

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Vice Chairman Sam Hofman, on March 8, 1989,
at 10:00 a.m., Room 331, Capitol.

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John
Anderson, Jr., Senator Esther Bengtson,
Senator Ethel Harding, Senator Sam Hofman,
Senator Paul Rapp-Svrcek, Senator Tom
Rasmussen, Senator Eleanor Vaughn

Members Excused: Senator William E. Farrell

Members Absent: None

Staff Present: Eddy McClure

HEARING ON HB 68

Presentation and Opening Statement by Sponsor:

Representative Stella Jean Hansen stated this is a bill that was heard in local government, noting it is a simple bill. She indicated they asked that the audit reports be changed from 3 to 5 years, and that the committee amended it back to 3, with a 2 year option, so local governments could choose how they wanted to negotiate the contract. She stated that many counties or local governments felt that 3 years was not long enough because, by the time they negotiated a contract with an auditor, they were just beginning to get the feel of the audit when they had to re-negotiate the contract. She added it was expensive for them, and they thought 5 years would serve them better than 3.

List of Testifying Proponents and What Group they Represent:

Alex Hansen, Montana League of Cities and Towns
Scott Turner, County Manager, Yellowstone County

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Testimony:

Mr. Hansen testified that their organization supports this measure because they believe it will promote efficiency in the operations of municipal government in the state. He stated they found that the longer audit period works to their advantage, because the auditing firm, once they become familiar with the books, can do the job cheaper, more efficiently and, in many cases, the costs are reduced. He referred to a letter from the finance officer of the City of Missoula, a copy of which is attached as Exhibit 2, and indicated it spells out the reasons they support this bill. He added that they also support the amendment that was added in the House, noting the House felt, if they made it a 5-year contract, they might be locked in, and the amendment makes it a 3-year contract, in accordance with the present rules, but allows them an optional 2 years without going to another bid. He stated they believe this bill will promote efficiency and economy, and make it easier to conduct these audits without affecting the quality of the end product.

Testimony:

Mr. Turner stated he would like to echo the concerns that Mr. Hansen had, and added they feel a 5-year contract would allow the county, and other local governments, to substantially reduce their audit costs, which are beginning to mount up. He stated that doing an audit is becoming quite an expensive proposition, anymore, for governments, due to the multitude of federal and state components that they have to comply with. He indicated they feel they can incur a savings of many thousands of dollars with a 5-year contract, over a 3-year contract, and, therefore, they urge the committee's support of this bill.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked Mr. Turner how much it costs for an audit.
- A. Mr. Turner responded that, this year, it was \$28,000.
- Q. Senator Harding indicated she comes from a small county, and they do not contract audits, that they have the state audits. She stated they are supposed to audit annually,

but do it about every year and a half. She asked Mr. Turner if they contract with local people for audits, and if they can contract for 3 years, but want the option to extend that contract.

- A. Mr. Turner responded they currently do 3-year contracts, and the state has to approve their selection of a local auditor. He indicated they submit their audit to the state, and the state approves, noting the state still has an oversight responsibility for the audit, but that local government does not have to contract with a local firm.
- Q. Senator Harding asked if the \$28,000 is an annual amount.
- A. Mr. Turner responded that was their current audit cost.
- Q. Senator Harding asked if that was for one year.
- A. Mr. Turner responded that was for this fiscal year, and that it is increasing every year, adding that, next year, their audit cost will be close to \$30,000. He stated that, the longer term they can lock in, hopefully, they can keep the cost down because it is becoming substantial.

Closing by Sponsor:

Representative Hansen indicated she hopes the committee will concur with this bill, and stated she thinks it is a good bill for counties, particularly, and may be for others that do this contract auditing.

Vice Chairman Hofman announced the hearing on HB68 as closed.

DISPOSITION OF HB 68

Discussion:

Senator Bengtson offered a motion that HB68 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB68 be concurred in.

Presentation and Opening Statement by Sponsor:

Representative Bob Ream distributed a letter concerning the fiscal note, a copy of which is attached as Exhibit 4. He indicated HB278 addresses a problem they have experienced at the University of Montana, and that other state agencies have experienced, also. He stated that, anytime you set up purchasing procedures, it becomes cumbersome to some parties.

Representative Ream referred the committee to page 4, noting that is really the heart of the bill, and indicated that, if someone is submitting a purchase order for an item, such as a slide projector, and, at the time the purchase order is submitted, they can attach a catalog price or a publicly advertised price for that item, it goes through the regular procedure of requesting bids, but, if the bids come in, and the catalog price which was submitted is lower than any of those bid prices, the item can be purchased with that savings. He indicated the lower half deals with office supplies, which provides that office supplies, either through bulk purchase or under a term contract, can be purchased by a purchasing agency, if it can be shown the price is cheaper than going through central stores. He noted this is where the problem originally came up, and indicated that the University of Montana, since they deal with a lot of office supplies, set up an office to purchase supplies through central stores in Helena, which would be delivered to them, and disbursed to the departments, noting it required some manpower on campus. He further reported that, due to budget cuts, they closed that office, and this is now being handled through the university book store, which has to have an additional mark-up.

Representative Ream reported he submitted the bill, and then met with Mr. Eicholtz, who is here today, from the State Department of Administration, on two different occasions. He indicated they struck a compromise, which he thinks is very workable, and commended Mr. Eicholtz for working with him, and working with their vice president for fiscal affairs at the university, to come up with a compromise. He stated he thinks it is a good compromise, and noted that he is not casting blame anywhere, that they would have made mistakes, also, at their end, adding that they are going to change some procedures there, too, particularly for larger departments in the university, if they can go directly through central stores, without going through the middleman at the university. He indicated that would help the situation a little better. He stated he thinks, all in all, this will be a cost savings to

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the agencies, like the university, noting he realizes they experience the same kind of problems that MSU does.

Representative Ream indicated the first and second pages deal, primarily, with temporary rules. He explained that they have to have separate legislation prior to July 1, and then the parts on page 4 take effect, after July 1.

List of Testifying Proponents and What Group they Represent:

Marvin Eicholtz, Administrative Officer, Department of Administration

Mike Craig, Associated Students of the University of Montana
Sheila Stearns, University of Montana

Don Engles, Montana Chamber of Commerce

Brian Harlin, Associated Students of Montana State University

Testimony:

Mr. Eicholtz stated he and Representative Ream worked together on this bill to reach a compromise so that they could satisfy both sides of the situation. He indicated they have come up with a good bill that will address the concerns at the University of Montana, and still keep the integrity of the competitive bid process. He urged the committee to support the bill.

Testimony:

Mr. Craig's written testimony is attached as Exhibit 7.

Testimony:

Ms. Stearns stated she joins her colleagues from the University in expressing their support. She indicated they worked with the administration on this bill, and believe it is a good solution to a problem that has plagued faculty members in purchasing decisions for a long time.

Testimony:

Mr. Engles stated that, in the spirit of enterprise, they would like to add their support to HB278.

Testimony:

Mr. Harlin stated that, for the same reasons stated by Mr. Craig, they also support this bill.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

Q. Senator Vaughn asked if this would only apply to state agencies, and not to counties and cities.

A. Representative Ream responded that is correct.

Q. Vice Chairman Hofman asked if Representative Ream sees any possibility of mischief in this bill, and asked if there is any way purchasing could be done through a relative's store or business.

A. Representative Ream responded he does not believe so, and indicated that Mr. Eicholtz may want to comment on that. He noted that they still have to document everything, as they go along and, in the bidding part of it, that advertised price is a publicly advertised price, so it would be considered along with other bids. He stated he does not think there would be any problem with that.

Q. Senator Bengtson asked Representative Ream the reason for the termination date in Section 3.

A. Representative Ream responded that is in the existing law. He indicated that Representative Fritz's bill did pass last time, with amendments in it, and that it had a sunset date, noting he believes that is what is sunsetting there.

Mr. Eicholtz indicated he did not know if he could give an adequate explanation, but stated it is necessary for this bill to work right.

Representative Ream stated there were 2 time-frames in the existing law, and that this is cleaning up, getting rid of the old language, after July 1.

Q. Senator Harding referred to the letter from Mr. Eicholtz, regarding the fiscal note, noting it says it is applicable to the proposed amendments. She asked if the amendments are in the bill.

A. Representative Ream responded the amendments are in the bill. He stated they were put in in House committee, and

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indicated he has requested a revised fiscal note, but has not gotten it.

- Q. Senator Harding asked if he has an estimate.
- A. Representative Ream responded that he agrees with Mr. Eicholtz, in his letter, that there will not be any additional costs. He stated that he sees substantial savings, but noted it remains to be seen, that it is hard to measure those savings because they do not know how often the prohibitions would be invoked over the current procedures. He indicated it would be hard to estimate savings, but his guess is that, at their university, alone, the savings would be in the thousands of dollars.
- Q. Senator Harding stated that she thinks, relative to this, it will be pretty hard to set up this bill without the fiscal note, because it is costly.
- A. Representative Ream responded the Department of Administration prepared the old fiscal note based on the original bill, as he drafted it. He added that, as he understands it, and indicated he will check and see what happened with the fiscal note.
- Q. Senator Bengtson stated she thinks that Senator Harding stirred up a hornets nest, and asked Representative Ream, what page 2 of the fiscal note means. She indicated it states "No dollar amount is included for litigation awards for state agencies not complying with Montana preference laws." She asked if, in other words, there is some danger in the kind of purchasing they will make.
- A. Representative Ream responded that his original bill, as drafted, was pretty drastic, that it would have done away with the whole competitive bid process in state purchasing.
- Q. Senator Bengtson asked if that is no longer in the bill.
- A. Representative Ream responded no, and indicated that, really, the fiscal note is not applicable, at all.
- Q. Senator Bengtson stated that the committee does need a new fiscal note.
- A. Representative Ream responded that he will see what he can do about that.

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- Q. Vice Chairman Hofman asked Representative Ream if he will get a new fiscal note.
- A. Representative Ream responded he will try to, and asked Mr. Eicholtz if he has heard of a request for one.

Mr. Eicholtz stated they wrote the fiscal note, based on the original bill, and that it is certainly not applicable to the amendments that are now included in the bill. He indicated there were a lot of problems that they saw with the original bill, and that is the reason they wrote the letter. He noted they wanted a new request for a fiscal note, because they need to clean that up.

- Q. Senator Rasmussen indicated it appears to him they would have savings, instead of costs, noting they are in a difficult situation dealing with a fiscal note totally not applicable. He asked Representative Ream if he would see that the new fiscal note would actually provide savings to the state.
- A. Mr. Eicholtz responded yes, that the way the bill has been amended, he does not believe there will be any cost to the state and, as Representative Ream said, actually, agencies may be able to save money doing this.

Closing by Sponsor:

Representative Ream stated that, as he originally drafted the bill, it was pretty drastic, and the costs associated with the fiscal note the committee has were additional costs that would be incurred if they had to go out and individually, as individual agencies, do the competitive bidding, and the whole purchasing operation all on their own. He stated the advantages of the competitive bid process would be lost, so there would be cost to the state. He indicated that, as it was amended in the House, they are still working within the existing framework, and it is just that, in situations where they can find an item cheaper in the local community, or the community where that agency is located, they can buy it. Or, he added, when they submit a purchase order, and see a catalog price that is considerably cheaper than they anticipate will come in by the bid process, they can purchase it that way. He indicated that, all in all, it has got to be a savings, and he does not see any additional costs being incurred. He added

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that it may help local merchants, in some cases, if they can buy an item locally.

OTHER BUSINESS

Discussion: HB 207

Vice Chairman Hofman asked the committee to turn to HB207, and indicated there are some amendments, a copy of which is attached as Exhibit 9. He asked Ms. McClure to explain the amendments.

Ms. McClure indicated they look extensive, but that most of them are because of internal references and the title needs to be changed. She noted she talked with Diane Dowling, who is in agreement.

Ms. McClure reported the first 2 basically change the title. She indicated that it came up, during the hearing, that the committee wanted the Department of Commerce taken out of the rulemaking, and that is what the first amendment does. She then indicated the second amendment takes out some sections because, as a result of taking some language out, they do not need to be amended. Regarding amendment #3, she referred the committee to page 2, line 7, and indicated they are changing references, and are adding additional rulemaking authority to the commission, not to the Department of Commerce, noting it is a different section that does that. She stated #4 is the same thing, noting that they are going to be, in the statement of intent, striking the reference to giving rulemaking authority to the director of the Department of Commerce. She indicated amendment #5 adds the language, after the word "grant", that they are going to give additional rulemaking authority to the lottery commission, noting they already have general rulemaking authority, and this is adding rulemaking authority to allow them to adopt rules providing the incentives.

Ms. McClure referred to amendment #6, page 3, lines 5 and 6, and stated that, again, it is taking out the language about the Department of Commerce in the statement of intent on rulemaking. She stated the 7th amendment, page 3, lines 19 and 20, references the rulemaking.

Ms. McClure drew the committee's attention to the 8th amendment on page 6, line 5, explaining that they are striking Section 2, in its entirety, because the only reason it was amended was to put in the references to the Department of

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Commerce, noting that, if they take that amendment out, they do not need to amend it, at all. She indicated amendment #9 is the one suggested by the lottery commission that, on page 7, following line 25, they wanted a new subsection (3) with that language in it, and noted the subsequent subsections will be renumbered. She indicated that, on page 9, line 1, Ms. Dowling wanted a specific reference to allowing the lottery commission to adopt rules relating to sales incentives or bonuses and sales agents. She noted they already have general rulemaking authority, referring to the top of that page, "adopt rules necessary to carry out this part", and indicated that, because Ms. Dowling wanted some specific language, it will now read "adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part.", adding it gives them a little flexibility.

Ms. McClure stated that, regarding the 11th amendment, because they are taking out the references to the Department of Commerce's rulemaking authority, they are taking out that whole section, because that was the only reason for it. She indicated that, on page 12, line 23, they are changing the reference to the director of the Department of Commerce, substituting lottery commission. Ms. McClure further indicated that, on page 16, lines 2 and 3, they are taking out the 35%, which was amended in the House, and going back to the original language.

Senator Rapp-Svrcek offered a motion that the amendments be adopted. Senator Rasmussen offered a motion that amendments number 13 and 14 be segregated out of the proposed amendments, and asked that the committee vote on those, by themselves. Senator Harding asked Ms. McClure if that is taking the 35% out, and putting it back to the original House language. Ms. McClure responded it would be leaving the 35% in. Senator Rasmussen stated his motion is to leave it the way it was.

Vice Chairman Hofman asked the committee to vote on the motion to segregate those 2 amendments.

Recommendation and Vote:

Motion failed by the committee that amendments number 13 and 14 be segregated out of the proposed amendments, with Senators Anderson, Rapp-Svrcek, Rasmussen and Hofman in favor, and Senators Abrams, Bengtson, Vaughn and Harding opposed.

Discussion:

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Vice Chairman Hofman asked the committee to wait, indicating everyone knows what the amendments are, and asked the committee to think about them. The committee agreed, and Vice Chairman Hofman announced the discussion on HB207 as closed.

HEARING ON HB 228

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington stated that HB228 is a bill which gives school districts the same opportunity for the Board of Investments' intercap program that cities, towns and counties, and other government entities now enjoy. He indicated the intercap program is a loan program financed by low-cost bonds issued and backed by the Board of Investments. He noted these low loans go for 1 to 5 years, are payable only to operating budgets, and are subject to 105 constraints. He stated that these loans are used to finance vehicles, equipment and real property improvements. He indicated some of the specifics of the bill are allowing financing of vehicles and equipment under personal property, and improvement of real property. He noted that real property acquisitions are subject to 20.6-603, voter authorization, and voter authorization is not required, subject to the conditions of this bill.

Representative Harrington indicated that, basically, this bill, as will be pointed out by the proponents, is a tool that can be used by school districts, noting he thinks it is a very important move in this direction, under the tight situations they are in now, as far as tight constraints and problems that may occur in purchasing some of this equipment.

List of Testifying Proponents and What Group they Represent:

Bruce Moerer, Montana School Boards Association
David Ewer, Bond Program Officer, Board of Investments

Testimony:

Mr. Moerer stated they asked Representative Harrington to sponsor this bill for them, indicating they think it is a real good bill, and it came as a result of some school districts that wanted to use the intercap financing with the Board of Investments. He noted it is a cheaper way to borrow money to finance purchases of vehicles, equipment, and things like that.

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Mr. Moerer reported that schools can do that, now, on a long-term lease-purchase agreement, and that some of them have to do that because they do not have the money in their budget to make the purchase all at once. He noted they are paying exorbitant interest rates to do that, and this would let them use the intercap program, and get a lower interest rate, which is available now to cities and counties. He indicated there were a few amendments in the House, which tightened it down a little bit, noting that Representative Daily wanted to tighten down a few of the things they felt the bill was a little loose on. He noted they limited improvements to just remodeling facilities, and took out the ability to acquire real property and also to construct a building. He added they have limited it to just the minor items they can finance with the intercap program, which was the original intent of the bill, anyway.

Mr. Moerer reported that Representative Harrington has also asked Dave Ewer, from the Board of Investments, to be here to answer any technical problems, noting he has some clarifications he may want to add, as well. He stated the bill is real simple, that it just gives schools an alternative to borrow money at a cheaper rate, like cities and counties can do now, noting they think it is a real good idea, and encouraged the committee's support.

Testimony:

Mr. Ewer reported that he is the manager for the intercap program, which is a program they have had in place for 2 years, this month, and indicated they have provided low-cost financing to cities and towns, counties, sewer districts, rural fire districts, and even television districts. He stated the largest local group, at this point, schools, have not been able to use this program, noting one of the ironies he finds is that school districts have the ability to, on a lease-purchase basis, use other monies, but not the Board of Investments, which he firmly believes has the lowest cost funds available, given that they are selling tax exempt bonds backed by the Board of Investments.

Mr. Ewer gave the example that, even in this high inflation rate environment, they are still able to offer 8% money, and indicated that he thinks, if schools were to go out and look to finance school buses, or computers, they would be looking at somewhere in the neighborhood of 12%, today. He stated he thinks they would, on any given day, always be cheaper than the alternatives. He indicated they have a number of requests

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they would like to try to satisfy, noting that, typically, the kinds of requests they are seeing are for boiler repairs, roof repairs, school buses, and some additions to buildings, not buildings by themselves. He noted that one school district needs to update its cafeteria, and expand a little, because they are taking on new high school responsibilities. He stated he does support this bill, and noted that they thought this legislation was in place with the lease-purchasing bill, but were unsuccessful in getting the Attorney General's opinion on that, noting they feel this type of bill is long overdue. He urged the committee's support.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Rapp-Svrcek stated that, when SB118 went out of the Senate, noting that was the bill for counties and schools affected by protested taxes, the only thing left in there was to allow them to bond, or repay any of those protested taxes that they used, and asked Mr. Moerer if this bill will affect that in any way, one way or another.
- A. Mr. Moerer responded that he supposes, implicitly, any time a school incurs debt, for whatever reason, that limits the ability of the school to incur other debts. He indicated that, if he was a trustee, and they had to borrow from a tax protest fund, and later lost the protest and had to pay it back, and had to issue a bond to do that, he would be hesitant to go further into debt, and use this program. He noted that, if they did need to make a purchase of some sort, a vehicle or computers, they could at least do it at a lower rate of interest. He stated he does not think that is any different than any other type of overall consideration a trustee has to give to the debt load, noting they don't want to go too far into debt, if they don't have to.
- Q. Senator Rapp-Svrcek asked if this program could not be used to finance bonds that a district would issue to repay protested taxes.
- A. Mr. Moerer responded that is correct, they could not do that, and indicated it is the type of thing where they have to take collateral on a vehicle, or something. He noted the title is misleading, which indicates it is

allowing school districts to issue and sell short-term obligations, and that it is just the technical language to borrow money from the Board of Investments to buy a computer, a car, or whatever.

- Q. Senator Bengtson asked how the term intercap program came about.
- A. Mr. Moerer responded it is a horrible acronym for intermediate term capital program, indicating it is not lending money for capital improvements on a long-term basis, but on a more moderate-term basis.
- Q. Senator Harding indicated it does not mention a dollar amount, noting she knows these are not very big items, except for, maybe, a remodeling, and asked if there are laws that would say how much the people could get on a short-term.
- A. Mr. Moerer responded that, on the bottom of page 2, number 7, it indicates they can not exceed their total debt limitations, which would apply to bonding limits, noting there is a limit.

Mr. Ewer stated there is a program limit of \$500,000 per project, and added they do have underwriting guidelines, as well.

- Q. Senator Harding indicated that was her question, that, with counties, it is \$500,000, and she was wondering if the school districts would be similar.
- A. Mr. Ewer stated that, for the ease of making the Board consistent, he thinks they will probably keep that program in line for every participant.

Closing by Sponsor:

Representative Harrington stated he feels this program is one that will benefit the school districts, that he thinks it is long overdue, and indicated he hopes the committee will give it a do pass.

Vice Chairman Hofman announced the hearing on HB228 as closed.

DISPOSITION OF HB 228

Discussion:

Senator Vaughn offered a motion that HB228 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB228 be concurred in.

HEARING ON HB 365

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington indicated that HB365 is a very simple bill, but stated he thinks it is a very important bill for some of these counties. He indicated it will allow counties, other than first class counties, the authority to award separate printing contracts for publication of printed materials. He reported that, currently, the Board of County Commissioners, for first class counties, may award separate contracts for their legal advertising and for commercial printing, printing forms, materials and supplies. He stated all other counties must contract, with one newspaper, all printing in the county, unless the newspaper does not have commercial printing capability. He indicated this bill will allow any county to award separate contracts, noting that legal advertising would continue to be placed on legally qualified newspaper. He stated the county would have the option to award a separate contract to a commercial printer for printed forms, including newspaper holdings and advertising contracts.

List of Testifying Proponents and What Group they Represent:

Beverly Gibson, Montana Association of Counties
Ken Dunham, Associated Printers and Publishers of Montana
Judy Doggett, Clerk and Recorder, Broadwater County

Testimony:

Ms. Gibson distributed copies of a resolution passed at their recent June convention, a copy of which is attached as Exhibit 11. She reported it was passed unanimously by their members, and given a high priority. She stated they urge the committee's support of HB365, noting that Representative Harrington gave a very clear definition that this bill will allow all counties to do what, now, only first class counties can do,

which is to separate the printing contract to find the most cost-effective way to award their printing.

Testimony:

Mr. Dunham indicated the Associated Printers and Publishers of Montana is a commercial printing trade group. He stated they support this bill, noting that many commercial printers in Montana have not been able to compete for the county printing business because of the current state laws. He indicated this would allow the county governments to obtain a wider range of competitive bids to obtain their printing needs. Mr. Dunham stated that, when this law was put into place years ago, probably only the county newspaper in any county had printing capabilities, noting that, today, that has changed a great deal. He indicated the changes in technology in the past 10 to 15 years means that print shops have grown up in towns of all sizes in Montana. He stated that what is happening, now, in some of the counties, is that the county printing is being awarded to the county newspaper, but the business is then going right back out the door, being jobbed out to some commercial printer, somewhere else in the state, obviously, at a mark-up ranging anywhere from 5% to 20%, depending on how much volume they might do with that commercial printer.

