

MINUTES

MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Weldon, on December 14, 1993, at 10:30 a.m.

ROLL CALL

Members Present:

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

Members Excused: Senators Vaughn and Fritz

Members Absent: None

Staff Present: David Niss, Legislative Council
Tre Kennedy, Committee Secretary

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

Committee Business Summary:

Hearing: SB 51, HB 35, HB 46 and HB 68
Executive Action: HB 46 and HB 68

HEARING ON SENATE BILL 51

Opening Statement by Sponsor: Senator Gage explained Senate Bill 51 as a result of concerns in regard to looking at qualified applicants for positions that come open in state government as a result of privatization, reorganization, vacancies etc. He said Representative Nelson, Chairman of the Legislative Finance Committee, addressed this by a conference call and gave him copies of the minutes dealing with the concerns the Legislative Finance Committee had. He gave the committee a copy of the minutes (exhibit 1) and a copy of the statutes dealing with the positions affected by SB 51. (exhibit 2) These are positions within state government where generally there are no job descriptions to judge whether or not those people are matched to the job they are applying for. He said this came to light when they talked about hiring a researcher to replace Tom Gomez which is a technical job and not one in the RIF pool. This bill

would exempt going through that pool before hiring a person identified in the list.

Proponents' Testimony: None.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: Senator McClernan asked how long it would take to go through the pool process. Linda King, Public Employees Retirement Division, said they had gone through the pool and it takes a couple of days to see if there is a basic match.

Judy Browning, Governor's office said the problem is that if you don't have a position description for your personal staff, you have to take a week or so to draw up a position description and send it through the RIF registration which takes two or three days.

Closing by Sponsor: Senator Gage said he had nothing more to add.

HEARING ON HOUSE BILL 46

Opening Statement by Sponsor: Representative Hibbard, HD 46, said this bill would give members of the Game Warden Retirement System the ability to purchase out of their own pocket, one year of retirement for five years of service after serving for ten years. He said there is no cost to the state, did not change the time they can retire and they still have to meet all the other requirements.

Proponents' Testimony: Tom Schneider, MPEA (Montana Public Employees Association) said this provides the option to purchase credit the same as PERS and teachers and limits military service to five years. He said it is a good bill and supports it.

Mack Long, Warden Sergeant out of Kalispell and President of Montana Game Warden's Association said the wardens in the state would like to see this bill pass partly from an equity position and the wardens themselves would be the ones that pay it. He said this would allow senior wardens to buy out and the difference between the pay for a senior warden and a new warden would bring a savings to the state.

Dave Mott, representing the Fish, Wildlife and Parks, agreed with what had been said and added that they actually have two retirement systems for their employees at FW&P, the PERS and the game wardens. He said the majority of their employees are in PERS and they believed this bill is an internal equity question.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: Senator Pipinich asked if this would have any impact on the PERS fund and Ms. King said no, it is the Game Warden's Retirement System and it is a separate retirement system which has no actuarial service. Anyone buying the service will pay the full actuarial cost.

Closing by Sponsor: Representative Hibbard said this is an internal equity measure within the department and brings the game wardens on a par with other employees of the department and with employees of the teacher's group as well. There is a study which is a Legislative funded interim study to look at all the retirement issues within state government. It was determined in the House that this would not add any problems or complexity to that study.

HEARING ON HOUSE BILL 68

Opening Statement by Sponsor: Representative Hibbard, HD 46, said HB 68 is an attempt to clean up a problem with the recodification bill that went through the session last winter. The session was expanded to take care of this through petition. When we recodified the bill we left directors in there in one place we should not have. More severe restrictions were brought onto managers of banks to be consistent with federal regulation and outside directors were brought along and restricted in a similar fashion to those inside managing officers. He said there was never an intent to do that, and this removes the word "director". Directors are handled elsewhere in the banking code, specifically reg O and state statute.

Proponents' Testimony: Roger Tippy, Montana Independent Bankers, and a member of the Bank Code Advisory Council that spent the last interim going over the recodification said the MIB supports this bill.

John Cadby, Montana Bankers Association, standing in support HB 68 on the behalf of all National and State Banks that are members of MBA.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: Representative Hibbard said he closed.

