

SENATE EDUCATION COMMITTEE
FEBRUARY 28, 1979

The Senate Education Committee met Monday, February 28, in Room 402 of the Capitol Building. Senator Bob Brown, Chairman, called the meeting to order at 1:00 p.m. Committee members present were Senators Brown, Ed Smith, O'Hara, Richard Smith, Anderson, Severson, Fasbender, McCallum, and Blaylock. Senator Thomas was absent.

The following bills were heard: House Bill 132
House Bill 162
House Bill 763
House Joint Resolution 32

HOUSE BILL 763

Representative Eudaily, sponsor of the bill, stated the bill had been presented in an effort to bring some order out of the chaos concerning school buses and their lights. It requires drivers to stop for school buses displaying flashing red signals in towns or cities and requires bus drivers to actuate amber and red warning lights within cities or towns.

PROponents

Terry Brown, Pupil Transportation Consultant, Office of Public Instruction, presented his written testimony to the committee in support of the bill.

Chuck Smith, School Safety Supervisor, Helena School District #1, stated he agreed with the previous testimony. He pointed out that with more special education students every year, more buses are running in town and the need for flashing lights in the city limits is imperative.

There being no further proponents and no opponents, the hearing on House Bill 763 was closed.

HOUSE BILL 132

Representative Edudaily, sponsor of the bill, stated the bill provides for filling trustee vacancies in third class school districts to conform with first and second class schools and provides a vacancy shall be filled within 60 days.

PROponents

Leonard H. Sargent, Executive Director, Montana School Boards Association, presented his written testimony in support of the bill to the committee.

There being no further proponents and no opponents, the hearing was closed on House Bill 132.

HOUSE BILL 162

Representative Eudaily, sponsor of the bill, stated the bill allows school district voted tax levies to be effective for two years. He stated he had presented the bill in previous sessions and due to pressure from constituents, had again submitted it. He said the bill offers the option to the school district to submit a one year or two year levy to the voters. He said there are three main points to be considered: 1) it is optional, not mandatory; 2) it provides for a business-like approach to budgeting and contracting; and 3) it saves time by only having to prepare for the levy every other year. He stated this method is employed in other states and works very well. He said that about 50% of the schools could use this method effectively as their levies over a two year period had not increased and in some cases, even decreased. Representative Eudaily pointed out that approximately 80% of the budget is in salaries and fringe benefits and a two year approach to the budget would certainly be an aid in planning. He stated he didn't know how many schools would use the two year levy system, but he felt if it were good for some of the schools, then the option should be available.

PROPONENTS

Phil Campbell, representing the Montana Education Association, stated his organization supports the bill as a benefit in smoother operation and planning for schools. He said with two year planning, the schools would know what resources they had available to them and it would give them more security in negotiating two year contracts. He said in a survey of 201 1st, 2nd, and 3rd class schools, with 60% of them responding, that the number of 2 year contracts had increased from 11 in the 1976-1977 school year to 44 (representing 5000-6000 teachers) in the 1978-1979 school year. He urged support of the bill.

Shauna Thomas, representing the Montana Federation of Teachers, AFL-CIO, stated they support the bill but reserve the right to negotiate yearly and hoped the committee would take that into consideration.

Leonard Sargent, representing the Montana School Boards Association, said the bill represents good fiscal management. The fact that the use of the two year levy is optional is good. He said that in an informal poll of 50 districts 40% said they would consider a two year levy if the bill passes. He said the two year levy would make fiscal management and planning easier and would give a year for curriculum and staff development without having to spend a bulk of time on levy problems. He urged support of the bill.

OPPONENTS

Ed Nelson, representing the Montana Taxpayers Association, stated this legislation has been introduced many times and never been adopted. He pointed out that the possibility exists that the two year levy will be submitted at a higher level than is needed to allow for increased costs. If that amount were not needed, the excess would be used as historically those monies are not returned. He said the bill encourages higher levy setting which increases taxes. He said if the bill is passed, then there should be an amendment on page 4, lines 8-12, which would state that no levy vote may be used the second year.

Gordon Dunsler, Bigfork, stated he is on the school board, and he worries that costs such as heating can be accurately projected over a two year period. He said they rely on the one year levy as a method of taking the public pulse as to the kind of job they are doing.

There being no further proponents or opponents to the bill, Representative Eudaily closed by saying school trustees are very cost conscious and even if there were extra monies from the first year they would go back to the general fund to decrease second year costs. He reminded the committee, in any case the two year levy is optional.

The hearing was closed on House Bill 162.

HOUSE JOINT RESOLUTION 32

Representative Eudaily, sponsor of the bill, stated HJR 14 of the last session recognized the need to create a uniform rule for all elections. The interim committee which was the result of HJR 14 recognized there are special problems with school election laws and so they were dropped from the the revision of all election laws. He felt there is a lot of merit in a central election administrator for all elections and a lot of reasons for including the school elections in the election laws but a good study needs to be done to determine the best way. Therefore, the bill asks for priority to be given to a study and revision of the laws relating to school elections.

There being no proponents and no opponents to the bill the hearing was closed on HJR 32.

SENATOR O'HARA MOVED HJR 32 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY WITH SENATOR THOMAS ABSENT.

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Minutes
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The committee asked Bob Pyfer, attorney for Legislative Council, to draw up amendments for HB 763 which would reflect the concern of the committee regarding school buses not activating flashing lights when the buses are loading or discharging students at the school.

Senator Ed Smith moved House Bill 132 be concurred in. Bob Pyfer suggested the title be amended to reflect filling vacancies within 60 days. After discussion by the committee, Senator Smith withdrew his motion.

There being no further business, the meeting adjourned to reconvene Friday, March 2, 1979.



Senator Bob Brown, Chairman

jdr

NAME: Tony Brown DATE: 2/28/71

ADDRESS: 7 Mason St.

PHONE: 449-3127

REPRESENTING WHOM? Dept. of Public Education

APPEARING ON WHICH PROPOSAL: H.B. 763

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59601
(406) 449-3095

Georgia Rice
Superintendent

February 28th, 1979

To: Chairman Bob Brown
Senate Education Committee

From: On behalf of Superintendent of Public Instruction, Georgia Rice
By: Terry F. Brown, Pupil Transportation Consultant

Re: House Bill Number 763

The Superintendent of Public Instruction would like to go on record as supporting House Bill Number 763.

The 1977 Legislature passed Senate Bill No. 332, which made some minor changes in Section 32-2197 R.C.M. 1947 to make the use of flashing red lights on school buses more uniform across our state.

After our office received many complaints, I requested the Attorney General's opinion on the new law. He stated that it was against the law for school buses to use the flashing red light system within the incorporated city limits. He also stated that it would be okay to use the flashing amber lights. This causes problems because as soon as you activate the amber flashers, and stop to open the service door, the red lights are automatically activated.

The changes in the law that were made by the 1977 legislature caused nothing but safety problems for pupil transportation personnel. In fact, it has forced some school districts and school bus contractors to run their operations in violation of the law. In some of our largest school districts, there are areas where they must load and unload students inside the incorporated city limits at locations where there is no pull out area (areas where bus drivers can't get their buses out of the lane of traffic) and under present law they can't use the flashing red light system to warn motorists that they are loading or unloading students. In some cities and towns they are using the flashing red light system even though they realize that it is against the law, because they feel that this is the only way they can safely help protect school children in these locations, who ride school buses.

My main concern is to provide the greatest degree of safety that we can for all children who ride school buses. Montana has a pupil transportation safety record better than most any state in the union. We have no record of a child being killed inside a school bus, but we have lost children at loading and unloading areas. No one can guarantee that motorists will stop for a school bus using its flashing red lights, but we must try to provide as much protection as we can for school children in bus loading and unloading areas.

STATE
OF
MONTANA
ATTORNEY GENERAL
MIKE GREELY

STATE CAPITOL, HELENA, MONTANA 59601 TELEPHONE (406) 44-2826

711
RECEIVED
NOV 23 1977
SUPERINTENDENT
OF PUBLIC INSTRUCTION

SCHOOLS - Transportation of Pupils;

SCHOOL BUSES - Duty to Display Flashing Lights When Stopped
on Highway;

HELD: Senate Bill 332, Chapter 244, Montana Session Laws of 1977, does not alter Section 32-2197, R.C.M. 1947, and red lights on school buses need not be activated when a bus is stopped to load or unload students inside the corporate limits of a city or town. However, it is appropriate to maintain flashing amber lights on such vehicle while stopped to load or unload children as a warning to motorists in the interest of safety.

22 November 1977

Terry F. Brown
Pupil Transportation Safety Consultant
Office of Public Instruction
State Capitol
Helena, Montana 59601

Dear Mr. Brown:

You have requested my opinion on the following question:

Does passage of Senate Bill 322 by the 1977 Montana Legislature mean that school bus drivers may no longer use flashing red lights when loading or unloading school children within the corporate limits of a Montana city or town.

The Section of Montana law dealt with in Senate Bill 322 was Section 32-2191(b), R.C.M. 1947. Before amendment the section said:

...Amber flashing lights shall be actuated by the driver approximately one hundred and fifty (150) feet in cities, and approximately five hundred (500) feet in other areas before the bus is stopped to receive or discharge school children. Red lights shall be actuated by the driver of said school bus whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

The change made by Senate Bill 322 is a minor one. The section now reads:

...Amber flashing lights shall be actuated by the driver approximately 500 feet before the bus is stopped to receive or discharge school children on the highway. Red lights shall be actuated by the driver of said school bus whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children.

The only change made in Section 32-2191(b) by Senate Bill 322 is the removal of that portion which called for amber lights to be "actuated by the driver approximately 150 feet in cities." Brief testimony at a hearing on this matter before the House Highway and Transportation Committee on March 3, 1977, indicates the language was stricken to eliminate a conflict with subsection (a) of the same law.

Subsection (a) of the same section says:

(a) The driver of a vehicle upon a highway outside the corporate limits of any city or town upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said bus a visual flashing red signal....

An inherent conflict in the statute existed prior to the amendment, since subsection (a) confined the duty of an approaching driver to stop at areas outside the corporate limits of any city or town while subsection (b) made provisions for the bus drivers to use red warning lights within cities and towns. While subsection (b) allowed warning lights inside city limits, subsection (a) made it clear that drivers of approaching automobiles within the limits of incorporated cities and towns were not required to obey such signals.

Additionally common sense dictates such a reading of the statute since on heavily traveled streets in many of the

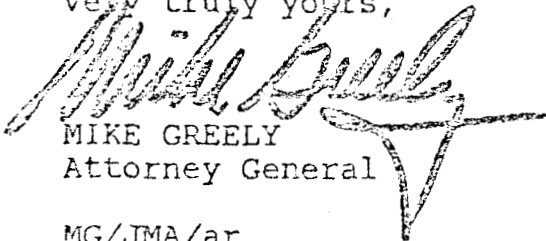
state's larger cities traffic from both directions would be halted when school buses were stopped with red lights flashing causing tremendous traffic control problems.

It appears that while drivers may not activate the red lights and certainly drivers of approaching vehicles need not obey such lights inside city limits there is nothing which prevents drivers of school buses from maintaining activated amber lights while stopped inside city limits as a warning to other motorists in the interest of safety of the school children involved.

THEREFORE, IT IS MY OPINION:

Senate Bill 322, Chapter 244, Montana Session Laws of 1977, does not alter Section 32-2197, R.C.M. 1947, and red lights on school buses need not be activated when a bus is stopped to load or unload students inside the corporate limits of a city or town. However, it is appropriate to maintain flashing amber lights on such vehicle while stopped to load or unload children as a warning to motorists in the interest of safety.

Very truly yours,



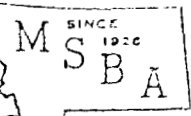
MIKE GREELY
Attorney General

MG/JMA/ar

501 North Sanders
Helena, Montana 59601
Telephone: 406/442-2180

Leonard H. Sargent, Executive Director
Wayne G. Buchanan, Director of Special Services

MONTANA SCHOOL BOARDS ASSOCIATION



DATE: February 28, 1979
TO: Senate Education Committee
FROM: Leonard H. Sargent, Executive Director
SUBJECT: Proponent Testimony on House Bill 132

This bill was introduced by Representative Eudaily at the request of the Montana School Boards Association. We are seeking passage of this bill as a result of a resolution proposed and passed by our Delegate Assembly and general membership in November, 1978.

This bill, if enacted, would affect all third class districts (with or without high schools). In surveying 273 such districts in Montana we found that the board size breaks down as follows:

- 218 have 3-member boards
- 10 have 4-member boards
- 38 have 5-member boards
- 6 have 6-member boards
- 1 has a 7-member board

It seems only proper to allow these districts to appoint qualified persons to fill vacancies on their boards themselves. The present law calls for the County Superintendent to make such appointments. In many cases of these districts, the County Superintendent serves as the administrator and supervises the general school program. It is a questionable management practice to have the administrator appoint members of a board he serves in this capacity.

We also feel that the responsibility for filling a vacated trustee position should be the duty of the remaining members of the trustees in all school districts. As a board they know what expertise they might want to seek in an appointed board member.

Representative Eudaily, in consultation with MSBA, has also added a requirement on page 6, line 2 which will avoid any problems of the trustees failing to fill a vacancy within a reasonable period of time, and this new language in Section 20-3-309, MCA, will be applicable to all Montana School districts.

We respectfully ask that the Committee give favorable consideration to House Bill 132.

- OFFICERS:
- PRESIDENT
George Lippert
P. O. Box 1255
Fort Benton, MT 59442
- VICE PRESIDENT
Earl Messick
Route #1, Box 1248
Libby, MT 59923
- IMMEDIATE PAST PRESIDENT
Larry Tveit
RR #1, Box 33
Fairview, MT 59221
- DISTRICT DIRECTORS:
- EARL MESSICK
RR #1, Box 1248
Libby, MT 59923
- GEORGE LIPPERT
Box 1255
Ft. Benton, MT 59442
- MARVIN BARTEL
Box V-73
Wolf Point, MT 59201
- LARRY TVEIT
RR #1, Box 33
Fairview, MT 59221
- ANITA JOHNSON
Route #1
Wistown, MT 59457
- CLAUDE LACKNER
Route 2
Missoula, MT 59801
- KERRY KEYSER
Box 126
Ennis, MT 59729
- WILBUR SPRING
RR #1
Belgrade, MT 59714
- LUCILLE OLDS
Box 1149
Red Lodge, MT 59068
- HAROLD PETERSON
P. O. Box 124
Colstrip, MT 59323
- MUNICIPAL:
- BILLINGS DIRECTOR
RITA HEIZER
2903 Radcliff Drive
Billings, MT 59102
- BUTTE DIRECTOR
BETTY LOU BERG
1208 W. Diamond
Butte, MT 59701
- GREAT FALLS DIRECTOR
MAME JUNKERMIER
2904 3rd Ave North
Great Falls, MT 59401
- HELENA DIRECTOR
PENNY BULLOCK
1200 Highland
Helena, MT 59601
- MISSOULA DIRECTOR
NE HILLER
145 Longstaff
Missoula, MT 59801

NAME: Phil Campbell DATE: 2-28-79

ADDRESS: 1232 E 6th Helena

PHONE: 442-4250

REPRESENTING WHOM? Mont. Education Assoc.

APPEARING ON WHICH PROPOSAL: HB 162

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

..... February 23, 1979

MR. President

We, your committee on Education

having had under consideration House Joint Resolution ~~HB~~ No. 32

Respectfully report as follows: That House Joint Resolution ~~HB~~ No. 32

BE CONSIDERED IN
ADD: PASS.