

HOUSE FISH AND GAME COMMITTEE

January 20, 1979

The meeting was called to order by Senator Ed Smith, Chairman, Senate Fish and Game Committee, at 1:30 p.m. with all members of the House committee present except Representatives Daily, Jensen, and Manuel.

The meeting today will be a full hearing on Senate Bill No. 31. The members of the House Fish and Game Committee were invited to attend this meeting and ask questions, if they so desired.

Chairman Smith pointed out that SB 31 was a very controversial bill, and that was evident by the number of people present to testify. This would indicate that there is dissatisfaction with the Commission and the Department of Fish and Game.

SENATOR TOM TOWE, Chief Sponsor, reviewed the changes SB 31 would make in the present law. The qualifications for Commissioners would be such that an individual could represent one or more category, and that would provide greater flexibility in the selection of the Commission.

PROPONENTS:

AL JENKINS, Secretary, Billings Rod and Gun Club, stated that SB 31 is designed to remove politics from the Fish and Game Department and Commission. Complete testimony attached, attachement #1.

FLOYD KIMMEL, Director, Billings Rod and Gun Club, rose in support of the bill and submitted written testimony. (attachment #2)

HAROLD T. THORSON, President Billings Rod and Gun Club, rose in support of the bill. (attachement #3)

FRED CARVER, President of the Southeastern Montana Sportsmens Association, an organization comprised of eight sportsman clubs with a membership of 1986 members, presented written testimony in favor of the bill. (attachement #4)

KEGGY BROWN, Director of the Wildlife Association, Helena, spoke in favor of the bill.

MICHAEL E. FOUHY, West Daniels Gun Club, Peerless, presented written testimony in favor of the bill. (attachment #5)

BOB BURNS, member of the Board of Directors of the Laurel Rod and Gun Club, spoke in favor of the bill.

KENT BROWN, Executive Secretary of the Wildlife Management Association, Helena, rose in support of the bill.

BILL FOUHY, Landowner, Absarokee, stated that we want to get the control of the Fish and Game Department back into the hands of the people of the state. Complete testimony attached. (attachment #6)

C.C. STAPLETON, Director, Southeastern Sportsman Association, stated there is a lot of merit in having the state split into seven districts

Minutes

January 20, 1979

Page 2

and having the Fish and Game Commissioners approved by a committee and appointed by the Governor. Complete testimony attached. (attachment #7)

TED THOMPSON, outfitter and guide from Big Timber, stated that he felt that the Department system is not efficient the way it is presently.

GARY KEELER, Wildlife Management Association, stated it would provide more effective management and control.

DUANE SCHUCHARD, Director, Billings Rod and Gun Club, spoke in favor of the bill.

WILLIAM L. ROMINE, Southeastern Sportsman Assoc., Billings Rod and Gun Club; and Wildlife Management Assoc., stated that his principal support of SB 31 was because its aim is to place the Fish and Game Commission, the Director, and in turn, the Department closer to needs and desires of those Montana citizens who are involved with fish and game in this state. Complete testimony attached. (attachment #8)

REPRESENTATIVE HERB HUENNEKENS rose in full support of the bill.

DON MERRITT, representing himself and the Montana Outfitters and Guides Association, stated he supported it personally, as well as does the Montana Outfitters and Guides Legislative Committee.

HOWARD KELSEY, Gallatin Game Association, stated that SB 31 addresses itself to greater accountability on the Director level as well as having a more responsive commission who are appointed through a different selection process, this may help bring the entire group closer to the people. In this case he was in favor of the bill but acknowledged the need for a few amendments. Complete testimony attached. (attachment #9)

RALPH M. HOLMAN, McLeod, Montana, submitted written testimony. (attachment #10)

GARY STUKER, President, Montana Wildlife Federation, rose in support of the bill because it proposes a number of changes in the best interests of Montana sportsmen and Montana's wildlife. However, they strongly believed that several areas of the bill should be revised. These revisions are explained on the attached testimony. (attachment #11)

JENNIFER COTE, Western Montana Fish and Game Association, Legislative Committee, rose in support of the bill with certain provisions of the bill that they disagreed with. Attached is a review of their position by section. (attachment #12)

GLEN C. CHILDERS, President, Garfield-McCone Legislative Assn., stated they did not feel a governor should be in the position to appoint a commissioner without some restrictions, this bill provides those restrictions. Complete testimony attached. (attachment #13)

FRED BASSETT, Big Sky, Montana, spoke in support of the bill, with the stipulation that it be amended. There was no comment on his testimony sheet as to what the amendments might be.

BESSIE REHM, Gallatin Gateway, Montana, representing the Gallatin Canyon Game Association, spoke in support of the bill, with amendments. There was no comment on her testimony sheet to indicate what the amendments should be.

GARY HJELSETH, Billings, Montana, was unable to attend the hearing but presented written testimony in favor of the bill. (attachment #14)

VIC BENSON, JR., Gallatin Gateway, Montana, stated that after nearly 35 years of close association with hunting, fishing and outdoor recreation and observing the present trend of fish and game management in Montana it is his humble opinion that a change of direction is absolutely necessary. Complete testimony attached. (attachment #15)

OPPONENTS:

JOE ROBERTS, Administrative Assistant for the Governor's Office, spoke in opposition to the bill. He stated that most of the problems in the bill could be taken care of by amendment. He felt if the system were changed to 7 commissioner districts which parallel the 7 administrative districts, it would create 7 fieldmen; in that event, he asked, why have a director at all? Why not just turn the Department over to the Commission? He went on to say that the qualifications of the Commissioners are quite vague; we should also include bird watchers, snowmobilers, archers, campers, wildlife photographers, etc. in the qualifications to represent the public if we are going to set down Commissioner qualifications such as the bill proposes. That way, every walk of life would be represented. Under the proposed bill it would be virtually impossible to remove the Commissioners, but the Director would have no protection at all. He also felt that under this bill a Director could only be appointed when the Senate was in session. He said the Governor's Office is opposed because the bill would take away the appointment of the Director from the Governor and place it in the hands of the Commission. This would be in direct conflict with Executive Reorganization, which was set up to provide that all 19 state departments would be directly accountable to the Governor. Mr. Roberts felt this would be disastrous, since the Governor campaigns on a certain platform, but would be unable to fulfill his promises to the people of Montana if he lost control of his department heads.

The Governor should have the Fish and Game Department responsible to him and then he, in turn, should be responsible to the people who have elected him. He felt that, traditionally, the people of Montana disagree with the way the Department is run and want to change it, but the next session there will be another group who will want to change it again.

JOHN WILSON, Montana Council of Trout Unlimited, stated that his organization sees disadvantages in having a 7-member commission, and feels it will make the Department become more political. Complete testimony attached. (attachment #16)

WES WOODGERD, former Director of the Fish and Game Department, representing himself. stated everyone is interested in making state government more efficient and hopefully providing more services for our dollar. In his opinion, this bill proposes to do just the opposite. He felt that adding two additional commissioners would cost an extra \$10,000 to \$20,000 per year. Complete testimony attached. (attachment #17)

ROBERT GILBERT, Montana Wool Growers Association, stated his organization has discussed this proposed legislation at board meetings, and they feel the Governor should appoint the Director. He pointed out that the people of Montana voted for Executive Reorganization. No matter what they do the Fish and Game Department will always be "under fire." The problems brought up today by Mr. Al Jenkins should be addressed by the present commission, rather than appointing two new ones. He felt the Al Bishop-Governor Judge controversy was what prompted the drafting of this bill.

The Fish and Game Commission is, has been, and always will be a "hot potato" issue. He brought out the fact that the Billings people have been "saddled" with Mr. Al Bishop and previously Mr. Willis Jones as commissioners; both men are attorneys. He felt that, if that were the problem, just amend the bill to take out the qualification that an attorney must serve on the commission. In conclusion, he said he hoped that the committee would kill the bill.

HANDK GOETZ, Greenough, Montana, felt it would legalize conflict of interest by requiring an outfitter and guide to be a commission member. Complete testimony attached. (attachment #18)

MONS TEIGEN, Montana Stockgrowers Association, Helena, spoke in opposition to the bill. He said, in his opinion, landowner/sportsmen relations are better now than they have been for a long while. He feels this has occurred largely due to the responsiveness of the commission and the director, since they are responsible to the Governor. It would be impossible to avoid politics in Department management and suggested if any changes were made in the bill they should remove the lawyer requirement from the qualifications for commissioners.

TOM KEMPH, Billings, felt there should be some discussion of amendments and keep things the way they are.

FRANK H. DUNKLE, former Senator and Director of the Fish and Game Department, spoke in opposition to the bill, saying it would create 7 commissioner districts, 7 administrative districts, and in effect, 7 departments. He feels since the people voted for Executive Reorganization, we should not erode it. He felt the committee should go back

Minutes

January 20, 1979

Page 5

to the Model Codes of 1947, with staggered terms for the commissioners and the Director appointed by the commission with the concurrence of the Governor, whereby the Director could be removed only for cause. With 7 commissioners and 7 districts to account to, no Director could work for a very long period of time. He pointed out that no Director can please anyone ever. He felt the committee should review the bill and think in terms of dismissing it in some fashion. He reiterated that the Model Codes worked very effectively.

TED LUCAS, representing himself, stated as a rancher, he didn't think the bill would remove politics from the Department operation, but it would remove the responsibility to the economic needs of the state.

Chairman Smith asked if there were any other opponents. There were none. He then called on Senator Towe for rebuttal.

SENATOR TOWE stated he was representing the people of Billings in sponsoring this bill. It is his feeling we should bring the government closer to the people. With regard to the qualifications for commissioners, we are attempting to make them much more specific. As far as I am concerned, you could drop the 10 year stipulation down to 5 years or so. It was our feeling that a commissioner should be someone who had manifested a real interest in fish and game matters. Personally, he said, he did not understand the problem concerned with serving for 7 masters, since then you would have to have 4 votes to dismiss the Director. At the present time you only have to have one vote - that of the Governor. He said the most important aspect is that, through this bill, we will abide by the philosophy of reorganization. The idea is that the Governor should be in charge of all departments and, thereby, should control all of the boards of directors. Reorganization seems to be consistent with what we are doing today. We have looked into the set-ups of other states and he felt there is some merit in the way they appoint their directors and commissioners.

Chairman Smith opened the hearing for questions from the Senate and House Fish and Game Committee members.

SENATOR MANLEY asked Mr. Al Jenkins why the bill requires that 2 commissioners must be farmers or ranchers - he asked if he knew when members of sportsmen's associations go hunting, what percentage of the land on which they hunt is privately owned?

Mr. Jenkins said this was a very difficult question to answer. He said the commissioner qualification was not just for sportsmen's groups, but wildlife groups, etc. He said if Senator Manley was referring to elk hunting, it would be mostly on federally owned lands. If it were antelope hunting, it would be on privately owned lands. However, his group does not hunt on private land without the permission of the landowner.

Minutes

January 20, 1979

Page 6

SENATOR MANLEY felt that under the existing situation, where most hunting of antelope and fishing are done on privately owned lands, it would be impossible to define what people do and qualify them as commissioners under the proposed bill, as far as their activities are concerned.

SENATOR TOWE referred to page 4, stating that at least 4 of the commissioners shall be members of sportsmen's clubs or groups. He said he didn't think there could be any question about this.

SENATOR MANLEY stated that 68 percent of the land mass of the state is privately owned, in the light of that, he wondered why 68 percent of the commission should not be composed of private landowners. He asked how the sponsors of this bill could draft such a formula and say just what the commissioners are going to be.

SENATOR TOWE said it is very possible that a farmer or rancher could qualify under the category and still belong to a sportsmen's group or club. He said the proponents of the bill wanted to make sure that farmers and ranchers and outfitters and guides had a voice on the commission, but not that they should have a majority.

SENATOR GALT said most Montanas are sportsmen and if this were the case, perhaps the Montana Power Company and the Public Service Commission should also be represented on the commission.

