

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 12, 1979

The twenty-second meeting of the State Administration Committee was called to order by Chairman Story on February 12, 1979 in Room 442 of the State Capitol at 10:00 a.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 375: The Chairman called on the sponsor of the bill to present his testimony. Sen. Graham being absent, had previously arranged for the staff attorney of the Legislative Council to present his testimony. Mr. Jim Lear, attorney for the Legislative Council, representing the Code Commissioner, in going through the bill, addressed the Committee on the proposed changes. Mr. Lear's testimony is attached as Exhibit A.

The bill pertains to military reservations and old forts still under state administration even though they remain federal property for certain purposes, such as service of process. This is needed to delete references under the old Constitution and to bring the law up to current terminology and resolve conflicting statutes. In some instances reference is made to the wrong department because of executive reorganization.

Sen. Hafferman questioned the term "transferred" as used, if it indicated there is no longer any responsibility on the part of the particular department referred to. Mr. Lear advised these duties were merely transferred to a different department for more clear lines of authority and responsibility. Continuing, he explained the Department of Administration would handle any problems arising if the Licensing Department referred to on page 17 were terminated. Proposed amendments were furnished to the Committee members.

Sen. Ryan questioned the age of majority stated as 18, to which Mr. Lear responded that this was in the present Constitution. A great many of the proposed changes relate to terminology in order to clarify current usage, such as "serious mental illness" for "insanity". He further explained the provisions relating to succession to the governorship which went down to the county commissioner of the largest county in the state in cases of incapacity or emergency. Obsolete, redundant and conflicting laws will be corrected by this legislation.

Diana Dowling, Code Commissioner, thanked the Committee for hearing the bill without the sponsor being present and advised that this is the culmination of the 4-year study on code revision. With these housekeeping bills passing this session, there shouldn't be but very few code commissioner bills in the future.

There being no further proponents and no opponents appearing to testify, the hearing was opened for questions from the Committee

Sen. Ryan asked for clarification on the reference to 18 as the age of majority; Mr. Lear answered that this did not conflict with the change of the drinking age laws and merely follows the Constitution.

Sen. Roskie questioned the many references to other statutes by code numbers. Mrs. Dowling explained this was a means of reducing the volume of the codes by using reference to other sections by MCA statute section numbers rather than restating those particular sections, and also, that many of these had to be changed as they made reference to the wrong laws under the old language. Sen. Brown asked what took preference when two laws conflicted, to which Mrs. Dowling answered that the most recent would apply.

Sen. Ryan, referring to page 32, line 17, questioned the "break in service" term. Mr. Lear advised as it pertained to political subdivisions of the state, jurisdiction would also refer to the county level. Explaining further, Mrs. Dowling added that as Cascade County was under the jurisdiction of the state, there would be no break in service for legislative duty.

After further discussion, Senator Jergeson moved that the amendments proposed by the Legislative Coqncil be adopted; motion carried unanimously.

Sen. Ryan moved the bill be amended on page 28, line 2 to delete the word "floor"; motion passed unanimously.

Sen. Jergeson then moved that Senate Bill No. 375 DO PASS AS AMENDED; motion carried unanimously, with the amendments now reading as follows:

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever required"

3. Page 23, line 8

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

4. Page 28, line 2.

Following: "majority"

Strike: "floor"

CONSIDERATION OF SENATE BILL NO. 379: Senator Graham also being the sponsor of this bill, the Chairman called on Code Commissioner Diana Dowling to present testimony on this legislation. Mrs. Dowling addressed the Committee, explaining that this bill deleted references to specific divisions of the Legislative Council, as the Council does not have divisions, and included some grammatical corrections needed to clarify the language to current usage.

There were no proponents or opponents present to speak on the bill, and no discussion or questions of the Committee.

Sen. Jergeson moved that Senate Bill No. 379 DO PASS; motion carried by unanimous vote.

Chairman Story then explained the way he was going to conduct the Friday meeting on the re-creation of boards vs. super boards. Senator Story indicated that he felt that the meeting should be opened for discussion on all the bills involving the boards and heard all at one time. After some discussion from the Committee, it was agreed that the bills should be heard as suggested by Senator Story. If, for any reason, any member of the Committee was going to be absent, he should leave his vote with the secretary as work sessions will be scheduled on Saturday, Monday and Tuesday if necessary.

Sen. Hafferman read a letter from James Rosco, Gross Vehicle Weight Division of the Department of Highways, indicating that the employees of that Division felt that they should be allowed to carry guns when on duty. Section 61-12-203, MCA, is the present section of the law under which they have been denied firearms. Sen. Hafferman made a motion to draft a committee bill amending this section as follows:

"61-12-203: Official attire required for making arrests and carrying firearms. Qualified employees may make arrests throughout the state only when dressed in official uniform and displaying the official badge authorized by the department.

