

MINUTES OF THE JUDICIARY COMMITTEE
February 15, 1983

The meeting of the House Judiciary Committee was called to order by Vice-chairman Kelly Addy at 8:04 a.m. in room 224A of the capitol building, Helena, Montana. All members were present with the exception of Chairman Brown, Representative Schye and Representative Seifert, who were excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

HOUSE BILL 705

The committee moved to room 130 to hear this bill jointly with the House State Administration Committee.

REPRESENTATIVE SPAETH, District 71, Silesia, stated that this bill was sponsored by the Public Employees' Retirement Division, which deals with the judges' retirement system, which is not in very good shape at this time. He indicated that the bill does three things: (1) it increases two of the court fees from \$20.00 to \$25.00; (2) it essentially reduces the amount of money that goes into the county general fund; and (3) it increases the contribution to 7 per cent from the judges, who are paying into the system.

STEVE BROWN, representing the Montana Association of Judges, said that this is an attempt to deal with the solvency of the judges' retirement system; the amount of the contribution to the judges retirement must be immediately increased by approximately 12 per cent in total contributions to make the system solvent; and that translates into roughly \$150,000.00 to \$200,000.00 a year additional funding that will have to be provided.

He indicated that there is a portion of district court fees that goes into the state general fund; over the past three years, the amount of money going into the state general fund has been reduced; and he passed out a fact sheet that explains what this bill attempts to do. See EXHIBIT A. He went over the fact sheet with the committee item by item.

He advised that what they are proposing to do in this bill is to raise only two district court fees - the

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filing fee for filing a complaint would be raised from \$20.00 to \$25.00; and the filing fee for answering would be raised from \$10.00 to \$15.00. He indicated that under present statutes, 60 per cent of the district court fees go to the state of Montana and 40 per cent goes to the counties; if they assume they will have 25,500 cases and receive an additional \$10.00 on each case, that would be an additional \$255,000.00 in revenue. He advised that they are also changing the allocation from 60/40 to 70/30 to ensure that the increased funding was passed on to the state and would be available for the retirement system.

He informed the committees that they are also concerned about not reducing the amount of funds available to the counties; the amount going to the counties would be \$316,000.00, which exceeds the \$315,000.00 that was available to the counties in fiscal year 1982; so he did not feel that they would reduce, in any way, the amount of money that would be available to the counties.

He continued that they also proposed that rather than 20 per cent of the judges' total salary being paid into the retirement system, they would increase this to 31 per cent; and also, the judges would increase their contribution to the retirement fund from the existing 6 per cent to 7 per cent; and this would apply to all judges after July 1, 1983, once they are elected, re-elected or appointed.

Additional material was also presented to the committees. See EXHIBIT B.

LARRY NACHTSHEIM, Administrator of the Public Employees' Retirement System of the Department of Administration, said that the 1 per cent increase in the judges' salaries for judges re-elected or appointed in the future is a technical consideration because there is a constitutional question as to whether you can change the rate to a current judge.

There were no further proponents and no opponents.

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REPRESENTATIVE SPAETH agreed that they need to do something with the judges' retirement system; a great deal of thought has gone into this bill and he thinks it is a workable solution to an otherwise sticky problem; and he urged the committees to adopt this bill.

REPRESENTATIVE MUELLER asked where does the 30 per cent on page 2 come from. MR. BROWN replied that the present language is in section 19-5-405; first it establishes how the money is allocated between the counties and the state; on line 23, the existing law provides for an amount equal to 20 per cent of the salaries of district judges and supreme court justices be deposited into the fund; and they are amending that section to 31 per cent so that a major portion of the increased share can go into the retirement system.

REPRESENTATIVE HAMMOND asked what the counties use this 30 per cent for. MR. BROWN responded that it goes into the county general fund; the bill that was introduced in 1981, which doubled the district court fees, was introduced at the request of the clerks of the court; and this was a bill to not only solve the judges' retirement problems, but to increase revenues to county governments.

REPRESENTATIVE PHILLIPS asked what kind of percentages does a judge have when he retires and how does that compare to other systems. MR. NACHTSHEIM answered that judges are eligible for retirement at 65 years of age with five years of service; they receive $3\frac{1}{3}$ per cent of their salary for each year's service up to fifteen years of service, plus 1 per cent for each year of service thereafter; $3\frac{1}{3}$ per cent times 15 years equals 50 per cent of their salary, if there were 15 years of service. He advised that if someone had twelve years of service and was involuntarily retired (that is, not re-elected), they are eligible to retire immediately without reduction; and anybody who does so voluntarily can retire at age 60 with an actuary reduction. He explained that the provision that causes problems is the one which says that the judges' retirement is based on the salary of the position from which he retired; so it means that when a justice gets a raise, the retirees get a portion of it based on their years of service; and it is an automatic cost-of-living increase.

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REPRESENTATIVE EUDAILY asked if they could elaborate on this cost-of-living increase. MR. NACHTSHEIM advised that it is not a cost-of-living provision per se, but, in effect, it works as a cost-of-living provision; the judges' retirement is based on the salary of the position from which they retired; when a current district judge gets a raise, all the retired district judges or their beneficiaries get a proportional raise. He clarified that if the judges get a raise, a retiree, who had retired after fifteen years of service would get half of that raise because their retirement is based on current salary.

REPRESENTATIVE KEYSER noted that they were assuming a \$800,000.00 fee income under the existing structure; yet there was a continuous drop from fiscal year 1980 to fiscal year 1982; and he wondered why they are assuming in fiscal year 1983, under the present system, that it is going to increase to \$800,000.00, and not decrease to \$760,000.00. MR. BROWN answered that they did not have figures for 1983; and, as soon as they get them, they can plug them in; the trend has been down; it is a mystery to him why the overall collections to the county is down; and the information he had for the first six months of 1983 was that the filing fees were about the same, if not a little higher, than 1982.

REPRESENTATIVE KEYSER indicated that if his assumptions are a little off, and this 30 per cent to the counties drops down very much, the counties are not going to be receiving any additional moneys, according to the facts that he has there. MR. BROWN said that he thought the committee should take a look at that; they might want to go to 69/31 or 68/32, because then there is some cushion for the state general fund.

REPRESENTATIVE KEYSER asked how many of the employees under the PERS system and the others that he manages receive an increase based on the people in their profession receiving increases and their getting a portion of that. MR. NACHTSHEIM responded that there were three in the eight systems that they have - the judges, the police officers and the firemen.

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REPRESENTATIVE KEYSER asked if that is possibly why these systems have had more problems actuarially than some of the other systems. MR. NACHTSHEIM answered that he believed that was the case in the judges' system; but in the police and fire systems, there was consideration for that in the mechanism.

REPRESENTATIVE KEYSER questioned if the judges were not receiving this automatic increase, would the fund be more solvent than it is now. MR. NACHTSHEIM replied that that would be true of any retirement system - if you take some benefits away, the retirement system will be more soundly funded.

REPRESENTATIVE HANNAH queried if a problem has been created by the fact that the judges' retirement system has automatic increases based on the current level of salaries, and if we adopt this bill, do they have any idea how long it will be before they have that problem again. MR. NACHTSHEIM responded that the action that they are looking at today should have been taken at the time the law was drafted; because the system is based on salaries, it is their position that this would fund the program; and because of the increase in salaries, they will have more income to compensate for the increase in benefits.

REPRESENTATIVE HANNAH commented that he does not understand that - he thought they were just increasing this funding base from 6 per cent to 7 per cent. MR. NACHTSHEIM answered that they are also increasing the contribution they are taking from the court fees as 31 per cent of their salary - not 31 per cent of the court fees.

REPRESENTATIVE HANNAH noted that the formula under which they are operating now is 20 per cent contribution by the state and he wondered what the formula is. MR. NACHTSHEIM answered that it is 6 per cent by the judges, 6 per cent by the state and 20 per cent of the salaries from the court fees.

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REPRESENTATIVE HANNAH asked, "The 20 per cent is from court fees?" He thought they said that the contribution that they have now is not a percentage of salaries. MR. NACHTSHEIM explained that the original bill gave them 25 per cent of court fees - it has been changed along the way to 20 per cent of salaries.

REPRESENTATIVE RAMIREZ noted that if they take 31 per cent of the judges' salaries out of the state share, as the salaries go up, the state share will go up; the state general fund share is going to go down; and he wondered when they will finally wipe out the state general fund share. MR. NACHTSHEIM responded that he didn't know.

REPRESENTATIVE EUDAILY asked in addition to the 31 per cent and the 7 per cent, are they also putting in the 6 per cent from the general fund on top of that. MR. BROWN replied that that is existing law and is not going to be changed.

REPRESENTATIVE EUDAILY said that they are putting more judges on; they are going to have more people to cover by this retirement; if they keep this retirement system so liberal, how can they possibly maintain a system like this and be fair to the state and the people who have to put in the money. MR. BROWN replied that he understood his concern and he would be willing to meet with the members of this committee to resolve this.

REPRESENTATIVE KOEHNKE asked how soon will the other systems want to be tied to raises in salaries of the present workers. MR. NACHTSHEIM answered that he thought it would be difficult for the other systems to do this.

MR. BROWN indicated that he would like to respond to Representative Eudaily's question - the state's contribution would be 37 per cent and 31 per cent out of district court fees plus the 6 per cent matching; the judges are contributing 6 per cent now and that would be raised to 7 per cent with this bill.

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REPRESENTATIVE FARRIS said that she could see three ways that the committee could adjust this - the retirement could be fixed at the time of retirement; it could be based on the cost-of-living, like Social Security; or it could be done like the policemen and she wondered if there were other ways or is this basically what there is. MR. BROWN responded that he did not know right now; and that is something they would have to explore.

MR. NACHTSHEIM pointed out that they can only change it for future judges.

REPRESENTATIVE ADDY indicated that there is a very strong judicial doctrine that says that a judge's salary shall not be decreased while he is in office; this is to insulate him from the mob rule or the passions of the majority; if you can decrease his retirement, you could influence his or her decisions; or if, when they run again, they could say that he is only going to get half of his retirement, thereby encouraging him to retire; and this would be the same kind of untoward influence.

REPRESENTATIVE BRAND noted that they only have 36 contributors to this system and he wondered being there is such a small number of contributors, could it be consolidated with other systems. MR. NACHTSHEIM responded that that would be against federal law more than state law.

REPRESENTATIVE BRAND felt that the local districts were paying more in proportion and less than one-quarter of the judges are in the supreme court system; and he thought the state wasn't contributing its fair share, according to these figures. MR. NACHTSHEIM answered that the idea was to tie the contributions to the court fees; similar to that of the highway patrol on the basis of drivers license fees.

REPRESENTATIVE BRAND asked if there were any fees coming in for the supreme court. MR. NACHTSHEIM responded that they get 1 per cent of those fees.

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REPRESENTATIVE BRAND indicated that 1 per cent of those fees are minute. MR. NACHTSHEIM advised that the per cent can be anything that the legislature decides.

REPRESENTATIVE ADDY commented that the fees should be kept as low as possible to maintain good access to the courts and he asked if there was any other good funding source. MR. BROWN replied that there has not been comparisons made as far as what they are doing in other states.

REPRESENTATIVE DAILY asked how many judges retired at the beginning of this year. MR. NACHTSHEIM responded that nine judges retired - seven on the judges' retirement and two on PERS.

REPRESENTATIVE DAILY asked if they have to work fifteen years as a judge to retire at half salary. MR. NACHTSHEIM replied, "Yes."

REPRESENTATIVE DAILY asked if they could retire and still practice law and MR. NACHTSCHEIM replied that they could.

There were no further questions on this bill and the hearing was closed.

The members of the committee returned to room 224A.

HOUSE BILL 714

REPRESENTATIVE SPAETH, District 71, Silesia, said that this bill was introduced at the request of the Commission for Human Rights; the legislature passed the Montana Human Rights Act and also passed the Governmental Code of Fair Practices Act, which are essentially two separate acts; the legislature implemented the enforcement provisions of the Human Rights Act without taking like action for the Governmental Code of Fair Practices Act; and he said this bill adopts the same, almost identical provisions in the Governmental Code of Fair Practices Act as they adopted in the Human Rights Act.

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ANNE MacINTYRE, Staff Attorney for the Human Rights Commission, gave testimony in support of this bill, and explained the provisions of this bill.

There were no further proponents and no opponents.

REPRESENTATIVE SPAETH closed.

REPRESENTATIVE RAMIREZ noted on page 8 that there is a provision which states, "award the prevailing party reasonable attorney fees" and he asked if this was true now with the Human Rights Act. MS. MacINTYRE replied that it is; this particular provision on lines 20 and 21 was added at the suggestion of the bill drafter in the Legislative Council because he thought there should be some consistency.

REPRESENTATIVE RAMIREZ asked if this is the identical provision that is contained in the Human Rights Act. MS. MacINTYRE replied that it is not the identical provision - the identical provision is set forth in section 9, page 6, lines 21 to 25 of this bill. She added that currently there is no authority for a charging party to bring a complaint directly into district court, so there is no need for an exact identical provision in the Human Rights Act.

REPRESENTATIVE CURTISS noted on page 8, lines 14 through 17, it states, "may petition the district court in the district where the alleged violations occurred or where the complainant resides for appropriate relief" and she asked if this means that the Human Rights Commission doesn't have to make a determination one way or the other; if no determination is made by the commission, they can still go ahead and petition in district court. MS. MacINTYRE answered that she does not believe so; she believes that in order to exhaust administrative remedies, the party would have to carry the case through to a final determination by the commission.

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REPRESENTATIVE ADDY asked why they don't merge these chapters into one. MS. MacINTYRE replied that the Human Rights Act prevents discrimination in employment, public accommodations, housing, financing, education and governmental services; the Code of Fair Practices prohibits discrimination in employment by governmental entities and all the prohibitions in the Human Rights Act, but they apply only to governmental entities; it speaks of employment, employment referrals and placement services, educational counseling and training programs, licensing, governmental services, distribution of government funds and public contracts. She indicated that there is some overlap, but in some areas there are no comparable provisions in the Human Rights Act.

REPRESENTATIVE RAMIREZ commented that he was still confused over this provision on page 8, and he cannot find any comparable provision in the Human Rights Act. MS. MacINTYRE replied not exactly - the only provision that might be considered as comparable is 49-2-505, subsection 4.

REPRESENTATIVE RAMIREZ noted that that says the prevailing party may bring action in district court for attorney's fees and that is what you have in the new section 9 on page 6, so they would be creating a difference if they adopt this language on lines 20 and 21, page 8 between the Human Rights Act and this act. MS. MacINTYRE responded that that was correct; the problem is that they are already different in that the charging party can elect to go directly into district court without filing with the commission under the Code of Fair Practices; so she believes that the purpose of that language was to address that situation.

REPRESENTATIVE RAMIREZ asked why is that difference being made. MS. MacINTYRE answered that that is what the legislature adopted in the last session.

REPRESENTATIVE RAMIREZ asked why is that difference in the Human Rights Act and this new act being made. MS.

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MacINTYRE said that the suggestion the bill drafter made to her was that if a prevailing party in a commission proceeding could obtain attorney's fees if an action is brought in district court rather than with the commission, that the prevailing party of that action should similarly be entitled to attorney's fees.

REPRESENTATIVE RAMIREZ asked why the distinction is being made between the two acts in permitting the person under the Fair Practices Act to go directly to district court whereas under the Human Rights Act, they can't go to court. MS. MacINTYRE answered that she did not know - that is the existing statutory provision.

There were no further questions and the hearing on this bill was closed.

EXECUTIVE SESSION

HOUSE BILL 714

REPRESENTATIVE SPAETH moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE DARKO.

VICE-CHAIRMAN ADDY presented to the committee a Statement of Intent on this bill. See EXHIBIT C.

REPRESENTATIVE RAMIREZ commented that he was really confused as to why there was a difference in the two acts; it didn't look to him as though the Fair Practices Act presently provides for the filing of a complaint directly in district court; that is a new section which says, "may be filed with the commission or in district court"; he felt he did not have an adequate explanation as to why they are treating the two things differently.

REPRESENTATIVE JAN BROWN indicated that they addressed that in House Bill 660.

VICE-CHAIRMAN ADDY mentioned that he thought this bill was coming up on the floor today. He said that he saw a common drift in both of these pieces of legislation.

REPRESENTATIVE RAMIREZ stated that if everyone can go to district court directly, why have the Human Rights Commission - why not just put it in the district court; why waste all the time of a separate proceeding, etc. if

you are going to give the alternative; if they have this bill which says you can go either place; you can get your attorney's fees either place; if this is being presented on the basis that that is what they do in the Human Rights Act; then we find the Human Rights Act is being amended to do this; and they are actually making a fairly substantial change in the law, permitting now, under both acts, if they pass this bill and HB 660, they are making a very fundamental change - that now you can by-pass the Human Rights Commission. He indicated that that was an important and significant change and it could have a very profound effect on both the Human Rights Commission and on processing these claims; a lot of people may not want to go to the Human Rights Commission, but, if that is the case, why have it.

VICE-CHAIRMAN ADDY pointed out that under 49-3-303, presently under the Code of Fair Practices, you can elect to proceed directly into court or through the commission; and at this point, he is a little confused about the need for section 5.

REPRESENTATIVE SPAETH said that he does not know if section 1 or section 5 has any reason to be in there; but in subsection 2 of section 5, this essentially establishes the 180 days statute of limitations and he felt that was the important part of section 5.

REPRESENTATIVE JENSEN asked on page 1, line 24, wherein it defines mental handicap and he wondered if this was a sufficiently narrow definition.

REPRESENTATIVE RAMIREZ said that he had the same reaction and then he looked and that was the same definition under the Human Rights Act.

REPRESENTATIVE EUDAILY stated that he was looking at HB 660 and at section 5 in this bill; section 5 only contains one of the things that is considered in HB 660; and he asked if HB 660 goes in, do all those conditions go under section 5 here or what happens to them.

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VICE-CHAIRMAN ADDY replied that he thought in HB 660, they are talking about a Human Rights Act complaint and in section 5, they are talking about a Code of Fair Practices complaint.

REPRESENTATIVE KEYSER said that he had a problem on page 4, line 20 in subsection 2; he has a big problem with state agencies on their own who can start initiating all kinds of things without any complaint from the public; they are in the business to do this; and he can really see them propagating to keep themselves in office; he has no complaint if there is a human rights challenge by an individual and he says that his rights have been violated, that is fine; but this doesn't say that; this says that the commission's staff may file a complaint in like manner when a discriminatory practice comes to his attention; and he thought that was pretty broad. He continued that if a person wants to come into the commission, that is fine; they should have every right to do that, but when the staff itself can start doing this, on its own, he has real problems with that. He moved to amend this bill by striking lines 20, 21 and 22 on page 4.

REPRESENTATIVE FARRIS advised that there could be a situation where there was a mental handicap or a group that is discriminated against and knows that retaliation will happen to them and, therefore, they are not capable of making a complaint; or someone who is not in a position to be smart enough or safe enough to make a complaint needs someone who has the option; and she contended that this was all it is is an option. She felt they have to have somebody who can climb on the white horse and go riding off; and it doesn't say they have to; it says they may.

REPRESENTATIVE KEYSER replied that he has a real problem with that; if that person's problem is being brought to the attention of somebody, then somebody can file a complaint - an individual can file a complaint - how are they going to know if somebody doesn't come forward and say, "Look, you have a problem." He contended that that

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person may be mentally handicapped or what; apparently that person has got to go and make it known; how do they make it known; if they can make it known, they surely can go and file a complaint; because it isn't that hard under the procedure to file a complaint against somebody; and why the staff should have that total authority really bothers him. He emphasized that this was set up for the individual that is being discriminated against; they start giving staff and these departments the right to do things like this on their own, he has some real problems with that.

REPRESENTATIVE SPAETH commented that they are getting into a lot of things that they do not like about the Human Rights Act; this provision is essentially a directive from the Human Rights Act; what they are trying to do here is not argue the Human Rights Act, but essentially argue whether this provision should be enforced and have the same kind of provisions attached to it as the Human Rights Act; that provision is presently found in 49-2-501; in the first paragraph, the commission does have that right right now in the Human Rights Act; he may agree with Representative Keyser that he has questions about that being in the Human Rights Act; but he does not think they are granting any new or unusual authority here under this particular commission; so he did not think it was that new of a provision here; and he thought maybe it should be looked at in the Human Rights Act.

VICE-CHAIRMAN ADDY asked if they had a second on the motion. REPRESENTATIVE HANNAH seconded the motion.

REPRESENTATIVE KEYSER thought that because the language is another act and because maybe it is bad there; and they are talking about brand new language here that is not necessarily a reason to adopt language that is bad. He said that if they don't put it in here; they could go back to the Human Rights Act and make an amendment to that act to strike that from there; then they would have corrected the problem, but he felt that anytime they find something that they feel

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is bad, just because it is in another section it doesn't make it right; and he thought that all sections that are bad should be taken out.

REPRESENTATIVE SPAETH commented that he does not have a problem as far as paragraph 2 is concerned, and he will support Representative Keyser's motion, but he felt that he did not want to get too far afield in the other provisions of the act that are similar, because when you have done it in one place and you are trying to force a like act in another place, you should try to keep the same kind of track record.

REPRESENTATIVE JENSEN indicated that he would support the amendment because they are talking about the Governmental Code of Fair Practices and he thought that they have to make some assumptions about people employed by the government; they are talking about those people who might have a need to take action on their own under the Human Rights Act, but as far as the Code of Fair Practices he doesn't think they are dealing with people who can't act responsibly on their own.

The motion carried with REPRESENTATIVE FARRIS and REPRESENTATIVE RAMIREZ voting no.

REPRESENTATIVE RAMIREZ moved to amend this bill on page 4, line 5 by striking subsection 1 and eliminating "(2)" and revising the paragraph that starts on line 9 by saying, "Complaint under this chapter must be filed with the commission within 180 days" and then strike on line 13 "or the court"; then over on page 8, strike all of lines 22 through 25 and on line 1, page 9, then insert basically the provisions of HB 660.

He said that they would just strike section 49-3-303 and substitute in its place the same requirements in HB 660, which basically say that you have to start with your complaint with the Human Rights Commission, but under certain circumstances, the Human Rights Commission can let you go directly to district court; those circumstances may be any number of them, but some of them have to do with an area in which the Human Rights Commission is processing them very quickly, where maybe they run into an impasse that they just can't resolve,

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so they issue a letter saying you go ahead and go on to district court. He continued that he just cannot see any real good reason why they should permit people to by-pass the Human Rights Commission automatically in one and not the other; and the title of this act is to make these two procedure consistent, so it would seem to him that they should make them consistent by requiring everybody go to the Human Rights Commission first.

REPRESENTATIVE SPAETH stated that he agreed; he thinks that is a good amendment; the only trouble is if HB 660 fails to pass and this one does pass, then they have another conflict; but he felt that this was the best way to go.

REPRESENTATIVE RAMIREZ said that if HB 660 doesn't pass, he would try to amend HB 714 to still be consistent with whatever the Human Rights Act is.

The motion carried with REPRESENTATIVE JENSEN and REPRESENTATIVE FARRIS voting no.

REPRESENTATIVE BERGENE asked MS. MacINTYRE if she had anything to say about this. She responded that she thought it was a good amendment and she felt that the same procedure should be followed either in the Human Rights Act or the Code of Fair Practices and she thought Representative Ramirez's idea was a good one. She said the reason they did not propose to do the same thing, they felt they would be unduly criticized to try and change what the legislature did in the last session.

REPRESENTATIVE FARRIS indicated that she felt this was very significant and she thought she would like to have more time to think about it; and she made a motion that they pass action for the day.

REPRESENTATIVE ADDY said that they have four bills scheduled for Friday right now; they may be meeting on

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Saturday; the Speaker has asked them to keep their hearing calendar clear for Monday, Tuesday and Wednesday of next week so their time was limited.

REPRESENTATIVE RAMIREZ advised that the problem they have is not so much in the committee but, for those who have not been here before, the next few days are going to be horrible and the more of these things that they put off in the last few days may not even make it across; they had 138 bills brought up yesterday from the Legislative Council and he understands that 100 of them were filed in the House; and if you just take 100 bills at the rate they have been going, that is five days worth of work; and he felt that they were going to have such a jam in the next few days that these bills are not going to be considered very well.

The motion failed with REPRESENTATIVE FARRIS and REPRESENTATIVE DAILY voting no.

REPRESENTATIVE EUDAILY moved that the bill DO PASS AS AMENDED. REPRESENTATIVE SPAETH seconded the motion.

REPRESENTATIVE CURTISS indicated she had a question about rulemaking authority and wondered if this was consistent with all other language.

REPRESENTATIVE ADDY asked if the Human Rights Act has rulemaking authority. MS. MacINTYRE responded that they do and it is contained in 49-2-204 and it is very broad.

The motion passed unanimously.

STATEMENT OF INTENT ON HOUSE BILL 714

REPRESENTATIVE JENSEN moved that this DO PASS. The motion was seconded by REPRESENTATIVE EUDAILY.

The motion passed unanimously.

HOUSE BILL 705

REPRESENTATIVE DAILY moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE JENSEN.

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REPRESENTATIVE EUDAILY asked if the State Administration Committee is going to come out with a recommendation also.

VICE-CHAIRMAN ADDY responded that they could handle any specific problems they have with the bill and he would guess that they will appoint a subcommittee to address any potential amendments.

REPRESENTATIVE HANNAH said that he thought the root problem is not solved by this bill; the root problem is that the judges' retirement fund is out of balance; he sees this bill as a bandaid; it will be, maybe, only two legislative sessions down the road that they will be back and they will be dealing with the same thing; and as far as he was concerned the answer is to interrupt what is commonly called the COLA (the cost-of-living increase). He felt that the committee should work on fixing that rate so that henceforth they will know how much the judges will get. He thought they would be far ahead so that they will know what they are going to get when they retire and it should be made so that it is actuarially sound; because this solves nothing - all this is is charging the people more money, charging the judges more money and charging everybody that is involved in this more money and it doesn't solve the problem.

REPRESENTATIVE EUDAILY advised that he served on the subcommittee about four years ago that studied retirement and pension systems in the state of Montana; there are nine systems - eight under PERS and the Teachers' Retirement - and the first thing they had to do was to come to the conclusion that three of the systems were outside of what they were trying to do; and they were trying to build in a cost-of-living adjustment to all retirement systems; they immediately found that the firemen, the policemen and the judges had already taken care of that in their own systems, so they just dropped them to the side and worked on the other six systems and that is what came out in House Bill 45 the last time; and it didn't get very far. He indicated that the problems you see in this is the fact that there is

an automatic cost-of-living built in because they have tied themselves to something that fluctuates; when a teacher retires they retire on the average of their last three years and their highest three years; and it never increases until something else happens to increase it for everybody. He felt that the way this is set up he doesn't see how they are ever going to be actuarially sound, because the salaries are going to keep going up; and the only solution to that is for more money to go in to help. He continued that, if you add up all those percentages that are going in right now, there is 45 per cent of the judges' salaries going to cover retirement and their unfunded liability; and that is the highest of any pension system in the state; and he thought that Representative Hannah is right - that they are going to have to take a look at this, because he felt it was too rich for their blood.

REPRESENTATIVE KEYSER informed the committee that in a five-year period, and no more than six, the general fund moneys will be right up there at \$2,500,000.00; he has some specific problems with the bill itself; he does not like the fluctuation; and the majority of the retirees of the state of Montana are on a system that does not fluctuate. He noted on the figures from the sponsor on the fact sheet under "Allocation of District Court Fees under Present Law", they use an assumption there of an \$800,000.00 income under existing fee structure; and yet, using the figures they show up above, they show a decrease each year of the total fees; and he honestly questions that they are now in 1983 going to get an increase; in fact, he thought they would show another decrease which might be down around \$766,000.00; if they take that and put the additional income fee that he has proposed, he thought that the counties may not get as much money as they are getting now; and he did not think that any county in the state of Montana can afford this judges' system to cost them more money - it is costing them too much now and they are looking for the state to pick up more, not less. He continued that if they don't change those percentages of 30 per cent to the

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county and 70 per cent to the state (and he realizes that they can't change it much), but he wants to make blasted sure that at least they break even. He would like to see it around 31 per cent or 32 per cent to the counties and 69 or 68 per cent to the state.

REPRESENTATIVE SPAETH said that he had no problems with that, and whatever they do, it will be arbitrary because it is based on projections. He asserted that this bill is a bandaid, but he felt, at this stage, it is a necessary bandaid; but they do have to follow up and put a cap on that some way or other; he is not prepared to come up with solutions; the next week and a half is not a time to overhaul the judges' retirement system, but he hoped that this would be looked at as a bandaid and they will have to take some other action some time.

REPRESENTATIVE BERGENE stated that she absolutely and completely agrees with Representative Hannah.

REPRESENTATIVE EUDAILY noted that on page 2 of the "Actuarial Valuation", it says that 33.40 per cent of the salary will take care of their accrued benefits of the present ones in the future, but an additional 11.94 per cent is to amortize the current unfunded liability; and what they are trying to do is correct the whole problem with this particular bill; he thought it might correct it to a point, but the problem is going to be increased. He asked if the bill is written in such a way that they could put a sunset on it of this increase in four years and force somebody to do something about it.

REPRESENTATIVE ADDY commented that a question that came to his mind is to put a cap on the cost-of-living increase.

REPRESENTATIVE EUDAILY said that he thought you could do it for the new ones coming in but you would have to write a new provision in the law that would take out the cost-of-living, but anybody that kept getting reelected, it would still pertain to them.

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REPRESENTATIVE SPAETH stated that he thought that should be done, but he doesn't think they have the information to write that in and how it will impact this in the future.

REPRESENTATIVE EUDAILY said that he understood what he was saying, but how are they going to bring it to a head - that is the problem.

REPRESENTATIVE SPAETH said he agreed; the judges will be coming back in here and they will find some individual to carry it again; they will come in and say they have a real problem; they have a mandate here; they will be happy to work out a solution; and that could be happening five years down the road; but he doesn't know how to do it.

REPRESENTATIVE JENSEN noted that the obvious way to bring this to a head is to kill the bill; then they are going to have to deal with it.

REPRESENTATIVE SPAETH replied that if you kill the bill, you are not even being halfway responsible and he felt that this bill gives them some time to come up with an alternative.

REPRESENTATIVE HANNAH contended that he did not see this as being that big a problem; if they can work out the percentages to do what this bill wants to do and at the same time eliminate the COLA in the future, and he asked if that was so hard to do.

REPRESENTATIVE RAMIREZ suggested that they appoint a subcommittee to meet with a subcommittee of the State Administration Committee and try to get this thing done and he moved that a subcommittee be appointed. REPRESENTATIVE KEYSER seconded the motion.

The motion carried unanimously.

VICE-CHAIRMAN ADDY appointed REPRESENTATIVE SPAETH, REPRESENTATIVE EUDAILY and REPRESENTATIVE JAN BROWN as members of this subcommittee.

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HOUSE BILL 438

REPRESENTATIVE RAMIREZ said that this bill was rereferred to the committee and he moved that the bill DO PASS. REPRESENTATIVE SPAETH seconded the motion.

REPRESENTATIVE RAMIREZ moved that they amend this bill on page 2, line 15, following "exceed" change "5" to "3", and on page 3, line 5, following "exceed" change "5" to "3". REPRESENTATIVE HANNAH seconded the motion. The motion carried unanimously.

REPRESENTATIVE SPAETH moved to amend the bill on page 3, line 6, by striking "50,000" and inserting "20,000". The motion was seconded by REPRESENTATIVE CURTISS. The motion carried with REPRESENTATIVE HANNAH and REPRESENTATIVE RAMIREZ voting no.

REPRESENTATIVE KEYSER moved to amend the bill on page 2, line 19 by inserting "grossly" before "negligent".

REPRESENTATIVE RAMIREZ said that negligence is defined elsewhere and it really has a very stringent definition and includes the words, "gross deviation" and they would make this different; for example, they have negligent homicide where negligent is not defined any differently from what it would be defined here.

REPRESENTATIVE SPAETH commented that he came up with the same argument, but because the statute, under criminal law, does say "grossly negligent" and if they add "grossly negligent" here, he thought they would be creating a new beast.

REPRESENTATIVE KEYSER withdrew the motion.

REPRESENTATIVE KEYSER moved that the bill DO PASS AS AMENDED. The motion was seconded by REPRESENTATIVE DAILY. The motion carried with REPRESENTATIVE FARRIS voting no.

REPRESENTATIVE RAMIREZ asked where they were on the 21-year-old drinking age bill.

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REPRESENTATIVE ADDY explained that they only have one bill tomorrow and they have set up a time for the people from the Department of Institutions to give us a presentation on alcoholic use and the law; and the DUI subcommittee will meet tomorrow morning after they hear their bill; and he hoped that they will be able to take action by Thursday morning on all these bills.

REPRESENTATIVE HANNAH made a motion that they consider the exclusionary rule bills this morning. He explained that he thought they could deal with two of them fairly quickly and the third one needs to be discussed and he thought it was time they made their move on it; if the Speaker has another bill that deals with this same subject, that is up to them if they want to get caught in the mess at the end of this week, but he felt this bill is not the kind of bill that they want to get messed up; it is a critical bill; it is a very substantive bill and if it comes out at 10:00 p.m. on Monday night, he would be disappointed as the hearings have been early enough to get them out in a reasonable manner and it is time to deal with it.

REPRESENTATIVE ADDY advised that Representative Kemmis's bill, which he is co-sponsor of, is scheduled for a hearing on Friday.

REPRESENTATIVE HANNAH said that these bills, even though they deal with the same subject should not be held in the committee for another bill that deals with the same subject; he thinks that is contrary to what has already been done; the bills have been filed and heard and he thought they should act on them.

REPRESENTATIVE JENSEN thought they would be foolish if they didn't wait for that bill; the three could be handled together; there are dozens of issues revolving around the exclusionary rule and to the degree that this one takes a different approach, he thought they needed to be informed of it and they should have that option.

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REPRESENTATIVE KEYSER said that he has a large problem on waiting on any hearing on any bill; he hates to think of what they will be facing next week; and every session they lose a bunch of them in the cracks and there are bills that never get out. He asserted that the bills are here; they have heard them and he would support Representative Hannah's motion. He seconded the motion.

VICE-CHAIRMAN ADDY pointed out that Chairman Brown would like to participate in the discussion.

REPRESENTATIVE FARRIS indicated that they are not treating the exclusionary rule bills any differently than they are treating the DUI bills.

REPRESENTATIVE RAMIREZ said that he would agree with that, but he does not feel that raising the drinking age from 19 to 21 has anything to do with the DUI bills; you can set aside an hour of your life for some of these bills on the floor and the hours are going to be pretty precious the next week; he felt the quicker they can resolve some of these things the better; he indicated that he would probably vote for Representative Kemmis's bill just from what he read in the newspaper and he thinks he knows what it does, but he would like to vote for some of these others.

A vote was taken on the motion and the motion failed with 9 voting no and 7 voting yes. See ROLL CALL VOTE.

HOUSE BILL 194 and HOUSE BILL 195

REPRESENTATIVE RAMIREZ moved that they consider raising the drinking age - HB 194 and HB 195. He said that he felt that this was sufficiently distinct from the DUI bills, where they do have to try and coordinate the bills and the sooner they could get these on the floor, the better off they are going to be.

REPRESENTATIVE SPAETH commented that he would have to oppose the motion; the subcommittee was going to

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take them up tomorrow; and he felt that they have to stand by the Chair's prerogative.

REPRESENTATIVE RAMIREZ stated that he was not trying to circumvent the prerogative of the Chair; he thought it was a good idea until they found that these DUI bills just kept trickling in until now they are truly in a crisis situation; they have not considered very many heavy bills on the floor; all of them are stacked up in these committees; they are going to be in a crunch; even if this bill comes out Friday or Saturday, it is going to make a difference if you put it on second reading on Saturday; they will just get to it eventually because they are going to have more bills than they know what to do with between now and next Wednesday.

