

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DIANE RICE**, on February 15, 2005 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Roger Koopman (R)
Rep. Michael Lange (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. John Parker (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Bill Wilson (D)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 596, 602, 611, 615, 2/8/2005
Executive Action: HB 392-Do Pass, HB 585-Do Pass As Amended

HEARING ON HB 596

Sponsor: REP. ROGER KOOPMAN, HD 70, BOZEMAN

Opening Statement by Sponsor:

REP. ROGER KOOPMAN (R), HD 70, opened the hearing on **HB 596**, Revise law on service of process. The REPRESENTATIVE explained how costly it can be for process servers to make several trips to serve a party with legal documents; whereby, the cost is then transferred to the consumer. He stated, "...this is a consumer protection law." **REP. KOOPMAN** then informed the committee that several other states have similar laws: New Mexico, Nevada, California, Colorado and Missouri.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 102}

Proponents' Testimony:

Scott Restvedt, Valley Process Service, rose to support HB 596. He explained to the members of the committee how this bill would expedite justice and related a story of a truck driver who had to be served with legal papers. **Mr. Restvedt** further stated that Montana is one of the last states to have personal service of the party.

EXHIBIT(juh37a01)

{Tape: 1; Side: A; Approx. Time Counter: 102 - 176}

Dave Crow, Valley Process Service, rose in support of HB 596.

{Tape: 1; Side: A; Approx. Time Counter: 176 - 184}

John Adams, Civil Process, rose to support HB 596.

{Tape: 1; Side: A; Approx. Time Counter: 184 - 187}

Dave Adams, A & A Civil Service, rose in support of HB 596.

{Tape: 1; Side: A; Approx. Time Counter: 187 - 191}

Matt Schmitz, First Rate Service, rose to support HB 596 and related a story to the committee about the incident where he was held down by a shot gun. He stated that this bill will make it safer for the process server and the recipient.

{Tape: 1; Side: A; Approx. Time Counter: 191 - 211}

Opponents' Testimony:

Ali Bovington, Assistant Attorney General, rose to oppose HB 596. **Ms. Bovington** explained to the committee that there is a serious due process problems with HB 596. She referred to a 1993 Supreme Court ruling and Rule 40 regarding civil procedure in relation to divorce actions specifically.

{Tape: 1; Side: A; Approx. Time Counter: 211 - 247}

Kathy McGowan, Montana Sheriffs and Peace Officers Association, rose to voice opposition to HB 596. Her organization shares the sentiment; and stated that this bill:

- 1) Would allow for misplaced responsibility on the part of employers and roommates.
- 2) The onus would be put on the wrong people.
- 3) Line 25-failure to forward the legal document "could be an obstruction to a peace officer."
- 4) A problem with the 18-year-old as a recipient.

{Tape: 1; Side: A; Approx. Time Counter: 247 - 293}

Mary Phippen, Montana Association of Clerks of Court, spoke in opposition of HB 596.

{Tape: 1; Side: A; Approx. Time Counter: 293 - 313}

Steve Turkiewicz, Montana Bankers Association, rose in opposition to HB 596. **Mr. Turkiewicz** spoke to the committee members regarding Section 2--referring to the unintended consequences language. He referred to the proponent's testimony that banks can instantly turn over the money owed to the process server. That is not the case, said **Mr. Turkiewicz**. The banks must determine the time when the person is served and the amount of funds available in the account which may take time. In normal banking business there could be a five-day response time.

{Tape: 1; Side: A; Approx. Time Counter: 313 - 374}

Amy Grmoljez, Montana Collector's Association, stated her opposition to HB 596 specifically in Section 2.

{Tape: 1; Side: A; Approx. Time Counter: 374 - 390}

Keith Colbo, Montana Independent Bankers, rose to oppose HB 596 specifically in Section 2.

{Tape: 1; Side: A; Approx. Time Counter: 390 - 402}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. DRISCOLL asked the sponsor to explain how a process server could "serve" on a 18-year-old who may be mentally disabled, drunk or on drugs, etc. **REP. KOOPMAN** replied that there could be an amendment to include the above-mentioned in the exemption or that issue could be brought up in court.

REP. HARRIS asked Ms. Bovington if this language was modeled after other states and if "due process" procedures were compared. **Ms. Bovington** stated no and that she would check into the other question for the REPRESENTATIVE.

REP. GUTSCHE also inquired of Ms. Bovington how the age of a person could or would be determined in regard to a 18-year-old accepting service. **Ms. Bovington** that she also had that same concern. **REP. GUTSCHE** was interested in how an employer could accept service. **Ms. Bovington** said that an employer would be subject to the responsibilities under the Criminal Penalty Code 45-7-302.

REP. RICE wanted to know what case Ms. Bovington would be referring to; **Ms. Bovington** responded: Fonk v. Ulsher, 1993, 260 MT 379.

REP. NOONAN began his questioning of the sponsor and asked if the sponsor had any figures as to how big a problem this is. The sponsor referred the question to Mr. Restvedt who replied, "...in about 40% of the cases" problems occur.

REP. NOONAN then queried **REP. KOOPMAN** about the shifting of costs to the employer regarding the disruption in the workplace, discretion and the embarrassment of both the recipient and the fellow employee who received the information. The REPRESENTATIVE continued to ask the sponsor how would a business be able to determine if there was money in the bank, the time frame that the banks use, and the liability of the banks. **REP. KOOPMAN** stated that he would not be opposed to an amendment to "loosen" the time-frame language.

REP. NOENNIG queried Mr. Restvedt about eviction notices and how that would be handled in the case of a roommate being served with the papers.

REP. SONJU continued the questioning of Mr. Restvedt regarding the removal of some of Section 1 and all of Section 2 as to "delivery of a spouse more than 18 years old, etc." **Mr. Restvedt** stated that deleting that language would be helpful. **REP. SONJU** then began to question Ms. Bovington about his proposed language change. **Ms. Bovington** stated that she would like to do some research before she would commit to an answer.

{Tape: 1; Side: A; Approx. Time Counter: 402 - 500}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 210}

Closing by Sponsor:

REP. KOOPMAN closed the hearing on HB 596 and stated, "I have a better understanding of what needs to be done" and that the objections raised are "more surface than substantive." The sponsor also stated that he would look at the amendments proposed.

{Tape: 1; Side: B; Approx. Time Counter: 210 - 265}

HEARING ON HB 602

Sponsor: **REP. JOHN WARD, HD 84, HELENA**

Opening Statement by Sponsor:

REP. JOHN WARD (R), HD 84, opened the hearing on **HB 602**, Require judges to decide cases in 90 days or salary not paid. The sponsor stated that the courts have always had time constraints but not imposed them on themselves.

EXHIBIT(juh37a02)

{Tape: 1; Side: B; Approx. Time Counter: 265 - 332}

Proponents' Testimony:

Doug Olson, attorney, rose in support of HB 602 and related a story to the committee about a lawsuit that took a long time to adjudicate. He stated that some judges are grossly delinquent in the speed in which they render their verdicts. **Mr. Olson** said that other states have a time frame for judgement such as the states of Minnesota, Alaska and Arizona. He would agree that some exceptions could be allowed; however, there should also be sanctions for those judges who do not fall within the time guidelines.

EXHIBIT(juh37a03)

{Tape: 1; Side: B; Approx. Time Counter: 332 - 500}

James Hammill, attorney, rose in support of HB 602. He listed the reasons he supports this bill:

- 1) Rule 1-"just and speedy determination of litigation."
- 2) There would be economic advantages.
- 3) This would stimulate parties to settle.
- 4) This would stimulate judicial reform.
- 5) Judges would also be better prepared.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 97}

Opponents' Testimony:

Dorothy McCarter, District Court Judge, Montana District Court Judges Association, rose in opposition to HB 602 by stating that this bill would hasten "speedy rulings over thoughtful, studied decisions." She stated that this bill does not take into consideration the complicated cases, lack of resources or the emergency/extenuating circumstances that judges may face.

{Tape: 2; Side: A; Approx. Time Counter: 97 - 123}

Jed Fitch, Montana Trial Lawyers Association, also rose in opposition to HB 602. **Mr. Fitch** explained for the committee how the days to day operations of the courts work. When the judges and law clerks are on the bench all day; they tend to have a "hierarchy" of what is to be addressed each day. He stated that judges are bound by ethics and the Supreme Court. **Mr. Fitch** stated, "...this idea is good; however, the implementation of this bill is not...."

{Tape: 2; Side: A; Approx. Time Counter: 123 - 169}

Informational Testimony:

Chris Manos, State Bar of Montana, handed out for the committee information about the filings per judge and the dispositions of the cases.

[EXHIBIT\(juh37a04\)](#)

[EXHIBIT\(juh37a05\)](#)

{Tape: 2; Side: A; Approx. Time Counter: 169 - 229}

Mary Phippen, Montana Association of Clerks of Court, made references to Page 2, Lines 29-30 and Page 3, Line 1 as to the effect on the clerks of court.

{Tape: 2; Side: A; Approx. Time Counter: 229 - 242}

Questions from Committee Members and Responses:

REP. NOONAN questioned **Mr. Hammill** about the quality of opinions and judgements rendered by judges if they were to adhere to a specific time frame. **Mr. Hammill** explained that judges are already overworked; however, this bill could possibly give them an opportunity to request more money to run their courts in order to comply with the time frame.

{Tape: 2; Side: A; Approx. Time Counter: 242 - 346}

Closing by Sponsor:

REP. WARD closed the hearing on HB 602 by saying, "Justice delayed is justice denied." The REPRESENTATIVE continued to speak about how he chose 90 days as the time frame, that this bill would only address the time of decision, not the trial and how this could lead to the argument for additional funding to facilitate more timely decisions.

EXHIBIT(juh37a06)

{Tape: 2; Side: A; Approx. Time Counter: 346 - 500}

HEARING ON HB 611

Sponsor: **REP. JONATHAN WINDY BOY, HD 32, BOX ELDER**

Opening Statement by Sponsor:

REP. JONATHAN WINDY BOY (D), HD 32, opened the hearing on **HB 611,** Increase penalties for partner or family member assault.

EXHIBIT(juh37a07)

{Tape: 2; Side: B; Approx. Time Counter: 0 - 61}

Proponents' Testimony:

Kathy Bessette, Hill County Commissioner, rose in support of HB 611 and informed the committee that she knows the day-to-day workings of jail operations and this money would help increase services to the victims.

{Tape: 2; Side: B; Approx. Time Counter: 61 - 79}

Monica Gallegos, Meadowlark Property Management Association, spoke to the committee about her survival as a victim of domestic and sexual abuse.

{Tape: 2; Side: B; Approx. Time Counter: 79 - 112}

Kate Cholewa, Montana Coalition Against Domestic and Sexual Violence, rose in support of HB 611 and stated that a second animal assault in Montana is a felony, while a second personal assault is a misdemeanor. Presently, if and when an offender is charged, that offender may only be held in jail for 24 hours, whereas if this bill were to pass, that same offender could be held for 72 hours.

Ms. Cholewa stated that this bill would be effective with young offenders as it would not just be "a slap on the wrist."

{Tape: 2; Side: B; Approx. Time Counter: 112 - 143}

Kerrie Wheeler, The Friendship Center, rose in support of HB 611. As a counselor and victim herself of domestic abuse, she sees that the current laws appear to be written for the perpetrator and not the victim. When the offender is charged and placed in jail for only 24 hours and then released from jail is more angry than when he was originally incarcerated. **Ms. Wheeler** stated that one assault is too much and the second assault should not be tolerated.

