

MINUTES OF THE MEETING  
BUSINESS AND INDUSTRY COMMITTEE  
MONTANA STATE SENATE

March 7, 1983

The meeting of the Business and Industry Committee was called to order by Senator Goodover on March 7, 1983, at 10:10 a.m., in Room 404, State Capitol, as Chairman Kolstad and Vice Chairman Lee were absent at the beginning of the meeting due to conflicts with other meetings.

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

CONSIDERATION OF HOUSE BILL 158: An act to provide that the fees and miscellaneous charges collected for filing of documents relating to assumed business names, trademarks, and nonprofit corporations be established by the Secretary of State commensurate with costs.

Representative Toni Bergene stated this bill was by request of the Secretary of State. She introduced Mr. Robertson who explained the bill.

PROPOSERS TO HOUSE BILL 158: Allen Robertson, Legal Counsel, Secretary of State's Office stated this bill establishes consistency with other sections of the law. Trademarks, assumed business names and others currently have statutory fees set. This would create consistency by having them all filed by rule. It sets fees commensurate by cost and eliminates current discrepancies. When they did cost analysis for profit corporations some needed to be lowered and some needed to be raised. They fully anticipate doing a cost analysis for nonprofit corporations.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Goodover asked what do you propose the fees for filing Articles of Incorporation would go up to? Mr. Robertson stated we didn't know that until we did the cost analysis. The analysis that we did two years ago on profit corporations reduced it to \$15 for filing Articles.

Senator Goodover asked what if you hire a \$50 per hour attorney instead of a \$30 per hour attorney is that to be reflected in these fees? Mr. Robertson stated I don't think so.

Senator Severson asked how often would you be changing fees? Mr. Robertson stated we have not changed the fees since we did them in October.

Senator Lee asked what were the dollar figures? Mr. Robertson stated he only has two examples. The Articles were \$20 they went to \$15 and the Restatement of Incorporation was \$50 and it went to \$15.

Senator Kolstad stated it is a cost plus situation, the fees will be set accordingly. There is no encouragement to keep them down, the sky is the limit. What is the main purpose of this bill? Mr. Robertson stated for consistency.

Senator Christiaens asked do you see some of these fees increasing greatly

on those documents that are only filed once or twice a year? Mr. Robertson stated on the low volume filings the cost did go up some.

Senator Goodover stated he recalls in 1977 when they had a bill to increase fees for realtors to be commensurate with costs. They were having meetings in Hawaii. He amended the bill to reduce the fees. He sees where this opens up where there is no control over what the fees will be. If we do it for one agency other agencies will be coming in also.

Senator Regan asked do these fees go into the general fund? Mr. Robertson stated yes, they go into the general fund.

Senator Fuller asked does this apply to all the different documents? Mr. Robertson stated yes.

Senator Regan asked when you set these fees is there a public hearing? Mr. Robertson stated yes. They are set by rules and all the rules are adopted in accordance with MAPA.

Senator Lee stated with this language here there is no choice. If all of the sudden it was found out that by some fluke to file and handle a nonprofit filing would be \$350 that is what you would have to charge. Mr. Robertson stated that's correct. That is what the basic promise of the user fee is.

In closing, Representative Bergene stated if this legislation is adopted some of them will be set by rule while the others still would be set statutorily. This will create some consistency and current discrimination would be eliminated. After working with this and talking to the people in the Secretary of State's Office she thinks commensurate with costs has a real meaning. She feels fees can be lowered. The actual cost of processing will be the fee charged.

Senator Goodover asked what other agencies are given this same authority? Mr. Robertson stated he is not sure. Senator Regan stated we had a couple of bills that went through that the Department of Health had restrictive language. Maybe we should tighten this up a little.

Senator Goodover stated in the next session we are going to have a lot of agencies coming in.

Senator Regan asked should we look at other language that might be more restrictive or should we try it for two years?

Senator Lee stated this is costing \$5,000 and he does not see any need for it. We voted down in the Public Service Commission bill language to set fees commensurate with costs. We are requiring that these people register with the State.

ACTION ON HOUSE BILL 158: Senator Fuller made the motion that House Bill 158 Be Concurred In. Senator Dover seconded the motion.

Senator Regan made a substitute motion that on page 2, strike line 6, "miscellaneous charges", page 6, line 13, strike "charges" and on page

8, line 7, strike "miscellaneous charges".

Staff Attorney Greg Petesch stated the only place there would be a conflict would be in the last section, sections 8 and 9, but they are not set by statute in the other places. He will prepare the correct amendment for this bill.

Senator Fuller withdrew his motion.

Senator Regan made an amended motion that Staff Attorney Petesch prepare the correct amendment for House Bill 158. Senator Dover seconded the motion.

The Committee voted unanimously, by voice vote, with the exception of Senator Boylan who was excused, that the proposed amendment to HOUSE BILL 158 BE ADOPTED.

Senator Fuller made the motion that House Bill 158 As Amended Be Concurred In. Senator Dover seconded the motion.

The Committee voted 8-1 with Senator Lee voting no, that HOUSE BILL 158 BE CONCURRED IN.

Senator Fuller will carry this bill on the floor.

CONSIDERATION OF HOUSE BILL 229: An act to generally revise and clarify the laws relating to business and nonprofit corporations.

Representative Jack Ramirez stated this bill was by request of the Secretary of State. It eliminates stated capital under our corporation laws but sections 2, 3, 4, 6, and 7, deal with corporation names. Sections 5 and 8 eliminates formal Certificate of Revocation and changes it to a notice.

PROPOSERS TO HOUSE BILL 229: Allen Robertson, Legal Counsel, Secretary of State's Office, stated this deals with several small problems. Sections 2, 3, 4, 6 and 7 implements a policy that in Montana no business name shall be the same as anyother business name. This language is similar for anyother corporation name. An assumed business name cannot be the same as any corporation name. Also , if you are a Montana corporation and come in to register you have to have one of these four words in your title "corporation, company, incorporated or limited". This allows an out of state business to register. They could still register their name and keep it reserved until they come into Montana. Right now any domestic or foreign corporation needs this. The next section takes this same concept and applies it to nonprofit corporations. The main purpose is that when someone is doing business with an entity the name will reflect the name of the entity. This is just taking existing policy and applying it to nonprofits. Sections 5 and 8 deal with Certificate of Revocation. Profit and nonprofit certificates are changed to just a notice. There is the difference between a \$5 and 50¢ piece of paper.

There were no further proponents and no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Gage asked does this preclude a

person calling his operation a company even if it was not incorporated? Mr. Robertson stated in their opinion this already exists. This bill does not do anything to that situation.

ACTION ON HOUSE BILL 229: Senator Goodover made the motion that House Bill 229 Be Concurred In. Senator Dover seconded the motion.

The Committee voted unanimously, by voice vote, with the exception of Senator Boylan who was excused, that HOUSE BILL 229 BE CONCURRED IN.

Senator Goodover will carry this bill on the floor.

ADJOURN: There being no further business, the meeting adjourned at 10:50 a.m.

  
ALLEN C. KOLSTAD, CHAIRMAN



# STANDING COMMITTEE REPORT

March 7

19 83

MR. **PRESIDENT**

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

having had under consideration **HOUSE** Bill No. **158**

**BERGENE (FULLER)**

Respectfully report as follows: That **HOUSE** Bill No. **158**  
be amended as follows:

1. Title, line 6.

Strike: "AND MISCELLANEOUS CHARGES"

2. Page 6, line 13.

Strike: "and charges"

3. Page 8, line 2.

Strike: ":"

4. Page 8, line 3.

Strike: "(1)"

5. Page 8, line 4.

Following: "certificates"

Strike: remainder of line 4 through "charges" on line 5.

6. Page 8, line 7.

Strike: "AND MISCELLANEOUS CHARGES"

7. Page 8, line 9.

Strike: "and miscellaneous charges"

~~XXXXXX~~

AND AS AMENDED,

BE CONCURRED IN

*MC*

# STANDING COMMITTEE REPORT

March 7

1983

**PRESIDENT**

MR. ....

**BUSINESS AND INDUSTRY**

We, your committee on .....

**HOUSE**

**229**

having had under consideration ..... Bill No. ....

**RAMIREZ (GOODOVER)**

**HOUSE**

**229**

Respectfully report as follows: That..... Bill No. ....

**BE CONCURRED IN**

~~XXXX~~  
XXXX

*J. P.*





(This sheet to be used by those testifying on a bill.)

NAME: Paul Peterson DATE: 5/7/88

ADDRESS: ONE 9<sup>th</sup> ST. ALEX. DUFF

PHONE: 449-4730

REPRESENTING WHOM? Gen. St. Exptl.

APPEARING ON WHICH PROPOSAL: PR 579 F. E. C.

DO YOU: SUPPORT?       /       AMEND?            OPPOSE?           

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.