

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

The Local Government Committee met February 12, 1981 at 7:30 p.m. in room 103 of the Capitol. CHAIRMAN BERTELSEN called the meeting to order and asked the secretary to call the roll. All committee members were present except REPRESENTATIVES AZZARA, HURWITZ, MC BRIDE, AND WALDRON who were excused. REPRESENTATIVE PISTORIA was absent. Staff Researcher Lee Heiman was also present.

HOUSE BILL 661 - sponsored by REP. DAVID O'HARA.

REP. O'HARA said House Bill 661 is an act allowing for an extended approval period of more than 1 year for a preliminary plat under the Montana Subdivision and Platting Act. As the law now stands, the subdivider must submit a preliminary plat to the city governing body for a one year approval, with the option for a one year extension. This law is fine when it concerns small subdividers. However, when preliminary plats are being done in phase developments which may take 5 to 10 years to finish, at the end of the approved two year time limit the developer must resubmit his entire package again for approval. What this bill proposes to do is give the governing body an option to allow long-range preliminary plat rules. Builders then must often enter into financial arrangements. Successful conclusions lie in total development of parcels as envisioned in the preliminary plat at the time of initial approval. Logically there should be some assurance to a subdivider and his financier that their arrangement will not be subject to an adverse ruling relating to further approval even though the subdivider may be in compliance with his original plan and his agreement with the governing body.

Many developers use the approved preliminary plat in some form or another as sales aids. Many persons are influenced in their purchase of a lot or house in a community based upon the neighborhood by such a sales aid. Certainly it is in the best interests of the consumer that the development concept under which he purchased the house or lot be given more protection than is contained in the approval period of only two years.

PROPOSERS FOR HOUSE BILL 661

CLIFF CHRISTIAN represented the Montana Association of Realtors. He said they were concerned originally that there could be some strategic delays by certain members of the Planning Board. We found that our request really had backfired and I'll give you an example of what happened in the Billings area where Rep. O'Hara is from. You have a couple of excellent developments; one in the process now is called South Hills. That is going to be a phased in project that will probably take 10 years to complete. It is our understanding that it has a strong backing of

the Planning Boards in Yellowstone County. We find the developer in South Hills is now locked in and he has to technically reapply every two years for the same subdivision that he wants to phase in over probably a 10-year period. This is duplication for him and a lot of extra work for the planning staff and planning boards when everybody knows what the rules of the game are well in advance. It is a hangup that shouldn't be there.

H. S. HANSON stated he represents the Montana Association of Planners. We support this bill wholeheartedly. The present law requires as has been described to you, the request for an extension with two years being the maximum. This will allow the initial submittal and allows the government agency to determine the length of that approval. We think this is a very valid approach to it and support it wholeheartedly.

AL THELEN, the City Administrator of Billings, said Billings has had several occasions where this law would be handy for them to use in the last two years. We support it because it will give us broader authority and allow more flexibility for the developer.

OPPONENTS TO HOUSE BILL 661

As there were none, Chairman Bertelsen asked REP. O'HARA IF he'd like to close.

REP. O'HARA said this change is really quite important. As the law stands now, a person can buy a house or lot in a subdivided area thinking he is going to have a park or a golf course next door to him because it is described in the plat. But 10 years down the road, when the requirements are changes, he is left without what he thought he had purchased. So that is my testimony.

QUESTIONS FROM COMMITTEE MEMBERS

REP. NEUMAN asked REP. O'HARA if this has really been a problem in Billings? Has the Planning Board been reluctant to grant an extension?

REP. O'HARA said traditionally they have worked quite well together. But it did happen in one situation where a person in Billings actually thought they were purchasing a lot next to a golf course and it disappeared. The basic problem has been that two years is the maximum. You get a one year approval and up to a one year extension and that is the maximum regardless of the conditions. This will allow the governing body to give approval as far as the time requires.

CHAIRMAN BERTELSEN closed the hearing on HOUSE BILL 661.

CHAIRMAN BERTELSEN announced that REP. FEDA has asked that we table HOUSE BILL 679. If there is anyone here specifically for that bill, that is the action we will take in this session.

