

MINUTES OF THE MEETING  
BUSINESS AND LABOR COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

January 15, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on January 8, 1985 at 9:00 a.m.

ROLL CALL: All members were present, with the exception of Representative Robert Ellerd, who was excused by the chairman.

HOUSE BILL NO. 127: Hearing commenced on House Bill No. 127. Representative Kerry Keyser, District #74, sponsor of the bill, stated that this bill is a general revision of the laws that regulate private investigators and patrolmen. Changed substantially is the definition of "insurance adjuster" by providing that an adjuster does not investigate "crimes of wrongs", except as provided in the registration requirements for armed guards and investigators. This bill will also remove the exemption for charitable institutions, delete residency requirements, clarify requirements for qualifying agents and resident manager, remove exemptions from registration as an armed guard or investigator and provide qualifications for unarmed private investigators. Representative Keyser distributed to committee members Exhibit 1 which outlines the amendments proposed by the Board of Security Patrolmen and Private Investigators.

Proponent Clayton Bain, Chairman of the Board of Security Patrolmen and Private Investigators, stated that the board is in support of House Bill 127, with their proposed amendments as set out in Exhibit 1.

Proponent Don Valiton of the Montana Association of Private Investigators and Security Operators in Ovando explained that the security business is rapidly growing, with currently over one million people employed in the private security field. These individuals provide a service to the business community by qualified personnel. Mr. Valiton is supportive of the law enforcement industry. He would like to see our law enforcement personnel paid adequately, rather than have them take a second job, in order to exist. The mental and emotional strain was recognized by Mr. Valiton. We need the private investigators and they need us, added Mr. Valiton.

Proponent Robert B. Evans, President of Timberline Investigators in Kalispell and a member of the Montana Association of Private Investigators and Security Operators does support House Bill 127 with the amendments as shown on his Witness Statement. Mr. Evans stated that prior to 1983 there were 450

licenses issued. Under the new law there are only approximately 175 licenses. This represents an approximate decrease of 60%, stressed Mr. Evans.

Proponent Craig Christy of the Legal Investigation Bureau in Billings suggested the committee consider the amendments as shown on his Witness Statement. He is in agreement of deleting casual employment by law enforcement officers due to conflict, public liability and fatigue on the part of officers. Mr. Christy stressed the fact that the law now profices for a 90 day training period and a three year experience provision. An employee cannot receive the three years required experience for licensing in the given 90 day period. A conflict between the statutes and administrative rules is apparent. A built in age discrimination with the 25 year old minimum age requirement, is also apparent. Mr. Christy proposed an amendment that would make clear a distinction between the licensee, a registrant and an employee that would leave employees to the discretion of the hiring license and profice for the three year experience requirement for licensure.

Proponent Joe Maloney, a private investigator from Butte offered his support in deleting the casual employment provision and the proposed amendment for licensing requirements. Mr. Maloney did clear up the fantasies regarding private investigators. An average income of \$14,000.00 per year is earned by a private investigator. Requirements are needed and they should be just and fair, stated Mr. Maloney. The private investigator business is not run the same as the law enforcement business. Private investigators offer a vital service to the business community and more private investigators are needed in the state of Montana, added Mr. Maloney.

Proponent Tom Mangon, a private investigator in Helena stated that casual employment is the most pressing issue in this bill. It is important that secondary employment of law enforcement personnel be regulated in order to maintain the high quality of professionalism, explained Mr. Mangon.

Proponent Chad Smith of the Montana Hospital Association stated that he is not a proponent or opponent to House Bill 127. He does have a concern with the amendment that would delete a non-profit or charitable association from this law.

Proponent Fred Valentin, a licensed private investigator and owner of Security Service Company does support House Bill 127. He feels the profession does need regulation, but they do not need to be regulated outside of their business.

Proponent Greg Stovall representing the Legal Investigation Bureau of Billings is in support of House Bill 127. He feels that anyone doing private investigation work in the state should meet the same requirements. Equal treatment for all

is what Mr. Stovall is striving for.

Opponent Chuck O'Reilly, Sheriff of Lewis and Clark County, stated that it would take the entire legislative session to get through all of the proposed amendments. He suggested that the committee kill House Bill 127 and that the private investigators and security officers get together to create a decent bill for the next session of the legislature. Sheriff O'Reilly explained that the law enforcement industry is presently regulated, so why have another body setting regulations and make the procedure more complicated. An average income of \$16,000.00 per year is earned by a peace officer. It is necessary for most to be employed in a second job in order to pay bills and feed families, added Sheriff O'Reilly.

In closing Representative Keyser questioned Mr. Evans' figures he gave to the committee. He said that there are presently 32 security agencies and 74 private investigators, totalling 106 licenses issued by the board. Sixteen months after this bill took affect there were 30 additional officers and 44 additional investigators, not counting what applications may be pending. There has not been the large decrease, stressed Representative Keyser. If the bill is killed, it will leave the casual employment law as is. It is not the intent to give city or county officers an unfair advantage, stated Representative Keyser. Reasonable regulation is wanted and nobody is trying to over regulate the industry, added Representative Keyser.

Representative Jones questioned Representative Keyser as to where he obtained his figures regarding the number of licenses issued. Representative Keyser did receive these figures from the department. Representative Jones commented that he also had figures, but they are different than those presented by Representative Keyser.

Representative Wallin asked Representative Keyser if he would be willing to meet with the different proponents and opponent to work out the differences. Representative Keyser answered that he would and that the committee may want to refer House Bill 127 to a subcommittee.

Representative Bachini questioned Mr. Bain as to how private investigators receive their fire arm training. Mr. Bain explained that they are instructed by certified individuals. Representative Bachini then asked if a private investigator has ever tried to be admitted to the law enforcement academy and if it would be beneficial if so done. Mr. Bain replied that only law enforcement officers are allowed into the academy and that it would be an excellent idea, to allow private investigators into the academy. However, the academy is not of sufficient size and the range is located outdoors,

thus cannot be used during the winter months.

Representative Glaser asked Greg Stovall if he has been able to get licensed by the board. Mr. Stovall has not been issued a license because of the three year experience requirement. Representative Glaser then asked if Mr. Stovall did in fact want this as a career. Mr. Stovall replied, "yes".

Representative Howe asked Mr. Stovall what is needed to become certified. You must be a police officer, a private investigator or a retired police officer, replied Mr. Stovall.

Representative Driscoll asked Mr. Bain if an off duty police officer could act as a "bouncer" at a public dance without being licensed. Mr. Bain explained that he could not, if the casual employment section is deleted from House Bill 127.

Chairman Pavlovich did appoint a subcommittee consisting of Representative Bachini, Chairman and Representatives Kadas, Jones and Glaser to serve on the subcommittee. Mr. Bain and Representative Keyser will also work with the subcommittee.

There being no further discussion, all were excused by the chairman and the hearing on House Bill No. 127 was closed.

HOUSE BILL NO. 124: Hearing commenced on House Bill No. 124. Representative Kelly Addy, District #94, sponsor of the bill, stated the purpose of this bill is to amend one section of the law assuring collective bargaining rights of employees of the state of Montana or any of its political subdivision or school districts. The bill broadens the section of the law that now requires a labor organization to provide certain rights and safeguards for its members to qualify for certification by requiring the same rights and safeguards be a qualification for "recognition" of the labor organization. This bill gives the Board of Personnel Appeals the jurisdiction to decide any dispute about any of the rights and safeguards necessary for certification or recognition. A recent case regarding the above was before Judge Bennett in the Montana Supreme Court.

Proponent Bob Jensen with the Board of Personnel Appeals feels that it may be unnecessary for the amendments. He added that employees in recognized units may feel that they must petition the board in order to conduct an election. Employees in recognized units do utilize the collective bargaining act.

Proponent Nancy Walter of the Montana Education Association

offered their support to House Bill 124. She urged the committee to pass this bill.

Proponent Mike Walker of the Montana State Firemans Association does favor House Bill 124. Mr. Walker stated that the members of the association have enjoyed the benefits that this law provide for and want to continue enjoying them.

Proponent Nadiean Jensen representing AFSCME did offer her support of House Bill 124.

There being no further discussion by proponent or opponents, all were excused by the chairman and the hearing on House Bill No. 124 was closed.

ACTION ON HOUSE BILL NO. 124: Representative Driscoll moved that HB 124 DO PASS. The motion was passed unanimously.

