

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN RICHARD SIMPKINS**, on February 13, 1995, at 10:00 A.M.

ROLL CALL

Members Present:

Rep. Richard D. Simpkins, Chairman (R)
Rep. Matt Denny, Vice Chairman (Majority) (R)
Rep. Dore Schwinden, Vice Chairman (Minority) (D)
Rep. Patrick G. Galvin (D)
Rep. Dick Green (R)
Rep. Antoinette R. Hagener (D)
Rep. Harriet Hayne (R)
Rep. Sam Kitzenberg (R)
Rep. Bonnie Martinez (R)
Rep. Gay Ann Masolo (R)
Rep. William Rehbein, Jr. (R)
Rep. George Heavy Runner (D)
Rep. Susan L. Smith (R)
Rep. Carolyn M. Squires (D)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Joe Tropila (D)

Members Excused: Rep. Matt Brainard (R)

Members Absent: none

Staff Present: Sheri Heffelfinger, Legislative Council
Christen Vincent, Committee Secretary

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

Committee Business Summary:

Hearing: HB 476, HB 455
Executive Action: HB 455, HB 467

{Tape: 1; Side: A.}

HEARING ON HB 455Opening Statement by Sponsor:

REP. ELLEN BERGMAN, HD 4, opened by reading the title of the bill. She stated rather than having a general election with one person running they could consolidate the elections and save money. With this bill if they were to consolidate the elections of the conservation districts and hold them at the same time as the general or primary elections they would be saving \$500 or more. She stated there have been other districts that have done this and have saved money by doing so. There was an amendment to the bill.

Proponents' Testimony:

Mike Bileski, Montana Association of Conservation Districts, stated this bill was the result of a resolution forum on conservation districts at the state convention. There will be a primary if there are more than two people running for the same position. The county charges districts for that one person running and it is a waste of money. He stated in the amendment there would be new language for the bill. He offered the amendment. **EXHIBIT 1** He stated this was something the conservation districts need and it will save money.

Lorna Frank, Montana Farm Bureau, recommended a do pass as amended.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. BERGMAN closed and thanked the committee for their time.

EXECUTIVE ACTION ON HB 455

Motion/Vote: REP. MASOLO MOVED THAT HB 455 DO PASS. REP. MASOLO MOVED THE AMENDMENT. Motion carried unanimously with REP. BRAINARD voting by proxy.

Motion/Vote: REP. MASOLO MOVED HB 455 DO PASS AS AMENDED. Motion carried unanimously with REP. BRAINARD voting by proxy.

EXECUTIVE ACTION ON HB 467

Motion/Vote: REP. GREEN MOVED HB 467 DO PASS. REP. GREEN MOVED THE AMENDMENTS. Motion carried unanimously with REP. BRAINARD voting by proxy.

Motion/Vote: REP. GREEN MOVED HB 467 DO PASS AS AMENDED. Motion carried unanimously with REP. BRAINARD voting by proxy.

HEARING ON HB 476Opening Statement by Sponsor:

REP. JAY STOVALL, HD 16, opened stating this bill would amend section 18-8-204 and 18-8-205. The reason for this bill was because of the Montana Association of Counties ruling act. The county commissioners had a hard time complying with the law as it was. The amendment makes it easier for the county commissioners to comply.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, stated there is a two step process for selecting consultants in Montana law. The procurement code is where the proposed amendment takes part. Each agency has a consultant on list. The agency picks and reviews the qualifications of the consultant and asks them to provide proposals for the jobs. Previously they have not been able to include fees for the projects. They select one consultant and then negotiate the contract. This bill would add the fees to the proposals. Elected officials are not on equal footing when selecting a consultant for the job. If they are not able to agree on a price they then select another consultant and negotiate for a price.

Vern Peterson, Fergus County, stated as the commissioner interviews they look at the qualifications. The way it is now they have to pick a consultant without knowing the cost. He asked how they would know if the price was fair and reasonable. They want to be able to consider fees. This would not be a bidding process. If it is not an emergency they should be able to consider fees, however, they don't want to be forced into a low bid. Private enterprises are not prohibited from knowing the fees and he felt they should be prohibited also. This would give them another needed tool to work with. He favored the bill.

