

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON SENATE BILL 362

Call to Order: By Senator Jeff Weldon, Chair, on April 14, 1993,
at 4:15 p.m.

ROLL CALL

Members Present:

Sen. Jeff Weldon (D), Chairman
Sen. Tom Beck (R)
Sen. Don Bianchi (D)
Rep. Vicki Cocchiarella (D)

Members Excused:

Rep. Norm Mills (R)
Rep. Ray Brandewie (R)

Members Absent:

None.

Staff Present: Laura Turman, Committee Secretary
Susan Fox, Legislative Council

Discussion:

Sen. Beck asked Sen. Weldon if he knew what the House wanted to do with SB 362.

Sen. Weldon said the House was in session, and it was unlikely that Rep. Mills and Rep. Brandewie would be present for the meeting. Sen. Weldon said the initial title of SB 362 did not match the body of the bill. The original title stated that the ten day limit was the time in which the court was required to set a hearing date, not to have the hearing. Sen. Weldon said that Sen. Bianchi's original intent was to have the hearing within ten days. Those who represent the interest of the tenants and those who represent the interest of the courts have reached a compromise. Sen. Weldon provided Committee members with the amendments (Exhibit #1)

Sen. Bianchi asked why the five days and the ten days had both been changed to twenty.

Craig Hoppe, Montana Magistrates Association, said the five days was left as it was. The reason the ten days was changed to 20 was they wanted to choose a realistic time for all courts. For courts with larger case loads and for district courts, ten days was unrealistic.

Sen. Bianchi said he had no problem with that change.

Craig Hoppe said this would also give an attorney a reasonable amount of time to prepare a defense.

Mr. Hoppe went over the amendments. Mr. Hoppe said Greg Pettish told him that the Governor had already signed a couple of bills in which "justice court" was specifically mentioned. Mr. Pettish wanted to add a new section to the bill, and provided a hand-written note concerning new language. (Exhibit #2). Mr. Hoppe read that new section. This language would clean up all the other bills (regarding justice courts) signed by the Governor.

Sen. Tom Beck said that language was "clean up."

Motion:

Sen. Bianchi moved the Committee adopt the amendments including the new section. (Exhibits #1 and #2)

Vote:

The motion carried UNANIMOUSLY.

Discussion:

Sen. Beck said if Rep. Mills and Rep. Brandewie sign the Committee Report, it is a done deal. If they do not want to sign it, the Committee can meet again.

Susan Fox said only two of the three House members needed to sign the Report.

Sen. Weldon said he had talked with Rep. Brandewie and he said changing the dates to twenty days would be fine.

ADJOURNMENT

Adjournment: Sen. Weldon adjourned the meeting.



SENATOR JEFF WELDON, Chair



LAURA TURMAN, Secretary

Free Conference Committee
on Senate Bill No. 362
Report No. 1, April 15, 1993

Page 1 of 2

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 362, met and considered:

Senate Bill No. 362 in its entirety

We recommend that Senate Bill No. 362 (reference copy - salmon) be amended as follows:

1. Title, line 4.

Strike: "10-DAY"

Insert: "20-DAY"

2. Page 1, line 19.

Strike: "justice's"

Strike: "10"

Insert: "20"

3. Page 1, line 22.

Strike: "10"

Insert: "20"

Strike: "submitted"

Insert: "transmitted"

4. Page 1, line 23.

Following: the first "court"

Strike: the remainder of line 23 through the second "court"

5. Page 2, line 3.

Following: "the"

Strike: the remainder of line 3

6. Page 2, line 6.

Following: line 5

Insert: "NEW SECTION. Section 2. Coordination instruction. The code commissioner shall remove references to specific courts of original jurisdiction in new material enacted to be codified as part of Title 70, chapter 24 or 25."

Renumber: subsequent section

ADOPT


REJECT

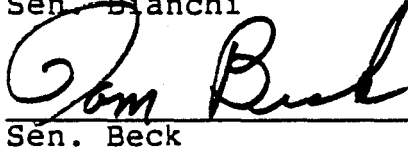
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And that this Free Conference Committee report be adopted.

