

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on January 21, 1997, at
1:00 p.m., in Room 405.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dorothy Eck (D)
Sen. Sharon Estrada (R)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Don Hargrove (R)
Sen. John "J.D." Lynch (D)
Sen. Walter L. McNutt (R)
Sen. Fred R. Van Valkenburg (D)

Members Excused: None

Members Absent: None

Staff Present: Martha Colhoun, Legislative Services Division
Jodi Jones, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 66, SB 130, SB 138
Posted: January 13, 1997
Executive Action: SB 130 Do pass as amended
SB 37 Do pass as amended
SB 102 Tabled

HEARING ON SB 138

Sponsor: MIKE FOSTER, SD 20, Townsend

Proponents:

Leonard Wortman, Jefferson Co. Commissioner
Glenna Obie, Jefferson Co. Commissioners
Gordon Morris, Montana Association of Counties

Opponents: None

Opening Statement by Sponsor:

MIKE FOSTER, SD 20, Townsend, presented SB 138. He said this bill was brought before the legislature as a result of what happened in Jefferson County concerning the hiring of a county attorney to fill a vacated spot. This bill will allow small counties or counties with a population of less than 30,000 to fill a vacancy for county attorney if they have practiced law 3 years and lived in Montana two years. He also had some amendments for the bill that were prepared by the **MT. Association of Counties**. See (EXHIBIT 1).

{Tape: 1; Side: A; Approx. Time Count: 1:06; Comments: .}

Proponents' Testimony:

Leonard Wortman, Jefferson Co. Commissioner, explained the county attorney resigned in Jefferson Co. and they began the process of selecting and appointing another county attorney. They formed a committee to review the applications and they selected the person who was the best qualified for the job. However, the qualifications were unclear for county attorney with a county of less than 30,000. The attorney they selected had been admitted to the Montana Bar for 4 years and in student practices for one year. The Supreme court said this would count as the 5 years which is a requirement for a person to apply for county attorney. Basically, the commissioners want to clear up the statutes in regard to appointing a part-time county attorney.

Glenna Obie, Jefferson Co. Commissioner, said they feel there should be different requirements for a county attorney in a large county vs. a small county. In Jefferson Co. the district judge comes to the county seat and sits there only three times a month. There is just one district judge and justice of the peace for the county attorney to work with in Jefferson Co. The requirements for county attorney in a large county makes sense as they have multiple courts to deal with and support staff. In small counties, like Jefferson Co. it becomes very difficult to find qualified candidates based on the current statutes. The statutes are very confusing and if they were more concise it would enable smaller counties to hire the best county attorney for that county. The commissioners also support the amendments.

Gordon Morris, Montana Association of Counties, explained the amendments. See (EXHIBIT 1). He said in many small rural counties, county attorneys, are part-time and often the recruitments are directly out of law school. In counties with over 30,000 people the qualifications would remain the same. In counties with under 30,000 a county now has the option for full or part-time attorneys. If a county has a full time attorney they have to reside in the state for 2 years and practice law for three years. Part-time attorneys have to reside in the state and

have been admitted to the practice of law prior to the date of taking office. He asked for a do pass of SB 138.

{Tape: 1; Side: A; Approx. Time Count: 1:13 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR J.D. LYNCH asked who wrote the present law. If a person gets out of law school and passes the bar exam is he competent to handle the job. SENATOR FRED VAN VALKENBURG said yes, they are competent, but the county attorneys who wrote the laws were trying to justify the salary that was going to be paid to a county attorney. The salary isn't something a county would want to pay someone directly out of law school.

SENATOR MIKE SPRAGUE asked how many counties are below 30,000 and have part and full time county attorneys. Gordon Morris said he did not have this information with him, but it could be provided. He estimated that 48 counties are under 30,000. He also estimated that 17 are part-time and 13 are full time.

SENATOR DON HARGROVE asked that if a county exceeds 30,000 in the future, do they have to comply under the laws of counties that are over 30,000. Gordon Morris stated this was true.

Closing by Sponsor:

SENATOR FOSTER closed on the bill.

