

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN JOHN COBB**, on January 29, 2003 at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John Cobb, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Kelly Gebhardt (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Mona Spaulding, Committee Secretary

Please Note:

Audio-only Committees: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 25, 1/22/2003; HB 38, 1/20/2003;
HB 39, 1/17/2003; HB 34, 1/17/2003;
HB 69, 1/22/2003
Executive Action: HB 25; HB 39; HB 34; HB 69; HB 38;
SB 79; SB 182; SB 214

HEARING ON HB 25

Sponsor: REPRESENTATIVE KATHLEEN GALVIN-HALCRO, HD 48

Proponents: Elaine Graveley, Election Director, Secretary of State's Office

Opponents: None.

Opening Statement by Sponsor: REP. KATHLEEN GALVIN-HALCRO, HD 48, said HB 25 results from a concern brought to her attention by the Executive Director of the Elections Center, Washington, D.C., more than two years ago. The bill clarifies that a person filing for an elected partisan office may only file for one party's nomination. It comes with the support of the Secretary of State's office. There has been occasion in Montana when an electorate has filed for more than one declaration of a nomination in a partisan office under more than one party. Specifically, in REP. BOB LAKE's district, HD 60. Nothing in statute currently prevents candidates from declaring under more than one party. Several other states have clarified their language to prevent this situation.

Proponents' Testimony: Elaine Graveley, Election Director, Secretary of State's Office, rose in support of HB 25. Primary elections were designed for parties to choose the candidates of their choice. This bill allows a candidate to choose one party.

Opponents' Testimony: None.

Questions from Committee Members and Responses: SEN. WHEAT asked why the entire section on Ballot Form and Uniformity was struck on the back page. Ms. Graveley said a clerk in the Recorder's Office came in with a concern on a House hearing. Some counties may chose to put a party symbol after the elector's name; other counties may not. Some clerks thought it might be an overburdening expense.

CHAIRMAN COBB asked if the law was left as it had been. Ms. Graveley said yes.

Closing by Sponsor: REP. GALVIN-HALCRO urged DO PASS on HB 25.

EXECUTIVE ACTION HB 25

Motion/Vote: SEN. GEBHARDT moved that HB 25 DO PASS. Motion carried unanimously. SEN. SQUIRES will carry HB 25 to the floor.

EXECUTIVE SESSION SB 79, SB 182, SB 214

Discussion: CHAIRMAN COBB called for executive session.

SEN. SPRAGUE gave historical overview: A bill proposing 45:45 (45 days every year) was put through in 1997. It failed in the House. A bill proposing 60:30 (60-day sessions alternating with 30-day sessions) was put through last session. It got to the House and died in Committee as well. SEN. EMILY STONINGTON's bill

is a new approach (SB 214). The problem **SEN. SPRAGUE** sees is that all the bills proposed in this session go to the vote of the people. The one ballot issue that did, was carried by **SEN. ?? THOMAS** many years ago. It was 60:35 (60 days one year, 35 days the next). The potential five extra days every two years killed the bill at the voting booth. **SEN. SPRAGUE** told the Committee to make any annual session bill as plain, simple, and easily understood as possible, because, historically, it will be another ten years before another one gets out of the Legislature.

CHAIRMAN COBB closed EXECUTIVE SESSION.

HEARING ON HB 38

Sponsor: REPRESENTATIVE ALAN OLSON, HD 8

Proponents: None.

Opponents: None.

Informational: Dulcy Hubbert, COPP

Opening Statement by Sponsor: REP. ALAN OLSON, HD 8 said HB 38 is an act removing criminal penalties for lobbyists and lobbyist principals in noncompliance with timely filing of reports. It provides for a hearing when civil penalties are imposed, amends numerous sections of law, and provides an effective date. **REP. OLSON** said the reporting calendar was provided on the first page of the Lobbying Finance Report. In spite of notices sent, there is a rate of 10-12% late filers. Generally, they are late offenders. The Commissioner, in press releases and on the agency website, has listed the names of late filers. It has had a limited impact. Many late filers were brought into compliance when HB 38 was introduced. Other states impose late filing fees as an effective tool to offset costs incurred by the agency regulating late filers. Short of filing a lawsuit against a principal who's out of compliance, there is only one, ineffective, enforcement action available: Not authoring a lobbyist for future sessions until outstanding reports are filed. It is currently possible for a principal to remain out of compliance for the majority of the two-year authorization period, with no penalty applied. There is no incentive to be in compliance. Filing a lawsuit is an expensive alternative. The Commissioner's office is funded by the General Fund. All fees and penalties collected are deposited into the General Fund.

EXHIBIT(sts19a01) EXHIBIT(sts19a02)

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions from Committee Members and Responses: SEN. GEBHARDT asked how much the assessed fine would be. REP. OLSON referred to page 2, lines 1-2.

CHAIRMAN COBB summarized that the bill removed criminal penalties that are not currently being used, and proposes civil penalties, like most other states. REP. OLSON said yes.

Closing by Sponsor: REP. OLSON said the bill came from the House with excellent support. Taking cases like these to District Court cost the State a considerable amount of money. There have been concerns from lobbyists--mostly about continuing to get five-day notice prior to when reports are due. The clock stops on the fine as soon as the paperwork is filed and notice is given for the hearing.

HEARING ON HB 39

Sponsor: REPRESENTATIVE DAVE GALLIK, HD 52

Proponents: Roger A. Hagan, Enlisted & Officer Association of National Guard of Montana; Brigadier General Randy Mosely, Division of Military Affairs (DMA)

Opponents: None.

Opening Statement by Sponsor: REP. DAVE GALLIK, HD 52, introduced HB 39 which is the usual housekeeping bill requested by the Department of Military Affairs (DMA). It changes one digit--line 18, 2001 to 2003. This allows the Montana National Guard to adopt the most current federal military-related laws to be applicable to and govern the National Guard of the State of Montana, if they are consistent with the Montana Constitution.

Proponents' Testimony: Brigadier General Randy Mosely, Asst. Adjutant General, Montana Army National Guard, said the bill was introduced at the request of the DMA. It comes forward every session, allowing military-related federal laws and regulations, that have changed since the last session, to be adopted as State law. Soldiers and airmen are on a variety of statuses. For those that are not mobilized under a federal act of duty, it is important to have one uniform system of regulation.

Roger Hagan, representing the Officer and Enlisted Associations of the National Guard of Montana, rose in support of HB 39. It has been standard procedure for the past several sessions. He said members of the U.S. Army and U.S. Air Force, upon entering basic training, are schooled on the requirements

and responsibilities as members of the armed forces with respect to uniform code. It makes sense to continue to expect that same procedure to apply when they come home and revert back to National Guard status.

Opponents' Testimony: None.

Questions from Committee Members and Responses: SEN. WHEAT asked why the matter was revisited every session. Gen. Mosely referred to EXHIBIT (3). Paragraph 2, under BACKGROUND, indicates that the Montana Supreme Court has made a decision that holds that the legislature has the right to adopt existing federal laws and regulations as state law, but does not have the right to adopt changes that are to occur some time in the future.

SEN. SPRAGUE said, in summary, it was a State's rights issue. Once authority has been allocated to the federal government, it can't be taken back.

Closing by Sponsor: REP. GALLIK requested that SEN. WHEAT take the bill to the floor.

EXECUTIVE ACTION HB 39

Motion/Vote: CHAIRMAN COBB moved that HB 39 DO PASS. Motion carried unanimously. SEN. WHEAT will carry HB 39 to the floor.

HEARING ON HB 34

Sponsor: REPRESENTATIVE HAL JACOBSON, HD 54

Proponents: Peter Funk, Department of Administration

Opponents: None.

Opening Statement by Sponsor: REP. HAL JACOBSON, HD 54, said HB 34 is an extension of consumer protection. Montana has retail installment contracts that are generally sold to sales finance companies. Often, they are licensed in Montana; in fact, they all should be. There are a few who maintain that because they do not have a presence in Montana, they don't have to purchase a license. HB 34 is an effort to bring unyielding into the fold. It gets rid of a loophole. Licensing sales finance companies allows them to be regulated.

Proponents' Testimony: Peter Funk, Attorney, Department of Administration, Legal Council for the State Banking and Financial

Institutions Division, referred to language on lines 12-14. This is the only substantive change. All other changes relate to style and have been made by the Legislative Services Division. The words "in this State" create the problem. Several out-of-state sales finance companies have maintained they buy Montana contracts over the telephone, but never come to the State and don't maintain a physical presence here. There are 137 licensed sales finance companies. 107 of them are out-of-state entities. By far the majority of companies are in compliance. **Mr. Funk** provided one copy of the list to the Committee for review. HB 34 proposes that the trigger for licensing be the purchase of the retail installment contract entered into in Montana. The main impact is that, once licensed, entities are formally recognized as doing business in Montana. They register with the Secretary of State as a foreign corporation doing business in Montana, which gives consumers a way to contact these entities.

Opponents' Testimony: None.

Questions from Committee Members and Responses: **SEN. SPRAGUE** said these bills were often heard in the Business and Labor Committee. He asked if a company has satellite offices, would the main corporation file for the license, or would each satellite office have to apply. **Mr. Funk** said it would depend on the corporate structure. If there is not a subsidiary relationship, a double license is not required. **{Tape: 1; Side: B}** Credit-type decisions are made on a case-by-case basis in each Corporation depending on the authority given to individual credit managers.

Closing by Sponsor: **REP. JACOBSON** said HB 34 is not a panacea for all consumer problems, but it does address one small area where there is some confusion.

EXECUTIVE ACTION HB 34

Motion/Vote: **CHAIRMAN COBB** moved that **HB 34 DO PASS**. Motion carried unanimously. **SEN. SPRAGUE** will carry HB 34 to the floor.

HEARING ON HB 69

Sponsor: **REPRESENTATIVE FRANK SMITH, HD**

Proponents: **Janice Doggett**, Chief Legal Council, Secretary of State

Opponents: None.

Opening Statement by Sponsor: REP. SMITH said HB 69 corrects a few errors in the notary public processes and forms that were made in the last Legislative session. He reviewed the changes.

Proponents' Testimony: Janice Doggett, Chief Legal Council, Secretary of State's Office, said HB 69 cleaned up the statutes and provided clarity to the forms.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor: REP. SMITH closed.

EXECUTIVE ACTION HB 69

Motion/Vote: CHAIRMAN COBB moved that HB 69 DO PASS. Motion carried unanimously. SEN. LINDA NELSON will carry HB 69 to the floor.

HEARING ON HB 25

CHAIRMAN COBB reopened the hearing on HB 25.

Opponents: Mike Fellows, Chair, Montana Libertarian Party

Opening Statement by Sponsor:

Proponents' Testimony:

Opponents' Testimony: Mike Fellows, Chair, Montana Libertarian Party, and 2000 candidate for Secretary of State, said he saw no problems with current law. Other states allow candidates to appear on the ballot in more than one political party (i.e. Idaho, South Dakota). This issue is about freedom and the democratic process. The Election Center, the group sponsoring this type of legislation, says the success of the democratic process requires fair and open elections. Once the primary election is over, the candidate needs to decide what political party to embrace. He recommended tabling the bill.

Questions from Committee Members and Responses: SEN. SQUIRES asked Mr. Fellows if he had run in two parties. Mr. Fellows said he ran for Congress in 1998, but also ran in House District 67, as a Libertarian in both cases. SEN. SQUIRES asked about HD 60, REP. BOB LAKE's district, wondering if someone in the Libertarian

Party ran there. **Mr. Fellows** said **David A . Merrick** ran there both as a Republican and a Libertarian. He said it was good to have the process as open as possible, and to allow competition. **Mr. Fellows** recommending tabling the bill.

SEN. SQUIRES asked **Mr. Fellows** if he had run in two parties. He said he has only run as a Libertarian. He said, in the **Merrick** race, there may have been some animosity. The Republican endorsements for that race went to **Mr. Merrick**.

SEN. GEBHARDT asked if **Mr. Merrick** ran as both Libertarian and Republican, did he accumulate the votes. **Mr. Fellows** said he had to get the majority of the votes in one party or the other.

CHAIRMAN COBB asked the Committee if they wanted to reconsider the vote on HB 25. The consensus was no.

EXECUTIVE ACTION HB 38

Motion: **CHAIRMAN COBB** moved that **HB 38 DO PASS**.

Discussion: **SEN. WHEAT** confirmed that the bill only converted criminal prosecution to civil action. **CHAIRMAN COBB** said last session similar changes were made to some statutes.

SEN. WHEAT asked if under this bill the Commissioner had the power to commence a civil action. **SEN. SPRAGUE** said, at the present time, she had no money and no legal staff.

Motion/Vote: **CHAIRMAN COBB** called for the question that **HB 38 DO PASS**. Motion carried unanimously.

VETERANS' BILLS SUBCOMMITTEE: SB 4, SB 50

Motion/Vote: **SEN. WHEAT** moved to **AUTHORIZE DRAFT OF A COMMITTEE BILL TO SUPERCEDE SB 4 AND SB 50**. Motion carried unanimously.

RE-OPEN EXECUTIVE SESSION SB 79, SB 182, SB 214

Discussion: **SEN. SQUIRES** said she personally, as a working individual, needed the predictability of leaving her job four months at one time. She supports SB 79.

SEN. GEBHARDT prefers SB 214, with a one-word amendment on line 12, strike "shall" and replace with "may." That's leaves it up to the Legislature to decide. **CHAIRMAN COBB** said he asked **Greg Petesch** about that change. He said it make a substantial change and would need to be a different bill. **SEN. GEBHARDT** said, if it didn't affect the title, he thought it would be all

right. **CHAIRMAN COBB** asked if **Mr. Petesch** should come to the Committee for questions. The consensus was no. **SEN. SPRAGUE** said "may" would change the meaning back to what is now being done.

SEN. GEBHARDT said it might mean there was no obligation to ever meet. **CHAIRMAN COBB** said SB 214 says the Legislature can't meet for more than 90 days in a two-year period. It could meet in one year and be done. There is uncertainty in her bill. **SEN. SPRAGUE** read the bill differently. They agreed there was ambiguity.

SEN. WHEAT said he appreciated what **SENS. SQUIRES** and **SPRAGUE** have had to say: Because of issues that seem to be getting more complex, and the continuous special sessions which cost the State more money, annual sessions of 45 days are best. He said it was easy to understand. **SEN. WHEAT** favors SB 79.

CHAIRMAN COBB said it looked like there were 3 votes for SB 79, 0 for SB 182, and 2 for SB 214.

Motion/Vote: **SEN. SQUIRES** moved that **SB 79 DO PASS**. Motion carried 4-1 with **COBB** voting no.

Motion/Vote: **CHAIRMAN COBB** moved to **INDEFINITELY POSTPONE SB 182**. Motion carried unanimously.

Discussion: **SEN. WHEAT** asked if there was any reason two bills couldn't be passed out of Committee. The Committee discussed options. **SEN. SPRAGUE** said whoever gets a bill out of the Committee should tell the Committee of the Whole what has been proposed. That may change votes. It would be best if it didn't get partisan. All three sponsors said they supported each others bills.

Motion/Vote: **SEN. GEBHARDT** moved to **INDEFINITELY POSTPONE SB 214**. Motion carried 4-1 with **COBB** voting no.

Announcements: **CHAIRMAN COBB** said the Committee would hear five bills Friday.

ADJOURNMENT

Adjournment: 3:50 P.M.

SEN. JOHN COBB, Chairman

MONA SPAULDING, Secretary

JC/MS

EXHIBIT (sts19aad)