

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

Call to Order: By **CHAIRMAN JOE BARNETT**, on March 23, 1995, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. Joe Barnett, Chairman (R)
Rep. John "Sam" Rose, Vice Chairman (Majority) (R)
Rep. Don Larson, Vice Chairman (Minority) (D)
Rep. Jon Ellingson (D)
Rep. Dick Green (R)
Rep. Harriet Hayne (R)
Rep. Rick Jore (R)
Rep. Gay Ann Masolo (R)
Rep. Judy Murdock (R)
Rep. Karl Ohs (R)
Rep. George Heavy Runner (D)
Rep. Dore Schwinden (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Kenneth Wennemar (D)

Members Excused: Rep. Bill Ryan

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Jaelene Racicot, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: SB 144 BE CONCURRED IN AS AMENDED
SB 389 BE CONCURRED IN AS AMENDED

EXECUTIVE ACTION ON SB 144

CHAIRMAN BARNETT explained to the committee that **Holly Franz, Montana Power Company**, was not comfortable with the amendment they had passed last week on SB 144. Therefore, the committee could decide if they wanted to reopen executive action on SB 144.

Motion: REP. ROBERT STORY MOVED THAT SB 144 BE CONCURRED IN.

Motion: REP. STORY MOVED THE AMENDMENT.

Discussion:

REP. DON LARSON said the amendment would nullify a Senate member who would be upset if he did not get his way. REP. LARSON spoke in mild opposition to the amendments and felt there was no need for the amendments. He said the bill was the result of a two-year study and the entire bill was good in its present form.

REP. GEORGE HEAVY RUNNER said he was not in support of the amendments.

REP. ROBERT STORY spoke in favor of the amendments. He said the first amendment put the language back into the bill that originally stuck the first time they heard the bill. He said the second amendment would bring the leasing portion more in line with the leasing bill of REP. KNOX'S bill.

REP. DORE SCHWINDEN asked Connie Erickson what Section 85-23-08 was. Connie Erickson said she did not know but she would research it and report back to the committee.

REP. KEN WENNEMAR asked Holly Franz what 85-23-08 was. Ms. Franz stated it was the section in the code that dealt with the Montana Water Use Act. She said this section allowed an individual to file objections. The objections filed to the Department of Natural Resources would be for permits, changes, and water reservations.

REP. SCHWINDEN stated they had a bill before them that would reorganize the Department of Natural Resources. This bill would eliminate the Board of Natural Resources and they currently have decisionmaking ability on the water reservation claims. He said there may be more to the amendments than "what meets the eye."

Connie Erickson explained the process of SB 144 once it had been amended in the House and that the bill would be transferred to the Senate. She said if the Senate could not accept the House amendment, the bill would be referred to a conference committee where they would only debate on the disputed amendment.

REP. CLIFF TREXLER asked what was being accepted with the proposed amendment number 2. REP. STORY stated at the present time, if an owner of a water right had a dispute, he/she would have the right to participate in the process to object in case he/she felt they may be harmed. He said the amendment would clarify if an individual leased their water right, it would be the water right owner's responsibility to object.

REP. DICK GREEN asked why they had to pass the amendment and wasn't it already in present law. REP. LARSON said REP. GREEN

was right. It could be handled in a contractual arrangement between a lessor and a lessee.

Vote: The motion to adopt the amendment carried with REP. WENNEMAR and REP. HEAVY RUNNER voting no.

Motion/Vote: REP. DON LARSON MOVED SB 144 BE CONCURRED IN AS AMENDED. The motion carried unanimously. REP. ROSE gave a proxy vote from REP. RYAN clarifying a yes vote.

EXECUTIVE ACTION ON SB 389

Motion: REP. SAM ROSE MOVED SB 389 BE CONCURRED IN.

Motion: REP ROSE MOVED THE AMENDMENT THAT WAS AGREED UPON IN THE HOUSE SUBCOMMITTEE ON SB 389.

Discussion:

REP. ROSE thanked REP. HEAVY RUNNER and REP. GREEN for serving on the subcommittee that worked on the amendments for this bill.

Connie Erickson explained the amendments to the gray bill for SB 389. She said the amendments in the gray bill were agreed upon by all the parties involved.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: None.}

Connie Erickson continued to explain the amendments to SB 389.

