

MINUTES OF THE MEETING  
BUSINESS AND LABOR COMMITTEE  
50TH LEGISLATIVE SESSION

January 29, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 29, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 386 - Clarify the Rulemaking Authority of the Board of Chiropractors, sponsored by Rep. Dorothy Cody, House District No. 20, Wolf Point and Poplar. Rep. Cody stated this bill was in response to problems the Board was having particularly in their rulemaking authority. Rep. Cody explained the bill. Exhibit No. 1.

PROPONENTS

Mary Lou Garrett, Administrative Assistant to the Board of Chiropractors, Department of Commerce. Ms. Garrett stated that they support the bill, and were available to answer any questions.

OPPONENTS

None.

QUESTIONS

None.

CLOSING

Rep. Cody made no further comments.

HOUSE BILL NO. 334 - Generally Revise Licensing of Social Workers, Professional Counselors, sponsored by Rep. Nancy Keenan, House District No. 66, Anaconda. Rep. Keenan stated this bill was at the request of the Board of Social Workers, Examiners and Professional Counselors. She commented that the new section added to the law provided transition from a two year social work license on a scattered daily basis, to a one-year license with a common date of expiration. She said the licensee will receive a license for the balance of the calendar year and a reduction of the fee on the pro-rata base, and the authority applicability date and the effective date would be extended.

### PROPOSERS

Joy McGrath, Mental Health Association of Montana. Ms. McGrath submitted amendments to the bill which addressed the course of study that a licensed professional counselor would complete. She stated that the purpose for the amendments is that the Mental Health Association supports licensed professional counselors, but they feel that there is a need to insure the kind of training that the people are getting while in college focuses on mental illness in some fashion so that when they are being licensed and seeing mentally ill people, they will be qualified. She said they have seen more of the counselors practicing in small rural areas, and they want to make sure those professionals have the qualifications to treat on their own when they are not in consultation with others. Exhibit No. 2.

Peter Guthridge, social worker and member of the Board of Social Workers Examiners and Professional Counselors. Mr. Guthridge stated that the Board supports the bill and they feel that the amendments would expedite the business of the board.

Charles Leggate, a rehabilitation counselor, representing the Montana Association for Rehabilitation. Mr. Leggate stated he is in support of a majority of this bill. He submitted amendments that would include a third organization, the Commission on Rehabilitation Counselor Certification. Exhibit No. 3.

Joan Rebich, Vice President of the Montana Mental Health Counselors Association. Ms. Rebich stated that they favor the bill as sponsored by their board.

### OPPOSERS

None.

### QUESTIONS

Rep. Swysgood asked Rep. Keenan what her opinion was on the amendments. Rep. Keenan stated it was her understanding that both groups, the Mental Health Association and the Rehabilitation Counselors would be in contact with the Social Worker Board, and she requested that action be held until those people have a chance to review the amendments and solve the problems.

Rep. Simon stated that administratively it seemed to him it would be easier not to have to reissue a license for two years. He said it seemed that administratively it would be easier to continue with that two year license until it

expired and then as they start reissuing licenses, start issuing one year licenses. Ms. Petich responded that they are not reissuing licenses, they are renewing licenses; and right now they are renewing all the time. She said if they could renew everyone on the same date, they would not have to go through the files each month checking for expiring licenses during a particular time frame. This would make things easier for them, and would be easier to budget, she stated.

#### CLOSING

Rep. Keenan stated that she requests that action be held until the entities can regroup and address the concerns of the amendments.

Chairman Kitselman stated that the bill would be referred to a subcommittee composed of Rep. Brandewie, Rep. Grinde, and Rep. Brown, with Rep. Brandewie as chairman.

HOUSE BILL NO. 332 - Allow PSC to Issue Protective Orders for Proprietary Information, sponsored by Rep. Jan Brown, House District No. 46, Helena. Rep. Brown stated that this bill requested by Mountain Bell Telephone Company provides that the Public Service Commission may issue a protective order when it is necessary to preserve trade secrets and to carry out its regulatory functions. She said the definition of a trade secret means information or computer software, that derives economical value from not being generally known to other persons who could obtain economic value from its disclosure use.

#### PROPOSERS

Dennis Lopach, Attorney, Mountain Bell, Helena. Mr. Lopach stated there is a broad right to know provision which provides for public access to information in the hands of state agencies, but there is an exception to that where individual privacy exceeds the merits of public disclosure. He commented that the PSC wanted to see information that Mountain Bell had in its possession which they believed to have some kind of proprietary value to them, but the PSC refused initially to protect any of the information arguing that it did not have the power to do so under the constitution. He said Mountain Bell appealed and in 1982 the Montana Supreme Court agreed that despite the broad provisions of the Montana Constitution, there is an obligation under the federal constitution and other provisions of the Montana Constitution to protect the value of these trade secrets. That has been a clear procedure ever since they have gotten protective orders in rate cases that limit the disclosure and use of this information and preserve its

value, he said, and with the emergence of a procedure under the Montana Telecommunications Act which was approved by the Legislature in 1985 that the Commission may not open a contested case proceeding and there was uncertainty whether or not their authority extended outside the rate cases. He said the bill is intended to clarify that a protective order can be issued outside a rate case or a contested case proceeding.

Gene Phillips, representing Pacific Power and Light Company and Northwestern Telephone Systems, Kalispell. Mr. Phillips stated they support this legislation for the reasons explained by Mr. Lopach in the case of the Mountain Bell Telephone Company. He said this was a continuing problem with Pacific Power and Light had in their rate cases when they were involved in the price paid by the company to captive coal companies. He said this captive coal price is always an issue in their rate cases; the coal business being as competitive as it is, and this is the type of information they would like to have maintained in a confidential manner.

Mike Zimmerman, representing the Montana Power Company. Mr. Zimmerman stated he believes that this bill gives to the Public Service Commission the discretion to protect economically sensitive information. He said they have had instances in the past where a need for protective orders arises primarily related to some oil and gas properties they own and were evaluated by a private consultant. A protective order allows the public regulatory body to see and use the information in its efforts to protect the public interest, he said, but at the same time allows that regulatory body to preserve the economic value of the information being used.

Bob Nelson, Chief Counsel, Montana Public Service Commission. Mr. Nelson stated that the Commission supports this bill as a conciliation of the Commission's current interpretation of existing case law. He said, although it wouldn't affect the Commission's existing practices, it may help resolve future uncertainties regarding the non-rate activities described by Mr. Lopach.

#### OPPONENTS

None.

#### QUESTIONS

Rep. Driscoll asked why the price of coal was a secret. Mr. Phillips responded that coal was a competitive business, and they like to keep the price confidential in the process of bidding for new contracts.

HOUSE BILL NO. 362 - Penalty for Building Contractor Failing to Pay Subcontractor Promptly, sponsored by Rep. William Glaser, House District No. 98, Billings. Rep. Glaser stated that this bill provides that when a contractor receives payment for a job or progress payments received over a period of time, the general contractor has 30 days to pay the subcontractor and the suppliers, and if they don't a penalty has to be paid. He said there are two benefits that would result from this bill; the subcontractor and the suppliers would be paid more promptly, and the good contractors will become more competitive.

PROPONENTS

None.

OPPONENTS

Irvin Dillinger, representing the Montana Building Materials Dealers Association. Mr. Dillinger stated he was appearing for Riley Johnson, Montana Home Builders Association. He commented they do not oppose prompt payment for the contractors and suppliers, but have a problem with the term "certain building contractors" as it appears in the bill. He asked which ones the term "certain" would cover, and another concern was who would enforce the prompt payment.

QUESTIONS

Rep. Pavlovich asked who is going to enforce this. Rep. Glaser stated that under the existing system, in order to enforce payment you have to go to court and that won't change.

Rep. Brandewie asked if the 1/2% a day up to 15% of the contract might be kind of an inducement to pay promptly and be the enforcement measure. Rep. Glaser responded that it would give the general contractors the feeling that if they had to go to court, it wouldn't be worth it.

Rep. Cohen asked Mr. Dillinger to explain his objections to the bill. Mr. Dillinger responded that they did not oppose the bill on the prompt payment, they just wanted the term "certain building contractor" clarified and who was being excluded by the term "certain" and who was going to enforce this.

Rep. Cohen asked Mr. Dillinger if he preferred the words "all building contractors". Mr. Dillinger stated whatever it would take to clarify the term; possibly "all contractors" would be preferable.

### CLOSING

Rep. Glaser stated that it was the intent that all contractors, subcontractors and material suppliers would be included under this bill. Some subcontractors and suppliers are having a difficult time surviving, he said, and it makes it worse when they aren't being paid promptly. The large contractor that is doing his job right is having a difficult time getting bids because other contractors are doing money tricks giving them an advantage.

HOUSE BILL NO. 310 - Establish Policy for Applicants Providing Architecture/Engineering/Land Surveying Services, sponsored by Rep. Les Kitselman, House District 95, Billings. Rep. Kitselman stated that this bill provides making the selection process as consistent as possible among the various state and local agencies, and special districts as well as conforming to the federal requirements for licensure. He commented that a public law enacted in 1972 placed in effect the selection of architectural and engineering services based on demonstrated competence and qualifications on federally funded projects. He stated an important part of the 1984 state building and construction advisory council report recommends the improvement of construction laws and the policies and procedures were to continue the department of administration's qualification base selection procedure for design professionals. This bill sets forth the minimum criteria to be used for qualification base selection, he said.

### PROPONENTS

Jim Carpita, representing the Consulting Engineers Council of Montana. Mr. Carpita stated this bill would provide all levels of government with a standard selection procedure for awarding architectural, engineering, land surveying, and landscape architectural service contracts based on qualifications and competency of the professionals. He said the state has already adopted a major portion of the American Bar Association codes. Exhibit No. 4.

Gordon Morris, Montana Association of Counties. Mr. Morris stated that he has reviewed the bill and discussed it with local county commissioners and finds no objection to the bill. He has also reviewed the amendments and finds them appropriate.

Stewart Pearson, representing the city of Great Falls. Mr. Pearson stated the proposal is parallel to the policy which was adopted by the city of Great Falls and would be appropriate to adopt at the legislative level. Exhibit No. 5.

