

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR WARNER: ...unfair process be closed so that the responsibility for these acts are fairly placed where they ought to be.

SPEAKER BARRETT: Senator McFarland, please.

SENATOR MCFARLAND: Thank you, Mr. President. Senator Warner has...is quite right that there is a problem in this entire process and there are unfairnesses that occur both for the defendant employees of the state and also for the persons who are the people that are the employees, state employees, who have been victimized by discriminatory conduct on the part of their supervisors and their department heads. For that reason, I do not plan to vote against this bill on General File. The reservations I have are really one of process and whether this bill, in its present form, solves the problems in a way that will be fair for all state employees and for all persons that may be the subject of discriminatory conduct on the part of the state or its individual agencies. What I'm going to be doing between now and Select File is preparing some amendments and trying to address some of those concerns. I will tell you the one specific concern that I have is that I do not like the situation where individual employees can be found individually liable by the court and yet be able to be indemnified on every occasion because there is a fund created and because the Attorney General makes a decision and they always get indemnified time and time again for their individual misdeeds. And it seems to me at some point if the federal courts have a policy whereby individuals should be held accountable and should be responsible for being individually liable for their own actions, that we, as a Legislature, should look at that and be able to review that and determine if, in fact, these individual employees need to be indemnified in every and all circumstances. With this bill, my fear is that we will have delegated that responsibility to the Attorney General's office through the risk manager's office, that a fund will be set up, and that every...that almost every or every, it could be, state employee who was sued, even if they are found individually liable, will be able to go to this fund, be indemnified and the fact of the matter they suffered no personal consequences for their action. And it seems to me that they should be held personally