

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

AUG 10 1979
OF MONTANA

February 17, 1979

The meeting of the Local Government Committee was called to order by Chairman McCallum at 12:00 on Saturday, February 17, 1979, in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Peterson, who was excused.

Dennis Taylor, staff researcher, was also present.

Many visitors were in attendance. (See attachment.)

SENATE BILL 47 -- LETTER OF INTENT: The needed letter of intent for Senate Bill 47 was explained and discussed.

A motion was made by Senator Lockrem that the letter of intent be accepted by the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 502: This bill is in regard to replacement of utility service lines, without the formation of a special improvement district. Senator Rasmussen, the sponsor of the bill, explained it.

Senator Thomas asked if the people will be notified? This is covered in the bill.

A motion was made by Senator Thomas that Senate Bill 502 be given a "DO PASS" recommendation from the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 206: This bill is in regard to changing the method of establishing salaries for elected county officials.

A motion was made by Senator Lockrem that Senate Bill 206 receive a "DO PASS" recommendation from the Committee.

A substitute motion was made by Senator O'Hara that SB 206 receive a "DO NOT PASS" recommendation from the Committee. Motion carried. Senator Lockrem voted "no", everyone else voted "yes". (See attachment.)

DISPOSITION OF SENATE BILL 417: This bill is in regard to changing the salary schedules of sheriffs and their deputies.

Senator Lockrem stated that he did not like the idea of deputies getting so much.

Senator Watt stated that deputies do alot of work.

A motion was made by Senator Thomas that Senate Bill 417 be tabled. Motion carried.

DISPOSITION OF SENATE BILL 505: This bill is in regard to compensation for county sheriffs and their deputies. After some discussion, it was decided that perhaps SB 229 could be amended on the floor to give a higher salary to the sheriffs rather than have two or three separate bills.

A motion was made by Senator Thomas that Senate Bill 505 be tabled.

DISPOSITION OF SENATE BILL 503: This bill is in regard to establishing general provisions and definitions common to all forms of municipal government with general powers.

Senator Watt explained the proposed amendments. Discussion was held.

A motion was made by Senator Watt that the proposed amendments to SB 503 be adopted. Motion carried.

Dennis Taylor pointed out that the bill has a typing error from the Legislative Council that needs correcting.

A motion was made by Senator O'Hara to accept an amendment which would clear up the mistake. Motion carried.

A motion was made by Senator Watt that Senate Bill 503 receive a "DO PASS, as amended" recommendation. Motion carried, however, three Senators voted "no". (See attachment.)

CONSIDERATION OF SENATE BILL 471: Senator Chet Blaylock, of Senate District 35, gave a brief resume of the bill. This bill is an act to revise the laws relating to municipal water and sewer rates; removing municipally owned water and sewer systems from the definition of "public utility"; requiring municipally owned water and sewer systems to file rate changes and annual financial reports with the Public Service Commission; establishing a municipal water and sewer rates appeal procedure.

Dan Mizner, of the League of Cities and Towns, stated that his group had worked with the Public Service Commission on this bill. If this bill is passed it should reduce the cost of water rates and would eliminate the hearings. Mr. Mizner stated he had heard from the towns of Sidney, Shelby, and Glendive, who had all planned on being at the hearing but, because of bad road conditions, could not attend, however, they did want to go on record as being in support of the bill.

Dean Holmes, mayor of Miles City, stated he is sure that the local governing bodies will not get out of line in their

rate charges. Development of the actual system is generally accepted locally. Mr. Holmes offered some amendments to the bill.

Harold Guthrie, mayor of Livingston, told of some of the problems they have had recently. In January of this year, they were granted a temporary rate increase of 78% compared to the 320% they determined they needed. The city is still waiting to see if they will get some relief on a permanent settlement of the rate increase request. Mr. Guthrie stated that the sewer and water rate increases, with the protection offered in this bill must remain with the cities. He urged the Committee to adopt SB 471. (See attachment.)

Jane Lloyd, city council member from Billings, stated that the City of Billings firmly believes in local control of local matters and therefore, strongly supports SB 471. Ms. Lloyd offered written testimony. (See attachment.)

Dick Larson, city administrator of Billings, stated he agrees with Ms. Lloyd's testimony and feels that local determination and control of city services is the most important tool that a local government has in responding to the needs and desires of its residents. The passage of SB 417 would strengthen the ability of local governments to better respond to the people. Mr. Larsen presented written testimony. (See attachment.)

Jim Smith, assistant city manager of Bozeman, stated that many dollars are spent for hearings when the elected officials could handle the problem.

David Hunter, representing the City of Helena, stated his support of the bill.

Gerald D. Underwood, public utility director of Billings, stated his support of the bill and offered 2 pages of written testimony. (See attachment.)

With no further proponents, Senator McCallum called on the opponents.

Geoffrey Brazier, of the Consumer Council, stood in opposition to the bill. Consumers need protection. There are three bills in the House similar to this bill. Cities have always gotten everything they asked for. Consumers can not afford excessive court costs. Mr. Brazier stated that there is very little need for this bill. There are no provisions in the bill for enforcement. Mr. Brazier told of situations around the state that have arisen.

Bill Opitz, of the Public Service Commission, offered amendments to the bill which he felt would make it workable. He reviewed the amendments with the Committee. Mr. Opitz

stated he agreed with the statements made by Mr. Brazier.

Mabel Trenba spoke in opposition to the bill as a taxpayer and user. She stated that the reason people do not attend the hearings is because they do not know they are being held. Mrs. Trenba stated that perhaps notices of the hearings could be sent out on the utility bills. There would be more protestors, if the people knew of the hearings.

Steve Trenba, a user and taxpayer, stated this bill is not fair. The people own the plants. The accounts are always being juggled. Mr. Trenba asked that the power be given back to the people. City books should be able to be audited.

With no further proponents or opponents, Senator Blaylock made the closing remarks. He stated that he would accept Mr. Opitz's proposed amendments. The cities have been reasonable. Leave this power at the local level. Only two other states have systems like ours.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

CONSIDERATION OF SENATE BILL 518: Senator Harold Dover, of Senate District 24, sponsor of the bill, gave a brief resume. This bill is an act to provide for an election on the question of voter review of local government and to provide procedures for the establishment and functioning of a local government study commission and for the implementation of its recommendations. Senator Dover stated that this bill is in regard to Constitutional Amendment #6.

Dave Wazenried, from the Department of Community Affairs, offered some amendments to Senate Bill 518 which would add clarity.

Sandy Sargent, of the E.I.C. commented that the Constitution stated the state shall require a study commission review every ten years.

Senator Dover made the closing remarks. This bill will implement the working tools of the constitutional amendment last November. Perhaps a time table should be worked on.

CONSIDERATION OF SENATE BILL 462: Senator John Manley, of Senate District 14, sponsor of Senate Bill 462, gave a brief resume. This bill is an act to stagger elections and terms of office of directors of county water and sewer districts; to require directors to reside and own or lease real property in the district. Senator Manley stated that all this bill does is clarify the law.

There were neither proponents or opponents present to testify

Senator Manley closed the hearing by asking for a "DO PASS" recommendation from the Committee.

DISPOSITION OF SENATE BILL 462: A motion was made by Senator Thomas to give SB 462 a "DO PASS" recommendation from the Committee. The motion was seconded by Senator O'Hara. Motion carried.

DISPOSITION OF SENATE BILL 471: This bill is in regard to laws relating to municipal sewer and water rates.

A motion was made by Senator Watt to accept the proposed amendments to Senate Bill 471. The motion was seconded by Senator Lockrem. Motion carried.

A motion was made by Senator Lockrem that Senate Bill 471 receive a "DO NOT PASS, as amended" recommendation from the Committee. The motion ended in a tie vote. (See attachment.)

DISPOSITION OF SENATE BILL 290: This bill is in regard to aircraft hazards.

A motion was made by Senator Story to accept the proposed amendments of Senate Bill 290. Motion carried.

A motion was made by Senator Story to give SB 290 a "DO PASS, as amended" recommendation from the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 275: This bill is in regard to shopping centers coming under the Subdivision and Platting Act. Senator Brown stated he had gotten together with the men representing the Realtors Board and came up with some proposed amendments. Senator Brown explained the amendments.

Mr. Cliff Christian, of the Realtors Board, stated that shopping centers are not a division of land and this bill refers to them as such. The problem is still going to be the fact that the city council will still have to vote under the Subdivision and Platting Act. Pressure could make the difference.

A motion was made by Senator Watt to accept the proposed amendments. Motion carried.

Senator Thomas stated there is still a basic principal and basic philosophy of squeezing out the competition.

Senator Brown stated that Helena hopes to avoid the problem of it ever happening again. Zoning is not the answer.

A motion was made by Senator Thomas to give SB 275 a "DO NOT PASS, as amended" recommendation. Motion carried.

DISPOSITION OF SENATE BILL 518: This bill is in regard to

study commissions. After some discussion it was decided by the Committee to table Senate Bill 518.

ADJOURN: With no further business the meeting was adjourned at 2:30.


CHAIRMAN, Senator George McCallum

Roll Feb 17

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON			✓
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE COMMITTEE LOCAL GOVERNMENT

Date February 17 Senate Bill No. 275 Time 2:25

NAME	YES	NO
GEORGE MCCALLUM, CHAIRMAN	✓	
LLOYD LOCKREM, VICE CHAIRMAN		✓
MAX CONOVER		✓
JESSE A. O'HARA	✓	
BOB PETERSON	✓	
A. T. (TOM) RASMUSSEN		✓
PETE STORY	✓	
BILL THOMAS	✓	
ROBERT D. WATT		✓

Clare Grady
Secretary

George McCallum
Chairman

Motion: A motion was made by Senator Thomas to give SB 275 a

DO NOT PASS, as amended recommendation. Motion carried.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

.....February 17..... 19 79.....

MR.President:.....

We, your committee onLocal Government.....

having had under considerationSenate..... Bill No. 290.....

Respectfully report as follows: That.....Senate..... Bill No. 290.....

introduced bill, be amended as follows:

1. Page 1, line 11.

Following: "structure"

Strike: remainder of lines 11 through 15 in their entirety

Insert: "over 200 feet in height above ground level constructed by
man which obstructs the airspace required for safe flight of
aircraft."

2. Page 1, line 16.

Following: "object"

Insert: "over 200 feet in height above ground level"

3. Page 2, line 1.

Following: "Designation"

Strike: remainder of lines 1 and 2 in their entirety

4. Page 2, line 2.

Following: line 2

Strike: "ground or water level determined"

DO PASS

.....(Continued).....

Insert: "and indentification of certain aircraft hazards in aircraft hazard zones. Any structure obstructing the airspace above ground or water level, that is located at river, lake, and canyon crossings, determinded, after hearing,"

5. Page 2, line 11.

Strike: lines 11 through 16 in their entirety

Renumber: subsequent sections

6. Page 2, line 19.

Strike: "or obstacles"

7. Page 2, line 22.

Strike: "or obstacles"

8. Page 2, line 25.

Following: "department"

Strike: remainder of line 25 through line 10 on page 3 in their entirety

Insert: "shall require that any hazard within an aircraft hazard zone, designated by the department under [section 2], be appropriately marked by the owner, operator, lessees, or others having control or management of the hazard."

" Section 4. THERE IS A NEW MCA SECTION THAT READS:

"Section 4. Period of time for marking.

Upon adoption of [this act] the department has until July 1, 1982 to determine those aircraft hazards which are now in existence. As of July 1, 1979, the department has the authority to determine those new structures which are a hazard. New structures which are determined by the department to be a hazard must be appropriately marked and must meet department standards upon the date of completion."

"Section 5. THERE IS A NEW MCA SECTION THAT READS:

"Section 5. Funds for marking hazards.

(1) Following identification of hazards as provided in [this act], the sum of \$25,000 may be allocated from the earmarked revenue fund, from the account created by 67-1-301 (3), for the fiscal year ending July 1, 1983, and so much for each succeeding fiscal year as may be necessary to reimburse the fund for expenditures and commitments made and to maintain the fund at \$25,000 at the beginning of each fiscal year thereafter, for participation by the department in marking the hazards.

(continued)

Chairman.

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Senate Local Government
Senate Bill 290
Page Three

(2) The department shall participate to the extent of 50% of the costs of marking those hazards which in the opinion of the department are most in need of marking, after concluding the hearing and identification procedures as as provided in [this act]."

And, as so amended, DO PASS

A statement of intent is required for this bill because it delegates rulemaking authority to the Department of Administration in Section 4.

Section 4 (1) of the bill requires the Department of Administration to adopt by rule a uniform state building code governing all matters of design, construction, materials, health and safety, including all mechanical, electrical, and plumbing installations. This bill also authorizes the adoption of nationally recognized codes such as the Uniform Building Code, Uniform Plumbing Code, and the National Electrical Code. Section 4 (4) further requires the department to adopt standards governing the construction, components, systems, and appliances used in all factory built buildings and recreational vehicles manufactured or sold in Montana.

Section 4 is intended to simply retain rulemaking authority currently exercised by the department under existing law. None of the rulemaking authority delegated to the department in the bill institutes new or expanded rulemaking authority. All of the nationally recognized codes mentioned in the bill are currently adopted by the department and are enforced by either the department or a municipality within its jurisdictional area.

It is the intent of this bill to grant to the department sole and exclusive authority to adopt building codes except as otherwise provided by law. This bill is also intended to reserve to the cities and counties the exclusive power to enforce the codes as promulgated by the department, with the exception of the enforcement of standards related to factory built buildings and recreational vehicles.

First adopted by the Senate Committee on Local Government on February 17, 1979.

STANDING COMMITTEE REPORT

February 10

19 79

MR. **President:**

We, your committee on **Local Government**

having had under consideration **Senate** Bill No. **47**

Respectfully report as follows: That **Senate** Bill No. **47**,
introduced bill was passed as amended.

1. Page 4, line 7.

Following: line 6

Insert: "(12) "Public Place" means any building owned or occupied
by a government entity, or any building where members of
the general public have a right of access."

2. Page 5, line 21.

Following: "Uniform Plumbing Code;"

Insert: "Uniform Fire Code;"

3. Page 7, Line 24.

Following: "entity"

Insert: "provided that no provision of the code can be applied
or enforced against the owner of an elevator operated
under a maintenance agreement with a nationally recognized
elevator manufacturer, or regularly inspected by a licensed
insurance company that has issued a public liability insurance
policy covering the operation of the elevator"

DO PASS

(Continued)

A.C.

4. Page 8, line 6.

Strike: "except state owned buildings"

5. Page 8 line 12.

Following: line 12

Insert: "Nothing in [this act] infringes on the authority of the department of health & environmental sciences and the state fire marshall to enforce statutes and rules within the municipal jurisdictional area and the county jurisdictional area."

And, as so amended, DO PASS

STANDING COMMITTEE REPORT

.....February 17..... 19 79.....

MR.President:.....

We, your committee onLocal Government.....

having had under considerationSenate..... Bill No.503....

Respectfully report as follows: That.....Senate..... Bill No.503,....

introduced bill be amended as follows:

1. Page 6, line 18.

Following: "prescribed in"

Strike: "20-3-105"

Insert: "2-3-105"

2. Page 6, line 19.

Following: line 13

Strike: "20-3-107"

Insert: "2-3-107"

3. Page 7, line 21.

Following: "electors of the"

Strike: "local Government"

Insert: "municipality"

~~DO PASS~~

.....(Continued).....

4. Page 8, line 25.

Following: "shall"

Insert: ": (a)"

5. Page 9, line 1.

Following: "delay"

Insert: ";

(b) submit a copy of the petition to the attorney of the municipality"

6. Page 9, line 4.

Following: line 4

Insert: "(8) The attorney for the municipality shall prepare and transmit to the governing body without delay a concise statement not exceeding 100 words. This statement shall express a true and impartial explanation of the purpose of the proposed ballot issue in plain, easily understood language. The statement may not intentionally be an argument and may not intentionally be written so as to create prejudice for or against the measure.

(a) At the same time the statement of purpose is prepared, the attorney shall prepare statements of the implications of a vote for or against a ballot issue. The statements of implication may be no more than 25 words each and shall be in simple, impartial language clearly explaining the meaning of a vote for and a vote against the issue.

(9) Prior to an election, or an official action involving a petition issue, the governing body shall publish copies of the statement of purpose and statement of implications to the procedure established in [section 4]."

Renumber subsequent subsections

7. Page 10, line 21.

Strike: "local"

8. Page 10, line 21.

Following: line 22

Strike: "government"

Insert: "municipality"

(Continued)

9. Page 11, line 11.

Following: "signature."

Insert: "If the elector has signed using an initial letter only in place of a name written on the registry card or using a name or the initial letter of a name that is not on the registry card, the signature may nevertheless be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the registry card as to provide reasonable certainty of its authenticity."

G.C.

And, as so amended, DO PASS

STANDING COMMITTEE REPORT

February 17 19 79

MR. President:

We, your committee on Local Government

having had under consideration Senate Bill No. 462

Respectfully report as follows: That Senate Bill No. 462

DO PASS

STANDING COMMITTEE REPORT

February 17

19 79

MR. President:

We, your committee on Local Government

having had under consideration Senate Bill No. 206

Respectfully report as follows: That Senate Bill No. 206

~~DO PASS~~

DO NOT PASS

P.A.

February 17 19 79

MR. President:

We, your committee on Local Government

having had under consideration Senate Bill No. 502

Respectfully report as follows: That Senate Bill No. 502

DO PASS

G.M.

STANDING COMMITTEE REPORT

February 17

1972

MR. President:

We, your committee on Local Government

having had under consideration Senate Bill No. 275

Respectfully report as follows: That Senate Bill No. 275,

introduced bill be amended as follows:

1. Title, line 7.

Following: "76-3-202,"

Strike: "AND"

Following: "76-3-204,"

Insert: "AND 96-3-608,"

2. Page 4, lines 11 and 12.

Following: "unit"

Strike: remainder of lines 11 and 12 in their entirety.

3. Page 5, line 10.

Following: "land-use plan."

Insert: "However, any shopping center not exempt under these conditions is subject to review under this chapter as a major subdivision and is not eligible for summary review."

~~DO PASS~~

(Continues on the next page)

4. Page 5.

Following: line 10

Insert: "Section 5. Section 76-3-608, MCA, is amended to read:

"76-3-608. Criteria for local government review. (1) The basis for the governing body's decision to approve, conditionally approve, or disapprove a subdivision shall be whether the preliminary plat, environmental assessment, public hearing, planning board recommendations, and additional information demonstrate that development of the subdivision would be in the public interest. The governing body shall disapprove any subdivision which it finds not to be in the public interest.

(2) To determine whether the proposed subdivision would be in the public interest, the governing body shall issue written findings of fact which weigh the following criteria for public interest:

- (a) the basis of the need for the subdivision;
- (b) expressed public opinion;
- (c) effects on agriculture;
- (d) effects on local services;
- (e) effects on taxation;
- (f) effects on the natural environment;
- (g) effects on wildlife and wildlife habitat; and
- (h) effects on the public health and safety.

(3) In determining whether a proposed shopping center would be in the public interest, the provisions of subsection (2)(a) and (b) relating to need and public opinion may not be applied."

And, as so amended, DO NOT PASS

SENATE

COMMITTEE

BILL _____

VISITORS' REGISTER

DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
DAVID F. WENZELBACH	Dept. Community Affairs	SB 512		
Stacy Guthrie	Livingston, Mt.	SB 471	✓	
Debra Holmes	Miss. City, Mt. Highway	SB 471	✓	
RICHARD LARSEN	BILLINGS, City Admin.	SB 471	✓	
LARRY GRAHL	"	SB 471	✓	
Jerry Underwood	"	SB 471	✓	
Steve Jensen	Billings, Mont.	SB 471		✓
Wanda Jensen	"	SB 471		✓
Chad Jensen	Bozeman, Counsel	SB 471		✓
Tom Schneider	Commissioner PSC	SB 471		
Dennis Crawford	PSC Staff	SB 471		
Wanda Jensen	PSC Staff	SB 471		
Gary Butcher	Self Helena	SB 471	✓	
John J. Smith	Mont. Pk. Mtn. - Bozeman	SB 471	✓	
Tip Butcher	Senator Dist 49	471	✓	
Mark W. Grier	Mont. State Admin.	SB 471	✓	
William J. Grier	Mont PSC	SB 471	Amend	
Jim Butcher	Helena - self	SB 471	✓	
Wanda Jensen	Bozeman	SB 471	Amend	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: RICHARD LARSEN DATE: 2/1/77

ADDRESS: _____

PHONE: 248-7511

REPRESENTING WHOM? City of Billings

APPEARING ON WHICH PROPOSAL: 5/5-77

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: to written testimony ATG Acb.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: JANE LLOYD DATE: 2/17/79
ADDRESS: BILLINGS
PHONE: 656-7922
REPRESENTING WHOM? CITY COUNCIL OF BILLINGS
APPEARING ON WHICH PROPOSAL: SB-471
DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____
COMMENTS: WRITTEN ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Donald Guthrie DATE: 2/19/

ADDRESS: 905 W. Bayview, Livingston, Mont

PHONE: 222-2900

REPRESENTING WHOM? city of Livingston

APPEARING ON WHICH PROPOSAL: SB-471

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME GEOFFREY L. BRAZIER Bill No. S 471
ADDRESS 34 W 6th, HELENA DATE 2-17-71
WHOM DO YOU REPRESENT MONTANA CONSUMER COUNCIL
SUPPORT _____ OPPOSE L AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

RE: SB 471

Testimony of: Gerald D. Underwood
623 Custer Avenue
Billings, Montana 59101

My name is Gerald D. Underwood. I live at 623 Custer Avenue, Billings, Montana. I am presently employed by the City of Billings as Public Utilities Director, and I have worked for the Public Utilities Department for seventeen years. I am also a registered professional engineer in the State of Montana.

I support passage of SB 471 for the following reasons:

1. To date the Public Service Commission has failed to adopt adequate or proper guidelines to govern water and wastewater rate making practices by municipal utilities. As a result of this, no municipal utility can possibly submit to the Public Service Commission rate studies which meet the requirements of the Commission, since same have never before been delineated by the Commission. Too, the municipal utilities expend great sums of money to have such studies prepared by nationally recognized experts, only to find out later that the Commission does not agree with the methodologies used by the experts retained by the municipal utilities. The City of Billings has unsuccessfully tried on numerous occasions to obtain from the Commission exactly what is required by the Commission with respect to rate determinations. In each instance, and prior to performing a rate study, the Public Service Commission has failed to provide any information whatsoever as to their requirements in this regard. However, once the rate studies are submitted to the Commission, we are told by same that we have failed to meet their requirements.
2. Municipal utilities experience overly long delays in having their rate requests approved by the Commission. It recently required in excess of a year for the City of Billings to receive the Commission's approval of its permanent water rate increase. In addition the City of Billings had to submit over 20,000 pages of documentation to support its rate increase.
3. The Public Service Commission has not revised their regulations governing water service with respect to municipal utilities since 1921. Their regulations fail to meet the needs of modern day customers.
4. The Public Service Commission has failed to recognize that municipal utilities are authorized under state law to sell revenue bonds for improvements and betterments to their water and wastewater systems. In the City of Billings case, the Public Service Commission has just recently effectively prevented the City from selling revenue bonds to enlarge its system to meet the ever growing needs of the community.

5. With respect to wastewater rates, most municipal utilities have accepted Federal Environmental Protection Agency Sewage Treatment Works Grants. As a result of this, the EPA as well as the State Department of Health & Environmental Sciences must now approve municipal utility wastewater rates. Is it really necessary to have a third agency such as the Public Service Commission review such rates before same can be enacted by such cities?
6. Local governments should be allowed to set their own water and wastewater rates after proper hearings have been held. With proper appeal provisions to the Public Service Commission, adequate safeguards are available to the utility customers in the event local governmental bodies fail to properly set their water and wastewater rates. There isn't any further need for the Public Service Commission's continued involvement in setting such water and wastewater rates by municipal utilities.



CITY OF BILLINGS

220 NORTH 27TH STREET
P. O. BOX 1178
BILLINGS, MONTANA 59103
PHONE (406) 248-7511

The City of Billings firmly believes in local control of local matters and therefore strongly supports the passage of Senate Bill 471.

As an elected official of the City of Billings, it is my duty to respond to the needs and wishes of the citizens of Billings with regards to the services they want and how much they are willing to pay. Through the budgeting procedure for the city, the City Council is able to respond to the needs and desires of the people and as a result there is local determination and control of virtually every service provided by the city with the exception of the municipally owned utilities. In this area, the ability of the City Council to respond to the people is hindered by placing the control of the utility rates in the hands of the Public Service Commission.

I very strongly feel that this control should be moved from the Public Service Commission and placed in the hands of the local elected officials. There are those people who will argue the City Councils do not have the expertise to handle rate determinations, but I disagree. Presently before the City asks the PSC for a rate increase, the City Council must decide if an increase is justified and if so, to what extent. We base this decision on the months of study done by consulting engineers, staff members, and attorneys. Plus our decision is based on one other important factor. That is the feeling we get from the people through our daily contact with them, a feeling which I do not feel the PSC is able to obtain.

I also feel that City Councils are more responsive to the people since all members of a city council are elected by the people of a community but the people of that same community elect only one member of the PSC. In line with this statement, there are those who will argue that people who live outside a city but have city utility service have no say in electing the City Council. While they may not be able to vote for us, they certainly are able to talk to us and to come to public hearings and let their views be known. Plus, if they disagree with a rate decision that is made by the City Council, Senate Bill 471 does have a means for these people or any user of the system to appeal our decision to the PSC.

In conclusion, I would like to point out that the latest information available to us is that 43 states in the United States have recognized local control of municipal utilities and that only Indiana, Maine, Massachusetts, Nevada, West Virginia, Wisconsin and Montana still have state control. I ask that Montana be removed from this list by the passage of Senate Bill 471.

THIS STATEMENT IS FROM JANE A. LLOYD, CITY COUNCIL MEMBER, CITY OF BILLINGS.

Gentlemen of the committee

I am Harold Guthrie, Mayor of Livingston and am here to tell you a true story about what happened when we found it necessary to raise sewer rates in our city.

We have been in the process of constructing a secondary disposal plant since 1971. We have used up a reserve the city had for pre-requirements and engineering costs that soar with every change in plans dictated by the EPA. We have a contract with the engineering firm which EPA required be paid on a monthly basis.

We found it necessary therefore to raise the sewer rates to cover this engineering cost and costs of a pilot plant -- again a requirement of EPA.

Cost figures were developed and it was determined that sewer rates would have to be raised from \$1.50 per month on a basic unit to \$4.32.

The Council approved the raise and a public protest meeting was held with no one appearing in opposition.

Now before the council could act on the 2nd reading, the attorney general ruled that all sewer rate increases would have to pass through the PSC for approval.

We waited some time for the PSC to accept the responsibility and on Sept. 27, 1978 we submitted our proposed rate increase to the PSC for approval.

The law states that if only one person requests a hearing, the PSC must hold one. There was one such request filed from Livingston.

Accordingly on Dec. 5 the PSC had a full hearing in Livingston with testimony being presented. My estimate of the cost of this hearing, to the taxpayers of Livingston and the state was in excess of \$1600.00 .

Furthermore the one person who requested the hearing did not show up. Only 3 people did show up for the hearing other than those who

were involved. One was simply an observer and made no comment.

A man and wife dropped in and ask only one question, "Why are the sewer rates so high?" and then they left.

In January of this year we were granted a temporary rate increase of 78% as compared to the 320% we had determined we needed. The increase was to take effect on Feb. 1, 1979. We are still waiting to see what, if any, relief we will be getting on a permanent settlement of the rate increase request.

We started registering some warrants in the sewer department in November, 1978 and by the end of the month had issued over \$4000 worth of them. How much longer this can go on is not known at this time.

Now let me point out also that the EPA on such a plant as ours sets the method of assessing the rates and how much the rates will be per unit of usage. Failure to follow the EPA formula will result in non-payment of funds for the project.

It is the EPA that will be setting rates not PSC. Furthermore the companies that buy the bonds will want to make sure that everything is approved by the EPA.

If the PSC, as it has indicated through press releases, will grant only 7% increases, then every city and town in Montana is going to have to submit a sewer rate increase every year just to keep even with inflation.

Water increases will also have to be submitted annually and should extensive water purification plants be mandated by the EPA then the whole process that we are going through with the sewer rate increases will also be done with water rates.

Gentlemen, I think sewer and water rate increases with the protection offered in this bill must remain with the cities.

Who knows better than the cities how much it takes to operate city facilities. Who is a better consumer advocate than the people of the community.

I urge you to adopt this bill.



CITY OF BILLINGS

R. L. LARSEN
CITY ADMINISTRATOR

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I concur with the statements made by Councilmember Jane A. Lloyd, and I too feel that local determination and control of city services is the most important tool that a local government has in responding to the needs and desires of its residents. The passage of Senate Bill 471 would strengthen the ability of local governments to better respond to the people.

I would like to take just a moment and explain to the committee what the City of Billings went through during its latest request for a water rate increase. In September of 1977, the Billings City Council decided that a rate increase was needed for the municipal water utility. It should be noted that there had been no rate increases since 1972. Prior to this decision, there had been months of study done to determine the exact increase in revenue that was needed and what the resultant water rates would be. Also, there was a public advertised meeting during which time residents were allowed to make their wishes known, and I think it is very important to point out that during this entire process there was not one formal protest presented to the City Council though several citizens asked many thought provoking questions and received satisfactory responses.

The City then filed its rate increase request with the Public Service Commission in October of 1977. It was not until July of 1978 that the PSC issued its permanent order in the matter. And that permanent order granted only 65% of the rate increase that had been requested. As a result of not all of the request being granted, we have now been informed by our fiscal auditors that the city will probably be in default of the bonds that were sold to expand the plant and system, expansion which was necessitated to handle the growth of the area plus meet the demands of the people. As was pointed out by the auditing firm of Schillinger, Phillip and Gohsman in a report to the City dated December 28, 1978: "... until rates are increased, we feel that the City is in violation of Section 6.12 of Ordinance No. 3647 providing that adequate rates to provide debt service will be charged." And yet the matter is still not settled. The City of Billings has appealed this decision as has the Consumer Counsel. And we are now before the Supreme Court of this state in an attempt to determine where the case will be heard. All this has resulted in untold lost manhours and additional, and I feel unnecessary, costs to the taxpayers of the City and users of the system. And yet, I would again like to impress upon you that all during the time the City Council was considering the proposed rate increase, not one formal protest from a local resident was lodged.

I have been involved in city management in a number of other states, none of which had state control of municipal utility rates. And in comparison, I can tell you that the procedure in operation in Montana is much more inefficient, time consuming and costly resulting in the local governments being unable to respond properly to the needs of the People.

RE: SB 471

Testimony of: Gerald D. Underwood
623 Custer Avenue
Billings, Montana 59101

My name is Gerald D. Underwood. I live at 623 Custer Avenue, Billings, Montana. I am presently employed by the City of Billings as Public Utilities Director, and I have worked for the Public Utilities Department for seventeen years. I am also a registered professional engineer in the State of Montana.

I support passage of SB 471 for the following reasons:

1. To date the Public Service Commission has failed to adopt adequate or proper guidelines to govern water and wastewater rate making practices by municipal utilities. As a result of this, no municipal utility can possibly submit to the Public Service Commission rate studies which meet the requirements of the Commission, since same have never before been delineated by the Commission. Too, the municipal utilities expend great sums of money to have such studies prepared by nationally recognized experts, only to find out later that the Commission does not agree with the methodologies used by the experts retained by the municipal utilities. The City of Billings has unsuccessfully tried on numerous occasions to obtain from the Commission exactly what is required by the Commission with respect to rate determinations. In each instance, and prior to performing a rate study, the Public Service Commission has failed to provide any information whatsoever as to their requirements in this regard. However, once the rate studies are submitted to the Commission, we are told by same that we have failed to meet their requirements.
2. Municipal utilities experience overly long delays in having their rate requests approved by the Commission. It recently required in excess of a year for the City of Billings to receive the Commission's approval of its permanent water rate increase. In addition the City of Billings had to submit over 20,000 pages of documentation to support its rate increase.
3. The Public Service Commission has not revised their regulations governing water service with respect to municipal utilities since 1921. Their regulations fail to meet the needs of modern day customers.
4. The Public Service Commission has failed to recognize that municipal utilities are authorized under state law to sell revenue bonds for improvements and betterments to their water and wastewater systems. In the City of Billings case, the Public Service Commission has just recently effectively prevented the City from selling revenue bonds to enlarge its system to meet the ever growing needs of the community.

5. With respect to wastewater rates, most municipal utilities have accepted Federal Environmental Protection Agency Sewage Treatment Works Grants. As a result of this, the EPA as well as the State Department of Health & Environmental Sciences must now approve municipal utility wastewater rates. Is it really necessary to have a third agency such as the Public Service Commission review such rates before same can be enacted by such cities?
6. Local governments should be allowed to set their own water and wastewater rates after proper hearings have been held. With proper appeal provisions to the Public Service Commission, adequate safeguards are available to the utility customers in the event local governmental bodies fail to properly set their water and wastewater rates. There isn't any further need for the Public Service Commission's continued involvement in setting such water and wastewater rates by municipal utilities.

PROPOSED AMENDMENTS TO SB 503

SENATOR WATT

1. Page 8, line 25.

Following: "shall"

Insert: ": (a)"

2. Page 9, line 1.

Following: "delay"

Insert: ";

(b) submit a copy of the petition to the attorney
of the municipality"

3. Page 9, line 4.

Following: line 4

Insert: "(8) The attorney for the municipality shall prepare and transmit to the governing body without delay a concise statement not exceeding 100 words. This statement shall express a true and impartial explanation of the purpose of the proposed ballot issue in plain, easily understood language. The statement may not intentionally be an argument and may not intentionally be written so as to create prejudice for or against the measure.

(a) At the same time the statement of purpose is prepared, the attorney shall prepare statements of the implication of a vote for or against a ballot issue. The statements of implication may be no more than 25 words each and shall be in simple, impartial language clearly explaining the meaning of a vote for and a vote against the issue.

(9) Prior to an election, or an official action involving a petition issue, the governing body shall publish copies of the statement of purpose and statement of implications to the procedure established in [section 4]."

Renumber subsequent subsection.

4. Page 11, line 11.

Following: "signature."

Insert: "If the elector has signed using an initial letter only in place of a name written on the registry card or using a name or the initial letter of a name that is not on the registry card, the signature may nevertheless be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the registry card as to provide reasonable certainty of its authenticity."

SENATE BILL 290

1. Amend page 1, line 11.

Following: "structure"

Strike: the remainder of (1)

Insert: "over 200 feet in height above ground level constructed by man which obstructs the airspace required for safe flight of aircraft."

2. Amend page 1, line 16.

Following: "object"

Insert: "over 200 feet in height above ground level"

3. Amend page 2, line 1 through 3.

Following: "Designation"

Strike: the remainder of line 1, all of line 2 and the words "ground or water level determined" in line 3

Insert: "and identification of certain aircraft hazards in aircraft hazard zones. Any structure obstructing the airspace above ground or water level, that is located at river, lake and canyon crossings, determined, after hearing,"

4. Amend page 2, lines 11 through 16.

Strike: all of Section 3

Renumber subsequent sections

5. Amend page 2, line 19.

Following: "structures"

Strike: "or obstacles"

6. Amend page 2, line 22.

Following: "structures"

Strike: "or obstacles"

7. Amend page 2, line 25 and page 3.

Following: "department"

Strike: the remainder of line 25 and all of page three

Insert: "shall require that any hazard within an aircraft hazard zone, designated by the department under Section 2, be appropriately marked by the owner, operator, lessees, or others having control or management of the hazard."

Section 6. Period of time for marking. Upon adoption of this act the department will have until July 1, 1982, to determine those aircraft hazards which are now in existence. The department as of July 1, 1979 will have authority to determine those new structures which will be a hazard. Upon written notification by the department that an aircraft hazard exists, as determined in Section 2, the owners, operators, lessees, or others having control or management of the hazards have three years to complete marking of hazards, to the specifications by the department. New structures which are determined by the department to be a hazard must be appropriately marked and meet department standards upon date of completion."

delete
see new
7

Proposed amendment to SB 290

[This is based upon a similar idea used for railroad grade crossings - see 15-70-102 (1)]

~~Section 7. Following id~~

Section 7. Following identification of hazards as provided herein, the sum of \$25,000 may be allocated from the earmarked revenue fund, from the account created by 67-1-301(3), MCA, for the fiscal year ending July 1, 1983, and so much for each succeeding fiscal year as may be necessary to reimburse the fund for expenditures and commitments made and to maintain the fund at \$25,000 at the beginning of each fiscal year thereafter, for participation by the department in the marking of hazards. The department shall ~~after the contribute~~ ~~participate in the cost of~~ participate to the extent of 50% of the cost of marking those hazards which, in the opinion of the department are most in need of marking, after concluding the hearing and identification procedure as provided in this part