

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 19, 1981

The Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date in room 442 of the State Capitol Building at 10 a.m.

ROLL CALL: All were present, excepting Senators Towe and Johnson.

CONSIDERATION OF HOUSE BILL 26:

AN ACT TO CONTROL AND REGULATE THE USE
OF PRIVATE CONSULTANTS BY STATE AGENCIES

Rep. Jack Moore said this bill gets a handle on private consulting contracts. In lieu of hiring new employees, they had suggested they do it through contracts in the past. This procedure had been abused, which resulted in the writing of this bill. He suggested an amendment inserting the word, "STUDY".

There were no proponents, opponents, or questions; the hearing was closed.

CONSIDERATION OF HOUSE BILL 436:

AN ACT TO GENERALLY REVISE AND CLARIFY
INSTITUTIONAL INDUSTRIES PROGRAMS OF
THE DEPARTMENT OF INSTITUTIONS

Rep. Francis Bardanouve, sponsor, was ill. Curt Chisholm, Department of Institutions, represented him and presented the bill. This bill is a plan for the development of the industries in the Department of Institutions and gave three reasons it is needed: 1. to see if more industry is feasible 2. to provide work opportunities particularly in the institutions 3. to expose the inmates to meaningful work experiences.

Mr. Chisholm recommended an amendment, subject to the concurrence of Rep. Bardanouve. Page 3, lines 23 through line 1 on the next page should be stricken from the bill because this can be counter-productive.

PROPOSERS: Mrs. Sandra Harris, Department of Institutions, gave the areas they hope to expand to provide industrial-related work, save the state money, and sell on the open market. She stated that, as drafted, at the end of each

fiscal year the amount of funds over the amount that had been appropriated would go to the general fund; they want that deleted so that it goes to a revolving fund.

There were no opponents, so questions were asked by the committee. Sen. Kolstad asked Mrs. Harris how much revenue would be involved, and she answered the industry portion would be \$300,000. Two hundred thousand dollars would come from the industry, and the general fund would support the remaining.

Sen. Kolstad asked her what products are sold from the prison ranch, and the answer was meat and dairy products.

Sen. Hammond asked if this would involve the farms that used to be at Boulder, and the answer was no.

Mr. Chisholm said this opens the market provision for the ranch, so that it applies to industry. It is an expansion of the laws that occur in the books. They want to be able to sell to the agencies.

Sen. Ryan wondered if there might be a conflict with the Easter Seal program and was told no.

Sen. Hafferman wondered if it might be unsuccessful like the chicken farm in the past, and Mr. Chisholm guaranteed that the industry program will be a success.

Chairman Story put it into a subcommittee of Senators Ryan and Johnson. The hearing was closed.

CONSIDERATION OF HOUSE BILL 336:

AN ACT TO PROHIBIT SOLICITATION WITHIN
OR AT THE ENTRY OF ANY POLLING PLACE

Rep. Joe Kanduch, sponsor, said this is a simple, forward bill that says exactly what it should say. He believes he should vote and not have to make another decision while he is at the polling place.

PROPOSERS: Bill Hand, Montana Mining Industries, stated that mining was damaged by initiative 84. He feels the average citizen does not take the time to consider the petition when signing, and he feels the polling place is a sacred place.

Keith Anderson, Montana Taxpayers Association, remarked that he is anti-petition only when it comes to be done at the polls.

Proponent Peter Jackson, Western Environmental Association, has been an opponent four times on this bill against petitions at polling places during this legislature. He feels that easy-picking people are preyed upon in one spot, and the polling place should be used for one particular thing. That is to vote only.

Other proponents were Allen Shumate; Margaret Speer, election judge in Lewis and Clark County, finds it disruptive; Don Allen, Montana Trade Association, spoke for his organization and also for the Montana Chamber of Commerce; Gary Langley spoke as a private individual.

OPPONENTS: Mike Males, Environmental Association, said this is an attempt by the state of Montana to restrict petitioning on public property. He stated that 40,000 people signed petitions at polling places in one year without any complaints. He claimed that there is more objection to candidates going door to door. He said the real proponents in this bill, excepting Rep. Kanduch, are people who are against the initiative process in general and not because of it being done at the polls. He feels the present laws are adequate to prevent obstruction and harrassment of the voters.

Belle Winestine, speaking in the interest of fair government, said she has lived in Montana for 90 years and voted for 65 years. She has never been in a voting place where there was any obstruction, and she cannot think of a better time to get in touch with the voters. They should be taking pride in what is going on in the government and need to be informed people.

Carole Brass, Citizens Legislative Coalition, said that sections already in the law take care of any problems. She had recently taken a poll during a tour through Montana, and she found that people do not want the initiative process tampered with.

Other opponents were Edward Dobson, self, enclosed testimony; Don Judge, Montana State AFL-CIO, enclosed testimony; Joe Lamson, Montana Democratic Party, believes the initiative process and the petitions at the polls have increased voter registration; Steve Harper, self, said a democracy believes in intelligence of the people; Alan Ostby, Citizens Coalition, said the initiatives are the citizen's issues, and this bill curtails that; and Tony McOmber, Montana Education Association representative.

Questions: Sen. Ryan asked Mr. Males and Mr. Judge how long has the statutes rules that they could obtain signatures at

the polls, but they said there is nothing that designates authority or prohibition there. Sen. Ryan believes that there is a law. He then asked for examples of abuses by lobbyists, and Mr. Males gave one.

Sen. Hammond asked Ms. McOmber from MEA about their decision. She said the board of directors represents the teachers, had a meeting, and voted to oppose this bill.


Sen. Story commented that the worst thing the petitioners could do is meet an intelligent person at the polls because he would involve so much time.

In closing Rep. Kanduch said he understood the feelings of the opponents because of their fear of losing their privilege, but the proponents' privacy has been taken away from them.

ACTION ON HOUSE BILL 26: Sen. Hafferman moved it do pass; discussion resulted in an amendment that had been suggested. Sen. Kolstad made a substitute motion to move the amendment; motion carried. The motion was made to DO PASS, AS AMENDED; motion carried by those present.

ACTION ON HOUSE BILL 336: There was discussion by the committee and John Hollow explained the words "obstruct and engaging". He suggested an amendment, combined with the one Sen. Galt had submitted. The amendment was passed, and motion to DO PASS, AS AMENDED was made by Sen. Kolstad; motion carried by unanimous vote of those present. Sen. Galt will carry the bill on the Senate floor.

ADJOURNMENT: 11:10.



PETE STORY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3-19

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.	✓		
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson		✓	
Senator Patrick Ryan	✓		
Senator Thomas Towe		✓	

Each day attach to minutes.

2-13-2
#1250

MAY THE LEGISLATURE PROHIBIT THE PRESENTATION OF INITIATIVE PETITIONS AT
POLLING PLACES?

While the initial presumption must fall in favor of the constitutionality of an act (Sinking Fund Cases, 99 US 700, 718; Powell v. Pennsylvania, 127 US 678, 684; Eubank v. Richmond 226 US 137, 139; also see A.L.R. Digest, Statutes 244(2)), "any attempt to restrict (First Amendment) liberties must be justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger." Thomas v. Collins, 323 US 516, 530. See, also, West Virginia State Bd. of Educ. v. Barnette, 319 US 264. The proper test is whether "the manner of expression is basically incompatible with the normal activity of a particular place at a particular time." Grayned v. City of Rockford, 408 US 104, 116; Greer v. Spock, 424 US 828, 843, concurring opinion. It is instructive that the Court, in Grayned, held further that "one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place." Grayned at p. 118, note 17. Lawful limits acting upon the First Amendment of speech and assembly of initiative petitioners at polling places might properly restrain, for example, oratory or obstruction, but not forbid mere presence or conversation. See Cox v. Louisiana, 379 US 536, 553-555, and 6 Supreme Court Digest, L.E., Const. L., sec. 940.

^{MONTANA}
A House Bill 336, in forbidding the mere presence of petitioners for initiative at polling places, does not meet the test of being a valid exercise of police power as it clearly offends constitutional guarantees. See A.L.R. 2d Digest, Const. L., 681.3. In Eubank, supra at pp. 142-143, the Court, following District of Columbia v. Brooke, 214 US 138, 149, held that while the police power is "the most essential of powers of government..., necessarily it has limits and must stop when it encounters the prohibitions of the Constitution." House Bill 336 does not reasonably attempt to regulate and assure the peaceful behavior of petitioners for initiative. It prohibits their presence, thereby classifying and identifying the initiative process with coercion of those voting upon the ballot issues of the day. But the pursuit of the initiative process must not, absent otherwise unlawful behavior, be so cavalierly denied. Petitioners for initiative only offer the possibility of placing an issue on a future ballot in the exercise of a power constitutionally reserved by and for the people. Further, such petitions can be signed only by those who are privileged to exercise the franchise of the polling place, i.e. registered voters. 13-27-102 MCA. Thereby, the Legislature has created a clear relationship between the constitutionally protected powers of initiative (Art. III, Sec. 4, and Art. V., Sec. 1, ^{MOAT} ~~CEASE~~) and the right to vote. The constitutionality of legislation establishing such a relationship is not in question. But the Legislature now attempts to prohibit the consummation of this relationship at the polling place, the one place specifically reserved only to those who are eligible to consummate the relationship,

NAME: Don Judge DATE: 3/19/81

ADDRESS: P.O. Box 1176 Helena

PHONE: 442-1708

REPRESENTING WHOM? MT STATE AFL-CIO

APPEARING ON WHICH PROPOSAL: HB 336

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

COMMENTS: Prepared testimony left with Committee
Secretary



JAMES W. MURRY
EXECUTIVE SECRETARY

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TESTIMONY OF DON JUDGE ON HOUSE BILL 336, BEFORE THE SENATE COMMITTEE ON STATE
ADMINISTRATION, MARCH 19, 1981

The Montana State AFL-CIO is opposed to House Bill 336.

We are opposed to House Bill 336 because it makes it more difficult for the people of Montana to place an initiative on the ballot. When the legislature drags its feet on an important issue, the initiative process is the recourse given to the people by the Montana Constitution. Lobbyist disclosure bills, for example, have been introduced in the legislature in the past, but failed to win approval, even though Montana was one of only four states who did not have such a law. In the 1980 general election, lobbyist disclosure, which appeared as an initiative on the ballot, passed overwhelmingly when four out of five Montana voters approved the measure.

In order to qualify for the ballot, initiative petitions must contain the signature of a qualified elector in substantially the same manner as it appears on the voter registration card, the elector's address, and the elector's precinct number. Many individuals, when approached at their door or on the street, are not able to recall this information accurately. When approached at their polling place, this information is readily available.

If there is concern that the collection of signatures might interfere with an election, MCA 13-35-218(4) already prohibits the obstruction of an election and it is up to local election officials to see that no violation occurs.

House Bill 336 does not protect the voter at the polling place, it simply makes it more difficult for citizens collecting signatures for an initiative and thus makes it more difficult to place an initiative on the ballot. We are opposed to any legislation which weakens this constitutional right.

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
HS Hanson	MT TECHNICAL COUNCIL	HB-26	✓	
Peter Jackson	Wells	HB 336	✓	
Allen Shumate	Retiree	HB 336	✓	
Margaret M. Speer	Housewife - Election judge	HB 336	✓	
John [unclear]	Housewife	HB 336		
Charlotte	Common Cause	HB 336		✓
Steve Harper	self	HB 336		✓
Ed Olson	self	HB 336		✓
Paul [unclear]	dept. of highways	HB 26	Handwritten	
C. J. CHISHAM	DEPT OF INSTITUTIONS	HB 336	X	
Sandra Harris	D of I	HB 336	X	
Bella F. Winstone	Common Cause self	HB 336		✓
Jessie Kemington	Secretary of State	HB 336		
Bill Hand	MT. Mtn Assoc	HB 336	✓	
Don Allen	MT. Retiree Assoc.	HB 336	✓	
Mary Wilham	self	HB 336		✓
Buck Bdos	MT. Chamber of Commerce	HB 336	✓	
Toni McOmber	Montana Education Assoc	HB 336		✓
Keith Anderson	Montana Loggers Assoc	HB 336	✓	
Harry Langley	Self	HB 336	✓	
Edm. Judge	MT STATE AFL-CIO	HB 336		X
Joe Lamson	MT. DEMOCRATIC PARTY	HB 336		✓
Carole Braco	Citizens Legislative Coalition	HB 336		✓

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

MARCH 19

19 27

PRESIDENT

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

26

having had under consideration Bill No.

MOORE (JOHNSON)

HOUSE

26

Respectfully report as follows: That..... Bill No.

, third reading copy, be amended as follows:

1. Page 3, line 12

Following: "THE"

Insert: "STUDY,"

Following: "DESIGN"

Insert: " , "

AND, AS SO AMENDED

BE CONCURRED IN

STATE PUB. CO.
Helena, Mont.

PETE STORY

Chairman.

STANDING COMMITTEE REPORT

MARCH 19

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MR. PRESIDENT

STATE ADMINISTRATION

We, your committee on

HOUSE

336

having had under consideration Bill No.

KANDUCE (GALT)

HOUSE

336

Respectfully report as follows: That

, third reading copy, be amended as follows:

1. Page 2, line 13.

Following: "conducted."

Insert: "(5)"

2. Page 2, line 14.

Following: "place"

Strike: "or engage in any solicitation"

Insert: ". Solicitation"

3. Page 2, line 15.

Following: "issues"

Insert: "or for any other purpose"

Following: "within"

Insert: "any polling place"

Following: "or"

Strike: "at"

Insert: "within 200 feet of"

XXXXXX
DO PASS

CONTINUED

HOUSE BILL 336 page 2

4. Page 2, line 16.

Following: "place"

Insert: "is obstruction within the meaning of this subsection"

AND, AS SO AMENDED,
BE CONCURRED IN