

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on February 11, 1993,
at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. John Hertel (R)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: Sen. Harry Fritz, Sen. Bob Hockett

Staff Present: David Niss, Legislative Council
Deborah Stanton, Committee Secretary

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

Committee Business Summary:

Hearing: SB 276
Executive Action: SB 130, HB 86

HEARING ON SB 276

Opening Statement by Sponsor:

Sen. Fred Van Valkenburg, Senate District #30, presented SB 276. He explained SB 276 would increase the criminal penalty for a specific violation of the current campaign and election laws. Under current law, employers are prohibited from attempting to coerce or unduly influence their workforce into voting for a particular candidate or ballot issue. Sen. Van Valkenburg stated the employer/employee relationship is so important in terms of the employee's ability to maintain their livelihood and support their family, it would be extremely coercive if the employer were able to "lean on" an employee to vote a particular way. Employer's are presently prohibited from attaching political information to an employee's payroll check. The message from the

employer would be the employee's check depends on how he/she votes or what he/she does. SB 276 would ensure that kind of coercive influence is not undertaken by Montana's employers. Under current law, the maximum penalty for doing that is \$1000 and six months in prison if an individual does it, as opposed to a corporation entity. That penalty is not realistic of the value potentially to a corporate entity, particularly if that corporate entity is able to exert sufficient influence over its employees. Especially if the corporate entity could potentially earn millions of dollars by virtue of some political decision.

Senator Van Valkenburg told the Committee last year the Plum Creek Timber Company and their Columbia Falls plant violated this law by attaching some very pervasive political statements to the paychecks of their employees in mid-September, in which they strongly suggested to their employees in the Columbia Falls plant that if they did not defeat Pat Williams in the race for Congress, didn't stop efforts to create more wilderness in the State of Montana, their jobs, future, and livelihood would be jeopardized. Jim Hill, Representative of the Western Council of Industrial Workers, filed a formal complaint with the Commissioner of Political Practices. The Commissioner of Political Practices concluded there was a violation of Montana law and recommended the case for prosecution. The Flathead County Attorney's Office filed a case against Plum Creek. Plum Creek posted a \$1000 bond and then forfeited the bond. The company took the position that this was a mistake. Sen. Van Valkenburg explained there was a substantial amount of evidence and it is hard to believe this was a mistake or an inadvertent error. He told the Committee given the stakes (a Congressional election, a U.S. Senatorial election, millions of dollars that might be an issue over resolution of such things as wilderness issues) "a \$1000 fine is nothing to a company like Plum Creek Timber". Senator Van Valkenburg explained SB 276 would increase the fine from \$1000 to \$50,000. He told the Committee a strong statement in Montana law would prohibit this from happening in the future.

Proponents' Testimony:

Don Judge, Montana State AFL-CIO spoke from prepared testimony in support SB 276 (Exhibit #1).

John Manzer Business Representative for the Teamsters Union spoke in support of SB 276 on behalf of the 6,000 members in the State of Montana. He told the Committee the Teamsters support non-organized workers that need the protection from employers who would try to influence the employees on political issues and candidates. The increased penalties are a much needed piece of legislation.

Greg Eklund, representing the Montana Democratic Party, spoke in support of SB 276. He told the Committee Montanans have a proud

tradition of independence and this includes the electoral process. While many other states allow a wide array of permissible political activity, Montana has been firm in saying this kind of activity is inappropriate. No corporate or business interest should be allowed to buy their political votes through economic persuasion. He stated Montana's democratic process should continue to remain in the hands of the people of Montana and above the interests of the state's corporations and businesses. He explained the political agenda does not always coincide with the will of the people. SB 276 strengthens the existing laws against this kind of campaign activity this same legislature has said is inappropriate. He stated this bill is a deterrent and encouraged a Do Pass on SB 276.

Evan Barrett spoke in support of SB 276. He told the Committee these issues are violations of the Campaign Finance Act which says corporate contributions are illegal, and in essence this is what happened. He explained prohibitions against corporate contributions have been in statute since 1912; enacted as the Corrupt Practices Act in 1912 by an initiative of the people. The people of Montana said corporate contributions should not be able to play a role in the politics. He told the Committee in the early 1970s he served on the committee that drafted and put together the current Campaign Finance Practices Act and the prohibition was renewed because it provided a "better playing field" for politics in the state. He explained Plum Creek has found an effective loophole in which to make illegal corporate campaign contributions, and Swank Construction from Conrad has also, by sending out material to employees. This has the same affect as the company sending a check to the campaign or candidate with a list of their employees and asked them to mail the campaign material, with the company paying for it. He told the Committee that is what happened with Plum Creek because a \$1000 amount of the fine is what it would cost to mail that material to the employees. Any campaign could go to any corporation and tell them to put this material out and all they will get is a slap on the wrist. Once someone in a campaign discovers a way to do something illegal (to get around the law) everyone will start to do it. He asked the Committee to put "some teeth" in the law, pass the bill and send it to the House and the Governor to stop this illegal practice.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Sen. Weldon asked Sen. Van Valkenburg if the additional language applied to subsection 1a which prohibits attaching something to a paycheck. Subsection 1b prohibits placing a handbill in the workplace and essentially delivers the same message. He asked what would prevent an employer from, instead of attaching to a paycheck, simply taping it to the wall next to the mailbox where

the paychecks are distributed. He asked why the language doesn't cover subsection 1b. Sen. Van Valkenburg said the bill was drafted because of the situation with Plum Creek Lumber Company, and it was hard to ask the Legislature to punish the citizens of Montana for something they have not done wrong. He stated there may be instances where these handbills have been put up. But, when there is a clear cut example such as what Plum Creek did, the connection of the coercive influence is clearly saying the employees well-being and income earning ability is dependent on how they vote in the coming election. He explained this is what needs to be dealt with.

Sen. Weldon asked Mr. Judge the same question. Mr. Judge stated the legislation was drafted at the request of the lumber production customer. The fact is that no one knows who puts the material on the wall or bulletin board. The proof of who did it is the question. But when something is attached to the paycheck it is known the origin of the material is the management. He explained it cannot be proven who puts material on the wall but can be proven who attaches material to paychecks.

Sen. Burnett asked Sen. Van Valkenburg where the \$50,000 penalty would go. Sen. Van Valkenburg stated it would remain the same as it is now, one-half to the local government where the prosecution takes place and one-half to the state's General Fund.

Sen. Burnett stated that from prior experience with campaign practices the report doesn't really constitute a threat to certain intent. He explained in one instance the response he got from the campaign practices attorney was, "you're a public figure, you're open game." He stated, in this case, Pat Williams was "fair game." He asked if the campaign fair practices make the assessment of the fine or do they go to court. Sen. Van Valkenburg said they go to court and that happened in this particular case. He told the Committee it was not a situation where someone said someone else was fair game. Plum Creek did post bond and forfeit a \$1000 fine. He explained this is not a situation where Pat Williams or Ron Marlenee or anyone else is fair game. The question is, is somebody working at the plant fair game? Can the employer coerce an employee?

Closing by Sponsor:

Sen. Van Valkenburg told the Committee some may think \$50,000 is a large fine but that it is a fine common in the criminal code. He said, "We're not asking for something totally out of line. We're bringing the fine into line with the modern day situation where it can be very beneficial to an employer to try and coerce an employee into voting a particular way. We don't want that in Montana. No one wants it. I don't think Plum Creek Lumber Company wants it now that they've been through it. I urge a do pass."

EXECUTIVE ACTION ON HB 86

Motion/Vote: Sen. Swift moved HB 86 BE CONCURRED IN. Motion HB 86 BE CONCURRED IN PASSED UNANIMOUSLY. Sen. Swift will carry the bill.

EXECUTIVE ACTION ON SB 130

Discussion: Sen. McClernan and Sen. Weldon explained the amendments.

Motion: Sen. McClernan moved sb013002.adn amendment. MOTION TO AMEND CARRIED.

Motion/Vote: Sen. Hockett moved SB 130 DO PASS AS AMENDED. Motion SB 130 DO PASS AS AMENDED CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 226

Motion Vote: Sen. Weldon moved SB 226 be TABLE. Motion for SB 266 to be TABLED CARRIED UNANIMOUSLY.

Discussion:

There was discussion on SB 176.

Sen. Weldon asked if the Committee could reconsider SB 176. It was decided to wait on consideration of the bill.

Sen. McClernan asked David Niss about the codification section of SB 176.

ADJOURNMENT

Adjournment: 12:00 p.m.


SENATOR ELEANOR VAUGHN, Chair


DEBORAH STANTON, Secretary

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION DATE 2-11-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz		✓	
Sen. John Hertel	✓		
Sen. Bob Hockett		✓	
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Niss	✓		

FC8

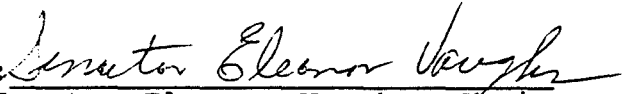
Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 11, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 130 (first reading copy -- white), respectfully report that Senate Bill No. 130 be amended as follows and as so amended do pass.

