

**MINUTES OF THE  
HOUSE JUDICIARY STANDING COMMITTEE MEETING  
Room W020 - House Building, State Capitol Complex  
February 8, 2011**

**MEMBERS PRESENT:** Rep. Kay McIff, Chair  
Rep. Francis Gibson, Vice Chair  
Rep. Jackie Biskupski  
Rep. Derek Brown  
Rep. LaVar Christensen  
Rep. Fred Cox  
Rep. Chris Herrod  
Rep. Eric Hutchings  
Rep. Ken Ivory  
Rep. Brian King  
Rep. Paul Ray  
Rep. Mark A. Wheatley  
Rep. Brad Wilson

**STAFF PRESENT:** Jerry D. Howe, Policy Analyst  
Sylvia Newton, Committee Secretary

**NOTE:** A list of visitors and a copy of handouts are filed with the committee minutes.

Rep. McIff called the meeting to order at 2:07 p.m.

**MOTION:** Rep. Wilson moved to approve the minutes of February 4, 2011 meeting. The motion passed unanimously with Rep. Herrod, Rep. Hutchings, Rep. King, Rep. Ray, Rep. Wheatley, and Rep. Gibson absent for the vote.

**H.B. 74S1 Municipal Justice Court Judge Elections (*Rep. K. Sumsion*)**

**MOTION:** Rep. Wilson moved to amend the bill as follows:

*1. Page 1, Lines 9 through 14:*

9 This bill changes the requirements for a retention election vote for ~~{municipal}~~  
justice

10 court judges ~~{and the length of the terms of justice court judges}~~ .

11 Highlighted Provisions:

12 This bill:

13 ▶ changes the retention election requirements for municipal justice court  
judges in cities of the first, second, and third class from

14 the entire county to the municipality where the judge sits;

2. *Page 5, Lines 134 through 144:*

134 (7) Upon the expiration of a justice court judge's term of office, the judge shall be  
135 subject to an unopposed retention election [~~in the county or counties in which the court to~~  
136 ~~which the judge is appointed is located,~~] in accordance with the procedures set forth in  
Section

137 20A-12-201[-];

138 (a) in the county or counties in which the court to which the judge is appointed is  
139 located if the judge is a county justice court judge **or a municipal justice court judge**  
**in a town or city of the fourth or fifth class** ; or

140 (b) in the municipality in which the court to which the judge is appointed is located if  
141 the judge is a municipal justice court judge **and Subsection (7)(a) does not apply** .

142 (8) Before each retention election, each justice court judge shall be evaluated in  
143 accordance with the performance evaluation program established in [~~Subsection~~  
78A-2-104(5)]

144 Section 78A-12-203.

The motion to amend the bill passed unanimously with Rep. Herrod and Rep. Ray absent for the vote.

Spoke in favor of the bill: Becky Pirente, citizen  
Annie Bieker, citizen  
Edward Peltekian, citizen  
Craig Wayman, citizen  
Ryan Peltekian, citizen  
Elaine Damron, citizen

Spoke to the bill: Rick Schwermer, Administrative Office of the Court

MOTION: Rep. Christensen moved to amend the bill as follows:

1. *Page 1, Lines 9 through 14:*

9 This bill changes the requirements for a retention election vote for ~~{municipal}~~  
justice

10 court judges ~~{and the length of the terms of justice court judges}~~ .

11 Highlighted Provisions:

12 This bill:

13 ► changes the retention election requirements for municipal justice court  
judges **in cities of the first, second, third, and fourth class** from

14 the entire county to the municipality where the judge sits;

2. ~~Page 5, Lines 134 through 134~~ (7) Upon the expiration of a justice court judge's term of office, the judge shall be  
135 subject to an unopposed retention election [~~in the county or counties in which the court~~  
136 ~~to~~ ~~which the judge is appointed is located,~~] in accordance with the procedures set forth in  
Section  
137 20A-12-201[-];  
138 (a) in the county or counties in which the court to which the judge is appointed is  
139 located if the judge is a county justice court judge **or a municipal justice court judge**  
**in a town or city of the fifth class** ; or  
140 (b) in the municipality in which the court to which the judge is appointed is  
located if  
141 the judge is a municipal justice court judge **and Subsection (7)(a) does not apply** .  
142 (8) Before each retention election, each justice court judge shall be evaluated in  
143 accordance with the performance evaluation program established in [~~Subsection~~  
~~78A-2-104(5)~~]  
144 Section 78A-12-203.

SUBSTITUTE

MOTION: Rep. Ray moved to pass the bill as amended with a favorable recommendation. The motion failed on a tie vote.

The original motion to amend the bill failed on a tie vote.

MOTION: Rep. Brown moved to pass 1st Substitute H.B. 74 as amended with a favorable recommendation. The motion passed unanimously with Rep. Gibson absent for the vote.

**H.B. 59 Arrest and Requirements - with or Without Warrants (Rep. S. Handy)**

MOTION: Rep. Brown moved to amend the bill as follows:

1. *Page 1, Lines 14 through 16:*

14 ▶ amends language regarding arrest by a peace officer to refer to "probable  
cause" rather than "reasonable cause; and  
= ▶ amends a peace officer's authority to make an arrest without a warrant upon  
15 {~~reasonable~~} probable cause by providing that this authority includes any  
misdemeanor, rather  
16 than current law which grants the authority to arrest upon  
{~~reasonable~~} probable cause to class

2. *Page 2, Lines 36 through 37:*

36 (2) when the peace officer has {~~reasonable~~} probable cause to believe a  
felony or a [class A]

37 misdemeanor has been committed and has {~~reasonable~~} probable cause to  
believe that the person arrested

3. *Page 2, Lines 39 through 40:*

39 (3) when the peace officer has {~~reasonable~~} probable cause to believe the  
person has committed a

40 public offense, and there is {~~reasonable~~} probable cause for believing the  
person may:

4. *Page 2, Line 44:*

44 (4) when the peace officer has {~~reasonable~~} probable cause to believe the  
person has committed

The motion to amend the bill passed unanimously with Rep. Christensen and Rep. Gibson  
absent for the vote.

Rep. Handy explained the bill to the committee with the assistance of Patrick Nolan,  
Attorney General's Office.

MOTION: Rep. Biskupski moved to adjourn. The motion passed unanimously with  
Rep. Christensen, Rep. King, and Rep. Ray absent for the vote.

**H.B. 272 Indigent Defense Act Amendments (Rep. K. McIff)**

This bill was not considered.

Rep. McIff adjourned the meeting at 4:04 p.m.