

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE BILL 132

Call to Order: By SENATOR AL BISHOP, CHAIRMAN, on April 12,
1995, at 4:14 P.M.

ROLL CALL

Members Present:

Sen. Al Bishop (R)
Sen. Mike Halligan (D)
Sen. Reiny Jabs (R)
Rep. Deb Kottel (D)
Rep. Shiell Anderson (R)
Rep. Daniel W. McGee (R)

Members Excused: None.

Members Absent: None.

Staff Present: Greg Petesch, Staff Attorney
Judy Feland, Secretary

{Tape: No tape was made of this meeting.}

Motion: SENATOR HALLIGAN MOVED THAT THE SENATE ACCEDE TO THE GOVERNOR'S AMENDMENTS, AS PASSED BY THE HOUSE.

Discussion: REPRESENTATIVE KOTTEL strongly opposed the motion, saying the majority of the people in the House did not agree with the Governor's amendments. It had been offered as a compromise by SPEAKER MERCER, and that not understanding the bill or the amendments, the representatives were persuaded to vote for the bill believing it would go back to the Governor, or at least the full committee. She said she objected because the contract entered into by the insurers and the insured would not be honored. Although a spouse may waive the inclusion, most people when they remarry, do not engage in adequate estate planning. So the consequence of the law would be to undo the wishes of the deceased. In regard to the argument that life insurance could be used to disinherit a spouse, she asked if there was even a case in Montana where the allegation was made. SENATOR HALLIGAN said he knew of no case. REPRESENTATIVE KOTTEL argued that it would be very difficult to use a policy to disinherit a spouse because it would only deplete the estate by the amount of the insurance premiums. To significantly deplete the estate, a person would have to take out a huge policy with extremely large premiums and be able to maintain those premiums until their date of death.

The person would also need to know with some certainty when they were going to die. She said that is was possible, but unlikely the Governor's amendments would close up this possibility. However, she felt the amendments caused tremendous problems. It would not allow a spouse to undo the wishes of the decedent in several situations that no one would consider equitable. She used the example of a person who had remarried, buying a life insurance policy for their children. Perhaps a spendthrift second husband would petition the augmented estate, thereby destroying the legal and reasonable beneficiary designation of the policy. **SENATOR BISHOP** explained that he would like the opportunity to try once more to explain his position on the Senate floor. He felt there had been many misconceptions among the members and misleading statements had been made. He pointed out that the loophole had existed for the past 40 years. Usually, there would be no problem if in planning estates and insurance policies, the spouse gave consent in the first place. **SENATOR JABS** stated that he believed the bill had a fair hearing on the floor already. **SENATOR HALLIGAN** suggested if the Governor vetoed the bill, then **Professor Ed Eck** could work with the State Bar to create a new bill in two years. **SENATOR BISHOP** stated that people in a second marriage could sign a ante-nuptial agreement as part of their estate planning to guarantee the consent of the spouse, and thus avoid any questions later. **REPRESENTATIVE McGEE** stated his intent to: 1) protect the spouse, and 2) to protect the contractual agreements of insurance policies. He was concerned that the two seemed mutually exclusive. He was also concerned about the "key person" issue in corporations, thinking incentives might be discouraged for those businesses.

Vote: The MOTION CARRIED 4-2 on a show of hands vote, with **SENATOR JABS AND REPRESENTATIVE KOTTEL** voting, "no."

ADJOURNMENT

Adjournment: CHAIRMAN BISHOP adjourned the meeting at 4:40 P.M.

A handwritten signature in cursive script, appearing to read "Al Bishop", written over a horizontal line.

AL BISHOP, Chairman

A handwritten signature in cursive script, appearing to read "Judy Feland", written over a horizontal line.

JUDY FELAND, Secretary

AB/jf