

HJ 31 STUDY: ATTEMPTS TO SHIFT THE ALLOCATION OF THE BOARD OF CRIME CONTROL PRIOR TO HB 650 AND SB 95 (2017)

BACKGROUND

In the 2017 session, the Legislature changed the structure and staffing of the Board of Crime Control (MBCC). Prior to 2017, the board was allocated to the Department of Justice (DOJ) for administrative purposes only. Currently, the board is attached to the Department of Corrections (DOC), which maintains a bureau to provide staff support to the MBCC.

As part of its HJ 31 study of the MBCC, the Law and Justice Interim Committee (LJIC) requested that staff provide information on prior legislative attempts to revise the MBCC's administrative structure.

To identify prior bills, staff reviewed lists of bill drafts and searched bill draft titles from 2017 to 1999 for the terms "crime" or "implement". [A summary of the legislative history for HB 650 and SB 95 from the 2017 session](#) is available on the LJIC's webpage for the HJ 31 study.

2017 LEGISLATION

Although the combined effect of [House Bill No. 650 and Senate Bill No. 95 in 2017](#) was to require changes to the MBCC's administrative structure, there was also at least one additional draft bill, LC 910, that was requested on this topic during the 2017 session.

Rep. Ryan Lynch (D-Butte) requested [LC 910](#). In addition to transferring the MBCC from the Department of Justice (DOJ) to the Department of Corrections (DOC), the draft reduced the size of the board from 18 to 15. LC 910 was not introduced to the 2017 Legislature.

2011 LEGISLATION

SUMMARY OF HOUSE BILL NO. 230 (HB 230)

In 2011, Rep. Steve Gibson (R-East Helena) introduced HB 230. After making it through the House and being amended 3 times, including to allow the board to provide for its own staff, HB 230 died on 3rd Reading in the Senate.

Because debate is not allowed on 3rd Reading, it is impossible to determine why HB 230 ultimately died. However, the bill did have two hearings and two floor debates that can speak to the motivations of the bill's sponsor, proponents, and opponents.

HOUSE APPROPRIATIONS HEARING AND EXECUTIVE ACTION

As introduced, HB 230 allocated the MBCC to the DOC rather than DOJ for administrative purposes only. The bill removed the board's ability to hire its own personnel and reduced the size of the board from 18 members to 15 members. In addition, the introduced version included a transition section outlining the legislature's intent that the DOC assume the duties of the executive director and a bureau chief so that those positions were eliminated.

After being introduced on January 11, 2011, HB 230 was referred to House Appropriations where it received [a hearing on January 25](#). The sponsor's opening statement mentioned that the bill did not change the board's functions. Instead it was an "efficiency bill that saves the taxpayers money while still maintaining the independence of the board". The sponsor also stressed that HB 230 did not change the board's authority to make decisions on grant funding.

The two proponents of the bill included Rep. Ken Peterson (R-Billings), who noted his time as presiding officer of the Board of Pardons and Parole (BOPP) and questioned why the MBCC was attached to DOJ. Based on his experience with the BOPP, Rep. Peterson stressed that HB 230 would allow the MBCC to operate more independently and "less subject to political pressure". He stated HB 230 would create more efficient communication between the MBCC and the DOC and that the MBCC would operate more efficiently with fewer members. The second proponent was the associate director for the Montana Association of Counties who supported the bill because it could have potential savings that might free up additional grant money for the counties.

The 11 opponents to HB 230 included the MBCC board presiding officer, several board members, the director of the DOC, and various grantees or stakeholders such as:

- the Sheriffs' and Peace Officers' Association;
- members of various local drug task forces;
- the County Attorneys' Association;
- the Montana Police Protective Association and the Chiefs of Police;
- advocates for victim rights and services; and
- a local behavioral health treatment provider.

Mike Anderson, then the MBCC presiding officer, noted the board had voted "overwhelmingly" to oppose HB 230 and pointed out that the MBCC had been attached to the DOJ since its inception in the late 1960s. His arguments against the bill were similar to those of many other opponents including that the transfer:

Attempts to Shift the Allocation of the MBCC Prior to 2017

- might jeopardize federal grant funding that is passed along to local governments in order to save a relatively small amount of money (approximately \$200,000); and
- would "strip the board of its independence and non-political status [and would] eliminate the board's budgeting and hiring authority."

Anderson and other opponents stressed that their opposition wasn't related to the DOC or its director, but that they were concerned about the lack of board authority over staff.

Questions from committee members centered around determining the how the MBCC operated at that time, including the physical location of its office and staff, how the board might retain its authority without control over its staff, and the source of concerns that a switch in administrative structure might place grant funds in peril. The bill sponsor committed to prepare an amendment for executive action that would leave an executive director in place to manage staff and, beyond that issue, he felt there was "nothing in this bill that changes the function of the board." He stressed his intent was to "find savings" in a tough budget year. When questioned about whether the federal government specifically required grant funding to go through the DOJ, the board's presiding officer, Mike Anderson, agreed that there was no such requirement. But he stressed that the independent operation of the board under DOJ attachment was "the rub here" because the bill would transfer the supervision of board's employees to the DOC and away from the MBCC.

In closing, the sponsor stressed the need for increased efficiencies and that he didn't feel federal funds would be lost.

On February 11, the House Appropriations Committee took executive action on HB 230. The committee amended the bill to put back in language allowing the MBCC to hire its own personnel and removing the language that stated the intent of the Legislature was to eliminate the executive director and a bureau chief position. The bill sponsor reiterated that the bill's purpose was to eliminate some "bureaucratic costs." The committee then approved the amended bill by a 20-1 vote.

HOUSE DEBATE ON 2ND READING

One week later, the Committee of the Whole took up HB 230 on 2nd reading. Rep. Gibson offered an amendment to add back language about the legislative intent to have the MBCC operate with a reduced level of funding. The amendment provided that the Legislature intended the MBCC to operate with a level of funding that was reduced by the amount of salary and benefits that were paid to the executive director and a bureau chief. It also expressed intent that the bureau chief position be eliminated. The sponsor stressed that the bill would not impact local grants. Rather, the bill would transfer the administrative attachment of the MBCC to the DOC. The amended HB 230 passed 2nd Reading by a 95-5 vote.

SENATE FINANCE AND CLAIMS HEARING AND EXECUTIVE ACTION

In his opening during HB 230's hearing in the Senate Finance and Claims Committee, Rep. Gibson stressed that there "was only one change" from existing law in the bill, which was the change in administrative allocation to the DOC rather than the DOJ. He referenced an amendment that was being drafted to ensure the DOC didn't have budget authority over the MBCC. He mentioned the agency would operate as it did under DOJ and that there would be savings to the state's budget.

Two proponents spoke in favor of HB 230. Rep. Hollenbaugh (D-Helena), who served as a member of the House Appropriations Committee with Rep. Gibson, noted that the bill was "an effort to move to more efficient government services." He alluded to personnel problems among the MBCC staff prior to the start of the 2011 session. He said the main reason for his support of HB 230 was that felt the MBCC members "weren't able to adequately supervise the day-to-day operations of the staff" in a prior office location in the north Helena area. Now that the MBCC staff were located in the Corrections building, it made sense to him to transfer the administrative allocation as well. The second proponent encouraged the committee to pass the bill because of the savings to the state.

Opponents to HB 230 were similar to those speaking against the bill in House Appropriations and their concerns were similar, including jeopardizing federal grant funding to local communities.

One opponent who spoke in detail was MBCC member and Valley County Attorney Nick Murnion. Murnion said the bill had changed often through amendments, which made him "paranoid" about the real intent of it. He said the DOC having budgetary authority over the board would cause problems with the grants. He addressed concerns about personnel issues with the MBCC staff by saying the board had performed an investigation and "followed the state process as close as we could just like any other agency" to resolve that issue. His other concern was that the bill would eliminate the executive director position. He stressed the need to have a manager to implement the ideas on crime control identified by the board and highlighted the competent work done for by the board by the current staff.

The chief of staff at the DOJ appeared as an information witness.

The committee then engaged in a robust question and answer session with the witnesses. The questions revolved around two main themes: whether the switch would put grant funding at risk and the most efficient and effective method to provide for and manage staff for the board. The committee requested from its staff a legal review to help the committee determine if the switch would put grant funding at risk. During his closing, the bill sponsor reiterated that he didn't want to do anything to jeopardize the grant funding for local governments and would encourage the committee to kill the bill if he believed it would do that.

During executive action on HB 230 in the Senate Finance and Claims Committee, legislative staff discussed their attempts to understand and resolve the concerns related to the possible loss of grant funds. In addition to a letter to

the federal officials, the staff participated in a conference call and distributed a draft amendment to the officials to see if their concerns could be alleviated with the amendment. The proposed amendment ensured that the staff supervision and budgetary functions stayed with the MBCC, which the staff felt would address the concerns of the federal officials.

The committee adopted the amendment and concurred with the bill as amended on a 13-6 vote.

SENATE DEBATE ON 2ND READING

Senator Ryan Zinke (R-Whitefish) carried HB 230 during [Senate debate on 2nd Reading](#). His opening speech discussed the controversy surrounding the potential loss of grant funds. Senator Dave Wanzon (D-Missoula) relayed his concerns about other aspects of the bill that were discussed in committee, including the oversight of the board staff and whether the DOJ or the DOC should be the agency to which the MBCC was allocated. The Senate Committee of the Whole voted 26-23 to concur with the bill on 2nd Reading.

The next day, HB 230 failed on 3rd reading by a 21-29 vote. Because there is no debate on 3rd reading, the exact reasons for the bill's demise are unclear. However, given the extended debates and questions during two hearings on the bill, it is likely the reasons HB 230 failed had to do with concerns over the stability of grant funding to local governments and how best to oversee the board's staff.

LINKS TO RESOURCES

- LC 910 (2017)
 - Summary of actions:
[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20171&P_BLTP_BILL_TYP_CD=&P_BILL_NO=&P_BILL_DFT_NO=910&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20171&P_BLTP_BILL_TYP_CD=&P_BILL_NO=&P_BILL_DFT_NO=910&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)
 - Bill text: <https://leg.mt.gov/bills/2017/lhtml/LC0910.htm>
- House Bill No. 230 (2011)
 - Summary of actions:
[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20111&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=230&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20111&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=230&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)
 - Bill text as introduced (1st Reading): https://leg.mt.gov/bills/2011/HB0299//HB0230_1.pdf
 - Bill text after House Appropriations amendments (2nd Reading):
https://leg.mt.gov/bills/2011/HB0299//HB0230_2.pdf
 - Bill text after House Floor amendments (3rd Reading):
https://leg.mt.gov/bills/2011/HB0299//HB0230_3.pdf
 - Bill text after Senate Finance and Claims amendments (2nd Reading/2nd House and 3rd Reading):
https://leg.mt.gov/bills/2011/HB0299//HB0230_4.pdf