

May 20, 1975

plaintiff regardless whether he is right or wrong, in other words, that's the way it is now, but your amendment would make this so that it would leave it up to the judge or the court who is to pay what. Is that correct?

SENATOR KOCH: You want me to restate it? The paragraph reads that the court may award fees to the plaintiff presently. What I am saying is that the court could also award fees or attorney costs to a city if they are the ones who prevail. That's all I'm saying is, that both parties should be given the same opportunity to recover costs if they prevail.

SENATOR NICHOL: Thank you sir. Juse to make a statement to that, I will heartily support Senator Koch's amendment because this is where law should be. In other words, if the judge decides that a certain party should pay damages or court costs or attorney fees, this is where the authority should lie and I would really support your amendment, Senator Koch.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Members of the Legislature, I just want to say that a provision like Senator Koch's is designed and intended and I believe with malice and ought to have a chilling effect on any citizen who would try to make a challenge to any of these public bodies. I've listened to Senator Koch since he's been down here. He is very protective of administrators of public schools and other agencies and bodies which may try to do things that will prevent the public from expressing their opinions at these meetings. I have an amendment which will deal with another bit of his activity but I think his only intent in this amendment is to prevent challenges by the public, of these public bodies I am opposed to his amendment and I hope you will vote it down.

PRESIDENT: Senator Dickinson.

SENATOR DICKINSON: Mr. President, members of the Legislature, I rise to support Senator Koch's amendment and I am sorry Senator Chambers just made the statement here and I suppose in his mind that will apply to me also. I think this can be used totally promiscuously and as a harassment to bodies and certainly without any deterrent whatsoever this could become an impossible situation. I would comment to Senator Anderson's statements as to a local entity of government hiring a bevy of attorneys with adequate tax resource at their disposal. I would remind him that these tax resources are yours and mine. Believe you me, if a government body that I'm a part of starts hiring a bevy of attorneys to defend an action of theirs I might have, as a citizen, something to say about this. This just isn't going to happen, Senator Anderson, in my opinion. Whatever they do have to spend in additional fees for attorneys, as Senator Koch has suggested, comes right out of the pocket of taxpayers. Certainly there has to be some small deterrent, that's what this would be. Same as there is in any other case