

MINUTES

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

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 6, 1995,
at 3:00 PM

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Bill Wilson (D)

Members Excused: Sen. Jeff Weldon

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: HJR 10, HB 162,
HB 381, HB 80,
HB 72, HB 50,
HB 274, HB 263,
and HB 292

EXECUTIVE ACTION ON HJR 10

Motion:

SENATOR B. F. "CHRIS" CHRISTIAENS MOVED TO CONCUR IN HJR 10.

Discussion:

SENATOR TOM KEATING asked if someone could give him an example of what HJR 10 was talking about.

CHAIRMAN LORENTS GROSFIELD responded that HJR 10 was a result of Legislative Audit Committee audits. The audits were critical of the handling of some issues in the Water Quality Bureau, Hard Rock Mining Bureau, and the Air Quality Bureau.

The EQC reviewed the audit and discovered a number of regulations that were inconsistent. Another area of concern was "enforcement" vs. "compliance." On Page 1, Lines 27-28, the study looked at whether or not various goals were consistent and if they were appropriate. The study actually would be done to review compliance with respect to all the state's environmental laws.

SENATOR KEATING said the EQC was directed statutorily to "watch dog" the Montana Environmental Policy Act. He asked if the recommendations couldn't be accomplished without the resolution. **CHAIRMAN GROSFIELD** responded that in all legislative sessions there were a lot of legislative studies, and the members of the EQC felt that this one was important enough that their recommendations had a high priority and that would be emphasized by legislative approval. Also there were some educational and other issues involved in compliance.

SENATOR KEATING said the EQC would go beyond MEPA and they would be looking at the RIT fund, reclamation, renewable resources, and the Superfund, was that right? **CHAIRMAN GROSFIELD** said he didn't think that the RIT would be part of the study, but they would review the Hard Rock Mining, Hazardous Waste, Water Quality, and Air Quality laws to see if they were consistent and realistic. They will review the rules to see if they were consistent with the laws that were passed. The compliance with MEPA deals also with a lot of those areas.

CHAIRMAN GROSFIELD said on Page 2, subsection 4 says: "the EQC pursue alternate funding sources to conduct the study."

SENATOR CHRISTIAENS said the study was for anything that has to do with "enforcement" and "compliance." The RIT would not come under that.

SENATOR MACK COLE asked if this approach to a study was a major change from what had been done in the past. **CHAIRMAN GROSFIELD** replied not entirely, for example last session the Legislature passed two studies for the EQC to do: one was on nondegradation, and the other study was on the burning of hazardous waste.

Vote:

MOTION TO CONCUR IN HJR 10, CARRIED UNANIMOUSLY.
(CHAIRMAN GROSFIELD will carry the bill)

EXECUTIVE ACTION ON HB 162

Motion/Vote:

SENATOR COLE MOVED TO CONCUR IN HB 162. MOTION CARRIED
UNANIMOUSLY. (SENATOR COLE will carry the bill)

EXECUTIVE ACTION ON HB 381

Motion/Vote:

SENATOR VIVIAN BROOKE MOVED TO CONCUR IN HB 381. CARRIED
UNANIMOUSLY. (SENATOR MILLER will carry the bill)

EXECUTIVE ACTION ON HB 80

Motion:

SENATOR LARRY TVEIT MOVED TO CONCUR IN HB 80.

Discussion:

REPRESENTATIVE GARY FELAND said HB 80 didn't affect any other legislation. The bill puts the language back in the way it was prior to 1993. The reason for that was if a bond were to be pulled for noncompliance on someone who had 40-50 oil wells, the department could plug the well and it would cost the owner approximately \$22,000, and the other 49 wells would not be bonded. They would not be able to obtain a bond anymore, it would have to be cash.

SENATOR TVEIT said that would be a performance bond, and would make the companies more responsible. REPRESENTATIVE FELAND said the intent of the bond was for clean-up and litigation. SENATOR TVEIT said the bill says: "the bond may not be a penal bond."

REPRESENTATIVE FELAND said the price of oil production had been going down, and the Board of Oil and Gas needs money.

SENATOR CHRISTIAENS said he understood that the Board of Oil and Gas opposes the bill. He asked **REPRESENTATIVE FELAND** why they opposed it. He replied that they wanted the change in the last session to make it a penal bond so they could get some money. The way it currently works is they can plug a well and keep any excess funds. If it goes back to how it was before, they would only be allowed to keep the actual cost of plugging a well.