Gary Gilmore, Montana Department of Transportation, spoke favorably of the bill. Cost is very important when selecting a consultant. He gave the analysis of purchasing a vehicle. A person doesn't pick out a vehicle and then negotiate the cost. He was opposed to having cost be the deciding factor in the process. He hoped the committee would give the bill a favorable recommendation.

Glenna Obie, Jefferson County, stated she supported the bill.

John Rothwell stated it was the attorney general's opinion to set up the program through which they pick a few qualified consultants. After the short list they ask for a finalized report of the project. He stated they do ask for an estimate for cost. Cost is not the final factor but is a tool used to pick a logical pricing unit. He thought this should be part of the system.

Gary Knudson, Engineer, stated the way the law is currently written he would encourage the committee to change to "qualified firm" not the "most qualified." He stated this eliminates smaller firms. Another thing to look at was prices. It is important for taxpayers to get the most cost efficient and effective job done. There are a lot of qualified firms and aren't always the same as other firms. The most important thing is to get the most efficient and effective person for the job.

{Tape: 1; Side: B.}

Opponents' Testimony:

REP. SONNY HANSON, HD 9, stated he opposed the inclusion of price in the system. Presently federal law says money will not be included in the selection process. There are records to prove this. There is no finite description for the projects. With Montana Power an approximate dollar amount is in one envelope and their qualifications are in another. All those not selected are sent back with their estimates. Once dollar amounts enter the picture there is the potential for lawsuits. He had requested the Attorney General's opinion because of the Department of Transportation. Nothing is finite. The county commissioners have the option to check with other county commissioners for qualifications of consultants. He hoped the committee would table the bill.

Ken Munski, Montana Technical Council, stated he was very much opposed to this bill. It represents a radical departure from existing practices. Existing law is patterned after the federal law. This would be a negative scope of services when negotiating price if this were included. Different prices are because of different ideas and quality of work. There are two separate issues, one is what it does in private practice. If the bill passes he would have to deal with two rule books instead of the current one. It would be more work for him if this bill were to pass. The second is how it affects public policy. Economic factors for a project's fees are 10%. By and large the private sector select on experience and qualifications of a contractor not how much they charge. Many concerns are valid as expressed by the proponents but they can be dealt with under current law. The bill was drafted without their input. He hoped the committee would defeat the bill.

Jim Weatherly, Consultant, Missoula, stated current Montana law is patterned after federal law. This has been tested and studied every two years since 1972 and they haven't been able to come up with a better way to do things. The current law is seen as the best method to do things. Montana has used the practice informally and decided the selection process they now use is the best way to do things after studying it. There are problems with introducing price in to the selection process. When a consultant is selected he becomes a part of the team. After finding a consultant the agency needs to sit down with that person and define the project and he can then propose alternative ways of going about doing the project. The consultant, if they were to bring money into the matter, would then have to prepare a very defined report for the agency. Bringing money into the process would foster adversarial relationships. The consultant would either have to minimize money going into the project or they would have to minimize their involvement with the project.

The true cost of the project is operational, direct and indirect labor costs. The bid process used most always comes back to the selection process. One concern they had was liability insurance. He stated that was where the claims come from. Under the current process people think without the bid it isn't a competitive process when in fact it is a very competitive process. They must maintain a spotless reputation and must be very competent in their work. Their overhead costs are subject to audit at anytime. He urged the committee not to pass the bill.

Marty Cremmel, Architect, stated this matter was largely political. He felt the current way that had been modeled after the federal way was quite effective. He explained the process and expressed the same concerns as the other previous opponents.

Tom McNab, Montanan Technical Council, submitted written testimony. **EXHIBIT 5**

{Tape: 2; Side: A.}

Dan McGee, HD 21, stated he wanted to go on record he was not speaking for any board. This is not a perception of conflict of interest. The cost would not be considered until the project were to come up then the consultants would have to supply a price list. All of these people that were qualified are looked at first, then the money would be looked at. The current way is the correct way for handling this. A person gets what they pay for in his opinion. There are still controls within the system. He stated some people think they would select subcontractors at a lower price. He stated that there was no way that he would do that because he couldn't afford to do that and make a mistake. He stated when people go with the best they will do the best that they can do and do it right.

Bob Lashaway, Director, Facility Services, MSU, stated he strongly opposed fees as part of the selection process. If they

were to switch systems it would cause agencies extensive work and increase costs. He stated they don't have the expertise to do something like what was proposed in the bill. There are inadequate funds to do this and it would force the designer for more money or a cut in resources and quality of services. Design fees are less than one percent of the costs. They should hire good qualified people for the projects.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. GALVIN asked what percent increase or decrease would this cause in fees.

Mr. Morris stated they would be looking at design services percent and the total projection is referred to on line 29 of the bill. Professional fees may also be charged to this.

REP. REHBEIN asked if they would be in violation of federal laws if they were to pass this bill.

REP. HANSON stated the Montana procurement law had been modeled after the federal law but there is nothing that says Montana has to comply with that.

REP. REHBEIN asked if there were any other states that were doing this.

Mr. Morris stated he didn't know.

REP. REHBEIN asked if there would be any violation to other laws if this bill were to pass.

Mr. Rothwell stated the Federal highways has to approve this if it were to go into effect under the Brooks Bill and the Mini Brooks Bill. The state's law would take affect if this bill were to pass.

REP. SCHWINDEN asked if the current program has worked cost efficiently.

Tim O'Connell, Department of Administration, stated the program has worked well and cost efficiently. He stated it has become fine tuned over the years and works well.

REP. SCHWINDEN asked if line 29 of the bill works with choosing.

Mr. O'Connell stated they are comfortable with the process now. They have a good feel for the fees and if they got the prices earlier on it would have mechanical problems within the system.

REP. TROPILA asked if adequacy equaled satisfactory.

Mr. Morrison stated they had no problem with amending the bill to use adequately.

REP. HANSON had no problem with amending the bill in that way. They would not be looking for people that were unqualified to do the job.

REP. SMITH asked if the criteria could be weighted.

Mr. McNab stated there was a problem that there was no way to write the criteria so that it would comply with all the projects. He stated it was a very complex issue.

REP. GREEN asked if private people get figures on what it would cost for a project.

Mr. Morris stated people do tend to get those figures.

REP. GREEN asked if the public sector was treated differently.

Mr. Morris stated they were treated differently.

CHAIRMAN SIMPKINS asked if the differences in weighting depended on the project.

Mr. O'Connell stated that was true.

CHAIRMAN SIMPKINS asked in the selection process if those people that are competing for the project know what is being weighted.

Mr. O'Connell stated they don't know what is being weighted. They use the process with the qualifications. It doesn't necessarily have to be weighted.

CHAIRMAN SIMPKINS asked what would happen if they put in their application as a shot in the dark.

Mr. O'Connell stated if the criteria of cost was to be included there would be a possibility that people would say they had the lower bid and wonder why they didn't get the job. He stated there is the possibility that these projects would be weighted with the cost if the bill were to be passed.

CHAIRMAN SIMPKINS asked if this is limited to buildings.

Mr. O'Connell stated it would be limited to buildings. They do projects for the Highway Department but road construction would not be included.

CHAIRMAN SIMPKINS asked in their experience if there was a significant difference between roads and state buildings.

Mr. Munski stated the differences are minor. The process is similar but the differences are subtle.

CHAIRMAN SIMPKINS asked if Mr. Rothwell could see any difference between the two.

Mr. Rothwell stated he didn't see any difference except there would be money that would be saved.

CHAIRMAN SIMPKINS asked what his opinion was about striking most and putting in "adequate."

Mr. Rothwell stated he liked "adequate".

REP. TROPILA asked what he thought about "better" instead of "most."

Mr. Rothwell stated he liked "better."

REP. SMITH asked what he felt about using qualified and leave the rest of the wording.

Mr. Rothwell stated that would be fine.

Closing by Sponsor:

REP. STOVALL closed and thanked the committee for their time and consideration of the bill.

ADJOURNMENT

Adjournment: 12:00 p.m.



RICHARD SIMPKINS, Chairman



CHRISTEN VINCENT, Secretary

RS/cdv

HOUSE OF REPRESENTATIVES

State Administration

ROLL CALL

DATE 2-13-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Dick Simpkin, Chairman	✓		
Rep. Matt Denny, Vice Chairman, Majority	✓		
Rep. Dore Schwinden, Vice Chair, Minority	✓		
Rep. Matt Brainard			✓
Rep. Pat Galvin	✓		
Rep. Dick Green	✓		
Rep. Toni Hagener	✓		
Rep. Harriet Hayne	✓		
Rep. George Heavy Runner	✓		
Rep. Sam Kitzenberg	✓		
Rep. Bonnie Martinez	✓		
Rep. Gay Ann Masolo	✓		
Rep. Bill Rehbein	✓		
Rep. Susan Smith	✓		
Rep. Jay Stovall	✓		
Rep. Carolyn Squires	✓		
Rep. Lila Taylor	✓		
Rep. Joe Tropila	✓		



HOUSE STANDING COMMITTEE REPORT

February 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that **House Bill 455** (first reading copy -- white) **do pass as amended.**

Signed: *Dick Simpkins*
Dick Simpkins, Chair

And, that such amendments read:

1. Pages 1, line 28 through page 2, line 4.

Strike: "If" on page 1, line 28 through "supervisor" on page 2, line 4

Insert: "Except as provided in subsection (5)(b), if the number of candidates nominated is equal to or less than the number of positions to be elected, the election administrator shall give notice that an election will not be held.

(b) The governing body may require that an election be held if, not more than 10 days after the close of filing by candidates, the governing body passes a resolution to hold an election and notifies the election administrator.

(c) If an election is not held, the governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If a candidate has not filed a nominating petition for the position, the governing body shall make an appointment to fill the position."

-END-

Committee Vote:

Yes 18, No 0.

371509SC.Hbk



HOUSE STANDING COMMITTEE REPORT

February 13, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 467 (first reading copy -- white) do pass as amended.

Signed: *Dick Simpkins*
Dick Simpkins, Chair

And, that such amendments read:

1. Title, lines 5 and 6.

Following: "MCA"

Strike: remainder of line 5 through "PROVISION" on line 6

2. Page 1, line 17.

Strike: "A" through "period"

Insert: "The secretary of state or other authorized official may not certify a candidate's nomination or election to the public service commission or print or cause to be printed on any ballot the name of a candidate for the public service commission if, at the end of the current term of that office, the candidate will have served in that office or, had the candidate not resigned or been recalled, would have served in that office for 8 or more years in a 16-year period."

(4) When computing the time served for the purposes of subsection (3), the provisions of subsection (3) do not apply to time served in terms that ended during or prior to January 1995"

3. Page 1, lines 19 through 21.

Strike: Section 2 in its entirety

-END-

Committee Vote:

Yes 18, No 0.

371227SC.HDH

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 2-13-95 BILL NO. HB NUMBER 467

MOTION: Rep. Green moved Do Pass as amended.

hb046701.ash

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, Minority	✓	
Rep. Matt Brainard <u>By Proxy</u>	✓	
Rep. Pat Galvin	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner	✓	
Rep. Sam Kitzenberg	✓	
Rep. Bonnie Martinez	✓	
Rep. Gay Ann Masolo	✓	
Rep. Bill Rehbein	✓	
Rep. Susan Smith	✓	
Rep. Jay Stovall	✓	
Rep. Carolyn Squires	✓	
Rep. Lila Taylor	✓	
Rep. Joe Tropila	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 2-13-95 BILL NO. HB NUMBER 467

MOTION: Rep. Green moved the amendment

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, Minority	✓	
Rep. Matt Brainard <i>By Proxy</i>	✓	
Rep. Pat Galvin	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner	✓	
Rep. Sam Kitzenberg	✓	
Rep. Bonnie Martinez	✓	
Rep. Gay Ann Masolo	✓	
Rep. Bill Rehbein	✓	
Rep. Susan Smith	✓	
Rep. Jay Stovall	✓	
Rep. Carolyn Squires	✓	
Rep. Lila Taylor	✓	
Rep. Joe Tropila	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 2-13-95 BILL NO. HB NUMBER 455

MOTION: Rep. Masolo made the motion do pass as amended

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, Minority	✓	
Rep. Matt Brainard <i>By Proxy</i>	✓	
Rep. Pat Galvin	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner	✓	
Rep. Sam Kitzenberg	✓	
Rep. Bonnie Martinez	✓	
Rep. Gay Ann Masolo	✓	
Rep. Bill Rehbein	✓	
Rep. Susan Smith	✓	
Rep. Jay Stovall	✓	
Rep. Carolyn Squires	✓	
Rep. Lila Taylor	✓	
Rep. Joe Tropila	✓	

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

State Administration

DATE 2-13-95 BILL NO. HB NUMBER 465

MOTION: Rep. Masolo moved the amendment.

NAME	AYE	NO
Rep. Dick Simpkin, Chairman	✓	
Rep. Matt Denny, Vice Chairman, Majority	✓	
Rep. Dore Schwinden, Vice Chairman, Minority	✓	
Rep. Matt Brainard <i>By Proxy</i>	✓	
Rep. Pat Galvin	✓	
Rep. Dick Green	✓	
Rep. Toni Hagener	✓	
Rep. Harriet Hayne	✓	
Rep. George Heavy Runner	✓	
Rep. Sam Kitzenberg	✓	
Rep. Bonnie Martinez	✓	
Rep. Gay Ann Masolo	✓	
Rep. Bill Rehbein	✓	
Rep. Susan Smith	✓	
Rep. Jay Stovall	✓	
Rep. Carolyn Squires	✓	
Rep. Lila Taylor	✓	
Rep. Joe Tropila	✓	

COMMITTEE PROXY

Date 2-13-95

I request to be excused from the State Administration
Committee meeting this date because of other commitments. I
desire to leave my proxy vote with Matt Jenny.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
HB 467	✓	
amend.	✓	
HB 455	✓	
amend	✓	

SENATE BILL/AMENDMENT	AYE	NO

Rep. Matt Brainerd
(Signature)

February 12, 1995

To: Representative Dick Simpkins, Chairman
Members of the Committee on State Administration
Montana House of Representatives

From: Larry L. Brown
6260 Head Drive
Helena, Montana 59601
(406) 442-9075

Ref: Testimony by a Jim Jensen, Montana Environmental Information Center (MEIC),
an opponent of HB 410; Reporting of Membership and Contributions to
Organizations by Public Sector, at the hearing on February 9, 1995

Mr. Chairman, members of the Committee, it is my understanding that you were presented deliberate and deceitful lies which continue to defame industry and my personal reputation. I am the former State MDHES employee accused of impropriety in that testimony.

In 1990, Plum Creek Timber Company was blamed for violating State water quality standards due to a logging operation in the Swan Valley. It was my responsibility to oversee the investigation along with the Department of Fish, Wildlife, and Parks and the U.S. Forest Service and to prepare a technical report subsequent to an enforcement action.

You were told that I was in negotiation for employment with Plum Creek during the investigation. In fact, my data and technical report resulted in enforcement proceedings and a substantial fine, hardly a basis for suggesting impropriety or winning friends with a potential employer. To my knowledge, the confidentiality of the facts and settlement were never made public. The proceedings are filed at the Department of Health and Environmental Sciences.

Plum Creek offered me employment much later, which I accepted, partly because of the professional way that the situation was handled and because of my credentials. In my mind, personal grievances are irrelevant to your valuable time at the legislature. Once again, Jensen and MEIC has distorted the truth without challenge. I just wanted you to know.

EXHIBIT one
DATE 2-13-95
HB 410

Opinion, comment

The M
Official newspaper

Conflict alert

Private associations can affect performance of public duties

House Bill 410 would require state employees to reveal whether they belong to or contribute to organizations that do business with their departments or lobby the Legislature on issues that concern their departments.

Opponents say the bill would create a massive, unconstitutional invasion of public employees' privacy.

Some of the opponents protest too much.

The bill, introduced by Butte Rep. Bob Pavlovich, is designed to reveal conflicts of interest among people who work for state regulatory agencies. Pavlovich said he sponsored the bill at the request of timber and mining people who are concerned that some state employees who regulate their industries may belong to environmental groups that oppose their industries.

It's not an unreasonable concern. If a regulator belongs to a group that opposes a project under the regulator's review, it's a conflict of interest. It should not be necessary, as a news story implied last week, for industry to prove that the conflict affects the regulator's decisions.

However, it *should* be necessary for the regulator to disclose the conflict, or appearance thereof, by disclosing the membership. How can the public have faith in the objectivity of regulatory decisions if regulators are free to join adversarial groups without the public's knowledge?

Last year, industry discovered that some employees of the federal Environmental Protection Agency were members of the often stri-

dently environmentalist group, the Montana Environmental Information Center. The public affairs director for the state EPA was president of the group. Another EPA employee was a member of the organization's board.

A spokesman for the Montana Wood Products Association protested those membership after an environmental information center officer ridiculed a wood products advertising campaign. The wood products person said an EPA person belonging to an activist environmental group was as blatant a conflict as a Forest Service official sitting on the board of the wood products association.

The EPA shrugged off that complaint and said it saw no conflict. Hard to believe, but true.

But while Montanans may be stuck with an ethically blind federal EPA, they have a right to expect better of their elected legislators and their own public employees. HB410 is a start toward addressing a potentially serious problem.

And remember: HB410 would affect not only those employees who belong to environmental groups, but those who belong to any special interest groups, including industrial groups, that deal with their department.

If the Pavlovich bill is too broad, it shouldn't be hard to correct. It should be relatively easy to modify the bill so that it achieves its purpose, which is legitimate. When public employees belong to private groups that have a special interest in the employees' public duties, the public is entitled to know.

Mexico

This Clinton-Mexico of the time a fellow desk in the newsroom in front of me and to I asked why, he said signer on a loan.

You can understand crude but I did ask writing my fool naïveté coolness trembling picked up the signed away he said over form, old boy, badly ashamed of myself snatch the paper back.

The bailout loan administration to Mexico could be snatched away. I up now and be nice cans got away with than Clinton first deal.

Certainly most seem terrified of press questions — and who benefited?

But here's happy senators are promising and explanation Sen. Alfonse D'Amato is the which he heads

DATE 2-13-95

Amendment to HB 455

(5) (a) If the number of candidates nominated is equal to or less than the number of positions to be elected, the election administrator shall give notice that no election will be held. The governing body may require that an election be held if it passes a resolution and notifies the election administrator not more than 10 days after the close of filing.

(b) If no election is held, the governing body shall declare elected by acclamation those candidates that have filed nominating petitions and shall make appointments to fill any positions remaining vacant.

EXHIBIT Three
DATE 2-13-95
HB 455

13-14-113. Filing for offices without salary or fees. (1) Candidates for nonpartisan offices for which no salary or fees are paid shall file with the appropriate official a petition for nomination containing the same information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) The petition must contain the signatures of registered electors of the election district in which the office will be on the ballot. The number of signatures must be equal to 5% of the total vote cast for the successful candidate for that office at the last general election, but in no case may it be less than five signatures.

(3) The number of signatures necessary for a petition for nomination for an office not previously on the ballot or for which the election district boundaries have changed since the last general election shall be determined by the secretary of state.

(4) Petitions for nomination shall be filed at the same time provided in 13-10-201 for other candidates and offices.

History: En. Sec. 141, Ch. 571, L. 1979.

Cross-References

Election of urban transportation district board, 7-14-214.

Election of board of trustees of fire district, 7-33-2106.

Election of board of trustees for hospital district, 7-34-2116.

Declaration of nomination, 13-10-201.

13-14-114. Register of candidates. On receipt of a declaration or petition, the secretary of state or election administrator shall, if a register is kept, make an entry in the register of candidates for nomination, on a page different from entries made for candidates of political parties.

History: En. Sec. 142, Ch. 571, L. 1979; amd. Sec. 2, Ch. 99, L. 1987.

Cross-References

Primary elections and nominations — register of candidates, 13-10-205.

13-14-115. Preparation and distribution of nonpartisan primary ballots. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". They shall be arranged as other primary ballots and be without political designation.

(2) The number of nonpartisan primary ballots and sample ballots furnished shall be the same as other primary ballots.

(3) (a) The election administrator of a political subdivision may determine that a primary need not be held if:

(i) the number of candidates for an office exceeds twice the number to be elected to that office in no more than one-half of the offices on the ballot; and

(ii) the number of candidates in excess of twice the number to be elected is not more than one for any office on the ballot.

(b) If the election administrator determines that a primary need not be held pursuant to subsection (3)(a), he must give notice to the governing body that no primary election will be held.

(4) The governing body may require that a primary election be held if it passes a resolution not more than 10 days after the close of filing by candidates for election, stating that a primary election shall be held.

History: (1), (2) En. Sec. 143, Ch. 571, L. 1979; amd. Ch. 19, Sec. 1, Ch. 123, L. 1985; amd. Sec. 13, Ch. 591, L. 1991.

Cross-References
Arrangement of primary ballots, 13-10-209.

Duties of officials when election not held, 13-1-304.

13-14-116. Counting and canvassing of nonpartisan ballots. (1) After closing the polls, the election officers shall separately count, canvass, record, and certify nonpartisan ballots, showing the number of votes cast for each person, except as provided in 13-15-202.

(2) Nonpartisan ballots, stubs, and unused ballots must be disposed of in the same manner as other ballots, stubs, and unused ballots. Returns must be made as provided by law.

History: En. Sec. 144, Ch. 571, L. 1979; amd. Sec. 3, Ch. 391, L. 1989.

Cross-References
Declaration of intent for write-in candidates, 13-10-211.

Disposition of ballots, 13-1-303, 13-15-205.

Election returns, 13-15-101.

13-14-117. Placing names on ballots for general election. Candidates for nomination equal to twice the number to be elected at the general election who receive the highest number of votes cast at the primary are the nominees for the office. If the number of candidates is not more than twice the number to be elected, then all candidates are nominees for the office.

History: En. Sec. 145, Ch. 571, L. 1979.

13-14-118. Vacancies among nominees after nomination and before general election. (1) If after the primary a candidate is not able to run for the office for any reason, the vacancy shall be filled by the candidate next in rank in number of votes received in the primary election.

(2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the vacancy occurs no later than 75 days before the general election, a 10-day period for accepting declarations for nomination or statements of candidacy and nominating petitions for the office shall be declared by:

(a) the governor for national, state, judicial district, legislative, or any multicounty district office;

(b) the governing body of the appropriate political subdivision for all other offices.

(3) The names of the candidates who filed as provided in subsection (2) shall be certified and printed on the general election ballot in the same manner as candidates nominated in the primary.

(4) If the vacancy occurs later than 75 days before the general election and no qualified individual is elected to the office at the general election, the office shall be vacant and shall be filled as provided by law.

History: En. Sec. 146, Ch. 571, L. 1979; amd. Sec. 33, Ch. 250, L. 1985.

Part 2 Judicial Offices

Part Cross-References

The judiciary — constitutional provisions, Art. VII, Mont. Const.

Selection of judicial officers, Art. VII, sec. 8, Mont. Const.

Supreme Court Justices — qualifications, Art. VII, sec. 9, Mont. Const.; 3-2-102.



Crow Country

CROW TRIBAL COUNCIL

P.O. Box 159
Crow Agency, Montana 59022
(406) 638-2601

Clara Nomee, Madam Chairman
Joseph Pickett, Vice-Chairman
Marvin L. Stewart, Secretary
Dennis Big Hair, Vice-Secretary

February 8, 1995

House Administration committ
Montana House of Representat
State Capitol
Helena, Montana

The original of this document is stored at
the Historical Society at 225 North Roberts
Street, Helena, MT 59620-1201. The phone
number is 444-2694.

TO WHOM IT MAY CONCERN:

On behalf of the Crow Tribe of Indians, I wish to state that I am appalled at the proposed House Bill #376, A Bill For An Act Entitled: An Act Providing That English Is The Official And Primary Language of the State And Local Governments.

I am the Chairman of the Crow Tribe of Indians; the Crow Indian Reservation is located on approximately 2.8 million acres of land, the Crow Indian People number slightly less than 10,000 people; the Crow Indian Language has been the first language of a majority of our adult membership; the Crow Indian Language has been the single most important factor which has contributed to the sustaining of the Crow Indian Culture over the decades of years of attempts to eradicate our Culture and our People. The Crow Indian people are a proud people. We have always been a peaceful people, seeking to provide for the comfort and well being of our children and families. The thread of our peacefulness and well-being has been the strength of our spirituality and culture, the heart of which is our Native Language. We have been subject to much critical abuse over the decades of forced education at the hands of the Missionaries and the Bureau of Indian Affairs Schools who have consistently and thoroughly sought to eradicate the Native Language from the everyday use by the Crow Indian People. But we have been strong and we have been successful in maintaining our Language and thus our identity and strength as an American Indian people. How we have been successful is a miracle and only one that the Great Spirit can explain as the Great Spirit is the force behind our strength as a people.

The Crow Indian people face many handships in this age of technology, television and computers. Our children have begun to show signs of losing interest in maintenance of the Crow Indian Language and thus a potential for a weakening of our Crow Indian Culture. Our people have placed a priority in Education and

EXHIBIT four
DATE 2-13-95
HR 376



P.O. Box 20996, 1629 Ave. D, Billings, MT 59104, Phone 406/259-7300
Fax: 259-4211

TOM MCNAB LOBBYIST
HOUSE BILL 476
MONDAY FEBRUARY 13, 1995
HOUSE STATE ADMINISTRATION COMMITTEE

MONTANA CHAPTER AIA	AIA
AMERICAN SOCIETY OF CIVIL ENGINEERS	ASCE
BILLINGS ARCHITECTURAL ASSOCIATION	BAA
CONSULTING ENGINEERS COUNCIL OF MONTANA	CECM
GREAT FALLS SOCIETY OF ARCHITECTS	GFSA
AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS	ASLA
ARCHITECTURAL SOCIETY OF HELENA	ASH
MONTANA ASSOCIATION OF REGISTERED LAND SURVEYORS	MARLS
MONTANA SOCIETY OF ENGINEERS	MSE
INSTITUTE OF ELECTRICAL AND ELECTRONIC ENGINEERS	IEEE

1. QUALIFICATIONS BASED SELECTION IS UNIFORMLY USED BY STATE AND FEDERAL GOVERNMENT

Qualifications Based Selection Laws exist in all states and the federal government. It is considered the best method of selecting professional design services, because the emphasis is put on meeting qualifications criteria that has been specifically written for the proposed project. Only when the best qualified firm is selected does cost enter the process in the form of a fee negotiation between the professional and the government agency.

2. WHY SHOULD QUALITY AND FEE NOT BE CONSIDERED AT THE SAME TIME?

Considering quality and fee at the same time is far easier said than done. The Owner seldom has a well developed program when professional services are selected, therefor it is impossible to determine the amount of service required. A fee quoted at this point is not based on a mutual understanding of the work involved.

When price enters the selection process it all too often is given disproportionate weight and becomes the overriding factor. Once fees are quoted by competing firms, other factors such as competence, qualifications, and experience tend to pale, even if fee was meant to be only a small portion of the selection criteria. Even when qualifications are evaluated independently from price in a "two-envelope" system, such as under Maryland's former law, price becomes the dominant factor.

The advantage of Qualifications Based Selection is that the state and local government is provided with the best designer for the project; the best designer provides the best value. With the introduction of price in any variation to the process, all the benefits of Qualifications Based Selection are lost.

Even assuming fee bias could be eliminated, quality is the important factor and it merits separate evaluation. On a typical project, the cost of design comprises one percent or less of construction and life-cycle operating and maintenance costs, but the quality of design determines what these other costs will be. The premium paid for high-quality design can pay for itself hundreds of times over.

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Administration

DATE 2-13-95

BILL NO. HB476 SPONSOR(S) Stouffer

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
MARTY CRENNEN HELENA, MT	ARCHITECTS		✓
GARY GILMORE	MDT	✓	
TOM MCNAB MT. TECH COUNCIL			✓
Jim Weatherly	Engineers		✓
Ken MLANSKI	MT Technical Council		✓
Glenna Obi	Jeff. Cty	✓	✓
Gordon Morris	MA Co	✓	
Vera Petersen	Fergus County	✓	
Tom Rotwell	MYSELF	✓	
GARY KNUDSON	ENGINEER	✓	
DAN MCGEE	Representative HD21		✓
Robert Lashaway	MSU Facilities		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

State Administration

DATE 2-13-95

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Elorna Frank	MT. Farm Bureau	X	
Susan Bjerke	Architects		X

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