

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 17, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present with the exception of Senator Peterson who was excused.

SENATE BILL 466: Chairman Hazelbaker called on Senator Turnage, sponsor of SB 466, to explain the bill to the Committee. Senator Turnage stated that this bill is an act to exempt publication of the Montana Code Annotated from state laws on bid letting and in-state preference for printers.

Senator Turnage stated the bill would make the implementation of the new Montana Code Annotated more effective.

PROPONENTS OF SENATE BILL 466: Mrs. Diana Dowling, Executive Director of the Legislative Council, stated that in 1979 they will go with Color World in their printing. Mrs. Dowling further stated they would much rather keep the job in the state if possible. However, Mrs. Dowling told the Committee it could be done cheaper and faster by an out-of-state firm if they are allowed to go that way.

OPPONENTS TO SENATE BILL 466: Mr. Larry D'Arcy, representing the Department of Administration, stated they are in opposition to SB 466. They believe in a strong centralized purchasing philosophy. They feel there are many problems with the bill. He stated that the bill is poorly written and the Department would like to have the opportunity to offer some amendments in order to make some language clarification in the bill.

There were questions from the Committee.

Senator Lowe asked if there were printers in the state that could do the printing job satisfactorily.

Senator Turnage told the Committee there were printers, but none that could do the job successfully.

Chairman Hazelbaker also stated there wasn't a firm that could a satisfactory printing job.

Senator Turnage stated the bill does not address itself to the ten percent problem.

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Mrs. Dowling stated this bill pertains only to the Codes. The subject is to delete the Codes. She also stated that the Legislative Council will go to the firm that could do the job the best for the lowest cost.

The hearing was concluded on Senate Bill 466.

SENATE JOINT RESOLUTION 19: Senator Mike Anderson, sponsor of the resolution, stated that SJR 19 encourages Congress to reject any amendments to the McCarran-Ferguson Insurance Regulation Act and to leave insurance regulation to the states.

Mrs. Josephine Driscoll, representing the Insurance Department of the State of Montana, stated that they wholeheartedly support SJR 19. This resolution is a protection for the consumer.

Mr. Boyce Clarke, representing the Independent Insurance Agents of Montana, stated that Montana receives \$13,000,000 from the insurance industry. He further stated that we have competition in Montana, and we have no need for federal regulation in Montana.

There were questions from the Committee.

Senator Dover asked why the state would lose money. Mrs. Driscoll stated the state would lose money because they wouldn't be regulating it. Also, it would create far too much bureaucracy, and you wouldn't get the protection of the people.

The hearing was closed on SJR 19.

DISPOSITION OF SENATE BILL 434:

Senator Regan moved that Senate Bill 434 be placed on the table until we know the disposition of SB 467. Senator Dover was the only "no" vote on the motion.

SENATE BILL 455: This bill generally revises laws on security regulation.

Mr. "Rick" Tucker, State Auditor for the Investment Department, explained the bill to the Committee. Senator Lockrem, sponsor of SB 455, was unable to be present at the hearing.

Mr. Tucker stated this bill changes the title of the investment commissioner to securities commissioner.

Mr. Tucker presented an exhibit which explains SB 455 to the Committee. This exhibit is attached. Mr. Tucker went through the sections of the attachment with the Committee.

PROPONENTS OF SENATE BILL 455: Mr. Harold Pitts, representing the Montana Bankers Association, stated they support SB 455. It would save them a tremendous amount of paper work.

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Senator Goodover presented a telegram to the Committee from Mr. Darrell Booth, Chairman of KOA, Inc., Billings, Montana. He is in support of SB 455. The telegram is attached.

DISPOSITION OF SENATE JOINT RESOLUTION 19: Senator Dover moved that SJR 19 Do Pass. The Committee voted that SENATE JOINT RESOLUTION 19 DO PASS. Senator Regan was the only "no" vote.

DISPOSITION OF SENATE BILL 466: Senator Goodover moved that Senate Bill 466 Do Pass. Senator Dover seconded the motion. The Committee voted that SENATE BILL 466 DO PASS. Senators Lowe and Hager were the only "no" votes.

DISPOSITION OF SENATE BILL 455: Senator Goodover moved that Senate Bill 455 Do Pass. Senator Dover seconded the motion. The Committee voted unanimously that SENATE BILL 455 DO PASS.

ADJOURN: There being no further business, the meeting was adjourned at 11:45 a.m.



Senator Frank Hazelbaker, Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

46TH LEGISLATIVE SESSION - - 1979

Date: Feb. 17

STANDING COMMITTEE REPORT

February 17,

1979

MR. President:

We, your committee on Business and Industry,

having had under consideration Senate Joint Resolution No. 19,

Respectfully report as follows: That Senate Joint Resolution No. 19,

DO PASS

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STANDING COMMITTEE REPORT

February 17, 1979

MR. President:

We, your committee on Business and Industry,

having had under consideration Senate Bill No. 466,

Respectfully report as follows: That Senate Bill No. 466,

DO PASS

STANDING COMMITTEE REPORT

February 17, 1972

MR. President:

We, your committee on Business and Industry,

having had under consideration Senate Bill No. 455,

Respectfully report as follows: That Senate Bill No. 455,

DO PASS

NAME: LAWRENCE E. D'ARCY DATE: Feb-17. 1979

ADDRESS: Helena

PHONE: 449-2032

REPRESENTING WHOM? Dept of Admin.

APPEARING ON WHICH PROPOSAL: SB-466

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

COMMENTS:

NAME: Rephine Dr. Mericell DATE: 2-17-79

ADDRESS: 1000 West Mitchell Blvd

PHONE: 4149-3996

REPRESENTING WHOM? Mr. Alipr, 11 of 707

APPEARING ON WHICH PROPOSAL: SJR-19

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: W. Boyce Clarke

DATE: 2/17/79

ADDRESS: Helena

PHONE: 2142.6778

REPRESENTING WHOM? Independent Insurance Agents of Montana -

APPEARING ON WHICH PROPOSAL: SJR-19

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: Montana receives over 12 million in taxes & fees from the industry

We have a responsible and responsive Insurance Department

Its continuation is recommended by the Legislative Audit Committee

We have competition in Montana. - About 1500 companies licensed; 600 Agents. -

We certainly have no need for Federal regulation in Montana. -

W. Boyce Clarke

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: STAN BURGARO DATE: 2/17/79

ADDRESS: 438 No. 9th Bozeman, mt.

PHONE: 587-4588

REPRESENTING WHOM? Colon Woods of mt. Inc.

APPEARING ON WHICH PROPOSAL: SB 466

DO YOU: SUPPORT AMEND? OPPOSE? ✓

COMMENTS: We Firmly Believe THE 10%
SHOULD NOT BE taken out of THE BILL
Our Firm Has 26 Full Time Employees
and we need work of this nature
To maintain a staff of that size
Whom are all mt. Taxpayers, we bid
in Wyoming and , it is 10% Penalty,
and other states all have a Percentage
per fence THANK YOU.

NAME: PG "Rick" Tucker DATE: 3/17/79

ADDRESS: 156 FAIRWAY Dr. Helena

PHONE: 442-6302-449-2040

REPRESENTING WHOM? State Auditor Investment Dept.

APPEARING ON WHICH PROPOSAL: SB 455

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

COMMENTS: attacked.

Senate Committee Business and Industry

Explanation of Senate Bill 455,
Relating to Securities Regulation,

As Prepared by the State Auditor, Investment Department

Section 1 and Section 8

Page 1, Line 15 and Page 28, Line 1 thru 7

Changes investment commissioner to securities commissioner.

Of all the fifty states and possessions, Montana is the only state that uses the term "investment". All others refer to "securities" in naming their commissioner, commission, director or division. The Uniform Law is cited as the "Uniform Securities Act". The Montana law is cited as the "Securities Act of Montana". It is therefore suggested that the office be renamed the office of securities commissioner, and that all other areas of law, relating to the office of investment commissioner, created by 2-15-1901, be changed to read securities commissioner, when recodified.

Section 1 30-10-103(3)(c)

Page 2, Lines 22 thru 25 and Page 3, Line 1

This subsection excludes from the definition certain actions of a broker-dealer who would otherwise be required to register his activities in order to transact business with Montana residents. In the opinion of the department the 15 persons mentioned hereunder are entitled to the same registration protection other residents are. In addition, determining or proving whether or not 15 persons, more or less, have received an offer by a broker-dealer, having no place of business in this state, is, in most cases, impossible.

Section 1 30-10-103(5)(ii)

Page 4, Lines 7 thru 10

Same explanation as above only relating to Investment advisers.

Section 2 30-10-104

Page 7, Line 4

Grammatical change only.

Section 2 30-10-104(1)

Page 7, Line 9 thru 18

This section was changed to include, for purposes of registration, for the protection of investors, securities issued by nongovernmental industrial or commercial enterprises which have in the past been exempt from registration. Since the introduction of the Industrial Development Revenue Bonds (IDR's) this section has been the source of several problems created by industrial and commercial enterprises and has resulted in substantial losses by Montana residents. In the opinion of the department, the term issued by "the United States, any state, any political subdivision of a state, etc.,,,", is in form only and has no real substance in that it provided no protection as does other revenue obligations wherein the full faith and credit of the taxing power is pledged to protect the investment. The department feels that with these changes it will separate out those enterprises issuing securities for which registration is needed for the protection of Montana investors.

Section 2 50-16-104(E)

Page 9, Line 13 thru 25, Page 10, Page 11 Lines 1 thru 22

A complete explanation of this change would be too voluminous to be covered in this summary. The Uniform Securities Act Revisions Committee of the North American Securities Administrators Association have, over two years, conducted an intensive study of this "Blue Chip" exemption. They have solicited and received widespread public and industry comments; they have held hearings, consulted with and been advised by a panel of advisors. As such, they have recommended this replacement of the existing exchange exemption.

Several of the states have already introduced, or intend to introduce, this same change to their legislators.

If additional information is desired, I have copies of reports and statements or I can arrange for questions to be answered.

Section 2 30-10-104(9)

Page 11, Line 23 and Page 12, Line 1 thru 5

This exemption is referred to as the non-profit exemption.

In the department's opinion because a corporation is non-profit should not in itself exempt it from total review. In the past this exemption has created problems. The department was unaware of the offerings until after fraud was alledged. In all of these cases a review of the offering before it was offered would have prevented a loss of investors money.

Section 2 30-10-104(12) (New Section)

Page 12, Line 17 thru 20

It is the opinion of this department that from time to time a registration is requested that would not be required for the protection of investors, but no specific exemption or exception is available.

Section 3 30-10-105(1)

Page 12, Line 25 and Page 13, Line 1

This change returns to the Montana Act the language of the Uniform Securities Act. It also shuts the door to those who would use the present exemption to come into Montana with an unsubstantial scheme, make one sale and run.

Section 3 30-10-105(12) (New Section-Red Herring)

Page 16, Line 23 thru 25 and Page 17, Lines 1 & 2

(Same as the above subsection 11, except filing with the SEC is not required) This subsection would allow the distribution of a preliminary prospectus after it is filed, and with the permission of the commissioner.

In most cases it is desirable for the investor to have such an offer 48 hours or more prior to the sale.

Section 4 30-10-201(2)

Page 17, Line 21 thru 24

This subsection is inserted as an added protection regarding the registration of a salesman before transacting any securities business in Montana.

Section 4 30-10-201(4)

Page 18, Line 22 thru 25 and Page 19, Line 1, 2, & 5

This change is to relieve the bonding requirements as suggested by the Legislative Auditor in their recent sunset audit.

Section 5 30-10-210(2)

Page 25, Lines 11 thru 14

This section will allow the department to contract with out of state persons to examine or investigate an issuer or broker-dealer with offices headquartered outside Montana.

Section 6 30-10-303

Page 26, Line 5

The only change in this section is to adjust references to subsections.

Section 7 30-10-305

Page 26, Line 20

Section title change only.

Section 7 30-10-305

Page 27, Lines 1 thru 9 and Lines 17 thru 25

(1)(a) provides the department with an administrative procedure under which it may immediately act to prevent the promoters of a fraudulent or unsubstantial scheme from causing financial injury to residents of Montana.

(2) provides that a victim of a securities fraud is entitled to the benefit of the investigative and enforcement efforts of the securities commissioner, county attorney, or other party employed in the prosecution of a criminal case under this act, by allowing a final judgment or decree to be used as *prima facie* evidence in a civil proceeding to recover damages suffered as a result of the fraud.

NAME: Harold P. H. DATE: 12-17-79

ADDRESS: 2100 N. Harrison, Milwaukee, Wisconsin

PHONE: 4443-7109

REPRESENTING WHOM? Montauk Band, Inc.

APPEARING ON WHICH PROPOSAL: S.B. 475

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dawn Afric Kenzie DATE: 2/17/79

ADDRESS: 16 Third Street N. E. Rent Free

PHONE: 453-1261

REPRESENTING WHOM? D. A. D. D. D. S. A. /

APPEARING ON WHICH PROPOSAL: SB 455

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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HELENA MT 59601

AS A PUBLICLY HELD COMPANY HEADQUARTERED IN BILLINGS MT I URGE YOUR SUPPORT OF SENATE BILL 455

DARRELL BOOTH CHAIRMAN KOA INC BILLINGS MT 59114

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DATE February 17, 1979

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

(Please leave prepared statement with Secretary)