

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 8, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 8, 1983, at 10:20 a.m., in Room 404, State Capitol.

ROLL CALL: All members of the committee were present.

ACTION ON SENATE BILL 105: Senator Severson stated there seemed to be a problem with a bill that we handled here a few days ago.

Senator Severson made the motion that the committee consider drafting a committee bill.

Noel Stout, Private Employment Agencies, gave a handout to the committee. (Exhibit No. 1) He stated like any business we do charge a fee or dollar amount and it was based on the annual income but it was also calculated on the first month's wages. Two years ago when the law was changed the word "proposed" or "estimated" was left out of the bill. They would like to charge a fee on annual salary but calculate on first months income. Last year they found 3,487 jobs for people. At this point they cannot even stay in business. The IRS has a hard time tracking people down and they would be in the same boat. They would like a committee bill so they can insert those words.

QUESTIONS FROM THE COMMITTEE:

Senator Regan stated she still has a great deal of trouble with the concept. She believes it does take the unanimous consent to introduce a committee bill. She does not know if she wants to do this. For safety sake she would prefer the Chairman appoint three people to work on some kind of bill and then see if the committee wishes to consider it.

Chairman Kolstad stated this was a reasonable approach. He appointed Senators Fuller, Gage and Severson to the subcommittee.

Mr. Stout stated if there are any questions you might have I have been in the business for 12 years and can answer any questions sincerely.

Senator Fuller asked what did you do last year? Mr. Stout stated last year we were somewhat in limbo as the Department of Labor interpreted the bill differently. They have always charged a fee on the first month's salary.

Senator Regan asked if they ever considered an assignment of wages? Mr. Stout stated he would like not to be in the bookkeeping function they would like to be putting people to work. If they have to wait a year they don't think they would have a ghost of a chance. The way the law is we have to wait until the annual salary is actually determined. They are asking for the committee bill and the word "proposed" to be included in the bill. Mr. Stout stated he will work with the subcommittee.

ACTION ON HOUSE BILL 347: Chairman Kolstad stated they made a motion on the floor to bring this bill back to the committee. They have a real problem with reinserting the language \$250. It makes it extremely difficult for these outfits to operate under that kind of language. He thinks it would be fair if we had a set percentage rate.

Senator Lee made the motion that we strike on page 4, line 15, \$250. and insert 1%. He had some concerns about the 3%. 1% would be more reasonable.

Senator Gage stated in the testimony he asked the difference between 3% and 5%. He recalls they stated there were additional costs of foreclosing. Under the 5% fee if it is not foreclosed they would get \$10,000 with very little work it would be an additional \$4,000 fee. He thinks 5% is too high as well.

Chairman Kolstad asked John Cadby for his comments. He deferred to the attorney Gene Phillips. He stated they do handle that type of foreclosure. They charge their actual time to the bank. If it exceeds 1% the bank is stuck with the difference. They have had as high as \$75,000 to \$100,000 but no more than that. He does not see an exorbitant fee ever being extracted.

Senator Goodover stated he talked with one of the bankers this morning. He thought the 1% fee with the possibility of a lid was reasonable.

Senator Gage stated the information that we got from the one bank last time was it averaged out to just a little less than \$600. Those were just the legal fees as he recalls.

Senator Lee amended his motion on line 15, page 3, to read fees to be charged shall not exceed the lesser of \$1,000 or 1%. Senator Fuller seconded the motion.

Senator Goodover stated I am sure if there is a problem they will be back.

Senator Dover asked why are you raising it so much? Senator Gage stated they have been on the books so long. Senator Lee stated it would be the 1%, it would not automatically be \$1,000. Senator Regan added whichever is the smaller.

The Committee voted 9-1 with Senator Boylan voting no, that the proposed amendment to HOUSE BILL 347 BE ADOPTED.

Senator Lee made the motion that House Bill 347 As Amended Be Concurred In. Senator Fuller seconded the motion.

The Committee voted 9-1 with Senator Boylan voting no that HOUSE BILL 347 AS AMENDED BE CONCURRED IN. Senator Lee will carry this bill on the floor.

ACTION ON SENATE BILL 84: Senator Lee made a motion to ask for a ruling from the chair that all new language in Senate Bill 84 that

was added be struck and we address it in the original form. The reason we should do that is we went on the presumption last week that the amendments that were on the bill were stripped when we passed consideration for the day. He could not come up with any basis for that argument. He contacted Senator Hazelbaker and the Secretary of the Senate and there does not seem to be a basis on that in a standing committee. It could be the prerogative of the Chairman to rule in that favor and he would hope that he would. Senator Boylan seconded the motion.

Senator Goodover stated since we appear to have an agreement from both sides is that agreement based on the original bill or the amended bill? That is what these amendments are based on. Senator Lee stated I think those amendments could be restructured to accommodate the original bill.

Senator Regan stated lets go ahead and honor Senator Lee's request, strip everything out and she will attempt to amend into the grey bill.

Senator Gage stated since we got the amendments to Senate Bill 84 he now has an additional sheet. This sheet has been agreed to in lieu of the document before us. These then would also be included in here in deleting page 3? Senator Regan stated lets strip out the amendments and see if we can put it back together again.

The Committee voted unanimously, by voice vote, that we strip the bill completely.

Senator Regan made the motion that we amend the original bill so that it reflects the amendments that you see before you on the grey bill. (Exhibit No. 2) That is the language that is underlined and capitalized. Senator Goodover seconded the motion.

Senator Lee spoke against the motion and language. He thinks it is inappropriate in a time when people are sick and tired of more government that we in this committee give them more government. He suggested we reject these amendments and go with something more reasonable and keep it out of the jurisdiction of the Public Service Commission.

Senator Regan stated it seems we spent a good deal of time on that and we have arrived at a compromise. She thinks it is time to put the compromise in place and take it out on the floor.

Senator Fuller stated he is concerned about who is agreeing with this compromise. Senator Regan stated it is her understanding that the various wire owners have compromised with the gentleman that represents housemovers. It is not a perfect compromise but it is the best we can do. We will let the Public Service Commission deal with this in a rational way. We have some protective language that we hope will work well.

Senator Fuller asked for a brief explanation. Senator Regan stated prefab people who build are going to pay for this, if the structure

is not a prefab the Public Service Commission will set the rate and will determine who will pay for it.

Senator Severson spoke against the motion. We ought to make the decision here and not get them involved with having them meet with the Public Service Commission.

Senator Lee stated this is a compromise, as any compromise that takes place in the Legislature between the lobbyists and the principals involved, they may have a different perception. He does not know if the members are agreeable with this compromise. If this goes down we can get along with the other areas of this bill and send it out.

Rod Hanson stated this isn't a perfect bill but it is something that had to be done and if you agree to the amendments of the bill we will live with it. We may not like it but we will live with it.

Chairman Kolstad stated the compromise is the language that has been presented to us this morning.

Senator Gage stated we have heard from the people from the REA and utilities. He wanted to hear from Mr. Browning.

Mr. Browning stated he was retained by the Home Movers Association. He has met since Friday afternoon with the members of the Montana Home Movers Association and utilities and they have developed a compromise which the committee should decide to reinstate in the grey bill. All members of the Home Movers Association are not in agreement with the compromise. They would like to see a different bill before this committee. He does have a majority of the members, according to the people who retained him, who agree with the compromise that we have developed.

Senator Fuller asked have you verified that the Public Service Commission can indeed administer this? Senator Goodover stated Bill Opitz has indicated that they can handle the wording of the compromise.

Senator Boylan made a substitute motion that we amend the original bill and make the amendment if the structure exceeds 26' in height the cost shall be charged on an equal basis.

Senator Regan spoke against the motion. We do have an agreement. She has been here ten years and she is tired of going steady with these guys. She sees them every session. Let them go steady with the Public Service Commission. That is where they belong.

Senator Lee asked Senator Boylan to make his motion to include the structure manufactured with the intent to move will pay the full burden.

Senator Boylan amended his motion that all prefab structures pay the full costs. Senator Christiaens seconded the motion.

The Committee voted on Roll Call Vote 6-4 with Senators Dover, Goodover, Regan and Kolstad voting no that the proposed amendments to SENATE BILL 84 BE ADOPTED.

Senator Lee made the motion that Senate Bill 84 As Amended Do Pass. Senator Boylan seconded the motion.

The Committee voted on Roll Call Vote 6-4 with Senators Dover, Goodover, Regan and Kolstad voting no that SENATE BILL 84 AS AMENDED DO PASS.

Senator Goodover stated he does not see why we are going to be seeing this again. Are we just going to ignore an industry request that we try to help them solve this problem? With all the work we put in on this bill he cannot understand why we could not address their concerns.

Senator Lee stated with the language that we put in the bill we have given the industry an approximate 80% relief with regards to an extraordinary structure down the road. In doing so, they have not jeopardized the housemovers to the extent that they would have put the housemovers out of business. He thinks it was the only reasonable thing for them to do.

Senator Regan stated she thinks we are acting irresponsibly. You may think that you have saved the housemovers. She would submit there are little phone companies and REAs that have a great deal of trouble. She does not think there has been any compromise. You in essence have taken sides and have said the housemovers are completely correct and that the utilities have no standing at all here and she does not think that is fair. Sure it is hard to find sympathy with Montana Power but on the other hand we have to act fairly.

Senator Boylan stated he has in his motion that they pay half of the 26'. There are housemovers that are not heartily in support of Mr. Browning's amendment. He thinks there are smaller housemovers that are trying to take care of things. He is going to save some small homes. He thinks inasfar as the telephone people they are going underground and they have done a lot of redoing. In following that the TV is going the same route. He does not think it is as much a problem as it was at one time. The power company is going to a minimum of 26'. With this paying half this kind of wipes out dramatic costs they have had before.

Senator Gage stated the present rate structure is based on present and past costs and their justification where the Public Service Commission is concerned. He is just as convinced that this bill is going to cause no problem for future requests. He supports this.

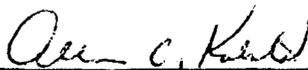
Senator Goodover stated he is wondering if we have the bill properly before us. There has been no motion to take it off the table. Senator Regan stated lets just assume we do and get it over that.

Senator Goodover stated lets assume that the bill is still on the table and consider to adjourn.

Chairman Kolstad stated it required just a motion that we take it off.

Senator Lee stated he thought in his motion we took it off the table. Chairman Kolstad stated I assume the bill is not on the table any longer since we have discussed it.

ADJOURN: There being no further business, the meeting adjourned at 11:15 a.m.



ALLEN C. KOLSTAD, CHAIRMAN

STANDING COMMITTEE REPORT

February 8

19

BY PRESIDENT
VIR

BUSINESS AND INDUSTRY

We your committee on

having had under consideration

House Bill No. 347

(DONALDSON) GOODOVER

Respectfully report as follows: That House Bill No. 347
as amended as follows:

- 1. Page 4, line 15.
- Following: "6250"
- Strike: "30"
- Insert: "the lesser of \$1000 or 10"

This amendment supercedes the previous amendment made to House Bill 347 on February 4, 1983.

~~XXXXXX~~

AND AS AMENDED, BE CONCURRED IN

AC

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-8-83 Senate Bill No. 84 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: Sen. Boylan's motion that all
prefab structures pay the full cost.

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

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-8-83 Senate Bill No. 84 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: As Amended to Pass

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

Our business is finding jobs for people

This is how the law has always read, and has for as long as I can remember

(5) No employment agency shall impose a fee in excess of the percentage of the annual income based on the first month's gross income to any person placed for employment as provided for in the following schedule:

This is how it reads now

39-5-303. Regulation of fees — disapproval of contract. (1) The fee charged by any employment agency for its services must be based on a percentage of the income of the applicant during his first year of employment. The percentage charged must be determined by the agency and is not subject to disapproval by the director.

By killing Senate Bill 105 we can not charge a fee until the person has worked one year. In order for the 247 employment agency people in the state to remain in business of finding jobs for people we have to charge a fee based on something; either the old law above or let us insert the word projected into the law as we have in Senate bill 105.

While we have 4 more days, I am respectfully requesting that you put in your own committee bill as originally requested or the way it was in years past.

(2) (a) No employment agency shall impose a fee in excess of the percentage of the annual income based on the first month's gross income to any person placed for employment as provided for in the following schedule:

Schedule of Placement Fees

OR

Based on the projected annual income.

1 SENATE BILL NO. 84

2 INTRODUCED BY HAZELBAKER, AKLESTAD, KOLSTAD, ELLIOTT,
3 WILLIAMS, BERTELSEN, CURTISS, R. MANNING, H. HAMMOND,
4 E. SMITH, HAGER, MANUEL, FABREGA, CHRISTIAENS, UNDERDAL,
5 G. JACOBSEN, ROUSH, SCHULTZ, METCALF, VINCENT, HARRINGTON,
6 LANE, BOYLAN, D. BROWN, ELLISON, ASAY, HARPER, PISTORIA,
7 YARDLEY, CONOVER, THOMAS, BLISS, HAND, HARP, COMPTON,
8 M. HANSON, RYAN, SOLBERG, MENAHAN, VELEBER, KOEHNKE,
9 HEMSTAD, BENGTON, TVEIT, MARKS, B. BROWN, GAGE, MILLER

10
11 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT
12 PERSONS, FIRMS, OR CORPORATIONS OWNING HOUSES, BUILDINGS,
13 DERRICKS, OR OTHER STRUCTURES SHALL PAY THE CERAIN
14 NECESSARY AND REASONABLE EXPENSES, AS DETERMINED BY THE
15 PUBLIC SERVICE COMMISSION, OF RAISING OR CUTTING WIRES OR
16 REMOVING POLES TO FACILITATE THE MOVEMENT OF SUCH STRUCTURES
17 UNLESS THE OWNERS OF THE WIRES OR POLES REFUSE TO RAISE,
18 CUT, OR REMOVE THE SAME; AMENDING SECTION 69-4-603, MCA."

19
20 WHEREAS, Title 69, chapter 4, part 6, MCA, provides for
21 a procedure for moving houses and other structures under and
22 through existing electrical powerlines, telegraph cables,
23 and guy wires, requiring notice to the owner of the lines,
24 cables, or wires; and

25 WHEREAS, section 69-4-603, MCA, provides that the

1 necessary and reasonable expenses of cutting or raising the
2 lines, cables, or wires are generally to be borne by their
3 owners; and

4 WHEREAS, the payment for such services is an
5 unreasonable and unfair burden to place on utilities and
6 utility ratepayers, who cannot participate in decisions to
7 move structures that require interference with lines,
8 cables, and wires; and

9 WHEREAS, it is in the best interests of all electric,
10 telephone, or cable television ratepayers in Montana that
11 the necessary and reasonable expenses associated with
12 movement of structures requiring wires, cables, or poles to
13 be moved or raised pursuant to sections 69-4-601 through
14 69-4-604, MCA, be paid by the person, firm, or corporation
15 owning the structure rather than the person, firm, or
16 corporation owning or operating the wires, cables, or poles
17 required to be moved; and

18 WHEREAS, a public purpose will be served by requiring
19 that the person, firm, or corporation owning a structure
20 BUILT WITH THE INTENTION OF BEING MOVED under these statutes
21 pay all necessary and reasonable expenses of raising or
22 cutting wires and cables or moving poles to accomplish such
23 move.

24

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Section 69-4-603, MCA, is amended to read:

2 "69-4-603. Procedure to accomplish move. (1) It shall
3 then be the duty of any person, firm, or corporation owning
4 or operating said poles or wires after service of notice, as
5 required by 69-4-602, to furnish competent workmen or
6 linemen to remove such poles or raise or cut such wires as
7 will be necessary to facilitate removing ~~moving~~ such house,
8 building, derrick, or other structure ~~and in such case the~~
9 ~~necessary and reasonable expenses of raising or cutting the~~
10 ~~wires or of removing the poles shall be paid by the person,~~
11 ~~firm, or corporation owning the house, building, derrick, or~~
12 ~~other structure.~~

13 (2) THE NECESSARY AND REASONABLE EXPENSE OF RAISING OR
14 CUTTING THE WIRES OR OF REMOVING THE POLES FOR UTILITIES
15 SUBJECT TO THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION
16 SHALL BE FIXED AND DETERMINED BY THE PUBLIC SERVICE
17 COMMISSION ON THE AVERAGE COST PER LINE OR POLE FOR TIME AND
18 MATERIALS EXPENDED. THESE COSTS AND EXPENSES SHALL BE
19 DETERMINED AT A HEARING TO BE HELD WITHIN 180 DAYS OF [THE
20 EFFECTIVE DATE OF THIS ACT] AND SHALL BE REVIEWED
21 BIENNIALLY.

22 (3) THE RATES AND CHARGES OF RURAL COOPERATIVE
23 ELECTRIC UTILITIES, RURAL COOPERATIVE TELEPHONE UTILITIES,
24 AND OTHER PERSONS WHO OCCUPY AND USE UTILITY OR COOPERATIVE
25 POLES SHALL NOT EXCEED THE CHARGES ESTABLISHED BY THE PUBLIC

1 SERVICE COMMISSION FOR UTILITIES SUBJECT TO ITS
 2 JURISDICTION.

3 (4) THE PUBLIC SERVICE COMMISSION SHALL APPORTION THE
 4 COSTS AND EXPENSES DETERMINED PURSUANT TO SUBSECTIONS (2)
 5 AND (3) AS IT DETERMINES PROPER, EXCEPT THAT WHERE A
 6 STRUCTURE IS BUILT WITH THE INTENTION OF BEING MOVED, THE
 7 OWNER OF THE STRUCTURE SHALL PAY ALL OF THE COSTS AND
 8 EXPENSES OF RAISING OR CUTTING WIRES OR REMOVING POLES TO
 9 FACILITATE THE MOVEMENT OF THE STRUCTURE.

10 ~~(2)(5)~~ No person, firm, or corporation owning or
 11 engaged in moving any house, building, derrick, or other
 12 structure shall raise, cut, or in any way interfere with any
 13 such poles or wires, unless the persons or authorities
 14 owning or having control of the same shall refuse to do so
 15 after having been notified, as required by 69-4-602; then,
 16 only competent and experienced workmen or linemen shall be
 17 employed in such work, and in such case the necessary and
 18 reasonable expense shall be paid by the owners of the poles
 19 and wires handled; ~~provided; however; that any person, firm,~~
 20 ~~or corporation engaged in moving such structure within the~~
 21 ~~limits of any city or town shall pay all necessary and~~
 22 ~~reasonable expense of raising or cutting such wires or~~
 23 ~~removing such poles.~~ The work shall be done in a careful and
 24 workmanlike manner, and the poles and wires shall be
 25 promptly replaced and the damages thereto promptly

1 repaired."

2 SECTION 2. SEVERABILITY. IF A PART OF THIS ACT IS
3 INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
4 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
5 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
6 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE
7 INVALID APPLICATIONS.

-End-

