

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE BILL 345

Call to Order: By CHAIRMAN TOM KEATING, on April 16, 1997, at
8:30 A.M., in ROOM 108.

ROLL CALL

Members Present:

Rep. Gay Ann Masolo (R)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Sen. Thomas F. Keating (R)
Sen. Bill Wilson (D)
Sen. Fred Thomas (R)

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure, Staff Attorney
Steve Meloy, Staff Attorney
Jaelene Racicot, Secretary

EXECUTIVE ACTION ON HB 345

Discussion:

SEN. KEATING stated the HB 345 Senate amendments were rejected by the House. {Tape: 1; Side: A; Approx. Time Count: .3.}

REP. MASOLO asked Carl Schweitzer to speak on the amendments. REP. MASOLO stated accepting other tests that were not in the original bill was the main objection on the Senate amendments. {Tape: 1; Side: A; Approx. Time Count: 1.1.}

SEN KEATING explained the two types of tests and the costs involved in the testing process. {Tape: 1; Side: A; Approx. Time Count: 5.3.}

REP. MASOLO stated she didn't know if the House had trouble with the whole bill or just the Senate amendments. {Tape: 1; Side: A; Approx. Time Count: 8.1.}

REP. ELLINGSON stated the House was concern with the initial test that wouldn't be as accurate as the laboratory test. {Tape: 1; Side: A; Approx. Time Count: 8.5.}

SEN. KEATING stated if the initial test positive, the test could not be used for a basis for hiring. **{Tape: 1; Side: A; Approx. Time Count: 10.0.}**

SEN. THOMAS asked Dan Edwards, National Representative of OCW, what the cost was on the initial test verses the DOT test. **{Tape: 1; Side: A; Approx. Time Count: 11.6.}**

SEN. THOMAS asked Carl Schweitzer about the costs on the first initial test and the DOT tests. Mr. Schweitzer stated \$37 to \$38 for a DOT test. **{Tape: 1; Side: A; Approx. Time Count: 14.4.}**

SEN. THOMAS asked what \$37 included. Mr. Schweitzer stated it was the collection, test and the MRO's analysis of the sample. **{Tape: 1; Side: A; Approx. Time Count: 15.0.}**

SEN. THOMAS asked if this would be the full test. Mr. Schweitzer stated it was the complete test for the first initial test. **{Tape: 1; Side: A; Approx. Time Count: 15.5.}**

SEN. THOMAS asked what would be tested beyond that point. Mr. Schweitzer if the initial test came back positive. The employer would take a second sample and send the sample to another lab. This would be more expensive. Mr. Schweitzer thought maybe \$80 to \$100 for the test. **{Tape: 1; Side: A; Approx. Time Count: 16.4.}**

SEN. WILSON stated the first test would be worthless because of the masking agents used to beat a first test. Mr. Schweitzer referred to page 2, number 7 to answer the question. **{Tape: 1; Side: A; Approx. Time Count: 16.7.}**

SEN. WILSON asked Mr. Schweitzer about the cheaper test. **{Tape: 1; Side: A; Approx. Time Count: 20.3.}**

SEN. WILSON stated they should have the most expensive and safest test. **{Tape: 1; Side: A; Approx. Time Count: 21.5.}**

REP. DEVANEY said Interstate Truckers were required to set-up a drug testing program in the late '80's and there was no initial test. They administered the "top shelf" test. **{Tape: 1; Side: A; Approx. Time Count: 21.8.}**

REP. ELLINGSON stated he had received a lot of information on how to mask the positives. **{Tape: 1; Side: A; Approx. Time Count: 23.2.}**

SEN. WILSON gave a scenario. **{Tape: 1; Side: A; Approx. Time Count: 24.3.}**

SEN. KEATING asked about the initial test and if was came back positive would a new sample be taken or do they use the old sample. Mr. Schweitzer stated it was clarified in the bill as what was expected. **{Tape: 1; Side: A; Approx. Time Count: 26.7.}**

SEN. KEATING asked Dan Edwards to respond to the question.

{Tape: 1; Side: A; Approx. Time Count: 28.0.}

REP. DEVANEY asked Mr. Edwards about the process in which the test are taken. *{Tape: 1; Side: A; Approx. Time Count: 29.1.}*

REP. MASOLO asked Mr. Edwards if the test were legal. *{Tape: 1; Side: A; Approx. Time Count: 30.2.}* Mr. Edwards explained the current law and why they were not legal.

SEN. WILSON stated he did not have a problem with the bill just with the initial test and if the cost factor was a major concern. *{Tape: 1; Side: B; Approx. Time Count: .3.}*

REP. DEVANEY felt from the perspective of an employer, it would be cheaper to pay for the DOT test. *{Tape: 1; Side: B; Approx. Time Count: 3.3.}*

SEN. THOMAS asked Bob Gilbert to comment on the entire process of DOT testing. *{Tape: 1; Side: B; Approx. Time Count: 5.0.}*

REP. DEVANEY commented on the process of DOT testing. *{Tape: 1; Side: B; Approx. Time Count: 10.3.}*

REP. MASOLO stated the employee had the right to review the test before anyone could. *{Tape: 1; Side: B; Approx. Time Count: 10.8.}*

REP. DEVANEY said he would like to change section 7 to eliminate the initial test. *{Tape: 1; Side: B; Approx. Time Count: 11.3.}*

REP. MASOLO asked for clarification from SEN KEATING. *{Tape: 1; Side: B; Approx. Time Count: 12.5.}*

Steve Meloy stated the three amendments were connected with the initial test. *{Tape: 1; Side: B; Approx. Time Count: 13.9.}*

SEN. KEATING asked Mr. Meloy if the committee could strike the three amendments pertaining to the initial test. *{Tape: 1; Side: B; Approx. Time Count: 14.4.}*

Motion: REP. DEVANEY MOVED TO STRIKE 4, 5, AND 10 FROM THE SENATE AMENDMENTS. *{Tape: 1; Side: B; Approx. Time Count: 15.7.}*

Discussion:

SEN. WILSON asked for a clarification on the motion. *{Tape: 1; Side: B; Approx. Time Count: 16.5.}*

SEN. KEATING talked about the Bartlett amendment on the Senate floor. *{Tape: 1; Side: B; Approx. Time Count: 17.6.}*

SEN. KEATING asked Mr. Schweitzer if there was initial drug testing in the body of the bill. *{Tape: 1; Side: B; Approx. Time Count: 18.6.}*

SEN. THOMAS asked SEN. KEATING how the motion would read. *{Tape: 1; Side: B; Approx. Time Count: 19.5.}*

REP. DEVANEY asked if the motion pass, would it passed both houses? *{Tape: 1; Side: B; Approx. Time Count: 20.7.}*

SEN. WILSON stated if the discussion that took place before the conference committee would have taken place on the Senate floor; the bill would not be in the conference committee. *{Tape: 1; Side: B; Approx. Time Count: 21.3.}*

REP. DEVANEY stated there was contention on third reading on the House floor. *{Tape: 1; Side: B; Approx. Time Count: 21.9}*

Vote: THE MOTION CARRIED UNANIMOUSLY. *{Tape: 1; Side: B; Approx. Time Count: 22.7.}*

Discussion:

REP. DEVANEY asked for a clarification on the 60 days implementation. *{Tape: 1; Side: B; Approx. Time Count: 23.5.}*

SEN. KEATING asked Carl Schweitzer to comment on the 60 days notice. *{Tape: 1; Side: B; Approx. Time Count: 24.9.}*

SEN. THOMAS asked Mr. Schweitzer on the 60 days notice. *{Tape: 1; Side: B; Approx. Time Count: 28.2.}*

SEN. KEATING stated if the committee would like to propose an amendment with the language "perspective employees" the committee could ask for a Free Conference Committee to be appointed. *{Tape: 2; Side: A; Approx. Time Count: 0.}*

SEN. THOMAS stated the Supreme Courts ruling testing of public officials is void. *{Tape: 2; Side: A; Approx. Time Count: 1.0.}*

REP. DEVANEY asked Mr. Meloy to comment. *{Tape: 2; Side: A; Approx. Time Count: 1.7.}*

SEN. KEATING asked Mr. Schweitzer about reasonable suspicion. *{Tape: 2; Side: A; Approx. Time Count: 3.6.}*

SEN. WILSON referred to mandatory testing. *{Tape: 2; Side: A; Approx. Time Count: 4.8.}*

Dan Edwards commented to SEN. WILSON'S comment. *{Tape: 2; Side: A; Approx. Time Count: 5.5.}*

SEN. KEATING stated that instead of having the committee meet again it would be better to strike the language "perspective employees". *{Tape: 2; Side: A; Approx. Time Count: 6.0.}*

Motion: REP. DEVANEY MOVED TO STRIKE PERSPECTIVE EMPLOYEES FROM LINE 11 AND THE COMMITTEE BE REAPPOINTED TO A FREE CONFERENCE COMMITTEE. *{Tape: 2; Side: A; Approx. Time Count: 7.2.}*

Vote: THE MOTION CARRIED UNANIMOUSLY. *{Tape: 2; Side: A; Approx. Time Count: 7.6.}*

Motion/Vote: REP. MASOLO MOVED HB 345 DO CONCUR AS AMENDED. A ROLL CALL VOTE WAS TAKEN. THE MOTION CARRIED UNANIMOUSLY. *{Tape: 2; Side: A; Approx. Time Count: 7.9.}*

ADJOURNMENT

Adjournment: 9.55 A.M.



SEN. TOM KEATING, Chairman



JAELENE RACICOT, Secretary

TK/JR