

## MINUTES

### MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN ETHEL HARDING, on February 2, 1995,  
at 10:05 AM

#### ROLL CALL

##### Members Present:

Sen. Ethel M. Harding, Chairman (R)  
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)  
Sen. Mack Cole (R)  
Sen. Mike Foster (R)  
Sen. Don Hargrove (R)  
Sen. Vivian M. Brooke (D)  
Sen. Bob Pipinich (D)

Members Excused: Sen. Jeff Weldon (D)

Members Absent: N/A

Staff Present: David Niss, Legislative Council  
Gail Moser, Committee Secretary

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

##### Committee Business Summary:

Hearing: HB178 HB210 SB193  
Executive Action: HB178 BE CONCURRED IN  
HB210 BE CONCURRED IN

{Tape: 1; Side: A; Approx. Counter: 59.3}

#### HEARING ON HB178

##### Opening Statement by Sponsor:

REP. DAVID EWER, House District 53, Helena, said HB178 was requested by the Department of Administration and the Capital Advisory team. Under current law, when underwriters submit bids for bonds, a good-faith check is also submitted as security. HB178, if passed, would allow a different form of security when the state or local governments seek to sell their bonds. That security would be the allowance of a third party fiduciary to provide an insuring bond. REP. EWER explained there would be

advantages for both the state and local governments and bidders. HB178 would enable bidders to use a financial guaranteed bond company as discussed on page 2, lines 22-26. **REP. EWER** said the fee to use the bond company would be much less than the cost of tying up capital to provide a good-faith deposit, and this process would make it easier for more bidders to become involved. **REP. EWER** said the process is becoming the industry standard and provides greater efficiencies in a world of increasingly more sophisticated technologies.

#### Proponents' Testimony:

**Connie Griffith, Administrator for the Accounting and Management Support Division, Department of Administration**, handed out testimony provided by the State's Bond Council (**EXHIBIT 1**) that discusses some details of HB178. **Ms. Griffith** said HB178 will allow the use of a more cost effective mechanism for a bidder to provide security on their bid. Currently, a bidder has to provide cash up front to secure their bid, and they lose interest on that money. HB178 will, hopefully, increase the number of bids on any bond issue and reduce the interest as a result and give the state an interest savings on any bond issue.

**Gene Huntington, representing Dain Bosworth, Inc.**, said they act as financial advisors to school districts, counties, and cities around the state. **Mr. Huntington** described the logistical difficulties involved in rural areas for securing bids with a good-faith deposit. He discussed problems such as bank facilities not always being in the immediate community of rural school districts, facilities for wiring money may not be convenient or available at all, and timing issues.

#### Questions From Committee Members and Responses:

**SEN. MIKE FOSTER** asked Representative Ewer if there has been any particular change that makes HB178 a good idea now, where it wasn't a good idea in previous sessions. **REP. EWER** said HB178 was an idea that only came up since the last session. The Capital Advisory Team has discussed the process involved at length over the last 18 months. **REP. EWER** said this is an evolution of the process, and municipal bond insurers are a fairly recent phenomena.

**CHAIRMAN HARDING** closed the Hearing on HB178.

#### HEARING ON HB210

#### Opening Statement by Sponsor:

**REP. ROBERT PAVLOVICH, House District 37, Butte**, said HB210 will provide a procedure to appoint a corporate trustee of the

Permanent Trust Fund for the Care, Maintenance, and Improvement of the First Special Service Force Memorial Monument. Members of the Association who currently maintain the Monument are men in the United States and Canada who trained at Ft. Harrison during World War II and have become known as the "Devil's Brigade". The average age of the men in the Association is approximately 75 years old. **REP. PAVLOVICH** said the members want to ensure that the Monument, which is located in Memorial Park in Helena, will be cared for in the future, and there is a Trust Fund for that purpose.

**Proponents' Testimony:**

**John Mahan, VFU**, said members of the Association asked how they could protect this Fund and maintain this Monument. He said it was determined the best way to protect the Fund was to put it under the supervision of the court. The triggering device will be when their Association is dissolved, the Secretary of State will notify the District Court Judge. The Judge will then call in the remaining trustees who would then go to the Judge in Macon County, and the Judge would be responsible to hire a corporate trustee to maintain this Monument. **Mr. Mahan** added that only the interest from the Fund would be used to maintain the Monument.

**Herb Goodwin, Trustee for the Memorial Fund**, explained that the Memorial Fund was established shortly after the First Special Service Force Association was formed. He said they have met annually since 1947. **Mr. Goodwin** said members of the Association are concerned about the maintenance of the Memorial due to the age of the members. **Mr. Goodwin** said when they met for their 48th reunion last year, it was decided they should establish a procedure for the appointment of a trustee to maintain the Memorial after they are gone.

**John Shontz, citizen**, said his father was a member of the Force and asked him to attend this Hearing to express his support for HB210. **Mr. Shontz** said, as a "second generationer," he believes this is a good cause and will do what he can to help the court in the perpetuity to maintain the Fund and the Memorial.

**Jim Jacobsen, Administrator of the Montana Veterans' Affairs Division**, said his organization is responsible for providing veteran service support for 100,000 veterans in the State of Montana and 159,000 family members. **Mr. Jacobsen** said HB210 will ensure that future generations continue to understand, enjoy, and respect the services provided by members of the First Special Service Force.

**Opponents' Testimony:** None

**Questions From Committee Members and Responses:**

**SEN. MACK COLE** asked Representative Pavlovich if there are adequate funds to keep the program going at this time.

**REP. PAVLOVICH** said there are and he added that the money used for maintenance is *interest* the Trust Fund earns. He also said that donations come in from the families and others to keep the Fund going.

**CHAIRMAN HARDING** closed the Hearing on HB210.

**HEARING ON SB193****Opening Statement by Sponsor:**

**SEN. STEVE DOHERTY, Senate District 24, Great Falls,** said the purpose of SB193 is to consolidate dates and times for elections and also make uniform the opening and closing times of polls.

**SEN. DOHERTY** explained that SB193 began at the last flood control district election, which was held at the last general election. The election officials pointed out that they had to be at the polls at a different time for the flood control district as opposed to the general election. **SEN. DOHERTY** said he expected SB193 to be a simple bill, but as he continued to work with Greg Petesch of the Legislative Council, they found many categories of special elections to be included. **SEN. DOHERTY** said he believes the School Boards should be able to have their elections when they need to for school bond issues, so SB193 could be amended for that purpose.

**Proponents' Testimony:**

**Bill Rappold, Chairman of the Board of Commissioners in Pondera County,** stated his support for the concept of SB193. **Mr. Rappold** said the increasing costs of elections are a burden on taxpayers when many of the special elections could be held during a regular election.

**James Lofftus, representing the Montana Fire District Association,** said he is in favor of the concept of combining elections. **Mr. Lofftus** described some issues concerning elections (Fire District Trustees and School District Trustees) that cause a great deal of confusion for people running as well as the voters. **Mr. Lofftus** said if the elections were somehow combined and held at one time, it would help end the confusion.

**Robert Throssell, representing the Montana Association of Clerks and Recorders,** said his Association is in support of the concept of combining elections and streamlining the process.

**Mr. Throssell** stated concern that once you begin changing the process for elections, there are many issues to be considered.

**Mr. Throssell** said that certainly many elections could be

combined and there would be a cost savings. He added, however, that just one of the problems may be that various districts do not always have the same boundaries and they don't have the same boundaries for precincts set up for other districts. Therefore, a situation could occur of havin not just one extra ballot for a flood control district, but you having a fire district ballot, a school district ballot, and a ballot that you are running in a general or primary election. **Mr. Throssell** said if the Legislature believes the time has come to review the numerous elections, his Association would be willing to actively participate in revamping the election process. **Mr. Throssell** said it will take time and a total review to ensure all entities and the various requirements have been laid out over a calendar year so elections could be held in a reasonable sequence.

#### Opponents' Testimony:

**Don Waldron, representing the Montana Rural Education Association,** said if there are other elections that can be easily combined (i.e., fire districts at the school elections), his Association supports that, and the costs of the election are shared. **Mr. Waldron** said he believes it may cause too much confusion, however, to combine the many issues of a general election with school issues. **Mr. Waldron** stated his agreement with having polls open and close at the same times for all elections. **Mr. Waldron** said he thinks pages 36-47 of SB193 should be thrown out. He said he believes the bill was drafted with an understanding of the problems that would arise from having schools included, so language such as "whenever possible" (pages 45, 47) was used to make it possible for schools to survive under SB193. **Mr. Waldron** said there are three major elections during the year -- November, June, and school election for trustees in April. He said the April election should not be confused with the issue of multiple levy and bond elections as those are needed as a situation requires. **Mr. Waldron** said his Association does not believe schools should be included in SB193 at this time.

**Phil Campbell, Montana Education Association,** agreed with Mr. Waldron's testimony. **Mr. Campbell** said his Association is concerned that the language of the bill "whenever possible" may require a school district to prove that it *wasn't* possible to have an election in June, for example. He said it seems like the trustees can have a mill levy any time they want or need to. Having the election in June is a problem for schools because teachers have to be notified of termination, by law, by the first of May, and if the trustees are not sure of their financial circumstances, the districts wouldn't have any choice but to give everybody "pink slips" until they know whether or not they have adequate resources. **Mr. Campbell** said his Association does not oppose the concept of SB193 as a whole, but he believes his concerns should be considered.

Questions From Committee Members and Responses:

**SEN. MESAROS** said he agrees with the concept of SB193. He then asked Senator Doherty how voting could be facilitated at one polling place where part of the people could be voting for one thing and part of the people voting for others because of redistricting. **SEN. DOHERTY** said he believes that happens already, at least in his district for those who live in the flood control district. He said he thinks the Clerk and Recorders have been very inventive in coming up with ways to handle these situations.

**SEN. MESAROS** asked Senator Doherty if he agreed with the fiscal note's statement that SB193 will have little effect on local and county government revenue or expenditures. **SEN. DOHERTY** said he thinks SB193 has a potential to reduce costs.

**SEN. BROOKE** said she believes the fiscal note is not quite accurate as she thinks the savings, particularly in larger counties, could be quite a bit.

**SEN. COLE** asked Senator Doherty what the effective date for SB193 would be. **SEN. DOHERTY** said he believes, since there is no date specified, it would go into effect October 1, 1995.

**SEN. FOSTER** asked Robert Throssell if he has seen the fiscal note for SB193. **Mr. Throssell** said "no." **SEN. FOSTER** gave him a copy and then he asked Mr. Throssell to respond to the first sentence on the fiscal note under "Effect on county or other local revenues or expenditures." **Mr. Throssell** said he thinks the potential is there to save money for school districts, fire districts, and counties. **Mr. Throssell** stated concern that, as SB193 is written, there may not be cost savings across the board when considering overlapping districts, etc.

**SEN. HARGROVE** commented to Mr. Throssell he found it difficult to determine whether Mr. Throssell was *for* or *against* SB193, and he asked Mr. Throssell if SB193 required further study by the Clerks & Recorders. **Mr. Throssell** said they believe SB193 is workable and has potential cost savings. **Mr. Throssell** added, however, that election processes in each of the districts need to be mapped out and timelines need to be reviewed with the Legislative Council, and the Clerks & Recorders have not had time to do that.

**SEN. HARGROVE** asked Senator Doherty if SB193 includes every election in a county except certain school elections.

**SEN. DOHERTY** said that is what he had told Greg Petesch he wanted to do. His intention was to try to cover all bases.

