

MINUTES OF THE MEETING  
LEGISLATIVE APPROPRIATIONS COMMITTEE

April 3, 1979  
Room 104  
State Capitol Building  
Subject: HB 923  
SB 164  
SB 286  
SB 319  
SB 372

The meeting was called to order at 8:35 A.M. by Chairman Francis Bardanouve with all members of the committee present. The Chairman stated that the first bill to be presented would be Senate Bill 286 by Senator Steve Brown from Helena.

Senator Brown explained that this bill would increase the Supreme Court Associate Justices by two, going from 5 members to a 7 member panel. He said that the bill has been amended in the Senate to provide that the justices would be elected in the 1979 general election and that they would take office in 1982. He went on to give three reasons why the supreme court needs two more justices. He said that first, they have a greater case load. In 1974, Senator Brown said, the court had 269 cases where in 1979 they had a total of 517 cases.

He went on to explain that the court is going to have more flexibility to deal with the increased case load. Last, he said we are selecting the cheapest alternative to deal with the increased case load problem. He stated that if we go with a Court of Appeals system, it would be more expensive.

At this time, Senator Brown introduced Chief Justice Frank Haswell who explained that they consider this bill to be the number one priority in their needs. They consider it very necessary to reform the operation and shortcomings of the courts in Montana. In addition to the increased case load, they have a serious problem in Montana in carrying out custodial duties of supervisory control over all courts. This is a time consuming matter and because of heavy case load they don't have the time to devote to that responsibility. The Chief Justice went on to say that they also have a problem of equalizing case loads among the judges throughout the state on the District Court level. They have not had sufficient time to address the matter of the qualifications and eligibility requirements for admission to the bar and have not been able to consider whether the court should continue the diploma privilege in connection with admission. Further he said that they do need to revise and update supreme court rules and also need to establish uniform rules for the operation of the district courts in Montana. They have not had time to address the root problems of the Montana court systems.

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Justice Haswell said that they can accomodate the two additional justices without having to build another building or without needing additional space in the capitol building. They have a plan worked out where they can put two additional judges and the necessary support personnel in their present quarters.

He went on to say that as the bill is amended, funding would only be necessary for the last quarter of this biennium. The cost would be \$110,000 plus whatever salaries are allowed during this legislative session. He said that this method of coping with the situation is the least expensive of the available alternatives. They really need the help now. He said that if the Legislature does not act now, it will be 4 years before they can get any help. By that time their case load will be overwhelming. They will not be able to handle the backlog of work and it will take years to straighten things out. He closed asking the committee to favorably consider this bill.

There were no further proponents to the bill and no opponents.

#### QUESTIONS FROM THE COMMITTEE:

Representative Hand asked for an explanation of the 7 man panel. Chief Justice Haswell explained the handout presented to the committee which showed how the proposed system would work.

Representative Moore asked to what they attribute the increased work load and Judge Haswell responded that we have a new Constitution and that it will take years to interpret that. We also have much new legislation. Also, there is a disinclination of people wanting to settle cases as they have done in the past. Most people want to go for broke. This ultimately results in supreme court appeals.

Representative Moore asked about the addition of law clerks and wondered if they help the work load.

Judge Haswell responded that they do help some; that without the clerks they couldn't handle what they are handling at the present time. However, he said there is a limit to the help they can give the Judges. The Judges still have to read the briefs and make the decisions.

Representative Manning asked that in the event the committee passes this bill, how would they fit the additional people into the current space.

Chief Justice Haswell explained the plan that they have in mind for this. He said that they had originally intended to use space on the 4th floor of the capitol. Now they feel they can put one justice in the southwest corner of the law library. They can put another in the space occupied by Judge Harrison by dividing that room. He went on to explain the procedure they intend to use.

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Chairman Bardanouve asked if we are giving them more clerks in the budget that we just passed. Chief Justice Haswell responded that they requested a staff attorney, but no law clerks as such. He said that they would be necessary if they are granted these additional judges.

Representative Moore then asked about the additional staff they will need. Judge Haswell stated that they need two clerks per judge. They will also need an additional secretary.

At this point Representative Waldron questioned the duties of the Court concerning the updating of the lower court rules. Judge Haswell explained.

Justice Sheehy further explained that out of the 7 judges on the Court, they would use a 5 man panel to hear the cases. This would leave the other judges free to assume other responsibilities. Cases would be assigned on a rotating basis.

