

MINUTES

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

FREE CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 319

Call to Order: By **CHAIRMAN JON ELLINGSON**, on April 19, 2005 at
12:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

SEN. JON ELLINGSON, SD 49, MISSOULA, MAJORITY LEADER
SEN. JOHN COBB, SD 9, AUGUSTA
SEN. MICHAEL WHEAT, SD 32, BOZEMAN
REP. TOM FACEY, HD 95, MISSOULA
REP. LARRY JENT, HD 64, BOZEMAN
REP. JOHN SINRUD, HD 67, BOZEMAN
REP. JANNA TAYLOR, HD 11, DAYTON

Members Excused: None.

Members Absent: None.

Staff Present: Peg Holwick, Committee Secretary
Valencia Lane, Legislative Staff

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

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: SB 319

{Tape: 1; Side: A}

CHAIRMAN ELLINGSON suggested discussing the amendments separately.

Motion: REP. SINRUD moved amendment SB031903.agp.

[EXHIBIT \(ccs84sb0319a01\)](#)

Discussion:

REP. SINRUD defined the amendment that puts statutory dollars into the bill (which, per **Mr. Greg Petesch, Code Commissioner**, requires suspending the rules on both sides). The amendment puts one million in for each biennium and \$150,000 for each biennium for administrative costs. There is also a clause wherein if a candidate starts out in good faith, agreeing to the \$150,000, and the money is not there, the candidate would not be held liable to follow this bill in order to run a decent campaign and avoid a lawsuit.

CHAIRMAN ELLINGSON commented he liked the amendment except for "where we are right now in the process" and went on to say that the rules have to be suspended to appropriate money. He said there were good margins on both sides but not a two thirds margin therefore a substantial minority is uncomfortable with the bill but the desire of the majority is to move forward on it. The Chairman said he appreciated the amendment and the generosity of the appropriation (though on the high side) and said the bill might not move forward with **REP. SINRUD's** amendment. Given the conundrum of not being able to know how much money will be required, **CHAIRMAN ELLINGSON** urged a rejection of the amendments.

REP. FACEY quipped endearingly that he had never known **REP. SINRUD** to be so generous and congratulated him on his generosity.

REP. SINRUD commented that if a candidate complies and the Governor is not amenable to put more money into the bill as the process goes forth, then the candidate has grounds to sue because the state has not fulfilled their obligation and duty. He said there's not enough money in the bill to do what it needs to do.

CHAIRMAN ELLINGSON said that, despite this thoughtful consideration it was for the same reason he urged a do pass of his (ELLINGSON's) "critical" amendment.

[EXHIBIT \(ccs84sb0319a02\)](#)

Substitute Motion: REP. SINRUD made a substitute motion to segregate amendment SB031903.agp.

Discussion:

REP. SINRUD explained the motion as amending item number six, striking "donations to the fund" and offering another amendment specifically to address that, while segregating the dollar amount from the current amendment and keep number six intact. He said donations to the fund could have individuals and corporations putting money into the fund which may bring a shadow over the process; as if the corporation were "purchasing a judge".

CHAIRMAN ELLINGSON reiterated that even though offered in the best of good faith and addressing an important issue with the bill, he urged the amendment be rejected.

Vote: Motion failed 2-5 by roll call vote, with REP TAYLOR AND REP. SINRUD voting aye. SEN. WHEAT voted no by Proxy.

Motion: REP. SINRUD moved amendment SB031903.agp subsection D, item number 6.

Discussion:

REP. FACEY asked where there would be corruption if a corporation made a donation, but everyone can "dive into the pool" to collect the money. REP. SINRUD said that "perception is everything" and with the perception of corruption, the process would be encumbered.

REP. TAYLOR said that private donations could complicate things.

CHAIRMAN ELLINGSON again urged a rejection of the amendment and said he did not know George Sorrous (sp.) in order to make the point that whomever puts money into the public fund, he can't imagine there being a taint to the money that flows from that fund to the publicly funded candidates. He expounded by saying that because anyone can qualify, despite the perception of whether they are on the right or left, it would be difficult for a left wing organization to put money into the fund and then have it be used, conceivably, by a candidate who is perceived to be a right wing candidate. He received a letter from former REP. YOUNKIN of enthusiastic support for the concept and they both agree on it.

CHAIRMAN ELLINGSON stressed the importance of the donation category as giving this fund the opportunity to solicit from the

good government voters like the State Bar, League of Women Voters and other non partisan organizations.

REP. TAYLOR said Ms. Younkin has "re-reviewed" the bill and said it should be funded in HB2 or not funded at all.

REP. JENT asked if the chair could qualify exactly what they're voting on. **Jon Moe, Legislative Staffer**, said item number six on page 2, to strike subsection D, "donations to the fund". He clarified for the record that it strikes line 10 from page 12 of the bill.

Vote: Motion failed 2-5 by roll call vote, with REP TAYLOR AND REP. SINRUD voting aye. SEN. WHEAT voted no by Proxy.

Motion: CHAIRMAN ELLINGSON moved amendment SB031903.av1.

Discussion:

CHAIRMAN ELLINGSON asked to speak on the motion and said that good work has been done in putting forward this concept of publically financed sources in Montana. It has proceeded further than ever and both sides recognize how important it is to maintain independence and impartiality of jurists. That cannot be done if supreme court justices are running for office with a handout to the various interest groups that may then appear in front of them. The way the bill appears now is different than how it left the Senate and it provides that there must be \$300,000 from HB 2. HB 2 is "a train that's leaving the station" and getting money from it may be too late.

CHAIRMAN ELLINGSON gave three reasons for leaving it in statute:

- 1) The next Governor's budget can red flag it to signal the Governor that it is a concept with substantial support of House and Senate. (Difficult to do if not provided for by statute).
- 2) The Commissioner on Political Practices ought to be given the opportunity to develop rules for the implementation assuming next budget provides for it.
- 3) It gives various interest groups, including the State Bar, a challenge "to put their money where their mouth is".

CHAIRMAN ELLINGSON finalized by saying that it provides the contingency for \$300,000 and if that's not provided for in HB 2 then the effective date is delayed until 10/01/2007 so it has to be funded next election cycle or removed from the books.

There are important psychological and policy reasons for putting it on the books; to convince Governor and all other interested groups to make this work and to put some seed money into the

fund. The amendment provides for a delayed effective date with the exception of sections 17, 18, 22, and 26-28.

SEN. COBB asked whether there was an issue about rule making. Question was asked of **Gordon Higgins, Commission of Political Practices** said it was unusual to give rule making authority prior to implementation of the bill.

CHAIRMAN ELLINGSON asked if it would be useful to have statutory language? Mr. Higgins indicated it would.

REP. FACEY asked how much rule making would cost. **Mr. Higgins** replied, somewhere around \$10,000. **REP. FACEY** then asked if the cost would still be incurred if it were an informal process. **Mr. Higgins** replied that getting it done in a reasonable manner is important since the rule making and the informal process could become something that takes an inordinate amount of time.

{Tape: 1; Side: B}

REP. SINRUD expounded on the cost of the process and expressed concern about how creation of a statute might encumber a new legislature that should have the opportunity to review and prioritize it. He thinks there is still opportunity at this point to revisit HB2.

CHAIRMAN ELLINGSON said he understood **Mr. Higgins** as saying that if they put it in, it will cost something and if not it will be harder to get up to speed. **Mr. Higgins** said the uncertainty makes him nervous and the implications of initiating the rule making process should be seriously considered.

SEN. COBB said they should just leave it alone. He didn't think they were going to do anything until next session meets since there might not be any money.

REP. SINRUD said that if the amendment goes on the bill, it won't be effective till 10/07 so Political Practices does not have to do anything. If they're asked to comply, they can say it's not current law and don't need to comply.

CHAIRMAN ELLINGSON said the effective date gives them a head's up.

Vote: Motion passed 5-2 by roll call vote, with **REP TAYLOR AND REP. SINRUD** voting no. **SEN. WHEAT** voted aye by Proxy. Amendment passed out of committee 3-0 on the Senate side and with no recommendation on the House side.

ADJOURNMENT

Adjournment: 12:43 P.M.

SEN. JON ELLINGSON, Chairman

Peg Holwick, Secretary

CH/JE/ph

Additional Exhibits:

EXHIBIT ([ccs84sb0319aad0.PDF](#))