

SENATE BILL NO. 171

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 HOUSE

February 27, 1985	Introduced and referred to Committee on State Administration.
March 14, 1985	Committee recommend bill be concurrent in. Report adopted.
March 16, 1985	Second reading, concurred in.
March 18, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

March 18, 1985

Received from House.

March 19, 1985

Sent to enrolling.

Reported correctly enrolled.

1 Senate BILL NO. 171
 2 INTRODUCED BY Horvath
 3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
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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:

12 Section 1. Section 37-1-121, MCA, is amended to read:
 13 "37-1-121. Duties of director. In addition to his
 14 powers and duties under 2-15-112 and 2-15-121, the director
 15 of commerce shall:

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

21 (2) whenever the department conducts an investigation
 22 of a complaint of illegal or unethical conduct of a member
 23 of a particular profession or occupation as prescribed in
 24 37-1-101(5) and if requested by the appropriate board,
 25 appoint an impartial member of that profession or occupation

1 to assist the department in its investigation. The member so
 2 appointed may not be a member of the board having
 3 jurisdiction over the particular profession or occupation.

4 (3) hire all personnel to perform the administrative
 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
 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 NEW SECTION. 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-



APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 SENATE BILL NO. 171
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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 SECTIONS 37-1-121 AND 37-1-131, MCA."

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

12 Section 1. Section 37-1-121, MCA, is amended to read:

13 "37-1-121. Duties of director. In addition to his
14 powers and duties under 2-15-112 and 2-15-121, the director
15 of commerce shall:

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

21 (2) whenever the department conducts an investigation
22 of a complaint of illegal or unethical conduct of a member
23 of a particular profession or occupation as prescribed in
24 37-1-101(5) and if requested by the appropriate board,
25 appoint an impartial member of that profession or occupation

1 to assist the department in its investigation. The member so
2 appointed may not be a member of the board having
3 jurisdiction over the particular profession or occupation.
4 (3) hire all personnel to perform the administrative
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
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 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:

15 (1) set and enforce standards 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,
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)."

SECOND READING

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1 NEW SECTION. Section 3. Extension of authority. Any
2 existing authority of the department of commerce to make
3 rules on the subject of the provisions of this act is
4 extended to the provisions of this act.

-End-

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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 SECTIONS 37-1-121 AND 37-1-131, MCA."

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

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13 "37-1-121. Duties of director. In addition to his
14 powers and duties under 2-15-112 and 2-15-121, the director
15 of commerce shall:16 (1) at the request of a party, appoint impartial legal
17 counsel to conduct hearings before each board within the
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19 hearing. The legal counsel appointed shall see that hearings
20 are conducted in a proper and legal manner.21 (2) whenever the department conducts an investigation
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24 37-1-101(5) and if requested by the appropriate board,
25 appoint an impartial member of that profession or occupation1 to assist the department in its investigation. The member so
2 appointed may not be a member of the board having
3 jurisdiction over the particular profession or occupation.4 (3) hire all personnel to perform the administrative
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
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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:15 (1) set and enforce standards 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,
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)."

THIRD READING

SB 171

SB 0171/02

1 NEW SECTION. Section 3. Extension of authority. Any
2 existing authority of the department of commerce to make
3 rules on the subject of the provisions of this act is
4 extended to the provisions of this act.

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE APPOINTMENT OF COUNSEL TO CONDUCT A HEARING BEFORE A BOARD ALLOCATED TO THE DEPARTMENT OF COMMERCE MUST BE AT THE REQUEST OF A PARTY AND IS LIMITED TO CONTESTED CASES; AMENDING ~~SECTIEN~~ SECTIONS 37-1-121 AND 37-1-131, MCA."

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:

(1) at the request of a party, appoint impartial legal counsel to conduct hearings before each board within the department whenever any board holds a contested case hearing. The legal counsel appointed shall see that hearings 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

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.

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

SECTION 2. SECTION 37-1-131, MCA, IS AMENDED TO READ:

"37-1-131. Duties of boards. Each board within the department shall:

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

(2) sit in judgment in hearings for the suspension, revocation, or denial of a license of an actual or potential member of the particular profession or occupation within its jurisdiction. The hearings shall be conducted by the legal counsel appointed when required under 37-1-121(1).

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

SB 0171/02

1 NEW SECTION. Section 3. Extension of authority. Any
2 existing authority of the department of commerce to make
3 rules on the subject of the provisions of this act is
4 extended to the provisions of this act.

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