

## SENATE JUDICIARY COMMITTEE

## MINUTES

Meeting was called to order at 10:10 a. m. on February 13, 1969.

Committee members present: Senator Monroe, Chairman  
Senator Dodge  
Senator Young  
Senator Christensen  
Senator Hug  
Senator Bunker

Chairman Monroe remarked on SB 24. He discussed this further with Helen Herr and was advised if the peace officer were paid on a per diem basis he could be considered an independent contractor. He is not on the regular pay roll of the school district but is paid by the school for each individual job.

Senator Dodge felt there was definitely a liability exposure on the part of the individual.

Senator Monroe requested that Mr. Daykin be brought in to express his views on the language of this bill.

Mr. Daykin felt the problem would be the opinion of the insurance companies as to the definition of an independent contractor, whether he would be considered an employee. The thinking behind introducing this was to be ahead of any litigation that might arise from a situation using an officer as an on duty officer for school functions.

Senator Young remarked that he was very puzzled by the language and did not feel it was worth fooling around with.

Senator Hug felt the officer could be put on the school payroll if he were willing to wait two or three weeks for his pay.

Mr. Daykin remarked if they were acting as peace officers they would then be covered under the police department but when they were moonlighting there would be no coverage there for them.

Senator Dodge questioned if the word peace officer was the wrong term to use. The wording was not covering the situation they were trying to cover.

Senator Hug asked that if a peace officer were off duty and would hit someone over the head to prevent a crime would he be covered.

Mr. Daykin advised that whether he was on duty or not he was always a police officer when paid by the police department, but being paid by the school for a job did not extend to him working as a police officer.

Senator Young suggested "peace officer" be stricken.

Chairman Monroe advised the request came from George Franklin for this bill and he thought something should be resolved on it. Mr. Franklin had advised the school board these people were not covered under the police insurance when working for the school board.

Senator Dodge suggested to change the language from a police officer to a special deputy of the school district.

Mr. Daykin suggested to strike out the second "as a peace officer" and leave the rest of it the same.

This was set aside for further discussion.

Chairman Monroe mentioned he had called Frank Daykin to find out why SB 68 was pulled from the board and was advised there was no provision as to when the results were to be posted.

Mr. Daykin stated it did not provide a time for the posting and problems could develop from that.

Chairman Monroe stated Senator Fransway had complained they had taken the time element out.

Mr. Daykin advised he would amend the bill and put the time limit back in.

(Senator Swobe came in. 10:20)

SB 119 - Limits personal liability of public officers and employees for injuries caused within scope of employment.

Senator Monroe suggested Howard Barrett be asked to appear before the committee on this.

Mr. Daykin advised the present law does not protect the employee and this was done away with sovereign immunity.

Senator Dodge asked Mr. Daykin how this was handled in California. Mr. Daykin replied that he did not know, but would look it up and advise.

Senator Monroe brought up the Spillers case in Reno. A prisoner had escaped from an honor camp and had raped a Reno woman. She and her husband were now suing the state for \$825,000 and had also named three state employees in the suit. It was also pointed out that this bill would have a retroactive effect however Mr. Daykin stated he questioned the legality of making it retroactive and did not feel it would be sustained in court.

Senator Monroe questioned sub-section 2 on page 2 under section 4.

Mr. Daykin advised there was no money available for the state to pay in the event they lost a suit and would have to wait until the next meeting of the legislature for the money.

Chairman Monroe stated the State did have a policy to take care of claims over \$100,000 but under that amount the State was stuck.

Mr. Daykin explained that sub section 2, section 4 provided the authorization to transfer money from the General Fund to the State Board of Examiners. This would allow payment as soon as judgment is recovered.

Senator Dodge felt they should be sure to do something to shelter employees in the future.

After a general discussion Chairman Monroe suggested Mr. Barrett be asked to be heard on this as he thought it was a morale problem.

This was set aside until Mr. Barrett could be contacted.

SB 19 - Permits female employment in liquor sales.

Chairman Monroe advised he had been waiting to hear something from Labor on this, however nothing to date had been mentioned. He discussed this with Mr. Bailey and felt there was no use holding this up any longer.

Senator Dodge moved this be passed.  
Senator Christensen seconded the motion.  
Motion Carried.

Senator Monroe announced that in discussing SJR 1 on February 12th he had overlooked the amendment attached to the back of that bill. This would amend it to conform with SB 58.

Senator Bunker moved this be passed

Ayes: Senator Hug  
Senator Swobe  
Senator Dodge  
Senator Christensen  
Senator Bunker

Nays: Senator Young voted aye on SJR 1 but voted against passage of SB 58.

Chairman Monroe stated that SJR 1 would have to be sent to the people.

SB 104 - Reduces penalty for unlawful disposal of garbage and refuse.

Senator Young advised there was an error made in 1967; a it was made a gross misdemeanor penalty for littering instead of a misdemeanor. This was merely to correct that.

Senator Dodge moved this be passed.  
Senator Young seconded the motion.  
Motion carried.

SB 139 - Outlaws conduct in public area which disrupts normal activities.

Senator Swobe who authored this bill advised that Grant Davis had done a lot of researching on the language in this and it was taken from a recent Supreme Court decision. He would be agreeable to a hearing on this if anyone was interested.

Senator Young was concerned with the language in sub-section 1, under Section 1 and thought it should read "any person who may commit an act - - - - - which may interfere, etc."

There was a general discussion on the wording of the proposed amendments and Senator Swobe remarked that this was designed to leave the authority in the hand of the University. The "proper official" would mean anyone that was appointed to be in charge by those in charge at the University. There is no control now over the non-student demonstrators on the campus and this would give the University control to handle this and to have definite control over demonstrations.

It was decided that this bill should be set aside until

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there was more time to study it.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jeanne M. Smith, Secretary.

Approved: \_\_\_\_\_