

JUDICIARY COMMITTEE

March 11, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. Friday, March 11 in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Dussault, Colburn, Conroy and Kennerly.

Scheduled for hearing were Senate Bills 33, 156, 335, 346, 396, 397, and 437.

SENATE BILL #437

SENATOR DUNKLE, DISTRICT #15:

This bill will establish a joint underwriting association for medical liability insurance. Insurance is expensive and becoming more difficult to procure. There are only a few companies that write malpractice now, in Montana. One is thinking of stopping and another as there insurance policies come to an end, will stop writing. This bill sets up a joint underwriting association only if there are no opportunities to get it from a private company. There is no loss to the insurance companies. He talked about the problems the doctors are having and what a major lawsuit might do to a doctor. This association would not interfere with any private company because it would be only as long as there are no insurance companies writing in Montana.

PROPOSER, GARY NEELY, MONTANA MEDICAL ASSOCIATION:

I would only add that the bill expires on December 31, 1979 even if the market does not exist. There is always a time lag in the implementation of self-insurance. He presented the committee with a copy of the position paper of the medical association. (attached)

CHAIRMAN SCULLY:

When does the current contract with Aetna run out?

MR. NEELY:

The end of this year. I am not sure but I do know many physicians are buying on a monthly basis. They may continue coverage next year but there is no legal contract to that effect.

No other proponents and no opponents, the hearing closed on SB 437.

SENATE BILL #335:

SENATOR TURNAGE, DISTRICT #13:

This bill will amend the law pertaining to the welfare of children, redefining the scope of the offense. He mentioned how the change will be in the section contributing to the delinquency of a minor. The violation of the duty of care, protection, and support, cruel treatment, etc.

There were no other proponents and no opponents.

The hearing closed on Senate Bill #335.

March 11, 1977

Page 2

The hearing opened on Senate Bill #396.

SENATE BILL #396:

SENATOR TURNAGE, DISTRICT #13:

This bill is to provide for discretionary rather than mandatory appointment of counsel in a proceeding to determine incapacity and the need to appoint a guardian for a person said to be incapacitated. Under the present law they must hire an attorney to represent them and they would have to hire another attorney for the other spouse. He elaborated further on the court proceeding and the requirements of the hearing.

There were no other proponents and no opponents.

The hearing closed on Senate Bill #396.

The hearing opened on Senate Bill #397.

SENATE BILL #397:

SENATOR TURNAGE, DISTRICT #13:

This is another amendment to the uniform probate code. In the case of a number of persons desiring to be appointed personal representative and they can't agree the court can't make an appointment unless they all can agree. He explained how this would be done by the court and that any qualified person could be appointed. He presented a letter to the committee from Greg Morgan.

There being no other proponents and no opponents the hearing closed on Senate Bill #397.

The hearing opened on Senate Bill #156.

SENATE BILL #156:

SENATOR MURRAY, DISTRICT #50:

This bill is to adopt the revised uniform limited partnership act. This was commenced in the senate at the request of Lawrence Blewett. The limited partnership act has served its purpose very well. It has allowed attractive tax advantages, so I think we should kill this bill rather than let it go on and create problems. He said they are expecting to get more information from the IRS and they would then know what the bill would do.

CHAIRMAN SCULLY:

We can table it in case you get more information from the IRS.

The hearing closed on Senate Bill #156.

March 11, 1977

Page 3

THE HEARING OPENED ON SENATE BILL #33.

SENATOR BLAYLOCK was not present but had asked that Larry Weinberg explain the bill.

LARRY WEINBERG:

This is a recod bill. We need one amendment in the title of the bill. There are two election recod bills, this one and SB 27. Most of the election material is from the 1895 code and has gone through some renumbering. I tried to parallel the criminal code as much as possible. The principle changes in the bill were put there by the Senate Judiciary Committee.

He went over the amendments put in by the Senate, title & page 2, line 15 and lines 17 - 18 and 24 - 25.

Title 33 and 37 will be put together in the recod. In section 22 the language was so bad that we would have had no idea what it would look like so we rewrote the whole thing. In the bribery section of the bill, the language inserted is present language. On page 21, section 35, the contribution from corporations section which is presently being litigated. What the committee did is delete the section until the court has reached a decision.

Section 40, page 24. A series of actual amendments to clarify and wipe out language that was picked up in the first 39 sections of the bill. On the last page, page 32, I tried to make the law constitutional as it was out of whack with the present criminal section and I was trying to bring it into alignment.

JOHN HANSON, COMMISSIONER OF CAMPAIGN PRACTICES:

We don't have any opposition to the bill but we feel there are some changes that should be covered by this committee. He listed some proposed amendments he thought the committee should consider.

Page 1, section 1, subsection (2).

Page 2, section 6, lines 7-8, lines 23, 24, & 25.

subsection (5), 23-43-93 related to the campaign practices revision. page 8, subsection 3-4, deceptive election paractices, these offenses can be prosecuted in 94-7-209.

I feel the 1 year limit is too little for the statute of limitations.

Section 6, there is a question of constitutionality, statute of limitations.

Section 19, page 10.

The recod attempt dealing with electioneering, there are 3 statutes dealing with this, lines 6 & 7, section 22, page 11. Also, on page 19, section 33, dealing with criminal law, there is a question of constitutionality about that.

March 11, 1977
Page 4

JOANN WOODGERD, SECRETARY OF STATES OFFICE:

HJR 14 has passed the house and we feel that it will pass the senate and we will have a complete revision of the election laws. It would be better if the other bill would pass, and then we could kill this one.

JOHN HANSON:

We will go ahead with a revision as we are charged to do by our own statute and present to the next legislature. I feel that if this bill is passed it might influence the fact, and this bill might be accepted which is not a revision.

After a question and answer period the hearing closed on SB 33.

CHAIRMAN SCULLY:

Senator Thomas has asked that we kill Senate Bill #346.

The meeting adjourned at 9:00 a.m. and the committee went into executive session.


JOHN P. SCULLY, CHAIRMAN


Mary Ellen Connelly, Secretary