Representative Bengston asked for an explanation of the duties of supervisory control over the district courts. She further asked if the Supreme Court decides how many cases are in each district court. Chief Justice Haswell responded that this is part of their duties.

There being no further questions from the committee, Senator Brown closed saying that this bill would give the Justices time to look at the Commission on Practice to make sure there is public input. He said there is a need for 2 additional justices. This will free up the Chief Justice for other jobs that are important to the judicial branch of government.

This closed the hearing on Senate Bill 286.

Chairman Bardanouve then presented Senator William Lowe from Billings, the Chief Sponsor of Senate Bill 372. Senator Lowe explained that his legislation would require a government employer to pay the same unemployment compensation rate as a private employer thereby eliminating the special contributions plan for government employers.

He further explained that everybody drawing salaries today is on some form of employment security program. The unemployment program has functioned for many years and has had its ups and downs. Senator Lowe went on to say that there are three bills dealing with this problem before the legislature this session. They are House Bill 190; House Bill 766 and this bill. The three will be considered together to see that they are all accepted so that there will be a savings in this program.

Senator Lowe commented further that Montana uses two schedules in addressing its employee program. At the present time the fund is too low, they owe the federal government money. He said that House Bill 190 will be a financial measure to resolve this matter. Also,

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he said that Montana uses schedule two for all public employers. They are on a plan giving them a choice of making "dollar to dollar" payments to cover that fund. Federal law says that they can not charge administrative costs. This bill proposes to bring the two schedules into one, but leave members exempt, put in public administrative costs and also still have the option of making dollar to dollar payments. Senator Lowe went on to say that the increased revenue to the Unemployment Compensation the remaining half of this year would be \$750,000 and for the first full year it would amount of one and a half million dollars. He said that school districts started off on a 4% rate. If we don't pass this bill, that rate will go still higher. He concluded his opening presentation saying that the fund is in the red about 70 million dollars.

At this time Fred Barrett, from the Montana Department of Labor and Industry, rose in support of the bill. Mr. Barrett stated this is a matter of equity. It is important that all employers pay on the same basis. This would make for ease of administration where at present they have 3 bookkeeping systems to tax the employers.

Another proponent of the bill was Rosemary Strobe from the Montana Chamber of Commerce.

There were no further proponents.

The first opponent to the bill was Wayne Buchanan, representing the Montana School Boards Association. Mr. Buchanan stated that he had talked with an employee of the Employment Security Division and that employee had indicated that right now, because of a number of factors (increasing enrollments, etc.) there has been a disparity that has arisen in the amounts that school districts pay. This will correct itself. He said that the rates will increase. He further said that up to 76 districts were paying in about \$600,000 more than they paid in benefits. He said that the school districts are not getting a free ride, there is no loophole in the law. He said that by doubling the rates of the school districts, government employers will be paying far more than their share. As this occurs and they pay more in to support other areas, they will be coming back again next year to get the rates lowered again. He closed saying that they are opposed to the bill and hope that the committee will not concur in its passage.

Dan Mizner from the Montana Cities of Leagues and Towns, rose in opposition to the bill saying that it is a tax increase at the lower level and that there is no method of funding this into that level. He said there is a maintained expense at the lower level.

Bob Stockton, from the office of the Superintendent of Public Instruction, also rose in opposition to the bill.

The next opponent was Chad Smith, the Attorney for the Montana School Board's Association. Mr. Smith stated that they do not

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argue with the idea presented. He went on to say that with regard to school districts, they have generated a new system. He said that secretaries are drawing unemployment in the summer. There is nothing in the law that prevents them from doing this. However, teachers are not qualified to draw benefits.

Mr. Smith then spoke on the matter of payment of benefits to strikers. He said that strikers can receive unemployment if there is no stoppage of work at the place of their last employment. He said that the association feels that we will end up trading one tax responsibility for another. He urged the committee to not concur in the bill.

Another opponent of the bill stated that he felt that the rates are too extreme. They are looking at about an increase to \$249,000. He requested the opposition of this bill.

There were no further opponents.

#### QUESTIONS FROM THE COMMITTEE:

Representative Hand asked why the public agencies don't pay the same amount as the private employers.

Mr. Smith responded that this section of the law was enacted in order to make the payment more uniform. He said that the changes do not take into account the costs of strikes, etc. He said that until they are corrected, this problem will exist.

A lengthy discussion then followed on the types of employees who draw unemployment while being employed by the school districts. The committee also discussed why the increase in the number of employees drawing unemployment and the amount that was actually paid out in the Great Falls school district.