REPRESENTATIVE BERGENE said that there was one thing about having it on Saturday - the high school kids and the people affected by this would be able to hear the debate and she felt that was important.

REPRESENTATIVE DAILY indicated that he supported Representative Ramirez's motion, because if you look at this bill, you can see that this is not a bill that is sponsored by one particular party - it has bipartisan support - and this is a bill that can be blasted out of committee and you are going to spend a couple of hours debating the thing getting it out of committee and then when you get it out of committee, you are going to spend another couple hours debating the bill; and he felt that on a bill like this it is better to get it out and get it rolling. He didn't think it was tied to the DUI bills either.

A vote was taken on the motion and the motion passed with 11 voting yes and 5 voting no. See ROLL CALL VOTE.

HOUSE BILL 195

REPRESENTATIVE JENSEN moved that this bill DO NOT PASS. There was no second.

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REPRESENTATIVE HANNAH made a substitute motion that the bill DO PASS. The motion was seconded by REPRESENTATIVE DARKO. The motion passed with 9 voting aye and 7 voting no. See ROLL CALL VOTE.

HOUSE BILL 194

REPRESENTATIVE HANNAH moved that this bill DO PASS. REPRESENTATIVE CURTISS seconded the motion.

REPRESENTATIVE JENSEN moved that the bill be amended on page 1, line 17 and line 18 by inserting "except that the legislature or the people by initiative may establish another age as a legal age for consuming or possessing alcoholic beverages". He stated that the intent is not very complex; that this is something that society is going to want to change and it would be better to be in a statute than a constitutional amendment every time they want to change the drinking age.

REPRESENTATIVE DAILY said that he would speak against the motion because it has been his experience that the electorate's philosophy changes from liberal to conservative and very seldom gets in the middle; what will happen in a situation like this is that he can think of legislatures that are very liberal and some that are very conservative; he can see when this happens, he can see a very liberal legislature dropping it down to 17 and he can see a very conservative legislature raising it to 25. He also thought that this was the kind of thing that if they let the legislature deal with this, he could guarantee you that every time you come to the legislature you are going to deal with it because somebody is going to want to change it.

REPRESENTATIVE KEYSER stated that he would oppose this on the simple fact that the constitution establishes the age of 18 years as the legal age; he does not think that they should bypass that; that was a constitutional right given by the new constitution; if they are going to change that on the drinking age it should also be on the constitutional amendment

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and it should be tough to change and that is one of the reasons that it hasn't bounced day by day, year by year in this legislature because it is tough to come in with a constitutional change and he thought they should leave it as a constitutional change.

REPRESENTATIVE RAMIREZ advised that he thought what Representative Jensen is arguing is already there anyway because the legislature can set this to any age up to 21, but it does at least put a top limit on this; what you would do is just open it up more so it could be any age. He felt that everyone would be concerned about that.

A vote was taken on the amendment and all voted no with the exception of REPRESENTATIVE JENSEN, REPRESENTATIVE VELEBER, REPRESENTATIVE FARRIS, REPRESENTATIVE DARKO and REPRESENTATIVE ADDY. The motion failed.

REPRESENTATIVE FARRIS moved to amend the bill on page 1, line 19 and on page 2, lines 6 and 11 by inserting in front of "alcoholic beverages" the language "mood altering chemicals including". She explained that when they have treatment for people who have addictive problems, they are hardly ever addicted to only one drug; 90 per cent of the people who go in for treatment or have problems with addiction are on more than one substance. She stated that someone is going to say that mood altering chemicals other than alcohol are illegal to have, but that simply is not so and she mentioned all the people that abuse Valium.

A vote was taken on the motion and it failed with REPRESENTATIVE FARRIS voting yes.

A vote was taken on the DO PASS motion, which passed with 11 voting yes and 5 voting no. See ROLL CALL VOTE.

EXCLUSIONARY RULE BILLS

REPRESENTATIVE HANNAH moved that they reconsider their actions on the exclusionary rule bills. He said that

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two of these bills have very little chance of passing - the one that passed last session that deals with civil remedies and there was the one that was recommended by Judge Nat Allen and it would be his intent to move that they table those two bills if this motion were to pass and in that way, they have narrowed the exclusionary rule question down to two substantive bills - one which is Representative Kemmis's and the other, which is his bill, HB 381, and that way, they do not have to fight over those other two; they can just fight over one of them.

REPRESENTATIVE JENSEN said that it would seem to him that it would be as easy to table them then as it is to table them now.

REPRESENTATIVE HANNAH withdrew his motion.

The meeting adjourned at 11:00 a.m.



DAVE BROWN, Chairman



Alice Omang, Secretary

ROLL CALL VOTE ----- HOUSE JUDICIARY COMMITTEE

	Date: 2/15 No:	Date: 2/15 No:	Date: 2/15 No: HB 195 Do Pass	Date: 2/15 No: HB 194 Do Pass	Date No:	Date: No:
BROWN, Dave	—	—	—	—		
ADDY, Kelly	no	no	no	no		
BERGENE, Toni	yes	yes	yes	yes		
BROWN, Jan	no	yes	no	no		
CURTISS, Aubyn	yes	yes	yes	yes		
DAILY, Fritz	no	yes	yes	yes		
DARKO, Paula	no	yes	yes	yes		
EUDAILY, Ralph	yes	yes	yes	yes		
FARRIS, Carol	no	yes	yes	yes		
HANNAH, Tom	yes	yes	yes	yes		
IVERSON, Dennis	yes	yes	no	yes		
JENSEN, James	no	no	no	no		
KENNERLY, Roland	no	yes	no	no		
KEYSER, Kerry	yes	no	yes	yes		
RAMIREZ, Jack	yes	yes	yes	yes		
SCHYE, Ted	—	—	—	—		
SEIFERT, Carl	—	—	—	—		
SPAETH, Gary	no	no	no	yes		
VELEBER, Dennis	no	no	no	no		
	9-no 7-yes	11-yes 5-no	9-yes 7-no	11-yes 5-no		

Exhibit A
HB 705
2/15/83

FACT SHEET CONCERNING HOUSE BILL 705
MONTANA JUDGES' RETIREMENT SYSTEM

TOTAL CASES FILED IN MONTANA DISTRICT COURTS

	<u>1980</u>	<u>1981</u>	<u>1982</u>
	31,345	32,393	30,000 (est.)
Less Criminal Cases	2,771 (8.8%)	3,238 (9.9%)	2,700 (9% est.)
	<u>28,574</u>	<u>29,155</u>	<u>27,300</u>

- (A) 20% of cases filed in 1st Judicial District involve political subdivisions and no fee collected from governmental entity;
- (B) Assume 10% of civil cases filed statewide involve political subdivisions;
- (C) Average case filings for last 3 years = 28,343;
- (D) Less cases involving political subdivisions (10% statewide average) = 25,509 fee cases;
- (E) If filing fees in §25-1-201(a) and (b) are raised by \$5;
- (F) Increased fee of \$10 per case would generate \$255,090 in additional revenue.

ALLOCATION OF DISTRICT COURT FEES UNDER PRESENT LAW

	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>
TOTAL FEES	\$840,747.03	\$803,703.77	\$788,359.07
STATE SHARE	504,448.22(60%)	482,222.26(60%)	473,015.44(60%)
CO. SHARE	336,298.81(40%)	321,481.51(40%)	315,343.63(40%)

INCOME & ALLOCATION WITH FEE INCREASE

- ASSUME: (A) \$800,000 fee income under existing fee structure; plus
(B) Additional fee income of \$255,090; and
(C) New allocation formula of 30% to counties and 70% to state.

	\$ 800,000	
	+ 255,090	30% to Counties = \$316,527
TOTAL	<u>\$1,055,090</u>	70% to State = \$738,563

DISTRIBUTION OF STATE SHARE

Present formula: 20% of judges' salaries contributed to Judges' Retirement System from state share, remainder to state general fund.

	<u>FY 80</u>	<u>FY 81</u>	<u>FY 82</u>
Retirement System	\$261,418.34	\$268,473.25	\$299,704.94
General Fund	243,029.88	213,749.01	173,310.50

Proposed formula: 31% of judges' salaries contributed to Judges' Retirement System from state share, remainder to state general fund.

TOTAL JUDICIAL SALARIES	\$1,525,150
	x .31%
	<u>\$472,796.50</u>

\$738,563.00	(state share w/increased fees)
-472,796.50	(to Judges' Retirement System)
<u>\$265,766.50</u>	(to state general fund)

COMPARISON OF FILING FEES IN OTHER JURISDICTIONS

	<u>FILE COMPLAINT</u>	<u>ANSWER BY DEFENDANT</u>
MONTANA (Present)	\$20.00	\$10.00
MONTANA (Proposed)	\$25.00	\$15.00
NORTH DAKOTA		
Civil	\$13.00	-----
Divorce	\$28.00	-----
SOUTH DAKOTA		
Civil	\$15.00	-----
Divorce	\$35.00	-----
WYOMING	\$25.00	-----
IDAHO		
Civil	\$41.00	\$21.00
Divorce	\$61.50	
WASHINGTON	\$70.00	-----
FEDERAL	\$60.00	-----

ADDITIONAL CONTRIBUTIONS BY MEMBERS AFTER JULY 1, 1983

Any judge elected, reelected or appointed after July 1, 1983 would contribute 7% of his or her salary to the Judges' Retirement System. Judges presently serving would continue to contribute 6% of their salaries to the Judges' Retirement System until reelected to a new term.

Exhibit B

HB 705

2/15/83

JUDGES'
RETIREMENT SYSTEM

ACTUARIAL VALUATION

AS OF

JULY 1, 1982



1820 Eleventh Avenue • Helena, Montana 59601 • Telephone (406) 442 5222

October 7, 1982

Mr. Lawrence Nachtsheim, Administrator
Public Employees Retirement Division
1712 9th Avenue
Helena, MT 59601

Re: Judges' Retirement System

Dear Larry:

Enclosed is the July 1, 1982 actuarial report for the Judges' Retirement System.

You will note that the cost as a percentage of salary has remained relatively constant since the last valuation, and program remains severely unfunded. We recommend that action be taken to increase the contribution rate by 12% of salaries.

Sincerely,

Alton P. Hendrickson, ASA

1m1

Enclosure

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SECTION I

INTRODUCTION

An actuarial valuation of the Judges' Retirement System of the State of Montana has been completed as of July 1, 1982. This valuation was authorized by the Public Employees' Retirement Board under Section 19-5-201, M.R.C. The purpose of the valuation was to determine the financial position of the fund, the normal cost, and the unfunded accrued liability based upon present and prospective assets and liabilities of the fund as of July 1, 1982.


Section II presents an analysis of the results of the actuarial valuation. The numerical findings supporting this analysis are shown in Section III.

In conducting the actuarial valuation, certain assumptions were made as to the future experience of the system. A summary and discussion of each of the assumptions is contained in Section IV.

The valuation was based upon the Judges' Retirement Act and incorporates all amendments as of July 1, 1982. A summary of the major provisions of the Act is contained in Section V.

ACTUARIAL CERTIFICATION

Based upon the assumptions stated in this report and the employee data and other records provided by the Public Employees' Retirement Division, the actuarial valuation contained in this report has been performed in accordance with generally accepted actuarial principles and techniques.


Alton P. Hendrickson
Member, American Academy
of Actuaries

SECTION II

ANALYSIS OF VALUATION

As a result of the valuation conducted as of July 1, 1982, we have determined that a contribution rate of 33.40% of salary is required to fund benefits as they accrue in the future. An additional 11.94% is required to amortize the current unfunded liability over a 40 year period. The total recommended contribution rate for the Judges' Retirement System is 45.34% of salary.

The recommended rate has increased from 44.97% in 1980 to 45.34% in 1982. This increase is attributable to the increase in salaries and monthly benefits. The payroll increased 29.2% with average salaries increasing from \$35,766 in 1980 to \$42,365 in 1982. The annual benefits paid increased 17.9% with average annual benefits increasing from \$15,257 in 1980 to \$16,695 in 1982.

The regular contribution rate for funding the Judges' Retirement System is 32% of each judge's salary. This rate is comprised of 6% from the state, 20% from district court fees and 6% from each member. In addition, one-fourth of the fees collected by the supreme court are contributed to the system. This amount represents approximately 1% of salary which allows a total rate of approximately 33% of each member's salary.

The current contribution rate is barely adequate to meet the cost of the benefits as they accrue in the future and allows no funding towards the past service liability. It is therefore imperative that the contribution rate be increased substantially. The total increase recommended by this report is approximately 12%.

SECTION III

SCHEDULE 1

NORMAL COST ALLOCATION

(1) Normal Cost Contribution Rate:

(a) Retirement	21.598%
(b) Death	4.171
(c) Disability	7.632

(d) Total Rate	33.401%

(2) Present Value of Future Salaries
Of Current Members

\$12,515,480

(3) Present Value of Future Normal Costs
For Current Members (1(d) x (2))

\$ 4,180,296

SCHEDULE 2

PRESENT VALUE OF BENEFITS

(1) Present Value of Benefits - Inactive Members

(a) Retirement	\$ 1,730,158
(b) Death	227,785
(c) Disability	1,091,836
(d) Vested	410,373

(e) Total Inactive	\$ 3,460,152

(2) Present Value of Benefits - Active Members

(a) Retirement	\$ 7,590,349
(b) Death	947,977
(c) Disability	1,651,534

(d) Total Active	\$10,189,860

(3) Total Liabilities \$13,650,012

SCHEDULE 3

CONTRIBUTION AND LIABILITY ALLOCATIONS

(1) Unfunded Accrued Liability

(a) Present Value of Benefits	\$ 13,650,012
(b) Present Value of Future Normal Costs	4,180,296
(c) Fund Assets	3,908,270

(d) Unfunded Liability (a)-(b)-(c)	\$ 5,561,446

(2) Contribution Rates Amortized Over 40.00 Years

(a) Present Value of Salaries During Next 40.00 Years	\$ 46,585,004
(b) Unfunded Contribution Rate 1(d)/2(a)	11.938%
(c) Normal Cost Rate (Schedule 1)	33.401%

(d) Total Funding Rate	45.339%

SCHEDULE 4
COMPARISON OF VALUATIONS

	<u>1980</u>	<u>1982</u>
Liability for Future Service	\$3,052,453	\$4,180,296
Unfunded Liability	\$4,221,166	\$5,561,446
Assets	\$2,769,292	\$3,908,270
Normal Cost Rate	33.19%	33.40%
Unfunded Liability Rate	11.78%	11.94%
Total Recommended Rate	44.97%	45.34%
Annual Payroll	\$1,180,287	\$1,525,150
Annual Benefits	\$ 198,325	\$ 233,736
Number of Active Members	33	36
Number of Retired Members	9	10
Number of Disabled Members	3	3
Number of Survivors	1	1
Number of Inactive Members	1	2

SCHEDULE 5

TABLE 1
NUMBER OF ACTIVE MEMBERS

COMPLETED YEARS OF SERVICE	AGE GROUP										TOTAL
	UNDER 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	OVER 65	
0-4			1	2	3		1	1	4		12
5-9					1		1	2		2	6
10-14							2	2	3	1	8
15-19						1	1		1	1	4
20-24								1	1	2	4
25-29										1	1
30-34										1	1
35-39											
40-UP											
TOTAL			1	2	4	1	5	6	9	8	36

TABLE 2
ANNUAL SALARIES OF ACTIVE MEMBERS
IN THOUSANDS

COMPLETED YEARS OF SERVICE	AGE GROUP										TOTAL
	UNDER 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	OVER 65	
0-4			42	84	127		42	42	171		508
5-9					43		42	84		84	253
10-14							84	84	127	42	337
15-19						42	42		42	42	168
20-24								42	44	85	171
25-29										42	42
30-34										42	42
35-39											
40-UP											
TOTAL			42	84	170	42	210	252	384	337	1521

TABLE 3
AVERAGE SALARIES OF ACTIVE MEMBERS

COMPLETED YEARS OF SERVICE	AGE GROUP										TOTAL
	UNDER 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	OVER 65	
0-4			42125	42125	42486		42125	42125	42666		42395
5-9					43208		42125	42125		42125	42305
10-14							42125	42125	42486	42125	42260
15-19						42125	42125		42125	42125	42125
20-24								42125	44288	42666	42936
25-29										42125	42125
30-34										42125	42125
35-39											
40-UP											
TOTAL			42125	42125	42666	42125	42125	42125	42726	42260	42365

TABLE 4
SUMMARY OF RETIREES

NUMBER OF MEMBERS

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	1	1	3	1	2	2	10

TOTAL MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	1694	1426	3381	1832	2342	1726	12401

AVERAGE MONTHLY BENEFIT

AGE GROUP

UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	1694	1426	1127	1832	1171	863	1240

TABLE 5
SUMMARY OF DISABLED

NUMBER OF MEMBERS								
AGE GROUP								
UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	3	0	0	0	0	3

TOTAL MONTHLY BENEFIT								
AGE GROUP								
UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	5516	0	0	0	0	5516

AVERAGE MONTHLY BENEFIT								
AGE GROUP								
UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	1839	0	0	0	0	1839

TABLE 6
SUMMARY OF SURVIVORS

NUMBER OF MEMBERS								
AGE GROUP								
UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	0	1	0	0	0	1

TOTAL MONTHLY BENEFIT								
AGE GROUP								
UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	0	1560	0	0	0	1560

AVERAGE MONTHLY BENEFIT								
AGE GROUP								
UNDER 55	55-59	60-64	65-69	70-74	75-79	80-84	OVER 84	TOTAL
0	0	0	0	1560	0	0	0	1560

SECTION IV

ACTUARIAL FUNDING METHOD AND ASSUMPTIONS

The true cost of the Judges' Retirement System will be determined by its future experience. In determining the financial requirement of the fund, certain assumptions were made as to the expected future experience. This section summarizes the funding method applied as well as the basic assumptions used.

Any variations in the actual experience of the fund from those assumed in this valuation may cause changes in the projected future costs of the fund. It is therefore necessary that the actuarial assumptions be reviewed from time to time with adjustments as experience warrants. It is also important that regular valuations be performed to determine the financial effect of variations between the actual and assumed experience.

The assumptions shown below were based upon the past experience of the fund together with the projections as to future experience.

FUNDING METHOD

The method of funding employed is commonly referred to as the entry age normal cost method. This method establishes a normal cost of each fund as well as an unfunded accrued liability. The normal cost is the level percentage of total salaries required to fund the benefits, assuming this percentage has been contributed since each member's entry into the fund.

The unfunded accrued liability represents the excess of the present value of total liabilities over the present assets of the fund and the present value of expected future contributions for the normal cost.

In order to maintain the fund on an actuarially sound basis, the rate of contribution should be such as to meet the normal cost in addition to making progress towards the amortization of the unfunded liability.

ACTUARIAL ASSUMPTIONS

Mortality Rates

The mortality rates are based upon the 1971 Group Annuity Mortality Table.

<u>Age</u>	<u>Death Per 100,000</u>
25	62
30	81
35	112
40	163
45	292
50	529
55	852
60	1,312
65	2,126
70	3,611
75	5,529
80	8,743
85	13,010

Disability Rates

The disability rates are based upon the rates published by the Railroad Retirement Board in its seventh valuation.

<u>Age</u>	<u>Disabilities per 100,000 Active Members</u>
25	30
30	30
35	40
40	90
45	190
50	340
55	620
60	1,822
65	3,150

Salary Scale

The salary increases are based on projected experience with an underlying inflationary adjustment of 5½% representing cost-of-living increases

<u>Age</u>	<u>Expected Salary at age 65 as a Multiple of Current Salary</u>
40	4.29
45	3.21
50	2.40
55	1.79
60	1.34
65	1.00

Investment Earnings

A rate of 7% per annum was assumed for future investment earnings.

SECTION V

SUMMARY OF BENEFITS AND CONTRIBUTIONS

Effective Date - July 1, 1967

Member Contributions - 6% of salary

State Contributions - 6% of active judges' salaries, plus 20% of salaries payable from district court fees in addition to one-fourth of supreme court fees.

Retirement Benefit - Minimum service: 5 years
Minimum age: 65
Mandatory retirement: 70

Normal form: Life annuity with a death benefit equal to the present value of the retirement allowance at the date of retirement less retirement benefits paid to date (full cash refund annuity).

Benefit: $3 \frac{1}{3}\%$ of the current monthly salary for the office retired from for each of the first 15 years of credited service, plus 1% per year of such monthly salary for each year of service in excess of 15 years.

Disability Benefit - Service disability: Larger of 50% of monthly salary and accrued benefit.

Non-service disability: Actuarial equivalent of the member's accrued retirement benefit; or accrued retirement benefit if over age 60.

Death Benefit - Service death: Member's accrued retirement benefit.

Non-service death: Actuarial equivalent of the benefit which would have been payable had the member terminated for reasons other than death.

SECTION V

(CONTINUED)

Termination Benefit -

If service discontinued prior to completion of 5 years of service, return of accumulated contributions without interest. If service discontinued after 5 years but less than 12 years of service, either return of the aggregate of accumulated contributions with interest or the actuarial equivalent of the member's accrued benefit. After 12 or more years, either return of the aggregate of accumulated contributions plus interest or the accrued retirement benefit.

Do Pass

Exhibit C
HB 714
2/15/83

STATEMENT OF INTENT
____ Bill No. ____ [LC 1230]

A statement of intent is required for this bill because it grants rulemaking authority to the Human Rights Commission in section 2.

The intent of this bill is to eliminate a confusion which now exists between the Human Rights Act and the Governmental Code of Fair Practices by establishing general consistency in the enforcement of these two chapters by the Human Rights Commission. Therefore, it is the intent of the Legislature that the rules adopted by the Commission under the Governmental Code of Fair Practices be modeled after and be as consistent as practicable with the rules adopted by the Commission under the Human Rights Act.