

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 29, 1985

An executive session of the Judiciary Committee was called to order by Chairman Tom Hannah on Friday, March 29, 1985 at 8:45 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Reps. Brown who was previously excused; Addy; Grady; and Hammond.

RE-CONSIDERATION OF SENATE BILL NO. 116: Rep. O'Hara moved to take SB 116 off the table. He said that he also intended to move at a later time that the bill be stripped of all the amendments previously adopted. Rep. O'Hara submitted a copy of his proposed amendments which were marked Exhibit A and attached.

Marc Racicot from the Attorney General's Office appeared and addressed the committee. He said the first amendment proposed by Senator O'Hara would cure any kind of a constitutional problem that may arise.

Rep. Krueger said he has a problem with this new proposed language. He feels that it would take the discretionary aspect away from the Court.

Mr. Racicot made the comment that cities are benefiting substantially from the services provided by the county attorneys.

Rep. O'Hara asked Mr. Racicot if the a \$2.00 parking ticket would be increased to \$12.00 under this bill. Mr. Racicot replied, "no."

Rep. Hannah seconded the motion to take SB 116 off the table, and the motion carried 8-6. (See roll call vote.)

Because of the press of time, the meeting was adjourned at 9:03 a.m. Chairman Hannah informed the committee that SB 116 will be further considered tomorrow morning, March 30, 1985 at 7:00 a.m.



REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-29-85

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	✓		

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 29, 1985 BILL NO. SB 116 TIME 9:00 a.m.

NAME	AYE	NAY
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		✓
Dave Brown (Vice Chairman)		
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. O'Hara moved to take SB 116 off the table. The
motion was seconded by Rep. Hannah and carried 8-6.

AMENDMENTS TO SENATE BILL 116

- 1) Page 2, Add subparagraph (4) which reads:
 - (4) The total of the charge imposed by this section and any fine assessed may not exceed the maximum fine authorized by law for the offense.
- 2) Page 6, Line 7, after the word "the" insert the word "first".
- 3) Page 6, Line 8, following the word "annual" strike the word "base" in both places.
- 4) Page 6, Line 9, After the word "attorney" insert the sentence, "The County Attorney who is a part-time official for a county of the fourth, fifth, sixth or seventh class is entitled to receive an annual salary equal to 50% of the annual salary of a full-time county attorney".

Amendements to SB 116:

1. Title, line 8.
Following: "ATTORNEYS;"
Insert: "REVISING THE PAY STRUCTURE FOR PROSECUTING ATTORNEYS;"

2. Title, line 12.
Following: "DEPUTIES;"
Insert: PROVIDING LONGEVITY PAY FOR COUNTY ATTORNEYS AND THEIR DEPUTIES;"

3. Title, line 14.
Following: "7-4-2502;"
Strike: "AND"
Insert: ", "

4. Title, line 15.
Following: "7-4-2503,"
Insert: "AND 7-4-2505,"

5. Page 1, line 20.
Following: "attorneys;"
Strike: "AND"
Insert: ", "

This is a crossed out comma, not a semi-colon

6. Page 1, line 24.
Following: "deputies"
Insert: ", and providing longevity pay for county attorneys and their deputies"

7. Page 2, following line 25.
Insert: "(4) The total of the charge imposed by this section and any fine assessed may not exceed the maximum fine authorized by law for the offense."
Re-number: subsequent subsections.

8. Page 3, line 3.
Following: "treasurer."
Strike: remainder of subsection (5) in its entirety.
Insert: "On or before the 10th day of each month, the local government finance officer or treasurer shall remit to the state treasurer for deposit to the state general fund \$10 for each misdemeanor case and the greater of \$20 or 10% of the fine levied in each felony case. A local government may retain up to 10% of the funds remitted to the state treasurer to cover only the costs of administering this section."

*again, would you please check ↑ against the minutes (Just # 8)
Thanks
Branch*

9. Page 4, line 1.

Following: "7-4-2503-~~(3)-(d)~~."

Insert: "Such salaries include the longevity increases provided by 7-4-2503 (3) (d)."

10. Page 6, line 7.

Following: "COUNTY OF THE"

Insert: "first,"

Following: "SECOND"

Insert: ", "

11. Page 6, line 8.

Strike: "base" twice

12. Page 6, line 9.

Following: "A county attorney who is a part-time official for a county of the fourth, fifth, sixth, or seventh class is entitled to receive an annual salary equal to 50% of the annual salary of a full-time county attorney."

13. Page 7, following line 22.

Insert: "(d) (i) After completing 4 years of service as county attorney or deputy county attorney, each part-time county attorney or deputy county attorney is entitled to an increase in salary of \$1,000 on the anniversary date of his employment as county attorney or deputy county attorney. After completing 5 years of service as county attorney or deputy county attorney, each part-time county attorney or deputy county attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of his employment. After completing 6 years of service as county attorney or deputy county attorney and for each year of service thereafter up to completion of the 11th year of service, each part-time county attorney or deputy county attorney is entitled to an additional annual increase in salary of \$500.

(ii) If a part-time county attorney has formerly served as deputy county attorney, his years of service as deputy must be included in the calculation of the longevity increase provided in this subsection (3) (d).

(iii) The years of service as a county attorney or deputy county attorney accumulated prior to [the effective date of this act] must be included in the calculation of the longevity increase."

14. Page 8, following line 9.

Insert: "Section 4. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) Subject to subsection (2), the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant of the following officers:

- (a) clerk and recorder;
- (b) clerk of the district court;
- (c) treasurer;
- (d) assessor;

(e) county attorney;

(f) auditor.

(2) (a) The salary of a deputy or an assistant listed in subsection (1) , excluding longevity payments provided in 7-4-2503(3)(d), may not be more than 90% of the salary of the officer under whom such deputy or assistant is serving.

(b) Where any deputy or assistant is employed for a period of less than 1 year, the compensation of such deputy or assistant shall be for the time so employed, provided the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants except as provided herein.

(c) Deputy assessors' salaries shall be the same as paid the deputy clerk and recorder.""

Renumber: subsequent sections.

15. Page 9, following line 10.

Insert: "NEW SECTION. Section 6. Nonseverability. It is the intent of this legislature that each part of this act is essentially dependent upon every other part and if one part is held unconstitutional or invalid, all other parts are invalid."