

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Judiciary Committee was called to order in room 312 D of the Capitol on January 23, 1987 at 8:00 a.m. by Chairman Earl Lory.

ROLL CALL: All members were present with the exception of Rep. Mercer and Rep. Miles who were excused.

EXECUTIVE ACTION:

ACTION ON HOUSE BILL NO. 79, (Exhibit A):

REP. GOULD moved DO PASS as amended. Question called and a voice vote was taken. All members voted DO PASS except for Rep. Cobb and Rep. Giacometto who opposed.

HOUSE BILL NO. 135:

REP. ADDY moved to table this bill. This motion CARRIED unanimously.

ACTION ON HOUSE BILL NO. 72:

REP. BULGER moves DO NOT PASS. REP. GOULD spoke to two judges on this bill and both judges agreed that if there is a six person jury and they vote four out of six you only have one over a simple majority, that makes it awfully easy. If these bills were amended to say that it would take five out of six then it probably would not be too bad of an idea. If the committee would go along with that, he would vote to pass the bill.

REP. ADDY stated that he does have that amendment penciled in on his copy. He proposes that an amendment be added.

REP. BULGER stated that statistically the chances of getting five out of six is somewhat similiar to getting eight out of twelve. But he does not object to putting an amendment on.

CHAIRMAN LORY asked Rep. Addy if he wanted to put an amendment onto this bill. Rep. Addy moved to amend Page One, line 19, strike: "2/3" and insert: "5 members".

CHAIRMAN LORY asks John MacMaster if this can be done. Mr. MacMaster stated that in all criminal actions, the verdict

shall be unanimous. In all civil actions, 2/3 of the jury may render the verdict. We can not set a higher percentage. Rep. Addy WITHDRAWS the amendment.

REP. BROWN opposes the bill. He stated that the Federal Court has the ability to inpanel six jurors, in that case, all are required for a verdict.

REP. MEYERS hopes this bill can be fixed so it will pass. He feels the time spent by 12 jurors sometimes is too time consuming and costs too much money. Question was called for and a voice vote was taken. TEN MEMBERS voted IN FAVOR of the motion with FOUR MEMBERS OPPOSING. Motion was PASSED.

ACTION ON HOUSE BILL NO. 202:

REP. ADDY moves to table this bill.

CHAIRMAN LORY asked John MacMaster to clarify why this legislation is needed. Mr. MacMaster stated that there is already a clear confidentiality privilege in the code which does exactly what this bill does. Rep. Giacometto called the question. ALL MEMBERS UNANIMOUSLY VOTED TO TABLE THIS BILL.

ACTION ON HOUSE BILL NO. 123:

REP. GIACOMETTO moves DO PASS. A discussion on HB 123 followed.

REP. HANNAH opposes this bill.

REP. ADDY stated this is a departure from the way judges were elected in the past but this is only for parties who are able to pay for the judge's time anyway. This bill would free up the time for the best judges. He wishes more lawyers had experience in deciding cases rather than adjudicating cases.

REP. EUDAILY opposes the fact that lawyers will be chosen to act on cases as judges.

REP. COBB stated that cases can already go to binding arbitration and he has concerns with more cases going to these judges and more rulings that might effect other people besides the two parties. Right now the parties can go to binding arbitration to solve their problem without creating

a lot of new rules and laws that might effect a lot of other people.

REP. GIACOMETTO felt a point that must be brought out is that these two people are going to choose this person to be judge so that no one is getting a bad deal. Both parties are happy with who they choose. It takes a lot of heat off the court system. He supports this bill.

REP. GOULD opposes the bill.

REP. MEYERS stated in criminal actions it is entirely working with specialists but what about civil actions?

REP. ADDY answered and stated in a binding precedent the only court that can decide a point of law that is binding upon district courts is the Supreme Court. District Judges can not bind other courts by their decision. If one of those two parties felt the decision was unfair, they could appeal it to the Supreme Court, just as they can right now. Question called for and a VOICE VOTE was taken. SIX MEMBERS voted IN FAVOR of the motion taken. Rep. Miles voted by proxy and voted aye. EIGHT MEMBERS voted to OPPOSE the motion. Rep. Mercer did not leave a proxy vote so the voting may result in a tie. Chairman Lory asked that the vote be held for the present time. All members agreed to hold the vote.

ADJOURNMENT: There being no further business, the meeting was adjourned at 11:15 a.m.



REP. EARL LORY, Chairman

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 23, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)			✓
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓	✓	✓
FRITZ DAILY (D)	✓	✓	
TOM HANNAH (R)	✓	✓	
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓	✓	
EARL LORY (R)	✓		

STANDING COMMITTEE REPORT

JANUARY 23,

19 87

JUDICIARY

Mr. Speaker: We, the committee on
HOUSE BILL NO. 72
report

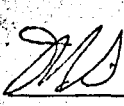
do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

"AN ACT AMENDING SECTION 3-15-106, MCA, TO AUTHORIZE A TRIAL JUDGE TO PERMIT THE IMPANELMENT OF A SIX-PERSON JURY IN ANY CIVIL ACTION."

 reading copy (_____)
color

STANDING COMMITTEE REPORT

JANUARY 23,

19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 79

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

AMENDMENTS TO HB 79, INTRODUCED COPY, PROPOSED BY REP. ADDY

1. Page 1, line 17.

Strike: " an employer, group, or organization"

Insert: "their employment"

EXHIBIT A

DATE 1-23-87

DO PASS AS AMENDED ~~HB~~ # 79

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