

MINUTES

MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 19, 1997, at  
9:00 A.M., in ROOM 410.

ROLL CALL

**Members Present:**

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. Debbie Bowman Shea (D)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Bea McCarthy (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Bart Campbell, Legislative Services Division  
Mary Gay Wells, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 375; HB 533; 3/5/97  
Executive Action: HB 375; HB 533; HB 431;  
HB 435; HB 406; HB 78;  
HB 399; HB 478; HB 492  
HB 287 TABLED

HEARING ON HB 375

Sponsor: REP. WILLIAM RYAN, HD 44, GREAT FALLS

Proponents: Carl Schweitzer, MT Contractors Assoc.  
Don Chance, MT Building Industry Assoc.  
Kurt Baltrusch, Montana-Dakota Utilities, Billings  
Gary Wiens, MT Electric Cooperatives Association  
Bud Criner, One Call Service Center

Opponents: None

Opening Statement by Sponsor:

**REP. WILLIAM RYAN, HD 44, GREAT FALLS.** HB 375 cleans up some present language in the law. It is an act revising regulations governing excavations near underground utilities, clarifying some definitions, defining "emergency excavation". We removed some sections of law by eliminating requirements that the public utilities file underground facility information with the county clerk and recorder. This was not being done and the clerks absolutely felt that this was ridiculous. Now it is up to the companies to keep track of their own underground work. It also clarifies the general and emergency excavation and location requirements. Under section 1, business day and holidays are defined. Some of the time requirements are clarified about when you have to mark a running location. There are three new sections. This is an industry-wide effort from the people who do the locations to the electric cooperatives who bury wires underground to telephone cooperatives, to Montana Power Company, to contractors, etc. They are here to answer any questions. Thank you.

Proponents' Testimony:

**Carl Schweitzer, MT Contractors Association.** We started the process of looking at the basics of HB 375 last July. The contractors that I represent and the people who do a lot of underground work were the ones that were involved in the process as well as the One Call Center people who sat down and did some work to bring the statute into today's environment and work conditions. We are in support of this bill.

**Don Chance, MT Building Industry Association.** We also stand in support of this legislation. There is one key component in this bill which will dramatically help us. It improves the turn around time from when we make a phone call to when utilities get out on site to inspect. It is a two-day turn around time. Thank you for your support.

**Kurt Baltrusch, Montana-Dakota Utilities, Billings.** I am a licensed professional engineer. I have been with this company since 1967. I have seen excavation damage virtually from both ends of the shovel. However, our pipeline system is very safe and efficient but when something happens, it can happen big time and cause critical problems. Sometimes, I think "big brother" is a detriment to our operation as far as safety goes. In this case, the One Call legislation which is supported by the Department of Transportation and others is definitely a shining star in the legislation that we work with. It resulted in a true simplification of the way excavators have to work and it makes it easier for us also. The Montana One Call law is patterned after many other effective laws and at the same time, we found some operational concerns that are minimal as **REP. RYAN** mentioned. They range from defining holidays to actually the way the excavators can mark and locate their excavations and take care of

the excavations so that they get them located properly and dug up properly. I hope you will support this bill.

**Gary Wiens, MT Electric Cooperatives Association.** We are in support of this legislation. We believe it clears up some potential misunderstandings over responsibilities involved in excavation and locations including locations of private underground facilities. We urge your support of HB 375.

**Bud Criner, One Call Center.** As a claims adjuster for U. S. West for underground lines, I know where problems arose. We started with eight utilities and are able to identify about 12,000 locates. Today we have over 54,000 locates per year and we have been increasing those locates by an average of between 5,000 and 6,000 locates a year coming from the excavators out in the field. This system is definitely being used. We now have in excess of 140 utilities and there are more utilities signing up by about 18 a year. The system is being well utilized not only by the excavators in the field but homeowners and the utilities themselves. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SEN. CASEY EMERSON** asked **Mr. Criner** to explain what a one call is. **Mr. Criner** said that the idea of a one call center is so that anyone who wants to excavate makes one call. Here in Montana he calls the center that he is involved at an "800" number. We take all the information that is required for the utility to do the locate and then we pass that off to all the utilities that have signed up with the system. To date, one call generates about 5 calls to the utilities on an average.

**SEN. EMERSON** asked if all the utilities in Montana belong to this? **Mr. Criner** stated that at the present time they have all the telephone companies, all but one electrical coop, all the large communities and many water systems. This does not include private homes. There are companies who do that.

Closing by Sponsor:

**REP. RYAN** closed. Thank you for a good hearing. I have worked for years in the electrical industry and have been on both sides of the shovel. I've looked at the damage and have run the backhoe that sometimes causes the damage. Locations are a serious business to the people in the industry. This is a good bill.

EXECUTIVE ACTION ON HB 375

Motion/Vote: **SEN. BEA MCCARTHY** MOVED HB 375 BE CONCURRED IN.  
**THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. J. D. LYNCH** WILL CARRY.

{Tape: 1; Side: A; Approx. Time Count: 9:28 AM; Comments: AN 8  
MINUTE BREAK WAS TAKEN.}

HEARING ON HB 533

Sponsor: REP. CHARLES DEVANEY, HD 97, PLENTYWOOD

Proponents: Dan Walker, DuBray Land Services  
Margaret Morgan, MT Assoc. of Realtors  
Mike Strand, MT Independent Telecommunications  
Systems  
Barbara Ranf, U. S. West  
Gary Wiens, MT Electric Cooperatives Association

Opponents: None

Opening Statement by Sponsor:

REP. CHARLES DEVANEY, HD 97, PLENTYWOOD. HB 533 treats a very small segment of our economy. There is a certain vocation in Montana that supplies service to government entities or public utilities in obtaining right-of-ways and easements. Sometime ago, the Board of Realtors reviewed the things that these people do and decided that because they are out obtaining real estate easements that they should carry salesmen's licenses. The people went ahead and applied for a salesmen's license. Then they had a hard time finding a broker to work for because they don't get paid for listings, commissions, etc. Basically they get paid for the job that they do with Montana Power Co., etc. So they had a hard time getting a broker to work under. These people worked for two or three years and decided that now they knew what they were doing, why not apply for a broker's license. But the Board of Realtors said no they couldn't apply for a broker's license because they were not qualified. So they didn't really fit into any particular nitch. The two groups then reached an agreement that resulted in HB 533. People who are doing this narrow scope of activity would be exempted from carrying a salesmen's license for the realtors. That is what this bill does.

Proponents' Testimony:

Dan Walker, DuBray Land Services, Billings. I was involved in the negotiations with the MT Board of Realtors in which we came up with the exemption. We feel that this is the best solution for all concerned. In the House committee there were some questions about the types of work that we do. Typically a company like mine is employed by any number of other entities, sometimes even individuals whereby we research documents in the court house for obtaining rights-of-way for utility companies, for highway jobs, for airports, for pipeline companies, etc. Our work is almost always involved with securing rights-of-ways.

Margaret Morgan, MT Association of Realtors. We recognize the problem that exists for licensure for those individuals that are

employed by utility companies that buy and sell rights-of-way. Right now these individuals are required to be licensed and there are problems in this. For example, they need to be supervised by a broker. Or they need to continue with continuing education with 12 credits of study every year. Continuing education classes do a lot of training for these individuals because it is a very specialized type of real estate transfer activity. By the same token we do not feel that these individuals should be able to receive a broker's license with their limited activity in real estate transfers. So we got together and worked on this problem. We were instrumental in the language you see in this bill. We are adamant that it remain very narrow because it describes a very narrow scope of real estate transfer activity. Therefore, as this bill is written it has our support. Thank you for your time.

**Mike Strand, MT Independent Telecommunications Systems.** I was contacted about six months ago with regard to the possibility that our right-of-way employees might need to be licensed real estate brokers. I performed a legal analysis under the law in that regard. I disagreed that this would be necessary. This process was a much better way to go and we stand in support of this bill. Thank you.

**Barbara Ranf, U. S. West.** We are in support of this bill. We hope that you concur also.

**Gary Wiens, MT Electric Cooperatives Association.** The association supports this bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SEN. BEA MCCARTHY** asked what type of training will these people have in the future? **Ms. Morgan** said that the utilities people know the best education that is necessary for their people. **Mr. Walker** said that the training they use is provided by the International Right-of-Way Association which is an association that has come together over time and provides training, manuals, principals, etc. for the training of our people in this business.

Closing by Sponsor:

**REP. DEVANEY** closed. I appreciate the questions and I feel that this is a fairly cut and dried bill to accept the very small window for these people to do their jobs. We would appreciate your support.

{Tape: 1; Side: A; Approx. Time Count: 9:41 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 533

Motion/Vote: SEN. WILLIAM CRISMORE MOVED HB 533 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. HARP WILL CARRY.

EXECUTIVE ACTION ON HB 431

Motion: SEN. STEVE BENEDICT MOVED HB 431 BE CONCURRED IN.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 431 (EXHIBIT 1) hb043101.abc.

Discussion: Bart Campbell explained the amendments. Immediate effective date was included. The bill will also be applied to all long distance carriers.

Vote: The MOTION to AMEND HB 431 CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. BENEDICT MOVED HB 431 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. J. D. LYNCH WILL CARRY.

{Tape: 1; Side: A; Approx. Time Count: 9:50 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 435

Motion: SEN. BEA MCCARTHY MOVED HB 435 BE CONCURRED IN.

Amendments: SEN. MCCARTHY MOVED TO AMEND HB 435 (EXHIBIT 2) hb043501.abc.

Discussion: Bart Campbell explained the amendments. The confidentiality portion was clarified and made more restrictive.

Vote: THE MOTION to AMEND HB 435 CARRIED UNANIMOUSLY: 5-0

Substitute Motion: SEN. CASEY EMERSON MOVED TO TABLE HB 435.

Vote: The MOTION TO TABLE HB 435 FAILED with SENATORS HERTEL, MCCARTHY AND BENEDICT voting NO: 2-3

Motion/Vote: SEN. MCCARTHY MOVED HB 435 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED WITH SENATOR EMERSON voting NO: 4-1 SEN. SHEA WILL CARRY.

{Tape: 1; Side: B; Approx. Time Count: 9:59 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 406

Motion: SEN. BEA MCCARTHY MOVED HB 406 BE CONCURRED IN.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 406 (EXHIBIT 3)  
hb040601.abc.

Discussion: Bart Campbell explained the amendments. The 15 days are being left in for mobile home courts for payment of rent. SEN. BENEDICT felt this was a good bill and especially with the current law being left regarding the 15 days. The grace period is left up to the landlord. He can use zero to whatever days as a grace period.

Vote: THE MOTION TO AMEND HB 406 CARRIED WITH SENATORS CRISMORE AND EMERSON voting NO: 4-2

Motion/Vote: SEN. BENEDICT MOVED HB 406 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. DEPRATU WILL CARRY.

EXECUTIVE ACTION ON HB 78

Motion: SEN. BEA MCCARTHY MOVED HB 78 BE CONCURRED IN.

Amendments: SEN. WILLIAM CRISMORE MOVED TO AMEND HB 78 (EXHIBIT 4) hb007801.abc.

Discussion: Bart Campbell explained the amendment. The quota of protestors to license holders would be 50%. SEN. HERTEL AND SEN. BENEDICT felt that 50% was a more reasonable number.

Motion/Vote: SEN. CRISMORE MOVED HB 78 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED WITH SENATOR SHEA voting NO: 5-1

EXECUTIVE ACTION ON HB 399

Motion: SEN. STEVE BENEDICT MOVED HB 399 BE CONCURRED IN.

Amendments: SEN. MCCARTHY MOVED TO AMEND HB 399 (EXHIBIT 5)  
hb039901.abc.

Discussion: SEN. BENEDICT explained the amendment as he had proposed it to the sponsor. It changes the type of members on the board to two members of the profession and two members of the public. They felt that was a good balance.

Vote: THE MOTION TO AMEND HB 399 CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MCCARTHY MOVED HB 399 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. SEN. BENEDICT WILL CARRY.

HB 267 was discussed and amendments (EXHIBIT 6) were submitted. It was then decided to put the bill on hold till some questions could be cleared up.

{Tape: 1; Side: B; Approx. Time Count: 10:26 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 478

Motion/Vote: SEN. STEVE BENEDICT MOVED HB 478 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. CRISMORE WILL CARRY.

EXECUTIVE ACTION ON HB 492

Motion/Vote: SEN. BEA MCCARTHY MOVED HB 492 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. HERTEL WILL CARRY.

EXECUTIVE ACTION ON HB 287

Motion: SEN DEBBIE SHEA MOVED HB 287 BE CONCURRED IN.

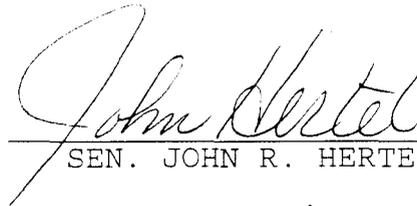
Amendments: SEN. SHEA MOVED TO AMEND 287 (EXHIBITS 7 AND 8) hb028701.abc and hb028702.abc.

Discussion: SEN. BENEDICT felt that there had been no compromise between the Department of Commerce and the insurance industry. He then offered a substitute motion.

Substitute Motion/Vote: SEN. BENEDICT MOVED TO TABLE HB 287. THE MOTION CARRIED with SENATORS MCCARTHY AND SHEA voting NO: 4-2

ADJOURNMENT

Adjournment: 10:35 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW