

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By Chairman Bob Bachini, on January 27th
1989, at 3:15 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Rep. Bob Ream

Members Absent: none

Staff Present: Connie Erickson, Legislative Council and
Maureen Cleary, Committee Secretary

Announcements/Discussion: none

HEARING ON HOUSE BILL 352

Presentation and Opening Statement by Sponsor:

REP. ELLIOTT: opened to the Committee noting that some
amendments were necessary to complete the bill. (See
Exhibit #1,#2)

List of Testifying Proponents and What Group They Represent:

Mr. Ray Peck/ Dept. of Natural Resources and Conservation,
Helena: We have had some problems with absenteeism in
the past and the bill should clear up this situation.

Ms. Peggy Haaglund/ Executive Vice President of the Montana
Association of Conservation Districts (See Exhibit #3)

List of Testifying Opponents and What Group They Represent:

none

Questions From Committee Members:

REP. ELLISON: Are there any problems with expanding the
bill? MR. PECK: With the proposed amendments, the
situation should be fine.

REP. DRISCOLL: Are there any paid staff? MR. PECK: All persons were on a volunteer basis at this time. Perhaps in the future, we may need to address that situation. REP. DRISCOLL: There may be difficulty in getting people to run if there was no incentive. MR. PECK: At this time there is no problem with that.

REP. HANSON: What constitutes removal from the board? MR. PECK: At this time, most members are excused, and we have had no difficulty with this. It is up to the discretion of the Board if they felt it necessary to remove a member due to too many absences. The chairman usually will contact the Board of any significant difficulties.

Closing by Sponsor:

REP. ELLIOTT: The problem is essentially the difficulty getting a quorum present. This is because of the distances that are necessary to travel to the meetings. This bill should resolve that problem.

ADJOURNMENT

Adjournment At: 3:45 p.m.



REP. BOB BACHINI, Chairman

BB/mc

2301.min

DAILY ROLL CALL

AGRICULTURE

COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date January 27th 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Bachini, Chairman	✓		
Rep. Francis Koehnke, Vice Ch.	✓		
Rep. Gene DeMars	✓		
Rep. Jerry Driscoll	✓		
Rep. Jim Elliot	✓		
Rep. Linda Nelson	✓		
Rep. Bob Ream			✓
Rep. Don Stepler	✓		
Rep. Vernon Westlake	✓		
Rep. Duane Compton	✓		
Rep. Orval Ellison	✓		
Rep. Bert Guthrie	✓		
Rep. Marian Hanson	✓		
Rep. Harriet Hayne	✓		
Rep. Betty Lou Kasten	✓		
Rep. Vernon Keller	✓		
Rep. John Patterson	✓		



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE JIM ELLIOTT

HOUSE DISTRICT 51

HOME ADDRESS:

100 TC ROAD
TROUT CREEK, MONTANA 59874
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CAPITOL STATION
HELENA, MONTANA 59620
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EXHIBIT 1
DATE 1/27
HB 352

COMMITTEES:

FISH & GAME, VICE CHAIRMAN
TAXATION
AGRICULTURE

TESTIMONY ON HB 352 JANUARY 27, 1989
BEFORE THE AGRICULTURE COMMITTEE
REP. JIM ELLIOTT HD 51

THIS BILL IS INTRODUCED IN AN EFFORT TO HELP LOCAL CONSERVATION DISTRICTS REMOVE THEIR ELECTED OFFICERS IN CASES OF NEGLECT OF DUTY.

SOIL AND WATER CONSERVATION DISTRICTS WERE CREATED IN MONTANA IN THE LATE '30'S IN RESPONSE TO FEDERAL LEGISLATION. THEY ARE LEGAL SUB-DIVISIONS OF THE STATE OF MONTANA, HAVE TAXING AUTHORITY, AND THEIR DECISIONS HAVE THE FORCE OF LAW. THERE ARE ABOUT 59 CONSERVATION DISTRICTS IN THE STATE, AND EACH HAS A MINIMUM OF 5 ELECTED UNPAID SUPERVISORS.

SOME DISTRICTS HAVE HAD DIFFICULTY WITH EXCESSIVE SUPERVISOR ABSENCES. LOCAL BOARDS ARE OFTEN LOATH TO CHASTISE FELLOW SUPERVISORS, IN AS MUCH AS THEY ARE OFTEN NEIGHBORS, AND AS A RESULT, A GREATER BURDEN IS PUT ON

Testimony
Jim Elliott
Pg. 2

SUPERVISORS WHO TAKE THEIR POSITION SERIOUSLY, AND THE PUBLIC SUFFERS.

CURRENTLY THERE IS NO MECHANISM SHORT OF A DISCIPLINARY HEARING TO ENFORCE SUPERVISOR ATTENDANCE OR TO REMOVE A SUPERVISOR.

THIS BILL WOULD ENABLE A CONSERVATION DISTRICT TO DISCHARGE A SUPERVISOR FOR THREE UNEXCUSED ABSENCES.

SHOULD THIS BILL BE ENACTED INTO LAW, IT WOULD ESTABLISH A RULE AND PUBLISHED POLICY WHICH WOULD SERVE, I BELIEVE, TO KEEP ELECTED SUPERVISORS MINDFUL OF THEIR DUTY TO THE PUBLIC, AND AN EFFECTIVE WAY TO REMOVE THOSE SUPERVISORS WHO CHOOSE, FOR WHATEVER REASON, TO NEGLECT THAT DUTY.

JIM ELLIOTT, REPRESENTATIVE

AMENDMENTS TO HB 352

EXHIBIT 2
DATE 1/27
HB 352

1. Title, line 5
Following: "CONSTITUTES"
Strike: "NEGLECT OF DUTY AS A CAUSE FOR REMOVAL"
Insert: "A VACANCY IN THE OFFICE"
2. Title, line 7
Strike: "76-15-314, MCA"
Insert: "76-15-312, MCA"
3. Page 1, line 10 through 18
Strike: section 1 in its entirety
Insert: "Section 1. Section 76-15-312 is amended to read:

"76-15-312. Term of office and vacancies. (1)
The term of office of each supervisor shall be 4
years, except that the supervisors who are first
appointed by the department shall be designated to
serve for terms of 2 years from the date of their
appointment. An elected supervisor shall hold
office until his successor has been elected and
has qualified.

(2) A vacancy is created when any of the following
events occurs before the expiration of the term of the
incumbent:

(a) death;

(b) a determination pursuant to Title 53,
chapter 21, part 1, that the incumbent is mentally
ill;

(c) resignation;

(d) removal from office;

(e) unexcused absence from three consecutive
regular meetings of the board of supervisors;

(f) ceasing to be a resident of the district;

(g) conviction of a felony or a violation of
official duties; or

(h) the decision of a court declaring void the
incumbent's election or appointment.

(3) For purpose of section 2(e), a majority vote
of the board of supervisors may excuse a supervisor
from attending a meeting.

(4) Any vacancy occurring in the office of an
elected supervisor shall be filled by appointment
by the remaining supervisors until the next
regular election, when a successor shall be
elected to serve the unexpired term." "

EXHIBIT 3
DATE 1/27
HB 352



MONTANA

Association of Conservation Districts

1 South Montana Avenue
Helena, MT 59601

(406) 443-5711

Testimony to the House Agriculture Committee on HB 352, January 27,

1989

For the record, my name is Peggy Haaglund and I am Executive Vice President of the Montana Association of Conservation Districts.

HB 352 is a result a resolution that was passed at the Montana Association of Conservation District's annual convention in November 1988. The Carter County Conservation District submitted the resolution to the delegation.

I will refer to conservation districts as "districts."

I would like to give you a brief explanation why we would like to have this bill passed.

Conservation districts are legal subdivision of state government. Conservation districts are responsible for the conservation of Montana's natural resources, which include soil and water, forests and wildlife, protection of the tax base, protection of public lands and to promote the general welfare of the people of this state. They also the coordinating agency between Federal, State and County agencies on natural resource issues.

Conservation districts are governed by a board of five elected supervisors. These people are elected by the citizens living in the boundaries of the conservation district. Supervisors are local people dealing with local issues. The elected supervisors serve a term of four years.

The legislative bodies of the incorporated municipalities, city council, within the conservation district appoint two supervisors. These supervisors are referred to as "urban supervisors." They serve a term of three years.

The conservation district Board of Supervisors meet monthly to address the business of the district. Each supervisor represents citizens of the conservation district and each supervisor has a vote on all issues affecting the citizens.

It is important that a supervisor be an active member of the Board.

At the present time Section 76-15-314, MCA, Removal of a Supervisor, of the conservation district law states:

"A supervisor may be removed by the board, upon notice and hearing for neglect of duty or malfeasance in office but for no other reason."

Webster defines malfeasance as, "Wrongdoing or misconduct, especially by a public official; commission of an act that is positively unlawful."

An example of the problem that has occurred, is that some conservation districts have had a supervisor who becomes inactive and does not attend the monthly meetings. At this time the Board has not had any method of encouraging that person to become more active or be removed from the Board.

We would like to have Section 76-15-314, MCA, struck from the code and be replaced with an amendment to Section 76-15-312.

This amendment, which you have a copy of, will more closely define when a vacancy is created. It will allow for replacement of a supervisor who does not perform his duties as the citizens of his district elected him to do.

It states that a vacancy is created when any of the following events occurs before the expiration of the term of the incumbent:

- a. death
- b. a determination the incumbent is mentally ill
- c. resignation
- d. removal from office
- e. three consecutive unexcused absences from meetings of the Board
- f. ceasing to be a resident of the district
- g. conviction of a felony or a violation of official duty
- h. a court declares the incumbents election or appointment void

The amendment also allows a majority vote of the Board to excuse a supervisor from attending a meeting. This is in reference to 2 (e).

Adoption of this amended Section to the Conservation District law will clarify this area of the law that the conservation districts have had a problem with.

The Montana Association of Conservation Districts does urge you to give the amended bill a do pass.

Thank you.

