

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 14, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 14, 1983, at 10:10 a.m., Room 404, State Capitol.

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

CONSIDERATION OF SENATE BILL 295: An act to clarify that interest earned on the deposit of county and municipal improvement district funds and interest earned on the investment of bond and warrant proceeds of such districts are credited to the district's fund.

Senator A. Reed Marbut stated this is a bill which was generated because of the apparently wide spread use of developer SIDs. This bill is simply to require the counties and cities to make a very careful audit and accounting of proceeds. He is only changing existing law in two places. After submitting the bill he had some contact with some people in Missoula and he gave the committee some proposed amendments. (Exhibit No. 1) It would slightly change the concept. There are two different classes of revenue. Interest which is collected on the deposit. This interest is the interest that accrues between the time people pay their taxes and the time the coupons must be satisfied and bonds can be retired. The money sits about one or two months and they can invest that. The interest very often runs astray and goes into the general fund. He wants to give the city flexibility to satisfy SID debts. He does not wish it to go into the general fund. The amendment on page 2, lines 7 and 8 modifies it into the sinking fund so he needed this amendment. They are talking about \$3-4,000 in some cities and counties. For instance an SID is formed. The bonds are sold on the engineers estimate or bonds spread. That money is then available to the city. It is possible this money will be around a year. This would be a considerable amount of money. There have been cases where the municipalities are placing that money in the general fund. These SIDs should stand on their own merits. He is including both municipalities and cities both RSID and SIDs in this bill.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Goodover asked how did we get along without this for all these years? Senator Marbut stated we have not gotten along. In fact there are municipalities that are using the interest earned on SIDs for the general fund. This is a very small abuse but it is significant.

The hearing was closed on Senate Bill 295.

ACTION ON SENATE BILL 295: Senator Severson made the motion that the proposed amendments to Senate Bill 295 Be Adopted. Senator Christiaens seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed

amendments to SENATE BILL 295 BE ADOPTED.

Senator Severson made the motion that Senate Bill 295 As Amended Do Pass. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 295 AS AMENDED DO PASS.

CONSIDERATION OF SENATE BILL 392: An act to generally revise and clarify the licensing laws for certified public accounts and licensed public accountants; to broaden the board of accountants mandatory rulemaking authority; to allow the board to require accounting experience as a prerequisite to receiving a permit; granting the board authority to assess investigative costs; providing for exceptions to privileged communications; and providing a penalty.

Senator Roger Elliott stated he was the sponsor of this bill. It is a lengthy bill but does a simple thing in the accounting section of the law. It was drafted by the Board of Public Accountants. This bill essentially sets up a different set of requirements for CPAs and LPAs in practice. There is also a little bit of housekeeping. On page 2, line 9, they struck the word "treasurer". The Board does not have a treasurer anymore since the Department of Commerce does the bookkeeping.

Senator Kolstad asked about a Statement of Intent. Senator Elliott stated yes he does have one and asked that it be with the bill. (Exhibit No. 2)

PROPOSERS TO SENATE BILL 392: George Anderson, CPA, stated he supported this bill. It segregates the right to practice as a public accountant from the certificate. If you wish to practice as a CPA you must also have that certificate. If you do not want to practice public accounting, if you want to work as a teacher or in a corporation, it still requires that you must meet all requirements as if you were practicing. We do not feel this is exactly fair. The person not practicing public accounting need not keep up in all of these areas. As the law is now, if you do not keep all of these they write and tell you to return your certificate.

Tom Harrison, Montana Society of CPAs, stated this bill does exactly what Mr. Anderson has outlined to you. He supports this bill.

Jack Dobbins, CPA, Montana Board of Accountants, stated he supported this bill. As a member of the Board of Accountancy they have had a lot of administrative problems involving this issue. The certificate constitutes the license. When you are out of public accounting they require that you return the certificate. The changes proposed in this bill will establish a permit to practice separate from the certificate. You will be able to retain possession of this certificate.

Mike Holland, CPA, stated the Montana Society of CPAs support this dual licensing system.

