

HOUSE NATURAL RESOURCES COMMITTEE MINUTES
February 9, 1983

The House Natural Resources Committee convened at 12:30 p.m., on February 9, 1983, in Room 224K of the State Capitol, with Chairman Harper presiding and all members present except Rep. Quilici, who was excused. Chairman Harper opened the meeting to an executive session on the following bills.

HOUSE BILL 260 Rep. Brown moved DO PASS. Rep. Ream moved to amend on page 1, line 14, by striking "and" and inserting "or." He said he felt this would help to alleviate some of the voiced concerns. Rep. Brown said if "or" makes it clearer so be it. The question was called on the motion to amend and carried unanimously with all present. Absent at this time were Reps. Bergene, Hand, Jensen, Metcalf, Nordtvedt and Quilici.

Rep. Brown said the Legislature still has to make the determination. Rep. Brown changed his motion to AND AS AMENDED DO PASS. This motion carried unanimously with all present (same absent as previous vote).

HOUSE BILL 391 Rep. Brown said the Department of State Land amendments (Exhibit 1) says you can assign a license but not a lease. John Carter said a lease conveys a grazing right and a license is used for a cabin site and this bill's intent is to cover only cabin sites. Mr. Carter said this bill would create a right of assignment so the licensee would be permitted to assign the license as he wanted to. The bill says the license will be valued based on a fair market appraisal. He said if the bill doesn't pass the existing license would pass to a new owner through the bidding process.

Rep. Curtiss said she had some question on what constitutes a lease and what constitutes a license. She said they have had a lease in effect since 1935 on their cabin site.

Rep. Brown said the situation Rep. Curtiss has is a grandfathered one having to do with the 99 year lease. If the person wishes to transfer this lease he would have to convert to a license and then assign it because of the changes from license to lease. Rep. Brown said this bill would not affect that even if all references to lease is changed to licenses.

Rep. Harper questioned if it is right to permit the assigning of these licenses without the competitive bid proces. He questioned if the state wouldn't lose financially.

Mr Carter was asked if in his legal opinion Rep. Brown was correct. Mr. Carter said while he personally agreed, he would not want to give a legal opinion on it.

Rep. Brown said what this does is allow for an appraisal of the cabin site in relation to other sites in the area to arrive at an equitable evaluation. So it cannot be assigned for less than this and it also protects the licensee as he can get paid for his improvements from the assignee. Rep. Brown said he couldn't see any way to abuse this.

Rep. Curtiss asked if the Board would still have the right to reject an assignment. Rep. Brown said if you look on pages 3 and 4, the Board is basically setting up a scenario as to how the appraisal would be handled and assuming that the Department didn't approve the assignment of the license the could reject it if the appraisal seemed too low. He felt it would be more protection for both the licensee and the state as far as dollars are concerned.

Chairman Harper expressed a concern that a few dollars could be slipped under the table from assignee to licensee to keep from having to go through the competitive bid process. He said he didn't want to invite that kind of thing.

Mr. Carter was asked to explain just what the bill does. He said the bill protects the existing rights of the licensee to assign the license. When the license he has purchased expires at the end of five years, it continues to be appraised rather than put up for bid. The licensee when he sells the license gets to charge the true market value and the person who buys it gets an added benefit as he steps into the shoes of the original licensee.

Rep. Addy asked could they assign the lease to a logging firm. Chairman Harper said there would be covenants attached to the license.

Rep. Brown moved the amendments. The motion carried unanimously with those present (absent now was Rep. Quilici).

Rep. Brown moved HJ 391 AS AMENDED DO PASS. This motion carried unanimously with all present (absent was Rep. Quilici).

HOUSE JOINT RESOLUTION 12

Rep. Ream moved the amendments,
which are Exhibit 2 of the minutes.

He said he had talked to the bill's sponsor, Rep. Swift, and he wasn't concerned about these. The motion to adopt the amendments carried unanimously with those present (absent was Rep. Quilici).

Rep. Mueller moved AND AS AMENDED DO PASS.

