

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on April 16, 1991, at 9:08 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Brown and Rep. Clark

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HJR 52

JOINT RES. TO STUDY THE OPERATION AND FUNDING OF DISTRICT COURTS

Presentation and Opening Statement by Sponsor:

REP. SIMPKINS, HOUSE DISTRICT 39, stated this is a House Joint Resolution to study the district court system in the state of Montana. We find throughout the state the courts are basically hitting the limits on their six mill levies. As well as a conflict as to whether the courts are a state function or a county/district type function. The court funding is not constitutionally stated as a requirement of the legislature, whereas the school is a constitutional requirement of the legislature. If the courts are to remain open and the

legislature gives this responsibility to fund the courts to the counties, then the legislature is also obligated to provide the means to raise the money. That is how we get involved. Basically, this is a study of where the courts are having problems.

Proponents' Testimony:

Larry Fasbender, Cascade County, stated it is very appropriate that this resolution comes in right now. There has been legislation on the automation of courts. The judicial system in Montana is one that has not had the visibility in the past that it has now. A great deal of interest was shown by the taxation committee taking a look at various judgments that were imposed and possibly using some of those as a form of funding for the court system. With the lack of information that we have as to what goes on in the judicial system in Montana, we support the idea that court administration and operation be looked at to see how automation might also affect the operation of the courts. I urge you to pass this legislation so there can be a real study as to what is going on in the judicial system and hopefully come up with some answers for problems that are developing and going to accelerate over the next few years, given what has happened with regard to the automation of courts.

Opponents' Testimony: none

Questions From Committee Members:

REP. LEE asked REP. SIMPKINS what is the relevancy of the last whereas on page 2? REP. SIMPKINS stated that is my personal message to Cascade County telling them we are not accepting an open pocketbook.

REP. TOOLE asked REP. SIMPKINS if the whereas dealing with out of state litigants is dealing more with one particular district rather than state wide? REP. SIMPKINS said no, that isn't the situation.

REP. TOOLE stated his concern is with the word "often" in saying the District Courts "often" accept petitions from out-of-state litigants. He felt it wasn't true in Missoula County and not in most of the counties in the State. "I am wondering if it would be acceptable to you to strike that paragraph or to rewrite it?" REP. SIMPKINS said he would rather not strike it because it is something that should be taken under consideration in the local court system in the state of Montana. "If you would like to reword it and strike the "often" and say "may", I have no objection to that."

REP. JOHNSON asked REP. SIMPKINS what is the make-up of the committee? REP. SIMPKINS said it is made up of 4 Senators and 4 Representatives.

Closing by Sponsor:

REP. SIMPKINS stated thank you for a good hearing on this resolution. I urge you to give this your favorable consideration.

EXECUTIVE ACTION ON HJR 52

Motion: REP. WYATT MOVED HJR 52 DO PASS.

Motion: REP. BROOKE moved HJR be amended. EXHIBIT 1

Discussion: REP. BROOKE stated that her amendments go along with what is being studied and it is part of the overall perspective of what this study has proposed to do. I would encourage you to support this amendment.

Vote: Motion carried 18 to 1 with Rep. Brown voting no.

Motion: REP. TOOLE moved to amend HJR 52.

Discussion: REP. TOOLE said he felt there weren't many out-of-state litigant cases in the state of Montana. This amendment would be on lines 19 and 20 by taking out the word "often" and the word "necessarily". I would add substitute language after the words "district courts" and insert "have jurisdiction to". Line 19 would read "Whereas district courts have jurisdiction to accept petitions of out-of-state litigants. On line 20, after the words "out-of-state" add the word "certain".

REP. MEASURE stated he didn't think there is any conclusive proof that the potential out-of-state litigants make any changes in district court funding situation. Why not just require the study to address finding out what these tax are rather than pin pointing out-of-state litigants. "I hate to create the presumption that the out-of-state litigants are creating any undue burden on our court system."

Motion: REP. MEASURE moved a substitute motion to amend HJR 52 by striking lines 19 through 22 and put some language in talking about studying the impacts on court funding from whatever sources without identifying any particular sources. REP. MEASURE stated he would leave the language to John MacMaster.

REP. NELSON stated that it sounds like we are skipping the whereas and getting right to the "be it resolved" in the amendment by REP. MEASURE.

REP. MEASURE stated he is not. He said that he is saying that we are unsure of where that burden on our district courts lies. That is what we are going to study by this amendment.

Motion: REP. WHALEN moved a substitute motion to amend HJR 52 by striking "from all over the state" from line 17 and strike all of the fourth whereas clause.

REP. MEASURE withdrew his motion.

Discussion: REP. BECKER inquired as to how REP. SIMPKINS feels about REP. WHALEN'S amendment.

REP. SIMPKINS stated he was sorry to see the committee do this. You have two specific functions of our courts. One is that the courts system serves the justice system of the state of Montana and the other is the courts may accept out-of-state petitions. Those are two distinct functions and should be addressed separately. REP. SIMPKINS stated he preferred REP. TOOLE'S amendment.

Vote: Motion fails 11 to 6. EXHIBIT 2

Vote: (Rep. Toole's amendment) Motion carried unanimously.

Motion: REP. MESSMORE MOVED HJR 52 DO PASS AS AMENDED.

Motion/Vote: REP. LEE moved to amend HJR 52 on page 2, line 24, by striking the word "hesitant" and inserting "finds it inappropriate". Motion carried 18 to 1 with Rep. Measure voting no.

Motion: REP. GOULD MOVED HJR 52 DO PASS AS AMENDED.

Motion: REP. MEASURE MOVED SUBSTITUTE MOTION THAT HJR 52 DO NOT PASS.

