

JANUARY 18, 1979
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES

The meeting was called to order at 1:00 p.m. by Chairman Robbins. The secretary called roll and found a quorum of members present, Representative McBride was excused and Representative Waldron was absent.

HOUSE BILL 91: Hearing was opened for HB 91 with Sponsor being Representative Pistoria of Great Falls. He gave a brief explanation of the bill, stating the law now reads that county employees be paid every month and this would amend it so they would be paid every 2 weeks.

Chairman Robbins then opened the hearing for proponents. Joe Crosswhite of Columbia Falls, representing Operating Engineers stated they were in favor of the bill and the proposed amendments.

John Bell of Helena representing the Montana Association of Clerks and Recorders stated they had read the proposed amendment and were in accord with this.

Dean Zinnecker of the Montana Association of Counties inquired if this would be bi-monthly or every two weeks as this wouldn't come out the same. Rep. Pistoria stated it read to be every 2 weeks.

There was then clarification by Scott Curey, Staff Attorney, and he presented the committee with a proposed substitute bill showing the amendments. It was then moved by Rep. Hurwitz that the bill do pass as amended. Rep. South called for passing the amendments first. Chairman Robbins then stated executive session would be held later on HB 91.

HOUSE BILL 93: Representative Pistoria, Sponsor, explained the bill would make no changes except under the Commission-Manager form of government, of which there are three cities. He stated Great Falls adopted an ordinance stating that the city judge was required to be an attorney, that he is paid at \$18,000 and works 2 hours a day three times a week. He felt this would not be such a high salary if the judge were not required to be an attorney. He stated justice of the peace are not required to be attorneys.

Chairman Robbins called for proponents: There were none. He then called for opponents. Dan Mizner representing the Montana League of Cities and Towns stated that until the last session, the police judge was appointed, and they are now required to be elected. He stated several cities had

House Bill 93: (cont.)

chosen to require their judge be an attorney, and many had not, and the cities felt this should be their choice. He recommended the bill do not pass and this be left to the local governments.

Greg Curtis, City Attorney from Choteau stated that even though they are not directly involved in the Commission-Manager form, he is the city attorney and had prosecuted cases before judges that are attorneys and those that are not, and he believed it was no place for a person without experience and ability to understand the laws. He stated he was opposed.

Sam Gesko, City Manager of Bozeman, representing the City Commission stated their feeling was that the laws were complicated enough and that the judge's position should be elected by the people of the community to fill local needs, and if the local people wanted an attorney, they should be able to choose. They were opposed to HB 93.

Dave Hunter representing Helena stated they are opposed as this should be a local decision, noting that this bill had been introduced last session and was defeated and it should be given a do not pass.

Doyle Williams representing the City of Great Falls stated he was in agreement with what had been said. He stated the judge in Great Falls was faced with 18,000 cases and he has heard 4,500 of these, that it would be a tremendous job for a lay person and an attorney is needed to understand some of the laws. He felt if this were to be required, it should include all cities, not just city-manager forms. He then gave examples of cities that had cases re-filed because of decisions of judges not attorneys. Their position was opposition to HB 93.

Margaret Davis representing the League of Women Voters stated they had encouraged the state to let local governments adjust their structure to fit their needs and this bill would limit the powers of commission-manager forms. Her statement is attached, #6.

Dave Goss of the City of Billings stated they wished to be on record as opposed and felt that cities should be able to establish their own needs. His statement is attached, #7, HB 93.

Representative Pistoria gave closing remarks stating the law says the judge doesn't have to be an attorney. He then had remarks regarding the operations of the office of the judge in Great Falls. Chairman Robbins asked that discussion stay to the bill.

HOUSE BILL 93 (cont.)

Chairman Robbins then called for questions from the committee. Representative Gould inquired if city judges have training like the justice of peace, it was stated that the law does not require this however most cities sent the judges to the school held by the university. Rep. Moore inquired if cities now select whether the judge will be an attorney, he was answered they do. Rep. South inquired if this bill would still allow cities to have attorneys, Rep. Pistoria stated it would, however they had passed a law that at present he had to be. Rep. Robbins inquired if the City of Great Falls later decided they didn't want an attorney, could they repeal the ordinance, and it was stated they could. Staff Attorney Scott Curey stated the bill would not preclude attorneys, it would preclude an ordinance stating they had to be attorneys. Hearing then closed on HB 93.

HOUSE BILL 84: Representative Lory, Sponsor, gave a brief explanation of the bill, stating it would require notice if a subdivision is taken under the family split. At the present time there is no way for the governing body to know of the splits as they are recorded as a Deed. He stated there is a provision where the county attorney can act on failure of the city to act, and there had been cases of record where city attorneys had failed to act. Cost of any action would be to the party not prevailing if the case goes to court. There is also provision for the clerk and recorder to refuse a survey that is not properly done.

Chairman Robbins then called for proponents: Dennis Rehberg of the Montana Association of Realtors stated they were in favor and that this would require that the subdivision files be updated.

H. Sonny Hanson of the Montana Technical Council spoke in support of the areas that require the certificate of filing and the allowance for rejecting surveys if it does not conform to standards.

Mike Steven of the Mont. Assoc. of Counties stated they were pleased with the portion regarding boundaries.

Chairman Robbins called for opponents, there were none. Representative Lory then gave closing remarks, stating he felt this would close up some troublesome areas.

There were then questions of clarification from committee members. Representatives Donaldson, Pistoria and Moore requested clarification of certain points. Representative Lory stated he had no further remarks and hearing closed on HB 84.

Chairman Robbins asked to hold Executive Session and members agreed.

Executive session was then held on House Bill 91. Representative South moved to accept the amendments as presented in the substitute bill. The bill was explained by Staff Attorney Curey and members agreed with what was presented and is attached. This would include amending the title and portions of the bill to read that county officers and their assistants may be paid monthly or every 2 weeks. Vote was all voted "aye". Representative Pistoria then moved that House Bill 91 do pass as amended. There was then further discussion by committee members. There was considerable discussion as to why this should be changed and members pointed out that the law now says they must be paid monthly, and amending the bill would allow the choice of the county to allow monthly or every 2 weeks. Question was called and all voted "aye" that HB 91 do pass as amended.

Executive session was then held on House Bill 93. Representative Moore stated that since Great Falls had changed to the Commission-Manager form of government that the city had pulled out of the red and he felt this was a good type government, and that the community should be able to decide for themselves whether to have the judge be an attorney. Other committee members were in agreement. Representative Azzara stated he was also in accord. Representative Moore then moved that HB 93 do not pass. Vote was called and a majority voted "aye" with Representatives Pistoria and Gould voting "nay". Motion carried that HB 93 do not pass.

Executive session was held on House Bill 84. Staff Attorney Curey stated it had been requested that subsection 3 be amended to add alleged in front of illegal transfers. Representative Kemmis proposed that there would be no one to determine the illegal transfer, and that a judge would eventually determine this. It was then suggested that Page 1, line 24 be amended by striking "illegal" and striking "of any manner", and inserting after transfers, "not in accordance with this chapter". Representative Moore moved the amendment as stated, all voted "aye" and the amendment carried. It was then moved by Rep. Hurwitz that HB 84 do pass as amended, vote was called and all voted "aye".

Chairman Robbins then called for a report from the Subcommittee on HB 45. Chairman of the Subcommittee, Representative Kemmis gave the report of the committee and the proposed amendments which are attached as their report. All members of the committee were in agreement with the proposed amendments, which would include adding

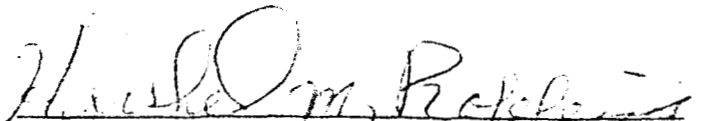
inserting "or municipality" in several lines, and adding language that notice must be given to planning boards when undertakings are within the other's jurisdiction, and the issuance of bonds authorized without an election. Chairman Kemmis reported that the subcommittee recommended do pass as amended, and he would make that motion. Vote was called and all voted "aye" and motion carried that House Bill 45 do pass as amended.

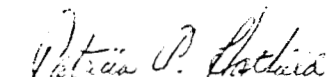
Chairman Robbins then announced that the committee would be meeting at 1:00 pm until further notice since sessions would convene at 3:30. He also announced that bills HB 114, 139, 155, 156 and 163 would be heard January 23. Chairman Robbins then stated that any bills receiving a unanimous vote of the committee may be placed on the consent calendar with another unanimous vote of the committee. Rep. Pistoria moved to put HB 91 on the consent calendar. Three members voted "no" and the motion did not carry.

Chairman Robbins then advised members that bills receiving an adverse committee report could be brought back on the floor with 10 signatures.

It was announced that the subcommittee on HB 46 would meet Monday, January 22 at 11am.

There being no further business the meeting was duly adjourned at 2:30 pm.


HERSHEL M. ROBBINS, CHAIRMAN
LOCAL GOVERNMENT COMMITTEE


Patricia A. Hatfield
Committee Secretary