

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

March 10, 1977

The twenty-fourth meeting of the Public Health, Welfare and Safety Committee was called to order in Room 405 of the State Capitol Building by Chairman Stan Stephens on Thursday, March 10, at approximately 11:00 A.M.

ROLL CALL: All members were present with the exception of Senator Lee, who was excused on State business.

CONSIDERATION OF HOUSE BILL 227: Chairman Stephens turned the meeting over to Representative Kimble who introduced his bill and explained its purpose. According to the Representative, this bill amends a current law dealing with procedures for issuance of substitute birth certificates by the Department of Health and Environmental Sciences - procedures are already being used so this legislation would simply confirm that usage. (See Exhibit "A".)

Russell LaVigne of the Montana Legal Services Association, testified in support of the bill, following the sponsor. Mr. LaVigne said, from a practical point, what this legislation will do is allow the birth certificate, where necessary, to be amended to reflect the names of the new parents and to seal the old birth records. Concerning the problems with Indian reservations and the state district court's jurisdiction, LaVigne said this has already been established that the state district court does not have any jurisdiction on the reservations so this bill would bring the state into compliance of that position - the State is obliged to recognize tribal court adoptions. Mr. LaVigne said this bill will make it possible for the State to avoid a lawsuit over this issue.

That ended the witnesses for HB227. Questions followed.

Questions ranged from Hims1's questioning of the choice of words in Section 1, line 21, relating to "foreign" (meaning "other") to Senator Watt's concern regarding the sealing of the old birth certificates.

Hearing on HB227 concluded, with NO ACTION being taken.

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CONSIDERATION OF HOUSE BILL 236: Chairman Stephens introduced Representative Harper to the Committee, who then explained his bill. This bill, submitted at the request of the Department of Health and Environmental Sciences, would authorize the Department to adopt a rule imposing fees for tests performed by the Laboratory Division in the Department (see Exhibit "B").

Verne Sloulin of the Department of Health and Environmental Services, testified that he supports the sponsor's comments on the bill and would answer any questions the Committee might have.

There were no opponents to this bill.

Questions from the Committee pinpointed what some in the Committee thought was vague language; a budget question was covered extensively, as well as what this legislation would do for the Department in terms of its enforcement powers.

NO ACTION was taken on this bill.

CONSIDERATION OF HOUSE BILL 298: Chairman Stephens turned the meeting over to Representative Bengston, who explained her bill to Committee members. This legislation, said Bengston, would make it possible for those persons in the rehabilitative mental health programs in local Montana communities to work in meaningful jobs - not just sitting around stringing beads. To accomplish this, the Sheltered Workshops around the State would be allowed and encouraged through this law, to submit bids, bidding against others in the business community, to provide the State with its needed goods and/or services. If the Sheltered Workshop bid and received the job, the people in these rehabilitative jobs would benefit by the challenge offered to produce either fine products or good services for the State in exchange for money. Over and above the bid would be a small percentage (examples were 2 to 5 percent of total bid) which would revert to a private non-profit organization. Some persons now in this program could be expected, through challenging work, to go back into private lives, and begin working for themselves again. Representative Bengston said there are currently 12 certified facilities and there are an additional 30 services which could be certified if the services had work. There would be no extra costs to the State for this legislation. The sponsor said she felt the State should support this program to fulfill its duty to these handicapped persons. Safeguards have been built into this bill so as not to allow the workshops to undercut private industry.

Robert Hall, Executive Director, Helena Rehabilitation Industries, Inc., spoke next in support of the bill. He said this program would be comparable to the federal Wagner-O'Day Act. Hall said it is difficult to keep these handicapped persons active in work programs because Montana is not an industrial state; therefore,

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it is hard to find work suitable for these people to do in the workshops. The Department of Administration would administer this program (see Exhibit "C").

Bill Beck, Director, Billings Sheltered Workshop, testified third in support of HB298. He spoke of the problems involved with the de-institutionalizing of mentally handicapped people and said he thinks this program would help fill their time and use their efforts. He again drew the example of the difference between people involved in workshop program in Montana versus those in an industrial area where they can simply go across town to contract for work. Beck said there would be no appropriations of any kind.

Luther Glenn of the State Department of Administration stated that his Department is in support of this bill.

There were no opponents to this bill. Questions followed testimony.

There was a considerable amount of time taken in the questioning period for this bill. Committee members were concerned with how the program would be implemented, how many persons would be needed on an Advisory Board, as well as the specific areas listed below:

A. Senator Norman questioned the meaning of page 3, line 25 and page 4, line 4 which relates to the fair market price plus a percentage of that total which would go into the coffers to fund that non-profit program - establishing that the extra percentage is added on to the cost. Mr. Beck elaborated on the procedure used to arrive at a bid: price of raw materials, plus labor which would go into job, plus the percentage for the non-profit organization.