Rep. Curtiss said on page 2, line 15 -~~that~~ Some of the language which deals with this disposal of offered pieces of land gives local governments the highest option to buy and she didn't think this language to highest bidder is applicable in every instance. She said the first criteria should be that local government should have the first chance to buy.

Rep. Fagg suggested replacing "could" with "would."

Rep. Metcalf moved that amendment on page 2, line 15 and on page 2, line 16. This motion was adopted unanimously by all present (Rep. Quilici absent).

Rep. Addy asked if on page 3, line 4, there should be some maximum acreage that could be prioritized. He said he would throw out the figure of 20,000 acres to see what the committee thought. Rep. Mueller said he would resist that amendment as all this is is a resolution to Congress and he didn't feel putting an acreage limitation on was a good idea.

The question was called and the motion of AND AS AMENDED DO PASS carried with Rep. Addy voting no and absent was Rep. Quilici.

HOUSE BILL 472 Rep. Brown moved to amend on page 11, lines 4-18 by striking this language and inserting the language from Mr. Shanahan's amendment (Exhibit 3) through sub (3). Rep. Brown said this language had been worked out between the parties. It basically says the plan can be amended by the affected counties or the developer if the number of people increase or decrease by 100 over the contemplated employment levels. He read the amendment.


The question was called and this motion carried unanimously with those present (absent was Rep. Quilici).

Rep. Brown moved the amendments proposed by Mr. Richards, Stillwater County (Exhibit 4). This motion carried with Rep. Nordtvedt voting no and absent now were Reps. Asay and Quilici.

Rep. Brown moved DO PASS AS AMENDED. This motion carried with Rep. Nordtvedt voting no and absent was Rep. Quilici. Rep. Asay had left a yes vote.

Meeting adjourned at 1:45 p.m.

Respectfully submitted,



HAL HARPER, CHAIRMAN

Emelia A. Satre, Sec.

Ex. 1

AMENDMENTS TO HOUSE BILL 391

1. Title, line 6.
Strike: "SURFACE"
Insert: "CABIN SITE"
2. Title, line 7.
Following: "CURRENT"
Insert: "CABIN SITE"
3. Title, line 9.
Following: "INITIAL"
Insert: "CABIN SITE"
4. Page 1, line 16.
Strike: "grazing and"
5. Page 1, line 18.
Strike: "grazing and"
Following: "recreational"
Insert: "cabin site"
6. Page 1, line 22.
Strike: "grazing and"
7. Page 2, line 7.
Strike: "grazing and"
8. Page 2, line 18.
Strike: "surface"
Insert: "cabin site"
9. Page 2, line 21.
Strike: "grazing and"
10. Page 3, line 5.
Strike: "grazing and"
11. Page 3, line 9.
Strike: "surface"
Insert: "cabin site"
12. Page 3, line 11.
Following: "continue"
Insert: "or assign"
13. Page 3, line 16.
Strike: "surface"
Insert: "cabin site"
Following: "lease"
Insert: ", "

Page 2

AMENDMENTS TO HOUSE BILL 291

14. Page 3, line 16.
Following: "current"
Insert: "cabin site"
15. Page 3, line 24.
Strike: "surface"
Insert: "cabin site"

AMDTS/HB 291

Exhibit 2

HOUSE JOINT RESOLUTION 12
PROPOSED AMENDMENTS

1. Page 1, line 13: delete "states"
Insert: "and the National Forest Management Act of 1976 state"
2. Page 2, delete: lines 23-25
Insert: "except as provided in existing land-use planning statutes."
3. Page 3, delete: lines 5-6
Insert: "financially burdensome, outdated, nonessential facilities."

Exhibit 3

Jim Richards, Andrew Epple,
NAME Ward Shanahan, and Les Darling BILL NO. HB 472
ADDRESS P.O. Box 1715, Helena, MT 59624 DATE 013183
Stillwater PGM Resources and
WHOM DO YOU REPRESENT Stillwater and Sweet Grass Planners
SUPPORT _____ OPPOSE _____ AMEND XXX

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend New Section 5, page 11, of the introduced bill
as follows:

1. Delete all language on page 11, lines 4 through
25, and page 12, lines 1 through 23, and insert in lieu
thereof the following:

"NEW SECTION. Section 5. Impact plan amendments.

(1) The impact plan may provide for amendment under defi-
nite conditions, ^{like the} ~~on the~~ governing body of an affected
county or the mineral developer may petition the board for
an amendment to an approved impact plan if:

(a) employment at the large-scale mineral develop-
ment is forecast to increase or decrease by at least 100
people over or under the employment levels contemplated by
the approved impact plan; or

(b) changes in the large-scale mineral development
cause, or can be expected to cause, an increase ⁱⁿ ~~in~~ esti-
mated population of at least 15% in a local government
unit when measured against the average population of the
local government unit in the 3-year period preceding the

commencement of new construction or new operations of the mining facility; or

(c) it becomes apparent that an approved impact plan is materially inaccurate because of errors in assessment and 2 years have not elapsed since the date the facility begins commercial production; or

(d) the governing body of an affected county and the mineral developer join in a petition to amend the impact plan.

(2) Within 10 days of receipt, the board shall publish notice of the petition at least once in a newspaper of general circulation in the affected county. The petition must include:

(a) an explanation of the need for an amendment;

(b) a statement of the facts and circumstances underlying the need for an amendment; and

(c) a description of the corrective measures proposed by the petitioner.

(3) Within 60 days after notice that the petition has been received, an affected local government unit or the mineral developer must notify the board in writing if such person objects to the amendments proposed by petitioner specifying the reasons why the impact plan should not be amended as proposed. If no objection is received within the 60-day period, the impact plan must be amended by the board as proposed by the petitioner.

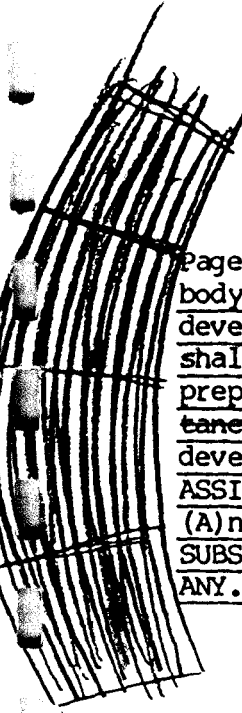
(4) If an objection is received, within 10 days of its receipt, the board shall notify the petitioner and include a copy of all objections received by the board. If the objecting party and the petitioner cannot resolve the objections within 30 days after the expiration of the 60-day period, the board shall conduct a hearing on the validity of the objections within 30 days after the failure of the parties to resolve the objections. The hearing must be held in the affected county or, if objections are received from local government units in more than one county, must be held in the county which, in the board's judgment, is more greatly affected. The provisions of the Montana Administrative Procedure Act apply to the conduct of the hearing.

(5) Following the hearing, the board shall make findings as to those portions of the amendments which were objected to and, if appropriate, amend the impact plan accordingly. The board shall cause the findings and impact plan, as amended, to be served on all parties. Any local government unit or the developer is entitled to judicial review as provided by Title 2, chapter 4, part 7, in the district court for the judicial district in which the hearing was held."

Ex. 4

PROPOSED AMENDMENTS TO HB 472

Submitted by
Stillwater and Sweet Grass Counties
and
Stillwater PGM Resources



Page 5, lines 17 through 22: "(3) Upon request of the governing body of an affected county UNIT OF LOCAL GOVERNMENT, the mineral developer(,) PRIOR TO COMMENCEMENT OF THE 90 DAY REVIEW PERIOD(,) shall provide financial or other assistance as necessary to prepare FOR and evaluate the impact plan. ~~To receive this assistance,~~ (T)he affected county COMMISSIONERS must contract with the developer and provide for TO OBTAIN THE REQUESTED FINANCIAL ASSISTANCE FOR EACH UNIT OF LOCAL GOVERNMENT WITHIN THE COUNTY(.) (A)ny disbursements TO A UNIT OF LOCAL GOVERNMENT UNDER THIS SUBSECTION shall be credited against future tax liabilities, IF ANY.