REP. STOVALL asked about amendment on line 17, page 8, and if the Department of Livestock would have to send an agent to the ranch and physically inspect a dead animal. Connie Erickson stated that they would probably have to. REP. STOVALL asked if the Department of Livestock would get paid for their services. Dr. Siroky, Department of Livestock, said it would be handled by deputies and state veterinarians. He said the game farm operator would be the veterinarian for his/her services.

REP. STOVALL asked what were holding orders for. Connie Erickson said before a game farm animal could be transported, it would have to have a health inspection and certificate issued.

REP. ROSE said if there was a question about any possible disease of an animal, they could put a holding order on the animal. He said this was a good amendment.

REP. JON ELLINGSON asked why carnivores and omnivores were exempt in the amendment. Ms. Erickson said the Department of Livestock did not want anything to do with carnivores and omnivores. REP. ROSE said section 3 stated the Department of Livestock's responsibilities.

REP. LILA TAYLOR asked if a fawn or calf died before they were marked if it this would involve the Department of Fish, Wildlife and Parks. **Ms. Erickson** stated the identification process would be the responsibility of the Department of Livestock.

REP. DICK GREEN stated that her question would be answered in section 5 of the bill.

REP. TAYLOR asked if a calf was aborted and it was not identified and the owner chose not to report it, what would make a game farm owner notify someone if an animal is not marked and do they only have to report the dead ones. **Ms. Erickson** stated if an animal had been marked and identified and it died then they must notify the authorities. She said if an animal died before it was marked there would be no need to notify. **Ms. Erickson** said all dead animals had to be reported to the Department of Livestock during one working day of the discovery. **REP. TAYLOR** asked what would make an owner report it. **Paul Sihler, Department of Fish, Wildlife and Parks**, stated each game farm licensee would be required to maintain records to include birth, sales and deaths.

REP. TAYLOR asked if an animal aborted and the game farm owner said the animal was open, what would happen. **Dr. Siroky, Department of Livestock**, said all dead animals must be reported. He said this was a voluntary system and they couldn't monitor every single game farm owner.

REP. GEORGE HEAVY RUNNER stated the agencies have a responsibility to work together. He said there is a lack of trust and hoped that all the involved parties would work together.

REP. SCHWINDEN said the gray bill to SB 389 represented a certain amount of compromise. He said this was the best they could do at the present time and urged to committee to support it.

Vote: The motion to adopt the amendments carried unanimously.

Motion: **REP. HEAVY RUNNER** MOVED SB 389 BE CONCURRED IN AS AMENDED.

Discussion:

REP. LARSON asked if the fees were in line with the costs of administrating the program. **REP. ROSE** stated they accepted the fees that came out of the Senate. He said if they need a fee increase, they would do it during the 1997 Legislative Session. He said it was hard to determine what the fee increase or costs would be.

REP. GREEN said the whole program was so new and it was hard to determine what it would cost to administer the program.

REP. STORY asked if the bill was codified in the Fish and Game section. **REP. ROSE** said no. **Ms. Erickson** said there was a proposal to take the sections in the law that pertained to the Department of Livestock and to move to title 81 and leave all in title 87 (Fish and Game laws). She recommended they did not recodify and leave it in title 87. **Ms. Erickson** said when laws were passed to address a specific area like game farms they were usually passed in a package with a series of statutes that interrelated with one another. She said one statute would lead to the next statute and it would be too confusing to codify the sections.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: None.}

REP. STORY agreed with **Ms. Erickson**.

REP. HEAVY RUNNER urged to committee to trust **Ms. Erickson** on the codification process.

Motion: **REP. GREEN** MOVED THE QUASI-JUDICIAL BOARD FOR DISCUSSION.

REP. GREEN said there was one amendment regarding the quasi-judicial board. **Ms. Erickson** explained the quasi-judicial board amendment proposed by the game farm owners.

REP. JUDY MURDOCK asked if the quasi-judicial board was accepted, what entity would it replace. **Ms. Erickson** stated it would take the place of a hearings examiner. She said a quasi-judicial board would not be changing the current procedure, it would change who the administrative hearing would be before. **REP. MURDOCK** asked if the hearing examiner was currently the director of Fish, Wildlife and Parks. **Ms. Erickson** said no.

REP. ROSE said they did not want a board who could overrule the Department of Livestock or the Department of Fish, Wildlife and Parks.

REP. MURDOCK asked who was in charge. **REP. GREEN** said the language on page 17 dealt with the issue. He said if there was a problem, the board would become the quasi-judicial board.

REP. HEAVY RUNNER said there was a process in place to accommodate the people who had a grievance. He said there was only one incidence and if a quasi-judicial board had been adopted there would be more hearings and it would add to the confusion.

REP. ELLINGSON concurred with **REP. HEAVY RUNNER**. He said there was a process in place to take care any concerns the game farm owners had.

REP. LARSON said the House Business Committee passed a bill that would consolidate all boards and commissions. He said out of the

35 boards, only two or three were quasi-judicial boards and they were trying to get away from quasi-judicial boards.

REP. JAY STOVALL agreed with REP. LARSON.

Vote: The motion failed 2 to 16 with REP. GREEN and REP. MURDOCK voting yes.

Motion: REP. ROSE MOVED SB 389 BE CONCURRED IN AS AMENDED. The motion carried unanimously. A proxy vote from REP. RYAN indicated a yes vote.

ADJOURNMENT

Adjournment: 4:17 P.M.



JOE BARNETT, Chairman



JAELENE RACICOT, Secretary

JB/jr



HOUSE STANDING COMMITTEE REPORT

March 24, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 144 (third reading copy -- blue) be concurred in as amended.

Signed: Joe Barnett
Joe Barnett, Chair

Carried by: Rep. Larson

And, that such amendments read:

1. Page 8, line 27.

Strike: "converting"

Insert: "temporarily changing"

2. Page 9.

Following: 21

Insert: "(8) Only the owner of the water right may seek enforcement of the change authorization or object under 85-2-308."

Renumber: subsequent subsections

-END-

Committee Vote:
Yes 18, No 0.

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HOUSE STANDING COMMITTEE REPORT

March 24, 1995

Page 1 of 6

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 389 (third reading copy -- blue) be concurred in as amended.

Signed: Joe Barnett
Joe Barnett, Chair

Carried by: Rep. Rose

And, that such amendments read:

1. Page 1, line 17.

Following: "farms."

Insert: "It is intended that rules promulgated pursuant to Title 87, chapter 4, part 4, be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1."

2. Page 2.

Following: line 10

Insert: "(6) It is the intent of the legislature that in adopting rules pursuant to 87-4-426(6), the department of fish, wildlife, and parks provide for a timely and simplified process for minor amendments to an existing license. This may include, when appropriate, a categorical exclusion under the provisions of Title 75, chapter 1, part 1."

3. Page 2.

Following: line 15

Insert: "(1) 'Cloven-hoofed ungulate' means an animal of the order Artiodactyla, except a member of the families suidae, camelidae, or hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep,

Committee Vote:
Yes 18, No 0.

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domestic goats that are not naturally occurring in the wild
in their country of origin, or bison."
Renumber: subsequent subsections

4. Page 2, line 24.
Strike: "reindeer,"

5. Page 2, line 26.
Following: "Montana"
Insert: ", a privately owned reindeer,"

6. Page 3, line 6.
Following: "quarantine,"
Insert: "hold orders, interior facilities,"

7. Page 3, line 14.
Following: "~~possible~~"
Insert: "to the extent possible"

8. Page 3, line 15.
Strike: "direction"
Insert: "observation"

9. Page 3, line 20.
Strike: "by trapping them"

10. Page 3, line 22.
Strike: "by trapping"

11. Page 3, line 27.
Strike: ", and the licensee may deal with them as provided for in
this part"
Following: "."
Insert: "Under certain circumstances, a licensee may request a
waiver from the identification and marking of animals in the
base number on a licensed game farm."

12. Page 4, line 26.

Following: "that"
Strike: "1"
Insert: "all imported game farm animals are marked"
Strike: "OR"
Insert: "and that all other game farm animals are marked"
Following: "YEAR"
Strike: ", each"
Insert: ". Each"

13. Page 4, line 27.
Following: "animal"
Insert: "must"

14. Page 5, line 3.
Following: "(5)"
Insert: "Upon the request of a licensee, the department of livestock may grant a temporary waiver as to the time for identification and to the manner of identification if necessary to address a special circumstance. (6)"
Renumber: subsequent subsection

15. Page 5, lines 3 and 4.
Strike: "Only" on line 3 through "animal" on line 4.
Insert: "A game farm animal may be kept only on a licensed game farm. A licensee who keeps a game farm animal owned by, leased to, or leased from another person shall comply with all of the requirements of this part as if the animal belonged to the licensee. Records and reports submitted by the licensee pursuant to 87-4-417 must identify any game farm animal kept by the licensee during the reporting period and the name and address of the owner or lessee"

16. Page 5, line 9.
Strike: "and"
Insert: ", "
Following: "sale"
Insert: ", and disposal"

17. Page 5, line 11.
Strike: "stock inspector"

Insert: "designated agent"

18. Page 5, lines 13 and 14.

Strike: "This" on line 13 through "dead." on line 14

Insert: "All dead game farm animals, except carnivores and omnivores, must be reported to the department of livestock within 1 working day of the discovery of the death."

19. Page 5, line 15.

Following: "(1)"

Insert: ", except inspection of carnivores and omnivores,"

20. Page 6, line 4.

Following: "quarantine"

Insert: "or issue a hold order on"

21. Page 6, line 10.

Following: "reporting"

Insert: " -- rules"

22. Page 6, line 18.

Following: "."

Insert: "However, a calf or fawn that dies prior to being marked pursuant to 87-4-414(4) need not be identified."

23. Page 6, lines 25 through 29.

Following: "(3)" on line 25

Strike: remainder of line 25 through violations." on line 29

Insert: "The department may establish by rule the conditions under which the frequency of reporting requirements may be reduced to one report a year or increased to three reports a year. The department may establish by rule the conditions under which a licensee may submit an abbreviated report. In adopting those rules, the department shall consider the number of animals present on a game farm, the number of reported transactions during previous reporting periods, a history of accurate recordkeeping, and a historical absence of violations."

24. Page 7, lines 15 through 18.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection

25. Page 7, line 20.
Following: "of"
Insert: "game farm"
Following: "quarantine,"
Strike: "and"
Insert: "hold orders, interior facilities,"

26. Page 7, line 21.
Following: "regulations"
Insert: ", and the care and maintenance of game farm animals"

27. Page 7.
Following: line 21
Insert: "(3) Rules promulgated pursuant to this part must be adopted in accordance with the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1."

28. Page 7, line 24.
Strike: "Restrictions"
Insert: "Classification -- restrictions"
Strike: "-- classification"

29. Page 7, line 25 through page 8, line 3.
Following: "(1)" on line 25
Strike: remainder of line 25 through page 8, line 3 in their entirety
Insert: "In order to properly regulate importation:
 (a) the department shall classify cloven-hoofed ungulates that have been determined through scientific investigation to pose a threat to native wildlife or livestock through nonspecific genetic dilution or habitat degradation or competition caused by feral populations of escaped game farm animals and shall notify the department of livestock of any changes in classification as they occur; and
 (b) the department of livestock shall classify cloven-hoofed ungulates that have been determined through scientific investigation to pose a threat to native wildlife or livestock through parasites or disease.
(2) The department of livestock shall restrict from

importation for purposes of game farming any species or subspecies and their hybrids with native species that have been classified in accordance with subsection (1) as posing a threat to native wildlife or livestock. Importation permitted by the department of livestock must comply with the requirements of Title 81, chapter 2, part 7. Copies of import permits issued by the department of livestock must be shared with the department within 10 calendar days. Other pertinent documentation relating to importation must be shared as it becomes available."

30. Page 8, line 6.
Following: "requirements"
Insert: " -- rules"

31. Page 9.
Following: line 22
Insert: "(6) The department shall by rule establish:
 (a) criteria for the classification of amendments to an existing license as major or minor; and
 (b) an expeditious amendment process for minor amendments."

32. Page 10, line 7.
Following: "2-15-102."
Insert: "The department and the department of livestock shall provide staff support and assistance necessary for the council to perform its functions."

-END-

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