

MINUTES OF THE MEETING ON LOCAL GOVERNMENT  
February 11, 1981

CHAIRMAN BERTELSEN called the meeting to order at 7:30 p.m. in Room 103 of the Capitol Building. The secretary called the roll and found all members present except Rep. Hurwitz who was excused because of illness and Rep. Pistoria, who was absent.

HOUSE BILL 498 - CHAIRMAN BERTELSEN introduced Rep. Dan Oberg, sponsor of HB 498.

REP. DAN OBERG said this bill is one which came about because of inflation. Many of the monetary figures in our code books have become relatively meaningless because of the effects of inflation. This is an act to increase the minimum contract amount above which municipal contracts must be advertised and let for bid and may be paid in installments.

House Bill 498 requires that any municipal purchase over \$10,000 must be let out for bid and allows local government a little more freedom. I don't feel the amount is excessive and it takes inflation into consideration.

PROPOSERS FOR HOUSE BILL 498

AL SAMPSON represented the City of Missoula. We are in favor of HB 498. Inflation itself has taken toll enough so that the \$4,000 figure should be raised. This would mean that if you were to buy a newer used car, it would not have to be let out on bid. We ran into that particular situation with a fire truck this past year. Even to buy used equipment or a replacement boiler in a fire station we are currently looking at \$4,000 to \$6,000 and bids are not the way to go. Some contractors have these items on hand and you can do much better financially without going through a bid process. I think this is very good legislation.

DAN MIZNER represented the Montana League of Cities and Towns. He said this legislation allowing cities and towns to purchase items up to \$10,000 without having to secure bids is good because it gives them the opportunity to negotiate. We feel it is the responsibility of cities and towns to get the best buy they can but if they enter into contracts for anything over \$10,000, they must get at least two bids for such a purchase.

OPPOSERS TO HOUSE BILL 498

LARRY HUSS represented the Montana Contractors Association. We are in an awkward position with our testimony because we

do appreciate the fact that the local units of government are suffering from inflation and what \$4,000 could buy six years ago they cannot buy now. The distinction between the purchase of items and construction work is significant. What we're talking about here is competing with local government for our livelihood. If you raise the amount for purchase of a car from \$4,000 to \$10,000, you will still go out and purchase the car from private business. But if you raise the contract rate from \$4,000 to \$10,000, you are encouraging local government to enter into the contracting business itself on levels from \$4,000 to \$10,000. We also appreciate that local governments are experiencing increasing costs in their repairs and maintenance, but so is the House of Representatives this year. In the bill that you passed out of committee and on to the Senate, an amendment was adopted which restricted the raises from the \$4,000 to \$10,000 and from \$10,000 to \$25,000 for repair and maintenance. We offer a like amendment to the committee for its consideration and hope that you leave the cap at \$4,000 for the construction work because that is the work that we as contractors do. We offer amendments to House Bill 498 that limit the application of the raise to repair and maintenance only and not to construction.

CHAIRMAN BERTELSEN asked if there were further opponents. As there were none, he asked Rep. Oberg if he'd like to close.

REP. OBERG closed. He said he has some concerns with the amendment offered by the contractors. There has been a continuing problem between the contractors and municipalities in the matter of construction. I don't think this is the bill that should focus on that and I don't think the \$10,000 figure is unrealistic. How much construction can a city do today with \$10,000. I would rather see another type of vehicle for that type of clarification of the law.

CHAIRMAN BERTELSEN asked if there were any questions. As there were none, he closed the hearing on House Bill 498.

#### HOUSE BILL 447

SPONSOR OF HOUSE BILL 447, REP. DAVID O'HARA introduced the bill. This bill is to rectify an inequity that now exists. At the present time if a city has an SID, it can only assess by lot size or front footage. Sometimes this is connected with distribution and associated costs. The City of Billings recently renovated a major ball park by the use of SIDs and it was forced to assess the costs based on either front footage or square footage basis. The latter method was chosen and this meant that the owners of the large private parking lots paid substantially more than owners of multi-story commercial buildings. This bill would give that city the opportunity to assess on a per lot basis or according to the taxable value of the property.

PROPOSERS FOR HOUSE BILL 447

LES PRENTICE represented the City of Missoula and he read a letter from the city engineer supporting House Bill 447.

