

MINUTES

MONTANA SENATE AND MONTANA HOUSE 53rd LEGISLATURE - SPECIAL SESSION

JOINT COMMITTEE ON RULES

Call to Order: By Senator Greg Jergeson, Chairman, on November 18, 1993, at 4:00 p.m., Room 413-415.

ROLL CALL

Senate Members Present:

Sen. Greg Jergeson, Chair (D)
Sen. Fred Van Valkenburg, Vice Chair (D)
Sen. Steve Doherty (D)
Sen. John Harp (R)
Sen. Judy Jacobson (D)

Senate Members Excused: Senators Crippen, Gage, Lynch

House Members Present:

Rep. Larry Grinde, Chair (R)
Rep. Jim Rice, Vice Chair (R)
Rep. Jerry Driscoll (D)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Harriet Hayne (R)
Rep. John Mercer (R)
Rep. Ted Schye (D)
Rep. Bill Strizich (D)

House Members Excused: Representatives Kadas, Marian Hanson

Staff Present: Lynn Staley, Committee Secretary

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

Senator Jergeson called the meeting of the Joint Rules Committee to order.

Rep. Mercer stated that Rep. Mike Kadas has replaced Rep. Dave Brown as a member of the House Rules Committee.

Senator Jergeson said the purpose of the meeting was to agree and set in process the motions that will be made in order to adjust the rules to conform to the operation of a special session as compared to a regular session. He added there are rules relating to the requesting and introduction of bills; various time limits and restrictions; rules governing enrollment after adjournment; rules establishing the minimum times and printing prior to

subsequent consideration; transmittal deadlines.

Motion: Rep. Driscoll moved to have the changes to the regular rules used in previous special sessions be the changes that are adopted to the rules at the beginning of the upcoming November 29, 1993 special session.

Vote: Rep. Driscoll's motion CARRIED UNANIMOUSLY.

Rep. Driscoll questioned the practice of the subcommittees of Senate Finance and Claims and House Appropriations voting on issues prior to the beginning of the special session of November 29, 1993.

Senator Jergeson said subcommittees have had motions and have adopted recommendations either to accept or reject the Governor's recommendations or do something other than that.

Senator Jacobson said her understanding in previous special sessions is that the recommendations to the full committee are recommendations. She noted that no full committee has acted, therefore there is no final vote until House Appropriations committee votes. That will not reflect on any documents coming out of the Office of the Legislative Fiscal Analyst until the full committee has acted.

Regarding a question from Rep. Driscoll relative to public hearings being conducted on issues, Rep. Mercer said the hearings presently in progress have been noticed for some time. They are perceived as only recommendations in nature. All budget actions have to be taken up in the full House Appropriations Committee. The subcommittees are discussing the Governor's recommendations and giving guidance to the committee before the convening of the special session.

Senator Jergeson said Greg Petesch has been making decisions relative to the introduction of bills meeting the call issued by the Governor for the special session. He asked Mr. Petesch to discuss the bills in question.

Greg Petesch, Legislative Council, said he indicated to each legislative member at the time he determined that a bill was not within the call that they would have an appeal procedure through the joint Rules Committee. He noted there a few bills which he ruled are not within the call of the special session. He stated that Rep. Wanzenried has three bill requests proposing amendments to the Constitution. One would change the requirement in the Constitution that the maximum number of departments in the executive branch be reduced from 20 to 12. Another would eliminate the requirement in the Constitution that there be a Department of Agriculture, and the third would eliminate the requirement that there be a Department of Labor and Industry. Mr. Petesch determined the bill draft requests were not within the call because he did not find an item in the call which the

requests fell within. The only item he felt was arguable that they are under is appropriate operational issues. He interpreted appropriate operational issues in item one of the call to mean items which change the way someone is doing something now that would require someone within an agency to do something differently and that can be done during this biennium.

Senator Jergeson asked Mr. Petesch if there were any other requests submitted for constitutional amendments.

