

The meeting was called to order by Chairman Brand at 9:00 a.m., roll was taken, with all members present.

Hargesheimer presented his summary, see attachment #1.

HB 247--Rep. Palmer, sponsor--This is a housekeeping measure to modify the court codes enacted in 1935. Missoula adopted these in 1975. What it provides--it requires a population of 10 - 20 thousand for establishing municipal courts, provides for elections, establishes court records. I have the city attorneys from Missoula and Kalispell to testify.

FRED ROOT, Missoula City Attorney--The salary was set in 1935 at \$3,000. We had to wait until the following election, so as not to put the present judge out of office. Some of the changes are necessary--one of the big ones - the old code required that the county supply the materials for the court - now the city has to. The other statute required 5 years of experience, this bill only asks two. The old codes required off year elections - this bill gives 4 year terms, and it can be held when other elections are. We want the judge to be able to set his own hours. We now have 3 district judges who operate all of the time. The old codes were antiquated in this way. This bill gives civil jurisdiction, but it is cut down. It also restricts the municipal judge from having an independent practice. The bill makes it a court of record, so that an appeal is a new trial, and only records of the first trial are kept. Missoula has been trying to upgrade its courts. We have had lawyers on our court for the last two terms and we would like to continue to upgrade them.

N.F. DONAHUE, Kalispell City Attorney--We have been working constantly to upgrade our courts, but no specific problem was presented for implementation. Most cities will find this type of court more acceptable. I am also on the Judiciary Committee for the State Bar Association. The objective of everybody should be to upgrade the courts. If we give the cities the chance, it should help. The fact that we have a justice court in each county is good, but the qualifications for JP make it so that they are not really prepared. Recently, the jurisdiction was extended; and most people who have larger cases want a qualified judge. We want to give the cities the option to put this in effect. Missoula has been progressive. One of the reasons that we want this is because we are a city of 11,000 people, and with the former population restriction we can't.

DAN MIZNER, League of Cities and Towns--We support this. 27 city attorneys had a meeting and discussed this bill, and recommended amendments. The process needs upgrading - replacement of police judges and JP's. This bill is not adaptable to small towns, but ones with 10,000 or more need it. This is not included in HB 122. The commission's decision was not to put this into 122. The larger city attorneys felt this should be separate. Although this could be amended into 122.

O'CONNELL--Under the mayor-council form of government, the police judge is elected, but now they appoint him. Under this would he be elected? ROOT--No. MIZNER--If we can get this bill through now, we can examine the other system. MULLEN--What would be the original jurisdiction as far as monetary civil cases? DONAHUE--1500 - city judge, county judge, and JP - the JP would be deleted. MULLEN--How would this conflict with the statutes on small claims courts? DONAHUE--There are some bugs in the small claims court law today. I think the jurisdiction limit is too high. If they would establish a small claims division of this and JP courts, it would work better. A JP doesn't have to be a lawyer. MULLEN--Would your jurisdiction allow you to hear cases without council for small claims? DONAHUE--Yes. MULLEN--Would the rules of civil procedure apply? DONAHUE--Yes. MULLEN--If it is a claim of less than 1500, can I take

it to you without counsel? DONAHUE-Yes. FEDE-Why 4 years? ROOT-All city officials are 4 year terms. This simply makes it concurrent. I am retiring, so I have no interest other than to facilitate the court system. RYAN-Will the municipal court be like a police court? ROOT-This will be a substitute for the city court. If the bill goes through, the city has to make the effective date. RYAN-Where does the bill address the city commission form of government? ROOT-Nowhere. MIZNER-This would have to be amended into 122. BRAND-You said the city would provide services rather than the county. Have you had problems? ROOT-No, the law is just stupid. It isn't necessary for the city to provide. BRAND-You didn't want the judge to be in private practice - what is the salary now? ROOT-\$15,000, and people were afraid this wouldn't attract too many. We set them by ordinance. PALMER-I will remind you that this is permissive with the cities. If we don't get these adjustments, then Missoula will have to have a special election which costs \$11,000. It is an attempt to upgrade; and Missoula, Bozeman, and Kalispell, along with other cities, are interested - but remember, it is decided by the people.

HB 447-Rep. Sivertsen, sponsor--If you have talked to local clerks and recorders, you will know why this is here. There are too many mailings, and they are costly. The most obvious mess is when the elector does not vote because he moved - so the mailing is useless anyway. The return is low, and the cost is high. Although it isn't in the bill, my clerk and recorder suggested that this could be put in the paper.

HELEN KOVICH, Lewis & Clark County Clerk and Recorder--We had 25,587 registered voters and we sent 6,269 cards out to people who didn't vote. These are people who have moved, or died, etc. and we were not notified. After we figured the cost from the time of registration, and so on -- initiatives, referendums and constitutional amendments -- we had spent \$32,000 just on mailings. I had a number of embarrassing calls about people who had died out of state. We cannot take these people off unless we get a certified death certificate.

JOHN BELL, Montana Association of Clerks & Recorders--Mrs. Kovich has said it all, but I will answer any questions.

JO ANN WOODGERD, Deputy Secretary of State--We agree that the notices are a burden, and unnecessary. Whether some provisions are needed for an affidavit in the event of erroneous cancellation is something worth considering.

OPPONENTS

MICHAEL PICHETTE, Secretary, Central Democratic Party--This and HB 432 deal with registration requirements. What you are dealing with besides mechanical items, are peoples' right to vote. Let's hope we keep registration procedures to a minimum, so as not to keep people from voting. This offers no solution to what you are removing. The government requires you to register in the first place, so you should be notified of cancellation. A lot of people only vote in presidential elections. I would rather see this killed if you don't replace it with something.

ERNIE POST, AFL-CIO--We are sort of opposed. We think people ought to be able to vote easily. You certainly get notice of delinquency in bill paying. I think we should look at another method - at least advertise that people are being removed. Especially during city elections, where failure to vote requires new registration. We hope this, in its present form, is DO NOT PASS.

SIVERTSEN-I believe voting is one of our rights. Many people don't go and vote for various reasons. This is an expense to counties and people know that if they don't vote, they have to re-register. If it were advertised in the paper, that should be sufficient notice.

MULAR-The fiscal note says a savings of \$40,000, how would this compare with the cost of publication? KOVICH-About \$70 a week. BRAND-You said you sent out all of these notices, how many were returned? KOVICH-The county got a bulk mail permit, so I don't know how many came back. MULAR-Would you object to a poll booth registration? KOVICH-Yes.

HB 432-Rep. Stobie, sponsor--The clerks and recorders asked me to introduce this. Title 23-3013 provides for registrars to cancel the registration of anyone not voting in presidential elections. (He submitted a written statement, see attachment #2)

JOHN BELL, Clerks and Recorders Association--We believe it would encourage electors to vote in non-presidential elections. This is in no way an effort to discourage people to vote, however, we need an informed and educated electorate. The effort in Warm Springs was ridiculous - those people can't do that. There was a man who came in to register who was illiterate, and we had to read the ballot to him. I took some ballots to some bed-ridden elderly people - one couldn't hear and one couldn't see, so they helped each other - I don't see that this is fair. I would like to have the electorate better educated. We just finished a presidential election and the clerk and recorders can't cancel until someone fails to vote in the 1981 election. This bill takes the law back prior to the 1973 amendment. I disagree with the fiscal note, but I'm sure this would encompass some amount of money.

HELEN KOVICH, Lewis & Clark County Clerk and Recorder--You have heard all of my problems, but I think if we cancel after every general election, it would be easier.

OPPONENTS

ERNIE POST, AFL-CIO--To start with, I am shocked and amazed - in one bill you are saving money and in the other you are spending money. What we want is to make it easier for people to vote - not easier for clerks and recorders. She (Kovich) had 80.1% turnout in this county. We do have to educate the electorate, and the candidates have to encourage the people to vote. As legislators, you should be interested in all of your constituents registering to vote. I should be here for this bill, because it would give me job security if everybody wasn't registered. My job will still be there to get people registered. This is one more barrier to uneducated electors. I hope you recommend DO NOT PASS.

MICHAEL PICHETTE, Democratic Party Secretary--I came out half-hearted on HB 447, but I rise in full opposition to this. This is undoing some very important principles. It is hard for me, as part of the party, to understand why people don't vote; but on off years there is less interest. If you cancel the registration in between elections, then when they come to the polls and find they can't vote, it will discourage any further participation. I will ignore Bell's comments about Warm Springs and illiteracy - our constitution doesn't require literacy to vote. You should try to insure that the law protects all people's rights. I am amazed that county clerks think one thing for HB 447 and another for this bill. In summary, you should look very carefully before you interrupt the right to vote and minimize the number of times anyone has to register.

JO ANN WOODGERD, Deputy Secretary of State--I am responsible for both fiscal notes.

STOBIE--One area of concern here would be that candidates need accurate lists of electors. I wonder about the fiscal note too, but I would assume that the savings in the mailing of referendums wasn't included. I certainly am concerned about electors being given every chance to vote. Every serious voter will certainly get the chance to register and vote.

ROBBINS--Was the referendum included in the fiscal note? WOODGERD--I called 10 counties, got the numbers of cancellations for 1976, averaged that, and came up with the number of voters cancelled. We also got about 40 cents per notice. So, you will note that in HB 432, the figures were stated separately. If they still have to send notices of cancellation (if 447 passes) the cost would be \$40,000.

HB 488--Rep. South, the sponsor, was unable to attend the hearing due to being called out of town, but the witnesses chose to testify anyway.

PROPOSERS

PHIL HAUCK, Department of Administration--We requested this. Back in 1963, when the department first set up, it was obvious that we shouldn't get into the job of architecture, so a limitation was put on that anything over \$10,000 would need architecture. We now want to increase that limit to \$25,000 - the practicalities due to inflation should be examined. An awful lot of small jobs have to be done, and to hire an architect is silly. The architects don't oppose this. The Board of Regents has passed a resolution to support this because most of the small work is within the school units. This would facilitate our day to day operation.

HB 438--Rep. Vincent, sponsor--The purpose and intent of this bill is summarized in the title. For nonpartisan elections in cities and counties, people who want to run have to go through more than we do, and I think it is unfair. They have to have petitions with 5% of the electors from the last election. We don't even have to do this. The amendment that Woodgerd has would eliminate the petition. They would just have to file. Instead of paying a percentage for a filing fee, they would pay a flat \$10 - in Bozeman, to run for local office they had to pay more than we did to run for state office. So, we need some equality. The body of the bill has some difficulties, but Jo Ann is willing, with Dick, to address this and make any amendments necessary. Basically, this is a philosophical question, and the technical problems can be worked out.

NO OPPOSITIONS

ROBBINS--I go along with the thing about the petitions; but we have many officials who don't draw any salary, and when they have to get a petition and pay a filing fee, it is even harder to get people to run. VINCENT--Yes, I want an amendment to say that in jobs with no salary, the filing fee would be waived or be minimal. KROPP--How long have petitions been required? VINCENT--I think it has always been required. WOODGERD--The city candidates under various forms of government have always had to have petitions. In the regular council form, with aldermen, strictly speaking, all city elections should be partisan. The partisan system requires primaries; but through the process of study commissions, many cities found that they hadn't been holding legal elections. There is no provision in state law for nonpartisan elections. The amendment here doesn't really address the problem - what this does, if you wish to run as an independent, you file, get your petition, and then don't have to run in the primary. With this bill, that candidate wouldn't have to get the petition either.

I don't think this is what Vincent was trying to do. Either strike the amendment and add a separate section; or depend on 122 passing, which has this provision.

VINCENT-The filing fees are mostly set according to the salary. I am worried about local elections; and I think it would be fairer if they didn't have the petition, and had more equitable filing fees. We will work on the amendment.

EXECUTIVE SESSION

HB 247-Mular moved to transfer it to the Local Government Committee.

MULAR-In the testimony, Mizner said that this isn't contained in 122 because it was repealed out. We feel this should be in there. ROBBINS-122 does repeal all municipal courts, and this could be written in as an amendment.

The motion to transfer carried with Robbins and O'Connell voting no.

HB 432-Mular moved DO NOT PASS, with Kanduch seconding, the motion carried unanimously.

HB 438-Mular moved to pass it to a day uncertain, in order to add amendments, Bardanouve seconded.

ROBBINS-I would suggest amendments about none paying jobs.

Mular withdrew his first motion, and moved that the bill be put in a subcommittee, Kanduch seconded, and the motion carried unanimously -- Mular, Chairman, with Robbins and Kropp.

HB 447-Mular moved DO NOT PASS, Robbins seconded. Lien made a substitute motion of DO PASS, with Meyer seconding.

BARDANOUE-Won't this leave people unaware that they have been cancelled? BRAND-Yes. RYAN-I agree with Francis; I think the fiscal note is right, and I feel that we shouldn't be doing the bookkeeping for clerks and recorders. SMITH-Anyone who cares about local government will vote. LIEN-The notice requirement - mostly everybody, one way or another, knows that you have to re-register. The lists are easily checked. FEDA-Most organizations work on registration and I think it is healthy. I think you get more people to vote with this and 432. KANDUCH-I suggest some sort of amendment to put the list in the paper. MEYER-Why not put a whole page ad in the paper? BARDANOUE-It may be cheaper, but who is going to look through the whole list?

Kanduch moved his aforementioned amendment, and the motion carried with Brand, Ryan, Turner, and Bardanouve voting no.

Mular moved AS AMENDED DO PASS, Robbins seconded.

LIEN-I am against this. I clerked elections for years, and there's a process for this. If you aren't shown on the list, you go ahead and vote in a "Challenged Ballot category. This is held until your registration is confirmed. Whether this is added to the ballot box or not, this is already taken care of. FEDA-This will change the intent of the bill.

BARDANOUE-I don't think we can do this.

Mular's motion failed.

Robbins moved that HB 447 be placed in a subcommittee, O'Connell seconded.

ROBBINS-I think we already know that there are questions, and don't feel we can act intelligently on this. LIEN-I made a remark about challenged ballots, but it might not be used anymore.

Robbins motion carried, the subcommittee will be Mular as Chairman, with Robbins, and Kropp.

HB 182-O'Connell moved DO PASS, Feda seconded, and the motion carried unanimously.

HB 263-Subcommittee report-MULAR-Nachtsheim suggested setting up a 10 year period to work on the merging of the programs. It is doubtful if a fire fighter, after having invested 10 years, would go to another job. If they had half of their pension in and then quit, they would only get half. We feel the career period is pretty well established by 10 years. It is therefore doubtful that mortality would be very high after 10 years. We feel it should be amended to 10 years. How far down would we break the fund - if 1/10 of 1% should quit, the fiscal impact would be virtually negligible.

Mular moved that the bill be amended to 10 years - this would be in compliance with the statute.

Robbins moved to pass the bill until the next meeting to check out some questions. The motion carried, with Mular voting no.

HB 453-Lien moved his amendments.

LIEN-What this does is take out the minimum on attendance in the election. This strikes the language and leaves provisions for setting up an election. One of the big objections was this, and it was a point well taken. I checked the reference to the codes and they jive.

The motion passed, with Mular, O'Connell, Ryan, Feda, and Turner voting no.

O'Connell moved DO NOT PASS, with Mular seconding.

LIEN-Most of the testimony said that the election would jeopardize the bonds. Right now a 3 man commission can authorize these bonds. There are cases of \$12,000,000 being authorized by 3 men. An election would be a good way to handle this. In my county we have an industry that wants to come in - but two members of our commission are members of Norther Plains Resource Council, so there's no way they will let the company do it. Whereas, if we had an election, the public would definitely support it. Currently, a small minority can either block or pass on these things. There's nothing wrong with these things, my bill addresses the method of authorization. The 40% was bad, so the amendment. The cost isn't that great, and if the community thinks bonds are so great, then they will authorize. It takes a year on the average to sell them after authorization. So, the time element isn't that great. The industries involved were worried about the 40% qualification, thus my amendment. If this dies here, I won't bring it out on the floor. MULAR-You alluded to a situation in your area and the problem is that in my area alone, I believe the industry has gotten \$30,000,000. We are talking of industrial bonds far in excess of what you speak of; but if the commissioners are that adamant about this, they could be overridden by the people. In my county it would cost \$6,000 - \$10,000 for an election. As soon

as you have a bond issue, you get opposition. BARDANOUE-I think there are some problems with the bonds. Havre had a very bitter fight this summer. So, there can be some serious abuses. I think we should look at some of the issues. In some other areas it may be a problem. LIEN-I don't see where this bill jeopardizes employment in any way. It was brought out in testimony that in Colstrip, the shopping center was authorized because some people had to go to another town to get food. Then the store didn't even build on the site, but chose another one. I fought too hard to protect the tax free status on these things, but I hate to see them being abused. Antipollution equipment is needed and these things help, but city commissions are put in an unfair place. I think an election would be a legitimate way to take pressure off the commission.

O'Connell's motion of DO NOT PASS carried with Brand, Lien and Bardanoue voting no.

MEETING ADJOURNED - 11:30

Joe Brand, Chairman

Anita C. Sierke
Anita C. Sierke, Secretary