

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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FLOOR DEBATE

April 6, 2004 LB 599

E & R amendments to LB 599.

SPEAKER BROMM: The motion is to adopt E & R amendments to LB 599. All in favor say aye. Opposed nay. They are adopted.

CLERK: Senator Beutler would move to amend, AM3091. (Legislative Journal page 1135.)

SPEAKER BROMM: Senator Beutler.

SENATOR BEUTLER: Senator Bromm, members of the Legislature, just to reacquaint you for a moment with this bill, this is a bill that deals with the authority of the Board of Engineers and Architects and you may recall that it deals specifically with a number of different types of exemptions and suggests that how certain...suggests how certain of these exemptions may be negotiated and changed pursuant to a Negotiated Rulemaking Act, and further suggests that certain exemptions may be changed if they are changed by the rule and regulation of the Board of Engineers and Architects. And then you may recall there was some discussion as to whether this...whether these exemptions and the amendment that they're contained in had sufficient standards to guide the board and was, therefore, a proper delegation of authority under the law. And the question was large enough that I asked for an Attorney General's Opinion on the question. And to make a long story short, basically what they said is this, and I'll just read you the final paragraph: Because the courts have taken a more liberal view to grants of discretionary authority to administrative agencies and because the discretionary authority in question is fairly narrow in scope, much broader grants of authority have been upheld against challenges of improper delegation of legislative authority, we are unsure whether the committee amendment in this case would be found to be an unconstitutional delegation of legislative authority. But there is certainly cause for concern. And then it goes on to say adoption of amendments AM3244 and AM3091, which is the amendment you presently have in front of you, adoption of those two amendments, the first one is one that will be before you and it's from Senator Tyson, and this amendment that's before you now, or something akin to them, would most likely solve the problem. So the effort of these two amendments