Ann Bullington stated as a CPA they are very much in favor of this bill. There is a provision that is on page 3, section 2(i) which she feels is very important.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Regan stated lets assume that I had a CPA license and I practiced in the profession, then I had children and about five years later I decided that I wanted to take some kind of business on the side and do accounts. How would that affect me? Mr. Anderson stated you would probably still have to have a license. The only thing required for you to continue would be continuing education. You must get 40 hours of education a year. If you want to continue practicing you must have a license and do CPE.

Senator Regan stated but I am a CPA. Mr. Anderson stated the only thing in order to maintain the certificate you must get 40 hours of continuing education per year.

Senator Regan stated you can become an architect, pay your licensing fees to the State and if you belong to AIA you can practice architecture. I believe you can do the same in being a doctor, you are telling me I cannot do the same thing being a CPA? Mr. Anderson stated you have to maintain your license with the State of Montana. I think it is the same thing with the architects.

Senator Regan stated you have this 40-hour requirement which without that you cannot practice. Mr. Anderson stated the continuing education has come about in the profession in the last 15-20 years. The profession feels that if you want to continue to practice you must keep yourself up on the profession. In the present law he must get that education even though he does not need it.

Senator Gage stated we keep running into that situation. You have to get continuing education. Anyone who does not keep up is going to be phased out. You need continuing education that is available to you without going to a designated source. Mr. Anderson stated it is true that the free market system does take care of it; however, the individual that does not keep up reduces his chances.

Senator Gage stated the fact that you have a license and get 40 hours of education per year does not mean you are going to be qualified either.

Senator Regan stated this bill has been in existence for four years now. Are there CPAs that don't stay up? Mr. Dobbins stated when it was put into the law there was a transition period. It will be a year before they will be able to tell if there have been any violations of that law.

Senator Gage stated my understanding is it is a part of that law right now. Senator Elliott stated yes, this bill does not change requirements for CPAs but makes CPE mandatory in practicing public accounting.

Senator Fuller stated in a follow-up to Senator Regan's question she comes back she has 200 hours of continuing education to pick up. Mr. Dobbins stated she would have to meet the CPE requirements but there is a provision to meet that over a period of time.

Senator Kolstad asked you have a maximum of time? Mr. Dobbins stated you have to have 120 days within the 3 preceeding years.

Senator Christiaens asked if the same person who is not practicing for 8 years then would be able to come back in and over the next 2 years would he be allowed to pick up that 120 hours? Mr. Dobbins stated no, he thinks what the Board Rules state they have to have 120 hours at the time they apply for their license. This bill does not really get into that question but it does alleviate the problem a little bit. The rule on CPE primarily is a result of a sunset audit.

Senator Regan asked do the CPAs have a national organization like the architects? Mr. Anderson stated yes.

Senator Regan asked on a national level? Mr. Anderson stated yes. Senator Regan asked are there reciprocity with other states? Mr. Anderson stated yes.

Senator Regan asked is there a test which is given which sets national standards? Mr. Anderson stated it is the exact same examination which is given in 54 jurisdictions and 4 territories all graded at the same place.

Senator Regan stated then if I have earned this CPA certificate through reciprocity might I be able to practice in Wyoming or Idaho and that state may or may not have continuing education as a requirement? How could you take my certificate away from me right now because I may not be using it here but I may be using it in Wyoming? Mr. Anderson stated the law in the State of Montana says you must have continuing education. Under this bill you would not have to worry about it. You could practice in the State of Wyoming if they did not have continuing education.

Senator Regan stated she sees a problem in the bill after earning the CPA and living in Montana but practicing in another state that does not have continuing education. I suspect that if you went to court to try to get my certificate away from me the court would not let you.

Nisha Humphreys, CPA, stated she has a certificate of reciprocity from Colorado. Under the law without maintaining her certificate and a license from Colorado she could not practice in Colorado. When she moved here she had to qualify again. She had to meet the separate state requirements in other areas. She knows others who have gone to Colorado and could not practice because the laws are so much more stringent than Montana. There are other states that are even more

stringent. Utah requires 5 years of education instead of 4. The certificate by the state is separate and would preclude the problem.

Senator Gage stated I think just because you have a CPA certificate you cannot go into any state and automatically practice. You must meet the standards of that state.

Senator Fuller stated I gather you are concerned about individual rights here. This is a consumer bill. Senator Regan stated I think it is a self-serving bill. As you restrict and make more restrictive requirements you also are limiting the number of people who will be practicing in your profession.