For the Senate:


Sen. Weldon, Chair

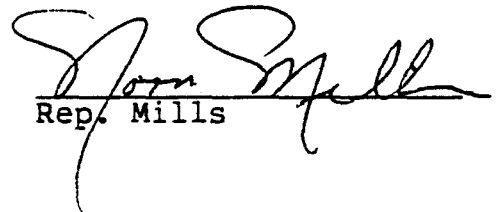

Sen. Bianchi


Sen. Beck

For the House:


Rep. Brandewie, Chair


Rep. Cocchiarella


Rep. Mills

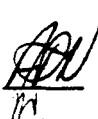

Amd. Coord.
Sec. of Senate

Exhibit #1
4-14-93

Amendments to Senate Bill No. 362
Reference Bill as amended

Prepared by Craig Hoppe, Montana Magistrates Association
April 14, 1993

1. Page 1, line 19.
Delete: "justice's"
2. Page 1, line 19.
Strike: "10"
Insert: "20"
3. Page 1, line 22.
Strike: "10"
Insert: "20"
4. Page 1, line 22.
Strike: "submitted"
Insert: "transmitted"

[This amendment clarifies courts and amends the bill to allow 20 days instead of 10 days for hearing.]

3-11-102. Concurrent jurisdiction. (1) The city court has concurrent jurisdiction with the justice's court of all misdemeanors and proceedings mentioned and provided for under chapter 10, part 3, of this title.

(2) Applications for search warrants and complaints charging the commission of a felony may be filed in the city court. When they are filed, the city judge has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court.

3-10-301. Civil jurisdiction. (1) Except as provided in subsection (2) and in 3-11-103, the justices' courts have jurisdiction:

(a) in actions arising on contract for the recovery of money only if the sum claimed does not exceed \$5,000, exclusive of court costs;

(b) in actions for damages not exceeding \$5,000, exclusive of court costs, for taking, detaining, or injuring personal property or for injury to real property when no issue is raised by the verified answer of the defendant involving the title to or possession of the real property;

(c) in actions for damages not exceeding \$5,000, exclusive of court costs, for injury to the person, except that, in actions for false imprisonment, libel, slander, criminal conversation, seduction, malicious prosecution, determination of paternity, and abduction, the justice of the peace does not have jurisdiction;

(d) in actions to recover the possession of personal property if the value of the property does not exceed \$5,000;

(e) in actions for a fine, penalty, or forfeiture not exceeding \$5,000, imposed by a statute or an ordinance of an incorporated city or town when no issue is raised by the answer involving the legality of any tax, impost, assessment, toll, or municipal fine;

(f) in actions upon bonds or undertakings conditioned for the payment of money when the sum claimed does not exceed \$5,000, though the penalty may exceed that sum;

(g) to take and enter judgment for the recovery of money on the confession of a defendant when the amount confessed does not exceed \$5,000, exclusive of court costs;

(h) to issue temporary restraining orders as provided in 40-4-121(3).

(2) Justices' courts do not have jurisdiction in civil actions that might result in a judgment against the state for the payment of money.

3-10-302. Jurisdiction over forcible entry, unlawful detainer, and residential landlord-tenant disputes. The justices' courts have concurrent jurisdiction with the district courts within their respective counties in actions of forcible entry and unlawful

detainer and in actions brought under Title 70, chapter 24.

3-10-303. Criminal jurisdiction. The justices' courts have jurisdiction of public offenses committed within the respective counties in which such courts are established as follows:

(1) jurisdiction of all misdemeanors punishable by a fine not exceeding \$500 or imprisonment not exceeding 6 months or both such fine and imprisonment;

(2) jurisdiction of all violations of fish and game statutes punishable by a fine of not more than \$1,000 or imprisonment for not more than 6 months, or both;

(3) concurrent jurisdiction with district courts of all misdemeanors punishable by a fine exceeding \$500 or imprisonment exceeding 6 months or both such fine and imprisonment;

(4) jurisdiction to act as examining and committing courts and for such purpose to conduct preliminary hearings;

(5) jurisdiction of all violations of Title 61, chapter 10; and

(6) all misdemeanor violations of Title 81, chapter 8, part 2.

3-10-304. Territorial extent of civil jurisdiction. The civil jurisdiction of a justice's court extends to the limits of the county in which it is held, and mesne and final process of a justice's court in a county may be issued to and served in any part of the county. A summons of a justice's court may be served as provided in 25-31-407.

Exhibit #2

4-14-93

New Section. Coordination instruction.

The Code Commissioner shall remove references to specific courts in new material enacted to be codified as part of Title 70, chapters 24 or 25.