

MINUTES OF THE MEETING OF THE JUDICIARY COMMITTEE
Executive Session
February 22, 1981

The executive session of the House Judiciary Committee was called to order at 9:00 a.m. in Room 437 of the Capitol by Chairman Kerry Keyser. All members were present except Rep. Daily, who was excused. Rep. Daily left votes for the bills. Jim Lear, Legislative Council, was present.

HOUSE BILL 741 REP. BROWN moved do pass.

REP. CURTISS asked what is the need for the bill. REP. KEYSER replied it would basically define poker.

REP. BENNETT could not see how it would be enforceable since there are so many variations. REP. BENNETT made a substitute motion of do not pass.

REP. ANDERSON stated city police, sheriffs, and the tavern owners would like to have the games clarified.

The motion of do not pass carried with REP. ANDERSON voting no.

HOUSE BILL 742 REP. SHELDEN moved do not pass.

REP. YARDLEY supported the motion.

REP. MATSKO stated an incorporated city is required to have a police force. The sheriff's department does not charge for helping out in a city. If this bill were passed it would discourage the department from doing their responsibility.

REP. HUENNEKENS stated the people living in the cities and towns pay county taxes and should have the sheriff's protection.

A roll call vote resulted on the motion of do not pass. Those representatives voting yes were: KEYSER, SEIFERT, BENNETT, CONN, EUDAILY, HANNAH, IVERSON, MATSKO, ANDERSON, DAILY, SHELDEN, and TEAGUE. Those representatives voting no were: CURTISS, MCLANE, ABRAMS, HUENNEKENS, KEEDY, YARDLEY and BROWN. The motion of do not pass carried 12 to 7.

HOUSE BILL 744 REP. HANNAH moved do pass. REP. HANNAH stated this bill is not a total elimination of the due on sale clause. The federal savings and loans have been able to cause homebuyers to back down. This bill will not dry up the market. As long as two basic items have not changed the loan should stay the same: (1) the original borrower is still on the loan, and (2) the bank's security has not changed. The homeowner can sell the equity he

wishes to sell without the fear of the bank becoming involved. The deed is still in the owner's name but is transferred to an escrow agent to hold; when it is paid, the title is transferred to the buyer.

REP. SEIFERT stated the banks and savings and loans are against the bill because it takes away their flexibility in selling and transferring loans. The realtors' standpoint is it would help make sales.

REP. BENNETT stated the banks make these loans to buy a house based on the secondary mortgage market. They base it on the assumption the loan will turn over every seven years. This would lock it for 30 years. The interest rates will rise with this bill. The secondary market will dry up and it will effect occupations involved in building houses. REP. HANNAH did not feel it would dry up the market.

REP. MCLANE asked if there were cases in court right now concerning this. REP. HANNAH stated yes. REP. MATSKO asked how many contracts this would effect. REP. HANNAH replied the situation arises 6 to 10 times a year in a company.

A roll call vote resulted in the motion of do pass. Those voting yes were: HANNAH and KEYSER. Those voting no were: SEIFERT, BENNETT, CONN, CURTISS, EUDAILY, IVERSON, MATSKO, MCLANE, ANDERSON, DAILY, ABRAMS, HUENNEKENS, SHELDEN, KEEDY, TEAGUE, YARDLEY and BROWN. REP. IVERSON moved to reverse the vote to do not pass. Those voting no were: HANNAH and KEYSER. Those voting yes were: SEIFERT, BENNETT, CONN, CURTISS, EUDAILY, IVERSON, MATSKO, MCLANE, ANDERSON, DAILY, ABRAMS, HUENNEKENS, SHELDEN, KEEDY, TEAGUE and BROWN. The motion of do not pass carried 17 to 2.

HOUSE BILL 773 REP. SEIFERT moved do pass.

REP. BROWN agreed with the intent of the bill but felt it would be more effective if the report was made out once a year. REP. BROWN moved to strike "a quarterly basis" on page 2, line 17 and to insert "April 1st of each year". The motion carried unanimously.

REP. HANNAH moved do pass as amended. The motion carried with REP. EUDAILY voting no.

HOUSE BILL 783 REP. TEAGUE moved do pass. He stated there is a big problem with bad checks in Billings.

