

MINUTES OF MEETING OF THE  
SENATE RULES COMMITTEE  
APRIL 6th, 1983

The ninth meeting of the Senate Rules Committee was held in Room 331 of the Capitol Building on April 6th, 1983. Senator Frank W. Hazelbaker, the Chairman of the committee, called the meeting to order at 4:50 P.M. All members were present.

SENATE BILL NO. 428

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING ESTABLISHMENT OF COUNTY WEATHER MODIFICATION AUTHORITIES WITH TERMINATION AFTER 5 YEARS: PROVIDING FOR A LEVY OF UP TO 2 MILLS EACH YEAR: AMENDING SECTION 85-3-104, MCA: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Chairman Hazelbaker called attention to Amendment No. 8, green copy, which reads as follows:

8. Page 12.

Following: line 18

Insert: "Section 14, Section 85-3-104, MCA, is amended to read: "85-3-104. Nonliability of state and agents for acts of private persons. Nothing in this chapter shall be construed to impose or accept any liability or responsibility on the part of the state, the board, the department, ~~or~~ any state officials or employee or a county weather authority, its officers or employees, for any weather modification and control activities of any private person or group."

The question was posed by Senator Turnage as to whether or not the amendment required a 2/3's vote.

Senator Hazelbaker read a memorandum from Lee Heiman, Staff Attorney for the Montana Legislative Council, which is quoted below:

Senator Hazelbaker,

Rep. Schye asked me to look at the house amendments to SB 428 (Weather Modification) that has been sent to the Rules Committee. He has asked me to let you and Senator Etchart know my opinion on whether the amendments involve sovereign immunity.

It is my opinion that sovereign immunity is involved, and under Art. II, Sec. 18, Mont. Const. requires a 2/3's vote of each house.

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If you would like further information, please  
let me know.

(signed) Lee Heiman  
Staff Attorney

The committee recommended that the Senate reject the amendments  
to SB-428 because the House did not give them a 2/3's vote.

HOUSE BILL NO. 899

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE APPOINTMENT  
QUALIFICATIONS OF MEMBERS OF THE BOARD OF PERSONNEL APPEALS TO  
REMOVE POTENTIALLY UNCONSTITUTIONAL APPOINTMENT QUALIFICATIONS;  
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Senator Hazelbaker advised that the committee that the bill came  
over here after the 45th day, about two weeks late, and it came  
to the Rules Committee in order that it might be acted upon.  
The question was whether or not it could be accepted by the  
Senate.

Representative Addy, the sponsor of the bill, testified the bill  
was merely a result of a 9th Circuit Court Appeals' case, and  
the bill was held up pending the verdict. Representative Addy  
requested the Rules Committee to recommend that the Senate sus-  
pend the rules so that the bill could be heard by the Senate.

Senator Stephens and Senator Aklestad did not think it was proper  
for the bill to be accepted inasmuch that it was almost two weeks  
late in arriving after the 45th day. Senator Towe stated that he  
felt that the rules should be suspended in order to solve a problem  
that the bill addressed.

Senator Towe moved that the Rules Committee recommend that the  
Senate suspend the rules and accept HB No. 899. With Senators  
Blaylock, Regan and Towe voting Yes and Senators Aklestad, Hazelbaker,  
Stephens and Turnage voting No, the motion failed.

HOUSE BILL NO. 908

A BILL FOR AN ACT ENTITLED: "AN ACT ADDING CERTAIN PIPELINES TO  
THE DEFINITION OF "FACILITY" UNDER THE MONTANA MAJOR FACILITY SITING  
ACT; PROHIBITING THE ISSUANCE OF PERMITS FOR CERTAIN AMOUNTS OF  
WATER WITHOUT LEGISLATIVE APPROVAL; PROVIDING FOR A STUDY BY A  
SELECT COMMITTEE OF WATER MARKETING; PROVIDING AN APPROPRIATION;  
AMENDING SECTIONS 75-20-104, 75-20-216, 75-20-218, 75-20-303,  
75-20-304, 75-20-1202, 85-1-205, and 85-2-311, MCA; REPEALING

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SECTION 85-1-121, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

This bill was brought to the attention of the Rules Committee because Joint Rule 6-3 provides that a bill should be limited to one subject. Secretary of the Senate said he believed that there is more than one subject in the bill.

Speaker of the House, Kemmis, testified that the bill is in his opinion very coherent and to take out any part of it would destroy the coherency of the bill. He felt that all of the parts related to basically one subject. However, he did state that he would be glad to see the "PROVIDING AN APPROPRIATION" stricken from the title and on page 21, lines 17 through 22, the entire section stricken.

Lobbyist James Mockler spoke, advising that he felt that the bill had three distinct subjects.

Jim Mular of the Railroad Brotherhood disagreed with Mockler.

Senator Towe stated that rules say that no bill shall contain more than one subject, and that the subject of this bill is the use of industrial water.

Senator Turnage thought that the bill deserved a hearing and suggested the following amendments to HB 908:

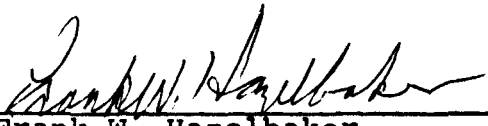
1. Title, lines 5 through 10.  
Following: "AN ACT" on line 5  
Strike: The remainder of line 5 through "MARKETING" on line 10.  
Insert: "PROVIDING FOR THE AMENDMENT AND STUDY OF THE LAWS RELATED TO THE ACQUISITION, TRANSPORTATION, AND USE OF WATER"
2. Page 1, line 10.  
Strike: "PROVIDING AN APPROPRIATION;"
3. Page 21, lines 17 through 22.  
Strike the entire section.

Senator Turnage moved that the bill be reported out of committee as having been properly received for consideration by the Senate and that the bill be referred to the proper committee as amended.

With Senator Aklestad voting No and all other Senators voting Yes, the motion passed.

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There being no other business to come before the committee,  
the meeting was adjourned at 5:30 P.M.

  
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Frank W. Hazelbaker,  
Chairman Senate Rules Committee

## COMMITTEE

Date \_\_\_\_\_

4/6/83

[illegible]

Each day attach to minutes.