

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

February 4, 1977

The meeting was called to order at 9:02 a.m. Senator Close was in the chair.

PRESENT: Senator Close  
Senator Bryan  
Senator Dodge  
Senator Sheerin  
Senator Foote  
Senator Gojack

ABSENT: Senator Ashworth, excused, on state business in Washinton D.C.

SB 1 Authorizes professional corporation employees to participate in employee stock ownership trusts.

Senator Hilbrecht stated that the purpose of this bill is to place professional corporations as near as is possible to public policy. To place them in the same position as other types of corporations in their ability to utilize the mechanism of employee benefit trust programs, profit sharing, pension plans and employee stock ownership plans to a limited extent. He feels that under ERISA, the language, "eligible individual account plan" should be substituted for "a qualified employees stock ownership plan". This would permit them the option by continuing the ESOT or ESOP plan, but allow all employees to participate in it. Or it could be merged into a profit sharing plan or a limited type of pension plan, which would qualify under this language as an eligible individual account plan with certain limitation and could also hold securities. What this basically is trying to do, is preclude a trustee from swaying Boards.

Frank Daykin stated that a person in position of trustee could make decisions, but he could also be a particular member of the corporation and therefore we are saying is "acting as Trustee", voting that way on a professional decision, but his individual share in the corporation would be different.

Senator Close stated if he understood correctly that the trustee as a stockholder cannot participate on board meetings, because he is not authorized to do so. But he can make all other kinds of decisions affecting the delivery or rendering professional services.

Lee Bergstrom of Kafoury-Armstrong believes that the major problem encountered is the requirement of comparability under ERISA. The Employees Retirement Income Security Act was enacted to correct what Congress believed to be problems in the administration of employee benefit plans. The service is still evolving, but what they are trying to do is to equate the employee benefits in a professional corporation to those in a regular corporation without damaging the unique professional character of such an organization.

The Committee, after some discussion agreed that they would like to see some language that a person can participate as a member of the firm but not as a trustee.

Senator Dodge moved an amend and "do pass".  
Seconded by Senator Gojack.  
The motion carried unanimously.

SB 154 Includes buildings and ground for University of Nevada among public uses for which power of eminent domain may be exercised.

Neal Humphry, University of Nevada stated that the problem was that in 1975 the Legislature gave the University the authority to issue ten million dollars of revenue bonds for additional facilities for the Environmental Protection Agency on the Las Vegas campus. When they started to issue the bonds they ran into a problem with the IRS because the bonds were really secured by the Federal Lease and therefore were not municipals. In order to issue municipals they must meet two out of three legs of power. Adequate police power, which they have. The power to tax, which they do not have or want, and the right of eminent domain, which they do not have and must have to protect their ability to issue revenue bonds. Their improvement bills which are now before the Legislature would be invalid without this power.

Senator Dodge moved amend and "do pass".  
Seconded by Senator Bryan.  
The motion passed unanimously.

SB 160 Horace R. Goff, Public Defender, stated the Office of the State Public Defender had requested the bill because of increased workload. They are now employing a full time deputy staff and no longer contracted with any attorneys. He feels that they should be considered as State attorney's and full time employees.

Tom Susich, Chief Deputy stated that the schedule set out for salaries by the Governor's office would bring

their salaries into line with those in the Attorney General's office. Therefore all of the attorney's in state service would be brought into parity.

After some discussion the Committee felt that this should go back to "Finance" for fiscal impact.

Senator Bryan moved a "do pass" and re-refer to Finance. Seconded by Senator Dodge. The motion passed unanimously.

SB 163 Creates office and defines duties of public guardian.

Senator Bryan stated this bill came from a study of an interim committee. They had a real problem with regard to the guardianship of an elderly person living alone, and who had reached the point they could not take care of themselves. There was no mechanism for the application of who makes petition for guardianship for that elderly person. There could be a lot of money coming in, in the way of inheritance, retirement, social security or the like, and who really had control over this. The problem arose when it was learned that in some cases the Nursing home, or whatever, was actually dispensing the money for these people.

Russell Mc Donald, Washoe County stated their concern was in creating the office. There should be some elasticity in establishing the office and creating it under a four year term. He feels it should be up to the County Commissioners to decide as each county could have different problems. Another problem was that sometimes on death there is substantial money left and he felt the bill should be amended to make sure that the public official that was handling the matter did not pocket the money. He also felt that the section on bonding was acceptable to them, but perhaps too high for smaller counties.

Tom Moore, Clark County stated he concurred with Mr. Mc Donald but felt the fiscal impact on the state by the creation of the office was most important.

Senator Bryan stated that perhaps a bill should be drafted as to whom should perform the function and some better clarification of the language

The Committee agreed that perhaps the bond was too high for the smaller counties and the language should be more definite.

Mr. Mc Donald stated he would get this drafted and back to the chairman.

SB 20 Stan Warren, Nevada Bell, stated that this type of device was used in the last session of the legislature in Government Affairs and proved very successful. He felt however that some controls should be placed on it so there would be no misuse, and to make sure that one person knew who the person was at the other end.

Senator Close stated that perhaps we could add to the a provision that each member of the Board of Directors, who was involved in the call, sign the minutes. This would preclude anyone misusing this system.

After some discussion by the Committee it was agreed that some language should be added to reflect that each member participating be required to sign the minutes and this could be done in counterpart.

Senator Gojack moved an amend and "do pass".  
Seconded by Senator Dodge.  
The motion carried unanimously.

SB 162 Revises law on compensation for victims of crime.

Howard Barrett, Budget Director, stated that he had brought with him copies of a synopsis of all claims that had been filed, plus action taken on them. He stated that during last legislature the way the bill was written, it was really more of a "good samaritan" bill and not really a "victims of crime". This should be amended to add pure victims of crime. He stated that the material he brought with him also disclosed the limitations put on by other states as to monetary reimbursement. He felt the proposed limitation of \$5,000 was too low. However, if it was open-ended, it could cost the state somewhere in the area of three or four thousand dollars in any given year, not including administration.

Senator Gojack stated that perhaps we should go with figures similar to California with a maximum of \$23,000. She stated that Maryland is the only state without a maximum, but they have placed an additional \$5 court fee on all persons convicted of a crime.

Mr. Barrett, after some discussion by the Committee, stated he could not really define the fiscal impact and perhaps it would be well to talk to some people from California. He stated he would develop some figures for the Committee and bring them in.

SB 81 Permits probation officers to discuss juvenile court records with school principals. *Senate Committee on Judiciary*

Senator Close stated he had checked with the bill drafters office and the smaller counties right now can do what the larger counties can do.

Senator Sheerin stated that the information he got back from John Ray was that in 120 they strike out the last sentence "ordered by the Judge" and state "unless otherwise permitted by the Judge, Special Master or Chief Probation Officer".

Senator Close stated he would have it amended to reflect that.

SB 74 Amend provisions for disposition of funds in joint tenancy accounts.

Senator Sheerin stated that this amendment would make a presumption of joint tenancy, right now it is a conclusive presumption of joint tenancy.

Senator Dodge stated he felt that was the way it should remain. It would give the survivor the immediate availability of funds.

Senator Bryan stated he felt the Committee should proceed with great caution in this matter. If it wasn't done right or the language wasn't specific it could foul up what constitutes a joint tenancy.

The Committee after some discussion felt that the form from the bank should be revised. They also agreed that the bill should be amended and then have the financial institutions and people involved take a look at it.

Senator Dodge moved amend and rerefer.  
Seconded by Senator Sheerin.  
The motion carried unanimously.

SB 2 Changes certain filing and publication requirements for corporations.

Senator Sheerin, moved they should amend by striking sections 3 and 5, and change the word "file" to "notify" in section 4.

Seconded by Senator Bryan.

The motion carried unanimously.

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SB 133 Expands police powers of field agents and inspectors in Motor Carrier Division of Department of Motor Vehicles.


Senator Close stated he felt that the agents should have the right of assistance on the highway and the right to have his car marked as an emergency vehicle.

Senator Bryan stated he commended the Department of Motor Vehicles for a fine job, but questioned if they really had the training and background needed to get involved in that type of police functions.

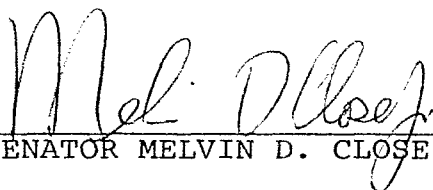
Senator Dodge moved "do pass" with the amendment that would allow the car to be marked as an emergency vehicle. Seconded by Senator Bryan.  
The motion carried unanimously.

There being no further business the meeting was adjourned.

Respectfully submitted,

  
Virginia C. Letts, Secretary

APPROVED:

  
SENATOR MELVIN D. CLOSE, JR., CHAIRMAN