

January 1949

## The Thirty-Seventh General Assembly

Hubert D. Henry

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

---

### Recommended Citation

Hubert D. Henry, The Thirty-Seventh General Assembly, 26 Dicta 105 (1949).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact [jennifer.cox@du.edu](mailto:jennifer.cox@du.edu), [dig-commons@du.edu](mailto:dig-commons@du.edu).

## The Thirty-Seventh General Assembly

BY HUBERT D. HENRY  
*of the Denver Bar.*

The Thirty-Seventh General Assembly has never been considered as a superior legislature. On the other hand, a fair appraisal of the results achieved by it lead to the inevitable conclusion that it could have left a legislative record far more damaging and far less beneficial to the state.

Personal considerations entered into its activities too much. Too many measures were appraised on the basis of who was behind them rather than on their contents. Bitter personal antagonisms as well as blind personal loyalties had their part.

The Republican-controlled senate had very few members who had no previous legislative experience. The few new members were older men who had a background of other experience. The Democratic-controlled house had many new members who had no previous legislative experience, and many of these new members had had little experience of any other kind except educational.

A principal criticism is that the newer and younger members relied too much on their background of experience which they didn't have, and the older members failed to rely sufficiently upon their background of experience which they did have.

In spite of these conflicts of party politics and experience, the Thirty-Seventh General Assembly left a record of measures adopted and killed, which both in number and content compares favorably with those of recent general assemblies. It passed 264 bills, of which 100 were appropriation bills; 2 constitutional amendments were submitted to the people; 204 printed bills, and 15 printed constitutional amendments were killed; and it is probably in these defeated measures rather than in the passed measures that we will find the real importance of the Thirty-Seventh General Assembly.

Undoubtedly the 2 constitutional amendments hereafter analyzed were the most important measures adopted. One of them (HCR 10) would permit home rule cities to submit charter amendments through their city councils, and the other amendment provides for annual sessions of the general assembly and otherwise streamlines and makes more efficient legislative procedure.

The legislative program of the Colorado Bar Association did not fare well. The proposals to increase the compensation of court clerks and employees (HB 482), to provide for judges' pension and retirement benefits (HB 154), and to continue permanently the judges' pay raises voted in 1948 (HB 174), were enacted. The pay raises ultimately adopted for clerks

were not as large, particularly in Denver, as those proposed by the committee. The retirement plan was amended to bring the judges under the state retirement set-up. Two other proposals introduced by the committee were HB 152, defining the powers and duties of the chief justice of the supreme court, and HB 153, establishing a judicial council. There was introduced in the house, by persons other than the Colorado Bar Association committee, HB 782, under which the state would have been divided into 7 administrative districts, and each judge of the supreme court assigned to one of these districts for the purpose of exercising certain superintendence. As additional compensation for this work, each judge was to receive \$2500 a year, but no judge would receive more than \$9,000 a year total compensation. This would bring the present judges receiving \$6,500 a year up to \$9,000, and it would also require the present judges now receiving \$7,500 a year to stay within the \$9,000 maximum. This bill was given preference in the house of representatives to HBs 152 and 153 with the result that HBs 152 and 153 were killed HB 782 in turn lost in the senate, with the result that no bill was enacted enlarging the power of the supreme court to discharge its constitutional authority to superintend lower courts.

The constitutional amendment setting up the judiciary plan first started through the senate. It was beaten on the floor of the senate when it did not receive the necessary two-thirds vote to put it on the ballot. Some of the principal objectors were opposed only to that part which embodied the Missouri plan, and suggested that the balance of the proposal be again considered separately. This was done, and this new resolution (SCR 9) passed the senate unanimously. This resolution would have abolished justice courts, permitted the exchange of judges, provided for the election of the chief justice, and accomplished a number of other beneficial changes in the judiciary. It was brought up for discussion in the house late in the session, and upon the basis of what appeared to be inadequate knowledge the proposal was killed in the house. The spokesman against the bill decried its lack of any merit and further decried the doing away with the justices of the peace. It was obvious to the observer that the resolution was defeated because of inadequate information on the part of the legislators. On the last day before considering such matters, a resolution was entered submitting a constitutional amendment which would provide that where officials holding similar offices, but whose terms expire at different dates, would receive an increase in compensation, all persons holding the office would receive the increase at the same time. This resolution passed the house of representatives, but got to the senate too late to be considered this session.

A brief summary of some of the more important measures which were passed follows:

### **Constitutional Amendments**

HCR 10 submits to a vote in 1950 a constitutional amendment authorizing councils of home rule cities to submit charter amendments to the voters without the necessity of having them initiated by petition. At present the only method of submitting charter amendments is by initiative. The expense and labor of getting sufficient signatures to a petition for a charter amendment is so great that many charters have fallen into obsolescence because of not having a more inexpensive and more simple a method of submitting charter amendments. This charter amendment had its roots in the recent ill-fated Denver charter convention. It became obvious from that experience that a charter convention is not the way to modernize a home rule city charter. Recent experiences have made it obvious that the petition method is unsatisfactory. If this amendment is approved, the home rule cities can vote on series of charter amendments submitted by their councils, and thus modernize their charters simply, efficiently and without much expense. This amendment has one other feature. In Denver only, the constitution requires that salaries of officers are to be fixed by charter. Under the proposed amendment, Denver could, as can now all other home rule cities, provide by charter either for the salaries of the officers or provide limits within which salaries can be fixed by ordinance. The present charter salaries would continue until the Denver charter is changed.

HCR 11 submits to the voters in 1950 a constitutional amendment regarding the legislature. The amendment provides for annual sessions, but in even numbered years no bills could be passed except those making appropriations, thus raising revenue, and those pertaining to subjects designated in writing by the governor during the first 10 days of the session. These sessions could consider constitutional amendments. With the limited scope given them, they should not last more than 30 days and will give Colorado the benefits of annual budget-making recently adopted in California and Maryland and now proposed in Nebraska. The general assembly will meet at 10 a.m. on the first Wednesday after the first Tuesday of January, instead of at noon on the first Wednesday of January. This eliminates New Year's Day meetings and lapse of 13 days between convening and inauguration in those years. There would be a lapse of 6 days in every year, as there now is in most years. The organization adopted at the convening of the first regular session would continue through the entire two years. Emergency clauses would be eliminated. Bills would go into effect on a date stated in the act, otherwise on passage. The 15 days limita-

tion on introducing bills would be eliminated with the general assembly given authority to make its own limitation. No bill could be introduced by title only. Any full reading of a bill could be dispensed with upon unanimous consent. Many of the regular appropriations now contained in about 50 separate bills could be included in the long appropriation bill. The general assembly could, from time to time, determine the investments for executors, administrators, guardians, conservators and other trustees, without the present restriction against investments in the bonds and stocks of private corporations. This resolution had two negative votes in the house and was passed unanimously in the senate.

### Courts

- SB 218 eliminates the \$5 a day statutory limit on expenses of district judges sitting outside their own districts, with no maximum limit now in the law.
- SB 279 changes the terms of the district court in the fourth judicial district.
- HB 17 provides for another district judge in the first judicial district.
- HB 127 provides for another district judge in the eighth judicial district.
- SB 265 permits the employment of a deputy jury commissioner in counties from 40,000 to 100,000.
- HB 149 sets up a state parole department headed by a director to supervise parolees from the state penitentiary, reformatory and state hospital.
- HB 150 This bill sets up a completely revised probation system. Probation officers are appointed by the district judges. It provides for pre-sentence investigations, examination of the defendant, records, etc., the granting of probation by the court alone, making of reports, revocation, etc.
- HB 154 establishes pensions for district judges, juvenile judges, and county judges in counties over 20,000 population. The set-up is part of the public employees' retirement system and is in conformity with the plan for state and other public employees.
- HB 174 makes permanent the increases for judges voted in the fall of 1948. There was considerable discussion as to whether or not this bill as drawn was constitutional in that it might violate the constitutional provision against extending a law by reference to its title alone in lieu of re-enactment at length. The bar should give serious consideration to that, so that it can be corrected at the next session of the general assembly, if the bill is not constitutional.
- HB 362 permits the Denver justices of the peace to establish a central office, to allocate cases between the justices, to follow the rules of civil procedure in certain cases, and to fix the penalty in criminal cases.
- HB 842 increases the fee of the court reporter for transcribing notes from 20c to 30c a hundred words.

HB 482 increases the salaries of clerks and other employees of courts of record.

**Probate**

SB 213 permits the investment of estate funds in savings and loan accounts.

HB 15 increases the maximum small estate from \$300 to \$500 and applies to mental incompetents.

HB 825 is a several section amendment to the probate law. Lapsed legacies become a part of the residue of the estate. It is not necessary to file original papers supporting a claim, but the originals must be exhibited upon demand. If a claim is not filed within 6 months because of neglect or omission by the personal representative or his attorney or agent, the court may allow the claim on such terms and conditions as the court may deem just. Contest of a will is limited to 6 months after probate rather than one year. The provisions for execution of a contract are extended to conservators. Estates probated in the wrong county can be transferred to the right county, but if not transferred, the administration is binding on all persons. The court may require petitions and other documents to be verified. There is a slight amendment relating to the giving of a deed by a personal representative or trustee under a foreign will and a change in the section relating to claims.

**Real Estate Titles**

SB 255 provides a method for vacating roadways, alleys, streets, etc., and provides for the vesting of title in vacated ways.

SB 278 relates to the sale of lands by the state land board. It provides for the vesting of patent rights in heirs, devisees and assignees, and also makes some changes with reference to terms and conditions of sale.

SB 198 permits the holder of a tax sale certificate to redeem from any tax sales subsequently made.

HB 948 rewrites the law relating to partition.

**Salaries**

SB 1 increases the salaries of state employees under civil service.

SB 2 suspends for the 1949-1951 biennium the salaries of state employees not under civil service.

HB 563 increases the maximum salaries of deputy district attorneys in districts other than Denver to \$2,400 annually.

HB 762 increases salaries of members of the state land board to \$4,200.

HB 870 increases the salaries of civil service commissioners to \$4,200.

HB 18 permits an increase in salary of jury commissioner in counties from 40,000 to 100,000 to \$100 a month.

### River Compacts

- SB 6 Arkansas River Compact.  
 HB 1 Upper Colorado River Compact.

### State Boards and Commissions

- SB 84 establishes a state commission on alcoholism.  
 SB 221 increases fees paid by dentists to the dentistry board.  
 SB 672 increases fees paid by pharmacists to the pharmacy board.  
 HB 3 makes racing commissioners non-paid and takes them out of civil service.  
 HB 48 enlarges the gas conservation commission, extends its duties to the conservation of oil and renames it the Oil and Gas Conservation Commission.  
 HB 584 increases the fees paid by abstracters to the abstracters' board.  
 HB 709 increases the fees paid by barbers to the barbers' board.  
 HB 863 increases the fees paid by cosmetologists to the cosmetology board.  
 SB 405 continues the committee on veterans education and training for 2 years.  
 HB 895 permits the employment of 3 additional deputy state bank commissioners.  
 HB 837 reorganizes the state department of education in line with constitutional amendment approved in 1948.  
 HB 1000 consolidates a number of agencies into a new state department of agriculture.

### State Government

- SB 229 amends the public employee retirement act.  
 SB 23Q increases the maximum pension for state employees.  
 SB 232 takes public health employees into the public employees' retirement setup.  
 SB 233 amends the retirement provisions for state employees.  
 HB 66 relates to state appropriations.  
 HB 347 creates the Colorado Council of UNESCO.  
 HB 367 requires the marking of all state vehicles and amends the powers of the state purchasing agent.  
 HB 463 permits the Colorado State Hospital to accept gifts, bequests, etc.  
 SB 479 and SB 522, relating to the signing of warrants, were repealed by HB 726.  
 HB 823 is a rewrite of the Colorado State Patrol Act.  
 HB 328 enlarges the powers of the state controller.  
 HB 734 provides for the payment of the monthly salaries of the members of the general assembly.  
 HB 824 permits the state fair commission to lease the state fair grounds and facilities.

- HB 962 permits bonds deposited by banks as security for state funds to be deposited under custody receipt as well as in escrow.
- HB 486 authorizes the state controller to issue anticipation warrants against building funds for state institutions and agencies.

**Local Government**

- SB 188 water and sanitation districts.
- SB 447 authorizes cities and incorporated towns to finance and construct sewerage facilities.
- SB 449 authorizes municipalities to finance and construct sewerage facilities.
- SB 450 provides for the organization and powers of public improvement districts within towns and cities.
- SB 456 re-enacts the fire protection district law.
- SB 777 provides for the distribution of funds upon the dissolution of a water, sanitation or fire protection district.
- SB 622 sets up a new procedure for the removal of county seats.
- HB 264 purports to amend chapter 238, Session Laws of Colorado, 1947, by striking from said chapter 238 authority to issue bonds in accordance with "this chapter" and substituting authority to issue bonds in accordance with chapter 174, Session Laws of Colorado, 1939. Chapter 238, thus amended, relates to metropolitan districts, and said chapter 238 repeals sections 1-15, incl., chapter 173(A), 1935 C.S.A. In chapter 238 this reference is incorrect, as there is no chapter 173(A), 1935 C.S.A. However, in the Bradford Robinson supplement, chapter 173(A) is the number assigned to chapter 175, L' 1939, and to subsequent acts amendatory thereof. In considering HB 264 this should be borne in mind: (1) did chapter 238, L' 1947 repeal chapter 175, L' 1939?; (2) if chapter 238, L' 1947 did repeal chapter 175, L' 1939, then is not the attempted incorporation in HB 264 of a reference to chapter 175, L' 1939 a nullity?
- HB 601 states how counties may reserve oil, gas and other minerals upon sale of county lands, and may sell oil, gas and other minerals there-  
tofore reserved.
- HB 673 permits municipalities to adopt codes by reference.
- HB 1107 authorizes local governments to contract with each other for services.
- HB 999 authorizes counties to lease grounds for county fairs.
- HB 562 relates to special assessments for local improvements.

**Insurance**

- SB 252 and SB 253 relate to fraternal benefit societies.
- SB 90 defines and prohibits unfair methods of competition and unfair and deceptive acts and practices in the insurance business.
- SB 220 relates to the investment of funds of domestic insurance companies.



- SB 710 authorizes domestic insurance companies to invest in real estate mortgages guaranteed under the provisions of the Farmers Home Administration Act of 1946.
- SB 407 exempts insurance proceeds in the hands of beneficiaries from the claims of creditors or representatives of the insured.
- SB 484 prohibits discrimination in insurance rights in workmen's compensation and employers' liability insurance.
- HB 246 relates to county mutual protection associations.
- HB 432 relates to surplus line insurance.

### Health

- SB 203 prescribes minimum standards for hamburger and forbids the use of dye and chemical preservatives in fresh meat.
- SB 290 authorizes Colorado Springs and Pueblo city health departments to combine with county or district health departments and to have members on the board of health.
- SB 654 places the regulation of fluid milk under the state board of health.
- SB 428 requires the enrichment of flour.
- HB 443 requires the vaccination of dairy cattle against Bang's disease and requires the control of dairy cattle having Bang's disease.

### Roads and Vehicles

- SB 408 exempts hearses, towing vehicles and certain other vehicles from regulation by the P.U.C.
- HB 402 increases P.U.C. fees.
- HB 808 provides for the listing of chattel mortgages against vehicles on the certificate of title rather than being filed with the clerk and recorder.
- HB 819 provides for the inspection of anti-freeze and the prohibition of harmful anti-freeze.
- HB 830 requires a larger bond for, and simpler method of procedure against, motor vehicle dealers.
- HB 833 permits the construction of toll roads.
- HB 872 amends several sections of the motor vehicle law relating to drivers' licenses, clearance lamps, side marker lamps, side marker reflectors, penalty assessments, fines, etc.
- HB 909 permits the motor vehicle department to issue a probationary license to a person convicted of a first offense of driving under the influence of liquor.
- HB 403 makes governments liable for negligence in the operation of a motor vehicle by an employee in the line of duty.
- HB 578 provides for the issuance of free motor vehicle licenses to amputee veterans for cars issued by the Veterans' Administration.

**Corporations**

- SB 544 authorizes corporations to adopt stock purchase plans for employees and officers.
- HB 864 gives corporations greater latitude in the issuance of classes of stock.

**Elections**

- SB 75 restores precinct registration.
- HB 9 increases the compensation of judges and clerks of election.

**Children**

- SB 604 rewrites the laws relating to adoption.
- SB 605 rewrites the laws relating to relinquishment.
- HB 389 repeals the laws relating to indenturing of minor children.
- HB 390 relates to the parole of inmates of the State Industrial School for Boys.

**Labor**

- HB 175 increases the benefits under the workmen's compensation act.
- HB 208 increases unemployment compensation benefits and changes the contributions of employers.

**Schools**

- SB 212 permits retired teachers to continue teaching for 2 more years.
- HB 56 increases the maximum mill levy for high schools.
- HB 182 authorizes the distribution of a larger number of publications to the University of Colorado Law Library.
- HB 243 changes the teachers' pension from not more than \$65 to not less than \$50.
- HB 268 authorizes the regents of the University of Colorado to borrow money to erect a student memorial center.
- HB 334 increases the debt limit of school districts.
- HB 350 provides a method for dissolving county high school districts.
- HB 751 provides tenure for teachers.
- HB 755 gives school districts of the first class unlimited authority of eminent domain.
- HB 900 sets up a procedure for reorganizing all of the school districts.
- HB 625 establishes the state department of education as the authority to receive federal funds for education, except for vocational education.
- HB 630 abolishes the bureau of home and school service.
- HB 632 declares the state board of vocational education to be an educational institution, not under civil service.
- HB 636 increases the classroom unit to \$2,000, increases the number of days for a school term from 140 to 170 and changes the maximum contribution to school districts from 15c per day per pupil to \$50 per year per pupil.
- HB 639 is a technical amendment regarding consolidation of school districts.

**Banks**

- HB 58 authorizes state banks to loan to employees and officers.  
HB 971 permits banks to return items by midnight of the day following receipt.  
HB 972 relates to bank reserves.  
HB 1124 authorizes banks to close on Saturdays.

**Welfare**

- HB 790 removes a limitation on other assistance to persons receiving tuberculosis assistance.  
HB 986 alters reimbursement to counties for aid to dependent children.  
HB 588 provides for the payment out of state welfare funds of fee for examination of the blind.

**Miscellaneous**

- SB 281 enlarges the definition of narcotic drugs and increases the penalty.  
SB 761 regulates fertilizer.  
HB 606 provides for the more efficient collection of the inspection tax on commercial feeding stuffs.  
SB 52 permits the assignment of wages.  
SB 108 provides for the bringing of actions against persons engaged in unfair practices by the director of revenue.  
SB 163 relates to soil conservation districts.  
SB 266 requires the giving of notice before a criminal insane person is given a probational discharge from the State Hospital.  
SB 376 is a technical enactment relating to the state board of stock inspection commissioners.  
SB 617 provides for the control of beaver.  
SB 651 relates to conservancy districts.  
SB 653 increases the maximum number on a board of water conservancy district from 11 to 15 members.  
SB 680 brings schools which give 24 hour care to dependent and neglected children within the foster board home law.  
SB 763 requires the inspection of oil shipped by pipe line.  
HB 391 provides for the special education of mentally retarded persons.  
HB 437 increases the price of the state brand book from \$2 to \$4.  
HB 439 imposes additional restrictions on livestock sales rings.  
HB 455 gives the adjutant general a term of 5 years.  
HB 690 increases firemen's pensions.  
HB 697 increases the amount involved in petty larceny from \$20 to \$50 and increases the maximum punishment.  
HB 723 requires counties to equalize assessments before participating in the state school equalization fund.

- HB 759 re-enacts the old age pension law, providing for the distribution of pension funds monthly on the basis of average income in the fund. It also adds to the pension rolls persons between 60 and 65 who have resided in the state continuously for 35 years prior to filing the application.
- HB 760 establishes a non-resident short-term fishing license.
- HB 847 increases the mill levy for the State Home at Grand Junction.
- HB 889 permits a notary public to record his oath and bond in any county and thereafter receive a certificate of authority from the clerk and recorder of such other county.
- HB 924 reenacts the 1947-1948 state income tax rates until June 1951. It also establishes two additional exemptions, one for the blind and one for persons over 65.
- HB 949 gives to insurance passing in trust for designated beneficiaries the same exemption that it has if it passes directly to such beneficiaries.
- HB 1021 exempts REAs from regulation by the P.U.C.
- HB 1084 re-names Baldy Peak in Huerfano County as Mount Mestas.
- HB 1097 repeals the provision requiring parimutuel operators to withhold 1% for state income tax purposes.
- HB 475 increases the publication costs of delinquent tax notices.
- HB 493 requires the registration and taxation of aircraft.
- HB 667 continues the annual tax on sheep for the predatory animal fund.
- HB 674 permits assistant pharmacists to become registered pharmacists after 8 years instead of 10 years.

### **Supreme Court Library Hours Extended**

Effective April 22, Chief Justice Benjamin C. Hilliard announced that the Supreme Court Library will open at 8 a.m. instead of at 9. This action was taken by the Supreme Court in order to permit more time for lawyers, especially those from out of town, to utilize the library facilities. The library hours are now from 8 to 5 on week-days, and 8 to 12 on Saturday.

### **Holmes to Head Boulder County Bar Association**

New officers of the Boulder County Bar Association elected in April for the forthcoming year are: Horace B. Holmes of Longmont, president and H. G. McCarty of Longmont, vice-president. Rudolph Johnson, Boulder, Lyman P. Weld, Longmont, and J. S. Schey, also of Longmont, were re-elected to their respective posts of secretary, treasurer, and member of the Board of Governors.

### **New Members of the Denver Bar Association**

The following attorneys were admitted to membership in the Denver Bar Association at its regular monthly meeting on April 4:

Paul H. Buchanan, Jr., Leslie A. Gifford, and Claude M. Maer, Jr.