

**Access to Justice Commission Standing Committee on Policy and Resources**

**October 30, 2014, 3:30 P.M.**

**Via Teleconference**

**In Attendance:** Justice Beth Baker, Andy Huff, Abby St. Lawrence, Michelle Potts, Alison Paul, Representative Chuck Hunter, Jon Bennion, Randy Bishop, and Amy Sings In The Timber. Also in attendance Kate Kuykendall.

**Call to Order: 3:35 PM**

**Approve minutes from 8/28/12**

**Matt moved to approve the minutes; Alison seconded the motion. Those present all voted in favor of the motion. All in favor.**

**State Funding Request**

Amy gave a summary of the history of this effort thus far. Jon Bennion, Michelle Potts, and Amy Sings have been working on several different options for a legislative ask. Jon retrieved some data that gives a picture of what we're dealing with, which is on the bottom of the materials.

Should have sent out the financial information from MLSA; Kate will send it out immediately following this meeting.

Jon spoke about the three options on the table. Option 1 is the option we have a good sense of return on. This fee has not gone up in 12 years, making this option compelling. Option 2 is one of two that we don't have a revenue prediction for. Option number three is generally messier, and also doesn't have a revenue prediction. It also points up the number of fees to the legislature.

Chuck asked about the user surcharge for technology Option 1. Is the fee for technology rather than some other use? As a departure for use, is that accurate? Jon said yes, this fee currently goes to technology. That title may need to change. This fee has the broadest base, which is why you can charge a little bit and get a bigger return. It would be a new diversion into a different purpose altogether.

Matt said he doesn't want to get something passed and find that it doesn't return enough money to do what we need to do; we won't get another chance. Jon pointed out that any of these options will be tough to get through this time. The Committee's job is to narrow the options to the best choice to present to the Commission.

Andy said he is comfortable with Option 1 if people are satisfied that it will be enough money.

Alison reminded the Committee what the amount could pay for: four attorneys, two paralegals, and a new office, which could potentially go in Eastern Montana or the Kalispell area.

Beth said she talked to Beth McLaughlin about this. She said that Option 1 would likely generate less than estimated on the materials due to a ranking of the fees and surcharges. The money with lower priority gets paid later, and then gets less. She didn't have a way of estimating how much lower it might be. Her other comments were general, and were similar to what she said at the meeting. She doesn't think the fee increase will get out of committee without support from the Magistrates and the Clerks.

Beth said her two concerns are the potential impact on the Court Help Program, and the embarrassment factor of moving forward without doing the groundwork we need. If the legislature believes we are not sufficiently prepared with our proposal and kills it immediately, will we hurt our chances in future sessions?

Chuck said a bill that isn't put together isn't a good idea. If we don't have the support of key people, we shouldn't take it forward to the legislature. You could take it to the subcommittee as a toe in the water to learn from. If we don't have a united front, it is better to wait than to have a less than excited group of people at the podium.

Beth shared that the other comment Beth M. made is that if we do advance something, we should make clear what we mean by civil legal assistance during the drafting process so there is no confusion with the types of civil cases handled by the public defender (mental commitments and youth in need of care).

Beth said it's important for the full Commission to have this discussion. I like having something in the works so we can advise our budget subcommittee that the Commission is looking at these additional legs of the stool, it wasn't ready for prime time, but we're working on it and talking about it. Give them the preview that we're working on this, but not try to bring a bill until we're ready. We do need to start the discussion. It's worth the full Commission having this discussion and deciding what way we want to go. I also think the Committee should come forward with one recommended option.

Amy said that she would like to see the Committee identify one of these options to explore further for a recommendation to for further investigation by this Committee. We would start talking to some of those groups we would want as allies. It was premature previously. Between this meeting and the next Commission meeting, if this Committee can identify one of these options and give the go-ahead for some of us to start exploring what that might look like in garnering support before the next Commission meeting, we'll then know if we're recommending going forward with a real request, or going forward with just a concept and holding off on a real request until the next session.

Beth said that sounds fine, but to be sure to present to other groups as a concept that we want their input on. Beth noted that we have some drafting issues, and asked whether our group should do that or whether Chuck should put in a bill draft.

Chuck said we'd be better off drafting ourselves at this stage. We can make the changes we need at this point. If we decide to talk with the appropriations subcommittee about the concept, there's also the

option of asking for a committee bill if you are sensing some good support. That takes you out of the headlights in terms of drafting.

Amy asked if there was any further discussion. Jon said that he thinks the option that has the most likelihood of success with the most information is Option 1. We wouldn't have to do it as an addition to the surcharge; we could create a new section that mirrors the language, but is its own new section.

Amy noted that in states that have initiated surcharges to get where they want to go, this has been a fluctuating income stream, and it has been declining. There have been some changes in recent years. Know going in that you can't be 100% certain, but this does provide the best ballpark on what we're looking for.

**Jon moved that the Committee move forward Option 1 to be discussed by the full commission at its December meeting. Matt seconded the motion. The motion carried unanimously.**

Amy asked who would work on moving forward exploring this option. Amy is already working on it. The Committee discussed assignments for speaking with representatives of various entities, including key legislators, the Montana Chamber of Commerce, the Clerks of Court, and the Montana Magistrates Association (Jessie Connolly, President, and Larry Carver, who is the chair of the legislative committee)/ . Someone from the committee besides Judge Snowberger should talk to them.

Andy said if people are hearing strong opposition it would be good to let the Committee know. He wants to know who the opposition is and why before the Commission meeting, with the possibility of making another round of calls to those people.

#### **Other Business**

Next Meeting: Wednesday, November 19<sup>th</sup>, at 2:30 p.m.

**Meeting Adjourned: 4:11 p.m.**