

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 31, 1983

The nineteenth meeting of the State Administration Committee was called to order by Chairman Pete Story on January 31, 1983 at 10:30 a.m. in Room 331 of the State Capitol, Helena, Montana.

ROLL CALL: Roll was called and all members were present but SENATOR STIMATZ and SENATOR TOWE.

CONSIDERATION OF SENATE BILL 269:

"AN ACT REQUIRING THE PUBLIC SERVICE COMMISSION TO ORDER REFUNDS OF PUBLIC UTILITY CHARGES UNLAWFULLY COLLECTED AND ALLOWING INTEREST ON SUCH REFUNDS; AMENDING SECTIONS 69-3-305 AND 69-3-330, MCA."

SENATOR HALLIGAN, Senate District 48 of Missoula, introduced S.B. 269 at the request of the Public Service Commission and stated that the title is quite clear requiring the Public Service Commission to order refunds of public utility charges unlawfully collected and also allows a interest on a refund. He reviewed the bill with the committee. He stated that the court order to the PSC does not have the authority to order refunds so this bill will clarify that language and provide interest at a reasonable rate.

PROPOSERS:

JOHN ALKE, representing Montana Dakota Utilities, stated that they are supporting the bill with the amendments. Mr. Alke gave some history of why they are here. He said that MDU is a regulated utility and has some unregulated enterprises. He stated that until the fall of 1980 there had never been a problem regarding refunds and that they made them upon request. The fall of 1980 the commission issued an order without any hearing or notice, that they received a complaint that MDU had charged \$17 for lighting a pilot light, and that was not a charge approved by the commission. The order required refund of all such charges. Mr. Alke stated that the charge was actually for a broken part in a water heater. He stated that even assuming that they had wrongfully charged the \$17 for lighting the pilot light, and they had been making that charge for the past 35 years, the Public Service Commission stated that they had no jurisdiction over our utility operations. We said perspective we would abide by their order, but not retroactively, and the refund made it so. They went to court and it was ruled in MDU's favor. The amendment shows inserting

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"regulated utility" before the word "service", which will protect the customer that is knowingly charged by utilities that are clearly utility operations and required by law to have tariffs. He stated that they are also asking to have the hearing requirement back in. They are also asking to have the word "shall" struck and replaced with "may" regarding refunds.

BOB NELSON, staff attorney for the Public Service Commission, described the features of the bill and why the commission supports it. He stated that the Commission supports S.B.269 in order to authorize refunds of utility charges unlawfully collected. Although the present form of the Bill 269 is the cleared expression of the Commissions' intent, the commission does not seriously object to amending "shall" to "may", or to leaving the hearing requirement in 69-3-330. The Commission does object, however, to defining "service" as a "regulated utility service". This change is unnecessary and would only muddy the intent of S.B. 269. See EXHIBIT 2.

LARRY HUSS, Attorney for Mountain Bell, spoke as a proponent saying that they have basically the same problem with the bill as Mr. Alke. He stated that the striking of "upon such hearing and due investigation" gives him trouble, because when he goes into court (there are other statutory requirements in the law for a hearing) and argue that somewhere down the line the striking of such a term is a matter as opposed to former legislative act; special as opposed to the general legislative act. When a court construes statutory language they have certain rules and one of those rules is that later legislation prevails over former.

MICHAEL ZIMMERMAN, representing the Montana Power Company as their attorney, stated that they support S.B.269 with the amendments presented by Montana Dakota Utilities, and added one other reason for the amendment changing "shall" to "may". They feel that putting that in the commission's discretion will help when you have a instance when a tariff rate has been over collected and you have to refund. The account to which the refund is due may not be able to be located and you may have a large administrative expense.

BILL OPITZ, Director of the Public Service Commission, spoke as an proponent. See EXHIBIT 3.

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TOM RYAN, representing Montana Senior Citizens Association.
stated that they supported this bill

There were no other proponents.

OPPONENTS: None.

SENATOR HALLIGAN closed. stated that he supports what Mr. Optiz
said. Changing "may" to "shall" is fine with him. He asked
for support of S.B.269.

CONSIDERATION OF SENATE BILL 268:

"AN ACT CONSOLIDATING THE ADMINISTRATION OF DISABILITY, DEATH,
AND PENSION BENEFITS PROVIDED IN THE VOLUNTEER FIREFIGHTERS'
COMPENSATION ACT UNDER THE PUBLIC EMPLOYEES' RETIREMENT BOARD;
AMENDING ..."

SENATOR RICHARD MANNING, Senate District 18, Cascade County,
submitted his introduction as EXHIBIT 4.

ART KORN, secretary, treasurer of the Montana State Volunteer
Firemens' Association, spoke to the committee as a proponent
and said that he thought this to be a good bill.

DAVE FISHER, representing the Montana Volunteer Firemens'
Association, stated his support of the bill.

CLEM DUAIME, President of the Montana Folunteer Firemens'
Association, stated he would like to go on record in support
of S.B.268.

There were no further proponents.

OPPONENTS: None.

QUESTIONS OF THE COMMITTEE:

SENATOR MANNING questioned the necessity of the statement of
intent.

DAVE COGLEY, Staff attorney, stated that he did not think it
necessary.

MOTION was made by SENATOR MANNING that S.B. 268 DO PASS.
MOTION PASSED UNANIMOUSLY.

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CONSIDERATION OF SENATE BILL 267:

"AN ACT CHANGING THE NAME OF THE INSTITUTIONS AT WARM SPRINGS AND GALEN TO THE MONTANA STATE HOSPITAL; AMENDING SECTIONS..."

SENATOR MARK ETCHART, Glasgow, introduced this bill, stating their desire to change the names of Galen and Warm Springs to Montana State Hospital. He gave some history of the institutions and said that Galen had been just a TB center. He said since these two hospital are only two miles apart it is advantageous for them to be consolidated and it would make it easier for the people to administer the program.

PROPOSERS:

REPRESENTATIVE STEVE WALDRON, Missoula County, and chairman of the Institution Subcommittee, which has been dealing with the Galen and Warm Springs budget. They have just completed action this morning on that budget and are operating under the assumption of consolidation. Senator Etchart has also suggested consolidation of food services saving on 17 FTEs. For all practical purposes those two institutions are consolidated right now. Therefore name change seems logical.

KURT CHISOM, Deputy Director of the Department of Institution, stated that this bill was introduced at their request. He said the whole thing started in 1977 and in 1979 they consolidated a couple of services, one being the laundry service. They were then asked to report back to the 81 session what they could do to further consolidate. They then proposed complete consolidation. He suggested a verbal amendment: referring to page 12, line 16, that he would prefer the use of "agency" instead of "institution".

DR. SELLERS, superintendent to the consolidated facilities, spoke as a proponent and stated that this is a very favorable consolidation and asked support of this bill. He said they will get away from the "we" and "they" thing with the name change.

MICKEY MC TORDEVICH, director of environmental services for Warm Springs and Galen, asked for the support of S.B.267.

JERRY HOOVER, Division administrator for mental health and residential services, department of Institutions, stated that so far he has heard some fiscal reasons for consolidating and some administrative reasons, but stated he would like to mention the care and treatment of those committed.

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JEAN EDWARDS, Director of treatment services, went on record in support of S.B.267.

OPPONENTS: None

There was a question regarding the types of treatment, or who will do it.

KURT CHISOM, Deputy Director of the Dept. of Institution, said the reason for the wording is to emphasize the treatment of the combined health care agency. The first is care and treatment of mentally ill patients, done at Warm Springs campus; (b) refers to those sent to us as a combined agency for detoxification. This is inpatient care for those with chemical dependency. Tuberculosis will be kept in the Galen admission. (d) speaks to the detoxification, that is medical and must be handled in a hospital; (e) speaks contingent on space and funds which in the current language was addressing the Galen hospital for pulmonary diseases or other medical or organic disorder.

SENATOR MARK ETCHART closed on S.B.267.

CONSIDERATION OF SENATE BILL 284:

"AN ACT TO PROVIDE FOR THE INCLUSION OF CANDIDATE INFORMATION IN THE VOTER INFORMATION PAMPHLET; AMENDING SECTIONS 13-27-401, 13-27-409, AND 13-27-410, MCA."

SENATOR BOB BROWN, Senate District 10, introduced this bill by stating that it expands the voter information pamphlet, referring to the bill as to how this will be done.

MARGARET DAVIS, League of Women Voters, testified and submitted amendments. EXHIBIT 5.

ALAN ROBERTSON, legal counsel to the Secretary of State, stated that they have surveyed other states and found that they did this quite effectively. He said that two years ago Senator Eck had this idea but due to the time element and not having the work into it they did not get it out. He said that they feel strongly about voter information in the information pamphlet. He submitted amendments shown as EXHIBIT 6, which has to do with the address. He stated he could not say whether he could support the League of Women voters' amendments as he has not had a chance to review them as yet.

JOE LAMSON, Executive Secretary to the Democratic Party, stated that he joins with the others and stated that this is a good bill.

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JOHNATHAN MOTL, Loggist for the Common Cause, stated that he joins with the League of Women Voters and offers another amendment (EXHIBIT 7). He said a concern is on page 4, line 6, language like 'so long as the minimum state's requirements of 13-27-401 are met.

DENNIS BERGVALL of the Montana Republican Party expressed his support of this bill.

No other proponents.

OPPONENTS: None

QUESTIONS of the COMMITTEE:

Mr. Robertson was asked if the amendments would have a fiscal impact and he stated that he does not feel strongly about the fee portion of the bill.

SENATOR BOB BROWN closed on S.B.284 and asked for the committee's support.

CONSIDERATION OF SENATE BILL NO 286:

"AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V, SECTION 14, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE LEGISLATURE RATHER THAN A CITIZEN COMMISSION REAPPORTION MONTANA'S CONGRESSIONAL AND LEGISLATIVE DISTRICTS."

SENATOR ED SMITH, sponsor of SB 286, stated that he has not contacted anyone on behalf of this bill. He stated that he believes that this committee is more familiar with all the problems created under the present apportionment process.

Senator Smith addressed the amendment, shown as EXHIBIT 3. He stated that he believed the word 'citizen' is misleading. on page 3, line 7, and again on page 3, line 10. Senator Smith said that this amendment was drawn up at his request. This bill takes the power away from a five member committee and gives it back to the Legislature, and three committee members would be divided equally among the congressional district. He called the attention to line 12, regarding a 12 member legislative committee on reapportionment selected to prepare a plan for redistrict and reapportionment of the congressional, state and legislative district. The minority and majority leader of each house shall designate three committee members. See line 24, page 1 through page 2.

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PROPONENTS: None

OPPONENTS:

JOY BRUCK, League of Women Voters of Montana, stated they oppose this as it has always been a matter of controversy no matter who does it. Another problem is a 12 member committee could cause a deadlock. She stated that she would like to see a citizen concept.

JOE LAMSON, Montana Democratic Party, stated that he could not see going from a 5 person to a 12 person committee.

QUESTIONS OF THE COMMITTEE:

SENATOR STORY said that even if the author returned this, it was necessary for the House to take action on this.

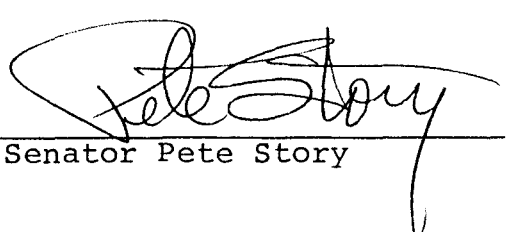
SENATOR MARBUT stated he could not read the procedure to show clarity on the number of people.

SENATOR SMITH CLOSED by saying that he visited with John Toole who said that this bill was on the way to solving the problem with the apportionments. When the Legislature did the reapportionments they had very few problems.

SENATOR SMITH asked for the support of this bill.

The meeting was closed on S.B. 286.

The meeting adjourned at 12:10 p.m.


Chairman, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

4th LEGISLATIVE SESSION -- 1983

Date 1/31/83

10:30 a.m.

SENATE
SEAT #

[illegible]

Each day attach to minutes.

DATE January 31, 1983

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bill Opitz	Mont PSC	SB-269	X	
Toy Bruck	LUV OF MONTANA	SB 286		X
ART KORN	MT. ST. VOL FIREMEN'S ASSOC	SB 268	X	
Dave Fisher	Mont Vol Firemen's Assoc.	SB 268	X	
Clem Quaise	MT ST. Vol Firemen's Assoc	SB 268	X	
ALAN ROBERTSON	SEC. OF STATE	SB 284	X	
MC DAVIS	LWV MT		amended SB 284	
Mike Zimmerman	MPCO	SB 269	XW Amended	
Bob Delano	Mont. PSC	SB 269	X	
Bob Delano	Mont. Sec. of State	SB 269	X	
R. H. Ellis	Mont Vol Firemen's Assoc	SB 268	X	
JOE LAMSON	MT. DEMOCRATIC PARTY	SB 284	X	
"	"	SB 286		X
Ed Smith	Senate	SB 286	X	
Senate	Senate	SB 284	X	
Bob Brown	Senate	SB 284	X	
Dennis Bergvall	MONT. REPUBLICAN PARTY	SB 284	X	
Carol & Ferguson	MT. H.R. Mining Bd	SB 267		
MC DAVIS	LWV MT	SB 286		X

(Please leave prepared statement with Secretary)

AMENDMENTS TO SENATE BILL 269

Pg. 1, l. 15, insert "regulated utility" before the word "service".

Pg. 1, l. 16, insert "regulated utility" before the word "service".

Pg. 2, l. 3, strike the word "shall" and replace it with the word "may".

Pg. 2, l. 14, insert the phrase "upon such hearing and due investigation" before the phrase "the rates, tolls, and charges,".

Pg. 2, l. 23, strike the word "shall" and replace it with the word "may".

NAME: John Aabe DATE: 1/31

ADDRESS: 406 Fuller

1/3

ADDRESS: 0 406 Fuller

PHONE: 442 3690

REPRESENTING WHOM? MOU

APPEARING ON WHICH PROPOSAL: SB 269

DO YOU: SUPPORT? Y

AMEND? X

OPPOSE? _____

COMMENTS: _____

NAME: Robert A. Nelson DATE: 1/31/83

ADDRESS: 1227 11th Ave, Helena

PHONE: 449-4782

REPRESENTING WHOM? Public Service Commission

APPEARING ON WHICH PROPOSAL: SB 269

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

COMMENTS: The Commission supports S.B. 269 in order to authorize refunds of utility charges unlawfully collected. Although the present form of Bill 269 is the clearest expression of the Commission's intent, the Commission does not seriously object to amending "shall" to "may," or to leaving the hearing requirement in 69-3-330. The Commission does object, however, to defining "service" as "regulated utility service." This change is unnecessary and would only muddy the intent of SB 269.

NAME: Bill Opitz DATE: Jan 31, 1983

ADDRESS: 1227 11th Ave Helena

PHONE: 449-3007

REPRESENTING WHOM? Mont PSC

APPEARING ON WHICH PROPOSAL: SB-269

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: The intent of this bill is to
grant to the PSC the power to order
refunds of moneys illegally charged by
a utility. We don't oppose the
amendments proposed concerning "may"
instead of "shall" or the reintroduction of
the phrase "upon hearing etc" although we
don't think those amendments are necessary.

However the phrase "regulated utility"
~~service~~ modifying the word "service" on lines
15 & 16 of pg 1, we feel negates the effects
of the bill & puts the Comm in a position
which would preclude the ordering of a refund.

S.B. 268 - CONSOLIDATES THE ADMINISTRATION OF THE VOLUNTEER FIREFIGHTERS' COMPENSATION FUND FOR UNINCORPORATED AREAS UNDER THE PUBLIC EMPLOYEES' RETIREMENT BOARD -

Manning

The purpose of this bill is to transfer the total responsibility for the administration of the Volunteer Firefighters' compensation from the unincorporated areas.

Section 1 - Is the provision making this change. All the changes in the remainder of the bill are simply the matter of clarifying language and providing that the Board takes on the responsibility currently carried out by the Workers' Compensation Division.

Currently, the Workers' Compensation Division is responsible for the fund. Each year, they make annual payments of \$75 dollars to approximately 150 fire departments in unincorporated areas. They are also responsible for medical and burial expenses; however, there have been no payments in this area in the past four years. The original fund for insurance came into existence in 1935 and in that period of time has probably paid out about \$10,000. The balance in the fund is approximately \$2.2 million dollars. In 1965, the pension provision was added to this fund and currently the PERS is processing 330 monthly retirement benefits for a total of about \$22,600. The total time required to administer this fund is, for the Workers' Compensation Division two man weeks a year to handle the payments and probably two hours a month to handle the balancing of this fund and advising the investment board of the available amounts for investment.

The retirement division spends about one-man-month a year preparing the annual schedule of benefit payments and probably one day a month in responding to correspondence and processing required reports.

The Workers' Compensation Division agrees to the transfer and as anticipated, there would be no change in the current FTE's of either division ~~as a result of it being mailed to the wrong party.~~



League of Women Voters of Montana
617 Harrison, Helena, Montana 59601

31 January 83

SUPPORT for

SB 284 - Providing for inclusion of
candidate information in the voter
information pamphlet.

The League of Women Voters of Montana enthusiastically supports SB 284. Voter service and information pamphlets have been a traditional part of the League's program since its founding in 1920. In Montana many local chapters produce comprehensive guides to local candidates, sometimes independently and sometimes jointly with other groups or the press. People in these areas appreciate and use these guides. We believe including candidate information in the voter information pamphlet will meet an unmet need statewide. It is a need that our and other volunteer organizations cannot fill.

Included with this testimony are some technical amendments that do not change the thrust of this bill. The amendments are aimed at clarifying that it is the responsibility of the candidate to provide the permissible information and not the responsibility of those compiling the information. We would also ask that language be provided define the costs that are considered in determining the candidate's fee for being included in the pamphlet. We would prefer that there be no fee at all, but in lieu of that we would support language limiting the fee to those actual printing and paper costs attributable to the candidate information portion of the pamphlet. Prorated administrative costs should not be a part of the fee formula. Exacting a charge from candidates for the privilege of being included in the information pamphlet may in fact raise legal questions leading to costly litigation.

The success and citizen confidence in a voter information pamphlet depends on an absolutely even-handed method of gathering and publishing the material offered by the candidates. SB 284 has the necessary safeguards to make this possible. The 1982 experimental effort by the Secretary of State helped to make this a stronger proposal than might have been possible previously.

These candidates, who have qualified for the general election ballot, but who did not respond to the invitation to be included in the information pamphlet, should be noted along with their party affiliation, if any, as having made "No Reply".

The state of Montana has a perfect, existing vehicle for delivering candidate information to every registered voter at a minimal cost. The League strongly endorses that the state take advantage of this opportunity to provide this service.

Margaret S. Davis
Margaret S. Davis, president

Encl: amendments

League of Women Voters of Montana, 917 Harrison, Helena, Montana 59601 31 Jan 83

AMENDMENTS proposed for SB 284

1. Page 2, line 17. After "(3)(a)", insert "the information pamphlet may". After "contain", strike "at least".

Subsection (b) would then read: "for each candidate for an office listed in subsection (3)(a), the information pamphlet may contain the following information:"

(Rationale: this and amendment #2 would clarify and define the maximum amount of material eligible for inclusion in the pamphlet. It would prevent potential conflicts with (6)(d), page 4. The publisher of the pamphlet would not be liable if the candidate failed or refused to provide all or part of the information that was eligible.)

2. Page 2, line 25, strike "and"
Page 3, line 1, insert "and" after "involvement:"
Page 3, after line 1 add "(ix) a 200 word statement of candidacy."
(Rationale: The statement of candidacy is specified on page 6, Line 11.)

3. Page 2, line 21. After "affiliation" insert ",if applicable to the office sought"

(Rationale: This would cover nonpartisan candidates, ie. judicial candidates.)

4. ~~XXXX~~ Page 3, line 2, replace proposed subsection (c) with the following:
"(c) be arranged so that each candidate except those in (3)(d) is allotted the same amount of space. For purposes of this section, candidates for the offices of governor and lieutenant governor shall be considered as one."
(Rationale: The format of the information pamphlet may change.)

5. NEW SECTION "(d) contain the names and party affiliation, if any, of these candidates who do not choose to submit information with the notation of "No Reply"."

(Rationale: The state has the obligation to inform the voters of who the qualified candidates are for a particular office regardless of whether or not those candidates wish to provide additional information for the voters.)

6. Page 6, line 6 add "(3)(A)" after "13-27-401" to clarify the citation.
7. FEES. The League prefers that Page 6, line 8 be stricken and that New Section 5 beginning on page 6, line 25 be deleted. The imposition of fees raises legal problems and puts an undue burden on small campaigns. We oppose fees.

If the committee retains the fee provisions, we would ~~XXXXXX~~ ask that New section 5 be rewritten to provide that ~~the costs~~ only the costs actually attributable to the individual candidate's share of the increased printing and paper costs due to the inclusion of candidate information be considered in fixing the fee. Prorated administrative costs should not be included in determining the fee.

Finally, I note that the drafter has used "must" for "shall" in many, but not all, places throughout this bill. Does this reflect a new policy or style?

These amendments are the suggestions of an amateur, and we would support appropriate language which retains the spirit, if not the syntax, of our concerns.

Margaret S. Davis, president

Margaret S. Davis

Amendment to S.B. 284

Proposed by the Secretary of State

On page 6 of the introduced bill, at line 24, after the word "information.", insert a new sentence as follows:

"Candidate notifications shall be mailed, postage prepaid, to the address provided by the candidate on their declaration for nomination."

End of Amendment

EXHIBIT 7

State Administration
Jan. 31, 1983

1 Add to start of (d) on line 6, page 4 7

So long as the minimum space
requirements of 13-27-401 (3)(c)
are met ...

John M. L.
Common
Cause

Amendment

EXHIBIT 8

State Administration

SB 286 Jan. 31, 198

Introduced Bill

1. Page 3, line 7.

Strike: "citizen"

Insert: "five-member appointed"

2. Page 3, line 10.

Strike: "citizen"

Insert: "five-member appointed"

STANDING COMMITTEE REPORT

January 31

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19.....

MR. **PRESIDENT**.....

We, your committee on **STATE ADMINISTRATION**.....

having had under consideration **SENATE**..... Bill No. **268**

Respectfully report as follows: That **SENATE**..... Bill No. **268**

DO PASS