Mr. Petesch said he had another request for a constitutional amendment that he determined not to be within the call, and he determined that several constitutional amendment requests to change the constitution requirements for the property tax valuation system are within item number two of the call. Other provisions he determined not to be within the call was a request by Rep. Benedict to require elementary and secondary school districts to vote on whether or not to consolidate. The initial request was for a 1996 election, but he understands Rep. Benedict may wish to change the date to a 1995 election. The election procedure is permissible under law currently so he did not feel it changed anything now being done. There was also a bill request by the Department of Health and Environmental Sciences to eliminate statutory references to the Environmental Sciences division within the Department. The bill does not propose to eliminate the division but merely eliminate statutory references to the division. Mr. Petesch felt that is simply a name change and not an operational issue. Another request from the Department of Family Service would have raised the yearly clothing allowance for foster children from \$300 to \$400. An apparent error was made in that the general appropriations bill last session authorized that to be done but the statute was never changed because the statute overrides the appropriations bill. The program would be administered as is currently being done so it would not be an operational change. There was a request from Rep. Ewer that he was not sure whether it would be appealed, that being a general revision of insurance laws relating to risk retention groups. Because it dealt with laws of private sector companies, Mr. Petesch did not feel it was an operational issue for State government.

Senator Jergeson asked Mr. Petesch if the bill draft request for the constitutional amendment that was approved dealt with property tax valuation. Mr. Petesch said it dealt with the property tax valuation process. When questioned by Senator Jergeson if they could not go in effect until the next biennium, Mr. Petesch said that was correct because of the language in the property tax portion of the Governor's call.

Senator Jergeson asked Rep. Wanzenried if he would like to comment on his bill draft request.

Rep. Wanzenried said the call stated appropriate operational issues, and he did not feel the call was limited to this

biennium. He stated the issues are a key to getting a handle on the way government is operating. Appropriate operational issues include these even though the changes may not take place in this biennium. If there is sufficient interest in the constitutional amendments that are placed before the voters, the work will be done between now and the 1995 session. Changes could be made in this biennium.

When questioned by Rep. Schye regarding including it in the call, Mr. Petesch said item one in the Governor's call says legislation to balance the budget and address appropriate personnel and operational issues. He felt because they were lumped within one item that the operational issues should address the budget within this biennium.

Rep. Harper said with 141 bills being requested, Mr. Petesch is to be commended with trying to review them as to whether they fall within the Governor's call.

Motion: Rep. Harper moved that the Joint Rules Committee authorize the three bill requests by Rep. Wanzenried to be accepted as they can save money for the state.

Rep. Mercer said while he believes the request by Rep. Wanzenried is outside the Governor's call, the purpose of the call is to make government operate more efficiently and added it falls within the spirit of what is being attempted in the special session and should be part of the debate. Even though he felt Mr. Petesch made the right decision, the rules could be bent to allow discussion of the proposal.

Senator Jergeson reminded the members that what is done here will establish a precedent for this special session.

Rep. Gilbert felt the call was specific; it is to balance the budget. If it falls within that issue, it should be addressed. If it does not affect the budget in this biennium, it should be worked on and introduced in the 1995 session.

Rep. Mercer said if there is a constitutional amendment that would result in a savings to state government, action taken at this time would allow it to be voted on prior to the next legislative session. To put it off until 1995 would be an election later. Regarding the limits of the Governor's call, it is his opinion that the Governor does not have the authority to limit what the legislature does in a special session. That is something that was in the old Constitution. A statute was passed authorizing the Governor to limit the call because there is a desire to keep it limited. He felt the Rules Committee should look at legislator's proposals if they are relative to an issue that should be looked at by the legislature.

Vote: Rep. Harper's motion CARRIED on a roll call vote.

Senator Jergeson asked Rep. Benedict to address the issue relative to his bill.

Rep. Benedict said his consolidation bill would require that each independent elementary district within the boundaries of a high school district vote on whether or not to consolidate with the elementary district where the high school building is located. It would require voters of a county high school district to vote at the same election on whether to unify with the largest elementary school district. He added that he had no problem with having the election in 1994 which would fall in this biennium. This change would mandate that they have a vote now and if they elect not to do it, they would have to revisit the issue again in ten years and every ten years thereafter. He concluded that it falls within the call relative to operational issues. If it is done in 1994, it is within issue seven of the call which is accounting procedures and budget modifications for state and local government agencies.

Senator Jergeson asked Mr. Petesch if the election date was the key factor in his decision.

Mr. Petesch said while it was not the key factor, it was a factor.

When asked by Senator Jergeson if an election were held in 1994, how would the bill differ from other school consolidation bills.

Mr. Petesch said the other bills that have been requested actually require districts to do something within this biennium. They require districts to actually consolidate. In his opinion all this bill does is requires a mandatory as opposed to a permissive election. When asked by Rep. Grinde how many consolidation bills have been requested, Mr. Petesch said he knows there are at least three other consolidation bills.

Rep. Grinde stated his opinion that if school consolidation issues are being looked at, all bills relative to this should be considered.

Motion: Rep. Grinde moved that Rep. Benedict's bill be considered as within the call of the special session issued by the Governor.

When asked by Senator Jergeson if Rep. Benedict's intention was to change the date of the election to the 1994 calendar year, Rep. Benedict said that was correct.

Vote: Rep. Grinde's motion CARRIED with Representatives Harper and Gilbert opposed.

Senator Jergeson called on Bob Robinson to discuss the issue of repealing a section of the law.

Bob Robinson, Director, Department of Health and Environmental Sciences, said in an attempt to improve efficiency and consider some reorganization within the Department, they looked at Section 2-15-2103. (See Exhibit 1). They have proposed a bill to strike that section out of the law. This would not change any substantive laws that are administered but would give them the opportunity to restructure the environmental sciences division. There is a mid-level of management in there where a portion of them may not continue after restructuring or reorganization. It is an operation issue that would enable them to save some money this biennium.

When questioned if the savings would revert to the State, Mr. Robinson said yes, if there was any savings as a result of it.

Senator Doherty questioned if Mr. Robinson would have to come before the appropriations committee if this is repealed.

Mr. Robinson said they met with the appropriations committee and told them of their process of reorganization. He currently is not able to say which positions could be eliminated as this is an evolving process. He concluded that his agency's organizational structure would be flatter and more responsive to the director's office.

When asked if the department was not changing the title but changing the section on functions, Mr. Robinson said they currently have an environmental sciences division with over 240 employees and many functions under that section. He would like to take out the list of functions in allowing him to restructure.

Rep. Gilbert questioned if changing the functions would give better service to the people. He felt part of the reason for the section is to guarantee that those areas would be covered in a specific way.

Mr. Robinson said it would make the department more responsible.

When questioned by Senator Jergeson if operational changes would be made if the bill passed, Mr. Robinson said yes.

Motion: Rep. Rice said it is legislation to address personnel and operational issues, and moved that the Rules Committee put the bill draft request in the Governor's call for the special session.

Vote: Rep. Rice's motion CARRIED UNANIMOUSLY.

Mr. Petesch questioned if the Rules Committee would like him to come before them in the future on these issues. Senator Jergeson said Mr. Petesch is doing a fine job.

ADJOURNMENT

Adjournment: 4:45 p.m.



SENATOR GREG JERGESON, Chair



LYNN STALEY Secretary

GJ:LS

ROLL CALL

SENATE COMMITTEE

RULES

DATE _____

11/18/93

[illegible]

FC8

Attach to each day's minutes

ROLL CALL

House

~~SENATE~~ COMMITTEE

HOUSE RULES

DATE _____

11/18/93

[illegible]

FC8

Attach to each day's minutes

ROLL CALL VOTE

House

~~SENATE~~ COMMITTEE

Ruler

BILL NO.

DATE 11/18/93

TIME

A.M. P.M.

[illegible]

Lynn Staley
SECRETARY

SECRETARY

CHAIR

MOTION: Rep. Harper motion that Rules Committee
authorize 3 bill requests by Rep. Wangerried
be accepted.

ROLL CALL VOTE

SENATE COMMITTEE RULES BILL NO. _____

DATE 11/18/93 TIME _____ A.M. P.M.

NAME _____

YES

NO

[illegible]

Lynn Stally
SECRETARY

CHAIR

MOTION: Rep. Harper motion that Rules Committee
authorize 3 bill requests by Rep Wanzurick be
accepted.

2-15-2101

GOVERNMENT STRUCTURE
AND ADMINISTRATION

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three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term"; in (6), at beginning of first sentence, substituted "Members" for "Legislative members" and after "are entitled to" deleted "compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to" and inserted second sentence authorizing pay-

ment to members who are not full-time salaried officers or employees; and made minor changes in style.

Cross-References

Local government powers regarding gambling, 7-1-112.

Gambling, Title 23, ch. 5.

Part 21

Department of Health and Environmental Sciences

2-15-2101. Department of health and environmental sciences — head. There is a department of health and environmental sciences. The department head is the director of health and environmental sciences appointed by the governor in accordance with 2-15-111.

History: En. 82A-601 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 95, Ch. 349, L. 1974; amd. Sec. 1, Ch. 326, L. 1977; R.C.M. 1947, 82A-601; amd. Sec. 1, Ch. 34, L. 1989.

Cross-References

Local government powers regarding gambling, 7-1-112.

Gambling, Title 23, ch. 5.

Health and Safety, Title 50.

Birth certificates and vital statistics, Title 50, ch. 15.

Sanitation in food establishments, Title 50, ch. 50.

Hotels, motels, and roominghouses, Title 50, ch. 51.

Sanitation in tourist camps and trailer courts, Title 50, ch. 52.

Public swimming pools, Title 50, ch. 53.

Occupational health, Title 50, ch. 70.

Health standards for child day-care centers, 52-2-735.

2-15-2102. Repealed. Sec. 4, Ch. 34, L. 1989.

History: En. 82A-608 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 100, Ch. 349, L. 1974; amd. Sec. 2, Ch. 326, L. 1977; R.C.M. 1947, 82A-608.

2-15-2103. Division of environmental sciences — functions. There is a division of environmental sciences within the department. The department shall assign all functions performed by the department relating to air pollution control, water pollution control, radiation control, pesticides control, environmental sanitation, solid waste disposal, industrial hygiene, and related areas to the division.

History: En. 82A-604 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 97, Ch. 349, L. 1974; R.C.M. 1947, 82A-604.

Cross-References

Person's inalienable rights to a clean and healthful environment, Art. II, sec. 3, Mont. Const.

Protection and improvement of environment, Art. IX, sec. 1, Mont. Const.

Environmental Protection, Title 75.

2-15-2104. Board of health and environmental sciences — membership — quasi-judicial. (1) There is a board of health and environmental sciences.

(2) The board consists of seven members appointed by the governor as follows:

(a) two members having professional qualifications in a human health service licensed by a board within a department of professional and occupational licenses, one of whom must be a doctor of medicine licensed by the board of medical examiners;

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EXECUTIVE E

(b) one member being a who is engaged in food animal

(c) four members who d tion (2)(a) or (2)(b) and who of public health and the eco

(3) The board is design 2-15-124.

History: En. 82A-605 by Se Sec. 1, Ch. 524, L. 1977; R.C.M. Ch. 34, L. 1989.

Cross-References

Veterinary medicine and ve Title 37, ch. 18.

Health and Safety, Title 50.

2-15-2105. Water and waste There is a water and waste

(2) The council consists tion (2)(e) of this section, t The members are:

(a) two members who a ment plant operators holdi hold a certificate by examin of health and environmental tion of the certificate held b

(b) two members wh operators holding valid ce certificate by examination health and environmental tion of the certificate held b

(c) one member servin major field is related to wat cal or civil engineering, che

(d) one member who i employ a certified operator city engineer, director of pu

(e) the administrator department of health and his staff appointed by the a

(3) Members, except th health and environmental

History: En. 82A-612 by S 3, Ch. 243, L. 1983.

Cross-References

Board of Water and V Operators, Title 37, ch. 42, part 2

2-15-2106. Air pollutio pollution control advisory c

(2) The council consist the consent of the senate, a