

HOUSE SELECT COMMITTEE ON WATER

April 4, 1979

The meeting was called to order by Chairman Day at 10:10 a.m. with all members present.

Representative Scully, subcommittee chairman, explained that the subcommittee had met four times to consider SB 76. We have taken a new approach from the original drafting. We were unable to get copies of the substitute bill ready for the meeting today, however, they will be ready by tomorrow. At this time he explained the actions the committee had taken and the changes that they had made. We put the water judges back into the district courts. The water division lines will follow the drainage lines. The senior judges will select a water judge for each division. The water judge will select a water master. The people will file their claims with the Department of Natural Resources and they will send a copy to the county of diversion or place of use. The starting dates have been changed from July to October. Also, the dates of appointing the water master have been changed from July 1, 1982 and before July 1, 1983, to July 1, 1980 and July 1, 1982. The Attorney General will petition the Supreme Court for an order to adjudicate claims.

The amendments the subcommittee made meets most of the amendments proposed. We made no recommendation on the federal and Indian reservations except, we are presenting four alternatives for the full committee to consider. (attached)

He concluded stating that the whole bill will be drafted by tomorrow for the committee to review. We would like the committee to act on the proposed alternatives for federal and Indian reservations so they can be included in the draft we present tomorrow.

Representative Hand asked if the substitute bill would change the fiscal impact?

Representative Scully said it would. He stated that he thought it would be safe to say that there will be a fiscal impact in the second half of the biennium. The committee decided to get the mechanics down, but did not work on the fiscal note.

Representative Ramirez said the committee did not have the fiscal impact down but he felt it would be less with the proposed substitute bill.

Ted Doney, Department of Natural Resources, stated that they had prepared a fiscal note for the new substitute bill. It is their intent to present it in the Senate when the bill goes back. Copies of the fiscal note were distributed to the committee. (copy attached)

Representative Scully moved to have a legislative fiscal note worked up for the legislature to observe. The motion was carried unanimously.

Representative Kemmis suggested that there be a legislative oversight committee added to the bill.

Representative Ramirez stated that Representative Curtiss had a bill to this effect but it had been killed in the Appropriation Committee.

Representative Scully suggested we resurrect that bill and incorporate it into SB 76.

Representative Kemmis moved to have Chairman Day move, on the House floor, to have this bill put into the Water Committee. The motion was carried unanimously.

Representative Roth moved to accept the third proposal for the Indian and federal reservations. "#3. Include tribal and federal reservations in the initial order, but suspend any legal action for three years in order to form a compact."

Representative Dassinger asked for the Indian's opinion on the proposals.

The Indian delegation stated that they preferred proposal #2. "#2. Compact only with no consideration of bringing tribes and federal reservations into state court."

Representative Kemmis stated that he felt the Indians could be left out of the bill for two years. We are forcing them to compact.

Representative Ramirez stated that he was concerned for the Indian's. As soon as adjudication is started they run the risk of losing jurisdiction in federal court and going into state court. What this amounts to is they will go to federal court by October of 1979.

Representative Kemmis stated that if we don't include the Indians in the initial order and we give everyone else four years the Indians will only get two years.

Representative Ramirez stated that if we exempt the Indians then others may want the same consideration. We have to treat everyone alike.

Representative Kemmis said we have a lot of reasons for giving the Indians special consideration. The best solution is by a compact. We have to develop a mechanism to form a compact. He did not feel that forcing them into the bill was the way to go about forming a compact. He felt they should be left out for two years, include compact language in the bill that the tribes would be included in an order in October of 1981.

Representative Ramirez called for the question. The call was withdrawn.

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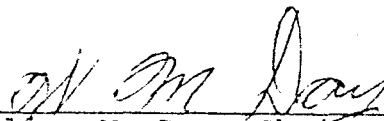
Representative Nathe asked if all we are talking about is the quantification of their water rights, but not through claims to water, as such?

Representative Ramirez said we are talking about both.

The motion to adopt proposal #3 was carried with Representatives Dassinger and Kemmis opposed.

Chairman Day announced that there would be another meeting to consider the substitute bill, Thursday, April 5, at 11:00 a.m.

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



William M. Day, Chairman

Judy J. Mook, Secretary