

Assembly

MINUTES OF MEETING - COMMITTEE ON JUDICIARY, 53rd Legislature, March 2, 1965

Meeting was called to order 2:15 P.M.

Present: Close, Parsons, Olsen, Knisley, Rosaschi, Jacobsen, Kean, Swobe

Absent: Delaney

Minutes of meeting March 1 were approved.

AB 236: Mechanics' lien

Mr. Close went over the composite amendments submitted by Charles Miles and Bill Sanford.

Sec. 4.5 It was decided that the wording of this amendment did not quite meet with the Committee's approval and Mr. Knisley offered to come up with a wording which would be acceptable.

Mr. Kean moved to accept the amendment 4.5 with correction in wording by Mr. Knisley
 Jacobsen seconded
 Motion passed unanimously

Section 15:

Mr. Knisley moved approval of section 15
 Swobe seconded
 Motion passed unanimously

Mr. Kean asked if there was an amendment to section 16.

Mr. Close replied that this is a technical change which would be picked up.

Section 17:

Mr. Knisley moved adoption of the amendment
 Mr. Kean seconded
 Motion passed unanimously

Section 18:

Mr. Kean said he could foresee problems with this one. Most bills are due and payable in 30 days but this does not say that they can't charge interest until after terms of invoices.

Mr. Knisley said that the court will find the due date and from that date the man will get interest at 7%.

Mr. Swobe asked why put in the words, "may" in one place and "shall" in another. Can't we be consistent?

Mr. Knisley moved to change "shall" to "may" and adopt the amendment
 Mr. Kean seconded
 Motion passed unanimously

Section 24:

After studying this amendment both Mr. Close and Mr. Swobe said that they could see now why the word in the previous amendment should remain "shall" and not be changed to "may".

Mr. Kean said that this amendment makes it so that anyone can make any kind of a settlement out of court.

Mr. Swobe answered that it was meant to be an inducement to settle out of court.

Mr. Kean: Can these go into Small Claims Court?

Mr. Close: It is according to the amount of money involved.

Question was asked: Can a person acting as his own attorney in one of these litigations actually receive money for so acting.

Members had never known of this happening.

Mr. Swobe moved to adopt the amendment to section 24

Mr. Jacobsen seconded

Motion passed unanimously

Mr. Knisley withdrew his move to change the wording in section 18 from "shall" to "may".

Mr. Close said that the amendment to section 18 would be adopted without change.

Section 25:

Mr. Close suggested the Committee might want to consider this amendment without the whole of section 25.

Mr. Knisley: What is wrong with it the way it is drafted?

Mr. Olsen: It is directive rather than mandatory.

Mr. Knisley: Is the Oregon law mandatory?

Mr. Kean: Yes, it is.

Mr. Knisley and Mr. Swobe felt it would be a good thing to insert the Oregon section in the act in this section. Mr. Kean read the text of the Oregon law. Then he explained that you cannot have a lien claim unless you send "notice of lien right".

Mr. Knisley moved that the Chair prepare the Oregon lien notice in such a form as to fit in with the bill instead of the first part of section 25.

Mr. Swobe seconded

Motion passed unanimously

Mr. Close: Two questions: Who do you serve it on?

Mr. Kean: The owner or reputed owner.

Mr. Close: This gives 7 days. What if the job is done before that time? Maybe 7 days isn't long enough. If there is only one delivery notice should come with the delivery.

Mr. Swobe: I think 7 days is ok.

Mr. Knisley said let's go back to 4.5 and insert "or of an engineer or his employees" after "services of an architect and his employees", then strike "other than engineering services upon the premises"

Mr. Kean moved to do this.

Mr. Kean Do you want to have the subcontractor protect the home owner by sending notice of lien rights?

Mr. Close read from a letter from Mr. Guinan in which he said that he feels we ought to give notice of lien rights to the county clerk.

Mr. Knisley said he thinks this is unnecessary. Mr. Close agreed.

Mr. Close said he would have drafted the amendments already gone over. In the meantime the Committee members could all go over the Guinan letter to see if they want to adopt any of his proposed changes.

AB 234: Amends provisions relating to licensing and practice of professional engineers and land surveyors.

Mr. Swobe went over 8 changes which he had prepared for this bill. Then he added that the present law is too rigid and what this act does is give more freedom and elasticity.

Mr. Kean stated that he was unhappy with line 31 page 4, "otherwise qualified". What does this mean? This would give the board too much power.

Mr. Kean moved to remove line 31 page 4.

Mr. Swobe said he was opposed to removing this phrase. He said he would check and find out just why it was put in

Mr. Jacobsen said he thought this should be spelled out better.

Mr. Close said we should give the backers of the act the opportunity to change or explain this phrase.

Mr. Kean: Let's put out Do Pass and change later.

Mr. Swobe moved Do Pass as amended on condition that this phrase be checked out and any change in it be subject to approval of the Committee.

Mr. Kean seconded
Motion passed unanimously

AB 404: Civil Rights

Mr. Close referred to page 2 line 40 and said he didn't believe that we can direct the district court to take action. Will have to change to "to be recovered in a civil action for the county."

No action was taken on this bill because of the absence of Mr. Olsen, Mr. Knisley and Mr. Delaney.

Mr. Kean: How much different is this than the federal law?

Mr. Close outlined differences as follows: The Commission is not in the federal law; in the federal law the number of employees is 25, in 404 it is 5; 404 includes casinos and bars; all court actions are different than the federal law; no civil rights conditions in the federal bill; criminal acts not in the federal bill.

Mr. Swobe: Can you be charged with a crime for violation of the federal bill?

Mr. Close: I don't think so. It would be a civil matter and an injunction.

AB 380: Provides for removal of city officers from office upon conviction of intoxication or use of drugs while in office.

Mr. Kean explained that the sole purpose of this bill is to include the word "city" which was left out of the original bill.

Mr. Kean moved Do Pass
Mrs. Parsons seconded
Motion passed unanimously

AB 310: Provides alternative dates for determination of compensation in protracted condemnation cases.

Mr. Close said he had talked with the Attorney General and the Highway Department and they have indicated they have no objection to the bill if they are given three years to get up to date.

Mr. Kean moved Do Pass

Mr. Swobe said we have a bad situation here in Nevada on this. Property owners are forced into settlement without going to court. They are given only fair market value for their property and our appraisal systems are archaic and unfair and they force a person who wants to get value for his property into court. After court then the person has to pay his attorney. Under present Nevada statutes a person does not come out whole. Why should a person whose property is being taken away from him be made to suffer?

Mr. Close said he did not like the word "solely" in the bill the way it is used. He asked what happens if on one occasion the highway department has a valid reason for delay, then the defendant can delay as long as he wants to.

Swobe was assigned to talk with Russ about this, also putting in 3 years on pending cases and 2 years after that.

AB 311: Allows recovery of attorney's fees in condemnation suits and removes discretion of court to allow and apportion costs.

Mr. Close and Mr. Kean said they were convinced this is a bad bill.

Mr. Kean moved to postpone indefinitely
Mr. Jacobsen seconded
Motion passed with a Committee majority
Mr. Swobe voted no.

AB 351: Authorizes Real Estate Division to audit and regulate collections and use of maintenance fee for condominiums.

Mr. Swobe was assigned to check and see whether there should be a trust account

AB 352: Provides penalty for false crime report.

Mr. Jacobsen reported that the Senate has indicated they will consider this bill.

Mr. Jacobsen moved Do Pass
Mr. Kean and Mrs. Parsons seconded
Motion passed unanimously

AB 387: Increases penalty for violation of Dangerous Drug Act

Mr. Rosaschi moved Do Pass
Mr. Jacobsen seconded
Motion passed unanimously

AB 390: Creates commission on peace officers standards

Mr. Close said that this bill excludes traffic fines and fish and game fines in the financing provision. He also mentioned that he had a paper on the curriculum for the school in Las Vegas but had forgotten to bring it with him.

Mr. Kean said he hates to see money go from the General Fund to separate funds. He is afraid of the trend.

