

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN DON HARGROVE, on January 20, 1997, at
10:00 A.M., in Room 331

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 30, 1/16/97; SB 124 1/16/97
Executive Action: HB 30 BCI; SB 119 DPAA;
SB 131 DPAA

HEARING ON HB 30

Sponsor: REP. HARRIET HAYNE, HD 86, DUPUYER

Proponents: None

Opponents: None

Informational

Testimony: Mr. Brian Cockhill, Director, of the Montana
Historical Society

Opening Statement by Sponsor:

REP. HARRIET HAYNE, HD 86, DUPUYER, reported that HB 30 is being
introduced at the request of the Montana Historical Society. She
explained that, currently, statute sets out specific hours that
the Society must be open, and they would like some flexibility in
their hours of operation in order to better serve the public.

She introduced **Mr. Brian Cockhill, Director, Montana Historical Society**, who would explain the bill in more detail.

Informational Testimony:

Mr. Brian Cockhill, Director, Montana Historical Society, reported that, although they have not received a deluge of complaints, there have been some concerns that the Society is not open during hours more convenient to the public, such as evenings and weekends. He pointed out that their hours of operation are currently limited, by statute, to 8:00 a.m. to 5:00 p.m., Monday through Friday, and their funding for personnel is limited to the extent of those hours. He indicated that another option would be for them to request additional funding to hire extra staff, but they do not believe that would be a successful alternative.

Mr. Cockhill explained that the Society would like to have the flexibility to not necessarily be open from 8:00 a.m. to 5:00 p.m., Monday through Friday, but, possibly be open on Sunday and closed on Monday, or, perhaps, open at 10:00 a.m. and close at 7:00 p.m. or 8:00 p.m., adding that, if this bill passes, they would like to conduct a study of traffic to determine the hours of operation that would best serve the public, and present their proposal to the Board of Trustees for their approval. He added that the Society believes, with this flexibility in their hours of operation, they can utilize their current staff and funding without additional cost. He emphasized that they would not be reducing staff hours, that they intend to spread the staff time within the context of the new hours of operation in order to more effectively serve the public.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REPRESENTATIVE HAYNE stated that the Society needs authorization for more flexible hours in order to operate within their budget, and continue to carry out the Historical Society's mission. She indicated that she hoped the Committee would support this bill.

HEARING ON SB 124

Sponsor: SENATOR CHRIS CHRISTIAENS, SD 23, GREAT FALLS

Proponents: Mike O'Connor, Acting Administrator, Public
Employees' Retirement Division
Tom Schneider, Montana Public Employees'
Association
Tim Burkstrom, Montana State Firemens' Association

Opponents: None

Opening Statement by Sponsor:

SEN. CHRIS CHRISTIAENS, SD 23, CASCADE COUNTY, stated that he is presenting SB 124 at the request of the Public Employees Retirement Board. He reported that he was a member of the Committee that studied all the retirement systems, and that this proposal received a unanimous vote. He explained that this bill proposes revisions which are required in order to maintain the qualified plan status of the retirement systems, adding that representatives of the Public Retirement Division will explain the proposal in more detail. SEN. CHRISTIAENS continued that SB 124 was approved by the Study Committee, and that the Committees' report is attached to the bill, adding that there is no fiscal impact. He indicated that this proposal will bring these retirement systems into compliance, keep them whole, and protect members of the retirement systems.

Proponents' Testimony:

Mike O'Connor, Acting-Administrator, Public Employees' Retirement Division, read written testimony attached as (EXHIBIT 1).

Tom Schneider, Montana Public Employees' Association, indicated that they want to go on record in support of the bill. He reported that they worked with the Committee for the past two years, and agree with the sections which apply to them. He pointed out that, if the plan was found not to be qualified, the investments of the system would become taxable, that credits earned on an annual basis would become taxable to the members of the system, which would create a nightmare for the State of Montana, and they think it is important to keep the plan qualified.

Tim Burkstrom, Montana State Firemen's Association, stated that their organization also worked with the Committee, and they support this legislation.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. VIVIAN BROOKE referred to the change from 501(c)(3) to 501(c)(4) on page 5, line 7 of the bill, and asked Mr. O'Connor why they did not leave 501(c)(3) in there as well.

Mr. O'Connor responded that 501(c)(4) refers to non-profit employee organizations, and that it was the intent of the Board that this section apply only to organizations covered under 501(c)(4).

SEN. BROOKE asked if the Board intended that other non-profit organizations such as hospitals or charities not be included.

Mr. O'Connor responded that it was the intend of the Board that only non-profit employee organizations be allowed to use the mailing lists.

SEN. DELWYN GAGE referred to Section 2, subsection (2)(a) on page 3 of the bill, and asked **Mr. O'Connor** if the intent is that, if the member pays the contribution before the expiration of one year, the member does not have to pay any interest.

Mr. O'Connor responded that is correct.

SEN. GAGE asked what is meant by regular interest on line 4.

Mr. O'Connor explained that regular interest means interest calculated by financial institutions.

SEN. GAGE asked if the Board will adopt rules that will set the interest, or if it will be determined on an individual basis.

Mr. O'Connor responded that, currently, the Board adopts rules that set the interest rate which will be charged.

SEN. GAGE referred to line 15 on page 3, and asked if those installments would be worked out with each individual.

Mr. O'Connor responded that, currently, the member is provided with the cost of the service, if purchased, and with a variable payment schedule, so they can select which method they wish to use.

SEN. GAGE then referred to Section 2, subsection (2)(b), and asked how an employee would get notice that the employer is not going to pay interest on the employee's contributions.

Mr. O'Connor responded that the employer establishes a policy as to whether or not they will pay the interest on contributions, and the employer informs members of that policy.

SEN. GAGE asked if the language on page 17, line 14, "A member who is employed by an employer terminates any right to reinstatement provided by this section" means an employer other than the one the member was employed by before being injured.

Mr. Mike O'Connor responded that is correct.

SEN. GAGE asked why, on page 29, line 1, New Section 15 is being made retroactive to January 1, 1995.

Mr. O'Connor responded that New Section 15 applies to the transfer of employer contributions to the Teachers' Retirement System, that it was their intent to also transfer the interest,

and they decided to make this Section effective as of January 1, 1995.

SEN. GAGE asked if there was any need to go back further than January 1, 1995.

Mr. O'Connor replied no, there is not.

Closing by Sponsor:

SEN. CHRISTIAENS made no closing statement.

EXECUTIVE ACTION ON HB 30

Amendments: None

Motion/Vote: SEN. KEN MESAROS moved that HB 30 BE CONCURRED IN.
The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 119

Amendments: SB011901.adn (EXHIBIT 2)

Discussion:

Mr. David Niss reported that the sponsor presented amendments to SB 119, and that a representative from the Department of Revenue is available to answer questions from the Committee.

CHAIRMAN DON HARGROVE, asked the representative of the Department of Revenue would explain the amendments.

Bill Kloker, Tax Program Manager, Department of Revenue, pointed out that the first amendment will strike the new language in subsection (b) on page 9, line 29, through page 10, line 1. He indicated that this would allow an employer who has been in operation for less than a full twelve-months in the "look-back" period, and who has withheld less than \$1200, to remit annually. He explained that this language is being stricken because that is taken care of in the new subsection (c) on page 10, reiterating that this is for new employers who began operation during the year, or for small employers with less than \$1200 withholding. He noted that most of the amendments presented pertain to, or are a result of the first amendment.

{Tape: 1; Side: A; Approx. Time: 10:39 a.m.; Comments: End of Tape 1, Side A.}

Motion: SEN. FRED THOMAS moved to ADOPT SB011901.adn.

Discussion:

CHAIRMAN HARGROVE asked if his understanding is correct that the employer makes an initial remittance, and then remits on a series of monthly payments.

Mr. Kloker indicated that is true if the liability exceeds \$1199. He added that if, during the year, the combined liability exceeds that amount, the employer is required to remit to the Department immediately and, thereafter, on a monthly basis.

SEN. THOMAS asked if the employer is penalized for failure to follow this procedure.

Mr. Kloker replied that the employer would be penalized for late payment.

Vote: The motion to ADOPT SB011901.adn CARRIED UNANIMOUSLY.

Motion/Vote: SEN. GAGE moved that SB 119 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 131

Amendments: SB013101.adn (EXHIBIT 3)

Discussion:

SEN. MESAROS announced that a bill sponsored by SEN. MIKE FOSTER is nearly identical to SB 131, and that he met with SEN. FOSTER and REP. DUANE GRIMES regarding the possibility of combining the two bills, and they agreed. He explained that he will offer amendments to increase the acreage to twenty-five, which will align SB 131 with the provisions in the other bill. He added that SEN. FOSTER and the other sponsors would like their names added to SB 131, and asked if that can be accomplished.

CHAIRMAN HARGROVE stated that he thought it was possible, according to the Rules, as long as it has not been subject to the Report from the Standing Committee.

SEN. MESAROS indicated that he would like further clarification from the sponsors.

CHAIRMAN HARGROVE reported that he has done this before, that he had the sponsors sign a form provided by the Secretary of Senate, which he then presented to the Rostrum for movement. He asked Mr. Niss if he is aware of any other procedure that must be followed. Mr. Niss indicated he was not sure.

Motion/Vote: SEN. MESAROS moved to ADOPT SB013101.adn. The motion CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MESAROS moved that SB 131 DO PASS AS AMENDED.
The motion CARRIED UNANIMOUSLY.

Discussion:

CHAIRMAN HARGROVE noted that they need to check the procedure for adding the additional sponsors to the bill. Mr. Niss indicated that he was not sure in what order of business this would be handled. CHAIRMAN HARGROVE responded that it is handled under Order of Business Number Six by the Committee of the Whole.

SEN. MESAROS announced that he has just realized there is an error in the amendments adopted by the Committee. CHAIRMAN HARGROVE asked if he wanted the Committee to reconsider its action.

SEN. MESAROS apologized, and stated that it was his intent to incorporate 25 acres for elementary schools, and 50 acres for high schools.

Motion/Vote: SEN. MESAROS moved to reconsider their action that SB 131 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

Motion: SEN. MESAROS moved that the language be modified to provide a minimum of 25 acres for elementary schools.

Discussion:

CHAIRMAN HARGROVE, asked for if the "20" in paragraph 2 of the original amendment is changed to "25", as well as in paragraph 4. Mr. Niss replied that is correct.

Vote: The motion to ADOPT COMMITTEE AMENDMENTS TO SB 131 CARRIED UNANIMOUSLY

Motion/Vote: SEN. MESAROS MOVED SB 131 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

CHAIRMAN HARGROVE asked SEN. MESAROS to coordinate with the Secretary of the Senate regarding adding sponsors to SB 131, noting that it is not real clear in the rules, but there is a procedure. SEN. MESAROS confirmed that he would check on it.

CHAIRMAN HARGROVE suggested that the Committee consider executive action on SB 114. Mr. Niss advised that amendments were presented by the Department of Health and Human Services, but that he has not been instructed by the Committee to prepare them.

SEN. GAGE requested that Mr. Niss prepare the amendments for review by the Committee.

CHAIRMAN HARGROVE indicated executive action on SB 114 would be postponed until the amendments have been prepared. He then pointed out that the Committee has also not requested that **Mr. Niss** prepare the amendments to SB 170.

SEN. GAGE stated that he did not like the amendments presented by the Montana Public Interest Research Group (MtPIRG), but he is not sure he likes the language in the bill, either, indicating that he prefers the suggestion that the language read "for increasing the signature requirement from 5% to 10%, requiring at least two-fifths", as opposed to one-third, "and the number of signers must be at least 10% of the total qualified electors", as opposed to 5%.

CHAIRMAN HARGROVE and **SEN. GAGE** discussed the proposed language.

SEN. THOMAS pointed out that there was discussion that going to 10% makes this the same as the Constitutional Initiative process, and whether that should be addressed.

CHAIRMAN HARGROVE added that an immediate effective date was also suggested, and that **SEN. GARY AKLESTAD** agreed. He asked if that could be handled orally in Committee, and **Mr. Niss** confirmed that it could.

Motion/Vote: **SEN. THOMAS** moved to ADOPT COMMITTEE AMENDMENT TO SB 170 FOR AN IMMEDIATE EFFECTIVE DATE. The motion CARRIED UNANIMOUSLY. (EXHIBIT 4).

Motion: **SEN. MESAROS** moved that SB 170 DO PASS AS AMENDED.

Discussion:

SEN. THOMAS referred to his earlier statement that going to 10% makes this the same as a Constitutional Amendment, and asked **Mr. Niss** if that is within the title.

Mr. Niss responded that it only says to qualify a statutory initiative or a referendum on the ballot.

SEN. GAGE suggested that **Greg Petesch, Legislative Services Division** would say it is not within the scope of the bill. After brief discussion, **SEN. GAGE** suggested obtaining **Mr. Petesch's** opinion on whether or not Constitutional issues should be included within the scope of the bill. **CHAIRMAN HARGROVE** agreed that would be a good idea.

SEN. THOMAS pointed out that, with this bill, the threshold will be the same as for a Constitutional issue and, if someone did not want the Legislature to have the ability to change statute passed by a vote of the people, they would make it a Constitutional change. He indicated that obtaining that number of required

signatures can be accomplished, and that he would hope **SEN. AKLESTAD** would consider increasing it to 15% for Constitutional issues.

CHAIRMAN HARGROVE suggested that another alternative would be to adjust the 10% down a little. **SEN. GAGE** suggested asking **SEN. AKLESTAD** if he would be opposed to an amendment, as a courtesy. **CHAIRMAN HARGROVE** responded that **SEN. AKLESTAD** is amenable, if the Committee feels it is necessary.

SEN. MESAROS withdrew his motion that **SB 170 DO PASS AS AMENDED**.

CHAIRMAN HARGROVE indicated he has talked with **SEN. AKLESTAD**, and asked **Mr. Niss** to check with **Greg Petesch, Legislative Services Division**.

CHAIRMAN HARGROVE indicated that the Committee will hear three bills tomorrow, noting that he did not anticipate **SB 153** would take a great deal of time, although it could, but the other two would probably not be very time consuming. He announced that, on Friday, the Committee will hear one bill in addition to the confirmation hearing for **Lois Menzies, Director, Department of Administration**, noting that an hour will be set aside for all confirmation hearings. He reported that **Mary Morris, Committee Secretary**, will provide copies of the biographical information on each of the Directors at least a couple of days ahead of time, and asked the Committee members to review the information prior to the hearing, encouraging them to prepare questions to be asked of the appointees. He then briefly discussed the confirmation hearings for **Ralph Peck, Director, Department of Agriculture**, and **John Etchart** and **Stan Grace, Northwest Power Planning Council**, to be held on Monday, January 27.

{Tape: 1; Side: B; Approx. Time: 11:10 a.m.; Comments: End of Tape 1, Side B.}

CHAIRMAN HARGROVE briefly reviewed the next several confirmations scheduled for hearing.

There was discussion regarding the Governor's Board appointments. **Ms. Morris** reported that the forms to be used by the Committee members in recording notes regarding these appointments are available and, as soon as she can determine which Boards have been selected by each Committee member, these forms will be distributed. **SEN. THOMAS** indicated he has the original list which was distributed among the Committee for their selections, and he will provide that information to **Ms. Morris**.

SEN. THOMAS reminded **SEN. MESAROS** to ask **SEN. FOSTER** about **SB 154**, which is scheduled for hearing in Committee tomorrow. **SEN. GAGE** pointed out that it has already been noticed for hearing, and the proponents and opponents are entitled to testify.

There was discussion about SB 154, and **CHAIRMAN HARGROVE** reiterated that the Committee has a responsibility to the public to hear the bill, and suggested that the Committee consider some sort of motion, perhaps that it be tabled. **SEN. MESAROS** stated that he concurs. **SEN. GAGE** suggested discussing this with **SEN. FOSTER**, that he may be able to explain to those who wish to testify that the provisions of that bill have been incorporated into SB 131. **SEN. MESAROS** and **CHAIRMAN HARGROVE** agreed.

ADJOURNMENT

Adjournment: 11:15 a.m.



SEN. DON HARGROVE, Chairman



MARY MORRIS, Secretary

DH/MM