AL THELEN, City Administrator of Billings said Billings supports this bill because it will offer more options to the city as far as costs which are funded by special improvement districts. He sees SIDs being used for many improvements which are not being included today. Rep. O'Hara has already mentioned a problem which we ran into in using special improvements to fund the renovation of a major park facility. We would like to use the value and square footage combination. I don't think there is any one formula that can give you pure equity, but sometimes if you use more than one formula for 50% of the cost, and 50% of another formula you can equalize that. We have been considering the installation of a major traffic signal on the basis of SIDs. Quite frankly we'd like to use traffic volume. It seems to make sense in terms of the businesses and commercial establishments in that area that would be generating the traffic that would go through that intersection. The law is too restrictive now to allow us to do that. That is just one of many examples we've been through where we've been deprived of using SIDs and I urge your favorable consideration of this bill.

CHAIRMAN BERTELSEN asked if there were further proponents, and there were none. He asked if there were any opponents to House Bill 447. There were none, so he asked Rep. O'Hara to close.

REP. O'HARA said it is fairly easy to see that in some cases, for example, where there is a parking lot on one side and a 23 story building on the other, it wouldn't be fair to assess for a stop light at the intersection by square footage. The parking lot shouldn't pay as much as the 23 story building. In this case the taxable valuation would be more fair.

QUESTIONS FROM COMMITTEE MEMBERS:

CHAIRMAN BERTELSEN said since there were no questions, the hearing is closed on House Bill 447.

HOUSE BILL 461

CHAIRMAN BERTELSEN asked Rep. Gould, sponsor of the bill, to introduce it.

REP. GOULD said this is an act to allow municipalities to contract

with rural fire districts for fire protection services. On the outskirts of Missoula there are several fire stations. One is the Rattlesnake area which is in the area of the proximity of density of HB 33. The South Avenue Station is primarily between Reserve Street and St. Clements. It would be much more feasible to cross that with the rural fire district for fire services. If you decide to annex the area and pass the bill, you should buy this concept. There are people from the Missoula Rural Fire District here who will explain this to you a little more fully.

PROPOSERS FOR HOUSE BILL 461

JAMES LAWSON, Chairman of the Board of Trustees of the Missoula Rural Fire District, showed a map of the district Rep. Gould was talking about. He was in favor of House Bill 461 because some of the rural fire districts could reach certain areas sooner as they are closer to them. He said if they were allowed to contract with the city to put out some of the fires which are in an area out of the way for them, perhaps they could help them with their fires too. We can furnish good protection and we urge the passage of House Bill 461.

RON HAY testified for the Missoula Rural Fire Department. He feels the city has taken over one area which they can't handle as well as the rural fire district. If they were allowed to contract with us, the people would have much better fire service at a much lower cost. This could apply to many areas which they might annex from now on. It will also help the people with the tax base for their fire services. I urge support of House Bill 461.

RICH OCHSNER is a member of the Board of Trustees for a Rural Fire Department. We are talking about the advantages of a combination of rural fire department volunteers and paid men. Some of the advantages are the immediate response style of paid personnel and equipment. In most cases the rural department can handle all calls received. But there is also a large manpower pool of trained personnel on call if we need them. Many of these men are experts in the field and can be helpful as advisors and so forth. We can probably train 40 men for less than 2 full time fire fighters with fringe benefits would be paid. We are fighting tax bases in our community and changing the taxpayers' attitudes. I can envision some of the large cities unionizing fire departments and going to combination type departments. Basically, we are trying to save the taxpayers money and give them better fire protection.

RICHARD HYATT said he is outgoing President of the Missoula Rural

Fire Association. We have carefully looked the bill over as a volunteer organization and we support it and urge passage.

ROBERT VAUGHN of the Missoula Rural Fire Department feels this bill would be a good thing the way taxes are going today. We urge passage of House Bill 461.

OPPONENTS TO HOUSE BILL 461:

AL SAMPSON, Fire Chief for the City of Missoula. It seems like I'm being helped out a great deal tonight. One thing that should be pointed out that many people are not aware of is at the present time we have a mutual agreement with the Missoula Rural and upon request, both of us respond to the same areas.

There are some odd things about the bill. One thing it says is that upon request of a property owner he can require an election with 9 other property owners in the area occupying what we are talking about. Not only that, after the election they can go ahead and pay for rural fire protection but they continue to pay for city fire protection too. The bill is very unclear as far as areas concerned in that 10% of an area can require a special election. A special election costs about \$15,000 in Missoula. In as much as mutual aid agreements and contract services are available now, I see no particular reason for the bill.

