

STATE ADMINISTRATION
JANUARY 29, 1981
RM 436

The meeting of the house State Administration Committee was called to order at 8:00 a.m. on Thursday, January 29, 1981 with Chairman Jerry Feda presiding. Excused were Representatives Kennerly, O'Connell and Ryan. Representative Azzara was absent.

HOUSE BILL 313-SPONSOR, Representative Jensen, stated that the issue addressed in this bill had already been addressed in another bill of which he was not aware until just recently. Therefore, he asked the committee to table HB 313. No hearing was held.

Chairman Feda opened the hearing on HB 291.

HOUSE BILL 291-SPONSOR, Representative Huennekens, introduced HB 291 at the request of the Department of Social and Rehabilitation Services. This bill permits the Department to determine whether expenditures from the poor fund of a county seeking an emergency grant-in-aid have been reasonable and necessary in providing assistance to the needy according to the criteria set by the Department.

PROPOSERS

JUDY CARLSON, Dept. of Social and Rehabilitation Services, submitted testimony in support of HB 291. A copy of her written testimony is attached and is EXHIBIT 1 of the minutes.

OPPOSERS

HAROLD McLAUGHLIN, Cascade County, Great Falls, MT., arose in opposition to HB 291. Mr McLaughlin said that determining what is reasonable and necessary services does not take into consideration variables that occur during a fiscal year, therefore, he stated, it is sometimes necessary for a nursing home (he was referring to the one in Great Falls) to experience a deficit and require more funds to make up that deficit. The Department of S.R.S. has already determined a reasonable and necessary circumstance for nursing home reimbursements. Our fear is that if this bill is adopted it will give the Department further authority to deny utilization of grants made to meet the medical needs of members of the county who have to be members of the nursing home when the deficit occurs.

BEVERLY GIBSON, Montana Assoc. of Counties, appeared in opposition to HB 291. She said they are opposed to this bill because it is not necessary. If you will examine the current law, she stated, you will note that it states when a county commissioner applies to the state for a grant they must submit a sworn affidavit that their funds have been spent in a lawful manner.

Chairman Feda opened the hearing to questions from the committee.

Representative Kropp said that it appeared to him that this bill was primarily to help the larger cities.

Representative Huennekens answered that was true concerning the aid beyond the 13-1/2 %.

Representative Sales said that it seemed funny they would strike out the old language in the bill "and other information required by the department" and put in something that would be confining.

Judy Carlson said that they could ask for the information but could not act on it. This new section would allow us some judgement concerning the information received.

Representative Spilker said that just because someone applies for a grant does not mean that you have to give it to them. (in the form of a question)

Ms. Carlson said there are four criterion, if they meet the four criterion we would have to give it to them.

Representative Huennekens closed the hearing on House Bill 291.

HOUSE BILL 328-SPONSOR, Representative Kanduch, introduced this bill to the committee. This bill proposes an amendment to the Montana Constitution to permit the State Legislature to limit the number of initiative measures that may appear on the ballot at a general election. If approved by the voters, this amendment is effective January 1, 1983. A copy of Representative Kanduch's statement is attached and is EXHIBIT 2 of the minutes.

PROPOSERS-HB 328

BILL HAND, representing Montana Mining Assoc. in Helena, stated that people do not know what they are voting for because there are too many initiatives on the ballot. He said that he did not think the people of Montana realized that were banning uranium mining in Montana when they voted for initiative 84. He said they thought they were protecting Montana from becoming a nuclear waste dump ground.

DAVID JOHNSTON, Operating Engineers, Montana Motor Carriers Assoc., arose and stated his opposition to the bill.

F. H. Boles, Montana Chamber of Commerce, stated that they did not have a problem with the initiative process but did feel there might come a time when the number of initiatives will be so great it will make the voting process cumbersome.

TOM JACOBSON, Missoula, said that limiting the number of initiatives would create a degree of competition between initiative groups which would enhance their organizations.

BEN HAVDAHL, Montana Motor Carriers Assoc., concurred with Mr. Boles testimony.