HOUSE BILL 673 - sponsored by REP. EARL LORY

REP. LORY said he represents District #99 of Missoula and his bill is very simple. A planned unit development district is originally requested by the City Council or the City Planners. It goes through all the steps of planning and is accepted by the Planning Board. Since it has been approved by the Planning Board and was at the request of the Planning Board, we are asking for a change in the three-fourths vote requirement by the City Council for a protested zoning change. The law now reads that if there is a protest, the City Council may approve it only after three-fourths vote and we are asking for a majority vote. This bill states changes can be passed by a majority of the City Council rather than three-fourths.

PROPOSERS FOR HOUSE BILL 676 - there were none.

OPPOSERS FOR HOUSE BILL 673

AL THELEN, City Administrator of Billings, said he didn't know about this bill until today. I've read it and heard the discussion. I can't see why a planned unit development should have a different percentage than anything else. I think it even ought to be the other way, if we were to argue that simply because we can allow mixed uses many times in a development, depending on the community. For that reason I would be opposed to this bill.

CHAIRMAN BERTELSEN asked for further opposers. As there were none, he asked REP. LORY if he'd like to close.

REP. LORY closed by stating the reason we are asking for this bill is simple. This plan is one which the Planning Board has gone through in detail and has been accepted and approved by the city council. If it hasn't been approved, it has been sent back to the Planned Board. We feel that if it has gone through that much effort and has been thoroughly gone over, that a majority vote of the City Council is enough. Since it has been worked on by the Planning Board and requested by the Planning Board, the three-fourths vote of the City County is not required.

QUESTIONS FROM COMMITTEE MEMBERS ON HOUSE BILL 673

REP. SALES asked REP. LORY if he is taking the right of protest away as far as a planned unit development is concerned?

REP. LORY said not the right of protest. All we're saying is in the case of a protest, a majority vote of the Council will override it. Any protest must be reviewed by the City Council. If you will read on page 1, line 25 it says "the favorable vote of three-fourths of all the members of the city or town council of such municipality". Any development must be approved by the Council, but if that provision is not there, then when a protest is made a unit could be approved by a majority vote.

REP. HANNAH asked AL THELEN to explain exactly what we are doing here. You said this would be the only case where this would require a majority vote as opposed to a three-quarter vote?

AL THELEN said if there is a protest that relates to the people within a certain distance of 150 feet, then the Council must pass that by a three-fourths vote in order to override that protest. It seems to me that the people who are within that distance of the PUD ought to have the same protection as other people, and maybe even more. Planned Unit Development Ordinances are substantially different in several cities I know of in Montana. A Planned Unit Development might be a total residential unit or it might be a mixture, and if ever there needed to be a right of protest, it seems to me it is in a mixed use area. I would argue that there is even a stronger reason to have a protest there than in a normal subdivision. The Planning Commission goes over every zoning request of every subdivision and the Zoning Commission goes over every zoning request.

REP. HANNAH said, "Then there is really no difference in the preparation for the material that comes to the City Council between a Planned Unit Development and the person REP. SALES is talking about who has a project he wants to work in his back yard. The preparation work, the planning work and the review by the city are the same. Is that correct?"

AL THELEN said there is more detailed work required on some planned unit developments and that varies with cities. But a plat, a map and something showing what the public improvements are, have to be there in any case. Some planned unit developments do require more detail because you are having mixed uses and you might want to set the height of the trees or the nature of the trees, etc. A regular district might be just streets without showing the specifics of the street. Those are some of the major types of differences.

REP. MATSKO asked Rep. Lory: Your contention then is that under the Planned Unit Development District, there is a lot more detail and the planning is generally a lot better. Is that correct?

AL THELEN answered "yes."

REP. MATSKO asked Mr. Thelen: Do you feel that it is unnecessary to have the three-fourths override; that a majority override is sufficient? Answer: Yes.

MR. MATSKO continued: "If it is so much better planned and the detail is figured so much better, is there any problem getting that three-fourth override to a protest, and if so is this addressing any particular situation that you know of?"

REP. LORY replied that we have had considerable trouble with the Missoula City Council.

REP. ANDREASON asked Rep. Lory the following question. You say the development has already been approved. By whom, the planning Board? Who else?

REP. LORY: They go through the City Council and ask for a development, then it goes through a Planning Board. The Planning Board works it over, and it is not sent to the Council until it is entirely satisfactory to the Planning Board. If the Council has any objections, it is taken back and corrected, is approved by the Planning Board, and then it comes to the City Council.

REP. ANDREASON asked if it is a 20% protest?

REP. LORY: Yes, 20% of the owners within a 150 feet must protest.

REP. ANDREASON: Thank you. This is clear to me now.

REP. KESSLER: Somewhere along the line, does this have to be approved by the City Council?

REP. LORY replied yes.

REP. KESSLER said, then the three-fourths approval has to come if there is a protest?

REP. LORY said since it has been worked over, we are asking for just a majority vote of the council.

REP. KESSLER: Are you putting it right back to where it was?

If it was originally approved by a majority of the City Council, what is the sense of protesting?

REP. LORY said that final approval must come from the City Council. We are asking for a majority rather than three-fourths.

REP. KESSLER said, "but it's already been approved by the City Council."

REP. LORY said, but it's been approved by the Planning Board. The Planning Board must approve it completely before going to the City Council. If not, it then goes back to them to be reworked, again returned to the City Council, as it is the final determining agent.

REP. SALES: Mr. Lory, under your proposal, would it be true that if there was a 100% protest it would still only take a majority vote?

REP. LORY said that is correct.

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, the hearing was closed on HB 673.

HOUSE BILL 675 - sponsored by Rep. Hal Harper

REP. HARPER, District 30, from Helena, said HB 675 is one of two bills requested by the Study Committee on State Mandates and the effects of state-owned property on local governments. This particular bill is in essence a rethinking of the way the traffic education programs in Montana are being financed. This bill and another which I carried this morning are two bills that I suspended the rules on and took from this committee because though we had appropriated the money and spent the time studying these bills, and although they had been recommended for introduction, for some reason they did not find their way into the hopper. I'm in the process of learning the same as you are. I think I'm in general agreement with the way the Interim Committee felt about these bills. The reason is this. Even though the program spoken to by this bill, and the other one I'm carrying, is a very worthwhile program, and I supported both of the programs, I'm not really sure that I'm satisfied with the way we ended up funding them. This particular bill is talking about traffic education and driver training.

What this bill does is get cities and counties out from under the burden they are now having to bear. The percentages that are stricken come, in most cases, from city fines involving motor vehicles, dealer registration and things like this. You see on page 2, line 8, sub 2, 5% of the money received from

driver's license fees, which has been raised to 35%. I believe this is a fair way to fund this program because we are correctly tapping the people who should be kicking in for driver education.

One could argue that the cities could increase their fines and try to recoup their costs. That really is not a viable alternative. Another one of the problems with this particular bill is that with this setup all cities don't participate equally. A number of major cities in Montana aren't paying a nickel into the fund. The courts are required to send the money on a regular basis to either the city or county treasurer, who are then required, on a monthly basis, to send it to the state. The cities are not audited regularly. There is no real way to tell if they are actually sending all the money they should. There is a real fairness problem involved here. If one city or county decides to buck the system, they could probably get away with it, and I suspect that many of the towns have been doing that for some time. There are other people who will testify.

PROPOSERS FOR HOUSE BILL 675

BILL VERWOLF, Finance Director for the City of Helena, said he is speaking essentially for the City of Helena, as well as cities in general. This is a state mandated program. The cities have been contributing money that was part of the program's initiation. This is money that was originally city general fund money. In the case of traffic education, we are talking about 20% of the fines on moving violations. For the City of Helena, one year's contribution amounts to about \$30,000 which is equal to approximately 1 mill of taxation. As the city is getting into more and more of a crunch in terms of revenues because of both expenditures and inflation, each of these programs become that much more important. I have noticed many times I have come to the Commission, I seem to be talking about the equivalence of 1 mill to some of these programs. While 1 mill doesn't seem tremendous, when you get 3 or 4 of them built up and you are already at the legal limit, it makes it pretty hard to run a budget.

Another thing I note about the total amount contributed around the state, only 30 cities and towns pay their share. We know there are a lot more cities and towns in Montana than that. Obviously somebody is not contributing at the present time. The cities feel that the state has designed a program that is allowable and very beneficial, but they do not feel this is the appropriate way to fund it by telling them you'll contribute so much out of what you are currently using for other programs.

LES PRENTICE said he is representing the City of Missoula. He said that Missoula wholeheartedly supports HB 675, and he turned in his written testimony, which is attached to and made a part of these minutes.

AL THELEN, City Administrator of Billings, said our city supports this bill. I'll discuss some major points rather than go into parts of the bill already covered. It is a mandated program which was looked at by the Interim Committee because of a presentation made at two previous sessions. The problem was nobody had any good figures to present. The Interim Committee found out that the state had done a terrible job of administering. There was no enforcement, the rates were not being followed and many cities wouldn't comply at all. Nobody was following up and nobody could provide any information at the two previous sessions because there wasn't even a good bookkeeping system set up and certainly not an accountable system. I think one of the reasons for this was because the state wasn't responsible for raising that money. The bill was passed and it took the money out of the cities' general funds, funds previously used for police and fire protection, streets, parks and recreation, and they used it for a state program. In our city we call it "City Revenue Sharing for the State." That is exactly what it is. It is important. I've talked with members of this committee and other committees and discussed the needs of cities. They had a bill asking that the state at least pay its way by paying for police and fire services it is receiving. We have asked for you to share some revenues with us, or give us some authority for alternate revenue sources. It seems to me if the state can't pay for their own programs and must go to the cities, that is far out.

The amount of money involved is \$470,000 for cities and counties based on fiscal 1979. That money is raised by the increase of the allocations from other sources of fund which include driver's licenses, and the fines and forfeitures that are collected as a result of activity of the Highway Patrol. That money has been going into the State General Fund and it has not been earmarked for any specific purpose. I think that too is important. By passing this bill you at least wouldn't be taking the money from any other earmarked funds.

The indication was by the sponsor of the bill that the cities did have the right to increase their fees at the time this bill took effect. But I don't think Hal has had the opportunity to deal firsthand with a municipal or city judge. You simply don't tell them how to handle their fines and forfeitures. I think a check of the record will show that it wasn't changed then, and while there have been some changes

from time to time, they are pretty independent. I guess that is why they are in the judicial side of things. We really don't have the authority to tell them what to do. While the intent of the law passed in the mid 60's was to add this on to the fines imposed by the judge, the Supreme Court struck that down. It then was taken out of the general fund of the cities. I feel this is a fair way to handle the program. The state should adopt it, if you have any feeling at all for the financial crisis of the cities.

DAN MIZNER represented the League of Cities and Towns. I was asked to make a special request of you. The representative for the City of Great Falls had to go home for a meeting tonight. He had a written report but I didn't get it, so I'm asking that the committee allow me to offer it tomorrow morning.

CHAIRMAN BERTELSEN said that is fine and asked Mr. Mizner to make a copy for each member of the committee.

DAN MIZNER said he also wants to back up what the other cities and towns are saying about the situation. Last year the City of Great Falls paid \$81,375 into the program. The school system that got the money through the Driver Education Program, got \$67,858 back. That means that \$13,000 of the money contributed by Great Falls went to fund somebody else's program. We don't think that revenue sharing for the State is the local government's responsibility. It shouldn't be allocated to the state government to take care of other problems. It isn't fair. By taking this money out of the budget of Great Falls and other cities, you have increased the property tax 1 and 1/2 mills to fund the police department. If that money was left in Great Falls, they could have gotten by with 1 and 1/2 mills less of property tax in that city to run their Police Department. We feel that is not the proper method of funding the Driver's Education Program.

