

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
February 12, 1981

The Local Government Committee met Thursday, February 12, 1981 at 12:30 p.m. in Room 103 of the Capitol. CHAIRMAN BERTELSEN called the meeting to order and the secretary took the roll. All committee members were present except REP. PAUL PISTORIA, who was absent. Staff Researcher Lee Helman also attended the meeting.

HOUSE BILL 562

REP. BOB THOFT, sponsor of HB 562, said this is an act to revise and simplify the process of adding contiguous land in an unincorporated area to a sewer district. What the bill does is make it possible to take in a contiguous landowner by petition without having an election. Under the present law an election is required and this could cost from \$900 to \$1,000. I'll use Victor as an example. This is an unincorporated town, but they do have a sewer district there. They are running at about 30% capacity. If this bill is passed, they can take in contiguous land owners by petition without an election. I think there are about only 12 of these unincorporated towns in the state, but I think there will be many more in the future because of the need for sewer districts and the fact that incorporating is not all that popular. If you have any questions, I'll be glad to try and answer them. Thornton Mann, a representative in the 1974 session, is here to testify as a proponent.

PROPOSERS FOR HOUSE BILL 562

THORNTON MANN of Victor said he'd like to support HB 562 and urged that the committee recommend a DO PASS.

OPPOSERS OF HOUSE BILL 562 - As there were none, CHAIRMAN BERTELSEN asked if REP. THOFT would like to close.

REP. THOFT said he closes. Before the bill was drafted he checked it out with REP. GOULD and figured he was over the hump as he felt it was a good bill.

QUESTIONS FROM COMMITTEE MEMBERS

REP. HANNAH asked REP. THOFT the following question. On line 19, page 2 this must be done by a petition from the people.

REP. THOFT replied that is correct.

REP. HANNAH asked if there are any provisions in this bill that will cause people to sign away their rights to protesting annexation in the future?

REP. THOFT said we are not dealing with annexation because this unincorporated sewer district is the only thing mentioned in the bill where it states the properties being taken in are unincorporated areas.

REP. HANNAH feels this affects Missoula because part of the problem has been the water district in Missoula is not owned by the city. Part of the problem in Billings is that in past years the city sold water to outlying districts. Now they do not have a lever to talk with those people about annexation because they have already sold their birth rights, in effect.

REP. GOULD said you are talking about two different things. You are talking about a city and an unincorporated area. In this instance you are talking about an unincorporated area where the people have gotten together and formed a sewer district. I don't think there is any possible conceivable way that this would be worked in that area.

REP. AZZARA asked who comprises the Board. Is this the board that runs the unincorporated sewer district?

REP. THOFT said the board members are elected from the district.

REP. AZZARA wondered what would happen if the Board wouldn't take them in. Would this method force the board to take them in?

REP. THOFT said no, it is at the discretion of the Board. There is a provision in the bill that if the board is uncomfortable with it, they can call for an election.

CHAIRMAN BERTELSEN said there were no further questions, the hearing is closed on HOUSE BILL 562.

HOUSE BILL 516 sponsored by REP. KENNETH NORDTVEDT.

REP. NORDTVEDT introduced the bill by saying this is a determination of value of state owned property, say the campus of the University. We will go through the same procedure of getting a value of that property to find what the taxable value would be and then you apply just those mills necessary to run the fire and police department of that property. By doing that you'd come up with the University's share of the cost of police and fire protection furnished by the city. We would then have a mechanism by which the state would reimburse those local governments for those services. It seems to me that sections 8 and 9 are suggesting two different mechanisms. One would be that the Department of Administration would make these payments. There would have to be some appropriation by the legislature for which they'd add up all the state owned properties to make a determination of

what these fire and police protection mills would be in the coming biennium. Section 9 suggests that the state agencies put into their specific budgets these payments to local government. I would suggest that might be a more popular and workable way to do this. That is the bill in a nutshell and there are several people here who want to testify for it.

PROPOSERS FOR HOUSE BILL 516

SAM GESKO, the City Manager of Bozeman, said he distributed a statement used two years ago, but the situation is the same as it was then, only worse. The subject of HB 516 is one that is not only dear to the heart of Bozeman, but also hinges on its continued financial vitality. (Mr. Gesko left written testimony which is attached to and made a part of these minutes.) He urged support of HOUSE BILL 516.

GEORGE TATE, Chief of Police of Bozeman, said this is a very good bill, and he urges the committee to support a DO PASS recommendation. I strongly feel this legislation is needed as the University brings a great many activities to Bozeman which require additional police protection, which is already taxed to its full capacity. We often find ourselves virtually unable to meet the demands created. We are supportive of the University and will always be. However, due to 10,000 to 11,000 students annually, the problems will increase. I believe that by the funding the city can expect to receive from the legislation, more manpower could be had, thereby giving us better control within the city. Be mindful that not all students live on campus, nor do they find their entertainment on campus. Most students bring vehicles and many students bring dogs. We like the young people, but do find it difficult to maintain peace and order at times. I strongly urge your support for this legislation. Thank you for your consideration.

LARRY CONNER, said he has been employed by the Bozeman Police Department since February of 1972. One year ago it was not uncommon for us to be working a two or three man shift. Thursday, Friday and Saturday nights are one of our busiest times of the week. Most of the time is spent just responding to calls and we don't have much time to devote to proper investigation. Many times it was necessary to call upon the sheriff's department to step in and help us with city problems. Without their assistance, we could not have handled some of the problems. Many times we'd have had officers injured due to various bar problems or house parties. We feel that by getting the support from the State and a reimbursement to help with the police costs, we would be able to furnish the necessary police protection. During the summer we can keep up with the police work, but when the students return, we need additional help. We urge your support of House Bill 516.

ED WELCH, Deputy Chief of the Bozeman Fire Department, said their most important need is manpower. Because of the 1979 cutback in manpower, last year our #2 station located near the University was closed about 1/3 of the time. The use of this station saves us from 3 to 4 minutes in responding to a fire at the university. Response time is very important when lives are involved as it would be in the dorms at the university. There are over 1,900 students living in the highrise dorms. These buildings are not sprinklered and at this time have no smoke detectors. Both of these factors tend to lend our finding larger fires when we arrive. Our initial attacks on these fires are usually handled by five men on shift when we have full manpower, but when station 2 is in use, only four men handle the fire. Fires of this magnitude completely tie up our department and equipment, leaving the rest of the city in some jeopardy. Fire protection for buildings of high value areas require more equipment as well as manpower. Since 1979, the city has been unable to put aside money for extra equipment or to renew older equipment. In order to do a good job, we really need another large pumper and another aerial truck. Another immediate need is in the area of fire prevention. Again in the 1979 cutback we lost our fire prevention personnel. We should even have a full time fire marshal at the university as we would rather prevent fires than have to put them out.

RICH BROWN, Mayor of the City of Helena, stated he wishes to speak in favor of House Bill 516. He said Helena is also happy to have the state complex. Our incident rate among our police department is probably not as high a percentage as that of Bozeman because the state employees, or at least the representatives, are better behaved than the students at Bozeman. For example, our police department does have a lot of extra duty because the State Capitol is located here. Since you have been here, there have been a number of demonstrations by large numbers of crowds that cause some traffic congestion and other problems that require the City of Helena Police Department to respond. Because the Governor and other officials are here, a great many foreign dignitaries visit the City and the Helena Police are required to provide escort service and protection, as well as the number of threats being made against state officials which are also covered by the police department. A number of political candidates often visit Helena. Last year we had V.P. Mondale and Senator Edward Kennedy. Again the Helena Police Department is called on for that special task. Security and escort is becoming a major problem for the City of Helena Police Department. It could be and is attributable to the fact that we have the State Capitol and the State Complex here.

Let me give you an example of what the bill would call for as far as mill levies go and how that would apply to the City of Helena. Currently, the City of Helena applies 27.8 mills for police and 21.85 mills for fire protection. Using the Department of Administration Insurance and Legal Division evaluation of state owned property, that would come to approximately \$51,000,000 in Helena. If we took that by the taxable value of 12%, we would come up with \$6,130,000. If we applied that to Helena's already existing tax base of \$31,680,000 we would come up with a total of about \$37,810,000 of taxable valuation. In other words, the taxable value of the City of Helena would increase by an assumed amount for the value of the state owned property. That would mean a mill would be worth about \$37,810 or 1/1000 of the \$37,810,000. That would mean that instead of asking the citizens of Helena to provide 49.65 mills we would ask that the mill levy be 41.61 or a reduction of basically 8 mills if the State of Montana were to pick up its fair share of the police and fire protection based upon its taxable valuation. That would mean to fund our police department it would require 23 mills instead of 27.8 mills and 18 mills for our fire department instead of 21 mills. This would mean the fair share that has not been provided to the City of Helena so far would be about \$255,000 annually. Again, I wish to say that I am a proponent of this bill. I believe it would not only be a fair thing for the State of Montana to consider paying its fair share but as you can also see, it would relieve our city employees of part of the tax burden they are now forced to pay.

Others who signed the visitors' register in support of HB 516 included Joe Wolf from Butte; Les Prentice from Missoula, Dan Mizner from Helena and Rose Leavitt representing the League of Women Voters.

REP. AZZARA said the situation in Missoula is similar to those situations which have been testified to by other proponents. Missoula essentially provides police and fire protection for nine months of the year for a campus from which it extracts no taxes. I think that certainly lends to the financial distress which Missoula experiences as well as several other cities of the state. I fully support the bill and urge that it DO PASS.

OPPONENTS TO HOUSE BILL 516

CURT CHISHOLM, Deputy Director for the Department of Institutions, said the department does not take issue with the bill's intent nor the goals it is trying to achieve. But since there is no middle ground here, we'll stand as an opponent simply to raise some technical issues that cause problems for us, which we want clarified.

In relation to our department we, of course, have state owned facilities in a number of small towns about the state, Swan Lake, Miles City, Columbia Falls, Lewistown, Helena, Glendive, etc. In some of these towns we have relationships developed where in fact we are assisting them to develop sewer lagoon systems, for instance at Boulder, in cooperation with the City of Boulder. Fairly, we should owe them for fire and police protection. Secondly, the bill calls for the first payment to be in November. We don't have a problem with that under normal circumstances. But it is too late to budget for those services now to make our first payment, either from our agency to the Department of Administration or to actually budget for it in terms of charging that against our individual institutions. We would like some time to study the amount we would owe them, and secondly to adequately budget for them and then to make the payment. We are very gun shy of getting ourselves into situations where we would incur a legal obligation to pay for services which are not adequately budgeted for. That is the last thing we want to do this time around.

CHAIRMAN BERTELSEN asked for further opponents and there were none. He asked REP. NORDTVEDT if he'd like to close.

REP. NORDTVEDT said he feels the bill has been adequately discussed. We are only asking for those mills that are identifiable with police and fire services which are provided to these facilities now. When a fiscal note comes, it should be looked at closely to make sure that the market values of these state properties would be multiplied by the appropriate 50% which puts them on the same basis as privately appraised property today at the 8.55% class to determine the equivalent taxes on the property. I think that would somewhat reduce the fiscal impact from what it would be under the formula that the gentleman from Helena mentioned. The purpose here is to find the fair share of police and fire protection services if the city is to be reimbursed for those services.

QUESTIONS FROM COMMITTEE MEMBERS

REP. AZZARA asked if it is a good guess that we apply residential rates of 8.55 against the evaluation of the property?

REP. NORDTVEDT said 8.55 applies to residential and commercial property, so I think that is the proper class for anything but a state industrial facility.

REP. HURWITZ asked REP. NORDTVEDT if they ever considered a police fee and a fire fee on students as a cost of education?

REP. NORDTVEDT said he doesn't know if that would be legal.

REP. BERTELSEN closed the hearing on HOUSE BILL 516.

HOUSE BILL 425 - sponsored by REP. DARRYL MEYER

REP. MEYER said House Bill 425 which repeals sections of the law eliminates the franchising where a company has to go in and have an election. What has happened in the past, for instance in the City of Billings, where the population is around 65,000, they have to have an election which costs the company that wants the franchise quite a bit of money. For instance, there are 65,000 people in the city and only 318 people turned out to vote. This bill leaves the matter up to the governing body, either the county or the city, to grant this franchise.

PROPOSERS FOR HOUSE BILL 425

PERRY WEIDLER represented the Montana-Dakota Utilities Company. We are asking that you repeal sections 7-5-4321 and 7-5-4332 which set forth the election procedure. At the present time any company serving natural gas has to petition the city council to hold an election. Mr. Weidler said they support House Bill 425. (See attached testimony which is made a part of these minutes.)

BOB GANNON stated he is with Montana Power Company. As Mr. Weidler has indicated, this does relate very significantly to the gas operations of the utility business. It does not apply to the electricity side of our business. We have had similar experiences in every town and city in the State with franchise elections. The franchise is simply granting the power to use the streets and alleys to lay the pipelines. We had two examples in the last three or four years where in a franchise election in the town of Chester and in Belgrade, the franchise was turned down by the voters and we ended up in the unique position of not having the authority granted by the municipality to conduct business in the towns. Since we didn't have the authority, we didn't know what we were going to do; pull up our gas lines or not serve the community. There really is no alternative to our service. Another election had to be held. We feel getting the authority from the City Council is sufficient so we don't have to go through the unnecessary costs of having an election. We hope you support HB 425.

DAN MIZNER signed the visitors' register as a proponent for HB 425.

OPPOSERS FOR HOUSE BILL 425

WILLIAM ROMINE represented the Solid Waste Contractors Association. He said he has a few problems with the bill from the garbage collectors point of view. I don't necessarily agree with the position that the franchise is not exclusive, so I won't speak to that as other opponents will. I am a little

bothered by the fact that we have power people telling us we should do away with elections. This law has been on the books since 1895 and I don't see any reason to change it now. (See balance of written testimony which is attached to and made a part of these minutes.) We oppose House Bill 425.

