

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on January 29, 2003 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)
Sen. Fred Thomas (R)

Members Excused: Sen. Bob Keenan (R)

Members Absent: None.

Staff Present: Sherrie HandeL, Committee Secretary
Eddy McClure, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: SB 229, 1/17/2003; SB 228,
1/17/2003
Executive Action: SB 229

{Tape: 1; Side: A}

HEARING ON SB 229

Sponsor: SENATOR FRED THOMAS, SD 31, BITTERROOT VALLEY

Proponents: Jon Metropoulos, National Association of Independent Insurers; Jonathan Emmons, Montana International Insurance; Dennis Iverson, Montana Contractors Association; Jacqueline Lenmark, American Insurance Association.

Opponents: None

Opening Statement by Sponsor:

SEN. FRED THOMAS began by saying this legislation prohibits the allowance of directed surety, which is where an entity requires bonds, such as construction bonds, and then requires where that company has to purchase the bond. He offered written testimony, **EXHIBIT (bus19a01)**.

Proponents' Testimony:

Jon Metropoulos, National Association of Independent Insurers, strongly supported the bill. He stated it has a good, direct purpose.

Jonathan Emmons, Montana International Insurance, explained that suretyship is a situation where a surety stands behind its principal, a contractor or sub-contractor, and acts as their silent partner to the owner that they are qualified to do the work. Being qualified by the surety through the pre-qualification process means the contractor has the skills, experience and financial wherewithal to perform the project and perform it in a timely manner. The pre-qualification requires a relationship between the contractor, the surety bond producer and the surety company. This relationship is based on mutual confidence, trust and respect and a long-term surety relationship for that contractor to qualify for larger and larger projects. Directed surety is also known as owner-controlled or owner-directed surety. It drives a wedge between the relationships that have been developed over the years, and it requires that the contractor must obtain surety bonds from a specific owner (a directed surety company) or work with a specific producer of those bonds on a specific project. **Mr. Emmons** felt a law prohibiting directed surety is needed in Montana.

Dennis Iverson, Montana Contractors Association, stated they are the largest purchasers of those bonds and thinks choice is always appropriate.

Jacqueline Lenmark, American Insurance Association, rose in support of the bill as well as the competitive aspect referred to by **Mr. Metropoulos**. She suggested one technical amendment. References to "agent" in the bill should be "producer" so they would be consistent with the insurance code.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. VICKI COCCHIARELLA reconfirmed wording on **Ms. Lenmark's** proposed amendment. Every referral to "agent or broker" should be "insurance producer."

Closing by Sponsor:

SEN. THOMAS thanked the committee for their attention to the bill and said he looked forward to their taking action on it.

EXECUTIVE ACTION ON SB 229

SEN. COCCHIARELLA moved **DO PASS AS AMENDED** on SB 229, **EXHIBIT (bus19a02)** (SB022901.aem). The vote was unanimous.

HEARING ON SB 228

Sponsor: SENATOR MIKE TAYLOR, SD 37, LAKE COUNTY

Proponents: Barbara Broberg, Women Involved in Farm Economics (WIFE)

Opponents: Jon Metropoulos, Montana Society of Certified Public Accountants

Opening Statement by Sponsor:

SEN. MIKE TAYLOR brought SB 228 to the committee for consideration and stated it is an act providing that any entity that receives funds from the state, upon request, shall provide their most recent audited financial statement or other financial information, such a profit and loss statement, to the requesting agency. **SEN. TAYLOR** shared with the committee a listing of 10,139 non-profit organizations in the state of Montana. After taking out the religious members, there are 8,410 non-profit

organizations in the state. As he traveled the state over the last couple of years and while serving on the Finance and Claims Committee his first several years, and on the Audit Committee in the interim, **SEN. TAYLOR** found concerns that financials might be hard to obtain, if requested. State law, the Single Audit Act, provides some access to follow the money. Federal Act 133 can request financials; however, Montana's state law is rather fuzzy. He believed if the taxpayers of Montana provide money to a company, the state should have the opportunity to look at that money and see if it's being used properly.

Proponents' Testimony:

Barbara Broberg, Women Involved in Farm Economics (WIFE), related she has heard this issue come up in other committees in which she lobbied and stated her appreciation that **SEN. TAYLOR** was dealing with it.

Opponents' Testimony:

Jon Metropoulos, Montana Society of Certified Public Accountants, rose formally, but not strongly, in opposition to the bill. He expressed his concerns about the drafting of the it and asked for the opportunity to work with the sponsor to change some of the language due to the fact that it is somewhat over broad and reaches out to entities that provide services to the state and get funds for it, such as legal and accounting firms.

Questions from Committee Members and Responses:

SEN. MIKE SPRAGUE stated to **Mr. Metropoulos** that he thought non-profits were the intent of the bill. The entities of which **Mr. Metropoulos** spoke are not non-profit organizations. **Mr. Metropoulos** still could not represent to the committee that the Montana Society of CPA's would not have an issue with the bill.

SEN. SPRAGUE questioned **SEN. TAYLOR** about the word "non-profit" not being listed in the bill. **SEN. TAYLOR** replied he would take a look at that issue.

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SEN. VICKI COCCHIARELLA wanted to know from **SEN. TAYLOR** if there actually is a real problem. **SEN. TAYLOR** answered the he drafted the bill for accountability and predictability.

Closing by Sponsor:

SEN. TAYLOR closed by saying he would be happy to work with the concerns raised by **Mr. Metropoulos** and his group as well as those voiced by **SEN. SPRAGUE**. He said he just wants to make sure the money the state gives non-profits goes where it is supposed to go. He urged a DO PASS recommendation from the committee.

EXECUTIVE ACTION ON SB 201

Eddy McClure, Legislative Staffer, explained the amendments to the bill, **EXHIBIT (bus19a03)** (SB020101.aem). **SEN. SAM KITZENBERG** moved the amendment. **SEN. COCCHIARELLA** raised questions about the SB 201 and asked to postpone executive action until the facts can be checked with the Office of Public Instruction. After some discussion, it was decided to investigate further. **SEN. KITZENBERG** withdrew his motion to move the amendment.

ADJOURNMENT

Adjournment: 9:55 A.M.

SEN. DALE MAHLUM, Chairman

SHERRIE HANDEL, Secretary

DM/SH

EXHIBIT (bus19aad)