

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 7, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 7, 1983, at 10:00 a.m., in Room 404, State Capitol.

ROLL CALL: All members were present with the exception of Senator Dover who was excused.

CONSIDERATION OF HOUSE BILL 106: This bill is an act to impose a penalty on foreign corporations that transact business in this state without a certificate of authority. Representative Cal Winslow, sponsor of the bill, stated this bill is a bill to provide a penalty on foreign corporations conducting business without a certificate of authority. It was at the request of the Secretary of State. We are not talking about international corporations just out of State.

PROPOSERS TO HOUSE BILL 106: Bob McCue, Secretary of State's Office, stated they are in favor of this bill. It is really to impose a penalty on foreign corporations doing business and giving them more teeth in the law.

Florence Armagast, Secretary of State's Office, gave figures that the corporation would be charged at the \$5.00 a day rate. Right now as a foreign corporation they would be allowed to collect only the license fee. Basically in just going through corporations that they have found approximately 17% of foreign corporations are doing business before they are qualified to do this. She supports this bill.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Lee asked the way it is now you can charge an extra \$21? Ms. Armagast stated they can charge \$5.00 plus \$5.00 penalty per day.

Senator Goodover asked what does it take to get a Certificate of Authority? Ms. Armagast stated the process is the application must be submitted to our office. Basically it asks that the corporation list registered agents. Also attached must be a copy of their Articles and a Certificate of Good Standing from their present state.

Senator Christiaens asked you mentioned the 17% figure. Can you translate that to numbers rather than percentage? Ms. Armagast stated they do qualify 100 new corporations a month. 17% a month could be receiving a higher penalty.

Senator Gage asked from these 17% how many are you having to police in order to find. Ms. Armagast stated the only way is for them to file.

Senator Kolstad asked do I understand you right, there are 100 new corporations coming into the State per month. Ms. Armagast stated yes.

Senator Gage asked do you have any idea how many corporations are dropping out per month? Ms. Armagast stated withdrawals are approximately 15-20 per month.

Senator Goodover asked does this have any application to the big semi-trucks that pull into Helena loaded with tools? Obviously, it is a corporation. Ms. Armagast stated yes and no. Basically it would need a city license before they could sell. It depends on who actually owns the merchandise. If there is an individual no they could not do anything about it. It would need to be a corporation.

Senator Gage asked does this apply to a big corporation as well as a tiny corporation? Ms. Armagast stated yes.

Senator Lee asked is this \$5.00 fee similar to other states? Ms. Armagast stated yes. California has a \$20.00 penalty.

Senator Kolstad asked would you rather have a larger penalty than \$5.00? Ms. Armagast stated yes but she thinks the \$5.00 will suffice.

In closing, Representative Winslow, stated they thought the \$5.00 per day figure would be adequate. It is not to discourage them from coming into the State.

Senator Goodover stated there are statutes in the codes that cover the person who comes into the state. The intention of the bill is to make a penalty that makes it at least worthwhile to have this law on the books but not to be restrictive to those practicing in the state.

The hearing was closed on House Bill 106.

CONSIDERATION OF SENATE BILL 221: This bill is an act to provide for the transfer of ownership, operation and control of improvement district utility service facilities to a regulated utility. Senator Bill Norman stated he was the sponsor of this bill. There are SID's which are now becoming mature. 20 years has passed and the problem arises. Take an example of a waterline. The RSID district is created and the water main is part of the RID and eventually the bonds are paid off and the matter is settled financially but not legally. The county ends up with the water line. Suppose the water company even uses that RID line and it goes on to serve other areas. The county it is contended is stuck with that water line. They have to maintain it and provide service. There is no way they can transfer that title ownership to a water company who wants to buy it. They can lease it or put it up for bids but none of this is satisfactory. The bill would make it possible for the county to dispose of that property. The need is there and he thinks this bill would answer the need. He has said RSID's so he is talking only about county. The city has heard of the bill and wants to include SID's or cities in this bill. He proposed some amendments.

PROPOSERS TO SENATE BILL 221: Michael Sehstead, Missoula County Deputy Attorney, stated he supports this bill. His testimony is

attached to the minutes. (Exhibit No. 1)

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Gage asked apparently there would be nothing that the utility could do to keep the district from giving that line to them? Mr. Sehstead stated I think the bill as written requires that terms and conditions would have to be agreed upon. He doesn't think the county could drop anything on them. It would be a meeting of the minds.

Senator Fuller asked if you were to make a deal with the utilities does this equipment become taxable? Mr. Quinn stated he believes it would. It would become part of the rate base. As far as taking the ownership of property like that we have done that in the past when they have advertised for bids on the property and taken over liabilities.

Senator Goodover asked are these isolated incidences? Mr. Sehstead stated yes they have only had isolated incidences in their county. Mr. Quinn agreed that this is not a widespread thing.

In closing Senator Norman stated he was merely submitting the amendments for the cities consideration and it would include the cities in the bill as well. He thinks the title is vague enough to include everything.

ACTION ON HOUSE BILL 106: Senator Lee made the motion that House Bill 106 Be Concurred In. Senator Boylan seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 106 BE CONCURRED IN. Senator Lee will carry this bill on the floor.

ACTION ON HOUSE BILL 347: Senator Goodover stated he would carry this bill on the floor.

ACTION ON HOUSE BILL 190: The Committee decided to hold this bill for amendments until Friday.

ACTION ON SENATE BILL 229 and 221: The Committee decided to hold these bills for amendments until Wednesday.

CONSIDERATION OF SENATE BILL 144: This bill is an act to remove the restriction allowing only natural persons to hold a liquor license transferred between quota areas. Senator Turnage stated he was the sponsor of this bill which is a request from the Department of Revenue. It deals with removing a restriction on a corporation owning a transferred license. The problem is on page 4, lines 24-25 the part that is stricken. These restrictions were put in when they had the floater licenses. He thinks it is an unrealistic limit. If a corporation acquired a floater license this restriction would follow. The department brought this before the Revenue Oversight Committee and that is the argument.

PROPOSERS TO SENATE BILL 144: Bob Durkee, Montana Tavern Association stated he supports this bill. This deals only with the floater license. A corporation can presently own an all-beverage license. He does not know how this language showed up in the bill.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Regan stated I think you are being less than candid when you say you have no knowledge as to why this language showed up in the bill. If you remember it was a compromise that you and the committee that put together Senate Bill 1 arrived at in 1975, and that was the compromise and you stood there and testified to that. Mr. Durkee stated if you read the bill it is in reference to the 5 year ownership and that was not in Senate Bill 1.

Senator Regan stated it is my understanding that this language was put in at the tavern owner's request and that was done last session. Mr. Durkee stated a corporation can own an all-beverage license and this deals only with the floater.

CONSIDERATION OF SENATE BILL 300: This bill is an act to eliminate the requirement that one vice-president of a banking corporation be chosen from the board of directors. Senator Turnage stated he was the sponsor of this bill also. The only change in the existing law you will find on line 18 the words struck and at least one vice-president. The section reads the president and at least one vice-president shall be chosen from the board of directors. He thinks history shows that if this has been followed and it probably has not always the vice-president chosen from the board often is not a bank officer. The law still will require that the president shall be chosen from the board of directors. Many banks have nonbank personnel as directors, none of which other than the president, is an active bank officer. This will remove the mandate that a vice-president may be chosen from the board when in fact he may not be an active bank officer.

PROPOSERS TO SENATE BILL 300: Ed Jasmin, President of Northwestern Bank of Helena stated there are state banks and national banks operating in Montana. A national bank may have up to 25 vice-presidents and the local bank 11. The state laws require one vice-president be on the board, which can only have 11 members. He feels it is important to put in community representatives except for the president. He thinks it would be more up front if that provision were eliminated.

John Cadby, stated this was just another example of archaic banking codes that need to be cleaned up.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Fuller asked he was just curious as to why this was in here? Mr. Jasmin stated he does not know. It goes back to 1927. The person who actually ran the bank was the cashier and maybe it was

the requirement that they have other acting people on the board.

Senator Kolstad asked are their several banks that are complying with this rule? Mr. Jasmin stated he does not think so.

In closing, Senator Turnage stated he has spoken with Les Alke about this bill and he has pointed out that it does not have an immediate effective date. If the committee finds that this is appropriate an effective date should be put in the bill.

ACTION ON SENATE BILL 300: Senator Lee made the motion that Senate Bill 300 Do Pass. Senator Severson seconded the motion.

The committee voted unanimously, by voice vote, that SENATE BILL 300 DO PASS.

ACTION ON SENATE BILL 144: Senator Goodover made the motion that Senate Bill 144 Do Pass. Senator Lee seconded the motion.

Senator Regan stated she knows the bill is going to pass but she stated she thinks what we did last session and are about to do now is wrong. In 1975 we had a study of the whole liquor division and we at that time completely revised a series of laws and one of the compromises that was made with the liquor industry was that they could have a floater license. In Butte and Red Lodge where they have a number of licenses over quota they allowed a floater provided they were 125% over quota. This means in some areas they were selling licenses for \$165,000. You could go to Butte or Anaconda and pay the fee to the Revenue Office and float it in. One of the provisions was that it was to be floated to a natural person not a corporation. The idea being that when the bar owner quit the floater would die. It worked well but the tavern owners do not like that. It does not allow them to make a monstrous killing. One license was purchased for \$125,000 and another was purchased for less than that. They sold it for \$163,000 and immediately got themselves out of the city and applied for a new license. Two years ago the language was added that after five years a floater license could become a regular license. That was a mistake. At least then it was to a regular person. Now what you are about to do is allow this floater license to float to a corporation so there is no chance of a dry up. The liquor industry wants to see this because they do not like the floater. This means you will not go to Butte or Red Lodge to float one out. Once it is floated out it will be taken by a corporation. Those licenses floated in will become real licenses. The tavern owners want this.

Senator Regan stated Mr. Durkee, you will notice, did not specifically answer my question. He talked all the way around it.

Senator Gage asked under section 4, page 5, lines 7-8-9, if I understand that correctly once a license becomes a floater license it will not become a floater license subsequent to that time. Senator Regan stated after five years the floater becomes real property. Subsection c, page 5, line 20, after that it then becomes real property and a regular license. By making it a regular license that can be held by a corporation it will go on.

Senator Fuller stated your opposition is that we are further distorting the quota system? Senator Regan stated yes that is one of my objections. The other in reality you are dissolving the compromise that was built some time ago and the tavern owners once again will get what they want. As soon as we can realize that the quota system does not work, the sooner we get out. Maybe the initiative process is the way to take it out. That is the way we got them out of wine and beer.

Senator Gage stated it appears to me under the restrictions of subsection 6 that regardless of those transfers you are still not going to get over that 25-33% figure, regardless of the five years. Senator Regan stated the difficulty arises if you have a new census and you have a new business and there is a new license available by the state by virtue of the new business and you can buy from the state for \$20,000 as opposed to an exorbitant amount.

The Committee voted by Roll Call Vote 5-3, with Senators Christiaens, Fuller and Regan voting no that SENATE BILL 144 DO PASS.

ADJOURN: There being no further business, the meeting adjourned at 11:00 a.m.



ALLEN C. KOLSTAD, CHAIRMAN

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

DATE 2-7-83

[illegible]

STANDING COMMITTEE REPORT

February 7

1933

MR. PRESIDENT

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration

SENATE

Bill No. **144**

Respectfully report as follows: That

SENATE

Bill No. **144**

DO PASS

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STANDING COMMITTEE REPORT

February ⁷ 15 19 83

MR. **President**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **SENATE** Bill No. **300**

Respectfully report as follows: That **SENATE** Bill No. **300**

DO PASS

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STANDING COMMITTEE REPORT

February 7

23

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE

Bill No. 106

(WINSLOW) LEE

Respectfully report as follows: That HOUSE

Bill No. 106

BE CONCURRED IN

~~XXXXXX~~

A.C.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-7-83

Senate

Bill No. 144 Time _____

NAME	YES	NO
PAUL F. BOYLAN		
B. F. CHRIS CHRISTIAENS		✓
HAROLD L. DOVER		
DAVID FULLER		✓
DELWYN GAGE	✓	
PAT M. GOODOVER	✓	
GARY P. LEE, VICE CHAIRMAN	✓	
PAT REGAN		✓
PAT M. SEVERSON	✓	
ALLEN C. KOLSTAD, CHAIRMAN	✓	

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: To Pass

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

SENATE BILL 221

Missoula County supports this bill for the following reasons:

BACKGROUND: The County is authorized, upon the receipt of a proper petition and after notice and hearing to finance the construction of water lines, gas lines, and power lines through the RSID process.

When completed these utility lines are used by regulated utilities to provide water, gas or power to residents of the RSID.

The costs of installing these systems is born by the district residents initially and is in part reimbursed by the utility which makes payments to the county when customers hook-up to the system. These payments are used to make early payment on the districts bonds.

PROBLEM: Title to these improvements remains in county raising the possibility of:

- 1) potential county liability for problems arising from the improvements.
- 2) potential assessment of repair costs against the district.

Since county holds essentially for the benefit of the district general provisions regarding the sale of county property may not be applicable. Certainly no express authority to dispose of RSID financed improvement.

Even if general provisions regarding sale of county property are available, they do not specifically authorize the kinds of conditions on the sale that may be desirable.

BENEFITS:

The bill provides a clear method of dealing with the improvements.

It will enable the county to shift liability for the condition and maintenance of the improvement to the utility that is using them.

It will permit the county to impose conditions to protect the district residents.

It will protect the residents by placing them in the same position as other utility customers by eliminating the possibility of direct assessment for the cost of repairs to the supply system.

2.2.83

VISITORS' REGISTER

(Please leave prepared statement with Secretary)

NAME: ED JASMIN

DATE: 2-7-83

ADDRESS: 626 MONROE, HELENA

PHONE: 442-5050

REPRESENTING WHOM? NORTHWESTERN BANK - HELENA

APPEARING ON WHICH PROPOSAL: S.B. 300

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: WOULD LIKE TO SEE 1927 PROVISION
OF THE LAW CLEANED UP TO ELIMINATE
REQUIREMENT OF A V.P. ON Bd OF DIRECTORS OF
BANK. STATE BANKS ARE LIMITED TO 11 DIRECTORS.
ALL ARE OUTSIDE DIRECTORS EXCEPT CEO. ONE
OF THE OUTSIDE DIRECTORS IS NAMED V.P. TO QUALIFY
WITH LAW. THIS IS JUST WINDOW DRESSING.
IF BANK WANTS A V.P. THE CAN STILL
PUT ONE ON IF THEY LIKE -
NATIONAL BANKS DO NOT HAVE THIS
REQUIREMENT

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Michael W Schostedt DATE: 2/7/83
ADDRESS: Missoula County Courthouse Missoula
PHONE: 721-5700

REPRESENTING WHOM? Missoula County

APPEARING ON WHICH PROPOSAL: SB221

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: See Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.