ASSEMBLY COMMITTEE ON JUDICIARY - 56th SESSION, 1971

MEETING April 6, 1971

The meeting was called to order at 3:50 p.m. All present.

SB 457 - Provides declaratory relief from court orders prohibiting publication, broadcasting of lawfully obtained information concerning trials and other proceedings.

JERRY WHITEHEAD, ESQ., representing Reno Newspapers, Inc. spoke of the case which occasioned the legislation, wherein the court prohibited the newspapers from publishing the names of jurors. The newspapers are convinced the order is unconstitutional. The newspapers are seeking declaratory relief to decide if a court may preclude such publication of public information. Because the trial would be over before the newspaper's case came to trial, the question has become moot with the court. They want the bill to establish a precedent.

Mr. Lowman noted the bill gives the case priority in court, and felt this was not a good idea, with the crowded court calendars. Mr. Whitehead said if they get into court while the matter is still pending, the court can't refuse jurisdiction on the grounds the matter is moot.

Mr. Lowman asked about the provisions of Subsection 1(a) implying that a different district judge would hear the petition, compared to the language in line 9, implying that the same judge could hear the petition. Mr. Whitehead said they have no objections to that, and in some districts there is just one judge.

Appearing with Mr. Whitehead were WARREN LERUDE and PAUL LEONARD of Reno Newspapers, Inc., who substantiated Mr. Whitehead's remarks.

AB 677 - Restricts powers of cities, counties and state gaming control agencies over gaming employees.

MISS SUE TODD stated the bill is good, with the exception of the language in the bill giving the power to a county or city licensing authority to maintain and keep confidential records of all information surrounding identity and abilities of gaming employees, and felt that the employees should have the right to

examine their own files. She stated that there could be mistakes in the records, and these could lead to dismissal of the employee without his knowing the reason.

MR. LES KOFOED, Nevada Gaming Industry Association, stated he opposes the bill on general principles. One thing that has kept Nevada gaming great has been the rigid controls and it is not wise to keep chipping away at any of the controls we have.

Mr. Fry asked if Mr. Kofoed knew of instances of arbitrary withholding of jobs or discrimination, or harrassment of establishments by police officers. Mr. Kofoed said he knew of no such problems.

Mr. Kofoed further noted that the bill provided restrictions for people with less than ten slot machines. He stated this was unrealistic, since people could have many gaming tables, but not require work permits if they kept slot machines down to ten.

Discussions were held on amendments to AB 189, AB 164, AB 296, and AB 384. An amendment draft was presented and discussed by JERRY WHITEHEAD, ESQ. He stated he had looked over all the above mentioned bills, and tried to combine them with this amendment draft.

On the first page of the draft, the provisions of AB 189 are followed. The change is from $25,000 to $100,000, which was the figure used in the theory of all the bills.

MR. OLIVER BOULTON, Nevada Independent Insurance Agents, stated that the raise in insurance premiums for the raise in coverage would be an average of about 11% more.

Mr. Whitehead explained that on page 2 the provisions of AB 189 were incorporated changing the six months limit to 12 months for a claim, which he felt was a reasonable amount of time. A major change is in paragraph 5, wherein the suggestion appears that no claim need be presented if it is covered by insurance to the extent of damages recovered under the limitation statute. When the governmental agency has insurance, the claim is just a formality, it is automatically denied, and the claim is referred to the insurance company.

Mr. Torvinen stated there is good reason for a claim being made, and that is to put the government agency on notice that the situation which caused the injury exists, so they may repair it. Mr. Whitehead said he recognizes the validity of this, and his thought was that the claim provision gives the governmental agency's insurance carrier an advantage that other companies don't have.

Mr. Fry stated this could be a trap for the unwary as well. If a claimant doesn't know whether the municipality has insurance, it is misleading. Mr. Whitehead felt that claimant's counsel could easily find out about insurance coverage.

Mr. Whitehead stated the language in paragraph 3 was taken from AB 189, and he feels this is the most important provision of the bill. The insurance company would not raise the defense of sovereign immunity unless directed to do so by the city up to the amount of the policy.

Mr. Lowman felt this would encourage litigation to go to the limit of the coverage.

Mr. Whitehead said the Nevada Supreme Court has decided that the purchase of insurance without a statutory authority from the Legislature did not constitute a waiver. The Legislature has to give the authority. This bill would do that.

City and county governments will pay for more insurance, and they are willing that the injured party will benefit by it. The insurance company will go along with this. We now have a court decision that says the money can't be paid out without this legislation, since it would constitute a gift of public funds for the amount of the excess.

Mr. Whitehead said it is important to add to paragraph 3, "statutory limit to the extent of coverage provided."

Mr. Boulton said the state has an excess policy insuring each claim up to $25,000 with a total of $100,000 (four claims). The premium is $40,000 per year. There are automobile insurance policies in addition with limits of $500,000 per person and per claimant.

Mr. McKissick questioned why the state pays for insurance up to $500,000 when the sovereign immunity limit is $25,000. Mr. Boulton said he didn't know.

Mr. Whitehead said a section has been added stating the Attorney General shall defend the employee, and he sees nothing wrong with that. He felt the attorney general is probably obligated to do so now, but this would make it clear in the statutes.

Mr. May, regarding Sec. 9, asked about claims which may be pending now, and if the claimants could sue for a larger amount of money after the legislation is enacted. Mr. Whitehead said this possibly should not apply on pending claims from $25,000 to $100,000 but it should apply as to waiver provisions in the pending cases.

Mr. Boulton said on non-automobile accidents the state departments may be self-insured up to $100,000 with a limit of $25,000 per claim. If this is raised to $100,000, who is going to pay the claims? Mr. Fry asked how many claims there had been, on a yearly average, outside of the automobile claims. Mr. Boulton said the highway department had none, but the board of examiners has had some.

Mr. Fry asked if the state brings the excess policy down, how much would it cost. Mr. Boulton stated that in investigation of the cost of insurance for limits of $100,000 per person with one million dollars per occurrence, one company had quoted premiums of $252,000 per year. Mr. Whitehead stated, on information, that the highway department had been self-insuring and representing itself for the first $100,000 and the cost was much less.

Mr. Fry said the draft did not include the limitation placed on the employee as well as the department or governmental entity, and the bill should provide this. The employee is still open to suit.

Mr. Fry appointed Mr. McKissick to prepare the proper amendments to the draft and to bring them back for the committee's consideration. Mr. McKissick moved "Amend and Do Pass" AB 384, conforming to the cleanup language. Seconded by Mr. Dreyer. Carried.

There being no further business, the meeting was adjourned at 5:05 p.m.

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ASSEMBLY

AGENDA FOR COMMITTEE ON JUDICIARY

Date April 6 Time adjournment Room 240

45

Bills or Resolutions to be considered	Subject	Counsel requested*
SB 457	Provides declaratory relief from court orders prohibiting publication, broadcasting of lawfully obtained information concerning trials and other proceedings.	
AB 677	Restricts power of cities, counties and state gaming control agencies over gaming employees.	

*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date _____ Time _____ Room _____
Subject _____

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