

JUDICIARY COMMITTEE
EXECUTIVE SESSION
March 15, 1979

The meeting was called to order by Vice-chairman Teague at 9:00 a.m. in room 436 of the Capitol Building on Thursday, March 15. All members were present except Representatives Seifert and Scully.

The first order of business was a report from the sub-committee on the sentencing bills, Representative Pavlovich, Chairman. He started the report by saying that HB 396 had been killed in Senate Judiciary and that the sub-committee recommended that 228 be killed because this was covered by 426. However, 426 needs an amendment to make it work. HB 618 has passed the Senate on March 14th. He went through the other bills and gave the current status of each.

SENATE BILL NO. 228: Representative Pavlovich moved "be not concurred in". Representative Keedy questioned the sub-committee reasoning concerning Senate Bills 228 and 426. Larry Weinberg, the staff attorney, explained this. 228 dealt with making persisting felony offenders ineligible for parole or to participate in the prisoner furlough program. 426 would have made mandatory language concerning persistent felony offenders that was made discretionary by the Senate. On page 2, subsection 2, its existing language covers the material in subsection 3 now by changing "shall" to "may". The change has all of the power under subsection that was granted under subsection 3. Number 228 as originally written would have made a difference.

Representative Keedy commented that if 228 does not pass then 426 is stretching the imagination. 228, in effect, makes no change in the law as it is written right now. It needs to change the "or" to "and".

Representative Keedy moved a substitute "do pass". Representative Keedy moved to amend page 2, line 13 by striking "may" and inserting "shall". The motion failed with 8 yes and 8 no votes. Representatives Holmes spoke against the amendment and Representatives Conroy and Iverson spoke for the amendment.

Representative Keyser moved to revert to the original motion "do not pass". The motion carried with the vote unanimous.

SENATE BILL NO, 364: Representative Conroy moved "be concurred in". Representative Keedy discussed the bill and the way it would distribute justice based upon wealth. The poor guy would go to jail and the rich guy would stay out.

Representative Daily moved a substitute "not concurred in". The motion carried with Representatives Eudaily and Pavlovich voting "no".

SENATE BILL NO. 426:

Representative Pavlovich moved to amend on page 1, line 22 and the title, line 7. The motion to amend carried with Representatives Conroy and Anderson voting "no".

Representative Pavlovich moved "be concurred in as amended". The motion carried with Representatives Day, Anderson, Curtiss, Iverson, Conroy and Roth voting "no".

SENATE BILL NO. 205:

Representative Pavlovich moved "be concurred in". The motion carried with the vote unanimous.

SENATE BILL NO. 65:

Representative Eudaily reported on the sub-committee. He explained how long they had worked on the bill, what had been accomplished and introduced Joanne Woodgerd and Dennis Taylor who had assisted with compiling and revising the election laws as contained in the bill.

JOANNE WOODGERD:

She explained that she was on special assignment in order to work on this bill. She went through the bill section by section and explained it, and also said that most are merely housekeeping amendments of those that are being submitted for the committee to study. I will not discuss any form or grammatical changes. The bill as introduced would have put city and county officials on the ballot at the November election of odd numbered years. The Senate put the county officials back on even numbered years as they are now. Only city and special elections would be in odd numbered years. It requires all polling places to be open from 8 to 8 if over 100 voters and if under 100 voters it will be from 12 to 8. There is a provision in the bill which allows for a counting board to start counting before the polls close. They must be sequestered. The clerks can appoint a marshall to see that they are sequestered.

School district trustees and clerks will run the school district elections. These are the substantive amendments put in by the Senate. The first 214 sections of the bill deal with title 13 which deals with elections. Most are mechanical changes. Page 1 through 177 are the ones that pertain to the revised election sections. They are the ones the interim has dealt with most. 177 through 220 concern campaign finances and practice. 220 through 325 are mostly recode, referring to election administrators and recode of existing law.

Representative Teague asked why the 20th year referring to Page 13, line 18.

Mrs. Woodgerd explained that every 20 years is the calling of a constitutional convention. In the section on campaign practices, are there any in this bill. Mrs. Woodgerd said, not in this bill, there are some in other bills.

Representative Eudaily explained the staff amendments that they are proposing and presented copies to the committee. Mrs. Woodgerd said that some changes were made in the repealing sections. She went through the amendments and explained. Title 7 is the local governments sections which hadn't been picked up originally. She also said that a number of the Senate amendments are included. 4, 9, 10, 11, 12, 13 and 14 are from Senate Bill 112. 6, 7, and 8 are from Senate Bill 156, which is being held in Senate Judiciary and we are suggesting that they be amended into this bill. There was discussion about the 1/2 of 1% instead of 1% of the salary.

Starting with amendment 31 on page 3 they are the new changes in the bill. They mainly have to do with getting the districts to agree. She also discussed the recall law. It strikes the city clerk in a number of these sections. She discussed the municipal judges, city judges and claims courts.

On page 5, this has to do with the creation of new towns and cities to make them conform. Page 6 to 8 deals with city and county consolidation. We did feel we had to go through and make some correct references. Page 8 and at the top of page 9 has to do with municipal commission government. On the bottom of page 9 it deals with county bond election.

Representative Keyser asked if any of these affect charter form of government. Mrs. Woodgerd answered, no, that is new law so I don't think that needed straightening out.

County water and sewer provisions are dealt with on pages 10 and 11, and pages 11 and 12 are the rural fire districts. Next hospital districts are covered. On page 12, it deals with county option elections on the sale of alcoholic beverages. Pages 12 through 15 covers the conservation district making them fit with Senate Bill 65 and to have the elections run by the election administrator.

The bottom of page 15 and then 16 deals with irrigation districts, and page 18 with drainage district provisions. That is the end of the new section that we put in.

Page 18 is in the transition schedule in the bill. Originally we had decided that the first odd year election should be held in 1981. The only cities that will hold elections this fall are Poplar, Great Falls, Bozeman, and Helena, city manager cities. Now there are some changes in the repealers also. The other amendments were from the sub-committee and these are not substantive. She explained those amendments.

Discussion followed about who should be charged for the election and then followed discussion about how the amendments will be returned to the Senate in the event they are adopted.

Representative Eudaily moved the amendments. The motion carried with Representative Keyser voting "no".

Discussion followed about the staff amendments as presented to the committee.

Representative Day asked about the irrigation district changes on page 17 of the staff amendments. Then followed discussion about the procedure. Mr. Day asked why they wanted to change something that was working well, why change just for the sake of change.

Mrs. Woodgerd said that the interim committee asked that we try to make everything uniform for all special elections. Whereupon Mr. Day asked, who is the administrator in a multi-county district. Mrs. Woodgerd said that it would be each clerk and recorder of each county.

Mr. Day stated that the irrigation districts now handle their own elections. He went on to explain how the irrigation districts work. Then there was discussion about how it should be changed. Mrs. Woodgerd commented that Mr. Ellis of the irrigation district felt it should be included.

What we were charged with was to try and bring everything uniform, said Representative Eudaily. Mrs. Roth asked if this would cut down on costs. The answer was, yes, that was the intention.

With no further discussion, the question was called. The motion to adopt the amendments carried with Representative Day voting "no".

Representative Eudaily moved "be concurred in an amended". The motion carried with Representative Day voting "no". Members absent were Representatives Keedy,

Conroy, Holmes, Scully, Lory, Seifert and Uhde. Representative Eudaily will carry it on the floor.

SENATE BILL NO. 112: Joanne Woodgerd explained this bill and commented that the subcommittee recommended holding it, until action is taken on Senate Bill 365. There are some amendments that were deleted.

SENATE BILL NO. 132: Mr. Eudaily presented the sub-committee proposed amendments. This bill amends current law and tries to address the problem of getting a recount of 1/4 of 1%. Mr. Eudaily went on to explain the provision for the recount. The unsuccessful candidate would have to post a bond with the clerk and recorder in the amount set by the clerk and recorder sufficient to cover all the costs of the recount, including loss of time of regular employees caused by absence from their regular duties. The county canvassers would then meet and recount the ballots as specified in the petition.

Representative Eudaily moved the adoption of the amendments. The motion carried with the vote unanimous. Representative Roth moved "be concurred in as amended". The motion carried with the vote unanimous. Representative Eudaily will carry on the floor.

SENATE BILL NO. 225: Representative Keyser presented amendments and moved the adoption. The motion carried with the vote unanimous. Representative Keyser moved "be concurred in as amended". The motion carried with the vote unanimous. Representative Keyser will carry on the floor.

SENATE BILL NO. 256: Joanne Woodgerd explained some problems that might come up with House Bill 747 in the Senate. This bill does most of what that bill would do.

Representative Keyser moved to amend as presented to the committee. He explained the amendments. The motion carried with the vote unanimous. (attached

Representative Kemmis moved to amend, by striking Page 13, lines 18 and 19, to strike and insert new language, (copy attached) and to amend page 14, lines 7 and 8. (copy attached) The motion carried with the vote unanimous.

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

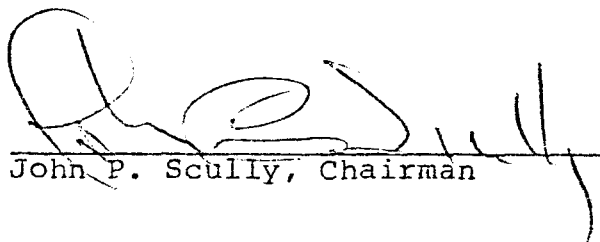
SENATE BILL NO. 395:

Representative Eudaily stated that if this bill passes Senate Bill 112 will have to be amended. This bill would revise and clarify the prohibitions against corporate contributions and expenditures in political campaigns. Representative Eudaily moved "be concurred in".

Representative Daily moved to amend by adding a new subsection (5) "this act does not apply to wholly-owned family corporations." There was a great deal of discussion pro and con as to exactly what a family-owned corporation included and whether that was what the committee wanted to do, although it has become a problem, especially in the case of a farmer who is incorporated but cannot use the family pick-up to campaign because it is actually owned by the corporation, which is himself and his wife.

Representative Anderson moved to pass for the day. The motion carried with the vote unanimous.

There was no further business at this time and the meeting adjourned at 11:30 a.m.



John P. Scully, Chairman

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