

constitutionality. If they did not raise the constitutional question, then it would not be considered.

SENATOR HABERMAN: So, now we are saying also that every community and every county has the expertise, has the attorneys, let's say, or the input to advise them as to whether an ordinance is constitutional or not. And, I don't think that the counties and the cities and the small communities and the small counties have this type of expertise. Thank you, Mr. President.

SPEAKER BAACK: Thank you, Senator Haberman. An amendment on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Beutler would move to amend the bill. (Beutler amendment is printed on page 436 of the Legislative Journal.)

SPEAKER BAACK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this amendment is basically designed to give you one last policy choice on this particular bill. And, what it does, it carries the Ashford amendment further and eliminates the word "ordinance", so that you've eliminated ordinance, rule and regulation. So, what you would have left, if you adopted this amendment, would be a new statute that gave the right to defense costs in situations where a state statute was in question. So, in other words, I admire what Senator Elmer is doing here, the path he's starting down. I think it is a path we should start down. But I would like to start down in a very cautious manner, and, if we're going to call ourselves into account first, I think that's the way it should be, I think that's good. However, I do not have confidence that all of the small villages and cities of the second class, I think there are going to be some problems that come up in this regard in terms of the kind of legal advice they may be getting. I'm not sure you want to do this all at once in light of some problems we may not have foreseen in how this would work out. What I'm suggesting to you is maybe you want to drop ordinance out, see what it looks like, see how it operates for a couple of years at our level. And, then, if we...when we've got it in order and we know how the claims procedure is going to work, we know the problems that come up when we have a number of litigants, and all the different problems that come up, once we've identified those, then maybe proceed to apply it to state rules and regulations,