

JUDICIAL COUNCIL OF THE ASSOCIATED STUDENTS OF THE UNIVERSITY OF NEVADA

Schein v. SB 90

Filed: 22 June 2022

Decided: 29 June 2022

Direct Judgment

Chief Justice Zane Taylor, Senior Associate Justice Rachel Stamps, and Associate Justice Fernando Melendez, in the absence of Associate Justices Amelia Glowniak and Kate Hovatter, issue the following ***unanimous decision*** of the Judicial Council:

On June 22, 2022, Attorney General Jakob Schein filed a charge alleging the unconstitutionality of the Senator wages line item included in SB 90 – An Act to Approve the Budget for the Fiscal Year 2023. In the charge, Schein alleged the Senators had raised their wages from the amount deemed constitutional in an earlier Judicial Council order which was \$97,930 (\$3,917.20 per Senator). Schein declared the unconstitutionality lies in the failure of the Senate to raise their wages without a ballot question as stated in ASUN Const., art. I, sec. 1(e). Schein further alleged that Senators possess an inherent financial conflict of interest when debating their wages, therefore Senators should not be able to determine the amount they are paid.

Schein’s original Attorney General opinion on the matter states that Senators should be paid in accordance with a formula of a specific set of fees which includes the undergraduate registration, ASUN, Technology, Health Center, Counseling Services, Performing Arts, Student Union, Fitness Center, and Academic Success fees, totaling to the aforementioned number. The Senate Standing Committee on Budget and Finance included the Non-Resident (fewer than 7 credits) and the Non-Resident Distance Education Fees, as well as the Nursing Differential fee in their calculation, totaling to \$133,902.50 (\$5,356.10 per Senator). Chair for the Committee on Budget and Finance, Nathan Noble, stated the committee did not consider a ballot question in the attempt to raise the Senator wages from the number deemed constitutional by the Judicial Council orr (\$3,917.20 per Senator).

In the charge, Attorney General Schein requested a preliminary injunction to freeze the Senator wages line item in the FY 23 budget at the number set by the Judicial Council order, which was granted.

Interpretation of the Judicial Council

It is the interpretation of the ASUN Judicial Council that the methods used in calculating the Senator wages in the FY 23 budget, resulting in a compensation raise for Senators, were unconstitutional. The Senate of the Associated Students did not consider the Judicial Council order or the Attorney General opinion in their calculation of Senator wages, which already stated the compensation amount. The Senate Standing Committee on Budget and Finance should have kept the number the same, and considered introducing a ballot question in the next intervening general election, as is explicitly stated in the ASUN Constitution.

The ASUN Judicial Council has determined, for the FY 2023 budget and for future budgets until a ballot question passes that changes the payment structure, the fees to be used are registration and mandatory fees paid by all students, in order to ensure the most equitable service to every student on campus. These fees are limited to:

- Undergraduate Registration
- ASUN Fee
- Technology Fee
- Health Center
- Counseling Services
- Performing Arts
- Student Union
- Fitness Center
- Academic Success

Use of any other fee must be subject to review of the student population at the next intervening general election through a ballot question.

For the FY 23 Budget, the Senator Wages line item under account number PG01395 are to be set to \$97,930 (\$3,917.20 per Senator). Should the Senate wish to see other fees included in the payment structure, a ballot question must be introduced. The ASUN Judicial Council also deemed the Senate of the Associated Students can legislate the \$3,917.20 into SAS IV.401.05.c(1) as it has now been deemed a constitutional number in order to eliminate discrepancies in the future. If the Senate chooses to go with the legislative route, all changes to the Senator wages, as well as the wages of any other elected officials, must still go through the ballot question process. The remaining balance (\$35,972.50) shall be returned to the discretion of the President for reallocation with the approval of the Senate.

Dated: 29 June 2022

Signed:

Zane Taylor, Chief Justice

Rachel Stamps, Senior Associate Justice

Fernando Melendez, Associate Justice