

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 29, 1985

The eleventh meeting of the Business & Industry Committee met in Room 410 of the Capitol Building at 10 a.m. The meeting was called to order by Chairman Mike Halligan.

ROLL CALL: All committee members were present.

CONSIDERATION OF LC 1011/01: Mr. Dale Harris, with the Economic Board of Commerce, gave a background for the bill which they would like to have the committee sponsor. The basic bill adopted last session made companies exempt from registration with the securities commissioner if they filed a disclosure document. The law passed did not exempt the salesmen of the securities from registration however and this bill would correct this problem. Mr. Rick Tucker, with the State Securities Commission in the State Auditor's office, added this was just a technicality and would help make the law clearer. Chairman Halligan noted this bill has encouraged economic development in the state. Senator Fuller then moved that the bill be drafted and brought before the committee for consideration. The motion CARRIED.

CONSIDERATION OF SENATE BILL 191: Senator Bob Williams, Senate District 15, Hobson, introduced this bill at the request of the Department of Commerce which would extend from 5 to 30 days the submission by banks of call reports. He further explained it was basically a housekeeping measure designed to comply with the recommendations of the legislative auditor.

PROPONENTS: Mr. Fred Napier, Commissioner of Financial Institutions with the Department of Commerce, explained that the current 5 day rule is just too restrictive and that by changing it to 30 days, it will make it much easier for the banks to comply and would also standardize them along with the federal requirements now required for federal reserve and national banks. (EXHIBIT 1)

OPPONENTS: There were no opponents to Senate Bill 191.

Questions were then called for from the committee. Senator Christiaens wondered if there had been a problem with this shorter reporting time and was told there had been. There is also a penalty of \$20 for reporting late and Mr. Napier felt this was an appropriate fee. The hearing was then closed on Senate Bill 191.

DISPOSITION OF SENATE BILL 191: Senator Goodover made a motion that Senate Bill 191 DO PASS. Senator Neuman asked if a request

can be made for reports more often and was told you may but that usually quarterly is often enough. The motion CARRIED.

DISPOSITION OF SENATE BILL 141: Senator Thayer moved that Senate Bill 141 DO PASS. The motion carried.

DISPOSITION OF SENATE BILL 120: The minutes of the construction advisory council were passed to the committee concerning this proposed legislation. (EXHIBIT 2) Senator Goodover then moved that Senate Bill 120 DO PASS. Senator Thayer concurred and noted that in discussion with others they feel the real problem lies in the method that the state uses for bidding by using the multi-let contracts. He felt this problem might be addressed at some future date. Senator Boylan noted that the entire advisory council voted in favor of this legislation. The motion CARRIED.

DISPOSITION OF SENATE BILL 139: Senator Christiaens made a motion that Senate Bill 139 DO PASS. Chairman Halligan noted he could not see why some of the areas of the contract were confusing and felt it was a protection to the consumer. Senator Thayer stated that those who deal often with "Regulation Z" feel this is an all-encompassing act and is really all this is required to protect the consumer. He felt if there were any problems with it that the bill should be killed. Senator Christiaens felt it would just make it less confusing for the consumer. The motion CARRIED with Chairman Halligan voting no.

CONSIDERATION OF A POSSIBLE COMMITTEE BILL: Senator Williams explained some difficulties various implement dealers across the state are currently having with buyers coming in and people are losing franchises and dealerships after having been established for many years. He would like to have a bill drafted relating to good faith with dealerships. Senator Kolstad explained they do have such a law currently in North Dakota. Senator Halligan noted he felt they should focus on franchises and dealerships not just implement dealers, on good faith requirements for terminations. Senator Kolstad then made a MOTION that a bill be drafted and brought before the committee for consideration. The motion CARRIED.

The meeting was adjourned at 10:36 a.m.


Chairman

cd

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/29/85

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		

Each day attach to minutes.

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

NAME: Errol Napier DATE: 1/29/85

ADDRESS: Department of Commerce Helena, MT.

PHONE: 444-2091

REPRESENTING WHOM? Department of Commerce

APPEARING ON WHICH PROPOSAL: S.B. 191

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: Brief remarks in support of S.B. 191.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 1
BUSINESS & INDUSTRY
JANUARY 29, 1985

GENERAL INFORMATION REGARDING THE GOVERNOR'S
STATE BUILDING CONSTRUCTION ADVISORY COUNCIL

In response to interest expressed by state agencies, the construction industry and Legislators, the 48th Legislature appropriated \$25,000 in 1983 to conduct a study of the state building construction laws, policies and procedures. In August of 1983, the Governor created the Governor's State Building Construction Advisory Council by executive order and appointed the following members:

Legislative Members

Senator Jack Haffey, Anaconda - Chairman
Representative W. Jay Fabrega, Great Falls - Vice-Chairman
Senator Harold Dover - Lewistown
Representative Joe Quilici - Butte

Design Professional Members

Martin Crennen, architect
David Davidson, architect
James Spring, engineer

Construction Industry Members

Duane "Bud" Anderson, supplier
Norman Carey, mechanical contractor
Wayne Edsall, general contractor
Robert Sletten, general contractor
Art Stuart, electrical contractor
Claude Wilson, mechanical contractor

State Agency Members

William "Bill" Lannan, Montana University System
Carroll South, Department of Institutions

Discussion of the Law on Contractors Working Past Deadline

The Governor's State Building Construction Advisory Council discussed the law (18-2-311) that prevents a contractor from bidding on a public project when working past time on another public project. There was a brief discussion of the history of this law, which was enacted in response to contractors who bid on heavy and highway projects and stockpiled the work.

Mr. Lannan: Could this law be amended to exclude building construction projects as an alternative to repealing this law?

Representative Jay Fabrega: Is the law serving the Highway Department in any way, shape or form?

Mr. South: I would propose to modify the law to make it not applicable to the building program.

Mr. Hauck: From what I have learned from talking to Highways over the years, I think they would like to have it repealed. If you want me to, I can check with them.

Senator Haffey: Carroll, do you want to make it the sense of your motion to repeal the law and we'll vote on it, and if we don't have consensus then the motion is to amend the law and make it not applicable to A/E administered projects?

Mr. Edsall seconded the motion.

Mr. Hauck: It should be said that one of the reasons that law was passed in the first place was an attempt to get contractors to finish jobs in a timely manner.

Senator Haffey: Phil, if that's the case, and the law were repealed, and we remove some of the strengths of that, are we causing problems or are there other motivators to make the contractors finish on time?

Mr. Hauck: You are looking at both motivators, the one we're discussing now and the liquidated damages.

Mr. Davidson: You have got a third one. That's to hold onto the retainage until the final certificate is issued.

Representative Fabrega: The question is, are the motivators working? If not, they're trapping people that are behind schedule on their contract, and not of their own fault.

Mr. Hauck: This law about working past time is difficult to enforce, very difficult.

Mr. Edsall: I would say that it's impossible. If I had a project in another part of the State, and I'm over the time limit, there's no way you're going to know about it.

Mr. Hauck: You have to sign that statement certifying you aren't working past time on another public project. We might find out about it after the contract is awarded.

Mr. Edsall pointed out that sometimes the completion time is not just the contractor's problem. Since the state is the primary agency that lets multiple prime contracts, the following situation sometimes occurs: For instance, if a mechanical contractor causes delays that put a project past the deadline, he can bid on another job as a subcontractor, but the general contractor on the project that is overtime is penalized because he cannot bid on another public project even though the delay was not his fault. In a case like this, the contractor causing the problem is not penalized. This is when the difficulty arises with the law.

The Council voted unanimously to repeal the law.

Answers to Questions Raised by the Committee Regarding SB 120

1. How many projects are overtime without time extensions?

A: About 10-15% of all projects go beyond the deadline, but are not granted time extensions.

2. Is a Certificate of Substantial Completion granted to a contractor working on a project in which the owner occupies the building while work is being done?

A: No, but if a contractor was working past time, the department would not accept that contractor's bid.

3. Can a contractor get a Certificate of Substantial Completion if he's finished, even if the building cannot be occupied by the owner?

A: Yes, but this situation rarely arises.

STANDING COMMITTEE REPORT

JANUARY 29

85

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on.....

SENATE BILL

120

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

first

reading copy (**white**)

color

REMOVE RESTRICTION ON BIDDING WHEN WORKING BEYOND CONTRACT TIME

SENATE BILL

120

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

DO PASS

~~DO NOT PASS~~

Mike Halligan

Chairman.

STANDING COMMITTEE REPORT

JANUARY 29

85

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on.....

SENATE BILL

139

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

first

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reading copy ()

color

OPTIONAL USE OF STATE OR FEDERAL DISCLOSURE LANGUAGE

SENATE BILL

139

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

~~DO PASS~~

~~DO NOT PASS~~

Mike Halligan

Chairman.

STANDING COMMITTEE REPORT

JANUARY 29

85

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

SENATE BILL

141

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

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color

EXEMPT FROM REGULATION TRANSPORT OF A COMMODITY BY MOTOR CARRIER FOR U.S.

Respectfully report as follows: That.....

SENATE BILL

141

No.....

DO PASS

~~DO NOT PASS~~

Mike Halligan

Chairman.

STANDING COMMITTEE REPORT

JANUARY 29

85

19.....

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on.....

SENATE BILL

191

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

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**EXTENDING FROM 5 TO 30 DAYS PERIOD FOR SUBMISSION BY BANKS OF
CALL REPORTS**

SENATE BILL

191

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

~~DO PASS~~

~~XXXXXXXXXX~~
~~DO NOT PASS~~

Mike Halligan

Chairman.