

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

CONFERENCE COMMITTEE ON AMENDMENTS TO HOUSE BILL 361

Call to Order: By **CHAIRMAN DAN HARRINGTON**, on April 12, 2005 at 10:30 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dan Harrington, (D) Chairman
Rep. Dave Gallik, (D) Vice Chairman
Sen. Kelly Gebhardt, (R)
Sen. Ken Toole, (D)
Rep. Rick Maedje, (R)
Rep. Peterson, (R)
Rep. Hamilton, (D)

Members Excused: None.

Members Absent: None.

Staff Present: Peg Holwick, Committee Secretary
Krista Lee Evans, Legislative Staff

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

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: HB 361

{Tape: 1; Side: A}

Opening Statement by Sponsor:

REP. DAVE GALLIK (D), HD 79, opened the meeting on **HB 361, Revise opencut mining act**. He explained the two sets of amendments by **SEN. ROUSH** and **SEN. GEBHARDT**. The first sets forth an annual fee in statute as opposed to rule making and the second makes the annual fee applicable to local government but provides for a requirement to pay a one time fee.

REP. GALLIK's concern with the amendments is that a cooperative balance has been achieved with many parties involved and this balance is threatened if there is not enough money for **Department of Environmental Quality, (DEQ)**, given the existing fee structure and exemption of the annual fee of local government. There is increasing pressures on gravel pits, contractors who want to get their bonding back quickly, and **DEQ** who understands the necessity of adding additional staff to ensure proper permitting and reclamation and that bonding is returned. **REP. GALLIK** did not want to lose the substantive part of the bill if it meant arguing over \$10,000 to \$20,000. It was his understanding that to preserve the balance mentioned earlier and keep the contractor's interested in the bill, it is important to ensure that contractors get their permits processed and have their bonding is returned quicker.

DEQ and the **Contractor's Association** have expressed willingness to comply with fees set forth in the code as opposed to rule making. **REP. GALLIK** wanted to keep **SEN. GEBHARDT's** amendments, leave fee structure in statute, and discuss how to ensure that enough money will be raised from all parties who use gravel pits. He wondered if there were some other ways of dealing with counties and local municipality gravel pits.

SEN. GEPHARDT expounded on his amendment. He talked with **Mr. Harrington** a few months ago who said they could make it work if they had 1.5 FTEs.

Given the current fee structure and existing pits, the Department would raise \$100,000 year. If counties were doing two to three pits each year, there would be an additional \$10,000-\$15,000. He went on to explain what he thought was justified for additional FTEs plus other equipment to perform field work and pay for office expenses.

SEN. GEBHARDT asked **Neil Harrington, Department of Environmental Quality (DEQ)**, to address the FTE issue. **SEN. GEPHARDT** asked if \$65,000 was needed for the first year and \$56,000 for the second

year, what percent of \$56,000 would it take to run the office, vehicles, etc.?

Mr. Harrington said the 2.5 FTEs was for two full-time field environmental specialists and the half-time was for an administrative assistant to manage the fee system, a fairly big job. He discussed the logistics of hiring those positions and where they would be located.

SEN. GEBHARDT suggested that with the money we have now, there would be more than 1.5 FTEs but less than 2.5 FTEs.

REP. GALLIK asked **Mr. Harrington** about protocol for mine permitting and site investigations, and discussion ensued about hiring additional environmental specialists, and the costs of funding an additional student intern. **REP. GALLIK** expressed concern about having only one person in the field instead of two. **Mr. Harrington** said to do it right, you would need two full-time environmental specialists.

SEN. GALLIK said a gravel pit is a gravel pit regardless of who is operating it, private sector or local government. DEQ needs to do the same thing to a pit regardless of whose it is. If a fee is attached, then the program is supposed to be self sufficient. If the counties and local municipalities are not paying, then will the private sector have to subsidize local government for permitting and investigations.

Neil Harrington said that is why 2.5 FTEs are needed, to provide the level of service needed. As the bill sits now, fees would come mostly from the private sector and some from county governments. There would be enough money based on current level of permit operations to hire 1.5 FTEs. The rest of the program, the existing 5.0 FTEs, is funded and has been for a long Revolving Indemnity Trust (RIT) and some from the general fund.

SEN. HARRINGTON asked **Neil Harrington** how many staff he really needed. **Neil Harrington** answered that any more resources would certainly be welcome. 2.5 FTEs was an initial proposal and the increase is justified based on the number of issues, and work demands. He said one person would be based in Kalispell, one in Helena, and two in Billings.

SEN. GEBHARDT asked if the program used to be part of **Department of Natural Resources and Conservation (DNRC)**. **Neil Harrington** explained it was part of in the old Department of State Lands since the 1970's and came to DEQ in 1995 along with other mining programs. He said the program has not grown but demands and workload have, hence the need for additional staff. **SEN.**

GEBHARDT suggested ways to expedite work hence get by with less staff.

REP. GALLIK said prior to this meeting, he talked with **Neil Harrington** and **Carrie Hegreberg, Montana Contractor's Association**, the two main players in the bill draft, to try and find middle ground; whether they could exempt counties from the annual fees (i.e., for five years), to allow local governments to do necessary closings and only keep open the pits they really need or want.

Carrie Hegreberg, at the invitation of **REP. GALLIK**, and without objection from the committee, expounded on the five year fee exemption. The purpose of the open cut act ensures that the sites would be managed appropriately and reclaimed. Private sector operators post a bond with **DEQ** and under the bill pay an annual fee. If counties do not have to post bond or pay a fee, then that would be a double standard. He explained that there is a great incentive and sense of accountability by private sector to get their bond back and be exempted from fee cost.

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REP. MAEDJE asked **Neil Harrington, DEQ** about the kind and caliber of student interns. Mr. Harrington described the students and said student interns are closely supervised, limited in their authority and scope of responsibility in the field.

Motion: **REP. GALLIK** moved to accept **AMENDMENT HB036103.ak1** to **HB 361**.

Discussion:

SEN. GEBHARDT explained that the money was going to the general fund instead of to the special revenue fund and to terminate the money, not the whole Act for the 2010 termination date.

Vote: Motion carried unanimously by voice vote.

Motion: **REP. GALLIK** moved to accept **AMENDMENT 650752sc.ssc** to **HB 361**.

Discussion: None.

Vote: Motion carried unanimously by voice vote.

Motion: **REP. GALLIK** started to move to accept an additional amendment to the bill that would provide that the local

governments not be subject to the fee structure that just adopted for a period of five years, to make the bill inapplicable to governments for five years.

Discussion: **SEN. TOOLE** suggested the possibility of a free conference committee, and suggested going into **SEN. GEBHARDT's** amendment (number 5, page 9, line 15), reference that fee system, and change the date to 2011.

Krista Lee Evans said although that would probably work, it is under the "application for permit" section of the statute. A reference could be made back to other original fee, change it to \$100, strike out "for an application" and change the date, but that would make the code confusing in the end.

SEN. HARRINGTON suggested cleaning up the amendment and coming back as a free conference committee.

Motion/Vote: **SEN. TOOLE** moved that the conference committee dissolve and meet again as a free conference committee with the same members. Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 11:45 A.M.

SEN. DAN HARRINGTON, Chairman

Peg Holwick, Secretary

DH/DH/ph

Additional Exhibits:

EXHIBIT ([ccs78hb0361aad0.PDF](#))