

# ARIZONA STATE SENATE

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45TH LEGISLATURE  
FIRST REGULAR SESSION

## MINUTES OF COMMITTEE ON JUDICIARY

**DATE:** January 9, 2001                      **TIME:** 1:30 p.m.                      **ROOM:** SHR 1

**CHAIRMAN:** Senator Richardson                      **VICE CHAIRMAN:** Senator Smith

**ANALYST:** Sheryl Rabin                      **COMMITTEE SECRETARY:** Tracey Moulton

**INTERNS:** Lou Bacchi; Joseph Martin Belson, Jr.

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### ATTENDANCE

### BILLS

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<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Aguirre	X				
Senator Bee	X				
Senator Bundgaard	X				
Senator Burns	X				
Senator Cumiskey	X				
Senator Rios	X				
Senator Smith, Vice Chairman	X				
Senator Richardson, Chairman	X				

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### GOVERNOR'S APPOINTMENTS

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<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
Carrol M. de Broekert, Ph. D.	Member, Board of Executive Clemency	CONFIRM
Barbara-Lynn Garza	Member, Board of Executive Clemency	CONFIRM

Chairman Richardson called the meeting to order at 1:35 p.m. and attendance was noted. For additional attendees, see Sign-in Sheet (Attachment A).

## **INTRODUCTION OF COMMITTEE MEMBERS AND STAFF**

Senator Richardson asked the members to introduce themselves and introduced the following staff members: Sheryl Rabin, Committee Research Analyst; Lou Bacchi and Joseph Martin Belson Jr., Research Interns; Greg Jernigan, Counsel to the Republican Caucus; Alicyn Bagierek, Republican Staff Intern; Glenn Davis, General Counsel, Democratic Caucus; Martin Quezada, Democratic Staff Intern; Tracey Moulton, Committee Secretary; Enrique Gustavo Canales Hernandez and Ryan McIver, Committee Pages.

## **ADOPTION OF COMMITTEE RULES**

Senator Richardson announced that although copies of the proposed rules were distributed to the members prior to the meeting, a revised copy of the proposed rules dated 1/9/01 was distributed (Attachment B). She explained the only proposed rule that has been revised is rule number four, when all amendments would be due to staff by 8:00 a.m. the day before the Committee meeting instead of at noon. Additionally all amendments would need to be distributed by 1:00 p.m. rather than by 5:00 p.m. as in the original proposed rules.

**Senator Smith moved that the Judiciary Committee adopt the rules dated 1/9/01. The motion CARRIED by voice vote.**

## **APPOINTMENT OF COMMITTEE OF REFERENCE**

Senator Richardson appointed the following five members to the Committee of Reference: Senator Richardson, Chair, Senator Smith, Senator Aguirre, Senator Bee and Senator Cummiskey.

## **PRESENTATION: OVERVIEW OF THE ARIZONA COURT SYSTEM**

**Chief Justice Thomas Zlaket, Arizona Supreme Court**, expressed his appreciation to the Committee for inviting him to speak. He stated that he is always available to testify to the Legislature to provide answers and to discuss accountability because, he opined, the judicial branch needs to be accountable for the resources that the Legislature provides. He stated that this is the way the founders intended the system to operate. He commented that this is his last year as Chief Justice and noted that he greatly appreciates the relationship that he developed with the Legislature during the last four years.

Chief Justice Zlaket stated that he has administrative responsibility, under the Arizona Constitution, for all of the 183 courts in the State. He remarked that there are 7,000 employees working in the judicial branch which has its own unique problems as well as some of the same problems the Legislature faces. He commented that every day the Legislature and the judicial branch cope with a State that is expanding by leaps and bounds and the problems that occur with that growth. He remarked that the judicial branch may not always cope with these problems well and noted that is why the dialogue between the Legislature and the judicial branch is important. He stated that he expects the Legislature to provide the judicial branch with suggestions for improvement. He expects judges and court personnel to re-examine the way they do business to ensure the public is

being served in the best possible way. He opined that together, the Legislature and the judicial branch have done well at keeping the Arizona judicial system in the forefront of innovative and progressive leadership within the country. He commented that everywhere he goes, he hears from other judges and other court personnel that Arizona is on the cutting edge. A few examples of this are the allowance of jurors to ask questions and take notes in the courts. He noted that there are courts that exist in the nation that have not changed for hundreds of years because the judicial branches of government tend to be institutions tied to tradition and consequently move and change very slowly. He remarked that the business world can no longer wait three to five years for the courts to decide their cases, because when they have a great deal of money on the line, they expect a prompt determination of their rights and obligations. He stated the same is necessary for the criminal side of the Justice System. Chief Justice Zlaket commented that there might have been occasions when a decision by a judge was questionable. He commented that the system is not perfect, but he promised the Committee that the judges try to be conscientious and careful to reach the right result under the law, without prejudice or bias. He stated that when such occasions occur, he is not too sensitive to public comment as long as the criticism is fair and on a high level.