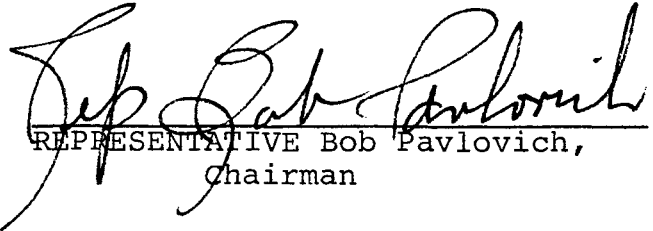
ACTION ON HOUSE BILL NO. 43: Representative Driscoll moved that HB 43 DO PASS. Representative Kadas moved that amendment number 4) as shown on the Standing Committee Report, DO PASS. The motion did pass with all but Representative Thomas voting aye. Representative Wallin moved that amendments number 1), 2) and 3) as shown on the Standing Committee Report, DO PASS. The motion was passed unanimously. Representative Kadas moved that HB 43 DO PASS AS AMENDED. The motion was seconded by Representative Hansen and passed unanimously.

ACTION ON HOUSE BILL NO. 28: Chairman Pavlovich explained that Mr. Heffelfinger is in agreement with Mr. Tippy's amendment number two, which is raising the alcohol content in "table wine" to 16%. Representative Kadas moved that HB 28 DO PASS. Representative Thomas then moved that Mr. Tippy's amendments one and two DO PASS. The motion was passed unanimously. Representative Kadas then moved that HB 28 DO PASS AS AMENDED. The motion was passed unanimously.

ACTION ON HOUSE BILL NO. 107: Representative Brown moved that HB 107 DO PASS. Paul Verdon, the committee researcher stated that HB 107 should have an extension of authority. Representative Schultz moved that the addition of the extension of authority DO PASS. The motion was passed unanimously. Representative Brandewie moved that Representative Driscoll's amendment as shown on the Standing Committee Report DO PASS. The motion was passed with all but Representative Wallin voting aye. Representative Driscoll then moved that HB 107 DO PASS AS AMENDED. The motion was passed with all but Representative Wallin voting aye. Representa-

tive Wallin feels that an annual inspection should be required of all electrology establishments.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 10:55 a.m.

  
REPRESENTATIVE Bob Pavlovich,  
Chairman

DAILY ROLL CALL  
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Jan. 15, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd			✓
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

# STANDING COMMITTEE REPORT

January 15

19 85

MR. Speaker

We, your committee on BUSINESS AND LABOR

having had under consideration House Bill No. 124

first reading copy ( white )  
color

Union as recognized exclus. represent-ative to guarantee certain rights

Respectfully report as follows: That House Bill No. 124

DO PASS

*Jan 15/85*

STATE PUB. CO.  
Helena, Mont.

.....  
Chairman.

COMMITTEE SECRETARY



# STANDING COMMITTEE REPORT

JANUARY 15 ..... 19 85 .....

MR. Speaker .....

We, your committee on BUSINESS AND LABOR .....

having had under consideration ..... House ..... Bill No. 43 .....

first ..... reading copy ( white )  
color

**Uniform trade secrets act.**

Respectfully report as follows: That ..... House ..... Bill No. 43 .....

**AND AS AMENDED,  
DO PASS**

*Jr 1/15/85*

STATE PUB. CO.  
Helena, Mont.

.....  
Chairman.

COMMITTEE SECRETARY

BUSINESS AND LABOR COMMITTEE  
Page 2

BE AMENDED AS FOLLOWS:

- 1) Page 2, line 18  
Following: "information"  
Insert: "or computer software"
- 2) Page 3, line 1  
Following: "secrecy"  
Strike: "; and"
- 3) Page 3, line 2  
Strike: "(b) includes computer software"
- 4) Page 3, line 24  
Following: "damages"  
Strike: the remainder of line 24 and line 25 through  
"(1)"

AND AS AMENDED,  
DO PASS

# STANDING COMMITTEE REPORT

January 15

19 35

MR. Speaker

We, your committee on BUSINESS AND LABOR

having had under consideration House Bill No. 28

first reading copy (white)  
color

Changing definition of wine

Respectfully report as follows: That House Bill No. 28

BE AMENDED AS FOLLOWS:

- 1) Title, line 7  
Following: "WINE"  
Insert: "AND TABLE WINE"
- 2) Page 3, line 20  
Following: "than"  
Strike: "148"  
Insert: "108"

AND AS AMENDED,

DO PASS

*DR-11/13/15*

# STANDING COMMITTEE REPORT

January 15,

85

19

MR. Speaker

We, your committee on BUSINESS AND LABOR

having had under consideration House

Bill No. 107

first reading copy ( white )  
color

Revision of electrology laws

Respectfully report as follows: That House

Bill No. 107

BE AMENDED AS FOLLOWS:

- 1) Page 3, line 15  
Following: "issuance"  
Strike: "or renewal"
- 2) Page 5, line 4  
Following: line 3  
Insert: NEW SECTION. Section 6. Extension of authority.  
Any existing authority of the Department of Commerce  
to make rules on the subject of the provisions of this  
act is extended to the provisions of this act."  
~~Subsequent~~ subsequent sections.

AND AS AMENDED,  
DO PASS

*JR 1/15/85*

STATE PUB. CO.  
Helena, Mont.

Chairman.

COMMITTEE SECRETARY

TO: Chairman and members of the House Business and Labor  
Committee

Amendments to House Bill 127

On Page 1, line 23 after "signals." delete "A person whose sole function is to maintain or repair a security alarm system is not included within the meaning of this definition."

On Page 6, line 19 after "is" insert "guarding".

On Page, 9 starting at line 8, delete "(4) proprietary security organizations are exempt from the provisions of this section."

On Page 10, line 18 after "business;" insert "or".

On Page 15, starting at line 2, place a period after "board". Delete "and must demonstrate proficiency by successfully passing a written examination." After "board" insert "Applicants for identification cards as unarmed investigators must demonstrate their proficiency by successfully passing a written examination."

Amend 37-60-202 Rulemaking power to add subsection (12) to read as follows:

(12) to provide for the issuance of probationary and temporary licenses for contract security companies and private investigators.

Amend 37-60-406 Peace Officers Casual Employment to read as follows:

37-60-406 Peace Officer Exemptions. (1) Peace officers, as defined in 46-1-201, or reserve officers, as defined in 46-1-201, are exempt from the provisions of this act under the following conditions:

- (a) they do not advertise or solicit their services;
- (b) the chief administrative officer of their department approves the off-duty employment;
- (c) the officers are performing security guard functions for another governmental agency;
- (d) the officers are providing security of in-custody inmates held elsewhere than at a custodial institution or jail;
- (e) the officers provide security when private security companies are unwilling or unavailable to provide the service;

(2). Law enforcement agencies or organizations and peace officers contracting to provide security, other than the above exemptions, must be licensed by the board as a contract security company.

(3) Peace officers employed as armed private security guards other than the above exemptions, must be registered by the board.

(4) Peace officers are exempt from the firearms requirement if they have qualified with their firearm within the past 12 months.

Submitted by

*Clayton Bain*

\_\_\_\_\_  
Clayton Bain, Chairman  
Board of Private Security Patrolmen  
and Private Investigators

Submitted by: Greg Stoval

NATIONAL COUNCIL OF INVESTIGATION & SECURITY SERVICES, Inc.

1133 Fifteenth Street, N.W. • Suite 620 • Washington, D.C. 20005 • (202) 293-5913



Please Reply to:

Memo to NCISS Memberships  
From Brian R. Cassidy  
Executive Director

*BRE*

The enclosed two resolutions were passed by the International Association of Chiefs of Police Private Security Committee at Salt Lake City during the annual conference. They also passed favorably through the resolution committee and was voted on and passed by the full membership.

#### COOPERATION WITH PRIVATE SECURITY

WHEREAS, Law enforcement agencies have long maintained their need for private sector cooperation; and

WHEREAS, The success of citizen involvement in crime prevention already shows the importance of private participation in community crime control; and

WHEREAS, The field of private security with its more than one million persons contributed daily to crime prevention and reduction; now, therefore, be it

RESOLVED, That the International Association of Chiefs of Police recommends that all law enforcement agencies:

- o Develop cooperative programs with private security for crime control.
- o Increase their knowledge of private security resources.
- o Assist private sector efforts to control economic crimes against business and other organizations.

#### SECONDARY EMPLOYMENT IN PRIVATE SECURITY 1984

WHEREAS, The demand for uniformed private security officers has increased significantly in recent years and will continue to increase in the future; and

WHEREAS, Many law enforcement officers are engaged in secondary employment as private security officers which frequently entails the wearing of their departmental uniform, sidearm and badge of office and the exercise of police authority; and

*Chairman of the Board*

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Directors listed on reverse side

WHEREAS, Such secondary employment raises questions regarding the authority of law enforcement officers while so employed, the increased potential for civil liability, the use of departmental uniforms and equipment, competition with private security companies and potential conflicts of interest; and

WHEREAS, Unregulated secondary employment in private security may contribute to increased fatigue and job-related stress; now, therefore, be it

RESOLVED, That the International Association of Chiefs of Police encourages all chief law enforcement officers to establish policies and procedures regulating secondary employment for sworn personnel in private security to maintain the high quality of professionalism in law enforcement.



# Police outnumbered by security guards

Los Angeles Times

WASHINGTON — A Department of Justice unit reported Sunday that private security forces now command substantially more manpower and money than local, state and federal law enforcement agencies combined and recommended study of ways to coordinate their operations.

"In these times of stringent state and local constraints, we must ask law enforcement agencies to make more effective and efficient use of all available means. Cooperative programs with private security could provide a way to do more with fewer tax dollars," said James K. Stewart, director of the National Institute of Justice, a Department of Justice

agency, as he released a research bulletin that described the growing role of private security.

The bulletin summarized a 30-month, \$255,000 study conducted for the institute by Hallcrest Systems Inc., a McLean, Va., research and consulting company that specializes in criminal justice systems.

The summary said the private security industry, as of 1982, operated on a \$21.7 billion budget and employed about 1.1 million people, of whom 449,000 worked on "proprietary" security concerned with internal operations of individual enterprises, while the others manned contractual services, such as guard units, investiga-

(More on Security, Page 4A)

## Security

From Page One

tions and alarm services.

It estimated that federal, state and local law enforcement operated in 1979 with 580,000 employees and cost \$13.8 billion. The report foresaw continued growth in private security operations.

Private security operations have increased fastest in the past five to seven years as "growing numbers of Americans undertook self-help measures against crime, increasing the use of locks, lighting, guns, burglar alarms, citizen patrols and security guards," the bulletin reported.

By the bulletin's estimate, economic crime — "ordinary" crimes against property, such as burglary, larceny and robbery, together with white-collar crimes, mostly fraud and embezzlement — together cost

business \$67 billion in 1980.

However, while private security managers generally report "ordinary" crime to law enforcement agencies, it said, they tend not to report incidents of employee theft, insurance fraud, industrial espionage, commercial bribery and computer-related crimes.

The bulletin said the Hallcrest study found there was only "limited interaction and cooperation thus far" between public police and private security forces and reported that "the quality of security personnel is a major concern to the police," who advocate state regulation and licensing of security forces.

William C. Cunningham, a Hallcrest spokesman, said 37 states have some form of regulation governing private security operations, but fewer than half regulate guard forces. California has a licensing system and enforces regulations affecting armed guards who make up about 10 percent of security forces nationwide, Cunningham said.

About 150,000 off-duty policemen authorized to carry weapons moonlight regularly as security guards, according to the bulletin. It said some critics view them as "hired guns" recruited to back up civilian guards who may have trouble obtaining firearms licenses.

Private organizations handle dishonesty among their own personnel through internal procedures almost twice as often as they report the crimes to prosecutors, the bulletin said. Little is known of the workings of the unofficial "private justice" system, it said.

The survey found that private-sector administrators resort to "private justice" for these reasons: disagreement with the policies prosecutors follow in filing charges; impatience with administrative delays in prosecution; a desire to avoid courtroom rules of discovery "that might reveal more about their organizations than they want known," and "a perception that courts are unsympathetic with business losses."

# Security guards complain about rules

By TOM COOK  
IR State Bureau

New rules to protect the public from irresponsible private security firms and investigators probably will drive many legitimate security companies in the state out of business, private investigator Bob Evans said in Helena Wednesday.

"It will certainly increase the costs of consumers and businesses buying those services from us," according to Evans, who is vice president of the Montana Association of Private Investigators and Security Operations.

Evans said the new rules and licensing requirements will mean at least a 25 percent increase in the price security firms charge for their services.

"I'm concerned that some of the Main Street businesses won't be able to pay it," he said.

The Board of Private Security Patrolmen and Investigators gave final approval Wednesday to regulations that among other things will require for the first time that security firms carry insurance against wrongful injury and ensure that their personnel take state-approved weapons courses.

Clayton Bain of Helena, chairman of the board, said he is sympathetic with some of the concerns expressed by security firms.

However, he said the new rules that will go into effect in April are necessary to meet the legislative intent of a bill passed last session to tighten state control of the security industry.

Bob Cuthill, head of Mining City Merchant Police of Butte, said legitimate security firms don't object to regulations to protect the public from improperly trained security personnel, particularly those that carry guns.

"These rules will keep the junk security operators out," Cuthill said. "The guy who is working a couple hours here and there and not doing anything to really protect anybody."

But Evans said the Legislature and the board went too far in "trying to keep the fly-by-night guys out."

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(More on SECURITY, page 2B)

# Security

## Continued from Page 1B

Not only will license fees for security firms increase from about \$10 a year to \$75 under the new rules, Evans said, but for the first time each guard will be required to have a \$25 license if he is unarmed and a \$75 license if he carries a gun.

Firms that in the past have been able to determine their own insurance needs also will be required to carry coverage up to \$30,000 for bodily or personal injury and \$100,000 for property damage.

"That will up our costs per man we employ just for the insurance," Evans said.

Bain said the Legislature was "very much in favor" of strict insurance requirements.

"I don't know how you could get anything less than that level that would adequately protect the public," he said.

In addition those ob-

borne by those receiving licenses.

However, Isabelle Pistelak, administrator of the state Business and Professional Licensing Division, told the board Wednesday that the fees it approved may not be sufficient to keep the board afloat the rest of this year.

Bain said "it's a numbers game," but that he is hopeful that the cash flow will be sufficient.

Evans said he is concerned that fewer people than the board anticipates will seek licenses because of the cost. "It's a Catch 22.

Fewer people will get licensed because of the high cost so the fee will have to go even higher," he said.

Because the board has no money to investigate or enforce compliance with the new rules, Evans said

legitimate operators also will have to absorb the time and cost of taking unlicensed operators before the board for punishment.

"We have no choice but to try and live with these rules," he said. "But there are some real problems."

Evans said the board has cooperated in meeting many of his industry's concerns.

"I have no quarrel with the board," he said. "If this doesn't work, maybe we can come back to them and pressure them to go back to the Legislature with us."

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# INDEPENDENT RECORD

FROM MONTANA'S CAPITAL

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## BN, BPA among those 'renting' deputies

By TOM PALMER  
 IR Staff Writer

The Lewis and Clark County Sheriff's Department is in the business of providing private security protection, which has the county commissioners shaking their heads and at least one state licensed private security operator crying foul.

Prompted by an IR investigation, Commissioner Bob Decker said Friday the commissioners have requested that Sheriff Chuck O'Reilly

prepare a full financial accounting and list of contracts concerning the Sheriff's Reserves' security operations.

"To me, if it's not a direct conflict of interest, then it leaves the door open for such charges," said one high-ranking Lewis and Clark County official who asked for anonymity.

The issue raises nagging questions about the propriety of deputies — and even the sheriff himself — serving in the employ of such organizations as Burlington Northern and the Bonneville Power Administration.

The deputies have full arrest powers, carry guns and wear their uniforms while "moonlighting" as private guards.

In one recent contract, the reserve deputies were paid \$85,000 by the BPA, with Sheriff Chuck O'Reilly himself pulling some paid shifts.

Larry Lytle, owner and operator of the Helena-based Security Service Inc., said the local private security operators know "that our biggest competition is local law enforcement and we have to deal with it." All of which leaves the hard-nosed

O'Reilly unswayed. "That's too bad," O'Reilly said last month when the IR began its investigation into the Sheriff Department's private security contracts. "We were here before they were and the law allows it."

State law does indeed allow Montana "peace and reserve officers" to occasionally moonlight as unlicensed private security patrolmen. But the law explicitly forbids law enforcement agencies or individuals from advertising their off-duty services and from soliciting employment.

Lewis and Clark County, however, is advertising its "security guard and patrol services" on page 165 of the Helena Yellow Pages.

O'Reilly has adamantly denied any knowledge of the Yellow Pages listing, which was provided by the Yellow Pages people free of charge on someone's request. O'Reilly says he didn't request it, nor does he know who did.

Brinton B. Markle, the Department of Commerce consumer affairs attorney, said the ad is not what the Department of Commerce s

watchdog Board of Private Security Patrolmen and Investigators would want, and O'Reilly said the ad "definitely won't be there again. I have no idea how it got there," he said.

For the most part, O'Reilly said he activates the Sheriff's Reserves — a mixed force of 20 trained volunteers and full-fledged deputy sheriffs — for emergencies and special events like the Last Chance Stampede and the Governor's Cup Marathon —

(More on MOONLIGHTING, 10A)

# Moonlighting

Continued from Page 1A

that call for crowd control expertise.

"The only time my reserves work are at special functions and on occasions that I allow them to work security," O'Reilly said. "If there is a conflict, it lies in the fact that there are people who think we're taking work from them and we're not. It makes for a good story to say that the county is stealing from private industry, but it's not the case."

However, the IR has learned that the Sheriff's Reserves have contracted with Burlington Northern and the Forest Service for ongoing work work unrelated to any "special event."

O'Reilly said his reserves are paid \$55 per man per shift and estimated that each man is paid \$300 annually from private security contracts, while the entire reserve force volunteers \$93,000 worth of time to the county yearly.

According to O'Reilly, the county is often requested to provide security work by individuals, groups or corporations who are interested in having a security force with full arrest power. "When I activate the reserves, there is no difference between a full-time peace officer and a reserve officer," he said.

In 1982-83, the Lewis and Clark Sheriff's Reserves contracted with the Bonneville Power Administration for a long-term 24-hour security patrol of the BPA's equipment and supplies that were stored near the Custer Avenue and Montana Avenue intersection.

That 18-month contract is the one that landed \$85,000 for the Sheriff's Reserve coffers. The money was delivered, in total, to the sheriff and the Sheriff's Reserve in the form of wages.

Bob Windus of the BPA said by phone from his Portland office that the BPA traditionally contracts with local law enforcement for "large movable sites" because of law enforcement's experience, expertise and arrest power.

But he admitted the the Helena site was neither large nor moveable and the BPA could have used a private security firm.

"We went to the county and asked for assistance as a federal agency," Windus said. "We didn't have time for a long procurement process. It's always conceivable that we could have used a private firm."

O'Reilly said he asked the BPA to use a private firm but the BPA told him it "had to have law enforcement."

And there the crux of the conflict of interest controversy lies. If county deputy sheriffs are being employed by private interest groups to do security work, are their loyalties and liabilities with the county or the company?

In the opinion of Montana Attorney General Mike Greeley, "As long as the activity is being supervised by law enforcement, then the method of payment is immaterial."

Commissioner Decker, however, said he feels uncomfortable with the situation. "I feel more uncomfortable just from my own ignorance, we just don't know enough about it. We don't have a final position, but we think it's a story too."

As far as arrest liabilities are concerned, O'Reilly said he could prohibit a reserve officer working for a private firm from making arrests. If a potential arrest situation arose, O'Reilly said he could tell his reserves to call the local law enforcement agency.

He also said he might allow his reserves to work security patrols of malls or other public places.

"Personally speaking," he said, "I still don't see anything wrong with it legally or morally. I'm not saying I would allow it, but just where are you going to draw the line? It's not black and white, it's a gray area and I'm not sure anyone can define it."

Helena Police Chief Bill Ware has authority over the Helena Police Protective Association, a quasi-

security force comprised of moonlighting city police officers who work Carroll College athletic events, Civic Center concerts and school dances.

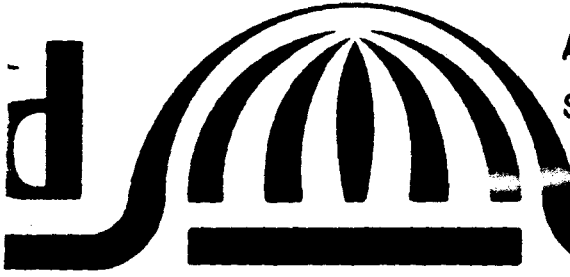
Although Ware said he would look at potential security contracts on a case-by-case basis, he indicated that he was not as ready to jump into the private security business as O'Reilly.

"I think the question arises: Are they making arrests as a city police officer or as an employee of a private business?" Ware said. "I think it's a pretty fine line. I would discourage that kind of outside

employment."

Margarette "Mike" Archibald, who screens potential private security licences for the Department of Commerce, said the controversy is not limited to Lewis and Clark County. "Private security is upset because businesses are hiring law enforcement to do the jobs that they can do," she said. "I really feel that they have a logical complaint."

But O'Reilly does not. "I don't think any special-interest group should have a corner on anything," he said. "It's legal, it's ethical and it's a benefit to the citizens of this county!"



**WEDNESDAY  
AFTERNOON**

September 12, 1984  
Helena, Montana  
Vol. 41 No. 295

# State board eyes sheriff P. I. setup

By **TOM PALMER**  
IR Staff Writer

Montana's watchdog Board of Private Security Patrolmen and Investigators announced Tuesday that it will seek an injunction against the Lewis and Clark County Sheriff's Reserves to bring its alleged unlicensed private security service to "a screeching halt."

The Sheriff's Reserves, a non-profit corporation comprised of trained community volunteers who purchase their own uniforms and equipment and act as part-time deputies, has entered several private security contracts under the auspices of the Sheriff's Department.

Payment for the security work is run through a private bank account, separate from Lewis and Clark County's carefully audited general fund.

Department of Commerce Consumer Affairs Attorney Brinton B. Markle acknowledged that state law permits local law enforcement agencies to contract for some unexpected or "casual" security work. But he in-

dicated that payment for such security work is expected to be delivered through local government, not a private corporation with a private account.

The most lucrative contract appears to have been struck with the Bonneville Power Administration nearly two years ago. That 18-month contract landed \$85,000 for the Sheriff's Reserve coffers.

According to the informal testimony of Gary Dupois, a former Lewis and Clark County deputy, the BPA money was delivered to the Sheriff's Reserve in the form of wages, with O'Reilly and some full-fledged deputies also pulling shifts and being paid BPA money through the Sheriff's Reserve bank account. Dupois said no county equipment was used.

The contract has, among other things, raised the question whether officers who have arrest powers and who appear to be public servants should be working for private corporations.

(More on RESERVE, 8A)

# Reserve

Continued from Page 1A

Among recent contractors are the Last Chance Horse Racing Association and Capital Ford. Earlier reports that the Reserve had also contracted with Burlington Northern were in error.

"If this money did not come from the General Fund of Lewis and Clark County, then you have an organization trying to work both ends," Markel said.

The Sheriff's Department, for instance, does routine security checks of Forest Service campgrounds but that contract is run through the general fund.

According to Markel, the Board of Private Security Patrolmen and Investigators will seek its injunction this week and begin an investigation into the burning issue of whether or not the Sheriff's Reserves should be licenced as private security patrolmen.

Although Montana law demands that security patrolmen be both

licensed and insured, the fledgling board feels the vast majority of the state's private security companies are dodging the law and has ordered a crackdown.

A first time fee for a single armed private security patrolman could cost a security company \$195. According to Kalispell security operators Bob Evans and Don Hansen, insurance for just three employees runs \$2,975 per year.

The Sheriff's Reserves, which might be exempt under the law, are not carrying that financial burden and some consider it to be unfair competition.

"If we can get them licensed and have them insured, then that's half the battle," Fred Valiton, co-owner of the Helena based Security Services Inc., told the board.

The injunction, which will be filed in District Court, is intended to assist the board's investigation. "The only reason I'm seeking the injunction first is that it will give me the

ability to exercise my rights of discovery under civil procedure," Markle said adding that he intends to subpoena O'Reilly, the county commissioners, and members of the Sheriff's Reserves. "I'll subpoena anyone I can, including people I find are their clients and people who have contracted with them casually or otherwise."

Board member Al Murphy also moved to have Markle write letters to the Attorney General, the Solicitor General and the Lewis and Clark County Attorney. "I want them reminded that if an agency of the government is going to contract for private security in a state where there is a licensing procedure they must insure that the successful bidders comply," he said.

Murphy said the board has no power to limit the scope of any local law enforcement operation, reserve or otherwise. "But we can, by God, make them be licenced," he said.

O'Reilly could not be reached for comment.

## Board seeking to control police 'moonlighting'

Missoulian State Bureau

HELENA — The state Board of Private Security Patrolmen and Investigators will ask the 1985 Legislature to make it tougher for law enforcement officers to moonlight in the private security business.

The board, created two years ago to regulate the private security industry, has received numerous complaints from security firms about law officers taking jobs away from the private sector, Board Chairman Clayton Bair said Thursday.

Under present law, law officers are able to engage in off-duty security work so long as it is not under a permanent contract or done on more than "a casual basis."

"Because of the casual employment section of the law, we have been unable to do much about it," he said. "The board will ask the Legislature to rescind that requirement."

Defining causal employment has proved very difficult, Bair said, and officers have been able to avoid the new licensing and other requirements that apply to private firms.