It was reported that Roland Oakes had asked for a postponement of the hearing on AB 369. This hearing was then scheduled for Friday, March 5, at 2:00 P.M.

AB 444: Provides for county bail bond registers.

Mr. Kean asked if this is going to increase the number of clerks required.

Mr. Close said it would not.

Mr. Kean moved Do Pass
Mr. Jacobsen seconded
Motion passed unanimously

AB 452: Amends law relating to pharmacy

Mr. Close went over the bill with the members of the Committee. It was decided the act is not very workable.

Mr. Swobe said there is nothing wrong with the first part of the bill. Would like to see the word "controlled" removed from the act.

Mr. Kean looked up and read to the Committee 639.213. It declares pharmacy to be a profession.

Mr. Swobe moved to knock out section 2 paragraph 5 and to make changes in sec. 3
Mr. Jacobsen seconded
Motion passed unanimously

Mr. Kean moved Do Pass with above amendments
Mrs. Parsons seconded
Motion passed unanimously

AB 460: Shortens certain procedures in summary proceedings for obtaining possession of real property.

Mr. Olsen asked if we are not perhaps invading the province of the courts with this bill.

Mr. Swobe agreed with Mr. Olsen on the priority thing.

Mr. Olsen said with only one continuance he can see situations where you would be hamstrung.

Mr. Rosaschi moved to postpone indefinitely
Mr. Olsen seconded
Motion passed unanimously

AB 463: Permits treatment of minors infected with venereal diseases without consent to such treatment.

Mr. Jacobsen moved Do Pass
Mr. Rosaschi seconded
Motion passed unanimously

AB 367: Provides penalty for conversion of rented or leased vehicle.

Mrs. Parsons moved amend and Do Pass
Mr. Jacobsen seconded
Motion passed unanimously

SB 82: Amends real estate law with respect to brokers license

The Committee was reminded that Don McNelly had asked to speak on this bill.

Mr. Swobe moved to kill the bill if McNelly is against it

Mr. Jacobsen seconded

Motion passed unanimously

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SB 123: Provides for publication of town ordinances by title only.

Mr. Jacobsen moved to hold in committee indefinitely

Mr. Swobe seconded

Motion passed by committee majority

Mr. Rosaschi voted no

SB 139: Allows courts to reduce required bond for attachment in individual cases.

Mr. Swobe was assigned to study this bill and report back.

SB 140: Allows mailing of notice of hearing to establish termination of decedent's interest in property.

Mr. Olsen reported on his study of the bill. He said it is a faster way of making service. It provides for publication when address is not known.

Mr. Swobe suggested we hold this bill for a companion bill which is coming. Also, that if we do go on this one we should specify certified mail with the return receipt.

Mr. Olsen moved to defer for the time being

Mrs. Parsons seconded

Motion passed unanimously

SB 141: Provides penalties for violations of regulations of boards of law library trustees.

It was suggested that AB 204 is somewhat the same as this bill only better. AB 204 is now on the governor's desk for signature

Mr. Swobe was assigned to look into this further.

SJR 11: Memorializes the Nevada congressional delegation to oppose legislation requiring employers to withhold income taxes and social security from tips to be reported as income by employees.

It was decided that the members of the committee needed a little more time to study this.

SB 29: Provides for selection of grand jurors by drawing names from trial juror list.

It was decided that this might be an improvement over the present situation.

Mr. Swobe and Mr. Jacobsen expressed a desire to look into this further.

Mr. Rosaschi suggested calling in Senator Parks to speak on this bill.

Mr. Close said that he has already discussed the bill with Senator Parks who

said the purpose of the bill is to prevent a dominant member of the commission from running the jury selection.

SB 110: Amends the Nevada Hospital Survey and Construction Act

Mr. Rosaschi was assigned to look into this and find the real purpose of the bill; also, to find out who came in to talk to the Senate on it.

SB 117: Increases permitted number of law library trustees.

Mr. Swobe said that this bill allows more flexibility. There are now five trustees. This bill would allow two more to be appointed.

Mr. Swobe moved Do Pass
Mr. Olsen seconded
Motion passed unanimously

Meeting adjourned at 5:05 P.M.