

February 22, 1977

The Natural Resources Committee convened at 7:05 a.m. in room 437 with Chairman Sheldon presiding and all members present except Rep. Huennekens, who was excused.

Chairman Sheldon opened the meeting to a consideration of the following bills:

HOUSE JOINT RESOLUTION 35

Rep. Cooney moved do pass. Rep. Hurwitz mentioned the Forest Practices Act was passed two years ago and it wasn't wanted. Chairman Sheldon said most of the timber is on federal land. He said this study would outline problems in the next two years--question in a lot of people's minds if they are cutting timber faster than it is growing. Question was called and a voice vote taken. Motion carried unanimously. Absent were Reps. Nathe and Huennekens.

HOUSE BILL 588

Rep. Harper suggested on page 7 to lower the time limit to 60 days for the small operator who doesn't need an EIS. He felt this would be reasonable. He said the reason for taking it out of the county attorney's office and placing it in the attorney general's office was time and conflict of interest. It has at times been difficult to get action on the local level. He moved the amendment to change the time from 120 to 60 days. Motion carried unanimously (Rep. Huennekens gone).

Rep. Burnett moved on page 13, line 13 to remove the words "or threatening to violate". This motion carried unanimously with Rep. Huennekens gone.

Rep. Quilici moved on page 13, line 9, to change the "shall" to "may". Motion carried unanimously--same absent.

Bob Person, Legislative Council, suggested two amendments which would take care of Rep. Harper's amendment. Page 7, section 4, line 19: to strike ". If" and to insert ", and if"; and on lines 20 and 21 to strike ", within 120 day s of receipt of the complete application,". Rep. Curtiss moved these amendments and motion passed unanimously (absent Rep. Huennekens).

Rep. Quilici said an EIS is required only on a major application. He mentioned only one had been needed in the past four years. Rep. Bengtson questioned the agencies always asking for more money and more power.

Rep. Frates moved that HB 588 do pass. Voting no were Reps. Curtiss, Hurwitz, Ernst, Nathe, Cox, Davis, Bengtson and absent were Reps. Burnett and Huennekens. Motion carried with 8 yes and 7 no.

HOUSE BILL 156

This bill had been in a special subcommittee with Rep. Metcalf as chairman. He reported that the subcommittee was bringing it back to the committee without recommendation. Rep. Metcalf said this bill simply moves into the Department of Administration a program similar to the one that is in the Board of Natural Resources--a renewable resource development program. Coal tax money earmarked to go into the renewable resource

program are \$817,000 in 1978 and \$490,000 in 1979.

Rep. Bengtson moved do pass. A roll call vote was taken--14 voted yes, 2 abstained (Davis and Quilici) and 1 absent (Huennekens).

HOUSE BILL 441

This bill had been in the Plant Siting Subcommittee and Rep. Hirsch, Chairman, moved for the subcommittee that it do not pass. He said they had been wrestling with this definition of need and had decided to go with a definition that was complicated. Rep. Cooney added they had found this definition of need too restrictive. Rep. Metcalf moved a substitute motion of placing it on the table. Motion carried unanimously (Huennekens absent). HB 441 is tabled.

Chairman Sheldon gave the committee members a five minute break and then began the hearing on the following bills:

HJR 70 REP. DENNIS NATHE, DISTRICT #1, said this resolution is a request to set up negotiations by the U.S. Congress to develop air quality treaties with Canada. He mentioned in 1922 a British Columbia lead plant started up and was impacting tree farms across the border; and it took 19 years for the two countries to come to an agreement. In 1966 a complaint came from the Canadian side of the border, protesting pollution from Detroit. He said at that time agreements were made and air quality types of reference were set up. Rep. Nathe said he would like to strike Montana on page 1, line 14 as he felt this air quality is a very complicated thing and should be addressed to the whole border. He said he had talked with Melcher's staff about initiating this to make it a follow up on the transboundary treaty.

DAWN A. NORTH, League of Women Voters, signed as supporting this measure.

HJR 71 REP. DENNIS NATHE, DISTRICT #1, said there are three major potash firms in the northeastern area. He said there are 100 thousand acres listed for potash development. He said when close enough to the surface it can be mined, but in the Scobey area it's 9000 feet down and at that depth water is injected to dissolve it. He said there are two stringers of potash in this area--they dissolve the bottom one and the top one caves in so it too can be dissolved. He felt there is a problem that should be checked into--shallow aquifers that could be polluted by the circulating salt water.

Rep. Nathe suggested two amendments on page 1, lines 11 and 12, to strike "an activity that is becoming increasingly"; and on page 2, line 4 the EQC shall be struck and in place of it put "Bureau of Mines".

HB 740 REP. JOHN VINCENT, DISTRICT #78, the chief sponsor, said the idea behind the bill came from Governor Andrus of Idaho. The bill would require disclosure of energy requirements of certain buildings by real estate brokers, salesmen and energy suppliers. Rep. Vincent went through the bill explaining it. He said the bill would apply primarily to old buildings. He said he could foresee some compliance difficulty and would welcome rewording to make compliance easier. He felt this would promote more efficient construction. He, also, felt a prospective buyer was entitled to know what utility bills were likely to run as more and more it will be a deciding factor on whether or not to purchase a home or building.

PHIL TAWNEY, EIC, spoke in support. He felt this would encourage energy conservation in construction.

CLIFF CHRISTIAN, Montana Association of Realtors, spoke in opposition. He emphasized that brokers and salesmen are not the builders. He said the information on energy gained according to page 1, line 24, would be obtained from a seller anxious to sell--who is liable for misleading information? Mr. Christian felt this would be an engineer relief act as you would need his assistance to determine heat loss. He also questioned who would interpret the data to the buyer, and also felt people who sell their own homes should be included.

LESTER LOBLE, MDU, Spoke in opposition. He handed in suggested amendments, which is exhibit 1 of the minutes. The amendment would clarify what information the utility would give to the broker--just the actual amount and cost of energy supplied during a 24 month period or less if occupied for less.

BOB GANNON, Montana Power Co., spoke next in opposition. He supported the amendments of Mr. Loble as he felt it would tie down what a utility would be required to do. He felt if subsection (6) on page 3 were to become law they would have to hire extra people and the extra cost would have to be reflected back to the consumer. He said some customers could also object to having their utility bills made public information and demand the right to privacy.

GENE PHILLIPS, Pacific Power and Light, spoke in opposition, although he said they recognized the intent of the bill and felt it was a constructive approach. He said they do have people in their utility that assist homeowners with insulation and other energy advice. He, too, felt this bill if passed would increase their costs.

Rep. Vincent in his rebuttal said he was open to suggestions for clarifying language in subsections 2 and 3 to reduce the technical aspect. Mr. Christian's objection to leaving sellers of their own homes out--Mr. Vincent said they could be included if language is simplified. Mr. Vincent questioned how much extra work this would really entail for the utility companies as most of this information on amount and cost of charges they have readily available. Right of privacy? He said many more personal details of our lives are a public book now. He said they could and should be careful to whom they give this information. Additional costs? Some, but may be worth it--he said not only the short term but long term costs should be considered. Additional jobs are needed, too.

During questions Rep. Hurwitz questioned if the marketplace wouldn't take care of this problem--if just plain common sense on the part of the buyer wouldn't prompt him to check into energy costs. Rep. Vincent said yes, to some extent that is true--but this would provide a starting point, and he felt as education and income go down, more assistance is needed in this line.

HB 785 REP. WILLIAM HAND, DISTRICT #82, the chief sponsor of the bill, said this bill gives emergency power to the Governor in case of an energy shortage, and the ability to provide essential services to the Montana people is endangered. He said we are tied into the Northwest Power Pool and it is essential that we cooperate with other states. He went through the bill and he said that John Hollow of the Legislative Council was present to help answer questions.

ROBERT LAHN, Governor's staff attorney, spoke next. He said he supports both this and Miss Bradley's HB 762 which is a similar bill. He said whether we like it or not we might be in the business of rationing energy by this summer. He said Rep. Hand's bill provides a way to curtail energy if it must be done. He said the existing Civil Defense Department could gather the needed information. He did not feel an EIS would be required in case of an emergency.

JOHN CARL, Montana Power, spoke in support with certain amendments. He said we must remember we are interconnected with other states--Utah, Washington, Idaho--so a directive could have some regional effect. This interconnection would be a help if the emergency situation is limited to our area. He also mentioned their plant at Billings, which is not running at full capacity because it can't meet air standards but in an emergency perhaps standards could be suspended and a noncompliance oil burned for the duration of the emergency to provide extra energy. He said this is true of other plants also. He questioned whether a system wide strike would comprise an emergency. He said section 3 needs to be clarified as to who is covered and whose plans are approved. He questioned also if an emergency directive would be applied to the whole state even if an area is not affected and lines are not interconnected. He said he would prefer to see HB 762 pass.

GENE PHILLIPS, Pacific Power and Light, said they support the concept of this bill. He said this bill is based after the law in Oregon and HB 762 is based after the Washington law. He felt HB 762 is more suitable to our present system.

PETER JACKSON, WETA, said they support the bill and thought it was an excellent one. He said preplanning is very necessary so things can work quickly if an emergency arises.