Signed: 
Senator Eleanor Vaughn, Chair

That such amendments read:

1. Title, lines 7 and 8.

Strike: "CLARIFYING" on line 7 through "MEETINGS" on line 8

Insert: "SPECIFYING THE NOMINATING COMMITTEE'S SELECTION PROCESS;
PROVIDING THAT THE COMMISSIONER SERVE UNTIL A NEW
COMMISSIONER IS CONFIRMED"

2. Title, line 8.

Strike: "SECTION"

Insert: "SECTIONS"

3. Title, line 9.

Following: "13-37-102"

Insert: "AND 13-37-103"

4. Page 1, line 13.

Following: "office"

Insert: " -- selection process"

5. Page 1, line 23.

Strike: "selection"

Insert: "nominating"

6. Page 1, lines 24 and 25.

Strike: "The committee" on line 24 through "1 and 2." on line 25

Insert: "(2) Before submitting the list of candidates to the
governor, the nominating committee shall:

(a) at least 90 days before the commissioner's term expires, advertise the position in all daily newspapers in Montana that publish legal notices and in other appropriate publications and post a notice of the position vacancy at each state job service office;

(b) allow an application period of at least 30 days from the date of public notice under subsection (2)(a);

(c) review all applications of finalists and hold at least one public hearing before finalizing the committee's list of candidates;

- (d) comply with Title 2, chapter 3, parts 1 and 2; and
- (e) select candidates by majority vote."

Renumber: subsequent subsection

7. Page 2.

Following: line 5

Insert: "Section 2. Section 13-37-103, MCA, is amended to read:

"13-37-103. Term of office -- limitations on holding other office. (1) ~~The~~ Except as provided in subsection (2), the individual selected to serve as the commissioner of political practices is appointed for a 6-year term, but he is thereafter ineligible to the individual may not serve as the commissioner of political practices for a second term.

(2) The commissioner shall serve until a new commissioner has been confirmed by the senate pursuant to 13-37-102.

(3) The individual selected to serve as commissioner of political practices is precluded from being a candidate for public office, as defined in 13-1-101, for a period of 5 years from the time that he the individual leaves office as commissioner."

NEW SECTION. Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 11, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 86 (first reading copy -- blue), respectfully report that House Bill No. 86 be concurred in.

Signed: Senator Eleanor Vaughn
Senator Eleanor Vaughn, Chair



Montana State AFL-CIO

STATE NO. 1
DONALD R. JUDGE
Executive Secretary

110 West 13th Street, P.O. Box 1176, Helena, Montana 59624
2-11-93 406-442-1708

BILL NO. SB 276

TESTIMONY OF DON JUDGE ON SENATE BILL 276 SENATE STATE ADMINISTRATION COMMITTEE FEBRUARY 11, 1993

Madam Chair, members of the Committee. For the record, my name is Don Judge and I appear today in behalf of the Montana State AFL-CIO in support of Senate Bill 276.

This bill, although simple in language, can provide a powerful incentive for preventing any recurrence of what we believe is an alarming trend of using corporate dollars to influence public elections.

Election Law 13-35-226 (1) (a) reads as follows: "It is unlawful for any employer, in paying his employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises (express or implied) calculated or intended to influence the political opinions or actions of the employees."

A recent violation of this law by a large multi-national corporation is the catalyst for Senate Bill 276. A brief look at the history of this violation follows.

On September 17, 1992, the Columbia Fall MDF Plant, owned by Plum Creek Lumber Company, issued pay checks to its employees. Attached to those checks was a memo from plant manager Dennis Robinson and other materials related to a rally scheduled for Sunday, September 20, 1992, in Columbia Falls. The rally, sponsored by the Western Environmental Trade Association (WETA) Ad Hoc Coalition, was centered around bringing pressure to bear on Congressman Pat Williams in order to influence the Congressman's position on pending wilderness proposals.

Attached to the memo and pay checks were several inflammatory statements which appeared at the rally in the form of posters or signs. Examples include:

"Pat Williams just committed suicide in his election year."

"Williams! Remember Melcher's election year?" (reference to former U.S. Senator John Melcher whose loss in 1988 was attributed significantly to the same wilderness issue)

"Williams free in '93"

"On November 3rd Pat we will let you know how we feel"

Several other inflammatory statements were attached, as well, and a few were even threatening in their nature. Among the most intimidating were: "Are you willing to give up your job without a fight?" and "If you don't attend this rally that is exactly what you have done GIVEN UP!" or "There should be NO excuse for not being there [at the rally]. Your jobs, recreation and the very reason why you live here depend on it!"

