

HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE  
January 16, 1979

The regular meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building on Tuesday, January 16th. All members were present except Representatives Kemmis and Teague, who came in later. Representative Holmes was excused.

Scheduled for hearing were House Bills 119, 131, 133, and 138.

HOUSE BILL NO. 138: This bill would require a candidate for the Legislature to be a resident of the legislative district for 1 year preceding the general election. He talked about carpetbag candidates and felt that this bill would be given good public support, said Representative Pistoria.

Representative Kemmis came in.

There were no other proponents and no opponents to House Bill 138.

Representative Teague came in.

In closing, Mr. Pistoria asked why do we have single member districts. He discussed the number of people who are elected and the people they represent. He also mentioned the carpetbagging issue and went into it in great detail, felt it was not right, and that this bill would eliminate it.

There was no discussion and the hearing closed on House Bill 138.

HOUSE BILL NO. 119: Representative Roth. This bill asks that a statement of intent accompany bills requested by a state executive branch agency. She read parts of the bill and explained that it gives new rulemaking authority. Oftentimes they are self-e-grandizing. She read further parts of the bill.

There were no proponents and no opponents and the hearing closed on House Bill 119.

Representative Holmes came in.

HOUSE BILL NO. 131: Representative Harper. What this bill does is establish an opencut mining and reclamation account and provide for the allocation of fines, fees, and penalties. It also revises the time period for application review and also provides for a plan to be submitted to the Historical Society. It also clarifies the revegetation requirements and provides for enforcement by the Attorney General. In many cases the cost of restoration will be many times more. In any event total cost of re-forestation should be the cost of the bond.

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LEO BERRY:

Department of State Lands. There are two substantive changes. The account is all new, and the fines, penalties and other money paid to the Department of State Lands shall be deposited in the agency fund and credited to a special account designated as the opencut mining and reclamation account. He elaborated on this further. Montana has the largest Bentonite mine. He talked about this. We still retained the minimum penalty for the bond. He mentioned that the time period covered will be changed later. The board shall submit each reclamation plan or amendments to the reclamation plan to the landowner for his recommendations and shall consider those recommendations in deciding whether to approve or disapprove any plan. The bill refines the revegetation requirements. He also mentioned that the county attorneys are overworked and we are now ranked as a high priority and we would like to see the enforcement changed to the Attorney Generals office. The penalty is being moved from the local level to the Attorney Generals office.

There were no other proponents.

JIM MOCKLER:

I oppose the bill. The new section adds the disposition of the fines, the money should remain with the department. I don't know why the Montana Historical Society is named in here. In my reading of the bill I don't know what major operation is. A major operation should be described in the act. He elaborated on this further. I think it should be the option of the person to appear in the local court and not in the Department of State Lands. I hope the committee would consider the points I brought out.

BOB GANNON:

Western Energy. There is one point that I would like to address. There is one area on page 8 that I think needs some clarification. It does seem to me to need some type of definition.

GENE PHILLIPS:

Nerco U Asarco. We face the same problem in our new operation of obtaining a permit. The new operation in Rosebud County. He talked about Lincoln County and the proposed mining operation in the Troy area.

There were no other opponents.

LEO BERRY:

I will answer any questions that you may have. Mr. Harper asked him to close on the bill. The fees in this are consistent with other acts. On page 5, we are not hung up about this. This is the only state agency that was available that was legally established for this type of activity. This is set up like the environmental act. I am not sure that you can define what constitutes a major operation at the time to process the operation. I also don't have a real problem with the treatment of the violation. The major concern I have seen expressed is with

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major operation. He discussed Bentonite and mentioned that it is one of the more difficult ores to mine.

Representative Keedy asked if someone could describe more completely the operation on page 8. Mr. Berry explained.

MR. BERRY: We have generally been able to agree so far. We have 3 people in the open cut bureau to enforce this act. We have a geohydraulologist to evaluate what will be the impact on the stream channel or flood plain. He also stated that the 20 months was a major mining operation and will be located near Troy. It could have a major impact on that time. It is the second largest mining operation in the state. The only one bigger is the Berkley Pit.

There was discussion about what impact this bill would have on the Berkley Pit.

Representative Scully mentioned that he had been asked to postpone the hearing and that he would not do so because there was the customary three days notice. He also mentioned, just for the record, that it was not Gene Phillips who had asked him to postpone.

There was no further discussion and the hearing closed on House Bill 131.

HOUSE BILL NO. 133: Representative Eudaily. This bill would require notice to the Attorney General when a state department or board initiates or intervenes in a court action or initiates an appeal. This was in the 1972 constitution and needs to be clarified. This should be sent to the Attorney Generals office, he should have notice of the appeal.

MIKE McGRATH: Attorney Generals office, proponent. We drafted this bill at the request of the commission.

BRUCE McGINNIS: We do support this bill but we do have one question that we would like to have answered. Line 15 of the bill, it says must be served on the Attorney General. Could that be accomplished by serving copies by mail or does that mean served in the legal sense, the service of process.

REPRESENTATIVE EUDAILY: I would question that same part of the bill. I think the intent of the bill is that they will be delivered to the office.

There was some discussion and the hearing closed on House Bill 133.

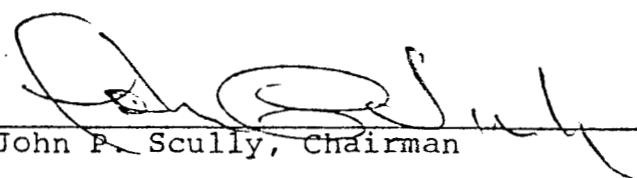
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The question was brought up as to when the state would have to be redistricted.

Then followed discussion about who would do it, how it would be done, and how many members it would affect. The number of Representatives not living in their districts was mentioned and they wondered how many it would affect if districts should be changed following the redistricting.

There was no further discussion and the meeting adjourned at 10:00 a.m.



John P. Scully, Chairman



Mary Ellen Connelly, Secretary