

JUDICIARY COMMITTEE

March 8, 1977

The regular meeting of the House Judiciary Committee was held on Tuesday, March 8 at 7:30 a.m. in room 436 of the Capitol Building, Helena, Montana. Chairmam Scully presided. All members were present with the exception of Representative Colburn.

Scheduled for hearing were Senate Bills 40, 42, 43 and 53.

SENATOR TOWE, sponsor of the bills asked that Senate Bill 41 be included, since it is part of the package of bills. The committee agreed to hear this bill along with the others.

SENATOR TOWE:

These bills are part of the interim study. The new Montana constitution spelled out that there would be no sovereign immunity. He discussed the reason for sovereign immunity and how it came about, the fact that in common law the king could do no wrong. He explained the insurance and the \$25,000 deductible. The bills dealing with constitutional amendments must have 2/3 of the legislature voting in order to pass. He said he felt the approach to drafting the bills was somewhat unique. We are preserving the right to sue, however we are limiting the amount of damages in some instances. Each of the bills does a separate thing which I will explain.

1. #43 is the main bill.
2. #53 is the 2nd bill and involves a self-insurance fund.
3. #41 sets a limit on attorneys fees.
4. #42 reinserts certain portions of the constitution.
5. #40 is a clean-up or repealer.

First, #43. He discussed the tangible and intangible, the economic and non-economic things you can sue for. The non-economic is not allowed for.

#53 is the self-insurance bill. It allows for a deductible self-insurance program and reserve. He explained the sources and stated that if the judgment cannot be paid from these four sources it cannot be paid.

#41 regulates the attorneys fees. The attorney must file a claim. The district court may regulate the amount of the attorneys fee.

#42 concerns the constitutional amendments needed. One of the existing things in the law that allow someone to sue are invalid in the new constitution. They must be reinstated with a 2/3 vote.

#40 repeals and revises certain sections of the law. He went through the bill and explained the general practice of law.

The Senator said that SB 42 and 43 need 2/3 vote in order to pass. He wished to remind the committee of this. The Senator also said they had not found anyone opposed to any of these bills.

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PROPONENT MIKE YOUNG, DEPARTMENT OF STATE ADMINISTRATION:
We would like to thank the committee for the amount of time they have spent. As a practical matter we will still insure for the same amount of money which is 1 million dollars. We favor the bills.

PROPONENT, GLEN DRAKE, LEAGUE OF CITIES & TOWNS & AMERICAN INSURANCE CORPORATION:
We are in support of the bills.

PROPONENT, GREG McCURDY:
I am in favor of the bills.

PROPONENT, BOISE CLARK, INDEPENDENT INSURANCE AGENTS:
I would like to reiterate the fine work that has been done by the sub-committee. There are just a couple of comments I want to make. He talked about the study on government liability risks. Attached is a copy of the testimony on each of the bills by Mr. Clark.

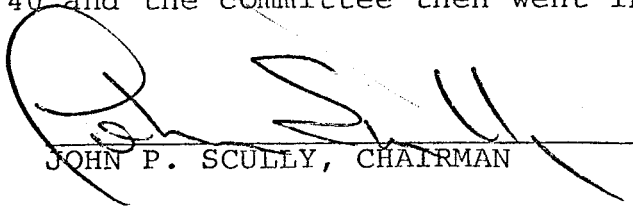
REPERSENTATIVE KEYSER:
on page 8 of SB 53, how long can the state or county delay making the payment.

SENATOR TOWE:
The payment may be delayed but if there is an abuse in any area, we may have to put in an amendment to change that.


REPRESENTATIVE EUDAILY and SENATOR TOWE:
discussion about the special levy up to 10 mills. Discussion about the insurance costs and how the reduced liability might reduce the price.

No further questions the hearing closed on the series of bills.

The meeting adjourned at 8:40 and the committee then went into executive session.



JOHN P. SCULLY, CHAIRMAN



Mary Ellen Connelly, Secretary