

January 14, 1977

A meeting of the Local Government Committee was called to order by Chairman Robbins at 3:35 PM in Room 225. The secretary called roll; Representatives Gerke, Gould, Waldron and Bertelsen were excused. All other members were present. Senator Peterson was present.

Dale Harris, director of the State Commission on Local Government, continued with the explanation of House Bill 122, Local Government Code. There will be handouts and he will try and restrict the pieces of information given the committee.

Mr. Harris asked the committee if there are any questions they would like to ask regarding the material gone over on Wednesday. Representative Roth asked when we come to places being revised, would we have the old code to see. Dale - we have a disposition chart and it shows existing law being replaced or shows other way around, and he will give that to you Monday. We have printouts for you to use for specific chapters and parts, chapters on airport boards, roads, etc. We have xeroxed copies of the old laws we can distribute for you to review. There were questions as to the Constitutional basis for local government in Montana and for any laws regarding general and self-government powers.

Exhibit D, Comments on Local Government Article, prepared by Local Government Committee of the 1972 Constitutional Convention, was handed to the committee members. Mr. Harris said there are two sections that he would like to draw the committees attention to regarding local government code, page 25, section 4, General Powers, in exhibit D. It was pointed out the "Dillon Rule", has explained the powers are narrowly construed and this has been reversed and this will allow us to be a little more general in our laws, section 4, sub-section 1. Legislative powers is the single most important change in the constitution. Montana has given legislative powers to counties by the Constitution. The important part of the law is to allow counties to have this authority.

As said before, we eliminated all laws that create specific boards. Legislature has had to adopt a law for each board and now counties can adopt their own laws to create a board, if legislature grants them the power to do so. If you choose now for parking boards to be provided for by state law, it is entirely up to legislature to do so. Question - is it conceivable counties have boards they want to keep the people presently on the board. Dale - any county can keep any board they have, but in the future can do by ordinance under the code. Roth - I think in 1975, legislature did pass legislative power for local governing bodies.

Dale - yes, in the bill creating alternative forms of government, Chapter 3, part 2 of 47A, last legislature did do that. Question - in what areas will they have legislative powers? Dale - if code is not adopted in future, counties would have legislative powers to only supplement what state legislature says. In section 4 is Dillon rule and only have powers granted that is page 26 of exhibit D. Turn to page 29, section 6, self-government powers that is description of how you give power. The third point, this code is the legislatures grant of powers to local government with general powers just as title 11 and 16 grants. It is up to legislature to determine where uniformity is needed. There is variations between counties or within counties but there is a state law that adopts standards. The local government code itself goes to page 565 and that is where miscellaneous laws on local government need to be changed or adopted to make laws consistent. Courts - question - why are courts included in same bill? Dale - because the section that sets up courts of law were integrated in title 11 & 16 in sections we are repealing. Since we were repealing, we needed a replacement for them and badly needed to be organized into one body of law instead of fragments as done now.

There was a question on building permits.

Dale said it will be up to commissioners if you have building permits; and if you do not want counties to have building permits, you just need to amend and not kill the bill.

The city courts goes into sections we will leave where they are, but to be consistent needed to be amended.

Representatives Halvorson and Roth left.

Amendments start on page 586 and goes to repealer sections which are at very end.

Dale on page 804, section 189, it is the part of the laws they had reversed chapter and part of this is one of the amendments we are changing the language in 47A. The bill is granting powers, if they are granted. Powers you do not want them to have you can amend out or powers you want to give, can be put in.

Exhibit B, Modernizing Local Government: Why it cannot wait. This paper was originally prepared by Governor Thomas L. Judge and released September 14, 1973.

Third handout Exhibit C, is the outline for a code of local government laws adopted May 31, 1974. This is the report as published at that time. Some changes have been made along the way, mainly, Chapter 1 rational for revision of local government laws. Chapter 2 is the actual outline on how to get the job done basically how we did it. It is what will be contained in the code.

Robbins-will take about a five minute break.

The meeting began again at 4:35 and Robbins said we are going to go to 5:30 and adjourn.

The commission intends to print additional copies of the code, and could only afford to print 400 bills.

Chairman Robbins said we have our statewide hearing a week from tomorrow.

Chairman Robbins left and Representative O'Connell assumed the chair.

Non-profit corporations are created under existing state law, which we are not changing at all. This chapter is the basic grant to provide services.

Exhibit E - Authorization and Allocation of Services Between Counties and Municipalities, was given to each member of the committee. This is a grant to provide services and the rest of code is how to provide the services.

The other part is all parts of Chapter 6, except for 2 parts that apply only to services listed. Chapters 1, 2, 3, 4, & 5 do apply to services and are common provisions as well as in Chapter 6, part 1 and 2, from there on agriculture, etc., that stands by themselves.

Chapter 7, that is the home rule law that stands by itself.

Chapter 8, those services that are required by counties - those are distinct.

Chapter 9, is common provision.

Go back to page 193, we begin listing all of the services. Section 102 is methods they can provide the services. We went through those on Wednesday.

Handout Exhibit E shows how counties and municipalities may perform all of the services authorized under the following rules:

1. Counties have first option to perform functions that are listed in a box, but municipalities after notice and a public hearing may opt out of the county providing the service and provide the service themselves. Everything put in box counties have original opportunity to provide that service, essentially as now. If municipalities want to provide service itself will hold hearing and withdraw and provide the service. Counties cannot tax for that service.

Representative Palmer left at 4:50.

2. All other services are provided by the county with municipalities only with the consent of the municipality. This does not apply to duties of counties identified in Chapter 8.

It is the way law is set up for library boards - the exception is, this does not apply to counties identified in Chapter 8. It is preserving the status quo.

Chairman Robbins returned and assumed the chair.

Regarding bridges and weed control, the counties have to agree to withdraw; this is two special exceptions in rule number 2. In the code each county and city can work out their own solution.

3. Regarding municipalities may also provide the services identified by an asterisk within five miles of their boundaries (their extra-territorial authority), but they may not levy taxes in that area. They have set one standard at five miles and through an agreement between city and county, they can change. Secondly, counties at any point can take over the extra-territorial service if they do it at same level or higher.

The state has quota system for liquor licences that has nothing to do with local government.

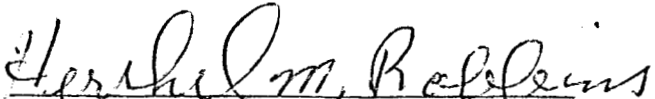
Dale said this is all I want to say about services at this time. There isn't much new just said in different way.

Turn to page 213, part 3, chapter 6, (1) livestock and sales. This is start of law that deals with specific services and goes to page 443. Rameriz is this where we make a decision to permit all service in any manner and if we want to start making limitations this is the place where we start. Dale - Yes. Rameriz - along those lines in hearing that define problem areas, board versus authority. Dale - two that are going to come to your attention is library boards and weed board.

Health, you will get a lot of pressure on that. Hurwitz - tell why we will get pressure. They are better organized and they want to maintain and govern their libraries. The weed board when asked what kind of board they have, half say independent board and half report to county commissioners. The code will let local government make that decision locally for number of members, mileage, etc. What we say here is that legislature does not have to say, but leave it to the counties to decide. In every instant of creating a district, it requires a hearing. County Commissioners have to go through certain steps.

The meeting adjourned at 5:25 PM.

Respectfully submitted,


HERSHEL M. ROBBINS, Chairman