

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 29, 1986

The seventh meeting of the Senate Judiciary Committee for the 49th Second Special Session was called to order at 4:50 P.M. on March 29, 1986, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

ACTION ON SB 12: Senator Towe made a motion to amend SB 12 per the amendments presented to the committee and attached as Exhibit 1. He stated this is a compromise in that we are taking Senator Crippen's bill and simply putting in the two-thirds vote both on the private and the public liability. He said this would in effect mean that we would use the same language talked about before in Representative Bardanouve's bill.

Senator Mazurek said that Bardanouve's language is contained in amendments numbered four and five.

Senator Crippen does not think this is a compromise at all.

Senator Mazurek said this bill allows, with the amendments, tort reform to be accomplished and makes it clear in the constitution that you can do that. The only difference is that before you put a maximum dollar cap it says "a maximum dollar amount of compensatory damages that may be recovered for injuries may not be enacted except by a two-thirds vote of each house of the legislature". He thinks this is a reasonable compromise and he supports this amendment.

Senator Crippen said your argument about maximum caps is fine, you are using that argument in one hand but in the other hand you are insuring that rather than legislate by the majority you are saying that we will do it by a two-thirds vote. You could use this argument for a number of things but you are just getting away from the majority vote. He asked Senator Towe for the definition of compensatory damages.

Senator Towe said damages that compensate for a loss suffered as a result of an injury.

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Senator Crippen asked if that had to be a physical injury.

Senator Towe said it cannot be punitive damages.

Senator Crippen said he thinks compensatory damages is much more than just an injury to someones' body.

Senator Towe said this will not affect the legislature's prerogative to define injuries or to determine bad faith. What we are saying is if you are coming in with dollar limits then a two-thirds vote would be required.

Senator Shaw said this is a referendum that is going out to the people to vote on and the people sure will accept the two-thirds vote as they don't have a bit of trust in the legislature. He objects to putting the two-thirds in the constitution.

Senator Towe's motion carried with a vote of 6-4. See attached Roll Call Vote sheet.

Senator Towe made a motion that SB 12 DO PASS AS AMENDED. The motion carried with a vote of 6-4. See attached Roll Call Vote sheet.

The meeting adjourned at 5:00 P.M.



COMMITTEE CHAIRMAN

Amendments to SB 12, introduced (white) copy.

1. Title, line 5.

Following: "MONTANA"

Strike: "AMENDMENTS"

Insert: "AN AMENDMENT"

2. Title, line 9.

Following: "PROCEEDINGS;"

Insert: "REQUIRING A TWO-THIRDS VOTE OF EACH HOUSE OF THE
LEGISLATURE TO ESTABLISH A MAXIMUM DOLLAR AMOUNT OF
COMPENSATORY DAMAGES;"

3. Page 2, line 23.

Following: "proceeding."

Insert: "A law establishing a maximum dollar amount of
compensatory damages that may be recovered for injuries may
not be enacted except by a two-thirds vote of each house of
the legislature."

4. Page 3, line 2.

Following: "The"

Insert: "extent of civil liability and provisions governing
immunity or nonimmunity from suit for the"

5. Page 3, lines 3 and 4.

Following: "be" on line 3

Strike: the remainder of line 3 through "property" on line 4

Insert: "as provided by law"

6. Page 3, line 12.

Following: "(1)."

Insert: "A law establishing a maximum dollar amount of
compensatory damages that may be recovered for injuries may
not be enacted except by a two-thirds vote of each house of
the legislature."

7. Page 3, line 23.

Following: "entities"

Insert: ", but requiring a two-thirds vote of each house to set
a maximum dollar amount of compensatory damages which may be
recovered"

8. Page 4, line 2.

Following: "entities"

Insert: ", but requiring a two-thirds vote of each house to set
a maximum dollar amount of compensatory damages which may be
recovered"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 032986

BILL NO. SB 12

JUDICIARY

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 3-29-86

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Chet Blaylock</u>	✓		
<u>Senator Bob Brown</u>	✓		
<u>Senator Bruce Crippen</u>	✓		
<u>Senator Jack Galt</u>	✓		
<u>Senator R.J. Pinsoneault</u>	✓		
<u>Senator James Shaw</u>	✓		
<u>Senator Tom Towe</u>	✓		
<u>Senator William Yellowtail, Jr.</u>	✓		
Vice Chairman <u>Senator M. K. "Kermit" Daniels</u>	✓		
Chairman <u>Senator Joe Mazurek</u>	✓		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date March 29, 1986 Bill No. SB-12 Time 4:59 P.M.

