

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

March 23, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 23, 1987, at 7:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present.

EXECUTIVE SESSION:

ACTION ON SENATE BILL NO. 121:

Rep. Giacometto moved that SB #121, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED 11-2 with Reps. Cobb and Eudaily dissenting. SB #121 BE CONCURRED IN.

ACTION ON SENATE BILL NO. 139:

Rep. Grady moved that SB #139, Be Concurred In. Rep. Cobb moved the page 3 amendment of the bill. He explained that on page 3, Lines 5-6 and line 13, he is striking "willful or wanton misconduct" and inserting "gross negligence". Rep. Grady questioned Rep. Cobb in regard to this amendment asking him if it lowers the standard. Rep. Cobb pointed out that it is a lower duty and higher responsibility. Rep. Grady asked what the skiers currently have and he stated that responsibility needs to be put on the people. Rep. Giacometto acknowledged that he is against the amendment but pointed out that page two gives the list of everyone working on the trails. Rep. Meyers opposed the amendment. Question was called and a voice vote was taken. The motion CARRIED 8-7. (See Amendment Attached). Mr. McMaster explained that the added language starting on page 5, line 25 and going to page 6, line 9 was brought out by Rep. Mercer at the time of the hearing as being too broad, because it covers all recreational activities, and he said, that since Rep. Mercer is not here at this time, he felt that he should bring it up to the committee. He pointed out that line 2, states "provide recreational opportunities". Rep. Giacometto moved a clean up amendment on page 4, line 22 striking "effective" and inserting "effect of". Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendment Attached). Rep. Addy moved an amendment on page 6, line 5, striking "the department,". Question was

JUDICIARY COMMITTEE

March 17, 1987

Page

called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Grady moved that SB #139 Be Concurred In As Amended. Question was called and a voice vote was taken. The motion CARRIED 12-3. SB 130 BE CONCURRED IN AS AMENDED.

ACTION ON SENATE BILL NO. 152:

Rep. Brown moved that SB 152, Be Concurred In. Rep. Addy stated that the whole purpose of the bill is that the Supreme Court has held that the short statute of limitations is unconstitutional recently, so, this bill is conforming the statutory requirement of filing claims and there is no big policy question. Question was called and a voice vote was taken. The motion CARRIED 14-2, with Reps. Hannah and Giacometto dissenting. SB #152 BE CONCURRED IN.

ACTION OF SENATE BILL NO. 164:

Rep. Addy moved that SB #164, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB #164, BE CONCURRED IN.

ACTION OF SENATE BILL NO. 173:

Rep. Hannah moved that SB #173, Be Not Concurred In. Rep. Addy stated that the privilege is being changed an awful lot and when it comes to the marital relationship the privilege is being taken away. Rep. Miles pointed out that it is 1987 and we should think about the fact that one person can not tell a spouse what to say or not say. Rep. Addy stated that unless the person against whom the testimony is offered has the privilege, it is no privilege at all. He further stated that the relationship will not be secure between the husband and wife. Rep. Keller stated that the county attorney testified to the fact that times have changed and that this bill should pass. Rep. Miles requested that the committee at least consider passing sections two and three and section one could be deleted so that the good parts of the bill can be saved. Rep. Meyers agreed with the motion. Rep. Addy moved that sections 1, 3, and 4 be deleted. Rep. Hannah stated that was not worth saving and he moved to Table SB #173. Question was called and a voice vote was taken. The motion FAILED 5-11. Question was called and a voice vote was taken on Rep. Addy's amendment. The motion FAILED 6-9. Question was called. A Roll Call vote was called. The motion FAILED ON A TIE VOTE OF 9-9. (See Attached Roll Call Vote). Rep. Meyers moved that SB #173, be tabled. The motion CARRIED unanimously. SB #173 TABLED.

JUDICIARY COMMITTEE

March 13, 1987

Page

ACTION ON SENATE BILL NO. 223:

Rep. Bulger moved that SB #223, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB #223, BE CONCURRED IN.

ACTION ON SENATE BILL NO. 226:

Rep. Strizich moved that SB #226, Be Concurred In. Rep. Mercer moved an amendment on page 3, line 22, inserting the language "youth and the" following "ability of the". Question was called and a voice vote was taken. The motion CARRIED UNANIMOUSLY. (See Amendment Attached). Rep. Strizich moved that SB #226, Be Concurred In As Amended. Question was called and voice vote was taken. The motion CARRIED unanimously. SB #226, BE CONCURRED IN AS AMENDED.

ACTION ON SENATE BILL NO. 241:

Rep. Bulger moved that SB #241, Be Concurred In. Rep. Bulger moved amendments. Discussion followed with Rep. Mercer supporting the amendments. Question was called and a voice vote was taken. The motion CARRIED 14-1 with Rep. Giacometto dissenting. (See Amendments Attached). Rep. Bulger moved that SB #241 Be Concurred In As Amended. Mr. MacMaster stated that there are some clean up amendments on page 6, line 24. Rep. Mercer moved to clean up amendments. The motion CARRIED unanimously. Question was called on the bill and a voice vote was taken. The motion CARRIED 14-1 with Rep. Brown dissenting. SB #241, BE CONCURRED IN AS AMENDED.

ACTION ON SENATE BILL NO. 229:

Rep. Rapp-Svrcek moved that SB #229, Be Concurred In. Rep. Miles opposed the motion stating that she opposes because she is not sure what function the court will be able to serve. Rep. Rapp-Svrcek pointed out that the people who can afford an attorney to take the case into the court, the judge can then place them ahead of people on the waiting lists. He stated that it is an equitable situation and this bill would prevent that from happening. Rep. Bulger stated that the attorney from the Board of Visitors opposed this bill. Question was called and a voice vote was taken. The motion FAILED 6-7. Rep. Miles moved to table the bill. A voice vote was taken and the motion CARRIED 10-5. SB #229, TABLED.

ACTION ON SENATE BILL NO. 102:

Rep. Cobb moved that the Statement of Intent Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED unanimously.

ACTION ON SENATE BILL NO. 258:

Rep. Giacometto moved that SB #258, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB #258, BE CONCURRED IN.

ACTION ON SENATE BILL NO. 289:

Rep. Gould moved that SB #289, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB #289, BE CONCURRED IN.

ACTION ON SENATE BILL NO. 361:

Rep. Strizich moved that SB #361, Be Concurred In. Rep. Eudaily moved amendments. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Strizich moved that SB #361, Be Concurred In As Amended. Question was called and a voice vote was taken. The motion CARRIED unanimously. SB #361, BE CONCURRED IN AS AMENDED.

ACTION ON SENATE BILL NO. 160:

Rep. Mercer moved that SB #160, Be Concurred In. Rep. Mercer moved an amendment on page 2, lines 6 and 9. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Mercer moved that SB #160, Be Concurred In As Amended. Question was called and a voice vote was taken. The motion CARRIED 14-1, with Rep. Daily dissenting. SB #160, BE CONCURRED IN AS AMENDED.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 10:00 a.m.

Rep. Earl Lory, Chairman

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 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

MARCH 23,

19 87

JUDICIARY

Mr. Speaker: We, the committee on

report SENATE BILL NO. 139

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Page 2, line 5 and 6 and line 13.

Change: "and 6" to "and 7" and "and 13" to "and 14"

13

2. Page 2, line 14:
Change: "and 14" to "and 15"

3. Page 2, line 15:
Change: "and 15" to "and 16"

Microfilm

THIRD reading copy ()
BLUE color

REP. GRADY WILL CARRY THE BILL!

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 3-23-87

SENATE
BILL NO. 173

TIME 8:50 A.M.

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

TALLY

9 9

Secretary

Earl Lory

Chairman

MOTION: BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 23, 19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 226

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Chairman

Page 3, line 11.
Revising: "ability to do"
to: "and to do"

Manufaha

THIRD

reading copy (

BLUE

) color

STANDING COMMITTEE REPORT

MARCH 23,

37

19

JUDICIARY

Mr. Speaker: We, the committee on _____

SENATE BILL NO. 241

report _____

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Page 3, line 4 through 4.

2. Page 3, line 4 through 4. Section 4
3. Page 3, line 4 through 4. Section 4
4. Page 3, line 4 through 4. Section 4
5. Page 3, line 4 through 4. Section 4
6. Page 3, line 4 through 4. Section 4
7. Page 3, line 4 through 4. Section 4
8. Page 3, line 4 through 4. Section 4
9. Page 3, line 4 through 4. Section 4
10. Page 3, line 4 through 4. Section 4
11. Page 3, line 4 through 4. Section 4
12. Page 3, line 4 through 4. Section 4
13. Page 3, line 4 through 4. Section 4
14. Page 3, line 4 through 4. Section 4
15. Page 3, line 4 through 4. Section 4
16. Page 3, line 4 through 4. Section 4
17. Page 3, line 4 through 4. Section 4
18. Page 3, line 4 through 4. Section 4
19. Page 3, line 4 through 4. Section 4
20. Page 3, line 4 through 4. Section 4
21. Page 3, line 4 through 4. Section 4
22. Page 3, line 4 through 4. Section 4
23. Page 3, line 4 through 4. Section 4
24. Page 3, line 4 through 4. Section 4
25. Page 3, line 4 through 4. Section 4
26. Page 3, line 4 through 4. Section 4
27. Page 3, line 4 through 4. Section 4
28. Page 3, line 4 through 4. Section 4
29. Page 3, line 4 through 4. Section 4
30. Page 3, line 4 through 4. Section 4
31. Page 3, line 4 through 4. Section 4
32. Page 3, line 4 through 4. Section 4
33. Page 3, line 4 through 4. Section 4
34. Page 3, line 4 through 4. Section 4
35. Page 3, line 4 through 4. Section 4
36. Page 3, line 4 through 4. Section 4
37. Page 3, line 4 through 4. Section 4
38. Page 3, line 4 through 4. Section 4
39. Page 3, line 4 through 4. Section 4
40. Page 3, line 4 through 4. Section 4
41. Page 3, line 4 through 4. Section 4
42. Page 3, line 4 through 4. Section 4
43. Page 3, line 4 through 4. Section 4
44. Page 3, line 4 through 4. Section 4
45. Page 3, line 4 through 4. Section 4
46. Page 3, line 4 through 4. Section 4
47. Page 3, line 4 through 4. Section 4
48. Page 3, line 4 through 4. Section 4
49. Page 3, line 4 through 4. Section 4
50. Page 3, line 4 through 4. Section 4
51. Page 3, line 4 through 4. Section 4
52. Page 3, line 4 through 4. Section 4
53. Page 3, line 4 through 4. Section 4
54. Page 3, line 4 through 4. Section 4
55. Page 3, line 4 through 4. Section 4
56. Page 3, line 4 through 4. Section 4
57. Page 3, line 4 through 4. Section 4
58. Page 3, line 4 through 4. Section 4
59. Page 3, line 4 through 4. Section 4
60. Page 3, line 4 through 4. Section 4
61. Page 3, line 4 through 4. Section 4
62. Page 3, line 4 through 4. Section 4
63. Page 3, line 4 through 4. Section 4
64. Page 3, line 4 through 4. Section 4
65. Page 3, line 4 through 4. Section 4
66. Page 3, line 4 through 4. Section 4
67. Page 3, line 4 through 4. Section 4
68. Page 3, line 4 through 4. Section 4
69. Page 3, line 4 through 4. Section 4
70. Page 3, line 4 through 4. Section 4
71. Page 3, line 4 through 4. Section 4
72. Page 3, line 4 through 4. Section 4
73. Page 3, line 4 through 4. Section 4
74. Page 3, line 4 through 4. Section 4
75. Page 3, line 4 through 4. Section 4
76. Page 3, line 4 through 4. Section 4
77. Page 3, line 4 through 4. Section 4
78. Page 3, line 4 through 4. Section 4
79. Page 3, line 4 through 4. Section 4
80. Page 3, line 4 through 4. Section 4
81. Page 3, line 4 through 4. Section 4
82. Page 3, line 4 through 4. Section 4
83. Page 3, line 4 through 4. Section 4
84. Page 3, line 4 through 4. Section 4
85. Page 3, line 4 through 4. Section 4
86. Page 3, line 4 through 4. Section 4
87. Page 3, line 4 through 4. Section 4
88. Page 3, line 4 through 4. Section 4
89. Page 3, line 4 through 4. Section 4
90. Page 3, line 4 through 4. Section 4
91. Page 3, line 4 through 4. Section 4
92. Page 3, line 4 through 4. Section 4
93. Page 3, line 4 through 4. Section 4
94. Page 3, line 4 through 4. Section 4
95. Page 3, line 4 through 4. Section 4
96. Page 3, line 4 through 4. Section 4
97. Page 3, line 4 through 4. Section 4
98. Page 3, line 4 through 4. Section 4
99. Page 3, line 4 through 4. Section 4
100. Page 3, line 4 through 4. Section 4

microfiche

THIRD

BLUE

REP. MERCER WILL CARRY THE BILL!

reading copy ()
color

STANDING COMMITTEE REPORT

MARCH 23,

87

JUDICIARY

19

Mr. Speaker: We, the committee on _____

SENATE BILL NO. 361

report _____

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

1. Statement of Intent, Item 5.

Reference: "Title"

Section: "Section 101 (10-1-4014) and"

2. Item 2, Item 15.

Reference: "A"

3. Item 3, Item 16.

Reference: "Title"

Section: "Section 101 (10-1-4014) and" Study was established

under authority of the Superintendent of Public

Instruction, Chapter 10, Chapter 2, part 4"

4. Item 3, Item 16.

Reference: "Title"

Section: "Section 101 (10-1-4014) and"

~~_____~~

Microfiche

THIRD

reading copy (

BLUE

color)

REP. STREICH WILL CARRY THE BILL!

STANDING COMMITTEE REPORT

MARCH 23,

37

19

JUDICIARY

Mr. Speaker: We, the committee on

SENATE BILL NO. 160

report

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Chairman

Page 2, March 2, 1919.

Resolved, That the bill (S. B. No. 160) be and it is so ordered.

Microfilm

THIRD

BLUE

REP. MERCER WILL CARRY THE BILL!

reading copy ()

color

STANDING COMMITTEE REPORT

MARCH 23,

97
19

JUDICIARY

Mr. Speaker: We, the committee on _____

SENATE BILL NO. 102

report _____

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

STATEMENT OF INTENT SENATE BILL NO. 102

The legislature intends that water rights should not be quantified in a temporary preliminary, preliminary, or final decree except as historically defined in Montana and except where a water judge determines that quantification of both volume and flow rate are required to adequately administer the right. For example, most irrigation water rights have been defined in Montana only by flow rate, reservoir rights have been commonly defined by volume, and hydropower rights have been defined by both flow rate and volume. The courts retain discretionary power to quantify water rights in terms of their historic definitions. It is the intent of the legislature that the water judges exercise their discretionary power on all existing and future decrees to reduce, to the extent possible, objections to water rights that have not historically been defined by volume.

~~STATEMENT OF INTENT~~

Microfilm

STANDING COMMITTEE REPORT

MARCH 23,

19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 258

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

THIRD

reading copy (

BLUE)

color

REP. GIACOMETTO WILL CARRY THE BILL!

STANDING COMMITTEE REPORT

MARCH 23, 19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 280

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

THIRD

BLUE

REP. COULD WILL CARRY THE BILL!

reading copy ()

color

STANDING COMMITTEE REPORT

MARCH 23.

37

19

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 152

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Chairman

THIRD

reading copy (

BLUE

) color

REP. BULGER WILL CARRY THE BILL!

STANDING COMMITTEE REPORT

MARCH 23, 19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 223

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Chairman

THIRD reading copy (BLUE)
color

REP. MILES WILL CARRY THE BILL!

STANDING COMMITTEE REPORT

MARCH 23,

19 97

19

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 164

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Chairman

THIRD

reading copy (

BLUE

)
color

REP. ADDY WILL CARRY THE BILL!

STANDING COMMITTEE REPORT

MARCH 23,

19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 121

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Chairman

THIS

BLUE

REP. GRADY WILL CARRY THE BILL!

reading copy: _____)
color