

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

February 7, 1983

The fourth meeting of the Senate Finance and Claims Committee met on the above date in room 108 of the State Capitol. The meeting was called to order by Chairman, Senator Himsl at 4:32 p.m.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 95: Representative Gene Donaldson House District 29, Helena, and chief sponsor of the bill said this bill would appropriate money for sanitary review of subdivisions by the Department of Health through June 30, 1983. Representative Donaldson said this bill is a supplemental for the Department of Health because they are concerned that the money is drying up and they need this to carry on the activity until July 1. Last year there was an attempt to raise the fees but it was defeated in the last session. There are declining reviews now because of the economy.

Representative Donaldson said the subdivision review had been taken under the wing of the Water Control Division when the money ran short. Under the present circumstances it appears that the subdivision reviews will have to be discontinued unless it is funded. If it is not funded, we will not be timely and the state will be open for law suits.

Steve Pilcher, Chief of the Water Control Bureau gave testimony for the bill, his testimony is attached, Exhibit 1.

Charles Landman, EIC, said they support the supplemental for the reasons given by Mr. Pilcher, and left written testimony which is attached as exhibit 2.

Dennis R. Rehberg, Montana Association of Realtors, said they would support this bill, but were opposed to a lot tax. He said if the agency is running efficiently it should not be needing a lot tax which will be coming up in another bill.

There were no further proponents, no opponents, and the Chairman asked if there were questions from the Committee.

SENATOR OCHSNER: It says in the first testimony that the staff was reduced from 8 in 80 to 4 in 82. Our recommendation in 80 was to cut down FTE immediately.

Mr. Pilcher asked Mr. Ray Hoffman to answer that question.

Mr. Hoffman: Reduction did not wait until 82 to take place. The reduction was made over the 2 year period.

Dennis Rehberg said he did not know where the figures were coming from in laying off 4 FTE in 2 years. At one time Dr. Drynan came in and asked for a 5th FTE and said the dollars were there to support it. (Mr. Rehberg read testimony from Dr. Drynan to substantiate the statement). LFA said the fees would cover 4 FTE and we went down and got the figures. Our figures show they paid 5 FTE in 1982. If lot reviews were going down, then we feel the FTE should be going down accordingly.

SENATOR SMITH: At the end of 79 they were in good shape and wanted to add FTE. I wonder how it got in that much trouble in such a short time.

SENATOR HIMSL: Are you asking the question, Senator?

SENATOR REGAN: I will ask the question and direct it to the Department. There is no sense in wondering when we can ask a direct question and get the answer.

Mr. Hoffman: The figures you have are correct, Senator Smith, in the earmarked fund. When the general fund stopped, the earmarked fund had to support the program in totum, and the fees did not build up enough to support the area.

SENATOR KEATING: I would address this to Mr. Pilcher. Does the money come in with the request? Pilcher: Yes, the check normally comes in with the application.

SENATOR KEATING: Do you have a backlog of work now that has been paid for? Pilcher: At the present time we are in pretty good shape. We inherited a pretty good backlog when the subdivision was closed down. We have now about 15 or 20 to review on which the fees have been paid.

SENATOR KEATING: Have the review fees been spent? Pilcher: They have been deposited with the Department and expenses paid out against the earmarked account. The checks are given to the Department in the earmarked account as expenses come in that are associated to that department, they are paid from that account.

SENATOR KEATING: Do you anticipate any earnings between now and July 1. Any applications with fees? Pilcher: We are assuming there will be some between now and July or there would be no need for the 4 FTE. Some will be new requests and some will deal with applications in the past. We will receive fees and some will be used to pay counties for their reviews and assistance. They are paid about \$25 a lot and there is nothing in H. B. 95 to reimburse counties; that money will be paid out of the review fees.

SENATOR KEATING: Could you get by from now until July doing without any more income on the \$58,000 you have in this bill or do you anticipate more from fees? Pilcher: It is a projection of need to keep the program and independent of fees.

SENATOR KEATING: You would not need to spend more than the \$58,000? Pilcher: I think it is the Department's intent to build some sort of a cushion so as not to have the same thing as before when reviews dropped.

SENATOR KEATING: I would address this to Mr. Hoffman. Have you taken in any monies that are building up a cushion? Mr. Hoffman: We have a balance of \$10,100.00, of which \$28,000 is accumulated sick leave and vacation of \$25,000.

SENATOR KEATING: Do you owe any work out of this? Koffman: They are pretty well caught up.

SENATOR KEATING; Any fees? Koffman: If you give the \$58,000 and any fees in excess of the \$58,000 it will be returned.

SENATOR HIMSL: Did you say Federal funds were terminated? Hoffman: The people working in the Water Control were funded by EPA general funds. They are saying that now they are not coming in.

DR. DRYNAN: At the time I had to shut this down I contacted the Water Control in Denver and they increased money in November, December and January and I asked to use Water Control money until January. At that time I had to terminate that source of funds.

SENATOR HIMSL: You were out of money on February 15? Dr. Drynan: yes.

DR. DRYNAN: In answer to Senator Keating: If we get any dollars in we have to have the staff to take care of the work. It is not used for Water Control people that were already there.

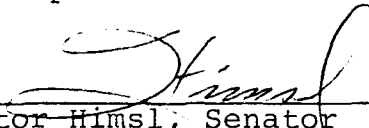
SENATOR BOYLAN: If we don't fund this, what will happen? Dr. Drynan: The state of Montana will probably wind up with law suits. I will have to stop accepting subdivision reviews because of no money. If no review in 60 days the state of Montana is due for a law suit.

Representative Donaldson closed by saying he would like to emphasize the last point. The law says you have to review and the Department of Health has to do it. We are not trying to build any cushion, but in the Legislative process we are addressing what has to be done, and this is not the bill to do that in; this is only money until July 1. I think on February 1 Dr. Drynan gave notice to some of his employees that they will be laid off if no money is forth coming. I hope for the next biennium we will let the subcommittees and the finance committees decide the level to do this. I hope you will give prompt action and keep these people operating now.

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DISPOSITION OF HOUSE BILL 95: Motion by Senator Story that House Bill 95 BE CONCURRED IN. Question was called and a roll call vote was taken. The motion passed 13-5. Senator Story will carry the bill.

The meeting was adjourned at 5:04 p.m.



Senator Himsl, Senator

44 1- 2/1/83
HB 95

Montana Department of Health and Environmental Sciences

Testimony in Support of HB 95

History of Subdivision Program

The 37th. legislature enacted the first "Sanitation in Subdivision" law in 1961 with minor amendments being enacted by subsequent sessions. From 1961 until 1976 subdivision review was carried out by the staff of the Water Quality Bureau. In 1976 the number of lots being reviewed began to increase significantly and a Subdivision Bureau was created within the Department. Subdivision review remained with that bureau until 1982 when the Subdivision Bureau was closed and review responsibility transferred, along with one engineer and one secretary, to the Water Quality Bureau.

Prior to 1976 the subdivision review program was entirely supported by general funds. The 1975 legislature enacted a fee system which provided a review fee of \$15 per lot. That fee was raised to \$25 per lot in 1977 and to \$30 in 1981, however, \$40 was requested in 1981. A bill has been introduced in this session which would raise the maximum fee that could be charged to \$50. In 1976 the program received \$59,000 in general fund money. That contribution was increased to \$62,000 in 1977 and to \$67,000 for 1978 and 1979. At the end of 1979 there was a reserve of \$224,000 in the earmarked revenue fee account. From that point until now no further general funds have been committed to the program.

From 1980 until present the number of lots received for review has declined from approximately 10,000 per year to approximately 5,000 per year estimated for 1983. Likewise program staff have been reduced from eight persons in 1980 to four persons in the fall of 1982. Even with staff reductions the program depleted the earmarked revenue reserve and found that it could not support itself from the fees being received.

In order to prevent a budget deficit and still meet agency responsibility under the law, the DHES closed the Subdivision Bureau and transferred the review responsibility to the Water Quality Bureau. One engineer and a secretary were transferred to the bureau to facilitate a smoother transition. Such a transfer has placed a tremendous additional burden on the water program employees. Not only are they expected to continue to perform the high priority tasks associated with there position but also expected to review subdivision submittals in a timely manner. As many as eight engineers and water quality specialists have been spending a portion of there time on subdivision review. While this arrangement has allowed the agency to meet its deadline on subdivision review, water quality programs have suffered. Most people can shuffle priorities and temporarily put off some responsibilities, but that is not to say that those responsibilities can be ignored. Such an arrangement can not continue.

The DHES is requesting, thru HB 95, a supplemental appropriation of \$58,000 to fund a staff of four persons to handle subdivision review from now until June 30, 1983. This staff would remain as a subdivision review section within the Water Quality Bureau.

The Department recognizes that HB 95 is not the total solution to the financial problems associated with subdivision review. There are several other bills that have been introduced to deal either directly or indirectly with the long term needs of the program. HB 95 will allow the state to meet its legal responsibility of subdivision review and allow this body to deal with long term financial matters.

The program is essentially broke at this time and prompt, favorable action on this bill is essential.

Thank you for your consideration of this matter.

Steven L. Pilcher, Chief

Water Quality Bureau



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Comments in support of HB 95.

State review of the sanitation in proposed subdivisions is vital to protect the health of the people who live in and around those developments. MEIC is concerned about what will happen should the Water Quality Bureau discontinue its emergency review service in the next week or two. State law requires this review be done before a subdivision plat can be filed with the county and lots can be sold. The statute does not say what will happen if this review is not done. Will the state be open for a lawsuit, or will the development take place without any sanitary review? HB 95 gives the department and the legislature time to address the financial and regulatory problems of sanitary review without jeopardizing public health. We urge your support of HB 95.

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 2-7-83

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Etchart, VC</u>	✓		
<u>Senator Dover</u>	✓		
<u>Senator Keating</u>	✓		
<u>Senator Smith</u>	✓		
<u>Senator Thomas</u>	✓		
<u>Senator Van Valkenburg</u>	✓		
<u>Senator Stimatz</u>	✓		
<u>Senator Story</u>	✓		
<u>Senator Ochsner</u>	✓		
<u>Senator Haffey</u>	✓		
<u>Senator Jacobson</u>	✓		
<u>Senator Regan</u>	✓		
<u>Senator Lane</u>	✓		
<u>Senator Aklestad</u>	✓		
<u>Senator Hammond</u>	✓		
<u>Senator Tveit</u>	✓		
<u>Senator Boylan</u>	✓		
<u>Senator Hims1, Chairman</u>	✓		

STANDING COMMITTEE REPORT

January 7,

19 83

MR. **PRESIDENT**

We, your committee on **Finance and Claims**

having had under consideration **House** Bill No. **95**

Respectfully report as follows: That **House** Bill No. **95**

BE CONCURRED IN

~~DOUBT~~

SENATE COMMITTEE

FINANCE AND CLAIMS

Date

2/7

Bill No.

95

Time

4:01

Name	YES	NO	ABSENT	EXCUSED
Senator Etchart, VC	✓			
Senator Dover	✓			
Senator Keating	✓			
Senator Smith		✓		
Senator Thomas	✓			
Senator Van Valkenburg	✓			
Senator Stimatz	✓			
Senator Story	✓			
Senator Ochsner		✓		
Senator Haffey	✓			
Senator Jacobson	✓			
Senator Regan	✓			
Senator Lane	✓			
Senator Aklestad	✓			
Senator Hammond		✓		
Senator Tveit		✓		
Senator Boylan		✓		
Senator Himsl, Chairman	✓			

13-5

Sylvia Kinsey
Secretary

Senator Himsl
Chairman

Motion:

