

ASSEMBLY COMMITTEE ON JUDICIARY - 56TH SESSION, 1971

MEETING APRIL 12, 1971

The meeting was called to order at 2:45 p.m. Present: Miss Foote, Messrs. Fry, Kean, Dreyer, May, Torvinen, Olsen and McKissick. Absent: Mr. Lowman.

SB 470 - Permits state highway construction contractor to withdraw amounts retained by Department of Highways under contract upon presentation of security.

MR. ROWLAND OAKES, Associated General Contractors, stated the bill would permit a contractor to post either US Treasury Bonds or Bonds of the State of Nevada or general obligation bonds of governmental agencies. It would increase the contractors' assets and it is to the advantage of contractors and also to the state. It is estimated that the state could realize a saving of between \$100,000 - \$200,000 annually because it would be reflected in the contractor's bid in the saving on the investment of the securities. The highway department is in favor of the bill as amended.

Mr. Kean moved "Do Pass" SB 470. Seconded by Mr. Fry. Carried.

Mr. Fry presented amendments to SB 221, one of which would change the figures of registered voters so that Washoe County would not be included in the bill in line 6, and the other would add a section to the bill to amend NRS 4.060 so that fees for marriages performed would be increased from \$5 to \$15 during the daytime and \$20 evenings and weekends.

Mr. Fry moved "Amend and Do Pass" SB 221. Seconded by Mr. May. Carried, with Mr. Torvinen and Mr. McKissick voting "No."

AB 727 - Allows amendment of birth record after acknowledgement of paternity.

ASSEMBLYMAN VIRGIL GETTO said the bill would allow for the name of the father to appear on the birth certificate, if this is agreed to by both the father and the mother of the illegitimate child.

AB 796 - Regulates operation of watercraft.

Mr. Getto urged passage of the bill, stating there are no regulations at the present time regarding watercraft except

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on lakes in Nevada under the jurisdiction of the Coast Guard. Some lakes are bi-county, so county ordinances wouldn't cover them.

SB 2 - Increases public administrator's bond in certain counties.

SENATOR MELVIN CLOSE said the bill was requested by the Public Administrator of Clark County and was amended to include Washoe County. It would allow the administrator to obtain a blanket bond for estates less than \$25,000 and a separate bond for each estate over \$25,000. It would save the time and trouble of getting a separate bond for each small estate, and would also save money in bonding fees. The insurance companies have stated they would write such blanket bonds.

SB 528 - Makes an exception to bond requirements for construction controls.

Senator Close stated the bill was requested by the mortgage companies in Las Vegas, and three such companies would be affected by the bill. In the present law the requirement is that construction controls be 1-1/4 times the capitalization in a bond. Subcontractors and the Associated General Contractors are in favor of the bill giving mortgage companies the power to pay moneys to other persons without having the bonding requirements met. There are some safeguards on the provisions, since prior FHA approval would be required.

AB 411 - Relieves doctors of liability under certain circumstances and establishes procedure for requiring cost bond of plaintiff in certain malpractice cases.

V. A. SALVADORINI, MD, Reno, testified in favor of the bill, stating it is the "Good Samaritan" bill of the hospital emergency room. A physician who is trying to give assistance can end up defending a malpractice suit and losing thousands of dollars.

Mr. McKissick presented amendments on the bill which would delete Sections 1-7 and add new language. Mr. Fry noted that under the bill, and under the proposed amendment, there is no provision for action against a doctor for negligent treatment.

Mr. McKissick noted there is a problem of defining "patient" so it would apply to a regularly admitted in-patient of the hospital, and Dr. Salvadorini agreed that the amendments may not read as they were intended to.

Mr. Torvinen moved "Do Pass" AB 727. Seconded by Mr. Fry. Carried.

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Mr. Torvinen moved "Do Pass" SB 2. Seconded by Mr. McKissick. Carried.

Mr. Dreyer moved "Do Pass" SB 528. Seconded by Mr. Torvinen. Carried.

Mr. Dreyer moved "Do Pass" AB 637. Seconded by Mr. May. Carried, with Mr. Fry voting "No.". Mr. Torvinen noted that although he had voted in favor of passage of the bill from committee, he feared it may be unconstitutional.

SB 325 - Provides additional grounds for writs of habeas corpus.

Mr. Torvinen explained the Supreme Court has held that probable cause in a municipal court case cannot be attacked because there is no preliminary hearing. People should have a right to try probable cause in a misdemeanor complaint rather than waiting until conviction and bringing a writ of habeas corpus. It is a question of when you can get review of an appellate court on the question of probable cause.

Mr. McKissick noted this would expedite whether or not an ordinance is unconstitutional before trial is had.

Mr. McKissick moved "Do Pass" SB 325. Seconded by Mr. Fry. Carried.

Mr. May moved "Do Pass" SB 626. Seconded by Mr. Dreyer. Carried.

Mr. May moved "Do Pass" SB 571. Seconded by Mr. Olsen. Carried.

SJR 25 - Proposes to amend Nevada Constitution by allowing Legislature to establish intermediate appellate courts and by including judges of such courts within impeachment power of Legislature.

LT. GOVERNOR HARRY REID stated that cases now on appeal before the Supreme Court take almost a year to be decided. The reason for increasing the size of the Supreme Court was so that the Court could decide cases on the basis of collective wisdom. It hasn't worked out that way, simply because of press of cases, and a case is often assigned to just one Justice. During the past five years criminal cases have had an almost automatic appeal, and the appeal court is clogged. The resolution would help solve this problem. This would not make the appeal courts mandatory, but would give authority to the Legislature to create the courts, both for criminal and civil appeals.

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Mr. Torvinen noted he had introduced AJR 31 which seeks to create a criminal court of appeals. It has a mandatory time for appeal of 90 days. He spoke of the possibility of the adoption of SJR 23, and stated that AJR 31 was drafted in an alternative way to cover the judicial articles as they would stand if SJR 23 is adopted.

Governor Reid noted that AJR 31 is restrictive and he didn't want the appellate courts limited to criminal appeals. He stated that because of the lateness of the session and the lack of time, Mr. Torvinen should prepare amendments to SJR 25 embodying portions of AJR 31.

Mr. Dreyer presented a bill which would make burglary a crime during the day as well as during the night. Mr. Torvinen moved the committee introduce the bill. Seconded by Mr. Fry. Carried.

Mr. McKissick moved "Do Pass" AB 384. Seconded by Mr. Fry. Carried.

There being no further business, the meeting was adjourned at 3:40 p.m.

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