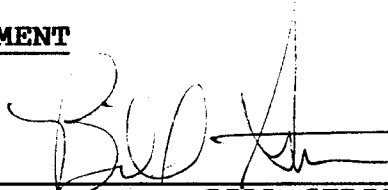
Discussion: REP. MEASURE stated he doesn't like the tone of the bill or what it does. He doesn't like the fact that it is geared toward out-of-state litigants. REP. MEASURE said he finds it ill conceived and ill drafted. It was whipped up in a heart beat by somebody that knows nothing about the District Court System. REP. MEASURE stated he is highly opposed to it.

Vote: Motion failed 18 to 1 with Rep. Measure voting yes.

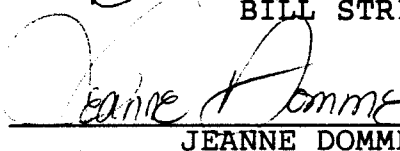
Vote: (Previous Do Pass As Amended Motion) Motion carried 18 to 1 with Rep. Measure voting no.

ADJOURNMENT

Adjournment: 9:51 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 4-16-91

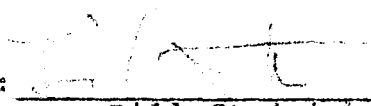
| NAME | PRESENT | ABSENT | EXCUSED |
|--------------------------------|---------|--------|---------|
| REP. VIVIAN BROOKE, VICE-CHAIR | / | | |
| REP. ARLENE BECKER | / | | |
| REP. WILLIAM BOHARSKI | / | | |
| REP. DAVE BROWN | | / | |
| REP. ROBERT CLARK | | / | |
| REP. PAULA DARKO | / | | |
| REP. BUDD GOULD | / | | |
| REP. ROYAL JOHNSON | / | | |
| REP. VERNON KELLER | / | | |
| REP. THOMAS LEE | / | | |
| REP. BRUCE MEASURE | / | | |
| REP. CHARLOTTE MESSMORE | / | | |
| REP. LINDA NELSON | / | | |
| REP. JIM RICE | / | | |
| REP. ANGELA RUSSELL | / | | |
| REP. JESSICA STICKNEY | / | | |
| REP. HOWARD TOOLE | / | | |
| REP. TIM WHALEN | / | | |
| REP. DIANA WYATT | / | | |
| REP. BILL STRIZICH, CHAIRMAN | / | | |
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HOUSE STANDING COMMITTEE REPORT

12-00
4-16-91
cm
April 16, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Joint Resolution 52 (first reading copy -- white) do pass as amended .

Signed: 
Bill Strizich, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "ADMINISTRATION,"

Insert: "JUDICIAL DISTRICTS,"

2. Page 1, line 19.

Strike: "often"

Insert: "have jurisdiction to"

3. Page 1, line 20.

Following: line 19

Insert: "certain"

4. Page 1, line 20.

Strike: "necessarily increases"

Insert: "may have the potential to increase"

5. Page 2, line 24.

Strike: "is hesitant"

Insert: "finds it inappropriate"

6. Page 3, line 19.

Strike: "and"

7. Page 3.

Following: line 19

Insert: "(6) ways to realign judicial districts after the committee analyzes population demographics, population trends, exiting and projected District Court caseloads, and the travel distances within districts; and"

8. Page 3, line 20.

Strike: "(6)"

Insert: "(7)"

EXHIBIT 1

DATE 4-16-91

HB 452 5a

Amendments to House Joint Resolution No. 52
First Reading Copy

Requested by Rep. Brooke
For the Committee on Judiciary

Prepared by Lee Heiman
April 16, 1991

1. Title, line 6.

Following: "ADMINISTRATION,"

Insert: "JUDICIAL DISTRICTS,"

2. Page 3, line 19.

Strike: "and"

3. Page 3.

Following: line 19

Insert: "(6) ways to realign judicial districts after the
committee analyzes population demographics, population
trends, exiting and projected District Court caseloads, and
the travel distances within districts; and"

4. Page 3, line 20.

Strike: "(6)"

Insert: "(7)"

Exhibit 2
4/16
HJR 52

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL VOTE

DATE 4-16-91 BILL NO. HJR #52 NUMBER

MOTION: Whalen motion

| NAME | AYE | NO |
|--------------------------------|-----|----|
| REP. VIVIAN BROOKE, VICE-CHAIR | | / |
| REP. ARLENE BECKER | | / |
| REP. WILLIAM BOHARSKI | | / |
| REP. DAVE BROWN | / | / |
| REP. ROBERT CLARK | / | / |
| REP. PAULA DARKO | / | |
| REP. BUDD GOULD | | / |
| REP. ROYAL JOHNSON | | / |
| REP. VERNON KELLER | | / |
| REP. THOMAS LEE | | / |
| REP. BRUCE MEASURE | / | |
| REP. CHARLOTTE MESSMORE | | / |
| REP. LINDA NELSON | | / |
| REP. JIM RICE | | / |
| REP. ANGELA RUSSELL | / | |
| REP. JESSICA STICKNEY | | / |
| REP. HOWARD TOOLE | / | |
| REP. TIM WHALEN | / | |
| REP. DIANA WYATT | / | |
| REP. BILL STRIZICH, CHAIRMAN | / | / |
| TOTAL | 6 | 11 |

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Acknowledged

COMMITTEE

BILL NO.

HJR #52

DATE

4-16-91

SPONSOR(S)

Rep. [Signature]

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|------------------|----------------|------|--------|---------|
| Larry Tasbender | Cascade County | | | ✓ |
| Gordon Morris | MACo | | | ✓ |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.