

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 4, 1983

The fortieth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman on March 4, 1983 at 10:00 a.m. in room 331 of the State Capitol Building in Helena, Montana.

ROLL CALL: Roll was taken. Senator Story, Senator Hammond, Senator Marbut, Senator Manning and Senator Towe were present as well as Senator Gary Lee who was just assigned to this committee. Senators Tveit and Stimatz were absent.

The meeting was opened to hear House Bills, 141, 490, 528 and 579.

CONSIDERATION OF HOUSE BILL 141:

"AN ACT ALLOWING GAME WARDENS TO QUALIFY ACTIVE SERVICE IN THE ARMED FORCES FOR RETIREMENT PURPOSES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

REPRESENTATIVE HOLLIDAY introduced this bill by saying that the game warden's retirement act does not allow them at the present time to apply their military service.

PROPONENTS:

LARRY NACHTSHEIM testified that any individual who receives military service credit pays the cost of the military service credit and it doesn't cost the employer or employee.

TOM SCHNEIDER, executive director of the Montana Public Employees Association, said that currently teachers retirement has military service that in some cases are granted free, PERS has military service the employee pays the employee contribution and that has some cost to the system. Police and firemen have military service basically the same as this, based on the actuarial cost and so they basically pick up all the cost of the military service. This was amended in the house to be sure it was actuarially sound.

OPPONENTS: None.

QUESTIONS OF THE COMMITTEE: None.

ACTION ON HOUSE BILL 141:

SENATOR MANNING MOVED THAT H.B. 141 BE CONCURRED IN.
MOTION PASSED

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CONSIDERATION OF HOUSE BILL 490:

"AN ACT GENERALLY REVISING THE LAWS CREATING THE STATE BOARD OF ARCHITECTS AND RELATING TO THE LICENSURE OF ARCHITECTS OF THE STATE; GRANTING THE BOARD THE AUTHORITY TO ADOPT RULES; AMENDING SECTIONS 37-65-102, 37-65-103, 37-65-202, 37-65-301 THROUGH 37-65-303, 37-65-305, 37-65-321, AND 37-65-322, MCA."

REPRESENTATIVE FABREGA, District 44, introduced this bill by saying it is at the request of the Board of Architects and is a revision of the architects licensing law and a few other changes. Representative Fabrega walked the committee through the bill. He called special attention to an important change in line 14 through 16 regarding public buildings definition. Page 5 adopts one standard. Page 9, line 18 shows that the a fine of not less than \$500 or more than \$1,000 and it was not less than \$200 or more than \$500.

PROPONENTS:

GEORGE PAGE, Great Falls, a member of the board of architects, stated he did remind the committee of the sunset review and also said that the board was reminded that they are not enforcing the rules enough.

MARTY CRENNEN, Helena Architect and a past board member, presented the committee with a handout which is a summary of major changes proposed, EXHIBIT 1. He too reviewed the changes in the bill and submitted his comments.

BONNIE DONOHUE, Board President and Public Member presented her testimony, EXHIBITS 2(a), (b), (c) & (d). Ms. Donohue said the only people that can serve are those who can afford to because it is so expensive, but the board members are treated as state employees and they are not..the money comes from the architects themselves and they are happy to pay it. She stated the expenses are costly and when the state employee is away, he gets his regular wages but that the board members do not and they must also leave their office to do this. She said that the sunset review also ask that they have meetings throughout the state.

RAY JOHNSON, Montana Chapter of the American Institute of Architects, testified as EXHIBIT 3 shows.

JERRY BALLAS, on the Board of Architects, spoke as a proponent to H.B.490.

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OPPONENTS:

TOM WESTER, representing Sharbono Construction, spoke out strongly against this bill and said that the title of the bill very much bothers him. It does not speak to what the bill is actually doing. The guts of the bill are found on Page 4, line 5 through 17 which brings practices in line with the local level and it was pointed out that it still does not make it consistent. Mr. Wester questioned why they have to make it consistent and a state mandate for standardization.

Line 7, page 4, states residential construction consisting of less than six living units, which means five he said, but the building permit says eighth.

He said he feels alone today because no one knew about this but that the basic message of the bill to set forth enforcement and rule making authority, he said he has no problem with it but the line 5 through 17, page 4, on substantial changes, he would like to see deleted.

If this bill is passed in its present form you will see a result of it. He said that he feels the contractor is the target of the bill and if they are to continue to operate they will have to hire an architect, which they are prepared to do if we must.

JOHN HOLLOW, Lobbyist for the Montana Home Builders Association spoke as an Opponent to this bill and stated that this is not a sunset bill as it may look at first glance although he is not criticizing the drafter. He said that this bill is not an innocuous. He also suggested that the same parts be deleted that Mr. Wester suggested or set aside until two years from now. You are making major changes on who designs buildings, what can go on, who plans buildings and who inspects buildings. There is a safety latch, you are not putting anyone at risk in two years; the building inspector can inspect plans and he does not have to redo them...he can reject them, if he redoes them he is exposing himself to some liability.

The second thing, that has already been suggested, is the cities have come up to their own level to what they will do as far as residential construction is concerned. They settle their own problems.

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John Hollow suggested to the board that they not just put in \$25 because you uncouple yourself from any raise that goes in automatically for all boards. He suggested that they at least remain coupled after the \$50 rather than always coming back in and amending something that you pay.

He spoke to exemptions. He gave a couple of examples; one is the UBC building in Helena. This refers to page 4, line 5 on it changing eight to six. This may be consistent to what cities are doing but said that he would suggest if cities can already do it then we have local control and lets just leave it that way. (d) eliminates the farm owner construction except for farm buildings. You can make alterations and repairs. This eliminate home owners from doing their work in-house. He said he is not here telling them that it is not a good idea but it is not a well developed idea because of the title of the bill. You may want to protect the public more, but you should do it after thorough discussion with all the people involved..this is not possible with the title of the bill.

He suggested that they delete those changes, give the board the expenses they want and come back in two years and properly debate this.

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked Representative Fabrega his response to John Hollow's comments.

REPRESENTATIVE FABREGA said that this is not a sunset bill and there was no attempt to confuse anyone by it. He said that anytime a title shows amending sections it is a warning. He said that he believes the changes are necessary for the best interest of the people. He **stated** that he is an architectural draftsman and has engaged in this often and wondered what was happening so he called an architect.

SENATOR TOWE said that the specific point that bothers him is that it looks like he cannot design or rebuild his home.

REPRESENTATIVE FABREGA said that he could as his house is not more than six units.

SENATOR STORY said, however, if Safeway wanted to knock out the back wall and put in a loading dock they would have to hire an architect.

REPRESENTATIVE FABREGA added, "yes, if it were part of the structure."

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SENATOR MARBUT asked why there no education requirements in the bill.

REPRESENTATIVE FABREGA stated that they are partial existing laws.

SENATOR MARBUT asked about state employees that are architects they do not have to be licensed.

REPRESENTATIVE FABREGA said that they are in-house architects and do work strictly for the state.

SENATOR MARBUT stated that they exclude a person with a PE in structural engineering from being a architect.

REPRESENTATIVE FABREGA quoted Page 4, lines 2 thru 4, which reads (b) professional engineers from performing architectural services which are purely incidental to their engineering practice;

SONNY HANSON, Montana Technical Commission, stated that the construction of a water tank for instance would mostly be engineering as against a motel.

