

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 123 S, at the Statehouse at 4:30 ~~xxx~~ p. m., on February 26, 1979.

All members were present except: Senator Hein

The next meeting of the Committee will be held at 10:00 a. m. ~~xxx~~, on February 27, 1979.

~~These minutes of the meeting held on xxxxxxxxxxxxxxxxxxxxxxxxxx were considered, corrected and approved~~


Chairman

The conferees appearing before the Committee were:

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

Proposed Substitute for Senate Bill No. 76 - Enacting a tort claims act applicable to the state and local units of government.

The chairman reviewed the amendments that had previously been made concerning the bill. Following committee discussion, Senator Steineger moved to amend the bill to provide that the open end approach be used for willfull or gross and wanton negligence with the excptions to the open end approach as set forth in Section 4 of the original bill; Senator Gaines seconded the motion. Committee discussion followed. Senator Berman made a substitute motion that the bill not be passed, that we do nothing and let the supreme court rulings govern the issue of governmental immunity. Senator Mulich seconded the motion. Further committee discussion followed; the motion failed. Senator Hess made a second substitute motion to adopt the Kansas Trial Lawyers suggestion in Section 4; Senator Parrish seconded the motion. After committee discussion, the second substitute motion, dealing with exceptions of the rule of immunity in operation of motor vehicles including aircraft, watercraft, machinery and other equipment, was adopted. Senator Simpson moved to adopt paragraph 2 of the Trial Lawyers suggestion in lines 70 through 74, new Section 5; Senator Gaines seconded the motion; on a vote of five to five the motion failed. Senator Hess moved to include sanitary sewer systems and storm sewer systems in new Section 7; Senator Simpson seconded the motion. Senator Steineger made a substitute motion to amend the bill providing for an open end approach for willfull and wanton acts, with the exceptions to the open end approach being those set forth in Section 4 of original Senate Bill 76; Senator Gaines seconded the motion, and the motion carried. Senator Gaar moved to reduce the limitations on recovery to \$300,000; Senator Steineger seconded the motion. On a vote of five in favor and four opposed, the motion carried.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Proposed Sub. for SB 76 continued -

The chairman appointed a subcommittee of senators Steineger, Allegrucci and Hess to draft a bill incorporating the previous actions of the committee, and to have the draft available by Wednesday.

Senate Bill No. 425 - Criminal code area preempted by state.
The committee discussed the bill, but took no action.

Senate Bill No. 427 - Appeals from municipal court, costs of court appointed counsel. Following committee discussion, Senator Hess moved to report the bill favorably; Senator Gaines seconded the motion, but the motion failed. Senator Gaar moved to amend the bill to provide that the city shall be responsible for the appointment of the lawyers; Senator Allegrucci seconded the motion, and the motion carried. Senator Gaar moved to report the bill favorably as amended; Senator Allegrucci seconded the motion, and the motion carried.

Senate Bill No. 428 - Appeals from contempt of court proceedings. Following committee discussion, Senator Hess moved to amend the bill in line 26; Senator Gaar seconded the motion, and the motion carried. Senator Berman moved to report the bill favorably as amended; Senator Mulich seconded the motion, and following committee discussion, the motion carried.

Senate Bill No. 426 - Form for presentence investigation reports. Following committee discussion, Senator Berman moved to report the bill adversely; Senator Hess seconded the motion, and the motion carried.

Senate Bill No. 424 - Repealing certain statutes relating to habitual traffic law violators. The committee discussed the bill, but no action was taken.

Senate Bill No. 422 - Repealing certain supreme court personnel statutes. Following committee discussion, Senator Berman moved to report the bill adversely; Senator Hess seconded the motion, and the motion carried.

Senate Bill No. 423 - Workmen's compensation, appeals from district courts, interest and penalties. Following committee discussion, Senator Simpson moved to report the bill favorably; Senator Steineger seconded the motion. The motion carried on a vote of six to four.

Senate Bill No. 421 - Appeals from certain district court cases. Following committee discussion, Senator Simpson moved to report the bill favorably; Senator Gaines seconded the motion, and the motion carried.

continued -

Minutes of the Senate Committee on Judiciary February 26, 19 79

Senate Bill No. 231 - Crime of dealing in false identification documents. Following committee discussion, Senator Gaines moved to report the bill favorably; Senator Simpson seconded the motion, and the motion carried.

senate Bill No. 164 - Consumer protection, motor vehicles.
The committee discussed the bill, but no action was taken.

Senate Bill No. 389 - Changes in securities commissioner statutes.
The committee discussed the bill, but no action was taken.

The meeting adjourned.

These minutes were read and approved
by the committee on 4-25-79.