

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAY AND TRANSPORTATION

Call to Order: By CHAIRMAN TVEIT, on January 12, 1989, at 1:00 p.m. in Room 410 of the State Capitol.

ROLL CALL

Members Present: SENATORS: Larry Tveit, Darryl Meyer, Hubert Abrams, William Farrell, Cecial Weeding, Jerry Noble, Lawrence Stimatz, John Harp, Bob Williams

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council

Announcements/Discussion: CHAIRMAN TVEIT informed Committee Members that Bill Gosnell, Executive Assistant of the Highway Department was asked to attend the hearings on SB 59 and SB 61.

HEARING ON SENATE BILL 59

Presentation and Opening Statement by Sponsor:

SENATOR BECK, District 24, stated that this bill would delete the requirement that the sale of highway equipment be by auction and sealed bid and to verify the disposition of the proceeds from the sale of the highway property equipment, amending sections 18-6-103. He explained that it is simply asking that the Department of Administration be allowed to sell highway equipment not just by sealed bids, but by the same means used for the disposal of state property. This would allow them to do that by garage sales or donee bulletin sales, and set prices on vehicles. It gives the Department of Administration some options on how to sell the highway equipment, as well as save the Department some money.
See EXHIBIT 1.

List of Testifying Proponents and What Group they Represent:

Marvin Eicholtz, Administrator of the Department of Administration

Terri Howell, Bureau Chief of the Property and Supply Bureau
in the Department of Administration
Bruce Barrett, Chief of the Equipment Bureau, Highway Dept.

List of Testifying Opponents and What Group They Represent:
None

Testimony:

MARVIN EICHOLTZ, Administrator of the Department of Administration explained that the bill is a house-keeping bill. It would allow the sale of equipment with posted prices. The ways of doing that are through garage sales, donee bulletins, auction sales and sealed bids. Auction sales are only used when the amount of the equipment exceeds \$400,000.

Questions From Committee Members: SENATOR WEEDING asked about the donee bulletins.

MARVIN EICHOLTZ explained that they send out bulletins to all the people who are eligible to be recipients of surplus property, i.e. cities, towns, non profit organizations, and school districts.

SENATOR WILLIAMS asked if the price stays the same with the donee bulletin.

MARVIN EICHOLTZ stated that it is a posting price option and if it does not sell, they then move it to the garage sale method.

TERRI HOWELL, Bureau Chief, Property and Supply Bureau of the Department of Administration stated that it gives them the option to not only leave it in the location that it is at and sell it, but also the option to sell it to the counties without having to bid it. Usually with the cities, counties, and school districts the heavy equipment is put on a separate bid solicitation and allow them to bid on set minimum prices.

BRUCE BARRETT, Chief of the Equipment Bureau of the Highway Department stated that he sees no problem with the bill.

SENATOR STIMATZ asked how they prevent someone in the Highway Department from selling a choice car to someone else, and whether there are laws to cover that.

BRUCE BARRETT stated that all surplus property has to go through the Property Supply Bureau.

Closing by Sponsor: SENATOR HARP announced the hearing on Senate Bill 61 to be closed.

DISPOSITION OF SENATE BILL 59

Discussion: None

Amendments and Votes: None

Recommendation and Vote: SENATOR WEEDING MOVED that SENATE BILL 61 DO PASS.

MOTION CARRIED UNANIMOUSLY.

HEARING ON SENATE BILL 61

Presentation and Opening Statement by Sponsor:

SENATOR HARP, District 4 stated that the bill is a one-page repealer to clean up the statutes. See EXHIBIT 2. There are two sections of law, 2-9-602 and 60-2-102, both require a ten thousand dollar bond. This will repeal the section 60-2-102.

List of Testifying Proponents and What Group they Represent:

Bill Gosnell, Executive Assistant, Department of Highways.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

BILL GOSNELL explained that this repeal came as result from their last legislative audit.

Questions From Committee Members: SENATOR STIMATZ asked if a Highway Commission member is considered an officer of the state.

BILL GOSNELL stated that a member is an officer of the state.

SENATOR NOBLE requested how many house-keeping bills the Department of Highway will have.

BILL GOSNELL said they have seven bills identified to bring in at the request of the Department of Highways. Three of them are the result of audits, two are a result of change of Federal law, and the other two will deal with excess property.

Closing by Sponsor: None

DISPOSITION OF SENATE BILL 61

Discussion: None

Amendments and Votes: None

Recommendation and Vote: SENATOR WILLIAMS MOVED that SENATE BILL 59 DO PASS.

MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 1:20 p.m.



SENATOR LARRY TVEIT, Chairman

LT/PB

SENMIN.112

ROLL CALL

HIGHWAY COMMITTEE

DATE January 12, 1989

51st
LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
CHAIRMAN TVEIT	✓		
VICE CHAIRMAN MEYER	✓		
SENATOR ABRAMS	✓		
SENATOR FARRELL	✓		
SENATOR WEEDING	✓		
SENATOR NOBLE	✓		
SENATOR ^{T.W.} STIMATZ	✓		
SENATOR HARP	✓		
SENATOR WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 12, 1989

MR. PRESIDENT:

We, your committee on Highways and Transportation, having had under consideration SB 59 (first reading copy -- white), respectfully report that SB 59 do pass.

DO PASS

Signed: *Larry J. Tveit*

Larry J. Tveit, Chairman

*Y.C.
11/31/89
8:40 A.M.*

STANDING COMMITTEE REPORT

January 12, 1989

MR. PRESIDENT:

We, your committee on Highways and Transportation, having had under consideration SB 61 (first reading copy -- white), respectfully report that SB 61 do pass.

DO PASS

Signed: *Larry J. Tveit*
Larry J. Tveit, Chairman

*Y.C.
1/13/89
8:40 AM*

SENATE HIGHWAYS

EXHIBIT NO. 1

DATE 1-12-89

BILL NO. 59

MCA Sections Cited

January 12, 1989

Senate Bill 59:

18-6-103. Highway equipment by bid. All sales of highway equipment shall be by public auction or sealed bids, and all proceeds received by the department from the sale of all material, supplies, equipment, and all other personal property of the department of highways shall be placed in the highway account of the state special revenue fund or in the appropriate enterprise or internal service fund account.

Senate Bill 61 (proposed for repeal):

60-2-102. Member's bond. Each member of the highway commission shall give bond conditioned for the faithful performance of his duties in the sum of \$10,000.

60-2-302. Repealed.

60-2-303. Cooperation in use of ports of entry and checking stations.

60-2-304 through 60-2-310 reserved.

60-2-311. Interstate agreements for tax and fee collection and port operation.

Chapter Cross-References

General obligation highway bonds, Title 17, ch. 5, part 5.

Highway revenue bonds, Title 17, ch. 5, part 9.

Highway Patrol retirement, Title 19, ch. 6.

Conditional granting of use of highways to nonresidents, 25-3-601.

No road construction through cemetery, 35-20-217.

Public thoroughfare or utility through dedicated property prohibited — consent, 35-21-409.

Highway Patrol, Title 44, ch. 1.

Part 1

Highway Commission

Part Cross-References

Department of Highways, Title 2, ch. 15, part 25.

Highway Commission — membership and districts, 2-15-2502.

Public contractor's fees and tax, Title 15, ch. 50.

Establishment of special speed limits, 61-8-309, 61-8-310, 61-8-313.

60-2-101. Repealed. Sec. 1, Ch. 247, L. 1985.

History: En. Sec. 4-104, Ch. 197, L. 1965; amd. Sec. 73, Ch. 316, L. 1974; R.C.M. 1947, 32-2404(2).

60-2-102. Member's bond. Each member of the highway commission shall give bond conditioned for the faithful performance of his duties in the sum of \$10,000.

History: En. Sec. 4-104, Ch. 197, L. 1965; amd. Sec. 73, Ch. 316, L. 1974; R.C.M. 1947, 32-2404(1).

Cross-References

Officers and employees to be bonded — coverage, form, amount, 2-9-602.

Suretyship, Title 28, ch. 11, part 4.

60-2-103. Rules. The commission may adopt rules necessary for its government.

History: En. Sec. 4-109, Ch. 197, L. 1965; amd. Sec. 11, Ch. 93, L. 1969; amd. Sec. 77, Ch. 316, L. 1974; R.C.M. 1947, 32-2409(1).

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

60-2-104. Designation of federal-aid highways. (1) The commission shall designate such public highways in the state as shall be classed as the federal-aid primary system.

(2) The commission shall, in cooperation with the board of county commissioners, select such public highways in the state as shall be classed as the federal-aid secondary system, taking into consideration the traffic count on those highways, the continuity of the highways in relation to the state highway systems as they may connect or tie into a unified system of federal-aid highways, and the taxable valuations which are affected by those public highways.

more of such defendants, for the amount the owner thereof is or may be liable upon the judgment, from the filing of this certificate.

(3) In any action to compel the specific performance of an agreement to sell real estate affected by the lien created by the filing of the certificate mentioned in subsection (2) which agreement was made prior to the filing of such certificate, but the purchase price thereof is not due until after the filing of said certificate, the judge of the district court in which said action for specific performance is tried must, if the purchaser is otherwise entitled to specific performance of such agreement, order the said purchaser to pay the purchase price, or so much thereof as may be due, to the state treasurer, taking his receipt therefor. Upon such payment, the purchaser is entitled to enforce the specific performance of the agreement and take said real estate free from the liens created by the filing of said certificate. The moneys so paid to the state treasurer must be held by him, pending the litigation mentioned in said certificate and subject to the lien created by the filing of said certificate. If judgment is recovered against the defendant, the state treasurer in his settlement must pay to the county treasurer entitled to the same the amount due the county.

History: (1)En. Sec. 1086, Pol. C. 1895; re-en. Sec. 414, Rev. C. 1907; re-en. Sec. 505, R.C.M. 1921; Cal. Pol. C. Sec. 983; re-en. Sec. 505, R.C.M. 1935; Sec. 6-333, R.C.M. 1947; (2)En. Sec. 1087, Pol. C. 1895; re-en. Sec. 415, Rev. C. 1907; re-en. Sec. 506, R.C.M. 1921; Cal. Pol. C. Sec. 984; re-en. Sec. 506, R.C.M. 1935; Sec. 6-334, R.C.M. 1947; (3)En. Sec. 1090, Pol. C. 1895; re-en. Sec. 418, Rev. C. 1907; re-en. Sec. 509, R.C.M. 1921; Cal. Pol. C. Sec. 987; re-en. Sec. 509, R.C.M. 1935; Sec. 6-337, R.C.M. 1947; R.C.M. 1947, 6-333, 6-334, 6-337.

Cross-References

Judgment liens, 25-9-301.

Part 6

Bonds of State Officers and Employees

Part Cross-References

Guaranty, indemnity, and suretyship, Title 28, ch. 11.

Suretyship, Title 33, ch. 26.

2-9-601. Definition. As used in this part, the term "state officers and employees" does not include notaries public, supreme court justices, district court judges, or members and employees of the legislature.

History: En. Sec. 1, Ch. 177, L. 1965; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 6-105(part).

2-9-602. Officers and employees to be bonded — coverage, form, amount. (1) All state officers and employees shall be bonded.

(2) A bond may cover an individual officer or employee or group of officers and employees. The form of all bonds shall be prescribed by the department of administration, subject to the approval of the attorney general.

(3) Before determining the amount for which a state officer or employee shall be bonded, the department of administration shall consult with the head of the institution or agency involved and the head of the agency responsible for the examination or post auditing of state agencies. The amount for which

a state officer or employee shall be bonded shall be based on the amount of money or property handled and the opportunity for defalcation.

History: (1), (2)En. Sec. 1, Ch. 177, L. 1965; amd. Sec. 98, Ch. 326, L. 1974; Sec. 6-105, R.C.M. 1947; (3)En. Sec. 2, Ch. 177, L. 1965; amd. Sec. 1, Ch. 326, L. 1974; Sec. 6-106, R.C.M. 1947; R.C.M. 1947, 6-105(part), 6-106(part).

2-9-603. Purchase. (1) The department of administration shall purchase all surety bonds for state officers and employees.

(2) All bonds shall be purchased by competitive bid.

(3) Bonds purchased by the department of administration shall be executed by responsible insurance or surety companies admitted and authorized to execute surety bonds in this state.

History: (1)En. Sec. 1, Ch. 177, L. 1965; amd. Sec. 98, Ch. 326, L. 1974; Sec. 6-105, R.C.M. 1947; (2)En. Sec. 2, Ch. 177, L. 1965; amd. Sec. 1, Ch. 326, L. 1974; Sec. 6-106, R.C.M. 1947; (3)En. Sec. 3, Ch. 177, L. 1965; amd. Sec. 98, Ch. 326, L. 1974; Sec. 6-107, R.C.M. 1947; R.C.M. 1947, 6-105(part), 6-106(part), 6-107.

2-9-604. Proration of bond premiums. (1) The department of administration shall prorate the premiums for bonds covering more than one state agency or institution among the state agencies and institutions whose officers and employees are covered. Such proration shall be based on the risk of bonding the officers and employees of each agency or institution.

(2) The department of administration shall order payment of the prorated amount from moneys which are available to such agencies or institutions for the payment of general administrative expenses.

History: En. Sec. 4, Ch. 177, L. 1965; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 6-108.

Part 7

Bonds of County Officers and Employees

2-9-701. County officers and employees to be bonded — form — conditions of group bonds. (1) All elected and appointed county officers and employees shall be bonded.

(2) The form of bonds for county officers and employees must be approved by the county attorney and filed and recorded in the office of the county clerk and recorder.

(3) A bond may cover an individual officer or employee, or a blanket bond may cover all officers and employees or any group or combination of county officers and employees.

(4) All official bonds covering a group of county officers or employees shall be made upon the same conditions as are required of a principal under subsections (1) through (3) of 2-9-504, except that the bond need not be signed by each officer or employee.

History: En. Secs. 1, 2, 6, 7, Ch. 68, L. 1967; R.C.M. 1947, 6-203(part), 6-204(part), 6-208, 6-209.

2-9-702. Amount. (1) The amount for which a county officer or employee shall be bonded shall be based on the amount of money or property handled and the opportunity for defalcation.

(2) The amount for which a county officer or employer or group of officers or employees shall be bonded is subject to the supervision of the department of commerce. If the department of commerce determines that the

