

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

April 18, 1979

The forty-second meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol Building. Following roll call the meeting was called to order by Senator Himsl, Chairman at 8:50 a.m.

ROLL CALL: All members present except Senators Story, Lockrem, Nelson and Thiessen.

Senator Himsl explained there was no money in the renewable resource account, but there is still some in the resource indemnity trust fund interest account.

CONSIDERATION OF HOUSE BILL 745: Representative Curtiss explained the bill as an attempt to establish a water resources and adjudication oversight committee. Originally it was with the intention of having this committee work with them to get more efficient use of our water. Much of the information was because the direction given by the legislature last time to have the proper agencies to have selected the sites and then to go ahead with the water sites or to impound them. The only water we are going to have in Montana is what we get now or impound. She said she had not intended to go around the committee on priorities. The Select Water Committee brought it back and amended it so that it can serve a dual purpose where the adjudication of water is concerned.

Bob Biggerstaff, representing Montana Consumers District, Farm Bureau, Farmers Union, WIFE etc, said with the increasing pressure on water and the water on the reservations, we have had to go through, the farm organizations think it is very important to have a committee during the interim to oversee this and not just drop it. Water is too important and we need to keep on it constantly.

Senator Jergeson, Senate District 3, said if the committee could come out with a way to fund it he would be willing to carry it on the floor of the Senate. He said he felt legislative review of legislation on adjudication is important.

There were no further proponents and no opponents. The meeting was opened to questions from the committee members.

Senator Boylan: Wouldn't this be a duplication of people with Senate Bill 76 to carry through the implementation of 76? There will be a few legislators on it, but all they are going to do is to check; their work will be with the entities and the compact. That committee will not be looking into adjudication. At first I was against it, but after seeing how 76 is materializing, it will be necessary to keep pounding on DNR and the courts on it until they get through adjudicating the water.

Senator Himsl: I have a tendency to be cool on these committees. After sitting on LRB and the special operating programs that have prioritized these resource funds for their purposes it makes me think we would be justified to have a committee look over their shoulder to see how this is resolved. Maybe it should be used for two years and then sunsetted. We would see if it functions.

Senator Regan: I don't understand much about water and water rights. I thought we had passed some legislation and that the water rights would be adjudicated by these water judges. Can you not just tell them what to do and make them be responsible to see that the job is done?

Senator Boylan: They are charging the water holders a fee. The DNR was in charge of it before, but they were not getting any thing done. They did not make any administrative decisions, they just looked at it.

Senator Regan: If they are being looked at over their shoulder while the water rights are being adjudicated, what else will this bill do?

Representative Curtiss: I would hope that this committee would work with DNR to get this job done. DNR has said they will need 142 FTE by 1984. I am not sure it is necessary. Their responsibility will be related to keeping track of the filing. A lot of the work is done by the district courts.

Senator Himsl: Why was adjudication amended? Rep. Curtiss: That is because we have a problem with the department in expanding the size of its operation. They have come in all along and wanted to maintain this responsibility. They have testified against the adjudication process. We are afraid they will take the ball and run with it.

Mr. Biggerstaff: This is quite a change in the way of adjudication water. The oversight committee would be involved in watching how the department sets up the rules and even with the judges setting up its rules and making sure the legislative intent and the ideas behind it will be considered and taken into account, instead of waiting for 2 years to tell the committee how much money and how many FTE it is going to take to do anything else.

Senator Himsl: Isn't the adjudication process mostly a court case? Biggerstaff: The first 2 years it will be mostly setting up a filing process and setting up the rules.

Senator Jergeson: Another function of the committee -- we passed 743 which amends the ground water quality use and will set up a study area. The Department of Natural Resources is going to set up the rules, etc, to carry out this bill. Senate Bill 524 will require anything over 3,000 acre feet to be processed, and there should be some legislators who can know what the rules are etc.

Senator Smith: I think it is time that we as legislators take on more responsibility and we take various departments and see that they do what the legislature asks and to know that they are doing what they are supposed to do in carrying out the wishes of the legislature.

Senator Regan: Do you see any conflict between this and the other Senate Bill?

Senator Boylan: Not now. The conflict problem could develop with the entities that will be setting up the rules and we should time our efforts with the higher entities and their efforts or they could really be overworked.

Senator Regan: I have this feeling that we are really setting up a piece meal propetual session. I would really like to know what the cost is etc.

Senator Himsl: It costs more to run the legislative council now than it used to cost to run the whole assembly.

Senator Smith: We were in trouble when we lost the citizen boards where they could oversee this and come back to the committee and tell us what was going on.

Senator Himsl: Do you have any objection to a sunset after 2 years and they have this money taken out of the fund that will have some money in it rather than the renewable resource fund which is broke?

Representative Curtiss: No.

The Committee adjourned to come back at 10 a.m. for a joint hearing on the nursing homes.

Senator Himsl, Senator