

SENATE COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

JANUARY 21, 1981

The Senate Committee on Education and Cultural Resources met Wednesday, January 21, in Room 402 of the Capitol Building. Senator Bob Brown, Chairman, called the meeting to order at 1:04 p.m.

ROLL CALL

Committee members present were Senators Brown, Smith, Severson, Hammond, Blaylock, Mazurek, and Haffey. Senator Thomas was absent and Senator McCallum was excused due to illness.

Senate Bill 154 was heard by the committee.

SENATE BILL 154

Senator Allen Kolstad, District 5, sponsor of the bill, stated he had introduced the bill at the request of the Montana School Boards Association. The bill proposes a notice provision for school districts only and contains four major points:

1. posting of notice at least 48 hours prior to the meeting;
2. notification of the press at least 48 hours prior to the meeting;
3. establishment of a written agenda; and
4. provision for an emergency meeting.

He stated this is intended to be a clarification act, and would establish a clear procedure for reasonable notice.

PROPOSERS

Wayne Buchanan, representing the Montana School Boards Association, stated they had asked Senator Kolstad to carry the bill as the notice provision was vague in the law. He stated they tried to include all the provisions that Boards should give or use. In that light, he feels the bill is a straightforward attempt to establish a provision in the law so that school boards will know if they comply or not. Due to present law, some decisions have been overturned and there is a need for a specific law relating to school boards. He presented proposed amendments to the committee (attachment #1).

Chad Smith, representing the Montana School Boards Association, and speaking as counsel for them, said he has had considerable experience in court relating to these problems. He said school

board members want to do a good job and don't want to get into trouble with the open meeting law. Notice isn't specified in the law and this is where the biggest problem lies. The courts have found that school boards are not giving adequate notice and when asked what is adequate notice, the courts respond by saying they can't legislate such things. Therefore, he feels that in this bill they are clarifying the notice procedure. He warned against enlarging the provisions too much as too many requirements can cripple the process as well. He urged the committee to support the bill.

There being no further proponents, the Chairman called for opponents to the bill.

OPPONENTS

Dave Sexton, representing the Montana Education Association, stated he was faced with a dilemma as to which side to appear on the bill. He said he does believe in requiring notice, but has some reservations about this bill. He said they have had a great deal of experience in dealing with the open meeting law and they have had some problems with it. MEA feels a public meeting does have to be noticed and went to court to prove it. Since the judicial decree said proper notice was necessary, MEA does support guidelines for school boards and other public agencies. However, they feel this bill is inadequate due to:

1. it doesn't amend the open meeting law, just school law, and it is too narrow and parochial;
2. no provision for personal notification of a person who is personally involved in the meeting agenda;
3. the means of noticing in the bill are not adequate for all districts, i.e. how many people check the school house door which is all 3rd class districts would have to do;
4. page 3, lines 1-5 "making available" is ambiguous and open to many interpretations;
5. the weekly newspaper is relied on in small districts, not the large daily newspaper (the Billings Gazette would receive dozens of notices daily);
6. there are problems with notice re radio and television stations--stations might have to announce up to 100 meetings at a time.

Mr. Sexton reviewed some other problems such as giant loopholes on page 3, subsection 3 and 4, i.e. no definition of "emergency" and adding other items to the agenda. He said it doesn't address some other problems such as how and when meetings can be closed, records, and statute of limitations. He felt Representative Keedy's House Bill 71 is a much better bill and urged the committee to kill Senate Bill 154.

Mike Meloy, representing the Montana Press Association, stated he originally was a proponent but decided to rise as an opponent after being confused on the Buchanen amendments. He agreed with Dave Sexton's remarks and concerns. He pointed out 48 hour notice is not enough in many rural areas and therefore the notice provision must be flexible enough to fit both urban and rural press deadlines. He noted several problems in the bill such as the definition of "emergency" which could result in more lawsuits than there are at present. He was concerned the "spontaneous and good faith" language re agenda additions, page 3, subsection 4 is ambiguous. He stated if it could be cleaned up he would have no problem with it. Section 3, page 4, puts the bill into the open meeting law and he felt it will be used by the courts to establish precedence for all other governmental units. He reviewed some history of the open meeting law and how efforts had been made in the past to provide a notice provision. He said he likes some provisions but opposes the bill due to the major flaws. He felt it was not a good bill and would defer to House Bill 71.

Carole Brass, Butte, representing the Citizens Legislative Coalition, presented her written testimony to the committee in opposition to the bill (attachment #2).

Alan Ostby, representing Common Cause, stated he supports House Bill 71 as it addresses the problems better and is plainly the better bill.

There being no further opponents, Senator Kolstad, suffering from laryngitis, asked Mr. Buchanen to close for him. Mr. Buchanen said the bill amends the open meeting law and only references the school law. He felt Senate Bill 154 could be incorporated right into House Bill 71 as there is nothing in it that is incompatible. He said he had no qualms about leaving or taking out subsection d, page 3. He further stated he agreed with Mr. Meloy that there is a risk inherent in the "emergency" provision, but felt it was necessary and would only mean the MSBA would have to educate and advise boards

on what an emergency is. He also noted the agenda addition provision is another area which boards will have to be educated in and there will probably be some problems until they can accomplish it. He restated the bill is good because it provides a notice provision that can be read, understood, and followed step by step. He stated Mr. Sexton and the MEA feel there is no notice which is acceptable and they want to keep it that way so it will be easier to have school board decisions overturned.

Following a brief discussion, the hearing was closed on Senate Bill 154.

NEW BUSINESS

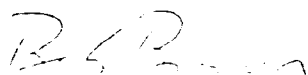
Charles Simonsen, President, Montana School Transportation Association, addressed the committee briefly regarding the 8% increase level in the transportation law. He has discussed this with Senator McCallum (absent due to illness) and at his suggestion asked the committee to consider drafting a committee bill to help ease the financial crunch transporters are dealing with due to inflation and fuel costs. He left a copy of the law with the committee.

Terry Brown, Office of Public Instruction, Pupil Transportation, told the committee he would be of assistance to them if he was needed.

Senator Brown stated the committee would discuss the problem further when Senator McCallum was able to attend.

Senator Brown asked Legislative Council Researcher Andrea Merrill to prepare an analysis of House Bill 71 and Senate Bill 154 for comparison in executive session next week.

There being no further business, the meeting adjourned to reconvene Monday, January 26, 1981, at 1:00 p.m.



Senator Bob Brown, Chairman

ROLL CALL

SENATE EDUCATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/20/81

NAME	PRESENT	ABSENT	EXCUSED
Senator Ed Smith	<i>Sp. J. ✓</i>		
Senator George McCallum			<i>illness</i> ✓
Senator Elmer Severson	X		
Senator Swede Hammond	✓		
Senator Chet Blaylock			
Senator Bill Thomas		X	
Senator Joseph Mazurek	✓		
Senator Jack Haffey			
Senator Bob Brown, Chairman			

Each day attach to minutes.

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE
January 20, 1981

Information Sheet

Senate Bill 154--Kolstad

This bill is intended to be included in the open meeting law to specify what kind of notice of meetings the trustees of a school district must give the public. Currently, neither the open meeting law nor school law cites that trustees must give notice of meetings. This bill specifies how the notice is to be made for regular meetings, special and emergency meetings. Subsection (4) New Section 2, states that the trustees may only take action on the agenda items that were announced in the notice, unless such items are raised spontaneously in good faith.

VISITORS' REGISTER

DATE 1/21/81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

PROPOSED AMENDMENTS TO SB 154

1. Line 1 & 2 - page 3 -- Amend to read: "In first and second class school districts by making notice of the meeting at least . . ."

Rationale:

It has come to our attention that some daily papers such as the Billings Gazette and the Great Falls Tribune would receive as many as 100 to 150 notices a month. This would almost assure that no notices would be printed. If notification of the press were limited to first and second class districts this number would be cut to about 30 per month for the Gazette and the Tribune.

2. Line 8 - page 3 -- Delete (d)

This provision is unnecessary since notice applies to all meetings whether regular or special.

*Amended
in p. 3 line 14 ?*

3. Line 10 (e) -- To read: "Notification of the media for 1st and 2nd Class districts may be satisfied by informing the media described in . . ."

Rationale:

This was intended to allow school districts which have a regular meeting date to notify the press only once a year.

Wayne Buchanan
WBSBA

NAME: CHAD SMITH

DATE: 1-21-81

ADDRESS: Box 604 HELDANA

PHONE: 402-2980

REPRESENTING WHOM? Mont Sch Bld Arms

APPEARING ON WHICH PROPOSAL: SR 154

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: _____ DATE: _____

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

#2



CITIZEN'S LEGISLATIVE COALITION

P.O. Box 4071
Butte, Montana 59701

SB 154

January 21, 1981

Education Committee

The Citizen's Legislative Coalition is committed to maintaining the constitutional rights of citizens to participate in government decisions. The Open Meetings Law is one of the best ways to insure these rights.

