

## Assembly

MINUTES OF MEETING - ASSEMBLY JUDICIARY COMMITTEE, 53rd Session, March 29, 1965

Meeting was called to order at 3:15 P.M.

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

Absent: Olsen

SB 185: Provides for liability of and actions against the State, its agencies and political subdivisions, including tort claims.

Present to speak for the bill were: Curt Blythe, Nevada Municipal Associations, Bill Barker, City Attorney North Las Vegas, Otis Wright, Nevada State Highway Department, Clint Wooster, Washoe County District Attorney's Office, Ted Marshall, Clark County District Attorney, and James Thompson and Mel Beacham from the State Highway Department Legal Staff, Joe Latimore, Reno City Manager, and David Henry, Sparks

Mr. Barker acted as spokesman to begin the discussion: The doctrine of sovereign immunity seems to be out. It has been knocked out in the courts of a number of states and several states have legislation knocking it out. He made four requests of the Committee on behalf of the group: 1. The doctrine of sovereign immunity be abolished; 2. Standards for conduct of policemen and firemen be gross negligence rather than just negligence; 3. State inspection of a building not be made grounds for liability suit; 4. Provision indicating limitation on amount of damages by upped from \$25,000 to \$100,000.

Joe Latimore, Reno City Manager, reported that all officials of the city of Reno are in favor of passage of the bill.

Otis Wright, State Highway Engineer, said this bill seems to be getting into technicalities that might end up in serious difficulties. For instance, the highway department cannot possibly sand every inch of every highway the minute it is slick.

Mr. Barker said that cities and counties are already liable for maintenance.

Mr. Hoffenberg, Attorney General's office, said that on page 3, section 7, the word "may" is used and perhaps it should be "shall".

He said that the Attorney General's office presently has 5 suits pending against the highway department. They feel that the doctrine of sovereign immunity should be abolished but there should be a provision for insurance.

Mr. Kean asked if anyone present had knowledge of figures as to how many states that had abolished sovereign immunity had mandatory insurance.

No one seemed to know but Mr. Wright said that it costs Oregon \$66,000 per year for insurance and that California had to add 20 lawyers to their legal staff when immunity was abolished, also office workers. This was in addition to the cost of the insurance.

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## Assembly Committee on Judiciary

Mr. Close said that the Committee had considered the bill the past Saturday morning and had recommended the following changes:

Page 2, line 4: Delete "police officer" and insert "peace officer".

Page 3, lines 22-24: Beginning with "Attorney General" strike the entire sentence. The Committee thought the Insurance Companies would want to defend their own suits.

Page 2, line 14: Change word "may" to "shall".

Mr. Hoffenberger said that an Insurance Company cannot defend a claim against the state. By statute this is the Attorney General's responsibility, even though the state is an insurance carrier.

Mr. Hoffenberger said that the Attorney General's office has one case where one plaintiff is suing 5 different people or agencies. The Attorney General has to defend all of these because each one is a representative of the state and the Attorney General has to defend the State. He mentioned, also, that if immunity is abolished and insurance not made mandatory there will be a problem because there will be no money with which to settle suits.

Mr. Close brought out that the first thousand dollars of damages must be paid by the State on a claim. After that the insurance can take over.

Mr. Wright said he thought the insurance should be mandatory.

Mr. Blythe was asked to check with other states and find out what they are doing.

The Assembly was called back into session so the Committee recessed at 3:50 P.M.

The meeting of the Assembly Committee on Judiciary was again called to order at 5:00 P.M.

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

Absent: Olsen

SB 45: Amends provisions for punishment of riot, rout, unlawful assembly, rescuing prisoners, and interference with law enforcement and other public officers.

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

SB 185: Provides for liability of and actions against the State, its agencies and political subdivisions, including tort claims.

Mr. Hoffenberger said that he had consulted with the Attorney General during the

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recess and that the Attorney General would like the phrase left in, page 3, lines 22-24. Also he would like "shall" instead of "may."

Mr. Blythe reported that he had talked with Mr. Daykin and Mr. Daykin is not aware of any state having mandatory insurance. It is permissive, but they get it.

Mr. Close presented the proposed amendments to the Committee for a vote.

Page 2, line 4, changing "state controller" to "secretary of state".

Page 2, line 25, changing "police officer" to "peace officer".

Page 2, line 14, changing "may" to "shall".

Page 3, lines 22-24, striking sentence beginning "Attorney General".

Mr. Swobe moved that all these proposed amendments be adopted.

Mr. Jacobsen seconded

Motion passed unanimously

Mr. Beacham, speaking on behalf of the Highway Department, asked that word "street" be changed to "public highway".

Mr. Barker reiterated his request that the \$25,000 be changed to \$100,000.

Mr. Close replied that he had discussed this with members of the Committee and the desire was to start it out this way and go the full route the next session.

Mr. Barker said he had heard a rumor the Governor will veto the bill if the \$25,000 is not upped. He suggested Mr. Close check this out.

Mr. Close said he would check with the Governor and if it is the Governor's intent to veto the bill unless changed, something will be done about it.

