

The Senate Committee on Legislative Functions was called to order on Tuesday, March 13, 1979, in Room 243 at 2:05 p.m. Senator Gene Echols in the Chair.

PRESENT: Chairman Echols
Vice-Chairman Close
Senator Ford
Senator Gibson
Senator Wilson
Senator Young

ABSENT: None

GUESTS: Senator Faiss
Frank Daykin

Chairman Echols requested Senator Faiss to speak on behalf of SB-263.

Senator Faiss stated that SB-263 provides for an extended recess of the Legislature to allow the drafting of bills to be completed and committee meetings to proceed before the full Legislature reconvenes. He said that it would provide for the number of days of legislature to be shortened. Senator Faiss stated that even though the Legislature can recess at any time with a concurrent resolution, SB-263 adds a provision for the payment of per diem expenses and travel allowance to a legislator if he attends a committee meeting during the recess. (Page 2, Lines 29-33 of SB-263).

Secondly, the payment of the salaries of the staff of the committee for work performed during the recess (Page 3, Lines 39-43 of SB-263).

Senator Young asked why "three days" was selected in the new language of SB-263, Line 7, Section 1. Senator Faiss stated that its purpose was to "clean up the act".

Senator Ford questioned if "extended" recess means three days at the most? Senator Faiss stated that it actually meant more than three days.

Senator Gibson stated that there's something wrong with the construction of the bill. "The way it reads now, a legislator wouldn't receive any per diem while adjourned for three days."

Chairman Echols stated that the bill says if you adjourn for more than three days, you will not receive any per diem expenses unless you attend committee meetings.

Chairman Echols requested that Mr. Daykin be called to speak on SB-263.

Senator Ford asked if the purpose of SB-263 is to allow the legislators to be paid during adjournment (while the bill drafters "catch up") and have those days not be counted as part of the 60-day session.

Chairman Echols said that's what it appears to be. "The legislators would get no regular pay if adjourned for more than three days. We would only get per diem expenses but the staff would still get paid."

Senator Wilson asked what the difference is between a recess and an adjournment (Page 1, Line 19 of SB-263).

Mr. Daykin said a recess and an adjournment which is not called sine die are interchangeable. He said you adjourn at the end of a work day and resume the next day; you recess for a few minutes during the day and similarly it's sometimes used as a period of days. Adjournment sine die (adjournment without a time fixed) is a permanent termination of session.

Mr. Daykin went on to say that this bill (SB-263) is aimed at doing something the legislature has never done before. "That would be to take an adjournment for a substantial number of days." He said it seemed there might be a question as to the payment of the staff so this spells it out. He said the staff is now paid on the basis of session days which begin with the first day and end with adjournment sine die.

Senator Wilson asked if the first page deals with staff.

Mr. Daykin said the third page deals with staff. "The first page merely limits (in contemplation of the longer adjournments) the daily salary but not the per diem portion if the adjournment is no more than three days."

Discussion followed regarding per diem and recesses.

Senator Gibson said that for the legislature to meet for a few days and then adjourn for two weeks would present a problem for the people from Clark County that have to find a place to live in Carson City because they would have extra living expenses and would not be getting paid for two weeks.

Senator Young asked if travel expenses during adjournment are covered in the bill.

Mr. Daykin said, "Yes, it is." He said that on Page 2, Line 16, the travel allowances do not enlarge the total of the \$1,700.00. However, it does cover extending per diem.

Senator Ford said, "We would have to consider providing enough per diem for those who have to move to the Capital for that initial two weeks to be able to maintain their accommodations."

Mr. Daykin said it should not be done as part of the automatic allowance but on a different basis that would permit maintenance of the accommodations.

Senator Ford asked if the bill could include that the legislature could establish a provision for the on-going maintenance expenses during adjournment.

Mr. Daykin said it could be done in the statutes. However, in the past it has always been "tied down" so that it was more fixed and not subject to the whim of each session. He said there is nothing in the Constitution to prevent it.

Chairman Echols said that Senator Wilson suggested the Committee have more time to study SB-263. "Does the Committee concur?"

Senator Young moved that Senator Wilson and Senator Ford serve as a subcommittee to put together some rules for SB-263.

Senator Close seconded the motion.

Motion carried.

SB-268 - Requires legislative counsel to prepare memorandum concerning constitutionality of certain bills and joint resolutions.

Senator Ford stated that she requested this bill be drafted and has asked Mr. Daykin to be involved in the discussion. Senator Ford said her purpose for the bill is that standing committees ought to have full access to background information to allow them to make good decisions. Senator Ford said that Subsection 1 of SB-268 is actually being done now in that information is prepared for the requestor at the time the BDR is given to him. She said that Subsection 2 should be eliminated since the fiscal notes and government impact studies don't need to be "cast in stone". Senator Ford said that the first section of Subsection 3 is currently being done without being spelled out in the law (a copy of a memo of some kind is sent to the requestor when the draft is submitted to him). She said the second part of Subsection 3 is not now being done. "In fact, the Counsel is not allowed to do this unless the requestor should make that information available." She said it is actually up to the Committee members to take the initiative to ask whether there are any problems with that particular bill. Senator Ford said Lines 14 through 18 are the important items in that if a requestor introduces a bill, the Counsel would send to the Chairman of the Committee, and to members of the Committee, a copy of a memo indicating clearly defined constitutional problems with the bill. Senator Ford said

Subsection 4 pertains to amendments and only asks for memos to be drawn up by the request of the presiding officer.

Senator Ford stated that she was concerned with the problem of passing legislation that is not completely constitutional and then, in turn, the legislators receive the blame for not fully examining the laws they are passing. She said SB-268 is a way to "clean everything up".

Mr. Daykin stated that Senator Ford accurately described the process. Mr. Daykin said that whenever an unconstitutional bill request is received, the requestor is notified, in writing, of the reasons it is believed to be unconstitutional. "At that point, the matter is closed, unless a legislator asks about the constitutionality of that proposal. In that case, the Counsel Bureau can look in the file and give the same answer from the original copy." Mr. Daykin said that SB-268 would make sure that a copy of that same letter goes to the Chairman of each committee who is considering the bill. He said that this is not the current practice.

Senator Young said he likes the idea of putting directly on the bill whether it is constitutional or unconstitutional (Subsection 2). He said that way all the committee members will know instead of just the Chairman because there is the possibility of the notifying memo getting lost.

Senator Ford said that Lines 16 and 17 would require that a copy of the memo be sent to each member of the committee.

Discussion followed regarding Subsection 2.

Senator Wilson moved that SB-268 be amended by eliminating Subsection 2 and that it be passed out of the Committee with a "Do Pass".

Discussion on SB-268:

Chairman Echols questioned Line 14 where it says if the requestor "introduces" the bill.

Mr. Daykin asked if the Committee would rather it say "introduced".

The Committee agreed that would be better.

Senator Young asked if a copy of the memorandum was going to be sent to every member of the Committee or only the Chairman of the Committee.

Mr. Daykin said as the bill stands, the Chairman would receive a packet for the entire Committee.

Chairman Echols suggested that a memo should be sent to each member of the Committee as opposed to the Committee Chairman distributing the memos.

Senator Wilson moved that he wished to add to his previous motion that SB-268 also be amended to require that a memo be sent directly to each member of the Committee.

Senator Close seconded the motion.

Further Discussion on SB-268:

Senator Close stated that Lines 22, 23 and 24 provide that when there's an amendment, the presiding officer may direct the Counsel to consider its constitutionality as amended. Senator Close said that should be "as, of course". He said it should not require anyone directly to do that. "If there is an amendment that comes out on a bill and you feel that it is being amended unconstitutionally, it should not fall upon the responsibility of the leader to direct the Counsel to prepare a new memorandum."

Mr. Daykin said the responsibility should be on the Legal Division since they are the ones that prepare the amendment.

Discussion followed regarding the course to be taken when a memo is prepared because of an amended bill.

Mr. Daykin suggested that the memo accompany the amendment since the amendment is normally delivered to the Committee Chairman.

Chairman Echols asked, "What would preclude making it the last condition on the amendment itself?"

Mr. Daykin said he had no objection to that. "When I said accompany the amendment, I meant go physically right with it. All I was saying was it might be on the very same blank but not physically a part of what the House adopts."

Chairman Echols asked Mr. Daykin if he could prepare these amendments.

Mr. Daykin said he would assuming the motion passes.

Motion carried.

SR-7 - Requires Senate standing committees to review programs of executive agencies at beginning of each biennial session.

Senator Wilson stated that he drafted this resolution because he feels the standing committees should make some effort at the beginning of a session to review the progress and effectiveness of the divisions, departments and agencies programs that they have legislative jurisdiction over. Senator Wilson said he thinks there is a need for some sort of oversight jurisdiction of a general nature beyond the scope of a given bill. He said the committees are presently in a passive position in that they are only responding to bills. Senator Wilson said he doesn't think that's adequate and he doesn't think an agency's performance is adequate as long as its assumption of its performance is limited to the money committees.

Senator Gibson said that the thing that bothered him about this resolution is the fact that you could be involved for three or four weeks just hearing executive agencies. He said he doesn't understand the mechanics of the bill since it says this would take precedence over legislative matters.

Senator Wilson said it could be "softened" by drawing the rule to mandate a committee to decide what agencies or departments should be overviewed.

Senator Ford said she would want to take out the last sentence since there are occasionally some bills waiting for the legislature to act upon where it shouldn't be held up. She said she does like the idea of the bill because a general type of orientation to the titles of N.R.S. that each committee has jurisdiction over would be useful.

After further conversation, Senator Ford suggested that Line 7 could be changed from "shall review" to "is encouraged to review".

Chairman Echols stated that he would be willing to discuss and study this resolution with 2 or 3 members of the Committee.

It was decided that Chairman Echols, Senator Wilson and Senator Ford would discuss possible changes of this resolution and report back to the Committee.

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Senator Wilson asked if there are any hearings scheduled to review why name tags (with their signature and picture) are required for lobbyists. Senator Wilson stated he doesn't understand why we do this. He said he likes the idea of disclosure.

Senator Close said this is required because of a meeting two years ago in this Committee. "We voted to compel them to do it."

Senator Wilson said he doesn't recall the tag. He said he recalls the registration requirement.



Senator Wilson moved that a bill be drafted that would eliminate the requirement that lobbyists have to wear badges.

Senator Young seconded the motion.

Discussion

Senator Wilson requested that the motion contain the comments that the badges are causing people needless expense and that having to wear a badge to appear in the Legislature is "appalling".

Senator Close stated that it doesn't cost the lobbyists anything. He said they are not charged for the badges, the State is charged.

Senator Wilson stated that's all the more reason for eliminating the requirement.

Motion carried with Senator Ford voting "No".

Senator Ford stated that she thought some sort of identification is helpful, even if it's a name tag without the picture being required.

There being no further business, the meeting was adjourned at 3:21 p.m.

Conni J. Horning
Respectfully Submitted By:
Conni J. Horning, Secretary

Gene Echols
Approved By:
Senator Gene Echols
Chairman