

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Bianchi, on January 8, 1993, at
1:05pm

ROLL CALL

Members Present:

Sen. Don Bianchi, Chair (D)
Sen. Cecil Weeding, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Bob Hockett (D)
Sen. Tom Keating (R)
Sen. Ed Kennedy (D)
Sen. Bernie Swift (R)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Jeff Weldon (D)

Members Excused: Sen. Larry Tveit

Members Absent: None.

Staff Present: Paul Sihler, Environmental Quality Council
Leanne Kurtz, Committee Secretary

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

Committee Business Summary:

Hearing: SB 67
Executive Action: None.

Announcements/Discussion:

Chair Bianchi announced that the proxy vote form has been revised and passed around the new form for the Committee's approval. Chair Bianchi noted that Committee members would have to obtain the forms from him or from the secretary and sign them at that time to prevent other individuals from voting in place of the Senators themselves.

Chair Bianchi announced that on Monday (1/11), the Committee would take executive action on SB 67 and hear SB 97.

Chair Bianchi stated that he has organized 2 more informational

presentations for the Committee, since the Committee would be handling bills on hazardous waste burning, a new issue in Montana. He announced that the Montana Environmental Information Center (MEIC), Montanans Against Toxic Waste Burning, and the Department of Health and Environmental Sciences (DHES) would appear on 1/13. Holnam and Ash Grove, companies that own cement kilns and are proposing to burn hazardous waste, will present their perspective on 1/18. Chair Bianchi stressed that these would be factual presentations, and stated that he would not permit debate.

Senator Weeding announced that he has prepared a report on the coal tax and RIT fund and has scheduled a discussion.

HEARING ON SB 67

Opening Statement by Sponsor: Sen. Yellowtail stated that the last legislature dealt extensively with solid waste management and that SB 67 is a "follow-up bill to correct some of the statutory omissions" before the law passed last session takes effect on July 1, 1993. He noted that the Statement of Intent exists to preserve the authority of the Department of Health and Environmental Sciences (DHES) to make rules, not to extend new authority.

Sen. Yellowtail stated that an important part of the law was omitted when the original bill was drafted. Section 1 of SB 67 corrects this omission by adding a reference to 75-10-115, thereby maintaining the Department's authority to collect solid waste management fees. That authority had been overlooked in the new statute which will take effect in July. Sections 4 and 5 also include references to the Department's fee collecting authority in 75-10-115.

Sen. Yellowtail noted that Section 3 of the bill changes "refuse disposal" to "solid waste management", to keep the terminology consistent.

Sen. Yellowtail stated that SB 67 repeals 75-10-218, which "contains a requirement for local approval before disposal of waste generated outside of one of the 6 disposal regions" established in the state. Sen. Yellowtail noted that the 1991 legislature abolished the 6 regions, so 75-10-218 is no longer needed.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

Sen. Grosfield asked if the repeal of 75-10-218 would mean that local governments would have no control over another party from elsewhere in the state bringing waste into the area. He wondered if it would result in a burden on local taxpayers.

Sen. Yellowtail stated that the new megalandfill requirements which were installed during the 1991 session "accommodate the local involvement concerns." He referred the question to Paul Sihler.

Mr. Sihler discussed the 1989 legislature's attempts to control the importation of solid waste. Rep. Raney sponsored HB 752 which was designed to circumvent the commerce clause and address the importation issue. Rep. Raney's bill established 6 disposal regions in Montana, a seventh outside Montana, and a fee of \$1 per ton on the disposal of waste originating from a different region. Section 75-10-218 was a component of HB 752.

Mr. Sihler continued that the 1989 legislature also passed SJR 19, a joint study resolution requiring the Environmental Quality Council (EQC) to "look at solid waste management, including the importation of solid waste." He stated that the EQC proposed the Megalandfill Siting Act as well as a differential fee bill (SB 346) placing a \$5 per ton fee on out of state waste. SB 346 repealed everything in Rep. Raney's 1989 bill, "figuring there were mechanisms already in place to regulate importation." Mr. Sihler stated that artificial regions did not make sense and the market was a better place to determine where landfills were sited and whose waste goes into them.

Mr. Sihler noted that when HB 752 was repealed in 1991, Section 75-10-218 was excluded by oversight.

Mr. Sihler stated that there are opportunities for public involvement in the siting of a landfill through the Montana Environmental Policy Act (MEPA). The solid waste statutes also require that the local health officer sign off on a solid waste license. He noted that there is no mechanism in the statute for formal public involvement in decisions about where waste comes from once a landfill has been sited.

Sen. Grosfield wondered if tax impacts would be borne locally by a county receiving landfill from another area.

Mr. Sihler responded that the burden would be placed on local governments, but that Section 75-10-218 does nothing to change

that.

Sen. Keating stated that Section 75-10-112 addresses Sen. Grosfield's concerns, as it gives local governments the right to contract with one another as long as their waste management system has been permitted and approved. Sen. Keating discussed the Billings landfill's contracts with surrounding areas.

Mr. Sihler stated that a private landfill would not be subject to contractual arrangements to which Sen. Keating had referred.

Sen. Keating replied that private landfills have already complied with the state permitting process and can dump anyone's garbage in their landfills. He stated that Sen. Grosfield's concern is that the repealer will take away local governments' opportunities to contract with neighboring landfills in the event of landfill closures.

Sen. Swysgood asked where the fees, taxes, fines and penalties referred to in Section 75-10-117 go currently, and what will be the effect of placing them into a new account.

Mr. Sihler stated that the solid waste management account already exists and the Megalandfill Siting Act (75-10-910) and the Infectious Waste Management Act (75-10-1006) specify that the fees go into the account. He noted that it had not been specified that the account must accept the fees, taxes, fines and penalties.

Sen. Hockett stated that members of the unified disposal district in Hill, Choteau and Blaine counties are upset by the number of fees and fee increases occurring in SB 67. He did not agree with the addition of 75-10-115 to the bill and stated that he will probably oppose it because the way it is now, the fees will be abolished.

Sen. Yellowtail replied that the fee structure is already established in law and the bill's intent is not to add to the fee burden. The bill intends to make the fee system workable by correcting the oversight. He suggested that Sen. Hockett's constituents who are concerned could introduce a bill to repeal the actions of the 1991 legislature.

Sen. Hockett repeated his objections to the fee structure.

Sen. Yellowtail responded that the fee structure is in place and the appropriate means to object to it would be in a separate bill.

Sen. Grosfield asked if the bill will result in a shift from general fund support to local government.

Sen. Yellowtail stated that the state's policy is to reduce the generation of solid waste. The legislature established this fee

structure to provide incentive to generators of solid waste to reduce the waste produced. He noted that local governments are permitted to pass the cost on to households that generate the solid waste.

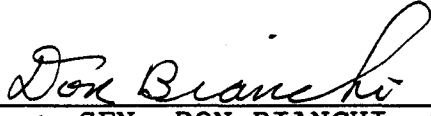
Sen. Weeding discussed the EQC's intention to reduce generation of waste in response to the Environmental Protection Agency's (EPA) threat of penalties.

Chair Bianchi asked who is responsible for setting fees and Sen. Yellowtail replied that they are set in statute.

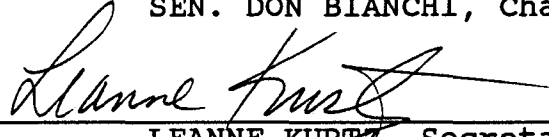
Closing by Sponsor: None.

ADJOURNMENT

Adjournment: 1:45pm



SEN. DON BIANCHI, Chair



LEANNE KURTZ, Secretary

DB/lk

ROLL CALL

SENATE COMMITTEE Natural Resources DATE 1/8

NAME	PRESENT	ABSENT	EXCUSED
Sen. Bianchi	X		
Sen. Hockett	X		
Sen. Bartlett	X		
Sen. Doherty	X		
Sen. Grosfield	X		
Sen. Keating	X		
Sen. Kennedy	X		
Sen. McLernan	X		
Sen. Swift	X		
Sen. Swysgood	X		
Sen. Treit			X
Sen. Weeding	X		
Sen. Weldon	X		

DATE 1/8/93

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB 67

Name	Representing	Bill No.	Check One	
			Support	Oppose
DENNIS FLICK	CITY OF BILLINGS	67	X	
CHRISTINE MANGHANTINI	League of Women Voters		X	
Jon Pilliard	DHES / SHWB	67	X	
Janet Ellis	MT Audubon	67	X	
GEORGE OCHENSKI	WMM	67		
Roger Thorndom	DHES / SHWB	67		
Therese Casyone	Fallon County	67	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY