

February 16, 1977

An executive session of the Local Government Committee was called to order by Chairman Robbins at 10:10 AM in Room 437. The secretary called roll; Representatives Gunderson, Halvorson, and South were absent. All other members were present.

HOUSE BILL 122:

AMENDMENTS TO CHAPTER 9, PART 5 - exhibit 1.

Larry Weinberg began the explanation of the amendments to financing laws, more for bonding laws. Most of the amendments are nonsubstantive changes requested by the bonding firm's attorneys. Since the amendments were prepared by Steve Turkiewicz he will go through the amendments with the committee.

The people of Dorsey, Maigrart, Windhurst, West, and Halladay, bonding counsel for the bonding firms, reviewed the bond laws to be sure they are in compliance with present law.

Amendment 2, subsection (5) is covered by another law. Representative O'Connell moved TO ADOPT amendment 2. Waldron - what is different from law. Steve - this is just duplication of what is in the code.

Representative Stobie moved TO ADOPT amendments 1, 2, and 3. Question, motion carried. (SCR 261, 262, 263)

Amendment 4, they felt 47A-9-504 was unnecessary because of the provision in lease and installment purchase. Representative Stobie moved TO ADOPT amendments 4 through 8. Question, motion carried. (SCR 264, 265, 266, 267, 268)

Amendments 9 and 10 would limit the department of community affairs' authority in this area. Representative Gerke moved TO ADOPT amendments 9 and 10. (SCR 269, 270)

Amendment 11 is to make corrections of typing errors and it was not the intention to reduce debt limit and this corrects back to the way the law is. Representative Hurwitz moved TO ADOPT amendments 11 through 15. Question, motion carried. (SCR 271, 272, 273, 274, 275)

Amendment 16, the way the bond ordinance is written it should be definitive as to what is in it. Representative Gerke moved TO ADOPT amendments 16 through 19. Question, motion carried. (SCR 276, 277, 278, 279)

Amendment 20 should have an asterisk by it. Representative Gerke moved TO ADOPT amendments 20 through 24. Question, motion carried. (SCR 280, 281, 282, 283, 284)

Amendment 25, this provision allows that if local government exceeds the debt limit the governing body has the power to negotiate. This is taken care of in a similar manner in Chapter 6, part 9. This is existing law the bond counsel suggested deleting. Representative Waldron moved the committee DO NOT ADOPT amendment 25. During discussion it was said there are two other ways to solve this that is acceptable to the bonding counsel. Representative Bertelsen made a substitute motion to DO PASS amendment 25. Question, motion carried. (SCR 285)

Amendment 27, this is not current law. It gives protection to the people. Representative Pistoria moved TO ADOPT amendments 26 through 36. Question, motion carried. (SCR 286, 287, 288, 289, 290, 291, 292, 293, 294, 295)

Amendment 37 strikes redundant language. Representative Pistoria made a motion that amendments 37 through 42 BE ADOPTED. Question, motion carried. (SCR 296, 297, 298, 299, 300, 301)

Amendment 43, Mr. Aby mentioned problems and after discussing it with him resulted in this amendment. Representative Pistoria moved TO ADOPT amendments 43 through 48. Question, motion carried. (SCR 302, 303, 304, 306, 307, 312)

Amendment 49, this was an oversight on rewrite. Representative Gerke moved that amendment 49 BE ADOPTED. Question, motion carried. (SCR 313)

Amendment 50, this makes link between current law. Representative Stobie made a motion TO ADOPT amendments 50 through 52. Question, motion carried. (SCR 314, 315, 316)

Amendment 53 is a small language change. Representative Bertelsen made a motion that amendments 53 through 55 BE ADOPTED. Question, motion carried. (SCR 317, 318, 319)

Amendment 56, we have the old law and the uniform commercial code is clearer on this. Representative Hurwitz moved TO ADOPT amendment 56. Question, motion carried. (SCR 320)

Amendment 57, the bond counsel felt any citizen should have the right.

Amendment 58, provides a time limit of 60 days.

Representative Colburn moved TO ADOPT amendments 57 through 65. Question, motion carried. (SCR 321, 322, 323, 324, 325, 326, 327, 328, 329)

Amendment 66, provides that if the officers of local government are willfully negligent they are liable. There are other remedies if it is lack of foresight. Representative Roth moved TO ADOPT amendment 66. Question, motion carried. (SCR 330)

Amendment 67, the law as written was ambiguous. Representative Gould moved TO ADOPT amendments 67 and 68. Question, motion carried. (SCR 331, 332)

AMENDMENTS TO CHAPTER 3, PART 4, Local Improvement Districts - exhibit 2.

These four pages are basically grammatical corrections. Representative Vinger moved TO ADOPT amendments 1 through 27. Question, motion carried. (SCR 60, 61, 62, 70, 71, 72, 73, 74, 75, 76, 77, 78, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93)

Amendment 28, in setting of special assessments there are several protest procedures, and they should not have the right to protest at the time of the payment. This is one more harassment. Representative Hurwitz moved TO ADOPT amendment 28. Question, motion carried. (SCR 94)

AMENDMENTS TO CHAPTER 3, PART 5 - exhibit 3.

Amendment 1, it was felt that you wouldn't need to follow suggestion of bond counsel. As this doesn't affect anything substantial is thought HB 122 reasonable for reader. Representative Gerke moved to DO NOT ADOPT amendment 1. Question, motion carried.

Amendment 2, this is when a person goes in to vote they will know what they are voting on. Representative Bertelsen moved TO ADOPT amendment 2. Question, motion carried. (SCR 113)

AMENDMENTS FOR PAGES 592 and 593 - exhibit 3.

The changes suggested would restore current practice and we don't want to endanger current law. Representative Gerke moved TO ADOPT amendments 1 through 6 for page 592 and amendments 1 through 4 for page 593. Question, motion carried. (SCR 373, 374, 375, 376, 377, 378, 379, 380, 381, 382)

Representative Palmer left.

TRANSPORTATION AMENDMENTS - exhibit 4

Larry Weinberg said additional information is being prepared for amendments 1 through 5 so the committee will not consider them at this time. The rest are amendment to trafficways and Mr. Bowlds is here to give the explanation.

Amendment 6 is a nonsubstantive change.

Amendment 7 would allow local government to bring a street up to standard crosssection, and it would require the abutting property owners to bring driveways up to it. At the present time just requires local government to pay damage which could include paving for driveway. Dale explained there are two

different situations. If the grade has not been established a city could come in and change, but if there has been an official grade for the street that is when the property owner has protection, that is current law. If in changing the grade in the street by redesigning it and they affect the edge of the street then the city may require the property owner to pay. Representative Vinger moved to DO NOT ADOPT amendment 7. Question, motion carried.

Representative Waldron moved TO ADOPT amendment 6. Question, motion carried. (SCR 68)

Representative Gerke left.

Representative Roth moved to DO NOT ADOPT amendment 8. Representative Waldron made a substitute motion TO ADOPT amendment 8. Larry - this provides if you don't get sufficient signatures this amendment is to make it clear that protested and non-protested both are treated right. Roll call vote was taken on Representative Waldron's substitute motion that amendment 8 BE ADOPTED: 6 voted YES and 6 voted NO. A tie vote is a do pass in committee. (SCR 175)

Chairman Robbins advised the committee they can reconsider later if they want to do so.

Amendments 9 and 10, if federal funds are used for trafficway the highway department has to approve. When work is being done on state controlled right of way the highway department has to approve and also provides that where nonhighway fund is used can let contract without approval of highway department. Representative Colburn moved that amendments 9 through 11 BE ADOPTED and to amend subsection (3) to change shall to may. Question, motion carried. Representative O'Connell moved to reconsider action taken on amendments 9 through 11. Stobie - for counties this would not apply. Answer - this is state right of way and primarily applies to cities they might receive state revenue funds and they would have to get authorization from highway department. Representative Stobie moved TO ADOPT amendments 9 through 11 and change subsection (3) from shall to may. Question, motion carried. (SCR 176, 177, 179)

Amendments 12 and 13, an additional amendment is needed on line 14 following: "construction", insert: "and maintenance", which will be amendment 16. In the discussion of a plan describing construction priorities it was indicated there would be a lot of problems with a 3 year plan so these three amendments would change the length of the construction plan to 1 year only. Stobie - would like to ask Representative Hurwitz if in his experience would he think advisable to go through this exercise. Hurwitz - I think it would. To Dale would it tie their hands? Dale - No. Bertelsen - it is so frustrating with no plan and this does have potential and doesn't tie just sets goals.

It was noted that amendment 14 would do the same thing but amendments 12, 13, and 16 are better. Representative Roth moved TO ADOPT amendments 12, 13, and 16. Question, motion carried. (SCR 170, 171)

Amendment 15, in present law you must have a petition by so many people to open a road. Inadvertantly we put in a protest procedure to petition to stop and it is now in present law. In current law was 10% and we added majority. If you want to go back to current law take out.

Representative Ramirez came in.

Representative Gould moved to DO NOT ADOPT amendment 15. Question, motion carried.

Mr. Bowlds proposed an amendment for page 403, section 1, line 12, following: "within", strike: "60", insert: "10". Representative Waldron moved TO ADOPT the amendment to page 403. Question, motion carried. (SCR 174)

Representative Palmer returned.

There was a 15 minute recess.

AMENDMENTS FOR COUNTY PRINTING CONTRACT, COUNTY PRINTING BOARD AND PRINTING OF COUNTY CLAIMS - exhibit 5.

These suggested amendments restores to present status.

Representative Colburn made a motion that the committee delete everything out of HB 122 that pertains to printing and at a later date form a committee bill. Colburn - said this would be a timesaving element. Robbins - if it is deleted it would restore status quo as stands today. Representative Hurwitz made a substitute motion to amend HB 122 to include the municipalities and counties where have to print the proceedings. Vinger - would like to see amended back to printing. The amendments were drafted by staff and would be what papers wanted. Representative Stobie made a substitute motion to all motions pending TO ADOPT all the amendments. Pistoria - where did the amendments come from? Answer - association of newspapers. Hurwitz - thought these papers will get county business. Stobie - in most cases no reason to take out of the county. Robbins - when they don't have a newspaper in county, what then? Larry - if no paper, they would have to find a newspaper of general circulation. Ramirez - there are two distinct sections in the amendment, contracted and publishing. Question on Representative Stobie's substitute motion to all motions pending TO ADOPT all the amendments. Roll call vote was taken: 10 voted YES and 3 voted NO. Motion carried. (SCR 7, 246, 410)

Representative Hurwitz made a motion to amend to make cities come under mandatory printing. Stobie - commission meetings are often times removed from localities, where city council

meetings are not. Robbins - to do this, there is a lot of cost if the amendments for printing are adopted. Would be quite an expense to cities. Gould - thinks possibly the motion has some merit, but feels for major cities as this is just going to be a horrendous expense. Dale - the section the committee is talking about is on the back sheet putting local government in applies to both. 99% of what they publish is each bill that the county pays, and you would be requiring it for city and county. In HB 122 is the requirement that both city and county publish quarterly a summary of expenditures, and that summary is much better than this detail. That could be considered a replacement for 47A-9-317.

Representative Halvorson arrived.

Representative Ramirez made a substitute motion and would like to see it quarterly. Amend 47A-9-317 so they publish proceedings on a quarterly basis. Dale - the quarterly financial expenditure, you might question requiring this. Representative Ramirez withdrew his motion.

Representative Waldron made a substitute motion to delete 47A-9-317. Question, motion carried. Representatives Stobie and Vinger voted NO.

#### ANNEXATION - ALTERNATIVES - exhibit 6.

To review what is in annexation law turn to page 46, lines 1 through 12 and that is a list of ways to annex in this bill.

Representative Gould said going back to the other day have a motion to eliminate 47A-2-216.

Representative Palmer made a substitute motion TO ADOPT amendment 3 - to add public health safety welfare amendment to 47A-2-216.

Representative Stobie made a substitute motion for all motions pending to retain what was adopted on February 14, 1977, in amendment 6 - fire district land cannot be annexed by 47A-2-216 procedure. Larry - Representative Gould had made a motion only through procedure of 216. Dale - this is revision. Representative Stobie withdrew his motion.

Question on Representative Palmer's substitute motion TO ADOPT amendment 3, motion carried. Representative Stobie voted NO. (SCR 15, 19, 20, 21)

Dale - for clarification the amendment adopted at previous meeting on fire districts the only method to use is 215. You could not use other methods. I don't know if that is what you wanted or intended to do, and now that you adopted public health you may want to consider changing.

Representative Waldron made a motion to include fire districts in 212, 213, and 216. Dale - do you really want this for

fire districts with the addition of public health. One amendment can let fire districts continue to provide. Larry - what you did is adopt an amendment for the only way to annex fire districts is through 215. If you take no further action that is the way it will stand. 216 will provide for public health. Ramirez - why are we giving such special consideration to fire districts? Treat them like anyone else and let them to continue as fire districts. Waldron - changing somewhat to protect integrity of fire districts except fire districts cannot stop annexation if people want to. Ramirez - as long as you protect function and district why can't people do what they want. Waldron - usually requires a full-time fire department and you are limiting that municipality to hire full-time. Gould - I see nothing wrong with the way we have done it so far. The amendment to 215 they have resolution of intent and if people so desire can protest also keep in 216 with public health. Palmer - I want to make sure we provide protest mechanism for fire districts and provide city can annex in public interest. Larry - to do this only 215 could be used to annex land in fire district, and 216 would not apply to fire districts as don't come under 215. Question on Representative Waldron's motion to include fire districts in 212, 213, and 216, motion carried. Representatives Gould, Pistoria and Stobie voted NO.

Representative Gerke made a motion that 211 be left in HB 122. Question, motion carried.

Representative Ramirez made a motion that we would put fire district as exception to 214. Question, motion carried.  
(SCR 18)

The meeting adjourned at 1:10 PM.

Respectfully submitted,

  
Hershel M. Robbins, Chairman

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