

February 14, 1977

An executive session of the Local Government Committee was called to order by Chairman Robbins at 10:07 AM in Room 437. The secretary called roll; Representative Colburn was excused and Representatives South and Stobie were absent. All other member were present.

HOUSE BILL 122: Beth Richter continued with the PROPOSED AMENDMENTS (OF STATE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND STATE COMMISSION ON LOCAL GOVERNMENT) - exhibit 1.

Larry advised the committee the amendments to make optional services at county level were drafted (health nurse and sanitarian).

The amendment for page 446, line 14, was considered by the committee. Representative Bertelsen moved TO ADOPT the amendment for page 446, line 14. Question, motion carried. (SCR 219)

Representative Gould moved TO ADOPT the amendment for page 446, line 25. Question, motion carried unanimously. (SCR 226)

Representative Waldron moved TO ADOPT the amendments for page 448, after line 11 and line 12 to insert four new subsections. Question, motion carried. Representative Gould voted NO. (SCR 231, 232)

Beth Richter gave to the committee a handout on Federal Funds for Public Health Services (exhibit 2) to help explain the purpose of the amendments for page 448, line 17, and for page 449, line 21, and the health section of HB 122. She felt the the federal law intended for that money to be given to the local health departments. The proposal is to increase the formula for allocation of the funds, and the State Department of Health did not agree with this. This will represent a loss of \$90,000 to them and they would like an effective date of July 1, 1979.

Representative Palmer left.

Representative Gerke moved TO ADOPT the amendments for page 448, line 17, and for page 449, line 21. Question, motion carried unanimously. (SCR 233, 237)

The request to amend to provide for a delayed effective date was discussed briefly. Representative Gerke moved that the committee DO NOT ADOPT the amendment for a delayed effective date. Question, motion carried.

Representative Bertelsen moved TO ADOPT the amendment for page 450, line 8, to delete subsection (8). Question, motion carried. (SCR 238)

It was explained that the three amendments for page 629, line 10; page 653, line 20; and page 734, line 1, are to insert language for an appeal procedure that the Department of Health wanted.

Representative Gunderson moved TO ADOPT all three amendments. Question, motion carried unanimously. (SCR 385, 386, 394)

The amendment for page 806, line 7, was explained. Line 7 would have transferred another section of state law and this is no longer necessary. They wish to repeal this section, 69-4515, and that is amendment for page 810, line 5. Representative Gerke moved TO ADOPT the amendments for page 806 and page 810. Question, motion carried. (SCR 418, 427)

Since the school nurses are now optional the amendment for page 745, line 15, is not necessary.

All amendments marked with an asterisk are nonsubstantive and should be acted on. Representative Bertelsen moved TO ADOPT all amendments marked with an asterisk. Question, motion carried unanimously. (SCR 184, 185, 187, 188, 191, 192, 193, 195, 196, 197, 198, 199, 202, 203, 204, 205, 206, 207, 189, 210, 211, 213, 214, 215, 216, 218, 221, 222, 223, 224, 225, 227, 228, 229, 230, 234, 235, 236, 238, 239)

HB 238 - CORRECTIONS - exhibit 3.

These amendments bring HB 122 in line with HB 238 by changing to water or sewer. Representative Vinger moved TO ADOPT the amendments. Question, motion carried unanimously. (SCR 167, 168, 169, 395, 419)

Dale Harris pointed out to the committee they may want to change "municipality" to "local government". Representative Gerke moved to change "municipality" to "local government". Question, motion carried. (SCR 419)

AMENDMENTS FOR PLANNING AND ZONING - exhibit 4.

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

Representative Roth made a motion to DO NOT ADOPT amendments 1 and 2. Question, motion carried unanimously.

On amendment 3 Larry explained that "shall not" means they will not be forced to do it and "may not" means they lack the power to do it. Representative Bertelsen moved a DO NOT PASS for amendment 3. Question, motion carried unanimously.

Representative Gunderson moved TO ADOPT amendment 4. Question, motion carried. (SCR 138)

Representative Bertelsen moved TO ADOPT amendment 5. Question, motion carried. (SCR 139)

Amendment 6 for page 293, line 3, subsection (4), takes away powers from board of adjustments but would still rest with governing body. Representative Bertelsen made a motion TO ADOPT subsection (4). Representative Waldron made a substitute

motion to DO NOT ADOPT subsection (4). He explained he thought different counties differ, perhaps larger counties may require a more sophisticated procedure. Therefore, he would like the power to be with board of adjustments. Question on substitute motion, motion carried. Representatives Halvorson and Pistoria voted NO.

Subsection (5) of amendment 6 provides for an appeal to the governing body and should be subsection (4). Amendments 7 and 8 delete some material where an appeal wasn't provided for, and if you don't want an appeal to governing body the appeal would be directly into district court. Gerke - thinks it is a good idea but don't agree with all of subsection (5). He would prefer the first sentence and leave it so you could appeal to the governing body. Jim Boyer - the reason for language is because the board of adjustments is a quasi-body. The board of adjustments has established its authority in many cases. Representative Pistoria made a motion TO ADOPT subsection (5) in its entirety. Question, motion carried. Representative Gerke voted NO. Larry - amendments 7 and 8 are not needed now.

In reference to amendment 9 it was said there may be constitutional problems if language left as is in HB 122. Representative Halvorson moved TO ADOPT amendment 9. Question, motion carried. (SCR 141)

Representative Gunderson moved TO ADOPT amendment 10 which is existing law. Question, motion carried unanimously. (SCR 142)

Representative Palmer returned.

Amendments 11, 12, and 13 were proposed by the Department of Community Affairs. Representative Gould moved that amendments 11, 12, and 13 BE NOT ADOPTED. Question, motion carried unanimously.

ANNEXATION AMENDMENTS - exhibit 5.

Amendments for page 53, line 10 and lines 13 and 14, go together. After brief discussion, Representative Pistoria moved to have an amendment written that when a governing body annexes it gives the electors the right to protest. Question, motion carried. (SCR 19)

Representative Waldron moved to amend on page 53, line 16, strike: "at least 50%", insert: "majority". There was discussion by the committee. Representative Waldron withdrew his motion.

The amendment for page 64, line 4, to insert 47A-2-221 was written for Representative Gould. Representative Gould moved TO ADOPT the amendment for page 64, line 4. Question, motion carried unanimously. (SCR 18)

Dale Harris explained for cities to be able to annex, if in public interest, they could annex even though people in that area didn't find it in its interest. Waldron - you have a situation where people a block away from city want to have sewer service but since they are not next to the city it is in public's interest to be annexed. Gould - how are you going to define public interest? What you are talking about is fine. Palmer - thought people should have the right to protest, there are situations like Waldron said that action must be taken by the governing body where the public health is concerned.

Representative Palmer made a motion that the staff write an amendment where a city would have a right to annex providing there is a public health hazard. Gerke - suggests since it is new tool the committee would like it explained. The committee was in agreement.

MISCELLANEOUS #2 AMENDMENTS - exhibit 6.

Larry explained that amendment 1 was from the AFL-CIO people. Representative Waldron moved TO ADOPT amendment 1 for page 4. Question, motion carried unanimously. (SCR 1)

Amendment 2 was submitted by Sonny Hansen, Montana Technical Council. Dale explained that it is the fear of the private sector of competition by state agencies. Representative Waldron moved TO DO NOT ADOPT amendment 2. Question, motion carried. Representatives Roth and Ramirez voted NO.

Representative Palmer moved to amend page 6, line 13, following: "through", strike: "ordinary", insert: "business". Question, motion carried. (SCR 2)

Amendment 3 is a technical change by staff to make terminology consistent. Representative Halvorson moved TO ADOPT amendment 3. Question, motion carried. (SCR 3)

Amendments 4, 5, and 6 were submitted by Representative Waldron. You would avoid one election. Representative Waldron moved TO ADOPT amendments 4, 5, and 6. Representative Palmer made a substitute motion to amend amendment 6 to 15%. Question, motion carried unanimously. Representative Palmer moved TO ADOPT the amendments as amended. Question, motion carried. Representatives Halvorson and Ramirez voted NO. (SCR 23, 24, 25)

The meeting adjourned at 11:55 AM.

Respectfully submitted,


HERSHEL M. ROBBINS, Chairman