

JUDICIARY COMMITTEE

January 12, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order on Wednesday, January 12, 1977, room 436 of the Capitol Building, Helena, Montana, 8:00 A. M. Chairman Scully presided. All members present with exception of Representative Kennerly, absent.

Scheduled for hearing were House Bills #5, 6, 7 and 65.

Chairman Scully announced that House Bill #77 scheduled for the following day would be canceled because the fiscal note was not available yet.

HEARING OPENED ON HOUSE BILL #5.

JOHN VINCENT, SPONSOR, House Bill #5. He explained this bill is to establish the office of Court Administrator. This bill is just to bring Montana law into compliance. It will be funded 100% with federal funds, however, within a year or two this aid may be terminated. He explained what the function of a Court Administrator would be, such as prepare and present judicial budget requests to the legislature, collect, compile, and report statistical and other data relating to the business transacted by the courts and provide such information upon request.

PROPONENT MARGARET DAVIS, League of Women Voters. There is a definite need for this in state government. She presented a copy of written testimony to the committee (attached). I strongly urge passage of this legislation.

OPPONENT STEPHEN TURKIENIECY, Montana Association of Counties. He read parts of section 4, in opposition to the proposed bill. He questioned what a reasonable period of time would consist of. This does not comply and it should.

REPRESENTATIVE JOHN VINCENT, in closing, I don't know what the definition of a reasonable period of time. I ask them to consider what the definition of that term is. There was some discussion about this and about section 4.

Representative Keyser asked how much federal funds are being used for this program.

Representative Vincent. Just a little under \$176,000. \$37,000 attached to House Joint Resolution #2, \$81,000 to another bill, House Bill #7, on judicial training, thus \$57,000 actual of that or 85% is federal money.

HEARING CLOSED ON HOUSE BILL #5.

HEARING OPENED ON HOUSE BILL #6.

REPRESENTATIVE VINCENT, SPONSOR. This bill will transfer the salary of the court reporter from the county level to the state level. Basically it shifts the burden. It is my feeling that court reporters are entitled to the fringe benefits of a classified state employee. The district judge shall set the hours of the employment.

PROPOSER STEPHEN TURKIEWICZ, Montana Association of Counties. We strongly endorse and support this bill. This is just the first step, one step in the right direction. I urge your support.

OPPOSER MARGARET DAVIS, League of Women Voters. Our problems are with some aspects of the bill. Will all court reporters receive the same salary? Who will determine how many court reporters serve in each district? Does the workload of a court reporter have a direct relationship to the judge's caseload? We reserve our endorsement of House Bill #6.

Representative Ramirez. If we transfer all the court reporters, is there going to be a corresponding reduction in the all-purpose mill levy? Are we going to tie this in? Is there any problem to do this?

Representative Vincent. I would think that would be a task for the county commissioners to consider.

Representative Ramirez made the comment that couldn't we reduce that maximum? There was considerable discussion about this, mill levies and salaries, etc.

Steve Turkiewicz stated that House Bill #122 provide an all-purpose mill levy for counties of 55 mills. This is a wholesale reduction allowed for counties.

Representative Colburn asked what will be done with a retiring court reporter?

Steve Turkiewicz answered: The court reporter's retirement would be included in the PERS Program.

Representative Day: Why not put the court reporters in the state-wide pay plan. Discussion about this and other aspects of pay and salary arrangements.

Ray Stewart: Court Administrator stated that the pay plan exempted justice and legislative employees.

Discussion about the judge's discretion in setting salaries, whether there was a safeguard to be within the maximum and minimum. He commented that he thought the court reporter was the 1st fee-pocketing employee under state government.

We draw up two grants but the budget comes first, and this is why the cost is so high. We are operating now on a \$70,000 a year activity, but we are asking the state to be responsible. Right now the Board of Crime Control is funding it. He mentioned a training program they took around the state to the larger cities. There was discussion about various courts, appellate, district, etc.

Hearing closed on House Bill #7.

HEARING OPENED ON HOUSE BILL #65. Vice-Chairman Representative Teague presided over hearing.

REPRESENTATIVE SCULLY SPONSOR HOUSE BILL #65. This is the first of a package of bills, 5 or 6 in number, from the Administrative Code Committee. He mentioned the makeup of the committee, 2 from each house, their function and procedure.

He mentioned how professional boards sometimes use a strict method of licensing to limit the number of members. He discussed their method of hearings and appeals. The committee looked into these methods and how they would handle a situation, such as a charge of incompetence against a member of their board. We have to see that boards do not generate problems within their own area. We should see that the individual gets a fair shake. He went on in further detail how the position of administrative law judge would function.

PROPONENT CLIFF CHRISTIAN, representing the Board of Realtors asked to go on record in support of the bill.

OPPONENT DON PRATT, Montana Funeral Directors and Morticians. We are not really opposed to the bill; however, we were at the hearings and expressed our opinions at that time.

REPRESENTATIVE SCULLY explained about findings and penalties and that they did not know as of yet what the exact cost would be. However, it would cost from \$25,000 to \$45,000 depending on what the judge is paid.

Discussion about the recourse of an individual if the board should have an adverse decision, the appeal possible. etc. How many boards and how many hearings are held. It was mentioned that there is a difference in boards, some are advisory boards and some are for licensing. There are 31 boards. The maximum is 20 hearings while some boards hold no hearings.

REPRESENTATIVE RAMIREZ mentioned that maybe we did not need a full-fledged judge, but only a well-qualified hearings officer.

REPRESENTATIVE SCULLY said we have to have an attorney.

REPRESENTATIVE RAMIREZ mentioned that all that was needed was someone to have findings of fact and conclusions of law, subject to review by the supreme court.

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REPRESENTATIVE LORY commented that very few of these cases would ever go to the Supreme Court. However, there would be direct appeal to the Supreme Court.

REPRESENTATIVE SCULLY. We considered an independent hearings officer, speaking of the members of the committee working on the bill. We felt we could stiffen up the teeth and solve a lot of problems.

Hearing on House Bill #65 closed.

Meeting adjourned 9:30 A. M.

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Rep. John Scully, Chairman

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Mary Ellen Connelly, Secretary

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