

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 30, 1979

The thirteenth meeting of the State Administration Committee was called to order by Acting Chairman George Roskie at 10:00 A. M. in Room 442 of the State Capitol on the above date.

ROLL CALL: All members of the Committee were present, with Senators Ryan and Story being late due to other committee meetings.

CONSIDERATION OF SENATE BILL No. 169: Acting Chairman Roskie called on Sen. Bob Palmer, Senate District No. 48, Missoula, to present his testimony as sponsor of the Bill.

Sen. Palmer testified that this Bill would require that the head of a department work in a field position for a certain period of time each year. The reason for this is that a department executive does become isolated from the daily problems encountered by that agency and this would assure that a head become involved in the agency's services; that is the basic intent of the Bill. Of course, my constituents asked that I cut taxes, but their main concern was that state government was becoming arrogant and unconcerned about the needs of the common people and the general public. The only way I can see to sensitize the department heads is to make them be out among the general public in order to serve the people. When we forget the basic concept of serving people, we need to be brought about and realize why we are here. He stated this was not to be an easy week's vacation or fishing trip, but a way to get these heads in contact with the people they are to serve. He offered amendments relating to making more clear the department heads to which this was to pertain, copy of which is attached hereto and to which reference is hereby made for further particulars.

The Chairman then called for further proponents.

Virginia Jellison, LITE, representing the low income groups, in support of the legislation, stated that they represent some of the people who see buracracy in action and feel these people in the executive positions should see the common people. The common people see our government as a cold and undemocratic process. We don't feel this pertains to just low-income people; but these department heads are out of touch with the needs of the common people. She had previously served on an advisory committee to the governor on poverty and that council recommended to the Governor this concept and thought it a very good idea to have the department heads do services in the field in order to be aware and to establish a better line of communication.

Janice Watson, Service Providers, MDCA, supporting the Bill, testified that she felt department heads were the ones with the least amount of knowledge and yet made the final decisions. They are not aware of the programs that they are to handle or have their staff handle, and the time they meet with their staff is very limited.

Under the SRS the day care funding has been tried to be changed from one type of funding to another by the department heads who do not understand what these changes could do to the program, and meetings and testimony had to be presented in order to make them aware of this. She felt this Bill would open the door to better understanding between the program people and the executives.

There being no opponents to the Bill, the hearing was opened for questions by the Committee.

Sen. Hafferman commented he could see the merit of the Bill, but that problems would arise with a department head being out of his office for two weeks at a time.

Sen. Rasmussen, questioning the proposed amendment as it related to the SRS, asked if we were not talking about all department heads, to which Sen. Palmer responded that it was the intent, for instance, that the DCA department head would go out in the field pertaining to his agency, or that the head person would designate the person to go out if there was a real conflict.

Responding to Sen. Brown's question, Sen. Palmer stated he had considered the problems as the Bill would pertain to such agencies as the Highway Department that a head might bring disorder into a field program. He then suggested if the Committee had better language on how to make this work, he would certainly consider it, but felt these people should experience what the rest of us have to put up with.

Discussion was carried on as to the possibility of certain department heads doing manual work in the field, with Sen. Ryan commenting that he did not want to see the concept watered down by the exemption of certain heads.

In closing, Sen. Palmer added that he intended this to be a serious piece of legislation and would hope the Committee will look at it in this light and not as a two-week vacation for state executives.

There being no further questions, the hearing was closed on Senate Bill No. 169.

CONSIDERATION OF SENATE BILL No. 171: Sen. Story assuming the Chair, he called on Senator Lloyd (Sonny) Lockrem, Senate District 32, Billings, to present his testimony as sponsor of the Bill.

Sen. Lockrem advised this Bill dealt with requiring competitive bidding for the leasing of state office space for state agencies. In looking at the Fiscal Note, the only thing it shows is that it will cost about \$600 a year to advertise when space is needed. However, the cost to the State for the renting of office space for its agencies has risen tremendously from \$187,473 in 1970, up to \$1,185,000 in 1978 for annual rent only in Helena. If this was put on a competitive bid basis, some of this money could be saved. He felt this was a valid issue for consideration. Another example

given was that the state was paying Reber rent of \$155,000 in 1977, which rose up to \$185,557 in 1978. He felt this leasing should be opened up on a bid basis to protect the state from paying higher rent than any normal renter might be asked to pay.

The Chairman asked for proponents to the Bill.

Bill Groff, Dept. of Revenue, supported the Bill wholeheartedly. He stated the trend is towards forcing the state to lease a whole building whether they require that much space or not. He questioned if they already had enough staff to adequately handle this process. They have agencies throughout the whole state, so it will cost some money. He proposed an amendment to clarify the financial aspect or that the Bill be put into a subcommittee to properly consider the funding in order to do the job properly.

