

**VOLUME NO. 36**

**Opinion No. 54**

**APPROPRIATIONS — Montana Children's Center; STATE INSTITUTIONS — Montana Children's Center; Section 80-1403, Revised Codes of Montana 1947; House Bill No. 289, Laws of 1975.**

**HELD: The legislature's action in House Bill No. 289 constituted its "consent" to discontinue the Montana Children's Center at Twin Bridges.**

February 10, 1976

Mr. Michael G. Billings, Director  
Budget and Program Planning  
Office of the Governor  
Capitol Station  
Helena, MT 59601

Dear Mr. Billings:

You have requested my opinion on the following question:

Must specific action be taken by the Legislature to permit the discontinuance of state owned land and buildings constituting the Montana Children's Center at Twin Bridges, and, if so, what form must that action take?

Section 80-1403, R.C.M. 1947 designates the Montana Children's Center as a state institution and further states:

(2) A state institution may not be moved, discontinued, or abandoned without prior consent of the legislative assembly.

House Bill No. 289, an appropriations bill for various institutions, was passed by the Forty-Fourth Legislative Assembly. In this bill, the appropriation for the Montana Children's Center was reduced to a maintenance level. This has resulted in the closure of the facility. The pivotal question is whether this reduction in appropriations can be construed as legislative consent to discontinue the Children's Center.

In the January 17, 1975 Proceedings of the Appropriations Subcommittee on Institutions, the committee stated that one of their areas of concern was:

... the low population at Twin Bridges and the possibility of closing and disposing of the facility.

In the Proceedings of the Appropriations Subcommittee on Institutions from the February 5, 1975 meeting is found:

Concerning Twin Bridges, it is the recommendation of this committee that this institution be closed...

It has been accepted in Montana for many years that legislative intent may be ascertained by history of the legislation as disclosed by legislative records. **Nichols v. School Dis. No. 3 et al.**, 87 Mont. 181, 287 Pac. 624 (1930); **Murray Hospital v. Angrove**, 92 Mont. 101, 10 P.2d 577 (1932); **State ex rel. Normile et al. v. Cooney**, 100 Mont. 391, 47 P.2d 637 (1935). From the above language, it is clear that it was the legislature's intent to close the institution.

Further, the intent of the legislature can be gathered from the terms of the statute, in light of surrounding circumstances. **State ex rel. Haynes v. District Court**, 106 Mont. 470, 479, 78 P.2d 937 (1938). It is obvious that the legislature realized that reducing the funding to a maintenance level would result in the closure of the institution.

It should also be noted that section 80-1403 (2), *supra*, does not call for "express consent" which could be construed to require a specific statute authorizing discontinuance, etc. Mere "consent", however, is easily ascertained from the action of the legislature in House Bill No. 289.

**THEREFORE, IT IS MY OPINION:**

The legislature's action in House Bill No. 289 constituted its "consent" to discontinue the Montana Children's Center at Twin Bridges.

Very truly yours,

**ROBERT L. WOODAHL**  
Attorney General