

MINUTES OF THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

January 14, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Monday, January 14, 1985 at 10:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Representative Krueger who was previously excused by Chairman Hannah.

HOUSE BILL NO. 88: Hearing commenced on HB 88 (Authority over and powers of peace officer helping in another jurisdiction). Representative Keyser, chief sponsor of the bill, testified in its support. He stated that this act would provide that while a peace officer is in another jurisdiction which has requested his assistance, he is under the authority of the entity requesting his assistance. He offered an amendment which reads: "starting at line 22 after 'authority' strike 'and supervision'." (See Exhibit A) He said that direct supervision would be given to the commanding officer.

Clayton Bain, a member of the Montana Board of Crime Control, spoke in support of the bill. Mr. Bain pointed out to the committee the additions made to the bill as to when the peace officer has the same powers, duties, rights, privileges, and immunities as a peace officer of the requesting entity; and the officer is under the authority and supervision of the requesting officer or entity. He informed the committee that the bill has been approved by the Highway Patrol and the Montana Peace Officers Association.

There being no further proponents or opponents, Representative Keyser closed. Chairman Hannah opened the floor up for discussion on HB 88.

Representatives Addy and Bergene both questioned the civil liability the requested officers would have. Mr. Bain stated that this bill clarifies the authority question. Representative Addy questioned why the bill is really needed and why this bill would not require the officers to be subject to supervision of the requesting entity but give them further authority instead.

Representative Gould asked the question that in the event that a riot took place at the state prison, would the peace

officers requested come under the supervision of the Department of Institutions or the sheriff of Deer Lodge? Representative Keyser assumed they would act under the supervision of the warden.

Representative Mercer had some questions relating to line 22 of the bill. He feels this portion of the bill is confusing. He further stated that he is unclear as to whether the peace officers would come under the authority of the requesting officer or whether or not they have the authority. Representative Mercer feels that it should be clear as to who is going to be held liable in case an officer gets hurt, etc. He also brought up the point that a higher authority, under this bill, could be under the authority of a lesser authority. Mr. Bains stated that the person requesting the service should certainly expect the requested officer to act under his supervision.

Mr. Bains also pointed out that there are no formal agreements between the officers before assuming a particular assignment. Presently, the requesting officer informs the officers of their duties.

There being no further discussion, Chairman Hannah closed the hearing on HB 88.

CONSIDERATION OF HOUSE BILL NO. 53: (Limiting consent to annex to signers of the consent time) Hearing commenced on HB 53 with chief sponsor, Representative Tom Hannah, testifying in support of it. He informed the committee members that there are some problems with the bill in its present form. He feels the bill is much broader than what he intended it to be. He said that it was not his intention to repeal section 7-13-4314. His intention deals with the waiver that the city of Billings and other cities have. In the case of Billings, when someone is building on a plot, in order to get a building permit, they have to sign a paper agreeing that if any special improvement districts arise, they cannot protest. He feels that this is an unfair practice and that the people should, in fact, have the right to protest. (See Exhibit B)

There were no further proponents or any opponents of the bill.

Acting chairman, Dave Brown, opened the floor up for discussion on this bill. Representative Eudaily had a question about the inconsistency of section 3 of the bill. Representative Hannah stated that he didn't have any problems with the city's requirement to annex before services are given.

Acting Chairman Brown informed the committee that some of the questions pertinent to HB 53 could be hashed out among themselves. Further discussion will be had during the executive session.

Representative Hannah informed the committee that a joint hearing on HB 16 (and another bill not yet filed with the committee) dealing with water access bills is scheduled for hearing with House Committees Fish and Game and Agriculture for Tuesday evening, January 22, 1985 at the hour of 7:00 p.m. in the Senate Judiciary Room. He further informed the committee that executive action would take place on the bills considered today for tomorrow morning, January 15th.

ADJOURN: A motion made and seconded, Chairman Hannah adjourned the meeting at 11:10 a.m.

  
TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-14-85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger			✓
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		



Ex. A  
HB. 88  
1-14-85

TO: Chairman and members of the House Judiciary Committee

Amendment to House Bill 88

Starting at line 22 after "authority" strike "and supervision"

Exhibit B  
H.B. 53  
1-14-85

GENERAL WAIVER

For valuable consideration, the undersigned being all of the owners of the hereinafter described property, do hereby waive the right to protest the formation of one or more special improvement district or districts for the construction of streets, curbs and gutters, sidewalks, driveways, street name signs, streetlights, waterlines, sanitary sewer lines, storm sewer lines either within or without the area to provide drainage for runoff water for the property hereinafter described and other improvement which are required by the city of Billings.

This waiver is in agreement, is independent of all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successor and assigns, and the same shall be recorded in the office of the county clerk and recorder of Yellowstone, Montana.

The property hereinabove mentioned is more particularly described as follows, to-wit:

(Legal description)

Dated this \_\_\_\_\_ of January, 1985.

Signees:

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(NOTARY)