

January 20, 1982

LB 375

not, it is going to make the management of water very, very difficult.

SENATOR CLARK: Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature, contrary to Senator Kremer I am not sorry that I am not a lawyer and I regret we don't have Senator Hoagland's support but I guess maybe we will have to struggle along without it. The matter of the litigation has been a prime concern of myself and Senator Kremer and every other member of this body for a long while. I have discussed it with Senator Beutler a number of times and other members of this body because we know it is a concern and we have attempted to address it and the Ag Committee made a series of visits to a number of the Natural Resource District offices this last interim period and I can tell you that many of the NRD managers and Boards of Directors are concerned about it. The problem of litigation between districts is a most serious one. As Senator Burrows has pointed out, the problem of litigation between subdivisions of government is a very, very serious one. We can utilize all of the funds they receive, whether it is a million dollars or fifty million dollars in litigation if we are not careful, but for Senator Hoagland to imply that the issue is of paramount importance under 375, the ground water management act, and not of importance in any other area is misleading. The issue is there and I have asked that it be addressed on a number of occasions and Senator Kremer and I in the previous session were on opposite sides of the bill and the principal reason that Senator Kremer opposed the bill was because he was afraid it would lead to additional litigation. The bill was defeated and there was a very expensive settlement of the case that was being discussed on the floor at great length but the point is they followed the procedure and the NRD in that instance lost their case in court. The award was more than fifteen percent of the offer by the County Planning Board and so, therefore, they were just within the law and they made the award and the attorney was granted a percentage of it. The point I want to make is that very seriously it ought to be addressed, Senator Hoagland, but not in 375 as a separate issue and as an isolated issue. The concern and we have discussed it, in some instances, with the NRDs themselves because in my NRD I believe my manager told me that we spent \$65,000 recently on attorney fees and that would do a considerable amount of conservation work and we don't want to get into that situation. But 375 will not generate any more litigation than which we already have and going. I would ask you to support the bill. I believe it represents some very serious efforts on the part