GARY ZADECK, registered lobbyist for the Solid Waste Contractors, said most of the proponent's testimony has to do with utilities, natural gas, electric and telephone service. Solid waste is also a utility service of sorts. Presently cities have the ability to provide garbage service. Also in the major cities of Montana there are private carriers. We view this bill as an exclusive right of franchise. I argue with the testimony submitted by Mr. Weidler that it is a non-exclusive right franchise. By repealing this bill the city management would have the ability to award a contract to one carrier to serve the city. That would in effect put existing carriers out of business. Most of the solid waste contractors are virtually made up of family member operations. They have a substantial investment in equipment and a certificate issued by the Public Service Commission. The certificate has a value very similar to that of a liquor license of any where from \$70,000 to \$200,000. By granting the cities the ability without submitting it to a vote of the people to contract with just one carrier you put people out of business. Their investment and life savings and their livelihood goes down the drain. The Solid Waste Contractors are very much opposed to allowing city management a very important and devastating decision without the approval of the voters. If it isn't the intention of the proponents of this bill to affect solid waste contractors (garbage carriers), I suggest it be amended with that exception.

Suppose a city can grant a franchise for one garbage carrier to serve the city, without a vote of the people. Three years down the line the other carriers are out of business. That contract is up. The effect of the bill would eliminate all competition. The bill would also give the city the right to decide who would receive one of these franchises. We hope you will oppose House Bill 425 or amend it so it will not include solid waste carriers.

VESTER WILLIAMS from Hamilton, Montana said he operates the Bitterroot Disposal Service. I won't repeat what the other opponents said, but I hope you will amend this bill excluding our industry should this bill pass. I still think we are playing on dangerous ground. Any time you say, "no, we don't want to listen to the vote of the people as the turnout hasn't been too good in the last few years", I think we're making a mistake. I've seen many elections where the turnout wasn't too good, but many times it picks back up. I think we're playing with fire when we say we don't want to give the people a chance by casting their vote.

Other opponents who signed the visitors' register were Scott Orr, a Libby Solid Waste Contractor; Donna Hartley of Helena; Max Bauer, Jr. of Missoula, and John Palagi of Great Falls.

CHAIRMAN BERTELSEN asked if there were any further opponents. As there were none, he asked for questions from the committee.

QUESTIONS FROM THE COMMITTEE MEMBERS

REP. HURWITZ asked Mr. Romine the following question. The gentlemen who just spoke said if we didn't hold an election and the city was to hire someone to take care of the solid waste, then the other solid waste people would be put out of business. Wouldn't the same thing hold true if you held an election and one solid waste collector was selected full-time?

BILL ROMINE said yes, it could happen. But if you didn't give the public the opportunity to vote, there could be opposition to that type of proposal. Other carriers could come before the public and say, "wait, this would be the result." If you want to handle it that way, that would be fine, but it would be through a vote of the people. The city has the right to give a franchise under present law with public approval. A franchise is a special privilege the city has to do something it is entitled to do under these powers. It is not for every contract. The city could conceivably franchise out police protection to a private group.

REP. MATSKO said the situation now is in a City like Great Falls, the residents have a choice. They can hire the city to haul their garbage or they can hire Montana Sanitation Service or Black Eagle Sanitation Service. The residents also have a choice. These people should realize that the importance of an election is giving them the choice to choose what they want to say. We feel the election will safeguard that choice.

REP. HANNAH said how he sees it, is the people can say to the city, "if you want to put some type of a service on a bid basis you have the right to do that. You also have the right to choose the best bidder".

BILL ROMINE said the problem is that a franchise is something that is granted to a private individual that is not granted to anybody else. In the present law, we do have that exclusion but this bill would allow an exclusion with the public's permission.

REP. ANDREASON asked Lee if, as he interpretes this bill in regard to the solid waste contractors, would it necessarily indicate that it would be an exclusive thing?

LEE HEIMAN said he doesn't think so but he made a note to check on it.

REP. ANDREASON asked Mr. Zadeck if we were to indicate in the bill not to exclude solid waste contractors as you have suggested, but to indicate in some way that there would be an exclusive kind of contract given to an individual, would that take care of your concern?

MR. ZADECK said I suppose it would. One of the problems is that this bill is a repealer, so it takes things off the books. I still think that may or may not be necessary. We haven't talked this through because we didn't know where the proponents were coming from, but right now the city could bid parts out, but not to the exclusion of everyone else. The city can haul garbage itself. It doesn't need a certificate.

REP. KESSLER asked Mr. Gannon who is correct because the handout we received states that a franchise is not exclusive and these gentlemen say it is exclusive? There is a mistake somewhere.

BOB GANNON said the handout was prepared by Montana-Dakota Utilities. I can say as far as Montana Power goes, and we handled a couple of these elections, that in our franchises we specifically state that they are not exclusive. As far as our gas utility business, we, in a franchise after it has been submitted to the voters and comes back with an ordinance from the municipality, are advised that it is a non-exclusive franchise.

REP. KESSLER to Mr. Gannon: So it is stated in your franchise and not in the law.

MR. GANNON said yes.

REP. SALES asked Mr. Weidler if perhaps we couldn't simplify our problems if we wrote into the bill that no election was required for non-exclusive franchises?

REP. MATSKO said he was looking at the handout from the utility corporation. You stated that these are not exclusive franchises in your contract. He asked Lee if we repeal these sections, wouldn't the bill apply to all franchises, exclusive and non-exclusive?

LEE said yes, there would not be an election for any type of franchise.

CHAIRMAN BERTELSEN asked for questions. As there were none, he closed the hearing on HOUSE BILL 425.

HOUSE BILL 424 - sponsored by REP. DAVE BROWN

REP. BROWN said he is here to explain House Bill 425. There are two changes being made on lines 16 and 20 of page 1. These changes affect no one except the people in Butte-Silver Bow. He gave a brief background of why this bill is being submitted. The number of representatives co-signing this bill shows the need for it. The law now stands with the \$7 per unit rate. The Butte Metro sanitary and/or storm sewer district is presently the only system in the state affected by this particular section of law. The Metro waste water treatment plant was constructed and passed at \$1.35 million and put into operation in January of 1970. Recent expansion of the sanitary and storm sewers amounted to \$2.6 million. Metro storm sewers are subject to the laws of the 1979 addition of Montana Codes Annotated and is unique because it is the only sewage plant in Montana established by and governed by the Montana Legislature. Expansions in the Metro sewer system completed in 1979 were required to meet the regulations in the Environmental Protection Agency (the Federal EPA). The Metro sewer system is now in very good condition. There is a drastic need to increase revenues to meet the actual costs of operation, maintenance and treatment of the Metro sewage plant and a definite need to raise the ceiling from \$7 to \$10 due to sky-rocketing inflation, in order for the Metro sewer district to operate properly. Those of you around here know this is a touchy issue and in Butte Silver Bow it is commendable that we have unified support this year on the raise.

PROPOSERS FOR HOUSE BILL 424

JOE QUILICI from District 84 in Butte said anyone here in 1971, 1973 and 1974 will remember that we adamantly opposed this legislation because it is hard to raise your own sewer rates. That is exactly what we are doing. Over the years and with the new administration in Butte Silver Bow, we have been able to come up with some specific data concerning the operation of the Butte Metro Sewer Plant. I believe this is the first time the delegation has ever received information concerning the sewer rates in Butte Silver Bow. A lot of effort and time was put into compiling some factual information. In 1981 we are going to have a \$190,000 deficit in our sewer district if we don't receive a raise, especially in an area like ours that is depressed with unemployment and everything else, but we must do it. In 1977 we had 25 employees; now we have 18. The administration has shown good faith in trying to run this plant in an economical manner and as conservatively as possible, yet with high energy costs and costs of chemicals, it is getting out of sight. The rates will raise from \$42 to \$60 per year, but it is still cheaper than most of the major cities in Montana. With that, I will hope that the committee will see fit to pass this legislation.

SENATOR JOHN HEALY said he doesn't think there is any one here who is more familiar with this than he is. As an engineer, I layed several miles of storm and sanitary sewer which went into Silver Bow Creek long before the Metro district was established. At that time we emptied all of our sewage into Silver Bow Creek into which the mines also pumped their water. I signed the bill with others as we absolutely need this. I urge your DO PASS consideration.

DON PEOPLES, City Executive of Butte-Silver Bow, said this is a unique situation. The legislature does have authority to set the ceiling on the rates for the storm and sanitary districts. I urge that you give DO PASS consideration to this bill as we desperately need the increase to continue our operation without being in the red.

OKIE O'CONNOR, DON ULRICH AND MARGARET LEARY all submitted written testimony in favor of HOUSE BILL 424. (Their testimony is attached to and made a part of these minutes.)

LARRY STIMATZ, Senator from District 43 in Butte-Silver Bow said he heartily endorses this bill.

REP. FRITZ DAILY, from Butte, said there are approximately 38,000 people who live in Butte Silver Bow and unless this bill gets an immediate DO PASS, most of those people will be in here to testify for the need for it.

JIM JOHNSTON, JOE WOLF and another person signed the visitor's register supporting House Bill 424.

CHAIRMAN BERTELSEN asked if there were any opponents to House Bill 424. There were none, so he asked REP. BROWN if he'd like to close.

REP. BROWN said the only impact of this bill is on Butte-Silver Bow and its residents. We do have unanimous support today and can get more if you need it. We urge a speedy DO PASS and we appreciate it.

QUESTIONS FROM COMMITTEE MEMBERS

REP. HURWITZ asked REP. QUILICI if he has to go through the Public Service Commission besides coming here.

REP. QUILICI said no. This was one of the alternatives we were looking at, and with the regulatory delay, we felt this would be the way to expedite the matter.

REP. AZZARA asked REP. QUILICI if the district is subject to further future regulation by the PSC should Butte choose to go that route?

REP. QUILICI said unless we change the bill itself, except for the monetary amount, the rates will still have to be set by the legislature. We cannot go to the PSC unless we change the statute itself allowing us to go to the PSC.

REP. McBRIDE asked "Why is Butte-Silver Bow the only city in Montana where the rates are set by the Legislature?"

DON PEOPLES said the creation of the Metro Sewer District had enabling legislation to allow the creation of the district. That was the district concept. Once that was done, the legislature had to set a ceiling on the amount of money that could be charged for the use of the services. As was stated, the sewer rate has to be equitable to the service provided. There is a variance of opinion among the delegation itself, but we did make the determination that any future increases would come out of the PSC. I frankly supported the position of the League of Cities and Towns that Montana cities set their own sewer rates. But we have an immediate problem which is that we have a \$190,000 deficit this year which must be taken care of. If we had the authority to go to the PSC, we would have done that. But since we need the increase now, we came to the legislature to give us the authority to raise the ceiling so we can make the proper adjustment.

REP. SALES wondered if the present delegation would have any concern about taking the lids off and letting the matter ride for a few years to see how the local unit handles it, or would you rather have these limits in the bill?

REP. QUILICI said he thinks it is mutually agreed upon that this ceiling is adequate to survive.

CHAIRMAN BERTELSEN said if there are no further questions, he will close the hearing on HOUSE BILL 424.

HOUSE BILL 438 - sponsored by REP. ANDREASON

REP. ANDREASON said you have before you a two-page bill that is going to correct a situation which he feels is a problem. Usually when two units join together to form a partnership, there is an equal say on the part of either one. Currently, this law deals with what happens when a city and a county consolidate their governments. When that is done now, a simple majority of everybody living in that area is required which means that the people in the county really don't have much of a vote as a separate entity on whether or not they were going to be consolidated into the general government. This legislation would give them a separate vote on the decision to consolidate the county and city governments. Basically, all it does is that instead of a simple majority of every one, it is a majority of the two units involved in joining together in the consolidation.

PROPOSERS TO HOUSE BILL 438

VERA CAHOON stated she is chairman of the Missoula Freeholders Association and represents that group. We urge a DO PASS recommendation for HB 438. (See written testimony attached to and made a copy of these minutes.)

JULIE HACKER said she was representing herself. I am a rural resident in Missoula County. She said that she supports HB 438 and urges that it pass. (Written Testimony is attached to and made a part of these minutes.)

ELLEN IMBODEN AND JOY NELSON both signed the visitors' register in favor of HB 538.

OPPOSERS FOR HOUSE BILL 438

LES PRENTICE of Missoula and DAN MIZNER of Helena signed the visitors' register opposing the bill.

CHAIRMAN BERTELSEN asked REP. ANDREASON to close.

REP. ANDREASON said again you can see the concerns. We have talked a lot in this legislature of the country people vs. the city people. This is an issue which comes up quite regularly in the legislature. Recently we have had certain voices on the floor of the House saying "country people, please take into concern what is happening in the cities and give us a break." There were some people who live in the country who did bend to that desire and give city people who wanted to annex a break. Many of them even changed their minds. I hope that this committee will think of the concerns of the people who live in the country and their desire for independence and take care of their concerns as a separate problem.

QUESTIONS FROM THE COMMITTEE

REP. WALDRON asked REP. ANDREASON if he checked out the constitutionality of this bill before introducing it?

REP. ANDREASON replied no.

REP. WALDRON said he'd refer him to section 3, article 11 of the constitution which reads: "The legislature shall provide methods for governing local governing units and procedures for incorporating, classifying, merging, consolidating and dissolving such units and altering their boundaries. The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend or abandon and optional or alternative forms by a majority of those voting on the question."

It is pretty clear to me in that section of the constitution that you cannot separate out two separate majorities like that and wait to vote so that the vote of the county residents living in the city will not count as much as the county residents living outside of the city. I also refer this question to Lee Heiman to respond as to the constitutionality of his bill based on that section of the constitution.

LEE HEIMAN said he does see a constitutional question in it. The subsection below it involves county-county consolidation. I think there is a separate section on city-city consolidation.

REP. DUSSAULT asked REP. ANDREASON about the logic in disenfranchising certain members of the county from voting. The logic would really be in giving the county residents living in the city two votes. Essentially what you are saying by this bill is that persons living in the urban limits are hereby no longer members of the county for this purpose.

REP. ANDREASON said he doesn't see it that way. I see that they are separate in many different kinds of things in terms of what governing body they are under; what sheriff's department they are served by; what tax rate they pay. I see them under a separate governing body and I think that is the key to the issue that there are no separate governing bodies.

REP. DUSSAULT: Rationalize the fact that they are still supporting the other governing body through taxation? As residents of the county they too are paying some of the cost of county government.

REP. ANDREASON said the city people are still under a different government.

REP. KESSLER thinks that with this bill the city vote will outweigh the county vote in some communities. I don't think that is the case in Missoula, but it would be in Billings. What about the case where we have an unincorporated city like Laurel? Is the vote going to be taken in the two cities together and weighed against the county vote?

REP. ANDREASON said it depends on whether a county government and a city government are going to consolidate.

REP. KESSLER said "What if we are going to have city-county consolidation?"

REP. ANDREASON said if you are going to consolidate all of the county within one city, then there would be two separate bodies. What you are doing is consolidating two governments.

REP. AZZARA said it is possible under the provision of the bill. My constitutional sense is that there is a one-man, one vote problem here that is very substantial. I am not opposed to the idea and I understand what you are trying to do but it would be possible for a minority of people to thwart the wishes of the majority. That is where you get into the problem of equal weighting for votes. If the balance of the urban population of Missoula located in the county wanted to dump the City, they couldn't. The city would simply hold it up. You separate it out that way in the bill, and it may come out that way anyway in terms of an election. What you are doing here by separating it out is clearly running the risk of subjecting a majority vote to the veto of a minority vote on the same question.

REP. ANDREASON said what he sees is allowing the people under one government a separate vote as to whether or not they want to be combined with another government. I think we have charity in the minority and charity in the majority and that is why the laws of our country are set up to take care of both the rights of the majority to decide on certain things and right of the minority can also have a say in the matter.

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, he closed the hearing on HOUSE BILL 438.

EXECUTIVE SESSION:

HOUSE BILL 527

REP. AZZARA moved that the amendments to HOUSE BILL 527 DO PASS.

CHAIRMAN BERTELSEN commented that House Bill 527 deals with making it possible for municipalites to sell park land. The question is whether we want to provide a vote for those owners who are located within a reasonable distance of the park so that the park land wouldn't be taken away from them.

Copies of the amendments were passed out to committee members.

QUESTION: All those in favor of the amendments reply by saying "aye". The vote was unanimous and the motion carried.

REP. SALES asked to offer another amendment, namely, that on Page 2, lines 5 and 6, following "developing" strike "and maintaining". He said all of our laws now relating to parks that have been dedicated, state that land or cash in lieu, depending which way it went, can only go for the construction and development of parks and not for maintaining them.

REP. HANNAH said that amendment speaks directly to the objection he has with the bill. We have a situation where in order to develop a piece of ground as a developer, you must do one of two things. You must either provide grounds for a park, or you must provide cash in lieu of the ground. If that amendment doesn't pass, we then have a situation where the cities are taking land from developers on a pretense that it will be for parks; then taking that land and selling it and putting it into their general budget for maintenance of parks.

REP. HANNAH said the whole reason for people to give money is for the development of parks.

REP. AZZARA said it was REP. FABREGA's objective to enable counties to sell parcels of land that can't be used for parks and make sure that that money is used for some purpose related to parks. It doesn't seem sensible to me to require that they can only use it to acquire further land. Maintenance of existing parks should be enabled by money which is gotten from the sale of parcels that could not be made into parks.

REP. MATSKO thinks there is a good point in this amendment. I would much rather see the proceeds from park land sold, go to putting in improvements such as landscaping, put up new swing sets or things like that than to hire a bunch of people to go around and mow lawns in parks already developed or buy new hoses for watering and that type of thing. Maintenance is minimal compared with the actual developmental costs of the parks.

REP. AZZARA asked REP. MATSKO why we'd want to raise taxes elsewhere to maintain parks when we could get the money from selling land that can't be used for park purposes? Why would we want to take that privilege away from local governments?

REP. MATSKO said the point is that governments cannot budget for developing land that is brought in through new developments being brought into the city. There are barren pieces of ground that are just sitting there as weed patches that must be developed before they can be used. I think that if the money was allocated specifically for that rather than for hiring someone to mow the lawn or another playground lady, you'll get better use out of that park land.

REP. AZZARA said "Don't you think a local governing body would do that and then whatever money was left over should be allocated or used for maintenance?"

REP. MATSKO said he thinks that is a good point, but in lieu of striking "and maintaining" we should at least prioritize it a little more and not leave it totally in the air.

REP. SALES said he thinks that when the Legislature gave the cities the right to take land for park purposes, it was done to provide for parks; not to provide maintenance for parks. It has been very clear all the way through. This is the first time I have seen it show up where they have considered selling off those parks and allow them to use the money for maintenance.

REP. SWITZER said he agrees wholeheartedly with taking "maintaining" out because otherwise the capital investment of all the people who bought lots and home space with the idea that a park would be attached are being deprived of part of their capital investment. Using the monies from the sale of park land is just cannibalizing the parks you develop and maintain.

REP. DUSSAULT: I often wonder why we limit the authority of local governments. Sitting here haggling for half an hour whether we are going to develop and/or maintain parks with monies is ludicrous to me. Secondly, given the economic situation of many areas and towns, the reality may be that as they face cutbacks in their local governments, and a lot of them are, to force them to develop lots that they cannot maintain in their general budget is also ludicrous. It seems to me we should give them the discretion which would be a rational, responsible thing that if they cannot maintain those parks which they are currently developing that we do allow them to maintain what they have developed and protect their investments. Many cities will be facing that question as they face general fund cutbacks.

REP. HANNAH said that is fine with him. To carry a logical step further, if the cities can't maintain or keep up the parks because of the price crunch, we shouldn't give them the land in the first place. If they can't maintain them, they'll say "thank you for Land" and go around the back door and sell it for cash and put it into the general fund. It is a direct taxation on the people in the area on the land that is being developed. What happens is the total cost of the land given to the city is spread on all of the people who buy lots in the district. It really becomes something whereby the city can use it for the general fund because most of the time the subdivisions will have possibly 200 houses in if it is a big one. We are allowing the city to come up with another way to generate cash to put into the general fund.

CHAIRMAN BERTELSEN said he didn't want to drag this out any longer. If we've reached a point where we can vote, there isn't much point in continuing the conversation.

QUESTION on amendment to strike "and maintaining", following "developing" on page 2, lines 5 and 6.

A roll call vote on the amendment resulted in 10 voting for the amendment and 7 voting against. Those voting against it included Reps. Azzara, Bergene, Dussault, Hurwitz, Kessler, Neuman and Waldron. Motion carried and amendment was passed.

QUESTION on motion made by REP. AZZARA that HB 527 DO PASS.
15 committee members voted "aye" and 2 voted "nay"; namely,
REPS. BERGENE and PISTORIA. Motion carried and HOUSE BILL 527
received a DO PASS AS AMENDED recommendation.

The meeting adjourned at 2:50 p.m.


VERNER L. BERTELSEN, Chairman

hbm

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 424

Date 2/12 at 12:30 p.m.

SPONSOR Rep Dave Brown

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

TESTIMONY

DATE 5-12-85

TESTIMONY BY Margaret Leary

HOUSE BILL NO. 424

Mr. Chairman:

My name is Margaret Leary and I am the Commissioner of Dist 85 of the Butte-Silver Bow Government. I rise in support of HB 424 which would allow the unified Government of Butte-Silver Bow to adjust their sewer rates to \$10.00 per user unit. The sewer rates in Butte-Silver Bow are currently set by MCA 7-13-144 (1) (2) and allow a user unit charge of \$7.00. The average residential unit in Butte-Silver Bow consists of 3 user units. When calculated on an annual basis, residents in Butte-Silver Bow currently pay \$21.00 per year for collection and disposal and \$21.00 per year for the treatment plant. This calculates to \$42.00 per year or \$3.50 per month. The sewer rates are the lowest in the State and are simply not sufficient to allow Butte-Silver Bow to operate its sewer collection and treatment system.

The purpose of HB 424 is to allow a raise in the ceiling to \$10.00 per user unit. The actual costs will be set by the local Government of Butte-Silver Bow after appropriate public budget hearings. We are not certain at this time whether the user unit fee will be \$10.00 but our projections for the first year anticipate a \$10.00 per user fee. This will allow Butte-Silver Bow to pay for collection and treatment facilities and services and will also allow the Butte-Silver Bow Metropolitan Sewer District to address a deficit that will occur this fiscal year as a result of the inability of the sewer rates to compensate for the expenditures incurred. I would ask for your favorable consideration.

TESTIMONY

DATE 2/12/81
TESTIMONY OF Don Hill
HOUSE BILL NO. 424

Mr. Chairman:

I am Don Hill of the Butte-Silver Bow local Government.

I wish to present to you today a Resolution passed unanimously by the Butte-Silver Bow Government. This Resolution requested the legislative delegation from our area to introduce the legislation proposed in HB 424.

This Resolution is presented to you today to indicate the Butte-Silver Bow Council of Commissioners full support of HB 424.

The need for passage is obvious. The Legislature has the authority to establish a ceiling on sewer rates for the Metropolitan Sewer Districts, and this ceiling has not been adjusted since 1969. The time has passed for the Butte-Silver Bow Metropolitan Sewer District to live within the rates allowed by current legislation. As a matter of fact the sewer district this fiscal year will incur a deficit of approximately \$150,000. This deficit will occur even after every possible economy in operation has been placed in effect.

The sewer rates in Butte-Silver Bow are among the lowest, if not the lowest, of any sewer system in Montana. Even if the sewer rates are raised to the maximum allowable amount as provided by HB 424, the Butte-Silver Bow Metro Sewer rates will still be among the lowest of any municipal sewer system in Montana.

Members of the Committee, I urge your affirmative action on this critical piece of legislation.

TESTIMONY

DATE 2/12/81

TESTIMONY OF Oakie O'Connor

HOUSE BILL NO. 424

Mr. Chairman:

Commissioner
I am Oakie O'Connor representing Dist. #88 of Butte-Silver Bow. I am in favor of passage of HB 424. As the sponsor of the Bill has indicated, Butte-Silver Bow is governed under provisions of Metropolitan Sewer District MCA No. 7-13-144 (1) (2). The sewer rates established under this Section of the law apply at this time only to Butte-Silver Bow as it is the only Metropolitan Sewer District in the State of Montana.

I urge you to support the passage of HB 424 because without it Butte-Silver Bow will simply be faced with a catastrophic situation in regard to its sewer system. The current statutes allow a \$7.00 per user unit fee for collection and a \$7.00 fee per user unit for treatment. This amounts to an annual metro sewer assessment for an average residential unit in Butte of \$42.00 per year. The amount of money that the Metropolitan Sewer District generates from the fee system is simply not adequate. We have not had an adjustment in the current statutes since 1969. In the meantime we have experienced annual double digit inflation. Worthy of special notice is the unusually large increases in utility rates. As an example utility costs have increased from \$27,000 in FY 1977-78 to over \$100,000 per year in FY 1980-81.

The operation of the treatment plant costs have demanded that the Butte-Silver Bow Government reduce levels of employment to the point where the plant is operating with a bare minimum number of employees.

The plant is designed to be operated by 15 operating engineers and because of budgetary problems, we have had to reduce the operation of the plant to 9 operating engineers. On a continuous 24 hour operation, it is extremely difficult to maintain the plant with this level of employment.

The Butte-Silver Bow Council of Commissioners will take full responsibility to set the sewer rates within \$10.00 per user unit as HB 424 proposes. As an elected official of Butte-Silver Bow, I ask your support.

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

ROLL HOUSE BILL 425

Date 2/12/81 at 12:30 pm.

SPONSOR Barry Meyer

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME: William L. Rorive DATE: 2-12-81

ADDRESS: P.O. Box 1691 Helena mt.

PHONE: 442-2220

REPRESENTING WHOM? Solid Waste Contractors Assn.

APPEARING ON WHICH PROPOSAL: H.B. 425 ⁴²⁵

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

COMMENTS: If this bill is passed, a city could give a exclusive franchise
to one party, and prevent any private, licensed garbage haulers
from picking up garbage within the city limits. This could be
done without the approval of the people. Even if the private hauler
could provide better service, or even cheaper, the citizens of the
city could not use the private collectors. Under the present system,
some people prefer private haulers, even though they have to still
pay the city, although they are not receiving city service. This
law has been in effect since the 1890's, it covers many areas other
than garbage service, and there is no reason why it should be
changed now.

NAME Tim Kiehl BILL No. 444/25

• ADDRESS 1531 S. Tenth - Helena DATE 2/2

WHOM DO YOU REPRESENT Mont. State Util. Co

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Testimony on HB-425 by Perry Weidler representing
Montana Dakota Utilities Co.

Before Local Gov't Committee
2/12/81

At the present time companies delivering natural gas to the many communities of Montana must petition the City Council or governing body to hold an election in order to be granted a franchise. These elections are time consuming, do have expenses connected with them and create very little voter interest.

For those reasons I ask this committee to repeal sections 7-5-4321 and section 7-5-4322 which set forth the election requirements.

Section 7-1-4123 is already in the statutes and gives a city or municipality the authority to grant franchises.

In 1979 in a franchise election in Billings, a city of approximately 65,000 population only 318 bothered to vote.

In 1979 in Glasgow- population 4700 - only 128 voted.

In 1980 in Sidney - population 4500 - only 82 voted.

What is a Franchise?

Briefly:

1. Grants to a company a non-exclusive right to use the streets and alleys for purpose of constructing and operating facilities necessary in a utility operation for a stated period of time. (Usually 10, 15 or 20 years)
2. States that the utility system shall be efficient.
3. Provides that the city shall not be liable for any litigation which might arise as a result of utility facilities being located in the streets and alleys.
4. A franchise granted to a company is not exclusive.
(Even though a franchise has been granted for 20 years it is possible for the city to grant another franchise for the same service during the same period.)

7-1-4123. **Legislative powers.** A municipality with general powers has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:

- (1) preserve peace and order and secure freedom from dangerous or noxious activities;
- (2) secure and promote the general public health and welfare;
- (3) provide any service or perform any function authorized or required by state law;
- (4) exercise any power granted by state law;
- (5) levy any tax authorized by state law;
- (6) appropriate public funds;
- (7) impose a special assessment reasonably related to the cost of any special service or special benefit provided by the municipality or impose a fee for the provision of a service;
- (8) grant franchises; and
- (9) provide for its own organization and the management of its affairs.

History: En. Sec. 24, Ch. 455, L. 1979.

7-1-4123(5)
Grant power
to franchise

7-5-4321. **Grant of franchise — election required.** (1) The council may not grant a franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city.

History: (1)En. Sec. 4813, Pol. C. 1895; re-en. Sec. 3290, Rev. C. 1907; amd. Sec. 1, Ch. 29, L. 1921; re-en. Sec. 5074, R.C.M. 1921; re-en. Sec. 5074, R.C.M. 1935; Sec. 11-1206, R.C.M. 1947; (2)En. Sec. 1, Ch. 85, L. 1903; re-en. Sec. 3291, Rev. C. 1907; re-en. Sec. 5075, R.C.M. 1921; re-en. Sec. 5075, R.C.M. 1935; Sec. 11-1207, R.C.M. 1947; R.C.M. 1947, 11-1206, 11-1207; amd. Sec. 9, Ch. 311, L. 1979.

7-5-4322. **Election on question of granting franchise.** (1) Notice of the election shall be published as provided in 13-1-103. The notice must state the time and place of holding the election, the character of any such franchise applied for, and the valuable consideration, if there is any, to be derived by the city.

(2) At such election the ballots must contain the words "For granting franchise" and "Against granting franchise", and in voting, the elector must make a cross (X) opposite the answer he intends to vote for. The election must be conducted and canvassed and the return made in the same manner as other city or town elections.

(3) If the majority of the votes cast at the election are "For granting franchise", the mayor and city council must thereupon grant the same by the passage and approval of a proper ordinance.

History: (1)(2)En. Sec. 2, Ch. 85, L. 1903; re-en. Sec. 3292, Rev. C. 1907; re-en. Sec. 5076, R.C.M. 1921; re-en. Sec. 5076, R.C.M. 1935; Sec. 11-1208, R.C.M. 1947; (3)En. Sec. 3, Ch. 85, L. 1903; re-en. Sec. 3293, Rev. C. 1907; re-en. Sec. 5077, R.C.M. 1921; re-en. Sec. 5077, R.C.M. 1935; Sec. 11-1209, R.C.M. 1947; R.C.M. 1947, 11-1208, 11-1209; amd. Sec. 304, Ch. 571, L. 1979.

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

ALL HOUSE BILL 438

Date 2/12/81 12:30 p.m.

SPONSOR Rep. Aaron Lindgren, Sponsor

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Therese L. Luper BILL No. 23
ADDRESS 2701 S. 1st St. - Phoenix, Ariz. DATE 2/12/51
WHOM DO YOU REPRESENT William C. Luper
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

FEBRUARY 12, 1981

MY NAME IS VERA CAHOON. I AM CHAIRMAN OF THE MISSOULA COUNTY FREEHOLDERS ASSOCIATION AND I REPRESENT THAT GROUP HERE TODAY. I RISE IN STRONG SUPPORT OF H.B. 438.

WE MUST NOT ALLOW CITY-COUNTY CONSOLIDATION TO BE FOISTED UPON US BY SOME ILL CONCEIVED, POORLY THOUGHT OUT IDEA THAT IT IS BEST FOR ALL OF US. WE MUST GIVE IT CAREFUL CONSIDERATION. IF IT IS DONE ONLY BY PETITION, AS STATED IN THIS BILL, IT WILL GIVE THE PEOPLE, THE VOTERS, TIME TO THINK IT THROUGH, WEIGH ALL THE FACTS, THE ALTERNATIVES AND THE EFFECTS AND THEN, ONLY THEN GO TO THE POLLS TO VOTE WITH KNOWLEDGE, THEIR CHOICE. THE PETITIONING PROCESS BRINGS CLEARLY INTO FOCUS THE ISSUE TO BE DECIDED.

REQUIRING THE VOTE TO THEN SHOW A CLEAR MAJORITY OF THE MUNICIPALITY AND A CLEAR MAJORITY OF THE REMAINDER OF THE COUNTY, IS A FAIR AND DEMOCRATIC METHOD OF FINALLY DETERMINING SUCH AN IMPORTANT ISSUE. YOU CANNOT FORCE THE WISHES OF ONE SIDE UPON THE OTHER. LOCAL GOVERNMENT SHOULD NOT BE GIVEN ANY MORE POWER IN DECIDING SUCH IMPORTANT ISSUES, WHEN THEY ARE CLEARLY ABUSING THAT WHICH THEY ALREADY HAVE. VOTERS, PARTICULARLY IN FIRST CLASS COUNTIES MUST RETAIN SOME METHOD OF CONTROL OVER THEIR DESTINY. CITY-COUNTY CONSOLIDATION SHOULD NOT BE TAKEN LIGHTLY. IT IS SOMETIMES EASIER TO GET INTO SOMETHING THAN IT IS TO GET OUT OF IT WHEN IT DOES NOT WORK.

THIS BILL IS SIMPLE, CLEARLY PROVIDING FOR A FAIR AND DEMOCRATIC METHOD FOR CHANGE, GIVING THE FINAL DECISION TO THE PEOPLE, THE VOTERS, BOTH IN THE CITY AND OUTSIDE THE CITY. THIS IS AS IT SHOULD BE. WE STRONGLY URGE YOU, THE MEMBERS OF THIS COMMITTEE AND THE ELECTED REPRESENTATIVES OF THE PEOPLE TO GIVE THIS BILL, H.B. 438 A DO PASS RECOMMENDATION.

THANK YOU,

VERA CAHOON



NAME Julie Hacker BILL No. 438
ADDRESS Star Rte Patomac DATE Feb. 12
WHOM DO YOU REPRESENT self
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This bill brings to a vote of the people local gov't consolidation issue with fairness and is a way of getting the issue before the people for discussion.

The petition process is essential to the process because it generates publicity and forces the people to become informed.

There is a difference in general attitudes between city people & country people.

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 562

Date 2/12/81 12:30 p.m.

SPONSOR Rep Bob Throck

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE LOCAL GOVERNMENT COMMITTEE

Date 2/12/81 12:30 p.m.

Rep Kenneth Nordtvedt

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME LETT, GUY BILL No. 516

ADDRESS 1000° (Hillside Dr) Boston MA DATE 02/01/7

WHOM DO YOU REPRESENT Boston Police Protective Association

SUPPORT y OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME SAM GESNO BILL No. H.B 516
ADDRESS CITY HALL-BOZEMAN DATE 2/12/81
WHOM DO YOU REPRESENT CITY OF BOZEMAN
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STATEMENT GIVEN

JOINT HOUSE - SENATE APPROPRIATIONS COMMITTEE

March 13, 1979

Gentlemen, we are requesting an appropriation whose time has come! Precedent exists all over the country, for reimbursement for local services provided for state facilities. When I began my public service employment 21 years ago, in a college town, the state then already contributed a significant portion of BOTH the police and fire budgets, in recognition of services provided! Our efforts to secure recognition of these unusual responsibilities have continually been met with absolute frustration. To my knowledge, not one cent of payments-in-lieu, subsidy, budget contributions, or financial assistance of any kind has ever been granted to cities providing such services. In spite of the conservativemania sweeping the country as a result of the notorious Proposition 13, you must, in all fairness, concede that this is truly an appropriation whose time has come!

Bozeman's population in 1970 was just over 19,000. At that time, the student body was just over 7,000. Our population today hovers just over 25,000, including 10,000 students. We are actually a city within a city. We are a city of 15,000 residents, whose tax structure must support another city of 10,000 voting--but not taxpaying residents--in our midst. For the purpose of this appropriation--fire services--we must provide fire protection to \$82,000,000 worth of structural valuation.

Bozeman is a growing community and, of course, the property tax base grows when new homes and businesses are built. That is an indirect benefit at best since each new structure adds to the service base provided by public safety, public works and utility departments. Without a gross receipts tax, the economic impact of 10,000 students is a direct benefit to the merchants only. Without a room tax on those using motels, the tourists, skiers, university visitors, tournament participants--among others--directly benefit only motel owners. (Tournament participants and spectators, such as will be in Bozeman this week-end for the AA basketball tournament, will generate over \$2,000 in overtime for our Police Department alone.....)

Without a sales tax, franchise tax, or any other potential sources of local revenue, our sole significant source of revenue is the property tax. With \$82,000,000 worth of structural value except from property taxes, it is not likely that property taxes are adequate--and they are not.

We added a fire station--5 years ago--at a nominal cost of \$150,000. But that station has \$46,000 worth of apparatus in it, costs \$5,700 per year to heat and maintain, and is manned by 8 men whose salaries total \$128,000 per year. All this to better provide fire service to MSU and maintain a VG Class 4 rating. Although only 14% of our calls are to MSU, when we do get a call, we feel compelled to empty not only this station, but the main station downtown as well--leaving the rest of the city unprotected for the moment.

MSU has three 11-story high-rise dormitories. They do not have automatic sprinkler systems. Our aerial ladder will reach only to the fourth floor. Although a standpipe does exist in each, we must provide manpower to haul hoses and equipment up multiple flights to fight fires on upper levels. Virtually every building on campus presents a particular problem (in the language of the statute), because of being larger than anything else in town, or because of access problems.....

A look at Bozeman's budget figures indicates that 88% of the General Fund is for payrolls! This should not exceed 55%! The fact that our General Fund levy is 63.5 mills, of which 54.21 mills is for police and fire operations, explains that disproportionately high percentage. That leaves just over 9 mills to provide all other General Fund services! This is easily recognizable as abnormal--and hardly leaves enough to plow snow and fill chuckholes!

Two sentences regarding police services: Through dormitory and residence hall addresses, we can easily identify 28% of last year's police activities directly to students. Our Chief, with 17 years on the Bozeman force, estimates an additional 20%--total almost 50%--unidentifiable because of addresses in private residences or away from the campus community!

The last legislative session provided a statute--but no appropriation. We are not here asking for a dolc--but reimbursement for services rendered. We are not looking a gift horse--MSU--in the mouth.

Bozeman would obviously not be the same without the university. But its presence is not an unmixed blessing. You can't plop down 10,000 students, plus faculty and staff, plus \$82,000,000 worth of exempt structural valuation, without creating some responsibilities--and some costs--for both the City and the State!

* * * * *

Distributed a packet of information to each of the committee members, which included a letter from the Attorney General which supports this viewpoint.

STANDING COMMITTEE REPORT

February 14, 1951

MR. SPLATER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 425

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT A MUNICIPALITY TO GRANT A FRANCHISE WITHOUT SUBMITTING THE APPLICATION THEREFOR TO THE ELECTORS; REPEALING SECTIONS 7-5-4321 AND 7-5-4322, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 425

Amend House Bill 425

1. Title, line 5.

Following: "GRANT A"

Insert: "NON-EXCLUSIVE"

2. Title, line 6.

Following: "ELECTORS;"

Strike: "REPEALING SECTIONS"

Insert: "AMENDING SECTION"

3. Title, line 7.

Following: "7-5-4321"

Strike: "AND 7-5-4322"

DO:RASSX

Amend House Bill 425 (continued)

Page 2

4. Page 1, lines 11 and 12.

Following: "Section 1."

Strike: remainder of section 1 in its entirety.

Insert: "Section 7-5-4321, MCA, is amended to read:

"7-5-4321. Grant of exclusive franchise - election required.

(1) The council may not grant an exclusive franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No exclusive franchise for any purpose may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city." "

AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

February 21, 1981

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 516

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR PAYMENTS BY THE STATE OF MONTANA TO LOCAL GOVERNMENTS THAT FURNISH FIRE AND POLICE SERVICES TO STATE-OWNED BUILDINGS AND FACILITIES; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 516
Amend House bill 516, introduced copy, as follows:

1. Page 1, line 12.

Following: line 11

Strike: "Property"

Insert: "Buildings"

Following: "Act of"

Strike: "1983"

Insert: "1981"

2. Page 1, line 16.

Following: "buildings"

Strike: "and facilities"

3. Page 1, line 25 through line 2 on page 2.

Following: "(3)"

Strike: subsection (3) in its entirety

Insert: "State-owned building" means a structure owned by the state of Montana intended for human habitation as a dwelling, office, or school having an area of 2,000 or more square feet."

DO PASS

Amendment to HB 516 (continued)

Page Two

4. Page 2, line 6.

Strike: "property"

Insert: "building"

5. Page 2, line 25.

Strike: "property"

Insert: "building"

6. Page 3, line 4.

Following: "state-owned"

Strike: "property"

Insert: "building"

7. Page 3, line 15.

Following: "payment."

Insert: "(1)"

8. Page 3, line 19.

Following: "buildings"

Strike: "or facilities"

9. Page 3, line 29.

Following: "[section 6]."

Insert: "If the appropriation for the implementation of [this act]
is insufficient for the full payments determined under [section 7]
the department shall reduce all payments proportionately.
(2)"

10. Page 3, line 25 through line 4 on page 4.

Strike: section 9 in its entirety

Renumber: subsequent sections

11. Page 4, line 7.

Following: "any"

Strike: "state property"

Insert: "state-owned building"

AS AMENDEDDO PASS

STANDING COMMITTEE REPORT

February 12, 1901

MR. SPRAUER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 502

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND SIMPLIFY THE PROCESS OF ADDING CONTIGUOUS LAND IN AN UNINCORPORATED AREA TO A SEWER DISTRICT WHEN THE BOARD OF DIRECTORS DETERMINES THERE IS EXCESS CAPACITY; AMENDING SECTION 7-13-2341, MCA."

Respectfully report as follows: That HOUSE Bill No. 502

DO PASS