PAUL KROPP, Representative Dist. 5 Malta, arose and stated for the record his support of HB 328.

OPPOSERS

CAROLE BRASS, Citizens Legislative Coalition, stated that since the initiative process began in 1912 the voters have considered 33 initiatives in the past 35 elections. That is an average of less than 1 per election. There have never been more than 4 initiatives on any ballot. To set a number higher would be needless regulation since we have a self regulating system. To set the number lower than the average would be to set it at 0, which is probably the real intent of the bill.

JOY BRUCK, League of Women Voters of Montana, stated the league is opposed to HB 328 because the bill would definitely restrict the citizen's right to participate in the governmental process. This bill would allow the Legislature the authority to restrict any or all initiatives from the ballot. Also who would determine which initiatives would go on the ballot if more qualified than the limit allowed.

ART KUSSMAN, representing himself, gave testimony in opposition to House Bill 328. A copy of his written testimony is attached and is EXHIBIT 3 of the minutes.

KELLY JENKINS, representing the common cause, said that this bill would suggest that the public is not intelligent enough to consider more than one issue at a time. "Where will the line be drawn?" The problem is a matter of context not the number of issues.

Chairman Feda opened the hearing to questions from the committee.

Representative Sales asked Representative Kanduch who would determine which initiatives would go on the ballot if more than the limit allowed qualified.

Representative Kanduch said that he had not considered that question.

Representative Winslow asked Ms. Brass if she had any suggestions as to how the language in the initiatives could be simplified so people could understand them better.

Ms. Brass said in order to keep everything legal and exact it is very hard to do.

Representative Kanduch closed on House Bill 328.

HOUSE BILL 330-SPONSOR, Representative Kanduch, introduced HB 330 which revises the composition of the Board of Health and Environmental Sciences to include: Two members having professional qualifications in a human health service licensed by a board within a department of professional and occupational licenses, one veterinarian licensed in Montana, one representative of agriculture, one representative of the manufacturing industry, one representative of the energy industry, and an attorney licensed in Montana. A copy of Representative Kanduch's testimony is attached and is EXHIBIT 4 of the minutes.

PROPOSERS

ALLEN SHUMATE stated that the economic impact the board makes here in the state should be considered. It is very important to have someone on the board that understands money.

HB 330 (cont.)

JAMES MOCKLER, Montana Coal Council, said that the board should be composed of members of whom represent themselves and fields they are familiar with.

GARY LANGLEY, WETA, stated that we need to have expertise on the board.

BILL HAND, Montana Mining Assoc. office in Helena, arose in support of HB 330.

F. H. BOLES, Chamber of Commerce, stated his support for the bill.

DON ALLAN, Mont. Petroleum Assoc., arose and stated his support for HB 330.

OPPONENTS

JOHN BARTLETT, Department of Health and Environmental Sciences, gave testimony in opposition to HB 330. A copy of his testimony is attached and is EXHIBIT 5 of the minutes.

JAN FLAHARTY, Missoula, gave testimony in opposition to HB 330. A copy of his written testimony is attached and is EXHIBIT 6 of the minutes.

JIM JENSEN, Lobbyist, representing the Sr. Citizens Assoc., gave testimony against HB 330. A copy of his testimony is attached and is EXHIBIT 7 of the minutes.

Others appearing in opposition to House Bill 330, who had concurring information, are listed below.

STEVE DOHERTY, Northern Plains Resource Council

JOAN MILES, Environmentalist

MARK MACKEN, Citizens' Legislative Coalition

MIKE O'Malley, Common Cause

WILLA HALL, League of Women Voters in Montana

RICHARD STEFFEL, Self

Chairman Feda opened the hearing to questions from the committee.

Representative Briggs asked Mr. Allan how a professional could help decide what is good for an industry if they know nothing about that particular industry.

Mr. Allan said there is no way they can be experts in every field but they could learn about the different issues if they were an educated professional.

Representative Sales said that in Ms. Miles testimony she said the board had granted 95 out of 99 requests. Possibly they had been put in a position of having to comply with the request because they were not experts enough in the field to argue the request.