Mr. Close presented the amendment on page 2, line 17, for a vote. This changes "street" to "public highway".

Mr. Swobe moved the adoption of the amendment

Mr. Delaney seconded

Motion passed unanimously

Mr. Swobe moved Do Pass SB 185 as amended

Mr. Delaney seconded

Motion passed unanimously

SB 80: Provides comprehensive authority for counties and municipalities to acquire, improve, equip, operate, and maintain various types of local improvements and to defray costs by special assessment levies, bonds, and general taxes.

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## Assembly Committee on Judiciary

Mr. Tom Cook, Attorney from Reno, was present to ask that the "parks" be left in the bill. He said he was appearing strictly as an individual.

Mr. Close said that in the Saturday meeting the Committee had tentatively decided to delete the words "parks" and "atomic shelters" from the bill.

Mr. Cook said that the Minneapolis plan, creating special assessment districts, is the only way to develop parks in neighborhoods. He said that members of the Senate agree with him on this and in fact feel rather strongly about it. This is the only way that we can break the solid line of subdivisions in Reno. He said the city of Reno is in favor of it, Also Washoe County.

David Henry, City Manager of Sparks, was present, also, to speak on the bill. He said the City of Sparks has a total budget of \$2,000,000 and only \$80,000 for parks. This is for operation of parks only, and nothing is left for their development. They have 5 parks and only two are developed at all. He said the question of financing and paying for these parks came up at a council meeting. People were told that the Council absolutely could not "general fund" any park developments. Special assessment is the only way out. This way the people who are going to benefit are the people who are going to pay. This also makes it so that the complainers and noisemakers among the populace have to "put up or shut up". The voters and taxpayers make the decision with their pocketbooks.

Mr. Knisley withdrew his opposition to the parks being left in. He explained that his opposition had originated because of his own personal experience with small parks. He said they were a nuisance and he had later had to buy back the parks and dispose of the land in some other manner. He said the larger parks, properly supervised and policed are fine. He said if the bill is amended so that parks cannot be forced on people over their objections then he is for it.

Mr. Barker suggested inserting the words "excepting a park project" on page 13, line 44, to accomplish what Mr. Knisley had suggested.

SB 297: Makes extensive amendments in provisions governing general improvement districts.

Mr. Knisley said he had gone over the Senate's amendments on this bill. He suggested conforming 1670 with 1669.

Mr. Kean would like to add "assessed" before the word "value" in both 1669 and 1670. Most members of the group seemed to think this would be a good idea.

Mr. Wooster said from his checking he thought the difference between 1669 and 1670 was the result of a clerical error. It was voted on by the Senate with the difference.

Mr. Knisley said the Committee's intention is to make it impossible for one man to get a petition, issue bonds, and leave a bill for the people in the district to have to pay. 75% of ownership of a district could be one person and bonds could be sold

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privately with no competitive bidding. He proposed that every time a subdivider moves to a new unit he must consider the entire district, not just one unit. There is a contingent liability without their having a voice to protest.

SB 45: Amends provision for punishment of riot, rout, unlawful assembly, rescuing prisoners, and interference with law enforcement and other public officers.

Mr. Kean wanted to add that he didn't think that owners and other knowledgeable people should be excluded from their premises in emergencies.

Mr. Close said there simply had to be an agency in charge with authority to control the entire emergency.

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

Mr. Close said that Senator Parks had asked that the Committee reconsider this bill which had been killed previously.

Mr. Close read excerpts from a letter from District Attorney Wilkes from White Pine County, in which he brought out that many times the costs of publishing the entire ordinance is excessive. Some towns hesitate to pass new ordinances because they do not have the money to publish them.

It was brought out that counties already have the right to publish by title only.

Mr. Kean moved to rescind the vote by which the bill was killed.

Mrs. Parsons seconded

Motion passed unanimously

Mr. Kean moved Do Pass SB 123

Mr. Swobe and Mr. Knisley seconded

Motion passed with a majority

Mr. Rosaschi asked to be recorded as not voting.

SB 221: Enacts the Nevada Administrative Procedure Act.

Mr. Jacobsen moved amend and Do Pass

Mr. Delaney seconded

Motion passed unanimously

SB 304: Provides minimum age for persons who accompany holders of drivers' instruction permits.

Mr. Close reported that Jim Wood says the bill is all right.

Mr. Swobe moved Do Pass.

Mr. Jacobsen said he would like to see it killed. Mr. Close went over the bill to make sure the Committee really knew what it said.

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Mr. Swobe withdrew his motion to Do Pass.

Mr. Jacobsen moved Do Not Pass  
Mr. Delaney seconded  
Motion passed unanimously

AB 199: Provides for the office of Public Defender.

Mr. Close said the Senate has an amendment on this making some provisions apply to county, or adjoining county only. He said he had no objection to concurring with this amendment.

Mr. Knisley moved to concur.

AB 102: The Obscenity Statute.

Mr. Knisley moved to concur with the Senate amendments.

AB 379: Provides additional Justice of the Peace in townships having population of 70,000 or more.

Mr. Swobe reported he still had Art Palmer doing research on this.

Meeting was adjourned at 5:55 P.M.