

SENATE JUDICIARY COMMITTEE

MINUTES

April 1, 1971

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Chairman Monroe called the meeting to order at 8:30 a.m.

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

Others Present: Assemblyman Paul W. May
Russ McDonald - Legislative Counsel Bureau-Director
Assemblyman Howard McKissick, Jr.
Assemblyman Leslie Mack Fry
Virgil Anderson - Manager AAA (Auto Association)
Rudy Gildehaus - Southern Nevada Claims Assn.
Oliver Bolton, Nevada Independent Ins. Agents
Dr. Salvadorini - U.S. Medical Association
Dr. Robert J. McAllister - Nevada State Hospital
Lee Rose - Attorney, State Farm, Las Vegas
Tim Lorrigan - Farmer's Insurance
Louis Mastos - State Insurance Commissioner
Grant Davis - Legislative Counsel Bureau

A.B. #343 - Adjusts procedural requirements in perfecting mechanics' liens.

Assemblyman Paul May testified that this bill would extend the lien law notice provisions from 30 days to 40 days.

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

A.B. #569 - Authorizes persons 18 years old and over to vote in national, state elections depending on result of state special election.
Committee on Elections.

Russ McDonald presented additional formal amendments and explained that this bill is needed whether the constitutional amendment carries or is defeated. It provides substantial compliance with the Voting Rights Act of 1970 and with the supreme court opinion.

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

S.B. #548 - Resolves statutory conflict concerning sheriff's responsibility for acts of deputy.
Senator Foley.

Senator Dodge asked Russ McDonald if we weren't creating a different situation for the sheriff than we have for other employees and agents in the state government. Mr. McDonald testified that he received a memo from the requestor which points out the inconsistencies between Chapter 248 and the sovereign immunity statute.

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Assemblyman Howard McKissick said that there is a bill in the Assembly now which allows all state employees to be under the sovereign immunity act and changes the amount of liability to \$100,000.

Russ McDonald suggested deleting the reference to the sheriff's responsibility in Chapter 248. Senator Young felt that someone should be responsible for the actions of deputies.

No final action was taken.

A.B. #146 - Extends power to modify orders for care, custody, education, maintenance, and support of minor children in divorce actions.
Assemblyman Howard McKissick.

Assemblyman McKissick testified that in these cases, a person has to file an independent action. The court refuses to allow him to come in after 6 months has elapsed on the original action.

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

A.B. #245 - Requires medical insurance policy before action may be brought under guest statutes.
Assemblyman Howard McKissick.

Senator McKissick testified that this bill is a compromise between A.B. #144, A.B. #244 and A.B. #245. It allows a limited right of recovery for the guest in a car involved in an accident.

No final action was taken.

A.B. #371 - Allows district court to dispose of depositions or exhibits filed or introduced in civil cases.
Assemblyman Howard McKissick.

Assemblyman McKissick testified that this would allow the district court to dispose of exhibits and depositions after 5 years. Senator Foley asked Assemblyman McKissick if this contemplates notice to the parties. Assemblyman McKissick replied that there are existing provisions in NRS for notice.

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

A.B. #378 - Increases time for bringing suit after denial of claim against estate of deceased person.
Assemblyman Howard McKissick.

Assemblyman McKissick testified that this would change the time period for bringing a suit to 60 days.

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

A.B. #379 - Provides for allowance of attorneys' fees in civil actions.
Assemblyman Howard McKissick.

This bill is similar to S.B. #252. Assemblyman McKissick felt that the way S.B. #252 was written, it would be declared unconstitutional because it sets down one criteria for the defendants and one for the plaintiff. Senator Dodge pointed out that our aim was to discourage law suits for negligence. Assemblyman McKissick then suggested killing A.B. #379 and take our chances in court.

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

A.B. #483 - Revises procedures for execution and attachment and enlarges exemption of earnings.
Assemblyman McKissick.

Assemblyman Howard McKissick explained the sections of this bill. Grant Davis suggested changing subparagraph (f) of Section 7 on Page 4 to "one vehicle not exceeding \$1,000 in gross value." Senator Close felt that "in his occupation or profession" of that same subparagraph should also be taken out. This is in keeping with another bill passed by the committee, S.B. #176.

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

A.B. # 55 - Charges all civil jury fees and allowances against parties.
Washoe-Storey Districts' Delegation.