Representative Dussault asked Representative Kanduch if the underlying reason for this bill was not the fact that he had been forced to go out of business in 1971 because he could not meet the demands of the air quality board.

Representative Kanduch admitted that this was part of the reason and also because there has been discrimination against many smaller business. He said the Anaconda Company was also part of the reason.

Representative Kanduch closed the hearing on House Bill 330. He said that if we leave this decision up to the government we will get a "stacked deck". He also said that the past two Governorshave been environmentally oriented. He said we have to be concerned for job safety as well as for the environment.

EXECUTIVE SESSION HB 313

TABLED

A motion was made, at the request of the sponsor, to TABLE HB 313. A vote was taken and carried unanimously.

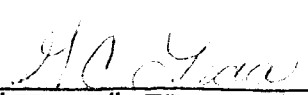
HB-423

TABLED

Representative Pistoria, sponsor of HB 423, requested that this bill be tabled. A vote was taken and carried unanimously.

A motion was made to adjourn at 10:30 a.m.

Respectfully submitted,



G. C. "JERRY" FEDA, Chairman

Cathy Martin-Secretary

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EXHIBIT 1

Testimony on H. B. 291

An Act to Allow the Department of Social and Rehabilitation Services to
Set Criteria for Determining Reasonable and Necessary Expenditures by
Counties Applying for Grants-in-aid

The Department of Social and Rehabilitation Services requested introduction of this bill in an effort to restrict demands on the general fund. As many of you know, counties in Montana are held to a 13 1/2 mill levy for their county poor funds. Because there are so many unknowns at the time the counties must approve their budgets, it occasionally happens that a county will have obligatory expenditures over and above the 13 1/2 mills. For example, economic distress can bring more clients onto the public assistance programs. Or tax assessment issues can cause fewer taxes to be collected than anticipated. Or required payment of costs associated with a catastrophic illness of an indigent person can balloon the expenditures in the county medical program. So there are legitimate reasons why a county should be able to come to the state to ask for a grant-in-aid when their poor fund is depleted; and state law permits this.

As long as a county can stay within its mill levy, the grant-in-aid section of the law does not apply. But if a county must request a grant-in-aid, the state must have some responsibility to assure that the county expenditures have been prudent - reasonable and necessary. The present law sets forth the procedure for applying for and receiving a grant-in-aid. But it does not explicitly give the state - the department - the authority to insure that all expenditures from the county poor fund have been reasonable and necessary according to set criteria. This bill would add that authority.

The Department of Social and Rehabilitation Services urges your favorable consideration of this bill.

Judith H. Carlson
Deputy Director, SRS

HOUSE BILL 328

By Kanduch, et al

This bill seeks to amend Article III, Section 6 of the Montana Constitution to permit the Legislature to limit the number of initiatives which may be placed on the ballot.

At the present time, the Constitution does not authorize any limitation on the number of initiatives which may be placed on the ballot. If all of the initiatives which were circulated before the last election received the required number of signatures, the voters of this state would have been confronted at the polling place with making up their minds on ten separate initiatives which they likely had neither read nor understood.

All my bill does is to enable the Legislature to place some limit on this sea of confusion, should it so desire, at some future time. It does nothing more.

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HB 328

TABLE OF BALLOT

YEAR, No.	SUBJECT	% FOR	SEC STATE	TYPE	SOURCE	BILL No.
1889:1	Ratify Constitution	91.6		Ratify Const	1889 Con Con	
1892:1	Locate Capital			Const Referend	1891L p 291	H 59
--- 2	Overlap Commissioner Terms	83.7		Amend XVI s 4	1891L p 294	H 16
1894:1	Capital: Helena or Anaconda	51.8		Const Referend	1891L p 293	H 59
1896:1	Restrict Voting Eligibility	20.1		Amend IX s 2	1895PC s5201	S 60
1898:1	Substitute Supreme Court Justices	69.2		Amend VIII s 5	1897L p 57	H166
2	Overlap Commissioner Terms	70.0		Amend XVI s 4	1897L p 56	H 56
1900:1	Substitute Supreme Court Justices	70.2		Amend VIII s 5	1899L p 152	H188
1902:1	Six-Year Commissioner Term	56.3		Amend XVI s 4	1901L p 208	H 55
1904:1	Child Labor Law	88.4		Amend XVIII s3	1903 2dX	SbH1,2,4
2	Eight-Hour Day	92.4		Amend XVIII s4	1903 2dX	SbH1,2,4
1906:1	Establish Initiative and Referendum	84.6		Amend V s 1	1905L c 61	H286
1908:1	State Depository Board	73.3		Amend XII s 14	1907L c123	H352
2	Raise State Tax Rate	35.4		Amend XII s 9	1907L c154	H257
3	\$500,000 University Bonds	65.8		Bond Issue	1907L c 58	H145
1910:1	Extend State Mill Levy Limit	65.9		Amend XII s 9	1909L c 4	S 12
1912:1	Use of State Militia	33.7	300-1	Petit Referendum	on 1911L c145	
2	Primary Nominating Elections	78.3	302-3	Initiative	Text 1913L p570	
3	Limit Campaign Spending	76.5	304-5	Initiative	Text 1913L p593	
4	Voter Selection of Senators	78.6	306-7	Initiative	Text 1913L p617	
5	Presidential Preference Primary	79.2	308-9	Initiative	Text 1913L p590	
6	\$650,000 Asylum Bonds	52.9		Bond Issue	1911L c144	H274
1914:1	Women Suffrage	52.2		Amend IX s 2	1913L c 1	S 1
2	10-Year University Mill Levy	38.3		Legis Referend	1913L c117	H309
3	Consolidate University Units	39.7	I 9	Initiative		
4	Workmens Compensation	45.5	I 7	Initiative		
5	Farm Loans	61.9	I 8	Initiative	Text 1915L p485	
6	Legalized Boxing	44.7	R 6	Petit Referendum	on 1913L c 97	H154
1916:1	Liquor Prohibition	58.2	R10	Legis Referend	1915L c 39	H224
2	Equalize State Property Tax	55.0		Amend XII s 15	1915L c 47	H 22
3	Religious Properties Tax Exemption	36.9		Amend XII s 2	1915L c 48	H 73
4	State Prison Twine Factory	46.2		Bond Issue	1915L c106	H417
5	Legalized Boxing	48.5	I11	Initiative		
1918:1	Tax Exemption for Mortgages	64.4		Amend XII s 2	1917L c142	H 18
2	Legalize Chiropractors	54.1	I12	Initiative	Text 1919L p582	
3	State Grain Elevator Bonds	64.7		Bond Issue	1917L c150	H 16
1920:1	Abolish Direct Primary	43.8	R13	Petit Referendum	on 1919L c113	S124
2	"Close" the "Open" Primary	47.2	R15	Petit Referendum	on X1919L c28	S 32
3	Repeal Presidential Primary	43.2	R16	Petit Referendum	on X1919L c27	S 30
4	State Board of Administration	41.2		Amend VII s 20	X1919L c 25	S 18
5	Appointive State Tax Commission	44.8		Amend XII s 15	1919L c 47	H 7
6	Reinvest State School Funds	58.7		Amend XI s 5	1919L c149	H182
7	\$5 Million Building Bonds	57.7	I19	Initiative	Text 1921L p701	
8	10-Year University Mill Levy	53.7	I18	Initiative	Text 1921L p700	
9	\$20 Million Reclamation Bonds	47.2	I20	Initiative		
10	\$15 Million Highway Bonds	38.1	R23	Bond Issue	1919L c169	S 46
11	County-Option Boxing Legalized	55.7	R14	Legis Referend	1919L c190	H183
1922:1	Local Government Options	57.3		Amend XVI s 7	1921L c113	H 22
2	Appointive State Board of Equalization	55.4		Amend XII s 15	X1921L c 11	S 11
3	\$4.5 Million Veterans Bonus	52.1	R25	Legis Referend	1921L c162	H193
4	Pari-Mutuel Racing	47.5	I26	Initiative		
1924:1	Metal Mines Tax	57.2	I28	Initiative	Text 1925L p489	
2	\$4.5 Million Veterans Bonus	49.4		Amend: add XXII	1923L c137	H409
3	Qualification of School Superintendents	64.6		Amend IX s 10	1923L c 97	S 5
4	Educational Trust Funds	59.9		Amend: add XXI	1923L c134	H 27
5	Repeal Presidential Primary	57.5	R27	Legis Referend	Text 1925L p488	
1926:1	Repeal State Liquor Prohibition	53.3	I30	Initiative	Text 1927L p603	
2	"Good Roads" Gas Tax	73.1	I31	Initiative	Text 1927L p604	
3	County Hail Insurance	44.6		Amend XII s 19	1925L c 91	S 55
4	State Public School Levy	38.0	R29	Legis Referend	1925L c170	
1928:1	County Commissioner Districts	60.4		Amend XVI s 4	1927L c 72	S 17
2	Enact Federal Liquor Prohibition	45.9	I32	Initiative		
1930:1	10-Year University Mill Levy	53.5	R34	Legis Referend	1929L c138	SbH86
2	\$3 Million Building Bonds	57.2	R33	Bond Issue	1929L c126	H268
1931:1	\$6 Million Highway Bonds	73.9		Bond Issue	1931L c 95	H450
1932:1	Taxpayer Voting Qualification	72.3		Amend IX s 2	1931L c101	S 5
2	Legislative Vacancies	75.5		Amend V s 45	1931L c137	H 71
1934:1	Income Tax	63.5		Amend XII s1(a)	1933L c 83	H147
2	Consolidate County Offices	65.7		Amend XVI s 5	1933L c 80	H121

KEY: Sec State = number assigned by secretary of state (see Page 52). TYPE: Amend XVI s 4 = Article

116: The Members of the ⁽³⁾ House Judiciary Committee. 1-29-81

#HB 328

EXHIBIT 3

The ballot initiative process in Montana and in other states of the U.S. is a carefully guarded right of a free people. It is the means whereby the people of a state can get legislative action, when the individuals they have elected fail to take action.

In a sense, the roots of this hard won right are grounded in history. As early as 1215, the people of England wrested certain rights from their "divine-right-of-kings" rulers...and around the world the battle is still going on today; for example, in present day Poland, where freedom minded citizens, through the action of their unions, are trying to get out from under Communist tyranny.

Today, in Montana, we have a different but related contest taking place. In the Montana Senate, we have a small but well funded special interest minority attempting to "turn the clock backwards" through bills introduced by ~~which~~ which are designed to stifle the initiative process.

Representative Kanduch

In their eyes the enactment of these bills would be progress. The Montana Chamber of Commerce, the Montana Taxpayers Association, and others, don't want to reveal the source of income for their considerable lobbying efforts. They first tried to kill Initiative 85 by legal maneuvering--thwarting the expressed will of Montana voters. And now, to make sure that Montana voters are properly muzzled, they are attempting to uproot the initiative process--the carefully thought out right given to Montana citizens by the Montana Constitution.

Legislators should not lose sight of the fact that the privilege of being a legislator carries with it certain responsibilities and a definite accountability. Citizen-voters have the capacity to elect qualified legislators, they must also have ~~a~~ ^{the} ability to initiate needed legislation through the initiative process, when the situation calls for it.

In today's world, with the availability of excellent daily newspaper and other media coverage of events, votes in the legislature on crucial issues such as these will not be lost in the shuffle. Rank and file voters--even though not organized into narrow special interest lobbying groups--are noting what happens in the legislature.

They are watching, ~~listening~~, and ~~waiting to vote again~~.

Sincerely,

Art Kussman

Art Kussman
409 S. Montana
Helena, MT 59601

*Waiting, listening
and getting ready to
vote again.*

HOUSE BILL 330By Kanduch, et al

First of all, I will explain to the Committee what my bill does and then point out my reasons for this proposal.

The Board of Health and Environmental Sciences consists of seven persons appointed by the Governor. The statute creating the Board requires that at least two members be persons having professional qualifications in human health service and one member be a doctor of veterinary medicine.

The other four members must have demonstrated intelligent and active interest in the field of public health.

My bill deletes the requirement of a demonstration of intelligence by the four nonprofessional members and requires that one be a representative of agriculture; one a representative of the manufacturing industry; one a representative of the energy industry; and finally, one licensed to practice law in this state.

The Board, as structured under the existing law, has competence in health matters by reason of the three professionals mandated by law. It does not, however, have any expertise on its membership to aid in determining the most cost effective requirements to accomplish the health standards to be imposed upon the agriculture, manufacturing or energy industries.

I submit to you that my proposal is designed to improve the competence of the Board. Certainly the representatives of agriculture, manufacturing and energy can all have an active interest in the field of public health. Their knowledge of each particular industry would add immeasurably to their effectiveness in arriving at a proper standard. The existing void in this important area would be materially reduced.

I urge your approval of this bill.

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330

EXHIBIT 5

STATE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES*Office Memorandum***RECEIVED**TO : John Bartlett

DATE: January 27, 1981

FROM : Don Willem's *DW*

JAN 27 1981

SUBJECT: Federal Requirements for Memberships on Boards

**MDHES
DIRECTOR'S OFFICE**

I have reviewed the Federal Clean Air and Water Acts as to their requirements for Board memberships. This first came up when we applied for administration of the wastewater discharge permit program. Section 304(i)(2)(D) of the Clean Water Act states:

(2) within sixty days from the date of enactment of this title promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

(A)...

(B)...

(C)...

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

40 CFR Chapter 1, Subpart E, 123.42 (copy attached) adopted pursuant to the above further outlines the requirements. Also attached is a copy of a letter dated March 11, 1974 which transmitted Montana's application for the program.

The Clean Air Act as amended August, 1977 also contains a provision in Section 128 (copy attached) for boards. As far as I can determine EPA has never adopted regulations for this section and has never enforced this provision.

I have discussed the above with Ken Alkema of EPA and he will get back to me as soon as possible on what EPA thinks of HB 330 and how it might affect our programs.

jg

cc: Rita Sheehy
Steve Perlmutter

Part E—Planning and Conflict of Interest Requirements

Subpart F—Procedures for Approval of State Permit Programs

§ 123.41 Continuing planning process.

Any State permit program shall have an approved continuing planning process under 40 CFR Part 35, Subpart G and shall assure that its approved planning process is at all times consistent with the Act.

§ 123.42 Agency board membership.

(a) Each State permit program shall ensure that any board or body which approves all or portions of permits shall not include as a member any person who receives, or has during the previous two years received, a significant portion of income directly or indirectly from permit holders or applicants for a permit.

(b) For the purposes of this section:

(1) "Board or body" includes any individual, including the Director, who has or shares authority to approve all or portions of permits in the first instance, as modified or reissued, or on appeal.

"Significant portion of income" shall mean 10 percent of gross personal income for a calendar year, except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving that portion under retirement, pension, or similar arrangement.

(2) "Permit holders or applicants for a permit" shall not include any department or agency of a State government, such as a Department of Parks or a Department of Fish and Wildlife.

(3) "Income" includes retirement benefits, consultant fees, and stock dividends.

(c) For the purposes of this section, income is not received "directly or indirectly from permit holders or applicants for a permit" where it is derived from a mutual fund payments, or from other diversified investments over which the recipient does not know the identity of the primary sources of income.

§ 123.51 Section 402 approval process.

(a) After determining that a State program submission is complete, EPA shall publish notice of the State's application in the FEDERAL REGISTER, in enough of the largest newspapers in the State to attract statewide attention, and mail notice to persons known to be interested in such matters, including all people on EPA mailing lists under § 124.41(b) and appropriate State mailing lists and all permit holders and applicants within the State. This notice shall:

(1) Provide a comment period of not less than 45 days during which interested members of the public may express their views on the State program;

(2) Provide for a public hearing within the State to be held no less than 30 days after notice is published in the FEDERAL REGISTER;

(3) Indicate the cost of obtaining a copy of the State's submission;

(4) Indicate where and when the State's submission may be reviewed by the public;

(5) Indicate whom an interested member of the public should contact with any questions; and

(6) Briefly outline the fundamental aspects of the State's proposed program, and the process for EPA review and decision.

(b) Within 90 days of the receipt of a complete program submission under § 123.3 the Administrator shall approve or disapprove the program based on the requirements of this part and of the Act and taking into consideration all comments received. A responsiveness summary shall be prepared by the Regional Office which identifies the public participation activities conducted, describes the matters presented to the public, summarizes significant comments received and explains the Agency's response to these comments.

(c) If the Administrator approves the State's section 402 program he or she shall notify the State and publish notice in the FEDERAL REGISTER. The Regional Administrator shall suspend



State of Montana
Office of The Governor
Helena 59601

THOMAS L. JUDGE
GOVERNOR

March 11, 1974

Mr. Russell E. Train, Administrator
U. S. Environmental Protection Agency
Washington, D. C. 20502

Attention: Mr. John A. Green, Regional Administrator
Region VIII, EPA
1860 Lincoln Street, Suite 900
Denver, Colorado 80203

Dear Mr. Train:

In accordance with the provisions of Section 402 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et.seq., and in furtherance of the State of Montana's efforts to participate in the National Pollutant Discharge Elimination System, I have prepared the following documents:

1. A description of the proposed program to be followed by the State of Montana Department of Health and Environmental Sciences while participating in the National Pollutant Discharge Elimination System.
2. A statement by the Honorable Robert L. Woodahl, Attorney General, State of Montana, which attests to the adequacy of the state statutory and regulatory authority for participating in the National Pollutant Discharge Elimination System.
3. A copy of the State of Montana Laws Regarding Water Pollution, Section 69-4801 R.C.M. 1947 et.seq.
4. A copy of the State of Montana, Department of Health and Environmental Sciences duly promulgated rule implementing the State of Montana's permit program MAC 16-2.14(10)-S14460.
5. A copy of the State of Montana's Department of Health and Environmental Sciences duly promulgated Water Quality Standards, MAC 16-2.14(10)-S14480.
6. A memorandum of agreement between the Director of the State of Montana Department of Health and Environmental Sciences and the Regional Administrator, Region VIII, U. S. Environmental Protection Agency, dated March 11, 1974.

Mr. Russell E. Train

Page Two

March 11, 1974

7. A flow chart of various actions to be taken prior to the issuance of any NPDES permit.

8. A copy of the State of Montana's 1974 program plan for water pollution control.

I assure you that no conflict of interest, as defined in 33 USC 1251 and regulations pursuant thereto, presently exists or will exist in the membership of the Board of Health or the Director of the Department of Health and Environmental Sciences.

In addition, I wish to assure you that I will make every effort to make any required changes or additions to the State laws and regulations that will be necessary for continued participation in the NPDES program.

This administration is making every reasonable effort to insure the State of Montana will be prepared for administering the National Pollutant Discharge Elimination System upon consideration and approval of our program.

Sincerely,

A handwritten signature in cursive script, reading "Thomas L. Judge".

THOMAS L. JUDGE
Governor

The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirements contained in section 110(a)(2)(E)(i) as expeditiously as practicable, but in no case later than three years after the date of such finding. Nothing in the preceding sentence shall be construed to preclude any such source from being eligible for an enforcement order under section 113(d) after the expiration of such period during which the Administrator has permitted continuous operation.

SEC. 127. (a) Each State plan shall contain measures which will be effective to notify the public during any calendar year on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warning signs on interstate highway access points to metropolitan areas or television, radio, or press notices or information.

(b) The Administrator is authorized to make grants to States to assist in carrying out the requirements of subsection (a).

STATE BOARDS

SEC. 128. (a) Not later than the date one year after the date of the enactment of this section, each applicable implementation plan shall contain requirements that—

(1) any board or body which approves permits or enforcement orders under this Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Act, and

(2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of paragraph (1) and (2), and the Administrator shall approve any such more stringent requirements submitted as part of an implementation plan.

My name is Jan Flaharty. I live at 408½ South Ave. W. in Missoula and am a graduate student at the University of Montana. I have been studying the Montana State Board of Health and Environmental Sciences for over two years and thus feel that I am somewhat of an authority on the subject.

The Board of Health operates as both a quasi-legislative and a quasi-judicial body. In its quasi-legislative role, the Board adopts regulations designed to protect the health and welfare of Montana and its citizens. As a quasi-judicial organization, the Board rules upon variance requests and hears appeals from parties aggrieved by actions of the Board or the Department of Health and Environmental Sciences.

In both of these functions, especially in its quasi-judicial role, the Board of Health must serve as an impartial ruling body. Similar to a jury in a court of law, the Board must assimilate the information which is presented to it and make a fair decision based upon the facts. It is impossible for a group of persons to completely eliminate all prejudices from their minds when making a decision; however, it is the duty of the governor to ensure that every one of the persons selected to serve on the Board of Health will listen fairly to all arguments advanced before them.

If implemented, HB 330 would destroy the guise of impartiality under which the Board of Health presently operates; for I seriously question whether representatives of the manufacturing industry or of the energy industry will listen with open minds to testimony opposed to the interests of their respective industries. The bill not only adds to the Board representatives of special interest groups, but eliminates one of the more important qualifications for serving on the Board--that of having "demonstrated intelligent and active interest in the field of public health".

I am neither an "obstructionist" nor a "destructionist". I am simply a concerned citizen. I am opposed to HB 330 because I believe in democracy and all it stands for. HB 330 does not adhere to the democratic ideals set forth by the Constitutions of the United States and the State of Montana. This bill is an extreme example of special interest legislation. It is designed to turn an impartial citizen lay board into an agent for industry. It would make our administrative process a farce.

Thank you.

7

LISCA

EXHIBIT 7

Low Income Senior Citizens Advocates
P.O. Box 897 — Power Block Bldg., Suite 612
Helena, MT 59601
(406) 442-6330

House Committee on State Administration, Thursday, January 29, 1981
Testimony of Jim Jensen, Lobbyist

LISCA believes House Bill 330 should be killed. It is a blatant attempt to destroy the ability of citizens, including senior citizens, to participate in a meaningful way in the setting of public health policy. Senior citizens would effectively be prohibited from the chance to be represented on the Board, which has probably the largest impact on their quality of life and many times their very existence.

The industry packing of this board under this legislation is an ominous sign to low income seniors. Industry has in the past publicly gone on record as considering the class in which our people are normally considered as having no economic value in society. We feel that Board members from these interests would be unlikely to understand or care about impacts on low income seniors.

The passage of HB330 would be a clear signal that the people of Montana no longer control the Montana Legislature. We will have returned to the Era of the Copper Collar. This bill must be defeated. LISCA implores each member of this committee to vote against HB330.

VISITORS' REGISTER

HOUSE

COMMITTEE

ALL

Date

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
John W. Bartlett	Helena	DHES		✓
Don Williams	"	"		✓
Richard Stepp	Missoula	SELF		✓
IN FLAHERTY	"	"		✓
Steve Doherty	Helena	NPRC		✓
Jim Jensen	Helena	KISCA		X
Allen Thomas	Helena	Ref. Trust	✓	
Bill Hous	Helena	Mt. Mng. Assoc.	✓	
Al Baker	Helena	Mt. Chamber of Commerce	✓	
Joan Miles	Helena	ELC		X
Don Alb	Helena	Mt. Petroleum Assn.	✓	
Mary Langley	HELENA	WETH	✓	
James M. Mack	"	Mt. Coal Council	✓	
George R. Johnston	"	BSARCO	✓	
David F. Johnston	Helena	W.E.T.A. Operating Engs.	X	
Peter Jackson	Helena	WETA	X	
Kella Hall	Helena	LWV of MT		X
MARK Mackin	Helena	Col. Lg. Coalition		X
John F. King	Helena	Mt. Nurses		

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

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Date _____

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

LL

Date 1/29/81

SPONSOR

[illegible]

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.