

FREE CONFERENCE COMMITTEE HEARING

HOUSE BILL NO.33

DATE: April 19, 1991

MEMBERS PRESENT: Williams, Bob (D) Chair.
Grosfield, Lorents (R)
Bianchi, Don (D)
O'Keefe, Mark (D) Chair
Measure, Bruce (D)
Spring, Wilbur (R) excused

STAFF PRESENT: Doug Sternberg (Legislative Council)
Julia Levens, Secretary

This meeting is being held because the House rejected the proposed Senate amendments to HB 33 which would make it illegal to knowingly post State and Federal land without proper authority.

Representative O'Keefe gave a brief explanation of his reasons for rejecting the amendments. The intent of the legislation when he brought it in was to say "that if you are authorized to post State and Federal land, go ahead and do it. If you are not authorized to post this land, then you are committing a crime." It doesn't matter who you are, if you don't have the authority to post land and restrict use and access, then it is a crime when you do it.

Representative O'Keefe agrees with changing "public land" to "State and Federal." The amendments presented by the Senate allow a lessee to post State and Federal land even though he may not have permission. If you are a lease holder, post the land even though you are not authorized, you have not committed a criminal offense under the proposed amendments. Subsection 1 does not apply to the posting of State land by a lease holder. If the lease holder is not authorized to post that State land, in my opinion, he should still be committing a crime when he posts it.

Senator Williams asked if all lease holders had authority to post State or Federal land? Representative Measure stated all leases contain a posting provision. There are also provisions in ARM that would allow the lease holder the right to post.

Senator Bianchi commented that lease holders could post State land against public use; however, when they now post these lands, they cannot prohibit use by the public. The public must get permission from the lessee before they can enter the posted State land.

Representative O'Keefe hopes to make this bill consistent with the new regulations which have recently been passed.

John North, attorney for State Lands, commented when this new law goes into effect, the lessee won't be able to post with regard to hunting and fishing unless the Board has restricted that land.

Representative O'Keefe stated that the language in Section 1 does not need to be changed because we are saying if a person posts State or Federal land in order to restrict access or use without authorization, he has committed an offense.

Mr. North commented that Section 1 would make it a crime to illegally post State or Federal land and Section 2 says it would not be a crime. There is definitely need for language clarification in the bill.

Representative O'Keefe stated that is why he wants to take Section 2 out of the Bill.

Senator Williams asked what right or authority do we have to say what can be done on Federal lands? Representative O'Keefe said there are Federal Rules and it is illegal to post Federal lands if certain things occur. For instance, a lease holder can post any Federal land that is totally surrounded by his land. But if there is a county road in a public access that goes through that Federal land he can't post the land right up to the road. He must let the public in back to his fence lines.

John North explained that we can't tell the Feds what to do with their land but we can make it a crime for someone to violate that Federal land. It would be the same as if someone destroys Federal property, it is a State offense.

Senator Bianchi recommends to remove Subsection 2. Rep. O'Keefe stated here would be no problem on his part.

Senator Grosfield advised that it was Sen. Aklestad's suggestion and his concern that present policy of the Commission is that landowners can post if there is not a specific authorization in each case for the land owner. This might be interpreted against the landowner because there is now specific authorization.

Representative Measure asked Mr. North if that was correct in some of the leases as well as in the Land Board rules? Mr. North indicated "Yes". A person would either know that they had posting authority or should know because of the rules.

O'Keefe made the motion to strike Subsection 2, lines 22-23, page 1 of the bill.

The vote was unanimous for Senators and Representatives in attendance.

Doug Sternberg prepared the final amendments.



MARK O'KEEFE CHAIRMAN