Assemblyman Leslie Mack Fry testified that the State Bar is opposed to this bill. The committee felt they would like to give this bill more thought since it is a far-reaching bill.

No final action was taken.

A.B. # 54 - Clarifies duties of Superintendent of Nevada State Hospital concerning custody of criminal defendants.
Washoe-Storey Districts' Delegation.

Dr. Robert J. McAllister, Nevada State Hospital in Reno, testified that he didn't see any particular changes in this bill, other than clarifications. He did ask the committee to consider changing the provision in Section 1 which makes him, as the head of the state hospital, responsible for mental people held in the prison.

He said there are two local judges who feel he could be held in contempt of court if not immediately responsible for these people. Dr. McAllister said this is impossible to do because he does not have jurisdiction over these people, they are in the care and custody of the warden at the prison. Dr. McAllister suggested changing the wording in Line 5 to: "care of the superintendent of the Nevada State hospital, and custody shall remain in the jurisdiction of the appropriate law enforcement agency."

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

A.B. #303 - Limits time for bringing actions against professional persons.
Assemblyman Roy Young.

Dr. Salvadorini, representing the U. S. Medical Association, testified for this bill. He said the medical committee is deeply concerned with the rising costs of medical care in general, and especially relative to physicians' fees. One of the factors which permitted the rise in fees is the rising costs of obtaining malpractice insurance. He said this insurance costs up to \$2,500 a year, and in high risk areas, up to \$5,000 a year.

Mr. Oliver Bolton, Executive Secretary of the Nevada Independent Insurance Agents, testified that he didn't know exactly what effects this bill would have on rates, but it would improve the marketability of malpractice insurance because of the time limitations for law suits.

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

A.B. #245 - Requires medical insurance policy before action may be brought under guest statutes.
Assemblyman Howard McKissick.

Mr. Virgil Anderson, representing AAA, testified against this bill. Mr. Anderson said that they feel the possible repeal of the guest statute does have a great potential for fraud and collusion. He stated that his company made a survey of what the repeal of this statute would cost. It showed they would have 34 claims per year that would cost their company \$42,000 per year. This cost projected over 7,000 automobile owners insured by AAA, would be \$6.00 per car, or \$10.00 per automobile owner in the state.

Mr. Rudy Gildehaus of Southern Nevada Claims Association testified that their association members feel the repeal of this statute would do two things: It would increase business and financial gains, but would lead to fraud and collusion.

Mr. Lee Rose, an attorney representing State Farm of Las Vegas, testified that they are opposed to this bill. He stated that they had evaluated their cases in Las Vegas and it would have cost their policyholders there \$10.00 per policyholder if the guest statute were repealed.

Mr. Tim Lorrigan of Farmer's Insurance pointed out that there is a social impact to this bill, and asked the committee not to take the collusion factor lightly.

Mr. Louis Mastos, State Insurance Commissioner, asked to speak on this bill and mentioned that there is an economic factor involved. He said there are certain companies that will not come into Nevada or withdraw if it costs them more money. He said we are trying to open it up, but not trying to restrict it.

The committee wanted to think more about the bill before taking final action.

S.B. #300 - Requires arbitration of civil actions in certain motor vehicle accident cases.
Senator Monroe.

Virgil Anderson, representing AAA, testified that this bill would provide for arbitration, pursuant to Uniform Arbitration Act of Nevada, of cases below \$5,000. It would basically remove small cases from the courts and makes them subject to arbitration. It would provide that the plaintiff selects one arbitrator, the defendant selects another, and they select a third arbitrator together. If either party is not satisfied with the decision in arbitration, it could then be tried in court by a jury.

Senator Close stated that he had talked with Judge Mendoza who was concerned that there were not enough qualified arbitrators around to work on these cases. Judge Mendoza was also worried about imposing another level of justice, or a "people's court".

Senator Close said that when this bill was before his committee (Commerce Committee), he thought it called for one arbitrator. This bill calls for three. Virgil Anderson admitted that this might be a problem, and said he would have no objections to amending it to one arbitrator.

Mr. Lee Rose stated that State Farm uses three arbitrators, and have found no problems getting arbitrators. He stated that speaking for State Farm, they would like to try it.

No final action was taken.

Meeting adjourned at 10:55 a.m.

Respectfully submitted,


Eileen Wynkoop, Secretary

Approved: _____