

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By Chairman Severson, on March 7, 1989, at 1:30 p.m. in Room 402 at the State Capitol.

ROLL CALL

Members Present: Sen. Elmer Severson, Sen. John Anderson, Jr., Sen. Judy Jacobson, Sen. Al Bishop, Sen. Paul Rapp-Svrcek, Sen. Loren Jenkins.

Members Excused: None

Members Absent: Sen. Bill Yellowtail

Staff Present: Andrea Merrill, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 426

Presentation and Opening Statement by Sponsor: Rep. Wallin stated that this is a simple bill and went through the House with no trouble.

List of Testifying Proponents and What Group they Represent:

Ron Marcoux, Department of Fish, Wildlife & Parks

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Mr. Marcoux left his testimony. See Exhibit #1.

Questions From Committee Members: None

Closing by Sponsor: Rep. Wallin thanked the committee for hearing the bill

HEARING ON HOUSE BILL 307

Presentation and Opening Statement by Sponsor: Rep. Bob Hoffman stated that this bill involves the election of the Board of Outfitters and the Montana Outfitters

Council. It involves the nominees for these boards. Under the present laws the nominees must be selected in an annual meeting. It must be held in March or April. Many of the fishermen outfitters in my district asked me to present this bill because this method of nomination is not accepted by them. The timing is wrong because they are out of state soliciting their work for the coming season. This bill asks that the nominations are done by registered mail.

List of Testifying Proponents and What Group they Represent:

Jack Hutchison, Executive Director of FFOAM  
Allen Gadoury, Bd. of Directors of Fishing Outfitters  
Dennis Kavanagh, Representing Self  
Jerry Strong, Outfitter  
Stan Bradshaw, Float Fishing Outfitters Assoc. of MT  
Paul S. Roos, Outfitter  
David L. Kumlien, Montana Troutfitters Orvis Shop

List of Testifying Opponents and What Group They Represent:

Max Chase, Representing Self  
Smoke Elser, Montana Outfitters & Guides Assoc.  
Ron Curtiss, Board of Outfitters

Testimony:

Jack Hutchison left his testimony. See Exhibit #2.

Allen Gadoury stated that he is in support of this bill and urged a do pass. He has never been able to attend these elections and gets calls from 15 other outfitters who are also unable to attend. They asked him to take proxies and he was never able to find someone who could do that.

Dennis Kavanagh stated he outfits for fishermen, bird hunters and game hunters. He is not able to attend the elections and urges a do pass on this bill. It is important for everyone to have an opportunity.

Jerry Strong stated there is no reason for anyone to be excluded from voting. I had to drive from Helena to Missoula and back. That is expensive and time consuming when it only took me two minutes to vote. I urge a do pass.

Stan Bradshaw left his testimony. See Exhibit #3.

Paul S. Roos left his testimony. See Exhibit #4.

Max Chase stated he has had experience outfitting for 25 years. During that 25 years he discovered that people in the city don't like outfitters. Over the last two years there has been a lot of effort to upgrade the quality of outfitting in Montana. The upgrading effect is protecting the general public. We need to let the public know that we, the outfitters, are electing qualified persons to lead us in a positive direction. Public meetings for elections allow for the necessary communication and understanding of the nominees and voters. Please oppose this bill.

Smoke Elser left his testimony. See Exhibit #5.

David L. Kumlien, left his testimony. See Exhibit #6.

Ron Curtiss stated he opposes this bill. He is happy with the present system. We use the Roberts Rules of Order. We vote for two nominees, count the votes and we elect the nominee who gets a majority of the votes cast. We then have an opportunity for the present board member to give a report on what the board has been doing and how it has effected the industry. Then the new nominees give their input. This is a good exchange of information. The Board does not have opposition to a mail-in ballot. We are opposed to the way this is set up. The law doesn't specify a nomination process. With this kind of process someone could be elected with as few as two votes. There would not be a majority of votes cast for any individual. We could very likely, in this case, elect people who wouldn't want the job. This will cause a division between two groups of outfitters who need to work together.

Questions From Committee Members: Sen. Rapp-Svrcek told Smoke Elser that his constituents tell him they are out of state booking clients during this time of year, and this process is a mess for them. But you are saying that is not a valid complaint. Surely you understand the problem. Why can't we accommodate them? Mr. Elser stated that they are also booking clients at this time of year. But, we make sure we have the opportunity to represent our industry and take a day off to vote. In this way we can ask the person who has been nominated the right kind of questions so that we know our representation will be accurate and correct.

Sen. Rapp-Svrcek asked Mr. Elser about voting by proxy. If you are capable of doing that when you are not able to attend, why shouldn't we allow these folks to go through the same process that you went through in order to vote by mail? Mr. Elser stated that they could, but

will they, is the point. When you go to a public meeting you are already setting your time aside to go over and find out what the issues really are. I had to do the same thing when I sent in my proxy. In an election by proxy you elect the "good ole boy" instead of the man who can do the job.

- Sen. Jenkins asked Stan Bradshaw if the Glasgow and Great Falls elections are legal. Mr. Bradshaw said he assumed they are.
- Sen. Jenkins asked Jack Hutchison about the dates of the fishing shows. Mr. Hutchison said they are done during the season as well as before in February and March. There are a lot of people who couldn't come to Helena to testify for this bill because they are at those shows.
- Sen. Jenkins asked Ron Curtiss about the Bd. of Outfitters. Mr. Curtiss stated that all outfitters are under the Board. The hunting outfitters feel they need the Board more than the floating outfitters. When the first five members were elected to the Board there were three floating outfitters nominated.
- Sen. Jacobson asked Ron Curtiss about the board of fish and game that he had before last session. How were those people appointed? Mr. Curtiss stated that they were elected by the members in the districts. There were no appointments by the governor. Sen. Jacobson stated that this is the first time she had seen a list of names to be sent to the governor for the nominating process. I think outfitters can submit names to the governor the same way other groups do. Mr. Curtiss stated that the outfitters wanted that process so that they could give the governor some input into that. If that isn't a workable situation we need to go to something else. The Board of Outfitters is the only one that elects the people the governor appoints. If this is a cumbersome process then maybe we should just go to appointments.
- Sen. Bishop asked Mr. Curtiss how many float fishing only outfitters are there. Mr. Curtiss said that there are around 600 outfitters altogether. About 100 of those are only float fishing. There are 269 that do float fishing but 169 of them also do hunting.
- Sen. Bishop asked Jack Hutchison if there are any districts where there is more float fishing outfitters than there are big game outfitters. Mr. Hutchison stated that in District #2 there are more float fishing outfitters.

Sen. Severson asked Mr. Hutchison if there could be a compromise for a better date for an annual meeting. Mr. Hutchison stated that the date isn't the problem. It is whether or not you can make it. If I can't get there and you change the date and I still can't get there, you haven't helped me vote.

Sen. Bishop asked Mr. Hutchison where you go for the outfitters shows. He stated there are shows in Seattle, Denver, Los Angeles, Sacramento, Portland and many in the East.

Closing by Sponsor: Rep. Hoffman thanked the committee for hearing the bill.

DISPOSITION OF HOUSE BILL 426

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Sen. Jenkins moved to pass the bill. It was passed on a voice vote with Sen. Yellowtail absent. BE CONCURRED IN.

EXECUTIVE SESSION ON HOUSE BILL 307

Discussion: There was some discussion and Sen. Jacobson suggested creating an amendment. The bill was not acted upon.

ADJOURNMENT

Adjournment At: 2:30 p.m.

  
ELMER D. SEVERSON, Chairman

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SENATE STANDING COMMITTEE REPORT

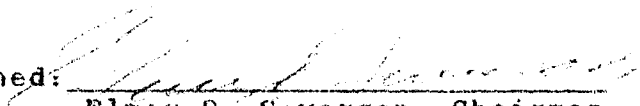
March 8, 1989

MR. PRESIDENT:

We, your committee on Fish and Game, having had under consideration HB 426 (third reading copy -- blue), respectfully report that HB 426 be concurred in.

Sponsor: Wallin (Bishop)

BE CONCURRED IN

Signed: 

Elmer D. Severson, Chairman

3-8-89  
10:45  
29

HB 426  
March 7, 1989

Testimony presented by Ron Marcoux, Department of Fish, Wildlife & Parks

The Department of Fish, Wildlife & Parks supports HB 426. Although the department had reservations about the implications relative to the taking of migratory game birds for avicultural purposes, the impact on the resource and the department has been minimal for the years the law has been in effect. We have issued four permits to date, all to the same individual. That individual has collected the following:

- 6 Common mergansers
- 5 Harlequin eggs
- 4 Harlequin downy young for avicultural purposes.

Under this statute, all captured waterfowl remain the property of the state and may be disposed of as authorized by the department. The offspring become private property and may be used for commercial purposes.

SENATE FISH AND GAME  
EXHIBIT NO. 1  
DATE March 7, 1989  
BILL NO. HB 426



SENATE FISH AND GAME

EXHIBIT NO. 2

DATE March 7, 1989

BILL NO. HB 307

HB 307-----AN EQUAL RIGHTS BILL

JACK D HUTCHISON  
EXEC DIR  
FFOAM

2-15-1883 (b) PROVIDES FOR THE SELECTION OF THE NAMES OF TWO NOMINEES FOR THE BOARD OF OUTFITTERS. THESE NOMINEES ARE THEN TO BE SUBMITTED TO THE GOVERNOR, ONE OF WHICH TO BE APPOINTED BY HIM TO THE BOARD. IT REQUIRES THAT IN ORDER TO PARTICIPATE IN THE SELECTION PROCESS FOR THE ABOVE NOMINEES AN OUTFITTER MUST ATTEND A MEETING AT A TIME AND PLACE DETERMINED BY THE BOARD OR GIVE HIS/HER VOTE TO A PERSON THAT WILL BE ATTENDING THE MEETING.

CURRENT LAW

2-15-1883 (b) DOES NOT ALLOW FOR EQUAL OPPORTUNITY FOR ALL TO VOTE. TIME, DISTANCE, OTHER OBLIGATIONS (I.E. WORK, ATTENDANCE AT SHOWS, OR THE WILLINGNESS TO GIVE YOUR RIGHT TO VOTE TO ANOTHER), ARE ALL OBSTACLES TO THE FREEDOM TO EXERCISE THE RIGHT TO VOTE.

PROBLEMS

A NEW POLL TAX

THE CURRENT PROCESS IS MUCH LIKE THE POLL TAX OF OLD. EVERY ONE CAN VOTE, THEY JUST HAVE TO BE ABLE TO AFFORD THE PRIVILEGE. THE EXPENSE (TAX) IN THE CURRENT LAW IS TIME, DISTANCE AND/OR COST IN LOST WAGES OR THE CLOSED BUSINESS. LIKE THE POLL TAX IT LIMITS PARTICIPATION. IN THE SELECTION OF THE CURRENT BOARD: LESS THAN 40% OF THE OUTFITTERS WERE ABLE TO VOTE. IN AT LEAST ONE CASE LESS THAN 30% OF THOSE ELIGIBLE TO VOTE WERE REPRESENTED. 15% CONTROLLED THE ELECTION. THE REASON FOR THIS LOW NUMBER WAS NOT LACK OF INTEREST, IT WAS THE ABSENCE OF EQUAL OPPORTUNITY. FOR SOME THE PROCESS INVOLVES A 200 MILE TRIP WHILE FOR OTHERS IT IS JUST A WALK ACROSS THE STREET.

RESTRICTS PARTICIPATION

low as 9%  
this year

NO OTHER REGULATORY BOARD IS PICKED BY THEIR CONSTITUENCY. THEREFORE, IT IS IMPERATIVE THAT EVERY EFFORT BE MADE TO ASSURE THAT ALL ELIGIBLE OUTFITTERS ARE GIVEN AN EQUAL OPPORTUNITY TO PARTICIPATE IN THE SELECTION PROCESS. HB 307 ACCOMPLISHES THIS GOAL.

EQUAL OPPORTUNITY

OPPOSITION

THE BOARD OF OUTFITTERS HAS INFORMED ME THAT THEY ARE AGAINST HB 307. THEY HAVE ASKED FOR A MODIFICATION OF THE BILL TO PROVIDE FOR THE NOMINATION OF THE CANDIDATES FOR THE NOMINEE STATUS TO BE HELD AT A TIME AND PLACE DETERMINED BY THE BOARD. THE REASON FOR NOT ACCEPTING THIS SUGGESTION IS OBVIOUS. THIS WOULD ONLY SERVE TO BRING US BACK TO THE CONDITIONS OF THE EXISTING LAW. THERE ARE NOT SO MANY OUTFITTERS IN ANY ONE DISTRICT THAT AN INDIVIDUAL WANTING TO BE ONE OF THE NOMINEES COULD NOT CONTACT THEM AND SOLICIT THEIR VOTE. THE PROSPECTIVE NOMINEE COULD EASILY PRESENT HIS/HER QUALIFICATIONS FOR THE POSITION VIA MAIL OR TELEPHONE.

NEW METHOD

SUMMARY

HB 307 WOULD RESULT IN A NET SAVINGS TO THE DEPARTMENT OF COMMERCE BY HAVING THE COST OF MAILINGS OFFSET BY THE ELIMINATION OF THE DISTRICT MEETINGS FOR THE PURPOSE OF VOTING FOR THE NOMINEES.

HB 307 PROVIDES AN EQUAL OPPORTUNITY FOR ALL TO VOTE. IT REDUCES COST. ABSENTEE BALLOTS ARE ROUTINE IN ALL ELECTION PROCESSES. IT IS AN ELECTION PROCEDURE FOR SELECTING NOMINEES FOR A POSITION. THE GOVERNOR APPOINTS ONE OF THE NOMINEES.

HOUSE BILL 307

Testimony of Stan Bradshaw  
March 7, 1989

Mr. Chairman and members of the committee, my name is Stan Bradshaw. I am testifying on behalf of the Float Fishing Outfitters Association of Montana (FFOAM) in support of H.B. 307.

Under the current law, the Board of Outfitters, which is responsible for regulating the outfitting industry, is selected by a series of elections held in each of five districts in which the outfitters elect two nominees for the governor's consideration. On the day the election is held, the outfitters must appear at the designated place and cast their ballot.

Each district is quite large, and in some instances, outfitters may face a round trip of 200 to 300 miles to cast their ballot. As a result, the turn out for the vote has been quite low. For example, the elections which were held this past weekend in Glasgow and Great Falls provided a graphic illustration of the failure of this system - in Glasgow, four of a possible twenty-one outfitters appeared for the election; In Great Falls, five out some fifty-plus possible outfitters appeared to vote.

H.B. 307 simply changes the method of balloting to require that balloting be done by mail. The underlying intent of this bill is simply to improve the accessibility of the electoral process to outfitters. On an issue as fundamental to the outfitting business as the election of the board which oversees the licensing of outfitters, it seems only fair to make the balloting process as accessible as possible.

Therefore, I respectfully urge you to vote for the passage of H.B. 307.

SENATE FISH AND GAME  
EXHIBIT NO. 3  
DATE March 7, 1989  
BILL NO. H.B. 307

TESTIMONY IN SUPPORT  
by Paul S. Roos

HB 307

Senate Fish and Game Committee  
Senator Elmer Severson, Chair

HB 307, if passed, would allow for a fair election of representatives to the Board of Outfitters and the Montana Outfitters' Council.

As it is set up now, it is unfair due to the fact that the timeliness and location of election meetings by their very nature exclude large numbers of outfitters to have a voice in who will serve.

In the last election I personally gave up a day of work and travelled 400 miles round trip in order to participate in the election process. Many outfitters could not go to the extremes I did.

Conducting elections for the controlling body of outfitters in a meeting process in far away places is not any more fair than it would be for us to conduct our general elections in that manner.

I urge your support of HB 307. Thank you.

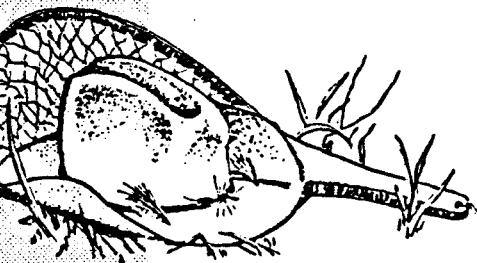
SENATE FISH AND GAME

EXHIBIT NO. 4

DATE March 7, 1989

BILL NO. HB 307

PAUL ROOS  
OUTFITTERS





Arnold "Smoke" Elser,  
President

3800 Rattlesnake Drive  
Missoula, MT 59802  
(406) 549-2820

MONTANA OUTFITTER & GUIDE'S ASSOCIATION  
TESTIMONY OPPOSING HOUSE BILL 307

Our Association opposes House Bill 307 because it will help destroy the professionalism of this important industry. An outfitter should have the integrity and professionalism to personally attend a public meeting to inform himself of the platform and question the nominees that control his industry. These elected Montana Outfitter Board members will lead our industry into the 21st century and each professional outfitter must make an informed, intelligent decision on who will make up this board. A mail-in ballot destroys a major democratic right that all voters have and that is to hear both sides of an issue or the platform of candidates who run for elected office. Please don't let the members of this important industry passively elect by a mail-in ballot their Montana Outfitter Board.

Please give House Bill 307 a do not pass vote.

*Arnold "Smoke" Elser,  
President M.O.G.A.*

SENATE FISH AND GAME  
EXHIBIT NO. 5  
DATE March 7, 1989  
BILL NO. HB307



DAVID L. KUMLIEN, Proprietor

1716 WEST MAIN STREET • BOZEMAN, MONTANA 59715 • (406) 587-4707

March 7, 1989

To: Senate Fish and Game Committee  
Re: HB #307

Dear Sirs,

I own and operate Montana Troutfitters Orvis Shop, a fly fishing specialty shop and fly fishing guide service, in Bozeman. Due to my responsibilities at my business, I am unable to attend the Outfitter Council elections. The elections are held in the spring, and I am often out of town attending sportsman's shows promoting my guide service, guiding, or working in my retail shop.

I would ask your support for HB #307 which would allow me to vote by absentee or mail in ballot. I feel that allowing absentee or mail in voting is in following with most democratic electoral procedures and is even allowed in the election of President of the United States! I strongly urge your support of this measure.

Sincerely,

*David L. Kumlien*

David L. Kumlien  
Owner, Montana Troutfitters Orvis Shop  
Bozeman, Montana

SENATE FISH AND GAME

EXHIBIT NO. 6

DATE March 7, 1989

BILL NO. HB307

