

HOUSE JUDICIARY COMMITTEE
March 6, 1987
1:30 p.m.

MEMBERS PRESENT

Representative John Sund
Representative Fran Ulmer
Representative Sam Cotten
Representative Max Gruenberg
Representative Mike Navarre
Representative Robin Taylor
Representative Ramona Barnes

MEMBERS ABSENT

None

COMMITTEE CALENDAR

- HB 67 An Act relating to the rural housing program of the Department of Community and Regional Affairs; and providing for an effective date.
- HB 125 An Act relating to a cause of action for certain conduct involving discriminatory harrassment.
- HB 139 An Act relating to the jurisdiction of the superior and district courts, judicial disqualification and impeachment, the procedure for judicial retirement due to incapacity or disability, and proceedings before magistrates.

WITNESS REGISTER

Karla Forsythe
Staff Council, Administrative Offices
Alaska Court System
303 K Street
Anchorage, Alaska 99501
Phone: 264-8228
Position: Answer questions on HB 139

Jon Wolfe
Older Alaskans Commission
P.O. Box C
Juneau, Alaska 99811
Phone: 465-3250
Position: Supports HB 125

PREVIOUS ACTION

HB 67	DATE	PAGE	ACTION
	01/22/87 (H)	52	Read the first time - referrals C&RA, Judiciary
	02/09/87	172	CRA Rpt CS(C&RA) 3DP Zero fiscal note published 2/9/87 Referred to Judiciary

Committee Action: CSHB 67 (C&RA) had first hearing before Judiciary, 2/19/87; held for further discussion and presentation of information. Taylor amendment #1 to delete lines 21 through 26 put on hold. 2/27/87, Taylor amendment defeated; Cotten, Navarre appointed to subcommittee to further define "rural."

HB 125
02/11/87 (H) 195 Read the first time - referrals
Judiciary, Finance
Governor's transmittal letter
Zero fiscal note published

Committee Action: HB 125 heard first before Judiciary Committee on 2/23/87. Testimony was heard, and bill was held over for further work.

HB 139
02/18/87 (H) 262 Read the first time - referrals
Judiciary, Finance

Committee Action: HB 139 heard first before Judiciary on 3/5/87, with section analysis; held over for further work.

ACTION NARRATIVE

TAPE 25 SIDE 1
Number 000

Chairman Sund called the meeting to order at 1:37 p.m.

#HB 67
HJUD, 3/6/87

Chairman Sund noted HB 67 would be taken up first and there was a proposed CS before the committee.

Number 030

Representative Taylor arrived at 1:38 p.m.

Number 055

Representative Cotten, who chaired the subcommittee on HB 67, stated that Representative Hoffman's suggestion to increase the population was included, as well as additional language redefining the definition of rural to allow other certain rural communities connected by road. He moved for adoption of the CS.

Number 75

Chairman Sund noted there was no objection and so the committee adopted CSHB 67(Jud).

Number 120

Representative Gruenberg suggested the title of HB 67 be narrowed to "An Act redefining the definition of rural..." Representative Cotten objected because there might be legitimate changes to the program, and some communities may not really need the program to obtain a loan.

Number 133

Representative Cotten moved CSHB 67(Jud) with individual recommendations.

Number 136

Chairman Sund noted there were no objections, and so CSHB 67(Jud) passed with individual recommendations.

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#HB 139

HJUD, 3/6/87

Number 144

Chairman Sund brought HB 139 before the committee.

Representative Gruenberg said he had conferred with Representative Taylor regarding his concerns about foreign judgments, and the problem was cleared up.

Number 165

Representative Cotten suggested the Speaker of the House take another look at HB 67 for a possible referral to the Finance Committee.

Number 190

Representative Navarre arrived at 1:45 p.m.

Number 195

Chairman Sund invited Karla Forsythe, who was testifying via teleconference OFFNET, to review Section 6 of HB 139 for comment on the increase of jurisdiction of district court.

Number 202

Karla Forsythe, of the Court System, testified that two portions were suggested by the Court System, and they take no position on

the jurisdictional increase portion which was generated by Representative Gruenberg. With regard to foreign judgment, Ms. Forsythe testified that it would give the court greater flexibility to process lower amounts in district court.

Number 250

Representative Gruenberg clarified that the court had no objection to increasing the district court jurisdiction to \$35,000. He indicated there was hope to increase it to \$50,000 in a few years. Ms. Forsythe concurred with that statement.

Number 266

Chairman Sund requested Ms. Forsythe's comments regarding the argument that an increase in jurisdiction to \$35,000 or \$50,000 might slow down the district court process, which has historically been a relatively speedy process. Ms. Forsythe replied that she would have more concern if it were increased to \$50,000, but \$35,000 would not significantly change the character of district court.

Number 295

Representative Ulmer arrived at 1:50 p.m.

Number 303

Representative Gruenberg discussed a proposed amendment which would reinstate peremptory challenge of judges in small claims court. He referred to Supreme Court Order 759, which removed peremptory challenge, and cited Civil Rule 16(a).

Number 349

Ms. Forsythe stated the court took no position on the proposed amendment. She gave background on the rule, saying that Civil Rule was previously silent on the issue, causing disparity between different courts in the state, and the recommendation by the supreme court was to disallow peremptory challenge. She noted the possibility of fiscal impact in rural areas with passage of the amendment.

Number 417

Representative Taylor commented that peremptory challenge can be expensive to the court system, but that option should apply to all citizens, and he supported the amendment.

Number 435

Representative Cotten moved the adoption of amendment one by Representative Gruenberg. There being no objection, amendment one was adopted.

Number 444

Representative Gruenberg discussed proposed amendment two submitted by Representative Martin and moved by Representative Barnes. He said it required the series of judicial reprimands to be included in the information and recommendations on judicial officers in election pamphlets. He asked for Ms. Forsythe's comments on the amendment.

Number 525

Ms. Forsythe replied she had not seen the amendment and was not in a position to make comment at this time.

Number 541

Representative Barnes noted Ms. Forsythe would be familiar with it as it was included in last year's bill.

Number 560

Representative Taylor stated he opposed the language on last year's bill because it was too far reaching.

Number 592

Chairman Sund asked if there were provisions to allow public commendations for judges. Ms. Forsythe replied she was unaware of any such formal procedure. Chairman Sund stated the committee might want to consider an amendment to add commendations to election pamphlets.

Number 610

Representative Cotten asked about the process with the Judicial Council regarding private reprimands. Chairman Sund gave an example of the reprimand process. There was further discussion on the matter of judicial reprimand procedures regarding private and public reprimands.

Number 754

Representative Ulmer called for the question on amendment two. Chairman Sund asked for objections; there being none, amendment two was adopted.

Number 758

Representative Taylor stated that judicial evaluations are done about six months before the election pamphlets come out and he would like to see an ongoing annual evaluation process which would provide training or other solutions to problems which may arise in evaluation.

Number 806

Chairman Sund asked for clarification of Section 11 and the definition of incapacity. Representative Gruenberg replied that it was not Court System language, but his intent to reference all subsections. Ms. Forsythe said she had no position on it and that it appeared simply as a drafting choice.

Number 840

Representative Cotten asked which sections were requested by the Court System. Representative Gruenberg replied they were Sections 1, 2, 3, 4, 7, 11 and 12.

Number 855

Representative Cotten asked for an explanation of Section 12. Ms. Forsythe replied that it went with Section 11. She said incapacity is when a judge identifies a problem which warrants his/her retirement from the bench and the decision is made by the governor. There is a parallel procedure where a complaint is made and there is disciplinary action.

TAPE 25 SIDE 2
Number 000

Ms. Forsythe stated the problem is that the supreme court has no role in retiring a judge for incapacity, and retaining the language confuses the issue. She indicated it was basically a housekeeping measure and the new language in Section 12 sets an effective date which already appeared in the procedure for incapacity.

Number 45

Chairman Sund referred to page 6, line 22 and asked why a judge would receive retirement after two years of service if removed for incapacity instead of the usual five years. Ms. Forsythe said she did not know the rationale for that, but it was in existing language.

Number 70

Representative Taylor said it was probably a judgment call and it would be difficult to change now, except that it could be changed prospectively for future judges.

Number 140

Representative Ulmer made a motion to pass CSHB 139(Jud) as amended with individual recommendations. Representative Cotten stated he would not object but he maintained an interest in the retirement question.

Number 168

Chairman Sund noted there was no objection, and so CSHB 139(Jud) passed as amended with individual recommendations. Chairman Sund announced HB 125 would be up next.

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#HB 125
HJUD, 3/6/87
Number 200

Jon Wolfe, of the Older Alaskans Commission, testified in support of HB 125. He suggested an amendment to line 16 to include age as a characteristic in which an action could be brought. This would bring the bill in conformance with other civil rights and discrimination statutes which include age.

Number 223

Chairman Sund recalled a request made earlier to look at other remedies available under law and a memo had been submitted by Teresa Cramer, of Legal Services, which was in the committee packets. He noted that it was not the intention to move HB 125 today, and it would be held over for further review. He adjourned the meeting at 2:37 p.m.