

MINUTES OF THE
LEGISLATIVE, JUDICIAL AND ADMINISTRATIVE SUBCOMMITTEE

February 7, 1979
8:00 a.m.
Room 132
State Capitol Building
Tape Data: 6:1-1:0-1,019
Subject: Department of Justice

The meeting was called to order by Chairman Menahan at 8:00 a.m. All members were present. Fiscal Analyst JanDoe May was also present.

The first part of the meeting was a meeting with Diana Dowling from the Legislative Council. The hearings for the day were Department of Justice: Legal Services Division, Escheated Estates, Legal Assistance Pool, County Prosecutor and Antitrust.

LEGISLATIVE COUNCIL

The committee discussed with Diana Dowling, Executive Administrator for the Council the request for \$38,000 for attorney raises within the Council. Mrs. Dowling stated that her concern was having the experienced attorneys with them when finishing up the recodification of the Montana Codes. She said the attorneys had already given notice that they would look elsewhere for employment if they had no raises. The lawyers would be classified as Lawyer 3 if they were on the classification pay plan.

The committee did not make a decision on the pay raises.

DEPARTMENT OF JUSTICE

Attorney General, Mike Greely, introduced the organizational chart for the Department.

Bob Kuchenbrod, Administrator of Central Services, stated that they followed the guidelines presented by the Budget Office. They based their salaries for Fiscal Year 1979 on a 2.35% increase and their operations and equipment on a 6% increase. Exceptions were in out-of-state travel and contracted services which would remain at the 1979 level.

Mr. Kuchenbrod stated that the overall increase for 1980 is 7.7% over 1979 and a 3.8% increase for 1981 over 1980. They have reduced their general fund request by approximately 55%.

Mr. Kuchenbrod proposed a method for coming up with a cost analysis for the Scott Hart Building so they would know what the rent was for the building.

Legal Services Division

Pat Driscoll, Administrator, stated that the Division consists

of 16 FTE at current level which includes himself and the Attorney General. There are 11 attorneys and 5 secretary positions, 3 of which are production typists and one which is paralegal.

Mr. Driscoll commented on the functions of the Legal Services Division and its assistance to the Attorney General in performing his duties.

He stated that last year they shifted to an automated word processing system and with an increase in workload they have been able to handle it without an increase in FTE. Mr. Driscoll felt they could continue at current level if the budget request is sustained.

He commented on the Budget Office reduction of \$37,551 which includes \$11,500 in vacancy savings. Any vacancy savings incurred have been used to fund an intern program for third year law students who provide summer assistance.

Mr. Driscoll stated under their modified services, they requested \$53,000 to supplement the attorneys' salaries. He commented on the fact that they have had a 1/3 turnover in attorney staff. Mr. Driscoll stated that they have no way to compete with experienced attorneys' salaries with the outside.

The FA recommended 2 employees from Central Services, that are presently working in Legal Services, be transferred into Legal Services.

The FA has eliminated a FTE which Mr. Driscoll stated was a secretary position which appeared to be vacant because of being put on the Antitrust budget. He said this was corrected. Mr. Driscoll stated if the position was taken away the word processing system could not function as it is currently.

Attorney General Greely commented that he was very concerned about losing quality staff and felt if they did not do their work quality would decrease. He stated they did have enough funding in their budget to increase salaries in July. After June 30, funding would not be available for pay raises. Mr. Greely stated they have always been exempt from the State Classification Pay Plan but have used the plan as a guideline for paying their attorneys.

Antitrust Enforcement Bureau

Jerome Cate, Chief of Antitrust, stated the Bureau was set up through a federal grant of \$133,000 and \$10,000 of appropriated funds from the last Legislature. The Antitrust has requested \$171,289 to operate the Bureau for the next biennium. Of this amount, federal funding would be \$125,000 for 1980 and \$110,000 for 1981. General funding would be \$46,289 for 1980 and approximately the same for 1981.

Mr. Cate passed out some handouts which included a sheet which

attempted to answer in minor detail some of the questions raised by the FA.

Mr. Cate gave some background to Antitrust history. One of their projects is to revise the Antitrust Act.

He listed four major cases that Montana is involved in which were brought about through State Antitrust Enforcement Bureaus: the sugar case, cement case, fine printing case and fertilizer case. He stated if the State of Montana does not take action, the Federal government will and in some cases where the Federal government has become involved it has caused problems on the state level. The Antitrust Bureau is existing to try to keep the Federal government from acting on state government level.

Mr. Cate commented that Antitrust is self-supporting once it gets going. Other state programs have become self-supporting after 3 or 4 years.

Escheated Estates

The FA recommendation reflects elimination of the Escheated Estates Program as a separate entity and transferral of 1/2 attorney salary to the Legal Services Division.

Dennis Dunphy was hired as the 1/2 FTE. The program offers a compromise to change to a fulltime FTE the first year and 1/2 FTE the second year.

The Budget Office recommended the agency request of \$23,000 for the first year and a .5 FTE the second year which reduces the amount to \$14,499.

Dennis Dunphy, Special Assistant Attorney General, presented to the committee the Escheated Estates operation.

He stated that in the Fiscal Year 1978, the recovery was \$1/4 million. A \$25,000 amount is set aside to pay out claims to someone who does claim property. Last year, approximately \$10,000 was paid out and \$150,000 was collected.

Mr. Dunphy stated there is a tremendous amount of untapped resources that have not been recovered for the state.

The FA stated there was a lawyer position vacant all last year in the Legal Division. Mr. Driscoll responded that last session a position was appropriated for Antitrust and Consumer Fraud. Each worked out to be a separate entity and because of not knowing how to use the position it was left vacant.

The FA recommendation was to keep the position filled and transfer the Escheated Estates program into Legal Services and hire or have Mr. Dunphy as the in-house attorney. The FTE would work half for Escheated Estates and half for Legal Services as is presently being done.

Legal Assistance Pool

The idea of the Legal Services State Committee is to attempt to get a handle on some of the money going for attorney services outside of state government within the state. The Legal Assistance Pool would be the creation of a state law firm that would provide services on an hourly basis of approximately \$25 an hour.

The budget as proposed by the Department of Justice would be 2/3 general fund and 1/3 earmarked revenue for each year of the biennium.

The Budget Office has not recommended this. The FA has supported it but has recommended that 1/2 be general fund and 1/2 be earmarked revenue the first year and the second year be all earmarked revenue.

Mr. Driscoll commented if it is not adequately funded in the start, it will not have a chance and feels they would need some general fund the second year. He stated it might be possible to have 2/3 general fund the first year and 1/3 general fund the second year.

The FTE level for the Legal Assistance Pool in their request is 5.82 the first year and 7 the second year.

The FA was concerned that the Legal Assistance Pool not be an extension of the Legal Services Division and if services were utilized by the Attorney General that they be charged as well as the other state agencies. She also stated if more money was being taken in than the budget, the charge should be reduced.

Mr. Driscoll stated no specific charge has been set but if more money was taken in there would be no reason for it not to revert into the general fund. Also the bill that sets up this agency requires the Attorney General to pay for any services rendered.

The Attorney General stated he did not feel all outside contracts could be eliminated and there might always be a need for a outside contract.

County Prosecutor

Marc Racicot, Chief of the Bureau, commented on the activities of the Bureau within the last year and a half since its initiation.

Mr. Racicot stated for Fiscal 1979 they have provided \$60,000 in personal services and have billed \$20,000 so far in 1979.

Mr. Racicot explained the statutory functions of the Bureau.

Tom Housel from the Montana County Attorneys Association

testified in support of the County Prosecutor Bureau and its continued funding for better service for the people of Montana.

The FA felt the committee should be aware of the difference in proposed salary raises not incorporated in the FA report. The Chief would be raised from \$25,000 to \$28,000. The recommended proposal for the assistant prosecutor would be a raise from \$17,000 to \$25,000 and benefits approximately \$1,500. The total increase for raises would be \$12,600.

Mr. Racicot responded that originally it was budgeted for the Chief to receive \$35,000 and the assistant prosecutor to receive \$17,000 with a \$1,000 increase in 1979. Presently, both salaries total \$54,000.

Bob Kuchenbrod stated they were paying different salaries for the positions authorized but the total package did not exceed the salaries appropriated for Fiscal 1979.

Criminal Investment Bureau

Fritz Behr, Administrator of the Law Enforcement Division, suggested for the coming biennium to break out the three different programs: the Criminal Investment Bureau, County Prosecutor Bureau and the Law Enforcement Academy so just what each program cost would be known.

Half of the Administrator's time is spent as the Administrator of the seven bureaus under his Division and the other half is spent in connection with the Criminal Investigation Bureau.

When requested under the Montana Codes or by county attorneys, chiefs of police or county sheriffs, investigations are held.

In 1978, the Criminal Investment Bureau handled 34 major cases in 22 different counties. The work is being accomplished with 3.5 FTE.

The FA responded to the use of motor pool cars. She commented that when Mr. Behr was not in the capacity of investigator he could use the motor pool. Mr. Behr commented that it would not be feasible to use a motor pool car in the role as investigator.

The meeting was adjourned at 11:15 a.m.

Respectfully submitted.


William J. McNahan
William J. McNahan, Chairman