SENATE BILL NO. 171

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INTRODUCED BY HARDING

BY REQUEST OF THE DEPARTMENT OF COMMERCE

IN THE SENATE

January 19, 1985	Introduced and referred to Committee on State Administration.
February 15, 1985	Committee recommend bill do pass as amended. Report adopted.
February 16, 1985	Bill printed and placed on members' desks.
February 18, 1985	Second reading, do pass.
February 19, 1985	Considered correctly engrossed.
February 20, 1985	Third reading, passed. Ayes, 48; Noes, 0.
	Transmitted to House.
IN THE	E HOUSE
February 27, 1985	Introduced and referred to Committee on State Administration.
March 14, 1985	Committee recommend bill be concurred in. Report adopted.
March 16, 1985	Second reading, concurred in.
March 18, 1985	Third reading, concurred in.
	Returned to Senate.

IN THE SENATE

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March 18, 1985

Received from House. Sent to enrolling.

March 19, 1985

Reported correctly enrolled.

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Janale BILL NO. 171 1 2 INTRODUCED BY BY REQUEST OF THE DEPARTMENT OF COMMERCE З 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE 6 APPOINTMENT OF COUNSEL TO CONDUCT A HEARING BEFORE A BOARD 7 ALLOCATED TO THE DEPARTMENT OF COMMERCE MUST BE AT THE 8 REQUEST OF A PARTY AND IS LIMITED TO CONTESTED CASES; 9 AMENDING SECTION 37-1-121, MCA." 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-1-121, MCA, is amended to read:
"37-1-121. Duties of director. In addition to his
powers and duties under 2-15-112 and 2-15-121, the director
of commerce shall:

16 (1) <u>at the request of a party</u>, appoint impartial legal 17 counsel to conduct hearings before each board within the 18 department whenever any board holds a <u>contested</u> <u>case</u> 19 hearing. The legal counsel appointed shall see that hearings 20 are conducted in a proper and legal manner.

(2) whenever the department conducts an investigation
of a complaint of illegal or unethical conduct of a member
of a particular profession or occupation as prescribed in
37-1-101(5) and if requested by the appropriate board,
appoint an impartial member of that profession or occupation

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to assist the department in its investigation. The member so appointed may not be a member of the board having

jurisdiction over the particular profession or occupation.
(3) hire all personnel to perform the administrative
and clerical functions of the department for the boards.
Boards within the department have no authority to hire
personnel.

8 (4) approve all contracts and expenditures by boards
9 within the department. No board within the department may
10 enter into a contract or expend funds without the approval
11 of the director."

12 <u>NEW SECTION.</u> Section 2. Extension of authority. Any 13 existing authority of the department of commerce to make 14 rules on the subject of the provisions of this act is 15 extended to the provisions of this act.

-End-

-2-

INTRODUCED BILL

49th Legislature

SB 0171/02

APPROVED BY COMMITTEE ON STATE ADMINISTRATION

1	SENATE BILL NO. 171	1
2	INTRODUCED BY HARDING	2
3	BY REQUEST OF THE DEPARTMENT OF COMMERCE	3
4		4
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE	5
6	APPOINTMENT OF COUNSEL TO CONDUCT A HEARING BEFORE A BOARD	б
7	ALLOCATED TO THE DEPARTMENT OF COMMERCE MUST BE AT THE	7
8	REQUEST OF A PARTY AND IS LIMITED TO CONTESTED CASES;	8
9	AMENDING SECTIONS 37-1-121 AND 37-1-131, MCA."	9
10		10
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11
12	Section 1. Section 37-1-121, MCA, is amended to read:	12
13	"37-1-121. Duties of director. In addition to his	13
14	powers and duties under 2-15-112 and 2-15-121, the director	14
15	of commerce shall:	15
16	(1) at the request of a party, appoint impartial legal	16
17	counsel to conduct hearings before each board within the	17
18	department whenever any board holds a contested case	18
19	hearing. The legal counsel appointed shall see that hearings	19
20	are conducted in a proper and legal manner.	20
21	(2) whenever the department conducts an investigation	21
22	of a complaint of illegal or unethical conduct of a member	22
23	of a particular profession or occupation as prescribed in	23
24	37-1-101(5) and if requested by the appropriate board,	24
25	appoint an impartial member of that profession or occupation	25

SB 0171/02

appointed may not be a member of the board having 2 3 jurisdiction over the particular profession or occupation. (3) hire all personnel to perform the administrative 4 and clerical functions of the department for the boards. 5 Boards within the department have no authority to hire б personnel. 7 8 (4) approve all contracts and expenditures by boards within the department. No board within the department may 9 0 enter into a contract or expend funds without the approval of the director." 1 SECTION 2. SECTION 37-1-131, MCA, IS AMENDED TO READ: 2 "37-1-131. Duties of boards. Each board within the

to assist the department in its investigation. The member so

13 "37-1-131. Duties of boards. Each board within the
14 department shall:
15 (1) set and enforce standards and rules governing the

15 (1) set and enforce scandards and rules governing the 16 licensing, certification, registration, and conduct of the 17 members of the particular profession or occupation within 18 its jurisdiction;

19 (2) sit in judgment in hearings for the suspension,

0 revocation, or denial of a license of an actual or potential

- 21 member of the particular profession or occupation within its
- 22 jurisdiction. The hearings shall be conducted by the legal
- 23 counsel appointed when required under 37-1-121(1).
- 24 (3) pay to the department its pro rata share of the
- 25 assessed costs of the department under 37-1-101(6)."

SECOND READING

- 2 -

SB 171

SB 0171/02

<u>NEW SECTION.</u> Section 3. Extension of authority. Any
 existing authority of the department of commerce to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

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-3-

SB 0171/02

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1	SENATE BILL NO. 171	1	to assist the department in its investigation. The member so
2	INTRODUCED BY HARDING	2	appointed may not be a member of the board having
2 3	BY REQUEST OF THE DEPARTMENT OF COMMERCE	3	jurisdiction over the particular profession or occupation.
3		4	(3) hire all personnel to perform the administrative
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE	5	and clerical functions of the department for the boards.
5	APPOINTMENT OF COUNSEL TO CONDUCT A HEARING BEFORE A BOARD	6	Boards within the department have no authority to hire
-	ALLOCATED TO THE DEPARTMENT OF COMMERCE MUST BE AT THE '	7	personnel.
7	REQUEST OF A PARTY AND IS LIMITED TO CONTESTED CASES;	8	(4) approve all contracts and expenditures by boards
8		9	within the department. No board within the department may
9	AMENDING SHETION SECTIONS 37-1-121 AND 37-1-131, MCA."	10	enter into a contract or expend funds without the approval
10			of the director."
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	SECTION 2. SECTION 37-1-131, MCA, IS AMENDED TO READ:
12	Section 1. Section 37-1-121, MCA, is amended to read:	13	"37-1-131. Duties of boards. Each board within the
13	"37-1-121. Duties of director. In addition to his	14	department shall:
14	powers and duties under 2-15-112 and 2-15-121, the director	15	(1) set and enforce standards and rules governing the
15	of commerce shall:		
16	(1) at the request of a party, appoint impartial legal	16	licensing, certification, registration, and conduct of the
17	counsel to conduct hearings before each board within the	17	members of the particular profession or occupation within
18	department whenever any board holds a contested case	18	its jurisdiction;
19	hearing. The legal counsel appointed shall see that hearings	19	(2) sit in judgment in hearings for the suspension,
20	are conducted in a proper and legal manner.	20	revocation, or denial of a license of an actual or potential
21	(2) whenever the department conducts an investigation	21	member of the particular profession or occupation within its
22	of a complaint of illegal or unethical conduct of a member	22	jurisdiction. The hearings shall be conducted by the legal
23	of a particular profession or occupation as prescribed in	23	counsel appointed when required under 37-1-121(1).
24	37-1-101(5) and if requested by the appropriate board,	24	(3) pay to the department its pro rata share of the
25	appoint an impartial member of that profession or occupation	25	assessed costs of the department under 37-1-101(6)." THIRD READING
			-2- SB 171

SB 0171/02

SB 171

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<u>NEW SECTION.</u> Section 3. Extension of authority. Any
 existing authority of the department of commerce to make
 rules on the subject of the provisions of this act is
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SB 0171/02

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to assist the department in its investigation. The member so appointed may not be a member of the board having 2 jurisdiction over the particular profession or occupation. 3 (3) hire all personnel to perform the administrative 4 5 and clerical functions of the department for the boards. 6 Boards within the department have no authority to hire 7 personnel. 8 (4) approve all contracts and expenditures by boards within the department. No board within the department may 9 10 enter into a contract or expend funds without the approval 11 of the director." 12 SECTION 2. SECTION 37-1-131, MCA, IS AMENDED TO READ: 13 "37-1-131. Duties of boards. Each board within the 14 department shall: (1) set and enforce standards and rules governing the 15 16 licensing, certification, registration, and conduct of the

17 members of the particular profession or occupation within 18 its jurisdiction; 19 (2) sit in judgment in hearings for the suspension,

20 revocation, or denial of a license of an actual or potential 21 member of the particular profession or occupation within its 22 jurisdiction. The hearings shall be conducted by the legal

23 counsel appointed when required under 37-1-121(1).

24 (3) pay to the department its pro rata share of the
25 assessed costs of the department under 37-1-101(6)."

-2- SB 171 REFERENCE BILL

SB 0171/02

<u>NEW SECTION.</u> Section 3. Extension of authority. Any
 existing authority of the department of commerce to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

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