

February 18, 1977

A meeting of the Local Government Committee was called to order by Chairman Robbins at 10:02 AM in Room 437. The secretary called roll; Representative South was absent. All other members were present.

HOUSE BILL 433: Representative Palmer, chief sponsor, explained this is an act to require appropriate safety measures be taken on irrigation ditches beginning and terminating within such cities. They have a problem in Missoula with ditches and are trying to find some way to come to grips with the problem. This bill is intended to get at this important issue to stop drownings.

Proponents to speak were: Jack Morton, Missoula, said we have an average of one drowning a year and would like to see what we can do to help change this. We have the authority to close noncommercial ditches, but we don't have that type of ditch. For an example, a 2 1/2 year old child fell through a cistern, if there had been a padlock on it this wouldn't have happened. They would like to protect the children.

Fred C. Root, city attorney of Missoula, said what has happened along irrigation ditches the owners themselves have subdivided and he thought it fair those people should provide some safety measures.

Tom Crowley, city engineer of Missoula, spoke in support and wrote comments on the witness sheet - exhibit 1.

Opponents to speak were: Representative Gould, as citizen, said he disagreed with third speaker and asked if Representative Day was present as he was going to try and be here as he is most knowledgeable about water.

Representative Harry Hansen, District 24, said we agree there is a problem of drownings in Missoula. He doesn't think this bill is the way to go to correct Missoula's problem.

Martin Behner, Orchard Homes Ditch Company, said the people have moved in on the ditch because they wanted the water. If you make this law it could put alot of people out of business.

R. A. Ellis, self and Helena Valley Irrigation, feel this bill is not necessary.

Orvil G. Johns, commercial gardener, Missoula, said he is opposed to HB 433.

Otto Benson, self, Missoula, opposed the bill and thought there should be a better way than demanding that the patrons of a ditch pay for the area that goes through the city. It is possible the people along the ditch may not want a fence. The way the bill is worded it could be interpreted so many ways.

Lloyd Shelhamer, Jr., Shepard, Billings Bench Water Association, spoke briefly and left a prepared statement - exhibit 2.

Arwood Stickney, Missoula, wanted to know why private ditch companies maybe some ditch companies are county irrigation districts. If it were a county irrigation district the cost would be on people in district. If private the ditch owners would have to bear the cost themselves. If legislature has the authority to enact they also have the power to appropriate the money.

The following signed witness statements or sent letters in opposition to HB 433:

Anne Benson, self, Missoula
Jake DeVries, Shepherd, Montana, Billings Bench Water Assoc.
David L. Fischer, Billings Bench Water Association, Billings
Gloria Lueck, Billings Bench Water Association, Billings
Anna C. Hart, 602 East Kent, Missoula
Thelma June Heaphy, 2637 South Third Street, Missoula
Matthew W. Heaphy, 2637 South Third Street, Missoula
Mr. & Mrs. Eli Milodragovich, 2700 South 3rd Street West, Missoula
Marvin M. Tabish, 4720 Humble Road, Missoula

Representative Palmer said in closing that the present law does not cover commercial irrigation ditches, and it is vague and ambiguous.

It was brought out during questions by the committee that the city has the power to have a special improvement district to do what this bill is asking private ditch owners to do.

HOUSE BILL 767: Representative Vincent, sponsor by request, said he submitted this bill by request of Richard Klinger to provide that certain statutes in existing law are clarified for the purpose of implementing. Representative Vincent introduced Richard Klinger, Bigfork, who is representing the Montana 208 Agencies. Mr. Klinger explained that under the federal water pollution law there is a requirement for area wide plans on water shed areas for handling waste treatment. The 208 planning is comprised of four areas of the state and are approved for federal funding. He was retained as counsel and the first task was to perform an analysis of the laws. They met to discuss the report and out of that report came the request to remedy the problems. House Bill 767 is an organizational bill. It is desired to use wherever possible existing agencies, authority, and laws. In order to do that this bill is required. We need flexibility to work out the organizational structure.

Mr. Klinger introduced Frank Gaye, a member of the board of directors of the Flathead 208 Project, who said the 208 board very recently amended its by-laws in order to set three members of the Soil Conservation District. This was done in anticipation of this bill so these people could come in on the ground floor and know what is going on. They would like to include other agencies in the 208 project.

Darlene Grove, representing the League of Women Voters, said they were in support of this bill.

Steve Turkiewicz, representing the Montana Association of Counties, rose in support of this bill.

Clark Judy, Broadus, representing the Yellowstone-Tongue APO, left a signed witness sheet and comments in support are - exhibit 3.

There were no opponents.

Since Representative Vincent had stepped out for a moment, the committee went into executive session to take action on the following bills:

HOUSE BILL 727: Chairman Robbins informed the committee that the sponsor asked that this bill be tabled. Representative Palmer moved TO TABLE HB 727. Question, motion carried.

HOUSE BILL 704: Representative Palmer moved that HB 704 DO PASS. There was a brief discussion by the committee. Representative Palmer withdrew the motion. Representative O'Connell moved that HB 704 DO NOT PASS. Representative Palmer made a substitute motion that HB 704 DO PASS. Question, roll call vote was taken: 11 voted NO and 4 voted YES. Motion failed. Those voting YES were: Representatives Colburn, Gerke, Palmer, and Ramirez. Question on DO NOT PASS and the roll call vote was reversed: 11 voted YES and 4 voted NO. Motion carried. Representatives Bertelsen and Waldron were not present. Representative South was absent.

HOUSE BILL 767: The committee went into regular session as Representative Vincent returned to close on House Bill 767. Questions were asked by the committee on the 208 project. It was explained that 208 was designed to study water quality and potential pollution problems in a given area. This study is for two years, and it addresses all areas of water pollution. The information will be collected into one volume. This would constitute a plan for eliminating problems. No individual local government feels they can do this. The biggest problem is agriculture runoff, also irrigation systems are polluting the rivers. They are going to try and encourage people to start

working on the problem areas. This does not have teeth to fine people and put out of business. We cannot restrict to that degree, as it would harm the economy. They are looking at management practices and to changing practices.

The committee recessed for 15 minutes.

The committee went into executive session to consider amendments for HOUSE BILL 122:

Representative O'Connell moved TO RECONSIDER action taken on library board. Question, motion carried.

LIBRARY AMENDMENTS - exhibit 4

Representative O'Connell moved to amend pages 661 through 671 to put the library board under present law and suggest that any section of the law regarding library board be deleted from the repealers. Representative Stobie made a motion to restore those laws creating all boards and be acted on with the library board. Stobie - he favors mandatory boards and powers for boards they had in past not only for the library board. Roth - what is the purpose of subpart 6 in HB 122? Larry - the commission was of the opinion should be on local level and all should be created the same. Gerke - the main reason as far as he recalls, the testimony was to leave it up to the governing body whether they want a board or not. Some boards are not necessary and those necessary would have advisory or administrative powers. It is not abolishing any boards. Stobie - if we want all boards to descend on us he felt that either should go with HB 122 or go back to old way can't see justification for just one board. Representative Gerke made a motion to supersede all motions pending and revert to original motion on library board. Question, roll call vote was taken: 10 voted YES and 6 voted NO. Motion carried. Those voting NO were: Representatives Bertelsen, Colburn, Gould, Pistoria, Stobie, and Vinger. Gerke - asked if they wouldn't modify what Senator Warden wanted. Question on Representative O'Connell's motion to change library board back to present law, roll call vote was taken: 11 voted YES and 6 voted NO. Those voting NO were: Representatives Bertelsen, Gerke, Jensen, Pistoria, Ramirez, and Vinger. (SCR 146, 387)

Representative Stobie moved to ask staff to make amendments to restoring all boards to present law. Representative Gerke as a substitute motion that Representative Stobie's motion DO NOT PASS. Representative Stobie made a motion to all motions pending to restore to former laws the weed board and fair board. Representative Ramirez made a motion to all motions pending that all other boards be restored. Representative Waldron rose to a point of order that Representative Ramirez's motion was out of order. Waldron - regarding weed board didn't they say current weed laws are hard to work with and they all got together and liked HB 122. Stobie wants to include parks, museums, and cultural. Gerke - do you know you are mandating taxes? Question on Representative Stobie's motion to restore weed and fair boards,

roll call vote was taken: 10 voted NO and 6 voted YES. Motion failed. Those voting YES were: Representatives Gould, Palmer, Pistoria, Stobie, Vinger and O'Connell. Representative Roth was not present. Representative South is absent.

The mill levy for library board was discussed. Representative Ramirez made a motion to reconsider action taken rejecting 8 mill levy. Question, motion carried. Representative Ramirez moved to amend under library amendment 3 for page 522, after line 8, to add section (1). Question, roll call vote was taken: 9 voted YES and 7 voted NO. Motion carried. Those voting NO were: Representatives Bertelsen, Colburn, Gerke, Hurwitz, Jensen, Pistoria, and Stobie. (SCR 253)

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Representative Colburn moved to reconsider action on 47A-9-317. Question, motion failed.

MISCELLANEOUS #2 AMENDMENTS - exhibit 5

This group of amendments were not completed at a previous session.

Amendment 7 is not needed so no action is necessary.

Amendment 8 is cleanup.

Amendment 9 for page 110, line 8, is from the AFL-CIO, provides that local government take care of cost. The purpose is the fact it does provide for court action by local government on initiatives and ordinances and this would be fairly expensive issue. Representative Gunderson moved TO ADOPT amendment 9. Representative Gould made a substitute motion that the committee have Dale look at this with Larry. Question, motion carried.

Amendment 10 is cleanup. Representative Gerke moved TO ADOPT amendments 8 and 10. Question, motion carried. (SCR 37, 42)

Larry suggested taking amendments 11 through 14 and delete amendment 15. Representative Palmer moved TO ADOPT amendments 11 through 14. Question, motion carried. (SCR 53, 54, 100, 116)

Amendments 16 and 17 were from AFL-CIO and they ask to strike redundant language. Representative Palmer moved TO ADOPT amendments 16 and 17. Question, motion carried. (SCR 117, 118)

Representative Gould moved TO ADOPT amendments 18 through 21. Question, motion carried. (SCR 127, 135, 136, 148)

Representative Halvorson moved TO ADOPT amendment 22. Question, motion carried. (SCR 151)

Amendments 23 through 25 is to restore to present law. Representative Palmer moved TO ADOPT amendments 23 through 25. Question, motion carried. (SCR 164, 165, 166)

Representative Gould moved TO ADOPT amendments 26, 28, 29, and 30. Question, motion carried. (SCR 240, 388, 389, 405)

Amendment 27 regarding the budget administrator collecting information a gentleman from Lake County wanted to delete as he thinks it is a useless requirement. Representative Ramirez moved TO ADOPT amendment 27. Question, motion carried.

Amendment 31 is concerning county assessors. Their salaries would be determined by the department of revenue and this would restore to local decision. Representative Halvorson moved to DO NOT ADOPT amendment 31. Question, motion carried. Representative Stobie voted NO.

Representative Gerke moved to reconsider the committee's action on amendment 27. Question, motion carried. What this requires is that the budget office prepare information. Representative Ramirez moved to amend on page 490, lines 9 and 10, following: "administrator shall", strike: "issue a statement of governmental goals and objectives and", and on lines 12 and 13, following: "year", strike: ", a departmental statement of goals and objectives,". Question, motion carried. (SCR 241, 242)

Representative Palmer moved TO ADOPT amendments 32 and 33. Question, motion carried. (SCR 412, 413)

URBAN TRANSPORTATION DISTRICT AMENDMENTS - exhibit 6

Larry explained that at the request of Representative Palmer the principle effect is to take one existing transportation district in the state and allow it to continue as set up and provide that no other district can be established under the old law. Palmer - Missoula is the only city that has an urban transportation district and he wishes to maintain the integrity of this district. Representative Palmer moved TO ADOPT the amendments. Stobie - why does it take all of this? Larry - the material in amendment 5 was repealed and other amendments would have retained old language but this is much clearer version. Question on motion, roll call vote was taken: 15 voted YES and 1 voted NO. Motion carried. Representative Stobie voted NO. Representatives Roth and South were not present. (SCR 56, 57, 58, 59, 183)

AMENDMENTS FOR MUNICIPAL COURTS OF RECORD - exhibit 7

Representative Palmer explained if the amendment is adopted and if HB 122 is passed then there will be no need for HB 247. Representative Palmer moved TO ADOPT amendments for page 573 and page 786. Question, motion carried. Representatives Stobie and Jensen voted NO. (SCR 347, 414)

MISCELLANEOUS #3 AMENDMENTS - exhibit 8

Larry explained the first three amendments are Billings amendments. These were submitted by employees of the city of Billings. The code provides for an 8 hour work day and a 40 hour work week. Bertelsen - this goes with a bill passed two years ago opening up so counties could have maintenance personnel work more than an 8 hour day. Representative Palmer moved to DO NOT ADOPT amendments 1, 2, and 3. Question, motion carried.

Amendment 4 by Billings they objected to terminology. Representative Gerke moved TO ADOPT amendment 4. Question, motion carried. (SCR 119)

Amendment 5 talks about taking evidence in hearing. Representative Gerke moved to DO NOT ADOPT amendment 5. Question, motion carried.

Amendment 6, the intent of these sections are to civil service board and by putting in the amendment you would be going away from the intent of 47A-4-111. Representative Gerke moved to DO NOT ADOPT amendment 6. Question, motion carried.

Amendments 7 and 8 go together and changes that all salaries "shall" be set by resolution. Representative Gerke moved to DO NOT ADOPT amendments 7 and 8. Question, motion carried.

Representative Halvorson moved TO ADOPT amendment 9. Representative Gould made a substitute motion to DO NOT PASS amendment 9. reason because president and governor set holidays. Question, roll call vote was taken: 10 voted YES and 5 voted NO. Motion carried. Those voting NO were: Representatives Halvorson, Jensen, Pistoria, Ramirez, and Stobie.

Amendments 10 and 11 are from Billings and the way written every city would have to provide social security. Representative Gould moved that amendments 10 and 11 BE ADOPTED. Question, motion carried. (SCR 121, 122)

Amendment 12, types of insurance and suggest the list be stricken. This is what you bargain for at the local level. Health and life seems to cover all. Representative Gerke moved to DO NOT ADOPT amendment 12. Question, motion carried.

Amendment 13 would not have to join an association of local government.

Amendment 14 and amendment 15, local government would be more restrictive in what they could join.

Representative Vinger moved that amendments 13, 14, and 15 DO NOT PASS. Question, motion carried.

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Representative Gould made a motion that the staff draw up an amendment that the local governing body cannot belong to any organization. He withdrew the motion.

Representative Ramirez was concerned with local government to opt in and out of social security.

Amendment 16 would set up special treatment for firefighters. Representative Halvorson moved to DO NOT PASS on amendment 16. Question, motion carried.

The meeting adjourned at 1:20 PM.

Respectfully submitted,


HERSHEL M. ROBBINS, Chairman

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