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LB 192

is harassment to one person is going to be the enforcement of good public policy to the other person. For instance, in Iowa not very far from maha there is a hazardous waste disposal area where drums have been stored for 15 or 20 years and they are leaking and there are a variety of six or seven different kind of chemicals that are leaking out into the ground and that are leaching down into the ground. There are puddles of chemicals around. Now if the federal government comes in and sues the owner of that abandoned waste disposal plant to get him to conform to federal regulations, now I am sure that the owner of that plant is going to feel he is being subject to harassment, but I am sure a lot of other people who live in that neighborhood and don't want those chemicals washing around in the rivers and leaching into the ground don't view it as harassment at all. They view that as an enforcement action to basically good public policy. Now, what this would do is... this amendment would do is leave it up to the judge to decide on a case by case basis whether harassment is involved or not. The problem is the way the bill is written, the bill assumes that all actions by the state are for harassment purposes and furthermore, as Senator Vickers will elaborate on, it assumes that whenever an individual sues the state to have something like the Groundwater Management Act declared unconstitutional, why that is a harassment action against the individual as well because it is not just when the state is suing under this Act, it is when somebody sues the state that they also have as the Act is written now a heavy presumption in favor of granting attorney fees. Now, of course, as a lawyer I shouldn't be complaining about that, but as a lawmaker and as somebody who tries to make good public policy decisions, I don't think it makes sense and I think the thing to do is leave it in the discretion of the court to decide what is best on a case by case basis and not try in this body in 1981 to anticipate what the situation might be in some lawsuit out there in 1986. Now, let me yield the rest of my time, Mr. President, to Senator Vickers and then Senator Kilgatin. Thank you.

SENATOR CLARK: Sorry to tell you, but the time is up on the bill. We are going to pass over the bill. I would like to announce thirty-four 6th graders and students, 3 adults, from Creighton Elementary School, Creighton, Nebraska. Mrs. Faith, Mrs. Wade and Mrs. Hearta, are the sponsors of it. Will you stand and be recognized, please? They are in the north balcony. Thank you for coming to the legislature. The next bill is 411.

CLERK: Mr. President, LB 411 introduced by Senator Slick.

SENATOR CLARK: For what purpose do you arise?