

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By , CHAIRMAN LARRY TVEIT on March 22, 1995, at 5:12 p.m. in Room 413-415.

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)

Members Excused: Senator Arnie Mohl (R)
Senator Barry "Spook" Stang (D)
Sen. Mack Cole (R)

Members Absent: None

Staff Present: Valencia Lane, Legislative Council
Carla Turk, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: HB 396

EXECUTIVE ACTION ON HB 396

Motion: SENATOR LINDA NELSON MOVED SENATOR STANG'S VERBAL AMENDMENT FOR THE REMOVAL OF THE NEW SECTION 2 WHICH PROVIDED FOR AN IMMEDIATE EFFECTIVE DATE. SHE SAID SENATOR STANG'S HAD STATED IT COST MONEY TO MAKE AN IMMEDIATE EFFECTIVE DATE AND HE WOULD LIKE IT TO REMAIN AT THE USUAL TIME OF OCTOBER 1st.

Valencia Lane reminded the Committee they would have to make a corresponding change in the title.

Discussion:

CHAIRMAN TVEIT explained that the amendment did quite a bit, even though it was a simple amendment it would leave the law in affect throughout the summer. He asked how the Committee felt and asked for comments.

SENATOR NELSON asked what the cost was for making an immediate effective date? **Valencia Lane** stated she did not know what costs **SENATOR STANG** was referring. She said she did not think there was a cost to the State for bills to become effective immediately as opposed to another time. She stated that none of the bills would be published in final form until October anyway. She said she thought what costs the Senator may have been speaking of must have been the costs having to be paid under the Bill. She affirmed that if there was a cost to the State for an immediate effective date she would let the Committee know immediately.

SENATOR CHUCK SWYSGOOD asked if the Administrative Codes Commission had to meet? **Valencia Lane** stated they did not.

SENATOR GREG JERGESON said he thought that as a practical matter, passage of the Bill would give parties a dilemma which affected their business operations. He stated that when something had been done legally in one manner and that way became illegal after the effective date, there should be time allowed for those parties to make the required changes in their operation.

THE QUESTION WAS CALLED FOR.

Vote: THE MOTION FOR REQUIRED CHANGES REGARDING AN OCTOBER 1 EFFECTIVE DATE CARRIED.

Discussion:

SENATOR NELSON asked if the Chairman was going to offer the amendment number HB039601.ACE which had his name on it, if not she was going to offer the same amendment? **CHAIRMAN TVEIT** stated he had not actually requested the amendment, even though he was aware of its' being drafted, and seemed unsure as to why his name was on it. **Valencia Lane** stated that in all due respect, she felt his name appeared as a matter of convenience. She said the amendment had been drafted at the request of the proponents of the Bill. She said everyone had been trying to come up with a compromise they felt would work, and she hoped the Chairman didn't mind his name appearing, as it was only a matter of convenience.

CHAIRMAN TVEIT asked how the amendment changed what current law was? **Valencia Lane** stated that page 1 of the Bill stated that the costs had to be shared equally and then on page 2, in the new parts of the Bill, the exceptions appeared when the costs were

not shared equally. She said paren 4 was the one which everyone was focusing on. She said amendment HB039601.ACE would leave the Bill as drafted, which said the owner had to pay if the structures are more than 25 feet in height and are to be moved in numbers of six or greater. She stated the feeling that there was a slight problem with the clarity of that language. She explained that these people were an exception to page 1 and had to pay the full amount. She stated that this amendment would further amend the Bill, with an exception to the exception clause, and state costs had to be shared when the structure being moved was moved by a person for occupancy by that person. She said there was no way of knowing up front, if that individual was actually moving the structure for his personal occupancy, or moving it for resale.

Motion:

SENATOR NELSON MOVED AMENDMENT NUMBER HBO39601.ACE.

Discussion:

SENATOR NELSON said the intent of the amendment was so that if an individual person was buying the house to be moved, for their own occupancy, then the moving costs would remain at the same 50/50 split. She continued that the intent was that the commercial mover who wanted to move multiple houses, they would pay 100 per cent of the moving costs. She said the amendment would allow individual purchasers to move their home without having to worry about whether they were the sixth mover who had to pay 100 per cent.

SENATOR GREG JERGESON stated this amendment would not foreclose the opportunity for the sale of these homes to individuals.

SENATOR CHUCK SWYSGOOD said this amendment would allow a shared cost move for anyone who bought a home for occupancy from a development. He commented that if the mover or developer were to move more than six they would pay the entire cost.

SENATOR JERGESON concluded that someone buying numerous houses for a development being done in another area, then would be considered a commercial venture which require the payment of 100 per cent.

SENATOR JABS asked if number 9., where it stated a single site, would have to be changed? **Valencia Lane** said she had been going to remark that she thought this was a good amendment which reached the heart of what the original intent of the Bill had been. She recommended the Committee adopt this amendment, but she thought they needed to look at lines 7-11 and clean that language once this amendment was in place.

Vote:

THE MOTION TO ADOPT AMENDMENT NUMBER HB039601.ACE CARRIED.

Discussion:

CHAIRMAN TVEIT stated that amendment number HB039603.ADB had been presented by REPRESENTATIVE HAYNE for consideration.

SENATOR JERGESON said he thought this amendment addressed the question which both SENATOR MOHL and he had raised during the hearing, He said their question had been whether it was clear that the first five were a shared cost move and was the responsibility of the mover only at the point of the sixth. Valencia Lane said that was correct, it did attempt to correct that issue.

Motion:

SENATOR JERGESON MOVED TO ADOPT AMENDMENT NUMBER HB039603.ADB.

Discussion:

A brief review of the amendment followed, with Valencia Lane reading the language proposed in the amendment.

Vote:

THE MOTION TO ADOPT AMENDMENT NUMBER HB039603.ADB CARRIED.

Discussion:

CHAIRMAN TVEIT stated the next amendment before them was number HB039602.ACE. Valencia Lane said she was not sure who had requested these amendments be prepared.

REPRESENTATIVE HARRIET HAYNE said she did not feel this amendment was necessary.

SENATOR SWYSGOOD said it may not be necessary, but it was entirely different because it allowed for lining up five or six units to count as a single move. He termed the amendment as significant.

SENATOR NELSON asked if someone had testified that a caravan type move could not be made? SENATOR RIC HOLDEN said he thought, with their particular aspect, they may not be able to line up enough movers to physically, realistically do that and we should not preclude it.

CHAIRMAN TVEIT asked if he was speaking of the utility crews and said he thought there were some possibilities for consecutive structures. **SENATOR HOLDEN** agreed.

SENATOR JABS stated the movers would still have to meet the highway regulations.

Valencia Lane said she thought **SENATOR NELSON** was referring to the testimony of the Great Falls Developer who stated that when he first started to move some of the houses the Montana Department of Transportation (MDT) had told him he could not move in caravan, because of the danger to the motoring public. She said that did not mean the amendment couldn't be adopted to set forth procedural guidelines for the ability, if the allowance were ever present. She maintained that passage of the amendment would not interfere with the MDT.

Motion:

SENATOR JABS MOVED TO ADOPT AMENDMENT NUMBER HB039602.ACE.

Discussion:

SENATOR SWYSGOOD stated he understood the amendment to state that if the MDT would allow a movement of five houses in a caravan and the power company moved the lines, the caravan could be counted as a single move which would allow mover to move twenty five houses at a shared cost before having to pay full costs. He said, with the other amendments the Committee had adopted, it was a way of trying to allow some flexibility.

SENATOR JERGESON said the highway might allow three structures as long as they were spaced at intervals far enough apart to provide for traffic needs.

Valencia Lane suggested the language should be clarified to state the move must count as only a single structure move for purposes of the limits of this subsection.

SENATOR SWYSGOOD said he was sure that was the intent of the amendment and that language probably should be added. He said the number of houses allowed would still be decided by MDT.

SENATOR JERGESON said he thought they may allow three because that number was similar to modular homes already being moved.

CHAIRMAN TVEIT said they probably wouldn't be twenty-five feet high. **SENATOR JERGESON** maintained MDT did not care about the height, but the length and problems related to traffic.

SENATOR NELSON stated that logistics would suggest there would not be many moved together.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO ADOPT AMENDMENT NUMBER HB039602.ACE AND THE CLARIFYING LANGUAGE CARRIED.

Discussion:

CHAIRMAN TVEIT stated there was another amendment to be presented to the Committee and identified it as HB039803.ACE.

SENATOR NELSON MOVED AMENDMENT NUMBER HB039603.ACE FOR THE PURPOSE OF DISCUSSION.

SENATOR JERGESON stated the previous language stated a single site included a municipality.

SENATOR SWYSGOOD said the language struck exempted incorporated municipalities as being able to be a site. He said it seemed that if the language was struck there would no longer be a shared cost for payment.

SENATOR NELSON said she thought the amendment was treating everyone alike.

SENATOR JABS said that if St. Marie were to become incorporated the houses could be moved at one cost.

CHAIRMAN TVEIT reminded them the amendment had been moved and would provide for everyone to be working from a single site.

SENATOR SWYSGOOD said he thought the purpose of the new subsection created by the last amendment, a single site was specifically spelled out.

SENATOR JABS asked what the time element would be regarding the period of time used by a developer to move the houses, would that all add up? Valencia Lane stated it did not have to be one developer, it just had to be moved from the site and not for individual use.

SENATOR SWYSGOOD gave a case scenario of someone bought and moved seven houses in a seven year time span, and stated two of those moves would require full payment of costs. He said he did not know how it was going to be tracked and termed it a nightmare for the power companies to keep track of the number of moves from each municipality and by which developer or whatever for proper charges to be made. He stated that was the affect of this amendment, because it was forever.

SENATOR JABS said he did not think this was a fair approach.

SENATOR SWYSGOOD said the Bill was aimed at a specific area, but sometimes when you targeted one area others were affected too.

Valencia Lane said the problem was that if the language in lines 8-10 was differently worded the question of a municipality wouldn't even arise. She said the way the existing sentences were worded, she thought it was helpful to leave in the sentence that the whole municipality is one single site. She stated that if you could reword line 9 to say a single site means a plot of land that was once all owned by one person, or something to that effect, meaning the air base that was once a unit. She said that was as opposed individually owned and municipality. She said the problem was that lines 9 and 10 did not really try to define single sites they just say it includes these things.

SENATOR JERGESON said he wondered if the original intent of the Bill was that you might have a single site that exists within an incorporated community, but the very fact that houses exist in an incorporated community did not make the whole community a single site. He said there could realistically be a single site within. He asked if that was close to the thought process? **Valencia Lane** said he was correct that such an incidence could occur as a single site.

SENATOR NELSON asked if the language could still be juggled in a manner as to not need this amendment?

SENATOR JERGESON suggested that instead of striking the language, maybe it could be stated the whole of an incorporated municipality is not a single site as used in this subsection, although a single site may exist within an incorporated municipality. **Valencia Lane** said she did not see the harm in leaving the sentence as she did not think leaving the sentence as it was precluded having a single site within an incorporated municipality.

SENATOR SWYSGOOD reviewed the language and agreed with her suggestion.

SENATOR JERGESON said the whole Bill was going to create new work for title companies because he did not know how else a person was going to decide what was a housing development complex or housing complex without looking back to the deeds and the changes therein, forever.

SENATOR NELSON WITHDREW HER MOTION.

Valencia Lane asked the Committee's permission to work on the language as she and the editors looked at the Bill as a whole, one the amendments were drafted. That permission was unanimously granted by voice.

SENATOR SWYSGOOD asked how the power companies were going to keep track of who was to pay full costs and who would pay half costs? He wanted to know how that information was going to be disseminated? **Jay Downen** said he thought that the answer may be in looking at the way Vigilante Electric kept track of every one of their services. He stated each service was on a card and they knew where every house receiving service was and he thought the Company would know when there were moves from their location or into their service area, as a matter of computerized record. He said that secondly, they were not asking for any regulation and were volunteering to keep track of it themselves and if they missed one then they missed it. He reported thinking the whole point was to say individuals who move, that fine, but thirteen year old statute already contemplated commercial enterprises. He maintained that when those people were in business to make a profit, it was different from the guy who had to move his own home.

SENATOR SWYSGOOD asked if there were two power companies involved, was any conflict visualized between the two? **Mr. Downen** said that if the different companies didn't work together they would have to absorb 100% of the costs.

SENATOR JABS asked if two crews would have to be involved and paid in moving, when two companies were had lines side by side? **Mr. Downen** said not for a single move. He said that if it was one line on each side of the road, the Public Service Commission (PSC) only allowed for one line cut.

SENATOR JABS asked if the companies would have to share the move? **Mr. Downen** stated that was correct.

SENATOR SWYSGOOD stated for the record, that by changing the effective date of this Bill to October 1st it was understood by all parties concerned that anything which happened prior to October 1st would be under current law. **REPRESENTATIVE HAYNE** said she felt the effective date of October 1st, 1995 would not be as good as effective immediately.

SENATOR JERGESON stated the count of six structures or more would start on October 1st.

SENATOR JABS asked if the costs being testified to during the hearing were those of the PSC? **Ron Woods** said the figures being used were those of regulated utilities which were subject to their jurisdiction's average costs for moving wires or poles, segregated between electric and telephone.

SENATOR JABS asked if the figures were utilities' figures and the PSC was not out there setting any figures themselves? **Mr. Woods** said they were not they were using the information provided them by the utilities, as specified in the Commission's Administrative Rules. He stated the administrative rules provided the information the utilities provided the PSC, relative to the cost

of house moving. He reported that the PSC examined that information on a biennial basis.

SENATOR JABS stated utilities had no competition and were cost plus outfits, and said the utilities could give figures they wanted to receive and the PSC just took their average. He said he thought the PSC's job was to be fair to everyone. Mr. Woods said the statute they operated under provided how the information was to be gathered and stated the PSC would use the average costs of the regulated utilities under its' jurisdiction.

Motion:

SENATOR NELSON MOVED HB 396 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR RIC HOLDEN asked Mr. Kelly if he could live with the Bill in its' present amended form or would he still encourage killing the Bill? Mr. Kelly said the Bill didn't hamper him enough that it would prevent him from getting enough cash flow to keep the project alive. He expressed the feeling that he could continue with what he had intended to do. He said he would endorse the Bill as amended.


THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION THAT HB 396 BE CONCURRED IN AS AMENDED CARRIED, WITH SENATOR HOLDEN VOTING NO. SENATOR SWYSGOOD WAS ASSIGNED TO CARRY THE BILL ON THE SENATE FLOOR.

ADJOURNMENT

Adjournment: The meeting was adjourned at 6:22 p.m.



SENATOR LARRY TVEIT, Chairman



Carla Turk, Secretary

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 23, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration HB 396 (third reading copy -- blue), respectfully report that HB 396 be amended as follows and as so amended be concurred in.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Title, line 7.

Following: line 6

Insert: "AND"

Following: "MCA"

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2, line 2.

Following: "(4)"

Insert: "(a)"

Strike: "To"

Insert: "Except as provided in subsection (4)(b), to"

3. Page 2, line 6.

Strike: "(a)"

Insert: "(i)"

4. Page 2, line 7.

Strike: "(b)"

Insert: "(ii)"

Strike: "structures"

Insert: "the sixth and each subsequent structure"

Strike: "exceed"

Insert: "exceeds"

Strike: "are"

Insert: "is"

5. Page 2, lines 7 and 8.

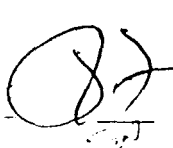
Following: "be moved" on line 7

Strike: remainder of line 7 through "groups," on line 8

6. Page 2, line 8.

Following: "site."

Insert: "When structures are moved in a group or in a continuous caravan formation and when only a single line cut or movement is necessary, the move must count as only a single-structure move for purposes of this subsection (4)(a)(ii)."

 Amd. Coord.

Sec. of Senate

Sen. Suysgaard
Senator Carrying Bill

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7. Page 2, line 9.

Strike: "(4) (b)"

Insert: "(4) (a) (ii)"

8. Page 2, line 12.

Following: line 11

Insert: "(b) The necessary and reasonable costs of raising or cutting wires or cables or moving poles to facilitate the movement of a structure by a person for occupancy by that person must be shared equally as provided in subsection (2)."

9. Page 2, line 30.

Strike: section 2 in its entirety

-END-

Amendments to House Bill No. 396
Third Reading Copy

Requested by Senator Tveit
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
March 22, 1995

1. Page 2, line 7.

Following: "(a)"

Insert: "(i)"

2. Page 2.

Following: line 11

Insert: "(ii) The necessary and reasonable costs of raising or cutting wires or cables or moving poles to facilitate the movement of a structure by a person for occupancy by that person must be shared equally as provided in subsection (2)."

Amendments to House Bill No. 396
Third Reading Copy

Requested by Rep. Hayne

Prepared by Dave Bohyer
March 21, 1995

1. Page 2, line 7.

Strike: "structures"

Insert: "for the sixth and each subsequent structure"

Strike: "exceed"

Insert: "exceeds"

2. Page 2, lines 7 and 8.

Following: "be moved" on line 7

Strike: "in" on line 7 through "groups," on line 8

Amendments to House Bill No. 396
Third Reading Copy

For the Committee on Highways

Prepared by Connie Erickson
March 22, 1995

1. Page 2, line 8.

Following: "site"

Insert: ", except that when structures are moved in a group or in a continuous caravan formation and when only a single line cut or movement is necessary, the move must count as only a single structure move"

Amendments to House Bill No. 396
Third Reading Copy

For the Committee on Highways and Transportation

Prepared by Connie Erickson
March 22, 1995

1. Page 2, lines 10 and 11.

Strike: "The" on line 10 through "subsection." on line 11

DATE 5-22

SENATE COMMITTEE ON Highway

BILLS BEING HEARD TODAY: Exec Act
HB 396

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
PATRICK KELLY	St. Mario	396		X
RON WOODS	Public Service Comm.	396		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY