

MONTANA SUPREME COURT PUBLIC MEETING
MINUTES

Tuesday, February 13, 2018, 1:00pm
Joseph P. Mazurek Justice Building
215 North Sanders, Helena
Attorney's Lounge, 4th Floor

FILED

MAR 20 2018

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Chief Justice McGrath called the meeting to order at 1:00 p.m. In attendance were the Chief Justice and Justices Baker, McKinnon, Rice, Sandefur, Shea, and Gustafson.

Also in attendance were: Bruce Spencer, past-President of the State Bar of Montana, John Mudd, Executive Director of the State Bar of Montana, Stacy Sherman, Financial Manager of the State Bar of Montana, Kathy Powers, Montana Commission on CLE, Kate McGrath Ellis, Trustee of the State Bar of Montana, Stuart Segrest, Trustee of the State Bar of Montana, Joe Menden, Communications staff of the State Bar of Montana, Chris Wethern, Supreme Court Staff Attorney, and Madelyn Krezowski, Supreme Court Law Clerk

Item 1: Approval of the Minutes from the Last Public Meeting

- The Justices unanimously approved the minutes from the November 7, 2017 public meeting.

Item 2: 00-329, Proposed Dues Increase for Members of the State Bar of Montana

- The State Bar of Montana petitioned the Court to raise bar dues from \$200 to \$285 or \$300 for active members; from \$125 to \$190 for inactive members; and from \$50 to \$75 for senior members. The Court published the petition for public comment; the comment period has closed and several comments were submitted.
- The Chief Justice opened the petition to discussion.
- Justice Baker stated that the State Bar's petition demonstrates the need for additional revenue, but she questions how the increases are allocated between the different membership classes. She pointed out that senior members are 70 years and older and not engaged in the practice of law, and inactive members do not practice law in Montana. However, the proposed percentage increases for these groups are larger than for active members. Under the proposal, the State Bar will increase active dues by 42% (at the \$285 level), inactive dues by 52%, and senior dues by 50%. Justice Baker does not think there should be an increase for seniors. The proposed increase for seniors raises only around \$5400 in revenue for the State Bar. She is also concerned that the increase in inactive dues would cause inactive members of the State Bar to resign and not stay engaged. She suggested raising the inactive dues by 30% to \$162. She asked the State Bar representatives how important the increases for inactive and senior members were for the State Bar's budget.
- Justice McKinnon asked whether active member dues alone allow for full funding as outlined in the State Bar's petition.

- Bruce Spencer answered that the State Bar did not take the step of requesting dues increases lightly. The State Bar went through every line item and expense twice before seeking an increase in dues. Part of the reason for the increase for all three classes of membership was for equity and fairness; it would not be fair to put the whole burden of increased costs on only one class of membership. He reiterated that administration of inactive members uses staff time. He explained that the State Bar would have to come back sooner to ask for additional dues increases if only the active dues were raised. The State Bar did not consider the percentage increases across the groups, but based the proposed numbers on five-year projections. He explained that the cost of running the State Bar have increased. If the State Bar does not increase its dues, by the end of next year the State Bar will be below a four-month reserve in its funds.
- Justice Baker stated that she supports an increase to \$285, rather than \$300, for active membership. Given the recent changes in leadership at the State Bar and because the last change was eight years ago, she is more comfortable with the lower amount and seeing how far it goes.
- Justice Baker moved to raise the dues to \$285 for active membership, to \$162 for inactive membership, and no increase for senior membership.
- The Chief Justice opened the motion to public comment.
- Justice Shea agrees that dues for seniors should not be raised. He would increase the active membership dues to \$300. He stated that dues have only been increased two times since 1974 and have not kept up with inflation. He would raise the dues for inactive members by half of the total dues increase for active members, that is \$50, to \$175.
- Bruce Spencer stated that the State Bar engaged in active measures to get input from bar members about the proposed increases. There was generally little or no reaction. Some public lawyers have expressed concern, but the State Bar has worked to engage public lawyers and is mindful of their concerns. Spencer stated that he believes the lack of comments demonstrates that the State Bar is doing its job. He stated that the trustees and board feel that the unified bar is key to Montana because our population is too sparse to not have a unified bar.
- Justice Shea made a substitute motion to raise the dues to \$300 for active membership, to \$175 for inactive membership, and no increase for senior membership.
- Justice McKinnon stated the services the State Bar provides are critical and she does not want to undermine the ability of the State Bar to provide those services. She would rely on the State Bar's opinion about what was needed to fund the State Bar fully. She supports the petition as submitted.
- Justice Rice seconded Justice Baker's motion.
- The Chief Justice called for a vote: 2 ayes, 5 nays. The motion failed.
- Justice McKinnon moved to raise the dues to \$300 for active membership, to \$190 for inactive membership, and to \$75 for senior membership.
- Justice Baker made a substitute motion to raise the dues to \$300 for active membership, to \$190 for inactive membership, and no increase for senior membership.
- The Chief Justice seconded Justice Baker's substitute motion.
- The Chief Justice called for a vote: 5 ayes, 2 nays. The motion passed.
- The increases will be effective for FY 2019 beginning in March 2018. The bills sent out beginning in March 2018 will reflect the increased dues.

- John Mudd thanked the Court for its consideration and looks forward to working with the Court in the future.

Item 3: Proposed Policy Changes from the Court Administrator

(1) Information Technology Security

- The Commission on Technology proposes repealing policies 1520 and 1540 and approving a new information security policy to put the Judicial Branch in compliance with state technology and security policies.
- Justice Sandefur moved to accept the proposal.
- Justice Baker seconded.
- The motion passed unanimously.

(2) Pretrial Supervision Program

- The proposed policy is to provide for the allocation and expenditure of funds appropriated by the 2017 Legislature for the operation of a pretrial program and risk assessment in five pilot counties.
- Justice Gustafson was on the pretrial supervision working committee that developed the pilot project and policy. She explained that the pilot project will roll out a pretrial risk assessment developed by the Arnold Foundation. The pilot project will hire two people who will be located centrally and are being trained in applying the risk assessment. They will work to get buy-in from judges in the five counties to use the risk assessment.
- Justice Gustafson moved to approve the proposed policy.
- Justice Sandefur seconded.
- The motion passed unanimously.

Item 4: Appointments to the Commission on Technology

- Justice Shea and John Mudd or his designee are appointed to the Commission on Technology to replace Justice Mike Wheat and Chris Manos, both of whom have retired.

The Chief Justice adjourned the meeting at 1:34 p.m.

Duly submitted,
Madelyn Krezowski
Law Clerk