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LB 969

SENATOR HOAGLAND: As far as the \$2 million that Judge Urbom has levied, I don't believe that we will be able to get that money into the State Treasury.

SENATOR HABERMAN: What if we take an injunction against Judge Urbom. Well, you can't do that. Thank you, Mr. President.

SPEAKER MARVEL: The Chair recognizes Senator Warner.

SENATOR WARNER: Mr. President, I....

SPEAKER MARVEL: You have three minutes.

SENATOR WARNER:first before I speak in opposition I want to ask three questions of Senator Hoagland.

SPEAKER MARVEL: Senator Hoagland, do you yield?

SENATOR HOAGLAND: Yes, I do, Senator Warner.

SENATOR WARNER: First, does the bill assume or does it permit and can you do a penalty or a reimbursement for... can you pass a law affecting something in the past and make it retroactive, or does it only have to be from this time forward?

SENATOR HOAGLAND: As far as the civil restitution provisions are concerned, Senator Warner, it can be retroactive. The ex post facto provisions of the U.S. Constitution just apply to criminal liability. We could not increase the criminal penalties for acts that have already occurred but we could change the civil rules for restitution. I believe that is correct.

SENATOR WARNER: And secondly, you have used...it was my impression that the federal case dealt with the federal portion of the highway construction and did not necessarily involve state funds, so that \$2 million really doesn't have anything to do with violation of state law. Isn't it just the federal requirements?

SENATOR HOAGLAND: Well, Senator Warner, I am not familiar in that detail with the facts of that case, but it might have been a 90/10 or an 80/20 matching, in which case we could sure argue that we are entitled to the 10 or the 20 percent that we match the federal funds with.

SENATOR WARNER: Well, let me phrase....is it a fine or reimbursement that the court filed in the case?