Chief Justice Zlaket stated that he wanted to share three issues of concern that currently exist within the judicial branch. The first concern is the fact that the system is losing employees. He stated that he anticipates a 30 per cent turnover rate this fiscal year. The employees are leaving are from all levels of the employment spectrum. He noted that four division directors, the highest paid positions in the system, have left in the last six months. These employees are leaving for higher paying positions in other states and other local governmental agencies. He noted that the State has always had trouble competing with the private sector with regard to salaries. He commented that the judicial branch needs to be able to compete with the salaries that other governmental agencies are offering. He remarked that Arizona has a judicial information electronic network, that connects all the courts together and is years ahead of other states' technology. He stated that the judicial branch needs qualified people to maintain this technology.

Senator Burns inquired which group of employees Chief Justice Zlaket was referring to with the 30 per cent rate of turnover. She commented that the court system encompasses other governmental entities. Chief Justice Zlaket stated that primarily he was speaking about the administrative office of the courts. This office services the courts on a statewide level, as opposed to the county or city courts. He apologized for confusing the issue. He opined that the judicial branch is the only branch that depends upon three separate funding agencies: city councils, county boards of supervisors and the Legislature. He expressed his concern with the wages that are currently being paid to low level employees. He stated that he does not want to be the head of the branch of government that pays wages that do not allow people to survive. He asked the Legislature to address this issue.

Chief Justice Zlaket stated his second issue of concern is with the opinion that the administration of the Probation Department belongs to the executive branch. He commented that the current probation officers have one of the highest ratings in the country or any other department. He remarked that an independent study that the Legislature commissioned by Deloitte and Touche determined that the State has "one of the best if not the best juvenile justice system in the United States." Chief Justice Zlaket noted that the study included juvenile probation and the operation of the juvenile probation department. He stated that in the past year, the Maricopa County Adult Probation Department received the 1999 President's Award from the American Probation and Parole Association which recognizes innovation and effectiveness in advancing community corrections into the future. He commented that it has been a function of the judicial branch to administer the Probation Department and opined that it should continue. He noted that there is an

appropriation for \$5.8 million in the Department's budget for salary increases. He stated the county boards of supervisors have authorization to give raises to their probation officers and have done so. He noted that this authorization does not include obtaining legislative approval or notification and commented that the Legislature might want to review that legislation.

Senator Rios asked of the \$5.4 million, what was the percentage increase for each probation officer. Chief Justice Zlaket stated that the increases were very modest, but for the exact amount, he deferred to a representative of the Administrative Office. Senator Rios stated that he had heard there had been as much as a 40 per cent increase.

Chief Justice Zlaket concluded his testimony with comments regarding his concern the State's drug courts. He remarked that recently he read an article in the Arizona Republic and he was dismayed with the near portrayal of coddling people in the drug courts. He stated emphatically that coddling does not occur within the drug courts. He invited any of the members to accompany him to view how the courts work. He stated that the drug courts are working and instead of warehousing people, the courts are turning them around with success. He asked for the Committee's continued support of the drug courts.

**David Byers, Director, Administrative Office of the Arizona Supreme Court**, testified that each board is giving raises to the county employees which included county funded probation officers. He noted that the boards do not generally give raises to solely the probation officers. He remarked that the raises vary from county to county. He noted that Maricopa County, the largest county in the State, gave raises of seven per cent for the last two years. He stated that he tracked the raise ratio between the State and the counties over the last 20 years and the ratio has remained approximately ½ per cent until two years ago. He noted that over the last two years, there has been a divergence, where the State gave zero to modest two per cent raises while the counties have been more aggressive and in Maricopa County, gave seven per cent raises for each of the last two years. This creates a divergence of 14 per cent. He stated that he would provide a chart of county by county raises to the Committee members after the meeting.

## **EXECUTIVE NOMINATIONS**

### **Carrol M. de Broekert, Ph.D. – Member, Board of Executive Clemency – CONFIRMED**

### **Barbara-Lynn Garza – Member, Board of Executive Clemency - CONFIRMED**

Senator Richardson stated that both nominees were unable to attend this Committee meeting because their presence on the Board of Executive Clemency was necessary for a quorum. She noted that under normal circumstances, the Committee would wish to hear from both nominees and noted that **George Beard, Executive Director of the Board of Executive Clemency**, would be testifying on their behalf. She commented that as both nominees are approaching their one-year service without confirmation, she did not want to delay their nominations from being presented to the full Senate with any further delay. She stated that without confirmation, neither nominee would be eligible to continue to serve on the Board.

Mr. Beard expressed the regrets of both members for not being able to attend the meeting. He stated that he was present to answer any questions the Committee may have.

**Senator Smith moved that the Committee on Judiciary recommend to the full Senate the confirmation of Carrol M. de Broekert to the Board of Executive Clemency. The motion CARRIED with a roll call vote of 7-0-1 (Attachment C).**

Mr. Beard stated that both of the nominees take their duties very seriously. He stated that Ms. Garza has a diversified background in criminal justice. He commented that both nominees have been a valuable addition to the Board.

Senator Burns commented that Ms. Garza is from San Diego and did not vote in the last general election. She stated that registering and voting in elections is something that she considers a criteria of responsibility and is something she reviews on all of the executive nominations. She stated that she would have asked for an explanation if Ms. Garza had been present.

**Senator Smith moved that the Committee on Judiciary recommend to the full Senate the confirmation of Barbara-Lynn Garza to the Board of Executive Clemency. The motion CARRIED with a roll call vote of 7-0-1 (Attachment D).**

Without objection, the meeting was adjourned at 2:15 p.m.

Respectfully submitted,

Tracey Moulton  
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 113.)