

HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE
February 2, 1979

The regular meeting of the Judiciary Committee was called to order at 8:00 a.m. by Chairman John Scully in room 436 of the Capitol Building. All members were present except Representatives Day and Eudaily; excused and Representative Teague, who was absent.

Scheduled for hearing were House Bills 443, 447, 455, 456 and Senate Bill 120.

HOUSE BILL NO. 447:

Representative Gesek. This bill would provide that an operator's or chauffeur's license not be issued if the individual is adjudged seriously mentally ill at the time of applying for the license. We should be able to refuse them.

REPRESENTATIVE KEEDY:

What connection has there been between mental illness and having a driver's license.

REPRESENTATIVE SCULLY:

How can they find out if someone is mentally ill and shouldn't have a driver's license.

SERGEANT TOOLEY:

Montana Highway Patrol. Currently we have no way of finding out.

REPRESENTATIVE ROTH:

What is competent jurisdiction.

There was some general discussion which asked several other questions, which Representative Gesek could not answer. The hearing closed on House Bill 447.

SENATE BILL NO. 120:

Senator Van Valkenburg. This bill will revise the laws relating to corporations and partnerships. He went through the bill and explained it briefly.

TOM TUCKER:

Civil Functions Division, Secretary of State's office. We oppose the bill.

There was very little discussion and the hearing closed on Senate Bill 120.

HOUSE BILL NO. 443:

Representative Fedak. This bill provides that interest on a judgment involving a contractual obligation must be paid at the rate of interest specified in the contractual obligation. The interest rate would drop to 6% but this bill would change it so that the interest rate would carry on.

HAROLD PITTS:

Bankers Association. It seems to me that 6% is too low today. However, we endorse the bill.

There as no other discussion and the hearing closed on House Bill 443.

HOUSE BILL NO. 456:

In the absence of Representative Eudaily, Representative Lory presented the bill to the committee. The bill that was passed in 1975 had a committee of four to appoint the commissioner. The same commission of four will draw up a list of no less than three nor more than four and the appointment will then be made by the Governor. This will change the method of appointment of the Commissioner of Campaign Practices, and revise the term of office. The committee on elections has made it at six years instead of four, and change it from June to January on the odd year.

REPRESENTATIVE SCULLY:

There is considerable disagreement wha the extension whould be for Mr. Hanson. He elaborated on this further.

PHIL TAWNEY:

Executive Secretary, State Democratic Party. It is primarily a separation of powers problem. He offered an amendment on page 3, line 21. This would allow John Hanson, if he is reappointed, to be in office before the primary election. I would suggest another amendment for an immediate effective date. We are in support of this bill with the proposed amendments.

AL WILLIAMS:

AFL-CIO. The office has been an important position in the state government. Adoption of House Bill 456 will make certain that Montana laws governing political campaigns will be upheld through the judicial review process. (copy of testimony attached #1)

MARGARET DAVIS:

League of Women Voters. We have discovered problems with the method of appointment. The Commissioner of Campaign Finances and Practices office has broad based public support and House Bill 456 would help to insure the legal viability of Montana's laws. (copy of testimony attached#2)

JANELLE FALLON:

Montana Chamber of Commerce. We were also involved with some of the ad hoc committee. We do want the office to be 20th department of state government. We do support this bill.

JOHN HANSON:

Commissioner of Campaign Practices. It is not necessarily a bill which our office favors but we see it as a way to correct a problem that has arisen. He gave a list of the state offices that support the bill.

There were no opponents.

REPRESENTATIVE LORY:

The bill suggests 3 to 5 names but it doesn't say that the appointment has to be someone on the list.

Representative Kemmis suggested that there might be some constitutional argument. Discussion followed.

JOHN HANSON: The constitutional question is in the enforcement powers.

REPRESENTATIVE KEMMIS: I don't understand the amendment, and Mr. Hanson said that it was offered by the advisory committee. The constitutional problem will exist until 1981 and would allow for a new commissioner to be appointed until 1981.

REPRESENTATIVE KEEDY: The bill is partly the problem. He discussed subsection 2 on the bottom of page 2.

JACK LOWE: I share the constitutional misgivings. I don't know if it is ultimately enforceable. Discussion about this at some length.

Mr. Scully asked numerous questions of Mr. Hanson, the Commissioner.

There was no further discussion and no further questions, and the hearing closed on House Bill No. 456.

The meeting adjourned at 8:40 a.m. to go into executive session.


John P. Scully, Chairman

Mary Ellen Connelly, Secretary