

MINUTES OF THE HUMAN SERVICES COMMITTEE MEETING  
January 28, 1981

The Human Services Committee Meeting convened at 12:00 noon on Wednesday, January 28, 1981, in Room 103 in the Capitol, with CHAIRMAN COULD presiding. All members were present.

HB 445

The hearing on HB 445 was opened by REP. AUDREY ROTH, who sponsored the bill to relieve problems of solid waste disposal, especially problems of small communities. She felt that one law should not encompass every community, as each has individual disposal problems.

PROPOSERS:

HOLLY FRANZ, formerly a legislative assistant to Congressman Ron Marlenee in Washington, D.C., testified that the State Department of Health and Environmental Sciences (DHES), has chosen to use the strict federal guidelines, rather than to consider the needs of the individual community. (EXHIBIT I)

DALE SKAALURE, Chouteau County Commissioner, stated that the Montana law is more stringent than the federal law. Even the "environmental" people feel the state has gone "too far," he said. For an example, he told of the dump situation at Loma. It is open three days a week and is supposed to be covered with six inches of dirt at the end of each day it is open. The county can afford to cover it only once a week as tax money from the road budget must be used. Therefore, the dump doesn't meet state requirements and isn't licensed. Another problem is that dumps in unincorporated towns are sometimes used by residents of larger towns, he said. (EXHIBIT II)

REP. KROPP, of Malta, representing District 5, testified in favor of the bill. BOB ADAMS, a lawyer for DHES feels variances should be granted. He suggested two amendments. Page 1, line 20, insert "on due notice", and the other on page 2, Subsection 4, inserting language stating that a variance would be no less restrictive than imposed by the Federal Resource Conservation and Recovery Act of 1976. (EXHIBIT IV)

SENATOR HAMMOND of District 3 stated that his district has seven small towns with disposal problems and he supports this bill.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE:

CHAIRMAN GOULD asked why this problem couldn't be handled by county commissioners from each county. DUANE ROBERTSON, Chief of the Solid Waste Management Bureau, stated that the problem could not be handled that way at this time under the present law. He feels a board of review should make the exceptions. REP. BRAND stated that some towns

have let out bids to have one central location to handle disposal and asked why others couldn't do the same.

MR. SKAALURE doesn't feel this would be workable in his community. If a \$15 fee per family were instituted in his county for garbage collection as in other places, there would be new county commissioners elected, he said.

REP. BRAND asked how many common dumps are set up in Montana. BOB ADAMS of DHES answered "about twenty-six." He also felt that the Legislature, by giving money to help counties that needed it, helped solve the problem to some degree .

REP. BARDANOUE asked how far the people of Highwood were hauling garbage.. MR. SKAALURE said an agreement has been made with a solid waste disposal company and a fee is charged, but some people are hauling their own to Great Falls, about 28 miles. But in Loma the people do not want to haul their garbage that far or pay the fee, so the dump is being subsidized by the road fund.

REP. BARDANOUE asked what is the required six inch cover for the dump. REP. SKAALURE said they tried to comply with the state regulations and use a six inch dirt cover, but there's as much dirt in the dump as garbage, and the dump fills up very fast.

REP. SEIFERT asked if septic tank dumping is considered solid waste dumping. He was told yes, by ADAMS. REP. SEIFERT then asked why that dumping was not allowed in a certified dump. He was told by ADAMS that the liquid waste disposal had to be considered on an individual basis, because there was a possibility of water being contaminated. REP. SEIFERT asked if the DHES has made any effort to handle this problem. ADAMS stated that his department is very workable at the present time.

REP. SEIFERT asked what alternative an individual has to dumping in a certified dump. Adams said a septic tank should be dumped on the ground and spread out where the moisture could dry out and not contaminate anything.

REP. SEIFERT asked what was to stop private garbage contractors from dumping in a county's solid waste box, when they are not allowed to dump in the county landfill dump. ADAMS said there really isn't any way to keep that from happening. They should make arrangements to dump at the proper time in the county landfill.

REP. SEIFERT asked if there are cases where the counties are competing with private collectors. ADAMS said the people in the district had a choice.

REP. KEYSER asked why MR. ADAMS felt this bill would weaken the present law, when variances can be granted even now. Adams said that if

variance is granted to a small community to cover their dump only once a week, it's much cheaper for them to operate. A centralized dump in a county is easier for the county to control. Forty yard "Greenboxes" located in various places in the county and picked up at regular intervals, have proved much more economical than operating several small dumps.

REP. NILSON asked if the wording of the bill would mean that personnel from the department would travel to the requesting community to grant variances. MR. ADAMS said that, if the original request is turned down, the request then goes to DHES in Helena.

REP. DEVLIN asked why the hearings were not held in the individual communities. He was told by Mr. ADAMS that the department was complying with the law, and that hearings were held approximately every two months.

REP. BRAND asked why the covering rules were so strigent. Mr. ADAMS said that covering prevents garbage from blowing around, fires from occurring, and rodents from infesting. The surrounding property values must be considered, he said. Final covering on a dump is supposed to be two feet and be done in a special way to prevent contamination.

REP. GOULD asked why the State Board of Health couldn't be scheduled at the location seeking a variance. Mr. ADAMS said it would require more scheduling and would be difficult for his department. There being no more testimony, REP. ROTH closed the hearing on the bill.

#### HB 419

The hearing on HB 419 was opened by REP. WALDRON who sponsored the bill at the request of the Department of Institutions. Its purpose is to revise and clarify definitions relating to alcoholism and drug dependence.

#### PROPOSERS:

MIKE MURRY, of the Alcohol and Drug Abuse Division of the Department of Institutions testified in favor of the bill. According to the present law, CARE UNITS of Butte and Missoula are not eligible for state approval as an alcohol program, because they are owned by a corporation, CARE, of California. He feels this bill will rectify the situation by clarifying the definitions.

#### OPPOSERS:

PHIL STROPE, appeared for the Montana Tavern Association, the organization representing the people that contribute about 60% of this program budget, he said. He felt that this law does more than clarify definitions. He feels that it will remove the requirement that these institutions or agencies be nonprofit. They want to allow profit-motive institutions to be approved. Further, he said, the bill would allow those profit-motive corporations, by the changes on

line 20 to become agencies of the state and to get the rights, duties, and privileges of a state agency. Also, it would change the law, it would further tax the alcohol industry on support. He feels that page 3, subsection (8) (c) states that nothing will be prohibited in the expenditure of alcohol treatment. He feels it is an earmarked tax fund for alcohol and drug abuse, he said. AA is an organization which is not tax supported, but does treat alcoholism.

QUESTIONS FROM THE COMMITTEE:

REP. METCALF asked if CLINT GRIMES interpreted this bill in the same way that Mr. STROPE had. CLINT GRIMES, representing the Executive Secretary of the Council on Alcoholism of Montana, said that he does not agree with Mr. STROPE. He felt the bill is designed to allow Mr. MURRAY's office to evaluate the programs of private alcohol treatment facilities in Montana, to see that they meet the requirements set forth by the state.

REP. METCALF asked if the new language inserted, conforms with the present standards. Mr. GRIMES said the substitute language follows a nation-wide trend to combine alcohol and drug treatment and to have a standard definition.

REP. GOULD asked why Mr. GRIMES agency isn't writing bills to prevent tax money, provided by HB 627, from sometimes being used to buy such items as police cars. Mr. GRIMES said that the tax money is broken up into three parts. Some of the money is allocated to cities and towns to be used for law enforcement not always related to alcohol. There is an attempt to use money allocated by the last legislature to create a better DWI laboratory for testing Breathalyzer samples and also to hire counselors.

REP. BARDONOUVE asked why the bill would create a "state agency." PHIL STROPE said that, by leaving the bill as it is written, he feels it does create a state agency out of these private treatment centers, as it will make them eligible for receiving state money.

REP. BARDANOUVE asked RUSS JOSEPHSON, legal counsel for the committee, how he defined the section dealing with this matter. RUSS JOSEPHSON said that it was a "gray" area, that he couldn't say whether we were creating a state agency in effect. It could be considered treatment being given on a contract basis between the state and a private entity. He wouldn't say, per se, that this would create a "state agency" in the way we normally understand the term.

REP. BARDANOUVE pointed out that the state contracts with the Yellowstone Boys' Ranch for services, but that doesn't make the Ranch a state agency.

REP. MENAHAN asked if the state means to contract with the CARE UNITS for treatment. MIKE MURRY said "no". He said that they are presently

getting approval for the unit in Butte, but as the law reads now, we would not be able to get the approval. The agency in Glasgow is no longer receiving state funds. If the department were taken to court, he said, it would lose the ability to supervise and evaluate the alcohol program at Glasgow. REP. BRAND asked how much this would cost the state. Mr. MURRAY said "nothing".

REP. BRAND asked how other states are handling the trend to combine drug treatment with alcohol treatment. Mr. MURRAY said that most persons with alcohol problems also have drug dependence problems, so must both be treated at the same time.

REP. MENAHAN asked how MIKE MURRAY felt about the proposed amendment on line 22. Mr. MURRAY felt that it would expand the meaning. REP. MENAHAN asked if this would protect the general public. Mr. MURRAY felt that it would.

REP. BARDANOUVE asked why Glasgow was no longer receiving funds. Mr. MURRAY said they chose to become financially independent of the state after operating for three years and are now able to support themselves.

REP. KEYSER said the bill seemed inconsistent in that it included "drug" treatment, yet does not specifically mention drugs again in the remainder of the bill in regard to treatment or information. He asked Mr. MURRAY why the bill was worded in this manner. Mr. MURRAY said he was only authorized to do it this way. REP. WALDRON said the Legislative Council approved the wording of the bill. He then closed the hearing on the bill.

#### HB 420

REP. WALDRON opened the hearing on HB 420. It is designed to delete the distinction between public and private alcohol treatment facility standards and revising required facility standards. It was requested by the Department of Institutions. As the law now reads, evaluation is not comprehensive, but concerns only the treatment portion of a program.

#### PROPOSERS:

MIKE MURRAY said program management, staff, personnel, all of which are important to a treatment program, are not allowed under the present law. This bill has been requested because of problems which developed when a half-way house in Billings had its license revoked. The board of directors had not met for two years, and said it didn't have to abide by the department's judgment. Personnel files, staff performance, client treatment etc. should be included he said. State approval provides that a treatment facility may receive county, state or federal funds. The halfway house in Billings was able to operate for 18 months after approval was denied by a stalling process in having a hearing. The facility was not safe, food was inadequate, sanitation was not adequate, yet the state was not able to close the facility, he said.

OPPONENTS:

PHIL STROPE said this law might allow abuse in granting approval. He felt the state would become extremely powerful in giving or denying approval. He said it would be giving the state a "blank check".

REP. BARDANOUVE said he helped pass the Montana Administrative Procedures Act which established a hearings process. He asked Mr. STROPE why he felt this did not cover the problem being discussed. Mr. STROPE said that the deletion on page 2, line 13 prevents a hearing without notice. He felt also, section 7 should be left in.

REP. WALDRON closed the hearing.

EXECUTIVE SESSION:

HB 80

REP. PISTORIA, sponsor of the bill said he had no notification that he should prepare anything for this hearing, and that he had no amendments to present. He said that Rep. Siefert had suggested that the state bonding procedure might be used in this case, but it isn't known at this time. He feels action on this bill should be held in committee until further information is presented.

HB 172

REP. BERGENE moved a DO PASS for HB 172. REP. GOULD said that the county health department had suggested several amendments to this bill, but that he felt they should not be used. REP. BERGENE felt that the county health department should present a bill of their own, rather than amending this one. The motion was seconded and PASSED UNANIMOUSLY.

HB 246

REP. KEYSER said he felt this bill presented a "piecemeal" way of handling custody disputes. He felt the county people should continue handling this problem, so there would be continuity. He moved that the bill DO NOT PASS. REP. METCALF said that some counties use social workers and some do not as there aren't any available. REP. CONN said that JUDY CARLSON said that people who could afford professional help were using county workers for this purpose, to avoid additional cost. She thought it would remove an unnecessary burden for the social workers. REP. BARDANOUVE said that a court may determine if there should be a charge for this service. REP. SWITZER stated that Mrs. CARLSON's testimony indicated that they (SRS) do most of the investigating anyway. REP. KEYSER said he thinks the title is misleading. REP. BARDANOUVE said the purpose is to allow persons on welfare to have custody disputes settled. REP. CONN moved a substitute motion of DO PASS. It was seconded and PASSED. Committee members opposing the motion were REP. KEYSER and REP. PAVLOVICH.

HB 249

REP. MENAHAN moved for a DO PASS AS AMENDED. Members discussed a possible statement of intent and the number and suggested staggered terms for the advisory committee. Also suggested was a deletion of the appropriation part of the bill. Amendments suggested were:

RUSS JOSEPHSON, legal counsel for the committee, felt a statement of intent should be drawn up. REP. KEYSER said it was already in the bill. REP. GOULD moved that we accept the proposed amendments. They PASSED UNANIMOUSLY.

REP. BARDANOUE moved that REP. MENAHAN and RUSS JOSEPHSON draw up a Statement of Intent. The motion was seconded and PASSED.

REP. METCALF asked if REP. MENAHAN would like any provision for reappointments to the advisory committee. REP. MENAHAN then moved that on page 4, line 10, the word "new" be stricken. The motion was seconded and PASSED UNANIMOUSLY.

REP. WINSLOW said he felt that the state was encroaching on an area that should be handled on a volunteer basis. REP. MENAHAN referred to the part of the bill that states "who are unable to pay". REP. DEVLIN asked if the board was needed, and REP. MENAHAN said he felt it did. REP. BERGENE asked REP. WINSLOW if he thought the private sector should be raising some of the money. REP. WINSLOW answered yes. REP. BERGENE asked if the bill would make the hemophilia committee eligible for federal funds. REP. BENNETT asked why there was a provision for expenses for board members. REP. MENAHAN thought a board member who was a person with low income, would need this help. The motion to pass the bill as amended was UNANIMOUS, EXCEPT FOR REPS. WINSLOW and DEVLIN who voted NO.


HB 268

REP. SEIFERT moved for a DO NOT PASS. It was seconded by REP. WINSLOW and PASSED UNANIMOUSLY.

JUDY CARLSON appeared before the committee and was asked by REP. SEIFERT if she had any new information on HB 80. She said she had requested some, but hadn't received any.

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The meeting was adjourned at 2:35 p.m.

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BUDD GOULD

rj



Mr. Chairman and members of the committee:

For the record my name is Holly Franz. I am currently employed in the House Steno Pool but prior to my employment here I worked as a legislative assistant to Congressman Ron Marlenee in Washington, D.C. One of my areas of responsibility was solid waste management. This is an area of intense concern to Mr. Marlenee and as a consequence, I became very involved in the subject.

I am familiar with both the federal and state statutes and regulations dealing with solid waste management. One of Montana's, and especially Montana's rural communities, major difficulties has been the broad imposition of inappropriate federal standards. In the case of solid waste, the federal government had the foresight to allow the states some discretion in the operation of sanitary landfills. Unfortunately, the State Department of Health chose to impose strict standards statewide.

Last summer I spoke with many health officials from surrounding states. Several expressed amazement when told that Montana applies a uniform standard statewide with no provisions for varying factors. The majority of these states had some mechanism for variances or differing standards for small towns.

Before I close, allow me to relate a common circumstance. The town of Saco, with less than 500 inhabitants, operates an open dump. They were notified by the Department of Health that they must upgrade their dump. However, under present state requirements, the upgrading of the Saco dump site was economically prohibitive. I am sure you can imagine why a city the size of Saco would have difficulty complying with the same standards that apply to Billings and Helena. Saco decided to ignore the state's order. As a result, not only does Saco now face noncompliance fines but no improvement at all was made to the Saco dump. A variance provision would allow Saco and other towns in a similar situation to petition for a variance and hopefully to fashion sanitary landfill requirements which relate closer to the problem which they are designed to meet.

In these times of tight economics and even in times of not-so-tight economics, it makes no sense to impose overly restrictive standards when the desired results could be achieved through different means. While I wholeheartedly support environmental protection, the level of protection and regulation must be designed to meet the individual situation. Anymore simply ties up limited resources which could otherwise be used to meet other, more pressing demands. I believe Representative Roth's bill, HR 445, is a step toward applying appropriate solutions to our state's problems and I support it and urge your support also.

Proposed Amendments to the Introduced Copy of House Bill 445:

1. Page 1, line 20.

Following: "except after a"

Insert: "public"

2. Page 1, line 20.

Following: "hearing"

Insert: "on due notice"

3. Page 2, lines 2 through 4.

Strike: Subsection (4) in its entirety

Insert: "(4) Under no conditions may a variance be granted by the board that would result in a less stringent requirement or degree of control than would be imposed by the applicable federal regulations adopted under the federal Resource Conservation and Recovery Act of 1976, as amended".

HOUSE Human Services COMMITTEE

COMMITTEE

NB 445

Date 1-28-81

Both

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE Human Services COMMITTEE

DTLL

NB 419

Date \_\_\_\_\_

1-28-81 ~~30~~

SPONSOR

Waldron

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME DALE SKAALIKE BILL No. 713 445  
ADDRESS Big Sandy DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT Chouteau County Comm - Mace  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The MT law is more stringent than the Fedr  
It is very difficult to abide with a regulation  
that is pointed toward an urban need  
The cost and the location has to be accomplished  
by local govt. why not more latitude in  
implementing & answering the needs of local taxpayers  
financially & otherwise.  
I don't like the threat - if we don't comply - relating to submission cert.

NAME Bob Adams BILL No. HB 445  
ADDRESS Helena, MT DATE 1/28/81  
WHOM DO YOU REPRESENT MT DHEES  
SUPPORT X OPPOSE          AMEND w/ slight amendment  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

DHEES supports a variance procedure with the request for slight amendment to insure public hearing on due notice prior to granting a variance; furthermore, DHEES seeks to clarify that nothing less restrictive than the federal Resource Conservation and Recovery Act of 1976 be contained a variance!