

MINUTES OF THE MEETING OF
AGENCY 1
AND
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Air Quality
Water Quality
Sub-Division

January 27, 1977
8:00 A.M.
Room 225
State Capitol Building

The meeting was called to order by Chairman Dorothy Bradley with the following members present:

Representative Gunderson
Senator Roberts
Senator Story
Senator Thomas

Jim VanKoten, from the OBPP presented the executive budget. He gave a brief rundown on the entire Health Environmental Program. This program requested \$1,049,000 FY 1978. The budget allowed \$941,000. For the FY 79 they requested \$1,172,000 and the budget allowed them \$956,000. This is only \$2,000 over the 1976 budget for FY 78. They took a 4% salary vacancy factor, the LFA took 3%. It should be noted that over all the total personnel recommended by the Executive Budget and the LFA's budget he came out at around 116 FTEs. He said this program probably has 3/4 of the budget amendments for the Health Department.

The difficulty in arriving at a figure in this program is because it is subject to change depending upon the amount of money received from the Federal Government.

The Fiscal Analyst, Curt Nichols, gave his recommendations. He said his General Fund amount is a little higher than the executive budget and the chief reason is he has tried to find out what general funds are available. The program contained all staff funded by the last legislative session and all operating expenses at current level with inflation factor applied. There have been no cuts from what was funded at the last session. A lot of the programs added by budget amendment are on-going and continued.

The sub-programs within the Department make it very difficult to arrive at a figure (Air Quality, Water Quality, Solid Waste, Sub-Division). They all have many, many projects and are difficult to pin down.

Air Quality - basically is the current level staff plus inflation factors, equipment at requested level, expansion of \$100,000 for

variances. They asked for \$443,000. He saw no justification. Variances come from earmarked accounts, coming in from companies seeking variances, etc. Water Quality - current level, staff, current level operation with inflation factors. Equipment at requested current level. The expansions in this program are Sediment Control Project that ends in fiscal '78 for about \$35,000. That is a joint effort with Soil Conservation, Natural Resources, and Health; the \$200,000 a year for the state-wide 208 projects for water quality planning will continue. The safe drinking water act for about \$280,000 a year. This is a Federal act and requires monitoring. The Department had the option of not becoming involved but leaving it up to the Federal government. They chose to become involved in this project. \$6,000 a year for the study on Logan Creek and effects of logging.

Sub-Division Bureau was part of the Water Quality Bureau last year and is an expansion. LFA recommended \$143,110 in '78 and \$155,739 in '79 at the current level. They have asked for an expansion of staff.

Dr. Knight gave a brief resume on the Department. He talked about air quality problems at the Smelter in the past against now and about water problems past and now. The treatment plant was built in the '50's at Galen. We must have surveillance to keep the good up and to keep making improvements needed.

Ben Wake, Head of the Division, made a few remarks regarding continual surveillance which required money and people. He told how some of the divisions, such as the sewage treatment facility, maybe do not look like they produce anything, but they are very important. He mentioned the amount of money spent throughout the state generated by the Air Quality Program. \$75,000,000 in '74. 15% of that went for purchase of equipment and materials in Montana. 50% went for salaries.

He felt with the Sub-Division Bureau, people get more for their money than any other program. People are protected from having sewage dumped in their backyards and property, have clean drinking water, etc.

Mr. James from the Department of Health then made a few statements for the Department.

He said the general fund increase of between \$15,000 - \$16,000 that was recommended in the Executive Budget actually comes from fees, such as licensing programs. They are channeled into the general fund but actually come from these projects.

He explained that the variances which the LFA mentioned really had no historic base for setting up fees. They have only had 1 year. He felt the committee should be willing to accept their estimates for the next two years and didn't believe they should be limited. He said the most critical division right now is the Sub-Division Bureau. He went on to give a little history on each division and stated reasons for their requests. One area he feels should receive serious consideration is in the legal staff. They need more people.

Mr. Brown spoke for the legal service. He said 80% of the time is spent on handling environmental requests. They not only enforce the laws but can resolve conflicts before reaching litigation, which saves a lot of money. The Department of Health had 26 law suits in the last biannual; 20 of them occurred in the last year because the legal staff has been fully funded. They collected \$46,000 in civil penalties, which more than payed the salary of the two attorneys. He said it does no good to go out and collect data if they don't have the legal staff to enforce it. The Department of Health also issues approximately 10,000 licenses and permits a year. He said they get calls every day regarding the licenses but need the legal staff to handle them. They wrote 79 legal opinions last year.

Senator Story asked Mr. Brown if he found the laws intended to assist the purchaser and protect his interests are in fact working to make a hardship on him?

Mr. Brown: He did not feel it a hardship if Mr. Casne has the people to go check the records over for them but he does not have the manpower.

Senator Roberts: "What is the present FTE's of the Sub-Division?"

Ed Casne: "8 1/2 that are funded."

Senator Roberts asked how that compares with the authorization by the last legislation.

Mr. Casne said he was not sure but thought they had 2 FTE over what was authorized last legislation. They need approval from the Governor's office to hire two FTE.

Senator Roberts asked Mr. Casne if he was familiar with the legislation that he was going to handle, which would give review authority on minor subdivisions back to the county? Wouldn't that release some of his staff?

Mr. Casne said they are trying that now in 7 counties. However, they can't force them to do this and can't pay them. They still have to check for errors, etc., which does not give them much relief, manpower wise.

Representative Bradley asked about the 2 to 4 weeks it takes them on approval time.

Mr. Casne said it took so long because of the lack of legal help. It takes an average of 40 work days on a major sub-division. Much of the delay is due to the developers, incomplete records, etc. They could reduce this time with additional help.

Mr. Casne mentioned that their case load has grown to over 2200 subdivisions this year.

Senator Story commented that this happens every year before legislature begins when people think there might be a change in the law or something. This causes an increase.

Senator Roberts asked Mr. Casne what he based the 2200 sub-division cases on. He said it was based on the number submitted through the first quarter of this year against first quarter of last year.

Representative Bradley asked Mr. Van Koten what his proposal for the legal division is in his budget modification.

Mr. Van Koten said they had asked for 3. Our recommendation in '78 was only 1/2.

Representative Gunderson asked if the Water Quality Division is doing anything about saline seep, etc.

Mr. Willems said we are trying to identify areas that have saline seep. There was a little discussion regarding this.

Senator Story asked Mr. James if they were asking for an increase in the car disposal area. Mr. James said "No". We have not had to pay in the past for disposal of junk cars so have had no expense. We may need money in the future if we have to pay.

Representative Bradley asked about the fees for variances and what will the state be involved in.

Mr. Wake said it was difficult to project ahead. They do not know if people will come in for a variance in the first place. If it goes into litigation then the cost goes way up. Difficult to project.

There was a little discussion between Mr. Roach, Mr. Willems on this. Mr. Roach thought a good estimate would be \$200,000. Representative Bradley asked Mr. Casne how much the fees from the developers cover in cost. Should it be changed?

Mr. Casne said they are proposing legislation to increase to scale. The object is to pay the counties that are helping us. "The projected fees are \$70,000. With this and the general fund money I will be short \$29,000 to pay my staff. I will have to lay off two people, or something."

Representative Bradley asked what is the proportion. Mr. Casne replied the fee money is 39% and General Fund is 60%.

Representative Bradley asked someone to explain the environmental impact project.

Mr. James said they may employ a coordinator or consultant to assist in writing things. "We may be able to use some people from my own staff. We need help in such things as printing of statements, assistance to the bureau, technical assistance, etc., understanding the laws."

Senator Story asked if they had seen his resolution. It is his intention to provide to the public what they need to know. They need to know they still have alternatives. There was further discussion on this.

They are making a proposal to the State Lands for c

impact statement. This is another way the money will be spent.

There was a discussion regarding streamlining the laws and making them easier to understand and follow.

Representative Bradley said you have been talking about Federal legal matters you are involved in. What percent of time is spent on Federal matters?

Mr. Wake said the hospital and medical facilities probably take 1/2 of one of our attorneys. Air and Water Quality take 2 and 1/2 attorneys.

Representative Bradley asked if part of the money couldn't come from Federal funds?

Mr. Brown said he had no problem in using Federal funds when a project is approved, providing the Federal money can be used. He wanted to know if he got 3 people from the Federal funds, would that take 3 people away from the Department?

Mr. Thomas asked if they charge off the costs to the departments for legal services.

Mr. Brown said 3/4 of his salary and his secretary's salary comes out of the legal budget.

Mr. James said in '76 they spent the major part of the funding for the state's effort in Colstrip Units 3 and 4 (referring back to questions about the Environmental Impact Project).

Out of this project is a good portion of \$55,000. In addition to this, they purchased from BNRC \$70,000 in equipment to be used in the Colstrip survey. That is the reason for the high cost in fiscal '76.

Representative Bradley asked Mr. Casne if an increase was granted and part of it was in response to his feeling for the need for more personnel and the growth in subdivisions did not come about, could the funds be transferred for more legal help?

Mr. Casne said yes, they could be. "We have not done the follow up work that we should be doing. I would like someone in the field. We have no time and not enough help right now to do all of this."

After a little open discussion, with no more questions, the meeting was adjourned at 10:00 A.M.

Dorothy Bradley
Dorothy Bradley, Chairman

Nina Kosmas
Nina Kosmas, Secretary