

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING HELD

386

9th DAY OF APRIL, 1973

The meeting was called to order at 9:00 a.m. Senator Close in the Chair.

PRESENT: Senator Foley  
Senator Bryan  
Senator Dodge  
Senator Hecht  
Senator Swobe  
Senator Wilson

Dale Beasey, National Electrical Contractors' Association  
Max Christianson, Sheet Metal Workers Union  
Charlie Asken, National Electrical Contractors' Association  
Wallie Warren, Nevada Banker's Association  
Ray Cohlen, North American Title Company  
Assemblyman Zel Lowman

S.B. 575 - Revises extent and priority of mechanics' and materialmen's liens and certain notice procedures.

Mr. Beasey testified that the first portion of the bill deals with the priority of the lien, how it attaches and is enforced. The second portion has to do with the method of service of the notice of completion or cessation of work by the owner. The bill attempts to improve the position of the contractor.

Mr. Beasey stated that this bill has the support of the electrical contractors, sheet metal contractors and the associated general contractors.

The basic problems have been that a contractor puts time and materials into a job and finds himself without any way of collecting for the material and time if the job goes sour. Since he has no way of recouping those expenditures, the small contractor faces a high rate of financial doom. To put the contractor in a stronger position, the contractor should be on a parity with the construction lender, but they are not asking for that. They are asking that the original construction lien be recorded prior to the commencement of the work. The initial commencement of work will be the time of priority for all contractors regardless of when they come on the job. This has been the Colorado mechanics' lien law for many many years.

The other section of the bill addressed the problem which has arisen out of the present lien law. There are time schedules as to when the subcontractors notice of claim must be filed. There has been a one-sided effect of this since the owner has no requirements to notify the contractors when they have accepted his job. The present act provides that the owner may record a notice of completion but he can actually accept the job without notice and the time begins to run for him to file notice of lien claim. This leaves the contractor with the responsibility of constantly checking the recorder's office to see whether or not the notice was recorded.

The amendment is attempting to equalize this provision by requiring the owner to record notice of completion and serve that notice on all contractors who have given him notice that they are supplying materials on the job. In return, when the job reaches culmination by cessation or completion, the contractor shall notify all who have satisfied him that the job is complete. The time for notice of lien claim would begin to run 40 days after notice.

Mr. Max Christianson remarked that the Sheet Metal Workers' Union is in support of this bill. Senator Dodge asked him how much loss the subcontractors are sustaining by virtue of the present lien law status. Mr. Christianson replied that the losses are not that great at the present time, and with this bill they would probably be done away with.

Mr. Charlies Asken testified that the National Electrical Contractors are in full support of the bill.

Mr. Wallie Warren read a statement by Mr. F. R. Breen, attorney for the Nevada Banker's Association. Mr. Breen stated that this bill could create some problems for interim finance construction. The bill provides that liens of subcontractors and material men relate back to the date of construction, not to the date the materials are supplied or when the subcontractor started work. This could present a problem because many times surveyors, architects and sometimes land leveling work is done prior to the deed of trust attaching for the interim construction loan. It could result in a construction loan deed of trust being subordinate to these liens. Secondly, it could present a problem in respect to the take out financing because the lien claimant has 40 days following the service of Notice of Completion upon him to perfect his lien. The Notice of Completion must be personally served or by certified or registered mail on any possible lien holder except individual laborers who worked on the project. Construction financing people should take a very close look at this bill. He recommended it be opposed.

Senator Swobe stated that actually contractors are losing less because they are beginning to understand the present laws on liens. Part of the problem has been that the lien laws keep changing.

Senator Bryan agreed with the sections allowing for uniformity in terms of notice. The owner is given notice and it is not unreasonable to require him to give notice too.

S.B. 608 - Provides grounds for extinguishment of easements and servitudes.

Mr. Ray Cohlen testified that this bill would be valuable to the owner of land or more specifically to the person who is financing that land. When titles are insured, easements are shown regardless of whether they are 100 years old and never been used. The lenders require these easements to be eliminated from the policy before they make a loan. Many times owners can not get loans because the insurance companies want to eliminate the easements. This bill would provide another tool for eliminating easements besides going through a quiet-title suit.

Senator Dodge remarked that he is not in favor of the provision that after 20 years of non-use, the easement would be eliminated. He felt that especially with ditch easements on agricultural lands, land owners might want to retain these easements for possible future use. Mr. Cohlen remarked that ditch easements could be specifically located, whereas many of them can't be located. For example, wandering easements can not be located in the land. Senator Dodge suggested amending section 5 so that the easement would not be lost without the consent of the owner of the dominant tenement.

Senator Dodge moved to indefinitely postpone action on this bill. Motion seconded by Senator Foley.

Yeas - 6  
Nays - None  
Absent - Hecht (1)

Motion carried.

A.B. 33 - Permits district attorney to obtain commitment of certain drug addicts.

Assemblyman Lowman testified that this bill is enabling legislation aimed at treatment and rehabilitation of drug addicts through civil action. Southern Nevada has requested \$500,000 in federal monies which has been all but promised to set up a therapeutic community, two half-way houses and a detoxification unit for drug addicts. There are safeguards in the bill which indicate that if the treatment is not successful, the person would still have to stand trial.

The original draft of the bill elected the District Attorney's Office to be the initiator of the civil action, but the testimony from the Clark County District Attorney's Office indicated that they did not want to be the initiator of this action. The first reprint, therefore, indicates that the court is the initiator of the action.

Senator Dodge asked if this procedure is in the law now whereby probation could be granted and as a condition of probation the person would have to undergo rehabilitation. Mr. Lowman replied that there is such a procedure, but it is not applicable before the trial such as this bill is. Senator Bryan mentioned that at the present time there is no treatment facility as such that the court can require the defendant to attend as a condition of probation. This bill would also go further by actually decriminalizing the process. If the individual elected to go through this treatment and is successful, with the approval of the court and district attorney there would be no record of conviction on his record.

Senator Close was concerned about the social problem of decriminalizing crimes where the individual was involved with narcotics.

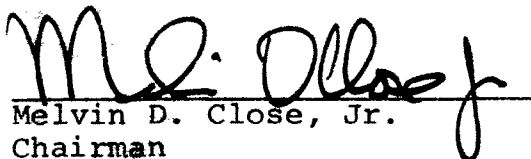
The meeting was adjourned at 10:10 a.m.

Respectfully submitted,



Eileen Wynkoop  
Secretary

APPROVED:

  
Melvin D. Close, Jr.  
Chairman