Chair Weldon was told that Senator Brown was to carry this bill on the floor of the Senate.

HEARING ON HOUSE BILL 35

Opening Statement by Sponsor: Representative Wanzenried, House District 7, said this is a proposed constitutional amendment that, if approved by 100 votes in the Legislature and approved by the voters next fall, would provide for a down sizing in state government from the constitutional limit of 20 down to 15. The Governor currently appoints 14 department directors. The Department of Livestock director is appointed by the Board of Livestock, and the Public Service Commission which makes 16 departments. He handed around a chart (not available for the minutes) and said there was one other department not included in that limitation of 20 which is the Department of Justice. He said the constitution provides that the departments headed by elected officials are exempt from the 10 department limit. In 1969 we had 188, stand alone, independent departments in state government. All of them came up with appropriation requests and all lobbied with no cohesiveness. In 1970 a ballot issue limited the departments and executive branch to no more than 20. This bill would put some pressure on the Executive to come before the Legislature to reduce by one department. He said the Governor has already appointed a Blue Ribbon Commission to take a look at the Executive and all the functions that are performed. This bill would not take effect until July 1, 1997 and that would give time for recommendations for cutting back departments.

Representative Wanzenried said the reason he was suggesting 12 departments is that there are some logical combinations that could get us there. People kept telling him we have too much government and if this passed the vote of the people, it would tell us we had no choice but to down size.

Proponents' Testimony: Bob Anderson, Chairman, Public Service Commission, said he was not really a proponent of the bill, but wished to express concerns as it might affect the Public Service Commission. He believed it was vital that the PSC be an independent agency because they regulate utilities and the customers of those utilities have bills around \$1 billion per year. In order to regulate those industries the PSC needs to be independent and their decisions should not be affected by politics but on statutory requirements of the agency and traditional rate making practices. The PSC is an agency without a constituent group and the final reason he listed was that they are elected officials. He asked that the committee add the PSC to the list of exempt officials.

Opponents' Testimony: Judy Browning, Governor's Office, asked the committee to reject this bill. The Governor has made public his selection of a panel of six individuals across the state that will go through the next nine months studying reorganization of government and other subjects including education and others.

Informational Testimony: None.

Questions From Committee Members and Responses: Senator McClernan asked if it takes 50 votes to put this on the ballot

and Representative Wanzenried answered yes, and it was unlikely it would receive them.

Closing by Sponsor: Representative Wanzenried said he did talk to the PSC before the bill was heard in the House. In order to accommodate their concerns we would need to have a separate constitutional amendment to exempt it. He pointed out that we really have more than 20 agencies at the present time because we have what is called the "attached to" agencies. Those are the agencies that retain the political muscle necessary to retain their independence. We have said they will be attached to somebody but will not be interfered with. He challenged anyone to look at the studies stored downstairs, and while he has a great deal of respect for the administration and its efforts, without some upward limits, all intentions no matter how well founded will fail to reduce the number of departments. If there is a limitation in the constitution that says we have to do it, we will do so.

EXECUTIVE ACTION ON HOUSE BILL 46

Motion: Senator Pipinich moved House Bill 46 be concurred in.

Discussion: Senator McClernan said he was opposed to HB 46. We passed a bill in the last session to have all the retirement systems looked at, then we pull the rug out by taking action on this bill.

Senator Pipinich asked if that wasn't only for the PERS board and was told it was over all.

Vote: The motion passed, Senators McClernan and Burnett voted no, the remainder voting yes, Senators Vaughn and Tveit leaving their yes vote.

EXECUTIVE ACTION ON SENATE BILL 51

Motion: Senator Swift moved SB 51 do pass.

Discussion: David Niss said he was concerned about the word "exempt" on page 2, line 18. The underlined phrase between the commas on lines 18 and 19 do not make sense using the word "exempt". If you were to substitute "except" then it does mean sense.

Chair Weldon asked if the committee would like to hold the bill until Mr. Niss could talk to the drafter of the bill. The committee agreed and the motion was withdrawn.

EXECUTIVE ACTION ON HOUSE BILL 68

SENATE STATE ADMINISTRATION COMMITTEE

December 14, 1993

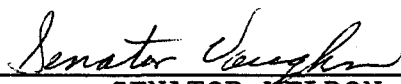
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Motion/Vote: Senator Hertel moved House Bill 68 be concurred in. The motion passed unanimously with Senators Vaughn and Tveit leaving a yes vote with the committee.

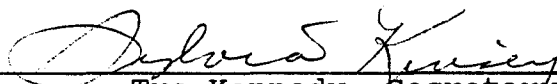
Chair Weldon said because there was an amendment suggested by the sponsor and because we don't have a full committee that he would withhold action on House Bill 35 today.

ADJOURNMENT

Adjournment: 11:15 a.m.



SENATOR WELDON, Vice Chair
SENATOR VAUGHN, Chair



Tre Kennedy, Secretary
(Sylvia Kinsey)

EV/sk

ROLL CALL

SENATE COMMITTEE on STATE ADMINISTRATION DATE 12-14

NAME	PRESENT	ABSENT	EXCUSED
SENATOR VAUGHN, CHAIR			✓
SENATOR WELDON, VICE CHAIR	✓		
SENATOR BURNETT	✓		
SENATOR FRITZ			✓
SENATOR HERTEL	✓		
SENATOR HOCKETT	✓		
SENATOR MCCLERNAN	✓		
SENATOR PIPINICH	✓		
SENATOR SWIFT	✓		
SENATOR TVEIT	✓		

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 14, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 46 (third reading copy -- blue), respectfully report that House Bill No. 46 be concurred in.

Signed: Senator Vaughn
Senator Eleanor Vaughn, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 14, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 68 (third reading copy -- blue), respectfully report that House Bill No. 68 be concurred in.

Signed: *Senator Vaughn*
Senator Eleanor Vaughn, Chair

ROLL CALL VOTE

SENATE COMMITTEE ON STATE ADMINISTRATION BILL NO. HB 46

DATE 12-14-93 TIME 11:15 (A.M) P.M.

[illegible]

SECRETARY

CHAIR

MOTION: SEN. PIPINICH MOVED HB 46 BE

CONCURRED IN.

✓ vote yes on HB 68

✓ vote yes on HB 46

~~I vote yes on SB 51~~

~~I vote no on HB 35~~

Sen Trent

12-14-93
STATE ADM

Senator Vaughn

✓ HB 46- Veto yes

✓ AB 68- yes

~~HB 51- yes~~

~~HB 35- yes~~

EXHIBIT 1
12-14-93
SB 51



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

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HELENA, MONTANA 59620-1711
406/444-2986

TERESA OLCOTT COHEA
LEGISLATIVE FISCAL ANALYST

MINUTES OF THE SELECTION SUBCOMMITTEE OF THE
LEGISLATIVE FINANCE COMMITTEE

A conference call of the selection subcommittee was called to order by Chairman Nelson on August 2, 1993 at 8:00 a.m. The following subcommittee members were involved in the August 2 conference call:

Representative Grady
Representative Nelson

Senator Jacobson
Senator Swysgood
Senator Weeding

Representative Kadas was excused.

Also present for the conference call were Mr. Bob Person, Executive Director of the Legislative Council; Mr. Greg Petesch, Director of the Legal Services Division of the Legislative Council; and Mr. David Fenner of the press.

HOUSE BILL 522

Chairman Nelson stated the conference call was necessary due to House Bill 522 (HB522). HB522 is an act providing protection for state employees whose positions are eliminated due to a reduction in force (RIF). Chairman Nelson stated HB522 creates a job registry made of up state employees who have been RIF'd and stipulates that anyone on the registry who meets the basic qualifications for the fiscal analyst position, must be considered first. According to HB522, the Legislative Finance Committee (LFC) must consider any of the job registrants who apply for the position and reject all of them before any other applications could be reviewed. The LFC could not hold formal interviews with the registry applicants and the other applicants at the same time. The registry applicants need to be interviewed first and if an applicant isn't selected, then the committee can look at the rest of the pool of applicants.

Senator Jacobson asked if the subcommittee could consider internal applicants along with RIF'd applicants. Chairman Nelson stated both sets of applicants could not be interviewed simultaneously, but the recruiting process could be stopped at this time and limited to internal recruitment (the staff of the LFA). Mr. Petesch stated if the committee wants to consider LFA staff, it would have to recruit internally prior to going outside. If no one is selected internally, the external hiring would involve a two-step process: 1) reviewing the job registry of RIF'd applicants; and 2) if no one is selected from that group, then review the outside applicants.

Senator Swysgood asked Mr. Petesch if the committee is committed to recruiting externally since advertising has already started. Mr. Petesch stated no, the committee is not required to hire anyone who applies as a consequence of advertising.

Senator Weeding asked if state employees, other than LFA staff, would be considered an outside applicant. Mr. Petesch stated that was correct, only staff of the LFA would be considered internal.

Senator Swysgood asked how many RIF'd employees are qualified. Mr. Person stated he is aware of four who may be qualified, but no actual analysis has been made to determine if that is correct.

Senator Swysgood stated the committee should look internally first. Senator Jacobson agreed, stating otherwise the LFA staff would virtually be exempted from a chance of being hired.

Representative Grady asked if a temporary appointment could be made in view of the budget crisis and talk of consolidation of services with the legislative branch. Mr. Person stated that is within the agency's prerogative.

Senator Weeding asked if the committee is required to solicit someone from the job registry if none from the job registry apply. Mr. Person stated the applicant needs to take the initiative to apply before being considered.

Senator Swysgood moved that the committee first look internally for a qualified individual to fill the position of the Legislative Fiscal Analyst. The motion carried unanimously.

Senator Swysgood asked that notice be given to the staff of the LFA for all interested persons to submit their applications. Senator Jacobson stated the screening process can be eliminated at this point as the full committee will probably want to interview all interested LFA staff. Chairman Nelson suggested extending the closing date to August 15 since the committee doesn't need the time for screening and so the staff has more time to consider applying. After the conference call was concluded, Chairman Nelson, in discussion with Mr. Person, further extended the closing date to August 25.

Senator Jacobson stated an acting director could be appointed from this pool of applicants if the committee does not offer the permanent position to any of the LFA applicants.

Chairman Nelson stated he would apprise the full committee of the subcommittee's decision and asked Mr. Person to notify Job Service that the committee is initially recruiting internally.

The conference call was concluded.

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List of the Positions Affected by SB 51

SENATE *State adm*

EXHIBIT NO. 2

DATE 12-14-93

BILL NO. SB 51

2-18-103. Officers and employees excepted. Parts 1 and 2 do not apply to the following positions in state government:

- (1) elected officials;
- (2) county assessors and their chief deputy;
- (3) officers and employees of the legislative branch;
- (4) judges and employees of the judicial branch;
- (5) members of boards and commissions appointed by the governor, the legislature, or other elected state officials;
- (6) officers or members of the militia;
- (7) agency heads appointed by the governor;
- (8) academic and professional administrative personnel with individual contracts under the authority of the board of regents of higher education;
- (9) academic and professional administrative personnel and live-in houseparents who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;
- (10) teachers under the authority of the department of corrections and human services or family services;
- (11) investment officer, assistant investment officer, executive director, and three professional staff positions of the board of investments;
- (12) four professional staff positions under the board of oil and gas conservation;
- (13) assistant director for security of the Montana state lottery;
- (14) executive director and senior investment officer of the Montana board of science and technology development;
- (15) executive director and employees of the state compensation insurance fund;
- (16) state racing stewards employed by the executive secretary of the Montana board of horseracing;
- (17) executive director of the Montana wheat and barley committee; and
- (18) commissioner of banking and financial institutions.

2-18-104. Exemption for personal staff -- limit. (1) Subject to the limitations in subsections (2) and (3), members of a personal staff are exempt from the application of 2-18-204, 2-18-205, 2-18-207, and 2-18-1011 through 2-18-1013.

(2) The personal staff who are exempted by subsection (1) may not exceed 10 unless otherwise approved by the department according to criteria developed by the department. Under no circumstances may the total exemptions of each elected official exceed 15.

(3) The number of members of the personal staff of the public service commission who are exempted by subsection (1) may not exceed 10.

