

## Assembly

MINUTES OF MEETING - COMMITTEE ON JUDICIARY, 53rd Legislature, February 22, 1965

Meeting commenced at 2:00 P.M.

Present: Close, Parsons, Delaney, Rosaschi, Kean

Absent: Knisley, Olsen, Swobe, Jacobsen

Present for the hearing on AB 310 and 311 were:

Otis Wright, State Highway Engineer

Leonard Lindus, State Highway Legal Department, Administrator of Legal and Right of Way

Harvey Dickerson, Attorney General, State of Nevada

Bob Guinn, Motor Transport Industry Representative

Gene Shoup, Nevada Highway Users, Automobile Association

Mr. Otis Wright introduced Mr. Leonard Lindus.

Mr. Lindus recommended that AB 310 be amended to provide a three year period, rather than the two year period. He said the State Highway Department Legal staff had no fault with the bill as such. He said that the Highway Department is going to have their own trial attorneys from now on, which will give better control of trial cases.

Mr. Close inquired if the Department has quite a backlog of condemnation cases now.

Mr. Wright: Yes, we do have. An amendment to give us three years instead of two would give us a chance to get up to date and then we could keep up to date from then on.

Mr. Lindus stated that he could live with a two year provision if they had a chance to get caught up first. He brought out that the courts have sometimes overruled priority for these cases.

Mr. Lindus read a prepared summation of the Highway Department's opposition and their reasons therefor to AB 311. In summary the paper stated: Only two states, Oregon and Florida, have such legislation. This bill is patterned almost exactly after the one in effect in Oregon, which Mr. Lindus stated he had lived with for twelve years and found very bad legislation.

He said that AB 311 would at least triple litigation and would add hundreds of thousands of dollars to costs. He feels the bill is unnecessary because 90% of these cases are settled privately between the Highway Department and the individual property owners. He said that in Florida after this legislation was passed, this figure went down from 90% to 20%.

He stated further that the state does not hire an appraiser who is consistently low because if this were done all the cases would go to court.

Mr. Dickerson said that he and his department are "bitterly opposed" to this bill. He said that to allow attorneys' fees would interfere with negotiations with these people.

Mr. Dickerson said that in regard to AB 310, a limitation of two years, in view of the

crowded conditions is unrealistic.

Mr. Lindus said that under present circumstances when an individual who is contesting an appraisal will allow the Highway Department "permit of entry" he is allowed 7% interest on his money, (the sum which is allowed on final settlement) retroactive to the date of the "permit of entry".

Mr. Wright brought out that on all properties over \$25,000, and on some of lesser value, one or two appraisals are secured from completely independent appraisers, in addition to the one from the Highway Department.

Bob Guinn said that the people he represents feel that AB 311 is a raid on the highway fund and represents a rather careless attitude on the part of the people in Nevada in regard to this fund. He said that he represents people who are interested in maintaining this fund so that it can continue this matching with federal funds. They feel that the Highway Department is trying to see that every person gets as much or more than his property is worth. He said they have talked with people in Oregon who have lived with this bill and they feel sure that it will add hundreds of thousands of dollars to our costs and will increase litigation.

Mr. Guinn said there will be a day of reckoning with the Highway Department within the next two years. They are already being called to account. Mr. Guinn finished by saying that his group is dedicated to fighting AB 311 through the Assembly and through the Senate if necessary.

Mr. Close asked what the feeling would be, or what would happen, if the bill stated that there must be a certain percentage of increase in the award, such as 10% or 15% before the property owner would be entitled to attorney fees. Also, what would happen if attorney fees were set.

Mr. Lindus answered that the Highway Department is unalterably opposed to the bill and that it cannot be amended in any way to make it satisfactory to them. He said the committee must give credence that the state is trying to be fair with the land owners.

Mr. Lindus referred to an extensive study made of this legislation in the State of Florida by the Davis sub-committee. Their opinion was that it was very bad legislation. He said that using AB 311 as a cure for existing evils would be like cutting off your head to cure a cold.

Mr. Wright said that we are already in serious trouble with our financial condition. Passing this bill would have a definite effect on our matching funds deal.

Gene Shoup stated that the people he represents is in definite and strong opposition to AB 311.

Mr. Guinn suggested that the members of the committee go out and investigate one deal that the courts handled. It involves a 3-acre piece of property one-fourth mile north of Carson City. Because of some condition that existed the Highway Department built the highway in front of this property four feet higher. The man brought suit and was awarded \$40,000 for a 40-foot strip of land. The court said that the remaining 2.6 acres had depreciated to \$10,000 because of this work and awarded him \$45,000 to fill the land. \$65,000 severance damages was awarded. The man later built buildings on the property and didn't fill it in at all.

Mr. Guinn reiterated that we must arrive at a point of respect for the highway funds.

AB 252 Establishes State Bureau of Criminal Identification and Investigation.

Attorney General Dickerson stated that eventually we are going to have such a bureau, whatever we might choose to call it, and the Governor wants to call it the above. He said he didn't mind starting it with just one man. He would spend time, first of all, on investigative detail and any spare time in planning ahead for enlargement of the department.

Mr. Close: What recommendations do you have on the bill? The bill states certain things this man must do. Should these things be taken out of the bill?

Mr. Dickerson: One man could not possibly do all these things and the Ways and Means Committee has already cut out the secretary, filing cabinets, etc. He can only serve in an investigative capacity for the Attorney General.

Speaking assignments for bills on Tuesday were made as follows:

AB 344 - Mrs. Parsons

AB 355 - Mr. Delaney

AJR 9 - Mr. Kean

Mr. Close to speak on the rest

Mr. Rosaschi had to leave to attend another committee meeting and this left the Committee on Judiciary without a quorum, so the meeting was adjourned at 2:45 P.M.