{Tape: 1; Side: A; Approx. Time Count: 1:18 p.m.; Comments: .}

HEARING ON SB 66

Sponsor: SENATOR STEVE BENEDICT, SD 30, Hamilton

Proponents:

Joyce Brown, Department of Administration
Susan Good, MT Assoc. of Life Underwriters
Gordon Morris, MACo
Claudia Clifford, State Auditors Assoc.
Ellen Feaver, Anderson Zurmuehlen & Co. PC
Lance Melton, MT School Board Assoc.
Phil Campbell, MT Education Assoc.
Dave Evanson, MT University System
Gloria Paladichuk, Richland Economic Development
Alec Hansen, MT League of Cities
John Malee, MT Federation of Teachers

Opponents: None

Opening Statement by Sponsor:

SENATOR STEVE BENEDICT, SD 30, Hamilton, presented SB 66. He explained that in 1995, the legislature, passed HB 405 authorizing the formation of voluntary health care purchasing pools. This gave a voluntary market based approach to increase the small employer access to health insurance coverage for their employees. The Department of Administration has been working on having a voluntary health care purchasing pool. This piece of legislation will clarify that the state has the ability to enter into a purchasing pool.

Proponents' Testimony:

Joyce Brown, Department of Administration, spoke in favor of SB 66. She handed out amendments to the bill. See attached amendments: (EXHIBIT 2). See attached testimony: (EXHIBIT 3).

Susan Good, MT Assoc. of Life Underwriters, said they believe the individual should have more choice for health care and for increased savings.

Gordon Morris, MACo, said purchasing pools are an interest to local governments, counties and towns. And he urged passage of this bill.

Claudia Clifford, State Auditors Office, said that businesses didn't have any type of purchasing pool until about 6 months ago. This allows for businesses to attract more enrollers. A purchasing pool needs to have a 1000 lives before they can start up and this piece of legislation will make it easier for pools to be formed.

Ellen Feaver, Anderson Zurmuehlen & Co. PC, said they are one of the small business members that would like to do collective purchasing. The largest employers are government entities and this will provide the numbers for the purchasing pool and help the small businesses.

{Tape: 1; Side: A; Approx. Time Count: 1:26 p.m.; Comments: .}

Lance Melton, MT. School Board Assoc., said the schools are included under the statute 2-18-601. The amendments also cover school teachers and they recommend a do pass of SB 66.

Phil Campbell, MT Education Assoc., said health insurance for schools is a big issue and schools would like to pool for health insurance. He also stated the amendment would include teachers to be covered in this pool.

Dave Evanson, MT University System, said the university system is the second largest pool in the state and this legislation would help the university work with other units of government and the problems of providing health insurance.

Gloria Paladichuk, Richland Economic Development, said when she was county commissioner, it was difficult to choose every year the county health plan. Insurance premiums were rising and the county only contributed to employee premiums and did not cover their families. Many employees left these plans and went to others that covered their families. Therefore, this left a smaller pool. She said SB 66 would expand the pool and help the Montana tax payers.

Alec Hansen, MT League of Cities, said one of the hardest parts of adopting a municipal budget each year is deciding what to do with health care benefits for employees. Premiums continue to rise and budgets are decreasing. SB 66 opens the door to reduce health care cost and their organization is in support of the bill.

John Malee, Montana Federations of Teachers, said their organization would like to go on record of supporting the bill.

{Tape: 1; Side: A; Approx. Time Count: 1:31 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR FRED VAN VALKENBURG said the legislation that was passed in 1995 is unclear on whether public bodies have the authority to enter into agreements with private sectors entities. He asked if there was discussion about this in the 1995 legislation. **SENATOR BENEDICT** said that in 1995 they had a joint house committee that put 40 to 50 bills into a package dealing with health care benefits and insurance issues. This piece of legislation is a clean up bill as a result of the 1995 legislation.

SENATOR VAN VALKENBURG asked about the policy issues surrounding this piece of legislation. He used the example of the University System going to Buttery Foods and setting up a pool and insuring employees jointly. He used the example of how does the legislation answer to Albertsons if they come and say why is the state working out a deal to give Buttery's a competitive advantage with health care benefits. **SENATOR BENEDICT** said this would be an issue that could be discussed on the floor. The bill is basically a guide to get purchasing pools established.

SENATOR VAN VALKENBURG asked to what extent is appropriate for the government to enter into partnerships with private businesses that could provide a competitive advantage to those entities over their competitors. **SENATOR BENEDICT** said this would not exclude Albertsons from entering into a purchasing pool. Anyone can enter into a purchasing pool.

SENATOR VAN VALKENBURG said he thought someone would get excluded. **Ms. Brown** said the purchasing pool that is formed will be open to all employers and anyone can get in. She said under

the small employers availability act that all purchasing pools are open and they cannot prohibit anyone from entering the pool.