SENATOR MARBUT referring to Safeway knocking out a wall for a loading ramp, they could have it designed by an architect without a constructional engineering background.

SENATOR TOWE questioned the bottom of page 6, subsection 2. regarding non-residence..would please explain that.

MR. CRENNEN replied that often times a client will interview a number of architects, often from out of state without a Montana architect license and we feel it is silly for them to have to buy a license just to come in for an interview but if they should get the job then they must do so.

SENATOR TOWE asked why the board is asking the change to show \$25 when he hears there is a bill floating around that gives them \$50.

BONNIE DONOHUE said then that is the one that would affect them.

REPRESENTATIVE FABREG said \$25 or \$50 a day is not the issue. They are professionals and their conferences are held in the most elegant designed places and thus they are looking at much expense.

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SENATOR STORY asked why they could not stay in a less expensive place and go to the fancy designed ones for their tour.

BONNIE DONOHUE said that if they design them they feel they must stay in them, although the architects as a whole supports his theory. They do want us there representing their interest in the best way. You cannot give the investor as much of your time if you must travel back and forth to a cheaper motel.

SENATOR MARBUT questioned public building deletion.

REPRESENTATIVE FABREGA said that page 4 establishes this. He also told SENATOR MARBUT that it does not stop a person from going to another place for an architect as long as that architect gets a Montana license before practicing.

SENATOR LEE questioned Page 4, subsection (c) and (d) and asked if this is a major part of this bill.

REPRESENTATIVE FABREGA said that it was not.

SENATOR LEE asked John Hollow about the inconsistency in the title.

JOHN HOLLOW said that he did not mean to infer someone was trying to get away with something but that he believes a title is meant to give a lobbyist an indication of what the bill does and get their attention..this title does not.

REPRESENTATIVE FABREGA closed stating he looks at anything that says "amend" or if it refers to the codes. He said that he does have a concern about the language that is on page 4 and said that he would be willing to work with the subcommittee.

The hearing closed on House Bill 490. EXHIBIT 4 testimony.

CONSIDERATION OF HOUSE BILL 528:

"AN ACT TO PROVIDE A WEIGHTED VOTING PROCESS IN THE SELECTION OF A PERSON TO FILL A LEGISLATIVE VACANCY IN THOSE LEGISLATIVE DISTRICTS CONSISTING OF ALL OR PARTS OF MORE THAN ONE COUNTY; AMENDING SECTION 5-2-402, MCA."

REPRESENTATIVE ESTHER BENGSTON, House District 59, stated that there is no process in the statutes now and when the board of county commissioners are called together to allow the different counties to fill the vacancies then there would be a formula in place that would tell how much weight each county commissioner shall have. The formula is on page two and is a bit complicated so she thus introduced Mike Stevens to present it.

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MIKE STEVENS, representing the Montana associations of counties, presented a formula in a handout, EXHIBIT 5. This would provide a way for the votes that were previously cast by the person that vacated an office to go to the person that took over. He explained the five pages of Exhibit 5 to the committee.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked REPRESENTATIVE BENGSTON if she believed that the commission without votes carry no weight.

REPRESENTATIVE BENGSTON asked "what happens now?".

SENATOR TOWE said that you cannot replace one bad system with another.

SENATOR STORY said Missoula will go from three to nine commissioners and that in itself would affect this.

SENATOR TOWE said that the formula pulls that out.

REPRESENTATIVE BENGSTON said she was not sure how the committee wanted to do this but felt that something should be done.

SENATOR TOWE asked what happens if the person was not elected in the last election, using Senator Marbut as an example, since he was chosen as a replacement.

REPRESENTATIVE BENGSTON said that this could be addressed when they came to it or when it became a problem.

The hearing closed on H.B.528.

CONSIDERATION OF HOUSE BILL 579:

"AN ACT TO AUTHORIZE COUNTY ASSESSOR MEMBERSHIP IN COUNTY ASSESSOR ASSOCIATIONS AND TO PROVIDE FOR COUNTY PAYMENT OF ASSOCIATIONS AND TO PROVIDE FOR COUNTY PAYMENT OF ASSOCIATED COSTS."

REPRESENTATIVE DOZIER of Billings introduced this bill and said that the title of the bill is the bill. These people get together once a year in Helena.

PROPONENTS:

CHARLES GRAVELY, representing the County assessors said that he was here in behalf of the bill and this makes it clear that the assessors are treated the same as all the other county officials.

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QUESTIONS OF THE COMMITTEE: H.B.579

SENATOR MARBUT asked who employees the county assessors.

MR. GRAVELY said that the county assessor is a constitutional officer elected on the county level and answerable to the department of revenue but the costs have been and are born by the county. This bill is being presented by the assessors that have not enjoyed the benefits of the other elected official.

GREGG GROEPPER with the Department of Revenue said what happened last year with the budget cuts, the department terminated paying for that privilege. Many counties were paying for the assessors cost and the ones who were not, the state was paying for it. Because of the budget and the controversy about using tax dollars it was eliminated. Thus, in 1981 and 1982 the department paid no expenses for an appraiser to come to these meetings and when they did come back there was a controversy of the counties paying this.

SENATOR MARBUT asked who pays the assessor.

GREGG GROEPPER said he doesn't know who they belong to. They are not a state employee as we do not have authority over them, when the assessor resigns the county commissioner appoints a new one.

REPRESENTATIVE DOZIER closed on H.B.579.

ACTION ON HOUSE BILL 579:

SENATOR TOWE MOVED THAT H.B.579 BE CONCURRED IN.

MOTION PASSED. Senator Manning will carry this bill.

CONSIDERATION OF HOUSE BILL 303 "REOPENED".

"AN ACT ELIMINATING THE PROVISION ALLOWING MONTANA NATIONAL GUARDSMEN TO PARTICIPATE IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTION 14-3-402, MCA; AND PROVIDING AN EFFECTIVE DATE."

SENATOR STORY said that this is being reopened due to the fact that this bill was originally scheduled for Friday the 4th and was moved to the 3rd. Some of those wishing to testify were not aware of this so they are now being given their chance to testify.

The author of this bill, Representative Mueller, was not in attendanc.

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PHILIP W. STROPE, stated he is here as part of the affected class, and that he spent alot of time in the Guard. When this legislation went into affect in 1969 it was because the popularity of the military was going down. He said guardsmen get called out for all sorts of state functions. He said that they have recruited young Montanans because of the fact that they can take this guard time into PERS as they went on to do other things. If you take H.B.303 like it is, it will cut the right off as of July 1 and the only persons being able to select the right is just the few that are in right now who are in PERS presently. Those not in it right now and not working for the city, state or county, they can never elect. He said he is speaking for those who thought they had the right.

He said it is a disadvantage to the fund. They have on the books a whole series of people, when you bring a group in they have the right to get it. He submitted that his amendment would vest for all time the right the people think they have and would accomdate the desire that the current department of military affairs want to cut this fringe benefit off. SEE EXHIBIT 6.

GENERAL LOMAC spoke as a proponent and said that they brought these people in on good faith and he does not like to see them going back on their word. He speaks for all the boys out there as he does not have any strings attached anymore.

SENATOR STORY asked Larry Nachtheim to respond.

LARRY NACHTHEIM said he does not believe they are taking anything away from those who wanted to keep it. He asked why should these people have the right to get into something after the fact and why didn't they get into it when they could.

SENATOR TOWE said that they are cutting people off that thought they had that option.

LARRY NACHTHEIM said that many of these people are involved in a situation to go back into the National Guard or get into PERS another way.

SENATOR TOWE said not if they are not on state payroll by the end of July 1st. A large amount of young people serve in the guard and most of them don't think about it seriously then and in later years go back to get it and then they can't.

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SENATOR MANNING asked if they should amend it would it help to get people into the guard.

The answer was that there is a surplus wanting to get into the guard now but it wasn't that way before.

SENATOR HAMMOND asked why these people didn't elect to get into PERS when they were in the guard.

MR. STROPE said that most of them were young. These young people are not any different than any others.

LARRY NACHTHEIM said that you cannot write a law that says no service after July 1st, it is unconstitutional... or by putting a limit of time on it.

It was decided by the committee to bring this bill back off the floor and back into the committee.

SENATOR MOVED that H.B.303 be called back into committee:
MOTION PASSED.

The hearing closed on HB 303.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 37:

SENATOR TOWE MOVED THE AMENDMENT 1, and 2, EXHIBIT 7.
MOTION PASSED

SENATOR TOWE MOVED HOUSE BILL 37 BE CONCURRED IN AS AMENDED.
MOTION PASSED.

ACTION ON HOUSE BILL 169:

SENATOR TOWE MOVED THE AMENDMENT, to strike up to maximum of \$125 per month.

Other amendments were discussed and it was the decision of the chairman to hold this bill until the amendments were completely drawn up and present them Monday.

ACTION ON HOUSE BILL 266:

SENATOR MARBUT MOVED THE AMENDMENT TO THE STATEMENT OF INTENT
MOTION PASSED.

SENATOR TOWE MOVED THE TITLE AMENDMENT TO THE BILL. EXHIBIT 8.
MOTION PASSED

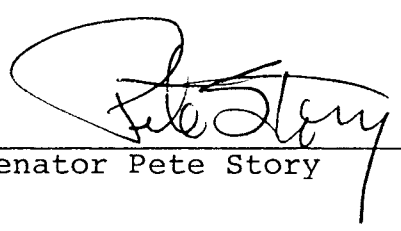
SENATOR TOWE MOVED THE STATEMENT OF INTENT AND HOUSE BILL 169 BE CONCURRED IN AS AMENDED.
MOTION PASSED.

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ACTION ON HOUSE BILL 528: None

The bill was discussed and it was decided to hold it until Friday, March 18th.

The meeting adjourned at 12:15 a.m.



CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

47th LEGISLATIVE SESSION -- 1983

Date 3/4/83

----- SENATE SEAT #				
NAME	PRESENT	ABSENT	EXCUSED	
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			44
SENATOR LARRY TVEIT				33
SENATOR R. MANNING	X			48
SENATOR LAWRENCE STIMATZ				7
SENATOR THOMAS TOWE	X			26
SENATOR Lee	X			

Each day attach to minutes.

DATE March 4, 1983

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ray Johnson	Montana Chapter American Institute Architects	490	X	
Bonnie Donohue	Bd. of Architects	490	✓	
JERRY BALLAS	Bd. of ARCHITECTS	490	✓	
LISA CASMAN	Ed of Architects	490	✓	
GEORGE C. PAGE	BD OF ARCHITECTS	490	✓	
MARTY CRENNEN	HELENA ARCHITECT	490	✓	
Tom Schneider	WPEA	141	✓	
Tom Weston	Shank & Co. Architects	490		✓
John Nelson	Mr. Nelson	20		amend
Phil Strop	ACIF	48303		amend
John Nelson	Surf	11438		amend

NAME JERRELL D. BALLAS

BILL No. 490

ADDRESS 204 So. Ave. E. Missoula, MT. DATE 3/4/83

WHOM DO YOU REPRESENT BOARD OF ARCHITECTS

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I AM THE NEWEST MEMBER OF THE BOARD OF ARCHITECTS AND A PRACTICING PROFESSIONAL SINCE 1976. I WISH TO CONVEY MY CONCERN AND FRUSTRATION OVER THE INABILITY OF THE BOARD OR ANY GROUP TO REGULATE AND ENFORCE LICENSING OF THE PRACTICE OF ARCHITECTURE. THERE IS A URGENT NEED TO ^{REVISE} ~~REVIS~~ THE LANGUAGE OF THE ARCH. LICENSING BILL IN ORDER TO CLARIFY THE INTENT AND RENDER THE LAW ENFORCEABLE.

Testimony on H.B. 490
February 1, 1983 *MARCH 4, 1983*

M. W. Crennen, Helena Architect
Past Member of Licensing Board

EXHIBIT 1
State Administration
March 4, 1983

Summary of major changes proposed

Section 37-65-102:

1. Definition of practice of architecture would become more comprehensive in referring to "advanced knowledge of...." instead of listing specific tasks.
2. Propose to delete the definitions of "public building" as it does not serve its intended purpose. There are a multitude of buildings occupied by the public which are presently excluded from coverage under the act.

Section 37-65-103

1. Propose to change residential exemption from eight to six living units in order to dovetail with most city building officials standards.
2. This bill would modify the "owner" exemption by limitation to non-structural alteration or repair. If the State is indeed to protect the public through regulation of architectural practice, than any building frequented by the public should be covered under this act.

Many unlicensed people are presently offering architectural services in this grey area, whose qualifications are unknown and untested. They should qualify and be licensed under this act, because the potential for disaster is there now but would be much lessened by the modification.

Section 37-65-202

The compensation of Board members should address the reality of costs involved.

Section 37-65-305

Propose to modify procedure under which out-of-state architects may offer services. This change would allow them to offer services (or interview for work), but they would be required to be licensed in order to accept a commission and actually perform services.

Section 37-65-321

Suspension or revocation changes mainly deal with making language consistent throughout various sections, plus:

1. Subsection (1)(F) gives the Board more latitude in dealing with a charge of "violating building codes".

Section 37-65-321 (continued)

2. Subsection (3) provides a more clear means of bringing charges from or by any citizen.

Section 37-65-322

Penalty for non-compliance with act is increased to maximum of 1000 which should command more attention.

New Section (10)

This addition would give the Board a more clear and legal authority to adopt rules consistent with provisions of the act.

SUPPLEMENTARY STATEMENT RE: Section 37-65-103

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When inadequate or incomplete plans are submitted, a building official is pressured to actually design the building, or correct errors in the plans.

This is not a proper use of public employees time or of taxpayers money.

It also places the public body in an unwarranted position of liability.

There are documented cases of building failures around the state resulting from inadequate or incompetent planning.

The potential for disaster is there - would be greatly reduced by requiring demonstrated competency of people who design and build our public buildings.

By: M. W. Crennen
Helena Architect

"State Board of Architects"

PRESENTED BY: Bonnie Donohue, Board President and Public Member

DATE: February 1, 1983

HB 490 is AN ACT FOR A BILL ENTITLED "AN ACT GENERALLY REVISING THE LAWS CREATING THE STATE BOARD OF ARCHITECTS AND RELATING TO THE LICENSURE OF ARCHITECTS BY THE STATE: GRANTING THE BOARD THE AUTHORITY TO ADOPT RULES; AMENDING SECTIONS...."

This information sheet pertains to Section 37-65-202, which, if passed, would read as follows:

37-65-202. Compensation of board members -- expenses.

Each member of the board is entitled to receive compensation at the rate of \$25 a day and the actual cost of mileage or other reasonable transportation costs, meals, and lodging when engaged in official State Board business.

We would appreciate having the word "state" amended to read "Board". The precedent for this terminology is found in Title 37 General Provisions, Sect. 37-1-133. Please see the attached.

GENERAL STATEMENT: Part of the responsibility of the Public Member is to represent the interests of the public to the Board and view things in perhaps a more objective way than those Board members who are also a part of the profession they seek to regulate. I think I share in common with you Legislators the desire to see that this Board is equitably and responsibly operated for the good of the people of the State of Montana. I will confine my comments in this regard to the issue at hand, compensation of board members - expenses.

I have discovered that by virtue of the current statutes that we are very seriously limiting those who can even serve on this board. Because Board Members are compensated in the very same way that State employees are, the personal expense to board members is very high. Since it is so expensive to serve as a member we are limiting our board to only those individuals who can afford to do so. I see this as depriving ourselves of the services of many gifted and talented people.

One of the most important facts I see as I study this problem is that contrary to the way State funds are normally collected (public taxes), this Board is funded solely and entirely by private funds provided by Architects only. The professional and occupational boards are the only boards funded exclusively by a singular group, whose accessibility to that group requires a long term professional education. While enactment of this clause would likely relate to other like boards, I point out that it would effect only the boards who are part of the Professional and Occupational Licensing Bureau. Other types of Boards could be excluded because they generate funding from a broad cross-section of the public. Example: Anyone can get a Fish & Game license. To get an Architect's license you need the equivalent of 4 years of college, 3 years practical experience and be able to pass a professional exam. The monies raised by boards belonging to this Bureau truly come from a select group for a select purpose - a statement which would not apply to Boards outside our Bureau.

On the attached page you will see some pertinent facts which we feel underscore the differences between a State employee and a Board member.

In looking at the situation from an Architect's point of view who paid his fee and hoped for competent and fair representation I would expect to be represented at national and regional meetings. I would expect my representative to stay where the convention is being held, eat a reasonable meal, and confine other expenses to absolute necessities. This being done I would not expect that it should cost my representative several hundred dollars personally to represent my interests.

The following facts indicate the current compensation for board members at the State rate:

	<u>IN-STATE</u>	<u>OUT-OF-STATE</u>	EXHIBIT 2a pg 2
Meals	\$13.50 per day	\$22.50 per day	
Lodging	\$24.00 per day	\$50.00 per day (except in designated cities where it is actual)	
Mileage	20¢ per mile	20¢ per mile up to equivalent of airfare.	

The following are a few pertinent facts which I feel underscore the differences between a State employee and a Board Member:

STATE EMPLOYEE

Paid by public taxes

Has a full-time job with the State and continues to receive a daily wage while traveling.

Lodging: When taxpayer dollars are used general limits and guidelines must be applied to keep within budget.

Meals: Here again we are using public tax money and must have a system for budgeting.

Mileage: State cars are available. If private cars are used they must be cogniscent of the budget.

TIME: Whatever time they spend it is compensated for by the State.

BOARD MEMBER

Paid by funds provided solely from Architectural license renewal fees from architects in and out of the State.

Leaves private employment to do a public service, thus losing time, money, and productivity for the time spent serving others. His only compensation for this time is \$25 per day. Architects earn many times this amount in daily practice. This amendment, however, does not request any change in the \$25 compensation.

License fees are raised or lowered to meet the current Board needs. The Sunset Review requires the Board to meet throughout the State to give all areas of the public access to the board. These are professionals meeting with other Architects and should be able to meet in a surrounding normal to them as when they meet in non-state architectural matters. Normal would be such as the Ramada or Holiday in Billings whose single rate is about \$38...and far from the \$24.00 State rate. One National and one Regional meeting per year is held in major cities like Portland, Philadelphia, or Atlanta. Rates there range from \$75 - \$110....not \$50 as in the State rate. Since Architects who pay the fees don't expect their representatives to pay the additional from their own pockets, why is it reasonable for the State to insist on it when it isn't necessary or even funded by public monies?

If an architect eats a mid-range meal and has perhaps one drink I think the architects paying for this through their licenses would consider this reasonable and expected. You cannot eat even two mid range meals in Missoula or Billings for \$13.50 and certainly not three such meals in Atlanta or Portland for \$22.50. These people are already losing money by leaving their work, can we ask them to also give up a normal quality meal? Or to pay the difference when it isn't a matter of the taxpayer's dollar?

Most cars driven by Architects cannot be operated for 20¢ a mile. While a flat rate would probably have to be applied, with rare exception, it should be raised to equate with the cars normally driven by Architects.

Board members spend a great deal of personal time working on Board matters outside the context of meetings. This time goes totally uncompensated in any form and is taken away from time they would normally spend in their own profession.

EXHIBIT 2a

SUMMARY: Viewing this situation from the Public Member point of view it seems very unreasonable to ask a professional to leave his livelihood to serve the public interest and ask so much of him in terms of uncompensated time, yet there are many who willingly do just this. However, when it becomes necessary to financially subsidize his own public service with several hundreds of dollars per year when his own colleagues are willing and can see justification in compensating his actual travel expense, I feel we must correct the law accordingly.

Further, I protest the fact that it limits who can serve on the Board. Do we really intend to limit Board members only to a group who can afford to do so? I don't at all feel this is in the public interest.

Thank you for your own public service in leaving your place of livelihood to serve us. Unfortunately, you are funded with public tax dollars and can be compensated with only what the budget and the people will allow.

We thank you sincerely for your fair consideration on this matter.

HB 490

EXHIBIT 2b
State Admin.
March 4, 1983

STATE OF MONTANA

DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL LICENSING

BOARD OF ARCHITECTS

Report on the Need for State Regulation
of the Architectural Profession

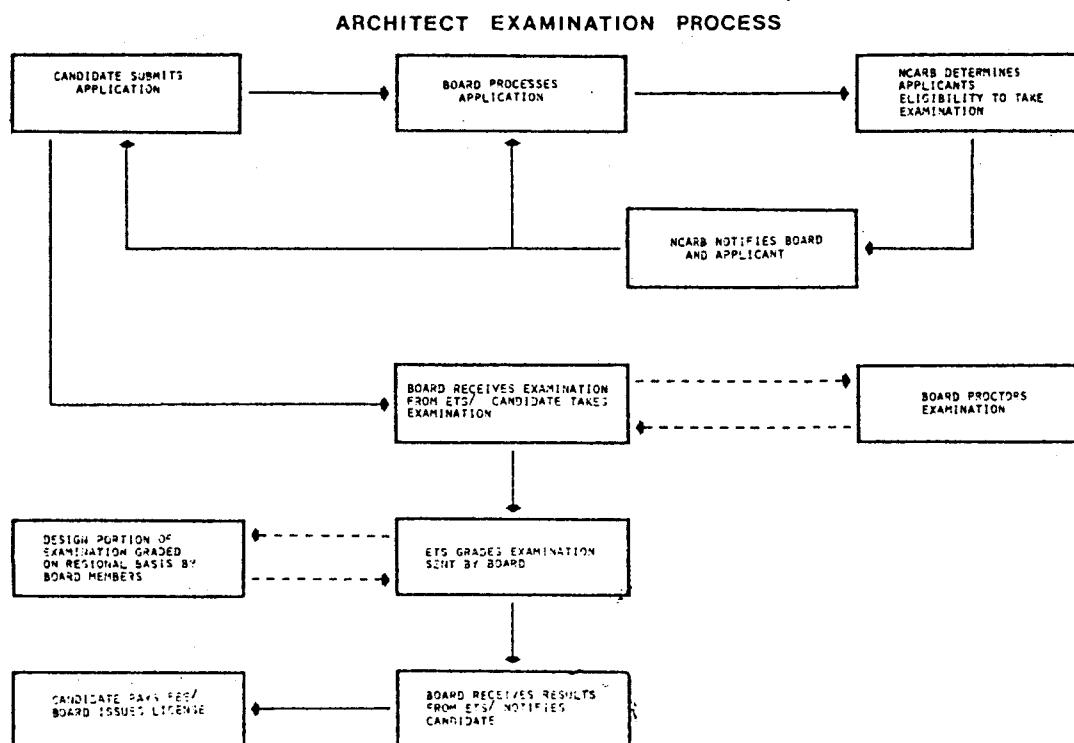
1978

A SUNSET PERFORMANCE REVIEW

En-part



Today the procedures used by NCARB have simplified the board's operations considerably. As shown on Illustration 2-7, the examination process is handled primarily by NCARB through the participation of state board members. The administrative assistant assigned to the board by the Department of Professional and Occupational Licensing performs the majority of the clerical functions with the exception of two board members proctoring the examinations; one board member participating in the writing of the professional examination at the national level; one board member participating in the grading of the design portion



Source: Compiled by the Office of the Legislative Auditor.

Illustration 2-7

of the qualifying examination at the regional level; and all board members signing the license once the candidate passes the examination.

EXHIBIT 2b

pg. 3

When granting a Montana license by reciprocity to out-of-state architects who wish to practice in this state, the board again relies on NCARB services. Architects seeking a reciprocal license must present the board with a certificate issued by NCARB. This document informs the board that the architect meets all standards prescribed by NCARB for reciprocal licensure. Since the board has adopted the procedure of accepting the NCARB certificate as evidence of that person being qualified, no applications have been formally rejected.

One important criteria used for granting a license by reciprocity is to determine if the applicant is familiar with seismic design. In Montana, earthquakes occur and architects have to ensure that the buildings are being designed accordingly. Prior to 1965 the board required that each applicant be given an oral examination in the area of seismic forces. Currently, architects are tested on seismic design through the professional examination. For those out-of-state architects that have not been tested in this area, the board relies on evidence that the applicant has successfully completed an approved seminar on seismic design.

~~The trend toward greater use of NCARB's services in Montana by the board is logical. Sixty percent of the architects licensed in Montana reside out-of-state. By relying on NCARB to determine a candidate's eligibility to take the uniform examination and accepting only the NCARB certificate as evidence to~~

practice in the state by reciprocity, the operations of the board have been streamlined. Consequently, involvement by individual board members is kept to a minimum and they are able to focus their attention on other board matters.

In summary, the Board of Architects was created in 1917 to regulate the architectural profession. The board licenses individual architects through an examination process. The examination used is prepared by the National Council of Architectural Registration Boards (NCARB) and adopted for use by the board. This process is also used by all other states. The Montana board is a member of NCARB. Board regulation of architects in Montana is totally financed through examination and license fees collected from members of the profession.

closely with the board in revising its laws, rules, and regulations. Also the board has never proposed changes that were opposed by the Montana Chapter-AIA. We discussed earlier the recommendation made to the board by the Montana Chapter for amending the law to acquire design control over government buildings in the state.

PUBLIC PARTICIPATION

One indicator of regulation designed for public benefit would be the extent of public participation in board decisions. Scrutiny of board minutes from October 1971 to the present disclosed that no member of the general public has attended board meetings nor has the board sought public participation. We asked one board member if the general public was encouraged to participate at board meetings. The board member said while meetings are open to the public, the board has not actively encouraged public participation. In fact, board members questioned whether the public is even interested in the board's activities. For example, the board has advertised rule changes in major newspapers and only received comments from licensed architects. In order to increase citizen and press participation, the Department of Professional and Occupational Licensing submits a monthly informational list of planned public meetings to the Governor's office.

Sixty percent of the in-state architects surveyed expressed an opinion that the board would better serve the public by having its meetings at different locations throughout the state. A review of the board minutes revealed that the majority of meetings

are held in Helena. Meetings are occasionally held in other cities; however, the location is usually to suit the needs of only the board members. If the board held its meetings at different locations throughout the state and actively sought public participation, the board would be in a better position to assess public need. Board members expressed the view that they were under the impression that all meetings should be held in Helena as a consequence of executive reorganization.

EXHIBIT 2b

pg. 6

Montana law enacted in 1975 (Section 82-4226, R.C.M. 1947), requires that "Legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency." A related section of Montana law (Section 82-4228, R.C.M. 1947), requires each agency to develop procedures for allowing and encouraging public participation. In response to these requirements of law, the director of the Department of Professional and Occupational Licensing developed Public Participation Rules. The director presented these rules in writing to the board; however, the rules have not been adopted by the board. The board believes that not all of the departmental rules are applicable to the board. The matter was tabled pending the outcome of the sunset review.

As a means of furthering public participation, some states require that some members on regulatory boards be "public members" as contrasted to "professional members." In Montana, all members of the board must be experienced and licensed architects.

to the governor lists of nominees for appointment to professional and occupational licensing and regulatory boards. The governor may consider nominees from the lists when making appointments to such boards.

History: En. Sec. 9, Ch. 244, L. 1981.

Compiler's Comments

Preamble: The preamble to SB 312 (Ch. 244, L. 1981) read:

"WHEREAS, during the course of the Legislative Audit Committee's review of regulatory and licensing boards under the first two sunset cycles it was noted that appointments by the Governor to some boards must be made from lists submitted by private associations; and

WHEREAS, requirements tying board membership to private associations have been struck down by the courts in a number of states; and

WHEREAS, the opportunity for members of the public and private associations to submit

nominees to the Governor for board appointments is in the public interest.

THEREFORE, it is the intent of this bill to delete requirements that appointments by the Governor to regulatory and licensing boards must be made from lists submitted by private associations and to provide that members of the public and private associations may submit nominees to the Governor for appointment to regulatory and licensing boards."

Codification Instruction: Section 10, Ch. 244, L. 1981, provided: "Section 9 [37-1-132] is intended to be codified as an integral part of Title 37, chapter 1, and the provisions of section 9 apply to Title 37."

37-1-133. Board members' compensation and expenses. Unless otherwise provided by law, each member of a board allocated to the department is entitled to receive \$25 per day compensation and travel expenses, as provided for in 2-18-501 through 2-18-503, for each day spent on official board business. Board members who conduct official board business in their city of residence are entitled to receive a midday meal allowance, as provided for in 2-18-501, for each day in which 6 or more hours are spent on official board business. Ex officio board members may not receive compensation but shall receive travel expenses.

History: En. Sec. 1, Ch. 474, L. 1981.

Compiler's Comments

1981 Title: The title to SB 463 (Ch. 474, L. 1981) read: "An act to provide for uniform compensation and travel expenses for the boards of county printing, veterans' affairs, athletics, medical examiners, dentists, osteopathic physicians, podiatry examiners, pharmacists, nursing, nursing home administrators, optometrists, physical therapy examiners, chiropractors, radiologic technologists, speech pathologists and audiologists, hearing aid dispensers, psychologists, veterinarians, morticians, barbers, cosmetologists, massage therapists, sanitarians, public accountants, realty regulation, architects, landscape architects, professional engineers and land surveyors, plumbers, and the state electrical board, state banking board, and the commission for human rights; amending sections 2-15-1102, 2-15-1706, 2-15-2202, 23-3-102, 32-1-201, 37-3-206, 37-4-203, 37-4-204, 37-5-202, 37-6-201, 37-7-202, 37-8-203, 37-9-201, 37-10-203, 37-11-203, 37-12-202, 37-14-201,

37-15-203, 37-16-203, 37-17-201, 37-18-203, 37-19-201, 37-30-202, 37-31-202, 37-33-202, 37-40-202, 37-50-202, 37-51-205, 37-65-202, 37-66-201, 37-67-203, 37-68-202, and 37-69-203, MCA."

Preamble: The preamble to SB 463 (Ch. 474, L. 1981) read:

"WHEREAS, during its sunset reviews of licensing and regulatory boards the Legislative Audit Committee noted that compensation and travel expenses for the boards vary considerably from board to board; and

WHEREAS, the various boards have very similar duties and responsibilities.

THEREFORE, it is the intent of this act to provide for the payment of uniform compensation and travel expenses for members of state licensing and regulatory boards."

Codification Instruction: Section 35, Ch. 474, L. 1981, provided: "Section 1 is intended to be codified as an integral part of Title 37, chapter 1, part 1."

37-1-134. Licensing boards to establish fees commensurate with costs. All licensing boards allocated to the department shall set fees reasonably related to the respective program area costs. Unless otherwise provided by law, each board within the department may establish fees



MONTANA OPERATIONS MANUAL

MANAGEMENT MEMO

	VOL.	YEAR	NO.
MANAGEMENT MEMO NUMBER	1	82	3
DATE ISSUED	> 12-01-82		
DATE EFFECTIVE	> 12-01-82		

SUBJECT > PER DIEM RATES — "HIGH COST" CITIES

EXHIBIT

2d

TO: All State Agencies

FROM: Morris Brusett, Director *MB*
Department of Administration**HB 490**

This memo updates the information contained in Management Memo 1-79-4D dated 05-01-82. Management Memo 1-79-4D should be removed from your manual and discarded.

Listed below are the cities the Department of Administration has designated as "high cost" in accordance with the selection procedures outlined in Management Memo 1-82-1.

<u>City</u>	<u>Date Effective</u>
Anchorage	May 1, 1982
Atlantic City	May 1, 1982
Boston	May 1, 1982
Bridgeport	December 1, 1982
Chicago	December 1, 1979
Dallas	May 1, 1982
Denver	February 1, 1981
Detroit	May 1, 1982
Houston	May 1, 1982
Los Angeles	May 1, 1982
Manhattan	December 1, 1982
Miami	December 1, 1982
Minneapolis	February 1, 1981
New Haven	May 1, 1982
New York	December 1, 1979
Newark	May 1, 1982
Philadelphia	December 1, 1982
Pittsburgh	December 1, 1982
Rochester	December 1, 1982
San Diego	May 1, 1982
San Francisco	December 1, 1979
Seattle	December 1, 1982
St. Louis	December 1, 1982
Washington, D.C.	December 1, 1979

Reimbursement for the actual cost of lodging is authorized for these cities. However, agencies are responsible for monitoring the costs associated with travel to designated areas and are encouraged to establish internal policies on the selection of appropriate lodging for such travel.

The next update of this Management Memo will be effective as of July 1, 1983. Questions should be directed to the Department of Administration, Accounting Division at 449-3092.

NAME Bonnie Donohue *- Public Member* BILL NO. 490
ADDRESS Great Falls, MT. DATE 3-4-83
WHOM DO YOU REPRESENT St. Bd. of Architects
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Feel the public cannot be properly represented unless any qualified person can serve on the Board regardless of their financial ability to serve. Currently it is personally very ~~personally~~ expensive to serve. These are not taxpayer dollars being spent - they come from Architectural fees.

March 4,
1983

NAME Ray Johnson

BILL NO. HB 490

ADDRESS 415 So. Sanders

DATE 3-4-83 pg 1

WHOM DO YOU REPRESENT Montana Chapter American Institute of Architects

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

See Attached.

Ray Johnson
Montana Chapter of the American Institute of Architects

As has been mentioned, during the Sunset Review of the Board of Architects, it was recommended that ~~the~~^{no} enforcement ~~for~~ discipline of ~~violators~~^{new sections} of this act be strengthened.

We feel that the proposed changes will be of great benefit in giving the rules governing the practice of Architecture in this State some teeth.

These proposed changes will make it easier for those who are not licensed as architects, but representing themselves as such, to be prosecuted.

This will be of benefit in promoting and protecting the public health and safety which is a major goal of our profession.

The Montana Chapter of the American Institute of Architecture recommends passage of House Bill 490.

NAME GEORGE C. PAGE BILL NO. H8490
ADDRESS GREAT FALLS DATE 3/4/83
WHOM DO YOU REPRESENT MT. STATE BOARD OF ARCHITECTS
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. PURPOSE (37-65-101) OF PRACTICING ACT
REGULATING THE PRACTICE OF ARCHITECTURE
2. COMMENT FROM SUNSET REVIEW 1979.
REGARDING ENFORCEMENT & DISCIPLINE

Formula $\frac{100}{1} \times \frac{\text{total votes for official in county}}{\text{total vote in legislative district for elected official}} \times \frac{1}{\text{No. of co. com.}}$ = vote per commissioner Pg 1

EXAMPLE "A"

1978 Data - House District #27

<u>County</u>	<u>Votes</u>	<u>No. of Commissioners</u>
Granite	511	3
Lewis & Clark	402	3
Missoula	307	3
Powell	466	3
	<u>1686</u>	

Formula:

$$\text{Granite} \quad \frac{100}{1} \times \frac{511}{1686} \times \frac{1}{3}$$

$$100 \times .3031 \times .3333 = 10.1023 \text{ votes/commissioner}$$

$$\text{Lewis \& Clark} \quad \frac{100}{1} \times \frac{402}{1686} \times \frac{1}{3}$$

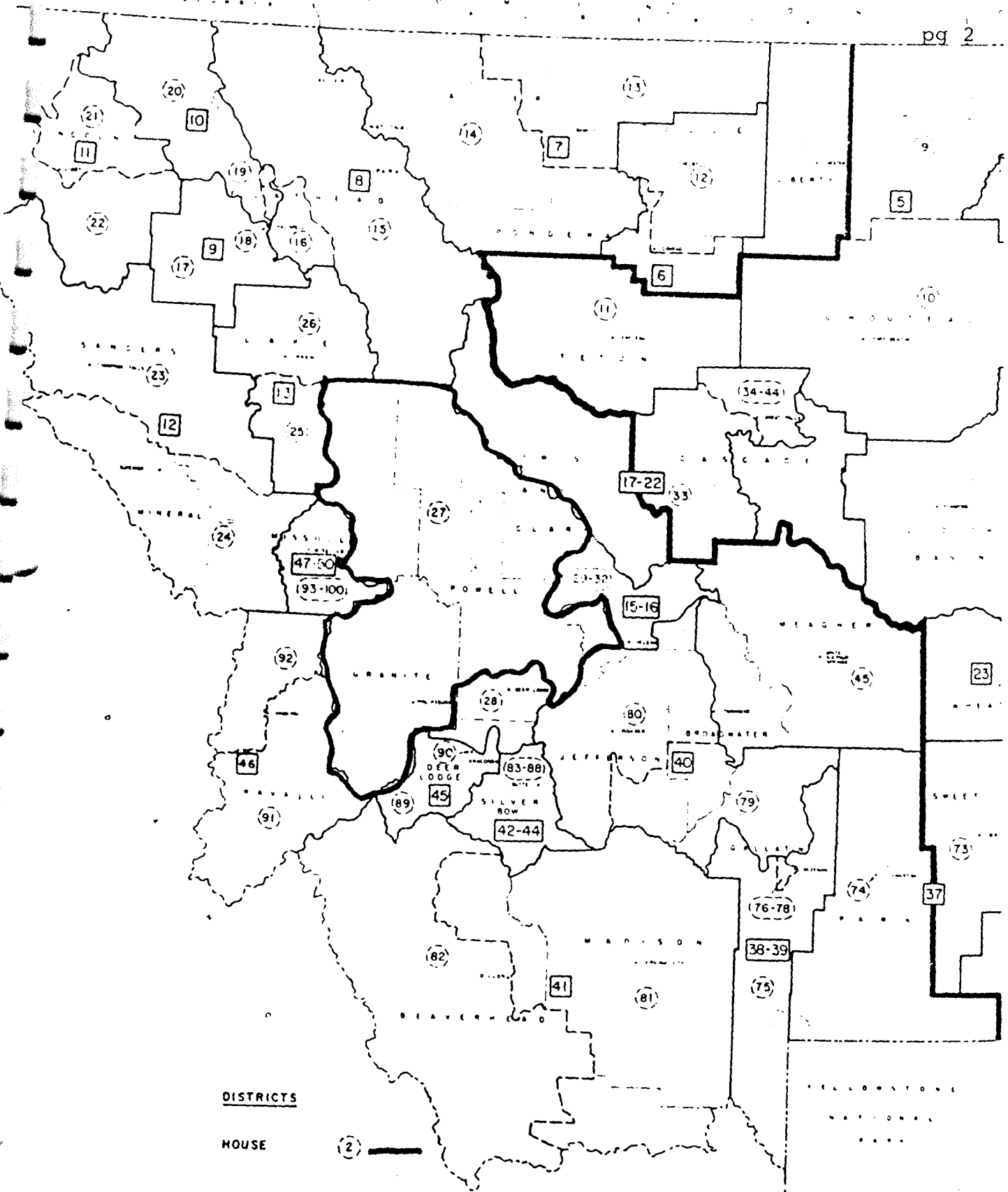
$$100 \times .2384 \times .3333 = 7.9459 \text{ votes/commissioner}$$

$$\text{Missoula} \quad \frac{100}{1} \times \frac{307}{1686} \times \frac{1}{3}$$

$$100 \times .1821 \times .3333 = 6.0694 \text{ votes/commissioner}$$

$$\text{Powell} \quad \frac{100}{1} \times \frac{466}{1686} \times \frac{1}{3}$$

$$100 \times .2764 \times .3333 = 9.2124 \text{ votes/ commissioner}$$



HB 528

EXAMPLE "B"

1978 Date - Senate District #14

<u>County</u>	<u>Votes</u>	<u>No. of Commissioners</u>
Deer Lodge	353	5
Granite	938	3
Lewis & Clark	542	3
Missoula	472	3
Powell	1795	3
	<u>4100</u>	

Formula:

$$\text{Deer Lodge} \quad \frac{100}{1} \times \frac{353}{4100} \times \frac{1}{5}$$

$$100 \times .0861 \times .20 = 1.722 \text{ votes/commissioner}$$

$$\text{Granite} \quad \frac{100}{1} \times \frac{938}{4100} \times \frac{1}{3}$$

$$100 \times .2288 \times .3333 = 7.6259 \text{ votes/commissioner}$$

$$\text{Lewis \& Clark} \quad \frac{100}{1} \times \frac{542}{4100} \times \frac{1}{3}$$

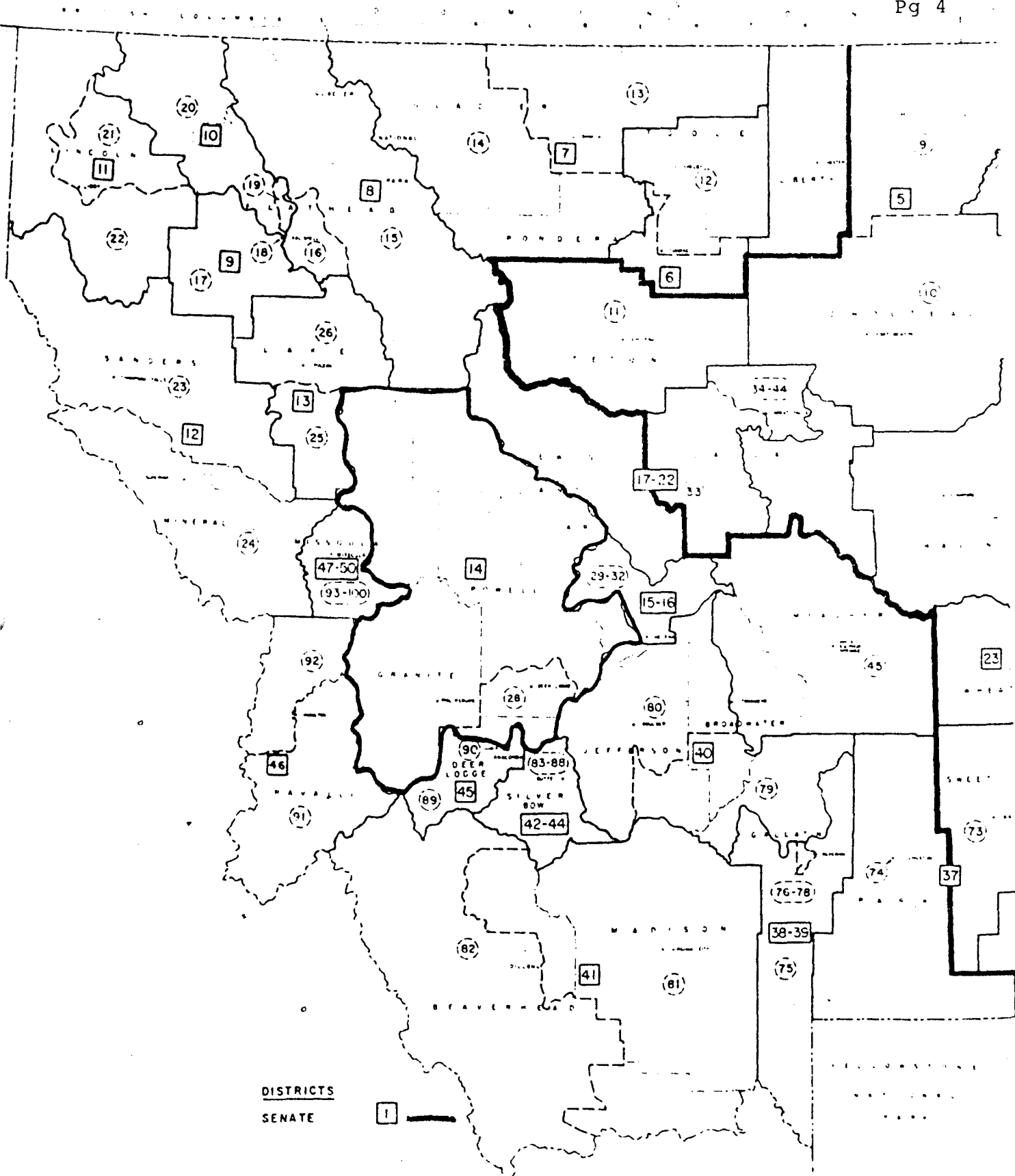
$$100 \times .1322 \times .3333 = 4.4062 \text{ votes/commissioner}$$

$$\text{Missoula} \quad \frac{100}{1} \times \frac{472}{4100} \times \frac{1}{3}$$

$$100 \times .1124 \times .3333 = 3.7463 \text{ votes/commissioner}$$

$$\text{Powell} \quad \frac{100}{1} \times \frac{1795}{4100} \times \frac{1}{3}$$

$$100 \times .4378 \times .3333 = 14.5919 \text{ votes/commissioner}$$



NAME: Philip W. Strobe

DATE: _____

ADDRESS: 501 N. Sanders, Helena, Montana 59601

PHONE: 442-6570

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: HB 303

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

COMMENTS: HB 303 was apparently drafted to eliminate future participation by Guardmen in PERS. Because of the fact that the language repealed was permissive language, the repealing of the language would appear to give the bill not only prospective but retroactive effect. I respectfully suggest to the committee that HB 303 as presented to the Senate committee is unfair to persons with existing rights and possibly unenforceable for lack of due process. An amendment could accomplish the primary purpose of the bill and eliminate the unfairness and the lack of due process. The amendment would be as follows:

A. In the title, line 5, strike the word "eliminating" and insert the word "restricting".

B. In the bill lines 20-24, reinsert the stricken language.

C. In the bill line 24 after the word "19-3-506", add "for service performed prior to but not after June 30, 1983".

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

AMENDMENT TO HOUSE BILL 37 (third reading)

1. Title, lines 10 and 11.
Strike: EVERY" through "BY" on line 11
Insert: "ORGANIZATIONS AND MEMBERS
THEREOF WHICH FILE A REQUEST WITH"
2. Page 2, line 3.
Following: "and"
Insert: "and to the office of any professional, trade,
or industrial society or organization or
member thereof which has filed a request with
the administrative code committee when such
request has been forwarded to the agency as
provided in subsection (b).
(b) The administrative code committee
shall forward a list of all organizations of
persons who have submitted a request to be
informed of agency actions to all agencies
publishing rulemaking notices in the MAR. The
list must be amended by the agency upon request
of any person requesting to be added to or
deleted from the list.
3. Page 2, line 10
Strike: "(b)"
Insert: "(c)"
4. Page 2, line 12 through page 3, line 6.
Strike: lines 12 through line 6 on page 3 in their
entirety.

SENATOR TOWE'S MOTION...

EXHIBIT 8

State Administration
March 4, 1983

AMENDMENTS TO H.B.266 (3rd reading)

1. Title, line 11.
Strike: "RESIDENCY REQUIREMENTS,"
- 2.. TITLE, line 12
Strike: "DISABILITY REQUIREMENTS"
Insert: "NON-DISABILITY AS DISQUALIFICATIONS;
ADDING OTHER QUALIFICATIONS; AND"

AMEND STATEMENT OF INTENT

1. Page 1, line 9.
Strike: "as well as others"

STANDING COMMITTEE REPORT

MARCH 4 19 83

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

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

having had under consideration**HOUSE**..... Bill No. **141**

Holliday (Manning)

Respectfully report as follows: That.....**HOUSE**..... Bill No. **141**

BE CONCURRED IN

~~XXXXXX~~

STANDING COMMITTEE REPORT

MARCH 4 19 83

MR. **PRESIDENT**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **HOUSE** Bill No. **579**

Dozier (Manning)

Respectfully report as follows: That **HOUSE** Bill No. **579**

BE CONCURRED IN
XXXXXXXX
DO PASS

110

STANDING COMMITTEE REPORT

MARCH 4 1983

MR. PRESIDENT

STATE ADMINISTRATION

We, your committee on

HOUSE

37

having had under consideration Bill No.

Schultz (

HOUSE

37

Respectfully report as follows: That Bill No.

third reading, be amended as follows:

1. Title, lines 10 and 11.

Strike: "EVERY" through "BY" on line 11

Insert: "ORGANIZATIONS AND MEMBERS THEREOF
WHICH FILE A REQUEST WITH"

2. Page 2, line 3.

Following: "and"

Insert: "and to the office of any professional, trade,
or industrial society or organization or member
thereof which has filed a request with the administra-
tive code committee when such request has been forwarded
to the agency as provided in subsection (b).

(b) The administrative code committee shall forward
a list of all organizations or persons who have submitted
a request to be informed of agency actions to all agencies
publishing rulemaking notices in the MAR. The list
must be amended by the agency upon request of any person
requesting to be added to or deleted from the list.

~~RECLASS~~

CONTINUED...

Chairman.

11C

3. Page 2, line 10.
Strike: "(b)"
Insert: "(c)"
4. Page 2, line 12 through page 3, line 6.
Strike: lines 12, through line 6 on page 3 in their
entirety.

And, as so amended
BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 4

19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 266

statement of intent attached:

Connelly (Manning)

Respectfully report as follows: That HOUSE Bill No. 266

third reading, be amended as follows:

1. Title, line 11.
Strike: "RESIDENCY REQUIREMENTS,"
2. Title, line 12.
Strike: "DISABILITY REQUIREMENTS"
Insert: "NON-DISABILITY AS DISQUALIFICATIONS;
ADDING OTHER QUALIFICATIONS; AND

and, as so amended
BE CONCURRED IN

~~XXXXXX~~

STANDING COMMITTEE REPORT

MARCH 4

83

..... 19

PRESIDENT

MR.

STATE ADMINISTRATION

We, your committee on

Statement of Intent, HOUSE

266

having had under consideration Bill No.

Connelly (Manning)

Statement of Intent, House

266

Respectfully report as follows: That Bill No.

Third reading, be amended as follows:

1. Page 1, line 9.
Strike: "as well as others"

**And, as so amended
BE CONCURRED IN**

XXXXXX

DO PASS