MIKE STEPHEN said he is representing the Association of Counties. We would like to say that we work with the cities hand in hand. We provided information and we are kind of the "go-fors" as far as looking into these problems. We feel they were studied by you, the legislature, and there has been a lot of good thought, data and research that went into these bills which the Mandate Committee has come up with. The thought and energy that went into this is sincere and equitable. We strongly support HB 675.

OPPONENTS TO HOUSE BILL 675. There were none

REP. HARPER closed. The situation appears to have changed

since we enacted this program. At that time it was mentioned that maybe the cities could turn loose with a few extra pennies, as the state was fairly well pinched for money. Now the state is flush and the cities are starving. It seems to me that in all fairness, we should change the program and get some of the cities off the hook. I, personally, have troubles supporting all the little alternate taxes. This is one way I feel I can help address the pinch of the cities and I am pleased to carry this bill for them.

QUESTIONS FROM COMMITTEE MEMBERS:

REP. GOULD asked Mr. Mizner a question. The Highway Patrol is now funded out of the gas tax. Wasn't the balance of what was left from the gas tax to go to the cities and towns after the Highway Patrol money came out?

DAN MIZNER said the 1 or 2 cents put on raised something in the neighborhood of \$6 million. The first \$2 million was earmarked for matching with federal funds for the Interstate Highway. The second \$2 million was earmarked for the Highway Patrol. The excess over the \$4 million (and in the last two years there were only two payments) was divided with the counties and cities of approximately 60% to the cities and 40% to the counties. During the past two years there have been two payments in which the collections of that 2 cents exceeded the \$4 million that was generated and was distributed.

REP. GOULD: What I was getting at is if we take that money away from the Highway Patrol, wouldn't it just be robbing Peter to pay Paul?

DAN MIZNER: In the first place we are talking about two different funds. The gas tax money is earmarked money for streets, roads and county roads. This is general fund money. You have a limitation. When you are talking about this money, you are talking about the Police budget. We are not taking any money from the Highway Patrol. This money has nothing to do with money for running the Highway Patrol. You are talking about money that is coming out of the general fund of local governments, both the city and the county.

REP. GOULD asked if there were other ways discussed in meetings for funding the Driver's Training Program.

DAN MIZNER said he can't recall exactly. After discussing various ways of funding this program, this recommendation came out of the committee as they felt it was a fair way of funding the Driver Education Program.

REP. ANDREASON asked if he could ask a series of questions of Rep. Harper. Are we cutting out the city entirely beginning on line 16? REP. HARPER replied yes. REP. ANDREASON: We're asking the Highway Patrol and Peace Officers to increase the amount they would contribute to fund. Is that correct? REP. HARPER said yes, we are increasing the tentative fine that is going to be taken. REP. ANDREASON said, "We are laying it a little heavier on the county portion in terms of the Highway Patrol and they are contributing more to the state fund. Is that right?" REP. HARPER said, "I think we're talking about money that reverted to the state General Fund." REP. ANDREASON: On page 2, line 8, we are changing the 5% to 35%. Are we taking that from the State? REP. HARPER said what is happening is that on sub. 1, page 1, the stricken language and the inserted language is saying that the money is from people apprehended by the Highway Patrol on state highways. REP. ANDREASON commented that these increased amounts are in fact decreasing the amount the Highway Patrol will keep from the fines. Is that correct? REP. HARPER said yes, we are increasing the amount that goes in to pay for this traffic education fund from those fines and forfeiture bails. I don't think the Highway Patrol keeps any of the money right now. It all goes into the general fund. We are just increasing the percentage that goes into the general fund to pay for driver education funding. We have to cover the amounts we are losing because we're letting the cities off the hook.

CHAIRMAN BERTELSEN said he believes it is approximately as close as they can get to the \$470,000 that they are now receiving and they would receive from state funds.

REP. SALES: Mike Stephen, does this affect counties the same way as cities?

MIKE STEPHEN said yes.

CHAIRMAN BERTELSEN closed the hearing on HB 675.

