

March 4, 1977

A meeting of the Local Government Committee was called to order by Chairman Robbins at 10:15 AM in Room 437. The secretary called roll; Representatives Colburn, South and Waldron were absent. All other members were present.

**SENATE BILL 349:** Senator Murray, chief sponsor, said the main thrust of Senate Bill 349 was to clarify and perfect and assure the separation of powers within the commission-manager form of government with respect to judges. We deleted that provision on page 1, starting with line 15, that requires the commission to appoint the judge. We felt there would not be a clear separation of powers in government. That provision was replaced with a provision starting on line 18 that the city judge would be elected. We added section 2, page 1, spelling out requirements and qualifications. It provides for an effective date, and he hopes this committee will recommend a do pass.

Proponents to speak were:

Julio E. Morales, representing self, said I am in favor of the bill for different reasons. We have in this country a separation of powers that is why we went to war with Great Britain. In section 11-3271 of the revised codes, it states commission-manager form of government that the city judge would be appointed by the city commission. This power to appoint to my knowledge is not very good. Now we are amending so the city judge will be elected. Additional comments are - exhibit 1.

Opponents were:

Sam Gesko, representing the city of Bozeman, said he has a resolution by the city of Bozeman opposing Senate Bill 349, a copy is - exhibit 2. The city of Bozeman adopted the commission-manager form in 1922, and it has been satisfactory and unblemished by political patronage. There are very few people who want to run against other judges, particularly attorneys.

David L. Hunter, representing the Montana League of Cities and Towns, said this is in conflict with what was approved in House Bill 122. He questions under the provisions whether Poplar, Montana, can find or afford a municipal judge that would fit the qualifications. If Senate Bill 349 is passed, he asks the committee to amend out (B) and (C) on page 2, lines 6 through 10. The committee ought to leave provisions as it is in House Bill 122 which are workable and have worked.

C. W. Leaphart, city attorney of Helena, is appearing on behalf of the mayor in opposition to this bill. He would advise originally the city was not concerned but after examining home rule provisions, they ascertained the city would be affected. This was brought up by Mr. Morales because he was removed by the city of Helena. He would point out that subsections (B) and (C) appears to exclude Mr. Morales from impact of the bill. The bill was entered purely on his behalf. Subsection (C) does require graduation of accredited law school. Section 11-3271 has been no problem one way or another.

**SENATE BILL 349: continued**

Senator Murray closed on Senate Bill 349. He said the amendments were added during passage in Senate without any argument of the Senate.

During questions by committee, it was said no one opposes elections itself but this bill would provide for this office holder until he decides to step down and it is not advantageous to city government. It was asked if there have been any abuses and the answer was no, not to their knowledge. Provision of qualifications was discussed, and it was said in a practical matter you couldn't get a lawyer as police judge. They are usually retired people but don't necessarily have legal knowledge. Presently there is no law providing qualifications for city judge.

**SENATE BILL 199:** Senator Murray, chief sponsor, said this bill and the one following are somewhat related. It addresses itself to the matter of annexation where it may be initiated by a first class city or town. Existing statute provides for a notice to be given to freeholders, and this bill is all freeholders within an area proposed to be annexed into a city. There are people in Helena that own property in Billings and may not hear about the proposed annexation in Billings. The amount of notice would be dependent on how large a piece of land was involved. Any change in exemption part of code appears on page 4, lines 2 through 10, this would require notice of all owners of property.

Proponents to speak were:

R. A. Ellis, representing the Montana Volunteer Firemen's Association, said he supports Senate Bill 199.

Dave Fisher, representing the Montana Volunteer Firemen's Association, rose in support.

Signed witness sheet in support was from Henry E. Lohr, representing the Montana State Volunteer Firemen's Association.

Opponents were:

Fred C. Root, representing city of Missoula, said they have lived with annexation laws. Whenever annexation takes place people who feel hurt come to legislature to change the law. They don't always notify property owners. The word removed is "resident" and now we are going to have to notify if property owner lives in New York and he will write back and say no. This is one of the only ways left to annex. All annexations will cease unless the people want to come in. He is not talking about home owners or agricultural lands, or when they are urban in nature, but, if parcel of land commercial in nature, they should be able to annex.

**SENATE BILL 199: continued**

Glen Drake, representing the Montana League of Cities and Towns, said they are in opposition and by removal of word "resident" you transfer control of annexation or lack of it from resident freeholder to absentee land owner. In Senate hearing it was my understanding this was proposed by Burlington Northern and they want the bill because they wanted to be notified of annexation procedure. Why would they want it, they are excluded anyway. One other evil of removing the word "resident", you will get into a situation of fraudulent manner. Owner could deed to 100 friends as owners in common and they all could control what goes on.

Donald R. Kerns, representing city of Helena, said they are opposed to both bills. In the case of non-resident freeholder it is a chore for city clerk to verify those names. Even though smaller cities are obligated to notify all owners, it does not affect towns very often as they are not growing. This is creating problems for first class cities.

Al Sampson, representing the Montana State Firefighters' Association, said he is opposed to these annexation bills. There are fewer and fewer resident owners and he thinks it is bad when you put all freeholders.

Senator Murray said this is not an anti-annexation bill and does not do anything but provide that people who own property are going to know about it.

Questions were asked by committee. Roth - is there now in the law anything that states that they won't be notified? Murray - the law says to resident freeholder. Stobie - does this in any way change the method of annexation, would that mean one person could stop annexation? Murray - does not alter anything else. Halvorson - isn't it true you have to publish notice in newspapers? Root - yes. Ramirez - now you do have to notify resident freeholders only by published notice.

Hearing closed on Senate Bill 199.

**SENATE BILL 232:** Senator Murray, chief sponsor, said this is the other related bill referred to. This deals with an action by owners of property to petition for annexation. The word "resident" was stricken. Now non-residents may have vote and have notice.

Proponent to speak was:

Dave Fisher, representing the Montana Volunteer Firemen's Association, said if you truly believe in the democratic process they believe outside people have same right of people inside.

Opponents were:

Fred C. Root, representing city of Missoula, said this bill

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SENATE BILL 232: continued

more dangerous than the other. The people who live on property want to come in, and the people outside will say no. Freeholders means vacant lots and they can say no.

Glen Drake, representing the Montana League of Cities and Towns, was opposed.

Donald R. Kerns, representing city of Helena, rose in opposition.

Senator Murray closed on Senate Bill 232 and said this bill is intended to allow every property owner to know what is going on.

It was brought out if there were 10 owners to one piece of property, they could all vote.

There was discussion by committee on the effect of these bills on what is in House Bill 122 with regards to annexation.

The meeting was adjourned at 11:20 AM.

Respectfully submitted,

  
HERSHEL M. ROBBINS, Chairman

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