

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, March 24, 1967

Meeting was called to order by Chairman Wooster at 1:45

Present: Wooster, Schouweiler, Kean, Torvinen, Hilbrecht, Dungan (late)

Absent: Swackhamer, White, Lowman

SB 248: Permits less than three directors on initial or reduced board of directors of private corporation.

MR. WOOSTER: SB 248 conflicts with SB 71 so they deleted a section.

Mr. Hilbrecht moved to amend

Mr. Torvinen seconded

Motion passed unanimously

AB 339: Provides that residence of nominator does not affect priority of person nominated to receive letters of administrator.

MR. WOOSTER: The Governor has some problem about the bill and will not sign it and today is the last day he has in which to sign it. Russ has drawn a resolution to bring it back. Would someone like to move to adopt the resolution?

Mr. Hilbrecht moved to adopt the resolution to bring back AB 339

Mr. Torvinen seconded

Motion passed unanimously

Mr. Hilbrecht apologized for being late. He said he was on a matter of some urgency and would like to tell the committee about it. It seems that SB 173 is not getting out of the Senate Committee and some of its backers feel it will have a better chance if we would introduce a similar bill on our side. They feel that without this extra prodding it may unjustifiably die in committee.

Mr. Wooster said the Senate had had some hearings on this bill. He wondered if Ways and Means would not be a better committee to do something on it. He said he would speak to Norman Glaser about it.

SB 357: Permits recording of abstracts of judgments and writs of execution instead of transcripts of original dockets.

MR. WOOSTER: They say there is too much delay in getting transcript of the docket.

MR. TORVINEN: This bill can't hurt anything. I can't see where it can create any problem.

MR. SCHOUWEILER: It cuts corners.

MR. HILBRECHT: A writ of attachment requires things you would not have to put on the abstract I would like to be able to do it either way.

SB 314: Requires spark arrestors on certain vehicles and provides civil liability for causing fires.

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SENATOR FARR: Lines 1 through 14 on page 2 have been amended out. We are now talking about spark arrestors. We have had some serious fires from improper use of spark arrestors. We have not had this provision in our statutes. The present law does not cover spark arrestors.

It is only the heavy equipment that has this spark that will cause damaging fires. Someone will ask about the cost factor. They start at \$12.50 and might go as high as \$57.00 on a Cat.

MR. KEAN: Do you distinguish between diesel and gasoline outfits?

SENATOR FARR: No, we do not. There is no difference that we could detect in our tests.

SB 380: Makes State Fire Marshal and his deputies peace officers.

SENATOR FARR: The State Fire Marshal is charged with the crime of arson and has responsibility of investigation so we are asking that you redefine Fire Marshal and his deputies as Peace Officers.

MR. HILBRECHT: Would this open up the same retirement thing we had with the agriculture people?

SENATOR FARR: We have an opinion from the Attorney General. These people are not defined as line firemen and so are not covered.

MR. WOOSTER: With the agriculture thing, they came back with an amendment saying nothing in the act shall be construed as pertaining to early retirement.

SENATOR FARR: You will have a bill come to you on tracer bullets. Firing a tracer shotgun shell at short range into brush or grass or timber land would be a misdemeanor. Ignited by the powder, this material burns at a high intensity and is not extinguishable. It has caused a number of fires. We want to prohibit the firing of such shells in areas where they might ignite disastrous fires.

SB 58: Extends time within which notice of right to claim mechanic's lien must be given.

SENATOR YOUNG: We have a couple of hearings on this. A proviso was put in at the last session that said 20 days notice must be given on these liens. There are complaints that it is not sufficient time because of the 30-day billing. We felt it advisable to extend the time to 45 days. If the building project is completed, then only 30 days.

MR. WOOSTER: Does this conform to what they do in California?

MR. TORVINEN: No, it doesn't. I checked into that.

SENATOR YOUNG: There did not seem to be any objections to this by anybody. The home builders seemed to think it would be fine.

MR. KEAN: Generally it is the building supply people that do not get paid.

MR. TORVINEN: There is another area--the subcontractors.

Mr. Kean told of one case that he knew of where a man built several hundred houses.

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The brick subcontractor gave him an affidavit that all the brick was all paid for, then he took off. The contractor had to pay for all the brick in order to release the lien which was put on all his houses.

MR. TORVINEN: The contractor that builds on his own wants this bill. The contractor who doesn't would not want it.

SB 357: Permits recording of abstracts of judgments and writs of execution instead of transcripts of original dockets.

SENATOR YOUNG: The procedure now is to get a transcript of the original docket. This sometimes takes several days. This bill would change to abstracts to make it possible to do it almost instantly.

MR. TORVINEN: I get a certified copy. Would this act affect this?

MR. KEAN: Could we say that it could be done either way?

SENATOR YOUNG: I should think so. I would be agreeable to that.

SB 58: Extends time limits within which notice of right to claim mechanic's lien must be given.

MR. HILBRECHT: Do you really need 45 days?

MR. KEAN: No, that defeats the purpose. I have a bill on this, AB 127, which says 31 days.

MR. HILBRECHT: I heard that the reason 20 days does not make sense is that you can not have formulated your first bill by then.

MR. TORVINEN: The big problem with this law is that it doesn't define the owner.

MR. KEAN: I think you will find enough case law on this because Oregon has had this for thirty or forty years.

MR. TORVINEN: When the husband and wife hold the property in joint tenancy, is sending notice to one of them sufficient, or do you have to send it to both? There are too many things not explained well enough.

MR. KEAN: I tried to soften this notice in my bill to help public relations and also to help the ordinary person to be able to understand it better.

MR. WOOSTER: Couldn't we add your wording to SB 58?

Mr. Hilbrecht and Mr. Schouweiler both said they liked Mr. Kean's bill better than SB 58.

MR. KEAN: The people don't want any notice.

MR. HILBRECHT: That is the real reason for this bill and it is good legislation.

MR. WOOSTER: I hate to talk about something that is hard to determine. I can't come up with a number of days.

MR. KEAN: I went to a lot of work on AB 127. Why not just send it out?

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MR. WOOSTER: The Senate has already had hearings on this bill and it has passed that house.

MR. KEAN: My bill covers objections to the strong wording. It says the same thing but softens it.

MR. WOOSTER: I don't think the Senate will object to our putting your language in SB 58, but they won't buy it if we change their time limits that they have put in.

MR. HILBRECHT: I won't buy it with 45 days.

MR. KEAN: Neither will I.

MR. HILBRECHT: You would not get caught as easily under the present law as you would under SB 58. Let's amend the 45 days to 31 days and amend the notice in accordance with what Mr. Kean has in his bill, AB 127.

Mr. Hilbrecht then made this in the form of a motion

Mr. Kean seconded

Mr. Torvinen moved to amend the motion to add a new section to define owner. If there are joint owners you only need to notify one of them. He said this should be made plain.

MR. KEAN: You probably have a point there.

MR. TORVINEN: Where there is a building permit issued, that clears it up, but many little places do not require building permits. Why don't we just say that where there is multiple ownership notice need only be given to one of them. Also, there is the problem of persons holding security interest in the property.

MR. WOOSTER: There are only four or five counties in the state without building permits required.

To summarize the suggested amendments:

1. 45 days on line 4 will be changed to 31 days.
2. Delete the italics on lines 6 and 7.
3. Add public relations language in AB 127.
4. Add a definition of owner, which would be a new section. Also, exclude security interest holder.
5. Exclude or exempt owner-purchaser.

I would like to ask Mr. Torvinen to get the amendments drawn up and bring them back. We will then go over them briefly before sending the bill out.

MR. KEAN: 127 on line 18 what value does "anticipated total value" have?

MR. TORVINEN: The owner might not have any idea of this.

MR. WOOSTER: It has value. You want to get some idea of what this is, whether it is \$10,000 or \$20,000.

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SB 314: Requires spark arrestors on certain vehicles and provides civil liability for causing fires.

MR. TORVINEN: This may be clarifying the present law.

Mr. Torvinen moved Do Pass
Mr. Schouweiler seconded
Motion passed unanimously

Mr. Wooster said that this is already in the statute. He then assigned Mr. Torvinen to speak for the bill on the floor.

SB 380: Makes State Fire Marshal and his deputies peace officers.

MR. HILBRECHT: Maybe we should add that amendment about the retirement. Or maybe we should just re-refer it to the Ways and Means Committee.

Deputy Fire Marshals are the fire chiefs of the various cities. Why not refer it to Ways and Means?

Mr. Hilbrecht moved to re-refer SB 380 to the Ways and Means Committee.
Mr. Torvinen seconded
Motion passed unanimously

AB 274: Amends provisions concerning limitations on actions against the State, political subdivisions.

MR. TORVINEN: This repeals the section which says that "no suit may be brought against any municipality or agency resulting from action of peace officer except for gross negligence." It is primarily striking the section saying you cannot sue for false arrest. It is restoring that right. I would like to pass this bill out. It has merit.

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

SB 334: Prohibits bondsman for defendant in criminal matter from employing attorney to enter plea of guilty for such defendant.

MR. HILBRECHT: I don't see why the bondsman would have authority to file a guilty plea for anybody.

Mr. Wooster asked Mr. Hilbrecht to investigate the reason for this bill.

SB 403: Restricts local filing of financing statements to consumer goods, farm-related transactions, and fixtures.

Mr. Kean asked Mr. Robert F. Guinn to come and see if he knew what this bill was all about.

MR. GUINN: Now any commercial records have to be registered in two places. The purpose of this bill is to conform with California in having registrations of such nature filed only with the Secretary of State. These are financial records. The purpose is to take the

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heavy equipment out of the responsibility of double filing. They have two procedures to do and one would suffice, they say.

FRANK DAYKIN: This could very well be called The Cashman Act.

We had three alternative versions to choose from for this section. One version was local filing only for fixtures. All other would be central with the Secretary of State.

The second was local filing for fixtures, consumer good and farm-related equipment, with central filing for all others.

The third version, which we enacted, provides local filing the same as the second version and provides double filing where the debtor has a place of business in only one county. All other filing would be central.

In drafting the Commercial Code we had to choose between these three alternatives. All are equally efficient. We put these three out for consideration by the Banker's Committee and the Lawyer's Committee. Neither made any recommendation; therefore, we put it out with the third alternative when we prepared the Code.

The purpose is to allow the local banker who is going to give credit to small businesses credit to go no further than the courthouse to determine what security interests are outstanding on that man's property. Under this arrangement, the man who wants to look only in one place for all the records can still do so. In Nevada, local availability seems to be desirable.

Hearings were held in 1965. Nobody made any contrary suggestions and the law was enacted. AB 32 was put through reconciling the conflicts. After the Code was in effect, here comes one particular operator and says that this is an awful imposition to have to file in two places when he is in business in only one county.

This bill you are considering would put us in the second Alternative. We would still have one of the three official alternatives. The man from out of state who checks will write to one place, the Secretary of State, but the local person can go right to the courthouse without having to inquire of the Secretary of State.

Miss Dungan moved to indefinitely postpone SB 403
Mr. Hilbrecht seconded
Motion passed unanimously

SB 254: Amends Uniform Narcotic Drug Act.

MR. DAYKIN: This is one of two bills that came from the State Pharmacy Board. The other bill is a very large revision of the Pharmacy Act which was put into the Senate.

Briefly, the amendments contained in this bill are:

1. Access to records of a manufacturer or wholesaler who ships into this state and doesn't maintain records in this state.
2. Reletes something relatively academic to Nevada. Eliminates exemption from selling narcotics to a ship's master.
3. Re-defines who is exempted. This is the Uniform Narcotic Drug Act that we are conformin to.

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MR. KEAN: Doesn't the Federal dangerous drug and narcotic thing require having a notice given them of any sale?

MR. DAYKIN: I can't answer that. I suspect that they are notified of any interstate shipment.

MR. HILBRECHT: Isn't paragoric a compound already? Are you requiring that it be cut back further?

MR. DAYKIN: Yes. 453.490 talks about paragoric and codein and they are limited to 1 ounce of paragoric or 1 ounce of codein. This makes it unlawful to buy 1 ounce and go back within 48 hours and buy more. This only relates to the exemption. With a doctor's prescription you could purchase more.

Miss Dungan moved Do Pass SB 254
Mr. Hilbrecht seconded
Motion passed unanimously

AB 447: Provides for review of sentences by Supreme Court in criminal cases.

MR. HILBRECHT: This goes hand in hand with the fact that we now have determinate sentences. It baffles me how you could be representing a man and not do this.

MR. TORVINEN: I am afraid 5 justices will not be enough.

MR. HILBRECHT: :The deterrent is that the judges can go either way.

MR. WOOSTER: I think it will increase the burden on the Supreme Court, if you take an appeal every time a man is sentenced.

Miss Dungan moved indefinitely postpone AB 447
Mr. Schouweiler seconded
Motion passed unanimously

Meeting was adjourned at 3:25.