

JUDICIARY COMMITTEE

January 18, 1977

The regularly scheduled meeting of the House Judiciary Committee was held at 8:00 A. M. in the Capitol Building, Room 436, Helena, Montana, Tuesday, January 18, 1977. Chairman Scully presided. All members present.

Bills scheduled to be heard were House Bills #4 and 165 and Senate Bills #7 and 20.

HEARING OPENED ON SENATE BILL #20.

SENATOR HAZELBAKER, DISTRICT #41, CHIEF SPONSOR, explained that this was to remove outdated laws, clarify and revise the code.

DIANA DOWLING, STAFF ATTORNEY for Legislative Council: This bill will give our staff the authority to make some of the changes without changing anything. If you will notice on line 2, page 1, this explains what we are doing. There are many obvious spelling errors, and many cases of using "of" instead of "or", etc. Many changes in grammatical construction, removing outdated language, obsolete or outmoded expressions, etc, or cases where the pronoun doesn't agree with its subject. Such as the use of "nor" is grammatically incorrect. She gave examples of laws, such as Montana Fish and Game Department. There are 3 or 4 volumes with complete old to new tables. She gave examples of how rearranging can change a law and that this bill would not allow that.

She explained the parent volume, and case notes, will be very clearly delineated. There will be a history cross-reference, case-notes, etc. All of which will have headlines so you will know what you are reading.

Hearing closed on Senate Bill #20.

HEARING OPENED ON HOUSE BILL #4.

REPRESENTATIVE HUENNEKENS, CHIEF SPONSOR, introduced this bill. He explained the interim joint sub-committee on Judiciary. He also explained the district justice system and said it is somewhat a mess. He discussed the travel and time involved, the case load, etc. He said it will add an extra judge to Yellowstone and one to Bozeman, and create a 19th judicial district by combining Lincoln and Sanders Counties. Lincoln is now covered by judges out of Flathead County.

This will cut the travel time and give a more reasonable work load.

PROPOSER SENATOR TOWE, DISTRICT #34. He distributed copies of a graph depicting the case load in the various judicial districts. He said there is a danger in using only case loads. The case load per judge is not always the most accurate data, but often it is the only data available.

PROPOSER JOHN CAVAN, Yellowstone County Bar Association: I support House Bill #4.

PROPOSER ROBERT HOLNSTROM, Yellowstone Bar Association. Last Friday, a resolution was passed by the Montana Bar Association in complete support of House Bill #4.

PROPOSER ARNOLD A BERGIER, Yellowstone Bar Association: I am the President of the Association. In our area, the other counties are not getting the help they are entitled to because of the heavy case load in Yellowstone. The comparison is approximately 30 to 1. I had a little confusion as to the effective date, and I think this should be clarified.

PROPOSER BRENT CROMLEY, Attorney from Billings: I support this bill.

PROPOSER GREG MORGAN, Gallatin County Bar Association: We desperately need another judge. We have one of the best in the state, but we don't think he should have to be under that kind of pressure. This is the second time I have been to the legislature and I would hope that you will pass this bill.

There were no opponents.

REPRESENTATIVE HUENNEKENS: I think it is very important that we provide an adequate system so that if necessary each citizen may have his day in court. Discussion about the 18th district and the problems it may create. There is a problem with space. Also, discussion about the effective date. It was written in that manner for a purpose, however, the committee can change the effective date if they would like.

MR. MORGAN: We need more judges available. The vote was almost unanimous and only one lawyer and the judge voted against it. It is mostly a matter of space in this district. We need several more judges so that people can have access to the courts in District 13.

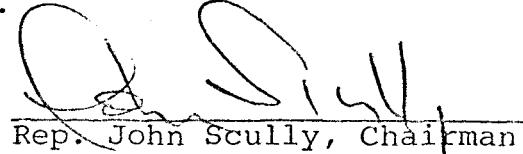
We have to redistrict by counties, you couldn't split the courts. We now have a mechanism to collect full data on these work loads. We just had to do what we could with what we had, at the time.

Then followed general discussion about the cost, about whether elected or appointed, etc.

Discussion in regard to the fiscal impact.

Hearing closed on House Bill #4.

Hearing adjourned for executive session.


Rep. John Scully, Chairman


Mary Ellen Connelly, Secretary