

March 3, 1979

Chairman Brand called the hearing to order at 9:06 a.m., roll call was taken and Rep. Azzara was absent.

HB 900-Sponsored by Rep. Bardanouye, but being explained by Rep. Nathe -- This puts two landowners on the Board of Oil and Gas Conservation. The landowners feel they aren't receiving adequate consideration from this board. You saw the bill to give 2.5% overriding royalties for damages but it was defeated. This attempts to give the landowners or surface owner some input into the decisions this board makes. Kvaalen's bill to abolish the EQC had to do with this also. This is now a 5 man board so the landowners won't be able to swing it; and this will help the surface owner who doesn't have any minerals and feels he's getting messed with.

ZACK STEVENS-Montana Farm Bureau -- We support this because of the problems with boom town conditions. We really would like to see this happen so we have some input.

DON ALLEN-Montana Petroleum Association -- This is very important. I differ that there's no opportunity to gain from this exploration -- damages to be gained but some people feel it isn't equitable. You can't ever legislate what everybody feels is equitable. I have worked very hard with Nathe and EQC to get this industry to clean up its act, but like any business there are some who don't operate in a proper manner. I just met with the conservation districts and tried to minimize the problems involved in the surface owner situation. All the parties involved in this are stubborn, bull headed people, that's how they got where they are. I think it is important for agriculture to be represented. You may want to change the line that says two people will be from the oil and gas industry and make it four. You need enough people on there that know the industry. I would ask that one of the landowners be required to own minerals because just surface involvement doesn't acquaint you with the royalties. It will cost us about \$200,000 a year to administer the oil and gas conservation act.

FRANCIS BARDANOUE-Representative from Harlem, Chief Sponsor -- This has come to my attention because of the Eastern Montana farmers. Two years ago I had some complaints and some the legislators from Eastern Montana came to me quite concerned. I told them I would try to work something out, and Nathe agreed to mainly carry this bill because it deals with his area. We have a very active landowners association in my area and so we haven't had the problems. With two people on it we can get the appointments very soon; and if in the future this seems too large a board, we can cut it back. If you want earlier appointments you could add an effective date.

NO OPPONENTS

NATHE-In all of the conflicts we have had we have worked things out with the landowners and the oil people. I think it should be someone involved in oil and gas and the attitude is biased by whether you own minerals underneath. I do think you should specify this. One could be a landowner whose minerals have been (used) and one who still has them. I also think the terms of the two appointees should be staggered. I hope you concur in this.

FEDA--If they had four from the industry could they still appoint the landowner?  
NATHE--Right now two have to be from the industry -- one lawyer, one producer, Mr. Iverson is another producer, and another attorney. The attorneys are currently the dominant force on the board. ALLEN--The reason I suggested more people from the industry was so we could get rid of some of the attorneys. McBRIDE--Couldn't we say that only landowners with oil and gas on their property could be appointed?  
NATHE--That was why I suggested that they come from oil and gas areas because even if they don't actually have holdings they will be acquainted with the problems. JOHNSTON--Don't you agree that there can be problems all the way from seismograph to abandonment - so, perhaps an amendment saying that they be from an oil and gas producing area. NATHE--Yes, that's why I think one should own minerals. BRAND--What is this reference to "quasi-judicial"? ALLEN--Under the new constitution, they are quasi-judicial. They can do almost anything to help control the problems they encounter. I think they have all the power they need. You might bear in mind that 34 out of Montana's 56 counties have oil and gas production.

SB 422--Sponsored by Senator Hager -- This bill includes all of the questions raised by the sunset review. There is a statement of intent because of administrative rule making authority. During the Senate hearing we heard 12 or 14 bills and I asked for some amendments, but they weren't inserted, so I am presenting them now (see Attachment #1). The sunset clause is unnecessary because of a House Bill that you have passed.

MORRIS GUY--Vice Chairman of the Board of Professional Engineers -- I'm here mainly to answer questions, but also to let you know that I worked with the Sunset Auditors and in drafting this our board followed most of the sunset suggestions. We felt the addition of a public member chosen in the same manner as present members would be a critique for the present board. We added that anyone reapplying to practice has to qualify. We also suggested that the roster be published biennially and be available otherwise on request.

SONNY HANSON--Montana Technical Council -- We register land surveyors, engineers and architects. "Sunset" does not describe the actual function of the audit we are speaking of -- they are required to review and recommend changes or if they so feel, recommend sunsetting. The audit did come up with one very interesting concept -- a superboard covering a number of boards. In our case, we cannot have a public board because we would lose reciprocity with other states. The audit committee recommended the continuation of this board.

#### OPPONENTS

DR. IRVING DAYTON--Deputy Commissioner of Higher Education -- Dr. Dayton had much to say, please see Attachment #2. Like Sonny said, these were all heard at once in the Senate, but my point is -- WHO decides?

HAGER--I think there's a need for this board and urge your approval.

HANSON--We do have concerns with these amendments. The instructors at the universities supported the demise of 399. I believe it isn't in the title because the bill doesn't address exemptions (he is referring to the amendment offered by Dr. Dayton). I would oppose Dr. Dayton's amendment. The engineers are a small group within the

(HANSON continued)-university and we don't want them to be involved in the collective bargaining process. This bill addresses the reestablishment of the board and they are talking about qualifications of professors. The bargaining agreement specifically excludes the engineers.

DAYTON-The same points were brought up at the Senate hearing. The 399 bill dealt with collective bargaining and this bill doesn't deal with that at all.

GUAY-The particular item that Dayton is addressing was written into the bill when the Montana registration law was rewritten to improve the quality of individuals being registered. The main theme of that rewrite was to increase the educational and experiential requirements of individuals representing themselves as professionals. The board member who was also a professor felt that graduates lacked responsiveness in their professional attitude; so he required that there be a professional or motivating attitude. This issue can be resolved in the courts. This bill is needed to reinstitute the board. We have had all the professors come in and take the exam and I think that issue can be addressed in other places.

SALES-If this bill is passed, professors will have to be verified? DAYTON-For 10 years I have sat in promotion meetings with the man you are speaking of. The Dean of the school should determine professional attitude. The first time there's an attempt to go to court, you will loose your entire law. This law will go down the first time you try it. We will never accede to the faculty members having to be registered and the law currently states that.

BARDANOUVE-Doesn't page 8, line 16 and 17 broaden the definition of public buildings? HANSON-Yes, this is at the request of the Audit Committee. In the architects bill this same wording was contained. BARDANOUVE-Then from now on not a single building can be built without your seal of approval on it? HANSON-But we don't build buildings this deals with engineering functions -- we are talking about water systems, etc. The work within the building is done by an architect -- we are only involved in the water, sewer, and perhaps in the structural capabilities. We wouldn't come up with this, the Audit Committee did, and we don't want to be sunsetted. BARDANOUVE-But don't you agree that this broadens the definition drastically? (Hanson gave no definitive reply to this)

#### EXECUTIVE SESSION

HB 900-BARDANOUVE-I would be somewhat reluctant to put in all those amendments because it would be tying the hands of the Governor -- anytime he makes an appointment he consults the people involved. The lawyers on that board tend to identify themselves completely with the industry.

JOHNSTON-I'd rather have three producers, and so I would move to amend: (1) line 14. following: "members" strike: "2", insert: "3"; (2) line 17, following: "land-owners"; insert: "from an oil and gas producing area".

McBRIDE moved to segregate the amendments for the purpose of voting, so moved and carried.

BARDANOUVE-will this force the lawyers off? JOHNSTON-I think that it will be when their terms end.

The first amendment carried unanimously.

SALES-Even if we did get this in Gallatin County, I would want someone from the eastern part that has had experience with this.

The second amendment failed on a roll call vote 9 - 6.

FEDA moved HB 900 AS AMENDED DO PASS.

BARDANOUVE moved to amend the title and body to reflect that the bill was effective upon passage and approval, and Feda withdrew his motion, but Bardanouve's motion carried unanimously.

Then Feda moved AS AMENDED DO PASS again, which carried unanimously.

SB 422-BARDANOUVE moved the university amendment submitted by Dr. Dayton because he felt the bill as written was a violation of their rights.

ZEZOTARSKI-You need a title amendment to reflect the addition of 37-67-103 - this wouldn't change the scope of the title, and it creates a new section amending that section - I checked with the Code Commissioner.

Dayton's amendment carried 16 - 2.

JOHNSTON moved Hager's amendments.

JOHN NORHEY-Attorney for the Legislative Auditor -- The purpose of that is because the sunset law provided that any of these boards could be reestablished for a period of 6 years. Scully put in a bill that takes away the 6 years thing because that is too often, but leaves in that anytime the Legislature so desires, the agency may be sunsetted.

The motion to accept Hager's amendments carried unanimously, but Norhey qualified that these hadn't been part of the audit committee's recommendations.

SALES moved to strike Section 4 on page 8 in its entirety, because it was no longer being amended with the amendments already added. The motion carried with Johnston opposing.

BARDANOUVE moved SB 422 AS AMENDED BE CONCURRED IN, which carried unanimously.

SB 112-KANDUCH moved BE CONCURRED IN, which carried unanimously.

SB 156-McBRIDE moved BE CONCURRED IN as written, which carried unanimously.

SB 28-JOHNSTON moved BE CONCURRED IN.

PORTER moved to amend line 7 in the title - striking 1978 and inserting 1977, which carried, so Johnston altered his motion to AS AMENDED BE CONCURRED IN, which carried unanimously.

SJR 6-JOHNSTON moved BE CONCURRED IN.

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McERIDE moved to amend page 2, line 9 striking "and" then page 2, line 10 inserting "and the agricultural agencies of Taiwan".

KANDUCH made a substitute motion that SJR 6 NOT BE CONCURRED IN, which carried 13 - 5.

SB 351-Zezotarski presented his amendments requested by the committee (see Attachment #3).

Johnston suggested striking "shall" and replacing it with "may" in amendment #3, which was transformed into a motion and carried.

JOHNSTON moved AS AMENDED BE CONCURRED IN, which carried with Kropp, Sales and Hay opposing.

Adjourned: 11:15 a.m.

Joe Brand  
Joe Brand, Chairman

Nita Sierke  
Nita Sierke, Secretary