DAN MIZNER said he is representing the Montana League of Cities and Towns and concurs in the intent of a municipality being able to contract with fire protection services in areas that may be annexed. If the rural fire departments can better serve that area, I think they should be able to sit down and negotiate contracts of mutual aid agreements. We are talking about a bill which effects all of the cities and towns and I support what Al said. I do have some problems trying to advise the city what they might do relative to a majority vote of the registered electors of a municipality. Does everybody in the municipality vote, or does just the area that you set aside vote? There is no distinction saying that when you hold a vote within the city you are talking about the city having an election. Rep. Gould and I have not had an opportunity to discuss this bill, but I would suggest that if you want to define a mechanism whereby the rural fire departments would continue to serve an area with a mutual pact with the areas which might be annexed at some future time that the service is still available to them but there should be a clarification of the identity of the people within the area.

We don't think that all of the people in the city should vote

on a particular area. We don't think that was the intent of the bill; we don't feel that is what to do and we think it needs some clarification. If you do that, then you must identify who pays the cost. If an election is to be held in an area, you must give some guidance under the laws and provide that we can break down the costs for a particular area. Under the present laws, it is the county administrator who puts on the election as the city does not put on elections any more. He is the one who should know that the people in a particular area want an election and they should pay for the judges, clerks, ballots and charges of the county for holding an election.

CHAIRMAN BERTELSEN asked if there were any further opponents. As there were none, he asked Rep. Gould to close.

REP. GOULD closed. He stated the language Mr. Mizner mentioned was supposed to have been included in the bill, but it wasn't. The election the people were voting for would be in the newly annexed area. Looking at the Reserve Street area, Missoula doesn't have city water and the water is not out in that area. It will probably be sometime before there would be hydrants and so forth. Most of the area is on wells. The Rural Fire Districts are totally set up for fighting fires where there are no fire hydrants. They have a large amount of water carrying capability so they can fight a good sized fire without having problems. I hope you will look at the bill closely.

#### QUESTIONS FROM COMMITTEE MEMBERS:

REP. AZZARA asked to read a portion of the bill which he wonders might be contradictory or contrary to the intent and asked about the results of that combination. "A municipality may contract for fire protection services for all of the municipalities with a rural fire district established under the provisions of part 21 through either of the following procedures: "(b) upon a majority vote of the registered electors of a portion of the municipality proposed to be served with fire protection by the rural fire district." Isn't that saying that 10% of the people could call for such an election; a portion of the people would participate in an election, the result of which would be to completely free them of all paid fire protection for the entire municipality?

LEE HEIMAN said, "you are reading it incorrectly." There is the "all or part" in both.

REP. AZZARA said let's just consider the portion with which I'm concerned, namely (b) under (2). "Upon a majority vote of the registered electors of the portion of the municipality to be served with fire protection services by the rural fire district."

MR. HEIMAN said he sees the way you read it, but doesn't agree with you.

REP. AZZARA said he doesn't think that was Rep. Gould's intent.

REP. GOULD said no, it wasn't, but he asked Rep. Azzara how he could clarify it.

REP. AZZARA said that if House Bill 33 which was discussed today passes, it would allow anybody who was going to be annexed to make this choice under the provision of the bill. It is not as far reaching as the choices under this bill, but there is a choice that people can make if they should be annexed to keep their rural fire district protection. I feel that is the real concern. House Bill 461 would allow rural fire districts to potentially extend their territory into the municipalities and that is a different question.

REP. KESSLER commented that if HB 33 fails, which is possible, this bill would actually give vast new powers to rural fire districts and the cities could find themselves in a much worse position than they are in now.

REP. HANNAH asked Al Sampson if he heard his testimony correctly when he indicated that there is already authority under the law to do what this bill calls for as far as the city and rural fire districts contracting?

AL SAMPSON: I don't know about contracting for the payment of monies but it is my understanding there is such a thing. Presently we have a mutual aid agreement with the Missoula rural. If we respond to a fire call in the area that has been discussed here, we have the authority to request whatever assistance we need from the rural district and they will respond. The same is true if they wish some help from us with our equipment and we will respond also. We do have the authority to contract services. We now have contracts or agreements with the school district. We have contractual agreements furnishing all of the schools in District 1 with fire protection in the Missoula rural areas.

REP. KESSLER: The way I read the bill, would this allow a rural fire district, by a vote of the people, to come into the city?

MR. HEIMAN said his impression when he read the bill was that there was no difference between annexed or existing in the city.

REP. KESSLER asked Mr. Thelen if the people in an area of the city wanted rural fire protection, would there be any mechanical problems in lowering their assessment for city fire service?

AL THELEN said it probably would depend on who was going to pay for the rural fire protection. Would it be included in their valuation for assessment purposes, or would the city actually pay the rural fire district so many dollars? I can see that happening. The city might say, "rather than us building another fire station, we'll contract with a rural fire department for services to the particular area."

Mr. Thelen continued he would be concerned as to who has the legal liability for the fire service. A contract must clearly define this point.

REP. KESSLER wondered if it would be better if there was a clause in the bill to that effect.

MR. THELEN said that would be an improvement and would clarify the bill.

REP. AZZARA read from House Bill 33 the following provision: "When 50% of the freeholders of the area to be annexed petition for the continued provision of services by rural fire districts... ..that portion of their city tax liability would be deleted from their tax liability." I just wanted the committee to know that HB 33 does provide that if 50% of the freeholders petition for rural fire district services, then the city would be required to delete them from the city tax fire rolls.

REP. SALES asked if someone present could advise him whether a rural fire district has enough status under the law to enter interlocal agreements?

AL SAMPSON said he believes the rural fire districts do have that authority.

CHAIRMAN BERTELSEN closed the hearing on House Bill 461.

#### HOUSE BILL 473

Sponsor Jay Fabrega was not present to speak for this bill, so Rep. Dussault said she would explain it as there were witnesses present to testify.

REP. DUSSAULT said this is a very simple bill in that the only change is on page 1, line 5 in the title and on line 25. It concerns papers and records (claims, warrants, vouchers, bonds, and treasurer's general receipts). Under the current statute those papers must be held for 25 years before they can be destroyed, and the change in the provision of this bill allows them to be destroyed after three years. It appears that this must be done in concurrence with several other individuals.



DAN MIZNER represented the Montana League of Cities and Towns. The process now is that if the city wants to destroy some records they notify the Department of Community Affairs what the records are and so forth, and they then give the city permission to do so. But one particular part says that claims, warrants, bonds and vouchers must be held for 25 years and then they give us the authority to get rid of them, but on the other hand the law says you have 25 years. For clarification the bill is saying there are some records which, after going through the process of notification, can be destroyed after 3 years.

JANET DOLAN said she represents the city of Great Falls. The bill was requested by Rep. Fabrega on request of the City of Great Falls. It is a matter of housekeeping. Today before leaving the city I looked at rooms and rooms of paper work. We probably have close to 300 square feet of floor space piled 14 feet high with bonds, records and old parking tickets. We have to keep them for 25 years. We couldn't find anything if we had to. We have purchase requisitions, purchase orders, purchase claims and warrants. There are four different things just to purchase one item. We have to keep all four of them for 25 years. Most states allow cities to dispose of certain types of things after a period of 2 or 3 years. We sincerely hope you will give this bill favorable consideration.

CHAIRMAN BERTELSEN asked if there were any further proponents to House Bill 473. As there were none, he called for opponents. There were none, so the meeting was opened to committee questions.

REP. HANNAH directed a comment to Jan Dolan. My concern is with IRS rulings, tax rulings and that type of thing. Citizens have to keep records for 7 years.

JAN DOLAN said they keep audit records of all financial things for a much longer period than even 7 years. We're talking about almost everything but financial records.

REP. SALES asked the question as to whether a city would still have to get permission from the City Council and the Department of Community Affairs if we lower the time period for keeping records?

JAN DOLAN: Yes, as I understand the law.

REP. HANNAH said he is still concerned about the area of records. It says on line 23 that any claim, warrant, voucher, bond, or treasurer's general receipt may be destroyed by any city or town officer. What is a general receipt?

JAN DOLAN: This is a receipt you give any citizen when they pay any type of bill. As far as tax receipts go, we would have no problem on them with even 7 years if you wanted to change

the figure to that instead of 25 years.

AL THELEN commented 7 years would be okay with him.

REP. SWITZER said he thinks line 14, 15 and 16 take care of most of the problems.

EXECUTIVE SESSION:

HOUSE BILL 179 sponsored by Rep. Eugene Donaldson.

REP. WALDRON moved that HB 179 DO PASS AS AMENDED.

