

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **DICK SIMPKINS, CHAIRMAN**, on January 8, 1993,  
at 8:30 a.m.

**ROLL CALL**

**Members Present:**

Rep. Dick Simpkins, Chairman (R)  
Rep. Wilbur Spring, Vice Chairman (R)  
Rep. Ervin Davis, Vice Chairman (D)  
Rep. Beverly Barnhart (D)  
Rep. Pat Galvin (D)  
Rep. Bob Gervais (D)  
Rep. Harriet Hayne (R)  
Rep. Gary Mason (R)  
Rep. Brad Molnar (R)  
Rep. Bill Rehbein (R)  
Rep. Sheila Rice (D)  
Rep. Sam Rose (R)  
Rep. Dore Schwinden (D)  
Rep. Carolyn Squires (D)  
Rep. Jay Stovall (R)  
Rep. Norm Wallin (R)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sheri Heffelfinger, Legislative Council  
Dorothy Poulsen, Committee Secretary

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

**Committee Business Summary:**

Hearing: None  
Executive Action: HB 79 (tabled); HB 86 (postponed)

**Announcements/Discussion:**

**REP. SIMPKINS** clarified for committee members that absent members  
should leave written proxies with their respective vice chairs.  
The written proxies will be attached to the final minutes.

**REP. SIMPKINS** reminded committee members that following today's  
executive action there would be a briefing on the Employee

Compensation Plan by the Department of Administration and Tom Schneider of the Montana Public Employees Association (MPEA).

EXECUTIVE ACTION ON HB 86

REP. GALVIN asked whether HB 86, REP. HANSON'S bill requiring candidates to file a street address with the Secretary of State, affected only multi-county districts. Ms. Heffelfinger responded that the constitutional requirement would remain the same; if the candidate comes from a multi-county district, then the candidate must live in the district. The bill does not pertain to that issue. House Bill 86 deals with reporting the candidate's residence, requiring that the residence be recorded as a street address, and notifying the Secretary of State within 15 days of any change of residence. If the candidate is no longer eligible because of constitutional residency requirements, then the Secretary of State must ask the candidate to withdraw.

Motion: REP. SPRING MOVED HB 86 DO PASS.

Motion: REP. ROSE moved to amend HB 86.

Discussion:

Sheri Heffelfinger explained that the function of the amendments is to take out of HB 86 reference to the decertification of the candidates and allowing candidates to withdraw up to the date of the election. The amendments make the required language changes.  
EXHIBIT 1

REP. SQUIRES inquired whether the bill was limited to notifying the Secretary of State of a change in residence without any enforcement power for the Secretary of State. Ms. Heffelfinger responded affirmatively but said that there was already in statute a procedure for contesting a candidacy through district court.

REP. SQUIRES asked whether HB 86 just involved a paper shuffle with no real effect since the Secretary of State had no enforcement power. Ms. Heffelfinger responded that the Secretary of State is required by the bill to notify the candidate to withdraw if their change in residency makes them ineligible. REP. SQUIRES asked whether the Secretary of State's role was administrative and the Commissioner of Political Practices served as enforcer. Ms. Heffelfinger responded that the Commissioner's office enforces only the laws related to campaign practices and finances. Joe Kerwin, Elections Bureau Chief, Secretary of State's Office, explained that the Secretary of State does not have enforcement authority for taking a candidate off the ballot; the only authority for removing a candidate from a ballot against their will is the Commissioner of Political Practices.

**REP. SIMPKINS** stated that the issue was not removal from the ballot; rather the issue is having an ineligible candidate who has filed for office and therefore should not be allowed to assume office. He asked who was responsible for preventing an ineligible candidate from taking office. **Mr. Kerwin** responded that statutory authority exists for anyone to challenge the nomination or election of a candidate through District Court.

**REP. SQUIRES** suggested that since the Secretary of State has no enforcement power, a letter to the Secretary to notify of change is useless; and it would be more useful to send the notification to the Commissioner of Political Practices. She also expressed concern that a candidate who had to change residences temporarily, e.g., due to a divorce, could be required to resign from the ballot by HB 86. **REP. SIMPKINS** responded that it was not HB 86 but constitutional requirements which would dictate the ineligibility of the candidate. **REP. SQUIRES** repeated her concern that a candidate would be considered ineligible because of a temporary change in residence, such as serving in a military action. **REPS. MOLNAR** and **RICE** called attention to Section 1, pages 1, 2, and 3, of HB 86 in which residency rules were specified and suggested that this section resolved **REP. SQUIRES'** concerns.

**REP. SQUIRES** asked what happened when a candidate was notified that they were ineligible but refused to withdraw. **REP. SIMPKINS** responded that according to the Secretary of State's office, District Court would be the enforcement agency. The bill provides for the Secretary of State to be notified of changes in order that the Secretary, as the chief election officer, can determine eligibility for candidacy.

**REP. SQUIRES** inquired of **Doug Mitchell, Chief of Staff, Secretary of State's Office**, whether that office is willing to verify candidates' residence. **Mr. Mitchell** replied that the Secretary of State's office makes no judgements about the qualifications of candidates for office; the Secretary files the qualifications provided by the candidate who makes a self-determination of eligibility.

**REP. BARNHART** asked **Mr. Mitchell** whether the Secretary of State wanted to carry out the provisions of HB 86. **Mr. Mitchell** replied that the Secretary of State has no position on the bill; HB 86 does not present any difficulty in administration to the Secretary of State's office. **Mr. Mitchell** continued that the concern is to ensure that HB 86 addresses the problem as intended. The bill does not prevent candidates from running for office when they live outside the bounds of their district. Since the bill does not provide any enforcement capability to the Secretary of State, the Secretary would be unable to apprehend candidates who were dishonest in their residency statements nor could the Secretary require that candidates resign once notified that they were ineligible.

**REP. SIMPKINS** stated that currently candidates are not required to provide a residential address to the Secretary of State. If a candidate uses a post office box as an address, then the Secretary of State cannot determine eligibility (by residency). HB 86 states that the candidate must provide a residential address and also notify the Secretary of State of changes in residence. Enforcement of the law or removal of a candidate from the ballot or from office is dependent upon action at the District Court. **Mr. Mitchell** responded that the Secretary of State verifies that candidates are qualified for office because the candidates swear, under penalty of perjury, that they are qualified to be candidates. He agreed that provisions for enforcement are already in law that allow any individual to challenge the election or nomination of a candidate through District Court. **REP. SIMPKINS** stated that the effect of HB 86 is to require candidates to make known changes in their residence after initially filing for office, a requirement which does not currently exist. **Mr. Mitchell** agreed.

**REP. BARNHART** suggested that HB 86 is not meeting **REP. HANSON'S** intent. **REP. SIMPKINS** stated that **REP. HANSON'S** concern was that in her particular experience she could not obtain from the Secretary of State's office any statement or verification that her opponent had changed his residence. Her desire was to have a bill which would require candidates to notify the Secretary of State of residence changes.

**REP. SPRING** stated that he perceived HB 86 as an attempt to strengthen the validity of a candidate's residency and asked **Ms. Heffelfinger** if his perception was correct. **Ms. Heffelfinger** agreed.

**REP. DAVIS** suggested that resolution of the issue was not possible at this time and that action on HB 86 be postponed until further discussion with **REP. HANSON** had occurred.

**REP. WALLIN** stated that he did not think there was much use for the bill. As a deputy voter registrar, he asserted that individuals cannot supply a post office box only but must use a location for a residence. The residential address of a candidate could be verified through the Clerk and Recorder's office.

**REP. SIMPKINS** pointed out, however, that currently there is no legal requirement that candidates inform anyone of changes in their residency. He postponed action on HB 86.

EXECUTIVE ACTION ON HB 79

Motion: REP. SQUIRES MOVED HB 79 DO PASS.

Discussion:

REP. WALLIN had spoken to the Clerk and Recorder of Gallatin County who stated that she would be unable to be prepared for an election with a shortened time period.

REP. STOVALL stated that HB 79 would not be workable in Yellowstone County and therefore he could not support it.

REP. MOLNAR seconded REP. STOVALL'S statement.

Motion: REP. WALLIN MADE A SUBSTITUTE MOTION THAT HB 79 DO NOT PASS.

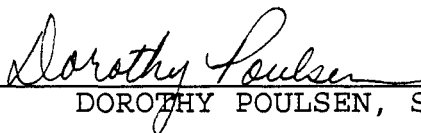
Motion/Vote: REP. SPRING MADE A SUBSTITUTE MOTION THAT HB 79 BE TABLED. Motion carried 12 to 4 on a roll call vote with REPS. BARNHART, GALVIN, GERVAIS, AND SQUIRES voting no. EXHIBIT 2

ADJOURNMENT

Adjournment: 9:13 a.m.



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DICK SIMPKINS, Chair



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DOROTHY POULSEN, Secretary

DS/DP

**HOUSE OF REPRESENTATIVES**  
**STATE ADMINISTRATION**

**COMMITTEE**

**ROLL CALL**

**DATE**

1/8/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP. GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

Amendments to House Bill No. 86  
First Reading Copy

Requested by Rep. Marian Hansen  
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
January 7, 1993

1. Title, line 10.

Following: line 9

Strike: "DECERTIFY AND"

2. Title, lines 12 and 13.

Following: "RESIDENCE;" on line 12

Strike: "EXCEPTING" on line 12 through "NOMINATION;" on line 13

3. Title, line 14.

Following: "13-10-208,"

Strike: "13-10-325,"

4. Page 5, line 25.

Following: "state shall"

Strike: "decertify the candidate and shall"

5. Page 6, line 2.

Following: "withdraw"

Insert: "as provided in 13-10-325"

6. Page 6, lines 3 through 17.

Following: line 2

Strike: section 4 in its entirety

Renumber: subsequent section

7. Page 7, line 12.

Following: "state shall"

Strike: "decertify the candidate and shall"

8. Page 7, line 14.

Following: "withdraw"

Insert: "as provided in 13-10-325"

EXHIBIT 1  
DATE 1/8/93  
HB 86

