

MINUTES

MONTANA STATE 51st LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 450

Call to Order: By Chairman Tom Beck, on April 11, 1989, at 8:00 A.M.

ROLL CALL

Members Present: Senator Beck, Senator Yellowtail, and Senator Severson. Representative Giacometto, Representative O'Keefe, and Representative Harper.

Members Excused: None

Members Absent: None

Staff Present: Mark Bennett, Amendments Coordinator

DISPOSITION OF SENATE BILL 450

Discussion: Senator Severson - "We had the amendments from the House and we (the Senate) rejected the amendments and that's what put it into the Free Conference Committee."

Representative O'Keefe - "I am wondering why the Senate rejected the amendments that were on there."

Senator Beck - "There is nothing in the law right now that authorizes a lease. My concern is, is salvage water. We're allowing a person right now to have the rights to his salvage water."

Representative Giacometto - "I didn't want instream flow in here what so ever, but the committee put it in here and I was trying to make it as compatible as (HB) 707 was. I didn't vote for 707. Since that was on through, we tried to make this thing work. Supposedly, what I read stated on page 3, I put that language back in that we struck...You couldn't lease salvage water that was already being used by somebody else. If you created new water, that is not being used by somebody else, then you have the right to use it. I don't like instream flow anyway. If that is going to happen, I want a lease to make sure you are protecting somebody else that is using the water. That's why we reinstated that on page 3."

Representative O'Keefe - "Tom (Senator Beck), we supported Leo

(Representative Giacometto) with that. Lorents Grosfield came in with these amendments. To tell you the truth, the committee really got back doored when we put those amendments in; no one, including the people that wrote the amendments, knew what they did...If we left that language in the form that it was, we were giving beneficial use priority to fish and wildlife over other appropriators. We didn't want to do that. I don't think the Senator (Yellowtail) wanted to do that...That leasing in there. That was the bone we threw to the conservationists. Now, they don't have a leasing law to use that bone under. We took out the part where you can take salvage water and sell it to an instream flow use. It was in here and we pulled that out on the House floor."

Senator Severson - "Our main objection was on line 11. Even if there isn't a law to lease water, we just don't really want it in the law."

Senator Yellowtail - "There is a new angle to this. Senator Beck is trying to revive HB 707."

Senator Beck - "I tried it yesterday...I had to be closer than that to get that to surface. I gave it a try. The study doesn't seem to be palatable to the House. I don't know what the next step is going to be."

Representative Giacometto - "Don't kill this bill because of the language. Just jerk that language out."

Representative O'Keefe - "I think that's going to kill the bill. Once again, we're going to hear the cries of agriculture...to lease salvage water in a bill when there is no way to do it. At this point, we have got to give those people something. If we don't, then I'm going to vote to kill the bill. It's purely an agricultural bill the way it is now. Fish and wildlife and instream flows are hurt by this bill. You create new water and you put it in for consumption use...There's no chance the guy who owns that water can lease it if he wants to. His property right is diminished. It's a good bill now because that option is there. If we take that option out, the only group you are helping is agriculture."

Representative Harper - "I think there is a question to what really salvage water is. It's really going to be hard to distinguish and separate."

Senator Severson - "Salvage water is a new term to me...I've never seen salvage water used to the extremities before...What you are talking about is waste water, run-off water, table water

or whatever you want to call it...seepage water. I have never heard it called salvage water."

Representative Giacometto - "If we take this language out, you pass (HB) 707, can't you write something in 707 to lease salvage water? This bill has a lot more things to it than just leasing water. You can do that in another bill...I hate to see this thing killed (when you) are trying to pay patronage to a group that feels slighted."

Senator Beck - "If the fish and game comes back in and identifies where they want their stream reach and what they want to do with it. If it looks appropriate for their use in that particular stream reach, then I think we ought to take a look at it at that time. I don't think this is enough bone to satisfy them right now. Rather than defeat the bill, it's better to take that language out right now and take a look at it and see what we can come up with."

Representative Giacometto - "You saw what happened to HB 707 in the Senate. This is going to die if you leave this leasing language in the bill."

Representative Harper - "There is nothing in this bill for instream flow...If you have created that new water, you've got to go through with this thing. What benefit is it going to be? You just turn it down stream and your neighbors are going to get it."

Senator Beck - "Are you talking about new appropriations out of the stream?"

Representative Harper - "No, I am talking about new water that has actually been created by saving. Because any water that ends up going right back into that creek isn't salvage water. Salvage water, is water that evaporates or goes straight down or gets lose in the transpiration of plants."

Representative Giacometto - "He's right. Where I disagree with him is, he thinks the only use of that is for instream flow...It's an option."

Senator Severson stated that leasing salvage water will eventually hurt somebody.

Senator Yellowtail replied "Why Elmer (Senator Severson)? Under the definition of salvage water that's in this bill, that is water that is not available to down stream users. It's not going back in the creek."

Senator Severson - "You take that water right that you are talking about; you're going to sprinkle twice as many acres with it. You're not going to have any salvage water off of that...When you use that water for another sprinkler system you have no run-off water or salvage water. You are hurting people when you do that!"

Representative O'Keefe - "See now Senator, you are objecting to the agricultural use of that water as opposed to leaving it in the creek."

Senator Severson - "That's right...You really can not create new water. You can create new water by storing (water)."

Representative Giacometto - "I think we better decide whether or not you are going to leave those amendments in there. We are starting to debate the whole issue...I don't think we need to, because we are not going to get anything accomplished here."

Representative Giacometto made a motion to strike sub-section 6 on page 11. "The reason I do that is if HB 707 is resurrected...I think this bill should stand alone for salvage water. If you want to lease it (water), put it into another bill. Keep those two issues separate...To save this bill, strike sub-section 6, page 11."

Senator Yellowtail - "We are removing half of the incentive for an irrigator to install water efficiency measures. I want to know what the intention is around here?"

Senator Beck - "Senator Yellowtail, my intentions were good yesterday. I am not fooling anybody. I tried to bring that up. I wanted to get some questions answered...I don't think it is too much to ask if we know the stream reaches, how much we are going to need to benefit the fisheries, and all the rest of the questions that have been asked. That was strictly my intention yesterday."

Senator Yellowtail - "If we got 707 back up and we got the study in the bill, would you be willing to live with the language in this bill?"

Senator Beck - "I would be willing to put that into the study. I think maybe we should include salvage water into the leasing bill. I think that is where it ought to go."

Senator Severson indicated he could not support the suggestion made by Senator Beck.

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Senator Beck - "I guess where I was coming from yesterday on the water leasing bill--I want a pilot project to see if that's going to solve some of the fishery problems. I want to see if it is going to work before I give in to a water leasing program for Montana."

Senator Yellowtail - "I am convinced by this action we are inviting further enthusiasm to the notion of a citizens initiative. They will jam this down our throats and I don't want to see that happen."

Representative Giacometto - "Do you want to save this bill?"

Senator Yellowtail - "Absolutely. I am ready to vote for your motion."

Representative O'Keefe - "I am going to oppose the motion when we vote on it...What I see us doing here, if we pull that (amendment sub-section 6 on page 11) out, we would be giving the initiative people another bullet for their gun. I'm against the initiative process and what that would do to agriculture in the state."

Representative Harper - "At this point in time, I think I will vote no just to keep it open. The leasing bill may come back up, we don't know what's going to happen with that. We don't have to have another meeting. We can get a conference committee report written up and then we can sign it."

(The motion made by Representative Giacometto was to strike sub-section 6 on page 11.) The Senate concurred in the motion unanimously. The motion failed in the House. Representative Giacometto vote yes. Representative O'Keefe and Representative Harper voting no.

ADJOURNMENT

Adjournment At: 9:11 A.M.


SENATOR TOM BECK, Chairman

ROLL CALL

FREE CONFERENCE

COMMITTEE - SENATE BILL 450

~~50th~~ LEGISLATIVE SESSION -- 1989

Date 4-11-89

| NAME | PRESENT | ABSENT | EXCUSED |
|-------------------------|---------|--------|---------|
| SENATOR TOM BECK | X | | |
| SENATOR BILL YELLOWTAIL | X | | |
| SENATOR ELMER SEVERSON | X | | |
| REP. LEO GIACOMETTO | X | | |
| REP. MARK O'KEEFE | X | | |
| REP. HAL HARPER | X | | |
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