

MINUTES OF THE MEETING OF THE FISH AND GAME COMMITTEE
February 10, 1981

The meeting was called to order at 12:30 p.m. by Chairman Ellison. All committee members were present except Representative Daily who was excused.

This meeting was a scheduled hearing on HB 582. Because of a death in the family of Representative Keyser, sponsor of the bill, the hearing was cancelled and will be rescheduled at a later date.

The committee went into EXECUTIVE SESSION.

HOUSE JOINT RESOLUTION 2

Representative Fedra moved HJR 2 DO NOT PASS.

The motion was voted on and PASSED unanimously.

HOUSE BILL 180

Chairman Ellison suggested to the committee that a figure be put in this bill and the bill be passed on to the long-range building committee.

Representative Fedra moved an amendment to include a figure of \$600,000.

Representative Devlin made a substitute motion to TABLE HB 180. He said this proposal, along with ten others, is sitting in the long-range building committee already. He doesn't see why this committee needs to take action on the bill.

Chairman Ellison said if this bill stays in committee, there will be constant questions asked about the progress of the bill.

Representative Robbins said if this bill was tabled, the committee would not act on the bill and then it would take a two-thirds majority vote of the committee to bring the bill off the table.

Representative Jensen said this committee should pass the bill so the appropriations committee knows it cleared this committee as long as there are no objections to the bill.

The motion to TABLE HB 180 was voted on and FAILED.

Representative Fedra restated his previous motion. He moved HB 180 be amended as follows:

Page 1, line 9.
Following: "Appropriation"
Insert: "\$600,000"

Page 1, line 13.
Following: "park"
Insert: "."
Strike: remainder of line 13 and lines 14 and 15 in
their entirety.

The motion was voted on and PASSED unanimously.

Representative McLane moved HB 180 DO PASS AS AMENDED.

The motion was voted on and PASSED unanimously.

HOUSE BILL 222

Representative Robbins moved the following amendment to HB 222:

Page 1, line 14.
Following: "manufactured"
Strike: "before"
Insert: "after"

Representative Robbins said this was a typographical error.

The motion was voted on and PASSED unanimously.

Russ Josephson, legal counsel for this committee, offered the amendment requested by Chairman Ellison to the committee:

Page 3, line 11.
Following: "duty"
Strike: "."
Insert: ";"
Following: Subsection (3)
Insert: "(4) vessels commonly known as airboats when
used by a utility company in the course of business."

Representative Jacobsen moved the amendment.

The motion was voted on and PASSED unanimously.

Representative Robbins moved HB 222 DO PASS AS AMENDED.

Representative Nilson made a substitute motion to further amend HB 222 as follows:

Page 1, line 14.
Following: "after"
Strike: "January 1, 1978"
Insert: "July 1, 1981"

He said to modify some boats, new manifolds will need to be purchased and some of those manifolds cost \$250, not including labor. He feels this bill should be amended to allow those people to own what they own lawfully. He said this committee should not pass the bill.

The motion (for the amendment) was voted on and FAILED.

Representative Robbins moved HB 222 DO PASS AS AMENDED.

The motion was voted on and PASSED with all committee members present voting "aye" except Representatives Feda, Nilson and Phillips who voted "no".

HOUSE BILL 251

Representative Jensen offered the following amendment to HB 251:

Page 2, line 5.
Following: "or"
Strike: "\$10,000"
Insert: "\$50,000"

Representative Burnett moved the above amendment.

The motion was voted on and PASSED with all committee members present voting "aye" except Representatives Bennett and Nilson who voted "no".

Representative Burnett made a recommendation that some other entity, other than the Department of Fish, Wildlife, and Parks (F, W, & P), have approval on land acquisition by F, W, & P.

Representative Jensen said having to wait for the legislature to approve land acquisitions could cause F, W, & P to miss out on a good opportunity to make a land acquisition. He suggested using gubernatorial approval. Therefore, he moved the following amendments:

Title, line 4.
Following: "REQUIRE"
Strike: "LEGISLATIVE"
Insert: "GUBERNATORIAL"

Page 2, line 5.
Following: "the"
Strike: "legislature"
Insert: "governor"

The motion was voted on and PASSED unanimously.