Georgia Rice, State Superintendent of Public Instruction, supported the concept, but raised the problem as it related to elected officers. She explained that they presently have a lease on 11th Avenue for \$3.75 per sq. foot which is very reasonable. If the Dept. of Administration says they have to move, they would have to ask for an additional emergency budget as they are running on a tight budget and their income is fixed. Just the moving cost alone would be about \$36,000. She suggested that those who do have a fixed budget could, perhaps, do their own advertising in order to stay within their fixed allowance. Otherwise, they would run into a serious problem with the expense of having to move.

Dave Lewis, Dept. of Administration, stated he had a misunderstanding of what the intent of the Bill is. He thought it pertained only to Helena, but if it applies to all of the state, they would, indeed, need more staff to handle this additional work. He was sure that they would have problems in developing the specifications in order to meet the required types of rental property and would probably run into problems with grandfather clauses in contracts.

Bill Groff added that the 5-year limitation in the law is a problem, particularly in the areas where they are now demanding 10-year leases because of fast-growing demands, and suggested the Committee consider changing this restriction.

Marjorie Larson also rose in support of the proposed legislation.

There being no opponents to testify and no questions by the Committee, closing statement was called for.

Sen. Lockrem added that he agreed the limitation on the lease period was a problem which should be considered. He had also originally considered excluding elected officials from the Bill, but after reviewing some of the leases of some of the elected officers which had been brought to his attention, particularly the attorney general's office, he felt they should be included. The leasing of liquor stores and other buildings by the Dept. of Revenue is a broader scope than he had originally thought, but that the ultimate

results would still be a savings to the state.

In responding to Sen. Jergeson's question regarding his intent to include office space outside Helena, Sen. Lockrem said he did intend this, but had no idea of the magnitude this would entail.

Sen. Groff responded to Sen. Story's question regarding if this would move some offices out of county courthouses, that it is sometimes obligatory from the standpoint of being available to the public to be in a public building such as the courthouse.

Answering Sen. Hafferman's inquiry, Sen. Lockrem stated he felt there was a great disparity in the cost per sq. foot in some of the present state leases and some leases are concentrated in certain areas, particularly Front Street in Helena, which may be costing more than is necessary.

There being no further questions, the hearing on Senate Bill No. 171 was closed.

RECONSIDERATION OF SENATE BILL No. 138: Chairman Story explained to the Committee that in talking with Sen. Peterson, sponsor of the Bill, that the Committee should reconsider its action of Jan. 29th as this Bill was not really a tax measure. It related to the fee structure of the Sec. of State's office which generated earmarked revenue to operate its own office.

After discussion, Sen. Jergeson moved that this Committee reconsider its action on Senate Bill No. 138 and keep it in the Committee; motion carried by unanimous vote.

ADJOURNMENT:

There being no further business to bring before the Committee, the Chairman adjourned the meeting at the hour of 10:55 A. m.

Pete Story, Chairman

Date Aug 24 1979

ROLL CALL.

STATE ADMINISTRATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

DATE January 30, 1979

COMMITTEE ON

SENATE

STATE ADMINISTRATION

SENATE BILLS 169 & 171

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Bruce Malinis	D.O.L.	171		
Leon A. Measely	D.O.R.	171		
Jan Watson	Service Providers N.D.C.A	169		
Dave Lewis	D/Admin	171		
Larry Derry	D/Admin	171		
Luther Derry	D/Admin	171		
Georgia Rice	Office of Public Inst.	171		

NAME: Janie Watson DATE: 1-20-79

ADDRESS: 1330 S. 4th W. Missouri St.

PHONE: 549-0058

REPRESENTING WHOM? MDCA

APPEARING ON WHICH PROPOSAL: 169

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Georgia Rice DATE: _____

ADDRESS: Helena

PHONE: 449-3654

REPRESENTING WHOM? Supt.

APPEARING ON WHICH PROPOSAL: 171

DO YOU: SUPPORT? _____ AMEND? OPPOSE?

COMMENTS: 2 possible directions

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Senate Bill 169, introduced bill, be amended as follows:

1. Page 1, line 5.

Following: "EACH"

Strike: "OF THE STATE EXECUTIVE AGENCIES"

Insert: "HUMAN SERVICE AGENCY"

2. Page 2, line 2.

Following: "(2)"

Strike: ""State executive department" means the departments listed in 2-15-104(1)."

Insert: "Human Services Agencies," mean the department of institutions; the department of social and rehabilitation services; and those portions of the department of community affairs, the department of health and environmental sciences, the department of labor and industry and the superintendent of public instruction which deals with human services."

3. Page 2, line 7.

Following: "a"

Strike: "state executive department"

Insert: "human Service Agency"

4. Page 2, line 12.

Strike: ", other agencies, or employees served by the agency"

5. Page 2, line 14.

Following: "absence"

Strike: "by:"

Insert: ":"

6. Page 2, lines 15, 16, 17 and 18.

Following: line 14

Strike: lines 15, 16, 17 and 18 in their entirety.

Insert: "Section 4. Violation. Any violation of this act is punishable under 45-7-401 MCA titled official misconduct."

- (a) disorderly, contemptuous, or insolent behavior committed during the sitting of a court in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;
- (b) breach of the peace, noise, or other disturbance directly tending to interrupt a court's proceeding;
- (c) purposely disobeying or refusing any lawful process or other mandate of a court;
- (d) unlawfully refusing to be sworn as a witness in any court proceeding or, after being sworn, refusing to answer any legal and proper interrogatory;
- (e) purposely publishing a false or grossly inaccurate report of a court's proceeding; or
- (f) purposely failing to obey any mandate, process, or notice relative to juries issued pursuant to Title 3, chapter 15.

(2) A person convicted of the offense of criminal contempt shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

History: En. 94-7-309 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-309.

Part 4

Official Misconduct

45-7-401. **Official misconduct.** (1) A public servant commits the offense of official misconduct when in his official capacity he commits any of the following acts:

- (a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
- (b) knowingly performs an act in his official capacity which he knows is forbidden by law;
- (c) with the purpose to obtain advantage for himself or another, performs an act in excess of his lawful authority;
- (d) solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law; or
- (e) knowingly conducts a meeting of a public agency in violation of 2-3-203.

(2) A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) The district court shall have exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found.

(4) A public servant who has been charged as provided in subsection (3) may be suspended from his office without pay pending final judgment. Upon final judgment of conviction he shall permanently forfeit his office. Upon acquittal he shall be reinstated in his office and shall receive all backpay.

(5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect such impeachment or removal.

History: En. 94-7-401 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 2, Ch. 474, L. 1975; R.C.M. 1947, 94-7-401.

January 30, 1979

It never ceases to amaze me that the one person with the most power in a government agency or department is the person with the least amount of knowledge concerning the programs administered under his direction.

I realize that it is impossible for someone to know everything, but I do think it is necessary to have a basic understanding of how a certain program effects the people it serves as well as the methods used by the department in delivering the service.

In the past 20 years as an educator and day care provider I have had the opportunity to meet and work under many directors and superintendents. It is always easy to spot the directors that have worked their way up from the ranks. They have a greater understanding of the function and needs of a project at the grass-roots level.

Since 1975 I have been very involved with the day care program on the state level. Along with other persons concerned with quality care for children, I have initiated meetings with the three different Directors of SRS hopefully to increase their knowledge of our goals and objective. To my knowledge these meetings are the only time that these directors spent with day care providers. It is from these one or two brief meetings they have used all their decisions concerning day care programs. In fact it is common practice for this department to make a certain decision only to find out that the decision was the wrong one, and after hearing complaints from the service provider - they reverse their decision.

Each time we get a new director the process begins again. An example of this process is SRS's decision to switch day care funding for AFDC families from Title XX to Title IV-A funds. Eighteen months ago we met with Mr. Melby to discuss the devastating effect the switch would have on daycare in Montana. After listening to our argument. He returned daycare to the Title XX Funding.

With the appointment of Keith Colbo as director the problem has again surfaced. Since Mr. Colbo views daycare as only a financial matter he does not understand that the switch will force parents to seek sub-standard day care for their children because quality care is costly and the parent will not always be reimbursed the full amount of their day care costs. When you live on \$450.00 per month a difference of \$30 or \$40 more in expenses is hard to meet.

Evidently he has not ever seen the children in a safe stimulating environment of a license day care facility meeting standards that assure quality care so he cannot understand what the children are losing when they are asked to go elsewhere for care. If he truly understood the need for quality care he would not suggest the use of a funding source that allows payment of services to be made to unlicensed providers. He would instead, insist that only those providers willing to meet the required standard be allowed to care for children.

I am singling out the SRS department only because it is the decisions of this department that effect day care in this state. I am sure that the same problem arise in other agencies. Experience is still the best teacher. Even if it only be for two weeks. It is my hope that this bill will open the door to a deeper understanding on the part of the directors and the elimination of waste and mismanagement on the part of the service providers.

Respectfully submitted by

Janice Watson, Director, Jack & Jill Nursery & Kindergarten & Watson's Receiving