

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on April 7, 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: HB 391; HB 598; 4/3/97
Executive Action: HB 391; HB 598

HEARING ON HB 391

Sponsor: REP. JOHN "SAM" ROSE, HD 87, CHOTEAU

Proponents: Andy Poole, Director, Department of Commerce
Mary Bryson, Director, Department of Revenue
Charles Brooks, MT Food Distributors
Riley Johnson, National Federation of Independent
Businesses
Kathleen Martin, Chief, Communicable Disease
Control and Prevention Bureau, Dept. of
Public Health & Human Services
Gary Gingery, Department of Agriculture

Opponents: None

{Tape: 1; Side: A; Approx. Time Count: 9:02 AM; Comments: N/A.}

Opening Statement by Sponsor:

REP. SAM ROSE, HD 87, CHOTEAU. This is a one-stop licensing bill. It had been presented in 1985. At that time, we didn't have the ability to utilize the electronic facilities that we have now. The background of this particular bill came out of the Senate, SB 311. It was passed in the 1995 session. It was sponsored by former Senator Weldon. This required the Dept. of Commerce to develop a plan for business licensing and registration. With this bill came the Board of Review. It was a committee of legislators and department personnel. It was a good committee and very interesting from the aspect that all the various departments explained their licensing procedure and some of the difficulties that they encounter. With our present method, licensing involves five different departments and seven different agencies to get a license in Montana. If you look at the neighborhood grocery store, you will see 5 to 7 licenses on the wall and all have different due dates from different departments. I had the misfortune of coming down with some people who were starting a business in our area. We ran our legs off for a full day. For someone starting a business, it is very discouraging to go through all that.

The committee called on the State of Washington who uses the one-stop licensing system. Other states such as Connecticut, Louisiana, Maine, Massachusetts, Mississippi, etc. all have a one-stop licensing system. The retail grocers in our state, representing about 750 businesses, agreed to take part in this pilot program. This will be a great help to us. The process is not complicated. The business completes an application form and forwards it to the one-stop agency with a single payment for all the required licenses. Presently, one license may be due in August, one in October, one in April, etc. It is terribly inconvenient for our business community.

The one-stop agency would receive the application and the payment. It would be deposited in the appropriate agencies involved and the agencies would carry out their functions such as inspections, etc. One-stop licensing should save the state some revenue in some aspects such as not having to mail out so many different licenses. There should not be too much additional computer hardware and no additional layers in state government. There are many positive aspects of the bill and I like to think of it as extremely business friendly. Thank you for your time.

Proponents' Testimony:

Andy Poole, Director, Department of Commerce. I would like to pass out a couple of things. The first is the executive report that we prepared as a result of SB 311 (EXHIBIT 1). It gives the highlights of that particular study that was done. One point from our Dept. is that people get unnerved when they have to get

so many licenses from state government. One-stop licensing will relieve a great deal of stress for businesses. I would like to also hand out a book, "Montana Business Licensing Handbook" (EXHIBIT 2), because it shows the number of state licenses that people can require from state government to conduct a particular kind of business. In the study that was done and also in looking at what other states have done, we found that the State of Washington had one of the best systems. They have been doing this for about 15 years. They estimate that 75% of their business licensing is done in one location.

When I talk about one-stop licensing, I am not talking about giving the business an okay to do something. This is actually an application stop. The determination of whether a business gets a license is made at the agency that has responsibility for performing the health, safety or welfare function. Grocery stores were chosen as our pilot program. Washington State learned that you could not do everyone all at the same time. There are too many licenses, too much detail, and the best way was to do a pilot program. On page 3 in the book, you will see grocery stores and the number of different agencies and registrations that grocery stores need to conduct business depending on what they sell. We determined for the pilot program that grocery stores would be good since they required the most licenses. One-stop licensing program does not contemplate including in the future environmental review, etc. because those are much more complex. This is a good start.

HB 391 does specifically three things. One, it does implement a one-stop licensing program. Most of the pieces are in place to do that. Secondly, it changes the license renewal days from the specific date which may be in statute to allowing that agency to relicense their businesses on an anniversary date. The reason for that is if a business needs to relicense all their licenses at one time we need to have one day they can do that on. So the statute would be changed for those licenses having specific dates that are related to grocery stores. The other is the electronic signatures. The idea is that ultimately we would like the ability in state government to have people license their businesses over the internet. We think it would be very convenient for a business owner to be able to sit at his own computer and fill out one application form, send it to the state and have that information sent electronically to each of the 4, 5, 6 or 7 agencies that need it. Those agencies in turn would determine if that business would get a license and return the application to the one-stop licensing agency. The third aspect is if you are going to electronic licensing, there would be only one form of payment that would work. That would be by credit card. This bill gives the licensing agencies that are involved in the pilot program the ability to accept payment by credit cards. The reason you need to do that is sometimes in statute you have a minimum of \$25. If you accept less than \$25, you have a statutory problem. This bill allows the agencies to accept something less than a \$25 fee. Credit card companies take

a small share of that due process. The agency may get \$24.12. The credit card companies charge between 2 and 5 percent. HB 391 not only implements one-stop licensing but it will accommodate one-stop licensing by changing statute relative to existing licensing statute. We are strongly in support of HB 391 and would appreciate your support. Thank you.

Mary Bryson, Director, Department of Revenue. I will give my testimony and hand in a written copy (EXHIBIT 3). Thank you.

Charles Brooks, MT Food Distributors. I am representing grocery stores, wholesale grocery distributors and some food processors throughout the state. We stand in strong support of HB 391. I would also like to come before you as a former retailer with four stores in the state. I can assure you that with four stores in four different locations, all the permits and different expiration dates were overwhelming. I urge your support as does the Billings Area Chamber of Commerce. Thank you.

Riley Johnson, National Federation of Independent Businesses. I think it has all been said. When I had a retail store here in town, I had nine licenses hanging on the wall. Back then, we didn't have computers to do all the detail work. In the first week of January, I would take out post-it notes, check all dates for expiration times and post the notes in the proper section of the bookkeeping just to keep track. This is a great bill and I urge your support of HB 391.

Kathleen Martin, Chief, Communicable Disease Control and Prevention Bureau, DPHHS. I will give my testimony and hand in a written copy (EXHIBIT 4). Thank you.

Gary Gingery, Department of Agriculture. The Department is highly supportive of this bill. We look forward to the pilot and hopefully it will be a success. We will then look forward to adding other types of licensing. We urge your support of this bill.

{Tape: 1; Side: A; Approx. Time Count: 9:24 AM; Comments: N/A.}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked if the committee had not heard this bill before or one very similar to this bill? Mr. Poole replied that there had been a bill sponsored by SEN. GLASER. It dealt with one-stop licensing. He did not believe that SEN. GLASER was aware of HB 391 or that there had already been a study for a pilot program. SEN. GLASER'S bill would have done all licensing at one time. We feel the problem with that is the issue is so large that it would not work as well as with a pilot program

leading the way. **SEN. EMERSON** wanted to know what happened to **SEN. GLASER'S** bill. **Mr. Poole** said that bill was tabled in the Senate Business and Industry Committee.

SEN. DEBBIE SHEA asked if the licensing would be pro-rated for those grocery stores who may have already done some of their licensing? **Mr. Poole** said that there is rule making authority within this bill and they would adopt rules that would pro-rate this kind of thing. If they had already paid for a portion of the year they wouldn't be hit up to pay for the same time again.

SEN. STEVE BENEDICT asked about the fiscal note. He asked why do the fees not cover the cost? **Mr. Poole** answered that as a pilot project they are developing a system that will ultimately work for all business licensing in Montana which would include the data base, computers, etc. They didn't feel it appropriate to build this system from scratch at the outset. The intent is that after the initial pilot is up and running, the license fees will pay for the continued operation of the program. This should be a first biennium cost only. The Dept. may need legislation in the next session to do some more things to get this going, but the intent of the Board of Review is that this initial study would take place with General Funds but for the future it will be covered by license fees paid by businesses.

SEN. BENEDICT asked if this bill was included in HB 2 or will it be vetoed by the Governor? **Mr. Poole** said the bill should be signed by the Governor and he felt it depended upon passage of HB 188 because the appropriations to get this done, along with Director Bryson's needs, is incorporated in that bill. **Ms. Bryson** asked to respond to that question. She said that HB 188 is the IT Bonding bill and that allows various departments to pursue information technology through programs. The Dept. has included the data processing costs associated with the implementation of this project. The Dept. should be able to bill that. Those costs will be covered over a period of time. The debt service is included in HB 2.

SEN. BEA MCCARTHY asked if the hope was that when Montana gets down to one license, will there be a reduction to the merchants in the fees that they pay? **Mr. Poole** said that would be difficult to answer at this point. Till the programs are actually up and running, he was not sure of the operating costs--whether they would be up or down. People who are getting licensed under a system like this may be paying a couple of dollars more in fees to the state. On the other hand, the cost that the businesses pay to actually do this in terms of time, postage, etc. may reduce their business costs.

Closing by Sponsor:

REP. ROSE closed. We hope that this program will pay for itself. As far as all the licensing goes, we have learned a lesson from Fish and Game also. In closing, I would like to say this is a

good business bill. It has been worked on for a period of years. It is a friendly bill to businesses and it is a practical bill. Thank you for a good hearing.

{Tape: 1; Side: A; Approx. Time Count: 9:33 AM; Comments: A 9 MINUTE BREAK WAS TAKEN. THE MEETING RESUMED AT 9:42 AM.}

HEARING ON HB 598

Sponsor: REP. CLIFF TREXLER, HD 59, HAMILTON

Proponents: REP. CARLEY TUSS, HD 56, BLACK EAGLE
Steve Meloy, Bureau Chief, Professional &
Occupational Licensing, Dept. of Commerce
Nigel Mends, MT Society of Engineers
Dan McCauley, Engineer

Opponents: None

Opening Statement by Sponsor:

REP. CLIFF TREXLER, HD 59, HAMILTON. CHAIRMAN BRUCE SIMON, HD 18, BILLINGS, of the House Business and Labor Committee had two hearings. One was for those people with problems with licensing and the second hearing was for those who do the licensing. It seems as though many showed up on both sides. This bill is a product of those hearings. A subcommittee was set up of REP. TUSS, REP. BITNEY and myself. We had 7 or 8 meetings with the Professional and Occupational Licensing Board and executive officers of the various boards. We were looking for some way to make the public more comfortable with the boards and perhaps the boards more efficient, if possible. We looked for a common thread rather than trying to find some specific things we could go out and try to correct. We ended up by making recommendations to a number of boards. The boards have been very willing to change, help, make things better for the consumer, etc. HB 598 found a common thread and that was the boards say they are consumer protective oriented but we found there were 800 plus complaints that had not been taken care of because of someone who had quit, etc. We felt that the need was to speed up the operation and get that backlog of complaints taken care of. If someone has to wait a year and a half, they are not real happy.

The first part allocates some of the special revenue funds that these particular boards had in their accounts, some as much as 700% of their yearly operating budget, and get these consumer complaints taken care of. The second part is unique in Montana. We license everyone on an annual basis. So we looked at the possibility of issuing some licenses for a longer period of time. This should cut down on the number of personnel needed for some licensing. The boards agreed to that. There had been a third part that addressed the apprentice program for electricians and

plumbers. This is no longer in the bill. Any reference in here would be accidental. So there should be nothing left concerning this subject.

This bill will allow for multiple year licensing thus saving some money. It will allow the boards to use their reserve fund and get the investigating done and get the complaints out of the way. This is the essence of HB 598. Thank you.

Proponents' Testimony:

REP. CARLEY TUSS, HD 46, BLACK EAGLE. I also sat on the subcommittee and it was noteworthy after our hearing that **REP. TREXLER'S** approach to the subcommittee was that we would go in and try to solve the problem and do no more than is absolutely necessary. From that point of view, we were not out to solve everyone's frustrations. We focused on the source of the frustration. When HB 517 went through the session in 1995 bringing in a uniformity to the boards, one of the things it spelled out was due process. While I would not back down from that emphasis on due process, in some respects it did slow things down. The other thing we learned in the subcommittee is that there were boards such as engineering that said the investigator was very good, however that investigator was not knowledgeable about engineering. Therefore, when a complaint came in, it was sometimes so general that the board couldn't really act on it. The recommendation to the board was to get an investigator with an engineer background. The other investigators that we had recommended were very specific to the boards with the biggest backlog and we asked for additional assistance in those specific boards. The licensing on a multiple year basis will eliminate some crisis when a license or licenses are due for a particular board. Thank you and I ask for your concurrence on HB 391.

Steve Meloy, Bureau Chief, Professional & Occupational Licensing Bureau, Dept. of Commerce. This process was a combination of a lot of work and a lot of quick study by the subcommittee members. I feel good about the process and the outcome. During the hearings when every one was invited, out of all the witnesses with the exception of one individual who wanted to remain anonymous, there was not one there with a complaint or a problem. The people who were there were the licensees themselves. They were members of the trade organizations like the MT Realtor Assoc., etc. and people who wanted a license. They were asking for quicker turnarounds on requests for licenses and quicker turnarounds on complaints against licensees. This bill should allow us to handle these things more quickly. We have had a 55% increase in complaints in the last five years. Maybe more people know about us or maybe it is because the boards are becoming more active. There is a greater expectation that we do things to protect the public.

I would like to emphasize that this is all special revenue and it solves two problems. Historically, the Legislature does not like the boards to have excess cash balances. We find that this will be a good way to draw down on those cash balances at the same time address those problems that were raised in **REP. SIMON'S** hearings.

One last issue I would like to address is the part of the bill that was stricken. The problem is if an apprentice, either electrician or plumber, fails their exam twice, they lose the ability to take the exam for an extended period of time. They also lose their apprenticeship. If an individual has been working along and fails the exam, he not only fails the exam but loses his ability to work. The Commissioner of Labor promised your committee to work with **Peter Blouke** to solve this problem within our walls. They already have some good innovative ideas. Thank you for your time.

{Tape: 1; Side: B; Approx. Time Count: 9:55 AM; Comments: N/A.}

Nigel Mends, MT Society of Engineers. I am also representing the MT Technical Council which is an association that represents land surveyors, different engineering societies and architects. Both organizations are in full support of HB 598 because it provides the engineering licensing board with an investigative position which we feel is desperately needed. We have cases right now. One is a project down on the Yellowstone River. You may remember the Armstrong Creek that washed out and flooded some land. The landowner there sold fishing access to his property. He wanted to have Yellowstone River reshaped to restore his fishing site. They hired a hydrologist, who is more educated in the areas of biology and stream flow, to design the project. By law that would have required an engineer to be involved. But it also caused a problem legally that it was not designed properly. There will be problems there this year as the river rises. That is just one way the people of Montana will see better protection by having an investigator to look into incidences like this.

I am a licensed engineer myself and I am interested in seeing this come about. We as members of the profession have polled our membership and our membership is willing to see our fees raised to support this position if necessary. The other point that I would like to make is that this is an ideal bill and it improves protection for Montana citizens and it doesn't cost them anything. The money comes out of our pockets when we pay our license fees. Thank you.

Dan McCauley, Professional Engineer. I work with a consulting firm in Helena and am past president of MT Society of Engineers. I would like to speak in support of HB 598. I am anxious to get an investigator on staff. The engineering community is willing to pay more if the excess funds should be used up. We have seen in the past abuses of licensing. We have non-licensed people practicing engineering and we have licensed people practicing in

such manner that gives our profession a black eye. To date, the board has been hamstrung on what it can do because they don't have the manpower to go out and police our profession. This investigative position will enhance what can be done. Thank you.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. STEVE BENEDICT asked about the fiscal note. Ms. Brenda St. Clair, Administrative Officer, Professional & Occupational Licensing Bureau offered to speak to the fiscal note. SEN. BENEDICT said that in FY98 there is a total of \$830,000 and in the FY99 nothing is showing. Why is that? Because once these positions are filled, they won't be taken away. There are to be 10 FTE's added to POL. There is a reserve to take care of those right now, but how much will fees go up once the reserves are brought down? Ms. St. Clair said that has not been calculated yet but if he would look at professional engineers and the amount of money that investigative position would take, there is \$184,816 for the biennium. Each year would be \$92,408. SEN. BENEDICT asked how many members in the professional engineering group? Ms. St. Clair estimated about 3,000. That would be approximately \$30. The fee right now is \$40 for a two year renewal fee. These fees are among the lowest in the U. S. SEN. BENEDICT asked if all 3,000 members had been called to see if they would agree to a raise in their licensing fee? Ms. St. Clair said that when the fees are changed it is done through the administrative rule hearing process. The licensees are alerted of this process and could have an input at that time.

SEN. BENEDICT asked if the members had been notified already about this bill or will the Dept. notify them of increasing fees after the fact. Ms. St. Clair said the Dept. did not send out any notices or material to the licensees that HB 598 was being considered. SEN. BENEDICT followed on that this would be a *de facto* approval. They won't have much choice once this bill is passed. Two years down the road when fees would probably have to be raised, the members could raise a hue and cry at an administrative rule hearing. At that time, you could cut those positions out or you say, too bad, the fees are going to be raised anyway. Ms. St. Clair said yes, that would have to be the decision of the board.

CHAIRMAN HERTEL stated that he was happy to see the good results of the subcommittee that was started by REP. SIMON'S hearings. At this time, Mr. Steve Meloy handed out letters in support of HB 598 (EXHIBIT 5).

Closing by Sponsor:

REP. TREXLER closed. Thank you for a good hearing and good questions concerning the electricians and plumbers. I was impressed that the Commissioner of Labor and the Director of Commerce took time out of their busy schedules to meet with us and work out steps to help the people who were having problems getting their journeymen's license. This is not a large number of people. It is basically two people who were having problems. One has been helped and the other is getting help. Concerning SEN. BENEDICT'S question, I understand two things. In the event that the complaint load is reduced down by the end of the two years, the FTE will not carry on. Three different boards, the realtors, the nurses and one other, put information out in their newsletters about a month ago. Up to this point, we have had three complaints from the entire state of some 20,000 licensees who were objecting to fees being raised. We have had hundreds of people who have responded that if their dues go up somewhat and get the job done, they would not object. Again, I thank you for the hearing.

{Tape: 1; Side: 2; Approx. Time Count: 10:08 AM; Comments: N/A.}

EXECUTIVE ACTION ON HB 391

Motion/Vote: SEN. BEA MCCARTHY MOVED HB 391 BE CONCURRED IN.
THE MOTION CARRIED UNANIMOUS: 6-0 SEN. MCCARTHY will carry.

EXECUTIVE ACTION ON HB 598

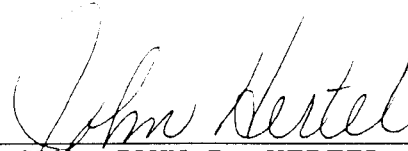
Motion: SEN. DEBBIE SHEA MOVED HB 598 BE CONCURRED IN.

Discussion: SEN. BENEDICT appreciated the work that has gone into the bill, but is not sure this is the answer. He felt that he would not vote for the bill. CHAIRMAN HERTEL felt it might have a difficult time passing the Senate Floor. SEN. CASEY EMERSON felt there were other bills that might have taken care of some of these problems. SEN. MCCARTHY agreed with SEN. BENEDICT about whether this was the way to solve the problem, but she feels there is a problem and some action should be taken. Also, the money is coming from the department's internal reserves. SEN. WILLIAM CRISMORE felt that with the subcommittee and all their work it was a fairly good bill and would help solve some problems. SEN. EMERSON agreed that if they use their own money it might not be such a bad bill. SEN. MCCARTHY said that when the Legislature meets again, another hearing such as REP. SIMON'S should be held and hear from these people at that time. CHAIRMAN HERTEL agreed with this suggestion and said he would visit with REP. SIMON.

Vote: THE MOTION OF HB 598 BE CONCURRED IN CARRIED with SENATORS BENEDICT AND EMERSON voting NO: 4-2 SEN. SHEA will carry.

ADJOURNMENT

Adjournment: 10:18 A.M.



SEN. JOHN R. HERTEL, Chairman



MARY GAY WELLS, Secretary

JH/MGW