

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

5th DAY OF MARCH, 1973

The meeting was called to order at 9:35 a.m. Senator Close in the Chair.

PRESENT: Senator Foley
 Senator Bryan
 Senator Dodge
 Senator Hecht
 Senator Wilson
 Assemblyman Roy Torvinen
 Mr. Larry Struve, Deputy District Attorney,
 Washoe County

EXCUSED: Senator Swobe

A.B. 68 - Broadens authority of peace officers to issue misdemeanor citations in lieu of making arrest.

Chairman Close informed Mr. Torvinen of the committee's concern that there should be some right of review by the District Attorney or City Attorney before the citation becomes a formal complaint.

Mr. Torvinen explained that in his knowledge of criminal procedures and ordinances of municipalities, the law does not provide that a complaint be reviewed by prosecutors. As a matter of practice the Washoe County District Attorney's Office does not prosecute until they have reviewed the complaint. This procedure has an advantage in that weak cases would not be prosecuted, and disadvantages since it delays the court proceedings if the complaint does not come back from the D.A.'s office in time for the hearing.

On the other hand, the city does not use that procedure. Complaints are sworn to before a notary public and when the case comes up, the City Attorney reviews the complaint.

Senator Dodge asked Mr. Torvinen if there would be a criminal record against the person cited if the case were dropped. Mr. Torvinen replied that under the bill, there would be a record of a citation in a criminal complaint with no arrest record. However, under the present law if a case were dropped there would be an arrest record.

Senator Bryan asked if, under the present laws, there wasn't provision for issuing a citation for violation of an ordinance other than a traffic violation. Mr. Torvinen replied that some cities, under general charter provisions, issue citations against ordinances.

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Others have determined that the state law is exclusive and only limited to traffic violations. The purpose of the proposed bill is to make a uniform practice throughout the state.

Senator Foley moved "DO PASS." Motion seconded by Senator Hecht.

Yeas - 5.

Absent - Swobe, and Wilson - 2.

The committee discussed several bills for introduction which were originally requested by the court administrator. The Chairman will discuss the purpose for several of these bills with the Chief Justice before a determination for committee introduction is made.

The committee did agree to committee introduction of a bill which would provide civil protective custody in lieu of criminal custody for alcoholics.

S.B. 206 - Provides for appointment of additional deputy clerks of Supreme Court.

Mr. Davenport had written to the committee stating that this bill would not involve reclassification or additional personnel and money.

The committee had reservations about this bill since, as it is presently drafted, it could have financial implications at some future date. Senator Bryan suggested amending it to read that the clerk of the Supreme Court may appoint one deputy and have the power to deputize another employee who may act in the absence of the clerk and deputy. This would remove any connotations of hiring another employee.

The committee will study the bill again after the amendment is incorporated.

S.B. 203 Expands definition of public nuisances and enlarges powers of district attorney and board of county commissioners to abate them.

Senator Wilson asked Mr. Larry Struve to explain the amendments they had discussed, which would clarify the nuisance provisions and allow the district attorneys to act independently to abate nuisances. Where the county commissioners wanted to retain

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control over abatement of nuisances they would retain jurisdiction and proceed accordingly. Otherwise, the commissioners would be required to delegate, by ordinance, the authority for the District Attorney to prosecute.

Mr. Struve explained that the amendatory language in NRS 202.450 and 202.480 would be eliminated, thereby restoring those provisions to what is presently in the statutes. Section 202.460 would be amended to delete subsections 1, 2, 3 and 4. Subsection 5 would be amended to provide that notice to abate should be accomplished within a specified time set by the county commissioners. A new section 6 would be added which would allow the county commissioners to delegate the authority by county ordinance to file a civil action for abatement of nuisances.

Mr. Struve will submit a draft of these changes to the committee for further consideration.

S.B. 249 - Provides for interlocutory license suspensions under Nevada Administrative Procedure Act.

This bill was amended and referred back to committee.

Several members of the committee were still not satisfied with the notice provisions and the lack of a definition of what an emergency situation would consist of. Senator Bryan was asked to draft new language which would offer some safeguards for summary procedures.

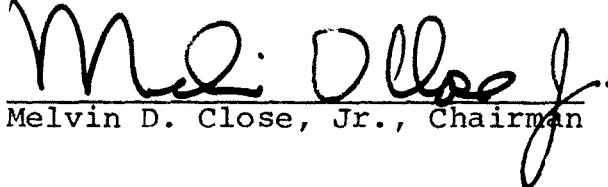
The meeting was adjourned at 10:55 a.m.

Respectfully submitted,



Eileen Wynkoop
Secretary

APPROVED:



Melvin D. Close, Jr., Chairman