

**MINUTES**

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

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN TOM BECK**, on February 18, 1997, at  
3:10 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. Sharon Estrada (R)  
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:** None

**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 311, SB 315 Posted: 2/10/97  
SB 328, SB 333, SB 339 Posted: 2/12/97  
SJR 10 Posted: 2/13/97

Executive Action: SB 280 Do pass  
SB 315 Do pass  
SJR 10 Do pass  
SB 333 Tabled  
SB 248 Tabled  
SB 261 Tabled

**HEARING ON SB 315**

**Sponsor:** SENATOR BEA MCCARTHY, SD 29, Anaconda

**Proponents:**

Alan Bradshaw, Granite Co.

Opponents:

Jan Sensibaugh, Department of Environmental Quality

Opening Statement by Sponsor:

SENATOR BEA MCCARTHY, SD 29, **Anaconda**, presented SB 315. This bill was requested by Granite Co. attorney Alan Bradshaw. It is needed to correct a situation that exists at their solid waste container site in the county. Granite Co. formed a solid waste district and had been operating smoothly until a controversy arose over a container site and a transfer station. There are two sites, one at Philipsburg and the other at Drummond. People within the district can haul their own refuse to these sites or they can pay a garbage collector to haul their garbage. When an outside collection service is used, this changes the designation of a container site to a transfer station. At a transfer station, a license of \$6000 is charged and state inspection fees are required. The county commissioners feel that the container sites are for the convenience of residents. The solid waste district operates on a very strict budget and there would be no choice but to increase fees to the residents if the \$6000 fee was incurred.

Proponents' Testimony:

**Alan Bradshaw, Granite Co. Attorney**, spoke in favor of SB 315. The question was raised as to what is the difference between a container site and a solid waste site. Granite Co. has a solid waste district and the containers are less than 50 cubic yards. Recently they were advised that they may be in violation of the existing statutes and regulations concerning these sites. The way it had been operating was satisfactory to the county. A transfer station operation requires an annual \$6000 licensing fee. The definition of the statute doesn't say what will happen to the solid waste once it is in the container site, however common sense says it has to be hauled somewhere for disposal. A transfer station is greater than 50 cubic yards and the waste is hauled to another site. Under this bill, the statutes would be clarified and allow for a container site as they now have it in Granite Co. even though they are hauled to another site. He turned in testimony from the Granite Co. Board of Commissioners (**EXHIBIT 1**).

{Tape: 1; Side: A; Approx. Time Count: 3:18 p.m.; Comments: .}

Opponents' Testimony:

Jan Sensibaugh, Department of Environmental Quality, opposed SB 315. This bill will allow rural solid container sites to be used for the depositing of waste from commercial waste collection services. These sites are designed to be used by individuals for the depositing of their household wastes and not designed to accommodate waste being discharged from large waste collection vehicles. At a container site a large compactor truck dumping

into containers would result in waste being dumped on the ground outside the container. Twenty cubic yards from a compacted truck may expand to 30 or more cubic yards of waste once deposited into these containers and cause over-flowing of the holder. The potential for litter problems are high, and the complaints about litter and overfull containers would not only increase to the department but to local governments as well who are responsible for the problems at the unregulated sites. Rural container site operators that want to change to a transfer station, can under current law get a license for \$4000 and the annual fee would \$400.

Questions From Committee Members and Responses:

**SENATOR J.D. LYNCH** asked if there is a way to come to an agreement or compromise. **Alan Bradshaw** said it won't change how we are operating and won't increase a health hazard, it just clarifies the law between a container site and a transfer site.

**SENATOR LYNCH** asked the **DEQ** what their problem was with this bill. **Jan Sensibaugh** said it applies to all counties. **John Dilliard, DEQ**, said that a transfer station must be licensed. Container sites are not designed to take on large amounts of trash and this is why the department is concerned. Existing container sites can be licensed as a transfer station.

**SENATOR LYNCH** asked if they have to pay a \$4000 fee and an annual fee of \$400. **Mr. Dilliard** said the \$4000 fee is a one time application and the annual fee is \$400.

**SENATOR LYNCH** asked if they have the ability to waive the \$4000 fee because that is an enormous cost to a small county. **Mr. Dilliard** said legally he was not sure if they could waive that or not.

**SENATOR DON HARGROVE** said this sounds more like a matter of bureaucracy than practicality. **Mr. Dilliard** said there are issues the department believes are beyond bureaucracy and one of them is the operation of a transfer station. They must see to the control of litter being discharged into the container, and make sure an operational plan exists to clean up litter and waste.

**SENATOR HARGROVE** said some counties don't want to participate and if this bill passed could this still exclude those counties that don't want to participate. **Mr. Dilliard** said if this law passed it would allow a collection vehicle to dump their loads into container sites statewide. If a county didn't pass a local ordinance they would be able to deny a hauler the right to dump their load into a container site.

**SENATOR BILL GLASER** asked how many sites there were in Granite Co. **Alan Bradshaw** stated two.

**CHAIRMAN BECK** asked if they are just a big box they dump into. **Alan Bradshaw** stated yes. It was his understanding that the fee was \$6000 and not \$4000. **Mr. Dillard** said that it is \$4000, but if there are two sites the second fee is cut in half to make it \$6000.

**SENATOR LYNCH** asked **DEQ** if they had ever been to the sites in Granite Co. to monitor the litter. **Frank Patrick Crowley, DEQ**, said they have been to both sites and yes there is litter at both sites.

**SENATOR GLASER** asked **DEQ** if they had been to the site between Busby and Lamedeer. **Mr. Crowley** said that is on the reservation and they don't regulate solid waste management facilities on reservations.

**CHAIRMAN BECK** asked if Granite Co. has been cited for their litter problems. **Mr. Crowley** said they had only discussed it but had taken no formal action.

**CHAIRMAN BECK** asked if there is a garbage collection business in the city limits of Drummond that dump into these sites. **Mr. Bradshaw** said there is a contractor county-wide that hauls to both sites.

**CHAIRMAN BECK** asked if the **DEQ** has ever requested Granite Co. to clean up this litter mess and what does a container site status mean under the old law as opposed to this bill. **Mr. Dilliard** said when container sites were originally established and developed they were for individuals to take their household waste and deposit it individually. They thought that people wouldn't have to drive long distances to a landfill and this would make it more convenient. The department doesn't license and regulate container sites and they have not done this since 1993, therefore, they do not conduct regular inspection of those sites.

**SENATOR DOROTHY ECK** asked if a container site is the green box size. **Mr. Crowley** said they can be the green box size all the way up to 40 cubic yards.

**SENATOR ECK** asked if the commercial hauler determines how often it has to be dumped. **Mr. Crowley** said the county decides this.

**SENATOR LYNCH** asked why doesn't the commercial hauler take it to Missoula rather than dumping it in Granite Co. container sites. **Mr. Bradshaw** said they actually come to the container sites and take it to Missoula.

Closing by Sponsor:

**SENATOR MCCARTHY** said \$6000 is a lot of money out of the counties budget and they would appreciate any help on this matter.

{Tape: 1; Side: A; Approx. Time Count: 3:38 p.m.; Comments: .}

HEARING ON SB 311

Sponsor: SENATOR BEA MCCARTHY, SD 29, Anaconda

Proponents:

Evan Barrett, Butte-Silverbow

Opponents:

Robert Throssell, MT Assoc. of Clerk and Recorders

Opening Statement by Sponsor:

SENATOR BEA MCCARTHY, SD 29, Anaconda, presented SB 311. This bill is asking for a secrecy envelop to be provided for all absentee ballots. It is a plain white envelope that the voter would put the ballot inside and this would keep the ballot secret. The exterior envelope would be opened and the interior envelop be thrown into a random pile and counted at a later time. There is no fiscal impact as the extra envelopes would cost next to nothing. She turned in testimony from Tracey Sweeney (EXHIBIT 2).

Proponents' Testimony:

Evan Barrett, Butte-Silverbow spoke in favor of SB 311 (EXHIBIT 3 & 4).

Opponents' Testimony:

Robert Throssell, MT Assoc. of Clerk and Recorders, opposed SB 311. He said he is not opposed to secrecy but in conducting an election there is the integrity of the election, the access to the system, and the cost. With this bill there will be additional cost with printing, the secrecy envelope, and mailing. He discussed proposed amendments (EXHIBIT 5). This procedure will delay the election process as there will be additional opening of the secrecy envelope.

{Tape: 1; Side: A; Approx. Time Count: 3:50 p.m.; Comments: .}

Questions From Committee Members and Responses:

SENATOR LYNCH asked what happens if the stubs are not removed. Mr. Throssell said it would not invalidate the vote but would defeat the secrecy. Joe Kerwin, Deputy Secretary of State Elections, said if the stub is not removed the ballot would have to be rejected. The amendment by the clerk and recorder would help fix this problem. Another option would be if the stub is not in the return envelope then the election judge has the authority to open the secrecy envelope and see if the stub is in there.

**SENATOR LYNCH** asked why do we need the stubs, why can't the clerk and recorders office take them off before being mailed out. **Joe Kerwin** said there is no reason why this could not be done. **Mr. Throssell** said that the stub is the election administrator's control of knowing that the voter got the ballot and the secrecy envelope matches the stub.

**SENATOR GLASER** asked how did the graffiti happen on **Evan Barrett**. **Joe Kerwin** said when an election judge opens a ballot they are supposed to remove a ballot without looking at it and remove the stub. They are not supposed to reveal how anyone voted but in this case they did not keep to that secrecy.

**SENATOR GLASER** asked what was done about it? **Joe Kerwin** said this is referred to the county attorney and if criminal charges were to be brought up it would have to be done by the county attorney or the attorney general.

**SENATOR GLASER** asked if this person is still a judge? **SENATOR VAN VALKENBURG** said how would you know which one did it. **Evan Barrett** said the request was made to the county attorney to investigate this matter. The county attorney said they had to represent the clerk and recorder so the investigation was passed on to the Central Investigating Bureau. The Bureau is at the state level and they said they had too many felonies and other problems so they would not investigate it either. It was then passed on to the state prosecutor who didn't have an investigator who would do it. If this could be solved through this bill then there wouldn't be a problem in the future.

**SENATOR HARGROVE** asked about the fiscal note and if the cost was for just one county or the whole state. **Mr. Throssell** said it was for Hill County.

**CHAIRMAN BECK** asked if this only entails absentee ballots. **Mr. Throssell** said that was correct.

**CHAIRMAN BECK** said the most important thing is to maintain secrecy for the voters in Montana. **Mr. Throssell** said the election administrators agree.

**SENATOR ECK** asked what are the qualifications for becoming an election judge? **Mr. Throssell** said that election judges have to take an oath and there is criminal punishment disobeying this oath. The association has provided more training and monitoring of election judges.

**SENATOR LYNCH** asked how long has the current absentee ballot system been in place. **Mr. Throssell** said he didn't know.

**SENATOR HARGROVE** asked when absentee ballots are being processed don't two election administrators have to be present. **Mr. Throssell** said this was correct.

Closing by Sponsor:

SENATOR MCCARTHY said the ASCS already votes this way in the rural communities and there are no further expenses. Even if there is a minimal fee the secrecy of the ballot is an important measure that must be honored. In Anaconda at the last election 600 people voted absentee. Elderly people are uncomfortable with the new voting machines and would rather vote absentee. If the secrecy is not honored then we have lost something in this county concerning our voting rights.

HEARING ON SB 333

Sponsor: SENATOR J.D. LYNCH, SD 19, Butte

Proponents:

Dave Fisher, Silverbow Volunteer Fire Council

Opponents:

Alec Hansen, MT League of Cities and Towns  
John Paul, Butte-Silverbow Fire Department

Opening Statement by Sponsor:

SENATOR J.D. LYNCH, SD 19, Butte presented SB 333. The intention of this bill is to allow two counties that have consolidated governments for volunteer firemen to form an association. When the association is formed they might use a quarter or half a mill to help with funding of a pension to catch up for what volunteer firemen are getting. The fiscal note would be devastating to Butte-Silverbow in that the consolidated city-county will levy an annual special tax of not less than one mill and no more than four until the amount in the fund reaches a level of four percent of the taxable valuation. This comes out in the area of \$20 to \$30 Million.

Proponents' Testimony:

Dave Fisher, Silverbow Volunteer Fire Council spoke in favor of SB 333. He handed out a pension fund work sheet (EXHIBIT 6). He said volunteer firemen are being discriminated against because the city gets two pensions and they only get one. He said they do not want paid fireman in the City of Butte. Volunteer fireman do not want in the city's pension program and neither do the volunteers want the city fireman's pension program. If the relief association bill does go through it won't go into affect for five to 10 years. Members are willing to pay \$1.00 per month into their own retirement system.

Opponents' Testimony:

**Alec Hansen, MT League of Cities and Towns**, opposed SB 333. He said in Butte-Silverbow the county would have to set aside four percent of the net taxable value or about \$2.4 Million just to fund this bill. This would take four property tax mills for a period of ten years. Butte-Silverbow doesn't want to get into the pension program.

**John Paul, Butte-Silverbow Fire Department**, opposed SB 333. The amount of money required to fund this bill would be a financial hardship on the county. The unions do oppose this bill as it would be financial draining on their membership. Municipalities can only belong to Firefighter Unified Retirement System or the Old Firefighter Retirement Act.

Questions From Committee Members and Responses:

**SENATOR HARGROVE** asked **Mr. Fisher** if he didn't want to be a part of the pension fund what would be left of the membership. **Mr. Fisher** said they never anticipated anything like four mills. They were thinking more in terms of one fourth of a mill.

Closing by Sponsor:

**SENATOR LYNCH** said originally the idea of this bill was that a group of volunteer fireman would form an association and would get the five percent insurance tax, contribute themselves, and then get a small mill from the local government. The fiscal note however causes some problems for this bill.

{Tape: 1; Side: B; Approx. Time Count: 4:17 p.m.; Comments: .}

HEARING ON SJR 10

Sponsor: SENATOR TOM BECK, SD 28, Deer Lodge

Proponents:

Dick Bauman, Powell Co. Museum and Arts Foundation  
Dennis Taylor, Department of Justice

Opponents: None

Opening Statement by Sponsor:

**SENATOR TOM BECK, SD 28, Deer Lodge** presented SJR 10. This bill is urging the Board of Land Commissioners to lease the old registrar of motor vehicles office to the Powell County Museum and Arts Foundation. The Powell county museum and art foundation presently leases directly and it should be leased from the state land board. When the register of motor vehicles moved to a new building, the arts foundation said they could use this building to enhance their museum.

Proponents' Testimony:

Dick Bauman, Powell County Museum and Arts Foundation, spoke in favor of SJR 10. The museum could use the extra space and they are responsible for the preservation of the old prison complex.

Dennis Taylor, Department of Justice, spoke in favor of SJR 10. The Department of Justice was the last occupant of this building and it needed some work which they didn't have the funds for. The museum is willing to take the building and make the repairs and upkeep that is needed.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR VAN VALKENBURG asked if there is a lease, what will the state receive as a monetary consideration. SENATOR BECK said it would be a minimal lease of \$1.00 per year. It is up to the Powell County Museum to take care of this building, otherwise there is no other use for the building. They have the same type of lease on the entire prison complex.

Closing by Sponsor:

SENATOR BECK said this will work right into the rest of the prison complex and they will be able to maintain the building.

HEARING ON SB 328

Sponsor: SENATOR STEVE DOHERTY, SD 24, Great Falls

Proponents:

Bill Steele, MT Retired Police Officers Assoc.  
Frank Cole, MT Retired Police Officers Assoc.  
Bill Dicass, Missoula Police Officer  
Lloyd Porter, Great Falls Patrol  
Floyd Campbell, MT Retired Police Officers Assoc.

Opponents: None

Opening Statement by Sponsor:

SENATOR STEVE DOHERTY, SD 24, Great Falls, presented SB 328. This bill is an attempt to bring some parity to retirees that retire at sergeant or above in the police force. These retired officers are not getting the social security increase benefits because of the current system. There is a permanent increase in the minimum benefits for police officers and municipal police. It is a fairness and equity situation. The current system discourages people who should advance beyond sergeant or above but have no incentive to advance because of reduced retirement benefits.

**Proponents' Testimony:**

**Bill Steele, MRPOA,** spoke in favor of SB 328. He said in 1975 they had retirees who were receiving a check of \$89.00. In 1975 the legislature said any officer that retired before 1975 would receive no less than one half of a basic patrolman's pay. These people that retired before 1975 are steadily getting an increase in their pay but people that retired after 1975 are sitting dormant. By 1985 there were patrolmen retiring that were receiving less than those who retired in 1975. The 1975 law was repealed in the 1985 legislature. Patrolman were getting these increases but the sergeant, lieutenant, and captain were sitting at the same rate when they retired. He said he retired as assistant chief of police in 1980. His first retirement paychecks were \$1050 per month. His check from last month was \$950. Seventeen years later he is receiving \$100 less than in 1980. He said a sergeant retired in Bozeman in 1984 and retired at \$1002. In 1984 he received \$862 and in 1997 he is receiving \$606. This is not a good retirement system. Nobody would retire and get less than what they started out with as the years go by. He said if he waits five more years he will get the half pay of a patrolman after waiting for 22 years. His contribution to the state increased as he went up the ranks in the police department. But for all of those increases he will still only receive the same as a patrolman and the guy who did climb the ranks in the police department. Many people will look at this and ask why be sergeant or lieutenant when 10 to 15 years down the road they will be getting the same retirement as a basic patrolman. In the 1995 legislature they passed a law in which they would get a one time pay raise and then wait another 17 years. That is not a workable law for most retirees. Under this bill they are proposing a cost of \$1.7 Million. That money will come from premium tax money and not be a burden on the cities and counties. There are 498 retired officers and 70 percent are retired sergeants or above. This is 498 officers who didn't get any increase in pay and all of that extra money went back into the General Fund. The retired officers have already paid their dues. This bill is not asking for half pay of a lieutenant, sergeant or captain but simply asking for half of a sergeants pay. If the GABA had been in place 17 years ago he would not be here. In their retirement system there is 70 percent that retire at sergeant or above and 30 percent for the last 22 years have been getting the cost of living increase and the rest have not. He said this was taken up by the interim committee on Public Employee Retirement. If there is no way to legislatively correct this problem, then they will go through the process that federal employees went through.

**Frank Cole, MRPOA,** said the shock of half pay in retirement was hard. Nobody has ever retired from any department as just a confirmed officer without some added income. He said they would like to come back half way of a sergeant's pay.

**Bill Dicass, Missoula Police Officer,** said he is a sergeant on the force and has been there for 26 years. If he retired he would

fall further and further till he would reach half patrolmen's pay. As departments keep growing it could be a dis-incentive to seek a higher rank because there are no retirement benefits.

**Lloyd Porter, Great Falls Patrol**, supported SB 328. He said he retired three years ago and he makes more in retirement than **Bill Steele**. There is no incentive to go higher and there is no fairness or equity. He said many of the active police officers are not aware of the retirement program. There needs to be a more equitable system where there is a difference between a master patrolman, lieutenant and chief.

**Floyd Campbell, Missoula Police Department**, rose in support of SB 328. He said that since retiring he has had to work two other jobs to support his family.

{Tape: 2; Side: A; Approx. Time Count: 4:48 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SENATOR LYNCH** asked how retirees lose money and how do they lose actual money by increased taxes. **Mr. Steele** said when he hired on the police department he was told he would retire in 20 years. He asked about social security and people on the force can't have social security. He was also told he wouldn't have to pay any state taxes. This fell into place in 1993 and this is where a lot of his retirement check disappeared to. Health insurance can also be kept and taken out of the retirement checks and this is increasing.

**SENATOR LYNCH** asked what the base salary for a sergeant was? **Mr. Campbell** said it is about \$1400 per month gross and takes home around \$900.

**SENATOR HARGROVE** asked if the GABA bill goes forward would it only partially solve the problem. **Linda King, Public Employees Retirement System** said the ones that have been retired the longest will want to be brought up to current level. The GABA bill goes from this point forward.

**SENATOR HARGROVE** said if we did the GABA bill how many of the 490 people would this affect. **Linda King** said newly retired people would be least affected by this change. The longer they have been retired, the longer their benefits have been eroded.

**SENATOR HARGROVE** said there are a lot of other people in law enforcement. People that work for the state are paid only state money. For example the highway patrol trains in the city and a lot of them end up working for the city because they can make more money. Cities can pay more because they receive gambling taxes. Can you compare between retired pay for city and state employees. **Linda King** said in general there are a lot of

different kinds of law enforcement. Retirement benefits for police and firefighters are at a higher level than other state employees, but they still have the erosion problem.

**SENATOR GLASER** said when looking at \$2 Million per year to recover this problem, how many years will this have to be done to get it sound again. **Linda King** said it would take at least 30 years. The total cost of that bill is 17.89 percent and of that about half would be to fund unamortized liabilities. In 30 years about half of that could be reduced but it will continue to increase, as payrolls increase annually.

**SENATOR GLASER** asked what would the unfunded ratio be? **Linda King** said the new unfunded liabilities created by this bill would be amortized over 30 years. It would not make it unsound with this funding.

**CHAIRMAN BECK** asked if this was taken up in the interim committee on the Public Employees Retirement. **SENATOR DOHERTY** passed out (EXHIBIT 7) on this meeting over interim.

**SENATOR ECK** asked if there are other groups with the same problems. **Linda King** said their board administers this system along with eight other systems in the state.

**CHAIRMAN BECK** asked if there is a GABA bill coming out of the House and will any of that affect this bill. **Linda King** said there is one. If the GABA bill did pass it would reduce the cost of this bill because any new people hired would be covered by GABA. Other members could also choose to be covered by GABA that are already retired.

**SENATOR HARGROVE** asked if the GABA bill has already been through appropriations. **Linda King** said no not yet.

**SENATOR LYNCH** said what is the price on the GABA bill. **Linda Brown** said the general fund impact on the next biennium would be \$1.5 Million.

Closing by Sponsor:

**SENATOR DOHERTY** said when people want to advance in the police department for higher pay there also comes with it more risk. Right now there is an incentive not to advance and this is bothersome.

{Tape: 2; Side: A; Approx. Time Count: 5:06 p.m.; Comments: .}

EXECUTIVE ACTION ON SJR 10

Motion/Vote:

**SENATOR J.D. LYNCH MOVED SJR 10 DO PASS. MOTION CARRIED UNANIMOUSLY.**

HEARING ON SB 339

Sponsor: SENATOR LORENTS GROSFIELD, SD 13, Big Timber

Proponents:

John Shontz, MT Assoc. of Realtors  
William Spilker, MT Assoc. of Realtors  
Max Pigman, Self  
Jim Richard, MT Assoc. of Planners

Opponents: None

Opening Statement by Sponsor:

SENATOR LORENTS GROSFIELD, SD 13, Big Timber presented SB 339. This bill is clarifying a review of certain parcel divisions and makes minor changes to the subdivision act. The bill clarifies immediate family, parents, spouse and children. Page 2 clarifies tract of record by added lines 27-30. He said if a person owns the north half of the north half of a section but the deed doesn't describe it that way; instead it says the land owner has lots one, two, three and four of section X and if a person wanted to combine those into just one parcel then the land owner has to take an action to do this. The language in this bill tries to clarify this. He also said that before the court system can order a division of land they have to notify the governing body. This addresses divorce or state proceedings. He used the example of a state proceeding in his county where a man died and he had three children and three parcels of land. They were 20 acre tracts that were not adjacent to each other. The judge instead of giving tract A to child A etc. he split each of those three parcels into three parts so now there were nine parcels. This bill says the court has to notify the governing body so they can comment before making a decision. He explained page 4, the law says if a person is going to do a public improvement such as a road the developer has to build the road immediately or put a bond to satisfy the governing body that the road will be built. The problem comes as to what option is a person going to take as there can be some problems with this. If there is a 200 acre sub-division and the developer wants to develop the lower one third first but he starts developing it and he runs out of money or he dies etc. and now there is a big road scar through the sub-division. The local governing body is not hurt by this as they still can require adequate security and bonding. The bill in section 3 discusses mortgage exclusion. He used the example of having 20 acres and he wants to build a house. He goes to borrow money and puts two acres of that 20 down on a mortgage. He runs out of money and defaults on the loan and now the bank owns two acres. Most of the time it is not a problem but some jurisdictions have a lot of problems with this.

{Tape: 2; Side: B; Approx. Time Count: 5:17 p.m.; Comments: .}

**Proponents' Testimony:**

**John Shontz, MT Assoc. of Realtors**, spoke in favor of SB 339. He said page 2, line 23, needed to have the language not with standing 43USC753. That refers to the federal survey statutes, because surveyors have been having difficulty dealing with definitions of division of land dealing with government lots. He said on page 4, line 17, the security mortgage issue is of some concern. The bank takes property on a bad loan and they won't be able to sub-divide and sell under this amendment. Lenders will be less likely to lend money if they cannot use parcels as security.

**William Spilker, MT Assoc. of Realtors**, rose in support of SB 339. He said page 4, lines 17 and 18 does apply to the mortgage finance exemption. If that is inserted, it will cause this type of review to defeat the original intent of the mortgage exemption applied to under the sub-division act. He said line 28, page 4 is beneficial to have the developers option as to whether they want to put up a bond or improvement installed before final approval. The governing body should have a say because they review all engineering criteria and determine how much the bond amount will be. This legislation merely enforces existing law, it does not create any new tract of land, the division of land still comes under the sub-division act, and clarifies the 1993 act.

**Max Pigman, Self** supported SB 339. He said the language immediate family member could cause some mis-interpretation. He passed out testimony (**EXHIBIT 8**). He said he had a client that had elderly parents and they wanted to move back to Montana so the client and his wife could take care of them. He wanted to provide a spot for them to live on within his ten acres. Lewis and Clark Co. denied the gift to a family member of this piece of land because the parents are not considered an immediate family member. His client decided that his parents could purchase his house and then gift it back to his client to be in compliance with the law. This was denied because the previous application was reviewed and they decided the current application was a way to evade the law. The language clarifies family in this bill and will help avoid these types of problems.

**Jim Richard, MT Assoc. of Planners**, supported SB 339. He said the mortgage exemption from a planning stand point has not been a problem. It is extremely important for people building a house to have that exemption to provide for security. He said page 4, line 28, the developer should not always be in the driver's seat in making decisions. There are certain criteria for a sub-division to function properly and the authority should not be taken away from local government.

**Opponents' Testimony:** None

Questions From Committee Members and Responses:

SENATOR HARGROVE asked if on page 4, the language should be deleted on line 28. SENATOR GROSFIELD said he had some amendments to try to fix that problem (EXHIBIT 9 & 10). If it cannot be fixed by these amendments then it can be deleted from the bill.

SENATOR SPRAGUE asked if the language on page 1, line 28 should read lineal descent of family. SENATOR GROSFIELD said parents were his main concern and that has been addressed now. But he also doesn't want to open it to anybody like great, great grandchildren etc. He feels this policy decision should be left up to the committee.

Closing by Sponsor:

SENATOR GROSFIELD said this is a simple bill and he closed.

{Tape: 2; Side: B; Approx. Time Count: 5:38 p.m.; Comments: .}

EXECUTIVE ACTION ON SB 333Motion/Vote:

SENATOR GLASER MOVED TO TABLE SB 333. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 311Discussion:

SENATOR LYNCH discussed the amendments proposed by Clerk and Recorders (EXHIBIT 5).

SENATOR HARGROVE said this is an unfunded mandate and maybe this problem should be solved locally.

SENATOR BECK said the most important thing is protecting the secrecy of the ballot and it should be standard to all counties.

SENATOR GLASER said a democracy exists because of the right to vote and is more sacred than life.

SENATOR BECK said those people that want secrecy should be entitled to it.

SENATOR VAN VALKENBURG said lets hold off on a vote till the next meeting.

EXECUTIVE ACTION ON SB 315Motion:

SENATOR ESTRADA MOVED SB 315 DO PASS.

Discussion:

CHAIRMAN BECK said if both of the dumpsters in his county are a third full they will dump one into the other so they don't have to make two trips to the dump in Deer Lodge. He said are they going to classify that as a transfer station?

Vote:

MOTION TO DO PASS SB 315 CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 248

Motion/Vote:

SENATOR ESTRADA MOVED SB 248 BE TABLED. MOTION CARRIED 7-1 WITH SENATOR GLASER VOTING NO.

EXECUTIVE ACTION ON SB 261

MOTION/VOTE:

SENATOR ESTRADA MOVED SB 261 BE TABLED. MOTION CARRIED 7-1 WITH SENATOR GLASER VOTING NO.

EXECUTIVE ACTION ON SB 280

Motion:

SENATOR VAN VALKENBURG MOVED SB 280 DO PASS.

Discussion:

SENATOR VAN VALKENBURG said there is a funding mechanism in the bill for a fee on civil actions. These employees have not had any wage increase since 1991 and the only way to get increases is through the legislature.

SENATOR HARGROVE said if the relationships are going to stay stable within the county their wages should not be increased but decided on a local level.

CHAIRMAN BECK asked if they had been outside the system of the county always. SENATOR VAN VALKENBURG said they have always been outside the system.

Vote:

MOTION TO DO PASS SB 280 PASSED 5-3 ON A ROLL CALL VOTE.

EXECUTIVE ACTION ON SB 294

Motion:

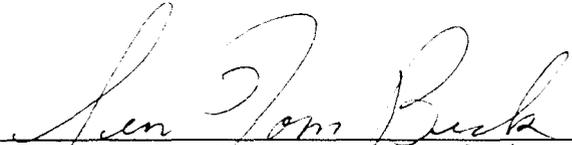
SENATOR ESTRADA MOVED SB 294 BE TABLED.

Discussion:

SENATOR ESTRADA withdrew her motion till next meeting.

ADJOURNMENT

Adjournment: 5:58 p.m.

  
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SEN. THOMAS A. "TOM" BECK, Chairman

  
\_\_\_\_\_  
JODI JONES, Secretary

TB/jj