

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairperson Eleanor Vaughn, on March 14, 1991,
at 10: A.M. in room 331.

ROLL CALL

Members Present:

Eleanor Vaughn, Chairman (D)
Bob Pipinich, Vice Chairman (D)
John Jr. Anderson (R)
Chet Blaylock (D)
James Burnett (R)
Bill Farrell (R)
Harry Fritz (D)
Bob Hockett (D)
Jack Rea (D)

Members Excused: Senator Bernie Swift

Staff Present: David Niss (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 896

Presentation and Opening Statement by Sponsor:

Representative Mary Lou Peterson, House District 1, revises certain statutes pertaining to the powers and duties of the State Fire Marshall and moves the State Fire Marshall to the Department of Justice. She said the House had approved some amendments and didn't get them into the bill, so she's asking this committee to work on them.

Proponents' Testimony:

Beth Baker, Department of Justice, said the three major purposes of this bill are: 1. It cleans up and modernizes the Code as it pertains to the State Fire Marshall. It has existed since 1911 and many of the statutes are made obsolete by other provisions of the Code. There is a small fee increase in the bill. On Page 12, section 13 it raises from \$25.00 to \$50.00 the amount that may be charged for a license. 2. The bill changes the State Fire Marshall to the Fire Prevention and Investigation

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Program of the Department of Justice and refers to the department rather than the marshall. 3. There will be some changes in the required duties. She pointed out an amendment in section 6 on pages 5 and 6, that will make all state buildings subject to the same requirements as every other public building. Presently the fire marshall is required to inspect annually all units of the university system and units of the state institutions to recommend fire safety and prevention. This amendment allows them to order compliance with the Fire Code, rather than simply a recommendation. The Department of Institutions has some concern about that amendment, because they work pretty well with the fire marshall and his recommendations. If the fire marshall decided to allow them a very short period of time to complete the upgrades to compliance with fire codes, they wouldn't have the money. The Department of Justice had proposed an amendment that made all state buildings the same as the university system as far as recommendations for compliance. The House Judiciary Committee took recommendations out and the University System and Institutions and put in the amendments to subsection A, which essentially makes all state owned buildings subject to the same requirements as other public buildings. There are amendments in the bill that will allow the Department to set a priority schedule for fire inspections. It will also allow the Department to certify a local fire inspection program and that will eliminate the need for the fire marshall to be involved with the day to day operations of city fire departments who have their own inspection programs. She handed out some amendments to sections of the code that were enacted in 1929. Exhibit 1.

Ray Blehm, State Fire Marshall, said he is responsible for providing a wide range of services. In Helena there is himself and 1 deputy, who coordinate inspection activity. There are 5 area deputies who provide investigations, inspections and assist local fire departments. The Bureau has 2 office staff that manages the state fire reporting system, issue licenses for fire protection equipment sales, services, and installation and provide correspondence and filing work. Deputies are instructed to take local firemen along when they contact businesses for inspections and investigations. Deputies contact local industries about their duties and responsibilities under State law. The Attorney General requires consistency with the state Fire Marshall's interpretation of the fire codes, which results in a tremendous amount of work on the local level. Failure to comply with a fire code can prevent renewal of a liquor license, day care license, etc.

Lyle Nagel, Montana State Volunteer Firefighters' Association and Montana State Fire Chiefs' Association, urges support of House Bill 896.

Henry Lohr, Montana State Volunteer Firefighters' Association, supports this bill and recommends a do pass.

James Walters, President of Montana Fire Districts' Association,

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supports House Bill 896 as well as the amendments.

Don Hurni, Chief of the Helena Fire Department, supports this bill with the amendments.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Blaylock asked Beth Baker about the amendments to include all state buildings in the inspection process. She said the State Fire Marshall wants to promote safety, but they want to work with them to comply with fire code provisions, and hesitate to set the 30 to 90 day regulation upon all state buildings. This would allow them, or the City of Helena, to actually close down a state building if they didn't comply with the fire code. Ms. Baker said they presently do the inspections and make recommendations, which allows them a budget cycle to come into compliance.

Senator Farrell asked about the times during legislature when rooms don't meet occupancy load. Ray Blehm said that does happen.

Senator Hockett asked what are you doing now, when some agencies don't have the funds? Ray Blehm responded that with a school they can order compliance within a very short time, but they work with them within their budget cycles.

Senator Blaylock asked if he could shut down a state building? Ray Blehm responded that he could, but he is a bureau chief within the Department of Justice, he answers to a division administrator and he answers to the director of the Department. They operate within the boundaries of the law and the guidelines of the Department.

Senator Farrell thinks that we might add some amendments. He thinks recommendations are better.

Closing by Sponsor:

Representative Peterson explained that the fines go from \$50 to \$500. In 1911 a \$50 was big, it is time to upgrade the fine.

EXECUTIVE ACTION ON HOUSE BILL 896

Discussion:

Senator Farrell suggests we insert an amendment to section C on line 6. He wants it to say recommend for state buildings. Senator Vaughn said this is happening on the local level where the fire inspectors are mandating special improvements. In

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Missoula they closed down 2 school because they were unsafe. It's difficult with the budget constraints. Senator Vaughn asked Attorney Niss to prepare an amendment. Mr. Niss asked Senator Farrell who he wants to include in this amendment. Senator Farrell wants all state buildings to be under the recommendations, with a budget cycle to do the upgrades.

Senator Hockett thought that the University System should be forced to meet safety codes, because many students sometimes work in high hazards at times, such as a welding class, etc. But he wants all of the state entities to be handled the same.

Senator Farrell said the State Fire Marshall, the Department of Administration, and the Department of Justice can go to the legislature with the problem.

The Committee wants all state entities to be relieved of every year inspections. David Niss understands what the committee wants. He will write the amendments and bring them back to the committee.

Senator Rea asked if we are certain there are some fire inspections being done.

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

None

HEARING ON HOUSE BILL 794

Presentation and Opening Statement by Sponsor:

Representative Scott McCullough, House District 96, Billings, said the purpose of House Bill 794 is to define holiday as a day off with pay. It clears up some confusion for the Department of Administration. He handed out exhibits 2 and 3, which were copies of the code that this bill would change.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions From Committee Members:

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Senator Blaylock asked what is the problem? This is clarifying what is actually a holiday. It's clean up language.

Closing by Sponsor:

Representative McCullough closed and said Senator Harp will carry it to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 794

Motion:

Senator Blaylock moved that we DO CONCUR IN HOUSE BILL 794.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of House Bill 794 and Senator Harp will carry it to the Senate floor. Senator Farrell moved that House Bill 794 be put on the Consent Calendar. The VOTE was UNANIMOUS to use the Consent Calendar.

HEARING ON HOUSE BILL 500

Presentation and Opening Statement by Sponsor:

Senator Harry Fritz, Senate District 28, Missoula, said this is a foresight bill. We are approaching the centennial of the design, authorization, and construction of the state capitol, which is the biggest cost overrun pork barrel construction project in the history of Montana. It is a state resource, probably the most recognizable building in the state. This bill calls for the creation of a Capitol Restoration Commission to begin planning for the centennial of the capitol, which will be an ongoing event to raise money for ongoing restoration, renovation. In some of the modernizing renovations it's lost some of the uniqueness of the original building. Many original furnishings are readily available. It's possible to put together a reconstruction plan, which would blend a good deal of the old without interfering with the utility of the building.

Proponents' Testimony:

Mike Cooney, Secretary of State, said his office is a full time tenant of this building. He started hanging around this building 17 years ago, as an intern at the state legislature.

He's developed a fondness for this capitol building. He's also witnessed several changes in the building that have made the building more usable, but has taken away some of the charm. He's seen some appalling damage done in the interest of efficiency. He'd like to maintain historical integrity and still usable by the people of the state. The committee starts with all the statewide elected officials, and they would be expected to raise money for this commission. In turn they appoint people to the commission. They would try to find the artifacts and bring it back. In the House they added the State Architect and the Montana Historical Society to participate in this organization.

Gene Hungtington said this commission establishes a continuity for preserving the history and carrying plans forward. He supports this legislation.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Blaylock asked if they had those \$850,000 worth of plans over there? The State Architect said they still have them in the vault. Senator Blaylock asked about the historic preservation material? That's a good base from which to start. He talked about this being an earthquake area and plans should be continued to try to strengthen the capitol.

Senator Pipinich asked if the computer installations are being made with careful consideration to the value of the building?

Mike Cooney suspects there is not. It is a sign of the changing times that there is damage and lack of thought. The also said that the State Architect and the Historical Society are consultants and they are in the bill where they want to be, but they won't be soliciting funds, etc.

Senator Hockett asked who is in charge of the capitol? The Department of Administration has the General Services section that cares for capitol building. Senator Hockett asked if the General Services are the ones who sometimes damage the building. Mike Cooney answered that General Services fills the needs of the tenants of the state buildings. He believes they do a good job with what they have to work with, but there are special needs for this building.

Senator Hockett asked if they are acknowledged in this bill? They are because the Director of the Department of administration is included.

Senator Farrell asked if there is going to be a battle to move the Senate. Mike Cooney said anything is possible. The bill says to suggest capitol improvements.

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Senator Vaughn asked about the amount of compensation in the bill is \$25. In Finance and Claims there were a number who weren't getting the \$50 that others were getting and they asked for a raise. Is that going to happen on this bill too? Mike Cooney said they're looking at the more affluent, who might not ask for a raise. Major industry and business leaders through out the state are those they are aiming toward. Legislative members get \$50 for commissions they serve on.

Senator Rea asked when is the state capitol centennial? Mike Cooney said the capitol was started in 1986 and completed in 1904. The corner stone says 1899.

Closing by Sponsor:

Senator Fritz said the issue of the capitol restoration is a constant one and everyone has seen the model in the hall. This will galvanize those who are already interested. It is a major event in the history of Montana and this will give us some lead time. He's heard 3 amendments so far which we can work on and pass it out. He asked the committee to hold executive action on House Bill 500.

The legislature isn't included in this bill because it is a separation of powers issue.

ADJOURNMENT

Adjournment At: 11:20 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

EV/dh

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ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE 3-14-91

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	truly X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL	X		
SENATOR HARRY FRITZ	X		
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			excused

Each day attach to minutes.

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State Administration

HB 500

HB

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

AMENDMENTS TO HB 896

Prepared by Beth Baker, Department of Justice

Page 12, line 17, through page 13, line 6: strike entire section.

Page 31, lines 3-11, amend to read:

(4) The local fire chief shall consult at least annually on safety and emergency considerations with each person responsible for the operation of any research, educational, or testing laboratory workplace. The consultation may result in recommendations ~~or, under the provisions of 50-62-108, orders~~ OR, UNDER THE PROVISIONS OF 50-62-102, ORDERS by the fire chief to be implemented by the laboratory operator to enhance public safety, to reduce the likelihood of emergency incidents, or to improve emergency response in the event of an accident.

Page 31, lines 19-20: Amend to read:

NEW SECTION. Section 38. Repealer. Sections 50-3-104, 50-3-105, 50-3-107, 50-3-108, 50-39-201, 50-39-202, 50-39-203, 50-61-104, 50-61-105 ...

~~pupil-instruction-related day is a day of teacher activities devoted to improving the quality of instruction. The activities may include but are not limited to in-service training, attending state meetings of teacher organizations, and conducting parent conferences. A maximum of 7 pupil-instruction-related days may be conducted during a school year, with a minimum of 3 of the days for instructional and professional development meetings or other appropriate in-service training, provided that the days are approved by the superintendent of public instruction in accordance with the policy adopted by the board of public education. The days may not be included as a part of the required minimum of 180 days of pupil instruction.~~

History: En. 75-7405 by Sec. 369, Ch. 5, L. 1971; R.C.M. 1947, 75-7405; amd. Sec. 1, Ch. 638, L. 1989.

Compiler's Comments

1989 Amendment: In middle of third sentence inserted "with a minimum of 3 of the days for instructional and professional development meetings or other appropriate in-service training"; and made minor changes in phraseology. Amendment effective July 1, 1990.

Power of Superintendent of Public Instruction to approve school on pupil-instruction-related days, 20-3-106(22).

Attendance at state teachers' association annual session, 20-4-304.

Instructional assistance by Superintendent of Public Instruction, 20-7-114.

School closure by declaration of emergency, 20-9-806.

Cross-References

Duty of Board of Public Education to adopt policy on pupil-instruction-related days, 20-2-121(6).

20-1-305. School holidays. (1) Pupil instruction and pupil-instruction-related days shall not be conducted on the following holidays:

- (a) New Year's Day (January 1);
- (b) Memorial Day (last Monday in May);
- (c) Independence Day (July 4);
- (d) Labor Day (first Monday in September);
- (e) Thanksgiving Day (fourth Thursday in November);
- (f) Christmas Day (December 25);
- (g) State and national election days when the school building is used as a polling place and the conduct of school would interfere with the election process at the polling place.

(2) When these holidays fall on Saturday or Sunday, the preceding Friday or the succeeding Monday shall not be a school holiday.

History: En. 75-7406 by Sec. 370, Ch. 5, L. 1971; amd. Sec. 1, Ch. 159, L. 1974; R.C.M. 1947, 75-7406.

Cross-References

Legal holidays, 1-1-216.

Teacher contract not to require teaching on school holidays, 20-4-201.

20-1-306. Commemorative exercises on certain days. (1) All districts shall conduct appropriate exercises during the school day on the following commemorative days:

- (a) Lincoln's Birthday (February 12);
- (b) Washington's Birthday (February 22);
- (c) Arbor Day (last Friday in April);
- (d) Flag Day (June 14);
- (e) Citizenship Day (September 17);
- (f) Columbus Day (October 12);

1-1-216

GENERAL LAWS AND DEFINITIONS

BILL NO. HB 794

(5) The residence of an unmarried minor who has a parent living cannot be changed by either his own act or that of his guardian.

(6) The residence can be changed only by the union of act and intent.

History: En. Sec. 72, Pol. C. 1895; re-en. Sec. 32, Rev. C. 1907; re-en. Sec. 33, R.C.M. 1921; Cal. Pol. C. Sec. 52; re-en. Sec. 33, R.C.M. 1935; amd. Sec. 4, Ch. 164, L. 1975; R.C.M. 1947, 83-303.

Cross-References

Citizenship, Title 1, ch. 1, part 4.

Residence for registration and voting, 13-1-112.

Residence defined for purposes of bidding on public contracts, 18-1-103.

Presumptions and rules as to domicile for university students, 20-25-503.

Right of parent to determine the residence of child, 40-6-231.

Residence defined for purpose of issuing resident fishing and hunting licenses, 87-2-102.

See also "residence", "residency", "resident", Words and Phrases Defined in Code, MCA Index.

1-1-216. Legal holidays and business days. (1) The following are legal holidays in the state of Montana:

(a) Each Sunday;

(b) New Year's Day, January 1;

(c) Lincoln's and Washington's Birthdays, the third Monday in February;

(d) Memorial Day, the last Monday in May;

(e) Independence Day, July 4;

(f) Labor Day, the first Monday in September;

(g) Columbus Day, the second Monday in October;

(h) Veterans' Day, November 11;

(i) Thanksgiving Day, the fourth Thursday in November;

(j) Christmas Day, December 25;

(k) State general election day;

(l) Heritage Day, to be observed annually on a date determined by the governing body of each political subdivision for the purposes of that political subdivision and by the governor for the executive, legislative, and judicial branches of state government, including the Montana university system.

(2) If any of the above-enumerated holidays (except Sunday) fall upon a Sunday, the Monday following is a holiday. All other days are business days.

History: En. Sec. 10, Pol. C. 1895; re-en. Sec. 10, Rev. C. 1907; amd. Sec. 1, Ch. 21, L. 1921; re-en. Sec. 10, R.C.M. 1921; Cal. Pol. C. Secs. 10-11; re-en. Sec. 10, R.C.M. 1935; amd. Sec. 1, Ch. 209, L. 1955; amd. Sec. 1, Ch. 6, L. 1965; amd. Sec. 1, Ch. 89, L. 1969; amd. Sec. 6, Ch. 32, L. 1971; amd. Sec. 1, Ch. 16, L. 1974; R.C.M. 1947, 19-107(part); amd. Sec. 1, Ch. 431, L. 1987.

Cross-References

Arbor Day as official day of observance, 1-1-225.

State employees — holidays — observance when falling on employee's day off, 2-18-603.

Legal holidays for school purposes only, 20-1-307.

Bank holidays, 32-1-481.

1-1-217. Notice — actual and constructive. (1) Notice is:

(a) actual whenever it consists of express information of a fact;

(b) constructive whenever it is imputed by law.

(2) Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such facts.

History: (1) En. Sec. 4666, Civ. C. 1895; re-en. Sec. 6228, Rev. C. 1907; re-en. Sec. 8780, R.C.M. 1921; Cal. Civ. C. Sec. 18; Based on Field Civ. C. Secs. 2009, 2010; re-en. Sec. 8780,

SENATE STANDING COMMITTEE REPORT

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MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 794 (third reading copy - blue), respectfully report that House Bill No. 794 be concurred in and unanimously recommend that it be placed on the Consent Calendar.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

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Amd. Coord.

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Sec. of Senate

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