

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 6, 1985

The nineteenth meeting of the State Administration Committee was called to order at 10 a.m. on February 5, 1985, by Chairman Jack Haffey in Room 331 of the Capitol Building.

ROLL CALL: All the members were present with Senator Tveit arriving late.

CONSIDERATION OF SENATE BILL 210: Senator Chet Blaylock, District 43, sponsors this bill entitled, "AN ACT TO GENERALLY REVISE THE LAW RELATING TO PUBLIC CONTRACTORS; CREATING A BOARD OF PUBLIC CONTRACTORS AUTHORIZED TO REGULATE AND LICENSE PUBLIC CONTRACTORS; AMENDING SECTIONS ..., MCA; AND PROVIDING EFFECTIVE DATES." Senator Blaylock said that this bill changes some procedures that he feels are very significant, and it covers something that is heard all the time, "get government off our backs and out of our lives." However, I feel this bill protects the public. Senator Blaylock related the fact that there are a lot of shoddy contractors out there and the public is being left holding the bag. He said this bill attempts to stop these shoddy practices. Senator Blaylock said this bill appoints a board of contractors consisting of 7 people to administer for 4 years. This board will be able to write cease and desist orders. This board can set up offices throughout the state. This controls the people applying for state licenses. If they do not qualify, they cannot get a license. He said that the fees will not be used to keep people out of the business. Senator Blaylock said that Section 17 is the penalty for fraud.

PROPOSERS: Gene Fenderson, Laborer's Union 254, supports this bill. He feels that he has studied this bill thoroughly and that it has quite an impact with approximately \$250,000 going into the general fund from fees for licensing. Mr. Fenderson said that this does not address private contractors on home jobs. Some contractors are misleading the public because they are saying that they have state licenses, when, in fact, all you have to do to get a state license is to apply for it and pay \$250.00. Still, the public believes they are reputable because they are licensed. Mr. Fenderson entered some amendments to make the bill better than what it is. Page 2, lines 3 and 4 would add "or qualified tradesmen," and there are a few others. (See Exhibit "A" attached hereto and by this reference made a part hereof.) Mr. Fenderson said that these amendments would allow a tradesman to be a part of the board, and it would allow public members not to be directly connected with the contracting business.

February 6, 1985

The other amendments are self-explanatory.

Diana Powell, Powell Concrete, supports this bill. Ms. Powell said that she was in a very specialized field and that there were a lot of fly-by-night outfits in her business that take jobs away from the professionals. Ms. Powell said that they are highly qualified and they would like to see others highly qualified.

Wayne Edsall, Edsall Construction, Member of Governor's Building Construction Advisory Council, supports this bill. Mr. Edsall felt that we need tougher laws so that when someone says they have a state license it really means something. He felt that you should not just be allowed to buy a saw and go into the business. You should be qualified and have to take a test to prove it. Mr. Edsall said the way it is now, anyone can bid on a \$100,000 or higher job and not have the money to back it, nor the expertise to accomplish the job. Mr. Edsall said that a bond is required of a subcontractor only when he comes on the job, and this could be 1 year to 14 months down the road--up to that time, he is not required to be bonded. Mr. Edsall said that any prime contractor from anywhere in the United States can bid on jobs in Montana. He feels that in the state of Montana a hairdresser needs more education than a contractor does. Mr. Edsall further stated that this bill has been set up to follow the laws of Nevada. He said that in order to do business in the State of Nevada, you have to be qualified. In closing Mr. Edsall said that contractors would be monitored, standards would be met, and the quality of contractors would improve.

Vernon Van Akpren, supports this bill. He said that they have a Class-A license and that they have bid a number of jobs because they are qualified to do so. He said they would not bid a masonry job because they are not qualified to do that.

Claude Wilson, Wilson & Co., Inc., supports this bill.

Bill Morton, Montana Painters D. C. #59, supports this bill. We feel that this bill will give the State of Montana a better building construction industry. (See Exhibit "D".)

Larry Persinger, Montana State Building Trades, supports this bill.

Tom Herzig, Montana Chapter NECA, supports this bill.

Jim Springer, member of the Governor's Building Construction Advisory Council, supports this bill.

February 6, 1985

William Belforte, Sheet Metal Contractors Association, supports this bill. He feels that the construction industry is asking for these regulations.

Riley Johnson, Montana Homebuilders, supports this bill. Mr. Johnson would like this bill to move into the private sector.

OPPONENTS: Bill Olson, Montana Contractor's Association, opposes this bill. Mr. Olson said this bill was all right some ways. He agreed with some of the proponents concerning present licensing. Our Board of Directors have looked at this thing as another state bureaucracy being born. This board would have entirely too much power over the building trades. The building trades are already controlled by the bonding companies. They are very careful who they take a chance on. If you can't get a bond, you can't do the job. He felt amendments could cause a union-nonunion confrontation.

Denzel C. Davis, Volk Construction, opposes this bill. Mr. Davis felt that it was a silly "idea" that for \$250.00 you could bid on any job. If you cannot get bonded, you cannot do the job.

COMMITTEE QUESTIONS: Senator Harding said that Mr. Edsall had shown the Committee the print-out from Nevada. She said that some of the names he pointed out were limited to \$2500.00 or \$5,000.00, and she wanted to know what those figures are based on. Are they net worth? What? Mr. Edsall said this was based on licensing bond and the net worth of the company. Senator Conover asked if the bonding companies have control. Mr. Edsall replied only as far as bonding the prime bidders. As a subcontractor bonds are not always required. Senator Anderson asked if prime contractors are responsible for subcontractors if they do not perform. Mr. Edsall replied yes. Senator Mohar wanted to know about the rules that are going to be adopted to test them, as he did not want this to keep people out. Mr. Edsall said that in other states they give you the manual to study and they test you on state laws, labor laws, safety laws, among other things. Senator Mohar asked if there should not be a statement of intent with this bill. Senator Haffey said yes any time you change the rules. Senator Blaylock said there was one and he would furnish it before the Committee acts on this. Senator Farrell asked how this would help the private sector. Gene Fenderson answered that it would make licensing harder to get, so you could rely on people that had state licenses. Senator Mohar felt that the rule making powers of this board troubled him. He remembered when the electrical board kept people out with a test. Mr. Edsall did not feel that this would happen.

Senator Blaylock closed by saying that this bill has a great deal of merit and we need it for protection of the public. SENATE BILL 210 is closed.

February 6, 1985

EXECUTIVE ACTION ON SENATE BILL 210: Executive action will be deferred until Friday, February 8, 1985, following a report from the subcommittee appointed by Chairman Haffey.

CONSIDERATION OF SENATE BILL 228: Senator Boylan, District 39, is the sponsor of this bill entitled, "AN ACT TO ALLOW THE DEPARTMENT OF ADMINISTRATION TO WAIVE THE REQUIREMENT FOR PERFORMANCE, LABOR, AND MATERIALS BONDS OR BID SECURITY ON CONSTRUCTION CONTRACTS UNDER \$25,000; AMENDING ..., MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." Senator Boylan said he would turn this over to the proponents.

PROPOSERS: Gene Fenderson, Montana Laborers #254, supports this bill. This bill once again would be a good bill if the other bill doesn't pass. This would make it possible to do the smaller jobs without being bonded, and if the licensing was stricter, the contractors would be qualified.

Marty Crennan, Helena Architect, supports this bill. The Governor's Building Construction Advisory Council gave this a great deal of thought. We felt that the smaller jobs should not be governed by the same rules and regulations that govern the larger jobs. Besides, in most cases the job is already finished by the time they ask for their money on these small jobs, so performance is a matter of fact.

Wayne Edsall, Edsall Construction, supports this bill. Mr. Edsall said that he is not going to tie this to the licensing law. He feels that this bill will give the Department of Administration the latitude to decide whether or not a job needs a bond. He feels that this bill will furnish the training ground for new people that Senator Mohar was referring to.

OPPOSERS: There were no opposers.

COMMITTEE QUESTIONS: Senator Mohar said he liked this bill. However, he wanted to know if the municipalities and other people that have contracting jobs would have to go through the Department of Administration to have a bond waived. Barbara Martin said that when the Council discussed this, they only included state work. If they wanted to extend this to other subdivisions, it would have to be amended.

Senator Boylan closed by saying that Barbara Martin and Phil Hauck would be available to answer any questions the Committee might have. SENATE BILL 228 is closed.

February 6, 1985

EXECUTIVE ACTION ON SENATE BILL 228: Executive action will be deferred until Friday, February 8, 1985, following a report from the subcommittee appointed by Chairman Haffey.

CONSIDERATION OF SENATE BILL 229: Senator Boylan, District 39, is the sponsor of this bill entitled, "AN ACT TO ESTABLISH A RECIPROCAL PREFERENCE LAW FOR BIDDERS ON CONSTRUCTION PROJECTS AND TO ELIMINATE THE CURRENT 3 PERCENT PREFERENCE FOR SUCH BIDDERS; AMENDING SECTION 111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." Senator Boylan then turned the hearing over to the proponents.

PROPOSERS: William Olson, Montana Contractors Association, supports this bill. All the members of his association are in favor of this bill in the matter of reciprocity. He said if you do business in Wyoming they penalize you 5%, so if a Wyoming firm comes here to do business, they should be penalized 5%.

Wayne Edsall, Edsall Construction, supports this bill. Mr. Edsall said that Montana contractors have to underbid Wyoming contractors by 5% in order to get a job there, but they can just come into Montana and bid by only bidding 3% less than a Montana contractor. He said some states were higher--Minnesota is 10%.

Larry Persinger, Montana State Building Trades, supports this bill. Mr. Persinger proposed an amendment to this bill and handed out a copy of this amendment. (Attached hereto marked Exhibit "B" and by this reference made a part hereof.)

Gene Fenderson, Laborers' Union #254, supports this bill. He agreed with the amendment just presented. He felt that the 3% should be kept in the law.

OPPOSERS: There were no opposers.

COMMITTEE QUESTIONS: Senator Mohar asked Valencia Lane, staff Attorney, how she felt about this 3% being left in. Valencia said that you have to be careful about leaving it in because it could have a cumulative effect. If Minnesota charges you 10% and you charge them 10%, plus the 3%, they could charge you 13%. She said many states have reciprocity and it could backfire.

In closing Senator Boylan cautioned that they should be careful of the amendments. He asked the Committee to look very closely at this. SENATE BILL 229 is closed.

EXECUTIVE ACTION ON SENATE BILL 229: Executive action will be deferred until Friday, February 8, 1985, following a report from the subcommittee appointed by Chairman Haffey.

Senator Haffey appointed a subcommittee to see how these 3 bills

February 6, 1985

would interact and to look at them as a package and separately. He appointed Senator Mohar as Chairman, Senator Farrell, Senator Manning, Senator Harding as the subcommittee.

The meeting was adjourned at 11:45 a.m.



SENATOR JACK HAFFEY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Wednesday
Date 2-6-85

NAME	PRESENT	ABSENT	EXCUSED
SENATOR JACK HAFLEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman	✓		
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER	✓		
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	✓		
SENATOR DICK MANNING	✓	✓	
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT	✓		✓

COMMITTEE ON

DATE

February 6, 1985

State Administration

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bill Olson	Mt. Contractors	SB 210		✓
" "	" "	SB 229	✓	
W Ayo E. Edsall	Gov. Council for Const.	SB 210	✓	
W Ayo E. Edsall	Edsall Const.		✓	
Claude Wilson	Wilson & Co Inc	SB 210	✓	
Chf Blaylock	S.P. # 43	SB 210	✓	
DENZEL DAVIS	SELF	SB 210		✓
George Korkor	Carpenters Local 153	SB 210	✓	
Rodriguez	Railroaders #11	SB 210	✓	
Bill Martin	Mt. Painter DC #59	SB 210	✓	
Frank Barnes	IBEW Local Union #185	SB 210	✓	
Frank Barnes	IBEW Local 185	SB 210	✓	
Eugene Funder	Solomon 254	229-228 SB 210	✓	
Norman	Norman Concrete	SB 210	✓	
Tom Henry	Mt. Chop N.E.C.A.	SB 210	✓	
Thermon G. Adkins	Western Glass	SB 210	✓	
Marty Graham	Gov. Council	SB 228	✓	
" "	" "	SB 210	✓	
Marine Donnelly	Mont. Assoc of Counties	SB 210		
" "	" "	SB 229		
Larry Persinger	Montana State Building Trades	SB 210	X	
" "	" " "	SB 229	X	
Peter Johnson	Montana Homebuilders	SB 210	✓	
Wm BELFORTE	Sheet Metal Conf. Assn	210	✓	

(Please leave prepared statement with Secretary)

Exhibit AA
SB-210
2-6-85

AMENDMENTS TO SENATE BILL 210

Amend page 2, line 3 and 4:

(f) two members of the public or qualified tradesmen ~~who are not engaged~~
~~or directly connected with the construction business.~~

Amend page 2, line 8:

minimum of 5 years prior to the date of their appointment; except public
members who may not be directly connected with the construction business.

Amend page 13, line 22:

knowledge of the building, safety, health, labor laws, tax laws, and lien
laws of

Amend page 21, add new language, between lines 22 and 23:

(iii) willful or deliberate avoiding the payment of any federal, state,
county or city tax;