

JUDICIARY COMMITTEE
February 14, 1977

The regular meeting of the House Judiciary Committee was held at 8:00 a.m. in room 436 of the Capitol Building, Helena, Montana on Monday, February 14th with Chairman Scully presiding. All members were present except Representative Teague.

SCHEDULED FOR HEARING WERE HOUSE BILLS 273, 343, 451, 685, 713, and 718.

HOUSE BILL #713:

REPRESENTATIVE RAMIREZ, DISTRICT #64:

This bill was recommended by the Montana Bar Association and would pertain mostly to large land transactions. It would simplify transactions in land by providing that anyone having the chain of record title to land which is unbroken for at least 30 years has a marketable record title to the land. When a title is examined they will go back through all of the title transactions by reviewing an abstract. It is necessary to go back clear to the beginning of the title and bring it up to date. What the act is designed to do is to limit the time. This kind has been enacted in a couple of states. What this does to eliminate this problem is to fix a length of time. If a title can be traced back 30 years it is considered marketable. This act permits the filing of a claim. They would have to record that interest each 30 years.

It does not affect:

1. easements
2. use restrictions
3. water rights
4. mineral interests
5. any interest claimed by the United S tates
6. timber
7. conservation easements.

It is this type of defect this is designed to eliminate. It would cut down the expense if an error is found. The title is cleared for a 30 year period.

A copy of the statement from the Montana Bar Association Title Standards Committee is attached. After a short question and answer period the hearing closed on House Bill #713.

THE HEARING OPENED ON HOUSE BILL #718:

REPRESENTATIVE MELOY, DISTRICT #29:

This bill is concerned with standardizing travel expenses paid from public funds by state governmental entities, except the legislative branch. He went on to explain in more detail the parts of the bill, such as removal, rating, salaries, expenses, suspension, etc. He mentioned that on page 4, line 7, concerning

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\$25 per day for performance of duties. However, as yet, these rules have not been adopted. He also mentioned that the board of regents and board of education do not come under the Administrative Procedure Act.

There were no other proponents and no opponents.

REPRESENTATIVE HAND:

What is declaratory ruling.

CHAIRMAN SCULLY:

A position paper on how the department will interpret a particular question. He stated that the citizen participation law was passed in 1975.

There were no other questions, and the hearing closed on HB 718.

THE HEARING OPENED ON HOUSE BILL #451:

REPRESENTATIVE LIEN, DISTRICT #49:

The bill is concerned with the fees for preparation of environmental impact statements by DNR on applications for permits under the Montana Water Use Act, to determine the maximum fee payable and to contract with applicants for payment of fees. The present law says that if they are not used they have to be returned.

PAT HOOKS, ATTORNEY FROM TOWNSENT, INTAKE WATER COMPANY:

The statement provides that when the application involves the use of over 10,000 acre feet and when an environmental impact statement has to be submitted. The fee schedules are not changed, the guts of the changes are on page 3 and 4. The department may contract with an applicant by agreement the estimated cost of any facility for purposes of computing the amount of the fee, and the development of information, etc. The cost of the contract will be deducted from the fee.

In sub-section (3) of section 8. this is a new section, is completely discretionary and the responsibility of the impact statement is on the department.

WARD SHANAHAN, DREYER BROTHERS, INC.:

I wish to amend the bill. He submitted a copy of the proposed amendments to the committee, (attached) to provide for both types of certificates in the water use act where reference is made to the Siting Act.

LAWRENCE SEARLE, DEPARTMENT OF NATURAL RESOURCES:

We are in support of this bill. We feel the department may have this authority already but feel it should be made by law.

PAT SMITH, NORTHERN PLAINS RESOURCES COUNCIL, OPPONENT:

We are opposed to letting an applicant help in the preparation of the impact statement. He discussed the intent of the environmental act in some detail.

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REPRESENTATIVE ROTH asked of Mr. Searle. Do you feel your department will be less slanted than industry.

We feel that the Department of Natural Resources without a monetary interest would stand a better chance of doing a better job.

There were no other proponents or opponents, and the hearing closed on House Bill 451.

THE HEARING OPENED ON HOUSE BILL #343:

REPRESENTATIVE CONROY, DISTRICT #58:

This is an amendment to existing law. He went on to explain the bill and gave an example of his area needing the amendment.

PROPONENT, CHARLES LUNDBERG, BIG HORN CANYON HIGHWAY ASSOCIATION: He presented a prepared statement to the committee of his testimony. (copy attached) He went on and told of a situation in his area in which as soon as a contract is let an injunction is filed. He talked about the master plan of the Transpark Road, which will be 9.6 miles and cost \$100,000.

PROPONENT, DENNIS LIND, BIG HORN CANYON HIGHWAY ASSOCIATION:

This bill is merely an enactment of what the courts have already said is necessary for a citizens group to bring an action. We are asking at the outset that we know who is making a complaint.

There were no other proponents and no opponents.

REPRESENTATIVE CONROY:

I think they have done a good job on this. The environmentalists are coming in and trying to tell us what we need in Big Horn County.

PETER JACKSON, FRIENDS OF THE EARTH AND MONTANA WILDLIFE FEDERATION AND MONTANA WILDERNESS ASSOCIATION:

Mr. Jackson came in late and asked if he could testify. He mentioned that an injunction can be brought at any time. He discussed the 9th circuit court of appeals and the court action and the injunction.

The hearing closed on House Bill #343.

THE HEARING OPENED ON HOUSE BILL #685:

REPRESENTATIVE FAGG, DISTRICT # 63:

This bill will amend laws relating to tenants' security deposits to allow deductions for cleaning expenses and to delete requirements for verification of the list of damages. He explained what damage as defined in the bill meant and security deposits, etc.

JAMES JONES, ATTORNEY, MONTANA LANDLORDS ASSOCIATION:

Very few tenants are aware of the bill and what it does. It requires that a list of the damages of the last tenant be given to the new

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tenant. The list of damages has to be verified and it has to be notarized. It is very impractical because they don't know they have to have it notarized. We want to take out this requirement that it has to be verified. The second part clarifies whether or not cleaning supplies can be included. We must put this in perspective as to what this bill requires. The statute as it was passed in 1974 does provide a protection for the tenant. He talked about this bill affecting the people with low incomes. He mentioned that of the 3,000 landlords in Yellowstone County only 300 belong to the Landlords Association.

PROPONENT, ELDON PISER, PRESIDENT OF MONTANA LANDLORDS ASSOCIATION:
We have set up a grievance committee. He discussed the forms they would be asked to use. He mentioned the small percentage of bad tenants who would probably not be affected by this, and that they did not want to penalize the good tenants.

PROPONENT, ALBERT MILLER, MONTANA LANDLORDS ASSOCIATION:
I do not like the fact of the notary requirement.

PROPONENT, WALTER JACKOVITCH, LEGION OASIS:
There is some problem sometimes in getting the place from the vacated lease. We feel a written list must stand the test of the court and so we feel that that should suffice. We feel the verification is not necessary.

No other proponents.

OPPONENT, TOM COLLINS, MONTANA ASSOCIATION OF REALTORS:
We agree that this bill should be studied. We do recommend that you table it until House Bill 80 is through.

REPRESENTATIVE FAGG:
There is a substantial problem in the area. I would certainly hope that you would act on these.

The hearing closed on House Bill 685.

THE HEARING OPENED ON HOUSE BILL #273:
This would require that unlawful detainer actions filed in justice court be tried within 8 days, unless the defendant applying for a continuance should give an undertaking to the adverse party. If you have a dispute you have a bond in court to pay the rest.

JAMES JONES, MONTANA LANDLORDS ASSOCIATION:
The purpose is to require the justice of the peace to set the case for trial within 8 days. You have to give a 3 day notice. We checked around to see what would be the best way to go about this.

PROPONENT, ELDON PYFER, MONTANA LANDLORDS ASSOCIATION:
A lot of people don't know what the word rent means. He went on to talk about the types of renters and the problems involved.

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I think it is very important that you get this set up so we can get rid of the bad tenant, which is actually a very small % but cause all the problems.

ALBERT MILLER, MONTANA LANDLORDS ASSOCIATION:

I concur in this bill.

WALTER JACKOVITCH, LEGION OASIS:

I also concur in this bill. I feel there is no way to implement that termination.

OPPONENT, TOM COLLINS, MONTANA ASSOCIATION OF REALTORS:

It sets up a way for the landlord to harass the tenant. We are opposed to this bill.

REPRESENTATIVE FAGG:

I just don't think you should let landlords take two years to get their rent.

A question and answer period followed concerning the landlord-tenant act.

Mr. Fagg stated there are a couple of hundred complaints a year in Billings. He said that chapter 97 of statute 93 is the unlawful detainer. The law was enacted in 1895.

There was general discussion about the cleaning deposit and the security deposit. Both bills were discussed at some length.

CHAIRMAN SCULLY:

The law now applies to the security deposit. He said that 42-306 is a part of the statute already dealing with this.

He asked the attorney if he would agree with punitive damages.

MR. JONES:

I would agree.

The hearing closed on House Bill #273:

THE HEARING OPENED ON HOUSE BILL #343:

MR. JACKSON, WESTERN ENVIRONMENTAL TRADE ASSOCIATION:

I am sorry I was late and I appreciate the opportunity to speak on the bill. I am a proponent of HB 343. I am a member of the Montana Conservation District and very concerned with natural resources. The National Association of Conservation has 18,000 members. It is good for people to stand up and voice their opinion.

The meeting adjourned at 11:30 a.m.


JOHN P. SCULLY, CHAIRMAN


Mary Ellen Connelly