The motion of do pass failed with Representatives BENNETT, TEAGUE, MCLANE and BROWN voting for the motion.

REP. IVERSON moved to reverse the vote to do not pass. Those voting against the motion were Representatives BENNETT, MCLANE, BROWN and TEAGUE. The motion of do not pass carried.

HOUSE BILL 785 REP. CONN moved do pass.

REP. SEIFERT made a substitute motion of do not pass.

REP. KEEDY made a motion to change the color of the stickers from red to chrome yellow. The motion passed unanimously.

REP. SEIFERT asked how much the stickers would cost. REP. CONN replied the 3M Company would provide the stickers free. The \$1.00 fee would be charged to the person. There would be no real cost to the bill.

REP. KEEDY moved to raise the fee from \$1.00 to \$5.00. The motion carried.

REP. SEIFERT moved do not pass as amended. A roll call vote resulted. Those representatives voting yes for do not pass were: KEYSER, SEIFERT, BENNETT, EUDAILY, IVERSON, HANNAH, ABRAMS, TEAGUE, YARDLEY and BROWN. Those voting no were: CONN, CURTISS, MATSKO, MCLANE, ANDERSON, DAILY, HUENNEKENS, SHELDEN and KEEDY. The motion of do not pass as amended carried 10 to 9.

HOUSE BILL 795 REP. MCLANE moved do pass.

REP. EUDAILY moved to insert "or certified alcoholism counselor" throughout the bill after "physician" where necessary. Following "." on line 24 insert, "However, the person whose commitment is sought has the right to subpoena the certifying physician and" and to strike through "may" on line 1. The motion carried.

REP. MCLANE moved do pass as amended. The motion carried with REP. CURTISS and REP. ABRAMS voting no.

HOUSE BILL 799 REP. HUENNEKENS moved do pass.

REP. BROWN made a substitute motion of do not pass.

REP. BENNETT stated he has been involved in this type of case previously and feels there are several abuses. He was not convinced this bill would solve the problems.

REP. HUENNEKENS felt the intent of the bill was quite clear. The use of eminent domain is an extension that may have been necessary at one time. The bill is not trying to solve all matters of eminent domain.

REP. SEIFERT felt it would cost the consumer more money in the long run. REP. KEEDY replied we should do something to protect and preserve agricultural lands.

A roll call vote resulted from the motion of do not pass. Those representatives voting yes were: KEYSER, SEIFERT, BENNETT, IVERSON, HANNAH, EUDAILY, CURTISS, CONN, MCLANE, DAILY, TEAGUE, YARDLEY and BROWN. Those representatives voting no were: MATSKO, ANDERSON, ABRAMS, HUENNEKENS, SHELDEN and KEEDY. The motion of do not pass carried 13 to 6.

HOUSE BILL 803 REP. CONN moved do not pass.

It was noted the bill really does not do what is intended to do as the wrong section of law is referred to.

REP. CONN withdrew her motion of do not pass.

REP. HANNAH moved to table the bill.

The motion passed unanimously.

REP. TEAGUE inquired if the committee could suspend the rules to draw up a committee bill to solve the problem. It is not the prison guards fault the bill is within the wrong section of law. They need the help now.

REP. TEAGUE moved to draw up a committee bill addressing this problem if the rules could be suspended. The motion carried unanimously.

HOUSE BILL 668 REP. CURTISS moved the committee reconsider action on House Bill 668. The motion passed unanimously.

REP. CURTISS moved the amendments be adopted. EXHIBIT 1. The amendments passed unaniomously.

REP. CURTISS moved do pass as amended.

REP. KEEDY stated the bill was in better shape with the amendments but he did not like the bill. It is already the court's ability to award this.

REP. CURTISS responded about 200 people signed a petition showing abuse in this area. People will be discouraged from doing this if this bill is passed.

A roll call vote resulted. Those voting yes for do pass as amended were: KEYSER, SEIFERT, BENNETT, CURTISS, EUDAILY, IVERSON, MCLANE, ABRAMS, and BROWN. Those voting no were: CONN, HANNAH, ANDERSON, HUENNEKENS, SHELDEN, KEEDY, TEAGUE, and YARDLEY. The motion carried 9 to 8.

HOUSE BILL 71 REP. KEEDY moved do pass.

A copy of the bill was handed out to the committee as it was most recently amended before tabling. REP. KEEDY moved do pass as amended.

REP. IVERSON questioned how page 1, lines 16-18 would work. REP. KEEDY stated the person who will be discussed will be notified prior to the meeting. REP. ANDERSON stated what if another person is mentioned in the meeting and they are not scheduled. It was replied if a person is talked about and not scheduled flexibility is allowed.

REP. EUDAILY stated most school boards do not have an agenda. Is that what the schedule is referring to? REP. KEEDY replied if a public agency has in mind discussing teacher's renewal of a contract it would be placed on the agenda and prior notice should be given.

REP. BROWN moved to strike "except as provided in subsection 2 and 3" on lines 21-22 on page 1. Also, to insert "all" on page 3 and to strike lines 13-24 on page 3.

After a brief discussion, REP. BROWN withdrew the first amendment. REP. BROWN's final motion was to delete section 3 from the bill and to retain the old language. The amendment passed.

REP. BROWN moved do pass as amended.

REP. KEEDY moved to insert on page 3, line 18, following "2-3-203" insert "or [section 1]". The motion passed.

A roll call vote on the motion of do pass as amended resulted. Those voting yes were: BENNETT, CONN, HANNAH, MATSKO, HUENNEKENS, SHELDEN, KEEDY, TEAGUE, YARDLEY and BROWN. Those voting no were: KEYSER, SEIFERT, CURTISS, EUDAILY, IVERSON, DAILY, ABRAMS, MCLANE and ANDERSON. The motion of do pass as amended carried 10 to 9.

Judiciary Committee
Executive Session
February 22, 1981
Page 6

HOUSE BILL 606 REP. SEIFERT moved do not pass.

REP. EUDAILY moved to eliminate section 2 on page 4. The motion carried with REP. KEEDY voting against the motion.

REP. YARDLEY supported the motion of do not pass. The crimes listed on the bill would add an additional six months without suspension. This does not make sense.

REP. EUDAILY moved to amend the title on line 8, page 1. The motion carried.

REP. KEEDY opposed the do not pass motion.

REP. BROWN stated he agreed with the intent of the bill but did not like the bill.

REP. CURTISS stated defenseless people should be placed in the bill. REP. KEEDY moved to include within the bill the three elements of House Bill 10.

REP. CURTISS felt another six months in jail would not mean anything to the offender.

A roll call vote resulted from the motion of the amendment by REP. KEEDY. Those voting yes were: CONN, CURTISS, IVERSON, MATSKO, MCLANE, ANDERSON, ABRAMS, KEEDY and TEAGUE. Those voting no were: BROWN, YARDLEY, SHELDEN, EUDAILY, BENNETT, SEIFERT, and KEYSER. The motion carried 9 to 7.

REP. SEIFERT moved do not pass as amended.

A roll call vote resulted. Those voting yes were: KEYSER, SEIFERT, BENNETT, EUDAILY, ABRAMS, HUENNEKENS, SHELDEN, YARDLEY and BROWN. Those voting no were: CONN, CURTISS, HANNAH, IVERSON, MATSKO, MCLANE, ANDERSON, KEEDY and TEAGUE. The vote was tied 9-9. The committee put the bill on hold.

The meeting adjourned at 2:15 p.m.


KERRY KEYSER, CHAIRMAN

mr

HOUSE BILL 668

AMENDMENTS

1. Title, line 4.

Following: "TO"

Strike: "AWARD"

Insert: "ALLOW AWARDING OF"

2. Title, line 7.

Following: "PROJECTS AND"

Strike: "REQUIRING"

Insert: "PROVIDING"

3. Page 1, line 18.

Strike: "shall"

Insert: "may"

4. Page 1, lines 21 through 23.

Following: "costs" on line 21

Strike: through "delay" on line 23

Insert: "that appear to the court to clearly result from
frivolous action by the plaintiff, devoid of merit, and
taken solely to cause delay and expense to the opposing
party"

5. Page 2, line 7.

Following: line 6.

Strike: "shall"

Insert: "may"