

HOUSE OF REPRESENTATIVES
SUB-COMMITTEE - Senate Bill No. 76
March 30, 1979

The meeting was called to order by the Chairman, Representative Scully at 10 a.m. in room 436 of the Capitol Building on Friday, March 30. Other members present were Representatives Ramirez and Kemmis. Also present were Senator Galt and the Director of the Department of Natural Resources, Ted Doney, and various other observers.

The suggested alternative to the 4 member water district was discussed. Let us go through the amendments and mark them by number, as follows:

- #1 Sanziver amendment
- #2 Sanziver amendment
- #3 The subcommittee amendments
- #4 Sanziver reply to the 3rd amendment
- #5 Confederated
- #6 Senator Steve Brown
- #7 Senator Steve Brown
- #8 Senator Conover
- #9 Dean Zinneker
- #10 MT Inter-Tribal Policy Board
- #11 Judge Sande
- #12 Waterman
- #13 Northern Plains
- #14 Rock Creek

Representative Scully asked if these were still viable. Representative Burnett said, we have done what they want to do anyhow, putting it back in District Court.

- #15 State Lands - these are basically questions
- #16 Eliminate Water Court (as the bill was read)
- #17 Postpone Water Court
- #18 general amendments

#17A additional amendments to 6, 7 and 8.

REPRESENTATIVE KEMMIS:

Wondered whether to have the Senior Judge appoint the Water Judge or have the Supreme Court do it.

REPRESENTATIVE RAMIREZ:

Maybe we should stick with the Water Judge and eliminate politics. He then asked what are the rules on appointment of a Master Judge. Mr. Scully said, there are rules but we have to prepare a mandate for the procedure for appointment.

There was discussion about the filing. Representative Scully asked if it should be with the Department of Natural Resources. The question was raised whether it should be within the neighborhood rather than go to Helena. Discussion about the best way to do this. The department has 7 or 8 field offices at the present time, located in Billings, Miles City, Glasgow, Kalispell, Missoula, Havre, Great Falls, Helena, and also Lewistown. The question was asked if they all have microfilm equipment in each office, and the answer was yes, except Missoula, which will have it very soon. Then followed discussion about how many new people would have to be hired, about 2 1/2 in each field office and the second year, 3 new people, and so on.

It was noted that under the Ramirez proposal there would be a fiscal request of \$500,000 for the first year. The third year it would be 1.6 million and the fourth year, 3.6 million. They had figured a 6 year projection. Mr. Doney said, we only need \$500,000 to kick it off and then it will be self-supporting and it will be in the black.

Representative Ramirez asked how long the field work would go on, and Mr. Doney answered that if you have mandatory adjudication it will go on forever.

Representative Scully asked how many working days a year, and Mr. Doney said they work 2,080 hours. Then followed discussion about staff.

Representative Ramirez made the comment that we need to write some guidelines for the Master concerning field investigations, otherwise it could get out of hand. Discussion about errors and how they might be corrected. Representative Ramirez asked if you have aerial photographs and coverage could you eliminate the errors. Discussion about this.

Mr. Doney stated that they are estimating 10% to eliminate errors. The claims for prima facie evidence of the right. But someone else could say, "no" you don't have that right so then the judge would have to be called.

Representative Ramirez. If we set some fairly generous application standards then people will feel that they can live with those and we can eliminate a tremendous number of field investigations.

Mr. Doney. You will have to be careful to not bump into some of the Supreme Court cases. We have these rule of thumb standards that we apply and they are very generous.

The question was raised whether they would want to set some minimum standards for qualification of the Water Masters. Should it be an attorney, or what type of qualification. Mr. Scully said, he felt they would probably want to leave it open. Discussion about maybe it could be an attorney or someone experienced with water law and rights.

Senator Galt suggested that they should also have something written up on how to get rid of them.

Mr. Doney said they would like to explain their amendments. He felt they should be explained regardless of what you do with the courts.

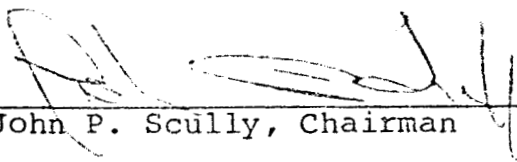
It was decided to do this at the next meeting to be held on Monday morning at 8:00 a.m.

Then followed discussion about the general approach that Ramirez has suggested.

TED DONEY:

I want a statement to go on the record.
"The Department does feel that mandatory adjudication will not work but if it is adopted I would recommend that the bill be signed."

There was some other general discussion and the meeting adjourned at 11:10 a.m.



John P. Scully, Chairman