After this discussion Senator Lowe closed saying that this bill would get the rate up where they can look and see if they want to pay this or pay dollar to dollar.

This closed the hearing on Senate Bill 372.

At this time Bob Pyfer from the office of the Secretary of State rose and stated that he would present Senate Bill 164 for Senator Bob Peterson who would not be able to attend the hearing today. Mr. Pyfer stated that this bill requires agencies to recodify the administrative rules of Montana to change the references to the Revised Codes of Montana, to the Montana Code Annotated. He went on to explain that this bill provides for the recodification of the administrative rules of Montana that is necessitated by the Montana statutes having been recodified. Mr. Pyfer said that the numbering

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system of the administrative codes is bad. They need to do something about this. He further stated that this is a project similar to the recodification of the Revised Codes of Montana. He explained that each agency would be responsible for their portion of the rules and then the Secretary of State's office would re-file them in their recodified form.

Julie Glasser from the office of the Secretary of State, rose in support of the bill. Ms. Glasser stated that their office has had many problems because of the recodification of the codes. She said that if the bill does not pass, agencies could recodify the rules when they update the pages. This would end up being very unuseable and very confusing. She feels that perhaps they could use legal interns during the summer months to accomplish this task.

There were no further proponents and no opponents to the bill.

#### QUESTIONS FROM THE COMMITTEE:

Representative Moore asked if there isn't already \$35,900 in the budget for this and Mr. Pyfer responded that there is.

Chairman Bardanouve then asked what would happen if the agencies do not have enough money to take care of their share of the recodification.

John Fitzpatrick, from the OBPP responded that most agencies felt there would be a financial impact of between 4 and 5,000 dollars. If they do not have enough money, he is sure they will notify him in the interim.

At this time, Mr. Pyfer closed his presentation on Senate Bill 164.

Chairman Bardanouve then presented Senator Ed Smith, the sponsor of Senate Bill 319. Senator Smith stated that this bill provides for a two thirds vote of each house for approval of supplemental appropriations except in emergency situations. It provides for the legislative finance committee to file a complaint when limits on expenditures are exceeded. Senator Smith further said that this bill is an attempt to do something about supplementals and overspending of various state agencies. He said that the bill passed out of the Senate Finance and Claims committee. The bill was amended there, but it is a good bill. He went on to say that we could be looking at a supplemental budget of 16 and one-half million dollars. The Senator then went on giving a list of what the supplemental budgets amounted to for the past 16 years. He concluded, saying that he hoped the committee would pass the bill.

There were no further proponents to Senate Bill 164.

At this time, John Fitzpatrick, from the OBPP, rose and opposed the bill. Mr. Fitzpatrick stated that there are three causes of supple-

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mental requests. They are environmental conditions; agencies management or mismanagement, and legislative action. He went on to say that when you have a line item budget, you can not move the money around.

Mr. Fitzpatrick then turned his attention to the wording of the bill. He said that as written the bill gives 17 members of the Senate the right to reject a supplemental appropriation request. If you want to stress the number of votes necessary, he said, 3/5 would be sufficient. He also questioned the impact this bill would have on people who have claims against the State.

There were no further opponents.

#### QUESTIONS FROM THE COMMITTEE:

Representative Moore wondered about omissions of language in the bill. Discussion was then held on language to be put in to the bill.

Representative Kvaalen questioned the penalty clause and Senator Smith responded that this was put in because most of the problems arise after the legislature has gone home.

Representative Ellis stated that he feels this bill would guarantee a more generous attitude from the appropriations committee in order to eliminate the need for supplemental appropriation requests.

Senator Smith stated that he doesn't think we are abiding by State law in that case. He feels that the law is too open ended at the present time. We can not control the state agencies unless we do something about this problem.

At this time Senator Smith closed, saying that we spend months setting the budget and then the agencies do not follow it. He feels something must be done.

This closed the hearing on Senate Bill 319.

The next bill to be presented was House Bill 923 by Representative Carroll South. Representative South stated that this bill would transfer the responsibility for the custody of postsecondary vocational technical center money from the county treasurer to the state treasurer. It would also provide that a school district board of trustees may authorize the expenditure of funds from the state treasury for postsecondary vocational technical center programs. Representative South explained that the bill would conform the postsecondary centers to allow them to place their money in the state treasury and also would allow them to be placed on SBAS. Each district would like to have a uniform accounting system. He said

