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ROLL NUMBER

DESCRIPTION

3015

2001 HOUSE JUDICIARY

HCR 3015

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3015

House Judiciary Committee

Conference Committee

Hearing Date 02-07-01

Tape Number	Side A	Side B	Meter #
TAPE II		s	1949 to 2798
Committee Clerk Signature <i>Joan Diera</i>			

Minutes: Chairman DeKrey opened the hearing on HCR 3015. Directing the Legislative Council to study the separation of powers between the legislative and judicial branches and the distinction between the responsibilities of each branch.

Rep Weisz: District 14, introduced the study resolution to look at separation of powers.

Chairman DeKrey: Are there any questions, seeing none we will continue with support to HCR 3015.

Robert Kautzman: (see attached testimony)

Chairman DeKrey: Are there any questions, if none thank you for appearing, is there any one wishing to appear in opposition to HCR 3015. Seeing none we will close the hearing on HCR 3015.

COMMITTEE ACTION

Page 2

House Judiciary Committee

Bill/Resolution Number HCR 3015

Hearing Date 02-07-01

Chairman DeKrey: what are the wishes of the committee? Vice Chr Kretschmar moves a DO

PASS on HCR 3015, seconded by Rep Maragos. The clerk will call the roll on a DO PASS

motion on HCR 3015. The motion passes with 8 YES, 4 NO, 3 ABSENT

Carrier is Vice Chr Kretschmar.

Date: 02-07-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3015

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Vice Chr Kretschmar Seconded By Rep Maragos

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore					
Rep Rachael Disrud	✓				
Rep Bruce Eckre		✓			
Rep April Fairfield		✓			
Rep Bette Grande					
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin		✓			
Rep John Mahoney					
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham		✓			

Total (Yes) 8 No 4

Absent 3

Floor Assignment Vice Chr Kretschmar

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 8, 2001 9:02 a.m.

Module No: HR-23-2681
Carrier: Kretschmar
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3015: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(8 YEAS, 4 NAYS, 3 ABSENT AND NOT VOTING). HCR 3015 was placed on the
Eleventh order on the calendar.

2001 SENATE GOVERNMENT AND VETERANS AFFAIRS

HCR 3015

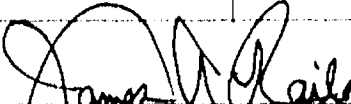
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3015

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date March 23, 2001

Tape Number	Side A	Side B	Meter #
1		X	14.3-51.0
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach** called the committee to order and opened the hearing on HCR 3015 a resolution directing the Legislative Council to study the separation of powers between the legislative and judicial branches and the distinction between the responsibilities of each branch. **Representative Robin Weisz**, District 14, appeared before the committee as primary sponsor of the resolution. He introduced this resolution on behalf of a constituent of his. A copy of the fax is attached. He indicated that basically this is a simple resolution. What is basically asking for is to look at the three branches of government that are critical to our society. As legislators we have all been frustrated at times by seeing legislation we have passed and it appears that the judicial branch at times goes beyond the boundary of their authority in interpreting the laws to actually making law of their own. This resolution asks that we take a look at that and make clearer lines and boundaries and delineate exactly where the authority of each ends and the others begins. He did ask that the committee give their positive reaction to this resolution. **Senator Wardner** inquired about the constituent who had sent the fax. Was there a specific thing that

happened in his career or life that created these feelings? **Representative Welsz** indicated yes there was. The handout he gave will provide information to the specifics. **Senator Dever** inquired if he saw this as the same kind of problem on the state level as on the federal level? Would you see any kind of initiative coming from this study or simple a better understanding between the three branches? **Representative Welsz** indicated that this resolution is looking specifically at the state level. We obviously aren't going to effect the federal level. He would hope that if the study came out with some concrete solutions he would hope that the legislative body would address it. **Senator C. Nelson** noted that there have been a number of things in another committee dealing with the executive branch and the question of whether agency administrative rules supersede what the legislative branch intends. She noted she doesn't see any mention of it. This seems to be a battle between the judicial and legislative branches. She was always taught there are three distinct branches of government. Is there an intent here that you want to spread this out and look at administrative rules too? **Representative Welsz** indicated that this resolution is specifically dealing with the relationship between the legislative and the judicial. **Representative Audrey Cleary**, district 49, indicated that she has had some concerns for a number of years about judges and the people we elect to be judges and how little we know about those people and how little we can find out about them when we are voting for them and that has been one of her concerns. She noted one of her constituents has had a difficult time with judges and she is sure a lot of other people have to. She agrees with Representative Weisz on this issue. This issue needs to be addressed. There was no further testimony in support of, in neutral position on, or in opposition to HCR 3015. The hearing was closed at this time.

Chairman Krebsbach indicated that the amendments that are being proposed here really put the bill into a more amiable form. **Senator Wardner** moved to adopt the amendments which have

been proposed. Seconded by **Senator Dever**. **Senator T. Mathern** indicated that he would oppose the amendments. We had staff here and no one got up to oppose the amendments, no one got up to offer them. He thinks if this was a big deal to them they should have brought it to the committee's attention right from the podium. **Chairman Krebsbach** indicated, **Senator Mathern**, she did have a visit with Chief Justice VandeWalle and he would have been at the hearing today however, he had to be out of town. Comments were offered by **Senators Dever, Wardner, C. Nelson, T. Mathern, and Krebsbach**. A discussion of the amendments ensued as to how the wording could be done to include all three branches of government. Roll Call Vote for adoption of amendments indicated 5 Yeas, 1 Nay, and 0 Absent or Not Voting. A motion to further amend was made by **Senator C. Nelson** to add: in line 2, after the word legislative insert a " , executive" ; in line 7, after the " ; the administrative power of the state is vested in the executive branch" and down in line 13, do another " ,executive". Seconded by **Senator Wardner**. Roll Call Vote indicated 6 Yeas, 0 Nays, and 0 Absent or Not Voting. A motion for Do Not Pass as Amended was made by **Senator C. Nelson**, seconded by **Senator Wardner**. Roll Call Vote indicated 2 Yeas, 4 Nay Absent or Not Voting. The motion fails. A motion for Do Pass as Amended was made by **Senator Dever**, seconded by **Senator Wardner**. Roll Call Vote indicated 5 Yeas, 1 Nay, 0 Absent or Not Voting. **Senator Dever** will carry the resolution.

PROPOSED AMENDMENTS
TO
HOUSE CONCURRENT RESOLUTION NO. 3015

Page 1, line 7, after "Assembly" insert ", and the judicial power of the state is vested in its courts"

Page 1, line 8, remove "due to judicial activism and the apparent desire of courts throughout" and after the second "the" insert " thoughtful and prudent exercise of these powers by each of these separate and co-equal branches, with due respect and consideration for the authority and responsibility of the other, is in the best interest of the people"

Page 1, remove line 9

Page 1, line 10, remove "legislative branch of government have been encroached upon"

Renumber accordingly

Date: 3/23/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3015

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt amendments -

Motion Made By Sen. Wardner Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator Carolyn Nelson	✓	
Senator Dick Dever, Vice-Chr.	✓		Senator Tim Mather		✓
Senator Ralph Kilzer	✓				
Senator Rich Wardner	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/23/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3015

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Further Amend

Motion Made By Sen. C. Nelson Seconded By Sen Wardner

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator Carolyn Nelson	✓	
Senator Dick Dever, Vice-Chr.	✓		Senator Tim Mathern	✓	
Senator Ralph Kilzer	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/23/01
 Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3015

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
 or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as Amended

Motion Made By Sen. C. Nelson Seconded By Sen. Wardner

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.		✓	Senator Carolyn Nelson	✓	✓
Senator Dick Dever, Vice-Chr.		✓	Senator Tim Mathern		✓
Senator Ralph Kilzer					
Senator Rich Wardner	✓				

Total (Yes) 2 No 3

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

