

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 8, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on January 8, 1981 at 1:15 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with Senators Story, Thomas and Van Valkenburg coming in late due to a Finance and Claims Committee meeting.

Several visitors were in attendance. (See Attachments.)

Senator McCallum requested the committee dispense with reading minutes of previous meeting at this and future meetings of the Local Government Committee. Senator O'Hara made a motion in this respect and Senator Ocshner seconded. The motion passed unanimously.

CONSIDERATION OF SENATE BILL NO. 35: Senator Steve Brown of Lewis and Clark County, sponsor of the bill, stated the purpose of this bill was to simplify the process of annexing subdivisions to municipalities. He believes cities and counties should combine meetings whenever possible to save everyone a lot of time and hassle.

There were no further proponents and no opponents.

Senator McCallum asked for questions from the Committee. There were no questions.

CONSIDERATION OF SENATE BILL NO. 48: Senator Dorothy Eck, sponsor of the bill, said she believes Montana should seriously consider excluding from nepotism the appointment of a spouse, child or parent to technical or scientific positions if there are no other skilled or qualified applicants available for the position. This is particularly important in Montana due to the sparse population. She continued that if you are looking for a person with scientific or technical skills (which many positions are part-time) frequently applicants are not available. She was especially addressing a situation where you have a husband and wife team. She stated there are ways to get around the law, such as setting up a consulting team of which your spouse is a member. She feels it would be more appropriate to have an exemption from the law. She pointed out that (2)(b) should be rewritten with the language in (1)(a), line 16 through 19 to conform with that subsection.

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Jean Roll, proponent for the bill, presented written testimony (see attachment) and also stated that present law denies people to be employed in fields they are qualified for, especially married couples. She would like the opportunities equalized. She feels the present law is outdated and illogical. She also feels husband and wife teams could work well together. Favoritism is not covered by the nepotism law. There is, of course, no proof of the outcome of such relaxation of the law. She believes there are enough written safeguards in the law to avoid favoritism. She concluded by saying she hopes everyone will act favorably on this bill.

Robert Carroll, proponent of the bill, presented testimony (see attachment) and also stated that nepotism is to prevent abuses. He believes a husband and wife, for example, could have complimentary knowledge. The bill does provide safeguards. His consulting firm occasionally hires husband and wife teams and has never had any problems with abuse of this. He does not think government would have any problems either.

Wayne Buchanan of the Montana School Boards Association, also a proponent of the bill, stated they have often had problems with a husband and wife not being allowed to be employed by the same school district in the capacities of a school board member and a teacher. The school board is legally the hiring/firing body in a school district but is not generally a direct supervisor of the teaching staff. In most cases the superintendent or principal is the immediate supervisor. The Montana School Boards Association thinks this is a good bill and is much better with Senator Eck's recommendations.

Edrie Vinson, a proponent of the bill, felt that many persons meet and marry in graduate school and very often have the same expertise. This would take care of the situation where they could not work together on certain projects. She felt it was a very good bill.

There were no opponents appearing before the Committee.

Senator McCallum asked for questions from the Committee. Senator Thomas asked Mr. Wayne Buchanan why the Montana School Boards Association was interested in this bill since it pertained to technical and scientific positions. Mr. Buchanan stated they believe schools fall into the technical category. He said the technical area would relate to teachers, substitute teachers and perhaps teacher aides, not all employees of the school district. Senator Conover remarked that the way it is now if one spouse is a member of the school board and the other is a teacher in the district, one of them has to resign. This bill would change that situation.

Senator Eck explained this bill provides that there was no one else as qualified or available applying for the position. Anyone else would have first preference.

Senator McCallum asked Wayne Buchanan if Section 1 of this bill should be interpreted to mean, for example, the Department of Archeology or the Department of Natural Resources. Mr. Buchanan assumed it means any state department or university.

Senator Thomas asked if this wasn't doing away with half of the nepotism law. The terms technical and scientific could be interpreted broadly. And, as far as taking the most qualified applicant, the hiring body could write the qualifications to fit that person.

Wayne Buchanan pointed out the safeguards in the bill. He said they would have to set down criteria in case of challenges. If someone thought special favoritism was being shown, they could look at the other applications for the position and see if anyone else was equally qualified. He thinks it would be difficult to get away with hiring someone else who was not as qualified.

Debbie Schmidt will do more research on Senate Bill No. 48.

There was no further discussion on Senate Bill No. 48.

Senator McCallum set a hearing date for January 17, 1981 at 1:15 p.m. in Room 405 for Senate Bill No. 50 which involves the Salary Commission.

ACTION ON SENATE BILL NO. 35: Senator Thomas motioned that Senate Bill No. 35 DO PASS. It was seconded by Senator Ochsner and passed unanimously.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 1:45 p.m.


Chairman, George McCallum

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date *Jan 8, 1981*

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator Pete Story	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date January 8, 1981 Bill No. 35 Time 1:40 p.m.

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator Pete Story	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Thomas motioned that Senate Bill No. 35 DO PASS.

It was seconded by Senator Ochsner and passed unanimously.

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

Chairman McCallum
Local Government Committee
Montana Senate
Capitol Station
Helena, Mt.

Mr. Chairman and members of the committee,

My name is Bob Carroll. I'm General Manager of ECON INC., a private scientific consulting firm headquarters in Helena.

I appear in support of Senate Bill 48, sponsored by Senate Dorothy Eck.


SB48 provides for certain exceptions to section 59-519 RCM 1947.

The nepotism laws passed to prevent abuses, which is in the public interest unquestionably.

Today we see a considerable number of husband-wife scientific teams, both members of which have exceptional and often very complementary expertise.

I support Senator Eck's bill because it would make it possible for a spouse if that person was (1) the most professionally qualified person available or (2) the only person available. The bill also provides safeguards.

Thank You.


Robert E. Carroll

Testimony for the Senate Local Government Committee's January 8, 1981, hearing on Senate Bill 48:

Montana's nepotism law denies certain people the opportunity to be employed in positions for which they are trained and qualified. It denies this opportunity even if the applicant is the most qualified. It denies this opportunity to a person who is the only applicant. For married couples, I suspect the law discriminates against women since men are more likely to be in positions to hire or fire. In a time when we are trying to equalize opportunities, this law seems outdated.

The law also seems illogical, since it prohibits in State employment something which has obviously been successful for private enterprise. My parents run a farm together, my husband's parents operated a store together, and there are surely hundreds of enterprises throughout the state which are efficiently and profitably operated by spouses. It must follow that husband-wife teams could also do good jobs together in State positions.

The most typical response to these statements is "but think of all the favoritism that would be shown if people could hire their relatives." However, the few examples of favoritism I could cite are not instances which would be covered by the nepotism law. Also, I cannot say that choosing to work with a person with whom there is a close relationship, whether friend or spouse, is necessarily bad, as the present law implies. Good teamwork does not happen instantaneously; it develops through time and close association. There is no way to know whether favoritism would become more frequent with relaxation of this law. I think the particular wording of this change would adequately protect against abuse.

The change would add the flexibility needed to handle unusual situations. Since my situation is one of these, I am speaking partly from self-interest. As an employee of the university system, my husband cannot hire me on research projects and there have been times no one else was available to do the work.

In summary, I think the law needs to be changed. This bill would retain safeguards against favoritism. The State would benefit from the services of talented people who presently cannot be employed solely because they happen to be related to the wrong person. I hope you will act favorably on Senate Bill 48.

Thank you for your attention.

Jean Roll
721 South 6 Avenue
Bozeman, MT 59715
587-1767

STANDING COMMITTEE REPORT

January 8

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MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration Senate

Bill No. 35

Respectfully report as follows: That Senate

Bill No. 35

DO PASS