

February 19, 1979

All members were present when Chairman Brand called the hearing to order at 8:05 a.m.

HB 588-Sponsored by Rep. Yardley -- This is roughly entitled the Professional Services Procurement Act, and provides a procedure for getting qualified people on the basis of professional qualifications -- architects, engineers, etc. It provides for a committee procedure and qualification procedures and also requires contractors to submit annual statements of qualification. This is submitted to the Department of Administration and they have to have statewide announcements of all qualified people. If the proposed fee is under \$3,000 the department head uses this data. If it exceeds \$1,000 but is under \$25,000, they use the 3 member board to do the selection. Over \$25,000 the data submitted is evaluated by the panel, who selects 3 - 5 people and requires those to submit a written statement of why they should be selected. In cases where there aren't 3 qualified firms this bill allows the law to be bypassed; but also provides for a fee schedule so that a comparison can be made. You can't have agents.

SONNY HANSON-Montana Technical Council -- We support this emphatically. If you ask the departments how they select these people you get a different answer from everyone. There's no standardization. There's no announcement proceeding now and this should be done because it is an important factor. I'm not sure what the Constitution says but I don't think that the DoFA should be selecting professionals for the university system -- we think there should be more public participation in this whole process and get some of the politics out of it. I have been on a comparable panel for GSA in this area, and it works.

OPPONENTS

JIM BECKEN-Department of Highways -- We have no quarrel with this but we have some amendments. We think the bill lacks agency input about the firm's past performance. We would like page 4, line 19, following: "applicant", insert: "and shall consult with the agency seeking the services about the firm's past performance"; also on page 5, line 9, following: "applicants", that the firm's volume of work be reviewed in terms of available staff. Then on page 4, make a new subsection - "review the volume of work the firm presently has under contract and the firm's capability of providing the required services." A firm may be very qualified but be entirely understaffed in comparison to the amount of work required. On the question of base fee schedule, if this means there's a base fee under which no job can go, there may be problems with the APA because we need to be able to contract at any level.

DAVE LEWIS-Department of Administration -- The concept as reflected in the title is good but we have established a couple of extra levels of bureaucracy without accomplishing anything. The sponsor is concerned with the selection method and that is valid. I'm not sure that this process changes anything. It will still be under the control of the Department director.

ANDY VAN TILLEN-Facility Planner, Montana State University -- I'm afraid of the levels of bureaucracy. I'm an architect and I know both sides of the fence.

(VAN TILIGEN continued)-In my experience with the university system, I have been involved with the selection of architects, and every firm in the state is notified as to the job, the location, the cost, etc. Each firm that applies is scheduled for an interview, etc., and we have never been dissatisfied with any firm chosen. The average time from when a project is authorized and the selection of the architects is about 6 months. A ruling by the AG makes it so that architects have to be negotiated and they need a qualified person to negotiate. I think the panel should have a representative of the agency because he can provide for his own institution. The only way you can find out about workload is to have a person go in and check it out himself. Sometimes people will overstate their qualifications as far as workload so I think you have to go into the firm. With the contract mentioned, the architect would be working for one person and the contractor working for another. When you get to page 5, line 16, the process becomes rather cumbersome. I have spent 2 - 3 days interviewing firms and if you have 40 - 50 firms to address it could take days. You could eliminate the Board of Examiners from the process and just let the DofA select them. I think all firms should be given equal opportunity.

HAROLD GERAE-Speaker of the House of Representatives -- On behalf of the Legislative Audit Committee and reluctantly in opposition. I think the thought is magnanimous, but I don't think it will work. It will add another layer of government. It is important to consider the time involved. Some jobs have taken up to two years and at the least 6 months. We have established a contract audit program to get local auditors to do these things around the state for state agencies. The audit committee is bipartisan and so politics have a very small part. The negotiating might eliminate the chance of a low bid. While the intent is good, I think there must be a better way to go about this. My only problem with the whole procedure is that I feel too many out-of-state firms are selected when there are perfectly capable in-state firms.

BOB DONALDSON-Rehab Service Bureau -- I may just be asking for a letter of intent. I administer a program that buys approximately 4,000 kinds of services and medicines in a year. It is an individual purchase of service and we use only licensed doctors.

YARDLEY-I would be willing to exclude that from the bill.

CHIP BEEGMAN-Anti-Trust Bureau, AG's Office -- On page 6 -- the base fee schedule - I don't understand why these are in there. These schedules lead to higher prices, law suits, etc. The private sector is prevented from requiring anything like this. We would ask that you take a look at this.

JEFF BRAZIER-Montana Consumer Council -- We are opposed as it applies to the function of our office. We work for a legislative branch agency, our office was mandated by the '72 Constitution and has been expanded since then. We ordinarily have two people on staff so your definition of a committee would not qualify us. We hire expert witnesses for rate cases, etc. These people are hired on a hourly basis and at the time of hiring we have no idea of how much we will be paying them. There's a requirement that the Commission make a ruling within 9 months after the decision. Under the criteria of Section 1, the only people who qualify are already working for the utilities. You would usurp the functions of the audit committee and emasculate the Consumer Council. I would suggest an amendment relative to "agency" definition.

YARDLEY-I think it is important to know what we are talking about. He then proceeded to read excerpts from an article in the Billings Gazette of Feb. 18, 1979 regarding 3.4 million dollars which has been spent by the state in the last 6 months for consultants. I think it is important to note that we are talking about \$7 million a year in consultant fees. Other states have statutes like this and they work and I will submit my amendments on second reading to get this passed sooner. I will redefine agency -- I will leave the amendments with you but if the amendments are not too extensive, I would prefer to do it on second reading. This hearing has been scheduled for 10 days or more and I haven't had anyone come to me with amendments. The base fee schedule gives guidelines to the people making the selection -- I don't think you can read that as imposing a minimum fee. Another layer of government -- I think it will give government more information. The different cost factors allow for less work on small jobs. Anything under \$3,000 wouldn't be covered so extensively. My amendments would exclude all legislative bodies.

BRAND-You said that the government pays \$7 million out in consultant fees -- will this save anything? YARDLEY-This would simply allow for a more competitive system and if the present system is allowing favoritism, then this would end that. The bill makes for a better conversation between interested parties. If you put one amendment on you should put them all on.

HB 686-Sponsored by Rep. Manning -- This requires the deposit of a store license revenue in the General Fund. Up to now, the money has gone to the State Treasury in an earmarked fund and we are changing that to the General Fund. A bill similar to this has passed through the House and was killed in the Senate due to a heavy business lobby.

FRANCIS BARDANOUVE-Representative from Harlem -- I want to go on record as being in support of this.

NO OPPONENTS, NO QUESTIONS, NO NOTHING

HB 731-Sponsored by Rep. Harrington -- He submitted written testimony, see Attachment #4.

DON PRATT-Executive Director, Montana Funeral Directors' Association -- This would establish an academic program. The type of education is primarily in grief counselling. Within the last 10 years, there has been more written about death, dying, and bereavement than in all other recorded time.

NO OPPONENTS, NO QUESTIONS, NO NOTHING

HB 591-Sponsored by Rep. Bardanouve -- This bill is an attempt to check some legal gobbledeygoo that was passed a couple of years ago. Presently, the law disqualifies an officer for one month after he is hurt.

JACK WILLIAMS-Montana Chief of Police's Association -- We became concerned when an officer was disqualified due to two days of sick leave and lost 1/12 of his disability. This will not cost the pension system any money.

LARRY NACHESHEID-PPPS Administrator -- Written testimony, see Attachment #5.

DAVID HUNTER-City of Helena -- We support this and feel the present law unfairly denies people their benefits.

TOM DREW-Chief of Police's Association -- We support this in Glasgow.

NO OPPONENTS, NO QUESTIONS

HB 576-Sponsored by Rep. Harper -- This is to allow a protest mechanism for an employee who feels he has been discharged because of a complaint he filed. There is presently a law to prohibit this but alot of people feel it isn't enforced.

DICK KANE-Administrator, Labor Standards Division -- He submitted written testimony, see Attachment #6.

NO OPPONENTS, NO QUESTIONS

EXECUTIVE SESSION

HB 657-O'Connell read a note from the bill's sponsor, Rep. Uhde, requesting that the bill be TABLED. BARDANOUE so moved, and the motion carried unanimously.

HB 591-SALES moved DO PASS, which carried unanimously.

HB 731-McBRIDE moved DO PASS.

FLIDA made a substitute motion of DO NOT PASS, saying that he didn't think the law was needed. The motion was carried on a roll call vote 10 - 8.

HB 686-SALES moved DO PASS, which carried unanimously.

HB 576-KANDUCH moved DO NOT PASS.

McBRIDE-Could I ask you why? KANDUCH-I just don't like the bill. AZZARA-Would this only apply to jobs covered by interstate commerce or anyone employed by the state? BENNETT-Anyone.

KANDUCH's DO NOT PASS motion passed 13 - 6, with McBride, Baeth, Magone, Pistoria, Bardanoue, and O'Connell voting NO.

HB 588-SALES moved DO PASS.

SALES-I do think consulting with the agencies is adequately covered and it doesn't change anything where the fee is less than \$3,000, and where it is above that it doesn't add that much. On fees over \$25,000, you do have some added steps.

The DO PASS motion failed on a roll call vote 10 - 7. JOHNSTON moved to reverse the vote on a DO NOT PASS motion, to which the committee agreed.

BRAND-Bill Gosnell is here to explain the committee bill on the Pay Plan. KANDUCH-After our last meeting, Don Allen got in touch with me and is having problems with our action.

BILL COSNELL-Administrator, Personnel Division -- With HB 481, the problem is that a bill has been passed and signed giving these people alot more responsibility. I understand their problem but I can't support the bill; so we will sit down with them and determine what we can do to help -- but if you kill 481 we can't do that. So, we recommend that you pass the bill so we can deal with it as much as possible. I will do what I can relative to the new work they have to do. They don't really know if they will need new people for the federal law and if so, they will go through the proper channels.

BARDANOUVE-This bill would really hang over the heads of the Personnel Division, and I think they (Board of Oil & Gas Conservation) should have to negotiate their own problems with the Personnel Division.

SMITH moved HB 481 DO PASS, which carried on a roll call vote 11 - 8.

HB 571-ZEZOTARSKI presented the amendments and the statement of intent, see Attachments #8 and 8A.

BARDANOUVE-We have been putting public members on all boards to avoid a closed shop and keep the people who are being regulated from regulating themselves.
AZZARI-How about amending Section 3 to say that at least one member not be a physical therapist; strike "each", put "two", and a new subsection (3) saying that the third member of the board shall be a resident of Montana for at least 3 years but not a practicing physical therapist.

Motion carried with Sales and Bennett voting NO.

KANDUCH moved HB 571 AS AMENDED DO PASS, which carried on a roll call vote 16 - 3.

HB 508-RAETH moved DO PASS, which carried.

ZEZOTARSKI-There are some housekeeping amendments on HB 571 that should be taken care of - Page 3, line 11 - the internal reference is wrong - 35 should be 37.

FEDA moved to reconsider HB 571, which carried.

SALES moved the amendments (there was also an amendment to correct the spelling of aids), which carried.

KANDUCH moved AS AMENDED DO PASS on HB 571, which carried.

HB 558-BRAND-The amendments Bardanouve submitted have been worked out with the city police - (1) page 2, line 17 - restore stricken language; (2) page 3, lines 1 - 18 -- strike new language and restore stricken language; (3) page 3, line 24 through page 4, line 3 - strike all of subsection (4) and insert new language as shown on Attachments #9 and 9A.

BARDANOUVE-These will make the system sound provided that in the future no benefits are added without adding the funding.

BARDANOUVE moved the amendments, which carried with Brand voting NO.

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KANDUCH moved HB 558 AS AMENDED DO PASS, which carried with Porter, Sales and Kropp voting NO.

ZEZOTARSKI-A statement of intent is supposed to be a feeling of the Body, and lately I have had people from outside telling me what to put in and I would like to know what the committee wants. BRAND-I think you should talk to the sponsor and then bring that to the committee.

Adjourned: 10:45 a.m.



Joe Brand, Chairman



Nita Sierke, Secretary