

The meeting was called to order by Lien at 8:00 a.m. The roll call was taken, with Menahan and Meyer excused.

Dick Hargesheimer distributed his summary, see attachment #1.

HB 791-BOB LOHN explained that another bill had been proposed by Rep. Johnston, but such extensive amendments had been proposed that a new bill was, by necessity, written. He added that additional amendments would have to be added to the new bill to specify the commission's participation in land acquisition. Lohn felt that this brought the commission's responsibilities up to par with what the Governor saw fit for them to deal with; and also brought the director of the department in line with the other department heads in the state. "The director can hire and fire, and manage the department in the usual manner. All of the traditional managerial functions are not vested with this director presently. This bill tires to put these in his hands. A commission that only meets once a month for one day can't really run a department. The commission has always been the policy making body, and with the amendments, it still is."

JO ELLEN ESTENSEN-Representative, Helena, Montana--"We were talking about it in the Appropriations Committee, and felt that the commission had extensive powers relative to the department. I studied this before looking at the budget. Fish and Game is on zero-based, and as I understand, the director doesn't always know what people in the field are doing. I would encourage you to take a look at this. It will not allow a lot of behind the scenes maneuvering."

GEORGE JOHNSTON-Representative, Cut Bank, Montana--"I sponsored the original bill that started all this, and I feel that any additional testimony would be redundant. I urge your concurrence."

OPPONENTS

HARRY McNEIL, State Wildlife Organization--He submitted a written statement, see attachment #2. I can imagine the problems if the director of the wildlife association had to worry about consulting the Governor about every decision he made, and was worried about losing his job if he put forth the wrong decision.

RAY NITZ, Hill County Wildlife Association--I feel this bill would be taking away the power of the commission, and eliminating the tenure of the director. You won't get anyone with any strength.

GARY STUCKER, Wildlife Federation--The commission is appointed by the Governor, and we can get his input in this way. I feel this is a more complete handle on the picture, and maybe the department.

KEN JONES, private citizen, Bozeman, Montana--"I am one of the 138,000 people who purchased residency licenses; and I feel the commission should return the power to the director. This bill amends 137 sections of the code, and I feel there should be a lot more input before anything is done. There's also a bill in to increase the board. Why do this when you are taking the powers away?"

BARDO GERRA, Northwest Section of the Wildlife Society--I am a professional biologist wanting to go on record as supporting the commission system, and opposing eliminating the tenure of the director.

BOB EMMENS, Montana citizen--Frank Dunkle was the director of Fish and Game when I first came on the commission, and at that time I could not claim expertise in

anything, but the other commissioners did. I had to grasp everything for the first time. I know a little about administration; and feel that this would make the Governor able to remove the director. There would be no buffer between the Governor and the director, and the Governor and the staff. People couldn't go to the director, and they couldn't go to the Governor. The commission protected everybody from one another. The political pressure comes from the top, and all of this is being given to the director, who then could lose his job. How would you like it if the legislature were composed of all lawyers? Or a commission that was all biologists? I supported Judge in his campaign, but I disagree with this. You have a problem at the very beginning - you have a repealer in the title, then on page four it is given back. The director can hire and fire. There's no right of appeal.

LES PENGELLY, President-Elect, Wildlife Society, Missoula, Montana, also Chairman of the Wildlife Department-University of Montana--I would like to remind you that the Wildlife Society is world-wide. Our concern is that in the interest of administrative expediency that you not remove the human element. This removes the chance to speak to people who come to the department. There are obvious conflicts in this bill. You don't destroy the system, you alter it. We hope your amended bill doesn't damage the commission. We oppose removal of the director's tenure, and recommend a clear cut job description of the director and commission. The welfare of tremendous issues is at stake here.

JACK COHN-?????????--The director needs protection, but this is a unique department. F&G is supported by licensing and federal monies. I think through the Reorganization Act 82-107 (06, 07, 08) he has his directives spelled out for him. Since I was on it, the only time a director hasn't hired and fired, it was because he was too weak to do so. Has the commission ever asked to approve hirings? The sportsmen in this state deserve a say in high level hirings. I feel the people of Montana should have someone to go to, to help in decisions. These people can only make judgements from a biological point of view, and the commission looks with a humanistic touch and public input.

TAG RITTEL-Montana Outfitters and Guides Association, Wolf Creek, Montana--written statement-attachment #3.

ARNOLD REEDER, Former F&G Commissioner--I also served on the Fish and Game Committees in both the House and Senate. The politics of this is what bothers me. The last six Governors haven't really interfered with the commission; but there have been cases where pressure has been put on both the commission and the director. When the Governor couldn't get his way, he found new appointees. Most governors are either running again or running for other office. If the coal or lumber industry wants something from the Governor, they can put pressure on him. He cited an article in "Defenders of Wildlife" which felt Tom Judge to be "quite deleterious" to the state's wildlife.

HARRY MITCHELL, Great Falls, Montana--I was in the Senate, and served on the Fish and Game and State Administration Committees; and was also on the Government Reorganization Committee, so I have some knowledge of the existing law. The net effect of this weakens the independence of the commission, and makes it more responsive to special interests. I am a democrat, and did support the Governor, but I think he is making a mistake here. The commission acts as a buffer between special interest politics and the department. All you have to do to destroy the commission is to pass this. The commission will be unpopular as long as they do their job.

PHIL TAWNEY, Environmental Information Center--We have several complaints. This bill needs more time. It seems to me impossible to deal with such a drastic

revision this rapidly. This is of tremendous importance to many people over the state. We are concerned as to whether you can do justice and give the time needed. The commission is a shock absorber and it is a very real function. Having the director be responsible to the Governor could be disastrous. We want the director to have a clear line of authority.

JACK ATCHESON, Butte, Montana--I have hunted on every continent in the world except Antarctica; and Montana is the best place in the world for hunting and fishing. A bill of this magnitude being brought in so late is spooky. The administration has asked for more input, and yet this bill cuts off that input. I think if this bill isn't killed, it is a license to steal from me.

BOB YORK, Skyline Sportsmen, Butte, Montana--I urge you to kill this bill.

RALPH HOLMAN, Montana Outfitters and Guides, McLeod, Montana--Written statement attached, #4.

KEVIN GLACE, Trout Unlimited, Missoula, Montana--I understand the department is going to submit 20 pages of amendments and I wish you would consider these.

REP JOHNSTON--I see quite a bit of opposition, but I feel they are assuming a lot. I put in HB 133 to have the director serve at the pleasure of the Governor. I wanted the director's powers spelled out. The commission only meets once or twice a month. This bill will have several amendments, but the bill will go to the Senate, and over there it can be thoroughly worked over; but we must do something here if we are going to get a chain of command. DNR has a board, and this bill puts Fish and Game in the same situation.

BOB LOHN--I thank you for your consideration. The law now says that the director can hire and fire, but the commission runs the department. The director, if he does hire and fire, does so not by justifying it with the commission. The bill leaves, substantially, the powers of the commission as they are. The critical powers of the commission are not in the bill, and so still exist. The policy for the department will be made by the commission. The Governor appoints the commission now, and the director also.

JACK COHN--I have looked at the book, and we are taking 137 rights away from the commission, and returning 6.

MULAR-I refer to page 2 and the deleted language, does the Governor object to the Senate having the say so? LOHN-No, I don't believe so. MULAR-Page 4, delete "with the consideration of the Senate"? LOHN-If a vacancy occurs during the interim, 87A-112. MULAR-The policy - would you object to the insertion of "subject to the approval of the commission"? LOHN-The point that when you have a board that meets once a month for one or two days, I don't want them to have this kind of responsibility. MULAR-You aren't dividing the duties of the commission and the Governor. Page 5 - would the Governor object to the right to acquire the advice of the commission? LOHN-These have been proposed as amendments. MULAR-Page 6, lines 18-22, would you object to the same language? Strike "department" and leave "commission"? LOHN-Sure, in line 21 on page 5, we have put this language in. With this amendment, the consent of the commission would be required for anything to do with land. MULAR-Isn't it true that when you use the word "department" you are stripping the commission of any power to do with land. LOHN-(Mr. Lohn simply went over the amendments again in an effort - a polite effort - to aid Mr. Mular in understanding). KROPP-You

were on the commission for two years. How often did you meet? PENGELLY-Monthly. KROPP-Did the director have control over the hiring and firing then? PENGELLY-Yes. The commission would review the suggestions of the director. I felt we could approve appointments, but not suggest. These were check and balance. RYAN-The similarity between HB 791 and HB 133 disappears after line 25 on page 1. Does this accomplish what you wanted? JOHNSTON-Yes. RYAN-Was HB 133 presented due to the conflict of the two day season? JOHNSTON-We have the director that can't be removed unless he does something completely wrong. I wanted the director to have some direct responsibility and authority over the department. RYAN-This resulted from two and 14 days? JOHNSTON-Our Mule Deer population is way down, and everybody is getting pressure about it. This was where I got interested. TURNER-What has been the reason for the confrontation of biologists and sportsmen? PENGELLY-Wardens have told me that their suggestions have not been heeded. I have been in fish and game for 30 years, and this isn't true. Some of them present very poor cases. There's so much input for this. I do believe individuals have had this opportunity. TURNER-They realize they make the input but there is no response. The department already has their mind made up. PENGELLY-I first began working with the sportsmen's organizations in 1950, and right now they are at the lowest level of organization in 30 years. They need to get themselves together, and react in a more informed manner. This bill is attracting attention, but right now the sportsmen aren't very organized. I believe the untrained person should have the opportunity for input. MULAR-(page 8) Do you see local law enforcement being appointed as exofficio game wardens? Do you see some possible abuses of power here? IMMENS-You make them exofficios and put them out in the field; if they make a mistake in judgement, they are subject to suit for malicious prosecution. Essentially, anyone can make arrests, but you are most exposed. TOWER-Wouldn't it be possible for the commission itself to solve these by setting up their own chain of command? PENGELLY-No. Their powers are derived from the statutes. We never discussed anything with the Governor. The commission should be asked for input. I feel the time is too short for you to deal with this right now. HEARING CLOSED.

HB 794-JIM TURCOT-PERS-I'm here in behalf of Larry Nachsheim to answer any questions.

DICK HARGESHEIMER-This was put in by the request of PERS, and does the same thing as the teacher-' bill as far as IRS qualifications. TURCOT-We are qualifying the 6 retirement systems with IRS and conforming to provide the things required. It eliminates the possibility of disqualification.

EXECUTIVE SESSION

MULAR moved DO PASS on HB 794, the motion carried unanimously.

TOWER moved DO NOT PASS on HB 791.

KROPP-I think this does deserve some further consideration. I'm not ready to pass this. MULAR-What we saw was public input. Johnston's bill had what he wanted and then the Governor's Office sent amendments that never ended. RYAN-I feel this is a railroading job, and I'm not sure it answers Johnston's problem. The farm and ranch input wasn't here, and they should have something to say. TURNER-The ranchers were all here the other day. This wasn't any spontaneous demonstration. LIEN-We, in essence, had two hearings on this. TOWER-I think we could write a resolution to say that the commission use the powers they have. Immens showed me the codes to enable them. BARDANOUVE-I don't see why these employees should be any different from any other department. There is a division in that commission that should be dealt with. TURNER-The tenure of the director is what is bothering everybody. LIEN-I think the State Lands Department is set up with the Board serving at the pleasure of the Governor, and can hire and fire. With the Reclamation Law, the State Lands Department

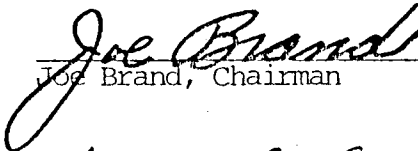
can be put under heavy pressure, and this bill puts Fish and Game in the same situation. MULAR-The State Lands Board does have the policy-making power. Robbins called QUESTION on the motion of DO NOT PASS on HB 791, the motion carried 8 - 5, with Lien, Bardanouve, Kanduch, Feda and Turner voting No.

LIEN-We killed HB 788, but now Fagg wants to know if he can make a short statement on the bill. The committee ok'd the request.

HB 788-REP. FAGG-I thank you, I'm very concerned about this--the system we are currently using is not, I think, the proper way. I would like to point out that currently the institution screens three architects, and the Board of Examiners makes the final decision. Your school board selected three architects, and then sent it to the Board of Public Instruction to make the final decision. Right now it is really political. I have been up many years ago in this position. In the last session the law was changed. There were 33 architects for one job, and the Board cut it down to 6, and then sent it to the local board who cut it to 3. When I got up here a man asked me why his fraternity brother wasn't on the list because he wanted him to get the job. I have some amendments. See attachment 5. I spoke to three architects Friday, and they liked it. Whether the architects support it or not is unimportant. If we can get the Long Range Building Committee sold on the idea, it would help immensely.

SONNY HANSON-Montana Technical Council--We rose in opposition the first time because we didn't feel the bill addressed the problem fully. The Department of Administration selects from a list of three. The Board of Examiners does not select the firm. The three names are discussed ahead of time. The selection is "approved" by the Board. I think the fiscal note will be quite extensive. MULAR-Would this apply to universities? FAGG-yes.

Mr. Fagg had nothing further to add, and the hearing closed at 10:00 a.m.



Joe Brand, Chairman



Anita C. Sierke, Secretary