B. Question of whether there is a need to expand the current program brought a definite "yes" from the sponsor. Representative Bengston also said the Sheltered Workshops are very strictly regulated by the Department of Labor.

C. Witnesses said the awkward language (page 3, lines 25 - 29) was patterned after a section in the Wagner-O'Day Act but they agreed the preposition "to" in the wording should be changed to "of" for clarity.

D. Chairman Stephens asked if the State were currently securing goods from a businessman, would the passing of this legislation force the State to accept the Workshops' goods in lieu of the known goods of that businessman (providing the bid was acceptable). The answer was affirmative. Then the question was asked if the small businessman has not complained about this bill, to which the sponsor replied that the State has this responsibility of working with these Workshops since Montana has the de-institutionalizing program. The thought then, however, was that perhaps people are forgetting that the small businessman pays tax dollars which, under

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this program, would be used to support Workshops that could out-bid him and cut his livelihood.

Hall said the federal government, considering the small businessman, has run impact statements; when it is apparent that the small businessman involved in providing the same goods/services as the workshop, stands to lose a substantial amount of his income, the government would not award the bid to the workshop. However, Hall said, many items needed by the State come from out-of-state businesses bidding on the item.

E. Senator Roberts asked how many new State employees would be needed for this program. Answer from the witnesses was that they did not know until they saw how much work workshops would get - estimated one or two persons to start.


A further question on this subject was that this seemed to give them a carte blanche - witnesses concurred but said they had to have it or the legislation would not "go", which witnesses said again about the Advisory Committee.

Senator Roberts said he thought the bill was excellent in concept but he was concerned with the non-profit organization. The Senator questioned the need for it - let the Sheltered Workshops and their association handle it.

The hearing on HB298 was concluded, with NO ACTION being taken.

ACTION ON HOUSE BILL 174: Chairman Stephens brought HB174, (re-referred back to Senate Public Health, Welfare and Safety Committee) to the Committee's attention. Short discussion clarified that the only reason it was brought back to Committee was to correct a clerical error.

ADJOURNMENT: With no further business at this time, the meeting was adjourned at 12:30 P.M.



STAN STEPHENS, Chairman

EXHIBIT "A"

SUBSTITUTE BIRTH CERTIFICATES

HB 227 AMENDS SECTION 67-4420, R.C.M. 1947 THAT DEALS WITH PROCEDURES FOR ISSUANCE OF SUBSTITUTE BIRTH CERTIFICATES BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES.

ADDED TO SECTION 1, ITEM 1 IS A PROVISION TO ALLOW PEOPLE ADOPTED OUT OF STATE OR ON A RESERVATION TO BE ISSUED SUBSTITUTE BIRTH CERTIFICATES.

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES BUREAU OF RECORDS AND STATISTICS NOW PROCESSES SUBSTITUTE BIRTH CERTIFICATES BASED ON COURT ORDERS FROM COURTS IN OTHER STATES. SIMILARLY OTHER STATES RECOGNIZE COURT ORDERS FROM MONTANA DISTRICT COURTS. THIS BILL WOULD NOT CHANGE THAT, IN FACT IT AFFIRMS AND CLARIFIES THAT PROCEDURE.

WHAT THIS BILL DOES DO IS AUTHORIZE THE BUREAU OF RECORDS AND STATISTICS TO RECOGNIZE ADOPTION DECREES ISSUED BY TRIBAL COURTS.

AN OPINION BY THE DEPARTMENT'S LEGAL DIVISION PREPARED ON DECEMBER 2, 1976 CONCURS WITH THE INTENT OF THIS BILL. ACCORDING TO THE DEPARTMENT'S LEGAL OPINION, THE COURTS HAVE RECOGNIZED THE JURISDICTION OF TRIBAL COURTS TO RENDER SUCH DECREES AND THEREFORE THE STATE IS OBLIGATED TO EXTEND RECOGNITION TO SUCH TRIBAL COURT DECREES.

HB 227 ALLOWS THE BUREAU OF RECORDS AND STATISTICS TO PROCESS SUBSTITUTE BIRTH CERTIFICATES BASED ON COURT ORDERS FROM THE TRIBAL COURTS.

E X H I B I T "B"

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Comments on HB 236 Sponsored by Representative Hal Harper

The proposed amendment to Section 69-4110, R.C.M. 1947, would authorize the Department to adopt a rule imposing fees for tests performed by the Laboratory Division in the Department. This legislation is necessary because of the increasing demands for services placed upon the Department's Laboratory as a result of legislation enacted by the Montana Legislature. Similar problems were encountered by the Department of Livestock ^{and} (after) the 1975 Legislature amended Title 46, Chapter 2 to permit the Department of Livestock to assess fees for laboratory tests. The Department of Health and Environmental Sciences requests that similar authority be granted in order to deal with the increasing number of public health-related tests that are performed in the Laboratory Division.

The 1976 fiscal year report prepared by the Laboratory Division outlines the biggest impact on the Department's laboratory as follows:

Pg. 44 - screening tests for immunity to German measles - 13,179 tests
@ \$2.242 = \$29,574

Pg. 36 - determinative microbiology - 965 specimens @ \$10.09 = \$9,737

Pg. 38 - throat cultures (both strep and diphtheria) - 11,676 @ \$2.242 =
\$26,178

The proposed amendment to Section 69-4111, R.C.M. 1947, deals with the injunctive relief powers conferred upon the Department.

Presently, there are a number of public health laws administered by the Department of Health and Environmental Sciences (Department) and the Board of Health and Environmental Sciences (Board) which do not specifically authorize the Department to maintain actions for injunctions in District Court should violations of these laws occur. Specifically, these laws are:

EXHIBIT "C"

H.B. 298 RECAP

Section 1. (1) Defines the facilities which would perform manufacturing for products or provide services needed by the State. Not every non-profit agency would be eligible. Only those offering "Vocational services" to the handicapped are eligible. In addition they must:

1. (1)(a) obtain a certificate from the Federal Department of Labor as an
 - (i) Evaluation or Training Program
 - (ii) Regular Work Program
 - (iii) Work Activity Center

This certificate provides for D.O.L. regulations that handicapped clients are paid a wage which is "commensurate" with wages paid non-handicapped workers performing the same type of work in the same general locality and which is based upon the productivity level of the handicapped persons. Records must be kept to justify the above and re-certification is required annually. The first two certificates must be attested by the Rehabilitative Services Division of the Montana Department of Social and Rehabilitative Services for facilities located in Montana.

In addition the facility(s) must:

1. (1)(b) comply safety and health standards as regulated by the Federal Occupational Safety and Health Act (O.S.H.A.) and other local and State Health and Safety regulations. The facilities must also:
1. (1)(c) have 75% or more of direct labor on services/products purchased by the State and other services/products performed or manufactured. This means that the facility could utilize up to 25% of non-handicapped labor in their work program.

Section 1. (2) Places the responsibility for implementation of this act with the Department of Administration.

Section 1. (3) Defines vocationally handicapped as being unable to compete in the open labor market.

Section 2. (1) (2) (3) (4) Creates an advisory Committee consisting of selected department heads or their authorized representatives.

Section 3. This committee would oversee the purchasing process by establishing and publishing a procurement list from which the facilities would select products/services which they could manufacture or perform.

This committee could also:

Section 3. (2) contract with a non-profit organization, such as the Montana Association of Rehabilitation Facilities or another non-profit corporation established to perform the services described in:

[illegible]

**SUPPORT,
OPPOSE OR
AMEND?**

ON BILL #

1

[illegible]

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 3-10

[illegible]

STANDING COMMITTEE REPORT

MARCH 11

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PRESIDENT

MR.

PUBLIC HEALTH, WELFARE AND SAFETY

We, your committee on

HOUSE

having had under consideration Bill No. 174

HOUSE

Respectfully report as follows: That Bill No. 174

third reading copy, be amended as follows:

1. Amend page 1, section 3, line 20 through 23.

Following: "means"

Strike: "a PUBLIC TRANSPORTATION VEHICLE OR A room, other than a
tavern, smoking room, private club, elevator, store, or private
residence"

Insert: "any indoor room or area, excluding taverns"

2. Amend page 1, section 3, lines 23 and 24.

Following: "persons"

Insert: "and is used by the general public or serves as a place
of work for paid employees"

3. Amend page 4, section 8, line 11.

Following: line 10

Strike: "A LOCAL HEALTH DEPARTMENT MAY"

Insert: "A manager of a public place convicted of violating this
act shall be fined"

XXXXXX

4. Amend page 4, section 8, line 12.

Following: line 11

Strike: "CHARGE THE MANAGER OF A PUBLIC PLACE A FINE OF"

5. Amend page 4, section 8, lines 13 and 14.

Following: line 12

Strike: "\$50"

Insert: "\$10"

Following: "day"

Strike: "THAT SIGNS ARE NOT POSTED IN ACCORDANCE WITH THIS ACT"

Insert: "of offense"

STAN STEPHENS, Chairman

AND, AS SO AMENDED,

WITHOUT RECOMMENDATION