

March 7, 1977

A meeting of the Local Government Committee was called to order by Chairman Robbins at 10:05 AM in Room 437. The secretary called roll; Representative South was absent. All other members were present.

HOUSE JOINT RESOLUTION 89: Representative Lory, chief sponsor, said this bill was presented at the request of the county commissioners. This resolution is somewhat self-explanatory. Legislature fails to provide money for services legislated by them. Representative Lory called on Ludvig G. Browman as first proponent.

Ludvig G. Browman, county commissioner of Missoula County, called the committees attention to the fact we had county commissioner form under the territory of Washington, the territory of Idaho, and when the Montana Territory was formed. We had to come to state capitol to get legislation. We have very little authority to do anything for the people. If we wish to appeal, we have three men to present our plea that local government should be able to handle local problems. Even though we meet every day we cannot meet the problems unless legislature gives us the authority. (Representative Ramirez objected to testimony.) Mr. Browman continued and read from prepared statement - exhibit 1. (Representative O'Connell objected to testimony.) Mr. Browman continued and said county government is not meeting the needs of the people. On the basis of the lack of confidence in local government you should do something at state level that will meet the needs of the people.

Dean Zimmecker, representing the Montana Association of Counties, said we do support the resolution and we are not in favor of abolishing county government.

There were no opponents.

Representative Lory closed on House Joint Resolution 89.

SENATE BILL 198: Senator Murray, chief sponsor, said many of you have travelled out of the major airports and may reside in vicinity of airports. The purpose of this bill is to encourage the property owners adjacent to an airport and the airport owners to get together to establish a plan. I know this smacks of zoning but it is an incentive to get together. The big problem we are trying to address is to head off what has happened in other areas. Quite frequently an airport was established in an area no one wanted to develop. It was necessary, because of no planning, for airport authorities having to buy property next to the airport. We are trying to get the blessing of legislature to encourage airport owners and property owners to determine the use of the land so that it will be compatible with the airport.

SENATE BILL 198: continued

Proponents to speak were:

Hugh R. Kelleher, Helena Airport, executive secretary of the Airport Association, said we now have federal regulations and we will be forced into land use zoning around the airport. With expertise on land use zoning, we drafted this bill. We found we did have trouble with our bill, and it was put in a special committee in the Senate, and a new bill was drafted. We were successful in getting it out of the committee, and onto the floor of the Senate. One member of the Senate who has large land holdings found it necessary to amend the bill very drastically, and it almost nullifies what we are trying to do.

William F. Utter, Great Falls Airport, president of the Airport Manager's Association, said the primary problem that exists and what makes the bill useless is found on page 3 of the bill, as amended, on lines 4 through 11 that effectively defines a small area of land for our major state airports. To let this go through as is would effectively do no good. The airport influence area is larger. Other states have similar bills to allow local governments to zone following federal guidelines. On page 1, line 6, would like to put "LAND USE" and where height and noise zoning put "land use" back in the bill. Federal regulations require we restrict use of land immediately in the vicinity of the airport.

Frank Wolcott, representing the Gallatin Field Airport, told of an incident that happened off the end of their runway. The property owner brought in a two story house and one reason for doing it he thought they were going to expand the airport, but we are not going to expand. We need this law to protect us from people building off the end of a runway and then suing us.

John Morrison, Jr., Morrison-Maierle, Inc., Helena, said they have worked with many airports in Montana. In the past when the airport owner applied to the federal government they had to report on land use. The airport would work with adjacent land owners for use compatible to airport. Congress did amend the airport act and is including zoning laws with respect to use of land adjacent and near an airport. Since this new law, the sponsor in applying for federal funds has had to covenant the use of the laws for zoning. An airport owners have in their last application made this covenant and next time applying for new project FAA is going to look at the progress they are making. Sections 1-701 through 1-723 gives the ability of airport owners to develop land use. It is very important this law be passed.

Art Korn, Silver Bow County Airport, said at the present time have application in for half million for work and that may be held up for this legislation. We have a promoter who is trying to develop a 15 to 16 story building that would be an obstruction in the approach zone. A group of people say airport should be moved - services would be no better if

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airport is moved. If zoning not implemented, they may have to move.

Thomas S. Page, Missoula County Airport, spoke and prepared testimony is - exhibit 2.

Dale Norby, Billings Airport, said we are asking for local people to make up a committee and let those people hopefully come out with some kind of land use. The airport is financed by fees and should have protection. The bill, as amended in the Senate, doesn't have anything for us. We have noise easements and height easements, but don't have compatible land use. In presentation to Senate Local Government Committee, they saw fit to look at the bill and that is what we would ask this committee. It is very technical in nature and rather than pass in present form, we would suggest some amendments.

Glen Drake, representing the Montana League of Cities and Towns, said they favor this bill with proposed amendments.

There were no opponents to Senate Bill 198.

Senator Murray in closing said there is provision in bill that is important and that is contemplated use of land.

Questions by committee. Pistoria - if someone wanted to build a house or whatever near airport, they would do on their own risk. Senator Murray - on page 2 is defined as airport included in national airport plans which is criteria. Mr. Utter - bill is permissive. It allows people to zone but doesn't give authority to government to say have to. Vinger - title says required should be amended to be permissive. Roth - were you satisfied as amended in your committee. Senator Murray - Yes, it was compromise. It was amended on floor, and it was on my advice we continue this on to see if we could get it amended so it is not so restrictive. Roth - on page 4, line 3, two words were deleted. Senator Murray - the deletion would take the DCA out and that did meet with our approval. We feel local people are more conversant with the problem. Waldron - what sort of compatibility in buffer zone where you think of what other limitation would you want to have the ability to use? Senator Murray - is using the words as originally drafted 'land use planning' would envision restrictions on height when approaching runway. Mr. Utter - there may be other uses, such as, an industry that would cause a smoke hazard. Ramirez - didn't catch amendments. Senator Murray the original proposal was 5 miles, the 3 miles was a compromise, then it came out of the Senate with the present distance and that is not workable. Not all airports are same shape and size and to establish a definitive area might be a problem. Ramirez - is safety your predominate concern? Senator Murray - safety is primary concern at all times, and we have to include restrictions as to what goes on the ground. Noise is a factor. There is a grandfather clause in the bill for existing uses.

SENATE BILL 192: Senator McCallum, chief sponsor, said this is the elected county officials pay bill. He sponsored the bill and agreed for a 20% increase, 10% the first year and 10% the second year. The bill ran into trouble and was sent back to committee; and it was agreed to try for 5% and 5%. It came out of committee 2½% and 2½%. This is the same schedule we have used since he has been here. He would like to see this committee raise it to 5% and 5%. This is a backup bill to House Bill 122.

Proponents to speak were:

John Bell, representing the Montana Association of Clerk and Recorders, said he would certainly endorse the Senator's request to be amended to 5% and 5%. Historically in 1975 after no pay increases for some time, a 10% and 10% was enacted, and it should have been in the neighborhood of 15% and 15%. Additional comments are - exhibit 3.

Robert E. Arras, Clerk and Recorder, Missoula, agrees with what Mr. Bell said. The fiscal note is not entirely correct. Because of the fact that the elective official receives an increase does not mean every county employee will get an increase.

Hardin E. Todd, Clerk of District Court, Billings, spoke and prepared testimony is - exhibit 4.

Tom Honzel, representing the Montana County Attorneys' Association, would ask the committee to amend as Senator McCallum asked or use the amendment we are proposing - exhibit 5. They had a bill of their own that would have been the same as the sheriffs and as the committee is aware of the sheriffs received \$1,200 per year increase. The bill they were going to propose didn't get introduced. They thought it better to go with Senate Bill 192 and easier to amend that asking to remain the same as the sheriffs. We could get better attorneys if salary more appropriate.

Helena Kovich, Clerk and Recorders' Association, said they would appreciate it if the committee would consider a 10% increase instead of the 5%. Additional comment is - exhibit 6.

Dean Zinnecker, representing the Montana Association of Counties, said they would support this bill as an alternative to establishing at the local level. Would propose some amendments - exhibit 7.

Mrs. Sarah M. Rowe, Clerk of District Court, Conrad, opposes as now stands but would support an amendment to increase or to at least give them a cost-of-living increase. Additional comments are - exhibit 8.

Margie Jackson, Clerk, Glacier County, spoke and prepared testimony is - exhibit 9.

SENATE BILL 192: continued

Nora J. Smole, representing Clerk and Recorders Association, Helena, believes a 5% raise to be an insult to the hard working people in those offices. Please, do take another look at this bill.

Florence McGiboney, Clerk of Court, Great Falls, said 5% does not cover the cost-of-living increase.

Vivian S. Hall, Clerk of District Court, Shelby, written comments are - exhibit 10.

Those leaving signed witness sheet in support of Senate Bill 192 are: Douglas W. Campbell, State Assessors' Association; Phyllis Diehl, County Assessor, Townsend; Betty W. Riley, County Treasurer's Association.

There were no opponents.

Senator McCallum closed on Senate Bill 192.

SENATE BILL 240: Senator McCallum, chief sponsor, said this was put in at the request of people of Sanders County. It is a long county and population is scattered. Under the old law a county had to go county-wide for ambulance service. This created a problem some had the service and some didn't and didn't think they should pay. Question was whether commissioners could declare an ambulance district countywide and went to court. The trustees are allowed to impose one mill and if they needed more can go up to 3 mills by election of people in the district.

Proponent to speak was:

Gerald T. Neils, representing the Montana Logging Association, said there are several counties we are involved with and there are long drives. There have been people badly injured and an ambulance is not available. He has gone in and flown people to the hospital. This is not going to cost the state general fund the people are asking to tax themselves to get an ambulance in remote areas. We do ask the committees consideration and approval.

Opponents were:

Drew Dawson, representing the Montana Department of Health and Environmental Sciences, spoke and prepared testimony is - exhibit 11.

Dean Zinnecker, representing the Montana Association of Counties, said they oppose the bill, basically it provides further proliferation of local governments.

Senator McCallum said in response to talk about local government this is local government and the mill levy is same as

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present law. If people themselves through petition and election wish to do this they should be able to do it. Questions were asked by the committee. Hurwitz - would this have adverse effect on present countywide program? Senator McCallum - No. He believes if local people wish to do this they should have the opportunity to do this. Waldron - how would EMT work with this? Dawson - the interpretation of existing law allows city to adopt one mill or lets county have one mill for ambulance service. There is provision for 15% petition if city and county want to form an ambulance district. He thinks existing laws could be amended to take care of the problem. EMT certifies the technician and first aid has been required since 1971.

The hearing closed on Senate Bill 240.

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

SENATE BILL 199: Representative Pistoria moved that Senate Bill 199 DO PASS. Representative Waldron made a substitute motion that Senate Bill 199 DO NOT PASS. Waldron - I think the current law handles the problem of annexation very well. This gets into a real hassle when trying to inform non-residents. Gould - I think if a person does pay taxes, should have a say. Gerke - checked with people at home and they would like law the way it is. Question on substitute that House Bill 199 DO NOT PASS. Roll call vote was taken: 9 voted NO and 6 voted YES. Motion failed. Question was called on motion of DO PASS and roll call vote was reversed with 9 voting YES and 6 voting NO. Motion carried. Representative Gerke, Gunderson, Jensen, Palmer, Waldron and Robbins voted NO. Representatives Colburn, Halvorson and South were absent.

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

SENATE BILL 232: Representative Pistoria moved that Senate Bill 232 DO PASS. Representative Palmer made a substitute motion that Senate Bill 232 DO NOT PASS. Ramirez - I am concerned with some of the features I do not like, but with little bit of work would be more acceptable. Representative Ramirez made a substitute motion to all motions pending to put into a sub-committee. Question, motion carried.

SENATE BILL 349: Representative Pistoria moved that Senate Bill 349 DO PASS. Gerke - I am not sure if it was non-partisan. This would make it completely non-partisan. Representative Ramirez made a substitute motion to amend to delete (b) and (c) on page 2. Representative Stobie made a substitute motion to all motions pending to put Senate Bill 349 in same sub-committee as Senate Bill 232. Question, motion carried. Representative Gerke voted NO.

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Chairman Robbins returned.

Representative O'Connell appointed the following to sub-committee on Senate Bill 232 and Senate Bill 349: Ramirez, Chairman; Roth and Stobie.

Representative Waldron asked if that was all.

The meeting adjourned at 12:04 P.M.

Respectfully submitted,


HERSHEL M. ROBBINS, Chairman

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