

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

February 17, 1979

The Seventeenth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 12:30 p.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 479: Chief Sponsor of the bill is Senator Towe. This is an act providing for pre-publication notice to a candidate mentioned in a campaign advertisement by the sponsor of the advertisement and medium carrying the advertisement; and providing penalties. This bill deals with campaign practices. I think it is a matter that deals with fairness. See Bill, he read Section 1 and 2 to the committee. He told the committee that Section 4 is essential to the bill. It is my intention to make sure that the candidates are fair. He then read section 5. He told the committee that in 1974 during the primary election in Butte, which the opponent purchased an advertisement in a newspaper, in which he stated that Robert Harper voted for House Bill 402. Never the less, this bill prescribed to free birth control to teenagers. And, in checking it out, he actually had voted against it. There was no time to act upon this. Harper lost by two votes. However, there is another law that allowed us to go into court and the situation was rectified. If this bill had been in effect, it would have been a simple matter to prove that it was wrong. There was no way, at the time the ad appeared, that he could change it or defend himself. It was too late. He had no time to publish a correction. In the last election, my opponent, on the last day day of campaigning, ran an advertisement that Towe did not live in his district. The fact is, that he does not live in the district, either. That is the purpose of this bill. Fairness to the campaign. When there is a false statement, he should be allowed to correct it.

Chairman Etchart asked if there were any opponents to SB 479.

Bill Merrick, Montana Broadcasters Association for the State of Montana. He told the committee they are in opposition to this bill for several different reasons. It concerns the electronic media and the publication media. We are not opposed to fairness in campaigning. But, there are some things that are involved here that would be pretty difficult for the broadcasting stations. On Page 1, Line 14, the content of that criticism must be proved five days prior to the election involved. To get content, is next to impossible. A lot of broadcaster advertising is done by speeches. We cannot require transcriptions by law. We would be forced to say no live appearance on broadcast media. We would have no way of knowing what the candidate would say. Now, it is possible that the publication media would know ahead of time. When you are on the air, you do not know what they will say. He then read section 2 to the committee. This is a problem, as it keeps us from broadcasting anything like "Meet your Candidate", where they speak off the cuff. The amount of

paper work and cost involved in getting transcriptions of these advertisements and sending them off to the candidate would be a problem. Also, we would have to have a research staff to determine if the advertisement is in line, or is not right. We would have to check the voting records and we would have to have complete autobiographical sketch's on them. That would be very difficult and would cost us a considerable amount of money. Under the Federal Communications Act and the act introduced by Congress, Broadcasting stations can only charge the lowest rate to political candidates. Usually those are a break even point. To cover the cost of paper work and research and to take care of mailing and printing, we would not be able to raise our rates to cover the cost of this additional work. On Page 2, Line 5, the electronic media must provide time that is reasonable and comparable. Take radio spot announcements and appearances, it would be impossible to come up with reasonable and comparable time for the opposition. In Section 4, we object to the fines. If a person cannot protect himself from violation of the law that he has no control over, is not fair. And, we are talking about fairness. On page 3 of the bill, Section 6, talks about limitations. He read this to the committee. I have not checked this out, but believe it would be in conflict with federal communications act, in the equal time provisions. We have federal laws that are pretty explicit in requiring broadcast handling of elections. They come under the fairness doctrine in providing time for opposing candidates. For these reasons we definitely oppose this bill.

Chairman Etchart asked if there were any other opponents to SB 479.

Mile Meloy, Helena Attorney, representing, the Press Association, said they had no quarrel with the bill. However, they don't agree with Section 4 dealing with the criminal penalty. Also, they feel Section 2 of the act is stringent. He did not think the Montana Constitution would allow and if they take out sections 2 and 4, they would not be in opposition to the bill.

Senator Towe, in closing said he would agree to strike section 2 and 4. He told the committee he thought those involved would follow the spirit of the law and in assessing penalties of law. He said this bill is not for speech's or news casts. It is limited to advertisements. Anything else does not apply. As far as the comments about research, that is not involved. You simply handle by saying whenever the candidate names are mentioned, you send the text. If you are concerned about it, you send the text. It would cost 10¢ printing and a stamp to mail. If in fact the candidate won't provide the full text in advance, then you won't have to put him on the air. If you are worried about equal time on the last day of the campaign, make sure he doesn't say anything about the others voting record. I would be happy to delete section 2 and section 4. Voting records

that are brought up on the last day of the campaign are unfair, and that is the point. I think this bill will resolve the fact that if you do it before five days, its fair game.

Senator Graham said he did not see the problem with the Radio and TV media as much as with the newspaper media.

Senator Hager asked if you run an advertisement for 10 days in advance of the election and then want to repeat the advertisement 3 days before the election, how would this be handled.

Senator Towe said he thought the person who intends to publish or distribute should submit the content of the advertisement to the candidate. You would simply get a text of the advertisement and mail it to the opposing party.

There being no further questions, the hearing was closed.

CONSIDERATION OF SB 483 & SB 484: Senator Story, Chief Sponsor of these two bills, said the SB 483 and SB 484 pertain to the same subject. They are people bills. My intention is to correct an imbalance that now exists for the guy who got creamed and the insurance party who is at fault. This bill is the result of an accident that I was involved in, where a man hit me from behind and caused me to hit the person in front of me. I found out the car that had hit me was a rental with insurance. In trying to settle my claim I discovered I could not collect court costs or attorney's fees. Also, my car was totaled and only one month old. I was informed that I was not going to get replacement value of my car, but merely what he could get out of a dealer. He told me everybody has to take a loss. I know there are certain problems with this bill, but if you pass it over to the house I am sure the problems can be worked out. We can make corrections later.

Chairman Etchart asked if there were any opponents to Senate Bill 483 and 484.

J. C. Weingartner, State Bar of Montana, stated he does not support or oppose SB 483, and pointed out a few problems in the bill. Page 2, Line 16, the word party be deleted and the words insured and insurer be inserted in its place.

Glen Drake, from the American Insurance Association, is in opposition to both bills. On SB 484 the bill asks the committee to decide what insurance policies give. Under the present law, in the event of an injury or accident of some sort, you get court costs, and no attorneys fees. We have no problem with the provision on Page 2, line 4. That is already in the present law. The problem we have is with the new section regarding attorney's fees. The plaintiff only would get attorney's fees. If two people are in an accident and neither one has insurance, the plaintiff would get the attorneys fees if he won and the defendant would not. If this bill would pass, I think you could count on an increase in the number of court cases, an increase in insurance premiums, an increase in awards. And, this just does not apply just to property judgements, so there

would be a large increase in court cases. This bill will increase litigation and I am sure the intention is to work out problems of collection out of court. If you pass this bill as written, this will encourage people to go to court instead of settling out of court. As far as SB 484 is concerned, there is no way to salvage. What this bill says is that the person the claim is made against must provide a rental car, with or without fault. He is really asking for first party coverage. There is no way SB 484 can be re-written in any manner.

Pat Melby, Alliance of American Insurers, said they oppose SB 483 and 484 for the same reasons as stated before. Many of the accidents involving autos are not one sided. This is not a consumer bill at all. It will be the insurance companies who get involved in the litigation. The cost of premiums will go up. Needless litigation is going to be first, because often times, even when there is no insurance or attorney's fees, these cases end up in court when they could have been settled out of court. If your auto is damaged and you have no other means of transportation, then this becomes part of the claim, and that will go to the insurance company.

Boyce Clarke, Independent Insurance Agents of Montana, told the committee he opposes SB 484 because the expense of a rental car arising out of a property damage claim is usually included in the final settlement. As I read the bill, the rental value might have to be paid a claimant, regardless of responsibility for the incident. On SB 483, he stated it is always embarrassing to an agent to hear of a mishandled claim. They do happen and often originate out of indifference in claim departments. Our people follow claims, even those of a claimant, as priority business. In this case, it would seem only fair to allow these same recoveries to a successful defendant. Also, if coverage is to be broadened under the policy by statute, premium adjustments must necessarily follow.

Joe Driscoll, Insurance Department, State of Montana, said they are not taking any position on SB 484. No opposition to SB 483. We always recommend that people go to their insurance company first, then to us, not to court. As far as actual cash value, there is a law on the books that you are entitled to your replacement value. The law would support this. And, there is available a rental reimbursement coverage on insurance policies that would take care of this problem.

Chairman Etchart asked if there were any questions from the committee. Senator Hazelbaker said, if you are at fault, your premium goes up; but, if you are not at fault, it does not go up.

There being no further questions from the committee the hearing was closed.

CONSIDERATION OF SENATE BILL 473: Shaun Simon, Legislative Council passed out amendments to SB 473 to the committee. Mr. William Romine explained the amendment to the committee. See Exhibit "A".

Chairman Etchart asked if the committee knocks out Section 1,

what would happen to Section 2 and 3.

Mr. Romine said if you have a Class D Carrier permit, you must carry on garbage service, and to show in your reports that you are carrying on this service. Section 2 and 3 give this service.

Senator Hazelbaker asked if we removed Section 1, would that have an effect on the fiscal note.

Mr. Romine, said Yes.

Senator Hazelbaker said, OK, if Section one was stricken you don't need the amendment, and the fiscal note would still apply.

Chairman Etchart asked the committee what they would like to do. There are three choices, pass as is, strike section 1 and leave amendment, or kill the bill.

Senator Kolstad made the motion to strike 69-12-102 in the title, and delete Section 1 in its entirety and renumber sections. The committee voted unanimously to strike 69-12-102 in the title, and delete Section 1 in its entirety and renumber sections. The motion carried.

Senator Kolstad made the motion to DO PASS Senate Bill 473 as amended. The committee voted unanimously to DO PASS as amended. The motion carried.

ACTION ON SENATE BILL 479: Senator Kolstad stated the bill would be tough to enforce, but does cover the problem. The spite advertising that goes on in the last few days of campaigning is a problem. They publish total false voting records and there is no way you can defend the advertisement. This bill certainly does address a problem that we have in this state.

Senator Healy said he was in agreement to take out the two sections Mike Meloy wanted to strike, Section 2 and 4.

Senator Kolstad agreed that Section 4 is too stringent. Senator Kolstad made the motion to delete Section 4. The committee voted unanimously to delete Section 4. The motion carried.

Senator Kolstad made the motion to DO PASS Senate Bill 479 as amended. A roll call vote was taken, with 4 Senators voting yes, and 3 voting no. The bill passed, motion carried.

ACTION ON SENATE BILL 424: Senator Hager made the motion to reconsider action on the tie vote on Senate Bill 424. A roll call vote was taken, with 4 Senators voting no and 3 Senators voting yes. The motion failed. The bill will die in committee.

ACTION ON SENATE BILL 483: Senator Graham made the motion to DO NOT PASS Senate Bill 483. All the Senators voted yes except Senator Healy, who voted no. The motion carried.

PAGE 6

ACTION ON SENATE BILL 484: Senator Kolstad made the motion to DO NOT PASS Senate Bill 484. All the Senators voted yes except Senator Healy who voted no. The motion carried.

ACTION ON SJR 7: The committee discussed what they should do with SJR 7. It was decided to let it die in committee.

THERE being no further business the meeting was adjourned. The next meeting of the Highways and Transportation committee will be announced at a later date.

Mark Etchart
SENATOR MARK ETCHART, CHAIRMAN

cf

"A"

Amendment Proposed to
Senate Bill 473.

Page 2 Following line 22 Insert:

"Section 2. Implementation. All persons who have conducted a motor carrier service for the transportation of ashes, trash, waste, refuse, rubbish, garbage, and organic and in organic matter by a motor vehicle in a city, town or village with a population of less than 500 persons according to the latest United States census shall upon written proof consisting of prior business records reflecting a transportation service for 1 year prior to the effective date of this act, which business records shall be submitted to the commission in an informal manner, receive a certificate of public convenience and necessity as a Class D carrier. Such proof must be submitted to the commission within 4 months following the effective date of this act.

Renumber: all subsequent sections.

---- 2-17-79

ROLL CALL

COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

DATE 2-17

COMMITTEE ON

VISITORS' REGISTER

NAME: Stephanie M. Kriegel DATE: 2-17-79

ADDRESS: Mitchell Building, Milwaukee

PHONE: 449-2996

REPRESENTING WHOM? Govt. Dept. State of Montana

APPEARING ON WHICH PROPOSAL: SB 484-

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: W. Boyce Clarke DATE: 2/17/78

ADDRESS: Helena -

PHONE: 444-6778

REPRESENTING WHOM? Independent Inv. Agents of Mont.

APPEARING ON WHICH PROPOSAL: 872483

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: It's always embarrassing to an agent to hear of a mishandled claim. They do happen and often originate out of indifference in claim departments. Our people follow claims, even those of a claimant, as priority business.

In this case, it would seem only fair to allow these same recoveries to a successful defendant. Also, if coverage is to be maintained under the policy by statute, premium adjustments must necessarily follow.

Thank you

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mr. Boyce Clarke DATE: 2-17-79

ADDRESS: Helena

PHONE: 442-6778

REPRESENTING WHOM? Independent Ins. Agents of Mont.

APPEARING ON WHICH PROPOSAL: SB - 484

DO YOU: SUPPORT? . AMEND? OPPOSE? ✓

COMMENTS: In this case, I'm sure someone related to the insurance business will bring out the fact that the expense of a rental car arising out of a property damage claim is usually included in the final settlement. As I read the bill, the rental value might have to be paid a claimant, regardless of responsibility for the incident.

Thank you.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Pat Molby DATE: 2/12/79

ADDRESS: P.O. Box 1721, Helena

PHONE: 443-5554

REPRESENTING WHOM? Alliance of American Insured

APPEARING ON WHICH PROPOSAL: SB, 484

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Pat Melby DATE: 2/17/79

ADDRESS: P. O. Box 1721, Helena

PHONE: 443-5554

REPRESENTING WHOM? Alliance of American Insurance Co.

APPEARING ON WHICH PROPOSAL: S.B. 483

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William A. McEvily DATE: 2/17/74

ADDRESS: 717 S. Tracy Avenue, MIT

PHONE: 546-6225

REPRESENTING WHOM? Manufacturers Broadcasters Association

APPEARING ON WHICH PROPOSAL: 513477

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Elm Drak DATE: 2/17

ADDRESS: 10100a

PHONE: 442-0230

REPRESENTING WHOM? American Bus Ass'n

APPEARING ON WHICH PROPOSAL: 483 & 484

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

.....February 17..... 1979.....

MR. President:.....

We, your committee onHighways and Transportation.....

having had under considerationSenate..... Bill No. 434.....

Respectfully report as follows: That.....Senate..... Bill No. 434.....

DO PASS

DO NOT PASS

STANDING COMMITTEE REPORT

February 17 1979

MR. President:

We, your committee on Highways and Transportation,

having had under consideration Senate Bill No. 483,

Respectfully report as follows: That Senate Bill No. 483,

RECLASS
DO NOT PASS

STANDING COMMITTEE REPORT

February 17 1979

MR. President:

We, your committee on Highways and Transportation.....

having had under consideration Senate Bill No. 473.....

Respectfully report as follows: That Senate Bill No. 473.....

introduced senate bill number 473 be amended as follows:

1. Title, Line 6.

Following: line 5

Strike: "69-12-102,"

2. Page 1, line 19 through line 21 on page 2.

Following: line 8

Strike: Section 1 in its entirety

Renumber: all subsequent sections

And, as so amended,

DO PASS

STANDING COMMITTEE REPORT

.....February 17.....19 79.....

MR. President:

We, your committee on Highways and Transportation

having had under consideration Senate Bill No. 479

Respectfully report as follows: That Senate Bill No. 479

introduced bill number Senate 479 be amended as follows:

1. Page 2, lines 17 through 21.

Following: Line 16

Strike: Section 4 in its entirety

Renumber: All subsequent sections

And, as so amended,

DO PASS

SENATE COMMITTEE Highways & Transportation

Date 2-17-79 Senate Bill No. 484 Time

Carol Fossur
Secretary

Secretary

Mark Etchart
Chairman

Motion:

Do Not Pass

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

SENATE COMMITTEE Highways & Transportation

Date 2-17-79 Senate Bill No. 483 Time

NAME	<u>Vote to Do Not Pass</u>	YES	NO
Mark Etchart, Chairman		✓	
Tom V. Hager, Chairman		✓	
Frank W. Hazelbaker		✓	
Allen C. Kolstad		✓	
Carroll A. Graham		✓	
Dave Manning		✓	
John E. Healy			✓

Carol Frazer
Secretary

Mark Elhart
Chairman

Motion: _____
Do not Pass .

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

SENATE COMMITTEE Highways & Transportation

Date 2-17 SB Bill No. 473 Time

Secretary

Chairman

Motion:

Do Pass As Amended

Motion: Do Pass As Amended

(include enough information on motion--put with yellow copy of
motion--put with yellow copy of

SENATE COMMITTEE Highways & Transportation

Date 2-17-79

SB

Bill No.

437

Time

NAME	YES	NO
Mark Etchart, Chairman		✓
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		✓
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy		✓

Carol Fornis
Secretary

Mark Elhart
Chairman

Secretary

Chairman

Motion: motion failed = bill disposed of

Motion to reconsider SB 424

failed

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

SENATE COMMITTEE Highways & Transportation

Date 2-17-79

JB

Bill No.

479

Time

Carol Frazer
Secretary

Secretary

Mark Elbant
Chairman

Chairman

Motion:

the Pass as Amended

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