

**MINUTES**

**MONTANA SENATE  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY**

**Call to Order:** By Senator Dorothy Eck, on March 23, 1991, at  
8:35 A.M.

**ROLL CALL**

**Members Present:**

Dorothy Eck, Chairman (D)  
Eve Franklin, Vice Chairman (D)  
James Burnett (R)  
Thomas Hager (R)  
Judy Jacobson (D)  
Bob Pipinich (D)  
David Rye (R)  
Thomas Towe (D)

**Members Excused:** None

**Staff Present:** Tom Gomez (Legislative Council).  
Christine Mangiantini (Committee Secretary)

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

**Announcements/Discussion:** None

**EXECUTIVE ACTION ON HOUSE BILL 162**

**Discussion:**

Chairman Eck advised there were two sets of amendments on HB 162, and she requested Tom Gomez, Legislative Research Staff, to explain them. Both sets of amendments were requested by Representative Bob Gilbert and prepared by Gail Kuntz from the Environmental Quality Council. Mr. Gomez stated the amendments are needed to correct a legal problem wherein there is no statutory authority for the Department of Health and Environmental Sciences to hear appeals on local government decisions regarding variances from sewage system standards.

**Amendments, Discussion, and Votes:**

Senator Towe made a motion that the amendments on HB 162 be adopted. Those in favor - 8; opposed - 0. MOTION CARRIED.

Recommendation and Vote:

Senator Towe made a motion that HB 162 BE CONCURRED IN AS AMENDED. Those in favor - 6; opposed - 2 (Burnett, Rye). MOTION CARRIED.

Senator Yellowtail will carry HB 162 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 239

Discussion:

Chairman Eck advised that the proposed amendment was suggested by the city of Billings. Following lengthy discussion, Senator Towe suggested the amendment be changed to read "Unless local sewer authorities adopt a stricter requirement, liquid .."

Amendments, Discussion, and Votes:

Senator Towe moved the amendment to HB 239 be adopted. Those in favor - 5; opposed - 3 (Burnett, Hager, Rye). MOTION CARRIED.

Recommendation and Vote:

Senator Towe made a motion that HB 239 BE CONCURRED IN AS AMENDED. Those in favor - 5; opposed - 3 (Burnett, Hager, Rye).

Senator Yellowtail will carry HB 239 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 930

Discussion:

JIM SMITH, Mental Health Association, stated that he believed there was a little movement between the parties when Senator Franklin spoke with them regarding guardianship proceedings, and making them more expeditious. He suggested that an amendment might be considered to make it acceptable to all parties. Sen. Towe asked if Mr. Smith meant an expedited type of guardianship, adding that there is a guardianship procedure in the law right now which would address non-hospital patients. That law could possibly be expanded to apply to hospital situations. Senator Towe suggested that section of law be studied to see if expanding it would be advisable. He added that this is a perennial argument, and although Archie McPhail is concerned about this issue, Senator Towe feels he is bucking an uphill battle. It is his opinion it is not that big a problem because if a particular person does not want a particular drug, it should not be forced on them.

Senator Franklin advised that John McCray furnished her some language as a possible compromise solution to leave in subsection C, which is where we are going nationally. Senator Franklin read the section including the new language. Senator Towe agreed, adding that it would be helpful in conjunction with amending the guardianship statute.

Tom Gomez was requested to write up that amendment, plus a guardianship amendment after researching the current guardianship law.

Senator Franklin asked Dan Anderson, Department of Institutions, if this made sense to him in terms of it working, to which he answered affirmatively. He added that it sounded like a good solution, and added that the guardianship statutes should be checked to make sure there isn't something that would prevent an expeditious use.

Chairman Eck appointed Senators Pipinich, Franklin and Towe to take part in a conference call with Archie McPhail, Ginny Hill, and Jane Edwards. She also invited any other interested committee members to take part if they wished.

#### EXECUTIVE ACTION ON HOUSE BILL 917

##### Discussion:

Senator Franklin indicated that she and Senator Jacobson had concern about over-amending HB 917, given the delicate balance that had been struck.

##### Amendments, Discussion, and Votes:

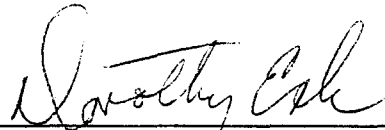
Senator Franklin made a motion that Amendments 1, 2 and 3, as proposed by Montana Department of Health and Environmental Sciences, be adopted. Those in favor - 6; opposed - 0. MOTION CARRIED. Chairman Eck stated the vote would be kept open for Senators Pipinich and Towe.

Senator Franklin referred to Page 12, line 1, which indicates a health care facility may, without the consent of the patient, conduct a test on previously drawn blood. Senator Franklin said she would prefer talking to more people before taking action on this. Senator Eck also had concerns regarding tests on available blood, and notification to the patients. She also pointed out minor language changes on page 11, line 19. She requested Tom Gomez to prepare the amendments in appropriate language.

No further action taken this date.

ADJOURNMENT

Adjournment At: 9:30 A.M.



\_\_\_\_\_  
DOROTHY ECK, Chairman



\_\_\_\_\_  
CHRISTINE MANGIANTINI, Secretary

DE/cm/dq

ROLL CALL

PUBLIC HEALTH, WELFARE  
AND SAFETY

COMMITTEE

Date 3/23/91

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NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	✓		
SENATOR FRANKLIN	✓		
SENATOR HAGER	✓		
SENATOR JACOBSON	✓		
SENATOR PIPINICH	✓		
SENATOR RYE	✓		
SENATOR TOWE	✓		
SENATOR ECK	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 23, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 239 (third reading copy -- blue), respectfully report that House Bill No. 239 be amended and as so amended be concurred in.

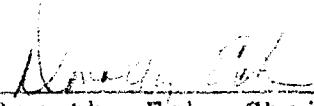
1. Page 6, line 2.

Following: "(b)"

Strike: "Liquid"

Insert: "Unless local sewer authorities adopt a stricter requirement, liquid"

Signed: \_\_\_\_\_

  
Dorothy Eck, Chairman

LB 3/23/91  
Amd. Cobrd.

CR 3/23 11:45  
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
March 23, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 162 (third reading copy -- blue), respectfully report that House Bill No. 162 be amended and as so amended be concurred in:

1. Title, line 12.

Following: "BUILDINGS;"

Insert: "PROVIDING FOR APPEAL OF A LOCAL VARIANCE DECISION TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;"

2. Page 1, line 24 through page 2, line 2.

Following: "BY"

Strike: remainder of line 24 through "SCIENCES." on line 2, page 2

Insert: "local boards of health. The rules must also provide a procedure for persons to appeal a local board of health's decision on a variance to the department of health and environmental sciences."

3. Page 2, line 16.

Following: "wastes"

Insert: "-- variance procedure -- appeals"

Following: "."

Insert: "(1)"

4. Page 2, line 17.

Following: "wastes."

Insert: "(2)"

5. Page 2, line 19.

Following: "buildings"

Insert: ", including standards and procedures for variances from the requirements"

6. Page 2.

Following: line 19

Insert: "(3) An applicant for a variance from minimum requirements adopted by a local board of health pursuant to 50-2-116(1)(i) may appeal the local board of health's final decision to the department by submitting a written request for a hearing

within 30 days after the decision. The written request must describe the activity for which the variance is requested, include copies of all documents submitted to the local board of health in support of the variance, and specify the reasons for the appeal of the local board of health's final decision.

(4) The department shall conduct a hearing on the request pursuant to Title 2, chapter 4, part 6. Within 30 days after the hearing, the department shall grant, conditionally grant, or deny the variance. The department shall base its decision on the board's standards for a variance.

(5) A decision of the department pursuant to subsection (4) is appealable to district court under the provisions of Title 2, chapter 4, part 7."

7. Page 3, line 16.

Following: "4."

Insert: "The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of health and environmental sciences and must provide for appeal of variance decisions to the department as required by 75-5-305."

Signed: \_\_\_\_\_

*Dorothy Eck*  
Dorothy Eck, Chairman

*AM 3-23-91*  
And. Coord.

*SB 3-23-91 11:30*  
Sec. of Senate



SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 3/15

Amendments to House Bill No. 162  
Third Reading Copy

H BILL NO. 162

Requested by Rep. Gilbert  
For the Senate Committee on Public Health, Welfare and Safety

Prepared by Gail Kuntz  
February 5, 1991

1. Page 1, line 24 through page 2, line 2.

Following: "BY"

Strike: remainder of line 24 through "SCIENCES." on line 2, page 2

Insert: "local boards of health. The rules must also provide a procedure for persons to appeal a local board of health's decision on a variance to the department of health and environmental sciences."

Amendments to House Bill No. 162  
Third Reading CopyRequested by Rep. Gilbert  
For the Committee on Public Health, Welfare and SafetyPrepared by Gail Kuntz  
March 21, 1991

1. Title, line 12.  
Following: "BUILDINGS;"  
Insert: "PROVIDING FOR APPEAL OF A LOCAL VARIANCE DECISION TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;"
2. Page 2, line 16.  
Following: "wastes"  
Insert: "-- variance procedure -- appeals"  
Following: "."  
Insert: "(1)"
3. Page 2, line 17.  
Following: "wastes."  
Insert: "(2)"
4. Page 2, line 19.  
Following: "buildings"  
Insert: ", including standards and procedures for variances from the requirements"
5. Page ~~2~~ 2  
Following: line 19  
Insert: "(3) An applicant for a variance from minimum requirements adopted by a local board of health pursuant to 50-2-116(1)(i) may appeal the local board of health's final decision to the department by submitting a written request for a hearing within 30 days after the decision. The written request must describe the activity for which the variance is requested, include copies of all documents submitted to the local board of health in support of the variance, and specify the reasons for the appeal of the local board of health's final decision.  
(4) The department shall conduct a hearing on the request pursuant to Title 2, chapter 4, part 6. Within 30 days after the hearing, the department shall grant, conditionally grant, or deny the variance. The department shall base its decision on the board's standards for a variance.  
(5) A decision of the department pursuant to subsection (4) is appealable to district court under the provisions of Title 2, chapter 4, part 7."
6. Page 3, line 16.  
Following: "4."  
Insert: "The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of health and environmental

sciences and must provide for appeal of variance decisions to the department as required by 75-5-305."

SENATE HEALTH & WELFARE

EXHIBIT NO. 3

DATE 3-23-91

BILL NO. #B 912

24-1116

Amendments to House Bill No. 239  
Third Reading Copy

For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez  
March 23, 1991

1. Page 6, line 2.

Following: "(b)"

Strike: "Liquid"

Insert: "Unless local sewer authorities adopt a stricter  
requirement, liquid"

Proposed Amendments to House Bill 917  
Third Reading Copy  
Montana Department of Health and Environmental Sciences

March 20, 1991

1. Title, page 2, line 2.  
Following: "FACILITY"  
Insert: "OR EMERGENCY SERVICES"  
Following: "PERSONNEL"  
Strike: "OR EMERGENCY RESPONDERS"

SENATE HEALTH & WELFARE  
EXHIBIT NO. 4  
DATE 3-23-91  
BILL NO. HB 917

2. Title, page 2, line 14.  
Following: "50-16-529,"  
Insert: "50-16-702,"

3. Page 11, line 14.  
Following: "A"  
Strike: "FIRST RESPONDER"  
Insert: "person providing emergency services and described in  
50-16-702(1)"

4. Page 18.  
Following: line 14  
Insert: "NEW SECTION. Section 7. Section 50-16-702, MCA, is  
amended to read:  
"50-16-702. Report of unprotected exposure to disease. (1)  
A report may be filed, as provided in subsection (2), by a  
person:

(a) employed by or acting as a volunteer with a public or  
private organization that provides emergency services to the  
public, including but not limited to a law enforcement of-  
ficer, firefighter, emergency medical technician, correc-  
tions officer, or ambulance service attendant; and

(b) who, in his official capacity with the public or  
private organization, attends or assists in transporting a  
patient to a health care facility and believes he has sus-  
tained an unprotected exposure.

(2) A person who qualifies in subsection (1) may submit  
to the health care facility, on a form prescribed by the  
department, a report of unprotected exposure that contains  
his name and other information required by the department,  
including a description of the unprotected exposure.

(3) If the exposure described in the report is in a man-  
ner recognized by the Centers for Disease Control as allow-  
ing infection by HIV, as defined in 50-16-1003, submission  
of the report to the health care facility constitutes a  
request to the patient's physician to seek consent for per-  
formance of an HIV-related test pursuant to 50-16-1007(10)."

Renumber: subsequent sections

ROLL CALL VOTE

Passed

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 H Bill No. 162 Time 8:42 a.m.

NAME	YES	NO
SENATOR BURNETT	✓	
SENATOR FRANKLIN	✓	
SENATOR HAGER	✓	
SENATOR JACOBSON	✓	
SENATOR PIPINICH	✓	
SENATOR RYE	✓	
SENATOR TOWE	✓	
SENATOR ECK	✓	

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: JOWE MOVES 8-1 & 8-2.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 Bill No. H 162 Time 8:45

NAME	YES	NO
SENATOR BURNETT		✓
SENATOR FRANKLIN	✓	
SENATOR HAGER	✓	
SENATOR JACOBSON	✓	
SENATOR PIPINICH	✓	
SENATOR RYE		✓
SENATOR TOWE	✓	
SENATOR ECK	✓	

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman

Motion: Towe moves consent. as amended.

ROLL CALL VOTE

*Need  
amend.  
from  
Homeny*

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 H Bill No. 239 Time 8:59 am

NAME	YES	NO
SENATOR BURNETT		✓
SENATOR FRANKLIN	✓	
SENATOR HAGER		✓
SENATOR JACOBSON	✓	
SENATOR PIPINICH	✓	
SENATOR RYE		✓
SENATOR TOWE	✓	
SENATOR ECK	✓	

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: Towe moves adopt. after (b), line 2, p. 6.

insert: unless otherwise provided by local sewer authorities  
local sewer auth. adopt a sticker req.

*Get  
correct  
lang.  
from  
Homeny.*



ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 H Bill No. 239 Time 9:00a.m.

NAME	YES	NO
SENATOR BURNETT		✓
SENATOR FRANKLIN	✓	
SENATOR HAGER		✓
SENATOR JACOBSON	✓	
SENATOR PIPINICH	✓	
SENATOR RYE		✓
SENATOR TOWE	✓	
SENATOR ECK	✓	

Secretary \_\_\_\_\_ Chairman \_\_\_\_\_

Motion: Towe moves adop.  
y-tail carrier

ROLL CALL VOTE

*Not  
Passed  
out.*

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 Bill No. H 917 Time 9:16 a.m.

NAME	YES	NO
SENATOR BURNETT	✓	
SENATOR FRANKLIN	✓	
SENATOR HAGER	✓	
SENATOR JACOBSON	✓	
SENATOR PIPINICH		
SENATOR RYE	✓	
SENATOR TOWE	<i>no</i>	
SENATOR ECK	✓	

Secretary

Chairman

Motion: Franklin moved 1-3 of  
~~insert new language~~ Motion to adapt / 8-4.