

JUDICIARY COMMITTEE  
Executive Session  
January 25, 1979

Following the regular meeting the Judiciary Committee went into executive session to take action on the following bills. The meeting was called to order by Chairman Scully at 8:50 a.m. in room 436 of the Capitol Building on Thursday, January 25, 1979. All members were present, with the exception of Representative Seifert.

HOUSE BILL NO. 242:

Representative Scully told the members that some amendments had been presented by the sponsor of the bill, Representative Harper which he wished them to consider. Representative Holmes moved to reconsider and the motion carried with the vote unanimous.

Representative Kemmis moved the adoption of the amendments and the motion carried with the vote unanimous. Representative Eudaily moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 259:

Several amendments were presented to the committee. After some discussion Representative Daily moved the adoption of the amendments. The motion carried with the vote unanimous. (attached)

Representative Keedy moved the adoption of an amendment on page 2, line 21, following "that", strike, "bias or prejudice exists" and insert "the hearing examiner should be disqualified". The motion carried with the vote unanimous.

Representative Daily moved "do pass as amended" and the motion carried with the vote unanimous.

HOUSE BILL NO. 308:

A lengthy discussion was carried on concerning the constitutionality of this. It was brought up that this bill would eliminate a potential problem. The general feeling was that it does not accomplish its purpose. However, it was agreed it might be better to take it off the books. Representative Daily moved "do pass" and the motion carried with the vote unanimous.

SENATE BILL NO. 78:

There was discussion about who should be the defendant. The comment was made that all would have to be served, the Governors office, the agency, the Attorney General and the Department of Administration in the manner provided by the rule.

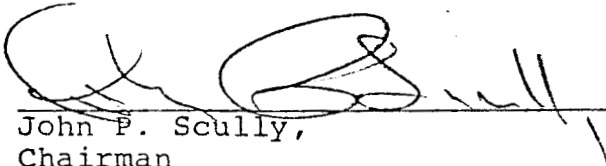
Representative Seifert came in.

Representative Scully suggested an amendment on lines 14 and 15.

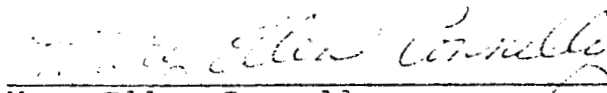
Representative Lory moved the amendments be adopted and the motion carried with the vote unanimous. The title must also be amended and would be included in the motion to amend.

Representative Day moved "be concurred in as amended". The motion carried with the vote unanimous.

There was no further business to come before the committee at this time and the meeting adjourned at 10:05 a.m.



John P. Scully,  
Chairman



Mary Ellen Connelly  
Secretary

# STANDING COMMITTEE REPORT

January 25,

1973

MR. Speaker:

We, your committee on Judiciary

having had under consideration HOUSE Bill No. 259

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING AN AGENCY TO ELECT TO USE HEARING EXAMINERS FROM THE LEGAL SERVICES UNIT WITHIN THE ATTORNEY GENERAL'S OFFICE; DEFINING THE TIMELY FILING OF AN AFFIDAVIT OF BIAS; AMENDING SECTION 2-4-611, MCA."

Respectfully report as follows: That HOUSE Bill No. 259

Introduced copy, be amended as follows:

1. Title, line 8.

Following: "BIAS;"

Insert: "PROVIDING THAT THE DECISION OF THE HEARING EXAMINER IS FINAL IN CERTAIN CIRCUMSTANCES;"

2. Page 2, line 14.

Following: line 13

Insert: "disqualification by law,"

(Continued)

XXXXXX

HOUSE BILL NO. 259

Page 2

3. Page 2, line 21.

Following: "that"

Strike: "bias or prejudice exists"

Insert: "the hearing examiner should be disqualified"

4. Page 2.

Following: line 23.

Insert: "(5) When in a contested case all of the officials of the agency who are to render the final decision have been disqualified, the agency shall appoint a hearing examiner as provided in this section, and the decision of the hearing examiner constitutes the agency's final order. Except as provided in this subsection, such final order is subject to all provisions of this chapter relating to final agency decisions or orders, including judicial review under part 7 of this chapter."

AND AS AMENDED DO PASS

Speaker:  
MR. ....

## JUDICIARY

We, your committee on .....

Senate Bill No. 78  
having had under consideration .....

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
2-9-313, MCA, TO REQUIRE SERVICE OF PROCESS IN FURT ACTIONS  
AGAINST THE STATE TO BE SERVED ON THE DEPARTMENT OF  
ADMINISTRATION."

Respectfully report as follows: That..... SENATE Bill No. 78

Third reading copy, be amended as follows:

1. Title, lines 7 and 8.

Following: "SERVED"

Strike: remainder of lines 7 and 8 in its entirety

Insert: "PURSUANT TO RULE 4D(2)(H), M.R.CIV.P."

2. Page 1, line 14.

Strike: "on"

3. Page 1, lines 15 and 16.

Following: line 14

Strike: "the"

Following: "state"

Strike: "DIRECTOR OF THE department of administration IN  
ADDITION TO SERVICE REQUIRED BY"

Insert: "pursuant to"

AND AS AMENDED BE CONCURRED IN  
AGREES