LES LOBLE, MDU, spoke in support. He said, too, if standards were lowered the existing plants would be able to put forth more energy. He said the administering agency should get input from the PSC as lots of things about energy distribution appear equitable but aren't. He stressed that it be recognized that MDU has responsibilities to all customers in its four state system. He suggested the following amendments: on page 5, line 6, strike "circuit" and insert "district"; page 6, line 1, strike "judicial" and insert "administrative"; page 6, line 9, after "persons" insert "or corporation". He said the bill has many good provisions and is needed.

DON ALLEN, Montana Petroleum Association, said he had appeared in favor of HB 762. He said the proper place to handle this was through the Governor's Office and not to involve the DNR, which would only complicate the whole process. He said page 3, section 3 needs to be clarified; and on page 4, line 24, reserve figures are confidential and expensive assets for companies.

RILEY CHILDERS, Montana Associated Utilities, said they would endorse the bill but would like to remind the committee they don't come under the PSC. He said they were concerned with the liability section and felt it should be strengthened.

Rep. Hand said the DNR could be changed to the Civil Defense if the

committee so wished. He said the penalty provision is different in his bill than in Rep. Bradley's.

Chairman Sheldon said this bill and HB 762 would be put into Rep. Kessler's committee on Extraction and Conversion.

Lloyd Meyer, Civil Defense, signed as supporting the bill if amended.

HB 754 REP. MIKE MELOY, DISTRICT #29, the bill's chief sponsor, said this was designed to provide some method whereby citizens of Montana could find a place to borrow money for retrofitting their homes or businesses to conserve energy. He said this would make available the coal tax trust money--it would be invested in Montana banks so citizens could use that as collateral to borrow money at a low interest rate.

He said this would also benefit Montana banks.

PAT BINNS, representing self, said one of the recommendations of MEAC included a discussion of the coal tax trust fund and how it could be used to facilitate conservation in all parts of the economy. He felt this was a good vehicle to do that. He said if the coal tax trust money is invested in Montana homes, the result will be higher property tax values as well as reduce the energy needs. He suggested the following amendments: on page 11, line 1, strike, "only, may" and insert "shall"; page 11, line 17 strike "conservation" and insert "generation"; page 11, line 18, following "processes" add "within the state of Montana" and on page 12, line 7, insert a new subsection "(e) The board of investments, after consultation with the department of natural resource and conservation, the energy resource policy office, the citizens' advisory committee on energy, the department of community affairs, and the private financial community, shall propose rules which further define eligible investments made under section 79-310 (4) (a), (b), and (c) by August 31, 1977."

REP. JOHN DRISCOLL, Speaker of the House, from District #91, spoke in support, saying he felt this was one of the most important bills of the session. He felt it was a way to invest the coal tax money to bring the greatest lasting return to the people of Montana. Ex. 2 is a handout dealing with coal tax money and expected moneys.

JOHN CADBY, Montana Bankers Association, spoke neither as a proponent nor an opponent. He said there were a few minor problems: on page 8, lines 20 and 21--reference to credit unions should be deleted; on page 11, line 22 limits interest to 7%--this is assuming they could get the money at less than that as they would need enough to offset administrative cost. He felt there should not be a fixed rate.

HAROLD PITTS, Independent Bankers, said he was neither a proponent nor an opponent. He said on page 3, line 23 through line 8 on page 4 should be struck--have a pool arrangement--participation in profits and losses. Page 8, line 16 "pledged securities"--credit unions don't have these and so should not be involved. He felt this could be a workable bill.

JAMES HOWETH, Board of Investments, also spoke neither as a proponent nor an opponent. He said this would be in conflict with present statutory investment laws. He said the department is not currently prepared to

carry out the bill's directions as they are understaffed. He also questioned if there was a default who would make it up.

Rep. Meloy said he appreciated the comments and felt the problems could be worked out. He said the size of the coal tax moneys indicate we should make some decision on how we are going to use them--he said even if only a portion were used for this purpose, or just the interest, it would be a good beginning.

HB 753 REP. DOROTHY BRADLEY, DISTRICT #77, the bill's chief sponsor, said this was part of the energy package--labeling of appliances for energy efficiency. Labeling could include cost in dollars of operating the appliance, cost of energy to operate, what kinds of testing procedures were used, differences in energy consumption between competing and comparable appliances. She said Gary Delano, Administrator of the Division of Weights and Measures, had left information with her which she left for the committee, exhibit 3, saying the federal government was working in this area and the majority of the major appliances would be labeled by the end of 1977. She said the committee would need to determine if they felt this bill is necessary because of the federal act.

DAWN A. NORTH, League of Women Voters, due to lack of time passed in a statement of support (exhibit 4).

RUSS LIVERGOOD, Montana Retail Association, spoke in opposition. He handed in a fact sheet (exhibit 5) telling why.

