

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By CHAIRMAN JIM BURNETT, on January 11, 1995, at
1:03 PM.

ROLL CALL

Members Present:

Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Arnie A. Mohl (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

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

Committee Business Summary:

Hearing: SB 32, SB 50
Executive Action: SB 3

HEARING ON SB 32

Opening Statement by Sponsor:

SENATOR DELWYN GAGE, SD 43, Cut Bank, presented SB 32 which allows the Board of Crime Control to set up rules establishing standards and procedures for basic and advanced training of coroners, and allows the board to set up rules to extend a 2-year time limit for completion of advanced education in cases of exigent circumstances.

Proponents' Testimony:

Gene Kiser, Director, Board of Crime Control stated that the board supports this amendment of the coroners bill, SB 32.

Jim Oberhofer, Executive Director, Montana Peace Officer Standards and Training Advisory Council, read his written testimony in support of SB 32. EXHIBIT 1.

Opponents' Testimony:None

Questions From Committee Members and Responses:

SENATOR LARRY BAER asked if his understanding was correct that there is a requirement for continuing education that must be met and sometimes, even with the requirement in place, there is no means to facilitate that because a class is not available.

Jim Oberhofer replied in the affirmative. He said there is a basic and advanced school set up every year, that is certified for coroners. If they are unable to attend the advanced school in that two year period, they may not be able to be re-certified. With the rule-making authority, other courses may be approved to meet the requirements for the advanced school. There are courses in other states that would qualify. Within 180 days another school would be found to meet the qualifications.

SENATOR BAER asked, if another school is not found within that 180 days, would the individual be recertified.

Jim Oberhofer replied than another school would be found. There are other schools available, death investigation school, or something that would fit into the continuing education requirements.

SENATOR STEVE BENEDICT asked if under present law, there is no latitude, and with the passage of SB 32 some latitude can be given for obtaining the required continuing education.

Closing by Sponsor:

SENATOR GAGE offered no further remarks in closing.

HEARING ON SB 50

Opening Statement by Sponsor:

SENATOR JEFF WELDON, SD 35, Arlee, presented SB 50 on behalf of the Department of Health and Environmental Sciences. Last year the legislative auditor conducted an audit of the Air Quality Division. The conclusions of the audit were that the Air Quality Advisory Council, which is the subject of SB 50, has not been doing the job set forth. The Air Quality Division wants to change the membership of the council. Section 1 of SB 50 changes the

appointment responsibilities for this council. Previously, the Governor was responsible for the appointments. SB 50 would make the director of the Department of Health and Environmental Sciences responsible for the appointments, with approval by the Governor. He suggested an amendment to reinsert the language "and consent of the Senate" which would be consistent with the Executive and Legislative Branch treatment of other Boards and Advisory Councils. The second part of Section 1, reconfigures the membership of the council. He pointed out the list on page 2 for the new membership. A representative of labor requested representation on the council. Section 2 addresses the meeting requirements of the council. Previously, there were only two meetings required each year, but has been readjusted to one, with the meetings called by the Department of Health and Environmental Sciences rather than by the Chairman of the council.

Proponents' Testimony:

Jeff Chaffee, representing the Department of Health and Environmental Sciences spoke from his written testimony in support of SB 50. EXHIBIT 2.

Darrel Holzer, representing the AFL-CIO, spoke in support of SB 50, with one exception. Page 2 of SB 50, one change allowing someone from labor to participate on this council has been stricken, and would like to have it reinstated. The AFL-CIO would compile a list of those, representing labor, who would actively participate in the council.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR MIKE SPRAGUE is concerned that the council meetings, in the past year, were ad hoc.

Jeff Chaffee responded that part of the problem was probably with the Department of Health and Environment Sciences because they weren't calling regular meetings. They were sending out notes, rules, and information on a program to the members of the council, but weren't getting much feedback. They interpreted that to mean that the council wasn't really interested. The Department has been working with various individuals, who were very interested, as the Clean Air Act was implemented. They formed the Clean Air Act Advisory committee, which is comprised of environmental groups, businesses, industry, citizens and others. There were about thirty people involved as the Department of Health and Environmental Sciences carried out Title 5 permit program under the Clean Air Act. He said that there may be a need to form some ad hoc groups because of different issues that need to be addressed. One is the hazardous waste incineration, which is coming up.

SENATOR SPRAGUE asked if there was a dereliction of this council, would the nature of the makeup of the council change due to the Director of Health and Environmental Sciences views. Would he/she pick members who agreed with his views or would members be picked individuals of varying interests and concerns.

Jeff Chaffee said he did not see that happening, to any degree. He said that he would like to see a group representing various view points on the council.

SENATOR EVE FRANKLIN asked if there was any interest in adding members from the academic community to the council.

Jeff Chaffee responded that they have worked with various professors from Montana Tech and have found them to very helpful on some of the technical issues.

SENATOR BENEDICT asked if expenses were reimbursed, and if so, are they paid out of DHES.

Jeff Chaffee said that expenses for travel, meals and overnight stays were reimbursed from Air Quality Division of DHES.

SENATOR ARNIE MOHL asked if the Air Pollution Control Advisory Council would be eliminated.

Jeff Chaffee said there was no intention of eliminating the council, but instead, reactivating it. An advisory council for the air quality program is going to be continue, but would go before the State Board of Health, who will make the rules and major policy decisions

SENATOR WELDON said there is Board of Health, a policy making board, which is different from an advisory board. The Air Pollution Control Advisory Council hasn't been advising the Air Quality Control Division as much as they could.

SENATOR MOHL asked if there was a discrepancy, who would have the final control, the advisory board or the Department of Health and Environmental Sciences.

SENATOR WELDON replied that DHES and the Board of Health, and beyond that, even the Governor, but this board is an advisory council.

SENATOR DOROTHY ECK asked if some of the other advisory councils would be changing and whether this the only advisory council that has had problems in participation? Does the Department think this is the most appropriate way to address the issues by having the department name the council members instead of the governor?

Jeff Chaffee said the Department of Health and Environmental Science's interest is in streamlining the process to make these councils work with the Department, not for the Department.

SENATOR ECK asked SENATOR WELDON about when working on the Governor's reorganization committee, whether this issue was raised there about the effectiveness of advisory councils.

SENATOR WELDON replied that the effectiveness of advisory councils and other kinds of boards was discussed. They attempted to find ways to make policy making and licensing boards more effective.

SENATOR FRANKLIN asked if the Governor's office is comfortable with this appointment process.

SENATOR WELDON said that he had talked to the Department and asked the same question. They assured him that the Governor is quite comfortable.

SENATOR SPRAGUE asked if the size of the board is being increased.

Jeff Chaffee replied, it is not, but would not be adverse to adding labor back in, to make the board eleven rather than ten.

Closing by Sponsor:

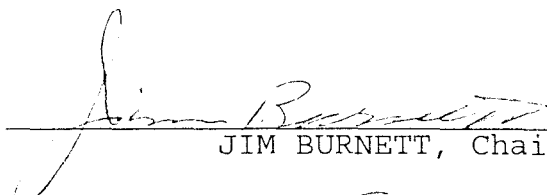
SENATOR WELDON suggested two amendments to SB 50, one requiring the consent of the Senate and the other adding a representative of labor. He thinks it would be inappropriate to have an Advisory Board appointed by the Executive Branch without a check and balance with the Legislative Branch, and the representative of labor would be appropriate.

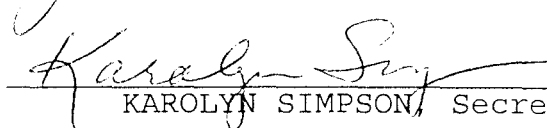
EXECUTIVE ACTION ON SB 3

Motion/Vote: SENATOR BENEDICT MOVED SB 3 DO PASS. The DO PASS motion for SB 3 CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 1:40 PM


JIM BURNETT, Chairman


KAROLYN SIMPSON, Secretary

JB/ks

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL

DATE _____

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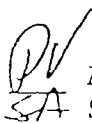
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 11, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 3 (first reading copy -- white), respectfully report that SB 3 do pass.

Signed: 
Senator Jim Burnett, Chair

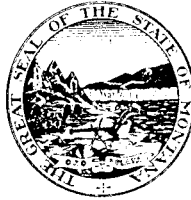
 Amd. Coord.
SA Sec. of Senate

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STATE OF MONTANA
DEPARTMENT OF JUSTICE
BOARD OF CRIME CONTROL

303 North Roberts - PO Box 201408 - Helena, MT 59620-1408

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Attorney General



Phone (406) 444-3604
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January 11, 1995

Mr. Chairman and Committee Members -

This request comes from the Coroners of Montana to the Board of Crime Control. This Bill will give the Board of Crime Control rule-making authority for coroner's educational requirements as is currently done for all peace officers, detention officers, public safety communication officers, probation and parole officers, and motor carrier officers.

The main point that was brought to light was when a coroner is unable to attend a training class due to his duties as a coroner, he is allowed no flexibility in extending the time period to attend another class. Other courses, such as the Peace Officer Basic Equivalency class, gives a 180 day grace period approved by the POST Council.

The office of the Attorney General is responsible for 1 Basic and 1 Advanced course. The coroner's must take a 16-hour Advanced course every two years to maintain certification. If he cannot attend the course for some reason, he must forfeit his office as a coroner and start over.

Another example would be that of a course other than the Advanced and Basic which could qualify as an excellent course and they are not granted credit for it.

The rule-making authority for all other public safety and law enforcement agencies has worked exceptionally well through the POST Council. It is important for coroners to receive continuing education to allow them to maintain their high standards of ethics as well as keep current of new developments.

Sincerely,

Jim Oberhofer, Executive Director
Montana Peace Officer Standards
and Training Advisory Council

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 1/11/95
BILL NO. SB 32

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TESTIMONY ON SENATE BILL NO. 50

Jeffrey T. Chaffee
Air Quality Division
Department of Health and Environmental Sciences

Mr. Chairman, members of the committee, my name is Jeff Chaffee and I represent the Department of Health and Environmental Sciences. SB 50 makes changes to the department's Air Pollution Control Advisory Council. The Legislative Auditor found during a performance audit that the Air Pollution Control Advisory Council had not met since prior to the 1993 legislative session and recommended that the Air Quality Division submit legislation to provide the flexibility to request meetings when needed. In responding to the Legislative Auditor's recommendation, the Air Quality Division investigated why the council had not met and realized that council members had shown very little interest in air quality program activities and had chosen to be inactive. However a committee created by the Air Quality Division to provide assistance in developing the operating permit rules has been very active. This committee was comprised of members of regulated industry, small business, environmental groups, and an Air Pollution Control Advisory Council member.

The department believes that an advisory council can play an important role in advising the air quality program and guiding its work in implementing state and federal air quality laws. However in order to create a council that will be active in providing advice to the Air Quality Division, the membership of the existing Air Pollution Control Advisory Council needs to be renewed, the purpose and function of the council needs to be stated and the

mechanisms of appointing the members and calling meetings needs to be changed. Therefore Senate Bill 50 provides for the following:

An introduction stating that the council is to act in an advisory capacity bringing air quality issues to the attention of the department and advising the department on addressing those issues as well as issues the department brings to the council. The introduction also states that the council members should represent the spectrum of groups most interested in air pollution issues, and that the department should have the ability to call meetings of the council.

The amendments utilize the provision in the generic statute for creating advisory councils of having the council appointed by the director of the department with the approval of the governor. This was done to streamline the appointment process since the department works closely with all groups that are interested in air pollution issues, and can identify individuals that would be interested and effective members of the council.

The proposed amendments to the membership requirements of the council provide for a council that is composed of representatives that are actively involved in and interested in air pollution issues.

The proposed amendments to the meetings section provide for flexibility in how often the council must meet, changing the requirements from two regular meetings to one each calendar year, and allowing meetings to be called by the department as well as by the chairman of the council. When air quality issues arise that the department wishes to bring to the council, this amendment

EXHIBIT

2

DATE

1-11-95

allows the department to call a meeting.

1

SB 50

The department believes that SB 50 will renew the role of the council, provide the flexibility to create an active, involved council and assure that Montanan's who are affected by the air quality program play a role in setting the course for the program.

Thank you for the opportunity to comment. I would be happy to answer any questions.

DATE Jan 11 1995

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 3 SB 32 SB 50

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Check One

Name	Representing	Bill No.	Support	Oppose
Jim OBERHOFEN	MBCC	SB 32	X	
Gene Kiser	MBCC	SB 32	X	
Warrell Holzer	AFL-CIO	SB 50	X	
Jeff Chaffee	DNES Air Quality Division	SB 50	X	
N/				

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY