

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION CONFERENCE COMMITTEE ON SB-379**

**Call to Order:** By Chairman Fred Van Valkenburg, on April 22, 1991, at 1:49 p.m.

#### **ROLL CALL**

#### **Members Present:**

Senator Fred Van Valkenburg (D), Chairman  
Senator Harry Fritz (D)  
Senator Thomas Beck (R)  
Representative Red Menahan (D)  
Representative Diana Wyatt (D)  
Ms. Smith, aid to Representative Bud Gould

**Members Excused:** Representative Bud Gould (R)

**Staff Present:** none present

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### **Announcements/Discussion:**

#### **Conference Committee EXECUTIVE ACTION ON HB-379**

**Amendments, Discussion, and Votes:** Senator Van Valkenburg explained that he had moved to reject the House amendments to HB-379 on the Senate floor primarily because of amendment #8 which the House Judiciary inserted. This provision provided for payment of partial salary of probation and parole officers who are injured on the job. The Department of Institutions talked with him about this particular amendment and objected to its inclusion. This had never been a request of the probation and parole officers when he submitted this bill on their behalf. Senator Van Valkenburg said the probation and parole officers concern was to obtain "Peace Officer Status", and this had not come out of this bill. The probation and parole officers would like this status reinserted. He asked Dan Russell, Department of Institutions, to cover Section 4 of the bill, a new section, to cover this partial salary of parole and probation officers injured in the performance of duty.

Dan Russell presented amendments that the Department of Institutions would like (Exhibit 1). The Department would like to have New Section 4 & 5 because there is no way the Department can work with this kind of a disability program nor is there funding for it. No other employees of the department are entitled to this kind of compensation. If others were getting this partial salary when injured it would be included in the Federal Public Safety Officers Act which was continually referenced in the hearings. Parole and probation officers are included in that act. This act covers these officers for a death payment of \$114,000 if killed in the line of duty.

Senator Van Valkenburg asked John Malee, Montana Federation of State Employees, to address these new sections. Mr. Malee said the probation and parole officers' main objective of this bill was to get "Peace Officer Status". The officers feel that these new sections, 4 & 5, may jeopardize the bill, so they would just as soon delete this and add the "Peace officer status" back in.

Senator Fritz asked if the original bill provided parole and probation officers "Peace Officer Status", but it does not allow it now? Senator Van Valkenburg said that was correct. Senator Fritz asked if the current bill allows these officers to carry weapons and receive training at the academy? Senator Van Valkenburg said there was a separate bill that pertained to firearms, but the bill was tabled in the House Judiciary Committee. Current law allows probation and parole officers to carry firearms pursuant to rules adopted by the Department of Institutions. SB-379 originally changed this somewhat to say that probation and parole officers could carry firearms, including concealed firearms, as allowed by law for other peace officers. This made them somewhat of a "hybrid".

Representative Wyatt said these two new sections were her amendments because the House gave this benefit to the firefighters. She felt that if parole and probation officers were going to be peace officer status then they should be entitled to these other benefits. They were not receiving anything but the status in this legislation.

Representative Menahan said he sponsored the bill in the House, and he understood that the peace officer status was the intent of the bill.

Senator Fritz asked if the parole and probation officers negotiated for this benefit? Dan Russell said no they did not, and this was the first time he had heard of it.

Senator Van Valkenburg asked Representative Wyatt if she had any idea of what the cost of this new section would be and how it would be paid for? Representative Wyatt said she did not know.

Senator Fritz added that he thought municipal firefighters and police officers that have this benefit. The firefighter just received this benefit in this session. So this is a very new concept.

Mr. Russell said that SB-388 would have allowed some prerogative

to carry firearms which is in this current bill on Page 5, line 5 & 6. The Department worked with the probation and parole officers to develop rules to allow them to carry firearms under any circumstance, but with oversight by the department. The Department is fearful, that as the bill reads that they can carry "as allowed for other peace officers" would destroy any policy already agreed upon. He asked the committee to consider his amendment #4 which would bring the language back to the original bill's.

Senator Fritz clarified that if the committee adopts Mr Russell's amendments then these officers will not get benefits nor the peace officer status. Mr. Russell said no where in statute does it reference them as peace officers nor in the definition of peace officer. He did not feel that the bill as it came from the House or originally would have given them peace officer status. The officers would have been allowed to carry firearms "as allowed by law for other peace officers".

Senator Van Valkenburg asked why the parole and probation officers wanted peace officer status? Mr. Malee said the officers wanted peace officer status to allow them to receive training at the Montana Law Enforcement Academy for portions of their jobs that are peace officer related. The bill in section 3 provides that. Senator Van Valkenburg felt that this section did accomplish what the parole and probation officers asked him to do.

Mr. Russell said that these parole and probation officers were already considered safety officers under federal law. They are entitled to a death benefit of \$114,000 if killed in the line of duty. The Federal Public Safety Officers Act does not require these officers to be peace officers for these benefits. They also are entitled to 500 weeks of unemployment compensation for the family (9.6 years), \$1400 for funeral costs, and these are specifically referenced in the federal brochure.

Senator Fritz clarified that these benefits were for death not disability. Representative Wyatt said that in the hearings it was apparent that the parole and probation officers are not trained sufficiently for their own standards. There was also disagreement about when, how, and if they could carry firearms. She felt there was still discretion to cover this, but these two items were major issues. She was unclear if there was anything to be gained if these officers were given peace officer status. She said there were attempts to amend this bill to cover training, but the cost of training and lack of space at the academy were problems.

Senator Van Valkenburg said there is money in HB-2 now for additional training. Mr. Russell agreed, and said there is \$17,700 for training at the Montana Law Enforcement Academy.

Mr. Malee said parole and probation officers act as peace

officers on a number of occasions. Senator Van Valkenburg said he understood that, but he was unclear as to why they needed to have peace officer status. Mr. Russell added that parole and probation officers can carry firearms, and now with this bill, they can attend the academy. By the next session, research on what peace officer status would mean for parole and probation officers could be done.

Ms. Smith, Representative Gould's aid, said that he had agreed to strip these two new section because that would remove the Workers' Comp problem. He did want to remove the language about carrying firearms "as allowed by law for other peace officers".

Senator Beck clarified that the parole and peace officers could carry firearms in their line of duty under rules that the Department would adopt if amended. Senator Van Valkenburg said that was correct.

Motion: Senator Fritz moved to adopt the Department of Institutions amendments (Exhibit #1).

Recommendation and Vote: The motion passed 5 to 1. Representative Wyatt voted against the motion.

ADJOURNMENT

Adjournment At: 2:02 p.m.

  
FRED VAN VALKENBURG, Chairman

  
JOYCE INCHAUPE-CORSON, Secretary

FV/jic

Conference Committee  
on Senate Bill No. 379  
Report No. 1, April 22, 1991

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on Senate Bill No. 379, met and considered the House Judiciary Standing Committee Report amendments dated April 2, 1991.

We recommend that Senate Bill No. 379 (reference copy - salmon) be amended as follows:

1. Title, lines 9 through 11.

Strike: "RELATING" on line 9 through "FIREARMS;" on line 11.

2. Title, lines 14 through 16.

Strike: "PROVIDING" on line 14 through "WORK;" on line 16

3. Title, line 16.

Following: "44-4-301"

Strike: "L"

4. Title, line 17.

Strike: "46-23-1002."

5. Page 4, line 24 through page 5, line 13.

Strike: Section 1 in its entirety.

Renumber: subsequent sections

6. Page 7, lines 11 through 25.

Strike: Section 4 in its entirety.

7. Page 8, lines 1 through 4..

Strike: Section 5 in its entirety.

And that this Conference Committee report be adopted.

For the Senate:

L. J. Valkenburg  
Chair, Sen. Valkenburg

H. Fritz  
Sen. Fritz

Sen. Beck  
Sen. Beck

44-4-22-91  
And. Coord.

44-4-22  
Sec. of Senate

ADOPT

REJECT

For the House:

W. M. Menahan  
Chair, Rep. Menahan

Rep. Wyatt  
Rep. Wyatt

Rep. Gould  
Rep. Gould

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SB-379  
4-22-91  
#1Amendments to Senate Bill 379  
Reference CopyRequested by the Department of Institutions  
for the Conference Committee's Consideration

April 17, 1991

1. Title page 1, lines 9, 10, and 11.

Strike: "RELATING TO THE AUTHORITY OF PROBATION AND PAROLE OFFICERS  
TO CARRY FIREARMS;".

2. Title page 1, lines 14, 15 and 16.

Following: "TRAINING;"Strike: "PROVIDING A DISABILITY BENEFIT FOR PROBATION AND PAROLE  
OFFICERS INJURED ON THE JOB AND UNABLE TO RETURN TO WORK;".

3. Title page 1, line 17.

Strike: "46-23-1002,".

4. Page 5, lines 5 and 6.

Following: "firearms,".

Strike: "as allowed by law for other peace officers.".Insert: "when necessary. The department shall adopt rules establishing firearms  
training requirements and procedures for authorizing the carrying of firearms.".

5. Page 7, lines 11 through 25.

Strike: New Section. Section 4 in its entirety.

6. Page 8, Lines 1 through 4.

Strike: New Section. Section 5 in its entirety.

CONFERENCE COMMITTEE REPORT

SB-379

The Conference Committee on SB-379 agreed to accept the following amendments to SB-379 proposed by the Department of Institutions.

1. Title 1, lines 9 through 11.

Strike: "RELATING TO THE AUTHORITY OF PROBATION AND PAROLE OFFICERS TO CARRY FIREARMS;".

2. Title page 1, lines 14 through 16.

Strike: "PROVIDING A DISABILITY BENEFIT FOR PROBATION AND PAROLE OFFICERS INJURED ON THE JOB AND UNABLE TO RETURN TO WORK;".

3. Title, line 16.

Following: "44-4-301"

Strike: "1".

4. Title, line 17.

Strike: "46-23-1002,".

5. Page 4, lines 24 through page 5, line 13.

Strike: Section 1 in its entirety.

Renumber: subsequent sections.

6. Page 7, lines 11 through 25.

Strike: Section 4 in its entirety.

7. Page 8, lines 1 through 4.

Strike: Section 5 in its entirety.

Senator Fred Van Valkenburg

Senator Tom Beck

Senator Harry Fritz

Representative William "Red" Menahan

Representative Diana Wyatt

Representative Bud Gould

Conference Committee  
on Senate Bill No. 379  
Report No. 1, April 22, 1991

Page 1 of 1

Hr. President and Hr. Speaker:

We, your Conference Committee on Senate Bill No. 379, met and considered the House Judiciary Standing Committee Report amendments dated April 8, 1991.

We recommend that Senate Bill No. 379 (reference copy - salmon) be amended as follows:

1. Title, lines 9 through 11.

Strike: "RELATING" on line 9 through "FIREARMS;" on line 11.

2. Title, lines 14 through 16

Strike: "PROVIDING" on line 14 through "WORK;" on line 16

3. Title, line 16.

Following: "44-4-301"

Strike: "2."

4. Title, line 17.

Strike: "46-23-1002."

5. Page 4, line 24 through page 5, line 13.

Strike: Section 1 in its entirety.

Re-number: subsequent sections

6. Page 7, lines 11 through 25


Strike: Section 4 in its entirety.

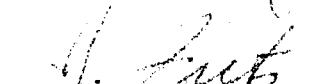
7. Page 8, lines 1 through 4.

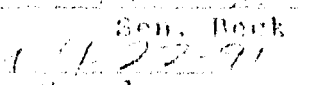
Strike: Section 5 in its entirety.

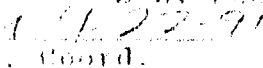
And that this Conference Committee report be adopted.


For the Senate:

  
Chair, Sen. Valkenburg

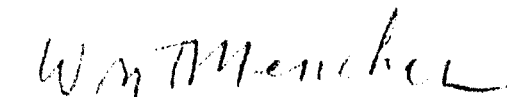
  
Sen. FRIE

  
Sen. Beck


  
And. Coord.

  
Sec. of Senate

For the House:

  
Chair, Rep. Mencher

  
Rep. Myall

  
Rep. Gould

ADOPT

REJECT

9619-1100-211