

HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE - Senate Bill No. 76  
April 3, 1979

The meeting was called to order at 9:30 a.m. in room 436 of the Capitol Building. Members present were Representative Kemmis and Representative Ramirez, Chairman Scully arrived later. Also, present were Senator Jack Galt, Representative Audrey Roth, Representative Dennis Nathe, Ted Doney and members of his staff, and various other observers.

Bob Lane, Staff Attorney, submitted the rewritten pages of the proposed substitute bill, with the amendments discussed at yesterday's meeting. These pages will be referred to in the following discussion.

Representative Ramirez suggested changing the language on page 2, line 6, to clarify the intent. He inserted, following: "is" the word, "exclusively," and following: "division," strike: "and is exclusive."

Representative Ramirez stated that it really bothered him to use the words, "subject matter jurisdiction," which appears on page 1, line 23. He felt the proper words to use would be, "proper venue." He went on to explain that it is a venue statute. We are setting up a procedure where we get all the cases in district court. We want to remind the court to transfer these cases to the court of proper venue. All proceedings that we institute under this act is a proceeding that is deemed to be filed in the court of the jurisdiction of the water judge of that division. This is where we are deeming these proceedings to be filed. Once filed we will call in the water judge. We do not want to limit jurisdiction to one county.

Representative Kemmis felt there was a need to specify, "proper water division," page 4, line 7. We are talking about the water division in which the claim is made. He felt we should go back to the definition that was in the original bill, which stated that there are four water court districts whose boundaries are formed by the natural divides between drainages and the borders of the state of Montana and which are described fully later in the bill.

Representative Ramirez said they would have to say they are going to be transferred to the water judge within that drainage. Does that mean that everything is in his county? It is not transferred to him but he assumes jurisdiction to all claims and has authority to hear them in any division county, he sees fit, without regard to county boundaries.

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Representative Scully stated that we would be better off naming the numerated districts that are in each division.


Representative Ramirez stated that we have three things we have to do: 1) divide the divisions along drainage lines, 2) every claim is to be filed with the Department and a copy sent to the county of use or diversion, but as far as proceedings are deemed transferred to the district court of that county, and 3) after we have our selection of the water judges they are deemed to assume jurisdiction of each claim within the division boundaries and they have the authority to hear those claims in any county that is all or partially in the division and can consolidate those claims.

Representative Scully announced that the committee would finish considering the amendments proposed by the Department of Natural Resources. All the amendments were accepted except for number 3, and some slight revisions on numbers 4, 6, 13, 26, and 30. Note these changes on the attached copy.

As the meeting came to a close Representative Scully stated that the subcommittee was not making any recommendation on the Federal and Indian reservations but would present the following four alternatives for the full committee to consider:

- 1) Exclude tribes fully with compact
  - a) suspension of consideration of bringing legal action for three years
- 2) Compact only with no consideration of bringing tribes and federal reservations into state court.
- 3) Include tribal and federal reservations in the initial order but suspend any legal action for 3 years in order to form a compact.
- 4) Include fully the tribes and federal reservations with no consideration of a compact.

The meeting was adjourned at 11:00 a.m.

  
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John B. Scully, Chairman

Judy J. Mook, Secretary