SENATOR SPRAGUE asked if the pools are set up collectively in the amount of numbers that each pool can have, can you keep adding to the pool vs. setting up individual pools of a thousand or more.

Ms. Brown said this is a voluntary purchasing pool and any purchasers who meet the minimum requirements can enter the pool.

Ms. Clifford said that the purchasing pool does have membership requirements but the criteria may not be based on claim experience, occupation, or health status. Pools must have a 1000 members before they can operate.

SENATOR SPRAGUE asked that if an employer had 500 people and another had 250 would they have to wait for the other 250 before being classified as a pool. He asked if this would vary in costs with the type of lots that were involved in the purchasing pools and would each of these lots have different types of risk factors depending on their job descriptions. **Ms. Clifford** the idea of the purchasing pool is to offer a plan at the same rates and not individually rate each group.

SENATOR LYNCH asked that under the old language you can't keep anyone out. But the new language says if the agency determines that cooperative purchasing is in the agencies best interest then their members will join, if not they will go somewhere else. **Ms. Brown** said this language simply allows the jurisdiction to decide what is in the best interest for its employers. They can go on their own if they choose to. The pool lets the individual decide what kind of plan they want and the rates that they can afford. There is no intent by the pool to take one plan but to take all plans that meet minimum requirements.

SENATOR ECK asked if there is the possibility of having competitive pools. **Ms. Brown** stated that legislation allows for multiple pools, but they are not profit entities, and are not competitive because of this.

CHAIRMAN BECK asked if pools can merge with pools. **Ms. Brown** stated yes.

CHAIRMAN BECK asked if you join a pool, can you get out of a pool. **Ms. Brown** said yes, but there are certain stipulations that if you get out you have to wait a period of time before getting back in.

CHAIRMAN BECK asked if there are obvious benefits of one pool over the other, that eventually there would only be one pool in the state of Montana. **Ms. Brown** said a lot of states only have one pool.

Closing by Sponsor:

SENATOR BENEDICT urged a do pass of SB 66 as amended.

{Tape: 1; Side: A; Approx. Time Count: 1:45 p.m.; Comments: .}

HEARING ON SB 130

Sponsor: SENATOR RIC HOLDEN, SD 1, Glendive

Proponents: James Glantz, Kalispell

Opponents: None

Opening Statement by Sponsor:

SENATOR RIC HOLDEN, SD 1, Glendive, presented SB 130. This is a bill that is part of the code commissioner bill that is before the Judiciary committee. Part of the bill was segregated off so that other committees could consider those parts of the bill. SB 130 is part of that bill.

Proponents' Testimony:

James Glantz, Kalispell, said currently his family is under litigation because they were not notified about a tax deed sale on property they own. The official newspaper of Flathead county put notification in the paper of the tax deed sale, however, his family never read this notice. They lost a \$30,000 piece of property, because it had back taxes of \$1300. Nonetheless, the land only sold for \$5000 and they lost considerable money on the property. Had they been given proper notice, the matter could of been dealt with appropriately. A reasonable notice to property owners would be more than fair. This would eliminate costly court fees and other problems.

{Tape: 1; Side: B; Approx. Time Count: 1:49 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR HARGROVE asked if actual notice is in legal terms. Greg Petesch, Code Commissioner, said, yes, actual notice is a legal term and requires either personal service or notice by mail to the property owner.

SENATOR GLASER wanted more information as to why legislative services thought this bill has merit. Mr. Petesch used the example of a man from Flathead Co. who lost his property in a tax deed proceedings and he challenged the adequacy of simply publishing the notice in the paper when his name and address was on the tax role itself. The Montana Supreme court ruled that since his name was on the tax role and known to the government that simply publishing the notice in the paper is inadequate and actual notice to the tax payer is required.

CHAIRMAN BECK said he didn't like the wording "reasonably" in the title of the bill. He would like to have it more specific. Mr. Petesch said that if a persons name is on the records of the government then they should inform the property owner of proceeding of that property.

Closing by Sponsor:

SENATOR HOLDEN closed.

{Tape: 1; Side: B; Approx. Time Count: 1:53 p.m.; Comments: .}

EXECUTIVE ACTION ON SB 130

Discussion:

SENATOR VAN VALKENBURG said the contents of SB 130 have been discussed before in taxation.

Motion/Vote:

SENATOR J.D. LYNCH MOVED SB 130 DO PASS. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 66

Amendments: See attached Amendments: (EXHIBIT 2).

Motion/Vote:

SENATOR LYNCH moved to pass THE AMENDMENTS. MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

SENATOR LYNCH MOVED SB 66 DO PASS AS AMENDED.

Discussion:

SENATOR VAN VALKENBURG said he felt the bill should of gone to the Business and Industry committee because it is an insurance issue. He felt the vote should wait till the next meeting.

SENATOR LYNCH withdrew his motion.

EXECUTIVE ACTION ON SB 37

Discussion:

SENATOR LYNCH said his main point of SB 37 is that wherever it is not going to be a lock-down facility and the facility is primarily used for sex-offenders then there should be a vote of the governmental body or an election within the county. He explained the amendments see (EXHIBIT 4).

SENATOR VAN VALKENBURG said he agreed with the amendments. He asked how do you define primarily. **SENATOR LYNCH** said more than half.

Motion:

SENATOR LYNCH moved to adopt the amendments prepared by **John MacMaster** requested by **SENATOR LYNCH**.

Discussion:

SENATOR HARGROVE asked if the amendments where necessary. **SENATOR LYNCH** said yes, that the Department of Corrections said it should be addressed in the bill. He used the example if you wanted to house someone in the state prison would you have to take a vote of the people in Powell Co. He said that was not the intent of the bill and this amendment clarifies those questions.

{Tape: 1; Side: B; Approx. Time Count: 2:00 p.m.; Comments: .}

SENATOR ECK said she didn't think this issue required a vote of the people. She said people are aware of the fact that sex offenders are a problem especially in young people. She said they have programs to help these young offenders and most of them are in the communities where their families can be involved. This piece of legislation is making it very difficult for the state to treat sex-offenders.

SENATOR LYNCH said the local officials should be the ones that make this decision on whether a private individual should build such a facility. The pressure should be put on the local officials and not the state to make these decisions. He said it doesn't prohibit programs for young people but it lets the local people take a look at those programs before state government decides what is best for the neighborhood.

CHAIRMAN BECK used the example of the pre-release center that was going to be built in the Helena valley and how upset the local people became. He felt there should also be a vote of the people before pre-release centers can be built. It makes it difficult for the state to develop programs, but it is also important to protect the public.

Vote:

Motion to adopt the amendments was passed unanimously.

Amendments:

SENATOR HARGROVE passed out amendments. See (EXHIBIT 5). He explained that in his home town a youth home was going to be built and the people where very concerned about the building of such a facility. The home was built and a large public protest meeting was formed. The department said the community could do

nothing about such a facility. He said he would like to clarify the bill more by explaining the type of facilities and youths that are sex-offenders in the language of the bill.

Motion/Vote:

SENATOR HARGROVE moved to ADOPT THE AMENDMENTS prepared by Martha Colhoun put in by SENATOR HARGROVE. MOTION CARRIED 8-1 with SENATOR ECK voting no.

{Tape: 1; Side: B; Approx. Time Count: 2:06 p.m.; Comments: .}

Motion:

SENATOR LYNCH MOVED SB 37 DO PASS AS AMENDED.

Discussion:

SENATOR ECK said this does not allow any flexibility in treating sex-offenders and they won't be as effectively treated. SENATOR HARGROVE said this opens up the communication between the local officials and the department that is building such a facility. SENATOR LYNCH said he agreed. If the commissioners are informed then they can field calls and inform the public as to what is going on.

SENATOR ECK said these provisions were put in primarily for Developmentally Disabled (DD) homes and the people did not want DD homes in their neighborhoods. It made it very difficult to find good places to put these homes. This piece of legislation would make it very difficult once again to find good places for these homes.

SENATOR BECK said the facility will house only or primarily sex-offenders. It doesn't say that the facility cannot have a sex-offender. He thinks the people should have a right to know on any kind of facility, even on DD homes.

Vote: MOTION DO PASS AS AMENDED ON SB 37 CARRIED 8-1 with SENATOR ECK voting no.

SENATOR VAN VALKENBURG requested a new fiscal note before it went to the floor.

EXECUTIVE ACTION ON SB 102

Motion/Vote:

SENATOR LYNCH MOVED SB 102 BE TABLED. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 2:12 p.m.


SEN. THOMAS A. "TOM" BECK, Chairman


JODI JONES, Secretary

TB/jj