

2-1117

SENATE JUDICIARY COMMITTEE

MINUTES

March 25, 1971

Chairman Monroe called the meeting to order at 8:45 a.m.

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

Others Present: Mr. F. R. Breen - Reno Attorney
Mr. James L. McGee - First National Bank,
Vice-President Senior Trust Dept.
Grant Davis - Legislative Counsel Bureau

S.B. #554 - Conforms certain charitable trusts, foundations
and corporations to requirements of Federal Tax
Reform Act of 1969.
Senator Young.

Mr. F. R. Breen testified on this bill. He stated that the Internal Revenue Code came out with regulations which state if the states pass laws which prohibit these tax exempt organizations, the penalties would not apply to foundations and corporations within the state. The code states that foundations in existence in the state are determined to have complied if articles are amended or this legislation is passed prior to December 31, 1971. If it doesn't pass, it would cause trouble for trust and charitable foundations in this state. This bill takes care of the problem in the operations and termination of foundations.

Senator Foley asked Mr. Breen to explain Section 29. Mr. Breen said that this was put in to cover a problem they have been having with split income trusts. He stated that he has had several objections that this would leave it too open, and recommended removing it because of the urgency of the other parts of this act.

Senator Dodge made a motion to amend and "do pass." Senator Foley seconded the motion. Motion carried.

S.B. #310 - Requires private foundations to comply
with Tax Reform Act of 1969.
Senator Young.

Mr. R. R. Breen testified that this bill was requested by Mr. Eli Grubick, who could not attend this meeting. Mr. Breen stated that this bill makes no provisions for avoiding termination tax. He said that tax would wipe out foundations. He stated that he had spoken to Mr. Grubick, and that

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Mr. Grubick had read his bill, S.B. #554, and endorsed passage of that bill rather than S.B. #310 because it is more comprehensive.

Senator Dodge made a motion to "kill" this bill. Senator Young seconded the motion. Motion carried.

S.B. #553 - Provides for payment of certain attorneys' fees as administrative costs of estates of deceased persons.
Senator Young.

Mr. F. R. Breen testified that this bill would amend two sections of the probate code dealing with payment of attorneys which are appointed to represent absent or minor heirs. S.B. #553 is taken out of compensation probate, S.B. #558 is from the accounting section.

S.B. #553 covers a situation where attorneys are appointed to represent absent and minor heirs, and the fees are paid out of general funds of the estate. Those fees are not deductible as an estate expense, and we feel they should be. The IRS has taken a position that if the state law considers them as administrative expenses, the IRS will accept them as such. It is drafted so that the court would determine if the attorneys' fees were of benefit to the estate, the estate would pay the fees and they would be deductible.

Senator Wilson felt that the amendatory language read like an additional fee from the estate for the attorney. After further discussion, Mr. Breen drafted additional language to correct that to the effect that the court could order all or part of the fee paid to the attorney be paid out of the funds of the estate and be an administrative expense.

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

S.B. #558 - Provides for payment of certain attorneys' fees as administrative costs of estates of deceased persons.
Senator Young.

Mr. F. R. Breen explained that this bill would take the expense the estates have now and say they are administrative expenses for federal tax purposes. He introduced Mr. James L. McGee from the First National Bank who testified for this bill also.

Mr. James L. McGee stated that he attended the meeting as a representative of the Trust Division of the Nevada Bankers Association, and they are in favor of this bill. He stated that this bill was suggested by the state tax attorney for the IRS, who stated that the estate is normally denied this deduction on their state tax return, but the IRS would allow it if this legislation was passed by the state.

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

S.B. #315 - Changes method of computing payment of delinquent taxes for reconveyance.
Committee on Judiciary.

Senator Close asked that he be allowed to reopen discussion on this bill. He suggested amending the bill further to provide that this bill would not have retroactive application, and would only apply to property now or hereafter in the hands of the county treasurer.

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

Senator Wilson suggested an amendment to this bill that would require a 90-day residency before an abortion could be performed. The committee voted on this amendment as follows:

Yeas - Young, Wilson, Dodge and Monroe (4)
Neas - Close and Foley (2)
Absent - Senator Swobe (1)

Senator Close suggested an amendment that would provide that each doctor report every abortion they perform by the patients' name and date of performance. He felt this would be necessary for collecting statistical information. Senators Wilson and Dodge did not feel the patients' name should be included in the report. Chairman Monroe suggested the language "all abortions shall be reported to the State Health Department by number, in accordance with rules and regulations set up by the department."

The committee voted on that amendment as follows:

Yeas - Senators Young, Wilson, Dodge and Monroe (4)
Neas - Senators Close and Foley (2)
Absent - Senator Swobe (1)

Senators Dodge and Wilson felt that rather than the term "viability", they should specify a definite time period. Senators Dodge and Wilson felt that 20 weeks would be in keeping with the testimony given and would be on the conservative side.

The committee voted on that amendment as follows:

Yeas - Senators Young, Wilson, Dodge and Monroe (4)
Neas - Senators Foley and Close (2)
Absent - Senator Swobe (1)

Senator Close made clear to the committee that although he was recommending amendments on this bill, he is opposed to it. He suggested amendments only so that the bill, if passed, would be as tight as it could be.

S.B. #414 - Requires a fee for advance sheets of Nevada Reports.
Senator Pozzi.

Mr. C. R. Davenport, Clerk of the Supreme Court, testified on this bill. He stated that they are asking for a \$5.00 yearly subscription fee because the mailing of these advance sheets is getting burdensome and expensive. The fee would not eliminate the burden or take up too much slack, but would help deflect the cost of mailing and the cost of envelopes.

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

A.J.R. #46 of the 55th Session, - Proposes constitutional amendment to alter composition of State Board of Pardons, Committee on Judiciary.

Jim Guinan testified that the purpose of this bill is to remove the supreme court justice from the board of pardons. He said that pardons are an administrative function and are contrary to the justice's judicial responsibility. They follow laws and uphold decisions, and then are asked to be nice to the defendant.

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

S.B. #370 - Redefines crime of criminal syndicalism. Senator Fransway.

Senator Fransway testified before the committee that this was a problem two years ago, but was convinced by his intern and several others that the trend at the University is away from this.

Senator Young made a motion to "kill" this bill. Senator Dodge seconded the motion. Motion carried.

S.B. #460 - Makes permissive retention of child under jurisdiction of juvenile court until age 21. Senator Pozzi.

Grant Davis explained that sometimes the court does not want to keep jurisdiction over a child, and doesn't have the jurisdiction to terminate.

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

S.B. #488 - Conforms disposition of copies of fiscal note to actual practice. Committee on Judiciary.

This bill is a duplicate of S.B. #557.

Senator Young made a motion to "kill" this bill. Senator Dodge seconded the motion. Motion carried.

S.B. #570 - Eliminates redundant and repetitive language in section of fish and game law. Committee on Judiciary.

This is a correction bill which would clear up redundancies.

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

S.J.R. #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.
Senators Foley and Young.

Senator Dodge stated that S.J.R. #23 of the 55th Session anticipates a growth in volume by providing that the supreme court may sit in bank or in division. He said the subcommittee made an extensive study before the 1969 session about the direction the Legislature should move in. It was the strong position of the American Judicatory Society that the direction we ought to take is concentration of the court system in lesser levels rather than in more levels. Therefore, he felt this resolution was not necessary. Senator Foley felt that criminal cases were of such a volume, that this resolution could handle them better.

No final action was taken.

Meeting adjourned at 10:45 a.m.

Respectfully submitted,



Eileen Wynkoop, Secretary

Approved: _____