

MINUTES OF MEETING  
SENATE NATURAL RESOURCES  
March 6, 1981

The seventeenth meeting of the Natural Resources Committee was called to order by Senator Mark Etchart, Vice Chairman, at 1:05 P.M. on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Dover, Senator Elliott and Senator Brown.

CONSIDERATION OF HB 306:

AN ACT AMENDING SECTION 76-13-413, MCA, TO  
CHANGE THE INTERNAL REFERENCE TO SECTION  
76-13-407, PERTAINING TO RIGHT-OF-WAY, TO  
SECTION 76-13-409 PERTAINING TO DUTIES OF  
PURCHASERS

Representative Bertelsen, district #27, presented this bill to the committee. The bill was introduced to correct a typographical error in the law. A reference under section 76-13-413, MCA, to 76-13-407 is not correct and should be 76-13-409. That is all this bill does. It corrects that error.

There were no proponents or opponents. Vice Chairman Etchart asked for questions from the committee.

Senator Hafferman asked how much is withheld for slash disposal.

Senator Manley said \$6.00.

Representative Bertelsen said of that \$6.00, 4% is kept for administrative costs. This bill does not affect that.

Senator Van Valkenburg asked if this could have been taken care of by the Code Council.

Representative Bertelsen said the Department of Natural Resources felt this was the way to go.

CONSIDERATION OF HB 277:

AN ACT TO PROVIDE FOR CIVIL PENALTIES FOR VIOLATION  
AND ENFORCEMENT BY THE ATTORNEY GENERAL OF THE OPEN  
CUT MINING ACT

Representative Seifert, district #26, introduced this bill at the request of the Department of State Lands. This bill would streamline enforcement procedures by eliminating the criminal fine and providing a civil penalty for both operating without a contract and violation of contract. This eliminates the possibility of a contractor acquiring a criminal record and allows the department to enforce the contract without shutting the operation down.

Vice Chairman Etchart asked for proponents.

John North, Department of State Lands, gave testimony in support of this bill. Attached is a copy of his written testimony.

Pat Stuart, Assistance Director of the Montana Coal Council, supports this bill.

There were no opponents. Vice Chairman Etchart asked for questions from the committee.

Senator Tveit asked if the contract is with the state.

Representative Bertelsen said the way the law is now we presently have to have a mining and reclamation contract with the state and also we are mandated to be bonded and both vary depending on the type of operation. They have to be updated at least once a year with detailed maps.

Senator Manley said to Representative Bertelsen you are in the sand a gravel business. Do you see any problems with this bill?

Representative Bertelsen said no, the only thing it changes basically is the penalty.

DISPOSITION OF HB 306: Senator Manley made a motion that HB 306 be concurred in. The motion passed unanimously.

DISPOSITION OF HB 277: Senator Van Valkenburg made a motion that HB 277 be concurred in. The motion passed unanimously.

ADJOURNMENT: There being no further business, the meeting adjourned at 1:35 P.M.

  
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MARK ETCHART, Vice Chairman

ROLL CALL  
NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3-6-81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman			✓
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott			✓
Larry Tveit	✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown		✓	
Dave Manning	✓		
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

## HOUSE BILL 277

### TESTIMONY OF DEPARTMENT OF STATE LANDS

The Open Cut Mining Act requires a bentonite, clay, scoria, phosphate rock, sand and gravel operator who removes or intends to remove more than 10,000 cubic yards to obtain a reclamation contract from the Department of State Lands. The operator must submit a reclamation plan with the contract and obtain a performance bond.

Currently the act is enforceable through two procedures: 1) for operating without a contract, criminal prosecution with a fine of \$500 to \$1000 for each day of violation; and 2) for failure to abide by the contract and reclamation plan, an order requiring closure of the operation.

House Bill 277 would streamline these enforcement procedures by eliminating the criminal fine and providing a civil penalty for both operating without a contract and violation of contract. This eliminates the possibility of a contractor acquiring a criminal record and allows the department to enforce the contract without shutting the operation down. Also, the minimum penalty is reduced from \$500/day to \$100/violation and \$100/day after notice of violation is served. This allows the department to tailor the penalty to the size of the operation and the severity of the violation.

House Bill 277 does not allow the department to assess penalties itself. Should a contractor disagree with the agency that a violation has occurred or disagree with the amount of penalty, a court order must be obtained to collect the penalty.

In addition, House Bill 277 shifts responsibility for enforcement of the act from the county attorneys to the Attorney General. This would eliminate conflicts of interest resulting from the fact that most counties have open cut contracts and that many county attorneys in small counties represent contract holders in their private practices.

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.

(Please leave prepared statement with Secretariat)

# STANDING COMMITTEE REPORT

March 6, 19 81

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 306

BERTELSEN (MANLEY)

Respectfully report as follows: That HOUSE Bill No. 306

BE CONCURRED IN  
DOA 88X

MARK ETCHART, Vice Chairman.

# STANDING COMMITTEE REPORT

March 6,

81

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MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 277

**SEIFERT (VAN VALKENBURG)**

Respectfully report as follows: That HOUSE Bill No. 277

BE CONCURRED IN  
AGREES