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2003 HOUSE JUDICIARY

HB 1088

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1088

House Judiciary Committee

Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
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1		xx	0-2 take broken
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: All members were present.

Chairman DeKrey: We will open the hearing on HB 1088.

Ted Gladden, State Court Administrator: (see testimony) In favor.

Rep. Eckre: Do other states use a formula similar to what you are proposing?

Mr. Gladden: It is handled differently in many states. More and more of the costs are moving over to the states, where states are assuming responsibility for the facilities.

Rep. Klemin: Right now, we have a filing fee of \$80, some of that money is dedicated, \$65 of that \$80 is deposited into the state general fund. Why don't we take this \$10 out of that \$65, instead of adding another \$10 on top of it.

Mr. Gladden: That might possibly be an alternative.

Rep. Klemin: Maybe that would accomplish the purpose that you are looking at and it would keep the fee the same. Was there any discussion on your working committee as to what happens to that other \$65 that is going into the general fund, or why you couldn't use it.

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Mr. Gladden: We didn't get into discussion of that at all, no.

Rep. Kretschmar: Under current law, does the Supreme Court have the authority to determine if a county's facility is not adequate or proper to hold the district court, can they tell the county we are going to have your cases tried in the county next door.

Mr. Gladden: There is a provision in the code that allows, every county must provide adequate facilities, there is a provision that could occur if the facilities got to the point where they were unacceptable for court proceedings.

Rep. Kretschmar: Have the counties not been meeting their responsibilities.

Mr. Gladden: I don't know if it's a matter of not meeting their responsibilities, but there is a more of a sense that since the state has all of the revenues, the state should participate in providing some costs toward the maintenance of the facilities.

Rep. Kretschmar: Currently, are there any court facilities that the Court believes are not adequate for the holding of court trials.

Mr. Gladden: At the present time there have been no facilities that have been deemed inadequate in terms of court services.

Rep. Boehning: If you going to grant counties 25% of funds, do you have a cap on those funds that you are going to grant to counties.

Mr. Gladden: Those details would have to be worked out by this committee that would be put in place to set the guidelines on how the funds would be distributed.

Rep. Delmore: Can you tell me about the utilization of the courthouses. Do we really have a reason that every one of those courthouses is necessary for the process. How often are they utilized for court procedures.

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Mr. Gladden: Our commitment is to provide services in every county of the state, we go in, regardless of the volume, going in at least on a monthly basis to handle the master calendar at the minimum.

Rep. Delmore: I realize how difficult all of this is in working out the details, I think that if we took it over in state courts, we do owe the counties some money for this type of project in keeping up our courthouses. What about statistics that tell us how often the courts are used.

Mr. Gladden: We have no statistics statewide. It is just a matter of finding out how many trial dates there are in every county.

Chairman DeKrey: Thank you for appearing before our committee. Any testimony in support of HB 1088.

Wade Williams, ND Association of Counties: (see testimony) Support of HB 1088. My testimony mirrors Mr. Gladden's testimony.

Rep. Delmore: Are you aware of any courthouses that are in immediate need that this would help.

Mr. Williams: There are a number of counties that are looking at replacing carpets, benches, juror chairs that are waiting to see what happens if this legislation passes.

Chairman DeKrey: Thank you for appearing before us. Anyone else wishing to testify in support of HB 1088. Anyone wishing to testify in opposition or neutral?

Christine Hogan, Executive Director, State Bar Association of ND: Opposition. (see testimony) In terms of the courthouses being utilized, there are some that have not seen a criminal trial in over 20 years.

Rep. Eckre: Weren't you part of the committee that helped put this together.

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Ms. Hogan: I am.

Rep. Eckre: Then why weren't these concerns addressed at that time.

Ms. Hogan: I thought it might be something that might be palatable to my association, it turned out that it was not to tack on another filing fee on to the plaintiff's who are bringing their actions to the court.

Rep. Delmore: There are a number of people on the committee that share your same feelings about the filing fees, and I think it is very real. Would you lose your objection to the bill, if we did indeed find a way to take that \$10 from somewhere else, rather than adding another fee of \$10.

Ms. Hogan: I would have to talk to the board about that, but I think that would be acceptable.

Chairman DeKrey: It is the judge's discretion to waive the filing fees, right?

Ms. Hogan: That is correct.

Chairman DeKrey: So, then supposedly the people who can afford this user fee must be the ones that pay it, because the ones that can't, would be excused from it anyway. And we would still be below the national average on both civil and small claims filings.

Ms. Hogan: That is certainly true of an indigent plaintiff, that the court has the discretion to waive the filing fee.

Rep. Klemin: Since part of this filing fee are dedicated in this law, if that \$10 came out of the state general fund, you wouldn't have a problem dedicating \$10 of that to that fund.

Ms. Hogan: I wouldn't have an objection if that happened.

Rep. Klemin: I don't think the court has unbridled discretion to waive filing fees, except in the case where somebody has applied for that to happen because they can't afford it.

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Ms. Hogan: In the case of an indigent person.

Rep. Klemin: But most of the time, everybody pays the filing fee.

Ms. Hogan: Obviously this is one small group of society bearing the expense that has not been asked to pay for courthouse repairs. This is something that all people enjoy.

Chairman DeKrey: Thank you for appearing before our committee. Anyone else in opposition to HB 1088.

John Olson, Trial Lawyers Association: I want to reiterate. This is not a user fee. Most of the filings in your clerk's offices are criminal. They wouldn't be covered by this. So you those people excluded, you would have a lot of civil cases that may be excluded because of impoverished plaintiffs. Civil cases such as mental health commitments, etc. those would be excluded. So you just have the plaintiff's filing fees on civil cases. Also, huge amount of those cases have answers from defendants, which are excluded. So this is discriminatory, to make them pay for improvements in other counties.

Rep. Delmore: In terms of utilization of courthouses, each courthouse holds several offices of the county, correct?

Mr. Olson: Correct. How would you allocate repairs.

Chairman DeKrey: Thank you for appearing. Any further testimony in opposition? We will close the hearing.