REP. WALDRON said he'd researched the costs for the Department in administering the program. He went into details, which are attached to and made a part of these minutes. After doing so, he recommended amendments as follows:

1. Page 1, line 13.

Following: "\$25"

Strike: "\$40"

Insert: "\$30"

2. Page 3, line 8.

Following: "\$10"

Strike: "\$20"

Insert: "\$15"

REP. WALDRON moved these amendments DO PASS.

The question was called. All voted "aye" so the amendments were carried unanimously.

The question was called for that House Bill 179 DO PASS AS AMENDED. All present voted "aye" with the exception of Rep. Switzer. MOTION CARRIED.

HOUSE BILL 473, sponsored by REP. JAY FABREGA.

Rep. Fabrega was not present to discuss this, but Rep. Dussault offered to give the details.

REP. DUSSAULT said House Bill 473 simply gives municipalities the right to destroy old records after a period of 3 years. Offices and storage space are overcrowded with records which have been outdated and unnecessary to keep. Such records could be destroyed upon the order of the city or town council or commission and with the approval of the Department of Community Affairs. Items which could be destroyed include worthless reports, papers, or records that have served their purpose and that are substantiated by permanent records. Such records may be destroyed without the approval of the Department of Community Affairs after the expiration of the time period.

After considerable discussion and questions, Rep. Gould moved that we amend the bill by changing the time period after which the records could be destroyed from 3 years to 5 years.

REP. KITSELMAN moved that we amend HB 473 to change the 3 to 7 years.

REP. GOULD made a substitute motion that it be amended to 5 years.

CHAIRMAN BERTELSEN called for the question on the amendment. All voted "aye" and the motion on the amendment carried.

REP. GOULD then moved that House Bill 473 DO PASS AS AMENDED. Question was called. All voted "aye" and House Bill 473 received a DO PASS AS AMENDED by unanimous vote.

#### HOUSE BILL 192

REP. KITSELMAN moved to reconsider House Bill 192. A roll call vote was taken and it was 9 to 8 in favor of reconsidering. A subcommittee was appointed to come up with further recommendations. Rep. Hannah is chairman, and Rep. Kitseleman and Dussault will serve with him.

#### HOUSE BILL 394

CHAIRMAN BERTELSEN said this is the bill amending section 16-1-205, MCA, to permit a county governing body to adopt an ordinance regulating, restraining, or prohibiting the public display or consumption of beer or liquor.

REP. VINGER moved that House Bill 394 Do Pass.

REP. VINGER moved that the amendments to HB 394 DO PASS. These are amendments from the sponsor and I'd like to ask Mr. Heiman to explain them.

MR. HEIMAN said the amendments clarify, but he'd like to make a technical amendment based upon some questions that we made, like jurisdictional problems. The amendment is on page 1, line 25 through line 3 of page 2. Following: "7-5-109.", strike the remainder of subsection (2) in its entirety, and insert: "This ordinance may apply to all or a part of a county not within a municipality."

QUESTION ON THE AMENDMENT: All in favor signify by saying aye. An "aye" vote was unanimous for the amendments.

QUESTION ON HOUSE BILL 394 for a DO PASS AS AMENDED.

REP. GOULD wondered if this bill meant that if you went out fishing and was standing by your car that you couldn't have a can of beer?

REP. SWITZER said he was at the hearing and is familiar with the towns which were discussed. I am aware of the problem and I'd be glad to repeat the testimony for Rep. Gould. The sheriff of Rosebud County was here with Mr. Asay to testify in favor of the bill. He said their problem with open containers had greatly increased, particularly in areas adjacent to the Cheyenne Reservation, namely, Ashland and a small bar on a small tract called Jimtown. There have been lots of fights instigated after the bar closed. They get a supply of refreshments that will last approximately two hours and when it is gone the trouble begins. There have been deaths in the area due to this. The same applies to the immediate area outside of Ashland. The sheriff and his deputy said an open container law would give them additional authority to handle these situations. All they'd do would tell the people to go home after the bars close rather than allow them to stay on the street and consume their refreshments until they ran out. The same thing exists to a degree in Forsyth and they expect it to occur in the Colstrip area, particularly if the Colstrip population of 3500 becomes 7,000 or 8,000 within the next couple of years.

Your remark of abuses in the open container law in the picnic situation was addressed by both Mr. Asay and the sheriff. They thought that the risk was minimal and that the end justifies the need.

REP. MATSKO said basically what you'll have will be a selective enforcement ordinance. I don't know about the constitutionality of it but as a practical matter it is something that can be very useful when used in the proper manner. If there are a bunch of rowdies, you tell them to move on or they'll go to jail for an open container violation. A family sitting quietly in a park having a couple of beers won't be bothered.

REP. DUSSAULT asked why we couldn't strike "on page 1, lines 19 and 20, following "(2)" "If an initiative has not been approved under subsection (1), the " and insert "The". I move this amendment.

QUESTION ON AMENDMENT: All in favor signify by "aye". All committee members voted "aye" and the above motion carried by unanimous vote.

CHAIRMAN BERTELSEN said he feels the bill has a real problem.

It seems that we are making a selective dry county in a nation that is permitting the use of alcoholic beverages. It looks to me too, the police officers could charge those people they wanted to and disregard those they didn't want to arrest, but I may be confused as I didn't hear the testimony.

REP. SWITZER said the Rosebud County Sheriff agreed to that very thing. It could be possible but they don't anticipate it being nearly as much of a problem as they have now.

CHAIRMAN BERTELSEN said the problem as he sees it is that we spend a great deal of time trying to make rules and laws for the judges and courts because everybody has to be treated alike. Now we're turning around in this bill and saying it won't work because you can't treat everybody alike. Maybe I'm confused.

REP. HANNAH said if you look at the body of laws we have in our country, a lot of it is that way. It is subjective at many levels, the policeman level, the prosecuting attorney level, and the judge level. Many laws are that way, but I think that this law is important as there is a very specific problem in these areas. If you've never been there, it is hard to imagine what the problem really is. This law would allow a county to provide a means whereby they would have some preventive control rather than after the fact control.

REP. AZZARA asked if Rep. Hannah was intimating that there might be equal protection problems in the Constitution. Answer was yes. So then I would want to respond to Rep. Hannah that if we try to solve a specific problem by unequal protection, we are not solving it in a Constitutional manner.

REP. VINGER said you must remember that some cities have ordinances against open containers and others don't. What is wrong with a county having the option to pass an ordinance for an open container law. I don't see any difference between a county or a city.

QUESTION was called for. The question is DO PASS AS AMENDED. As a result of a roll call vote, House Bill 394 received a DO PASS AS AMENDED RECOMMENDATION. The motion carried by 11 to 6. Those voting "no" included Representatives Azzara, Bergene, Dussault, Gould, Holliday and McBride. Two members were absent.

#### HOUSE BILL 594

The chairman said this is an act requiring land development and use by governmental agencies to conform to local zoning regulations.

REP. SALES moved the amendment for House Bill 594 on line 17 of page 1. Following "agencies", strike "The" and insert "except as provided in 76-2-314 and for rights of way and easements, the"

QUESTION ON THE AMENDMENTS: All in favor say "aye". The vote in favor of the amendments was unanimous. Motion carried.

REP. VINGER moved that House Bill 594 AS AMENDED DO PASS.

DISCUSSION FOLLOWED.

REP. DUSSAULT said she understands the situation relative to the University in Missoula. The other impacts of this bill are what bother me. For example, my family owns a dairy farm in Missoula County. The Fish and Game bought a portion of that land for a historic site and fishing access. That is now state owned land. If Missoula adopts a county zoning ordinance, then that land would fall under the county zoning requirement. I don't know what that means. Could somebody convince me that this is okay?

REP. AZZARA said that means that if they were going to do anything with that land they would have to at least come under the provisions of this bill which involve considering your opinion in the ways provided. If it was zoned and they wanted to do something that was not in harmony with the zoning, then you would have to be consulted. I guess that would be better than nothing.

REP. ANDREASON: I am particularly concerned about the University and the fact that the buildings that are now University property and can be used by the University as it sees fit. There is a problem with universities being able to grow or being able to use the facilities they have within a designated period. I would not want them to not have the choice of being able to use those buildings as they need them. We're being cut back now on what buildings we may or may not build.

REP. KESSLER said you made a point. I think we're forgetting one point and that is the people who live around Universities whose whole lifetime investment is tied up. Here we have some monolith that comes in and doesn't want to follow any of the rules or have any consideration for those folks whatsoever. In Billings the college bought a house in a very nice residential area. They didn't know what to do with it for the time being and they rented it to a fraternity. All of a sudden the people in the neighborhood had a fraternity (20 guys living in that nice neighborhood), and not subject to any zoning whatsoever.

REP. AZZARA said he understands Rep. Andreason's concern and it is legitimate. The sponsor of the bill responded with the question of "who is finally sovereign?" Obviously the state has the capacity to transfer the power of eminent domain to the University for purposes of its needs. Rep. Kemmis pointed out that finally the university or any state agency so defined in this bill would prevail. All it requires is that before they make a decision they at least listen to people. That is all they are obligated to do. The ultimate decision is made in this case from the most powerful center which is the university. The bill seems to cover both your concern and the concern that Rep. Kessler raises.

REP. WALDRON stated he too has the same concern about the university and growth. In the City of Missoula there are some very stringent criteria for getting a variance. I suspect that is likely to be true in other municipalities. In the bill they included some criteria for variances that are not normally included or necessarily included in zoning procedures. They start on lines 10 through 18 and require that the local governing body also use that criteria for determining whether or not a variance should be applied for the zoning. I think there is some real protection in the bill.

REP. HANNAH said it is unfortunate that we have to look at legislation like this. My feelings are that I would hope that agencies of the government would have enough feeling to deal with some of these problems and if that were true, we wouldn't need this. But if the government is going to run rough shod over people, then we need this bill which is something that will slow them down.

REP. ANDREASON said he doesn't see the bill as being all that permissive in terms of allowing the University to do anything they want with its buildings. I see it as taking away a lot of the options it has and subjecting it to local zoning.

REP. DUSSAULT said she thinks it is important to say one thing. You will notice that the University of Montana officials were not here last night for a couple of reasons. One was out of deference to Rep. Kemmis, but secondly I think it is not correct to assume unless you know everything that is going on. Otherwise, you get into a pit. There has been misunderstanding on both sides. I don't think it is fair to the University to say that they have completely run rough shod over these people. Some extensions have been made.

QUESTION: Motion is DO PASS AS AMENDED on House Bill 594. The

roll call vote was as follows: Of the 17 committee members present, 12 voted "aye" and 5 voted "naye". Motion carried. Those voting "naye" were Reps. Andreason, Dussault, Gould, Neuman and Sales.

HOUSE BILL 622

CHAIRMAN BERTELSEN said this is Rep. Neuman's bill to increase the permissive county road levy.

REP. NEUMAN moved that House Bill 622 DO PASS.

REP. SALES said one more time that he is really disappointed that local governments can ask for optional taxes or optional ways to raise money. We gave them a raise last year in the gas tax and none of the counties seem to have had courage enough to even try to use it.

REP. KITSELMAN said he'd respond to Rep. Sales remark. Yellowstone County did try to institute that. We got the writing on the wall after three weeks of petition carrying.

REP. WALDRON said that when the question of taxation arises, it is very difficult to convince people to increase taxes. One of the things we are always asking them to do when we try to provide optional taxes or alternative methods of raising revenue is demand that the people vote on it. On the other hand there doesn't seem to be a strong demand to have the people vote on the expenditures. We do have some bonding items and that type of thing. I don't think you should separate the two. If you are going to insist that the people vote on taxes, then you should also insist that they vote on expenditures.

REP. HANNAH said we do. When you elect your county commissioners, they are your voice.

REP. SWITZER: I feel fairly rural as I live about as far out in the county as you can get. Three counties, two that I represent and one in which I do most of my living, all clamor for additional road taxes. This is permissive and it is a situation in which they are interested. If they have a heavy winter snowfall with a demand for snow plow service, they don't have funds left for use in the summer. As long as it's permissive, I think it is fine.

QUESTION of Do Pass for House Bill 622. A roll call vote resulted in 16 voting for do pass and one voting no, namely, Rep. Sales. Two people were absent. Motion carried. House Bill 622 received a DO PASS recommendation.



HOUSE BILL 624

CHAIRMAN BERTELSON said this is an act to increase the fees charged by County Clerk and Recorders.

REP. DUSSAULT moved that the amendment on page 2, line 7, DO PASS. Amend House Bill 624 as follows: Following line 6 strike "or notice of appropriation of water."

QUESTION: Those in favor of the amendment vote "aye". The motion carried by unanimous vote.

REP. DUSSAULT moved that House Bill 624 DO PASS AS AMENDED.

REP. SWITZER asked the chairman if the county commissioners have the authority to set this type of price?

CHAIRMAN BERTELSEN answered they do not have this authority now. It would require legislation.

QUESTION: DO PASS AMENDED FOR HOUSE BILL 624. The chairman asked that all in favor of this bill signify by saying "aye". Of the 17 committee members present, all voted "aye" but Reps. Hannah, Switzer and Neuman, who were opposed. MOTION CARRIED.

HOUSE BILL 498, sponsored by Rep. Oberg.

REP. SALES moved that the amendments DO PASS. They are as follows: 1. Page 1, line 16. Following "or for" strike "construction" and insert "repair or maintenance" 2. Page 1, line 17. Following "\$10,000", insert ", or for construction for which must be paid a sum exceeding \$4,000," and 3. Page 2, line 16. Following "\$4,000" insert "the amount set forth in 75-5-4302 (1) ". A discussion followed and everyone understood the amendments. As there were no questions, the chairman asked that all in favor of the amendment signify by saying "aye". Of the 17 committee members present, five voted "naye", including Reps. Azzara, Bergene, Bertelsen, Dussault and Neuman. The motion on the amendments carried.

REP. WALDRON moved that House Bill 498 AS AMENDED DO PASS.

QUESTION: All in favor of House Bill 498 AS AMENDED signify by "aye". Motion carried. Of the 17 members present, all voted "aye" with the exception of Reps. Bergene and McBride. House Bill 498 received a DO PASS AS AMENDED recommendation.

CHAIRMAN BERTELSEN stated those are the bills to be acted on tonight. He did ask for volunteers to serve on the subcommittee to study House Bill 192.

REP. HANNAH agreed to serve as chairman, with Reps. Kitselman and Dussault.

The meeting adjourned at 9:55 p.m.

  
VERNER L. BERTELSEN, Chairman

hbm

## VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

FILE HOUSE BILL 447

Date Feb. 11, 1981 7:30 p

SPONSOR David O'Hara

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 461

Date Feb. 11, 7:30 p.m.

SPONSOR Rep. Budd Gould

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

FILED HOUSE BILL 473

Date Feb. 11 - 7:30 p.m.

SPONSOR Rep. Jay Fabrega

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 498

Date Feb. 11, 7:30 p.m.

SPONSOR Rep. Dan Oberg

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME John H. ... BILL No. 13495  
ADDRESS 1114 Hill St DATE 2-11-81  
WHOM DO YOU REPRESENT Montgomery Association  
SUPPORT \_\_\_\_\_ OPPOSE / AMEND /

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

# STANDING COMMITTEE REPORT

February 13, 1981

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 447

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ADDITIONAL  
ALTERNATIVES FOR THE ASSESSMENT OF COSTS FOR IMPROVEMENT  
DISTRICTS; AMENDING SECTIONS 7-12-4162, MCA."

Respectfully report as follows: That HOUSE Bill No. 447

Amend House Bill 447

1. Page 1, line 13.  
following: "one"  
Insert: "or a combination"

2. Page 2, line 1.  
Following: "as the"  
Strike: "criteria"  
Insert: "criterion"

AS AMENDED  
DO PASS



# STANDING COMMITTEE REPORT

February 14, 19 81

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 473

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW MUNICIPALITIES TO DESTROY OLD RECORDS AFTER A PERIOD OF 3 YEARS; AMENDING SECTION 7-5-4124, MCA."

Respectfully report as follows: That HOUSE Bill No. 473

## AMEND HOUSE BILL 473

### 1. Title, line 5.

Following: "PERIOD OF"

Strike: "3"

INSERT: "5"

### 2. Page 1, line 25.

Following: "25"

Strike: "3"

Insert: "5"

AS AMENDED

DO PASS

# STANDING COMMITTEE REPORT

February 12, 1931

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 498

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE MINIMUM CONTRACT AMOUNT ABOVE WHICH MUNICIPAL CONTRACTS MUST BE ADVERTISED AND LET FOR BID AND MAY BE PAID IN INSTALLMENTS; AMENDING SECTIONS 7-5-4302 AND 7-5-4306, MCA."

Respectfully report as follows: That HOUSE Bill No. 498

## AMEND HOUSE BILL 498

1. Page 1, line 16.

Following: "or for"

Strike: "construction"

Insert: "repair or maintenance"

2. Page 1, line 17.

Following: "\$10,000"

Insert: ", or for construction for which must be paid a sum exceeding \$4,000,"

3. Page 2, line 16.

Following: "\$4,000"

Strike: "\$10,000"

Insert: "the amount set forth in 75-5-4302(1)"

AS AMENDED

DO PASS