REPRESENTATIVE MARKS asked why the sponsors of the bill would set up such qualifications for the commissioners, but not for the director.

SENATOR TOWE said he didn't have any objections to changing it.

REPRESENTATIVE THOMAS CONROY, a rancher from Hardin, asked Senator Towe if this bill were not a direct result of what transpired on the Big Horn River last year. He referred to the Al Bishop-Governor Judge dispute, as a result of which the Governor fired and later rehired Commissioner Bishop.

SENATOR TOWE replied this was true.

REPRESENTATIVE CONROY asked if a fiscal note would be required on the bill. Senator Towe replied that the chairman of the committee would request it, if he felt it was needed. He said he felt it would be in the area of \$2,000 to \$4,000 a year.

REPRESENTATIVE CONROY said the commissioner qualifications called for only two farmers or ranchers, but four people from sportsmen's groups. He said many hunters do not belong to a sportsmen group, and he felt one of those people could be replaced by an agricultural person.

He referred to section 7 of the bill. This new section refers to misconduct of a commissioner and subsequent removal from the commission. He asked if Mr. Bishop's behavior represented misconduct? Senator

Minutes

January 20, 1979

Page 7

Towe said this bill would provide that the Governor send notice to the commissioner and then give 15 days' notice before a review was conducted by an impartial board. Representative Conroy wanted to know if the Governor would have the power to reprimand. Senator Towe said this bill establishes a mechanism for handling that kind of situation.

REPRESENTATIVE CONROY concluded by saying he was totally opposed to the bill and hoped it would be killed.

REPRESENTATIVE STAIGMILLER said since agriculture makes up the bulk of our economy, representatives of that industry should have an equal amount of people on the commission as the sportsmen's clubs do.

SENATOR TOWE said he would have no objection to landowners having a larger representation on the commission. He said he felt landowner/sportsmen relations are improving, and that most sportsmen's clubs have a committee to promote better relations. He pointed out that the issue is the concept of the bill; should the Director of the Department serve at the pleasure of the commission or should he be appointed by the Governor?

REPRESENTATIVE STAIGMILLER said we should remember that many ranchers and farmers are sportsmen, as well as those people who belong to sportsmen's clubs.

SENATOR MANLEY said he didn't feel the law should mandate the qualifications of a commissioner. He feels that any citizen of the state should be eligible to be appointed as a fish and game commissioner.

BILL ROMINE referred to page 1 and the top of page 2 of the present law and said right now we do mandate who a commissioner can be. His feeling is that landowners grow the game and hunters get it and they should be given a great deal of consideration.

SENATOR MANLEY said that 68 percent of the land mass of Montana is privately owned, and asked Senator Towe if his group would be adverse to simply stating that the commission members must be citizens of the State of Montana?

SENATOR TOWE said he didn't know how he would feel about that. He thinks there should be a specification that landowners serve on the commission.

SENATOR SMITH said he opposed Executive Reorganization because he expected a situation like this to occur. He said he hoped the people in the audience could better understand what legislators are faced with in dealing with a bill such as this. He said he did not feel that Executive Reorganization has made the Governor more responsive to the people.

Minutes

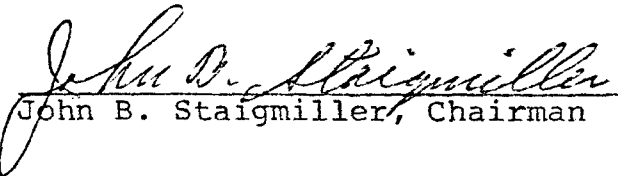
January 20, 1979

Page 8

CHAIRMAN STAIGMILLER stated that since he and his committee members were present at the hearing today to hear comments from interested parties there would be no need for these people to travel across the state to testify at the House hearing.

CHAIRMAN SMITH concluded the hearing by thanking everyone for attending and indicating their interest in the bill.

The meeting was adjourned at 3:45 p.m.


John B. Staigmiller, Chairman

Judy J. Mook, Secretary