

## ASSEMBLY COMMITTEE ON JUDICIARY - 56th SESSION, 1971

MEETING MARCH 12, 1971

The meeting was called to order at 10:30 a.m. Present: Miss Foote, Messrs. Fry, Lowman, Torvinen, McKissick, Dreyer, and May, and Kean. Absent: Mr. Olsen.

Mr. Kean moved that AB 378 be amended by deleting the words "6 months" in line 6 and inserting the words "60 days" and that the committee recommend "Do Pass as Amended." Seconded by Mr. McKissick. Carried.

Mr. Lowman moved that AB 379 be amended by removing the bracket on line 22 and inserting "any prevailing party for good cause", and the committee recommend "Do Pass as Amended". Seconded by Mr. McKissick. Carried.

Mr. McKissick presented the amendments prepared for AB 245. Mr. McKissick moved the committee amend AB 245 and recommend "Do Pass as Amended". Seconded by Mr. Fry. Carried.

Mr. Torvinen moved that AB 303 be amended by changing "two" to "one" on line 8, page 1, and the committee recommend "Do Pass as Amended". Seconded by Mr. Fry. Carried.

Mr. Dreyer moved that AB 303 be amended further by deleting "fail to disclose" on line 18 and inserting "conceal", and the committee recommend "Do Pass as Amended." Seconded by Mr. Fry. Carried.

Mr. Fry moved that AB 411 be indefinitely postponed. Seconded by Mr. Lowman. Carried.

RUSSELL McDONALD, ESQ. explained the following Senate Bills to the committee; and Mr. Torvinen moved that if there were no objections to the bills, the committee could make a collective motion on the bills. Motion seconded by Mr. Fry and carried.

SB 364, SB 366, SB 367, SB 368, SB 374, SB 372, ~~SB 380~~, SB 381, SB 382, SB 387, SB 391, SB 392, SB 393, SB 395, SB 396, SB 397, SB 399, SB 401, SB 402, SB 404, SB 405, SB 408, SB 409, SB 410.

Mr. Lowman moved that all the preceding senate bills be given a recommendation of "Do Pass". Seconded by Mr. Kean. Carried.

## Assembly Committee on Judiciary

Senate Bills 390, 406 and 407 will be held for further study by the committee.

Mr. Lowman moved that SB 8 be indefinitely postponed. Seconded by Mr. Kean. The motion lost on a 4-2 vote, with Messrs. Lowman, Kean, Fry and Dreyer voting Aye and Miss Foote and Mr. May voting No.

AB 124 - Increases rights of limited partners and excludes limited partnerships from filing certificate of assumed or fictitious name.

SAM BELFORD, ESQ. spoke in favor of the bill, and stated California had amended its act to provide that limited partners could have a say in the business. Mr. Belford felt the partnership certificate should not have to be recorded with the County Recorder and filed with the County Clerk, since this is a duplication. He preferred recording it, but stated that if filing with the County Clerk was more acceptable to the Legislature, he would agree to that.

Mr. Belford also agreed to look over AB 519 and Mr. Fry's research thereon, and stated to Mr. Kean that he favors the bill.

AB 379 - Provides for allowance of attorneys' fees in civil cases.

RICHARD EDWARDS, ESQ., CHIEF COUNSEL, DEPARTMENT OF HIGHWAYS, stated the interpretation of the judges in condemnation cases as far as assignment of costs is that the defendant always has costs awarded to him, and the state pays the costs. When the state has a right of entry, it files an amount of assessed valuation with the court. The award of judgment to the defendant may be above or below the costs posted with the court.

Mr. Edwards stated that amending the bill to add an additional award of attorneys' fees would discourage settlement in condemnation cases. He stated there is a senate bill pending to compromise this, providing that if the award is 10% more than the amount of the deposit, the court could award attorney's fees to the defendant. Mr. Edwards will let the committee know which senate bill this is.

There being no further business, the meeting was adjourned at 11:47 a.m.

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