Mr. Dunham stated this bill is simply a realization of the changes in the general printing industry in the country, and added, on a personal note, that they are a little bit uncomfortable having to oppose their friends in the newspaper business. He indicated they do not like to see the commercial printers and the newspapers being at opposite sides of an issue, but noted they are of the realization that this is just a time of change in the business. He stated it does give some protection to those counties, that they retain a 5% advantage over printing establishments outside the county, and, hopefully, those newspapers in the county, if they do have commercial printing capability, will be able to compete, as well. Mr. Dunham reported there are approximately 200 print shops across Montana ranging in size from mom and pop operations, of one and two people, up to some employing over 100 people. He indicated that over 75% of the print shops in Montana have between \$5 and \$500,000 in capital investments, and noted this is important to the printing industry in the state. He stated he thinks the bill also points up the need in Montana for an active county printing board to continue to provide some protection for county governments.

Testimony:

Ms. Doggett stated she is one of the smaller counties that has a local newspaper do their county printing, and indicated it should not be awarded only to the newspaper. She stated they have 2 very qualified printers in Broadwater County, that one printer owns and operates the local newspaper, and the other is a local printer. She indicated she feels, as long as that local printer meets the criteria as a qualified printer, and they are satisfied with his performance as a printer, he should at least be given the opportunity to bid for the county printing contract. Ms. Doggett stated they are in support of the advertising incurred by the county being awarded to their local newspaper, and that they feel the county business needs to stay within the county.

List of Testifying Opponents and What Group They Represent:

Charles W. Walk, Executive Director, Montana Newspaper Association

Testimony:

Mr. Walk testified that the Montana Newspaper Association includes in its membership all 11 dailies, and 65 of the weekly newspapers in Montana. He stated, in preface to his remarks, that he is probably the friendliest opponent the committee will see today, noting that he feels as uncomfortable as Mr. Dunham does in testifying, particularly against the chairman of the House Taxation Committee.

Mr. Walk stated he is here today to oppose HB365, as drafted and passed out of the House. He indicated he hopes to convince the committee that HB365 is excessive and unnecessary legislation that could certainly be economically detrimental to an important, but endangered species, the small community newspaper. He stated there is little doubt that a number of Montana weekly newspapers are threatened with closure, and HB365 could speed that closure, in some cases. He noted that how many would close, as a direct result of HB365, would only be a guess on his part, adding that he queried some of his board members, and they put the number at someplace between 3 and 12. Mr. Walk stated that, at present, there are more than 30 counties in Montana that have only a single newspaper operating within their boundaries. He further stated that HB365 is a direct threat to each and every one of those papers, noting that two counties, Golden Valley and Petroleum, do not have any newspaper at all.

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Mr. Walk stated he will not go into the reasons for the demise of the weekly newspaper in Montana, noting some of them go hand and glove with the economic problems that have plagued, and continue to plague small towns across the state. He indicated there are other reasons that have been unique to the newspaper industry, noting he is sorry to say that some of those problems have been the result of legislation passed over the last 15 to 20 years. He stated they can appreciate the arguments of the proponents of HB365, that they are simply seeking the best dollar deal for counties in the printing business, noting they can appreciate the arguments, without agreeing with them. He indicated they do not think any of the newspapers most affected by this legislation, all of whom are small and vulnerable, are looking for a free lunch, or something they don't deserve. He noted they are looking, instead, for the realization that many of them have provided a significant public service to these counties over the years, a public service available no where else. He asked the committee to remember they are not talking about communities that have multiple outlets for information, that these are counties where there are no radio stations, communities where there are no television stations, and, in some cases, very little else of any method of information transmission, except the newspaper. He asked that the committee please excuse the publishers of the small papers, if they feel they are being forsaken, and past efforts ignored, when legislation such as HB365 is offered. He stated that the arguments that these newspapers have taken advantage of their counties, their schools, and their municipal governments with their pricing practices and printing, is simply not true. He indicated that, first of all, there are maximum prices established by state law for both public notice advertising and commercial printing. He stated these rates are certainly not in favor of the community newspaper, in most cases. He noted that, on top of that, the counties negotiate even better rates with these newspapers and that, amazingly, the discounts, in most cases, range between 5% and 20%, which are the same figures that Mr. Dunham used to prove his point.

Mr. Walk stated that, given all this, he still has serious questions about just how much money a county will save, if HB365 is enacted, and the contracts for advertising and printing are split in all counties. He asked will the savings, for example, make up for the prospective loss in service and quality that the counties are now experiencing. He further asked will the savings offset the potential losses of a newspaper having to go out of business. He indicated he does not know the answers to these questions, and that he doubts anyone else does. He noted he thinks they are ques-

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tions that need to be thought about when changes as significant and potentially harmful as those suggested in HB365 are directed to an economically stressed segment of Montana's rural economy. He stated it is no accident that the Montana printing laws were written as they were by early legislators. He indicated they saw the need for newspapers in the rural communities, and understood the importance of having a local outlet for information. He stated that Senator George McCallum of Sanders County hit at the heart of the subject, when changes in the printing law were being contemplated by the Legislature in the early 1970s. Mr. Walk reported he stood on the floor of the Senate and said, simply, "Many communities will not have newspapers without retention of the present law", and noted his argument helped carry that particular day, and he thinks it is still applicable today.

Mr. Walk stated he thinks the same argument can be made about the law today, and asked the committee to help keep smaller newspapers publishing in Montana by giving HB365 a do not pass.

Questions From Committee Members:

- Q. Senator Rapp-Svrcek asked Mr. Walk if he said there are 30 counties in the state where the newspaper is the only print shop.
- A. Mr. Walk responded no, that he said there are 30 counties in the state that have only one newspaper.
- Q. Senator Bengtson asked Representative Harrington if this is just optional.
- A. Representative Harrington responded it is optional, that this does not say that the local newspaper will not get it, that it just means they can bid for this. He indicated that, in many communities, even in the larger communities, the newspapers get some of the printing, if they bid for it. He stated this just leaves it optional, that is all it does, noting it is not taking it away from the newspaper, but is giving the local government the opportunity.
- Q. Senator Bengtson stated that there is a lot of camaraderie that exists between the local newspaper and the people who need printing, noting they are all cognizant of the fact they want to keep their business local, if at all possible.

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- A. Representative Harrington responded this does not change that, at all, that this just says it is an optional thing, that a local government can contract out with someone else, if the situation is right, and the contract is right in the situation. He stated he thinks it was brought out that some newspapers send it out someplace else to be done, anyway.
- Q. Senator Rasmussen stated that, apparently, some of the counties feel they can save some money, and there would not be support if it was not a matter of looking to be able to do this. He asked Ms. Gibson if she has any feeling, if that ever came up, as to how much money may be saved.
- A. Ms. Gibson responded that the counties, in some cases, feel that, if they have the opportunity to ask for a bid from another entity, besides their one and only newspaper, they would at least have something to talk about, and they could compare prices. She indicated that, even though there may only be one newspaper in the county, it is not to say there is not a print shop in the county.
- Q. Senator Anderson indicated Mr. Walk mentioned there are 30 counties with only one newspaper, and that it is his understanding that the small newspapers would not be able to compete, probably, with some of the larger newspapers.
- A. Mr. Walk responded that is true. He indicated he would like to be fair to the committee and the proponents of the bill, and stated they should understand, and he would like the committee to understand, that they are talking about a dozen small newspapers, basically, because, as Representative Harrington and Mr. Dunham pointed out, some of those papers no longer have a print shop available, they are so small, so they do send it out. He indicated they are basically talking about a dozen very small newspapers, but very vulnerable newspapers, noting that is where they are coming from in opposition to this bill.
- Q. Vice Chairman Hofman asked Ms. Doggett if she feels that, if this bill were passed, the quality would go down in the types of materials they would be printing.
- A. Ms. Doggett responded that, personally, she knows their local printer, and has seen some of his work. She indicated that, compared with the newspaper, she thinks they are very comparable. She stated she has a really

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good rapport with their local newspaper, and the local printer and, in their county, she thinks the quality would not go down, but noted that she can not speak for the other counties.

- Q. Vice Chairman Hofman asked Mr. Walk to answer that question, too. He pointed out that Mr. Walk made the statement that he thought quality would go down.
- A. Mr. Walk responded he hopes he said it could go down, in some cases. He indicated he does feel that, in some cases, it would. He stated that he thinks there is always an opportunity, when you look at bidding situations of this kind, particularly, and you are not familiar with what you are going to get, that you already have the status quo, and have a high quality product, that there is an opportunity for you to save \$5, and lose the quality and workmanship. He indicated he is not saying that would happen in all cases, but that he thinks, however, they are talking about, in some cases, a quick print, insty print type of situation, versus a very high-grade type of printing operation, where that is a real threat, noting he does not think that is the case in every opportunity, and certainly would not argue with the Broadwater County situation, because he knows it, and thinks she is being very truthful in that regard.
- Q. Vice Chairman Hofman asked Mr. Walk if he does not think that, because of competition, the quality could go up.
- A. Mr. Walk responded he would suppose there are cases where it could, but indicated he does not think it is a given, any more than he would say it is a given they would go down.
- Q. Senator Vaughn indicated they found, when they went to computers, that a lot of those forms could not be handled by any of the local printers, and it was much easier and less expensive if they could deal directly with the people who handle the forms, than have to order it through the newspaper and get the forms from them. She asked Ms. Doggett if that is some of the things they are finding other counties running into.
- A. Ms. Doggett responded yes, that, since we have come into the computer age, a lot of the counties are printing their own forms. She indicated they need to have the opportunity to be able to do that, plus also get the best quality they can. She stated that one thing that has

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come to mind, especially since she is also an election administrator, is that she thinks they need to be able to be assured that their election ballots and those type of forms are accurate. She indicated they do not have a problem with either of their printers, because she has seen both of their quality, but noted she does think that, because of the computers, they will be doing more of their own form printing.

Closing by Sponsor:

Representative Harrington stated that, in these communities, there is a political reality that they will still go to the newspapers with much of their printing, and he thinks that will be worked out. He indicated he does not think this bill is going to hurt anybody, but he thinks it does open it up, and that the time has come for this type of legislation to aid these smaller counties, so that they, too, can fulfill their obligations, as far as printing contracts. He indicated he hopes the committee will give this bill a do pass.

Vice Chairman Hofman announced the hearing on HB365 as closed.

HEARING ON HB 124

Presentation and Opening Statement by Sponsor:

Representative Bob Clark thanked Vice Chairman Hofman for moving the hearing on HB124 to the bottom of the list so that he could attend the news conference and reception for Colonel Griffith, who was appointed to head the Highway Patrol. Representative Clark then advised the committee that Colonel Griffith asked him to convey his regrets that he would not be here to testify on this bill because of this appointment.

Representative Clark indicated this bill was requested by the Department of Justice, and that HB124 merely changes the code throughout the Montana Codes Annotated from "patrolman" to "patrol officer", patrol officer being a non-gender term. He stated this came about as a result of the highway patrol now having a number of female patrol officers. He indicated they have had female officers for about 10 years, that this probably should have been done some time ago, and was overlooked. He noted they have about 10 female officers now and, in order to keep up with the times, they are requesting that this change be made in the Codes. He testified that there is no cost to these changes, noting that, in talking to the

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people involved with this, the Codes will be reprinted, anyway, and it is a matter of just putting the new wording in there. He reiterated that there is no cost associated with this bill.

Representative Clark indicated that Assistant Attorney General Funk was going to try to be here, that he had another committee hearing and was going to try to switch back and forth, noting that, obviously, he did not make it.

List of Testifying Proponents and What Group they Represent:

None.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

Representative Clark stated that the female officers they have are doing a good job, and he thinks they deserve the recognition, whatever recognition they can give them, and asked for the committee's concurrence on the bill.

DISPOSITION OF HB 124

Discussion:

Senator Harding offered a motion that HB124 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB124 be concurred in.

OTHER BUSINESS

Discussion: HB 345

Ms. McClure distributed copies of the proposed amendments to HB345, a copy of which is attached as Exhibits 15, 16, 17 and 18, and stated that the amendments were prepared when the committee was talking about 4 options. She indicated that,

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since they were prepared, there have been discussions with the Secretary of State, Senator Farrell and Gene Phillips, and that a few of these amendments are still needed.

Mr. Garth Jacobson indicated that he and Ms. McClure have worked on the amendments, and they have been discussed with Gene Phillips. He explained the first one is the amendment that would have simply stripped the fax filing ability away from fax filing of UCC documents. He indicated the second amendment is a technical amendment which addresses the concerns that Mr. Phillips raised, and that they believe it is a necessary technical amendment. He stated it is just a minor amendment, that there was a mistake that was, apparently, just a drafting mistake, and this corrects that. Mr. Jacobson stated the third amendment would be in response to Senator Abrams' concern about having enough strength in the area of enforcement regarding people that file false documents. He indicated this amendment adds in, in addition to triple damages, requiring payment of attorney fees for the prevailing party.

Mr. Jacobson stated he does not think the fourth amendment is necessary, reporting that it would take the 5-day period out, entirely. He indicated that, from the discussions they have had, the second amendment and, if Senator Abrams wants it, the third amendment are the two amendments he would think the committee may want to consider. He noted the other 2 were simply optional amendments.

Questions from Committee Members:

- Q. Senator Vaughn asked Ms. McClure if the first amendment takes out the UCC filings, and if the last amendment takes out the 5 day requirement.
- A. Ms. McClure explained there are two separate options; the first one takes out Section 1 of the bill, which would accomplish taking out the UCC filings. She further indicated the last amendment would leave Section 1 in, that it makes more references to UCC, and takes out the 5-day language. She explained it will make the UCC fax document count as an original document, and there will not be a 5-day waiting period.
- Q. Senator Vaughn asked if they would still have any time limit in which to file documents.
- A. Mr. Jacobson responded it would just take the original out, entirely, so that a fax copy would be treated as an

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original. He indicated the compromise that was reached for the 5-day period in the original bill was to preserve the desire of a lot of people to still see the original. He stated that he suspects, in a couple of years, or perhaps just a few years away from now, they will have a high degree of confidence to say that a fax copy is sufficient for an original. He indicated they wanted to ease into the process, instead of jumping in, that they wanted to get in part way so that everybody felt comfortable with the technology, noting that is why they still want the original and the 5-day period.

Mr. Jacobson reported there was a discussion with the title insurance people, who said they were not so much opposed to this, but their attitude was that they do not want to see it happen with the Clerk and Recorders. He indicated their concern was with recording documents, versus filing documents, and that they said they would not oppose them, but that they do not want to see it happen on the Clerk and Recorder level because of the differences between recorded documents and filed documents.

- Q. Senator Rapp-Svrcek asked Mr. Jacobson if the second amendment is the one that puts in the UCC, noting that Mr. Phillips talked about a whole number of sections that needed to be amended in order to include all the UCC filings.
- A. Mr. Jacobson responded that, referring to Section 1 of the bill, the number on line 22, page 1 read 39-9-402, and it should have been 30-9-402, indicating he suspects it was just a keystroke error. He stated that amendment #3 is a codification instruction to include what is, in essence, new language in Section 4, and would be a dragnet section which would cover the references to the termination statements, the amendments, the assignments, whatever it might be, noting that takes care of it. He indicated that, when talking about changing the UCC, all they are talking about is one small part which deals with filings in the Secretary of State's office, and it is called Part 4 of Article 9. He noted it is not significant at all, that it addresses the concern, and is a technical amendment to clean the bill up.

Senator Bengtson stated she would like to adopt the amendments that keep the UCC filings in, indicating she thinks that the first and second amendments are the ones that should be

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adopted. Senator Rapp-Svrcek indicated the first amendment takes them out, and the second amendment puts them all in.

Q. Senator Rapp-Svrcek asked Mr. Jacobson if it was his intention to include the entire UCC in the bill, when it was originally drafted.

A. Mr. Jacobson responded that is correct.

Senator Harding stated she understands where the Secretary of State's office is coming from, but indicated that, until we get further down the road, she thinks they should do away with the UCC filings. She indicated she talked with a banker, who said that everything was working great now, and they want those originals. She noted that he said, if they keep them 5 days, they still have not done anything, and they are not willing to go without an original signature. Senator Harding stated that faxed documents should be accepted as original documents, that otherwise, they will be held for 5 days, and nothing is done, anyway. She added that the banker indicated they could run into a liability problem, and she asked what have they gained. Senator Bengtson responded they have met a deadline.

Senator Harding then indicated that the banker also said that there is a system, which was passed 2 or 4 years ago, where they can check immediately to see what is filed at the Secretary of State's office. Senator Harding reported that system was passed specifically for liens, and that she remembers the Clerk and Recorders were quite shook up about the UCC lien problem that was handled immediately from the bank with the Secretary of State, and they also had to file with the Clerk and Recorder's office. Senator Harding noted it was based on the agricultural lien situation, where they needed to know right now. She asked, unless we are ready to go with the fax being accepted as originals, noting they do not want it treated like that in the Clerk and Recorder's office, where are you now. She further asked, if they do not want a fax copy treated as an original in the Clerk and Recorder's office, how can a fax be treated as an original in the Secretary of State's office. She noted she realizes they are headed in this direction, but stated she does not think they are ready for it now.

Q. Senator Rasmussen asked Mr. Jacobson, if the UCC is taken out, how much does that leave them, if it still leaves them quite a volume of stuff that would be eligible to be faxed.

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- A. Mr. Jacobson responded there would still be a considerable amount of documents that could be faxed to their office.

He then indicated there is a real need for having fax filings of UCC documents, in that it preserves that date and time for when the lien is effective. He stated the whole concern about the 5 day period could be raised about anything else in the whole process. He indicated that, for example, if a banker closed a deal and needed to get those documents in right away, under the present system, if they mailed it in and something happened, they are still under that same dilemma. He noted this system is like making reservations for dinner, that, if you make a reservation, you are guaranteed that spot if you come in at that time, adding that, if you do not make a reservation, you lose your chance to have that date preserved for you. Mr. Jacobson reported he has talked with some attorneys who represent banks, and they all think this is a very good idea, noting he thinks the difficulty is dealing with the different system that this would set up. He stated it will not be bad, that it will just be a little bit different, adding that it will be very good in that they get this opportunity to have their filing made instantaneously. He indicated that, if someone wants to close a deal, they have that chance to close that deal, that it is very helpful for bankers, and he thinks they will find it very useful, noting that the idea came from the bankers, themselves.

Senator Bengtson offered a motion that the amendments on page 2 be adopted, which leaves the UCC in. She stated it also keeps the 5 days, noting she thinks that is cautious, adding that she also thinks they will take that out, at some point. Senator Rasmussen stated that, if the committee wanted to take the UCC out, they could pass this, and then pass the first page, too. Senator Harding stated she does not think they should have the UCC in this bill.

Ms. McClure stated the first amendment will take the UCC out, and it is not compatible with page 2. Senator Rasmussen asked if there were some other things on page 2, besides the UCC. Ms. McClure responded that, if you leave Section 1 in, and do nothing else, the technical things will have to be corrected, and noted that is what the first one does. She stated the last amendment addresses what Mr. Phillips brought up and, rather than bring in all those other sections, they did it with a codification instruction as to where they will put the new Section 4 on the copy of the facsimile. She noted they

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need to codify it in several places, and they just listed one more, noting that he did not mention 405 or 406 and that, by codifying that in Chapter 9, they would hit them all. She noted that page 1 does what Senator Harding wants to do, and that page 2 is the opposite approach, so they can not have both.

- Q. Senator Vaughn asked Mr. Jacobson if most of the banks, and Mr. Phillips, are satisfied with leaving the UCCs in, or does he still definitely want them out.
- A. Mr. Jacobson responded that Mr. Phillips was more or less indifferent about that, and that the position of the title insurance people was to go ahead and do what we want, but not to get into the Clerk and Recorder area. He indicated they see that as two different things, entirely. He stated his office did not support the bill that had the fax for the Clerk and Recorders, that they do not want to go into that territory, they just want to deal with this as a good area for themselves, and are not going to push it for anybody else.

Senator Bengtson stated that Representative Thomas cited examples of deals being consummated, and they wanted to get it on record, noting that she thinks it is the wave of the future. She added she does not see any danger in it, at all, since Mr. Phillips' concerns have been addressed, noting that this is not even a part of the Clerk and Recorders' bailiwick.

Recommendation and Vote:

Motion passed by the committee that the second amendment be adopted, with Senator Harding opposed.

Discussion:


Senator Bengtson asked Senator Abrams how he feels about the penalty, regarding the attorney fees. Senator Abrams responded that he does not think it does that much. Senator Bengtson offered a motion that HB345 be concurred in as amended. Senator Harding indicated she will have to vote against the bill with the UCCs in, but will accept the will of the committee.

Recommendation and Vote:

Motion passed by the committee that HB345 be concurred in as amended, with Senator Harding opposed.

ADJOURNMENT

Adjournment At: 11:30 a.m.



SAM HOFMAN, Vice Chairman

SH/mhu
HB68.038

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: March 8, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTSO	✓		
WILLIAM E. FARRELL			✓
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

March 8, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 68 (third reading copy -- blue), respectfully report that HB 68 be concurred in.

Sponsor: Debruycker (Vaughn)

BE CONCURRED IN

Signed: William E. Farrell
William E. Farrell, Chairman

W.E. Farrell
3/8/89
2:49 p.m.

SENATE STANDING COMMITTEE REPORT

March 8, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 228 (third reading copy -- blue), respectfully report that HB 228 be concurred in.

Sponsor: Harrington (Rapp-Svrcek)

BE CONCURRED IN

Signed: William E. Farrell
William E. Farrell, Chairman

4/10/89
3:49
p.m.

SENATE STANDING COMMITTEE REPORT

March 8, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 124 (third reading copy -- blue), respectfully report that HB 124 be concurred in.

Sponsor: Clark (Rasmussen)

BE CONCURRED IN

Signed: Farrell
William E. Farrell, Chairman

41.0.
3/8/89
2:49 p.m.

SENATE STANDING COMMITTEE REPORT

March 8, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 345 (third reading copy -- blue), respectfully report that HB 345 be amended and as so amended be concurred in:

Sponsor: Thomas (Farrell)

1. Page 1, line 22.

Following: "purposes of"

Strike: "39-9-402"

Insert: "30-9-402"

2. Page 15, line 14.

Following: "Title 35"

Strike: "."

Insert: ";"

3. Page 15.

Following: line 14

Insert: "(4) part 4 of chapter 9, Title 30."

AND AS AMENDED BE CONCURRED IN

Signed: Farrell

William E. Farrell, Chairman

W.E.
3/8/89
2:49
P.M.

SENATE STATE ADMIN.

EXHIBIT NO. 1

DATE 3/8/89

BILL NO. HB68

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

Alec Hansen

3-8-89

Address:

208 W. MONT

Helena

Phone:

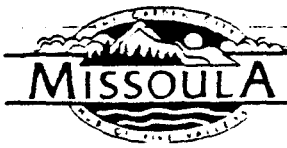
Representing whom?

Appearing on which proposal?

Do you: SUPPORT? _____ AMEND? _____ OPPOSE? _____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



FINANCE/CITY CLERK OFFICE

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT
SENATE STATE ADMIN.

March 6, 1989
Letter #89-040

EXHIBIT NO. 2
DATE 3/8/89
BILL NO. HB68

MAR 7 1989

The Honorable Stella Jean Hansen
Montana House of Representatives
Capitol Station
Helena, MT 59620

The Honorable William Farrell
Chairman - State Admin. Committee
Montana State Senate
Capitol Station
Helena, MT 59620

Dear Representative Hansen and Senator Farrell:

This letter is to convey the City of Missoula's support for House Bill #68, An Act to Limit Governmental Audit Contracts to 3 years with an option to extend the contract an additional two years. I will be unable to attend the hearing on Wednesday, March 8th at 10:00 AM, but would like to go on record as supporting this bill.

The City of Missoula sought this legislation because the Administrative Rules of Montana limit audit contracts to three years in duration and we feel that it is desirable and efficient that audit contracts for up to five years in duration be allowed. A 1987 United States General Accounting Office report entitled "*CPA AUDIT QUALITY - A Framework for Procuring Audit Services*" recommended five year contracts in order to receive cost savings and benefit from having the same auditing firm do more than a single year audit (see the enclosed copy of a page from that report).

I talked with Don Dooley of the Department of Commerce Bureau of Local Government Services before the 1989 Legislature began and he had no problem with lengthening the audit contracts. The bill was amended in the house to provide for three year contracts with a two year option as there was some concern about cities being locked into a five year contract. We support the amendment and urge your concurrence with House Bill #68 as amended.

Sincerely,

Chuck Stearns
Finance Officer/City Clerk

enclosures

cc: Members of Senate State Administration Committee
Members of Missoula's Senate Delegation

period of time, to assist in monitoring the audit firm, (3) obtain volunteers from local professional and educational organizations to assist the entity, and (4) communicate with the appropriate RIG about the results of its desk review and possible quality control review of the CPA's audit.

The last example in appendix III illustrates the importance of monitoring contract performance.

Conclusions and Recommendations

As discussed in the previous sections, our analysis of questionnaire responses indicates that there is a strong relationship between procurement and audit quality. It further indicates that entities are much more likely to receive acceptable quality audits when they employ a procurement process that meets the criteria for each of the four attributes as described in this report. However, we believe that entities are not taking steps to ensure that they have an effective procurement process. As a result, entities are almost three times more likely to receive an unacceptable quality audit.

Accordingly, we recommend that entities carefully assess their procurement practices and take actions to include the framework established in this report to better assure themselves of obtaining qualified auditors at a reasonable cost. The following recommendations for improving current procurement procedures are not intended to supercede existing state or local law or regulation. Instead, entities should consider these recommendations in light of their own legal and administrative requirements and incorporate them where feasible. Specifically, we recommend that entities:

- Ensure that at least two audit firms are considered when selecting a qualified auditor. Where feasible, entities should obtain competition in all circumstances, except when exercising renewal options on multiyear contracts.
- Provide multiyear contracts when possible, preferably for 5 years, to the winning audit firm to benefit from the auditor's learning curve and experience and to take advantage of cost savings associated with not procuring audit services on an annual basis. However, once the contract period expires, entities should rebid to ensure that they receive a qualified auditor at a reasonable price. The entities must also decide whether they will permit their current auditor to submit a proposal for the upcoming audit.

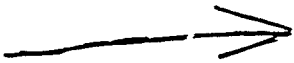


EXHIBIT NO. 3

DATE 3/8/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB68

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Scott Turner

DATE: March 8, '89

Address: Box 35003
Billings, MT 59107

Phone: 256-2793

Representing whom?
Yellowstone County

Appearing on which proposal?
HB 68

Do you: SUPPORT? AMEND? OPPOSE?

Comments:
Extending the audit length can help incur lower
audit costs over 5 yr term, since audit firm can absorb
initial start-up costs of the audit over 5 years instead resulting
in lower bid costs for local govt's.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DEPARTMENT OF ADMINISTRATION

PROCUREMENT AND PRINTING DIVISION
PUBLICATIONS AND GRAPHICS BUREAU

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 3/8/89

BILL NO. HB278

920 FRONT STREET
CAPITOL STATION

TED SCHWINDEN, GOVERNOR



STATE OF MONTANA

(406) 444-3053

HELENA, MONTANA 59620-0132

TO: Representative Bob Ream
FROM: Marvin Eicholtz, Administrator
Procurement and Printing Division
DATE: January 31, 1989
RE: Fiscal Note For HB 278

The original fiscal note prepared for HB 278 is not applicable with our proposed amendments. HB 278, with suggested amendments, will not result in any increase in costs for goods and services.

If amended, as suggested, HB 278 should provide for a savings in the purchase of goods and services for the State of Montana. However, it is difficult to accurately project how much savings may be realized.

EXHIBIT NO. 5

DATE 3/8/89

BILL NO. HB 278

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Mawin Eicholtz

DATE: 3/8/89

Address: _____

Phone: _____

Representing whom?
Dept. of Adm.

Appearing on which proposal?
HB 278

Do you: SUPPORT? AMEND? OPPOSE?

Comments:
see Exhibit #4

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 6

DATE 3/8/89

BILL NO. HB278

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

Mike Craig

3-8-89

Address:

104 BROADWAY #1

HELENA 59601

Phone:

443-1922

Representing whom?

Assoc. Students of UM

Appearing on which proposal?

HB 278

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

see Exhibit #7



Associated Students
University of Montana

Room 105
University Center
Missoula, MT 59812
(406) 243-2451

SENATE STATE ADMIN.

EXHIBIT NO. 7

DATE 3/8/89

BILL NO. HB278

Senate State Administration Committee

House Bill 278 - Rep. Ream

Hearing: March 8, 1989, Room 331.

Mr. chairman and members of the committee, I am Mike Craig, and I represent the Associated Students of the University of Montana.

ASUM rises in support of House Bill 278 because we view it as a companion proposal to Senate Bill 395 which was passed out of this committee and through the full Senate before the transmittal deadline. SB395 would allow the student associations of the University system to be exempt from the state procurement laws which are the subject of HB278.

ASUM is supportive of House Bill 278 because, even if we do become exempt from the state procurement laws, we see this bill resulting in the saving of money for the rest of the University of Montana purchasing departments. If those departments can save money, then students will benefit by seeing cost-savings in the operation of the University.

With a cost-savings in the operation of the University, maybe students would not have to face the dramatic proposed tuition increases they are now facing. With that, we urge your favorable consideration of House Bill 278. Thank you.

SENATE STATE ADMIN.

EXHIBIT NO. 8

DATE 3/8/89

BILL NO. HB

STATE ADMINISTRATION COMMITTEE

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Shela Stearns

DATE: 3-8-89

Address: U of M+

Phone: 243-2311

Representing whom? U of M+

Appearing on which proposal?

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Amendments to House Bill No. 207
Third Reading Copy

For the Senate Committee on State Administration

Prepared by Eddy McClure
March 7, 1989

1. Title, line 11.

Following: "THAT THE"

Strike: "DIRECTOR OF THE DEPARTMENT OF COMMERCE"

Insert: "LOTTERY COMMISSION"

2. Title, lines 25 and 26.

Strike: "23-5-1006 THROUGH"

Insert: "23-5-1007,"

Strike: "23-5-1012,"

3. Page 2, line 7.

Strike: "6"

Insert: "4"

4. Page 2, line 8.

Strike: "director of the department of commerce"

Insert: "lottery commission"

5. Page 3, line 4.

Following: "grants"

Insert: "additional"

6. Page 3, lines 5 and 6.

Following: "to the"

Strike: remainder of line 5 through "director" on line 6

Insert: "lottery commission to"

7. Page 3, lines 19 and 20.

Strike: "6"

Insert: "4"

Following: "allows the"

Strike: remainder of line 19 through "commerce" on line 20

Insert: "lottery commission"

8. Page 6, line 5.

Strike: section 2 in its entirety

Renumber: subsequent sections

9. Page 7.

Following: line 25

Insert: "(3) maximize the net revenue paid to the superintendent of public instruction under 23-5-1027 and ensure that all policies and rules adopted further revenue maximization;"

Renumber: subsequent subsections

10. Page 9, line 1.

Following: "rules"

Insert: "relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules"

11. Page 9, line 25.

Strike: "section 4 in its entirety"

Renumber: subsequent sections

12. Page 12, line 23.

Strike: "DIRECTOR OF THE DEPARTMENT OF COMMERCE"

Insert: "lottery commission"

13. Page 16, lines 2 and 3.

Following: "~~That part~~"

Strike: remainder of line 2 through "revenue" on line 3

14. Page 16, line 4.

Following: "~~expenses~~"

Insert: "That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses"

SENATE STATE ADMIN.

EXHIBIT NO. 10

DATE 3/8/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 228

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

DATE:

David Ewer

3/8/89

Address:

Board of Investments

Phone:

Representing whom?

Appearing on which proposal?

HB 228

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 11

DATE 3/8/89

BILL NO. HB365

RESOLUTION 88-26

COUNTY PRINTING

WHEREAS, Section 7-5-2411(2), MCA, states that the county commissioners shall contract with one newspaper to do all the printing for the county, including advertising required by law and all printed forms required by the county, and that the newspaper shall be one that is published in the county and of general bona fide and paid circulation; and

WHEREAS, several counties within the State of Montana have only one newspaper that is published in the county and of general bona fide and paid circulation with the second-class mailing privilege; and

WHEREAS, it would benefit counties and county taxpayers if county commissioners could opt to separate their printing contracts, and call for competitive bidding for their commercial printing, from both newspapers and from other printing establishments, the same as now allowed first-class counties;

NOW THEREFORE, BE IT RESOLVED that the Montana Association of Counties propose legislation to eliminate the requirement that all printing for the county be contracted with one newspaper which is published in the county.

SPONSORED BY: Broadwater County

PRIORITY: HIGH

APPROVED: JUNE 15, 1988

EXHIBIT NO. 12

DATE 3/8/89

BILL NO. HB365

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: KEN DOUTHAM

DATE: 3/8/89

Address: HELENA

Phone: _____

Representing whom?
ASSOCIATED PRINTERS & PUBLISHERS

Appearing on which proposal?
HB365

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

SENATE STATE ADMIN.

EXHIBIT NO. 13

DATE 3/8/89

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 365

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Judy Roggett

DATE: 3-8-89

Address: TOWNSEND MT.

Phone: 266-2443

Representing whom? BROADWATER CO.

Appearing on which proposal? HB 365

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 14

DATE 3/8/89

BILL NO. HB365

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: CHARLES W. WALK

DATE: 3-8-89

Address: HELENA

Phone: 443-2850

Representing whom? MT. NEWSPAPER ASSN.

Appearing on which proposal? HB 365

Do you: SUPPORT? AMEND? OPPOSE?

Comments:

SENATE STATE ADMIN.

EXHIBIT NO. 15

DATE 3/8/89

BILL NO. HB 345

Amendments to House Bill No. 345
Third Reading Copy

For the Senate Committee on State Administration

Prepared by Eddy McClure
March 6, 1989

1. Title, line 10.

Following: "SECTIONS"

Strike: "30-9-403,"

Following: "35-1-102"

Strike: ", "

2. Page 1, line 13 through page 8, line 9.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 15, lines 9 and 11.

Strike: "4"

Insert: "3"

SENATE STATE ADMIN.

EXHIBIT NO. 16

DATE 3/8/89

Amendments to House Bill No. 345 BILL NO. HB345
Third Reading Copy

For the Senate Committee on State Administration

Prepared by Eddy McClure
March 6, 1989

1. Page 1, line 22.

Following: "purposes of"

Strike: "39-9-402"

Insert: "30-9-402"

2. Page 15, line 14.

Following: "Title 35"

Strike: "."

Insert: ";"

3. Page 15, line 15.

Following: line 14

Insert: "(4) part 4 of chapter 9, Title 30."

SENATE STATE ADMIN.

EXHIBIT NO. 17

DATE 3/8/89

BILL NO. HB345

Amendments to House Bill No. 345
Third Reading Copy

For the Senate Committee on State Administration

Prepared by Eddy McClure
March 6, 1989

1. Page 1, line 16.
Following: "system"
Insert: "-- damages"

2. Page 2, line 16
Page 11, line 10.
Page 14, line 1.
Page 15, line 1.
Following: "PARTY"
Strike: "AGGRIEVED"
Insert: "prevailing in any action"

3. Page 2, line 18.
Page 11, line 12.
Page 14, line 3.
Page 15, line 3.
Following: "DOCUMENT"
Insert: "and for reasonable attorney fees incurred"

4. Page 14, line 4.
Following: "copy"
Insert: "-- damages"

Amendments to House Bill No. 345
Third Reading Copy

For the Senate Committee on State Administration

Prepared by Eddy McClure
March 6, 1989

1. Title, line 7.
Following: "STATE"
Strike: remainder of line 7 through "DAYS" on line 8

2. Page 1, lines 23 through 25.
Following: "(1)(a)"
Strike: remainder of line 23 through "copy" on line 25

3. Page 2, lines 9 through 14.
Strike: subsections (c) and (d) in their entirety
Renumber: subsequent subsection

4. Page 10, lines 18 and 19.
Following: "(9)(a)"
Strike: remainder of line 18 through "copy" on line 19

5. Page 11, lines 3 through 8.
Strike: subsections (c) and (d) in their entirety
Renumber: subsequent subsection

6. Page 13, lines 19 through 24.
Strike: subsections (c) and (d) in their entirety
Renumber: subsequent subsection

7. Page 14, lines 9 and 10.
Following: "part]"
Strike: remainder of line 9 through "copy" on line 10

8. Page 14, lines 19 through 24.
Strike: subsection (2) and (3) in their entirety
Renumber: subsequent subsection

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

DATE: March 8, 1989

NAME	REPRESENTING	BILL #	Support	Oppose
Brian Haew	ASMSU	278	X	
Charles Wallace	Mt. News. Assn	265		X
Quentin Rhoades	MSU	278	X	
Maurin Eckel	D of A.	278	X	
Mike Craig	ASUM	278	X	
Judy Duffett	Br. County	365	X	
Doug Ingels	Mt Chamber of Commerce	278	X	
David Egan	Board of Invest.			
Scott Turner	Yellowstone County	HS 68	X	
Alec Hansen	MLCT	HB66	X	
Beverly Gibson	MAGO	TR 365	X	
Shelva Stearns	UM			
Bruce W. Muerer	BSBA	KB 228	X	
KEN DUNHAM	ASSOCIATED PRINTERS & PUBLISHERS	HB365	X	
Garth Jacobson	Sec. of State	HB345		X
JW Bennett	MEMOA			

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY