

SENATE JUDICIARY COMMITTEE

MINUTES

March 23, 1971

Chairman Monroe called the meeting to order at 8:40 a.m.

Committee Members Present: Chairman Monroe
Senator Close
Senator Folley
Senator Dodge
Senator Swobe
Senator Wilson
Senator Young

Others Present: Jean Ford - League of Women Voters
Clark Guild, Jr. - Attorney, Southwest Gas Corp. &
Sierra Pacific Power Company
Roland Oakes - Manager, Nevada Associated General
Contractors
Stan Warren - Nevada Bell
Robert Stoker - State Contractors' Board
Tom Cook - State Contractors' Board
John Warren - Reliable Fence Company
Judge John Mendoza
Senator Stan Drakulich
Noel Clark - Public Service Commission
Mr. A. A. Campos - Parole Probation Department
Bud Meneley - Meneley and Ames
Don J. Elkins - Jacobsen Construction Company
Tom Donnels - Walker-Boudwin Construction
Dale E. McKenzie - McKenzie Construction
John E. Bawden - State Highway Engineer

S.B. #35 - Eliminates acreage exclusion from definition
of "subdivision."
Senator Monroe

Jean Ford of the League of Women Voters asked the committee to consider this bill. Chairman Monroe stated that he had introduced a bill today to take care of this situation, but felt we should process it because the county commissioners are waiting for us to act on this bill.

Senator Young made a motion to "do pass." Senator Young seconded the motion. Motion carried.

S.B. #494 - Authorizes licensed physicians to perform
abortions under certain conditions.
Senators Swobe, Monroe, Young and Titlow.

Chairman Monroe asked the committee to vote to either:

- (1) Approve the amendment to put the issue on the ballot.
- (2) To put the bill on the floor.
- (3) To kill the bill.

Senator Close made a motion to "kill" this bill. Senator Foley seconded the motion. The committee voted as follows on this motion.

Yeas: Senators Close and Foley (2)

Nays: Senators Monroe, Swobe, Dodge, Wilson and Young (5)

Senator Swobe made a motion to approve the amendment to put it on the ballot. Senator Dodge seconded the motion. The committee voted on this motion as follows:

Yeas: Senators Monroe, Swobe, Dodge, Wilson and Young (5)

Nays: Senators Close and Foley (2)

The amendment was approved by a majority vote.

The committee will discuss further amendments regarding residency requirements.

S.B. #469 - Permits State Contractors' Board to establish and modify contracting business classifications; removes exemption of public utility construction work from regulation.
Committee on Judiciary.

Clark Guild, Jr., an attorney representing the Southwest Gas Corporation and Sierra Pacific Power Company, testified that they have no objection to Section 1. They do oppose the change made in Section 2 because if the crews of the utilities can not do their own construction work and have to bid it out to contractors, the cost of construction would be higher, and the cost would be passed on to the consumers. The Sierra Pacific Power Company advised him that if this legislation were adopted with the word "construction" eliminated in Section 2, they would be in violation of their union agreement which requires them to use company crews on all construction work, unless they are not qualified to do so.

He suggested leaving the statute as it is. He did not have any objection to the language in Subsection 5 of Section 1, but didn't feel it had any purpose.

Roland Oakes, Manager of the Nevada Associated General Contractors, said that the first amendment, on Line 3, was suggested because a group of electrical contractors in Las Vegas felt that the installation of underground conduits should be limited to electrical contractors. He thinks construction of any type should be done by the most economical method, and if the contractor decides he can do it cheaper, then it should be done. This will prevent the board from getting involved in deciding where a jurisdiction starts and stops.

The other amendment was suggested by the general contractors from Las Vegas who feel that only the maintenance and development work were of public interest, and the construction work could be done by a licensed contractor.

Stan Warren of Nevada Bell testified that they agree with Mr. Guild's testimony. He stated that the only reason they contract overhead construction

work is because of the urgency and cost of the job.

He also suggested amending the bill to leave the word "construction" in Subsection 3 of Section 2,

Grant Davis will draft an amendment.

A.B. #236 - Clarifies various provisions of law, relating to contractors.
Assemblyman May.

Mr. Robert Stoker, Secretary of the State Contractors' Board and Mr. Tom Cook, attorney for the State Contractors' Board testified on this bill. Mr. Stoker informed the committee that this bill does not make any changes other than giving them an idea of priority with respect to claimants under surety bonds.

Senator Dodge made a motion to "do pass." Senator Young seconded the motion. Motion carried.

S.B. #470 - Permits state highway construction contractor to withdraw amounts retained by Department of Highways under contract upon presentation of security.
Committee on Judiciary.

Roland Oakes testified that this would permit posting of securities in order to borrow money on the amount held by the department of highways under contract. This would allow the contractor some working capital, and would be a benefit in times of high interest rates. He stated that this is a trend throughout the country.

He noted that the types of securities listed in the bill are easily converted into cash, and felt this bill would save the state some money.

John Bawden, State Highway Engineer, testified that his department is in disagreement with this bill. He felt that if Section 5 (c) were referring to improvement bonds, they are not very good security. He also questioned Line 22 of Section 5 regarding the market value attached to these bonds at the time they are written, and asked what would happen if the market value goes down. Senator Dodge suggested changing Section 5 (c) to general obligation bonds. John Bawden felt the bill was complicated and suggested adopting the methods used in Utah, since they are simple and accomplish the same thing.

Roland Oakes stated that the language in this bill was taken from the State of Utah, but said the purpose was just to post securities and they don't care what procedure is used.

Senator Foley asked Mr. Oakes if it was the desire of the contractors to make this applicable to other public works. Mr. Oakes replied that the contractors would like to have it amended to apply to all public works. Senator Dodge felt that we should go with it as it is, and work the others in at a later date when we have a pattern set.

The committee asked Grant Davis to check the Utah statute and make the necessary amendments to conform this bill.

S.B. #471 - Prohibits state agency, political subdivision from performing construction on public works costing more than a specified amount except by receipt of bids; requires arbitration clause in contracts.
Committee on Judiciary.

Roland Oakes testified that the first amendment, starting on Line 22 of Page 1, was not aimed at the Highway Department but at Washoe and Clark Counties. He said they are not tied to the \$5,000 figure but felt the state should get the lowest price by putting these contracts out to bid.

He said the second section also didn't have much to do with the highway department. This bill was amended last session to permit the planning board to use arbitration in their contracts, but they didn't see fit to do so. He felt arbitration was a fair way to administer construction contracts within 20 or 30 days. Otherwise the contractor would have to go to court, which would put the public agency in a better position.

Mr. Tom Donnels, owner of Walker-Boudwin Construction Company testified that he is in support of the second amendment to provide for mandatory arbitration. He said that if a contract has to go to court, it would cost him more money than submitting to a contract decision. He said there wasn't a contractor in the state that has not gotten burned by this section as it is now. Don Elkins of Jacobson Construction Company testified that it is not that simple to take the state to court to collect money on a contract. He said they are involved in a case right now where the subcontractor disagreed with the decision of the state planning board and the architect and is now suing Jacobson and the state for \$80,000. The problem they have is the only way they can make a claim against the State of Nevada, even if valid, is to sue under tort because they can't sue under contract law. John Bawden, State Highway Engineer, testified that they object to the \$5,000 limitation, and especially in relation to maintenance work.

He also stated that the federal government has no objection to arbitration, but they do not accept it as binding on them. Therefore, if the federal government does not participate in the arbitration, the state has to come up with the entire funds. Nevada is a small state, and can't afford to pay for this cost.

The highway department has set up a contract review board to review each claim submitted and make recommendations, but Mr. Bawden can deny that claim. They then have another recourse to go to the highway board, if the highway board denies the claim they can go to court. Senator Monroe asked the contractors present if they would have any objections to excluding the highway department from arbitration, and having it apply only to building construction. The contractors had no objections.

Mr. Bawden suggested leaving the word "may" in the bill to give him an opportunity to put an arbitration clause in his contract.

Mr. Oakes stated that under the present state highway engineer, Mr. Bawden, they don't need an arbitration clause, but remarked that he wouldn't be there forever.

No final action was taken.

2-102

S.B. #472 - Clarifies conditions existing when work or improvements on state highways can be done more economically than by contract.
Committee on Judiciary.

John Bawden stated he is against S.B. #472 for the same reasons he is against S.B. #471 because it places a limitation on the amount of work we can do under maintenance operations.

Chairman Monroe felt it was the same as S.B. #471 except it applies specifically to the highway department.

Senator Young made a motion to "kill" the bill. Senator Swobe seconded the motion.

The committee voted as follows:

Yeas: Senators Close, Foley, Swobe, Monroe, Wilson and Young (6)
Nays: Senator Dodge (1)

Motion carried.

S.B. #430 - Requires expunging or sealing of arrest records in certain cases.
Senator Young.

Mr. A. A. Campos from the Parole and Probation Department testified that he felt the general idea of this bill is commendable, but that it might present some problems to the sheriff and police departments.

He also felt that the words "if a person were arrested by mistake" could be interpreted in many different ways since there is no definition of the word "mistake."

Senator Foley mentioned that A.B. #491 is another expungement bill which would cover this situation better, and wondered if we shouldn't wait and take action on that bill.

Senator Young made a motion to "kill" S.B. #430. Senator Swobe seconded the motion. Motion carried.

S.B. #469 - Permits State Contractors' Board to establish and modify contracting business classifications; removes exemption of public utility construction work from regulation.
Committee on Judiciary.

Mr. Noel Clark of the Public Service Commission requested to testify on this bill. He felt that this bill would mean the expenditure of more money by the public utilities which would mean the customer would have to pay a higher rate for this product.

Senator Young made a motion to amend by removing Section 2 from this bill and "do pass." Senator Wilson seconded the motion. Motion carried.

2-153

S.B. #432 - Places minimum limit on amount of indemnity payable under credit accident and health insurance.
Senator Drakulich.

Senator Stan Drakulich testified that this bill would provide that the limitations on credit life attached to loan policies, could not be lumped together if you have this coverage on more than one loan.

Senator Young made a motion to "do pass." Senator Foley seconded the motion. Motion carried.

S.B. #466 - Permits expungement of drug violation record.
Senator Drakulich.

Senator Stan Drakulich testified that he felt the young people who were experimenting with drugs really didn't know what they were doing and should have a chance to have their records expunged. He stated that he used the age 23 because it would cover servicemen.

Mr. Campos felt that no expungement bill passed would ever completely erase a record because of the many different agencies which receive this information, including the FBI and CIA. Jean Ford testified that the Assembly Judiciary Committee had researched this and both the FBI and the CIA would seal their records on a court order.

Judge Mendoza testified that this is a good bill because it covers a "no-man's-land" where adolescents are between the ages of 18 and 21. He felt this would be a good deterrent for these people. Senator Dodge felt that probation is a good deterrent too.

No final action was taken.

Meeting adjourned at 10:55 a.m.

Respectfully submitted,



Eileen Wynkoop, Secretary

Approved: _____