

March 19, 1979

The House Natural Resources Committee convened on March 19, 1979, at 12:50 p.m., in room 3 of the Capital Annex, with Chairman Sheldon presiding and eighteen members present (Rep. Huennekens, excused).

Chairman Sheldon said the sponsor of SB 453 which was to be heard today had requested the bill be killed. He opened the meeting to an executive session on the following bills:

EXECUTIVE SESSION

SENATE BILL 453 Due to the sponsor's request Rep. Burnett moved the bill be tabled. Motion carried with Reps. Keedy and Fagg voting no.

SENATE BILL 515 Rep. Burnett moved be concurred in. Rep. Johnston moved a substitute motion to adopt the amendments from State Lands (exhibit 1 of the minutes). This motion carried unanimously with those present. Rep. Keedy moved the adoption of the amendment offered by the Northern Plains Resource Council (ex. 2). He said he did this for more discussion as he wasn't satisfied if the amendment were necessary or not. Chairman Sheldon said Senator Graham had indicated he was willing to have a letter of intent written. Rep. Johnston pointed out that Mr. Leo Berry had testified he had ample rule making authority and this amendment would just hamper his efforts. Rep. Keedy asked how the researcher, Debbie Schmidt, felt on this amendment.

DEBBIE SCHMIDT said she had called Mr. Crane of the OSM at Rep. Harper's request to check on the need for including the Northern Plains Resource Council Amendment and the question raised by the committee if an experimental plan proved successful could it be used as a regular plan and the bonds released. Mr. Crane said it was clearly the intent of Congress to allow repetition of successful reclamation plans. He said the law was unclear and a change in the federal statute might be needed. On the question of the need of the amendment--Mr. Crane said they did have a question on whether or not the state's authority to allow alternate plans was too broad--will the state have the authority to restrict the use of the plants to experimental purposes as the government requires. He said since the language is permissive it does give the discretion and Ms. Schmidt mentioned a line in HB 406 that says a plan may be approved if it complies with federal, state and local law--so a plan that doesn't couldn't be approved. Mr. Crane basically felt it would be better to have the amendment and it may be necessary but they would not reject the state plan if that amendment was not included in the law. They would conditionally approve the state plan and if they felt a change was needed it could be added to the legislation in 1981. He felt if putting in the amendment would jeopardize the quick passage of the bill it wasn't worth risking it. Ms. Schmidt suggested having a statement of intent to say that we want the department to comply.

Rep. Keedy said he would feel more comfortable voting on this bill if he could first see the statement of intent.

Rep. Curtiss asked what specific rulemaking authority does the department need that it is lacking. Ms. Schmidt responded the rule making authority is broad and so the question is if the department is going beyond its authority by severely restricting some things. It is important to state that the department specifically has that authority. Rep. Curtiss felt this was an area that has to be settled in court. Every contingency and every potential thing that is going to come up cannot be addressed. Rep. Harper said he would like to see the statement of intent addressing the problem we are talking about. He moved the vote be postponed until we see the letter of intent. This motion carried unanimously with those present.

SENATE BILL 514 Rep. Scully moved the bill be tabled. Rep. Nathe suggested adding the amendments. Rep. Scully said the amendments conflict and it could just create more problems. The question was called and the motion carried with Rep. Keedy voting no. Rep. Huennekens had left his vote.

SENATE BILL 320 Rep. Iverson moved be not concurred in. Motion carried with Reps. Burnett and Curtiss voting no. Rep. Huennekens had left his vote as favoring be not concurred in.

SENATE JOINT RESOLUTION 8 Rep. Thoft moved do pass. Chairman Shelden said he was having amendments drawn up on this bill that were not yet ready. Rep. Thoft withdrew his motion.

SENATE BILL 323 Rep. Johnston moved be concurred in as amended. The amendments are exhibit 3 of the minutes. After discussion it was decided to vote on the amendments separate and Rep. Scully moved the amendments and the motion carried unanimously with those present. Rep. Scully left to go to another meeting. Rep. Keedy suggested that with the amendment just passed the language on page 3, lines 7 to 10, was not needed--made it difficult to read and understand. He moved to strike these lines and reinsert the original subsection (a) on page 3. Rep. Iverson said he had come to respect Rep. Keedy's ability to put things in proper and sensible order. He asked if this for sure wouldn't put crude oil gathering lines back in. Chairman Shelden said the amendment is to delete the underlined on lines 7 through 10, page 3 and then reinsert on line 12 "except for oil and gas refineries," and to change the title to fit. A roll call vote was taken on Rep. Keedy's amendment and the motion carried with 10 yes, 7 no (Burnett, Curtiss, Iverson, Johnston, Spilker, Nathe, Thoft) and 2 absent (Huennekens and Scully). Action was then taken on Rep. Johnston's motion to concur as amended and this motion passed unanimously with those present (same absent).

SENATE BILL 506 Rep. Burnett moved do pass. Rep. Bertelsen made a substitute motion of do not pass. He said this takes an entirely different approach to the environmental assessment. Not entirely happy with what is done with environmental assessment but he felt this was an improper approach.

Rep. Nathe requested the researcher, Debbie Schmidt, to give a clear concise report on what they were voting on.

Ms. Schmidt said MEPA is in limbo because of the second Beaver Creek South decision--agencies are unsure of just what authority MEPA has. Agencies are preparing lengthy impact statements and permitted only to use the areas they are by statute permitted to administer. SB 506 is vague--it is intended to enforce the Beaver Creek South Second Decision and reflect the decision even more. Ms. Schmidt said page 2, lines 22 and 23 is not clear and she feels would muddy the courts even more. She said essentially 506 would require the preparation of impact statements but not permit their use except where specific authority has been given--no way of delegating the observed need to the proper agency.

Chairman Shelden said HB 742 has gone over to the Senate and that bill said the agency can consider an EIS--this bill would say regardless no agency needs to consider it unless their own particular law says they do.

Rep. Harper said a hearing can be held instead of writing an EIS. He felt this would be a mistake as there wouldn't be as indepth a study.

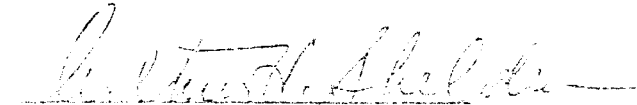
A roll call vote was taken and the motion passed with 10 voting yes, 8 no (Burnett, Curtiss, Iverson, Johnston, Spilker, Nathe, Quilici, Thoft) and 1 absent (Scully). Rep. Huennekens had left his vote.

HOUSE JOINT RESOLUTION 51 Rep. Cooney moved do pass. Motion carried unanimously with those present. (Same absent.)

SENATE BILL 368 Rep. Kessler moved be concurred in. Rep. Curtiss moved be not concurred in. Rep. Nathe felt the bill would be using the wrong basis for dividing the money. Rep. Curtiss said most of the movement of timber is over federal and state highways that are not paid for by the cities. She felt this would be a real ripoff. Rep. Kessler said cities are still part of the counties and they don't get their fair share. Rep. Thoft said the counties do participate with the cities to a certain extent, as much as they are able. He said counties need the money worse than the cities. A roll call vote was taken on the motion of be not concurred in and it passed with 13 yes, 5 no (Burnett, Fagg, Keedy, Kessler, Spilker), and 1 absent (Quilici). Scully had returned.

It was announced the proposed helicopter trip would be postponed about a week. Meeting adjourned at 12:55 p.m.

Respectfully submitted,

  
ARTHUR H. SHELLEN, Chairman

Emilia A. Satre, Sec.