**SEN. HARGROVE** asked Senator Doherty what school elections are not included. **SEN. DOHERTY** said school elections are covered in pages 36-47 of SB193. **SEN. DOHERTY** said experience he has gained from serving on the Senate Education Committee has convinced him

that school elections are very different from other elections. He said he would be agreeable to removing school elections from SB193 and having the Education Committee review that process.

**SEN. DOHERTY** referred to Mr. Waldron's agreement regarding uniform hours for polls to be open. **SEN. DOHERTY** said he believes even if that is all that comes from SB193, it would be worth it.

**SEN. HARGROVE** commented that one of the major complaints he had from constituents was the fact that if a mill levy or bond vote is not passed, sixty days later, the same issue is voted on.

**SEN. HARGROVE** asked Don Waldron to comment on the suggestion that there be a mandatory period of six months, or even until the next general election, before voting on the same mill levy or bond issue again. **Mr. Waldron** clarified that when we talk about "school elections" we are talking about the "school trustees election." **Mr. Waldron** said most schools try to have levy elections or bond elections, etc., at that same time. **Mr. Waldron** said, regarding multiple levies for the same budget issue, schools are under an entirely different program than cities or counties in that their existence relates to what legislators do and what can be done in the local community. **Mr. Waldron** said there are some schools where the levy is 24% of the budget, so what would happen to Belgrade, for example, if they lost 24% of their budget by the levy not passing. **Mr. Waldron** said he would like to have these election options maintained.

**SEN. FOSTER** referred to Mr. Campbell's comments regarding handing out "pink slips" if the election was not held until June.

**SEN. FOSTER** said that is not really the way it would work, and he asked Mr. Campbell if he wished to clarify his comment.

**Mr. Campbell** said, unfortunately, it *does* work that way for many non-tenure teachers as mill levies get delayed, and it happens far too often. **SEN. FOSTER** said he did not want to debate this issue but added that Mr. Campbell is using this point as opposition to SB193. **SEN. FOSTER** said that, in order to agree with Mr. Campbell's logic, you would have to believe that a school district runs a mill vote every year and asked Mr. Campbell if that is true. **Mr. Campbell** said he didn't know the numbers of school districts that *don't* run levies.

**Mr. Campbell** said the overwhelming majority *do* run levies and in some cases just to *maintain*, not *increase*, their budgets.

**SEN. MESAROS** asked Senator Doherty if he would have any objection to changing the date of the election to the day after property taxes are due. **SEN. DOHERTY** said he hadn't considered that. He said he was attempting to set a regular election in June and November and the April election for school board trustees. With those three, the goal would be to combine as many special elections as possible into the three and get the polls open at a uniform time.

**CHAIRMAN HARDING** asked Senator Doherty for any comments regarding amending SB193 to include uniform times for polls to be open and

exclude the school districts from SB193. **SEN. HARDING** also asked if it would be possible to have the Legislative Council staff, Mr. Throssell, and possibly the Secretary of State work on language to combine the various elections. She said perhaps a commission could be formed to ensure all problems are addressed. **SEN. DOHERTY** said he would be agreeable to that kind of language or even language that would give the local election officials the power to say that the fire district election, for example, must be held at the next regular election. **CHAIRMAN HARDING** added that election judges could also be shared.

Closing by Sponsor:

**SEN. DOHERTY** said he believes making the polling places open at uniform times and combining special elections as much as possible is a good idea. He said he understands that some districts, because of bonded indebtedness or school bond concerns, may have separate issues to be dealt with.

**CHAIRMAN HARDING** closed the Hearing on SB193.

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EXECUTIVE ACTION ON HB210

Motion: **SEN. PIPINICH** moved that HB210 BE CONCURRED IN.

Discussion: **SEN. WELDON** asked for clarification that there is no state money going into this Trust. **SEN. PIPINICH** said, "That's correct." **SEN. WELDON** asked if the state is involved with this Memorial currently. **SEN. PIPINICH** answered, "No."

