

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 54th Session, April 11, 1967

Meeting was called to order by Chairman Wooster at 4:40 P.M.

Present: Wooster, Lowman, Swackhamer, Schouweiler, Torvinen, Kean, Dungan, Hilbrecht

Absent: White

SB 480: Requires indexing of financing statements covering crops or fixtures according to name of record owner of real property.

SENATOR DODGE: In some states, indexing is done by the legal description of the property. In our state we do it by a grantor, grantee system. All of our indexing is by name and not by description of property. I think this is done in the Uniform Commercial Code also

SB 408: Reorganizes corporate local improvement and service districts.

SENATOR DODGE: Russ McDonald drafted this bill and we discussed at some length with him the amendments. We have been actually working on this bill for about three years.

The middle of page 41 repeals chapters 310, 311, 312, 313, 314, 316 and 317 of NRS. These are things that have grown like Topsy under our system.

The reason for this bill is we wanted to get a master plan for improvement districts and wipe everything else off the books. We are going to leave Chapter 309 on to take care of existing districts. They have outstanding obligations and we do not want to jeopardize any part of what is going on in those districts. We "grandfathered" those in, but in the future, everything will be formed under 318.

This bill gets involved pretty well with Bond Counsel. In Denver they had done a lot of work on this act. They did this two years ago and it has been working pretty well. We looked it over and found it had many good features. Our object was not to destroy the Improvement District as a means of financing for the incorporated areas. If they had not had this kind of system, they could not have done much. But we did want to bring this under the strongest kind of surveillance.

You want to minimize the problem of a defalcation on a bond. You can't guarantee it, but we wanted to do something to make it strong.

MR. TORVINEN: Does it require some kind of financial supervision of a district Trust Deed?

SENATOR DODGE: There will be a Service Plan which must be filed with the County Commissioners and this is the place where there is the original right of Veto. Section 5, page 3, which outlines the Service Plan, is the whole "ball of wax." It says "what are you going to do, how are you going to pay for it, etc."

They must have belief in the validity of a project or they would not go so far as to file a Service Plan. They set up a hearing where anyone can come in and be heard, or they can turn the thing down at that point. They have the right of Veto right then.

The County Commissioners may ask that certain modifications be made in the Service Plan

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and then may grant authority to proceed after these modifications are made. After the hearing procedure, then you get one of these things set up. See top of page 7. You then go ahead and make the improvements. If you want to enlarge them at a later date you have to come in with a new Service Plan. There is to be no proliferation of these things.

MR. WOOSTER: What about existing districts that have not filed a Service Plan? If they want to go to a new service, do they have to file?

SENATOR DODGE: Yes, they would have to file.

MISS DUNGAN: They have not had to do anything like this before, have they?

SENATOR DODGE: No, not like this.

MR. WOOSTER: 318 districts had some supervision by the counties but there was not much. Some of the Water and Sanitation Districts are formed by the Courts and they have no discretion. If a petition is filed, they have to form the district.

SENATOR DODGE: Further down on page 7: It is up to the city or the county to inspect the plans and the contractor, or to go out to see if there has been any departure from the Service Plan. If there has been, it may be enjoined. There is follow-up to see that there has been compliance.

A lot of the language in the middle part of this bill (page 12) is is procedure for actually getting into the setting up of a District, selecting of Trustees, etc.

On page 15, we begin to pick up the various types of improvements that have been in the other parts, bringing them into conformity with 318. Page 18 is the value judgment. We permit them to issue General Obligation Bonds up to the assessed value of the property.

MR. KEAN: Is this a composite of all bonds, even though we have over-lapping districts?

SENATOR DODGE: It is the total of all bonds, excluding special obligations. If the assessment has been valid, this gives them the latitude up to about one-third of the true value. This is a value judgment. You want them to be able to go ahead and make their improvements but not let them get into an amount that they cannot handle.

MR. TORVINEN: One-third would almost always be the assessed value before the improvement. It would make a difference when you improved it.

SENATOR DODGE: That is right. You would have additional latitude.

MR. TORVINEN: I am thinking of bare acreage as against property with buildings, etc.

SENATOR DODGE: If at a later date you wanted to add additional improvements, you should have additional latitude because of the improvements. The General Obligation Bond is the thing that can nail you. It is more serious than the Revenue Bond of the General Assessment Collateral Bond.

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MR. SWACKHAMER: Do these bonds have a specific time in which they have to be paid back?

SENATOR DODGE: You have that in the issue.

MR. WOOSTER: Page 29, line 31, Local Government Securities Law.

SENATOR DODGE: Page 39 has things we wrote as they came to our attention. It is real good in my opinion. It is a conflict of interest amendment. A guy becomes a trustee, and maybe he is entirely open and honest, but maybe he is feathering his nest. We provided in here for the recall of a trustee. See sections 68 and 69.

A guy gets the money, and then becomes the contractor and they get a profit putting in the improvements. This section 69 sacks that up. A member of the Board, under this section, cannot become the contractor, purchaser, etc. for the improvements. These things are true "conflict of interest" provisions and we feel they will prevent some of these things that go on in this business. A guy handling the money cannot siphon some of it off on his own projects.

MR. SWACKHAMER: Have you thought much about this being too restrictive in section 8? What about a situation where 7 or 8 fellows live in the district. Could they set up a district?

SENATOR DODGE: Yes, but they would have to go out of their group to get their trustees. The more restrictive it is, the better, was our thought.

I have only hit the high points of this bill. It is a big bill. You won't have time to go through it bit by bit, but you ought to know enough about it to answer questions in the Assembly. We had a big hearing and many people came in and gave their two-bits worth. We considered very carefully all their suggestions. We had Russ draw up amendments on all these and then we spent an hour and a half just going through them all to see which ones we wanted to include in this.

So far as I know, we have no resistance now by anybody to this bill.

MR. WOOSTER: This isn't tightening up on existing districts like it is on new ones.

SENATOR DODGE: We have had expression from many counties hoping we could get this through at this session.

MR. KEAN: Where you have areas that overlap, won't there be danger of that area getting overloaded?

MR. WOOSTER: Page 4, line 35, section 8. All this will show up in the filed Service Plan.

MISS DUNGAN: I had that question asked of me, up in Tahoe this last week-end. The many things there have almost come up to the \$5 limit.

SENATOR DODGE: We made a decision that we would not put in this bill a requirement that you had to get approval of the General Obligation Commission on the Revenue Bond. The

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reason we did not extend it to the Revenue Bond type situation is that we felt that when we set up that commission two years ago we were trying to get a situation to determine priority of needs and to determine just how much bond redemption cost could be borne by the combined rate. That doesn't apply to the Revenue Bond.

I don't think we should ask the General Obligation Commission to determine the success of the Revenue Bonds. The Service Plan anticipates the sale of some kind of bond. It is in the Service Plan and originally gets approval of the Commission. We did not think that four months later that they needed also to get the approval of the bond commission.

MR. HILBRECHT: It is not my persuasion that this review is detrimental. Mr. Wooster tells me that in his experience in the D.A.'s office, it is beneficial.

SENATOR DODGE: The point of view I expressed to you was our opinion. Maybe it is not a final authority, but I am offering you the reasons why we did not provide that in Chapter 18 that Revenue Bonds should be approved by the General Obligation Bond Commission.

MR. HILBRECHT: This is done by Resolution?

SENATOR DODGE: No, by ordinance.

MR. WOOSTER: Creation of the District is by ordinance.

MISS DUNGAN: Look at page 7, subsection 5.

MR. WOOSTER: That refers to the resolution. It is somewhere else, but when you finally do it, I think you have to do it by ordinance. Page 7, line 40. "Organization of a District shall be designated by an ordinance."

MR. HILBRECHT: Line 9 seems to be permissive.

SENATOR DODGE: Russ could answer that question for you in a minute.

MR. HILBRECHT: I honestly would like to know from you as a member of the Senate, are there other reasons aside from economic feasibility for not having the review?

SENATOR DODGE: 1. General Obligation Bonds, whether they could stand the debt limit. 2. Determining priority. When we ask them to review this type of Revenue Bond thing which is going to depend for repayment on some existing revenue source established, it seems that what we are trying to do is offer some greater assurance of the safety, and we thought that would be putting too much on the General Obligation Bond Commission. Nobody, I suppose, can guarantee financial success. It would be placing an unfair burden on the Bond Commission.

Let's say they say it is all right. By so doing, some people might be misled into thinking there is no chance they might lose on the bonds. You have to consider whether the \$5 rate can stand a particular commitment for repayment, or how many of these things you can have going at one time and not go over the \$5 rate.

We did feel there was another way of doing this. That was on the bill that would place any type of Revenue Bond under this, but we did not feel that we wanted to put it in 318.

This is a major piece of legislation. It really needs to go.

MR. WOOSTER: Problem on these districts with public disclosures: I understand you did not write this into the bill because it existed elsewhere.

SENATOR DODGE: We did write it into the bill. What we provided was that in the event they did not have a regular office, they file with the county clerk at least annually the place where the financial records of the Improvement District can be examined. We presupposed that anyone under the existing law had a regular office operation, and most of the Districts did not have offices. Records were kept in the back of an automobile or in a room off the bedroom, etc.

MR. KEAN: I should like to compliment Senator Dodge for all his work on this bill. It appears to me to be a very fine bill.

SENATOR DODGE: In Section 20 we "grandfathered" in the Clark County situation where your Board of County Commissioners are the Trustees of that Sanitation District there. It does not interfere with or change that situation in any way.

I think some of the finest things we did here were the conflict of interest things.

MR. WOOSTER: We should not think that bonds cannot be sold unless they are good, solid bonds. We have a half-million dollars worth in Washoe County right now that are in default. It is sage brush land, etc. The idea that bonds cannot be sold unless they are good is a myth. I wonder if the next time Washoe County sells bonds if it will be able to sell the same banks. I don't think they will buy any.

MR. TORVINEN: The reason that district went bad is that they closed Stead Air Force Base. You should refer the banker from Kansas to Mr. McNamara.

SENATOR DODGE: 6% might be too tough. We used 94% of par. Page 29, line 32. We did not think this was relaxing too much. These are not the best type of bonds in the world. Page 29, same type of provision on Revenue Bonds.

I am sorry this bill comes over to you so late. This was one bill Russ had not had any time on before the session began.

SB 480: Requires indexing of financing statements covering crops or fixtures according to name of record owner of real property.

Mr. Lowman moved Do Pass SB 480  
Mr. Kean seconded  
Motion passed unanimously

SB 408: Reorganizes corporate local improvement and service districts.

MR. HILBRECHT: I still feel that there is a good reason for that other kind of language.

MR. WOOSTER: We have two other bills on that. I would hate to add a third.

MR. HILBRECHT: You are sure that this is by ordinance? I would like to check with Russ on this.

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Mr. Wooster called Mr. McDonald on the telephone and checked the matter with him. Mr. Wooster then reported that Mr. McDonald had assured him that this was done by ordinance.

Miss Dungan moved Do Pass SB 408

Mr. Lowman seconded

Motion passed unanimously

Meeting was adjourned at 5:35 P.M.