

March 10, 1977

Chairman Brand called the meeting to order at 8:00 a.m.; Menahan was excused and Meyer was absent.

See attachment #1 for Hargesheimer's summary.

SB 162-Sen. Himsl, sponsor--This is a new type of legislation known as the Sunset concept. (see attachment #2 for his testimony)

MORRIS BRUSETT, Legislative Auditor--Most of these audits will be done prior to the session.

ROD GUDGEL, Montana Nursing Homes, and Montana Pharmaceutical Asso.--We have no objection to the procedure outlined; in fact, we would like to see it go further. The Board of Nursing Home Administrators is the only board created by federal requirement; so, if this board were required to be terminated, how would it be handled relative to the federal regulations?

OPPONENTS

BARBARA JONES, Cosmetologist, Belgrade- (Ms. Jones submitted extensive attachments plus testimony - reference attachments #3,4,5,6,7, and 8, which outlines proposed amendments.)

RALPH HOLMAN, Montana Outfitters' Council--(see attachment #9 for his testimony)

HIMSL--This is not zero-based budgeting. This is performance auditing. Licensing is to protect the public, and sometimes it seems that it becomes more self-protecting; and the legislature should be entitled to answer that. There seems to be very little disciplinary action taken - the Board of Medical Examiners revoked only 4 licenses in 12 years. First, the agency reviews itself; then, a legislative performance audit is made; and if the public interest is not served - then they would be terminated. I see no relation between this and zero-based budgeting. A lot of these agencies exist on their own funds.

BRAND--How many other states have this, and what is the road record? HIMSL--32 states have bills of this nature - this is patterned after the Florida and Colorado bills. No one really has a track record at this point. BARDANOUVE--Could there be a provision stating that any board should include public members, since the lack of outside input seems to be the real problem? HIMSL--This could be taken into consideration with each agency, as some of them already have public people on them. TURNER--Isn't this meddling with private business? Public money runs these things. HIMSL--You have to examine the function of licensing - whether this is public protection or self protection.

SB 228-Sen. Warden, sponsor--This provides for a records retention and destruction system. (She submitted written testimony - see attachment #10)

JACK CROSSER, Director, Department of Administration--This is not a new program, but it augments and formalizes a program already in existence.

BRIAN COCKHILL, Montana Historical Society--spoke in general support.

JOHN NORTHEY, State Auditors' Office--The Legislative Auditors' office is an arm of the legislature. Sometimes, computer tapes have been destroyed before we could get to them, and this gives a good system of retention and destruction. (He related this to the Historical Society) This is currently being used by the Department of Administration, but there is no mandatory requirement. This bill would mandate affirmative action before information can be destroyed.

BRAND--There's a conflict between this and HB 512 - can you clarify this? COCKHILL--The intent was that these two bills would operate separately, and then the Governor's office wanted them to act in concert. HB 512 addresses itself to executive records and historical material. Whereas, SB 228 deals with all state records. BRAND--They said they wanted one central location for all records - what's this then? COCKHILL--If the records are deemed of permanent value, they are given to the Historical Society; but otherwise, they would only be retained as long as needed. WARDEN--The committee has to have a unanimous decision before the records can be destroyed. The agency still maintains control of them. Records that are permanent will find their way to the Historical Society.

BILL AYRITH, Chief of Records Management Board--The intent of this is to address records that are not of historical or permanent nature. We will determine whether something is historical or not.

BRAND--What's the procedure now? AYRITH--The agency gives a disposal request to my agency, and I give it to the Archives Committee. The State Archivist decides the historical value. We need a bill because a lot of agencies are not aware of this.

JO ANN WOODGERD, Deputy Secretary of State--The Secretary fully supports SB 228, and we hope this will take care of things. We feel there are serious conflicts between this bill and HB 512, and perhaps the two should have been combined. We are going to ask for such amendments in the Senate, and I ask that you hold on to this.

NORTHEY--It was the feeling of the Ad Hoc Committee that the present statutes didn't go far enough - some agencies are responsive, and some are not. WARDEN--We are not just dealing with the Executive branch; but also with the Legislative Auditor and the Attorney General - to do that I am sure you need a statute.

SB 290--Sen. Murray, sponsor--The changes proposed here will simplify the records and establish a reasonable time for them to be established. Most of the stale-dated warrants haven't changed in years. The records of the State Auditors' office show that four years after a warrant is issued, there are very seldom any requests for it. Page 2, lines 11 through 15 were deleted due to a conflict.

KROPP--Would you describe a stale-dated warrant? MURRAY--A warrant for payment issued and never presented for payment.

SB 429--Sen. Lockrem, sponsor--This revises and clarifies the laws relative to the Board of Examiners. It is basically a record bill. Section 14 changes the mechanism for the board to hire personnel. Such employment would be within the Department of Administration. The amendment doesn't mandate any particular method. This bill came of the Legislative Audit Committee. (see attachments 11 and 12)

JOHN NORTHEY, *ibid.*--The only change in the bill is the authority of Personnel; which is transferred to the Department of Administration. It is basically a record bill.

BRAND-I don't see how you can call this a record bill. NORTHEY-These are mainly housekeeping changes. It brings the law into line with existing situations. BRAND-I feel the Board of Examiners is a check and balance on agencies. LOCKREM-Most of their functions are. The functions have been transferred already, and this bill just justifies the situation.

EXECUTIVE SESSION

SB 162-Brand read Himsel's amendments, and Bardanouve's amendments. Ryan moved to reject Bardanouve's amendments, which carried with Brand, Kanduch and Bardanouve voting no. Turner moved to accept Himsel's amendments, which carried. Meyer moved to hold the bill in committee for further study, which carried with Kropp and Tower voting no.

SB 228-WOODGERD-There's a question of whether we could amend this bill if HB 512 were killed. HARGESHEIMER-There seems to be a situation where the problems with HB 512 will have to be dealt with in the Senate.

O'Connell moved that SB 228 BE CONCURRED IN, which carried with Smith, Kropp, and Ryan voting no. O'Connell was assigned to carry it on the floor.

SB 290-Fedra moved that the bill BE CONCURRED IN, which carried unanimously. Turner will carry it on the floor.

SB 429-Fedra made a motion that the bill BE CONCURRED IN, which carried despite Smith voting no as hard as he could. Tower will carry it on the floor.

Chairman Brand reminded the committee that there would be another meeting on this day, in the Highway Auditorium at 7:30 p.m. on SJR 35.

MEETING ADJOURNED - 10:10 a.m.

Joe Brand, Chairman

Anita C. Sierke
Anita C. Sierke, Secretary