Russ Josephson told the committee, by changing legislature to gubernatorial, the committee would be going beyond the apparent intent of the bill.

Representative Burnett told the committee he had talked to Representative Curtiss about this matter and she said she agreed, as long as it was someone other than the director of F, W, & P.

Russ told the subcommittee he is taking no position on this bill and what he is stating is strictly a legal comment. He said the title of this bill is supposed to represent the intent of the bill and that the amendment would change the bill too extensively to remain within the original title and intent of the bill.

Representative Bennett moved HB 251 DO NOT PASS AS AMENDED. He said it had become obvious this committee cannot live with the title of the bill. Representative Bennett said Representative Curtiss will have to come back in two years and resubmit a new bill.

Representative Jensen asked if it would be possible for this committee to introduce a committee bill similar to HB 251 but amended to accomplish the intention of the bill.

Representative Devlin said the legislature has to get a handle on F, W, & P. The department is not acting responsibly in buying parcels of land.

Representative Burnett said if this committee decides to kill HB 251, a committee bill should be drafted.

Representative Bennett's motion was voted on and PASSED. Representatives Devlin, Burnett, McLane and Ryan voted "no" and the other committee members voted "aye". (This vote includes Representative Daily's absentee vote.)

Representative Burnett moved to have this committee draft a committee bill in place of HB 251, amending the title naming the governor to make public approval of land acquisitions.

The motion was voted on and PASSED with all committee members present voting "aye" except Representative Robbins who voted "no".

HB 251 was discussed further.

Representative Feda made a motion to change the dollar amount to \$100,000 and appoint the same subcommittee on HB 251 to work with the legal counsel to draft a committee bill.

Representative Hart said she thinks, because of the new "regime" at F, W, & P, the department will be very careful to promote a new image. Mr. Flynn and the department heads will address themselves to being responsible.

Representative Devlin said the department will do that as long as they are short of money.

The motion was voted on and PASSED. All committee members present voted "aye" except Representatives Hart and Mueller who voted "no".

Chairman Ellison read a letter from John Gilpatrick to the committee. (EXHIBIT 1)

Representative Ellison asked the committee if they thought this was an important enough issue to draft a committee bill.

Representative Mueller moved this committee draft a bill which states the law requiring landowner permission to hunt big game on private property be amended to include all types of hunting and trapping.

Representative Roush said he would like language put in the bill whereby a hunter knows who to go to in order to get landowner's permission.

Representative Bennett asked what was the difference between prosecuting someone who trespasses on private land and prosecuting someone who trespasses to kill a big game animal.

Chairman Ellison said the trespassing law is not a fish and game law. The fish and game law only applies to trespassing for hunting purposes.

The lack of enforcement power of wardens was discussed.

Representative Nilson said a committee bill dealing with this issue would address the problems trappers have with people stealing their traps and the animals in the traps.

The motion was voted on and FAILED.

HOUSE BILL 323

Chairman Ellison told the committee HB 323 was tabled by

previous action. He said this committee can kill HB 323 and that action will not affect HB 200.

Representative Phillips moved HB 323 be removed from the table.

The motion was voted on and PASSED unanimously.

Representative Feda moved HB 323 DO NOT PASS.

The motion was voted on and PASSED unanimously.

HOUSE BILL 406

Representative Roush moved HB 406 DO NOT PASS. Representative Phillips seconded the motion.

The motion was voted on and PASSED. Representatives Ellison, Feda, McLane and Burnett voted "no". All other committee members voted "aye". (This vote includes Representative Daily's absentee vote.)

HOUSE BILL 152

Representative Bennett moved HB 152 DO PASS. Representative Feda seconded the motion.

Representative Bennett said he has some amendments to HB 152 from the sponsor of the bill. Representative Bennett said he can't see what is wrong with the bill the way it is written. This bill addresses a public health hazard.

The motion was voted on and PASSED. Representative Burnett voted "no" and the other committee members voted "aye". (This voted includes Representative Daily's absentee vote.)

Russ told the committee they also have to vote on the statement of intent to HB 152. (EXHIBIT 2) Russ read the statement of intent to the committee.

Representative Jacobsen moved the statement of intent be adopted.

The motion was voted on and PASSED unanimously.

HOUSE BILL 417

Representative Nilson moved the following amendment:

Page 1, line 16.
Following: "part"
Strike: "1"
Insert: "5"

The motion was voted on and PASSED unanimously.

Representative Nilson moved HB 416 DO PASS AS AMENDED.

There was discussion on HB 417.

Representative Hart said she thought the F, W, & P said this bill was unnecessary.

Representative Nilson said all this bill does is give game wardens jurisdiction to enforce this law. The trappers who testified during the hearing on HB 417 feel game wardens are better equipped to deal with this subject than sheriffs.

Representative Bennett said the trappers were opposed to any trapping license fees being raised but yet they want more services provided by the F, W, & P. He feels it is difficult enough now for the wardens to handle the load they presently have. Representative Bennett said this bill allows trappers to neglect traps more and have F, W, & P be responsible for enforcement of the law.

Representative Fedas said he cannot see how wardens can do more policing than they do now.

Representative Nilson said the trappers did not oppose the raising of trapping fees - they just oppose the 150% increase in the fees.

Representative Jensen said HB 417 is a good bill. The game wardens cannot be expected to be detectives but if a warden comes across this situation, he will have the authority to make an arrest.

Representative Devlin made a substitute motion that HB 417 DO NOT PASS AS AMENDED.

The motion was voted on and PASSED. Representatives Manuel, Robbins, Jacobsen, Nilson, Jensen, and Ellison voted "no" and the other committee members present voted "aye".

The meeting was adjourned at 2:00 p.m.


ORVAL ELLISON, Chairman

STATE OF MONTANA



DEPARTMENT OF

FISH AND GAME

Helena, Montana
January 5, 1981

Mr. James W. Flynn, Director
Fish, Wildlife and Parks
1420 E. Sixth Avenue
Helena, Montana

Dear Mr. Flynn:

The Landowner Relations/Sportsmen Access Advisory Council conducted its final meeting on December 11, 1980 in Helena.

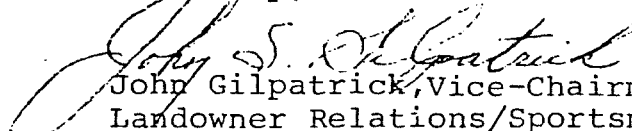
During the Council's three year existence, a continued topic of concern and discussion has been the problem of trespass on private property. A law currently exists in the Fish and Wildlife statutes which requires landowner permission before hunting big game on private property (87-3-304). However, this statute does not apply to other types of hunting or trapping.

As its final recommendation, the Council unanimously passed the following motion on December 11: Motion by S. J. Seidensticker, "I move that the law requiring landowner permission to hunt big game on private property be amended to include all types of hunting and trapping." Seconded by Don Bailey.

If you have any questions or comments about this recommendation, please feel free to contact us.

Thank you.

Sincerely,


John Gilpatrick, Vice-Chairman
Landowner Relations/Sportsmen
Access Advisory Council

cc: Gov. Ted Schwinden
Montana Fish and Game Commission
House and Senate Fish and Game Committee

STATEMENT OF INTENT --HB 152 (RABIES/CONTROL OF WILD PETS)

A statement of intent is required for this bill because it creates rule-making authority for the Department of Health and Environmental Sciences, with the approval of the Department of Livestock, to administer and implement law controlling rabies through limits on the possession of wild pets. Rule-making is primarily needed to add a species of animal to those presently designated "wild animals" by the act if the chance of rabies occurring in that species increases beyond its present level. Coyotes are an example of a species which may become a rabies threat in the future.

As for other rules, most would clarify terms and phrases used in the bill. Examples of potential rule subject-matter are:

(1) to clarify what will be considered a fur-bearing enterprise (Section 2);

(2) to clarify what controls by zoological exhibitors will be considered to adequately prevent physical contact by the public with wild animals.

2-10-81

Submitted 1/29/81