

MINUTES OF THE MEETING
STATE ADMINISTRATION SUBCOMMITTEE
MONTANA STATE SENATE

February 13, 1985

The meeting of the Senate State Administration subcommittee was called to order by the selected Chairman, Senator Mohar on Wednesday, February 13, 1985 in room 331 of the State Capitol Building.

ROLL CALL: Roll was called. All members assigned to this committee were present. Due to conflict of meetings, Senator Manning was replaced by Senator J. D. Lynch.

Senator Blaylock, sponsor of S.B. 210 came before the subcommittee in defense of his bill.

Senator Mohar explained that the subcommittee's concern is the small contractors and in letting those who are going to take the tests for licensing get a sample test a couple of weeks in advance to taking the test; also, the advantage of being able to take the test and mail the results from their own location so they would not have to come to Helena.

Senator Blaylock agreed to this.

Barbara Martin with the Governor's office said that is one reason they have put in an oral test. There are those who cannot read well and those whose native language is not English.

Senator Blaylock said that he had worked for a contractor with only an 8th grade education but was an excellent contractor and would hate to see people with ability not be able to get a license.

The other control suggested is maybe having a inspector to check so they can weed out bad contractors.

Senator Blaylock said that people that have licenses should have proven their ability and also have financial backing so they cannot take people such as they did after the hail storm in Helena when so many proclaimed roofing people descended on their customers.

Senator Blaylock was asked why in his mind did he choose not to include private sectors in the Bill; and he responded that it was not his idea.

Barbara Martin said that they started out with this bill including both private and public works, and it was right down at the end, when they were going over the recommendations, that the council felt by coding legislation that cover public and private works, they'd go beyond the scope that would cover the executive order that created the council. What they decided to do was write a bill that would cover just the public works and in the report they put in a recommendation that strongly urges that this law be expanded to cover private work as well as public work.

Senator Mohar said that he has no doubt that it won't be extended once the board contracting is set up. If that should happen he would hope that private people could be grandfathered like public people are. He said that he has concerns that something will happen like it did with the electrical contractors. They set up the electrical contractors and grandfathered everyone that was one and then wrote a test that was so tough that anyone else had a real hard time getting in.

Senator Mohar said that he sees problems and does not see licensing as 100% protection.

Senator Blaylock remarked that if people are able to get licenses and then cannot do the work, people will complain. A person's home is one of their largest investments and they expect the people that they hire, and who are licensed, to be knowledgeable and able. All other professionals, such as eye doctors, etc., must be licensed in order to prove their ability.

Senator Farrell asked if we licensed a contractor, will the state be liable if he goofs.

Senator Harding pointed out page 29, line 18, questioning the rule-making authority.

Senator Mohar stated that the next concern is "qualifying". It has been pointed that the state should not be involved in qualifying subcontractors. That should be up to the general contractor. The bonding companies are controlling size of job the people can do. The banks can check this out.

Senator Blaylock remarked to the complaints around Kalispell and said that it was due to the fact that they had so many out of state contractors come into that area from states whose tests are tough.

Senator Lynch said that he has a real problem with the bonding.

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Bill Olson, Montana Contractors Association, said that general contractors must approve any subcontractors.

Gene Fenderson spoke on the reason contractors were coming in from out of state.

The question on how to require bonding from the subcontractors was approached.

Valencia Lane said if they want to impose a requirement that subcontractors be bonded, it will have to be in the bonding law. Secondly, is that the state contracts with the prime contractor who contracts with the state and if the subcontractor goofs the state should look at the prime contractor and the bonding company. There is no legal contractual contract between state and the subcontractor.

Barbara said that in Nevada, they used to require a bond in varying amounts and eliminated that because they felt it was a restraint of trade. They eliminated it because you had to get a bond and you could not get a bond unless you worked and got a track record. This stopped the little guy because he had to tie up his work capital in order to get a bond.


The following amendments were presented.

1. Page 1.
Following: line 4
Add: two members of the public
Strike: electrical contractor
Add: one journeyman from the building trades
2. Page 13, line 22.
Following: health
Add: labor, tax
3. Page 21, line 23.
Following: failure
Add: to pay any federal, state, county or city tax

Senator Farrell moved all of the above amendments and they were accepted unanimously.

The meeting adjourned at 10:10 a.m.


SUBCOMMITTEE CHAIRMAN, Senator Mohar


Leona Williams, Secretary

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

SB. 210

Date 2-13

[illegible]

SB-210

STATEMENT OF INTENT

A statement of intent is required for this act because it extends the Department of Commerce's rulemaking authority regarding licensing, assessing license fees, and enforcing the public contractors' licensing law.

It is the intent of the Legislature to strengthen the current law and to provide a board to adopt rules to administer the law. The Legislature recognizes that competency-based licensing for public contractors provides protection to the taxpayers, whereas licensing laws designed primarily to raise revenue are ineffective.

This act specifically requires the board to adopt rules to ensure the following:

- (1) The financial responsibility of the contractor;
- (2) Adequate classification of the contractors according to recognized trades and specialties; and
- (3) Discipline of licensed public contractors, and of unlicensed contractors who engage in public contracting.

The Legislature intends that the rules promulgated would establish specific guidelines for administering and enforcing the licensing law.

The Legislature does not intend to alter the current contractors' license fees collected on gross receipts or the administration of that act by the Department of Administration.

Proposed Amendment to SB 210 (white copy)

1. Page 14, line 19.

Following: "classifications only."

Insert: "The board shall prepare and make available to applicants and licensees an information pamphlet pertaining to all state laws or rules which may be covered in the examination."