court may allow to the prevailing party the fees of not more than three expert witnesses in an amount not to exceed \$250 for each witness.]

[3.] 2. The court may make an allowance of attorney's fees to:

(a) The plaintiff as prevailing party when the plaintiff has not recovered more than \$10,000; or

(b) The counterclaimant as prevailing party when he has not recovered more than \$10,000; or

(c) The defendant as prevailing party when the plaintiff has not sought recovery in excess of \$10,000.

3. *In awarding attorney's fees the court may pronounce its decision on such fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.*

4. *No oral application or written motion for attorney's fees alters the effect of a final judgment entered in the action or the time permitted for an appeal therefrom.*

5. *Subsections 2 to 4, inclusive, do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.*

SEC. 5. NRS 18.020 is hereby amended to read as follows:

18.020 Costs shall be allowed of course to the [plaintiff upon a judgment in his favor, from any defendant] *prevailing party against any adverse party* against whom judgment is rendered, in the following cases:

1. In an action for the recovery of real property.

2. In an action to recover the possession of personal property, where the value of the property amounts to \$300 or over; [such] *the* value shall be determined by the jury, court or master by whom the action is tried.



3. In an action for the recovery of money or damages, where *the* plaintiff recovers \$300 or over.

4. In a special proceeding.

5. In an action which involves the title or possession of real estate, or the legality of any tax, impost, assessment, toll or municipal fine, including the costs accrued in **[such]** *the* action if originally commenced in a justice court.

SEC. 6. NRS 18.050 is hereby amended to read as follows:

18.050 In other actions than those mentioned in NRS 18.020, costs may be allowed or not, and if allowed may be apportioned between the parties, or on the same or adverse sides, in the discretion of the court, but no costs shall be allowed in any action for the recovery of money or damages when the plaintiff recovers less than \$300, nor in any action to recover the possession of personal property when the value of the property is less than \$300; provided, that if, in the judgment of the court, the plaintiff believes he was justified in bringing the action in the district court, and he recovers at least \$150 in money or damages, or personal property of that value, the court may, in its discretion, allow the plaintiff part or all of his costs. **[When there are several defendants in the actions mentioned in NRS 18.020, not united in interest, and making separate defenses by separate answers, and the plaintiff fails to recover judgment against all, the court shall award costs to such of the defendants as have judgment in their favor.]**

SEC. 7. NRS 18.070 is hereby amended to read as follows:

18.070 1. When an application is made to a court or master to postpone a trial, the payment of costs, occasioned by the postponement may be imposed, in the discretion of the court or master, as a condition of granting the **[same.]** *postponement*.

2. *A court may impose costs and reasonable attorney's fees against a party or an attorney who, in the judgment of the court, purposely caused a mistrial to occur.*

SEC. 8. NRS 18.110 is hereby amended to read as follows:

18.110 1. The party in whose favor judgment is rendered, and who claims his costs, must **[deliver to]** *file with* the clerk, and serve a copy upon the adverse party, within 5 days after **[the verdict or notice of]** the entry of judgment, **[of the court or master,]** or such further time as the court or judge may grant, a memorandum of the items of his costs **[and necessary disbursements]** in the action or proceeding, which memorandum must be verified by the oath of the party, or his attorney or agent, or by the clerk of his attorney, stating that to the best of his knowledge and belief the items are correct, and that the **[disbursements]** *costs* have been necessarily incurred in the action or proceeding.

2. He shall be entitled to recover the witness fees, although at the time he may not actually have paid them. Issuance or service of subpoena shall not be necessary to entitle a prevailing party to tax, as costs, witness fees and mileage, provided that such witnesses be sworn and testify in the cause.

3. It shall not be necessary to embody in the memorandum the fees of the clerk, but the clerk shall add the same according to his fees fixed by statute.



4. Within 3 days after service of a copy of the memorandum, the adverse party may move the court, upon 2 days' notice, to retax and settle the costs, notice of which motion shall be filed and served on the prevailing party claiming costs. Upon the hearing of the motion the court or judge [in chambers] shall settle the costs.

SEC. 9. NRS 18.150 is hereby amended to read as follows:

18.150 1. When the state is a party, and costs or attorney's fees are awarded against it, they must be paid out of the state treasury.

2. When a county is a party, and costs or attorney's fees are awarded against it, they must be paid out of the county treasury.

SEC. 10. Chapter 7 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. *An attorney who has been discharged by his client shall, upon demand and payment of the fee due from the client, immediately deliver to the client all papers, documents, pleadings and items of tangible personal property which belong to or were prepared for that client.*

2. *A client who, after demand therefor and payment of the fee due from him, does not receive from his discharged attorney all papers, documents, pleadings and items of tangible personal property may, by a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers, documents, pleadings and other property. If the court finds that an attorney has, without just cause, refused or neglected to obey its order given under this section, the court may, after notice and hearing, adjudge the attorney guilty of contempt and may fine or imprison him until the contempt is purged. If the court finds that the attorney has, without just cause, withheld the client's papers, documents, pleadings or other property, the attorney is liable for costs and attorney's fees.*

3. *An attorney who is in doubt as to the ownership of papers, documents, pleadings or other property may deposit the materials with the clerk of the court. The clerk shall immediately seal the materials to protect the privacy and privilege of the clients and interested persons and notify each interested person of the deposit. Upon a petition filed by a client or other interested person, any court shall, after giving at least 5 days' notice to all other interested persons, adjudicate the rights of persons claiming an interest in the materials and make necessary orders under the circumstances of the case.*

SEC. 11. NRS 50.225 is hereby amended to read as follows:

50.225 Witnesses required to attend in the courts of this state [shall] *are entitled to receive the following compensation:*

1. For attending in any criminal case, or civil suit or proceeding before a court of record, master, commissioner, justice of the peace, or before the grand jury, in obedience to a subpoena, \$15 for each day's attendance, which shall include Sundays and holidays.

2. Mileage shall be allowed and paid at the rate of 15 cents a mile, one way only, for each mile necessarily and actually traveled from the place of residence by the shortest and most practical route, [provided:] *but:*

(a) [That no] *A person shall not be obliged to testify in a civil action or proceeding unless his mileage and at least 1 day's fees have been paid him [if he demanded the same.] ; and*

(b) **That any** Any person **being** in attendance at the trial and sworn as a witness **shall be** is entitled to witness fees irrespective of service of subpoena.

3. Witness fees in civil cases shall be taxed as disbursement costs against the defeated party upon proof by affidavit that they have been actually incurred. Costs shall not be allowed for more than two witnesses to the same fact or series of facts, nor shall a party plaintiff or defendant be allowed any fees or mileage for attendance as a witness in his own behalf.

SEC. 12. NRS 18.040, 18.045 and 18.100 are hereby repealed.

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Senate Bill No. 401—Senator Glaser

CHAPTER 402

AN ACT relating to animals running at large; authorizing the capture of wild horses and burros by means of aircraft and motor vehicles; and providing other matters properly relating thereto.

[Approved May 7, 1977]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

SECTION 1. NRS 569.420 is hereby amended to read as follows:

569.420 **1. It shall be** It is unlawful for any person, under the provisions of NRS 569.360 to 569.430, inclusive, **:**

(a) To hunt wild horses, mares, colts or burros by means of airborne vehicles of any kind or motor-driven vehicles of any kind.

(b) **To** to pollute watering holes in order to trap, kill, wound or maim **such** animals.

2. The provisions of NRS 569.360 to 569.430, inclusive, shall not be construed to conflict with the provisions of any federal law or regulation governing the hunting or driving of horses, mares, colts or burros by means of airborne or motor-driven vehicles. **any wild horses, mares, colts or burros.**

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Senate Bill No. 420—Committee on Government Affairs

CHAPTER 403

AN ACT relating to county hospitals and districts; adding to the kinds of bonds which may be issued for hospital purposes; and providing other matters properly relating thereto.

[Approved May 7, 1977]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

SECTION 1. NRS 450.290 is hereby amended to read as follows:

450.290 1. Subject to the provisions of NRS 450.010 to 450.510,