The board is proposing that law officers continue to be allowed to work for other government entities to provide security services or to take temporary jobs if a private firm isn't available to perform them.

"Otherwise they will have to be licensed," he said.

Bob Evans, head of Timberline Investigations in Kalispell, said his industry has been concerned that the board has gone too far in some cases in the name of protecting public safety.

"We needed some controls, there's no question," he said. "Our biggest complaint has primarily been to get them to force the people, who should be licensed and aren't, to get a license."

The security industry was caught off guard by the 1983 law and wasn't organized to lobby to protect its interests, he said.

"As more people have found out about this, we are getting a better voice in setting it up," he said.

A political clout was evident Thursday as several security industry spokesmen were able to reach agreement with the board on minimum requirements for training their personnel in firearms use.

The board also elected Bair to

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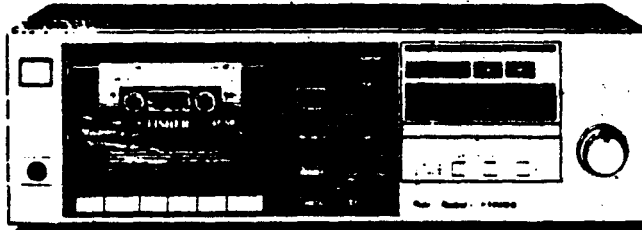


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# Sides cooperate in dispute over security service

By TOM PALMER  
IR Staff Writer

The injunction sought by Montana's watchdog Board of Private Security Patrolmen and Investigators against the Lewis and Clark County Sheriff's Reserves alleged private security service has been put on hold.

Department of Commerce Consumer Affairs Attorney Brinton B. Markle said today that if the spirit of cooperation between the board and Lewis and Clark County Attorney Mike McGrath continues there will be no need for an injunction.

"It looks like I'm going to see some of the records," Markle said. "So far, we're cooperating at this point and I would expect that to con-

Markle said County Attorney McGrath has agreed to turn over the Sheriff's Reserve files he has in his possession. "If there is more I want to see that he doesn't have, I'll have to get a court order to get it," Markle said.

The Board of Private Security Patrolmen and Investigators' investigation is being limited to whether or not the Reserves, who are working as county deputies but being paid from non-county funds, should be licensed as security agents under state law.

The law permits local law enforcement agencies to contract for some unexpected or "casual" security work. But, according to Markle, payment for such work is expected to be delivered through local government.

"There have been some accusations made that I'm not sure are at all true and we'd like to get them cleared up before we go to court," county attorney.

The Board of Private Security Patrolmen and Investigators asked for an injunction last week to halt what could be construed as unlicensed private security work being performed by the Sheriff's Reserves.

The Sheriff's Reserves are a non-profit corporation comprised of trained community volunteers who purchase their own uniforms and equipment. In addition to working as part-time deputies, they have entered several private security contracts under the auspices of the Sheriff's Department.

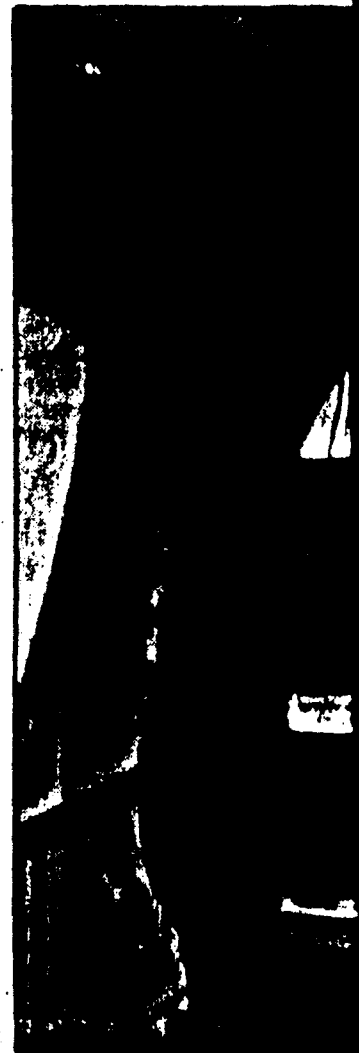
Payment for the security work is made through a private bank account, separate from Lewis and Clark County's carefully-audited general fund, the board was told last week.

not a private corporation with a private account.

County Attorney McGrath, however, indicated that the board's investigation might be premature. "What we're trying to do at this point is to determine what the board's concern is. There have been some accusations made that I'm not sure are at all true and we'd like to get them cleared up before we go to court," McGrath said.

All security work performed by the Sheriff's Reserves must be approved by Sheriff Chuck O'Reilly. O'Reilly has maintained that the law allows for the Sheriff's Reserves to perform security work and that the Reserves' files are open for inspection.

"I think we're going to get this thing worked out," McGrath said.



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(herein called the company)

The Company in consideration of the payment of the premium, in reliance upon the statements in the declarations and the application made a part hereof and subject to all of the terms of this policy agrees with the Named Insured as follows:

### INSURING AGREEMENT

The Company will pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages because of negligent acts, errors, or omissions arising out of the performance of the Insured's duties to provide law enforcement with respect to the following perils:

Coverage A—Personal Injury

Coverage B—Bodily Injury

Coverage C—Property Damage

to which this policy applies, and the Company shall have the right and duty to defend any suit against the Insured seeking damages on account of such Personal

Injury, Bodily Injury, or Property Damage, even if any of the allegations of the suit are groundless, false, or fraudulent, and, may make such investigation and settlement of any claim or suit as it deems expedient. The Company shall have the right and duty to defend any suit seeking damages even if the suit results from an allegation of a criminal act, but, the Company does not have the duty to defend an allegation of a criminal act in a criminal court. However, the Company shall not be obligated to pay any claim or judgement or defend any suit, after the applicable limit of the Company's liability has been exhausted by payment of judgement or settlements.

The said indemnity obligation of the Company is limited to civil actions arising from the aforesaid perils, as hereinafter defined and is limited solely to claims made or actions brought with respect to said perils, and such indemnity obligation is limited to the LIMITS OF LIABILITY as hereinafter set forth.

### EXCLUSIONS

This policy does not apply:

- (a) To any obligation or claims for which the Insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation, disability benefits law, or under any similar law including acts arising out of class action suits, or to Personal Injury, Bodily Injury, including death, or Property Damage sustained by any paid full or part time and/or auxiliary or volunteer law enforcement officer of the Named Insured directly or indirectly related to his employment by the Named Insured,
- (b) To damages arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of any Insured, or claims of injury arising out of acts of fraud committed by or at the direction of the Insured with affirmative dishonesty or actual intent to deceive or defraud;
- (c) To liability assumed by the Insured under any contract or agreement, except mutual law enforcement assistance agreements between political subdivisions,
- (d) To Bodily Injury and/or Personal Injury or Property Damage for which the Insured or his indemnitee may be held liable as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages or as an owner or lessor of premises used for such purposes, by reason of the selling, serving or giving of any alcoholic beverage,
- (e) To claims arising out of the ownership, operation, use, management and/or control, loading or unloading of any land motor vehicle designed for use principally on public highways, including any machinery or apparatus attached thereto, or any aircraft or watercraft,
- (f) To Property Damage to:
  1. Property owned or occupied, used by or rented to the Named Insured or any Insured,
  2. Property caused by or due to explosion, collapse or fire including the loss of use thereof,
  3. Property in the care, custody or control of the Insured or as to which the Insured is for any purpose exercising physical control including disappear-

ance of any tangible property (including money) or the loss of use thereof, while in the care, custody or control of any law enforcement body,

4. Property under the operation, management or control by the Insured,

- (g) Claims for products liability arising from the use by any Insured of any machinery, equipment or law enforcement instrument, but this exclusion shall not apply to the extent that any such claim relates to negligent use of equipment or instruments intended as law enforcement aids, subject, however, to exclusion (e), which exclusion shall always be applicable even to claims of negligent ownership, operations, management, control or use of such land motor vehicles, aircraft, or watercraft as set forth in such exclusion,
- (h) To lawyers liability or any claim relating to the activities of any attorney, legal paraprofessional or legal assistant with respect to the prosecutorial function or the preparation, drafting, submission or publication of any papers or documents by an attorney, legal assistant or legal paraprofessional acting in such capacity,
- (i) To claims arising from events during which the injured party was in the care, custody or control of any Insured under this policy other than during an overt attempt to escape from care, custody or control,
- (j) To claims arising out of the performance of acts, services, and duties other than for the police or sheriff's department or the municipal, county or state governmental body as named in the declarations, except while acting in furtherance of a mutual law enforcement assistance agreement between political subdivisions,
- (k) To claims based upon or arising out of the dismissal or other adverse disposition of a complaint, charge or prosecution resulting from the willful failure or refusal of the Insured to appear and testify at any hearing or trial;
- (l) To claims made against or involving the municipal, county or state governmental body having administrative or departmental jurisdiction over the Insured, except as provided in this policy under definition "INSURED".

### SUPPLEMENTARY PAYMENTS

The Company will pay, in addition to the applicable limits of liability

- A. All expenses incurred by the Company, all costs taxed against the Insured in any suit defended by the Company and all interest on the entire amount of any judgement therein which accrues after entry of the judgement and before the Company has paid or tendered or deposited in court that part of the judgement which does not exceed the limit of the Company's liability thereon,
- B. Premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for any amount not in excess of the

applicable limit of liability of this policy, but the Company shall have no obligation to pay for or furnish any such bonds,

- C. Reasonable expenses incurred by the Insured at the Company's request, including actual loss of wages (but not loss of other income) not to exceed \$50 per day because of his attendance at hearings or trials at such request;
- D. Reasonable expenses incurred by the Insured for first aid to others at the time of an accident, for Bodily Injury to which this policy applies

### DEFINITIONS

"Bodily Injury" means bodily injury, including death, sustained by any person or persons accidentally caused by an act of the Insured in making or attempting to make an arrest, or while otherwise acting within the scope of his duties as a law enforcement officer.

"Claim" The word "Claim" whenever used in this policy means a demand received by the Insured for money or services, including the service of suit or institution of arbitration proceedings or administrative proceedings against the Insured.

"Claims Expenses" means (1) fees charged by an attorney(s) designated by the Company and (2) all other fees, costs, and expenses resulting from the investigation, adjustment, defense and appeal of a claim, suit or proceeding arising in connection therewith, if incurred by the Company, or by the Insured with written consent of the Company; provided however, that "Claims Expenses" does not include salary wages or expenses of regular employees or officers of the Company, or fees and expenses of independent adjusters.

"Damages" includes damages for death and for care and loss of services resulting from bodily injury.

"Incident" includes the initial act or acts attributable to a specific alleged crime or complaint resulting in action by the Insured, which crime or complaint can be fixed as to time and place, and any subsequent acts which directly relate to or arise out of the original crime or complaint. All claims arising out of (1) a riot or insurrection, (2) a civil disturbance resulting in an official proclamation of a state of emergency, (3) a temporary curfew, or (4) martial law, are agreed to constitute "one incident."

"Insured" means the Named Insured and all paid full or part time employees of the Named Insured and, the political subdivisions in which the Named Insured is located, should such political subdivision be named in any action or suit against the Named Insured or any employee for any act, error or omission for which this policy affords protection.

"Named Insured" means the law enforcement agency named in Item 1 of the declarations.

Murphy moved that a call for a public hearing be made to amend 8.50.431 (Insurance requirements). The attorney said it was not necessary that a public hearing be called for at this time...it can be done by an amendment to the code first and perhaps calling for a public hearing later. \*\*\*

Actual  
this is  
M<sup>a</sup>ll  
Motion  
2<sup>d</sup> by Murphy

Next on the agenda was the attorney's report with regard to the Lewis and Clark County Sheriff's activities and whether or not he was conducting his business within the confines of the law. He said he reviewed bank accounts, contracts, etc. for the Lewis and Clark County Sheriff's Reserves for the months of May through September, and could find no reason to believe they were acting in other than "casual employment". He also passed out a letter to each board member that was written by the County Attorney. Anderson moved and O'Brien seconded that on the basis of the attorney's investigation, the board take no further action at this time. The motion carried with four assenting and one abstaining vote. The attorney was directed to write a letter in this regard to the concerned parties.

Al Murphy moved and Dave McAllister seconded that an amendment be drafted for the legislature to repeal Section 37-60-406 "Casual Employment." Motion carried. Nominations for Chairman for the new year were called for and Clayton Bain was nominated.. It was moved by Anderson and seconded by McAllister that nominations be closed. Clayton Bain will remain the Chairman for the coming year. Nominations were open for Secretary and Evonne Anderson was nominated. Nominations were closed through a motion by Al Murphy and a second by George Evans. Anderson will remain secretary for the upcoming year.

Next item on the agenda was Public Participation.

Joe Malone, Bob Evans and John Daugherty expressed concern over the insurance regulation; Bob Evans, Fred Valiton, Joe Gonzalez, Elwin Kirkwood and Martin Mangan discussed different situations relating to firearms and firearms instructors with Mangan ending the conversation indicating that only the legislature can deal with it.

Chairman Bain appointed ~~Evonne~~ Evonne Anderson, Chairman and Al Murphy and Dave McAllister a committee to report back to the board at the next meeting.

Receipt of Deaconry for Board Meeting  
WY Notes

WITNESS STATEMENT

Name MARTIN T. MADRICH Committee On \_\_\_\_\_  
Address 104 Broadway, Suite 1 Date 1/15/85  
Representing MARION INVESTIGATION SERVICES Support \_\_\_\_\_  
Bill No. HB 127 Oppose \_\_\_\_\_  
Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Please Consider Amendment TO CASUAL EMPLOYMENT AS APPROVED BY P.I BOARD. THE PROPOSED AMENDMENT WOULD REPEAL SECTION 37-60-406.
2. THE PRESENT BILL ON CASUAL EMPLOYMENT  
(1) PROBABLY LEAVE THE OFFICER PEACE OFFICER UNCOVERED BY EMPLOYER BENEFITS
3. (2) PRESENTS POSSIBLE CONFLICT OF INTEREST  
(3) CREATES LIABILITY FOR THE CITY OR COUNTY EMPLOYING THE OFFICER
4. (4) CREATES FATIGUE OR TRAUMATIZATION BY ADDITIONAL EMPLOYMENT AS A P.I OR SECURITY GUARD.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name CHAD SMITH Committee On HOUSE BUSINESS  
Address Box 604 HELENA Date 1-15-85  
Representing MONT HOSP ASS'N Support \_\_\_\_\_  
Bill No. HOUSE 127 Oppose \_\_\_\_\_  
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Amended bill by deleting proposed amendment on page 7, lines 5 through 8. The sponsor requested this amendment in his opening presentation.
- 2.
3. The proposed amendment is unnecessary regulation of hospitals, causing additional cost and new problems to obtain personnel. No problem for hospitals exists at present.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Joe F. McInerney Committee On Pub. Investigators  
Address 950 Anthony, Buffalo Date 1-15-85  
Representing Self - Northwestern Intelligence Sec. Support with exception  
Bill No. HB 127 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Generally support HB 127 with amendments & Casual employment by Peace Officers 37-60-406
2. Licensing requirements amend 37-60-303 (h) to 2 YEARS  
HB 127 - Page 10 - Line 16 (g) - amend pg 10. line 7 (b) to age 19
3. The board of PVT Investigators and PATROLMEN should be more REPRESENTATIVE of the PVT, INVESTIGATIVE INDUSTRY
4. Economic factors necessitate that all regulations and requirements be dealt fairly without giving special favors to "moonlighting" Peace Officers or other numerous groups (railroad employees, etc.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Private Security/Invest.

Name ROBERT B. EVANS

Committee On HB 127

Address PO Box 1301, Kalispell, MT 59901

Date 1-15-85

Representing TIMBERLINE INVESTIGATIONS & MONTANA ASSOC. of Private Invest. & Security Operators

Support

Bill No. HB 127

Oppose

Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Basically Support HB 127 with amendments

1. amend - Casual Employment by Peace Officers/ Reserve rep: 37-60-406 should be deleted.
2. amend - Include Proprietary Security in qualifying agent resident manager/branch office - Delete portion HB 127 on page 9 lines 8-9.
3. Amend - HB 127 needs clarification to make clear distinction between requirements for licensee/employer and requirements for ID/registration card holder/employee
4. Amend - HB 127 by delete page 10 line 10 ~~state~~ and insert state residency requirement in security TITLE 37-60 should contain <sup>state</sup> residency requirement
- amend - HB 127 - Delete lines 2 thru 7, page 11 which substitutes college degree for experience
5. Amend - HB 127 page 12 lines 23 thru 25 - to issue registration cards to individual w/o regard to employer!

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



1

Members of Gentlemen of the Committee - Good Morning.

My name is Robert B Evans.

I am President of Timberline Investigations, Inc. We were duly chartered in Montana in March 1981 as a sub-chapter S small business corporation.

I hold license 240 as a Contract Security and license 241 as a Private Investigator.

I have 23 years experience military experience with a goodly portion of that time spent as in Military Intelligence, Military Security and/or Investigations and as a Trial Counsel or Defense Counsel.

I also have & more than 3 years as an insurance agent and adjuster, 4 years internal store security, 3 1/2 years motel security and I was a U.S. Customs Inspector for 9 years.

I belong to the National Council of Investigators and Security Services (NCISS). This is a highly respected nation-wide organization whose members include some of the largest private security and investigative firms in the U.S. I am also a member of the California Association of Licensed Investigators (CALI).

I speak to you this morning both as a private individual and

as Vice-President and Legislative Liaison of the Montana Association of Private Investigators and Security Operators (MAPISO)

in keeping w/ Governor's economic views

\* Previous income approx 150 all time - Now approx 175 - Projected 1000 \*

\*\* →

Basically, our organization regards HB 127 as a step, all though a small step, in the right direction. We favor the bill with some amendments:

Item I — HB 127 does not address the problem of "CASUAL" employment of Peace officers and Peace Officer Reserves. Specifically, the exemption granted under current title 37-60-406.

There are some very critical questions arising from this exemption.

(1) At what point does a peace officer stop being "private" security or investigator and become a law enforcement officer? If he has a problem (and especially if he uses ~~his~~ or announces his peace officer status)

(2) Who then is liable for his actions? Clearly, if a law suit is instigated, the political agency he invoked will be named and sued. After all, as lawyers say, "That's where the money is."

(3) If this officer is injured as a

result of his "private" security functions who is responsible for his disability? Again, clearly the political sub-division will have the best benefits.

4. Finally, this exemption gives peace officers, and reserves, an unfair financial advantage. Some of them, especially reserves, may not even meet the qualifications being demanded for licensure. The exemption is extremely difficult to supervise and enforce, and the word "Casual" lacks precise legal definition.

We do not object to officers working "off-duty". But ~~clearly~~ "off duty" must be a clear distinction as to private activities. The officer is then a private citizen subject to the same rules as the rest of us.

We recommend ~~to~~ HB 127 be amended to delete 37-60.406.

one of  
care of

Support as presented this morning

~~Section 3 of HB 127 (on page 8, lines 3 to 25 and on page 9 lines 1 to 9) proposes to exempt PROPRIETARY Security Organizations from the requirement for a qualifying agent and resident manager. If a proprietary organization is headquartered out of state (i.e.: Pennys, Fred Meyer B&B Shopping Centers, ARCO formerly Anacosta, Dominion, Oscar/Burton, and~~

( Sheraton Hotels to name but a few) then who will the state licensing board turn to if there is No in-state resident manager or qualifying agent? How will the board know if local security employees are licensed or properly trained? Who will over-see local day-to-day operations?

We recommend that portion of HB 127 on page 9 lines 8 and 9 be deleted. If you are going to regulate security and investigative functions, why define and EXEMPT a special segment? A rose is a rose! The law should have equal application.

( Item III HB 127 does not clarify the distinction between licensee (employer) and identification/registration card employees. Title 37-60 sections 305 and 306 requires both to meet the same qualifications. (HB 127

all newly amended →

~~pages 15 lines 2-3 & 4 add a written examination requirement for employees. We recommend that <sup>Title 37-60</sup> HB 127 be clarified to provide a clear distinction between licensee/employer and identification/registration card employee requirements.~~

( Item IV HB 127, section 4 amends 37-60-303 "License Qualifications" by ?

Page 10 line 10 and delete a state residency requirement for investigators. We recommend this be retained. We also ~~strongly~~ strongly recommend a residency requirement be inserted in the portion pertaining to security qualifications.

Change 2 in this section is found on page 11, lines 2 thru 7. A college degree does not automatically confer experience. A degree in Advanced Anthropology, Early Spanish Philosophy, or in English Literature does not contribute to experience as a security operator, and it most certainly does not substitute for investigative experience. We recommend deletion of this added paragraph.

Item V Section 6 of HB 127 amends 37-60-305 (see page 12 lines 23 to 25 and page 13 lines 9-10-11) by ~~adding~~ providing that an applicant for registration card (firearms) must name the business employer, what if the applicant works part-time for 2 or more employers? Or what if he changes employers? The registration or ID card should be issued in regard to an individual, NOT the business! We recommend T.O. S. +

6  
portion -- all after "through (2)(g)" he  
deleted.

~~I would like to introduce~~  
~~Mr. Craig Christie who has some comments~~  
Thank you!

WITNESS STATEMENT

Name CRAIG CHRISTIE Committee On BUSINESS + LABOR  
Address 2612 BELKnap AVE BILLINGS Date 1-15-85  
Representing LEGAL INVESTIGATION BUREAU Support \_\_\_\_\_  
Bill No. 127 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

AMEND TO DELETE CASUAL EMPLOYMENT BY LAW ENFORCEMENT

2.

CLEARLY DEFINE LICENSEE, REGISTRANT AND EMPLOYEE

3.

PROVIDE FOR THREE YEAR TRAINING PERIOD FOR PRIVATE INVESTIGATOR

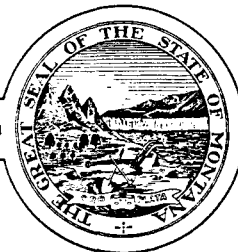
4.

LEAVE PRIVATE INVESTIGATOR EMPLOYEE'S TO THE DISCRETION OF LICENSEE AND BUSINESSMAN.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

BOARD OF PRIVATE SECURITY  
PATROLMEN AND INVESTIGATORS  
DEPARTMENT OF COMMERCE

1424 9TH AVENUE



STATE OF MONTANA

(406) ~~493777~~ 444-3738

HELENA, MONTANA 59620-0407

December 12, 1984

Craig W. Christie  
Legal Investigation Bureau  
2612 Belknap Avenue  
Suite 206  
Billings, MT 59101

Dear Mr. Christie:

It has been determined by the Board of Private Security Patrolmen and Investigators that the applications for Clarissa Ann Wright and Helen K. Ewalt cannot be approved since neither meet the experience requirement of Chapter 60, Title 37. Also Helen Ewalt does not meet the age requirement. While they both indicate 2 years of education or training...this can only be credited as 1/2 the experience requirements (see Chapter 50, Section 8.50.428(3)). Also, Greg Stovall does not meet the experience requirements and since the statute or rules make no provision for temporary or probationary private investigators, they cannot be registered. Money orders for Greg Stovall and Clarissa Wright are enclosed. I will request a \$75.00 refund for Helen Ewalt.

There is still a question concerning Harry Wilson...a reference letter indicates that he is a member of the Sheriff's Reserves in Stillwater County. His application does not indicate this and depending on how long he has served and type of service, it might possibly count towards the experience requirement. His application is being returned for additional information. In addition, if Mr. Wilson qualifies, he will need to take the exam since there is no provision to waive it.

I'm enclosing a copy of a letter written to Bradley Stovall which explains his situation.

Sincerely,

A handwritten signature in cursive script that reads "Mike Archibald".

Mike (Margarette) Archibald  
Administrative Assistant

Enc.

P. S. If you have questions concerning the legality of this decision, please refer them to Mr. Brinton Markle at 444-4313.



12-18-84

MIKE ARCHIBALD

BOARD OF PRIVATE SECURITY

PATROLMEN AND INVESTIGATORS

1424 9<sup>TH</sup> AVENUE

HELENA, MONTANA 59620-0407

DEAR MIKE,

I AM RESUBMITTING THE APPLICATIONS OF HELEN K. ELWALT, CHARISSA WRIGHT, HARRY WILSON, GREG STOVALL AND BRANLEY STOVALL UNDER SECTION 8.50.505 OF THE ADMINISTRATIVE RULES OF MONTANA, PER SECTIONS 37-60-401 M.C.A. AND ~~37-60-401 M.C.A.~~ SECTION 8.50.435 OF THE ADMINISTRATIVE RULES OF MONTANA IN COMPLIANCE WITH SECTION 8.5.437 (2) (C) OF THE ADMINISTRATIVE RULES OF MONTANA.

WOULD YOU PLEASE PROCESS THE APPLICATIONS ACCORDINGLY AS PRIVATE INVESTIGATOR EMPLOYEES NOT LICENSEES.

I HAVE BEEN IN CONTACT WITH BRINT MARKLE AND SUBMITTED A LEGISLATIVE PROPOSAL TO DEFINE AND DEAL WITH EMPLOYEE'S, PER SE. I THINK, HOWEVER THAT WHEN LITERALLY TRANSLATED, THE ABOVE SECTIONS SHOULD ACCOMPLISH WHAT I NEED FOR THE TIME BEING. YOU MIGHT WANT TO RUN IT PAST BRINT, TO CHECK FOR LEGALITY.

MY NAME IS CRAIG CHRISTIE. I REPRESENT LEGAL INVESTIGATION BUREAU IN BILLINGS. I HAVE FOURTEEN YEARS LAW ENFORCEMENT EXPERIENCE AS A POLICE OFFICER DEPUTY SHERIFF, AND AS UNDERSHERIFF IN TWO MONTANA COUNTIES. I HAVE BEEN A MEMBER, IN GOOD STANDING, OF THE MONTANA SHERIFF'S AND PEACE OFFICER'S ASSOCIATION, SINCE 1977. I HAVE A MASTER'S DEGREE IN CORRECTIONS AND A BACHELOR'S DEGREE IN CRIMINAL JUSTICE. I HAVE BEEN A LICENSED PRIVATE INVESTIGATOR AND CONTRACT SECURITY COMPANY ~~IN~~ IN THE STATE OF MONTANA ~~FOR~~ FOR OVER THREE YEARS.

I AM GENERALLY IN FAVOR OF HOUSE BILL 127, WITH SOME AMENDMENTS. I AGREE WITH WHAT HAS BEEN SAID WITH REGARD TO DELETING CASUAL EMPLOYMENT BY LAW ENFORCEMENT OFFICERS DUE TO CONFLICT, PUBLIC LIABILITY AND FATIGUE ON THE PART OF OFFICERS.

IN REGARD TO SECTION 37-60-303 PROVIDING FOR REGISTRATION REQUIREMENTS OF ARMED GUARDS AND INVESTIGATORS LOCATED ON PAGE ~~13~~<sup>13</sup>, LINE ~~9-10+11~~<sup>9-10+11</sup>. I HAVE DIFFICULTY IN DISTINGUISHING ANY DIFFERENCE BETWEEN A LICENSEE, A REGISTRANT AND AN EMPLOYEE.

IT APPEARS AS THOUGH NO PROVISIONS EXIST FOR PRIVATE INVESTIGATOR EMPLOYEES, WHILE STATUTES EXIST REGULATING LICENSEE QUALIFICATIONS AS, IN PART, BEING LAWFULLY EMPLOYED AS A PRIVATE INVESTIGATOR, 37-60-303(i). IN SECTION 37-60-306(2), IT APPEARS THAT IDENTIFICATION CARDS FOR LICENSEES AND REGISTRANTS IS SYNONYMOUS AS FAR AS QUALIFICATIONS ARE CONCERNED. IN SECTION 37-60-309(3), THERE IS A PROVISION FOR THE NAME OF THE LICENSEE EMPLOYING THE INDIVIDUAL THAT THE IDENTIFICATION IS ISSUED TO, MAKING A DISTINCTION BETWEEN THE EMPLOYEE AND LICENSEE.

IN SECTION 37-60-401 THERE IS RESPONSIBILITY OF A LICENSEE FOR THE CONDUCT OF HIS EMPLOYEES.

AND IN SECTION 37-60-401 THERE IS A DUTY OF THE LICENSEE TO MAINTAIN EMPLOYEE RECORDS.

I HAVE YET TO FIND HOW AN INDIVIDUAL BECOMES REGISTERED OR QUALIFIED FOR EMPLOYEE STATUS WITHOUT ACTUALLY QUALIFYING FOR LICENSING STATUS, WHICH IN EFFECT, ELIMINATES ANY EMPLOYEE STATUS.

IN THE ADMINISTRATIVE RULES OF MONTANA THERE ARE PROVISIONS FOR EMPLOYEE REGISTRATION FEES AND PROVISIONS FOR A 90 DAY TRAINING PERIOD OR APPRENTICESHIP.

AN EMPLOYEE CANNOT RECEIVE THE THREE YEARS REQUIRED EXPERIENCE FOR LICENSING IN THE GIVEN 90 DAY PERIOD.

THERE APPEARS TO BE CONFLICT BETWEEN THE STATUTES AND ADMINISTRATIVE RULES, OR AT LEAST AN OVERSIGHT IN BOTH.

THERE ALSO SEEMS TO BE A BUILT-IN AGE DISCRIMINATION WITH THE 25 YEAR OLD MINIMUM AGE REQUIREMENT.

I WOULD LIKE TO PROPOSE AN AMENDMENT THAT WOULD MAKE A <sup>CLEAR</sup> DISTINCTION BETWEEN THE LICENSEE, A REGISTRANT AND AN EMPLOYEE THAT WOULD LEAVE EMPLOYEES TO THE DISCRETION OF THE HIRING LICENSEE AND PROVIDE FOR THE THREE YEAR EXPERIENCE REQUIREMENT FOR LICENSURE.

DUE TO THE TIME ELEMENT INVOLVED IN APPEARING TODAY ON EXTREMELY SHORT NOTICE I AM NOT PREPARED TO SUBMIT A WRITTEN PROPOSED AMENDMENT, HOWEVER, I WOULD BE WILLING TO COOPERATE WITH THE COMMITTEE IN DRAFTING AN AMENDMENT.

CRAIG W. CHRISTIE  
LEGAL INVESTIGATION BUREAU  
BILLINGS, MT. 59101

VISITORS' REGISTER

HOUSE BUSINESS AND LABOR COMMITTEE

BILL HB 127 (127)

Date 1/15/85

SPONSOR Rep. Keiper

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
<del>Greg Small</del> DON VALITON	<del>Payson Mont (Big Horn)</del> OUANDO, MT.	<del>Legat. Invest. Bureau</del> MT. ASSN PRIV. INVEST. & SECURITY OPERATORS	<del>w/Amend.</del> w/AMEND.	
Grant Small	Bridges Mont	Legal Invest Bureau	w/Amend	
Karie McKinnon	Billings, MONT	Legal Invest. Bureau	w/Amend	
<del>Zell Walker</del>	<del>Clancy, MT</del>	<del>Security Services</del>	<del>w/Amend</del>	
<del>David Small</del>	<del>Big Horn MT</del>	<del>Legal Invest B.</del>	<del>w/Amend</del>	
CRAIG CHRISTIE	BILLINGS, MT.	LEGAL INVESTIGATION BUREAU	w/AMEND	
Gary Dupuis	EAST HELENA, MT.	G.A.R.D. Process Serv.	w/Amend	
<del>Mark F. Morgan</del>	<del>Helena, MT</del>	<del>Helena Investigation Services</del>	<del>w/Amend</del>	
<del>Robert Jones</del>	<del>Helena MT</del>	<del>AFSCME</del>		
George Blanchard	Co. Falls	Big Sky Security Patrol	NOT Testifying	
Clayton Bain	Helena	Board of Private Security	✓	
Robert B. Evans	Kalispell, MT	MT. ASSOC. PRIVATE INV. & SECURITY	w/Amend	
Larry Wemba	Helena	MT. Univ. System	No position	
Shirley Miller	Helena	Dept of Commerce	No Position	
R. J. Kay	Helena	—	—	—
Chuck Reilly	Helena	Mt Sheriff & Peace Officers		X
CHAD SMITH	HELENA	MONT HOSP ASSN	AMEND	
John Delano	"	MONT RR ASSN		
<del>Ray Blahm</del>	<del>HELENA</del>	<del>Mont RR Assn</del> Billings		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE BUSINESS AND LABOR COMMITTEE

BILL HB 127 (12A)

Date 1/15/85

SPONSOR Rep. Addy

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>A. Hadjian Jones</i>	<i>Helena</i>	<i>AFSCME</i>	<input checked="" type="checkbox"/>	
<i>Robert Jensen</i>	<i>Heber</i>	<i>Board of Personal Appeals</i>	<input checked="" type="checkbox"/>	
<i>R. Kayel</i>	<i>Helena</i>	<i>—</i>	<i>—</i>	<i>—</i>
<i>Mike Walker</i>	<i>Great Falls</i>	<i>Mont. St. Council Pro FF.</i>	<input checked="" type="checkbox"/>	
<i>Michael Hunt</i>	<i>Park City</i>	<i>MT. ST. FIREMANS ASSOC</i>		
<i>Harvey Watter</i>	<i>Helena</i>	<i>MEA</i>	<input checked="" type="checkbox"/>	
<i>—</i>	<i>Helena</i>	<i>MFT</i>		
<i>Ray Belton</i>	<i>MSCPFF Helena</i>		<input checked="" type="checkbox"/>	
<i>Eileen Robbins</i>	<i>MONT. NURSES' ASSOC</i>	<i>Helena</i>	<input checked="" type="checkbox"/>	
<i>Joe [unclear]</i>	<i>—</i>		<input checked="" type="checkbox"/>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.