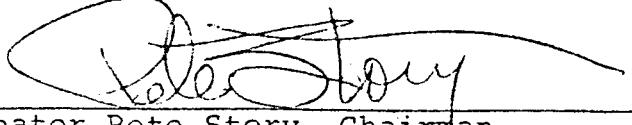
Authorized employees may not carry firearms unless officially attired."

After the word "may"
Strike: "not"
After the word "firearms"
Strike: "unless"
Insert: "when"

After the Committee pointed out to Senator Hafferman that it was too late to draft this bill, a vote was taken and the measure was defeated. However, the Committee did suggest that Senator Hafferman request an interim study on this bill as it was not too late for this procedure, by a resolution.

State Administration Committee
February 12, 1979
Page Three

There being no further business, the meeting adjourned at 11:20 a.m.



Senator Pete Story, Chairman
V



BENATE MEMBERS
 CARROLL GRAHAM
 CHAIRMAN
 FRANK HAZELHAKER
 VICE CHAIRMAN
 CHET BLAYLOCK
 PAT M. GOODOVER
 DIANA S. DOWLING
 EXECUTIVE DIRECTOR
 CODE COMMISSIONER
 ELEANOR ECK
 ADMINISTRATIVE ASSISTANT
 ROBERTA MOODY
 DIRECTOR LEGISLATIVE SERVICES

HOUSE MEMBERS
 JOHN B. DRISCOLL
 OSCAR KVAALEN
 JO LYNCH
 ROBERT L. MARKS
 H. DAVID COGLEY
 DIRECTOR, LEGAL SERVICES
 ROBERT PERSON
 DIRECTOR, RESEARCH

Montana Legislative Council

State Capitol
 Helena, 59601

(406) 449-3064

LC 0042

1979 Legislature
 Code Commissioner Bill -- Summary

Amend Bill No. 375

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO GOVERNMENT STRUCTURE AND ADMINISTRATION.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 2-1-204. Deleted "Fort Assiniboine, Fort Custer, Fort Keogh, Fort Maginnis...Fort Shaw". No longer military reservations.

Section 2. 2-1-302. Added "or any other" to correct grammatical error and clarify.

Section 3. 2-3-113. Added "respectively" to clarify that 2-4-623(6) describes method of publication, not obtaining judicial review.

Section 4. 2-4-102. The proposed amendment corrects an error in an internal reference made during recodification.

Section 5. 2-6-103. In subsection (3), changed deposit provisions to conform to 17-6-105. Constitution referred to in deleted language is the Montana Constitution of 1889.

Section 6. 2-6-302. Changed "any committees..." to "state records committee" because it was the committee "established by law to regulate the retention of public records..."

Section 7. 2-9-103. In (1) and (2) changed "the state or of a county, municipality, taxing district, or other political subdivision of the state" to "a governmental entity". Definition of governmental entity in 2-9-101 includes all those entities. Changed "unit" to "entity" for consistency.

Section 8. 2-9-306. Changed "this act" to "parts 1 through 3 of this chapter". Provision was thought to apply to section in parts 1 through 3 but because some sections were included in parts 1 through 3 that were not in the original act, the change is made by amendment rather than recodification. The reference is a general one and is not changed in meaning by the amendment.

Section 9. 2-9-514. Added "given pursuant to 2-9-513(2)" to clarify which "additional bond".

Section 10. 2-15-201. Annual reports of state agencies, their publication, and the governor's report to the legislature are provided for in 2-7-102. Amendment conforms duty to that section.

Section 11. 2-15-401. Deleted subsections (9) and (10) as obsolete. Subsection (10) is function of department of administration. Changed subsection (12) to conform to 2-7-102 dealing with annual reports of state agencies. Part of subsection (2) and subsection (17) require recordkeeping that was done by secretary of state but was tasked by statute to governor.

Section 12. 2-15-412. Clarifies that the transfer is for administrative purposes only. A board, bureau, commission or agency may not remain unallocated, unless temporary. See Sec. 7, Art. VI, Montana Constitution, and Title 2, chapter 15, part 1, MCA. The board remains independent so far as performance of its functions is concerned. If the legislature feels that the board allocated to a department should retain the authority to hire its own personnel, add the following language. "The [board] may hire its own personnel, and subsection (2)(d) of 2-15-121 does not apply."

Section 13. 2-15-413. Same as section 12. The functions performed by the board are most closely akin to those of secretary of state so the board was allocated to that office.

Section 14. 2-15-1111. Same as section 12.

Section 15. 2-15-1605. In subsection (2) changed "senate" to "legislature". In (4) added "of" -- grammar.

Section 16. 2-15-1614. Same as section 12.

Section 17. 2-15-1615. Clarify to which association reference is made. See Title 37, chapter 15.

Section 18. 2-15-1631. Same as section 12.

Section 19. 2-15-1656. Changed "over the age of majority" to "18 years of age or older" to clarify. Same as section 12.

Section 20. 2-15-1701. Deleted reference to constitution because oath is no longer prescribed by constitution.

Section 21. 2-15-2004. Sec 9, Ch. 530, L. 1977 provides that upon termination of the board of forensic science on June 30, 1979, the attorney general is authorized to employ personnel for the division.

Section 22. 2-15-2006. Standardized language creating board. Changed "transferred" to "allocated". The transfer is complete. Allocation is the preferred term to describe the continuing legal relationship.

Section 23. 2-15-3003. Changed "transferred" to "allocated as prescribed in 2-15-121". Allocation is preferred term to describe the continuing legal relationship.

Section 24. 2-15-3305. Same as section 12.

Section 25. 2-16-401. Changed "presiding officer" to "majority leader" in (1)(a)(iii) to correct obvious error.

Section 26. 2-16-501. "Insanity" is not defined in MCA nor was it defined in RCM. In order to bring consistency to the use of terms involving mental disorders, undefined terms are being replaced by defined terms.

Section 27. 2-16-503. Same as section 25.

Section 28. 2-16-513. Sections 82-1309 and 82-3802, RCM, codified as 10-3-602, MCA, conflict, therefore a composite must be drafted. The section more recently enacted (82-3802, RCM 1947,) provided for extending the line of succession. As drafted the line of succession would be extended to determine the acting governor, who in turn would call a special session for the purpose of electing a governor. The section as drafted is more consistent with the other succession statutes, namely 2-16-512, which provides for electing a successor as did 82-1309. At the same time, the section provides an acting governor, which 82-3802 did.

Section 29. 2-18-405. Deleted "central". Use of "all" suggests "central" was to have been deleted in S.B. 104, 1977 Legislative Session when "The uniform" was stricken. Introduced bill read "The uniform state central payroll system". The reference bill read "The uniform BY JANUARY 1, 1979, ALL state central payroll system SYSTEMS..."

Section 30. 2-18-601. Section 59-1007, RCM 1947 excepted elected state, county, and city officials, and school teachers from the provisions on leave time. Section 59-1007, RCM 1947 is to be repealed by this bill and the exception it provides is amended into this definition.

Section 31. 2-18-702. In (2), added "For state officers and employees' because auditor refers to state auditor and he may only deduct from checks of state employees." Originally, that was clear. By combining two RCM sections, clarification was made necessary. Changed "40-3905.1, RCM 1947" to "this section". Technically subsection (3) does not apply to insurance and premiums for employees of political subdivisions. In practice though employees of political subdivisions do subscribe to Blue Cross and Blue Shield and whether it is an insurance contract or health plan for purposes of this section is a distinction without a difference.

Section 32. Repealer. 2-1-103. This is an 1895 statute adopted from the California code and is quite archaic. Each subsection is a general statement of a procedure or right otherwise provided for more specifically, hence the section is also redundant.

2-15-202. This section is also an 1895 statute adopted from California laws, which has never been amended. Subsections (1) and (3) are functions the secretary of state essentially performs now. Subsection (2) is redundant with provisions on uniform accounting, Title 17, chapters 1 and 2.

Section 33. Repealer. 25-506. Compensation for officers and employees not provided for in 2-16-405 is provided for in Title 2, chapter 18. This section conflicts and is obsolete.

25-509. Quarterly salaries are no longer provided for by the constitution. Section is obsolete.

32-2504. Board of highway appeals was abolished. Section is otherwise redundant with 2-18-1001.

41-1604. This section is obsolete in light of executive reorganization (see 2-15-104 and 2-15-112).

59-517. Uniform accounting system provided for in Title 17, chapters 1 and 2 makes section obsolete.

59-537. Obsolete. Terms no longer used in travel, meals, and lodging reimbursement laws.

59-706 through 59-708. Semiannual property reports are no longer filed. Each agency accounts for its own personal property. Under 2-17-202 the department of administration may request a property inventory. These sections are obsolete (according to letter from secretary of state, March, 1976).

80-2001. Bureau of criminal investigation has been transferred to department of justice. Section conflicts.

82-1306. Governor's residence has been built. Section obsolete.

82-1307, 82-1308. Governor's personal staff is indirectly provided for in 2-18-104. Section obsolete.

82-4324. Provision concerning punitive damages is redundant with 2-9-105. Provision concerning interest conflicts with 2-9-317. Provision concerning attorney's fees conflicts with 2-9-314.

See

Ref: 61-12-203:

Official attire
required for making
arrests and carrying
firearms.

Qualified employees
may make arrests
throughout the state
only when dressed in
official uniform and
displaying the official
badge authorized by
the department.

Authorized employees
may ^{not} carry
firearms ^{state} ^{except} ~~unless~~ when
officially attired.

Date Feb. 12, 1979

ROLL, CALI.

STATE ADMINISTRATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

ach Day Attach to Minutes.

2-12-78

from Adele
Loman.

Amendments to Senate Bill 375

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever required"

3. Page 23, line 8.

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

4. Page 28, line 2.

Following: "majority" - from 1st Report

Strike: "floor"

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date Feb. 12, 1979 SENATE Bill No. 375 Time

(2) - Annexed

17 - Second

② DC Pass as Amend

Jennie L. Palmer
Secretary

Pete Story

Motion: Senator Greg Jergeson moved that the amendments proposed by the Legislative Council be adopted (see attached copy of amendments for Senate Bill No. 375; motion carried unanimously.

Senator Pat Ryan moved that SB 375 be amended as follows:
on page 28, line 2, following "majority", strike "floor"; motion
carried unanimously.

Senator Jergeson then moved that Senate Bill 375 DO PASS AS AMENDED; motion passed without opposition.
(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 12

79

19

MR. President

We, your committee on State Administration

having had under consideration Senate Bill No. 375

Respectfully report as follows: That Senate Bill No. 375, introduced bill, be amended as follows:

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever required"

3. Page 23, line 8.

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

4. Page 26, line 2.

Following: "majority"

Strike: "floor"

And, as so amended

DO PASS.

PL.

2-12-79

Amendments to Senate Bill 375

1. Page 14, lines 20 through 22.

Following: line 19

Strike: subsection (5) in its entirety

Renumber: subsequent subsections

2. Page 15, lines 24 and 25.

Following: "officers"

Strike: "and furnish such officers with new seals whenever required"

3. Page 23, line 8.

Following: "constitution"

Insert: "prescribed by the Montana Constitution"

STANDING COMMITTEE REPORT

February 12

19 79

President

MR.

State Admihistration

We, your committee on.....

Senate

Bill No. 379

having had under consideration

Senate

Bill No. 379

Respectfully report as follows: That.....

DO PASS *PA.*

ROLL CALL VOTE RECORD

Date Feb. 12, 1979 SENATE Bill No. 379 Time

Do Pass

Jennie L. Palmer
Secretary

Pete Story

Motion: Senator Greg Jergeson moved that Senate
Bill No. 379 DO PASS; motion was seconded and
carried by unanimous vote.

(include enough information on motion--put with yellow copy of committee report.)



The Big Sky Country

MONONTANA STATE SENATE

SENATE STATE ADMINISTRATION COMMITTEE

Capitol Building, Room 442

February 12, 1979

Senator William F. Hafferman
Senate District No. 11
Capitol Building
Helena, Montana 59601

Dear Senator Hafferman:

The State Administration Committee considered your request on behalf of the Highway Department employees working under the Gross Vehicle Weight Division presented during the February 12th meeting. This request pertained to changing Section 61-12-203 of the Montana Codes to allow these Highway Department employees to carry firearms.

Because of the time element and the deadline for requesting bills having expired, the only way to have a bill drafted would be by requesting a committee bill. However, due to the time it would take to have a committee bill processed and our transmittal deadline date, it was felt there would not be time to process it at this late date. Your motion to request a committee bill failed to pass by a majority vote; copy of the Roll Call Vote on the question is attached.

It was the Committee's recommendation that you request a Senate Joint Resolution pertaining to this matter which may be introduced at any time and would allow you to address the issue during this session, if you so desire.

Yours very truly,

Senator Pete Story
Chairman

jlp

ROLL CALL VOTE RECORD

SENATE COMMITTEE ON STATE ADMINISTRATION

Date Feb. 12-79 Bill No. _____ Time _____

③ for Committee Bill

NAME	YES	NO
Senator Pete Story, Chairman		✓
Senator George F. Roskie, V. Chairman		✓
Senator Bob Brown		✓
Senator A. T. (Tom) Rasmussen		✓
Senator Patrick L. Ryan	Att	✓
Senator Greg Jergeson		✓
Senator William F. Hafferman	3	✓

Jennie L. Palmer
Secretary

Pete Story

Motion: Senator Bill Hafferman moved that the Committee request a committee bill to amend Sec. 61-12-203, MCA, to read as follows: 61-12-203. Official attire required for making arrests and carrying firearms. Qualified employees may make arrests throughout the state only when dressed in official uniform and displaying the official badge authorized by the department. Authorized employees may (strike "not") carry firearms (strike "unless" and insert "when") officially attired. Motion failed with only Sen. Hafferman voting "yes". (include enough information on motion--put with yellow copy of committee report.)

DATE FEBRUARY 13, 1979

COMMITTEE ON

SENATE STATE ADMINISTRATION

SENATE BILL No. 375 & 379
VISITORS!

VISITORS' REGISTER