Chairman Sheldon recessed the meeting at 10:05 a.m. until 7:30 p.m. in the evening.

The committee reconvened at 8 p.m. for a consideration of HB 661.

Rep. Hirsch, chairman of the subcommittee on Plant Siting, which worked on this bill, said they didn't have a consensus as a subcommittee but for the purpose of getting underway he moved the amendments be adopted. Chairman Sheldon suggested taking the amendments one by one.

Debbie Schmidt at his request went through the amendments. She said portions of HB 702, utility bill; HB 698, public need; and HB 593 had been put into this bill. She said they had taken out the two step process.

Mr. Doney spoke on time frames. He said there would now be a statutory limit on the board decision--current law, there is no time limit--this bill mandates a decision in 9 months; a hearing would have to be started within 120 days--now 90 days. There is a clause to extend the deadline if good cause is shown and clear and convincing evidence.

Rep. Hirsch moved insert 1 be adopted. (This is part of exhibit 5 and attached). Included in his motion was the insert on the bottom of page 3 and 5 of exhibit 6 (which is the reworked bill). Motion carried. Reps. Curtiss, Nathe, Burnett voted no; absent were Reps. Kessler and Quilici.

Rep. Hirsch moved the adoption of insert 2 (page 5, line 21 of the bill), which defines Montana's need. Dr. Albert Tsao, Department of Natural Resources, was requested to draw a diagram indicating how this need would work, on the chalkboard. It would be Montana's need plus a 20% cushion.

MR. PETERSON, M.P.C., said this will restrict the size of the plant they can build and if this definition had been written before Colstrip 3 and 4 were approved, they would not have been approved.

Mr. Sheldon said the intent is to encourage the building of plants elsewhere and the committee has to decide how they want to do this.

Mr. Shanahan pointed out this would cover also gas (page 5, line 8), and did the committee wish to restrict that. Rep. Hirsch said he was disappointed that the companies had not brought this out in the sessions when the bill was being worked on as the committee didn't intend to include gas.

A roll call vote was taken and failed. Voting no were: Bengtson, Burnett, Cox, Curtiss, Davis, Ernst, Hurwitz and Nathe; absent were Kessler, Quilici. So seven voted aye and seven no.

Rep. Huennekens moved to amend page 5, line 8 to strike the words "heat, gas, hydrocarbon products or energy in any form" and to insert "electricity, synthetic or pipeline gas". Motion carried unanimously (absent Quilici and Kessler).

Rep. Bengtson moved to reconsider the motion on insert 2. Motion carried with Rep. Burnett voting no--he said he objected to the 20% cushion. Rep. Huennekens moved to adopt the second insert. Motion carried with Reps. Cox, Curtiss, Davis, Ernst, and Nathe voting no; Rep. Quilici absent. Rep. Kessler now present and voting yes.

Rep. Burnett moved that insert 3 be adopted. Motion carried unanimously. Quilici gone.

Insert 4 was moved by Rep. Cooney to be adopted. Motion carried unanimously with same absent.

Insert 5 was moved by Rep. Burnett to be adopted. Motion carried with Rep. Nathe voting no and the same absent.

Insert 6: Metcalf moved to adopt and motion carried with Rep. Nathe voting no.

Rep. Hirsch moved the amendment to reduce from 120 to 90 days found on page 18. Motion carried unanimously (Quilici gone).

Hirsch moved the subsection on page 18 on the hearing dealing with the number of people be adopted. Motion carried--voting no were Burnett, Hirsch, Bengtson, Davis and Ernst.

Rep. Metcalf moved the amendments on page 19. Motion carried unanimously.

Rep. Metcalf moved the adoption of amendments on page 20 to speed up the hearing process and lines 12 and 14. Motion carried unanimously (Quilici absent).

Rep. Huennekens moved the amendment on line 25 of page 20 and lines 1 and 2 of page 21. Motion carried unanimously.

Pages 21, 22, 23, and 24 were clean-up. Burnett moved their adoption and motion carried unanimously.

Page 25 and insert 7 is a MPC proposed amendment and would put the department in the load forecasting business. This would speed up the decision by the board if a facility is needed. Burnett moved the amendment, Hirsch no, motion carried.

Insert 8, page 27. Hirsch moved the amendment and also amendments on page 26 and pages 27 and 28. Motion carried unanimously. Quilici gone.

Insert 9--Hirsch moved its adoption and motion carried unanimously.

Rep. Frates moved that HB 661 as so amended do pass. A roll call vote was called and voting no were: Cox, Curtiss, Davis, Ernst, Nathe (absent was Quilici). Motion carried.

Meeting adjourned at 10 p.m.

Respectfully submitted,



ARTHUR H. SHELDEN, Chairman

eas