

of Appeals precedential value.

SENATOR BERNARD-STEVENS: One minute.

SENATOR KRISTENSEN: The Court of Appeals should not be...they can't, by the way, declare a statute unconstitutional. They don't have that power to do that. But they do have the power in determining factual cases to give some precedence over sets of facts. Those determinations ought to be available for people to use in the lower courts. That should be the Legislature's intent to require some vertical precedent to go down to the lower courts. If the Supreme Court gets ahold of this, it's going to take five judges probably to rule that it's unconstitutional. I don't whether that...there are five judges on that court that will do that. I guess we'll find out, and that's the reason I'm going to vote for the amendment at this point in time, and would urge you to do the same. Thank you.

SENATOR BERNARD-STEVENS: Thank you, Senator Kristensen. Senator Beutler.

SENATOR BEUTLER: Senator Bernard-Stevens, this is my bill, of course, so I have a little added concern here, and I have some ambivalent feelings. Untypically, I have very mixed feelings. On the one hand, in terms of the substance of the matter, I wish that the Supreme Court had said that the Court of Appeals' decisions set precedent. I think that is the way the system should work. I think that's the way that it works best myself. I think that feeling is shared by an overwhelming majority of the Bar Association. I think the Bar Association has been very, frankly, surprised and taken aback by this particular decision. On the other hand, procedurally, going through this Legislature, this has not had a public hearing. There has not been an opportunity for input from different sides. It violates probably the five-day rule. I don't know if that means the court would use that to overthrow it on a 5...on a 4-3 decision. That possibility exists. The separation of powers question is there which may make the amendment ineffective. So I'm just going to take a neutral stance towards the whole thing, but I would ask each and every one of you this. I don't expect any backlash, political backlash from this amendment, but I would ask you, there are some other very, very good things in LB 1296. If you decide you want to vote for this amendment, please make that decision that you're going to stick by it, and stick by the