

MINUTES OF THE MEETING  
AGENCIES II SUBCOMMITTEE

January 16, 1979  
8:15 A.M.  
Room 343  
State Capitol Building

Subject: Business Regulation Hearing

Tape 1; Side 1, Track 3 (270)

The meeting was called to order by Chairman Rex Manuel. All members were present with the exception of Sen. Stimatz, who was excused. Also present were Boo Robinson, IFA; Linda Gamble, OEP; Tom Kotynski, Great Falls Tribune; Terry Murphy, Lobbyist, Montana Farmers Organization, and from the Department of Business Regulation: Isabelle Pistelak, Dick Disney, Leslie W. Alke, Kent Kleinkopf, Gary Delano, and Kenneth M. Kelly.

DEPARTMENT OF BUSINESS REGULATION (273)

Kent Kleinkopf introduced the Division Administrators from his department and then gave a brief overview of the function of each division. Centralized Services Division is the support function, accounting and clerical area. Weights and Measures is responsible for the regulation and licensing of measuring devices throughout the state. The Financial Division is responsible for the enforcement and regulator of a good share of the state's financial institutions. It is the regulator of all state banks, state chartered savings and loans, state chartered credit unions, all consumer loan licensees, and all retail installment sales licensees. It also has a contingent of field examiners that travel throughout the state. The Milk Control Division is responsible for the milk industry regulation in the state. They also have a sizable field crew that travels state-wide, year round. The Consumer Protection Division is responsible for the entire consumer protection functions for the state. It is the lead consumer protection agency for the state. They administer the Consumer Protection Act and the Unfair Trade Practices Act. They also regulate and license the proprietary, post-secondary institutions and vocational institutions in the state.

Mr. Kleinkopf has worked with the department for the last two years. The agency has met with good reception in past legislatures, because of the fact that they have submitted detailed, accurate and honest budgets. He is proud to be here to represent the department.

Centralized Services (314)

The basic difference in the two recommendations was in appropriation for phone hook-ups, in operating expenses. Executive has raised the figures from the department's original request for phone adjustment rates. However, the IFA has applied a 5% increase, but did not include money for phone hookups because he did not feel it was necessary for them to be changing telephones. He stated that there were no moves scheduled in the near future.

Ms. Pistelak expressed concern that rate increases in the future are going to be higher than the 5% allowed by the IFA. She sighted a Communications Bureau Study

that predicted rate increases of up to 30%.

The other major difference was in accounting fees and payroll services in contracted services. If the Department of Administration is authorized to charge for these services there would have to be an increase in the LFA recommendation.

The division felt that the LFA recommendation of \$182 and \$193 for contracted services was too low. This would limit them to less than \$200 each year. The LFA explained that in Fiscal 1978 they spent \$160, and for this reason saw no reason to increase it to \$1,000. The Executive gave the agency \$1,000 plus another \$1,544 and \$1,698 to pay for pay roll fees and accounting service fees requested by the Department of Administration.

#### Weights and Measures (383)

Gary Delano, Administrator of this program had a couple of areas to comment on. The first was travel. During 1978 the department had some problems replacing employees. For this reason, the total travel expenses for the year were lower than what they would have been, had the department been operating with a full staff. The department requests \$3,000 per field man. They would not be able to keep these men on the road with the \$124,000 recommended by the LFA.

Another area was equipment. The LFA recommended the purchase of a new pick up each year. The department has nine vehicles. Therefore, if the vehicles were replaced, one each year, by the time they are replaced they are nine years old. At \$15,000 miles a year they are well over 100,000 miles by the time they are replaced. This makes for heavy repair costs.

Mr. Delano repeated Mr. Robinson's suggestion that these vehicles be services at the Highway Department Facilities. If this were possible it would cut costs for maintenance greatly. He also felt that they could get better and cheaper repair work in this way.

For per diem, each man on the road is allowed \$18 a day for room and \$10 a day for meals.

#### Finance (480)

There is a wide variation between the recommendation of the LFA and the Executive. The LFA recommends they keep a full staff of 19 full time examiners. They could not do the job adequately with a cut of 3 FTEs recommended by the Executive. Federal agencies are cutting back in their services, and this department must fill the gap. They cannot do this with three less examiners.

The division felt they could live with the LFA recommendation except for the travel. They spent more in fiscal 1978 than \$86,000, even though they had several vacancies on their staff. There is no way they can take a reduction in travel and perform the job adequately.

Another error in the LFA budget is nothing for equipment.

At this point, Mr. Alke introduced a bill he had drawn up which raises the examina-

tion fees for banks from 10 cents per \$1,000 to 12 cents per \$1,000. This increase would produce about \$40,000 in revenue. Should it also include language to increase fees to credit unions, savings and loans and consumer loans licensees it would produce approx. \$64,000 for general fund revenue. This should be more than adequate to fund the 3 FIEs the Executive recommended cutting. Add \$9,000 to \$10,000 for travel and allow \$12,000 to \$15,000 for equipment and they would be satisfied.

Mr. Alke was asked to explain the request for \$15,000 for training in electronic data processing procedures. Training would be done as a joint effort between Washington, Idaho and Montana. Training would be for one week in electronic data processing, computer applications and auditing principals. The department stated there was no alternative available to reduce costs. By providing training for 3 states at one time the cost is reduced over 50%.

It was asked who benefited most from this service, the banks or the consumers. The department felt that it was necessary for consumer protection.

Examination fees returned to the general fund approximate half the cost of the program. With just banks alone they return 64-65%. In other states the average is closer to 80 or 90%. The department feels that it is possible to return a greater amount to the general fund without overtaxing for their services.

Because Montana is so large, examination effective time is much less than that in other states.

Sen. Boylan expressed concern that raising fees would only pass the additional cost on to the consumer.

This department has a difficult time keeping employees, once they become trained they become more attractive to the banks. The department can have up to a 50% turn over rate in one year. A special provision has been made to give these employees a chance to move up as much as two steps a year, whereas in other departments they can only move one step a year. This has helped to make some progress.

In 1978 money returned to the general fund included: \$233,989 from examination fees, \$194,162 from banks, \$2,016 in savings and loans, \$1,150 in specials, \$23,261 in credit unions, and \$13,400 from consumer loan companies. This makes a total of \$233,989.

The department receives no credit for the money returned to the general fund. The department is asking for the legislative authority to return more to the general fund. This would make it easier to appropriate their budget. The budget is about double what the department is bringing in.

#### Milk Control (793)

This division is operated totally by an earmarked account. They collect all the money they operate on from the industry. They are allowed by law to assess whatever is necessary to administer the act.

In the last session a bill was introduced to institute a program of Butterfat testing of producer milk. This included three full time FIEs. The division hired one FIE and before any more were hired they were caught in the Governor's freeze.

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Now the division has lost those two vacant FTEs. It is impossible for the division to perform this function without these two FTEs. Just the fact that there is a program is doing some good. But, it is important that they test the same milk that the processor tests so they can put their value on it. In conclusion, if they are going to do the job they are mandated to do, they need the two FTEs and the money that goes with them.

Mr. Kelly then turned to contractual services. He stated that the lawyer in his division is so overwhelmed he has had to hire outside counsel. He did not believe that the amount of money allowed by the LFA was adequate for contractual services.

The other area is travel. The division has four auditors that travel 96% of the time. The division has nothing for them to do in the office. The job is in the field. This makes for a whole lot of travel. Travel to this division is most important.

At this point, Terry Murphy, lobbyist, stated that the dairies are asking to pay more for this service. The state is telling them they cannot do this. It is an important service with long term goals. It basically reassures the dairy producers that they are getting paid for the milk that they are producing. An independent test needs to be taken from time to time to compare with the tests run by the dairy plant. This makes sure that the milk is not loosing value after it leaves the farm. It is a good way to keep the industry honest. In conclusion, he made the request that the subcommittee put these two FTE back into the budget.

It had been suggested that the division combine services with another agency. They haven't explored this real well, but it doesn't appear that since this is a full-time job that it can be handled in this way.

Rep. Hurwitz stated in reference to Mr. Murphy's statement, in the long run the dairies will not pay this expense, the consumers will.

The department did not feel that they would be able to utilize a legal pool that may be established in the attorney general's office. The milk industry requires a certain expertise not possessed by most lawyers. They felt that in the long run this would slow down the agency.

The entire department has two full time attorneys. One who represents the Financial, Weights and Measures, Milk Control, and Centralized Services. The other attorney represents the Consumer Protection Division.

The department has requested another full time attorney, but they were turned down in this request.

The trend in the dairy business has been a steady decline in dairies. Twenty years ago, there were 644 grade A producers and 64 plants. Today there are 13 plants and somewhere between 280 and 303 dairy farms. The milk supply in the state is very marginal. Sales are going up and production is going up but, is still not keeping pace with the demand.

The Milk Control board does not set milk prices, it sets a minimum price. The price could go as high as anyone wanted to pay for it. Milk is a very perishable item, therefore, you cannot play the market with it. It has to be sold immediately. This

is the reason for the regulation. The farmer has no control over the price, he must take what he can get. The farmer must have some protection. This helps to protect the small, independent businessman against out-of-state competition.

Consumer Protection (1035)

Another \$3,000 should be added to the LFA recommendation for travel. In 1973, the legislature passed the Consumer Protection Act and gave the department 3 FTEs to do the job. At the present time the division is still operating with 3 FTEs. The other 3 are enforcing the Unfair Practices Act, and the Proprietary School Act. The workload today has increased around 231%.

The department has also been required to take over the Auto Dealers Act, with no additional funding. This has amounted to about \$7,000 a year. They inherited a function but were given no money or people to provide the service.

Bob Robinson presented the division with the possibility of taking moneys out of earmarked revenue and placing it in the general fund, asked for the division's reaction. The only concern was if the legislature were to do this, what would happen to the current funding. There would be nothing wrong with putting this money in the general fund, if the legislature funds them properly.

Something should be done about the way this program is handled. The Attorney General currently has a proposal dealing with anti-trust enforcement, putting his office in charge of this function. The Consumer Protection Division does not have the FTEs to perform this function.

This proposal would have to be introduced before the 18th day, possibly as an amendment, and include language saying the money would go to the general fund. The members agreed to discuss this further at a later date.

The Governor has stated that the Consumer Protection Division is to be the lead consumer protection for the state.

There was no further business, the meeting was adjourned at 11:00 A.M. until tomorrow at 9:00 A.M.

  
Rex Manuel

REX MANUEL, Chairman

Tom Johnson  
Secretary