**SEN. WELDON** asked why the members of the Association could not create the Trust maintenance through a private cause of action. **CHAIRMAN HARDING** said the Association had presently been operating their own Trust with private donations, and the interest is what provides for the maintenance. Because of the age of the members, they came up with this system in order to turn it over to a Judge to see that the maintenance goes on through the interest from the private Trust money.

Vote: The MOTION CARRIED UNANIMOUSLY on oral vote.  
**SEN. PIPINICH** will carry the bill on the Senate floor.



EXECUTIVE ACTION ON HB178

Motion/Vote: SEN. MESAROS moved that HB178 BE CONCURRED IN.  
The MOTION CARRIED UNANIMOUSLY on oral vote.  
SEN. BROOKE will carry the bill on the Senate floor.

DISCUSSION ON SB193

COMMITTEE MEMBERS discussed having David Niss prepare amendments for SB193 regarding eliminating school elections from SB193, consolidation of dates, and the language "*whenever possible.*"

ADJOURNMENT

Adjournment: 11:15 AM

A handwritten signature in cursive script, reading "Ethel M. Harding", written over a horizontal line.

ETHEL M. HARDING, Chairman

A handwritten signature in cursive script, reading "Gail Moser", written over a horizontal line.

GAIL MOSER, Secretary

EMH/gem

MONTANA SENATE  
1995 LEGISLATURE  
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE \_\_\_\_\_

Attw 02-0295

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 2, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 210 (third reading copy -- blue), respectfully report that HB 210 be concurred in.

Signed: Ethel M. Harding  
Senator Ethel M. Harding, Chair

SP Amd. Coord.  
Sec. of Senate

P. Pinick  
Senator Carrying Bill

281303SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 2, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 178 (third reading copy -- blue), respectfully report that HB 178 be concurred in.

Signed: Ethel M. Harding  
Senator Ethel M. Harding, Chair

PV  
Amd. Coord.  
2<sup>nd</sup> Sec. of Senate

BROOKE  
Senator Carrying Bill

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SENATE STATE ADMIN.

EXHIBIT NO. 1DATE 02-02-95BILL NO. HB 178

## MEMORANDUM

TO: Representative David Ewer  
Members of State Administration Committee

FROM: Department of Administration

DATE: January 16, 1995

RE: HB 178

The Capital Advisory Committee recommended the drafting of legislation that would accomplish two objectives:

- 1) to provide consistent requirements for bid security for the purchase of all state and local government indebtedness, and
- 2) to authorize a surety bond form of bid security for indebtedness.

The purpose of both changes is to facilitate the providing bid security to encourage greater participation in the sale of Montana bonds.

At present, in order to bid on a competitive bond sale in Montana, participants must submit a "good-faith" deposit along with their bid in the form of a certified or cashier's check drawn on a bank doing business in Montana in the amount of 2% of the total par value of the bonds being sold, except in the case of state long-range building program bonds where the check can be on any national or state bank insured by the FDIC.

The purpose of the bid security requirement is to legitimize the bidder's intent to purchase the bonds if won and to provide the issuer with a small cash settlement to offset the cost of advertising resulting in the event that the winning bidder does not ultimately purchase the bonds as required, and, as a result, the bond sale has to be re-scheduled.

While the dollar amount of such "good-faith" deposits can seem trivial, in today's cost-sensitive environment, every day that a banker's cashier's check is outstanding is one more day of lost interest earnings on the dollar amount of the check. Typically, a banker must wait three to seven days before his losing bid cashier's check is re-credited to his account. Over the course of the year, this cost of doing business becomes noticeable. As a result, some firms will refrain from participating in bond sales that they view, for whatever reason, as having little chance of winning. This, of course, can limit competition and may increase the interest costs that the state and municipalities must pay.

This legislation will allow a surety bond to be provided as bid security for the purchase of state and local government bonds, as well as make consistent the bid security requirements for all debt issues. Specifically, this bill would:

1. Repeal Section 17-5-806. The existence of this section, which was presumably to get around the requirement that cashiers checks had to be drawn on Montana banks, necessitated the exclusionary paragraph (4) in Section 18-1-203, which by this bill would be eliminated. By repealing Section 17-5-806, all bonds issued by the State, as well as any other entities, will have the same requirement for bid security.
2. Amends Sections 18-1-202 and 18-1-203 to allow cashier's checks, certified checks, bank money orders, etc., to be drawn on a federally chartered or state chartered bank that is insured by the federal deposit insurance corporation. This is identical to what was provided for and allowed under Section 17-5-806 for the Long Range Building Program Bonds.
3. Allow a surety bond for all types of bid security, not just procurement and construction of property, as is currently the case. In the case of surety bonds provided to secure the purchase of indebtedness, the bill would require that the long term debt or claims ability of the surety company be rated.

These changes have been discussed with the State's financial advisor, as well as other firms serving as financial consultants to various state agencies and local governments, and those persons concur with these changes. It has also been reviewed by Capital Guaranty Insurance Company, a company who has developed the Sure-Bid good faith deposit program used in many other states and, if enacted, it would enable them to issue surety bonds in Montana.

It might be helpful to understand how such a surety bond would work, in the event the legislation is approved.

The surety company would provide a surety bond to the governmental entity issuing the debt on behalf of the bidder in lieu of a cashier's check. The surety bond is backed by the full faith and credit of the surety company whose long term indebtedness or claims paying ability is rated by a national rating institution. The successful bidder is required to deliver good funds in the amount of the good faith deposit requirement on the next business day following the award of the municipal securities. This is typically done by a Fed Fund wire transfer directly into the account of the issuer. In the event that the issuer's successful bidder used the surety bond and failed to deliver the required Good Faith amount, Capital Guaranty would step in and pay the issuer the Good Faith amount on the next business day.

There is no charge to the issuer of the bonds. The surety company charges the bidder a nominal fee to use the service. Generally, the fee structure will be more attractive to the bidder than the cost of providing a cashier's check. If that is not the case, the bidder can simply opt not to use the surety bond and submit a cashier's check with his bid. In this way the issuer has provided all prospective bidders a choice.



**MEMBERS:**

House Bill 210 will allow the Memorial Fund of the First Special Service Force Association (a Montana Nonprofit Corporation) to be placed under the supervision of a district judge in Helena, Montana, when the Association is dissolved.

Members of the Association are the men of the U.S. and Canada that trained at Fort Harrison, Montana, at the beginning of World War II, and later, after their military exploits were publicized, became known as "The Devil's Brigade." The average age of the men is 75 years, and they want this beautiful monument, located in Memorial Park in Helena, Montana, maintained after they are gone. This bill makes that possible.

The monies they have raised for their memorial fund will be protected and preserved to maintain this monument forever. The fund will be invested by a corporate trustee under the supervision of the court, and the interest will be used only for the maintenance and repair of this monument.

DATE Thursday 02-02-95

SENATE COMMITTEE ON STATE ADMINISTRATION

BILLS BEING HEARD TODAY: SB 193 / HB 178 / HB 210

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Don Waldron	MREA	SB 193		
Rep Pavlovich	HD 37	HB 210	X	
Connie Griffith	DEPT OF ADMIN	HB 178	X	
John Mahan	VFW	HB 210	X	
Herb Goodwin	FESEF	HB 210	X	
John Marshall	FESEF	HB 210	<	
J. Shontz	Andy Shontz	HB 210	X	
Jim Jacobsen	MT Utility Div	HB 210	X	
Bill Rappard	Pondera County	SB 193	X	
JAMES A. LOFFTUS	MT FIRE DEPT ASSN	SB 193	X	
ROBERT THROSSELL	MT Assoc. Check Recorder	SB 193	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY