

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN TOM BECK**, on January 30, 1997, at 1:00 p.m., in Room 405.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dorothy Eck (D)
Sen. Wm. E. "Bill" Glaser (R)
Sen. Don Hargrove (R)
Sen. John "J.D." Lynch (D)
Sen. Walter L. McNutt (R)
Sen. Fred R. Van Valkenburg (D)

Members Excused: Sen. Sharon Estrada (R)

Members Absent: None

Staff Present: Martha Colhoun, Legislative Services Division
Jodi Jones, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 191, SB 180, SB 179
Posted on: 1/24/97
Executive Action: SB 179 Tabled
SB 191 Do pass
SB 180 Do pass
SB 51 Do pass as amended
SB 164 Do pass as amended
SB 140 Tabled
SB 66 Do pass as amended
SB 139 Tabled

HEARING ON SB 191

Sponsor: SENATOR DON HARGROVE, SD 16, Belgrade

Proponents:

Michael Richards, Big Sky Resort Tax Committee
Jane Jelinski, Gallatin Co. Commissioner
Bill Ogle, Big Sky Water and Sewer District 363

Ted Coffman, Madison Co. Commissioner
Dee Rothschiller, Big Sky Owners Assoc.
Steve Barrett, Big Sky Owners Assoc.
Bob Stober, Gallatin Co. Fire District
Mona Jamison, Madison and Gallatin Co. Lobbyist

Opponents: None

Opening Statement by Sponsor:

SENATOR DON HARGROVE, SD 16, Belgrade, presented SB 191. This bill is a creation of a resort tax district. Before 1993, the resort tax statute authorized incorporated municipalities to form a resort community if certain criteria was met. West Yellowstone is the best example of this type of resort. In the 1993 Session, the legislature expanded the statute to allow an unincorporated area to form a resort area based on similar criteria. Big Sky and St. Regis resorts are such examples. Before a resort area can be formed the residents within the resort area vote on its creation of a resort tax. The ballot must contain the amount of the resort tax and its duration. The governing body for the resort community is the municipal government and for a resort area, the governing body is the county commission. This bill authorizes a resort area that is already created to form a resort district. The district will have an elected board of directors and must have a majority vote before being formed and will be governed like a water and sewer district. The residents of a resort area have the option to form a resort district, and local control will be exercised over the resort tax. The bill does not expand or limit the existing resort tax statute, it proposes a district form of government over the resort tax revenue collected within the region.

Proponents' Testimony:

Michael Richards, Big Sky Resort Tax Committee, spoke in favor of SB 191. He said their board is appointed by two sets of county commissioners from Gallatin and Madison Co. and seven members sit on this board. Every two years at the local level, they have hearings to find out what the priorities of spending are for the resort area. Applications are sent in by people looking for funds from the community. Once the recommendations are done in the county, the commissioners have a joint meeting and public hearings to make a decision. This is not a real efficient process and sometimes there are two or three public hearings before a decision is reached. The local advisory board is made up of people who live and work in the area and are appointed. This bill would change it to a district where they have an elected process. It will get the public more involved and in a democratic form of reaching a decision. He passed out charts concerning resort tax. (EXHIBIT 1) There will be no change in the way the resort tax is collected and the final approval will come locally from the people.

Jane Jelinski, Gallatin Co. Commissioner, spoke in favor of SB 191. She handed out testimony. (EXHIBIT 2)

Bill Ogle, Big Sky Water and Sewer District 363, supported SB 191. He said sewer related expenditures have exceeded \$1.2 Million over the past four years at Big Sky. In making a pitch for these funds, they have had to deal with local board members, resort tax members, and two sets of county commissioners, which takes quite a bit of time. He said often times their jobs require quick action and a request for money can be difficult because of lengthy approval time. He feels the same oversight would happen under this bill but it would streamline the process.

Ted Coffman, Madison Co. Commissioner, spoke in favor of SB 191. (EXHIBIT 3 & 4)

{Tape: 1; Side: A; Approx. Time Count: 1:13 p.m.; Comments: .}

Dee Rothschiller, Big Sky Owners Assoc., said she was here in 1987 and 1989 in an unsuccessful attempt to pass legislation that would provide for the creation of a resort tax for the unincorporated community of Big Sky. Finally, SB 128 was passed as a resort tax for an unincorporated resort community. It is wonderful to be part of a community that collects and shares over \$1 Million annually with the various public entities. The community would now like to elect their own resort tax directors and also have local control over collections, allocations, and appropriations of resort tax revenue. This would allow applicants to receive their approved payment in a timely matter. Currently, it is a very lengthy process taking up to two months before payment will occur. The resort tax dollars could go back into our community at a much faster rate.

Steve Barrett, Big Sky Owners Assoc., said this will create less government and will let the local people have a say in what goes on in their community.

Bob Stober, Gallatin Co. Fire District, said this would streamline the whole process and create less paperwork and give the people of Big Sky a feeling this is for them.

Mona Jamison, Madison and Gallatin Co. Lobbyist, talked about the language in the bill. In section 21 and 22 on page 6 and 7, this section is being amended. She said if the resort area decides to become a district then the governing body should be elected. Under this bill, the tax is not going to be changed, the population stays the same, and none of the criteria for the resort tax is removed. She said earlier they wanted the resort area tax revenue to be governed within the resort, but the question was how to accomplish this? The resort area wanted to ask the Gallatin and Madison Co. Commissioners for a resolution or ordinance that would delegate this authority. However, legally they could not do this under the existing statutes. The people residing in the resort area have to vote on the creation of the

district, the board of directors, and everything that goes with self-government. This bill allows for local control, and lets the community respond more quickly to the needs of the area. If the petition is voted down, the county commissioners continue to govern the administration of the resort area.

{Tape: 1; Side: A; Approx. Time Count: 1:23 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR FRED VAN VALKENBURG asked if this was the long way of going about forming a city. **SENATOR HARGROVE** said it would be if this was what the bill was doing.

SENATOR DOROTHY ECK asked what would a resort area do with the money they collected and has housing ever been provided for any of the employees? **Mr. Richards** said housing has been provided with the resort tax that has been collected. Currently, they have a proposal for a housing project that is 36 units and the contractor is asking for relief of expenses on sewer hookups.

CHAIRMAN TOM BECK asked why not incorporate this area rather than go through this process? **Mona Jamison** said they do not meet the population requirements under the incorporation statute. If they had, then it would give them governance over the resort tax revenue as well as everything else in the resort area. In the Big Sky area many of the people that come in own a second home whereas the electors reside their permanently.

CHAIRMAN BECK asked what the qualifications where? **Mona Jamison** said she could not recall that information immediately.

CHAIRMAN BECK asked if there was any kind of audit trail and will the County Commissioners still follow the expenditures of the board of directors. **Mona Jamison** said the County Commissioners would still have the same authority as they do over water and sewer districts.

SENATOR ECK asked if by the next session would they be back with an amendment of an ordinance establishing a municipality and will they be tightened up laws based on density. **Mona Jamison** said in the future they look to becoming a municipality.

CHAIRMAN BECK said it looks much simpler to incorporate the area, especially when there is that kind of tax revenue coming in.

SENATOR MIKE SPRAGUE asked if the theory behind this was to operate based on the kiss principle, in other words keep it simple. He said why make it more complicated than what it already is.

Closing by Sponsor:

SENATOR HARGROVE said this is a simple bill and is a matter of electing the people to make the decision to improve accountability. Density is something they can't get around.

{Tape: 1; Side: A; Approx. Time Count: 1:31 p.m.; Comments: .}

HEARING ON SB 180

Sponsor: SENATOR STEVE DOHERTY, SD 24, Great Falls

Proponents:

Ray Wadsworth, MT Rural Water Systems
Bob Broadway, MT Assoc. of Water and Sewer Systems

Opponents: None

Opening Statement by Sponsor:

SENATOR STEVE DOHERTY, SD 24, Great Falls, presented SB 180. He said they passed a bill last session that consolidated elections in water and sewer districts. He said this created some problems. This bill allows for mail-in ballots for water and sewer districts for both the formation of the district and when the district wants to incur debt. If the bids don't come in on the approved level and if there is an emergency, the language allows for two elections per year other than the primary and the general.

Proponents' Testimony:

Ray Wadsworth, MT Rural Water Systems, spoke in favor of SB 180 (EXHIBIT 5). He said there are 57 districts in Montana and 53 of them are in good standing of the Rural Water Systems. He said the district pays for all elections and the cost is not incurred by the county.

Bob Broadway, MT Assoc. of Water and Sewer Systems, spoke in favor of SB 180. He said there have been other problems with the elimination of the mail ballots. If a community has a project in process with a bond authority voted by the people and all of the bids come in as overruns, timing is critical. A mail ballot can be very useful with only 60 days from the date to opening bid to reward the funding.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR HARGROVE said one fact that an election can't occur all the time seems to dampen the exercise of power. He asked if SENATOR DOHERTY thought this was true? SENATOR DOHERTY said this

was a good point. The protection here would be the people who vote to incur the debt are the ones who pay for the debt. Because the membership is in control of the district, if the board is not doing their job properly then they can be voted out. If the bids don't come in under the approved bond limit and they have to miss a construction season to set out a new bid specification then it could become costly.

SENATOR HARGROVE asked if mailing would cost considerably more than a regular ballot election? SENATOR DOHERTY said the cost of the election would be borne by the district and not by state.

Closing by Sponsor:

SENATOR DOHERTY said this is a simple bill and there is a need for it.

{Tape: 1; Side: A; Approx. Time Count: 1:43 p.m.; Comments: .}

HEARING ON SB 179

Sponsor: SENATOR STEVE DOHERTY, SD 24, Great Falls

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SENATOR STEVE DOHERTY, SD 24, Great Falls, said this bill should be tabled as SB 180 and SB 179 are almost duplicates. He asked that SB 179 be tabled.

EXECUTIVE ACTION ON SB 179

Motion/Vote:

SENATOR J.D. LYNCH MOVED SB 179 BE TABLED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 191

Motion/Vote:

SENATOR BILL GLASER MOVED SB 191 DO PASS. MOTION CARRIED 7-2 with SENATORS ESTRADA AND BECK voting no.

EXECUTIVE ACTION ON SB 180

Motion/Vote:

SENATOR HARGROVE MOVED SB 180 DO PASS. MOTION CARRIED 8-1 with SENATOR GLASER voting no.

EXECUTIVE ACTION ON SB 51

Motion:

SENATOR ECK moved to ADOPT THE AMENDMENTS TO SB 51 (EXHIBIT 6).

Discussion:

Martha Colhoun explained the amendments (EXHIBIT 6).

SENATOR GLASER said the whole bill is wrong. He said why are we doing collective bargaining, why should we do micro-management of government from the State Legislature. SENATOR SPRAGUE said this is what we are here to do.

SENATOR ECK said probation officers were left out of the process of deciding salaries set by the County Commissioners. She said they should be in the same position as other county officials.

SENATOR HARGROVE asked if a probation officer is a county employee. SENATOR VAN VALKENBURG said this was true.

SENATOR J.D. LYNCH asked what class county this is referring to? SENATOR VAN VALKENBURG said all counties.

SENATOR LYNCH asked if the probation officer in Butte makes less than \$22,000 per year? SENATOR VAN VALKENBURG said no.

SENATOR ECK said probation officers are county employees but the court decides how much they are paid.

SENATOR LYNCH said if this applies to class one counties, the counties that have self governing powers have abilities others do not. He said this bill is worthless, in class one counties you couldn't hire a probation officer for this amount of money.

SENATOR VAN VALKENBURG said the current law has permitted an inflation factor to be added to the salary. This bill makes consistent the inflation factor for probation officers that are set for other county officials. It is not micro-managing what is going on at the local level, because the legislature is the entity that has set the salary and the inflation factor for other county officials. The counties don't have the authority to change this and it is this bill that would give the counties that authority.

SENATOR ECK said when the legislature set the base salaries and allowed for inflation they didn't include the probation officers. This bill makes it clear that they are subject to the same system as other county employees.

Martha Colhoun said the amendments clarify the cost of living increase for probation officers. This was not in the original draft.

SENATOR VAN VALKENBURG said we are raising the minimum salary from \$17,000 to \$24,000, however, no one in the state is making less than \$24,000.

Vote:

Motion to **ADOPT THE AMENDMENTS CARRIED UNANIMOUSLY.**

Discussion:

SENATOR LYNCH said when Butte-Silverbow salaries are negotiated by the County Commissioners, the employees across the board might be offered a percentage raise. He asked if they were in violation of the law because they go beyond the inflation factor. **SENATOR VAN VALKENBURG** said he didn't know for sure but in respect to probation officers in relation to deputy probation officers if the raise is greater than 70 percent of the previous CPI, then yes, this is a violation.

SENATOR SPRAGUE asked if there was a penalty for the violation. **Gordon Morris, MT Assoc. of Counties,** said there is a salary exemption for those local governments that adopt a charter forum.

SENATOR SPRAGUE asked if there was a penalty per violation of paying too much. **Mr. Morris** said they have a lawsuit right now in Lake County whether or not the law was broken when they set the salary for probation officers several years ago. Yes, there are penalties.

SENATOR HARGROVE said it seems ironic there are no probation officers receiving less than the law we are trying to pass. This is a judge's decision and is between the judge and the county. He feels the numbers should be taken out and the salary can be determined in accordance to the procedures between the judge and the county commissioners.

SENATOR LYNCH said they should hold off executive action until amendments are prepared by **SENATOR HARGROVE.** The bill has to pass in some form or we have left one segment of county government out the loop.

Martha Colhoun explain section 41-5704 which ties to the salaries and expenses and if the base salary is taken out, the rest of the statute provides for the cost of living increase and in a sense they are regulating the salary as well.

SENATOR VAN VALKENBURG asked if a portion of the chief probation officers salary is a reimbursable expense to the district court probation fund. **Gordon Morris** said the probation officers salaries are not an allowable expense in the district court reimbursement program.

SENATOR VAN VALKENBURG said if it is not there, then the state government has an interest to what the salary may be for these

probation officers. But if it is coming out of county funds then let them set their own salaries.

SENATOR LYNCH asked if we still set the clerk and recorders, county treasurers, and clerk of court salaries. SENATOR VAN VALKENBURG said there is a formula for figuring those salaries.

SENATOR LYNCH asked if there were set numbers for other county officials like there are for probation officers. SENATOR VAN VALKENBURG said he thought so.

SENATOR VAN VALKENBURG said all other salaries are set by the State Legislature. But it is the inflation factor that has kept them from beating down our door.

SENATOR LYNCH asked if there is also variation of county classes and part-time vs. full time employees. SENATOR VAN VALKENBURG said population and taxable valuation computes a formula for these salaries.

SENATOR HARGROVE said he didn't want to put in the amendments.

Motion/Vote:

SENATOR LYNCH MOVED SB 51 DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 164

Motion:

SENATOR SPRAGUE MOVED SB 164 DO PASS.

Motion/Vote:

SENATOR LYNCH MADE A SUBSTITUTE MOTION THAT SB 164 BE TABLED.

Discussion:

SENATOR SPRAGUE discussed the amendments (EXHIBIT 8). He said this bill is attempting to clarify zoning. He passed out a newspaper article from the Billing Gazette (EXHIBIT 7).

SENATOR ECK agreed with SENATOR SPRAGUE that cities could have restrictions on manufactured homes and areas for historic homes. She said these homes should go through design review and this bill will allow for respectable and affordable housing. One objection she has is homes having to be a 1000 sq. feet which can make it less affordable for people who may not be able to afford this size of home.

SENATOR LYNCH said he has nothing against manufactured homes and would be happy to have them in his neighborhood. He said Butte-Silverbow has had no problems with manufactured homes. He wanted

to know what they are doing at the Legislature telling the local planning boards and zoning what to do concerning manufactured homes. **SENATOR SPRAGUE** said we have no business messing with zoning unless we see an unfair deal in zoning processes. He referred back to the Billings Gazette article. (EXHIBIT 7)

Vote:

The substitute motion that SB 164 BE TABLED FAILED 3-5 ON A ROLL CALL VOTE. (EXHIBIT 9)

Amendments:

The amendments where explained by **Martha Colhoun** (EXHIBIT 8).

{Tape: 1; Side: B; Approx. Time Count: 2:17 p.m.; Comments: .}

Motion:

SENATOR SPRAGUE moved to ADOPT THE AMENDMENTS.

Discussion:

SENATOR VAN VALKENBURG said amendments 3 and 7, strike section 5 of the bill. Section 5 was drafted by a decision of the Montana Supreme Court that says zoning regulations need to be Constitutional to ensure a fair share of housing is affordable for low to moderate income people. He didn't see any reason why this should be taken out of the bill. He said amendments 3 and 7 should be segregated when the amendments are voted on.

SENATOR LYNCH asked if on page 5 if this was new language. **SENATOR VAN VALKENBURG** said yes it was. It should be put into law because it is Constitutional and a Supreme Court decision.

SENATOR LYNCH said the purpose is to get the whole zoning section out of this bill. Zoning became a problem, and the cities are afraid of this amendment. **Martha Colhoun** said there is a Montana Supreme Court decision that has this language and is already in common law. This section was struck because it is already in the law.

SENATOR LYNCH said it doesn't hurt to have this statute but it also doesn't matter if it is not in there. The argument is it would be easier for the people who are administering this law to leave it where it is currently. **SENATOR VAN VALKENBURG** said that was correct.

Motion:

SENATOR VAN VALKENBURG MOVED TO STRIKE SECTION 3 AND 7 OF SB 164. MOTION CARRIED 8-1 with **SENATOR HARGROVE** voting no.

Discussion:

SENATOR HARGROVE asked why they wanted to remove the working foundation system? **Stuart Doggett** said this is repetitious and is already defined in the manufactured homes description.

Vote:

MOTION TO KEEP AMENDMENTS 1,2,4,5,6 TO SB 164 PASSED UNANIMOUSLY.

Vote:

SENATOR SPRAGUE OFFERED TO KEEP AMENDMENTS THREE AND SEVEN THAT WOULD STRIKE SECTION FIVE OF THE BILL. MOTION FAILED 2-6 on a roll call vote (EXHIBIT 10).

Motion:

SENATOR SPRAGUE MOVED SB 164 DO PASS AS AMENDED.

Discussion:

SENATOR VAN VALKENBURG said the City of Missoula has an ordinance that permits manufactured housing within the city limits. This is an indication that if a community wants to do this they will on their own accord. This bill would not affect Missoula because they already have an ordinance to do this.

SENATOR GLASER said he doesn't know where to stand on this bill as there are several good reasons on both sides of the aisle. He feels it should go to the Floor so it can have full debate.

SENATOR WALTER MCNUTT said he doesn't know how many communities out there have a problem and he feels it should go to the Floor where the whole delegation can vote on it.

SENATOR HARGROVE said this is good bill and there are a lot of neighborhoods that already have manufactured homes and they are nice communities. This bill says you can't deny it because it is a manufactured home.

SENATOR ECK said there are a lot of cases where they limit what local governments can do, but especially in areas of discrimination. Some of these buildings have been discriminated against and many people still think manufactured housing is a mobile home. This is one more opportunity to educate people otherwise.

SENATOR LYNCH said this issue should still be at the local government level and not at the state legislature.

CHAIRMAN BECK said he doesn't know why everyone is in such arms over manufactured homes.

Vote:

MOTION TO PASS SB 164 WITH A DO PASS AS AMENDED RECOMMENDATION PASSED 5-4 on a roll call vote (EXHIBIT 11).

EXECUTIVE ACTION ON SB 140

Discussion:

SENATOR GLASER said his family would have 140 votes under this bill. He said he didn't know how it is workable.

SENATOR MCNUTT asked if there were any amendments? CHAIRMAN BECK said it would take too many amendments to clean up the bill.

Motion/Vote:

SENATOR LYNCH MOVED TO TABLE SB 140. MOTION PASSED UNANIMOUSLY.

{Tape: 2; Side: A; Approx. Time Count: 2:36 p.m.; Comments: .}

EXECUTIVE ACTION ON SB 66

Discussion:

SENATOR VAN VALKENBURG said this is a policy issue on whether the state wants to enter into a partnership with private businesses and provide a competitive advantage over other businesses. The plan is open to anybody and is not discriminatory from one competitor to the other. The future of health care needs to have pooling tried. Governmental entities are the primary people who will benefit from the pools.

Motion/Vote:

SENATOR SPRAGUE MOVED SB 66 DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 139

Motion:

SENATOR HARGROVE MOVED SB 139 DO PASS.

Discussion:

SENATOR VAN VALKENBURG said with this bill being a Constitutional amendment it is taking away the rights of the people of Montana. He thinks a couple of years should go by before we put one more amendment on the 1998 ballot.

Motion:

SENATOR VAN VALKENBURG made a substitute motion to TABLE SB 139.

Discussion:

SENATOR LYNCH agreed as there are already enough Constitutional amendments to deal with.

SENATOR SPRAGUE said this issue was addressed the last time and it doesn't need to be put in the Constitution.

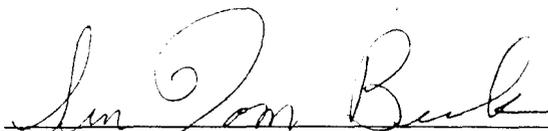
CHAIRMAN BECK said the bill should be tabled also. Often times if there is a mandate from the federal government there is no choice but to go to the local governments. Nothing will get accomplished if it is put into a Constitutional amendment.

Vote:

MOTION TO TABLE SB 139 CARRIED 7-1 with SENATOR HARGROVE voting no.

ADJOURNMENT

Adjournment: 2:46 p.m.


SEN. THOMAS A. "TOM" BECK, Chairman


JODI JONES, Secretary

TB/jj