CLC opposes SB 154 in that it places new language into this law that does not conform to the basic intent of the Open Meetings Law. While we are happy that the School Board Association is trying to better define its responsibilities to the public, we believe the nuts and bolts of public notice of school board meetings does not belong here. The Open Meetings Law speaks to citizen rights not to school board responsibilities. Such procedures would best be laid out by the Department of Education in the form of a rule.

Carole Brass

Montana School Transportation Association

421 Sugar Avenue
Billings Montana 59101
January 20, 1981

MSTA President: Charles Simonsen
And Manager of KAL Lines - Billings
School Bus Contractor
Phone: 248-3667

TO: Education Committee
1981 Montana Legislature

RE: Montana School Law 75-7013, MCA Section 20-10-125 MCA

We represent 68 Montana School Bus Contractors who own over 50% of the private school buses in Montana.

Here are the parts of the law we would like to ask you to consider initiating a bill to amend.

20-10-125 MCA
(1) Before any
(a) secure bids - - - or

(b) negotiate a new contract with the current school bus contractor. _____

~~provided the negotiated contract costs do not exceed by more than~~

~~8% per year the basic costs of the previous year's contract and~~
~~provided the duration of the negotiated contract is no longer than~~ Such a - -
~~the duration of the previous contract.~~ Notice of the meeting must
have been published - - - - - prior to the meeting.

(2)

Rationale for amending this law:

1. With consumer price index as of November 1980 running at 12.7% year-to-date for the United States, 3% per year increases will most likely drive many contractors out of business sooner or later or force him to give his contract up for bids. Bidding usually produces an unsure future for the contractor.
2. A school bus contractor-school district relationship may be broken because of the 3% limitation when in fact both parties are satisfied with the relationship. The district may be aware the rates are very competitive and the services commendable.
3. Many small contractors have called me during the last several months to ask if there are any options or any chance of the 3% law being amended. Some are having trouble convincing their bankers to stay with them or to finance a new bus.

If we allow the private contractors to become financially unstable, we will undoubtedly create financing problems for other contractors on the basis of the reputation of the industry.

Montana School Transportation Association

January 20, 1931

To: Education Committee (Cont)

4. We feel local school boards will only allow reasonable increases in rates. So the lifting the 8% limitations will not result in runaway transportation costs.
5. To allow successive contracts to be of longer duration than the past contract. If a district has found a contractor who is providing safe, dependable and economical transportation, the school board could contribute to the contractor's stability by lengthening a contract period. Think how a banker would look at a request for a loan to buy a new \$25,000.00 bus if the borrower can only produce a one year contract as evidence of revenue from which to repay the loan. A contract could be ~~ex~~ changed from a previous one contract to a 2, 3, 4, or 5 year contract.
6. Local school boards would not have to renew a contract, they would not be required to raise rates if the contractor was not providing satisfactory service, if they know good service can be had more economically or for any reason of importance for good transportation for the district.

NAME: Terry Brown DATE: 1/21/81

ADDRESS: Office of Public Instruction

PHONE: 449-3167

REPRESENTING WHOM? O.P.I.

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

In January 1981
the following was

SENATE COMMITTEE EDUCATION AND CULTURAL RESOURCES

Date Jan. 19, 1981 Senate Bill No. 23 Time 1:55 p.m.

NAME	YES	NO
Senator Ed Smith	X	
Senator George McCallum	X	
Senator Elmer Severson	X	
Senator Swede Hammond		X
Senator Chet Blaylock		X
Senator Bill Thomas	X	
Senator Joseph Mazurek		X
Senator Jack Haffey	X	
Senator Bob Brown, Chairman	X	

Don Pearson
Secretary

Bob Brown
Chairman

Motion: by Senator McCallum that Senate Bill 23 Do Pass.

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

STANDING COMMITTEE REPORT

.....January 20,..... 1981.....

MR.PRESIDENT.....

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL

Bill No. 68

Respectfully report as follows: That SENATE BILL

Bill No. 68

DO NOT PASS

~~DO PASS~~

J.R.

.....
Chairman.