

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN CAROLYN SQUIRES**, on April 19, 2005 at 8:30 A.M., in Room 102 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Carolyn Squires, Chairman (D)  
Sen. Mike Cooney (D)  
Sen. Jeff Essmann (R)  
Sen. Steven Gallus (D)  
Sen. Rick Laible (R)  
Sen. Dave Lewis (R)  
Sen. Jim Shockley (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.2

**Members Absent:** Sen. Joe Balyeat (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Jon Ellingson (D)

**Staff Present:** Dave Bohyer, Legislative Branch  
Claudia Johnson, Committee Secretary

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

**Committee Business Summary:**

Hearing & Date Posted: HJ 45, 4/18/2005; HB 805,  
4/18/2005; HB 806, 4/18/2005  
Executive Action: HJ 45; HB 805; HB 806

**HEARING ON HJ 45**

**Opening Statement by Sponsor:**

**REP. DENNIS HIMMELBERGER (R), HD 47**, opened the hearing on **HJ 45**, Study funding for wireless enhanced 911.

He informed the Committee this resolution came from a bill heard a couple of weeks ago in the Federal Relations, Energy, and Communications Committee in the house. The resolution will expand the services of 911, and also for wireless. He stated that the Committee felt it was best to get all interested parties together for a study, hence, the development of the resolution.

**Proponents' Testimony:**

**Jeff Brandt, Information Officer for the State of Montana, and the Administrator for the Information Technology Services Division, Department of Administration**, informed the Committee that the statewide 911 services are administered in his organization. He said they opposed this bill in the house committee. There wasn't sufficient time to address several issues in the development for 911 stakeholders. This resolution will give them, and the 911 Advisory Counsel, to work the out the issues. He offered his assistance and availability to the legislative staff to help make the study a success.

**Bonnie Lorang, representing Montana Independent Telephone System (MITS)**, informed the Committee that MITS represents rural telephone companies across Montana, PSC regulated companies, wireline and wireless companies, and stated that all these members support the study in HJ 45. She said they are looking forward to working with the interim committee to work out a cost-based recovery system.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. LEWIS** wanted to know where the enhanced system is available in Montana. **Mr. Brandt** said it is sporadic. He said that Great Falls and Bozeman are using the system. He said that Verizon, a cell phone service, has attempted to do some work this area. He said there is a misconception with cell phone users who think they can dial 911 and have instant service, and that isn't so.

**SEN. LAIBLE** said he thought that 911 was already statewide. He asked **Jeff Brandt** to address the bill he discussed in his testimony. **Mr. Brandt** said that 911 has several different levels of capabilities. He said the only toll wide-statewide system that is currently available is basic 911. He said the second step is the enhanced 911. He said this is the one that is needed. It will record the number of the person calling in, and they can call that person back, and will also have that person's address. He said they are on the cusp of signing a contract to deploy the statewide 911 system. He made sure the Committee knew he was discussing wireless 911. There are over 50 percent of 911 calls coming in on a cell phone. It is critical that Montana have enhanced 911. He said this bill will provide the means for all of the wireless companies, such as: Cell One, to have a cost recovery for the infrastructure they will have to put in place. He said this is the revolution from basic, to wireline enhanced, to wireless enhanced. This resolution will allow the study for the recovery cost for the enhanced wireless services.

**Jeff Brandt** addressed the bill that didn't make it through the house committee. He didn't want to address everything on his list about this bill, but felt it created a situation of "haves vs. have nots." The large metropolitan areas, who have large subscriber base, would end up with wireless enhanced 911, but in the rural areas that everyone travels through there would be less of a chance of receiving any funding to subscribe to this. He said they had a lot of issues to work out with the large 911 carriers vs. small 911 carriers. He stated, that by statute, his office has a 911 advisory council, and he said the council didn't have time to study the bill that died in Committee.

**SEN. SHOCKLEY** commented that it looks like all that is needed is caller I.D. **Mr. Brandt** responded that in the case of wireless, they want a fix on the location the call is made from. He said, "we want your latitude and longitude, we want to know where that call is coming from to send the appropriate emergency services provided by that location". He said right now, all they know is the location of the tower. He said "we want to pinpoint the location".

**SEN. LAIBLE** wanted to know what is meant about recovering cost, and do they have any way of knowing what is the cost. **Mr. Brandt** said that was the reason for HJ 45.

**Closing by Sponsor: REP. HIMMELBERGER** closed.

HEARING ON HB 805

*{Tape: 1; Side: A; Approx. Time Counter: 11 - 26}*

Opening Statement by Sponsor:

**REP. PAUL CLARK (D), HD 13**, opened the hearing on **HB 805**, Revise requirements for statutory initiative, and on **HB 806**, Revise requirements for initiative for constitutional amendment.

He discussed problems in the Supreme Court and a decision made by Judge Meloy in the 9th Circuit Court. He distributed exhibit 1, which is the case of MontPIRG v. Brown (CI-37, and CI 38).

EXHIBIT(sts84a01)

**REP. CLARK** distributed exhibit 2, which is a letter addressed to **REP. MATTHEWS**. It is a legal decision from Judge Meloy on MontPIRG v. Johnson on action he didn't enforce on the county distribution of signature requirements.

EXHIBIT(sts84a02)

*{Tape: 1; Side: B}*

**REP. CLARK** distributed exhibit 3, a opinion by **Mike McGrath, Attorney General, Department of Justice**, on initiative and referendum. He read and discussed the following:

"C-37 is a amendment by initiative that allows people to propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by a least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of at least one-half of the counties."

"C-38 is the initiative petitions must contain the full text of the proposed measure, shall be signed by a least five percent of the qualified electors in each of at least one-half of the counties and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state a least three months prior to the election at which the measure will be voted upon."

EXHIBIT(sts84a03)

Proponents' Testimony: None.

**Opponents' Testimony:****John Bloomquest representing the Montana Stockgrowers**

**Association**, informed the Committee that the people have discussed the passage of CI 37 and CI 38. He urged the Committee not to support HB 805 and HB 806.

**Daryl Holzer, Montana AFL-CIO**, addressed HB 806. He said urged the Committee not to support the bill.

**Informational Testimony:**

*{Tape: 1; Side: B; Approx. Time Counter: 10.4 - 12.6}*

**Mark Simonich, Chief Deputy for the Secretary of State's Office**, said the Attorney General has issued an opinion that was requested by the speaker of the house. He said, given that, the opinion that has been given, does carry the force of law. He said the Constitution that is in place, was voted on prior to those Initiatives being voted in. He said the bill is not necessary, by changing the basic constitution that was voted on, and had not been adopted by the voters, it would have left the Secretary of State in a more precarious position than they are currently in. He added that the people need to know how to read the constitution.

**Chris Tweeten, Chief Civil Counsel, Attorney General's Office (AG)**, said that the AG doesn't oppose the concept of the idea that the constitution reflects those provisions regarding distribution by legislative district that was in the law prior at the time of CI-37, and CI 38.

*{Tape: 1; Side: B; Approx. Time Counter: 13.8 - 25}*

**Mr. Tweeten** gave an overview of the litigation on the MontPRIG cases. He discussed the validity of the constitution if a amendment is placed on it. It will declare the constitution invalid, or does it goes back to its original wording.

*{Tape: 1; Side: B; Approx. Time Counter: 16 - 22}*

**Mr. Tweeten** discussed the Code Commissioner, Greg Petesch, and the code books. He said the books are stamped and certified, and the Code Commissioner doesn't have authority to go above that. He has asked that the Code Commissioner re-print the constitution.

*{Tape: 1; Side: B; Approx. Time Counter: 22 - 24}*

**Mr. Tweeten** addressed term limits, and informed the Committee that the Montana law was never invalidated.

*{Tape: 2; Side: A}*

**Questions from Committee Members and Responses:**

The Committee members asked questions of **Chris Tweeten, John Bloomquest,** and **REP. CLARK.** They discussed HB 805 and HB 806 coming into Committee late. **Mr. Tweeten** replied, the decision just came in from Judge Meloy. They also discussed CI-37, and CI-38, raising the "bar", and going back to original language.

**Closing by Sponsor:** **REP. CLARK** closed.

**EXECUTIVE ACTION ON HJ 45**

*{Tape: 2; Side: A; Approx. Time Counter: 12.5 - 14.5}*

**Motion/Vote:** **SEN. GALLUS** moved that HJ 45 BE CONCURRED IN. Motion carried 6-2 with **SEN. LAIBLE** and **SEN. LEWIS** voting no.

**EXECUTIVE ACTION ON HB 805**

*{Tape: 2; Side: A; Approx. Time Counter: 14.5 - 20}*

**Motion:** **SEN. COONEY** moved that HB 805 BE CONCURRED IN.

**Discussion:** **SEN. LAIBLE** wanted a conceptual amendment to change the legislative districts from a two-thirds vote to a one-fifth vote. **SEN. COONEY** informed him it is too late to propose a amendment. **CHAIRWOMAN SQUIRES** responded to the bill, and talked about the people who participated. She said there should be more input from the people before placing it in a initiative.

**SEN. LAIBLE** withdrew his motion.

**SEN. COONEY** commended **REP. CLARK** on the two bills he presented, but stated that there isn't enough time left to work on them.

**Motion/Vote:** **SEN. COONEY** moved that HB 805 BE TABLED. Motion carried 6-2 by voice vote with **SEN. ESSMANN** and **SEN. SHOCKLEY** voting no.

EXECUTIVE ACTION ON HB 806

*{Tape: 2; Side: A; Approx. Time Counter: 20 - 23}*

Motion: SEN. COONEY moved that HB 806 BE CONCURRED IN.

Substitute Motion/Vote: SEN. GALLUS made a substitute motion that HB 806 BE TABLED. Substitute motion carried 6-2 by voice vote with SEN. ESSMANN and SEN. SHOCKLEY voting no.

**ADJOURNMENT**

Adjournment: 11:30 A.M.

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SEN. CAROLYN SQUIRES, Chairman

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CLAUDIA JOHNSON, Secretary

CS/cj

Additional Exhibits:

**EXHIBIT ([sts84aad0.PDF](#))**