Phil Porrini, President of the American Society of Civil Engineers in Montana. Mr. Porrini stated he agrees with the comments made by Jim Carpita and Stewart Pearson. Exhibit No. 6.

Marty Crennen, Architect, Helena. Mr. Crennen stated that he supports the bill.

H. S. (Sonny) Hanson, representing the Montana Technical Association of Design Professions, Billings. Mr. Hanson stated that they support the bill in its entirety.

#### OPPONENTS

None.

#### QUESTIONS

Rep. Brandewie asked how many landscape architects there were in the state of Montana. Mr. Hanson responded that there are three firms of landscape architects, two in Billings with offices in other states, and one in the western part of the state.

Rep. Brandewie asked Mr. Hanson if his understanding of the bill that a nursery with a landscape person wouldn't be qualified to bid under the provisions of this bill. Mr. Hanson stated nurseries are specifically excluded in the statute, but they can be selected for doing some of the design.

#### CLOSING

Rep. Kitselman made no further comments.

HOUSE JOINT RESOLUTION NO. 8 - Urges The Interstate Commission to Refrain From Approving Railroad Divestitures, sponsored by Rep. Harry Fritz, House District No. 56, Missoula. Rep. Fritz stated this resolution regards the purposed sale of the short line route between Laurel, Montana and Sandpoint, Idaho by the Burlington Northern. He said this raises a number of questions regarding the economy of Montana and the disposition of a number of railroad workers and the ability to get products, such as grain and lumber particularly, to market. He said the purpose of this resolution is to generate discussion in a formal and organized way about the impact of this sale upon our state.

#### PROPONENTS

James T. Mular, state legislative director of the Brotherhood of Railway and Airline Clerks. Mr. Mular stated that

Burlington Northern has made media announcements that over half of their entire 29 state network is for sale. He said the Northern Pacific Railroad was a land grants railroad and was conditioned under the grant, and has 1.9 million acres of main line that is limited to fee simple, but not fee simple absolute, which means that you had to do something to retain those 1.9 million acres. The railroad dates back to the acts of 1863, he said, starting at Ashland, Wisconsin and proceeded through Montana and Dakota territories, Idaho territories, and Washington territories, to Puget Sound for a total of 2,121 miles. He commented the proposed offer by BN in the state of Montana for that line segment sale is from Laurel to Sandpoint, almost 1/4 of the total mainline distance, and this resolution asks that the Interstate Commerce Commission look at the equity, not only of the bond holders, but the public interest criterion. He said that another question that must be asked is why the money that comes from the resources of Burlington Northern or the former Northern Pacific railroad are not reinvested into the plant facilities of the Burlington Railroad.

James Murry, Executive Secretary, Montana State AFL-CIO. Mr. Murry stated that Montana is subject to a rail monopoly controlled by Burlington Northern. He stated that while this bill does not have the force of law, they believe it is a positive and necessary message to the Interstate Commerce Commission, that the Montana legislature cares about the impact that the Burlington Northern rail line sales have on grain and cattle producers, communities, businesses and workers. He stated that it is time to protect Montana's interests and assure local communities that future rail line sales by Burlington Northern will not result in abandonment. Exhibit No. 9.

Joe Brand, Montana State Director, United Transportation Union, Helena. Mr. Brand stated that this resolution was a step in the direction to provide rail services that are much needed in the state; and make acquiring corporations responsible in providing services to the customers. Exhibit No. 10.

Francis Marceau, Legislative representative from United Transportation Union, Local 978, Missoula. Mr. Marceau stated that this resolution that provides the Interstate Commerce Commission to refrain from granting approval of proposed railroad divestitures without a complete study of the fiscal and environmental impact of such divestitures and to include public hearings is in the best interest of Montana. Exhibit No. 11.

Richard Van Aken, legislative representative for Brotherhood of Railway and Airline Clerks, Missoula Lodge No. 43,



Missoula. Mr. Van Aken stated that they support this resolution as an effort to help the state of Montana obtain information on what is happening to the rail system and rail service in this state. They are convinced that branch and main line sales are not necessarily in the best interests of the state. He said what may be in the best interest of one business, particularly a monopolistic utility, may not be in the best interests of other businesses or for the general welfare of the people of Montana. Exhibit No. 12.

John Bartlett, representing the Brotherhood of Locomotive Engineers, Division No. 499, Whitefish. Mr. Bartlett stated they agree with everything that has been said; they have the same concerns, not only for job protection, but all the types of issues that we pay for as taxpayers. They don't believe that things are being dealt with fairly, and he said, the Burlington Northern is difficult to deal with.

#### OPPONENTS

Leo Berry, attorney representing the Burlington Northern Railroad. Mr. Berry stated that the Burlington Northern is not opposed to the intent of the resolution in terms of insuring that the interests of Montana be adequately protected. He said the Railroad has concerns relating to some of the assumptions as to why these resolutions had to be passed. He said the assumption that the intent of the Burlington Northern Railroad or any railroad in disposing of these lines, if it were to happen, is to extend or maximize profit and to extend the monopolistic control of traffic without consideration of the adverse affect is contrary to what the management feels it is doing. He said there are a lot of concerns on behalf of people in terms of what is going to happen to the southern line sale, which are legitimate concerns; however, assumptions should not be made, as this resolution does, as to why these sales might be made. He would recommend that some of the language in the resolution be changed; a subcommittee be created, or the resolution be held until language be provided that would be acceptable to everyone.

#### QUESTIONS

Rep. Simon asked Rep. Fritz what evidence he was referring to that this is creating great difficulties for the newly created weaker regional railroads. Rep. Fritz stated that there was some evidence that the sales of short lines on the Southern Pacific Railroad was not resulting in financially viable independent lines, and that is the reason for that particular language in the resolution. He agreed with Mr. Berry that this should be phrased differently.

Rep. Simon asked if the regional or short line railroads are prone to failure. Rep. Fritz stated that reflects to the general assumption that he found in the public, that if a major transcontinental line is experiencing financial difficulties then a shorter branch or former feeder line might also be in that situation.

Rep. Driscoll asked since there is some controversy over the wording in the second "whereas", could this wording possibly be changed or a third "whereas" be added asking the Interstate Commerce Commission to investigate the possibility that the federal government in the state of Montana get back the 1.9 million acres that was given to the railroad when they originally built the railroad. Rep. Fritz responded that this should be considered; there were some questions raised that they should not assume the railroad is out to maximize profits.

Mr. Berry responded that he agreed with Rep. Fritz that their is a popular notion that once the land grants were given to the railroads that they were forever bond to maintain service at its present form, and it is the railroad's position that that was not the case; the land grants were given to the railroad much like the homesteads, the 160 acres were given to the people many years ago to populate the west, move the people out there and provide security and transportation, it was not a permanent commitment to anything, the deal was to build the railroad and that was done. He said Congress looked at that issue at least on two occasions and has determined that the agreement that was made between the federal government and the railroads in terms of constructing the railroads in return for the land grants was a completed bargain.

#### CLOSING

Rep. Fritz stated he thought they have made a favorable beginning in raising some of the issues and questions that need to be addressed when confronting a proposed transaction of this magnitude, and the resolution is not meant to be hostile to the Burlington Northern. He agrees with their representative, Mr. Berry, that it contains a little populous rhetoric, but it has to be understood that they believe these assertions are the truth and shouldn't be questioned at all, railroad and monopolies are interchangeable in terms of discussion. He has no objection to working with Mr. Berry in an attempt to restructure the nature of the language; and he has no objection to inserting another "whereas" to the resolution in the relationship of land grants to the railroads.

EXECUTIVE ACTION - January 29, 1987 - 9:50 a.m.

ACTION ON HOUSE JOINT RESOLUTION NO. 8

Chairman Kitselman referred House Joint Resolution No. 8 to a subcommittee composed of Rep. Simon, Rep. Swysgood, and Rep. Bachini, with Rep. Simon as chairman.

ACTION ON HOUSE BILL NO. 334

Chairman Kitselman referred House Bill No. 334 to a subcommittee composed of Rep. Brandewie, Rep. Grinde, and Rep. Brown, with Rep. Brandewie as chairman.

ACTION ON HOUSE BILL NO. 386

Rep. Wallin moved that House Bill No. 386 DO PASS.

Rep. Cohen stated that this bill had problems including the new section that prohibits a municipal license fee. Also, he said, there are rules established for a person on active status; but if a person on inactive status at some later date, goes on to active status, all this bill provides is that the board has the right to make the necessary rules to put them on active status at some time in the future. He said there is no need for this bill, and recommends a no vote on the Do Pass motion.

Chairman Kitselman stated there is a need for a statement of intent for the bill which they did not have.

Rep. Brandewie stated that there are provisions for being inactive in other professions, but there is a time limit on how long a professional can be inactive; therefore, if the inactive status is left in the bill, he recommends that a time limit be placed on it, or the inactive provision be removed.

Rep. Simon moved an amendment to remove the reference to "inactive status" referred to on page 3 and amend the title. The motion carried with three opposed, Rep. Nisbet, Rep. Bachini, and Rep. Swysgood.

Rep. Thomas moved that House Bill No. 386 be tabled. The motion carried with a vote of 11 to 8, with Rep. Driscoll, Rep. Pavlovich, Rep. Brandewie, Rep. Nisbet, Rep. Bachini, Rep. Simon, Rep. Grinde, and Rep. Kitselman opposed.

ACTION ON HOUSE BILL NO. 310

Chairman Kitselman moved that House Bill No. 310 DO PASS.

Rep. Brandewie moved an amendment to strike all references to landscape architects. He stated that the language means that the people who are doing landscape designing and work in the communities cannot possibly bid on the jobs, and the bids would be narrowed down to two or three firms in the state who are landscape architects, who would do all of the designing, whatever the qualifications of someone in the community. The motion carried with Chairman Kitselman and Rep. Thomas opposed.

Chairman Kitselman moved the amendments as proposed. Exhibit No. 7. The motion carried unanimously.

Chairman Kitselman moved that House Bill No. 310 DO PASS AS AMENDED. The motion carried with Rep. Swysgood opposed.

ACTION ON HOUSE BILL NO. 332

Rep. Brown moved that House Bill No. 332 DO PASS. The motion carried with Rep. Hanson and Rep. Cohen opposed.

ACTION ON HOUSE BILL NO. 362

Rep. Thomas moved that House Bill No. 362 DO PASS.

Rep. Driscoll moved an amendment to the title to strike the words "certain building" and leave it as "requiring contractors". The motion carried unanimously.

Rep. Driscoll moved that House Bill No. 362 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 129

Rep. Driscoll moved DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 130

Rep. Driscoll moved DO PASS.

Rep. Driscoll moved the amendments. Rep. Driscoll said the argument has been if the 104 weeks starts from the day the person is hired or from the day of injury. He said this makes it clear that when a vocationally handicapped worker is hired and gets injured on the new employer's job, the new employer is only responsible for the first 104 weeks. The intent is to get these people that have been injured back to work and not impose the total cost on the new employer if there is a subsequent injury, he said. The motion carried unanimously.

Rep. Wallin moved an amendment to remove the "104 weeks" where it appears and insert "52 weeks". The motion failed.

Rep. Hanson moved the amendment proposed by the Department of Labor and Industry that "a bodily part be certified" be inserted after "injury" on line 16, page 1. The motion failed.

Rep. Driscoll moved that House Bill No. 130 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 10:40 a.m.

  
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REP. LES KITSELMAN, Chairman

## DAILY ROLL CALL

BUSINESS &amp; LABOR

COMMITTEE

55th LEGISLATIVE SESSION -- 1987

Date January 29, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

# STANDING COMMITTEE REPORT

January 29

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 130

☒ do pass  
☐ do not pass

☐ be concurred in  
☐ be not concurred in

☒ as amended  
☐ statement of intent attached

REP. LES KITSelman

Chairman

## AMENDMENTS AS FOLLOWS:

- 1) Page 1, line 22  
Following: "compensation"  
Strike: "benefits, for furnished"  
Following: "medical"  
Strike: "care"
- 2) Page 1, line 23  
Following: "burial"  
Insert: "benefits"
- 3) Page 1, line 25  
Following: "injury"  
Insert: "."  
Strike: "and for"  
Insert: "The liability of the employer for payment of benefits as provided in this chapter, is limited to"
- 4) Page 2, line 1  
Following: "of"  
Strike: "wage"  
Insert: "compensation"

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# STANDING COMMITTEE REPORT

January 29

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 313

☒ do pass  
☐ do not pass

☐ be concurred in  
☐ be not concurred in

☒ as amended  
☐ statement of intent attached

REP. LES KITSelman

Chairman

## AMENDMENTS AS FOLLOWS:

1) Page 1, line 6  
Following: "ENGINEERING,  
Insert: "AND"  
Following: "SURVEYING"  
Strike: the remainder of line 6 and line 7 through "ARCHI-  
TECTURAL"

2) Page 1, line 14  
Following: "engineering,"  
Insert: "and"  
Following: "surveying"  
Strike: the remainder of line 14

3) Page 1, line 23  
Following: "subsection"  
Strike: "(3)"  
Insert: "(7)"  
Following: "subsection"  
Strike: "(5)"  
Insert: "(4)"

4) Page 1, line 24  
Following: "subsection"  
Strike: "(7)"  
Insert: "(6)"

5) Page 1, line 25  
Following: "engineering,"  
Insert: "and"  
Following: "surveying"  
strike: the remainder of line 25 and line 1, page 2 through  
"services"

6) Page 1, line 6  
Following: "63,"  
Strike: the remainder of line 6 and line 7 through "66."

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7) Page 3, line 11

Following: "engineering"

Insert: "and"

Following: "surveying"

Strike: the remainder of line 21 and line 22 through "architectural"

8) Page 3, line 22

Following: "agency"

Strike: "shall"

Insert: "may"

9) Page 4, line 4

Following: "with"

Strike: "a minimum of three"

Insert: "one or more"

10) Page 4, line 21

Following: "agency."

Insert: "The agency shall follow the minimum criteria of (this act) if no other agency procedures are specifically adopted."

11) Page 4, line 24

Following: "engineering,"

Insert: "and"

12) Page 4, line 25

Following: "surveying"

Strike: ", or landscape architectural"

13) Page 6, line 4

Following: line 3

Insert: "SECTION 7. EXCEPTION (1) All agencies securing architectural, engineering, and land surveying services for projects for which the fees are estimated not to exceed \$5,000 may contract for these professional services by direct negotiation."

(2) No agency may separate service contracts or split or break projects for the purpose of circumventing the provisions of (this act)."

Remember: subsequent sections.

# STANDING COMMITTEE REPORT

January 29

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report ~~HOUSE~~ BILL NO. 332

☒ do pass  
☐ do not pass

☐ be concurred in  
☐ be not concurred in

☐ as amended  
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

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# STANDING COMMITTEE REPORT

January 29

19 37

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 129

☒ do pass  
☐ do not pass

☐ be concurred in  
☐ be not concurred in

☐ as amended  
☐ statement of intent attached

REP. LES KITSULMAN

Chairman

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# STANDING COMMITTEE REPORT

January 29

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report ~~HOUSE~~ BILL NO. 362

☒ do pass  
☐ do not pass

☐ be concurred in  
☐ be not concurred in

☒ as amended  
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

## AMENDMENT AS FOLLOWS:

1) Page 1, lines 4 and 5  
Following: "REQUIRING" on line 4  
Strike: "CERTAIN BUILDING"

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Mr. Chairman and members of the Committee, for the record my name is Dorothy Cody, Representative of House District 20, Wolf Point and Poplar.

I was requested by one of my constituents, Dr. Grow, to carry HB 386. Dr. Grow is a member of the Board of Chiropractors and visited with me at home about some of the problems the Board was having. Particularly in regards to their rule making authority.

I would quickly like to take you through the bill and the changes.

Part 2 under Section one addresses the problem the Board had when it was cited in the Sunset Audit for violating this part by having more than 4 meetings a year. There has been an increase in complaints and that has necessitated the Board to meet more often to conduct business and perform their duties. The Board holds all meetings in Helena except for once a year when they meet at the same time and in the same location as the Montana Chiropractic Association. Their particular meeting allows for open communications between the Board and the licensees.

Part 3 addresses the recommendation to the Board by the Legal Staff of the Department of Commerce that the rule making authority of the Board was too vague and their rules could be challenged in some cases and probably be declared invalid. To overcome this problem, the Board worked closely with the departments

legal staff to arrive at the proposed language, and the attorneys felt this language would be more beneficial to the Board to implement their statutes and to protect the public.

The original rulemaking has been in existence forever with little or no change. With the public becoming more aware of consumer rights, and applicants challenging licensing boards on qualifications and examinations, provisions need to be implemented to provide guidelines for not only the board, but everyone involved in the profession, applicants, schools, licensees, investigative, legal and administrative staff.

Section 2 addresses the issue of inactive license status. The Chiropractic Practice Act does not provide for an inactive status so all licensees wishing to retain their license had to meet the continuing education requirement and pay the full fee for annual renewal. Out of 272 licensees who were notified for renewal, 19 did not renew because there was not an inactive license and felt the fee was too high to continue paying the fee, but all expressed interest if the fee was lower or they did not have to meet continuing education, then they would probably renew. Many older chiropractors who are retired may wish to retain their license as a matter of pride but because of age or illness cannot attend continuing education programs, have had to drop their license. This inactive status would allow that person to keep his license. Under this provision, the board would also have the authority to propose rules for reinstatement to active status.

Page 3

Section 3. In cities that have self governing powers, such as Helena, Missoula, and Billings, they are charging the various professions a fee to practice in addition to the state licensing requirements. Last session, many of the boards successfully proposed legislation to cover this problem. The change proposed is for the Profession of Chiropracty that is disturbed with the "dual licensing," in only those communities.

I would ask for your support of this legislation and reserve the right to close.

Thank you.



# Mental Health Association of Montana

A Division of the National Mental Health Association

State Headquarters  
555 Fuller Avenue  
Helena, Montana 59601  
(406) 442-4276

EXHIBIT 2  
DATE 1/29/87  
HB 334

1/29/87

HB 334

amendment

Page 3, line 11

following: "nature"

insert: "including training in the diagnosis of mental  
illness, as in the current Diagnostic and Statistical  
Manual, and treatment methods in abnormal psychology"

Page 4, line 7

following: "nature"

insert" "including training in the diagnosis of mental  
illness, as in the current Diagnostic and Statistical  
Manual, and treatment methods in abnormal psychology"

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Helena  
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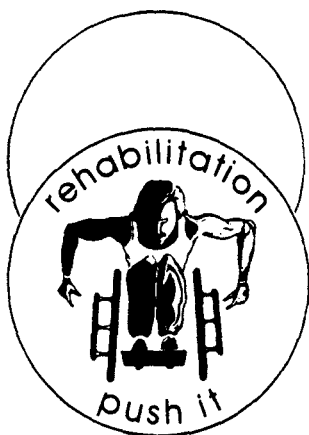


EXHIBIT 3  
DATE 1/29/87  
HB 334

## MONTANA ASSOCIATION FOR REHABILITATION

A PRIVATE NON-PROFIT ORGANIZATION DEDICATED TO HANDICAPPED PEOPLE

Mr. Chairman

Honorable members of the House Business and Labor Committee

My name is Charles W. Leggate. My home town is Great Falls. I am a Rehabilitation Counselor, nationally certified by the Commission on Rehabilitation Counselor Certification and represent the Montana Association for Rehabilitation. I drove here this morning from Great Falls to speak in opposition to House bill 334 which is aimed at revising Social Worker and Professional Counselor licensing. I would like to draw your attention to pages 3 and 4, sections 2 C, starting with line 17. These lines change the laws which passed in the last legislature which stated that the Counselor licensure applicant must pass an exam "prepared and administered by the board based on a national examination approved by the board". The changes being requested allow the board to accept exams given by the National Board of Certified Counselors and the exam of the National Academy of Certified Clinical Mental Health Counselors.

I am here to ask that this bill be ammended to include a third organization and it's examination and that it should be included as item (iiii) and placed at the end of line 23 on both pages 3 and 4. The lines would then read "health counselors; The Commission on Rehabilitation Counselor Certification; and ..." Please allow me to explain my reasons for requesting this inclusion.

It appears that the State Board of Social Workers and Professional Counselors has found that maintaining, writing and giving an examination is expensive, time consuming, and a problem for potential licensure applicants. The board would like to get away from having to give tests. At the same time, they would like to encourage more counselors to become licensed professional counselors. Unfortunately, they exclude a large group of counselors in this state. They leave out the professional rehabilitation counselor.

The purpose of licensing counselors in the first place during the last legislature was to encourage counselors to become licensed so that the public could recognize qualified professionals and so that there was a way of maintaining ethical standards among counselors. This whole purpose is defeated if you discourage or leave out professional rehabilitation counselors.

Consider these facts. I called the State Board of licensure yesterday and I was informed that there are 43 licensed Professional Counselors in the State of Montana. I telephoned the National Board for Certified Counselors whose test would be added under this bill. Their secretary, Barbara Averich stated that they have 59 certified counselors in the State of Montana. When I called the National Academy of Certified Mental Health Counselors, the second group listed in the present bill, I learned that there were 6 counselors who work in the State of Montana. The Commission on Rehabilitation Counselor Certification, who we would like added to this bill has over 70 certified counselors working in this state and there are undoubtedly over 150 more who are not certified. Only one or two rehabilitation counselors are now licensed because of the barriers presented. It makes no sense to add little groups and to leave out a large group of Professional Counselors.

All three organizations who should be listed in this bill including the Commission on Rehabilitation Counselor Certification are not groups who have tests and credentials without undergoing severe scrutiny. They are all recognized by the same oversight organization. They are all monitored by the National Commission for Health Certifying Agencies. This means that they all have the same high standards when testing skills and knowledge. It also means that they equally examine the applicants educational background and experience.

The Commission on Rehabilitation Counselor Certification has had its standards adopted by the Joint Commission on Accreditation of Hospitals. This organization accredits all general hospitals in the State of Montana. According to this accrediting body, hospitals like the Montana Deaconess Medical Center and Columbus Hospital in Great Falls that have rehabilitation units, are required to have professional rehabilitation counselors on staff. Despite this, the bill as written would ignore this professional group and their test.

Last of all, and of even greater importance, is the fact that there are many, many rehabilitation counselors currently practicing in this state in private businesses and public agencies who have no ethical standard and do not have their skills measured. They are not a part of a licensing system so that the public can verify credentials. The size of this problem is tremendous. There are for example, 25 rehabilitation counselors working in the Kalispell area alone. Great Falls has 9 businesses who have rehabilitation counselors working with clients. Most of these businesses receive third party payments like payments from lawyers, insurance companies and workmens compensation programs.

Let me read you a quote from the June 1985 Journal of Counseling and Development about this rehabilitation.

"Ideally, the counselor and employer will never compromise the interests and welfare of the injured worker. Yet the profit motive of rehabilitation can result in agency policy formulation or implementation that is more favorable to the interests of the funding source to insure future referrals than to the needs of the disabled client."

EXHIBIT \_\_\_\_\_

DATE \_\_\_\_\_

HB \_\_\_\_\_

Don't leave physically and mentally impaired individuals in this state without the protection and information which will be given by including rehabilitation counselors in the house keeping changes in this bill.

Please, We implore you, add the Commission on Rehabilitation Counselor Certification along with the other two organizations. Encourage rehabilitation counselors to become licensed.

HOUSE BILL NO. 310

PRESENTED TO THE HOUSE BUSINESS AND LABOR COMMITTEE  
BY  
JAMES B. CARPITA, P.E.,  
REPRESENTING THE  
CONSULTING ENGINEERS COUNCIL OF MONTANA

House Bill No. 310 will provide all levels of government with a standard selection procedure for awarding architectural, engineering, land surveying and landscape architectural service contracts based upon qualifications and competence of the professionals involved.

The selection procedure outlined in the bill is based upon the American Bar Association's "Model Procurement Code for State and Local Governments". The State of Montana has already adopted a major portion of the ABA's model code. As stated in the model code, the primary reasons for using the qualification-based, negotiated selection procedure is the "lack of definite scope of work for such services at the time the selection is made and the importance of selecting the best qualified firm". The attached pamphlet "*Procurement of Professional Design Services*" was prepared by the Interprofessional Council on Environmental Design to further explain the ABA model code and the advantages of using negotiated procurement procedures based upon qualifications.

The 48th Legislature authorized the formation of a State Building Construction Advisory Council. This council was established to determine if the existing construction policies and procedures effectively satisfy the needs of the State. In reviewing the design professional selection procedures, the Council unanimously voted to continue the Department of

Administration's qualification-based selection procedure. Similarly, the Department of Natural Resources and Conservation has reprinted the attached booklet "Model Competitive Procurement Procedure" for distribution to local government, public service and institutional entities.

Prior to this 50th Legislative Session, the Consulting Engineers Council of Montana distributed to each Representative and Senator a Summary of Points supporting qualification-based procurement of professional services. That summary noted that 29 other states have adopted similar procurement legislation. (See attached map). In fact, the State of Montana does have laws on the books that do exempt architects, engineers and land surveyors from bidding for State contracts. Governor Schwinden has issued a Management Memorandum to all State Department Heads which requires the use of qualification-based selection procedures. In addition, Montana's school districts are also required to use this type of procurement procedure for architectural services. Copies of the applicable sections of Montana laws are attached for your ready reference.

In discussing House Bill No. 310 with the various Associations representing the public section contracting profession services, certain amendments were discussed. The attached list of proposed amendments were reviewed by Mr. Bruce Moerer with the Montana School Board Association and if made a part of HB310, they, the MSBA would not have any objections to this Bill.

EXHIBIT  
DATE 1/23/87  
HB 310

Further, Mr. Gordon Morris with the Montana Association of Counties has reviewed the Bill and supports its passage.

The Consulting Engineers Council of Montana urges this Committee to recommend passage of HB310 with the proposed amendments.

\JC\HB310

# According to law ...

Public agencies are not required to use competitive price bidding as a means of selecting architectural and engineering consulting firms for public projects. Firms should be selected on the basis of expertise.

## Specifically ...

**Federal projects and those involving federal grants:** Federal law (Brooks Bill, Public Law 92-582, 1972) requires public agencies "to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required ..."

This Federal selection procedure must be followed on Federal projects and, when specifically stated, on grant programs to all political subdivisions. If not stated in the grant, the local selection procedure is accepted.

## State of Montana-funded projects:

For State buildings, (new construction, remodeling, renovation) Section 18-2-112 Montana Codes Annotated, requires the contracting public agency to review and recommend three qualified firms to the Department of Administration for evaluation, ranking and selection. This selection is subject to approval by the Board of Examiners. Compensation is negotiated after selection.

"Registered professional engineers, surveyors, real estate appraisers or registered architects concerned with the study, design, or construction of state facilities or highways" are specifically exempted from price bidding by the Consultants' bill, passed by the 1981

# How to select the best firm for your project.

These logical selection guidelines will help you choose the best firm for your project and comply with the law.

## 1. Make a public announcement, in accordance with applicable laws and your agency's policy, that architectural/engineering services are needed. Briefly describe the scope, location, timetable and budget, if available. Small, paid advertisement and/or letters (sent to firms listed in professional and Yellow Pages directories, as well as those whom you know are interested) are the usual way of making this announcement.

**Local School District projects:**  
For schools, Section 20-6-633, Montana Codes Annotated, specifically states an architect must be selected for a project before compensation is negotiated. If school trustees and the design firm are unable to negotiate fair and reasonable compensation, trustees may select another firm and negotiate with it.

## County and Municipal Projects:

Whenever State or Federal funds are involved, the laws cited above apply. If funding is strictly local, or the project is wholly owned, the governing body determines the selection process — in the vast majority of cases, the same guidelines as used for State and Federal projects are followed.

## Municipal Contracts and Franchises:

Section 7-5-4301, Montana Codes Annotated, specifically excludes architects and engineers from the bidding process which is prescribed for selection of most other vendors in Sections 7-5-4302-4307.

## 2. Appoint an appropriate Evaluation Board to select and interview the best-qualified firms. The Board, comprised of three to five people, should select and interview no more than three to five firms responding to Step 1.

**3. Conduct in-depth interviews with the three to five selected firms, probing their expertise, ingenuity, current work load and any similar projects which they might have handled. Then, rank the firms in 1-2-3 order**

**4. Review the project with the most qualified firm and negotiate the fee. If an agreement cannot be reached, formally terminate negotiations. Then, undertake negotiations with the second-ranked firm.**

EXHIBIT  
1

(2) The funds so accumulated shall be held and dedicated for the purpose of constructing capitol buildings or additions thereto in accordance with the provisions of section 12 of The Enabling Act.

History: (1) En. Sec. 1, Ch. 120, L. 1943; amd. Sec. 49, Ch. 147, L. 1963; Sec. 78-501, R.C.M. 1947; (2) En. Sec. 3, Ch. 120, L. 1943; amd. Sec. 50, Ch. 147, L. 1963; Sec. 78-503, R.C.M. 1947; R.C.M. 1947, 78-501, 78-503; amd. Sec. 2, Ch. 277, L. 1983.

**Compiler's Comments**

1983 Amendment: In (1), substituted "a capital projects fund" for "the federal and private revenue fund".

**Cross-References**

Deposit of funds in the hands of the State Treasurer. 17-6-101.

**18-2-108. Compliance with state laws and regulations.** All buildings built or leased or purchased under this title must comply with all laws, safety codes, and rules of the state of Montana.

History: En. 82-3315.8 by Sec. 8, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.8.

**Cross-References**

Building construction standards. Title 50, ch.

60.

**18-2-109 and 18-2-110 reserved.**

**18-2-111. Policy regarding practice of architecture — preparation of working drawings by department limited.** (1) It is the policy of the state not to engage in the practice of architecture; however, this policy shall not be construed as prohibiting the department of administration from:

(a) engaging in preplanning functions necessary to prepare a building program for presentation to the legislature;

(b) supervising construction as provided in 18-2-105(6); or

(c) preparing working drawings for minor projects.

(2) The department of administration is expressly prohibited from preparing working drawings for the construction of a building, with the exception of repair or maintenance projects, when the total cost of the construction will exceed \$25,000.

History: En. Sec. 20, Ch. 271, L. 1963; amd. Sec. 1, Ch. 371, L. 1977; R.C.M. 1947, 82-3320; amd. Sec. 3, Ch. 491, L. 1983.

**Compiler's Comments**

1983 Amendment: In (2), inserted "with the exception of repair or maintenance projects".

**Cross-References**

Preparation of building programs and submission to Department of Administration, 17-7-202. Architecture, Title 37, ch. 65.

**18-2-112. Appointment of architects and consulting engineers.** The department of administration shall appoint any architect or consulting engineer retained for work on any building to be constructed, remodeled, or renovated by the state of Montana, its boards, institutions, and agencies from a list of three architects or consulting engineers proposed by the state board, institution, or agency where the work is to be done. Such appointment shall be subject to the approval of the state board of examiners. The department need not appoint an architect or consulting engineer for repair or maintenance projects.

History: En. Sec. 19, Ch. 271, L. 1963; amd. Sec. 1, Ch. 231, L. 1965; amd. Sec. 1, Ch. 83, L. 1973; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 82-3319; amd. Sec. 4, Ch. 491, L. 1983.

**Compiler's Comments**

1983 Amendment: Inserted last sentence.

**Cross-References**

Appointment of architect, 18-3-102.



## General Provisions

stana property for

1. lease with option to purchase. When authorized by a vote of the members of each house of the legislature, the department of administration shall have the authority, as part of the long-range building program, to enter into a rental contract which provides an option to purchase a building to be used by the state or any department of state government.

History: En. 82-3315.1 by Sec. 1, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.1.

### Cross-References

Long-range building program bonds, Title 17, ch. 5, part 4. General powers and duties of Department of Administration, 18-2-105.

18-3-102. **Appointment of architect.** The department of administration may appoint an architect to draw plans and specifications for the construction of a building authorized by this chapter, subject to the approval of the board of examiners.

History: En. 82-3315.4 by Sec. 4, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.4.

### Cross-References

Appointment of architects and consulting engineers, 18-2-112.

18-3-103. **Awarding contract.** In awarding a contract, the department of administration shall follow the same procedures that are required for the award of a contract to construct a state-owned building. The department shall have the authority to reject any and all bids.

History: En. 82-3315.7 by Sec. 7, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.7.

### Cross-References

Construction contracts — general provisions, Title 18, ch. 2, part 1. Bids required — advertising, 18-2-301.

18-3-104. **Contract provisions.** The rental contract shall be for a period not to exceed 20 years with an option to purchase at the end of specific periods determined by the department of administration and clearly defined in the contract for each individual project. The option to purchase at the end of the contract period shall not exceed the amount of \$50,000. The contract shall provide for the appointment of a trustee with sufficient powers to protect the state's interest in the building and any property conveyed as a building site. The contract shall contain such other provisions as determined by the department of administration to be necessary.

History: En. 82-3315.5 by Sec. 5, Ch. 242, L. 1974; R.C.M. 1947, 82-3315.5.

### Cross-References

Contracts — formation and interpretation, Title 28, ch. 2 and 3. Trustees' Powers Act, Title 72, ch. 21.

18-3-105. **Location of building.** The building shall be located as determined by the terms of the call for bids. If any such contract requires the sale

- 18-8-104. Use and selection of private consultants.
  - 18-8-105. Solicitation of bids.
  - 18-8-106. Restriction on former employees.
  - 18-8-107 through 18-8-110 reserved.
  - 18-8-111. Information relating to consultant studies.
  - 18-8-112. Contract in violation void.
- 

## Part 1

### Consultants

**18-8-101. Purpose.** (1) It is the intent of the legislature that this part be interpreted in a manner that assures the greatest fair competition in the selection by state agencies of private consultants under contracts covered by this part and that assures that all potential providers of consulting services are afforded notice of the need for and opportunity to provide the services.

(2) This part is not intended to discourage the use by state agencies of private consultants if their use may reasonably be expected to result in a more efficient and less costly operation or project. This part is not intended to prohibit the letting of a sole-source contract for consulting services if no proposal is received from a competent, knowledgeable, and qualified private consultant at a reasonable fee, after the procedures set forth in this part have been followed.

**History:** En. Sec. 1, Ch. 547, L. 1981.

**18-8-102. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Consulting service" means the human service of studying or advising an agency under an independent contract. However, the term is limited to professional consulting service work provided to an agency under an independent contract with a private consultant, but does not include the making of periodic or routine reports or the collection of routine data necessary to the functioning of a state agency or its programs or necessary for the proper monitoring of private providers of human services regulated by a state agency. The term includes only services for which payment is made from funds:

- (a) that are appropriated by the legislature;
- (b) that are generated by statutory functions of the agency; or
- (c) that are received by the state from the federal government and that are awarded to the state without requiring the state to request the funds through a grant program.

(2) "Private consultant" means an entity that performs consulting services other than a state agency or employee.

(3) "State agency" means any state department, commission, board, office, institution, facility, or other agency, including a university system or an institution of higher education.

**History:** En. Sec. 2, Ch. 547, L. 1981.

**18-8-103. Exemptions.** This part does not apply to employment of:

- (1) registered professional engineers, surveyors, real estate appraisers, or registered architects;

(2) physicians, dentists, or other medical, dental, or health-care providers;  
(3) expert witnesses hired for use in litigation, hearings officers hired for rulemaking and contested case proceedings under the Montana Administrative Procedure Act, or attorneys as specified by executive order of the governor; or

(4) consulting actuaries to the public retirement boards.

History: En. Sec. 3, Ch. 547, L. 1981; amd. Sec. 1, Ch. 215, L. 1983; amd. Sec. 1, Ch. 21, L. 1985.

#### Compiler's Comments

1985 Amendment: Inserted (4).

1983 Amendment: In (1), after "architects" deleted "concerned with the study, design, or construction of state facilities or highways".

#### Cross-References

Employment of actuary — biennial investment and valuation, 19-3-305.

Teachers' retirement — actuary, 19-4-201.

**18-8-104. Use and selection of private consultants.** (1) A state agency may use a private consultant only if:

(a) there is a substantial need for the consulting services; and

(b) the state agency cannot adequately perform the consulting services with its own personnel.

(2) In selecting a private consultant, a state agency shall:

(a) base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and

(b) when other considerations are equal, give a preference to a private consultant who is a bona fide resident of Montana as defined in 18-2-401 and whose principal place of business is within the state or who will manage the consulting engagement wholly from one of its offices within the state.

History: En. Sec. 4, Ch. 547, L. 1981.

**18-8-105. Solicitation of bids.** (1) In order to contract with a private consultant, a state agency shall establish a bid list in its central office. Any private consultant who desires to submit bids to that agency to provide consulting services may request in writing the agency place him on the agency's bid list.

(2) Whenever it is reasonably foreseeable that a proposed contract for private consultant services will exceed \$5,000, the state agency shall notify all private consultants who have requested to be placed on the agency's bid list. The notice shall contain the following:

(a) a notice of invitation for offers of consulting services;

(b) the name and address of the person within the agency to be contacted by a private consultant wishing to make an offer;

(c) the closing date for receipt of offers of consulting services;

(d) the procedures and specifications upon which the agency will award the contract for consulting services; and

(e) any other information that the agency believes pertinent.

(3) In addition to the notification required in subsection (2), the state agency, in its discretion, may solicit bids for consultant services by advertisement or other means.

(4) An agency need not follow the provisions of this section in bona fide emergency situations.

History: En. Sec. 6, Ch. 547, L. 1981; amd. Sec. 1, Ch. 509, L. 1983.

#### Compiler's Comments

1983 Amendment: At end of first sentence in (1), following "central office" deleted "or in

another appropriate division or unit of the agency".

any contract for the construction of school facilities until the plans and specifications for such construction have been approved under the provisions of 20-6-622.

(2) Any contractor, architect, trustee, or any other person, firm, or corporation who shall violate the provisions of 20-6-622, this section, or any regulation promulgated by the state board of health and environmental sciences or the state fire marshal shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$100 or more than \$500.

History: En. 75-8208 by Sec. 480, Ch. 5, L. 1971; R.C.M. 1947, 75-8208.

#### Cross-References

Fire safety in public buildings. Title 50, ch. 61.

Lapse of budgeted appropriations and provision for unpaid claims. 20-9-209.

**20-6-625. Authorization to lease buildings or land for school purposes.** The trustees of any district may lease buildings or land suitable for school purposes when it is within the best interests of the district to lease such building or land from the county, municipality, another district, or any person. The lease may be for a term of not more than 3 years unless prior approval of the qualified electors of the district is obtained in the manner prescribed by law for school elections, in which case the lease may be for a term of not more than 99 years. Whenever the lease is for a period of time that is longer than the current school fiscal year, the lease requirements for the succeeding school fiscal years shall be an obligation of the final budgets for such years.

History: En. 75-8209 by Sec. 481, Ch. 5, L. 1971; amd. Sec. 2, Ch. 424, L. 1977; R.C.M. 1947, 75-8209.

#### Cross-References

School fiscal year, 20-1-301.

Lease or purchase of state property for post-secondary vocational-technical center purposes. 20-7-314.

School elections. Title 20, ch. 20.

**20-6-626 through 20-6-630 reserved.**

**20-6-631. When contracts for architectural services required.** Whenever the estimated cost of any building, furnishing, repairing, or other work for the benefit of a school district exceeds \$50,000 and requires architectural services, such services shall be by contract.

History: En. 75-6815 by Sec. 1, Ch. 370, L. 1975; R.C.M. 1947, 75-6815.

**20-6-632. Repealed.** Sec. 1, Ch. 422, L. 1979.

History: En. 75-6816 by Sec. 2, Ch. 370, L. 1975; R.C.M. 1947, 75-6816.

**20-6-633. Negotiation of fees.** After selecting a firm, the trustees shall negotiate with the selected firm a fair and reasonable fee for the architectural services as described by the school district's scope of the work. In the event the trustees and the firm are unable to negotiate a fair and reasonable fee, the trustees may select another firm, provided the trustees again give reasonable public notice of their selection.

History: En. 75-6817 by Sec. 3, Ch. 370, L. 1975; R.C.M. 1947, 75-6817.

- States passing qualifications-based selection laws since June 1982.
- States with qualifications-based selection laws adopted prior to June 1982.

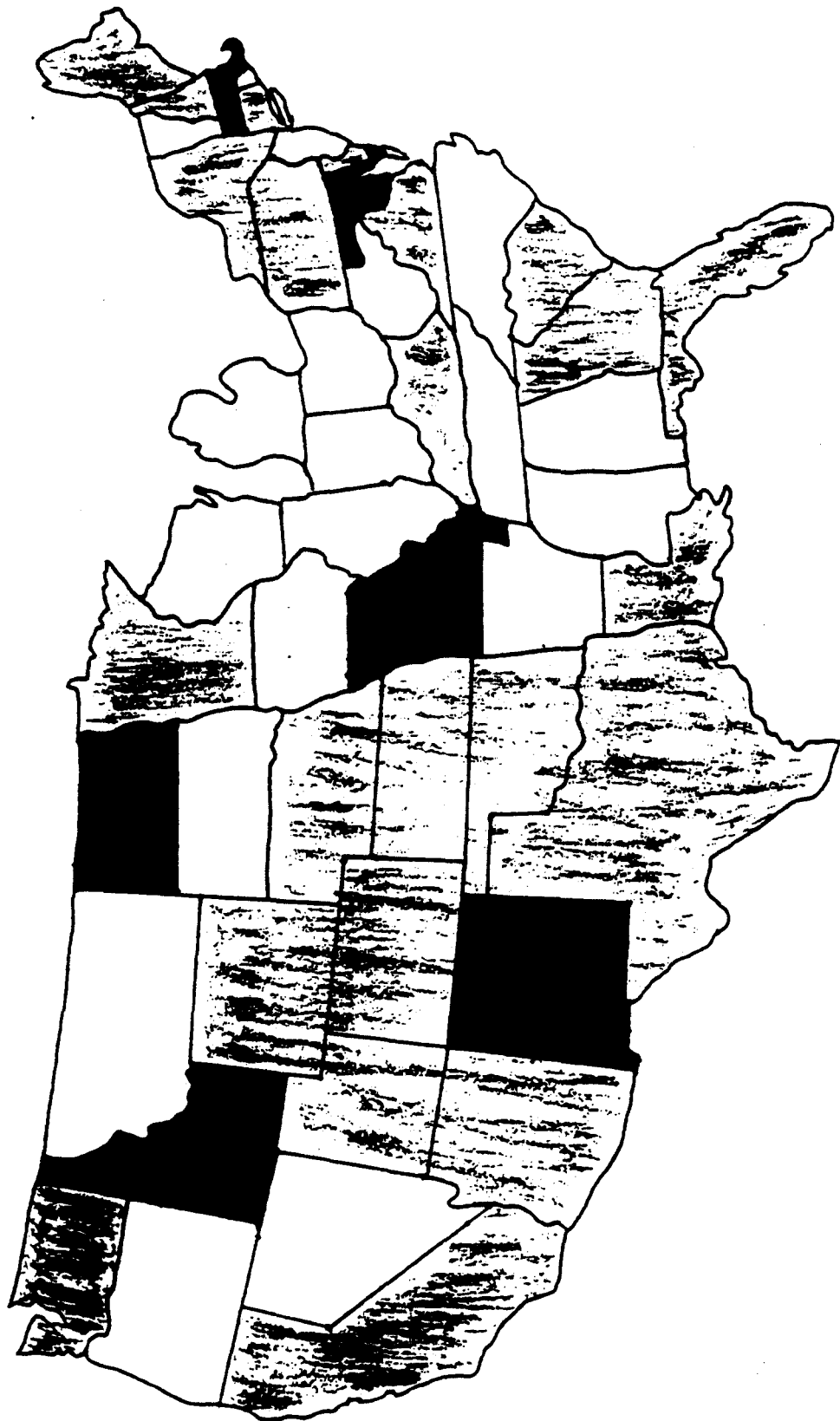


EXHIBIT 5  
DATE 1/29/87  
HB 310

COMMENTS

BY THE CITY OF GREAT FALLS

ON

H.B. #310

POSITION

The City of Great Falls supports and advocates adoption of H.B. #310.

ADVANTAGES OF THE PROPOSED LEGISLATION

This bill is necessary tool for Montanans because 1) it establishes a standard, 2) provides for increased competition and 3) conforms to canons of the respective professions.

By providing this standard, a written procedure for local administrators is available that defines the process on how the local agency is to proceed in obtaining special talent to perform the necessary work. Also, it allows the local agency the necessary flexibility to define how, in what manner and sequence a particular task is accomplished.

Increased competition results from publishing the need of special services. Each provider of services knows that all practitioners in a discipline have been given notice and have the opportunity to compete for the same work. The knowledge of others also having an opportunity for consideration provides the incentive to keep abreast of current technology changes and to manage business operations in a cost effective manner.

The canons of each profession addressed by the bill embrace and endorse the procedure proposed by the bill. Therefore unanimous support from the professions can be expected.

CITY POLICY

The City of Great Falls adopted a policy parallel to the proposed bill in December, 1986, (copy attached) to provide a similar guidance to all City Departments. Too many differing procedures were being utilized in procurement of professional services and the Professional Community was critical of the multitude of procedures. A committee comprised of the major professional groups and the City developed the Policy. Subsequently the City Commission adopted the Policy for implementation.

Submitted by:

Stewart Pearson, City Engineer  
January 29, 1987

ARCHITECTS/ENGINEERS SELECTION POLICY

CITY OF GREAT FALLS

DECEMBER 16, 1986

EXHIBIT \_\_\_\_\_  
DATE 1/5/87  
HB 310

PURPOSE:

To provide for a systematic procurement of Architect/Engineer Services and insure the best qualified talent is obtained to perform services for the public.

CATEGORIES:

Projects are classified according to the criteria of either being less than or more than \$10,000 compensation to the professional. Those projects with less than \$10,000 professional compensation shall be considered minor projects and those projects with more than \$10,000 of professional compensation shall be considered major projects.

ANNUAL FILING:

The City shall at the beginning of each year invite the filing of Standard Federal Government Form 254 from each firm wishing to be considered for major projects. All firms within the City that desire to be placed on the minor projects list should notify Technical Services of the Community Development Department of the classification for placement.

SERVICES PROCUREMENT PROCEDURE:

The Department requiring architecture and engineering services notifies the Community Development Department. Technical Services Division reviews funding and develops work description based on needs and funding. The project is classified as either a Minor or Major project and handled according to the following options.

MINOR PROJECTS

The City policy on Minor Projects is that they will be rotated among the firms that are qualified to perform the work. For purposes of classification the City initially establishes Architects, Engineers/Surveyors as the categories in which each firm can classify itself and only one listing per firm is allowed in the minor project category.

The first qualified firm will be contacted for a proposal, if agreement cannot be reached on compensation, the City will inform the first that negotiations are being discontinued and negotiations with the next qualified firm will begin. The process will continue until an agreement is reached. Firms awarded work will have their listing moved to the bottom of the list and those whose negotiations are discontinued will remain in their present position on the list.

MAJOR PROJECTS

The City Pre-Selection Committee will advertise for Federal Government Standard Form 254/255\* and/or a Statement of Interest, as determined necessary, to initially identify all firms to be considered for the project.

### Background Rating

Evaluation of services offered will be a two part process comprised of a Background and Interview Rating. The Background and Interview Ratings will each contain 50% of the total points of the ranking. The Background element of the ranking will contain, in addition to the Project Needs Criteria, elements for Local Business (LB), Previous Work (PW), and Project Familiarity (PF). The Pre-Selection Committee established the point assignments for the Project Needs Criteria and the LB, PW, and PF. LB can range between zero and fifteen (0 and 15) points whereas PW and PF can range between zero and ten (0 and 10) points. Interested consultants will be issued the Background Rating Criteria and point assignments prior to submittal of the 254/255\* forms.

From three (3) to seven (7) firms who will be selected for interview by the Pre-Selection Committee.

### Interview Rating

Prior to the interview an outline program, scope of services and proposed budget figure would be provided to the interviewee's along with the evaluation criteria and the points for each of the criteria. Notice will also be given of all interviewee's to all firms to be interviewed.

### Proposals

Total scores will be compiled from the background and interview rating to determine the firm ranking. The Department Director will review the ranking and establish a date for a final proposal. Technical Services will negotiate the final proposal and submit the proposal to the Director on the requested date. If a satisfactory proposal cannot be obtained from the top ranked firm, the second ranked firm will be contacted for a proposal.

Adopted: December 16, 1986

\* 255 will contain ten (10) years of historical projects instead of five (5) years.



WITNESS STATEMENT

EXHIBIT 6  
DATE 1/29/87  
HB 310

NAME Phil Porini BILL NO. HB 310  
ADDRESS 922 Maple DATE 1/29/87  
WHOM DO YOU REPRESENT? American Society of Civil Engineers  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Contact for additional information

442-3050 Office

442-8553 Home

EXHIBIT 6  
DATE 1/29/87  
HB 310

TESTIMONY HB-310  
BUSINESS AND LABOR COMMITTEE  
MONTANA HOUSE OF REPRESENTATIVES

-----  
JANUARY 29, 1987  
8:00 AM  
-----

INTRODUCTION by Phil Porrini, President of the Montana Section of the American Society of Civil Engineers.

The Montana Section of the American Society of Civil Engineers (ASCE) supports House Bill 310.

Our technical society is comprised of:  
over 400 members,

of which 35 percent are from the public sector (Federal, State and Local governments),

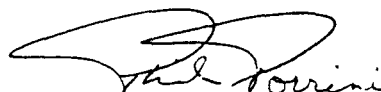
55 percent are from the private sector (Private industry and consultants),

and the remaining 10 percent are retired civil engineers and student members.

ASCE strongly endorses the concept of qualifications based selection of architectural, engineering, land surveying and landscape architectural services.

Thank you for your consideration of this legislation.

testimony.310



1/27/87  
Page 1 of 2

HOUSE BILL NO. 310

AMENDMENT NO. 1

Page No. 1, Line No. 23  
Following: "Subsection"  
Strike: "(8)"  
Insert: "(7)"

AMENDMENT NO. 2

Page No. 1, Line No. 23  
Following: "...as defined in subsection"  
Strike: "(5)"  
Insert: "(4)"

AMENDMENT NO. 3

Page No. 1, Line No. 24  
Following: "subsection"  
Strike: "(7)"  
Insert: "(6)"

AMENDMENT NO. 4

Page No. 3, Line No. 22  
Following: "--- the Agency"  
Strike: "Shall"  
Insert: "May"

AMENDMENT NO. 5

Page No. 4, Line No. 4  
Following: "Discussions with"  
Strike: "a minimum of three"  
Insert: "one or more"

AMENDMENT NO. 6

Page No. 4, Line No. 21  
Following: "--- for the agency."  
Add: "The agency shall follow the minimum criteria of [this act] in the event no other agency procedures are specifically adopted."

AMENDMENT NO. 7

Page No. 6, Line No. 3  
Following: "---to (this act)"  
Add: "SECTION 7. EXCEPTION (1) All agencies securing architectural, engineering, land surveying and landscape architectural services for projects for which the fees are estimated not to exceed \$5,000 may contract for such professional services by direct negotiation. (2) No agency shall separate service contracts or split or break projects for the purpose of circumventing the provisions of [this act]."

(Cont. HB 310)

AMENDMENT NO. 8

Page No. 6, Line No. 4  
Following: "Section"  
Strike: "7"  
Insert: "8"

AMENDMENT NO. 9

Page No. 6, Line No. 8  
Following: "Section"  
Strike: "8"  
Insert: "9"

AMENDMENT NO. 10

Page No. 6, Line No. 12  
Following: "Section"  
Strike: "9"  
Insert: "10"

AMENDMENT NO. 11

Page No. 6, Line No. 18  
Following: "Section"  
Strike: "10"  
Insert: "11"

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National Society of  
Professional Engineers  
1420 King St.  
Alexandria, VA 22314  
(703) 684-2881**

EXHIBIT 8

DATE 1/29/87

# MODEL COMPETITIVE

## PROCUREMENT PROCEDURE

For Professional  
Engineering and  
Land Surveying  
Services

For Local Government,  
Public Service and  
Institutional Entities

free from



Energy Division  
Capitol Station  
Helena, MT 59620

Montana Department of  
Natural Resources and Conservation



Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON HJR 8 BEFORE THE HOUSE BUSINESS AND LABOR COMMITTEE,  
JANUARY 29, 1987

-----

My name is Jim Murry and I am here today on behalf of the Montana State AFL-CIO to express our support for House Joint Resolution 8.

Mr. Chairman, Montana is subject to a virtual rail monopoly which is controlled by Burlington Northern. While HJR 8 does not have the force of law, we believe that it sends a positive and necessary message to the Interstate Commerce Commission. That message is: the legislature of Montana cares about the impact that BN rail-line sales have on grain and cattle producers, communities, businesses and workers.

BN has publicly expressed its intention to sell any or all of its trackage. In a July 1986 speech in Albuquerque, New Mexico, Darius Gaskins, chairman of Burlington Northern Railroad said, "any of you in the audience with extra change who always wanted to be a railroader, come see us. We may have a deal for you." As evidence of this desire, in 1986 the Burlington Northern sold more than 600 miles of track to four independent contractors, including 52 miles of track from Butte to Garrison. BN has also expressed interest in selling 600 miles of track from Laurel to Sandpoint, Idaho, as well as 700 miles of line from Billings to Denver.

Members of the Committee, Montanans have a right to know if BN is in the railroad business or the real estate business.

Because the ICC has no requirement to conduct hearings on rail-line sales, we are concerned about the lack of investigation into the effects of these sales. Our concerns are twofold. We are disturbed that certain railroad unions have charged that these rail-line sales are in name only. That is to say, the Burlington Northern may still effectively control the operations of these railroads once they are sold. The primary purpose of these sales then becomes the abrogation of union contractual agreements and the cutting of wages for railroad workers. These pay cuts will pose a significant hardship not only for these workers, but for communities all across Montana. Drastic wage reductions impact our local economies no less significantly than major plant closures.

Our second concern over rail-line divestiture is whether or not rail service will continue after the lines are sold. Our major industries such as agriculture, timber and mining, as well as mainstreet businesses depend on uninterrupted rail service to survive and prosper. Since BN has been reluctant to give any assurance that rail-line sales will not mean discontinuation of services, any future rail-line sales must not be made in haste.

Testimony of Jim Murry

-2-

HJR 8

Senator John Melcher has stated that he will introduce a bill calling for stiff Interstate Commerce Commission review of all future sales. We applaud Senator Melcher for his concern and we urge the rest of the Montana congressional delegation to join Senator Melcher in calling for investigations into all rail-line sales.

Montana's history parallels the emergence of rail service in the state, and our economic development was in large part created by railroads. In order to maximize profits and increase shipping of commodities, branch-lines were built into local communities. Now these communities, which are dependent on branch lines, are being abandoned as the BN finds it expedient to do so.

Mr. Chairman, Members of the Committee, let's make sure that rail-line sales are in the best interests of Montanans. We can prevent possible wage cuts, job losses and serious impacts on Montana businesses and communities by calling for strict review of all rail-line sales. Montana's history is one of being dominated and controlled by large out-of-state companies. It's time now to protect our interests and assure local communities that future rail-line sales by Burlington Northern will not result in abandonment.

We urge you to support HJR 8.



THE  
MY NAME IS JOE BRAND, I AM, MONTANA STATE DIRECTOR OF THE  
UNITED TRANSPORTATION UNION, RESIDING IN HELENA, MONTANA.

*HJR 8*  
I SUPPORT ~~THE~~ RESOLUTION BECAUSE IT IS A STEP IN THE  
DIRECTION THAT WILL PROVIDE RAIL SERVICES THAT ARE MUCH  
NEEDED IN THE STATE. IT WILL MAKE ACQUIRING CORPORATIONS  
RESPONSIBLE IN PROVIDING SERVICES TO THE CUSTOMERS.

IN CASE OF A DISASTER WHEN THEY ARE TRANSPORTING HAZARDOUS  
MATERIALS AND ANY DAMAGES THAT OCCUR SUCH AS FIRE OR  
BLOWING UP OR GASES THAT LEAKED AS HAPPENED IN BHOPAL  
INDIA, THE NEW CARRIER SHOULD BE RESPONSIBLE FINANCIALLY  
OR HAVE INSURANCE THAT WILL COVER SUCH CATASTROPHES.

IT SHOULD ALSO ALLOW NEW CARRIERS TO SHIP AND MAKE AGREEMENTS  
FARTHER THAN THE END TO END WHICH HAS IN THE PAST FORCED  
IT TO BE A CAPTIVE CARRIER. BY THIS I MEAN IF BURLINGTON  
NORTHERN SELLS BETWEEN ONE POINT AND ANOTHER THEY OWN  
BOTH END POINTS, AND THE NEW CARRIER IS AT THEIR MERCY.

LASTLY THE PROTECTION OF THE EMPLOYEES WHO ARE BEING UPROOTED  
SHOULD BE CONSIDERED. WHEN THE RAILROAD SUCH AS THE BURLINGTON  
NORTHERN, WHICH IS FINANCIALLY SOLVENT THEY OUGHT TO CONSIDER  
THOSE EMPLOYEES WHO PUT THEM WHERE THEY ARE TODAY, *create jobs in Mont. & provide more service*  
BY HAVING A COMPLETE STUDY OF ALL ASPECTS OF ANY SALE OR  
MERGER WILL A FINAL DECISION BE HELPFUL TO ALL *that are* ~~THE~~ AFFECTED.

THANK YOU. JOE BRAND

Representative Harry Fritz's resolution calling on the Interstate Commerce Commission to refrain from granting approval of proposed railroad divestitures without a complete study of the fiscal and environmental impact of such divestitures to include public hearings is in the State of Montana's best interest and deserves your support.

The ICC should delay approval of the sale of railroads until a study can provide the impact to citizens and public safety.

The following questions must be answered:

- I. Is the line segment for sale designated as a national defense route?
  - A. If so has the Pentagon been advised?
  - B. Will the purchaser guarantee levels of maintenance?
- II. Have environmental conditions been fully examined?
  - A. Has an Impact statement been filed and fully examined?
- III. Is the purchaser in possession of sufficient limits of liability to indemnify local governments in the event of a disaster?
  - A. One of the lines Burlington Northern has recently sold in this state handles some of the most hazardous material moved in the state (from Stauffer Chemical at Silver Bow) and I have not been able to determine that the new carrier is in possession of proper limits of liability.
- IV. What levels of business exist on the line segment without through traffic?
  - A. Are the levels of business sufficient to maintain the track to present standards without subsidy?
    1. The Montana Public Service Commission in a letter dated 12/10/86 stated that concerning the line sale from Sandpoint to Laurel: "There is more than a suspicion that car loadings generated on this line will be hard put to support its operation."

2

12(2)  
1/29/87  
HE HSB 8

U. Have studies been completed which would assure the ability of the purchaser to provide service, furnish cars, and guarantee payment of obligations such as wages, taxes, and damages associated with crossing accident.

Q. Port of Butte Manager Dick Monaghan in the January 14, 1987 Butte Standard stated that "some businesses including the petrochemical industry in Laurel and the forest products in Western Montana may both be contemplating a departure based partly on what happens to their rail service."

VI. Will the financial condition of the purchaser be made public record?

VII. Will the purchaser assume the liabilities of the existing carrier?

VIII. Will the purchaser be required to honor existing labor agreements?

*G. B. Mancoske*  
*U.T.U. Local 978*  
*Missoula, Montana*

# MISSOULA COUNTY

BOARD OF COUNTY COMMISSIONERS

• Missoula County Courthouse • Missoula, Montana 59802  
(406) 721-5700

EXHIBIT 11/1/87  
DATE 1/29/87  
HB HJR 8

BCC-87-013  
January 13, 1987

Heather Gradison, Chairman  
Interstate Commerce Commission  
Room 4115  
12th Street & Constitutional Avenue, N.W.  
Washington, D.C. 20423

Re: Possible Sale of Burlington Northern Mainline--Laurel, Montana to  
Sandpoint, Idaho

Dear Chairman Gradison:

There has been much speculation about the possible sale of the Burlington Northern Laurel to Sandpoint mainline. We are concerned that the interests of the people of Missoula might be hurt if the proposed sale is not reviewed by the Interstate Commerce Commission and other relevant authorities prior to its conclusion. Therefore, we request that to the extent you have authority to do so, you review the effect a change of carriers might have on the following:

1. Levels and frequency of service to Missoula and other communities along the line;
2. The possible effect on rates;
3. The ability of a new owner to maintain a profitable railroad;
4. The ability of a new owner to maintain a safe railroad;
5. The question of whether such a sale might increase competition or just reinforce the current Burlington Northern monopoly of service; and
6. That the new carrier has the ability to indemnify local government from any expense associated with derailment, hazardous material release or catastrophic event for which the new railroad may be held liable. Sufficient limits of liability must be maintained and the extent of such coverage disclosed.

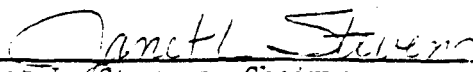
BCC-87-013  
January 13, 1987  
Page Two

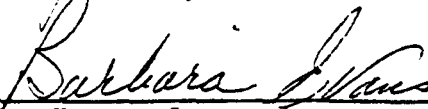
EXHIBIT 11(C)  
DATE 1/29/87  
HB HJR 8

Since the impact of the proposed transaction on the region has not been defined, the Board of County Commissioners of Missoula County requests that the Interstate Commerce Commission delay a license to operate pending a thorough study of the issues set forth above.

Sincerely,

MISSOULA BOARD OF COUNTY COMMISSIONERS

  
Janet L. Stevens, Chairwoman

  
Barbara Evans, Commissioner

  
Ann Mary Dussault, Commissioner

BCC/HS/lm

cc: Representative Pat Williams  
Senator Max Baucus  
Senator John Melcher  
Donald Shaw, Acting Deputy Director  
Rail Section, I.C.C.  
Ron Preston, Finance Officer  
City of Missoula  
R. L. Marceau, Chairman ✓  
U.T.U. Local # 978



**PUBLIC SERVICE COMMISSION**

2701 Prospect Avenue • Helena, Montana 59620  
Telephone: (406) 444-6165

EXHIBIT 11 (d)  
DATE 1/29/87  
HB HJR 8

Tom Monahan, Commissioner  
District 2

December 10, 1986

Donald Shaw  
Act. Dep. Dir., Rail Section  
Room 2144  
Interstate Commerce Commission  
12th & Constitution Ave., N.W.  
Washington, D.C. 20423

DEC 15 1986

Dear Mr. Shaw:

The Burlington Northern Railroad has announced that it is seeking to sell its main line from Laurel, Montana to Sandpoint, Idaho. In a recent meeting, Thomas Kraemer, BN Director of Interline Marketing, admitted to me, when I asked him about reports that the entire railroad is for sale, that anything is for sale for the right price. I will grant he went on to say that from a practical position the sale of BN is totally unlikely, but it is clear that BN's intent is to maximize profits without regard for service.

You will recall that last summer BN sold 70 miles of line from Butte, Montana to Garrison, Montana, referred to in my letter to you of August 27, 1986. My protest to you at that time was responded to by Jane Mackall of the ICC Office of Proceedings on October 10. Ms. Mackall pointed out that even had the ICC intended to regard the concerns of this Commission, railroad workers and people of the State of Montana, that transaction was "authorized to be consummated on August 20", substantially before the receipt of my letter. In order to avoid being forced to make another protest and appeal after the fact, I would like to be regarded as a party of record and to receive due notice of any proposed sale of any portion of BN's line in the future.

There is deep concern at this Commission regarding the viability of the Laurel to Sandpoint line as a short line. This is a line some 600 miles in length, through an extremely sparsely populated area of minimum industry. There is more than a suspicion that carloadings generated on this line will be hard put to support its operation. Because BN will retain control

"AN EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMITIVE ACTION EMPLOYER"

District 2 Counties:  
Big Horn  
Carbon

Carter  
Custer

Fallon  
Powder River

Rosebud  
Stillwater

Sweet Grass  
Treasure

Yellow

of its parallel northern main line, decisions to run through trains over the southern short line competitor or the northern BN owned main line will be made by BN alone. I would personally be most reluctant to enter into a business which depended entirely on the good will of a competitor.

De-regulation of the railroad industry is justified by the thought that, as Adam Smith put it, competition is the hidden hand of regulation. We have no railroad competition in Montana and no regulation. The 1776 Maryland revolutionary constitution commented on monopolies. It pointed out that "Monopolies are odious, contrary to the principles of a free government, and the principles of commerce." We in Montana echo that statement and ask, if we cannot have competition, we have regulation.

Sincerely,



Tom Monahan

cc: Jane F. Mackall  
Senator John Melcher  
Senator Max Baucus  
Representative Ron Marlenee  
Representative Pat Williams  
Joe Brand  
Jim Mular  
Tom Knutson  
Jim Murry

MISSOULA AREA TRADES & LABOR COUNCIL

Ravalli, Lake, Missoula, Mineral, Sanders Counties

Affiliated with the American Federation of Labor and  
Congress of Industrial Organizers

208 EAST MAIN ST. • 406/549-8122  
P.O. BOX 8122 • MISSOULA, MONTANA 59807

aircraft  printers

EXHIBIT 11(E)  
DATE 1/29/87  
HB HJR 8

December 19, 1986

Donald Shaw  
Act. Dep., Rail Section  
Room 2144  
Interstate Commerce Commission  
12th & Constitution Ave. N.W.  
Washington D.C. 20423

Dear Mr. Shaw:

The Missoula Area Trades and Labor Council is requesting that the sale of the former Northern Pacific Railroad from Sandpoint Idaho to Laurel Montana be delayed until a study is completed on the fiscal and environmental impact which would include public hearing concerning the regional impact.

Sincerely,

Louis Ball  
Secretary-Treasurer  
Missoula Area Trades and Labor Council



The Montana Standard, Butte, Wednesday, January 14, 1987

# Rail predictions get mixed reaction

By John McNay  
Standard Staff Writer

The transition Burlington Northern is currently going through, although painful for many, will ultimately benefit shippers in Montana and elsewhere.

At least that's what Tim Bickmore, BN director of operations, told a gathering of Delta Nu Alpha transportation fraternity Tuesday night at Butte's War Bonnet Inn. He said his comments reflect only his own opinion.

Not everyone agreed with his assessment, however, that the changes going on in BN's rail service are going to be beneficial to Montana.

Port of Montana Manager Dick Monaghan pointed to a news report that most of Montana's non-grain freight comes out of the southern line that BN is trying to sell — some 1.6 million tons of freight.

He said some of those businesses, including the petrochemical industry in Laurel and the forest products in western Montana, may both be contemplating a departure based partly on what happens to their rail service.

Another person wondered why, if there is such business and potential for more along the southern line, BN isn't more actively developing the market.

Bickmore maintained that shortlines, such as the Montana Western in Butte (the former BN line to Garrison) and Rarus in Anaconda, (the former Butte, Anaconda & Pacific line) can provide better service locally for small shippers.

The shortlines can reduce costs for smaller shippers, Bickmore said, particularly with regard to labor.

If the big railroads, like BN, can concentrate on maintaining their longhaul services at economical

rates, while the shortlines are going after the local shippers, community businesses will benefit, he said.

BN would have no reason at all to chase away any of Montana's industry, Bickmore said.

Some at the meeting jumped to his side.

Both John Greene of Montana Western and Howard Goodfellow, a retired Union Pacific freight agent, agreed that a shortline could create more business and bring better freight rates, particularly by using both the UP and the BN at Butte.

Bickmore also talked about other changes going on at BN, which he said have been spurred by the deregulation of the railroad industry in 1980.

Since then there has been a breakup of the BN's concentration of personnel in a large corporate headquarters. For years, that meant St. Paul, Minn.

The break up of the Billings division headquarters, Bickmore said, was part of the general move from a corporate operation to a regional operation.

Now BN's operations division is in Kansas City, its holding company in Seattle, and its marketing offices in Fort Worth, Tex., he said.

The move to more decentralized authority is likely to continue, he said, because those with decision making ability have to be in a position to make day-to-day, sometimes hourly, shipping decisions.

In the old days when the railroad was regulated, the ability to make quick decisions wasn't necessary since the rates were dictated by the Interstate Commerce Commission.

Although people might be able to point to incidents where it didn't seem true, overall, he said, some fierce competition is keeping rates down throughout the BN system.

## WITNESS STATEMENT

EXHIBIT 19  
DATE 1/29/87  
HB HJR 8NAME RICHARD LANTKEN BILL NO. HJR 8  
ADDRESS 122 LIVE ST. MISSOULA 59803 DATE 1-29-87  
WHOM DO YOU REPRESENT? BRAC (RAILWAY CARRIERS) MISSOULA LODGE #43  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

BRAC Lodge #43 supports this resolution as an effort to help the state of Montana get a handle on what is happening to the rail system and rail service in this state. ~~state.~~ We are convinced that branch and main-line sales, legitimate or not, like numerous other activities, rail carriers have undertaken lately, are not necessarily in the best interests of this state. What ~~is~~ might be in the best interests of one business, particularly a <sup>monopolistic</sup> utility, may not be in the best interests of other businesses — or for the general welfare of the people of Montana.

We need to be allowed the opportunity to ascertain the difference.

## COMMITTEE

DATE January 29, 1987

SPONSOR Rep. Nancy A. Keenan

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## COMMITTEE

DATE January 29, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## BUSINESS AND LABOR

DATE January 29, 1987

CS-33

## COMMITTEE

DATE January 29, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## COMMITTEE

DATE January 29, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 310DATE January 29, 1987SPONSOR Rep. Les Kitselman

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JERRY PETERSON	GREAT FALLS	X	
Stu Pearson	" "	X	
JAMES B. CARPITA	HAMILTON	X	
PHIL PORRINI	HELENA	X	
John Morrison Jr	Helena	X	
AS Hanson	Bill	X	
Marty Curren	Helena	X	
Gordon Morris	MACO	X	
Jim Whaley	HELENA	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.