

MINUTES OF THE MEETING  
AGENCIES II SUBCOMMITTEE

February 14, 1979  
8:15 A.M.  
Room 343  
State Capitol Building

Hearing: Professional &  
Occupational Licensing

Tape 4; Side 2, Track 2 (860)

The meeting was called to order by Chairman Rex Manual. All members were present, with Senator Boylan arriving shortly after the meeting began. Also present were Bob Robinson, LFA; Carolyn Doering, OBPP, and from the Department of Professional and Occupational Licensing: Robert Cummins, Dr. Joe Murphy, Wesley Lindsay, Ed Carney and Warren Amole.

PROFESSIONAL & OCCUPATIONAL LICENSING (870)

Mr. Carney, Director, explained that the department is made up of 31 boards, without which there would be no need for the department. The purpose of each board is to create policy and issue professional licenses. The department has progressed in that all boards are now centrally located.

Board of Water Well Contractors (893)

The board protects the people of Montana from unethical drillers, waste and contamination. It examines potential drillers and regulates construction of wells. They also answer complaints from the public against licensed drillers.

Due to a greater number of complaints, the investigation costs have increased. This has made it necessary for the board to ask for a budget amendment. The money the board is requesting comes entirely from earmarked funds and will not be a direct cost to the tax-payers.

Complaints directed at the board concern drillers not qualified, which are investigated by two professional drillers on the board.

It is the regulation function that is the real cost within this department. Money needs to be available to protect the public. Two of the hearings now in process involve licensed drillers. A case involving a driller that is not licensed must go through the County Attorney. There is now a new rule which requires that the licensee be on the job. This is to counter the problem of having unlicensed drillers working under someone who is licensed.

Mr. Carney stated that he preferred the Executive budget for 1980 and the LFA for 1981. He felt that the request by the board was

alistic; \$11,731 for 1980 and \$11,561 for 1981.

A problem arises in appropriating money according to what is spent the previous year. This encourages the boards to spend as much as possible in order to get a larger appropriation the following year.

The legislature must look at the cost of operating the board and the cost of operating the centralized services for appropriations.

When boards are sunsetted, the board is not abolished but is moved to another department, more closely related to the work of the board. The eventual goal is to eliminate the department but continue to provide the services in an effort to gain more efficiency and eliminate some of the functions that are not in the public interest.

#### Board of Real Estate (1036)

Mr. Cummins, Chairman, explained that this board is scheduled to be sunsetted by July 1, 1980. Another board will be established in the Department of Business Regulation. Testimony was to insure that the next board is adequately funded to carry out its responsibilities.

The budgets recommended fall far short of providing funding for the functions of this board. There is serious doubt whether the budgets recommended are enough to carry out the testing and licensing functions of the board. The budgets recommended allow very minimal funding for field investigation, a responsibility which has grown with the increase in the number of licenses.

The board has been criticized for not conducting field investigations and yet the administrative and investigative staff has been cut from 7 to 4. The number of licenses has nearly doubled in the last three years. As a result, most investigations are conducted by telephone from the Helena office.

A second criticism has been that the board has allowed funds to accumulate in its earmarked revenue fund. The board has tried to obtain adequate funding from the legislature and had been successful up until 1975. The appropriation that year was large enough for a 7 member staff, including investigative staff. In 1978 there were 5 on staff including an investigator. In FY 1977 and 1978 the board was appropriated \$170,000 but only spent \$124,000. This was due to an austere position by the director with respect to board requests for funds to conduct field investigations with available staff and to hire additional staff. The staff has been held to examination and licensing functions, with few field investigations of complaints. However, the number of licensees has increased from 2200 in 1979 to 4100 presently.

Given the need for a 7-member staff, a \$200,000 budget for FY 1979-1980 is very reasonable. The board would ask this subcommittee to reconsider and recommend an appropriation level to the new board of at least \$185,000.

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If a licensee education bill is passed this session, additional funding and staffing would be in order.

During the 1977 Session the fees that could be charged by the board for licenses were cut back sharply. The board sees a day in the future when the threat of board action will no longer deter the less scrupulous individuals in the industry from trying to enrich themselves at the public's expense.

In conclusion, Mr. Cummins stated that the appropriation of \$128,000 is only going to allow the board to continue in licensing and administrative capacity. The original request by the board was for \$184,000 in 1980 and \$189,000 in 1981.

Senator Smith, for the benefit of the new members, stated that two years ago there was concern that there had been some abuses in travel, and perhaps the committee had over-reacted. Mr. Cummins stated that he did not feel that there had been abuses in travel. And has, at times, traveled at his own expense. He also stated that it was necessary to keep track of foreign land sales and close contact with sister states.

Tape 5; Side 1, Track 1 (000)

Cliff Christian, Montana Association of Realtors, gave testimony in support of the Board of Real Estate budget requests. Mr. Christian stated that he felt that the cuts in travel were an over reaction on the part of the legislators. Mr. Christian also stated that when sunsetted, all current board members will also be eliminated. The Association has also asked that all bills be amended to require Senate confirmation of the new members.

Mr. Christian further stated that real estate salesmen and brokers are limited only by their ability. The field offers a lot of potential income. As a result, there has been a license explosion.

The intense competition in the field tends to have the marginal operators start cutting corners. The Board of Real Estate is not conducting adequate investigations. In the opinion of the Association it is imperative that the Board of Real Estate have adequate funding for an investigative team. There have to be active state employees representing the state. For these reasons, Mr. Christian is concerned with the budget recommendations by the LFA and the OBPP. He also stated that the board should be kept in this department and not moved elsewhere.

The board has 20 reasons which may be used to revoke real estate licenses. However, they are so vague, they are difficult to make stand up in court. The board has only punitive power, it has no power to levy fines, etc. In conclusion, this is no time to cut funding considering the great number of people coming into the field.

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There was a ten minute break at this time.

Board of Horse Racing (160)

Mr. Joe Murphy, Vice-Chairman of the Board fo Horse Racing, gave testimony in support of the projected budget submitted by Mr. Carney. Dr. Murphy supported this budget on the basis of protecting the public. The board requested an executive secretary and an identifier to fill the need for security.

The board also needs new photo finishing equipment to replace equipment that is old and could be improved.

Another concern was that the board is already running out of money for this year. Litigation is a problem and the board anticipates more cases. The board has been asked to curtail meetings and use of telephone credit cards.

Dr. Murphy pointed out that of 10 national board members, 3 are from Montana. Travel in this area will have to be at their own expense.

In conclusion, Dr. Murphy again recommended adoption of the projected budget; \$102,603 for 1980 and \$109,519 for 1981. The executive secretary and identifier were modification requests and were not included in the projected budget.

The cost of the executive secretary would be about \$25,000 a year.

The balance in this board's account was \$145,817 as of December 9. Therefore, the board has adequate money to work with, it is just a matter of getting it appropriated.

Board of Pharmacists (293)

Warren Amole, Executive Secretary, represented the board. Mr. Amole indicated that the board actively participated in drawing up the budget and that \$62,185 was a minimum figure of what was needed to run the board. This amount was reduced to \$54,499 by the LFA.

The proposed cuts by the Executive were in-state travel, which will be difficult to cut and still cover the state. Out-of-state the board has been represented by one person, and is a necessary expense. There has already been a reduction in office help and it would be difficult to reduce this any further. Increased costs expected were the usual of about 6%.

A continuing education program is now being implemented and is generating a considerable amount of expense.

In conclusion, the projected figures were well worked out and believed to be close to what the board will need. The appropriation

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for this year was \$58,015 and the board requested \$62,185 for 1980 and \$63,436 for 1981.

The board has \$68,218 in their earmarked account and anticipated revenue is around \$66,000 for the coming year.

There are many pharmacists holding licenses now, that will probably drop out as a result of the continuing education program. This was taken into account in the program projection. The board is also involved in the dangerous drug act, there is no way to anticipate costs in this area.

Senator Stimatz stated that as a County Attorney he had excellent cooperation from the board and would not like to see this budget cut.

In response to a question concerning federal audits, it was explained that the two agencies work cooperatively in problem situations. Also, the federal officials made important information available to the state board. However, their primary function is under cover work.

The subcommittee requested that figures concerning the balances in each board's earmarked account be made available. The LFA was instructed to do this.

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

  
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REP. REX MANUEL, Chairman

Alma Thompson  
Secretary