

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN ETHEL HARDING, on February 28, 1995,
at 10:05 a.m.

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. Bob Pipinich (D)
Sen. Jeff Weldon (D)

Members Excused: Sen. Vivian M. Brooke (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:	HB 284,	HB 319,	HB 379
Executive Action:	HB 379	BE CONCURRED IN	
	HB 319	BE CONCURRED IN AS AMENDED	
	HB 284	BE CONCURRED IN	
	HB 63	BE CONCURRED IN AS AMENDED	
	HB 295	BE CONCURRED IN	

{Tape: 1; Side: ; Approx. Counter: 55.6}

HEARING ON HB 284

Opening Statement by Sponsor:

REP. JOE TROPILA, House District 47, Great Falls, stated the purpose of HB 284 was expressed in the title. He explained the original intent of the bill was to eliminate the Primary Election for non-partisan elections in cities which have a city management form of government. He reported the House Committee had amended the bill to not eliminate the Primary Election but to raise the

criteria from two times the number of candidates on the ballot to three times. He explained the reasoning for the bill was the cities with city management forms of government elect two city commissioners every other year. If five people file for the city commission there must be a primary election, costing \$16,000-\$20,000, to eliminate one candidate. The House had decided to raise the criteria to three times the number of filed candidates rather than eliminate the Primary Election. In effect, if a city sought to elect two candidates and seven people filed, there would have to be a Primary Election; if only six candidates file, there would only be a General Election. He noted HB 284 could potentially save cities a large amount of money.

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. MACK COLE asked how often cities were required to hold a Primary Election for the sole purpose of eliminating a candidate. REP. TROPILA replied only towns with a city manager form of government in a non-partisan election have the requirement. He reported as Election Administrator for Cascade County he had encountered the situation twice in Great Falls costing the city \$16,000-\$20,000.

SEN. KEN MESAROS asked how many cities in the state have a city manager form of government. REP. TROPILA replied Butte, Silver Bow; Deer Lodge, Anaconda; Great Falls and Helena.

SEN. BOB PIPINICH reported the city of Anaconda had encountered the situation and it had cost the city \$12,000.

Closing by Sponsor:

REP. TROPILA closed without further comment.

HEARING ON HB 319

Opening Statement by Sponsor:

REP. JOE TROPILA, House District 47, Great Falls, stated HB 319 was a result of his 10 years as Election Administrator. He said current law read that absentee ballots must be mailed or picked up in person. He explained current law did not allow a voter to pick up an absentee ballot for a member of their family or

friend. He reported some clerk and recorders and election administrators were bending the rule and giving out the ballots in situations where a person was in the hospital or in ill health. HB 319 would make the practice legal. He stated many election administrators have taken ballots to people in nursing homes and hospitals on an emergency basis; that practice was legal. He reported the House Committee had changed the bill to limit the number of ballots a single person could take to two.

Proponents' Testimony:

Robert Throssell, Montana Association of Clerk and Recorders, reported situations where a family member wished to pick up a ballot for another family member were common. His Association believed the limitation of only two ballots would not increase the work load on the clerk and recorders. He stated the limit would allow retention of the necessary security on absentee ballots to assure the integrity of elections.

J.V. Bennett, Montana Public Interest Research Group (MontPIRG), expressed support for HB 319 as the bill would make it easier for people to vote when they are in a situation involving illness or accident.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. JEFF WELDON asked if HB 319 limited the number of ballots to two in any given election. **REP. TROPILA** replied that was correct, two was the maximum number, and he explained the person picking up the ballots would be required to have a signed request from the voter requesting the ballot and the name would be checked against the registration card on file.

SEN. MIKE FOSTER referred to the limitation of two ballots and suggested there would be several situations where two ballots would not be enough to meet the needs of a family. **REP. TROPILA** agreed with Senator Foster's comments.

Closing by Sponsor:

REP. TROPILA closed without further comment.

HEARING ON HB 379Opening Statement by Sponsor:

REP. JUDY MURDOCK, House District 6, Lodge Grass, stated HB 379 would allow a governing body to determine the time of its meeting as the Board of Canvassers. She explained the Board of Canvassers was comprised of the governing body of the county; in most counties the governing body was the County Commissioners. She said current law required the Board of Canvassers to meet three days after the election at 8 a.m. She stressed HB 379 would not change the three day limit. She explained canvassing was the process of checking the vote count for errors and certifying the results to declare the winners. She added the intent of the bill was to allow the canvassers to meet at a time of their choosing. She reported in several smaller counties canvassers had to travel some distance and allowing them to meet on a day prior to the third day would speed the process. She added line 10 changed the references in the bill to nongender references.

Proponents' Testimony:

Joe Kerwin, Secretary of State's Office, stated HB 379 would give more flexibility to the counties while not infringing on the voters' right to participate. He expressed HB 379 could provide for shorter canvassing periods.

Robert Throssell, Montana Association of Clerk and Recorders, stated current law was actually impeding the canvassing process by requiring the canvassers to meet at 8 a.m. on the third day. He reported HB 379 would allow the canvassing to be done on the second day. He added county commissioners/canvassers were given the responsibility to oversee elections and should be allowed to set the time they do their job.

REP. TROPILA, House District 47, Great Falls, reported with the current use of computers, it no longer took three days to prepare the information for the canvassing; canvassing is often ready to be done the next day. He stated HB 379 would speed up the results to the Secretary of State's Office allowing them to complete results sooner.

Opponents' Testimony: None.Questions From Committee Members and Responses:

SEN. COLE asked if canvassing was done in an open or closed meeting. Mr. Throssell replied canvassing was conducted in an open meeting with interested parties present. HB 379 would not negate the canvasser's requirement to announce the time of meeting.

CHAIRMAN ETHEL HARDING noted candidates concerned about the results of an election generally check with the commissioners regarding the time of meeting. **REP. TROPILA** commented his district notified the political party's central committees and the newspaper.

Closing by Sponsor:

REP. MURDOCK closed without further comment.

EXECUTIVE ACTION ON HB 379

Motion/Vote: **SEN. FOSTER** moved that **HB 379 BE CONCURRED IN**.
The **MOTION CARRIED UNANIMOUSLY** on oral vote.

EXECUTIVE ACTION ON HB 319

Motion: **SEN. PIPINICH** moved that **HB 319 BE CONCURRED IN**.

Discussion: **SEN. DON HARGROVE** commented he had been in the emergency ward with pneumonia and the county clerk had taken an hour and a half to bring him a ballot to vote; his wife could have easily done that.

SEN. WELDON questioned the two-ballot limit. He commented there were several situations where four would be a more reasonable number.

SEN. COLE queried why the House Committee had limited the number to two. **VARIOUS COMMITTEE MEMBERS** responded it was just to place a limit of some sort.

SEN. PIPINICH reported the deputy Clerk and Recorder of Anaconda each year took ballots to the nursing home. He was unsure if the limit should be increased to four.

SEN. WELDON stated the original bill had placed no limit on the number of ballots, and said he could understand the need to limit the number.

Motion: **SEN. WELDON** moved **TO AMEND PAGE 2, LINE 10, FROM 2 TO 4**.

Discussion: **SEN. FOSTER** reported he would reluctantly oppose the amendment. He would hesitate to raise the limit to four and

suggested the Committee keep the limit at two and see how it worked for a few years. He stated *four* could open the situation for mischief.

SEN. PIPINICH hesitated to amend the bill and send it back to the House. He agreed with Senator Foster that the bill could be changed after a few years.

SEN. COLE agreed with Senator Weldon and noted the individual picking up the ballots would be required to sign for the ballots. He stated mischief could be present at two as well as *four*.

Vote: The MOTION TO AMEND HB 319 CARRIED 4-3 on roll call vote.

Motion/Vote: SEN. PIPINICH moved that HB 319 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY on oral vote. SEN. PIPINICH will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 284

Motion/Vote: SEN. MESAROS moved that HB 284 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY on oral vote. SEN. PIPINICH will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 63

Discussion: David Niss reminded the Committee that HB 63 changed the requirements for qualification for the retirement for volunteer firefighters, and he handed out an amendment that had been requested by the sponsor (EXHIBIT 1).

Motion: SEN. FOSTER moved that HB 63 BE CONCURRED IN. SEN. FOSTER moved TO SEGREGATE #3 OF THE AMENDMENTS AND ADOPT #1, #2 & #4.

Discussion: SEN. FOSTER reminded the Committee that the main complaint firefighters had with HB 63 was the \$25,000 equipment requirement and they had compromised at \$12,000. He added he would like to amend the bill to include the building.

Substitute Motion: SEN. FOSTER made a SUBSTITUTE MOTION TO ADOPT #1, #2, #4 OF AMENDMENT HB006301.ADN AND ADD AN ADDITIONAL AMENDMENT TO INCLUDE THE BUILDINGS IN THE \$12,000 VALUE ON PAGE 2, LINE 26.

Discussion: SEN. MESAROS expressed support for the bill and the amendments. He noted small volunteer fire departments worked with equipment which was totally depreciated, and buildings being included would allow the firefighters to be covered.

SEN. WELDON asked the purpose for the threshold. He suggested if the Committee lowered all the requirements they could just strike subsection b. since the amendments would change the bill to include everyone. CHAIRMAN HARDING reminded the Committee that testimony had indicated there were people who went around with a pickup truck and a shovel and they should not be included.

SEN. COLE questioned if there was anything else that should be included in determining the threshold. SEN. FOSTER stated the concern that would be raised by including the land was that potentially someone could buy land, not even put up a building, and be included. He stated that requiring a building would guarantee there was actually a firefighting service in operation.

SEN. PIPINICH stated including the value of the building would benefit many in his district.

SEN. HARGROVE stated there had to be a threshold and the amendments seemed to be a good way to determine what was an actual, viable, firefighting organization.

SEN. FOSTER reported firefighters should be aware under the provisions of the bill their equipment could be valued any way they chose. He stressed line 26 did not specify how the value was to be determined and did not restrict it in any way.

Vote: The SUBSTITUTE MOTION TO ADOPT AMENDMENTS TO HB 63 CARRIED UNANIMOUSLY on oral vote.

Motion/Vote: SEN. FOSTER moved that HB 63 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY on oral vote.
SEN. FOSTER will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 295

Discussion: Mr. Niss explained that under current law, the Commissioner of Political Practices was required to send a report of violation to certain persons concerning the filing of campaign statements and reports. The Commissioner had asked to be allowed some discretion in issuing the notices of violation. Mr. Niss handed out amendments HB029501.ADN (EXHIBIT 2) which he stated may reverse the effect of HB 295 in some respects.

Motion: SEN. WELDON moved that HB 295 BE CONCURRED IN.
SEN. WELDON moved TO ACCEPT AMENDMENTS TO HB 295.

Discussion: SEN. WELDON stated the bottom line of the bill was in lines 12-17 which said the Commissioner could send notification of noncompliance. He agreed that seemed reasonable. He was, however, concerned if the person failed to comply after the notification, the bill states the Commissioner may issue an order of noncompliance. He explained that could allow the Commissioner to send a notice, noncompliance could continue and the Commissioner would have discretion of whether or not to issue the order of noncompliance. SEN. WELDON did not believe the Commissioner should have that flexibility. He insisted the HB 295 should provide for notification to be sent and if the person does not comply, the Commissioner should be obligated to issue an order of noncompliance. He summarized that his amendments would accomplish that.

SEN. PIPINICH recalled the Committee had discussed removing the word "or" on lines 13, 20, 22, and 24. SEN. WELDON stated those were existing law.

SEN. MESAROS asked Senator Weldon if he had visited with the Commissioner of Political Practices regarding the amendments. SEN. WELDON stated it was currently the responsibility of the Commissioner to send the order of noncompliance. HB 295 would have lessened the Commissioner's responsibility. The amendments would restore to the law the responsibility of the Commissioner.

SEN. PIPINICH asked David Niss to clarify that the word "or" would be removed from several locations in the bill. Mr. Niss said he was not aware of any questions regarding that language in the bill and stated that is present law.

SEN. COLE asked for clarification that the word "shall" was being added to line 16 to replace the word "may". SEN. WELDON said that is true, and also on line 18.

SEN. FOSTER noted Senator Weldon's amendments would essentially "neuter" SB 295. He added he could understand Senator Weldon's reasoning for the amendments, but the Commissioner had requested SB 295 for specific reasons. He reminded the Committee

Mr. Argenbright had stated he needed the flexibility to be allowed to use some judgement in looking at the reports and determining if a situation deserved an order of noncompliance.

SEN. FOSTER reported the Commissioner employs the provisions of SB 295 as current practice and was, therefore, not complying with the law.

SEN. MESAROS stated Mr. Argenbright had indicated during the hearing on SB 295 that the request for HB 295 was due to an audit of his office. The audit had found a discrepancy in their practices. **SEN. MESAROS** stressed that in order for the Commissioner of Political Practices to continue with current practice, the discretionary power would have to be granted in statute.

SEN. WELDON agreed the amendments would, in effect, "neuter" the bill by maintaining current law requirements. However, the amendments would allow the current practice of notification to remain. Referring to the Office of the Commissioner of Political Practices, he concluded that the problem came down to cost. He stated the legislature needed to fund the Commissioner's office adequately to perform their duties. He added if the Commissioner's current practice was outside of the law, the legislature could either give that office additional people to comply with the law or lessen his responsibilities. He said the amendments would allow the teeth to stay in the law.

SEN. HARGROVE agreed the Commissioner should be given the proper tools and funding to perform his duties and responsibilities.

Vote: The MOTION TO ADOPT THE AMENDMENTS FAILED 2-5 with **SEN. WELDON** and **SEN. PIPINICH** voting YES.

Motion: **SEN. WELDON** WITHDREW HIS MOTION THAT HB 295 BE CONCURRED IN.

Motion/Vote: **SEN. MESAROS** moved that HB 295 BE CONCURRED IN. The MOTION CARRIED 6-1 on oral vote with **SEN. WELDON** voting NO. **SEN. COLE** will carry the bill on the Senate floor.

DISCUSSION ON GOVERNOR'S APPOINTMENTS

CHAIRMAN HARDING assigned Governor's appointments for investigation as follows:

Board of Hard Rock Mining--**SEN. COLE**

Board of Labor Appeals--**SEN. FOSTER**

Board of Pardons--**SEN. MESAROS**

Board of Passenger Tramway Service--**SEN. PIPINICH**

Board of Public Education--**SEN. HARGROVE**

Board of Social Work Examiners--**SEN. WELDON**

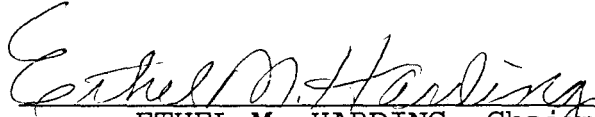
State Tax Appeal Board--**SEN. BROOKE**

ADJOURNMENT

Adjournment: 11:00 AM

03/01/95 AT 11:10 AM, **Senator Brooke** notified the Secretary that her votes should be counted as follows:

HB 379	BE CONCURRED IN	Aye
HB 319	BE CONCURRED IN AS AMENDED	Aye
HB 284	BE CONCURRED IN	Aye
HB 63	BE CONCURRED IN AS AMENDED	Aye
HB 295	BE CONCURRED IN	Aye


ETHEL M. HARDING, Chairman


GAIL MOSER, Secretary


TINA PRICE, Transcriber

EMH/gem/tp

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE _____

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 28, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 379 (third reading copy -- blue), respectfully report that HB 379 be concurred in.

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

SP Amd. Coord.
Sec. of Senate

Pipnick
Senator Carrying Bill

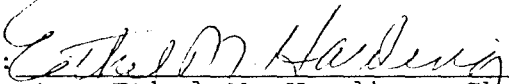
471433SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 1, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 319 (third reading copy -- blue), respectfully report that HB 319 be amended as follows and as so amended be concurred in.

Signed: 
Senator Ethel M. Harding, Chair

That such amendments read:

1. Title, line 7.

Strike: "TWO"


Insert: "FOUR"

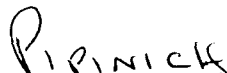
2. Page 2, line 10.

Strike: "TWO"

Insert: "four"

-END-


Sec. of Senate


Senator Carrying Bill

481424SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 28, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 284 (third reading copy -- blue), respectfully report that HB 284 be concurred in.

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

GP Amd. Coord.

Sec. of Senate

R. P. Smith

Senator Carrying Bill

461434SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 28, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 63 (third reading copy -- blue), respectfully report that HB 63 be amended as follows and as so amended be concurred in.

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

That such amendments read:

1. Page 2, line 17.
Strike: "single"

2. Page 2, line 25.
Following: "and"
Insert: "owns one or more buildings used for the storage of that equipment"

3. Page 2, line 25.
Strike: the second "is"
Insert: "all together are"

4. Page 2, line 26.
Strike: "\$25,000"
Insert: "\$12,000"

5. Page 3, line 15.
Strike: "under the laws of the state of Montana"
Insert: "in accordance with 7-33-2311"

-END-

PR
Amd. Coord.
SR Sec. of Senate

FOSTER
Senator Carrying Bill

471435SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 28, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 295 (third reading copy -- blue), respectfully report that HB 295 be concurred in.

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

97 Amd. Coord.
51 Sec. of Senate

COLE
Senator Carrying Bill

461437SC.SRF

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE 02-28-95 BILL NO. HB319 NUMBER _____

MOTION: SEN. WELDON Move to Amend Page 2 Line 10
Strike Two Insert Four

Carroll 4/3

NAME	AYE	NO
VIVIAN BROOKE		
MACK COLE	✓	
MIKE FOSTER		✓
DON HARGROVE		✓
BOB PIPINICH		✓
JEFF WELDON	✓	
KEN MESAROS, VICE CHAIRMAN	✓	
ETHEL HARDING, CHAIRMAN	✓	
(SEN BROOKE 2-28-95-1:50 PM	✓	

Amendments to House Bill No. 63
Third Reading CopyDATE 02-28-95BILL NO. HB 63Requested by Rep. Schwinden
For the Committee on State AdministrationPrepared by David S. Niss
February 11, 1995

1. Page 2, line 17.

Strike: "single"

2. Page 2, line 26.

Strike: "\$25,000"

Insert: "\$12,000"

3. Page 2, line 26.

Following: "more"

Insert: ", to be adjusted each year by the percentage increase
for the previous calendar year in the annual average
consumer price index for urban wage earners, compiled by the
bureau of labor statistics of the United States department
of labor or its successor agency"

4. Page 3, line 15.

Strike: "under the laws of the state of Montana"

Insert: "in accordance with 7-33-2311"

Amendments to House Bill No. 295
Third Reading Copy

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 02-28-95

BILL NO. HB295

Requested by Sen. Weldon
For the Committee on State Administration

Prepared by David S. Niss
February 11, 1995

1. Title, line 6.

Strike: "MAY EXERCISE DISCRETION IN ISSUING"

Insert: "SHALL ISSUE"

Following: "NONCOMPLIANCE"

Insert: "WITHIN CERTAIN TIME PERIODS"

2. Page 1, line 16.

Following: "If"

Insert: ", after notification"

Strike: "after the notification"

Insert: "within 2 days during an election or within 60 days after
an election"

3. Page 1, line 16.

Strike: "may"

Insert: "shall"

4. Page 1, line 18.

Strike: "may"

Insert: "shall"

Following: "issued"

Insert: "as required by subsection (1)"

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY