

February 18, 1977

A meeting of the Local Government Committee was called to order by Chairman Robbins at 8:00 PM in Room 437. The secretary called roll; Representative O'Connell was absent and Representative Halvorson was excused. All other members were present.

HOUSE BILL 128: Representative Moore, chief sponsor, said 2 years ago we passed a bill funding from state funds public transit systems operating at a deficit. This is a bill to repeal section 11-4513. If you will refer to the fiscal note \$300,000 was appropriated from highway funds for making up this deficit. As of February 7, 1977, they would get back some of this money. I think if a local government wants to have a mass transit system, the money should come from some other fund. He felt the money would be for a better use if returned to highway fund.

Proponents were:

Larry Tobiason, representing AAA, said he testified against the bill in 1975. This money was paid through gas tax for one purpose, highways and streets. They do agree should not divert funds for bus lines.

Earl Moritz, representing Lewistown Highway Users Federation, said he concurred in what Representative Moore said.

Opponents were:

Dan Mizner, representing the Montana League of Cities and Towns, rose in opposition to this bill and introduced Polly Prchal, representing City of Billings, spoke in opposition to House Bill 128 - written comments are on witness statement - exhibit 1; Bob Cervero, City of Billings, said it is a diversion bill but couldn't think of a better source of funds; Lou Bertagna, City of Billings, left prepared statement - exhibit 2.

Representative Moore closed on House Bill 128. He appreciated the problems Billings is having; however, he reminded the committee this money is for state costs of right-of-way, construction and maintenance of highways. It only affects a few areas in state and is class legislation. The money collected should go where intended to go. There were no questions by the committee.

HOUSE BILL 294: Representative Driscoll, sponsor, said this is a measure to update laws for local public health services. This is for friends who have worked on the measure for a number of years separate from the local government effort. There is some concern that if not done separate it may be lost if 122 fails to pass. He would like the committee to listen to these gentlemen on the reason why to move 294 out ahead of 122. If it would harm 122 would say keep in committee.

Bob Johnson, Local Health Departments, Lewis and Clark Health Department, said we feel very much for 122 and local health provisions. Representative Driscoll did express our concern on what will happen and this is almost an image of 122.

HOUSE BILL 294 - continued

There are two major differences - 294 is consistent with present state law, as it requires a board of health and mill levy to support, and that is not necessary with regards to 122. You might remember the health department had an option. We have agreed on some amendments and the State Health Department and local health departments stand in favor of the bill.

Donald Rizzini, Great Falls and Cascade County Health Department, said state and local health departments are in agreement in funding, particularly the federal monies. The state wants to allow a 2 year delayed effective date and we couldn't agree on this. Because of the compromise reached, the fiscal note may have to be reviewed. We have agreed the states role is only in the matter that they can finance with their own monies.

Martin Skinner, MD, State Department of Health, said they have agreed on the bill and have suggested a 2 year delayed effective date or asking for monies to replace this. Amendments to House Bill 294 were submitted to the committee - exhibit 3.

Gregg McCurdy, representing League of Cities and Towns, support this bill and do not recommend mandatory board or mandatory program.

There were no opponents.

Representative Driscoll closed on House Bill 294.

Questions by the Committee. Dr. Skinner noted that one major difference between 122 and this is a mandatory board and that is not a big issue.

HOUSE BILL 716: Representative Uhde, chief sponsor, said he has an amendment and when the bill was drafted felt the money would build up, but later we decided we would just take what would be necessary for the next 5 years. The taxation first put in the bill we felt was excessive. Currently, state-wide 9½ tax on gas. One tax will be ending and there will still be a smaller tax on gasoline. The chief reason to provide funds is for a program not expanded on in Montana. House Bill 716 is to be a funding mechanism.

Patrick Binns, representing self, Butte, presented information on the amount of energy used to transport people. The information was quoted from study prepared for the Ford Foundation. He felt the transportation trust fund is important and would provide for alternative transportation.

Lauren McKinsey, self, said he feels this proposal is to serve both ends simultaneously, and this is a new social

HOUSE BILL 716: - continued

idea for the state. Lou Bertagna, city of Billings, said there is a need for state funding for mass transit systems. Additional comments are - exhibit 4.

Opponents were:

Ed Nelsen, representing the Montana Taxpayers Association, said they oppose this bill and believe this would unfairly penalize Montana motorists for a benefit of a few.

Larry Tobiason, representing the AAA, said we oppose for the same reason. If assistance to railroads is needed, then let all Montana people share in the cost.

Don Allen, self, said he is opposed to the use and administration of the tax in HB 716.

Representative Uhde closed on HB 716.

HOUSE BILL 745: Representative Gerke, sponsor, explained this is a bill to change the terminology within the police and firefighters pension laws. Prepared testimony is exhibit 5.

Lee Heiman, staff member, State Commission on Local Government, explained the amendments and said it has to be done to protect the pension system. Amendments are - exhibit 6.

There were no opponents.

Representative Gerke closed on HB 745.

The committee went into executive session to take action on the following:

HOUSE BILL 745: Representative Gerke moved that the amendments for HB 745 BE ADOPTED. Question, motion carried.

Representatives Hurwitz and Roth came.

HOUSE BILL 122: Larry Weinberg explained that Representative Gould had asked for amendments for page 109 during a previous executive session on Miscellaneous #2 amendments, amendment 9, for insertion of "paid by local government". Proposed amendment to line 20, the governing body may "or on 20% or more of the petitioners shall". Representative Bertelsen made a substitute motion to NOT ACCEPT the amendment to insert on line 20. Question, motion carried. Representatives Gould and Pistoria voted NO.

Representative Ramirez thought amendment 9 should read: "all costs, including attorney's fees". Representative Waldron moved TO ADOPT amendment 9 with added wording. Question, motion carried. (SCR 41)

ELECTIONS - exhibit 7

The material you see in the first three amendments are to bring the code into line with HB 537 and are technical amendments. Representative Palmer moved TO ADOPT amendments 1, 2, and 3. Question, motion carried. (SCR 95, 96, 98)

On the second page all are technical amendments except for amendment 14. Most of the amendments came from the Secretary of State's office.

Amendment 14, this is filing the existing or proposed plan of government with one copy to be filed with the Secretary of State. They felt this unnecessary as a copy will be filed with DCA. Representative Gerke moved TO ADOPT amendment 14. Question, motion carried. (SCR 34)

Representative Hurwitz moved FOR ADOPTION of amendments 4 through 13. Question, motion carried. (SCR 5, 6, 11, 26, 28, 29, 30, 31, 33)

Amendments 15 through 18 are technical in nature. Representative Gould moved TO ADOPT amendments 15 through 18. Question, motion carried. (SCR 38, 39, 40, 99)

Amendment 19 is material on county commissioner districts. Representative Gunderson moved TO ADOPT amendment 19. Question, motion carried. (SCR 97)

Amendments 20 through 26 are technical amendments and in some cases restoring language to law. Representative Stobie moved TO ADOPT amendments 20 through 26. Question, motion carried. (SCR 103, 104, 105, 106, 107, 108, 109)

Amendment 27, the language in code is correct but JoAnn Woodgerd wants language added. Representative Pistoria moved TO ADOPT the amendment. Question, motion carried. (SCR 110)

Representative Palmer moved TO ADOPT amendments 28 through 31. Question, motion carried. (SCR 111, 384, 424, 112)

Larry asked the committee to go back to amendment 22 and to bring it to amendment 27 and to amend amendment 22 following: "elected to", strike: "any", insert: "each", and following: "candidates for", strike: "any", insert: "all". Representative Ramirez moved to amend amendment 22. Question, motion carried. (SCR 105)

Amendment 32 is suggested to make term begin the same day as for county officers. Representative Gould moved TO ADOPT amendment 32. Question, motion carried. (SCR 356)

Amendment 33 was presented to change to the code definition as felt better than what is in election laws. Representative Ramirez moved TO ADOPT amendment 33. Question, motion carried. (SCR 383)

MISCELLANEOUS #4 AMENDMENTS - exhibit 8

Amendment 1 is a technical change and amendment 2 is an amendment to annexation laws there is no provision for property of a governmental agency. Representative Gunderson moved TO ADOPT amendments 1 and 2. Question, motion carried. (SCR 137, 17)

Amendment 3 is an area overlooked and it is authorized by the Constitution to provide for merger of municipalities. Representative Palmer moved TO ADOPT amendment 3. Question, motion carried. (SCR 22)

Amendment 4 was submitted by Senator Roberts and this talks about natural resources. There are some problems near Libby and someone may have a small mine and this will allow for continued use as is, but to prevent from coming in and building a facility. Hurwitz - when you read the sighting act they couldn't do it anyway. Representative Palmer moved TO ADOPT amendment 4. This is adding to existing law. Representative Stobie made a substitute motion to DO NOT ADOPT amendment 4. Question, motion carried. Representative Palmer voted NO.

Amendment 5 is a recommendation of the local health people and they have in mind the people who put in septic tanks and drain fields. Representative Bertelsen moved TO ADOPT amendment 5. Question, roll call vote was taken: 10 voted YES and 5 voted NO. Motion carried. Those voting NO were: Representatives Gould, Ramirez, Stobie, Vinger, and Waldron. (SCR 201)

Amendment 6 is present law. Representative Ramirez noted a grammatical problem in the amendment and moved to amend in subsection (12) following: "same and", insert: "shall be" and in subsection (13) following: "no contractor", strike: "shall", insert: "may", and as amended TO ADOPT amendment 6. Question, motion carried. (SCR 243)

Amendment 7 is a technical correction. Representative Bertelsen moved TO ADOPT amendment 7. Question, motion carried. (SCR 244)

Amendment 8 not sure who submitted this amendment. Representative Bertelsen moved to DO NOT ADOPT amendment 8. Question, motion carried. Representatives Palmer and Waldron voted NO.

Amendment 9, this is to delete and the committee has to decide because in earlier deliberation they decided to keep optional taxes. Representative Hurwitz moved TO ADOPT amendment 9. Question, motion carried. (SCR 252)

Amendment 10 is to correct language. Representative Ramirez moved TO ADOPT amendment 10. Question, motion carried. (SCR 352)

Amendments 11 through 26 are technical. Representative Bertelsen moved TO ADOPT amendments 11 through 26. Question, motion carried. (SCR 123, 124, 125, 419, 405, 413, 420, 421, 406, 407, 408, 409)

MISCELLANEOUS #5 AMENDMENTS - exhibit 9

Representative Ramirez moved TO ADOPT amendment 1. Question, motion carried. (SCR 4)

Amendment 2 is to insert a new subsection. Representative Bertelsen moved TO ADOPT amendment 2. Question, motion carried. (SCR 44)

Representative Ramirez moved TO ADOPT amendment 3. Question, motion carried. (SCR 45)

Amendments 4 through 10 is to provide for consolidation of offices. Representative Palmer moved TO ADOPT amendments 4 through 10. Question, motion carried. (SCR 46, 47, 48, 49, 50, 51, 52)

Representative Gunderson moved TO ADOPT amendments 11 and 12. Question, motion carried. (SCR 101, 102)

Amendments 13 through 22 are technical in nature. Representative Gunderson moved TO ADOPT amendments 13 through 22. Question, motion carried. (SCR 134, 148, 151, 182, 389, 388, 393, 390, 391, 392, 396)

Representative Gunderson moved TO ADOPT amendments 23 through 33. Question, motion carried. (SCR 411, 415, 416, 417, 425, 422, 423, 425, 428, 426, 430)

MISCELLANEOUS #6 AMENDMENTS - exhibit 10

Representative Ramirez moved TO ADOPT amendment 1. Question, motion carried. (SCR 16)

Amendments 2 through 6 all deal with the study commission.

Representative Waldron moved TO ADOPT amendment 2. Question, motion carried. (SCR 32)

Representative Roth moved to DO NOT ADOPT amendment 3. Question, motion carried. Representatives Gould, Stobie, Pistoria, Ramirez, and Jensen voted NO.

Representative Gould moved TO ADOPT amendment 4. Representative Waldron made a substitute motion to DO NOT ADOPT amendment 4. Question, motion carried. Representative Gould voted NO.

Amendments 4A and 4B, nowhere does it provide that the commission should terminate. Representative Gerke moved TO ADOPT amendments 4A and 4B. Question, motion carried. (SCR 27)

Representative Stobie moved to DO NOT ADOPT amendments 5 and 6. Question, motion carried.

Representative Palmer moved TO ADOPT amendments 7 through 9. Question, motion carried. (SCR 60, 63, 67)

Representative Bertelsen moved TO ADOPT amendment 10. Question, motion carried. (SCR 79)

Amendment 11, regarding eminent domain by Les Loble, this is not present law for counties but present law for cities. If you delete you will not take away from cities, but it will insure more court battles by accepting. Representative Bertelsen moved TO ADOPT amendment 11. It was suggested to use language in HB 122 for cities and one for counties. Representative Palmer made a substitute motion TO ADOPT an amendment to page 190, lines 22 and 23, following: "title.", strike: "The", insert: "An", and following: "property", insert: "by a municipality". Question, motion carried. (SCR 129, 130)

Representative Gerke moved TO ADOPT amendments 11A and 11B. Question, motion carried. (SCR 133)

Amendments 12 and 13 both submitted by power companies. There is already language a city can provide gas. Amendment 13 refers to self-governing powers. Representative Palmer moved to DO NOT ADOPT amendments 12 and 13. Question, motion carried. Representatives Gould, Vinger, Roth, Ramirez, and Pistoria voted NO.

Amendment 12A is in area Senator Thiessen testified to. Representative Gerke moved to DO NOT ADOPT amendment 12A. Question, motion carried.

Amendment 12B was withdrawn by Representative Waldron.

Amendments 14 and 15. Representative Ramirez offered as new language to page 390, line 21, following: "owners", insert: "within same townsite and subdivision". Representative Hurwitz moved the adoption of that amendment. Question, motion carried. (SCR 173)

Representative Waldron moved to DO NOT ADOPT amendment 16. Question, motion carried.

Amendment 17, Larry suggested an amendment to the amendment following: "agreement", strike: "shall", insert: "may", and following: "not be", insert: "made". Representative Gerke moved to amend and TO ADOPT amendment 17. Question, motion carried. (SCR 178)

Representative Gerke moved TO ADOPT amendments 19 and 21. Question, motion carried. (SCR 190, 256)

Representative Ramirez moved to insert subsection (4) of amendment 18. Question, motion carried. Representative Stobie voted NO. (SCR 186)

Amendment 22 is on distribution of proceeds of tax between counties and cities. Representative Waldron moved TO ADOPT amendment 22. Question, motion carried. (SCR 257)

Amendments 23 and 24 is so money could come from DCA as needed by local government. Representative Palmer moved TO ADOPT amendments 23 and 24. Question, motion carried. (SCR 259, 260)

Steve Turkiewicz explained the two groups of finance amendments that would in certain instances be needed. It puts control on somethings that have a potential of misuse.

Amendments 25, 26, and 27 is first group. Representative Gould moved TO ADOPT amendments 25, 26, and 27. Question, motion carried. (SCR 309, 310, 311)

Amendment 28 restores present language and Amendment 29 again existing language neglected to put in. Representative Hurwitz moved TO ADOPT amendments 28 and 29. Question, motion carried. (SCR 305, 308)

Amendments 30 and 31 is to raise level of population. Representative Vinger moved TO ADOPT amendments 30 and 31. Question, motion carried. Representatives Waldron, Palmer and Gunderson voted NO. (SCR 120, 149)

Amendment 32 would amend in various places. Representative Stobie moved TO ADOPT 4-year term for clerk of district court. Question, motion carried. Representative Gerke, South, Waldron and Gunderson voted NO.

Amendment 33 is to require municipal judge to be elected. Representative Hurwitz moved to DO NOT ADOPT amendment 33. Question, motion carried.

Representative Waldron moved TO RECONSIDER amendment 32. Question, motion carried. Representative Waldron moved to DO NOT ADOPT amendment 32. Question, motion carried. Representative Ramirez voted NO.

Amendment 34, this is Representative Palmer's amendment to provide for four year term for county commissioners. This lowers from 6 years to 4 years. Representative Roth moved to amend to 4-year term. Waldron - we are providing the county commissioners with a great deal of power. We should do something about the number and should do something to term of office to get more of a response. The people will have more access to the commissioners. Gould - if they have same powers as us should be 2 years. Gerke - city council members are voted on a 4 year revolving. Pistoria - I vote against motion.

Stobie-how about hearing from county commissioners? Hurwitz - I don't think they have all that power. Bertelsen - I see both sides. Representative Pistoria made a substitute motion that amendment 34 DO NOT PASS. Question, roll call vote was taken: 10 voted NO and 6 voted YES. Motion failed. Those voting YES were: Representatives Colburn, Hurwitz, Jensen, Pistoria, Stobie and Vinger. Question on Representative Roth's motion TO ADOPT 4-year term, the roll call vote on DO NOT PASS was reversed with 10 voting YES and 6 voting NO. Motion carried. (SCR 419)

Larry explained a proposal to delete material to create new counties. You would take out Chapter 5 and take title 16 from the repealer and keep in present form and ask for attorney general's opinion to be introduced in two years. Representative Jensen moved TO ADOPT this proposal. Question, motion carried. (SCR 422)

Larry proposed an amendment to page 512, line 8, following: "may", strike: "reflect", insert: "reject". Representative Hurwitz moved TO ADOPT the amendment to page 512. Question, motion carried. (SCR 245)

Larry presented an amendment to page 23, line 4, following: "governing body", insert section (8). Representative Waldron moved TO ADOPT the amendment for page 23. Question, motion carried. (SCR 12)

There are four other amendments for consideration.

An amendment for page 138, line 21, to strike: "file of proposed special assessments", and insert: "local improvement district file". Representative Gerke moved TO ADOPT the amendment. Question, motion carried. (SCR 64)

Amendment to page 139, line 8, to strike: "assessment" and insert: "local improvement district". Representative Gerke moved TO ADOPT the amendment. Question, motion carried. (SCR 65)

Amendment to page 140, lines 7 and 8, to strike: "special assessment" and insert: "local improvement district". Representative Ramirez moved TO ADOPT the amendment. Question, motion carried. (SCR 66)

An amendment for page 143, line 4, at the present time you can protest up until the time government takes action and this gives a break off time of two weeks prior to. Representative Ramirez moved TO ADOPT the amendment. Question, motion carried. (SCR 69)

Proposed amendment by Representative Ramirez for pages 378 and 379 - exhibit 11. Representative Waldron moved to DO NOT ADOPT the amendment. Question, motion carried. Representatives Ramirez and Stobie voted NO.

Proposed amendment for page 520, following line 15, which is

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- exhibit 12. Representative Waldron moved to DO NOT PASS the amendment. Question, motion carried.


Chairman Robbins explained the rules laid down during interim that a member did not have to be present to vote but could be left with the chairman. One member of the committee did not do this and asked the committee what they would want to do.

Representative Palmer moved to allow the vote to be counted.

Representative Gerke moved that HOUSE BILL 122 DO PASS AS AMENDED. Question, roll call vote was taken: 10 voted YES and 8 voted NO. Motion carried. Those voting NO were: Representatives Colburn, Gould, Jensen, Pistoria, Roth, Stobie, Vinger, and O'Connell.

The meeting adjourned at 12:40 AM.

Respectfully submitted,


HERSHEL M. ROBBINS, Chairman

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