NAME	YES	NO
Senator Chet Blaylock	X	
Senator Bob Brown		X
Senator Bruce D. Crippen		X
Senator Jack Galt		X
Senator R. J. "Dick" Pinsoneault	X	
Senator James Shaw		X
Senator Thomas E. Towe	X	
Senator William P. Yellowtail, Jr.	X	
Vice Chairman		
Senator M. K. "Kermit" Daniels	X	
Chairman		
Senator Joe Mazurek	X	

Aggie Hamilton
Secretary

Senator Joe Mazurek
Chairman

Motion: Senator Towe's motion to amend SB 12 per attached

Exhibit 1. The motion carried 6-4.

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date March 29, 1986 Bill No. SB 12 Time 5:00 P.M.

NAME	YES	NO
Senator Chet Blaylock	X	
Senator Bob Brown		X
Senator Bruce D. Crippen		X
Senator Jack Galt		X
Senator R. J. "Dick" Pinsoneault	X	
Senator James Shaw		X
Senator Thomas E. Towe	X	
Senator William P. Yellowtail, Jr.	X	
Vice Chairman Senator M. K. "Kermit" Daniels	X	
Chairman Senator Joe Mazurek	X	

Aggie Hamilton
Secretary

Senator Joe Mazurek
Chairman

Motion: Senator Towe's motion that SB 12 DO PASS AS AMENDED.

STANDING COMMITTEE REPORT

March 29,

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MR. PRESIDENT

We, your committee on..... **JUDICIARY**

having had under consideration..... **Senate Bill** No. **12**

first reading copy (white)
color

LEGISLATIVE AUTHORITY FOR PRIVATE AND PUBLIC LIABILITY LIMITS

Respectfully report as follows: That..... **Senate Bill** No. **12**

be amended as follows:

1. Title, line 5.

Following: "MONTANA"

Strike: "AMENDMENTS"

Insert: "AN AMENDMENT"

2. Title, line 9.

Following: "PROCEEDINGS;"

Insert: "REQUIRING A TWO-THIRDS VOTE OF EACH HOUSE OF THE
LEGISLATURE TO ESTABLISH A MAXIMUM DOLLAR AMOUNT OF
COMPENSATORY DAMAGES;"

3. Page 2, line 23.

Following: "proceeding."

Insert: "A law establishing a maximum dollar amount of
compensatory damages that may be recovered for injuries may
not be enacted except by a two-thirds vote of each house of
the legislature."

4. Page 3, line 2.

Following: "The"

Insert: "extent of civil liability and provisions governing
immunity or nonimmunity from suit for the"

~~XXXX~~
66-PA55

~~XXXXXX~~
66-PA56

(continued)

Chairman.

March 29, 1986

5. Page 3, lines 3 and 4.

Following: "be" on line 3

Strike: the remainder of line 3 through "property" on line 4

Insert: "as provided by law"

6. Page 3, line 12.

Following: "(1)."

Insert: "A law establishing a maximum dollar amount of compensatory damages that may be recovered for injuries may not be enacted except by a two-thirds vote of each house of the legislature."

7. Page 3, line 23.

Following: "entities"

Insert: ", but requiring a two-thirds vote of each house to set a maximum dollar amount of compensatory damages which may be recovered"

8. Page 4, line 2.

Following: "entities"

Insert: ", but requiring a two-thirds vote of each house to set a maximum dollar amount of compensatory damages which may be recovered"

AND AS AMENDED DO PASS

Senator Joe Nagurek, Chairman