

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 18, 1983

The ninth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on January 18, 1983 at 10:02 a.m. in Room 325, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 90:

AN ACT GRANTING AUTHORITY TO THE WATER COURT
TO ASSESS FEES AND PROVIDING THAT SUCH FEES
BE PLACED IN THE WATER RIGHT ADJUDICATION
ACCOUNT; AMENDING SECTION 85-2-241, MCA.

Senator Boylan, co-sponsor of this bill, stated it was drafted at the request of the Water Courts. It was the intention of the Water Judges that they be given the authority to assess fees for transcripts. However, it has come to their attention that people are fearful that they are to be charged for the adjudication of their water rights. Therefore, the Water Judges have decided that rather than have their intention misinterpreted, they will get along without the fees, and thus there is no reason for Senate Bill 90. Judge Lessley voiced his approval (See Exhibit "A").

DISPOSITION OF SENATE BILL 90: Senator Mazurek moved that SB90 DO NOT PASS. This motion carried unanimously.

CONSIDERATION OF SENATE BILL 99:

AN ACT PROVIDING FOR THE ASSIGNMENT AND TRANSFER
OF JUDGES, WATER MASTERS, AND OTHER COURT PERSON-
NEL IN THE GENERAL ADJUDICATION OF WATER RIGHTS;
AMENDING SECTIONS 3-7-223, 3-7-301, AND 19-5-103,
MCA.

Senator Hager, sponsor of this bill, explained its purpose to the Committee. The Water Judges feel they should have the ability to move their staff, Water Masters and themselves to any water division or basin.

Judge Lessley, Chief Water Judge, re-affirmed Senator Hager's explanation and stated that all the Water Judges were in agreement as to the necessity for this legislation. He further explained that it was common sense, economical and highly desirable to handle the water program in this manner.

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Ken Kelly, representing the Montana Water Development Association, voiced his support for SB99 and encouraged the Committee to pass it.

There being no further proponents, and no opponents, hearing on SB99 was closed.

DISPOSITION OF SENATE BILL 99: Senator Galt moved that SB99 DO PASS. This motion carried unanimously.

CONSIDERATION OF SENATE BILL 93:

AN ACT ALLOWING THE DEPARTMENT OF JUSTICE TO
ESTABLISH A CRIMINAL INTELLIGENCE INFORMATION
SECTION WITHIN ITS CRIMINAL INVESTIGATION
BUREAU; AMENDING SECTIONS 44-5-102, 44-5-303,
AND 44-5-402, MCA.

Senator VanValkenburg, sponsor of the bill, advised the Committee that it was being introduced at the request of the Board of Crime Control. It is the Board's feeling that there is an urgency for the establishment of a criminal intelligence information section in the Department of Justice. This section would collect and receive information from law enforcement agencies.

Mike Lavin, Administrator with the State Board of Crime Control, emphasized the need to establish some kind of mechanism for a state-wide intelligence system.

Larry Petersen, Chief of the Research and Planning Bureau for the Board of Crime Control, explained how the identity of suspicious people could be transferred to law enforcement agencies through this criminal intelligence information section. A flow-chart was displayed to demonstrate how the system would work.

Dale Dye, Sheriff of Ravalli County and member of the Montana Sheriff and Peace Officer's Association, informed the Committee how this bill would establish an advisory committee. Information on suspicious persons would be put into a criminal information system but would not be released unless approval was obtained from the source supplying the information. In this way, there would be safeguards against information getting out to the wrong people.

Chuck O'Reilly, Sheriff of Lewis and Clark County, explained that there was a need for communication between law enforcement agencies and since the discontinuation of the "hood book," which had been supplied at the Attorney General's yearly conference, there is now no way to provide information on criminal activities taking place around the state.

Glenn Frame, representing the Montana Sheriffs and Peace Officer's Association, encouraged the Committee to pass SB93.

Robert Deschamps, Missoula County Attorney, stated that criminal intelligence is vital to making decisions when prosecuting. He strongly recommended the passage of this bill.

Howard Sellers of the Whitefish Police Department, stated he supported SB93 as there is a prime need for small law enforcement agencies to have access to information around the state. This would enable agencies such as his to be much more effective and efficient when investigating crimes.

Bill Ware, representing the Montana Chief of Police Association, voiced his supported and urged the passing of SB93.

There being no further proponents, and no opponents, the hearing was opened to questions from the Committee.

Senator Galt questioned what happened to the "hood book" and Sheriff O'Reilly advised that it had fallen into the wrong hands and become the issue of a law suit. It was for this reason it was discontinued. He then reiterated that this new system, under SB93, would implement safeguards for the protection of privacy.

Senator Crippen questioned the photo and fingerprinting section explained in the bill and Senator VanValkenburg explained the need for this.

Chairman Turnage questioned if there was a way to expunge information wrongfully entered into the system. Gary Carrell, Chief of the Criminal Investigation Bureau, advised that there would be a method for reviewing and expunging information periodically by the advisory council.

Senator Crippen questioned the role of the council. Senator VanValkenburg explained that the council would have a large role at the onset of the program and they would safeguard and guarantee civil rights. He also informed the Committee that the advisory council should include a member of the legislature.

Chairman Turnage questioned why no provision had been included for the continuity of the advisory council members. Senator VanValkenburg acknowledged this as a good point. It was then recommended that the bill should be amended to provide for the continuity of the council. Chairman Turnage also suggested that perhaps the council should include a member from the House and a member from the Senate, so as to be bipartisan.

Chairman Turnage also questioned why the County Attorneys' Offices had not been included as a participating agency. Gary Carrell advised that this was discussed before the drafting of the bill and it was felt that the County Attorney's Office could obtain information through the Sheriff's Office or Police Department.

Senator Berg expressed a need for a fiscal note. Senator VanValkenburg advised that operation of this program would be approximately \$50,000 per year; however, he felt it could be done for much less.

Chairman Turnage stated there is a definite need for confidentiality and expressed concern that over-zealous criminal attorneys may be able to access information through subpoenas. Dorothy McCarter, an Assistant Attorney General who worked on the bill draft, reiterated that the bill provides that the information would be restricted exclusively to law enforcement agencies. Chairman Turnage felt there was still more need for the bill to be more specific about security.

There being no further proponents, and no opponents, hearing on SB93 was closed.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 11:02 a.m.



JEAN A. TURNAGE

Chairman, Judiciary Committee

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 1-18-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

DATE

January 18, 1983

COMMITTEE ON

Judiciary

BILL NO. SB90, 93 & 99

VISITOR'S REGISTER

NAME

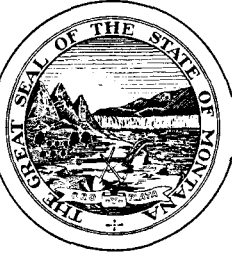
REPRESENTING

Check One
Support Oppose

Edmund Maynard	Attorney General SB 93	✓	
Paul K. Boyer	Water Court	✓	
Sen. Dist 38			✓
Sen. Dist 30	SB 90		✓
Water Court	SB 90		✓
Mont. Sheriff & Peace Officers Assn	SB 93	✓	
Mont. Sheriff & Peace Officers Assn	SB 93	✓	
Sherriff Ravalli Co MSPDA		✓	
Senate Dist 50	SB 93	✓	
Mt. Crim. Justice Bureau	SB 93	✓	
Whitefish Police Dept.	SB 93	✓	
Helena Chief of Police / Mt. Chief of Police Assn	SB 93	✓	

(Please leave prepared statement with Secretary)

EXHIBIT "A"
January 18, 1983



MONTANA WATER COURTS

STATE OF MONTANA

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W. W. Lessley
P.O. Box 1568
Bozeman, MT 59715

Lower Missouri River Basin
Judge Bernard W. Thomas
P.O. Box 938
Chinook, MT 59523

Clark Fork River Basin
Judge Robert M. Holter
Lincoln County Courthouse
Libby, MT 59923

Yellowstone River Basin
Judge Jack D. Shanstrom
P.O. Box 1568
Bozeman, MT 59715

January 14, 1983

Senator Jean Turnage
Senate Judiciary Committee
Montana State Senate
State Capitol
Helena, Montana 59620

Dear Senator Jean:

On January 18, 1983, at 10:00 A.M., your Judiciary Committee is scheduled to hear Senate Bills 90 and 99.

Senate Bill 90 was intended to provide a specific provision in the law for the Water Courts to assess fees for such charges as photocopying, preparation of transcripts and other "clerk of court" related services. However, since the introduction of Senate Bill 90, the Governor's Office has indicated that a bill would be introduced to assess additional fees for the costs of the adjudication against those parties who filed a water right claim. Senate Bill 90 was never intended to do such a thing. However, there has been some confusion created and some parties believe that in fact that is the purpose of this bill. As a consequence, to eliminate this fear, we are going to suggest that the sponsor of this bill, Senator Boylan, recommend that it be killed.

Senate Bill 99 is designed to allow the Water Courts to move staff to work anywhere they are needed so that we have flexibility with staff to get this job done as quickly as possible. We have enclosed an additional explanation to that bill if you need further information regarding it.

Thank you for your time. If you should have any questions, please feel free to call us at 449-4621 or 586-4364.

Sincerely yours,

W. W. Lessley
W. W. Lessley
Chief Water Judge

"...to expedite and facilitate the adjudication of existing water rights."

CH. 697 L. 1979

WWL/cj

encls.

EXHIBIT "B"
January 18, 1983



MONTANA WATER COURTS
STATE OF MONTANA

Leanne M. Schraudner
Water Master - Upper Missouri
PO Box 1566
Bozeman MT 59711
Phone (406) 586 4364

WATER JUDGES:

Upper Missouri River Basin
Chief Judge W. W. Leslie,
PO Box 1050
Bozeman MT 59715

Lower Missouri River Basin
Judge Bernard W. Thomas
PO Box 936
Chinook MT 59520

Clark Fork River Basin
Judge Robert M. Holter
Lincoln County Courthouse
Libby MT 59923

Yellowstone River Basin
Judge Jack D. Shanstrom
PO Box 439
Livingston MT 59047

EXPLANATION OF SENATE BILL 99

In a nutshell, this bill is designed to allow the Water Courts to move staff to work on any drainage basin they are needed so that we have the flexibility to enable us to get this job done as quickly as possible. It allows the use of Water Masters, Water Judges, and other personnel in several divisions.

By substituting may for shall in Section 3-7-301 M.C.A., the Water Courts are not required to appoint Water Masters. This change is suggested to eliminate hiring Masters when the work load does not demand their services.

STANDING COMMITTEE REPORT

January 18, 19 83

MR. **PRESIDENT**

We, your committee on **Judiciary**

having had under consideration **Senate** Bill No. **90**

Respectfully report as follows: That **Senate** Bill No. **90**

(Introduced Bill)

~~DO PASS~~
DO NOT PASS

Jean A. Turnage, Chairman.

JAC

STANDING COMMITTEE REPORT

.....January 18..... 19.....83

MR. **PRESIDENT**

We, your committee on **Judiciary**

having had under consideration **Senate** Bill No. **99**.....

Respectfully report as follows: That **Senate** Bill No. **99**.....
(Introduced Bill)

DO PASS

J.A.