SENATOR CHRISTIAENS said the bill indicates that there was no fiscal impact. **REPRESENTATIVE FELAND** responded that there wouldn't be any fiscal impact because those wells were already bonded.

Dee Rickman, Executive Secretary, Board of Oil and Gas, said when the bill was heard in the House, the committee was provided with a letter from **Donald A. Garrity, Attorney**, in response to a request by **Stanley Lund, Chairman Board of Oil and Gas**. **EXHIBIT 1.**

The last paragraph reads: "Under section 82-11-136, MCA, the board may presently expend funds from forfeited bonds to properly plug any abandoned well. House bill 80 would prevent the board from collecting on a bond until after it has expended its own funds on the well or wells which are covered by the bond."

{Tape: 1; Side B}

Ms. Rickman said the Board was going to review the bond requirements again at their next meeting.

SENATOR CHRISTIAENS asked **Todd Everts, Environmental Quality Council**, if the Board had the ability to raise the bond to whatever level they felt was necessary to do reclamation. He replied that he didn't know the answer to that question.

CHAIRMAN GROSFIELD said the answer to that question appears on Page 1, Lines 28-29 that says: "The bond must be a performance bond and may not be a penal bond or be penal in nature." **Ms. Rickman** responded that statutes give the authority to set rules to require a sufficient bond, and the board had reviewed those bonding requirements. The bonds were \$5,000 for a single well, and \$10,000 for multiple wells. A couple of years ago that bonding requirement was changed to \$25,000 for multiple wells, and in many cases there are 400-500 wells on a single \$25,000 bond.

SENATOR CHRISTIAENS asked why the board chose to have \$25,000 on multiple wells rather than saying how much a bond should be per well. **Ms. Rickman** replied that was discussed, but it was very difficult to get surety bonds. If an operator doesn't have the funds to plug a well, the board often times ends up paying for those. **SENATOR CHRISTIAENS** asked **Ms. Rickman** what the bonding rules were that established the reasonable and sufficient amount. She responded that in a couple instances the costs were between

\$5,000 and \$50,000 on old wells. Shallow wells can be plugged for under \$5,000.

REPRESENTATIVE FELAND said he had **Greg Petesch** also write a letter stating the intent of the bill, which was just putting the bond back the way it was originally intended.

SENATOR KEATING asked if it was possible to partially foreclose on a bond. **Ms. Rickman** replied that she thought that was possible. On one occasion they were going to forfeit a Certificate of Deposit bond and the amount to correct the problem was less than \$5,000 and the remainder of that bond was given back to the operator.

SENATOR KEATING asked if there was a \$25,000 bond and it cost \$5,000 to plug the well, there would be \$20,000 remaining, **Ms. Rickman** said the \$20,000 would not be an adequate bond for the operators to continue their operation. If the operator had more than one well he would have to increase the bond back up to \$25,000.

CHAIRMAN GROSFIELD asked **Ms. Rickman** if the Board had rules that said they could not take more of a bond than was necessary to cover the cost. She responded that there was nothing in the statutes or the rules that says that.

SENATOR COLE said if \$5,000 of a \$25,000 bond was used to plug a well, the remaining \$20,000 wouldn't be an adequate bond for multiple wells, was that right? She replied that was right, but the remainder could be reconfigured to cover 4 single well bonds.

SENATOR TVEIT said some of those operators cannot afford \$200,000 to \$300,000 bonds to cover their wells if they have multiple wells.

Substitute Motion:

SENATOR TVEIT MOVED A SUBSTITUTE MOTION TO TABLE HB 80.

Discussion:

SENATOR TVEIT said if the bill passes the board will only raise the bond and that would be prohibitive to most companies.

CHAIRMAN GROSFIELD said **Ms. Rickman** said the board would be meeting again to raise the bonds, and assumed that meant with or without the bill. She replied that on their agenda they would review nonproducing wells and their bonding requirements. That meeting will take place on March 30, in Billings.

SENATOR KEATING said if a bond is forfeited that operator would probably not be able to get another bond because he would be too

high a risk. The only way an operator could get his bond up to \$25,000 would be to pay an additional premium. The insurance company will say "no, you're too high of a risk." If the bill was passed those operators who don't have enough money to plug the wells or buy more insurance would end up out of the oil and gas mitigation account. **SENATOR KEATING** didn't want a lot of operators dumping the cost of plugging wells back on the state.

Vote:

MOTION TO TABLE HB 80 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 72

Discussion:

CHAIRMAN GROSFIELD said HB 418 passed third reading in the House and if it was passed by the Senate there would be no need to pass HB 72. He asked **Mr. Everts** to keep track of HB 418 and HB 72 could be brought back for consideration if HB 418 failed.

Motion/Vote:

SENATOR TVEIT MOVED TO TABLE HB 72. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 50

SENATOR CHRISTIAENS asked if anyone knew if the subcommittee gave DSL the FTE that the fiscal note indicates. **Bud Clinch, Commissioner, Department State Lands**, said the subcommittee and the full Appropriations Committee acted on those FTE'S and they were in the budget now. **SENATOR CHRISTIANS** asked if there were 6 FTE'S with HB 50 that were added to the department. **Mr. Clinch** said that was correct. In the last legislative session HB 652 directed the department to increase its timber sales by 5 million board feet and appropriated funds for 6 FTE'S to do that. He said HB 50 actually sets up the accounting for that.

Mr. Clinch said there was another provision of HB 652 that required timber purchasers to pay 20% of their purchase price in advance, to make sure there were enough funds in the account to offset the expenses associated with it. That had kind of a dampening effect on the market so that was eliminated out of the bill. That was what Section 3, "Repealer", of the bill refers to.

Section 4 of the bill was to fund all the activities within the department out of the revenue producing activities, such as

agriculture, grazing, oil and gas, etc. That bill did not move forward and therefore, has no impact.

Motion:

SENATOR CRISMORE MOVED TO CONCUR IN HB 50.

Discussion:

SENATOR CHRISTIAENS asked if there already was a timber sale account, or is HB 50 setting one up. Mr. Clinch replied the bill makes the State Special Revenue account permanent which was established through HB 652.

Vote:

MOTION TO CONCUR IN HB 50, CARRIED UNANIMOUSLY.
(SENATOR CRISMORE will carry the bill)

{Tape: 2; Side: A}

EXECUTIVE ACTION ON HB 274

Motion:

SENATOR CRISMORE MOVED TO CONCUR IN HB 274.

Discussion:

SENATOR CRISMORE said HB 274 deals with isolated tracts of state land and with on negotiated timber sales.

CHAIRMAN GROSFIELD said on Page 1, Lines 23-24 it says: "timber proposed for sale not in excess of 1 million board feet..." He asked how many state land timber sales on one section or less amount to that much timber. Mr. Clinch replied that of the 20 sales they do in an average year, 17-18 were in excess of 1 million board feet.

CHAIRMAN GROSFIELD reviewed his proposed amendments with the committee members. He said since there would only be 1.3 million board feet harvested per year, he thought it would make sense to lower that figure to 500,000 board feet. On Page 2, subsection (ii) says: "...the department shall seek to negotiate permanent, reciprocal access." They already dealt with a bill regarding

reciprocal access and didn't think the language fit in the bill. He said his amendment would strike that section and also subsection (c) entirely. That section would remove MEPA compliance. Most of the time there would have to be an Environmental Assessment on those lands. By leaving that in there, people may try to play games with the bill.

Motion:

CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. hb027401.ate.

Discussion:

SENATOR TVEIT said the amendments change the character of the bill quite a bit.

Mr. Clinch said the bill was not drafted at the request of the department. He said it would be incredibly coincidental that there may be one sale of 1 million board feet and two sales of 150,000 board feet. Reducing that figure to 500,000 board feet may not be an issue for the next 5 years. If there was some land that had 750,000 board feet, it would be difficult to go back and recover the other 250,000 board feet.

Mr. Clinch said that regarding the last section about striking the exemption from MEPA, even though in most instances those activities only require an EA, there are time-frame issues associated with advertising the sales. He felt that these amendments will limit the department's opportunities in the future.

Mr. Clinch said he didn't have a problem with striking lines 2 and 3 on page 2 of the bill. The reason that was in the bill was so an owner of the land didn't wind up also being the purchaser of that timber. If they have reciprocal access they would have the opportunity to market the timber on an open-market.

Substitute Motion:

CHAIRMAN GROSFIELD MADE A SUBSTITUTE MOTION TO ELIMINATE NO.2 OF HIS PROPOSED AMENDMENTS AND CONSIDER AMENDMENTS 1,3, AND 4.

Discussion:

SENATOR CRISMORE said that in his opinion, amendment no. 2 should be left in the proposed amendments.

SENATOR COLE said because they were only talking about a small amount of timber, he didn't see where the amendments would improve the bill. He said he opposed all of the amendments.

Vote:

MOTION TO ADOPT AMENDMENTS NO. hb027401.ate, NO'S. 1,3, and 4 resulted in a tie vote of 4-4. As some members were absent **CHAIRMAN GROSFIELD** announced that he would hold the vote open until the next meeting, scheduled for March 8, 1995, when they would continue Executive Action on HB 274.)

EXECUTIVE ACTION ON HB 263

Motion:

SENATOR COLE MOVED TO CONCUR IN HB 263.

Motion:

CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. hb026301.ate AS CONTAINED IN EXHIBIT 2.

Discussion:

CHAIRMAN GROSFIELD reviewed his proposed amendments to HB 263. He said they clarify what the intent of the bill was. He said the bill was trying to codify what the department thought that the situation was with respect to the use of those funds. The bill was unclear as to what, "other worthy objects" mean. The amendment lists what those may be. The bill was trying to prevent judicial activism that would tend to legislate away from what has been the current practice.

SENATOR CRISMORE asked **Don Allen** if he thought the way the amendments were worded they would stray from the intent of the bill. He said the key word there was "include." The intent of the bill is to clarify for the courts and the State Lands Board that the listing is an exclusive listing what they are. **CHAIRMAN GROSFIELD** said he would change that by striking "include" and insert "are limited to", in his amendment.

SENATOR BROOKE asked **Mr. Everts** where public schools were included. He answered that Line 14 says: "...held in trust for

the support of education..." That was in the bill and the list addressed "the other worthy objects."

Mr. Clinch said the list in the amendment was the same list that exists in the Enabling Act.

CHAIRMAN GROSFIELD asked where the money for the penitentiary went, because some of that land was now a state museum. **Mr. Clinch** said the money generated from those sites would go to the state penitentiary trust.

SENATOR TVEIT said the bill says the funds would go to agricultural colleges. He asked how the University of Montana or other university systems fit into that. **Mr. Clinch** said that the language that was listed in the amendment was the exact language in the Enabling Act.

SENATOR CHRISTIAENS asked **Mr. Everts** what the status was of the territorial prison that was sold to Deer Lodge County. He replied that the trust was still intact and that 7.5 acres was a producing property. He assumed the revenue off of that was going to the state penitentiary.

SENATOR TVEIT said the Enabling Act clearly states, "and the proceeds shall constitute a permanent fund to be safely invested and held by said states, and the income thereof shall be used exclusively for university purposes."

CHAIRMAN GROSFIELD said he did not want to confuse the issue. He felt the bill with or without his amended amendment was essentially identical but if his amendment would be confusing he would withdraw it.

Motion Withdrawn:

CHAIRMAN GROSFIELD MOVED TO WITHDRAW AMENDMENT NO. hb026301.ate.

Vote:

MOTION TO CONCUR IN HB 263, CARRIED, WITH SENATOR BROOKE AND SENATOR WELDON VOTING NO. (CHAIRMAN GROSFIELD will carry the bill)

EXECUTIVE ACTION ON HB 292

Motion/Vote:

SENATOR CHRISTIAENS MOVED TO CONCUR IN HB 282. MOTION CARRIED
WITH SENATOR WELDON VOTING NO. (SENATOR CHRISTIAENS will carry
the bill)

{Comments: the meeting was recorded on 2, 60 minute tapes}

ADJOURNMENT

Adjournment: 5:30 PM

Lorents Grosfield

LORENTS GROSFIELD, CHAIRMAN

Theda Rossberg

THEDA ROSSBERG, SECRETARY

by Shirley Herrin

LG/TR

1.

DATE 3-6-95

SEN

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HJR 10 (third reading copy -- blue), respectfully report that HJR 10 be concurred in.

Signed: 
Senator Lorents Grosfield, Chair


Sec. of Senate

Amd. Coord.
Sec. of Senate

SEN. GROSFIELD
Senator Carrying Bill

531127SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 162 (third reading copy -- blue), respectfully report that HB 162 be concurred in.

Signed: 
Senator Lorents Grosfield, Chair



Amd. Coord.
Sec. of Senate

SEN. COLLE
Senator Carrying Bill

531132SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 381 (third reading copy -- blue), respectfully report that HB 381 be concurred in.

Signed: Lorent Grosfield
Senator Lorents Grosfield, Chair

Cjt Amd. Coord.
Sec. of Senate

SEN. MILLER
Senator Carrying Bill

531137SC.SRF


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 50 (third reading copy -- blue), respectfully report that HB 50 be concurred in.

Signed: 
Senator Lorents Grosfield, Chair

 Amd. Coord.

AS Sec. of Senate

SEN. CRISMORE
Senator Carrying Bill

531129SC.SRF


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 292 (third reading copy -- blue), respectfully report that HB 292 be concurred in.

Signed: Lorents Grosfield
Senator Lorents Grosfield, Chair

 Amd. Coord.
Sec. of Senate

SEN. CHRISTINE
Senator Carrying Bill

531147SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 263 (third reading copy -- blue), respectfully report that HB 263 be concurred in.

Signed: Lorents Grosfield
Senator Lorents Grosfield, Chair

QJ
GP Amd. Coord.
Sec. of Senate

SEN. GROSFIELD
Senator Carrying Bill

531135SC.SRF

DONALD A. GARRITY

ATTORNEY AT LAW

1313 ELEVENTH AVENUE

HELENA, MONTANA 59601

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January 18, 1995

MINUTEMAN RESOURCES
CREDIT NO. 1
DATE 3-06-95
BILL NO. 143-80

Stanley Lund, Chairman
Montana Board of Oil & Gas Conservation
P.O. Box 96
Reserve, MT 59258

Re: House Bill No. 80

Dear Mr. Lund:

You have asked me to advise you what effects, if any, passage of House Bill No. 80 would have on the operations of the Board.

In its present form, House Bill No. 80 removes the language authorizing the board to forfeit a bond in its entirety for failure to properly plug a well and replaces that language with the statement that "The bond must be a performance bond and may not be a penal bond or be penal in nature." In essence, this will require the board to plug a well and restore the surface before making a claim against the surety for the actual costs involved. Since the board has limited funds available for such work and gives priority to plugging wells which pose an imminent danger to life or property, it may be a considerable length of time before a particular well is plugged by the board. Then, should the surety question the reasonableness of the costs incurred, litigation on this question would add to the delay and the costs.

Current practice is to give the surety the option of forfeiting the full amount of the bond or arranging for the proper plugging of the well or wells itself. In my twenty-five years with the board, I can recall no instance where the surety chose to do the work itself although several did investigate this option.

Under section 82-11-136, MCA, the board may presently expend funds from forfeited bonds to properly plug any abandoned well. House Bill 80 would prevent the board from collecting on a bond until after it has expended its own funds on the well or wells which are covered by the bond.

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 3-06-95
BILL NO. HB-263

Amendments to House Bill No. 263
Third Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Todd Everts
March 3, 1995

1. Page 1, line 10.

Following: "(1)"

Insert: "(a)"

2. Page 1, line 16.

Following: "Act."

Insert: "These other worthy objects are trust purposes that ~~include~~ the:

- (i) university of Montana;
 - (ii) Montana tech of the univeristy of Montana;
 - (iii) other units of the university system;
 - (iv) state reform schools;
 - (v) Montana school for the deaf and blind;
 - (vi) capitol buildings;
 - (vii) Montana state university; and
 - (viii) state penitentiary."
- (b)

are limited to

DATE 3-6-95

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: EXEC ACTION

HSR 70, HB-162, HB-381, HB-80, HB-72, HB-50
HB-273, HB-263, HB 292

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
<i>Dee Rickman</i>	<i>Board of Oil & Gas</i>	<i>HB 72 HB 80</i>		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-06-95 BILL NO. HB-274 NUMBER

MOTION: To Adopt Amendment #0274.01.ate

No's 1, 3 & 4

4.4

(Hold until 3-8-95)

SEN:1995
wp:rlclvote.man
CS-11