Senator Fuller asked have the women CPAs taken a position on this bill? Ms. Bullington stated no they have not taken an official stand.

Senator Christiaens stated on page 21, line 23, the fine would not be more than \$1,000. Staff Attorney Petesch stated you can specify the penalty. If you stated it was a misdemeanor it would be \$500.

Senator Christiaens stated you are doubling the amount of that conviction how often was the fine levied previously? Mr. Dobbins stated it never has. Senator Elliott stated it is entirely discretionary in the law.

In closing, Senator Elliott stated he emphasized that the testimony is not relevant to this bill. What this bill is doing is making a way for continuing education requirements in public practice. There needs to be an amendment to the bill on page 4, paragraph f, lines 16-19. This is covered under g and h. Strike paragraph f and renumber. The areas of experience do not apply. Staff Attorney Petesch had a change in the Statement of Intent. Copies were given to the committee (Exhibit No. 3) This is not a limiting bill in any sense of the word and it is not a self-serving bill.

The hearing was closed on Senate Bill 392.

CONSIDERATION OF SENATE BILL 323: An act to treat stock owned by siblings as owned by one shareholder for purposes of the Small Business Corporations election.

Senator Thomas Hager stated this bill was requested by an individual in Billings. Stock has been given to the children. They are over the limit of 10 members of a small business corporation and caused them to lose their investment credit. They are asking that all stock owned by the children be treated if owned by one stockholder.

There were no proponents and no opponents.

QUESTIONS FROM THE COMMITTEE:

Senator Severson asked are these all underage children? Senator Hager stated yes.

Senator Fuller asked do you have any idea why they did not include siblings under the original law? Senator Hager stated under the original

law any person holding stock is a stockholder and you are permitted 10 in a small business corporation. If you have anymore than that you are not a small business corporation. It has increased to 25 by federal law.

Senator Severson stated in that case wouldn't it be better to have a bill to comply with that? Senator Hager stated no, the taxpayer asked that it be approached this way.

Senator Goodover stated actually it would do the same thing if we were conforming to the federal law. Senator Gage stated in some ways it would not. Some of the provisions pass through those in regard to investment credits. It might have a more significant affect than just this.

The hearing was closed on Senate Bill 323.

CONSIDERATION OF SENATE BILL 382: An act limiting the amount a health service corporation may charge for a policy converted from a group plan; requiring 60 days' notice of any rate increase by a health service corporation.

Senator Larry Stimatz stated he has had talks about the situation in these health service associations or corporations with the representatives of Blue Cross and Blue Shield. He came to the conclusion that the problem was more complex than he first thought. In December 1983 Blue Cross ran an ad that they were raising the group rates. It would cause many of them to give up coverage entirely. He showed the committee a letter of an individual that had been covered for 32 years and in 2 1/2 years her payments had gone from \$55.00 to \$302.50 to continue coverage. This plus the fact that we have a good deal of unemployment has caused many to lose their group plans. His bill provides that the customary rate application may not be greater than 150% of the former group plan. He has since had some suggestions from a member of the Blue Shield staff and the requested amendments are on page 2, line 14, it would read "average group rate". He would not object to that at all. Also, page 2, line 17, following "members" insert "covered under individual plans", strike "60" insert "45". He feels this bill is a simple attempt to solve a big problem.

OPPONENTS TO SENATE BILL 382: Alan Cain, Blue Shield, stated the basic problem is the past 5-6 years the cost for medical care continued to escalate. We are seeing hospital costs go up 22 1/2%, physicians up 18% and others. He explained the amendments he would like in the bill to the committee.

Tom Harrison, representing Blue Cross, stated if the 150% increase was inadequate on a particular basis to cover that conversion premium then someone else will pick it up. It segregates out a particular block of business. He thinks the age rating that Blue Cross had to go to is just a business decision. These organizations are being run for the benefit of their subscribers and there is no attempt to make the costs outrageous. The second change would only affect the health service corporations and will have no impact on commercials.

The Legislature believes the competitive market place will establish the rates.

QUESTIONS FROM THE COMMITTEE: Senator Christiaens asked can you tell me if you in turn followed up and took care of the other people? Mr. Harrison stated her problem as indicated was a unique problem. As to the letters we have received recently about age rating, no remedial action was taken.

Senator Christiaens asked in that letter was there also something about insurability? Mr. Harrison stated yes, the solution was they were placed in a different conversion process that required evidence of insurability.

Senator Christiaens asked does your company and others have a provision that allows for a person to convert their group insurance as a supplement to their Medicare? Mr. Harrison stated yes when people in our groups become 65 then they convert to a policy that supplements Medicare.

Senator Christiaens stated what is the change in premium? Mr. Harrison stated \$33.74 is the average cost, it is a decrease.

Senator Fuller asked how many health service corporations are in Montana? Mr. Cain stated two.

Senator Kolstad stated it was brought up in the testimony that some of the rates had gone up 600%. Did the coverage go up also? Mr. Cain stated costs have gone up so dramatically many people have reduced their benefits.

Senator Kolstad stated would the coverage remain the same and the rates go up six times? Mr. Cain stated he has not had any that have gone up six times.

Senator Goodover stated state employees can when they retire stay under PERS or they can convert under PERS to maintain their insurance. Mr. Cain stated as long as they are under 65 and not eligible for Medicare and do not go to another group policy. Those over 65 will convert to a Medicare supplement. The rate would drop dramatically.

Senator Severson asked still under group rates? Mr. Cain stated no under individual plans.

Senator Severson asked if you were over 65 and had to go to an individual would that dramatic increase apply there? Mr. Cain stated take a person under 65 who is not eligible for Medicare he would convert to an individual policy. This bill addresses the rate for that policy. If you are over 65 and eligible for Medicare he would pick up a supplement coverage that would be much less around \$30.00 per month.

Senator Regan stated no one has addressed the lead in time that is in the bill. You suggest 45 days might be more appropriate. When you

contemplate changing rates certainly there is lead in time when you are getting your information together. Why is 60 days so detrimental or unacceptable? Mr. Cain stated we have to give 30 days notice now. If we have to give them 60 days notice we could comply with that.

In closing, Senator Stimatz stated the purpose of the bill is when they transfer you out of the group by law they have to offer you another plan without requiring evidence of insurability but they put you into an individual group plan. The rates immediately start going up. The point he is trying to address is these people have worked 10-15 years under the group and when they are transferred their rates are automatically higher. He thinks the 150% will provide an effective ceiling.

The hearing was closed on Senate Bill 382.

CONSIDERATION OF SENATE BILL 353: An act requiring capital or surplus funds for credit life and disability insurers; defining "resident domestic insurer" and "resident in Montana" for the purposes of the insurance code.

Senator Christiaens stated I believe this bill would make it easier for Montana residents to sell credit life and retain the premiums in Montana.

PROPOSERS TO SENATE BILL 353: Pete Rice stated currently in Montana it is kind of a blanket situation where if you want to sell credit life insurance and accidental health insurance you need to be capitalized to the tune of \$200,000. As it stands now the capitalization requirement is \$600,000 and he would like to see it reduced to \$50,000 in lieu of \$150,000 deposit.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Regan asked does the Insurance Commissioner have any qualms about any of this? Senator Christiaens stated no.

Senator Regan asked would this credit life at \$50,000 would that apply for credit life if I were buying an apartment building? Staff Attorney Petesch stated it would apply to the amount of your purchase. Mr. Rice stated I believe that this is concerning conditional sales contracts unlike contracts for real property.

The hearing was closed on Senate Bill 353:

ACTION ON SENATE BILL 353: Senator Regan made the motion that Senate Bill 353 Do Pass. Senator Christiaens seconded the motion.

The Committee voted unanimously, by voice vote, that SENATE BILL 353 DO PASS.

ADJOURN: There being no further business, the meeting was adjourned at 11:50 a.m.


ALLEN C. KOLSTAD, CHAIRMAN

STANDING COMMITTEE REPORT

February 14

1983

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 295

Respectfully report as follows: That.....SENATE Bill No. 295
be amended as follows:

1. Page 1, line 22.

Following: "the"

Strike: "improvement district"

Insert: "sinking"

2. Page 2, line 9.

Following: "fund"

Strike: "as provided in 7-12-2175"

Insert: "from which the proceeds were withdrawn"

2. Page 2, line 19.

Following: "the"

Strike: remainder of line 19 through "district" on line 20.

Insert: "sinking"

4. Page 3, line 7.

Following: "fund"

Strike: "as provided in 7-12-4207"

~~XXXXXX~~ Insert: "from which the proceeds were withdrawn"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

February 14

1983

MR. **President**

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

having had under consideration **SENATE** Bill No. **353**

Respectfully report as follows: That **SENATE** Bill No. **353**

DO PASS

A.C.

Senator A. Reed Marbut, Sponsor

SENATE BILL 295 ----- PROPOSED AMENDMENTS

Page 1, Line 22

after	THE
strike	<u>IMPROVEMENT DISTRICT</u>
insert	<u>SINKING</u>

Page 2, Line 9

after	FUND
strike	<u>AS PROVIDED IN 7-12-2175</u>
insert	<u>FROM WHICH THE PROCEEDS WERE WITHDRAWN.</u>

Page 2, Line 19

after	THE
strike	<u>SPECIAL IMPROVEMENT DISTRICT</u>
insert	<u>SINKING</u>

Page 3, Line 7

after	FUND
strike	<u>AS PROVIDED IN 7-12-4207</u>
insert	<u>FROM WHICH THE PROCEEDS WERE WITHDRAWN.</u>

STATEMENT OF INTENT

_____ Bill NO. _____ [LC 935]

This bill requires a statement of intent because it requires rulemaking by the Board of Public Accountants.

Under new subsections added to section 37-50-203, the Board must adopt internal rules to preserve the confidences of clients of investigated public accountants, rules defining experience requirements and rules for investigations and enforcement of the law and board rules. The internal rules required are intended to prevent disclosure by board members and employees of facts learned through board investigations but the release of which the client of the investigated party, who may be unaware of the investigation, to which he consented. The Legislature believes this to be a sensitive area, as investigations may or may not result in civil and criminal charges and may even result in legal action by others against the client. Rules governing experience required by the Board must require only so much experience as is necessary for the protection of the public and must not impede access to the profession by those persons reasonably well qualified. Enforcement rules must create a positive enforcement program which will require application of continuing education principles for persons who, among others, may be close to violations of the law but for which other disciplinary action is not warranted.

STATEMENT OF INTENT

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Under new subsections added to section 37-50-203, the Board must adopt internal rules to preserve the confidences of clients of investigated public accountants, rules defining experience requirements and rules for investigations and enforcement of the law and board rules. The internal rules required are intended to prevent disclosure by board members and employees of facts learned through board investigations which the client of the investigated party, who may be unaware of the investigation, never consented to. The Legislature believes this to be a sensitive area, as investigations may or may not result in civil and criminal charges and may even result in legal action by others against the client. Rules governing experience required by the Board must require only so much experience as is necessary for the protection of the public and must not impede access to the profession by those persons reasonably well qualified. Enforcement rules must create a positive enforcement program which will require application of continuing education principles for persons who, among others, may be close to violations of the law but for which other disciplinary action is not warranted.

2-14-83

BUSINESS & INDUSTRY

NAME

BILL #

Check One

Support	Oppose
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Sally Nelson

Joyce Mix

Marie Brookie

Jack R. Robbins

Wt Board of Accountants

392

✓

Mike Holland

MT Society of CPA's

392

✓

Dennis Olson

11 12 13 14

392

✓

Tom Hagen

SD 30

323

✓

George D. Anderson

Not Society of CPAs

392

✓

Neysa Hampshire

✓ - 10 -

392

✓

(Please leave prepared statement with Secretary)

NAME: George D. Anderson DATE: 2-14-83

ADDRESS: Helena MT

PHONE: 442-3560

REPRESENTING WHOM? MT Soc. CPAs.

APPEARING ON WHICH PROPOSAL: SB 392

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Naysha Humphrey DATE: 2-14-83

ADDRESS: Helena MT

PHONE: 442-3540

REPRESENTING WHOM? mt Soc of CPA's

APPEARING ON WHICH PROPOSAL: SB 392

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Tom Hays DATE: 2-14-93

ADDRESS: 150 Norris Ct. Billings

PHONE: 252-3960

REPRESENTING WHOM? SD 30

APPEARING ON WHICH PROPOSAL: SD 323

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE :

2/14/83

ADDRESS:

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.