{Tape: 2; Side: B; Approx. Time Counter: 143 - 178}

Amy Hall, attorney, Montana Legal Services Association, informed the committee that she supervises four FTEs, and one and one-half paralegal who cover the entire state. She estimated that there are 750-1,000 domestic violence victims each year in Montana.

Ms. Hall stated that in her opinion, "...harsh penalties are an effective deterrent." She spoke of the abusers (90% of the abusers are men) who have a fear of felony convictions and "once word gets out" that Montana has gotten tougher, the abuse may decrease.

{Tape: 2; Side: B; Approx. Time Counter: 178 - 305}

Ali Bovington, Assistant Attorney General (AG), rose in support of HB 611. She confirmed the statement that assault for animal cruelty is a felony, whereas, second assault for a person is not a felony.

{Tape: 2; Side: B; Approx. Time Counter: 305 - 328}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. STOKER wanted to know about the fiscal note and if that is accurate number for third offense felony offender. **REP. WINDY BOY** referred the question to Joe Williams, Department of Corrections (DOC). **Mr. Williams** stated that currently there are 149 third offense domestic abuse offenders in the DOC.

REP. KOOPMAN began his questions to the sponsor. The REPRESENTATIVE wanted to know about the existing law as stated on Page 1, Lines 13-15 and what constitutes a partner family member assault (PFMA); he wondered if would spanking would be considered an assault. **REP. WINDY BOY** stated that child abuse laws would cover the spanking, if applicable; and if an assault, that would obviously up to the discretion of the local county attorney. The sponsor referred the question to Ms. Bovington.

Ms. Bovington explained for the committee that the county attorneys in Montana use their discretion when filing an assault as to spanking or yelling; etc. In theory, there could be a charge of assault filed if the circumstances warranted the filing of charges.

REP. RICE posed her questions to Mr. Williams. She was interested in knowing the situation at the Montana State Prison (MSP) regarding if MSP is at capacity. **Mr. Williams** stated that currently MSP is full and will be forced to open their day rooms for inmate quarters soon. He further stated that "meth" is the problem and PFMA is a growing and serious concern. **Mr. Williams** continued to inform the committee that if this bill were to pass, there would be approximately 440 offenders in MSP with approximately 700 offenders on probation.

REP. RICE and Mr. Williams discussed the dilemma further with **Mr. Williams** informing the committee that presently there are 4,000 outstanding felony warrants that were charged during the Christmas season that cannot be served due to there not being any room at the jails.

{Tape: 2; Side: B; Approx. Time Counter: 328 - 500}

{Tape: 3; Side: A; Approx. Time Counter: 0 - 51}

Closing by Sponsor:

REP. WINDY BOY closed the hearing on HB 611 by relating to the committee about his own childhood experiences whose mother was a victim of PFMA.

{Tape: 3; Side: A; Approx. Time Counter: 51 - 102}

HEARING ON HB 615

Sponsor: **REP. CHRISTOPHER HARRIS, HD 66, BOZEMAN**

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS (D), HD 66, opened the hearing on **HB 615**, Create environmental crime's unit in the department of justice. The sponsor stated that what this bill would do is establish a unit within the Department of Justice (DOJ) specifically for environmental crimes and allow the DOJ to prosecute egregious violators. HB 615 will not create a "mini-FBI" but will create a partnership between the DOJ and the Department of Environmental Quality (DEQ).

{Tape: 3; Side: A; Approx. Time Counter: 102 - 199}

Proponents' Testimony:

Anne Hedges, Montana Environmental Information Center (MEIC), rose in support of HB 615. **Ms. Hedges** stated that with the current system, the DEQ cannot enforce criminal environmental behavior; they must work with the local county attorneys who then do the prosecution of the violations.

[**EXHIBIT\(juh37a08\)**](#)

[**EXHIBIT\(juh37a09\)**](#)

{Tape: 3; Side: A; Approx. Time Counter: 199 - 290}

John Wilson, Montana Trout Unlimited, spoke in support of HB 615. He stated, "...the only ones that will fear this bill are the violators."

{Tape: 3; Side: A; Approx. Time Counter: 290 - 321}

Jed Fitch, Montana Trial Lawyers Association, rose in support of HB 615.

{Tape: 3; Side: A; Approx. Time Counter: 321 - 327}

Opponents' Testimony:

Mike Kakuk, Montana Association of Realtors, rose in opposition to HB 615 by stating that the text must be changed; the bill is not as it reads in reference to Title 45. **Mr. Kakuk** would like to see a "clear trigger" as to when the AG's office would be involved.

{Tape: 3; Side: A; Approx. Time Counter: 327 - 366}

Don Allen, Western Environmental Trade Association, rose in opposition to HB 615 and stated that there are adequate laws on the books now. **Mr. Allen** informed the committee that \$65,000 has been appropriated in the DOJ's budget to deal with these issues and that the DOJ and the DEQ need to work together.

{Tape: 3; Side: A; Approx. Time Counter: 366 - 412}

Bud Clinch, Montana Coal Council, rose to oppose HB 615. He informed the committee members that he represents five working mines in Montana and that mining is the most regulated industry in Montana. **Mr. Clinch** continued by saying that the intent of this bill is for the "most egregious" offenders; however, this language is not stated in any portion of the bill. Further, the DEQ has existing staff with the expertise to handle and if the DEQ needs help with a violation, the DEQ can approach the DOJ for help.

{Tape: 3; Side: A; Approx. Time Counter: 412 - 484}

Gail Abercrombie, Montana Petroleum Association, spoke in opposition to HB 615. She stated that this bill would be a duplication of what the DEQ already does. The Environmental Protection Agency (EPA) has the authority to also prosecute violators.

{Tape: 3; Side: A; Approx. Time Counter: 484 - 500}

Informational Testimony:

Ali Bovington, Assistant Attorney General, informed the committee members of the fiscal note in reference to the one FTE prosecutor that would be hired.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 8}

Questions from Committee Members and Responses:

REP. SONJU began his questioning of the sponsor. The REPRESENTATIVE was interested in why the DOJ would need to hire another prosecutor when they presently have prosecutors as employees. **REP. HARRIS** stated that the prosecutor that would be hired would be specifically trained to prosecute environmental crimes. The specific training would cost approximately \$1,800. **REP. SONJU** then asked Ms. Bovington who handled the Super Fund site; **Ms. Bovington** replied that the DOJ did do some work.

REP. CLARK continued the questioning of Ms. Bovington by asking about the distinction between what this bill will do and what the DOJ currently does. **Ms. Bovington** informed the committee that relative to Title 75, if there is a violation, the county attorney is contacted, who then, if warranted, may go to the DOJ. If HB 615 were to pass, the violation would go directly to the DOJ to prosecute.

REP. CLARK began his questioning of the sponsor by asking about the DOJ and the DEQ and how this bill is going to affect these two entities. **REP. HARRIS** explained that the DEQ knows how to investigate initially and if enough evidence is found, the violation would then go to the DOJ who would handle the prosecution, bypassing the local county attorney.

REP. HARRIS continued his explanation of what the DEQ does when faced with an alleged violation. **REP. CLARK** and **REP. HARRIS** also discussed if this bill were to pass, it could be used as a deterrent effect for companies such as W.R. Grace/Libby, Montana, etc.

REP. CLARK asked Mr. Kakuk about the "trigger" amendment he was requesting. **Mr. Kakuk** replied that he would be happy to work with the sponsor regarding this amendment.

REP. EVERETT wanted Ms. Bovington to explain why the DEQ did not participate in the prosecution of the Butte, Montana and Libby, Montana cases. **Ms. Bovington** stated that Montana does not have the ability to criminally prosecute those types of violations. The REPRESENTATIVE continued by asking if there is an environmental problem; why the DEQ does not go to the DOJ. **Ms. Bovington** responded by saying that the DOJ does not have the specifically trained prosecutors.

REP. GUTSCHE asked Ms. Hedges if there have ever been any prosecutions under Montana Environmental Protection Act (MEPA) with Ms. Hedges's response being, "no" as there are no criminal provisions in MEPA.

REP. STOKER queried Ms. Bovington about the staff at the AG's office, if there are natural resource attorneys, the budget of the AG's office and any continuing education that may be required, etc.

REP. NOENNIG questioned Ms. Bovington about the how the bill was designed, who designed HB 615 and the possible need to revise Title 75 if this bill were passed.

REP. MCGILLVRAY posed his questions to the sponsor about why the AG's office does not prosecute these violators. **REP. HARRIS** stated that presently the DEQ refers the violations to the county attorney. He then stated that the county attorneys do not have the expertise nor the training to prosecute environmental crime.

REP. MCGILLVRAY pressed on and stated that he didn't think the \$1,800 would be enough money. A single airline ticket, meals and hotel stay for this training would be far more than that. **REP. HARRIS** explained that the AG's would have this training available to them and this could be a start. He again stated that the DEQ is not in the business to prosecute.

REP. NOONAN queried the sponsor about the \$18 million settlement that occurred in Butte and that all of that \$18 million went to the Federal Government. The REPRESENTATIVE asked, "If Montana were to prosecute these crimes, such as the one in Butte, would they receive this money?" **REP. HARRIS** stated; "...an excellent point; Montana has the best restitution law in the United States and if the DOJ had been involved, the \$18 million would be going into Montana coffers."

{Tape: 3; Side: B; Approx. Time Counter: 8 - 413}

Closing by Sponsor:

REP. HARRIS closed the hearing on HB 615 and again explained to the committee why this bill is good for Montana.

{Tape: 3; Side: B; Approx. Time Counter: 413 - 446}

EXECUTIVE ACTION ON COMMITTEE RESOLUTION

Motion: REP. SONJU moved that the COMMITTEE ADOPT A COMMITTEE RESOLUTION.

[EXHIBIT](#)(juh37a10)

Discussion:

Mr. MacMaster explained what this resolution would be regarding the standardization of birth certificates.

Vote: Motion carried unanimously by voice vote. (REP. DRISCOLL voted by proxy vote.)

{Tape: 3; Side: B; Approx. Time Counter: 446 - 500}

{Tape: 4; Side: A; Approx. Time Counter: 0 - 22}

EXECUTIVE ACTION ON HB 602

Motion: REP. WARD moved that HB 602 DO PASS.

Discussion:

Motion/Vote: REP. WARD moved that HB 602 BE AMENDED with AMENDMENT 602-01 (handed out at time of hearing). Motion carried 16-2 by voice vote with REP. PARKER, REP. WILSON voted no. (REP. DRISCOLL voted by proxy vote.)

Motion: REP. STOKER moved that HB 602 DO PASS AS AMENDED.

Discussion:

The committee discussed the bill for a brief time.

Vote: Motion failed 9-9 by roll call vote with REP. EVERETT, REP. HARRIS, REP. KOOPMAN, REP. LANGE, REP. MCGILLVRAY, REP. RICE, REP. SONJU, REP. STOKER, and REP. WARD voting aye. (REP. DRISCOLL voted by proxy vote.)

{Tape: 4; Side: A; Approx. Time Counter: 22 - 270}

EXECUTIVE ACTION ON HB 611

Motion: REP. PARKER moved that HB 611 DO PASS.

Discussion:

After a short discussion, REP. PARKER stated that an amendment was needed.

Motion/Vote: REP. PARKER moved that HB611 BE POSTPONED. Motion carried unanimously by voice vote.

{Tape: 4; Side: A; Approx. Time Counter: 270 - 293}

EXECUTIVE ACTION ON HB 391

Motion: REP. MCGILLVRAY moved that HB 391 DO PASS.

Discussion:

Motion/Vote: REP. NOENNIG moved that HB 391 BE AMENDED with a Conceptual Amendment to DELETE THE WORD "EXCEPTION" ON PAGE 1, LINES 19-30. Motion failed 1-17 by voice vote with REP. NOENNIG voting aye. (REP. DRISCOLL voted by proxy vote.)

Motion/Vote: REP. STOKER moved that HB 391 BE TABLED. Motion carried 12-6 by roll call vote with REP. GUTSCHE, REP. HARRIS, REP. LANGE, REP. MCGILLVRAY, REP. NOENNIG, and REP. SONJU voting no. (REP. DRISCOLL voted by proxy vote.)

{Tape: 4; Side: A; Approx. Time Counter: 293 - 433}

EXECUTIVE ACTION ON HB 392

Motion/Vote: REP. WINDHAM moved that HB 392 DO PASS. Motion carried 10-8 by roll call vote with REP. EVERETT, REP. GUTSCHE, REP. KOOPMAN, REP. NOENNIG, REP. NOONAN, REP. RICE, REP. SONJU, and REP. WARD voting no. (REP. DRISCOLL voted by proxy vote.)

{Tape: 4; Side: A; Approx. Time Counter: 433 - 475}

EXECUTIVE ACTION ON HB 585

Motion: REP. PARKER moved that HB 585 DO PASS.

Discussion:

Motion: REP. PARKER moved that HB 585 BE AMENDED by STRIKING "SHOULD HAVE KNOWN."

Discussion:

Without objection, **REP. PARKER** removed his amendment.

Motion: **REP. KOOPMAN** moved that HB 585 BE AMENDED.

[EXHIBIT\(juh37a11\)](#)

Discussion:

Mr. MacMaster explained the amendment to the committee members.

Vote: Motion carried 10-8 by roll call vote with **REP. BECKER**, **REP. CLARK**, **REP. DRISCOLL**, **REP. GUTSCHE**, **REP. HARRIS**, **REP. PARKER**, **REP. WILSON**, and **REP. WINDHAM** voting no. (**REP. DRISCOLL** voted by proxy vote.)

Motion: **REP. MCGILLVRAY** moved that HB 585 DO PASS AS AMENDED.

Discussion:

Motion/Vote: **REP. KOOPMAN** moved that HB 585 BE AMENDED. Motion failed 9-9 by roll call vote with **REP. EVERETT**, **REP. KOOPMAN**, **REP. LANGE**, **REP. MCGILLVRAY**, **REP. NOENNIG**, **REP. RICE**, **REP. SONJU**, **REP. STOKER**, and **REP. WARD** voting aye. (**REP. DRISCOLL** voted by proxy vote.)

[EXHIBIT\(juh37a12\)](#)

Motion/Vote: **REP. LANGE** moved that HB 585 BE AMENDED with a CONCEPTUAL AMENDMENT to STRIKE "20" AND INSERT "30" ON LINE 14, TO STRIKE "5" AND INSERT "10" ON LINE 25 AND TO STRIKE OR INSERT AS APPLICABLE "AND/OR BOTH". Motion carried 17-1 by voice vote with **REP. GUTSCHE** voting no. (**REP. DRISCOLL** voted by proxy vote.)

Motion/Vote: **REP. PARKER** moved that HB 585 DO PASS AS AMENDED. Motion carried 14-4 by roll call vote with **REP. GUTSCHE**, **REP. HARRIS**, **REP. SONJU**, and **REP. WARD** voting no. (**REP. DRISCOLL** voted by proxy vote.)

{Tape: 4; Side: A; Approx. Time Counter: 475 - 500}

{Tape: 4; Side: B; Approx. Time Counter: 0 - 200}

ADJOURNMENT

Adjournment: 12:45 P.M.

REP. DIANE RICE, Chairman

PAM SCHINDLER, Secretary

DR/ps

Additional Exhibits:

EXHIBIT ([juh37aad0.PDF](#))