

## MINUTES

### MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 25, 1997, at  
9:00 A.M., in ROOM 410.

#### ROLL CALL

**Members Present:**

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. Debbie Bowman Shea (D)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Bea McCarthy (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Bart Campbell, Legislative Services Division  
Mary Gay Wells, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None

Executive Action: HB 287; HB 388; HB 541; HB 543  
HB 267 TABLED

{Tape: 1; Side: A; Approx. Time Count: 9:04 AM; Comments: N/A.}

#### EXECUTIVE ACTION ON HB 267

**Motion:** SEN. BEA MCCARTHY MOVED HB 267 BE CONCURRED IN.

**Discussion:** SEN. MCCARTHY said that she had contacted a lawyer, Randy Cox, in Missoula. He replied that overall, the bill with the amendments had a number of problems and would shut the carousel down. The main problem was the carousel in Missoula is a permanent fixture and on page 7, line 3, was a concern. They throw brass rings for free rides and this would be a problem. On page 2, lines 13 and 14, concerning first aid stations, this would create a problem. **SENATORS JOHN HERTEL AND CASEY EMERSON** expressed concern about the intent of the bill that was based on carnivals coming to fairgrounds. They wondered about the number

of permanent carousels, etc. Possibly it would be better if more work was done on it and brought back to the next legislature.

**SEN. EMERSON** said that it would be harder each year for fairs to secure the services of carnivals and felt something should be done at this point in time. **SEN. STEVE BENEDICT** said that this bill would do nothing to relieve liability. People will still engage in lawsuits and prevail even when things are expressly stated in statute.

Substitute Motion/Vote: **SEN. MCCARTHY** MOVED TO TABLE HB 267.  
THE MOTION CARRIED with **SEN. EMERSON** voting NO: 5-1

{Tape: 1; Side: A; Approx. Time Count: 9:13 AM; Comments: N/A.}

#### EXECUTIVE ACTION ON HB 388

Motion: **SEN. CASEY EMERSON** MOVED HB 388 BE CONCURRED IN.

Amendments: **SEN. STEVE BENEDICT** MOVED to AMEND HB 388 (EXHIBIT 1) hb038801.abc.

Discussion: **SEN BENEDICT** said these amendments were agreed upon by the sponsor and the Department of Commerce. The first three amendments suggested by the Dept. are not included in these amendments. **Mr. Bart Campbell** said that the third amendment of those first three which were not accepted by the sponsor and had to do with the definition of the petroleum companies was worked out between one of the proponents and **REP. BRUCE SIMON** and they submitted a change which is in this set of amendments (EXHIBIT 1). The third amendment is listed as the third amendment in (EXHIBIT 1). **SEN. BENEDICT** in addressing the second amendment from the Dept., said that when you have a county, it is not just a county outside of the jurisdiction of the city. Everyone in the city votes for the county commissioners. So it is not like representation outside of the city. The county commissioners represent all those inside the city limits as well as those outside the city limits. And you must remember that 90% of their constituents are from within the city limits so they very well might be more concerned with the majority. Therefore, those outside the city limits really still don't have a voice. It is not like the county commissioners just represent people outside the city limits. If the city commission wants to extend those boundaries and the county commissioners have to give their approval and 90% of their constituents live within the city limits, then they will probably go ahead and go that way. This again leaves the county people without true representation. **SEN. EMERSON** said that he has seen the process in Gallatin County and the City Commissioners have used a high-handed manner and run roughshod over the people in the 4½ mile area outside the city limits. They wanted the power and the dollars that all the permits bring in. **SEN. MCCARTHY** asked about number nine and

would the word "immediately" be helpful? **Mr. Jim Brown, Dept. of Commerce, Building Codes Div.**, answered that it wouldn't necessarily help and felt there would be a number of rules proposed. **SEN. BENEDICT** suggested a conceptual amendment to put the word "immediately" in.

**Vote on Amendments:** THE MOTION TO AMEND HB 388 CARRIED with **SEN. SHEA** voting NO: 5-1

**Amendments:** **SEN. MCCARTHY** MOVED TO AMEND HB 388 with the amendment number 2, numbered page 2, proposed by the Dept. (EXHIBIT 2).

**Discussion:** **Mr. Brown** explained the amendment. The problem addressed is that the people in the 4½ mile radius outside the city limits could not vote for the city commissioners or those elected officials who made rules that affected them. This amendment they felt was a solution to this problem because it would require that an extended jurisdiction would only be allowed by written consent of the county commissioners and those persons in that 4½ mile radius to vote for the county commissioners thereby being represented. He did not feel that most of the nine certified cities at this time that have extended jurisdictions would give this written consent. **SEN. BENEDICT** strongly disagreed with that statement. That is a speculation and he knows two jurisdictions right now who would go for it and they are Missoula and Billings. **Mr. Brown** said that might be correct, but he was basing his comment on past contacts. Missoula expressed an interest in going countywide, but under current law, they said that a certified city with an extended jurisdiction in place and the county becomes certified, whoever is there first gets it. So if Missoula County becomes certified, they wouldn't have been able to push Missoula out of that 4½ mile area. He knows that approximately 50% of Missoula's income comes from that extended jurisdiction area. If Missoula County would be able to push Missoula out of that extended area under this amendment, it would become a countywide situation and very agreeable to them. In Yellowstone county, he was not certain how they felt. **SEN. EMERSON** said that this is totally unacceptable because once that permission is given, then two or four years later, they would then, in order to protest anything the city decided, have to go to the county commissioners and tell them to take their consent away. That would be hard to do and they would be back in the same boat. **SEN. WILLIAM CRISMORE** asked if this is what happened in Flathead County. **Mr. Brown** said that with a bit of history on that he would give his opinion. Several years ago the city applied for approval to the state to extend their jurisdiction another mile. A hearing was held with much opposition to the application but the opposition centered around having the city versus the county jurisdiction. Flathead County said they were interested in having jurisdiction over the county for building codes. The Dept. of Commerce turned down the city and approved Flathead County. The County was in the business for about one year and the voters threw out the program about 7 to 1. The

county residents as a whole were not interested in getting building permits for their single family dwellings and were not interested in having the County do the inspection, etc. He also felt that Flathead County would not give their permission to Kalispell for this jurisdiction. SEN. HERTEL asked that without this amendment, is it strictly up to the state to take care of all this? Mr. Brown said that without this amendment, there are two choices. The county would have to go in and take over the area and that means the entire county, not just a portion. The other option would be for the state to go in and take on the permits and code enforcements that was previously done by the certified city. The state does cover the residential buildings for plumbing and electricity. SEN. HERTEL feels that if the state takes over, the expense would be tremendous. SEN. EMERSON disagreed. The fees for building permits will come to the state and will cover the expenses. SEN. BENEDICT asked about the \$1 million in the building codes account to offset the extra expense. Mr. Brown said right now, yes there is, but who knows what is just down the road. SEN. BENEDICT inquired if the money going to the cities would not now go to the state? Mr. Brown said yes and generally those fees would cover the cost to the state. SEN. BENEDICT said then wouldn't that be revenue neutral? Mr. Brown said not if you count the fact that additional people would be required. SEN. BENEDICT again said that with the additional money, that money would cover the additional people and work. Mr. Brown finally said that yes, the additional money would cover the additional people. SEN. EMERSON said to remember that the cities were making a big profit on this and surely the state could at least cover the expenses and not need additional revenue from the taxpayers. Therefore it would be revenue neutral.

Vote on Amendment: THE MOTION TO AMEND HB 388 CARRIED with SENATORS BENEDICT AND EMERSON voting NO: 4-2

Amendments: SEN. SHEA MOVED TO AMEND HB 388 (EXHIBIT 3).

Discussion: SEN. SHEA explained the amendments. SEN. EMERSON disagreed with number 1 of these amendments and wanted to segregate this one.

Substitute Motion/Vote: SEN. EMERSON MOVED TO SEGREGATE #1 FROM #2, 3 AND 4. THE MOTION FAILED with SENATORS HERTEL, CRISMORE, MCCARTHY AND SHEA voting NO: 2-4

Vote on Amendment: THE MOTION TO AMEND HB 388 CARRIED with SENATORS BENEDICT AND EMERSON voting NO: 4-2

{Tape: 1; Side: B; Approx. Time Count: 9:52 AM; Comments: N/A.}

Motion/Vote: SEN. BENEDICT MOVED HB 388 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. BENEDICT WILL CARRY.

{Tape: 1; Side: B; Approx. Time Count: 10:01 AM; Comments: A 10 MINUTE BREAK WAS TAKEN.}

EXECUTIVE ACTION ON HB 543

Motion: SEN. DEBBIE SHEA MOVED HB 543 BE CONCURRED IN.

Discussion: Two different sets of amendments were discussed. One set was submitted from Mr. Brooks, the Montana Collision Repair Specialists (EXHIBIT 4) hb054301.abc. Their position is still the same: they oppose the bill if the amendments are not included. The second set was prepared by GREG VAN HORSSSEN (EXHIBIT 5) hb054302.abc. SEN. BENEDICT asked which legislator asked for these amendments. Mr. Campbell said no legislator. REP. SCHMIDT had provided a letter responding to these amendments and she said that in practice these amendments strengthen the bill. The timing of the amendments coming in so late in the process is awkward. SEN. BENEDICT stated that since these amendments were not requested by a legislator, the amendments should not be considered. He would like to see the bill move forward without consideration of the amendments (Exhibit 4). Maybe the committee should look at the State Farm amendments and wait a couple of years for further refining. He had spoken with Mr. Campbell concerning this set of amendments and were put together at his request.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 388 (EXHIBIT 5) hb054302.abc.

Vote on Amendments: THE MOTION FAILED with SENATORS SHEA, MCCARTHY AND CRISMORE voting NO: 3-3

Substitute Motion/Vote: SEN. BENEDICT MOVED TO TABLE HB 543. THE MOTION FAILED with SENATORS MCCARTHY, SHEA AND CRISMORE voting NO: 3-3

Vote: THE MOTION THAT HB 543 BE CONCURRED IN CARRIED with SENATORS EMERSON AND HERTEL voting NO: 4-2

{Tape: 1; Side: B; Approx. Time Count: 10:21 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 541

Motion/Vote: SEN. WILLIAM CRISMORE MOVED HB 541 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. CRISMORE WILL CARRY.

EXECUTIVE ACTION ON HB 287

Motion: SEN. STEVE BENEDICT MOVED TO TAKE HB 287 OFF THE TABLE.

Discussion: SEN. BENEDICT explained that the bill was necessary in order to comply with the federal act. Since the amendments were put together by both the Auditor's Office and the insurance industry, he feels that the bill should go forward.

Vote: THE MOTION to take HB 287 off the table CARRIED UNANIMOUSLY. 6-0

Motion: SEN. BENEDICT MOVED HB 287 BE CONCURRED IN.

Amendments: SEN. BENEDICT MOVED TO AMEND HB 287 (EXHIBIT 6) hb028701.abc.

Discussion: SEN. BEA MCCARTHY stated that Steve Browning, Montana Community Fund, the large group for the State of Montana, was in agreement with the original bill, but he was not in agreement with the state exempting Montana out of the federal Philanthropic Protection Act. SEN. BENEDICT said that he had not had any thing in writing from anyone in regard to the second set of amendments and suggested that be left for the Senate floor. His suggestion was to pass the bill out as it is with amendments. He called for the vote on the amendments.

Vote on Amendments: THE MOTION TO AMEND HB 287 CARRIED UNANIMOUSLY: 6-0

Motion/Vote: SEN. BENEDICT MOVED HB 287 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY: 6-0 SEN. SHEA WILL CARRY.

ADJOURNMENT

Adjournment: 11:00 A.M.

  
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SEN. JOHN R. HERTEL, Chairman

  
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MARY GAY WELLS, Secretary

JH/MGW