On October 8, 1992, James A. Hill, an Inland Empire Area Representative for the Western Council of Industrial Workers, a division of the Lumber, Production and Industrial Workers Union, AFL-CIO, filed charges against Plum Creek Lumber Company with the Commissioner of Political Practices. Mr. Hill alleged that Plum Creek had violated the provisions of 13-35-226.

Following an investigation, Plum Creek was found guilty and forfeited a \$1,000 bond which, in accordance with current penalty provisions of the law, is the maximum fine that can be imposed. Plum Creek, through this forfeiture, admitted that it committed the violation.

Case closed? Perhaps legally, but we don't think that the penalty imposed really fits the seriousness of the crime.

Although a \$1,000 fine might be a strong deterrent to folks like you and I, it really constituted nothing more than the legitimizing of a corporate contribution to a federal campaign. You see, for \$1,000, Plum Creek was able to attach a memo and slogans to the paychecks of their workers urging them to vote against the reelection of a federal candidate.

In the scheme of things in a congressional campaign, a thousand dollars doesn't seem like much. But if you were to think about how such a mailing might effect your campaign, or that of your opponent, it's a much different story. Imagine the enormous impact that the threat of the loss of their job could have on an employee? What if that fear or wrath were aimed at you? Visualize how an employer, any employer, could use such tactics to influence an election to benefit that employer. We believe that that's a frightening thought.

What Senate Bill 276 would do is simply raise the fine on any future violators to \$50,000 and require jail time for a term not to exceed six months. Sound drastic? You bet! But what we're hoping is that the fine and sentence will never have to be imposed. What we want is a deterrent, something to make an employer think twice before violating such an important law.

This change in penalty doesn't effect any other provisions of the election code, just this specific law dealing with the pay checks of the workers.

Madam chair, members of the committee, there is no additional record keeping required by this bill. There are no additional hoops for anyone to jump through in this bill. There is no hidden agenda nor any retroactive punitive penalties accompanying this bill.

All we are asking is that you tell violators that breaking this law is not to be tolerated. That individuals tempted to use the power of ownership in order to intimidate their employees and coerce them into voting "the bosses way" is unacceptable. That, if your caught, you're not just going to make a \$1,000 contribution to your candidate, you're going to pay and pay big.

Senate Bill 276 is a simple piece of legislation with a big, positive impact. We urge you to give it a "do pass" recommendation. Thank You.

Amendments to Senate Bill No. 130
First Reading Copy

Requested by Sen. Weldon
For the Committee on State Administration

Prepared by David S. Niss
February 9, 1993

1. Title, lines 7 and 8.

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one public hearing before finalizing the committee's list of
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(2) The commissioner shall serve until a new commissioner has been confirmed by the senate pursuant to 13-37-102.

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NEW SECTION. Section 3. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

{ Internal References to 13-37-103: None. }

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Treit do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 222

MOTION

Do Pass		
Yes	_____	No <u>X</u> _____
Do Not Pass		
Yes	_____	No _____
Indefinitely Postponed		
Yes	_____	No _____
Tabled		
Yes	_____	No _____

DATE

Sen. Treit
SIGNATURE

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Triet do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 268

MOTION

Do Pass
Yes X No _____

Do Not Pass
Yes _____ No _____

Indefinitely Postponed
Yes _____ No _____

Tabled
Yes _____ No _____

DATE

Sen. Triet
SIGNATURE

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Treut do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER HB 86

MOTION

Do Pass
Yes X No _____

Do Not Pass
Yes _____ No _____

Indefinitely Postponed
Yes _____ No _____

Tabled
Yes _____ No _____

DATE _____

Sen. Treut
SIGNATURE

53rd LEGISLATIVE SESSION
STATE ADMINISTRATION COMMITTEE

I, Senator Triest do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 226

MOTION

Do Pass
Yes _____ No _____

Do Not Pass
Yes _____ No _____

Indefinitely Postponed
Yes _____ No _____

Tabled
Yes _____ No _____

DATE

Sen. Triest
SIGNATURE

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Truitt do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 130

MOTION

Do Pass		
Yes	_____	No <u>X</u> _____
Do Not Pass		
Yes	_____	No _____
Indefinitely Postponed		
Yes	_____	No _____
Tabled		
Yes	_____	No _____

DATE

Sen. Truitt
SIGNATURE

DATE 2-11-93

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: SB 276, HB 100

Name	Representing	Bill No.	Check One	
			Support	Oppose
<i>My [Signature]</i>	MT Dem. Party	276	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Don Judge</i>	MT STATE AFL-CIO	SB 276	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY