

MINUTES

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

Call to Order: By Chairperson Eleanor Vaughn, on April 10, 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)
Bernie Swift (R)

Members Excused: None

Staff Present: David Niss (Legislative Council).

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

Announcements/Discussion: None

EXECUTIVE ACTION ON HOUSE BILL 577

Discussion:

Senator Vaughn explained that House Bill 577 outlines some benefits to state, county, or city employees who were called to military duty in the Desert Shield, Desert Storm conflict.

Senator Pipinich said it would allow the employee's family to remain a member in the group life insurance plan. It would allow sick and annual leave to accrue for the first 30 days at the full rate and 1/4th rate after 30 days for the time they are in active duty. The salary would continue for 30 days. Because none of those jobs were filled, the budget was there for those people's salaries. The departments would have to pay the 30 day salary and the outlined benefits and probably would still have funds left over. There are 42 state employees and 18 people in county and city governments around the state. There is no fiscal impact.

Senator Vaughn said there were 4 military leave benefit bills offered. We have been waiting to see if the bonus bill sponsored by Representative Pavlovich would pass. His bill has been tabled in the House. Representative Bradley said we could hold House Bill 945, which allowed state employees to contribute annual vacation leave to a pool to be used for military service benefits. There hasn't been any request to act on House Bill 945 or House Bill 734 so it's probably better to wait. During the next 2 years, we can get a count of who was there and then come in with an appropriate bonus that would be fair to everyone who served.

Amendments, Discussion, and Votes:

Senator Farrell called attention to the amendments that the retirement board had suggested if this bill was enacted. He explained that when a person joins the National Guard or Reserves he knows the obligation that he committed to, that the government paid for and the risk that he accepted. He has been paid for the weekend training sessions and that is a "benefit" other state employees don't get. Senator Vaughn said several different people have said the same thing. It is part of the requirement that they do serve in times of emergency if called upon.

Senator Farrell moved to TABLE HOUSE BILL 577. The ROLL CALL VOTE was 9 yes and 1 no. Motion carried to TABLE HB 577. Senator Farrell said this is the responsible thing to do until we know the numbers more fully. Senator Pipinich said some of the lower paid service people have a problem with their family payments, while they're serving overseas.

Recommendation and Vote:

None

EXECUTIVE ACTION ON HOUSE BILL 896

Discussion:

Senator Vaughn said House Bill 896 revises the statutes pertaining to the powers and duties of the State Fire Marshall.

Senator Farrell had asked David Niss to prepare some amendments and David explained them. (Exhibit 1) It simply says that the State Fire Marshall is required to inspect all state buildings as often as his budget and other inspection duties allow, but no more often than once each year, unless requested by the heads of the departments. It also specifies that the State Fire Marshall inspection reports must be given to the appropriate department head. It says the State Fire Marshall will counsel the public agency regarding the safety requirements and inspections, and whether their buildings measure up to the requirements.

Senator Farrell said he was concerned about the appropriation process and having these agencies allowed to come to the legislature after inspection to get appropriation to bring their buildings up to code. This gives the departments the opportunity to work with the Architects and Engineering Division and the legislature.

Senator Blaylock asked Beth Baker, attorney for the Department of Justice what she thought of these amendments? Attorney Baker said that the Department of Justice agrees with the amendment proposed by Senator Farrell. This keeps the state from the jeopardy of having a building closed down.

David Niss also had prepared an amendment requested by the Attorney General's office on the day of the hearing. These amendments repeal some sections which were scheduled for amendment.

Beth Baker, attorney for the Department of Justice, explained that these sections are no longer needed. They are outdated regulations that spoke to standardizing fire fighting equipment, and the need for these is long since past.

Senator Blaylock asked Beth Baker if she had checked all the amendments? Beth Baker said, "Yes, she had checked them all."

Amendments, Discussion, and Votes:

Senator Farrell moved to accept the amendments in Exhibit 1. The VOTE was UNANIMOUS in favor of amending House Bill 896.

Senator Pipinich moved to accept the amendments in Exhibit 2. The VOTE was UNANIMOUS in favor of the second set of amendments.

Recommendation and Vote:

Senator Blaylock moved that we DO CONCUR AS AMENDED IN HOUSE BILL 896. The VOTE was UNANIMOUS in favor of the bill. Senator Farrell will carry House bill 896 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 866

Motion:

Senator Burnett moved we restore House Bill 866 back to it's original intent.

Discussion:

Senator Vaughn said she spoke to people who had worked on the subcommittee. They had worked very hard. There is quite an expense attached to it. After they had reviewed it and contacted many who were involved with it, they made the amendment that the

one department would be transferred, and they felt we should leave the bill as is or kill it. The House has already spent many days working on this legislation and if we send it back in it's original state, what will happen?

Senator Blaylock asked her to encapsulate the testimony for him. What is the argument for this bill? Why do they need it?

Senator Vaughn showed the diagram of the different departments and how they presently were. The second diagram showed how the different departments would be changed. There is quite a fiscal note attached to moving, one expensive item was moving the computer systems. The arguments for the move are that they would have a much better working basis under the proposals to put the similar groups together. The conservation people depend upon the attorney's from the Department of Natural Resources. There are many problems.

Senator Fritz said the current bill calls for a study. It now calls for the Reclamation Division to be transferred and leave the rest to be studied for another 2 years. Senator Fritz read from exhibit 3. 3)

"A strong case can be made for organizing these departments into two strong natural resource agencies, one having charge of development projects, the other being responsible for environmental protection. This bill blurs the roles between environmental protection and resource development. One-stop permitting can be achieved without this problem."

Senator Swift recalled that this bill will take the Hard Rock out and put it in DNRC, why do we want to mess with this if we are going to study it anyway? Let's get an answer instead of chopping it up piece meal. We don't know what the cost of moving one division will be.

Senator Hockett asked why did the House decide to move the one agency. Representative Toole said he made that motion because it put the Reclamation Division in with the Water Quality Bureau of the Department of Health and Environmental Sciences because they could get one stop permitting. This would enable a mining company to go to one place and get all the mine permits. He said the House Natural Resource Committee would support a 2 year study in lieu of this proposal.

Senator Hockett asked if the mining people are in support of this? Representative Toole said they were in support of the original bill. The opposition to the original bill came mainly from the environmental protection side.

Senator Blaylock asked what happens if we restore the bill back the way it was?

Representative Toole said it moves environmental sciences from the Health Department and puts it into Natural Resources. It puts Reclamation out of State Lands and moves that into Natural Resources. It concentrates a good deal of new power into Natural Resources, and combines environmental protection functions. There wouldn't be any environmental protection in health. Out of Natural Resources would come the conservation districts to the State Lands.

Senator Pipinich asked how Karen Barclay, Director of Natural Resources, feels about this bill? She supported the original bill.

Senator Farrell asked Steve Brown to speak. Steve Brown, representing random minerals, said that in 1981 the Governor transferred forestry from DNR to State Lands. Senator Keating introduced a bill that year to do most of the changes that are in this original House Bill 866. The bill did not pass either house. House Bill 866 calls for EQC to do the study, so the legislature would be in charge of it. Please try to ignore the personalities involved. That has been the thing that killed several reorganization proposals. That happened in 1973, 1981, and that may happen again. The fear was, if you concentrate power in one director, the industries might be more able to control the process. He recommended a study for two years.

Senator Blaylock asked to hear from Dave Wanzenried. Mr. Wanzenried's biggest concern is that you don't have much information to justify this type of reorganization. The shift looks simple but you are transferring a great deal of authority in the area of environmental regulation from one department to another to a board that doesn't have the requirements in law that the Board of Health has. The Board of Natural Resources needs to be enlarged to include some specifications for qualifications to sit on the Board. The Board of Health has requirements and background in health matters for sitting on it's board. This is a massive shift of authority. You need more information before making such broad changes. He said Representative Brown made 2 different motions to restore the language back that the Natural Resources Committee had taken out and both motions fell by substantial margins.

Amendments, Discussion, and Votes:

The VOTE to restore House Bill 866 to it's original form was 7 no and 3 yes. Motion Failed.

Recommendation and Vote:

Senator Farrell moved to TABLE House Bill 866. The VOTE was 5 yes and 5 no. Senator Blaylock moved to STRIKE ALL THE LANGUAGE IN HOUSE BILL 866 EXCEPT THAT WHICH PROVIDES FOR THE STUDY, SECTION 25, page 117.

SENATE STATE ADMINISTRATION COMMITTEE

April 10, 1991

Page 6 of 6

Senator Burnett said they have had many studies.

Senator Pipinich asked Steve Brown how he feels about this study. Steve Brown said he's been an advocate of reorganizing the environmental agencies for a long, long time. It will lead to better decision making. There are pluses for environmentalists and industrialists. It has to come about, and with the EQC doing the study there will be plenty of opportunity to get public input. Hopefully, two years will give you bipartisan support and that will make a big difference.

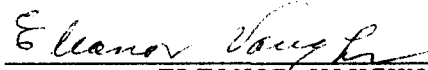
Senator Swift asked who will do the study? David Niss said this bill mandates that the EQC will do the study.

The ROLL CALL VOTE to AMEND HOUSE BILL 866 was 7 yes and 2 no.

Senator Blaylock moved to DO CONCUR IN HOUSE BILL 866 AS AMENDED. The VOTE was 7 yes and 3 no. Motion carried. Senators Swift, Burnett and Farrell voted no. Senator Keating was assigned to carry House Bill 866 to the Senate floor.

ADJOURNMENT

Adjournment At: 10:55 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

EV/dh

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE April 10, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
SENATOR CHET BLAYLOCK	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	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 10, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 896 (third reading copy -- blue), respectfully report that House Bill No. 896 be amended and as so amended be concurred in:

1. Title, line 12.

Strike: "50-39-202,"

2. Title, line 18.

Following: "50-3-108,"

Insert: "50-39-201, 50-39-202, 50-39-203,"

3. Page 2, line 4.

Strike: "37"

Insert: "36"

4. Page 6.

Following: line 10

Insert: "(a) inspect each unit of the Montana university system and other state buildings, including state institutions, as often as its budget and other inspection duties allow, but no more frequently than once each year unless requested by the commissioner of higher education for buildings in the university system, by the department of institutions for state institutions, or by the department of administration for all other state buildings. A copy of the inspection report for units of the university system must be given to the commissioner of higher education, a copy of the inspection report for state institutions must be given to the department of institutions, and a copy of the inspection report for all other state buildings must be given to the department of administration. The department of justice shall advise the commissioner of higher education and the directors of the departments of institutions and administration concerning fire prevention, fire protection, and public safety when it distributes the reports."

Renumber: subsequent subsections

5. Page 6, line 11.

Strike: "STATE-OWNED AND OTHER"

Following: "public;"

Insert: ","

6. Page 6, line 12.

Strike: "BUILDINGS AND"

Following: "business;"

Insert: ","

7. Page 12, line 18 through line 7 on page 13.

Following: line 17

Strike: section 14 in its entirety

Renumber: subsequent sections

8. Page 31, line 9.

Following: "~~orders~~"

Insert: "or, under the provisions of 50-62-102, orders"

9. Page 31, line 21.

Following: "50-3-108,"

Insert: "50-39-201, 50-39-202, 50-39-203,"

Signed: _____

Eleanor Vaughn
Eleanor Vaughn, Chairman

101 4-12-91
Ad. Coord.

Sec. of Senate

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 866 (third reading copy -- blue), respectfully report that House Bill No. 866 be amended and as so amended be concurred in:

1. Title, lines 8 through 13.

Strike: "TRANSFERRING" on line 8 through "SCIENCES" on line 13

2. Title, line 16.

Following: "~~AGENCIES~~"

Strike: ";"

3. Title, line 18.

Strike: "ADDITIONAL"

Following: "REORGANIZATION"

Insert: "OF THE NATURAL RESOURCE AND ENVIRONMENTAL FUNCTIONS OF
STATE GOVERNMENT"

4. Title, line 18 on page 1 through line 4 on page 2.

Strike: "AMENDING SECTIONS" on page 1, line 18 through "MCA;" on
page 2, line 4

5. Title, page 2, line 5.

Following: "PROVIDING"

Insert: "AN"

Strike: "DATES"

Insert: "DATE"

6. Pages 2 through 117.

Strike: page 2, line 8 through page 117, line 3

Re-number: subsequent sections

7. Page 117, line 4.

Strike: "ADDITIONAL NEEDS"

Insert: "need"

8. Page 117, line 10 and 11.

Strike: "TO COMPLEMENT THE REORGANIZATION OF FUNCTIONS PROVIDED
BY [THIS ACT]"

9. Page 117, line 14.

Strike: "ADDITIONAL"

10. Page 117, line 20.
Strike: "ADDITIONAL"

11. Page 117, line 22 through line 17 on page 118.
Strike: sections 26, 27, 28 and 29 in their entirety
renumber: subsequent section

12. Page 118, line 18.
Strike: "dates. (1)"
Insert: "date."

13. Page 118, lines 19 through 22.
Strike: lines 19 through 22 in their entirety
Insert: "[Section 1] is effective July 1, 1991."

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

191 4-10-91
And. Coord.

SP 4-10 3:15
Sec. of Senate

Amendments to House Bill No. 896
Third Reading CopyDATE 4-7-91BILL NO. HB 896Requested by Sen. Farrell
For the Committee on State AdministrationPrepared by David S. Niss
April 9, 1991

1. Page 6.

Following: line 10

Insert: "(a) inspect each unit of the Montana university system and other state buildings, including state institutions, as often as its budget and other inspection duties allow, but no more frequently than once each year unless requested by the commissioner of higher education for buildings in the university system, by the department of institutions for state institutions, or by the department of administration for all other state buildings. A copy of the inspection report for units of the university system must be given to the commissioner of higher education, a copy of the inspection report for state institutions must be given to the department of institutions, and a copy of the inspection report for all other state buildings must be given to the department of administration. The department of justice shall advise the commissioner of higher education and the directors of the departments of institutions and administration concerning fire prevention, fire protection, and public safety when it distributes the reports."

Renumber: subsequent subsections

2. Page 6, line 11.

Strike: "STATE-OWNED AND OTHER"Following: "public,"

Insert: ", "

3. Page 6, line 12.

Strike: "BUILDINGS AND"Following: "business,"

Insert: ", "

Amendments to House Bill No. 896 BILL NO. HB 896
Third Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
April 9, 1991

1. Title, line 12.
Strike: "50-39-202,"

2. Title, line 18.
Following: "50-3-108,"
Insert: "50-39-201, 50-39-202, 50-39-203,"

3. Page 2, line 4.
Strike: "37"
Insert: "36"

4. Page 12, line 18 through line 7 on page 13.
Following: line 17
Strike: section 14 in its entirety
Renumber: subsequent sections

5. Page 31, line 9.
Following: "orders"
Insert: "or, under the provisions of 50-62-102, orders"

6. Page 31, line 21.
Following: "50-3-108,"
Insert: "50-39-201, 50-39-202, 50-39-203,"

DATE 4-10-91BILL NO. HB 866

TO: Senate State Administration Committee
FROM: Rep. Howard Toole, House District 60, Missoula
RE: HB 866 Executive Reorganization Plan
DATE: 4/10/91

I was unable to attend the 4/9/91 hearing on HB 866 in your committee. Because I sat on the Board of Health & Environmental Sciences from 1983 until last December, I took an active interest in this bill. I hope you will consider the following.

1) The bill as proposed severs the environmental protection functions of the DHES from that department's public health role. Since many of the environmental policy decisions of the DHES involve consideration of effects on public health, splitting of these functions away from one another should be looked at more carefully. A number of local health departments are opposed to this bill because of this undesirable splitting off of related activities.

2) The bill as originally proposed would move the administrative staff of DHES Environmental Sciences Division out of the Cogswell building but leave all the line people there, out of direct touch with their supervisors. Logistics needs more careful consideration.

3) A strong case can be made for organizing these departments into two strong natural resource agencies, one having charge of development projects, the other being responsible for environmental protection. This bill blurs the roles between environmental protection and resource development. One-stop permitting can be achieved without this problem.

4) A major reorganization of this magnitude needs more time and more study. The idea was first proposed last fall, and all that was done was to prepare a chart showing which agency division was being moved where. No input was solicited in an organized way from agency staff below the top administrative levels. Contrast this with the Department of Transportation reorganization (SB 164), which was proposed more than a year earlier and was discussed in detail among the affected staff in the Highway Department, the PSC and the Department of Commerce. A comprehensive study was done, culminating in a 100-page feasibility analysis that evaluated the effects of the proposal in depth. Nothing even approaching that was done for HB 866.

5) The proposed Department of Natural Resources and Environment would have to balance resource development against environmental protection in many of its daily decisions. The inherent tension between conflicting interests may endanger the quality of programs, particularly regulatory programs. And this problem may be even more acute for the new Board that will sit as a quasi-judicial body to decide contested cases and to develop administrative policies and rules governing resource development and environmental protection. For example, the board may have to consider in-stream flow water reservation proposals that conflict with the resource development objectives of the department's other programs.

6) One-stop permitting for mining can be implemented using the amendments put on the bill by the House Natural Resources Committee. The limited approach of moving the Reclamation Division to the DHES will enable the people most involved in mine permitting (Reclamation staff and Water Quality Bureau people) to work together on mine permits. Putting these people together would seem to be necessary to one-stop permitting, and if a larger reorganization is desired after more study, that can be implemented by a subsequent legislature.

7) The policy implications of this bill are major. I believe it would be far better to have the EQC or the affected agencies do a comprehensive study and write a detailed report analyzing the need for a reorganization and evaluating several different ways in which it might be accomplished. This was done for the new DOT bill, and no less should be done with HB 866, which arguably is even more far-reaching than the other.

Thank you for considering these comments. I hope the Senate will agree that a second opinion is needed before putting these agencies under the knife for radical surgery. When this bill was heard in the House, the leading proponents for the agencies acknowledged that there were several different ways to achieve one-stop permitting, and there was no particular magic to this proposal. I personally believe that this may not be the best possible proposal for reorganizing these agencies. I hope your committee will either concur in the House Natural Resources Committee amendments, or limit this bill to a study of the reorganization, to be done during the coming biennium.

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date 4-10-91 Bill No. HB 577 Time 10:12

NAME	YES	NO
Chairman Eleanor Vaughn	X	
Vice Chairman Bob Pipinich		X
Senator John Anderson	X	
Senator Chet Blaylock	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	X	

Dolores Harris
Secretary Dolores Harris

Eleanor Vaughn
Chairman Eleanor Vaughn

Motion: Senator Farrell moved to Table
HB 577. Motion Carried

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date 4-10-91 Bill No. HB 866 Time 10:45

NAME	YES	NO
Chairman Eleanor Vaughn		X
Vice Chairman Bob Pipinich		X
Senator John Anderson	X	
Senator Chet Blaylock		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	X	

Dolores Harris
Secretary Dolores Harris

Chairman Eleanor Vaughn

Motion: Senator Farrell moved to Table.
HB 866. Vote tied.

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

52st LEGISLATIVE SESSION

Date 4-10-91 Bill No. HB 866 Time 10:45

NAME	YES	NO
Chairman Eleanor Vaughn	✓	
Vice Chairman Bob Pipinich	X	
Senator John Anderson	X	
Senator Chet Blaylock	X	
Senator James Burnett		X
Senator "Bill" Farrell		
Senator Harry Fritz	X	
Senator Bob Hockett	X	
Senator Jack "Doc" Rea	X	
Senator Bernie Swift		X

Dolores Harris
Secretary Dolores Harris

Eleanor Vaughn
Chairman Eleanor Vaughn

Motion: Senator Blaylock moved to strike
everything in HB 866 except the study
in Section 25. Motion carried.