

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
January 27, 1981

The Local Government Committee met January 27, 1981 at 12:30 p.m. in room 103. CHAIRMAN VERNER BERTELSEN called the meeting to order. All committee members were present, including Staff Researcher Lee Heiman.

CHAIRMAN BERTELSEN opened the hearing on HOUSE BILL 353.

REPRESENTATIVE DANIEL KEMMIS, sponsor, introduced the bill. This is an act to correct an oversight that was made when we passed the general election bill last session. In 1975 the Legislature passed a bill which allowed for the creation of urban transportation districts. The idea was to allow transportation districts to be set up that would cross city limits to go out into the urban area of a county. Two cities in Montana now have Urban Transportation Districts, Missoula and Great Falls. This is a special District with a governing body of three members. The members are elected by all the electors in the district. The election law put these districts under the same general designation as all other special districts. There is a requirement that in order to get nominated to run for the Board you have to have the signatures of 5% of the voters who voted in the last election for that Board. In small districts that is no big problem. But the Urban Transportation District may be a large district with low visibility among the electorates. We found in Missoula County that in order to run for this Board, an individual needed several hundred signatures to be nominated. We ended up without enough candidates for all the vacancies on the Board and had to elect some people by write-in. This is not a good way to elect board members. We've made some calculations, and based on the last election, in order to get nominated next time, about 944 signatures would be required. That is a huge task. The purpose of this bill is to clear up the problem. In order to be nominated 25 signatures will be required on a petition. That will be enough to show that people are serious about running, but won't make it impossible for people to run.

PROPOSAL for HB 353

CYNTHIA WHITE, senior member of the Missoula Urban Transportation Board, feels that the 5% requirement is a discouragement for an individual to run for a non-paying, time consuming position in local government. She urged committee members to support passage of HB 353.

REPRESENTATIVE PISTORIA asked to be considered a proponent as they have a similar problem in Great Falls. They have a five-member Board. Transportation today cannot be handled by private enterprise. It is a tough thing and everyone knows it has to be subsidized. All larger cities are trying to promote it. I heartedly support HB 353.

OPPONENTS to HB 353

There were none.

QUESTIONS:

REPRESENTATIVE HANNAH: Why do we need a petition at all for anyone to file? I feel anyone who wants to represent the people and run for a job should have the freedom to do so.

REP. KEMMIS: I wouldn't have any objection to that. I was trying to keep the law under the same general guidelines that would affect other districts. We do have instances where people have a sudden urge to do something, but the next day they regret it. Having a petition shows that people are fairly serious about running for a job.

CHAIRMAN BERTELSEN said since there are no further questions, the hearing for HB 353 is now closed.

THE CHAIRMAN said we'd now hear HOUSE BILL 256.

HOUSE BILL 256

SPONSOR ORREN VINGER said he is carrying the bill at the request of the Association of Counties. It will increase certain limits of discretionary authority of county officials to act in fiscal matters in order to adjust for inflation. We're raising four different figures in the bill. On line 18, page 1 we're changing from \$10,000 to \$25,000 on the advertising bids for competitive bids. One line 10, page 2 we're changing the figure from \$10,000 to \$25,000 for nonadvertised competitive bids. On page 3 we're changing the option where the Commissioners can go to an auction and make a purchase and raising that from \$10,000 to \$25,000. On line 20 we're changing the figure from \$40,000 to \$150,000 as far as incurred indebtedness or liability for any single purpose. These are my comments for this time.

PROPONENTS for HB 256

MIKE STEPHEN, Executive Director for the Association of Counties, supports this bill. The current trend is that prices of everything are going up. In the county we're continually confronted with ceilings on one thing or another. We try to be competitive in what we do with regard to making the best deal for the county. This bill gives us a little more flexibility and raises these limits so when we do pursue a purchase we have a little more latitude. If the ceilings are raised, we can go out and buy the necessary equipment and be in a position to pay for it.

DALE SKAALURE, for Chouteau County Commissioners, feels this is a fact of life in the world of inflation. An example is that the fuel bill in his county, which is provided by the 12-mill levy, one year was \$30,000 plus; the next year it went to \$57,000 plus. We bought a three yard loader in 1976 for \$72,000. When pricing one last month, the price went to \$97,000. That is a good indication of some of the antiquated things in the law that we're supposed to be living by and are restricted to. It seems to me that it is the order of the day that we try and keep up with the times in this money market situation. I also think sometimes a person can do as well with a negotiation approach as a bid approach when buying equipment. It is easier to weed out some of the problems that you can't do with a bid approach. I endorse this particular bill.

REPRESENTATIVE HOLLIDAY: I would like to be shown as a proponent of the bill. I have discussed this with the county commissioners of my district and they told me of the need for this, so I support HB 256.

REPRESENTATIVE HURWITZ: As a county commissioner for 33 years, I thoroughly agree with the testimony we've heard today. These changes are urgently needed. The commissioners need more latitude in order to run the business.

OPPONENTS for HOUSE BILL 256

WILLIAM OLSON, secretary-manager of the Montana Contractors' Association. I'm appearing in opposition to HB 256 on behalf of the membership of our Association which numbers some 65 general contractors and any other subcontractors who work in our associate membership, as well as contractors throughout the State of Montana. I ask that you recommend "DO NOT PASS" on HB 256. (See Mr. Olson's written testimony attached to these minutes).

LARRY HUSS, an attorney representing the Montana Contractor's Association. Contracting business in Montana today is tough enough without having to compete against the government itself. The idea that the government should be in the road and bridge building business is an enactment that could force the free enterprise system out of existence. If you, as farmers and ranchers, were forced to compete against a state subsidized program of growing crops and cattle and selling them to the market, and those in other forms of business had to compete against the government, I am sure you would have a great deal of sympathy with our plight. The counties have gotten into the business of road and bridge building more and more every year. They are spending a horrendous amount of money on equipment and machinery in order to put themselves into this business. We

feel that the State of Montana, like the State of Nebraska, will find that construction by contract in the long run would be of far higher quality than the present system. We hope that HB 256 receives a DO NOT PASS, because of the antiquated amounts you are dealing with here.

ELTON HARTZE: I work for a fence company that sells fence materials, installs chain link and other types of fencing. I feel that the \$4,000 figure and the \$10,000 figures currently in effect are sufficient. (See testimony attached to minutes)

REPRESENTATIVE GOULD: Mr. Hartze, what fence company do you represent?

MR. HARTZE: Grizzly fence.

CHAIRMAN BERTELSEN asked if there were further opponents to HB 256.

QUESTIONS:

REPRESENTATIVE HOLLIDAY: Mr. Huss, are you aware that in agriculture you are competing with the government and foreign people.

MR. HUSS: You are competing with foreign countries but not with your own.

REPRESENTATIVE HURWITZ: Mr. Huss, what would you do if you were a county commissioner with a yard full of machinery that you use to do your maintenance work. A small project came up and you had a choice of leaving your equipment sitting there doing nothing or contracting with a contractor that didn't exist? That is often the case in the small communities.

MR. HUSS: The problem is that you created this problem for yourself. There are a lot of counties that have innundated themselves with capital outlay that required buying equipment. Now they say we must use it to justify having it. It isn't fair to the contractors to bear the burden of your previous mistake.

REPRESENTATIVE HURWITZ: I disagree with you in that the county is being unfair. In a small county like ours, if you have a bridge wash out 50 miles from town, you are not going to rush out a find a contractor. You are going to take care of it as quick as you can. I feel it is unthinkable that a county in Montana should be without road equipment. You couldn't possibly begin to exist.

MR. HUSS: I don't think this refers to routine repair and maintenance. You are in the construction business in competition with people who are paying your taxes and I think that is unfair.

REPRESENTATIVE NEUMAN: Mr. Huss, you said there are a lot of counties who have gone into the road building business and have used capital expenditures for equipment. I know they spend more because of inflation for new equipment, but I can't think of any county which has done this.

MR. HUSS: Lewis & Clark County is one of these counties which has gone into building roads. They built one from the airport to the roadway that meets with the Canyon Ferry Road. I think they are also involved in a bridge project.

REPRESENTATIVE HANNAH: Mr. Huss, I assume you are talking primarily about page 3, section 4(2) regarding "no county may, etc."

MR. HUSS: That is not our principle concern.

REPRESENTATIVE HANNAH: What is your principle concern?

MR. HUSS: Our concern is of lines 17 and 18 of page 1.

REPRESENTATIVE HANNAH: What you're telling me is that you recognize that the county has legitimate needs for maintenance and legitimate needs for some machinery to do certain things, but when there isn't an emergency and there is time to let a bid, they go out and do the work rather than let it out to a private contractor. Are these the areas you're concerned about?

MR. HUSS: Yes.

REPRESENTATIVE KESSLER: Mr. Huss, where does the distinction come in if counties need this equipment for maintenance.

MR. HUSS: Maintenance equipment and contracting equipment overlap in kind, but what we're seeing is counties buying a full range of construction equipment. I don't mean for maintenance, but for actual construction purposes. There is a distinction between routine maintenance and repair or construction or reconstruction. When you're fixing pot-holes, you're in repair; when you're resurfacing a whole road or rebuilding a road or bridge, you are in construction.

REPRESENTATIVE ANDREASON: Mr. Stephen, in your statement and the fact that you are a proponent of this bill, are you concerned more about the limits in terms of inflationary increase or are you concerned also about the type of thing you are doing. Mr. Huss and others have raised objection to the county doing construction or reconstruction. Are you more interested in maintenance, repair or construction?

MR. STEPHEN: I think a little of both. We're concerned about the limits. Since we can come here every two years, you never know exactly what the price will bring you and we like to have some ~~latitude~~ in what we're dealing with it. I'd like to call on Mr. Skaalure who deals with this in Choteau County on a daily basis.

DALE SKAALURE: I'm a farmer and rancher and actively engaged in paying taxes as well. There are all kinds of situations when you talk about 56 counties in Montana. In our county of Choteau we have 2,910 miles of roads. This past year we finished putting in a secondary blacktop road that was bid out by a construction company. It cost \$1,039,000 for 4.3 miles. The \$1,039,000 is in excess of our county road budget for 2,910 miles. My primary concern with this bill is to work with a maintenance proposition. We're not interested in getting out and doing some of these things because our equipment isn't that good. If you don't have a loader, and a bridge goes out, you have to take care of it tomorrow, not next week. Another thing we have to recognize in this modern day of living is they jerked the Milwaukee Railroad in Choteau County. What does that do to the people who are farming and hauling grain? That grain is hauled on the road. All we're doing is trying to keep the roads in a condition where they can be used.

REPRESENTATIVE ANDREASON: Would you have any objection if the increase as stated in this bill is limited to maintenance and repair?

MR. SKAALURE: What does maintenance and repair mean? We maintain and upgrade the roads. We find it costs about \$2,800 a mile to do that. Basically I'm concerned about the maintenance.

REPRESENTATIVE GOULD for Mike Stephen: What is the reason for raising the figure on fences?

MR. STEPHEN: It just happens to fall into some other groups listed here. It allows you to have some latitude so you can go in with a decent price and handle most of the situations. In connection with larger purchases, I can equate that with an example of cattle guards, which are a big item with counties.

In many instances, if you can pool several counties to buy cattle guards, you can get a much better price than buying them individually.

REPRESENTATIVE GOULD: Why couldn't you bid on them?

MR. STEPHEN: You could.

REPRESENTATIVE PISTORIA: Years ago we had a figure of \$4,000.

MR. HUSS: That is correct.

REPRESENTATIVE PISTORIA: They raised the figure to \$10,000 and now they're raising the figure to \$25,000. That is a 250% raise. Don't you think there is a chance they can give a bid to anyone they want to and show favoritism?

MR. HUSS: There is a danger of this, but I have faith in our elected officials that they won't be involved in that sort of thing.

REPRESENTATIVE SALES: There is nothing in this bill that prohibits a bid contract for any size job or purchase, is there?

MR. HUSS: No, it doesn't prohibit it, but it encourages them not to.

CHAIRMAN BERTELSEN: I think we've covered this bill pretty well. Rep. Vinger, would you like to close.

REPRESENTATIVE VINGER, sponsor of the bill, sympathized with Bill Olson, Larry Huss and Elton Hartze. There is nobody more pro-business than I and I don't want to do anything which would interfere with the free enterprise system. This is a typical bill where you go statewide. There are bigger towns in the western part of the state that have a contractor close by that they can get to do a job. However, those of us in the eastern part of the state don't have these contractors at hand. For \$25,000 we can't do any job in eastern Montana because it costs almost that much to get a contractor to the area. That is the reason for some of the limits. Also, it states on page 2 that we're raising the figure from \$4,000 to \$10,000. All of these people who would like to be solicited for these jobs can leave their name on file with the governing body. The county commissioner's are bound to solicit these people for such bids which are not advertised. Anything on page 1 has to be a competitive bid and advertised. I think the bill gives the county commissioners a little more room to work, especially in the eastern part of the state.

CHAIRMAN BERTELSEN closed the hearing on HB 256. Chairman Bertelsen opened the hearing on HOUSE BILL 191 and asked Representative Waldron, sponsor of the bill to open the hearing.

HOUSE BILL 191

REPRESENTATIVE WALDRON opened the hearing. House Bill 191 is a bill that provides going to an all-purpose mill levy for first and second class counties. What is important to remember about this bill is that it is an optional sort of bill. The first and second class counties may or may not decide to go to an all-purpose mill levy. Once they've gone to an all-purpose mill levy (that is 55 mills), they do not have to remain with it. It provides flexibility in raising revenue and expanding revenue that county governments do not currently have. The reason is because the legislature, in its wisdom or lack of wisdom, as the case may be, is providing a number of mill levies to local governments to do certain things. A mill doesn't mean a lot. It means money, of course, for the county, but a county with a lot of bridges may expend all its mill levy for bridges and still have to do more work on those bridges. It doesn't have the flexibility to do that because it is limited to the number of mills it can levy for bridges. There are 57 different mill levies. Currently counties have 55 mills they can use for the general functions of the county government. In a sense we're giving them a 55 mill levy for a general fund but when you add up all the mills they would have had, you would have come with a total of 62.75 mills under this bill. But the bill says we'll give you a total of 55 mills for all these functions.

At this point Rep. Waldron passed out a sheet listing the various mill levy for different purposes, totalling 62.75 mills. He also passed out amendments which will have to be incorporated in the bill and read the list to the committee members.

Rep. Waldron continued: If this bill passes, it is optional on the county government. But if it passes the legislature would still have the responsibility to control the use of property tax as we do now. It would not have to determine the maximum use of that tax, such as we provide one and one-half mills for this or that or the other thing. I have requested that Dave Wanzenreid, director of the Department of Community Affairs, be available to answer questions.

REPRESENTATIVE HURWITZ: Rep. Waldron, why didn't you go to Mr. Wanzenreid first to rewrite the bill? It would have been much more simple than trying to amend it.

Rep. Waldron agreed it would have been the wise thing to do. I thought it was in good form until I went to Dave afterwards and by that time it had been introduced and it was too late to introduce another bill that was in the proper and correct form.

CHAIRMAN BERTELSEN asked if there were any proponents for HB 191.

PROPOSALS TO HB 191

MIKE STEPHEN, Executive Director of the Association of Counties. We support HB 191. It has the ability for using the money we have to do the business of providing services that we are destined to provide. This flexibility has been needed for a long time. All too often we have a ceiling on some of the budget matters but when it goes to provide the service, we either run out of money or something else hinders getting the job done.

DALE SKAALURE from Chouteau County: I feel the idea of a flexible mill levy is desirable. We're charged to do something and then your hands are tied allowing you to spend a mill here or there. This is ridiculous because you'll either fall on your face or stay on your feet. It is tough to be chained to something and I feel this is a putdown. In my county we have three commissioner districts like most of the counties. One of our counties in the Highwood area has more bridges than you can count. Therefore, most of the bridge levy goes to take care of these bridges. If we had this situation in all counties, we'd really be over a barrel because we levy the full 4 mills. If all districts are like the highway district, we'd have to steal from some other fund to take care of those needs. The bill should be expanded to include all classes of counties because I happen to be in a third class county and I'm sure we have some of the same problems that first and second class counties have. The fact that the bill gives an option to be either in or out is good, so if someone wants to go back to the old system, they can do so and be protected by the law. We are involved in the bar system of accounting and it would seem to me this bill would eliminate some of the numerous items if we bunch them under a mill levy rather than having to list all the different mill levies we now have.

CHAIRMAN BERTELSEN called for further proponents. As there were none, he asked if there were any OPPONENTS to HB 191.

OPPOSERS TO HB 191 - There were none.

QUESTIONS:

REP. GOULD: Rep. Waldron, does this bill give more taxing authority or less taxing authority?

DAVE WANZENREID: Rep. Gould, the handout explains and graphically illustrates all the various mill levies that occur in the outlying counties whose activities are within the 55-mill levy. The sum total currently is about 63 mills. The real issue is

the usable taxing authority of the counties.

REP. GOULD: Is the statewide average of mill levies of all counties about 32 to 34 mills?

DAVE WANZENREID: That is correct, so there would be the potential of increase of that up to 55 mills.

REP. HURWITZ asked Dan Mizner: Do you remember what it was the cities started out with on the levy before they went to the 65 mill levy?

DAN MIZNER: The original mill levy was 60 mills ten or 12 years ago and then it was raised to 65 mills.

REP. WALDRON closed the hearing on HB 191.

DISCUSSION RE: POSSIBLE NEW BILL TO BE INTRODUCED:

REP. DUSSAULT said she has a bill she would like to introduce. She approached Rep. Bertelsen about the possibility of this committee introducing it. The City of Missoula is one of many cities that have an urban transportation system. Missoula has a situation they thought could be worked out with the Highway Department but the Highway Department didn't want to grant this authority without legislation. All it does is say that buses can stop at curbs. We would be amending the statute that says (section 61-8-354) that has to do with stopping, standing or parking prohibited in specific places. The statute says you can't do that on a sidewalk in front of a public or private driveway, within an intersection, within 15 feet of a fire hydrant, and a cross-walk, etc. This would allow an exception that says "on any street or highway where parking, stopping or standing are prohibited, a local authority may by ordinance and pursuant to a traffic and engineering study subject to review and approval by the Montana Highway Department on streets and highways under their jurisdiction permit the establishment of public bus stops and regulate their use." They are trying to get at the area of the curbing along the sidewalk that is marked in yellow. One city is doing that, but the City of Missoula doesn't want to do it without the statutory authority. Now they are being forced to stop in the middle of the street to let passengers on and off.

REP. SALES made the motion that the Committee investigate this as a committee bill. All members voted "aye;" MOTION CARRIED.

REP. DUSSAULT will provide copies of the bill at the next meeting.

CHAIRMAN BERTELSEN wanted to take action on all the bills heard today but he thinks more consideration should be given to Rep. Waldron's HB 191. I think there is a feeling among some committee members that we should have Staff Researcher Lee Heiman put the bill together in a package so that it can be looked at all together. All agreed this was the thing to do regarding HB 191.

EXECUTIVE SESSION:

CHAIRMAN BERTELSEN said there was discussion on holding all the annexation bills and putting them all together, but he doesn't think it is possible because of the difficulties he's having getting them scheduled. We're going to have to act on them and if they can put them together somewhere along the line that's all right, but I don't think we can hold them.

HOUSE BILL 56 - CHAIRMAN BERTELSEN called for a motion on the bill.

REP. KESSLER moved that HOUSE BILL 56 DO PASS.

REP. NEUMAN: I think there is another bill coming where the cities are going to be asking for more money from the county road fund because they are having all these impacts in the western part of the State with logging trucks. If we pass HB 56, wouldn't that mitigate that eventuality? I believe there is a bill sponsored by SENATOR HIMSL to ask for additional funding to help cities because of the logging and other trucks going to these mills.

REP. KITSELMAN: In the area I come from we have located close to our urban areas three oil refineries and several other heavy manufacturing plants. One of the steel mills, when it located in the Billings area, was several miles outside the city. Since that time through urban sprawl and growth, the city has grown out around this industrial area. It does enjoy being within the county jurisdiction due to no fault of its own so I think I have to speak in opposition of this bill.

REP. ANDREASON: I also want to speak in opposition to this bill. As I understand the problem, we need to assess the impact somehow that these industries have upon the cities and services, rather than to place an undue economic burden on them. There would be specific disadvantages accrued in and around the City of Missoula, with the already troubled wood products industry. There would also be some problems specifically with the railroad and railroad installations which would fall under this if that area were annexed. In many cases it would be robbing Peter to pay Paul, taking from the counties and giving to the cities. Such a decision would place an undue burden on many industries.

REP. WALDRON: Mr. Chairman, I don't think that is the issue. I think the real issue is, "why do we choose certain specific industries and exempt them and make them special above any other type of business or freeholder that is going to be annexed?" This is a very narrow section of law. It deals with petition, annexation by petition. It doesn't seem to me to be right to exempt certain specific interests. It isn't a fair situation.

REP. KESSLER: I want to make a couple of comments, one made by Mr. Kitselman and one made by Mr. Andreason. (1) The undue burden Mr. Andreason addressed. I think there is an issue of undue burden too, but I think that burden is placed on me as a resident of the city because my taxes have to go to pay for the services and the impact that this industry places upon my city and that has to be borne somehow. I think it is just the reverse. As far as the plants being located outside the city, Les, you made a point, but there are a number of plants located outside of the city between Billings and Laurel. Eventually the city is going to surround them, but those plants are still located in the approximate location of Billings because the City of Billings is there.

MR. KITSELMAN: I'd like to address the comment about services. I think it was pointed out by the gentlemen who talked about the refinery plants that they provided their own specialized equipment, their own trained men, etc., to handle firefighting needs and other needs special to that property. Hence, there is no undue burden of that specialty to the City of Billings.

REP. HANNAH: Jerry, I still am confused in my mind about the ability of the powers of the people who can veto. Am I to understand that if you had a section of town that had one of the plants that also included a large residential area and the residential section were to petition to be brought into the City, the manufacturing plant has the absolute authority to veto the petition of all of the people that are there.

REP. KESSLER: Yes, if it is included in the area of the boundaries that are drawn up in the petition.

REP. HANNAH: So not only do these plants have the authority to stay out of the city themselves, they also have the authority to withhold the desires of the people who surround them to join the city as well.

REP. KESSLER: Right.

REP. HANNAH: Would the people in that area have the freedom to draw up a boundary which would not include that plant and then come into the city if they desire?

REP. KESSLER: Right, if the boundaries can be drawn to effect that it does not include the plant.

REP. HANNAH: The only veto power that we're talking about for these outfits that qualify for this is the veto power when they are requested to be brought into the city as a part of the group that wants to be annexed.

REP. KESSLER: But there could be geographical considerations that would necessitate that this plant be annexed. The residential district that wants to come into the city might be far enough removed because of the proximity of the plant that the city would not want to annex them without annexing the plant because they would have to extend their lines beyond there and extend service to the plant because they are in the service district.

REP. HANNAH: I understand the arguments, but there is a real sense of fairness. But, if the plant was there first, they located in the county for a reason. I have a hard time getting around that particular example.

REP. KESSLER: I agree with you. They located in a specific area outside of the city for a specific reason and usually that is because of lower taxes. But I think they located in that proximity for a wide variety of reasons. The banks are there; the work force is there; the supporting industries, the stores, the suppliers, etc., are within the city. So they located in the proximity of the city so they could draw on the city for what it has to offer.

REP. SWITZER: My memory is sufficiently refreshed, so I move that HOUSE BILL 56 DO NOT PASS, seconded by REP. SALES.

REP. ANDREASON said he'd again suggest that perhaps since the industry is using some of the services and not paying their fair share that we should make an assessment against the industrial firms for the city services they do use. They would pay according to the assessment, rather than drawing them into the city boundaries.

REP. AZZARA: I want to remind the committee that these bills, at least the ones which have come before this committee, are the product of a lot of minds and a lot of time of the Interim Committee. Many of the points raised here were raised over a long period of time and raised more than once. The Interim Committee could in no way be said to have been prejudicial. It was fairly constituted and these bills reflect two things. They reflect the needs that the cities have come to previous legislatures with. They reflect the solutions to those needs in a way that is reasonable and represent compromises on most of the prospectives. I think it is important to understand that when we vote on these bills. They are the product of a lot of

depth and a lot of in depth studying, a lot of compromise and they are in response to a very, very real plight that the cities of this state are experiencing.

REP. GOULD: I certainly disagree with the fairness act of the last speaker. Interim Committee bills don't seem to do too well in the Legislature. For instance, in the last session of the Legislature, the Interim Committee put in 11 bills and 10 of them were killed. I don't think that is any reason we have to pass the Interim Committee bills.

CHAIRMAN BERTELSEN commented he feels we have a balance. Let's vote on the Motion. It's a DO NOT PASS on HOUSE BILL 56.

QUESTION: A roll call vote was taken. 10 committee members voted "yes" and nine voted "no." Members voting no were: Representatives Azzara, Bergene, Dussault, Holliday, Hurwitz, Kessler, McBride, Neuman and Waldron. MOTION CARRIED. HOUSE BILL 56 received a DO NOT PASS committee recommendation.

CHAIRMAN BERTELSEN called for a motion to consider HOUSE BILL 353.

REP. GOULD moved that HOUSE BILL 353 DO PASS.

REP. AZZARA: You heard Mr. Kemmis say he has the same perspective, but the problem is there are other people who are hostile to transportation districts and the whole concept of urban transportation. If we do what you're suggesting, we will open up the whole question again to areas we can be shot down. There is nothing wrong with requiring 25 signatures on a petition.

REP. BERGENE: I was assuming that most of us don't run for an office of any kind unless we feel we have some support. I think that 25 signatures gives you a better feeling about what you are doing.

REP. BERTELSEN said he feels we're ready for question.

QUESTION for a DO PASS on HOUSE BILL 353.

All in favor of HOUSE BILL 353 say "aye." All committee members voted "aye." Motion carried.

CHAIRMAN BERTELSEN opened the Executive Session for action on HOUSE BILL 256.

REP. VINGER moved that House Bill 256 DO PASS.

REP. VINGER asked to speak on HB 256. He said this bill does give the counties the flexibility they need. On page 2 raising the figure from \$10,000 to \$25,000, the commissioners have to solicit from people who are registered at the courthouse who will offer these services listed in that category. Secondly, the \$25,000

figure that I mentioned for eastern Montana counties is low because there is no way they can get a contractor in there for that amount. It costs that much to get them there. If you have to get a contractor for bids over \$10,000, sometimes the cost is run up a lot higher to get a contract than if we do the work ourselves. As far as some of the counties getting into the construction business, I don't think it is possible because their limitation of \$150,000 on any single purpose means it will have to be taken to the voters and the taxpayers are not going to let them get into the construction business. They'll allow the county to buy a maintainer or a front end loader or something of that nature. I don't think the bill will be a big detriment to any of the contractors.

CHAIRMAN BERTELSEN commented that having been a County Commissioner himself of a small county, he doesn't see any real problem with this piece of legislation. I think there are many times when you feel your hands are tied where you could use your own equipment to operate. Sometimes there might even be an attempt to circumvent this by doing something in part just because you feel the restraints are too burdensome.

REP. PISTORIA: I will have to vote "no" for the simple reason that every session there are 3 or 4 bills introduced for a certain area and they say, "Well, they won't hurt the other area." It really bothers me when they say, "Just for my area" so I vote "no."

CHAIRMAN BERTELSEN: I think we're ready for the question. I think we'll call the roll for the vote.

A roll call vote was as follows: MOTION WAS FOR DO PASS. 15 committee members vote "yes" and 4 voted "no." Committee members voting "No" included Representatives Gould, Hannah, McBride and Pistoria. MOTION CARRIED.

The Meeting adjourned at 2:30 p.m.



VERNER L. BERTELSEN, CHAIRMAN

WITNESS STATEMENT

Name Cynthia White Date 1/22/81
Address 511 Howell, W.La., MI. 59601 Support? X
Representing M.S.C. Urban Transportation Board Oppose? _____
Which Bill? H.B. 353 Amend? _____

Comments:

Please leave prepared statement with the committee secretary.

NAME George L. Johnson BILL No. 175-26
ADDRESS 1235 Broadway N.Y. DATE
WHOM DO YOU REPRESENT Common Council of New York
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Subject is in favor of the
Bill of the State of New York
which is to be submitted to the
Common Council of New York*

*Subject is in favor of the
Bill of the State of New York
which is to be submitted to the
Common Council of New York*

WITNESS STATEMENT

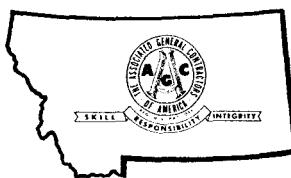
Name William Elze Date 1/22/81
Address Helena, Montana Support ? _____
Representing Montana Contractors Assn. Oppose ?
Which Bill ? HB 256 Amend ? _____
Comments:

Statement Attached

Please leave prepared statement with the committee secretary.

MONTANA CONTRACTORS' Association, Inc.

William Olson, Sec.-Mgr.
Phone (406) 442-4162



1717 11th Ave., P.O. Box 4519
Helena, Montana 59604

CHAPTER OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.

January 27, 1981

H.B. 256

A study and analysis comparing costs of construction by the contract method with construction by county-owned equipment operation was conducted in Nebraska in 1975. The results show the contract method to be the most efficient and certainly in the best interest of the taxpayer. The loss of revenue from property and fuel taxes normally paid by contractors is in itself refutes the statement that counties doing the work is "in the public interest".

Many local government officials still believe they can do the work cheaper themselves. That's because their accounting procedures usually fail to include the indirect costs of overhead and support costs. Depreciation, replacement cost of equipment are only two of the costs involved which must be considered when making a cost comparison.

We contend that a function of government is to create a good atmosphere for private enterprise so more people can be employed and more taxes collected. The economic impact of counties entry into the construction business is to discourage entry and expansion by private enterprise while wasting taxpayers dollars.

I ask that you recommend "Do Not Pass" on H.B. 256.

Thank you,

William Olson
William Olson
Secretary-Manager

House Local Government Committee Testimony

January 27, 1981

Presented by:

William Olson, Secretary-Manager

Montana Contractors' Association

Helena, Montana

I am appearing here today in opposition to House Bill No. 256 on behalf of members of the Montana Contractors' Association as well as contractors throughout the state of Montana. This bill, which would exempt county construction contracts from competitive bidding if the cost of the work is less than \$25,000.00 is not in the best interest of the taxpaying public.

By putting money into the purchase and maintenance of equipment, local governments in Montana are spending millions they don't have to spend at all. Private contractors already have equipment. And they can spread the costs over a lot more jobs than your local government can.

Nevertheless, many local government officials still believe they can do the work cheaper themselves. That's because their accounting methods usually fail to include the indirect costs of overhead and support services.

Often the costs of labor and equipment operation are spread over far more time than they actually work. Or the projects just aren't built to the standards that would be required if the projects were put to contract.

Another hidden cost of government construction is the loss of revenue from property and fuel taxes, license and registration fees normally paid by contractors. Now, all this may not mean too much to you. After all, you're not a contractor. But if we don't get together soon, you may wind up watching your tax dollars being used to undermine your job - just like the folks in construction. Think about it. Vote "Do Not Pass" on H.B. 256.

CONSTRUCTING

BY CONTRACT

SAVES

COUNTY ROAD FUNDS

Impartial, independent studies by the U.S. Corps of Engineers and the Bureau of Public Roads (Federal Highway Administration) of the contract method versus construction using state or county forces show that construction by contract is MORE EFFICIENT and SAVES PUBLIC FUNDS.

For Example:

The Nebraska Chapter, AGC made a December, 1975 study and analysis of a typical 9.5 mile asphalt surfacing project involving 42,000 tons of asphaltic concrete to compare costs of construction by the contract method with construction by a county-owned equipment operation.

This study-comparison was made by O. W. Johnson, a highway engineer with 46 years experience with The Nebraska Department of Roads including 21 years as Assistant Construction Engineer, Construction Engineer and Deputy State Engineer for Operations.

The study shows typical costs of construction and savings by the contract method of construction as follows:

The savings in public funds, using the CONTRACT METHOD OF CONSTRUCTION can be SUBSTANTIAL for all construction requiring HIGH INVESTMENT in EQUIPMENT and EQUIPMENT OWNERSHIP COSTS, such as:
MAJOR GRADING CONSTRUCTION
MAJOR BRIDGE CONSTRUCTION
PORTLAND CEMENT CONCRETE PAVEMENT
ASPHALTIC CONCRETE PAVING

COMPARISON

CONSTRUCTION BY CONTRACT & BY COUNTY-OWNED EQUIPMENT

FOR A TYPICAL ASPHALT PAVING PROJECT

9.5 miles in length — 42,000 tons of asphaltic concrete. Project located in Platte Valley — minimum aggregate haul distance.

COUNTY-OWNED EQUIPMENT CONSTRUCTION

| CONTRACT CONSTRUCTION | COUNTY-OWNED EQUIPMENT CONSTRUCTION |
|--|-------------------------------------|
| Asphalt plant size (with support equipment) | 300 tons per hour |
| Original Equipment Cost | \$1,124,000 |
| Production rate | 210 tons per hour |
| Total production per year | 231,000 tons |
| Annual production hours | 1,100 hours |
| Project production hours | 200 hours |

| | | |
|--|-------------------|-------------------|
| Asphalt plant size (with support equipment) | 300 tons per hour | 150 tons per hour |
| Original Equipment Cost | \$1,124,000 | \$891,000 |
| Production rate | 210 tons per hour | 105 tons per hour |
| Total production per year | 231,000 tons | 42,000 tons |
| Annual production hours | 1,100 hours | 400 hours |
| Project production hours | 200 hours | 400 hours |

UNIT PRICE BREAKDOWN (see explanatory notes on next page)

| | | |
|--|---------------------------|--------------------------------|
| (A) Bidding, bonding | \$.07 ton | \$.00 ton |
| (B) Plant site, move-in, set up | .29 | .19 |
| (C) Repairs, small tools, barricades, signs, miscellaneous materials | .25 | .30 |
| (D) Aggregates gravel\$1.96 | | |
| fine sand1.18 | | |
| min. filler86 | | |
| (E) Fuel cost—dry, heat, plant operation, haul & pave | .88 | 1.04 |
| (F) Total labor, wages, taxes, unemployment taxes | .96 | 1.56 |
| (G) Equipment ownership costs (sub-total) | 1.23 | \$3.81 |
| Overhead & Profit (8% x \$6.68) | (6.68) | |
| Asphalt Cement | .53 | .00 |
| (11 gals. per ton @ 30¢) | | |
| Total cost per ton | 3.30 | 3.30 |
| | \$10.51 | \$13.20 |
| | for contract construction | for county equipment operation |

Cost per ton shown is typical contractor cost for bidding and bonding this size project. (7¢)
The county-owned equipment operation would not involve bidding or bonding costs.

(B) Plant site, Move-in, Set-up
The 29¢ cost per ton for contractor operation reflects typical costs of plant site, moving in plant and paving equipment, and setting up the asphalt plant.
The county operation would involve shorter moving distances and move-in costs with one-third less cost (19¢) per ton.

(C) Repairs, Small Tools, Barricades, Signs, Miscellaneous Materials
The 25¢ cost per ton for the contractor operation is typical for costs of repairs, small tools (rakes, shovels etc.), barricades, signs and miscellaneous materials for this size project.
The 30¢ per ton county operation cost is one fifth greater because of the additional production time.

(D) Aggregates
The \$3.00 per ton cost shown for gravel, fine sand and filler are based on typical prices for a project located **near the Platte River** and should be the same for either method of construction.

(E) Fuel Cost—Dry & Heat, Plant Operation, Haul, Paving
The 88¢ fuel cost for the 210 ton per hour contract operation includes 50¢ per ton for drying and heating and 38¢ per ton for plant operation, hauling, paving and compacting.
The \$1.04 fuel cost for the county equipment operation includes a 10% increase in the drying and heating cost for lower heating efficiency of the 105 ton per hour plant and a 30% increase in the fuel cost for the plant operation, hauling, paving and compacting to cover the additional plant operation and paving time involved.

(F) Total Labor Costs
The 96¢ labor cost for the 210 ton per hour contract operation covers wages and wage costs for a 22 man crew for 200 hours of plant and paving operations.
The \$1.56 labor cost for the county equipment operation covers wages and wage costs at 10% lower rates for a 20 man crew (includes 2 flagmen) for 400 hours of plant and paving operations.

The costs of equipment ownership — operation \$1.23 for the contract and \$3.81 for the county-owned equipment operations are determined as follows:

EQUIPMENT OWNERSHIP COSTS:

Typical Equipment Ownership Costs:

(see explanatory notes below)

| PLANT-EQUIPMENT SIZE | CONTRACT CONSTRUCTION OPERATION | COUNTY- OWNED EQUIPMENT OPERATION |
|--|--|---|
| | 300 ton plant & support equipment | 150 ton plant & support equipment |
| EQUIPMENT ACQUISITION COSTS (G-1) | Production: | Contract operation equipment |
| | rate per hour annual—total annual production time | 210 tons 231,000 tons 1,100 hours |
| | Plant equipment (including tanks, heater, bag house) Loader & motor grader | 105 tons 42,000 tons 400 hours |
| | Hauling equipment, service trucks, pickups | |
| | Paving & compaction equip. | |
| | Total equipment cost | \$1,124,000 |
| COST OF OWNERSHIP ANNUAL FACTORS (G-2) | Depreciation Replacement cost escalation Interest on investment Taxes, insurance, storage | 8% 7% 6% 4.3% |
| | Total annual factor | 25.3% |
| | | 18.0% |
| EQUIPMENT OWNERSHIP- OPERATION COSTS (G-3) | Annual cost & ownership (\$1,124,000 x 25.3%) \$258 (\$284,000 ÷ 1100 hrs) \$1.23 (\$258 ÷ 210 tons) | \$284,000 (\$1,124,000 x 18%) \$400 (\$160,000 ÷ 400 hrs) \$3.81 (\$400 ÷ 105 tons) |
| | Ownership cost per ton | |

1975 costs were used for all equipment required to handle the materials, plant operation, hauling, paving and compacting the plant production rate of asphaltic concrete for each operation and meeting the Nebraska State Clean Air requirements.

G-1 Acquisition cost of equipment

The county-owned equipment is depreciated on a 24 year life basis — 4% per year — giving credit for the much lower annual production time of 400 hours.

G-2 Cost of Ownership Annual Factors

The contract operation equipment is depreciated on a 12 year life basis — 8% per year.

The county-owned equipment is depreciated on a 24 year life basis — 4% per year — giving credit for the much lower annual production time of 400 hours.

The 7% escalating replacement cost would affect both operations equally.

A factor of 6% interest on the investment in equipment is included in both contractor and county operations because the cost of funds tied up in equipment or earned on an invested amount would be equal.

A factor of 4.3% is included in the contract operation to cover the contractor's costs for taxes, insurance and storage on equipment.

Since the county pays no taxes and probably self-insures, a factor of 1% is included in the county operation for these costs.

G-3 Equipment Ownership — Operation Costs

The total annual ownership factors, determined as explained above, are applied to the acquisition cost of the original equipment to determine the annual ownership cost.

The annual ownership cost, divided by the annual production hours determines the ownership cost per production hour.

The hourly ownership cost, divided by the production rate per hour determines the ownership cost per ton, which for the typical asphalt paving project are:

Contract construction operation — \$1.23 per ton.
County owned equipment operation — \$3.81 per ton

SUMMARY

This cost study of a typical asphalt paving project shows these savings in constructing by contract:

Saving per ton of asphaltic concrete — \$2.58
Savings for the 42,000 tons — \$108,360

Most of the savings result from lower equipment ownership costs — a direct result of greater annual production and hourly production.

This shows the HIGHER COST and ADVERSE ECONOMICS of owning and operating a relatively smaller asphalt plant at a relatively smaller annual production basis.

The higher costs of — bidding, bonding, plant-site, move-in, set-up and the OVERHEAD and PROFIT for the contract construction are more than offset by the higher fuel, labor and equipment ownership costs for the county-owned equipment operation.

NAME Henry Bleser BILL NO. 13361
ADDRESS 155 5th DATE 4/1/31
WHOM DO YOU REPRESENT West Coast Bleser
SUPPORT OPPOSE X AMEND 13361

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

HOUSE LOCAL GOVERNMENT COMMITTEE
JANUARY 27, 1981
HB-256

Mr. Chairman, members of the committee:

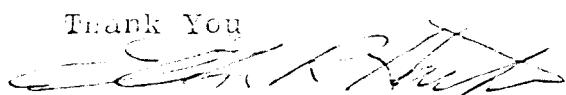
My name is Elton Hartz. I work for a Fence company which sells fence material and installs chain link and other types offence.

I am here to voice opposition to House Bill 256.

I oppose raising the limit of \$4000.00 to \$10,000.00 and allowing County officials discretionary authority to award contracts for fence supplies and other purchases without a competitive advertised bid. I feel the \$4000.00 limit is more than adequate.

This bill would allow County officials to purchase supplies and materials under \$10,000.00 from whoever pleases them personally. Also, purchases from \$10,000.00 to \$25,000.00 would be non-advertised. This would affect my livelihood by discarding competitive bidding procedures, which is a known fact produces the lowest possible price for the taxpayer. I would estimate that 99% of fence material and construction awards by counties are less than \$25,000.00, and I certainly would like to see this committee recommend a do-not-pass.

Thank You



Elton R. Hartz
164 Briarwood
Helena, Mt. 59601

WITNESS STATEMENT

Name ELTON HARZE Date 1-27-81
Address 14 BRADING HELM Support ?
Representing MYSELF Oppose ? X
Which Bill ? HB - 256 Amend ?

Comments:

STATEMENT ATTACHED

Please leave prepared statement with the committee secretary.

STANDING COMMITTEE REPORT

February 2 1961

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 191

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW COUNTIES OF THE FIRST AND SECOND CLASS THE OPTION OF USING A 55-MILL ALL-PURPOSE LEVY AND ESTABLISHING CERTAIN TAXES AND PURPOSES TO BE FUNDED OUTSIDE THE ALL-PURPOSE LEVY."

Respectfully report as follows: That HOUSE Bill No. 191

Amend House Bill 191, introduced copy, as follows:

1. Title, line 7.

Following: "LEVY"

Insert: ";" AND AMENDING SECTION 7-6-2220, MCA"

2. Page 1, line 10.

Following: line 9

Insert: "NEW SECTION."

3. Page 1, line 12.

Following: "lieu of"

Strike: "most of"

4. Page 1, line 13.

Following: "levies"

Insert: "authorized by law"

February 9, 1981

Amendments to House Bill 191 (continued)

Page 2

5. Page 1, line 14.

Following: line 13

Insert: "NEW SECTION."

6. Page 1, line 18.

Following: "levies"

Insert: "authorized by law"

7. Page 1,

Following: line 20

Insert: "(3) If the county governing body of a first or second class county determines that the interests of the county would be best served by an all-purpose mill levy, it shall specify its intent to impose an all-purpose levy in the resolution approving and adopting the annual budget."

8. Page 1, line 21.

Following: line 20

Insert: "NEW SECTION."

9. Page 2.

Following: line 25 of page 1

Insert: "(2) for the poor fund as provided in 53-2-321;

(3) for the district court fund provided in 7-6-2511;"

Renumber: subsequent subsections.

10. Page 2, lines 13 and 14.

Following: "in"

Strike: "7-6-2341 and 7-6-2342"

Insert: "10-3-405"

11. Page 2, line 14.

Following: "mills;"

Strike: "and"

12. Page 2, line 16.

Following: "19-3-204.

Strike: ":"

Insert: ";"

13. Page 2.

Following: line 16

Insert: "(10) to fund any levy requiring and receiving approval of the voters; and

(11) to fund the maintenance and operation of districts created to provide a service not available countywide or to provide a higher level of service than that available countywide."

February 9, 1961

Amendments to House Bill 191 (continued)

Page 3

14. Page 2, line 17.

Following: line 16

Insert: "NEW SECTION."

15. Page 3, line 5.

Following: line 4

Insert: "NEW SECTION."

16. Page 3.

Following: line 9

Insert: "NEW SECTION. 6. Distribution of all-purpose levy. The money received from the all-purpose levy shall be accounted for in a common fund known as the all-purpose general fund.

NEW SECTION. Section 7. Exemptions of future levies. Any statutory mill levy authorized for county governments after [the effective date of this act] which does not specifically include that mill levy within the 55 all-purpose mill levy shall be considered to be in addition to the all-purpose levy.

Section 8. Section 7-6-2220, MCA, is amended to read: "7-6-2220. Levy for capital improvement fund. Money for the capital improvement fund is to be derived from the multiple levies or the all-purpose mill levy authorized by statute and appropriated to the capital improvement fund. However, no more than 10% of the money derived from any one levy may be appropriated to the capital improvement fund."

Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

AS AMENDED
DO PASS

STATE PUB. CO.
Helena, Mont.

Verner L. Bertelsen

Chairman

STANDING COMMITTEE REPORT

January 27,

19 51

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 256

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING CERTAIN LIMITS OF DISCRETIONARY AUTHORITY OF COUNTY OFFICIALS TO ACT IN FISCAL MATTERS IN ORDER TO ADJUST FOR INFLATION; AMENDING SECTIONS 7-5-2301, 7-5-2302, 7-5-2303, and 7-7-2101, MCA."

Respectfully report as follows: That HOUSE Bill No. 256

DO PASS

Verner L. Bertelsen
Verner L. Bertelsen Chairman

STANDING COMMITTEE REPORT

Committee No. 19

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 353

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE 25 SIGNATURES FOR THE NOMINATING PETITION FOR A TRANSPORTATION DISTRICT BOARD MEMBER; AMENDING SECTION 7-14-314, MCA."

Respectfully report as follows: That HOUSE Bill No. 353

DO PASS