HOUSE BILL 651 - sponsored by Rep. John Shontz.

REP. SHONTZ said he is from District 53 in Richland County. He said this is a simple but not innocuous bill. It provides budgeting relief to the county without directly raising the mill levy. It allows all classes of counties, if they have the funds available in their general fund, to spend those funds on other budget categories where they have the maximum mills in the categories and spent the dollars. For example, in Richland County we are not at the maximum mill of the general fund, but we are at the road fund, as we have had problems there. This bill would allow the County Commissioners of Richland

County to spend the 12 mills for roads and bridges and use general fund money to supplement that project. There are counties in the state that are having problems with their poor fund. The commissioners could supplement that with money left in some other fund. The bill is a local government bill that says, "Yes, I have faith in my commissioners, or I can get him unelected if I don't want him to do it."

PROPOSERS FOR HOUSE BILL 651

MIKE STEPHEN said he is representing the Association of Counties. We support this bill. It does give us some flexibility and options at the local level. Again, we have the general fund which in more than 40 counties is not at its maximum and, therefore, there are some levies available which can be used in other places. Last night I talked about getting permission to get an additional permissive 3 mill levy for roads. This is a burden to counties because of the additional cost of building roads and paying workmen, the cost of materials, etc. The road fund is one of the funds which is always strapped. Bridge funds are either at their maximum or approaching it, and occasionally we also get stuck on the poor fund and others. This is a provision where some mills are available in the general fund, but the flexibility to use them is lacking. They would, I am sure, be used prudently and we ask your permission to do this.

ED MCCAFFREE, Vice President of the Montana Association of Counties, said he too supports this bill. There are roughly 36 counties which this legislation will help. I do think we could add an amendment in section 2, page 1, line 16, where it says "distributed monthly." At the time of budgeting, you have to decide how much you may go over the allocated levy. I think this should be changed to give everybody a clearer picture, otherwise there may be some surplus the end of the year. I would suggest that on line 13 in the bill, after "levied," add "and expended."

CHAIRMAN BERTELSEN asked if Mr. McCaffree wanted to change the wording in section 2.

MR. MCCAFFREE said he'd leave any other changes up to the committee.

REP. SHONTZ said the purpose of that clause is that the general fund monies would be distributed monthly when the other mill levies have been spent.

OPPOSERS TO HOUSE BILL 651

S. KEITH ANDERSON, President of the Montana Taxpayers Association,

presented a statement to the committee opposing HB 651. It is the intention of the Montana Taxpayers Association that this legislation would essentially make Montana's Current Budget Act meaningless and would eliminate the provisions of budgetary control enacted by previous legislatures. We urge your defeat of HB 651. (Total testimony is attached to and made a part of these minutes.)

AL THELEN, City Administrator of Billings, opposed HB 651. He opposed the bill for different reasons. The problem is the integrity of funding the issues. One of the things I see in the urban areas is the road fund, and a couple of other things the county cannot levy on the city because they don't take care of the problems in the city. This would give them the right to do that. I would strongly support the increase of any levies they need for a purpose, but I can see counties increasing the general fund, putting the money into the road fund, so they could decrease the levies in the unincorporated areas and further increase the subsidies that the urban areas are providing. It seems to me it loses all the integrity that is built into the system.

That would also be true of the fire fund. If you were to pass this bill and allow that, I would suggest that there be an amendment that would say, "If general fund monies are used for a purpose that now excludes the use of a levy that applies to an incorporated area, each city would be reimbursed on a prorata share." It seems to me that would only be fair. If you took 4 mills from the general fund and transferred it to the road fund, the 4 mill equivalent that was raised inside the city out of that general fund would go to the city to use for roads and streets within the cities. In our case that would be true of Laurel, Billings and Broadview. I believe this bill provides an opportunity for a large unequal distribution of the tax load.

As there were no further opponents, Chairman Bertelsen asked Rep. Shontz if he'd like to close.

REP. SHONTZ said that being a rural legislator, he didn't think of that problem. If the committee chooses to give the bill a do pass, some kind of an amendment could be attached to it. There is no doubt that the function and purpose of the bill is to provide commissioners in the county with more flexibility than they now have. I do wish to point out that the general fund budget is also at the maximum mills which can be levied, depending on the class of counties where the tax varies. With these comments, I would ask for a do pass on HB 651.

QUESTIONS FROM THE COMMITTEE

REP. HANNAH asked Rep. Shontz: Do you think this is the correct way and place to address a problem of giving county commissioners more flexibility with funds?

REP. SHONTZ said he doesn't know of any other way to do it.

REP. HANNAH then asked how about if we had some legislation that eliminated the budgetary process, as Mr. Anderson referred to where there were limits in different areas per county, would it have been more proper to address it from the standpoint of eliminating that and letting them increase the millage like in Rep. Waldron's bill?

REP. SHONTZ said the problem in Mr. Waldron's bill is that it addresses only certain classes of counties. The ones that have the most difficulty in making a dollar stretch are the 34 second class counties, the little ones, and this would provide them some flexibility for dealing with their problems.

REP. HANNAH: Doesn't it appear to you that there is a problem here that is surfacing with the bill, and that is that a county conceivably would use up the mill limits in a particular area for the cemetery, roads, etc., and then say, "Gee, we've used all of our funds, so now are we going to go into a general fund, which is rather a big hole in the dike, which means that the county commissioners can just reach out and expand for money without having to justify it in any way?"

REP. SHONTZ said he thinks the justification will come from the ballot box. If the people in the county are satisfied with the way the commissioners are running the office or misappropriating or appropriating funds, the decision to replace those people who direct the flow of funds doesn't belong with the legislature. It belongs to the people in the county and to me. That is what is important. That's where the control comes in.

REP. HANNAH commented that he is not totally comfortable with what he considers appears to be a back-door attempt to allow access to more money that allows them to control their own destiny. I feel the better approach would be to pass structured, regimented mill setups for particular areas.

REP. SHONTZ said he doesn't feel it is particularly a back-door approach. As I said before, the general fund is of itself a tax on the mills that can be levied. It does provide some relief if there is an emergency problem. We are going to have chaos as everybody will be wanting money for their own little interests they are trying to solve. I am trying

to provide each county with some flexibility in this bill to meet its own specific problems.

REP. SWITZER: I think you put your finger right on it, John, when you said there would be chaos. I think the commissioners have a tough enough problem resisting the pressures when they have a legal limit. I can agree that the commissioners would have a lot more flexibility, but I think that this tried and proven system of a limit and the pressure to raid that fund would be just practically irresistible. As far as the ballot box correcting it, you will have been broke for quite awhile before you have the next election.

REP. SHONTZ said, well, I guess I have faith in the county commissioners, at least in my county, that they are responsible people.

REP. SWITZER said he has considerable faith in the county commissioners in both Richland and Dawson counties, but I think I could probably get some agreement from those six county commissioners that the pressure would be terrific if they had access to the general fund for whatever particular project was absolutely urgent at the time.

REP. GOULD commented to Rep. Shontz that he still wonders about the situation of the poor fund. When you get your budgeted money expended, then you could come to the state for aid. Couldn't the state just say "take all the money you want for the poor fund before you come to us for help"?

REP. SHONTZ said that would not be allowed under this bill because this bill would only allow funds from the general fund to be expended. Also, the bill provides that the majority of the county commissioners could vote to do this.

REP. ANDREASON commented to Rep. Shontz that he has a little concern about keeping track of the money. Is there anything in this bill that would say we must know where the funds were being taken from? I'm worried about a slush fund kind of thing.

REP. SHONTZ replied that under the bill it says that proceeds may be applied to any other county fund for which the maximum mills have been levied. I would hope that that language would be amended to "and expended." Second, I am sure that other levels of government would be able to track whatever dollars went from the general fund into any other fund.

CHAIRMAN BERTELSEN said a point he would like to bring out

is that the general fund is not an unlimited fund, is that true?

REP. SHONTZ replied no, it is not.

MIKE STEPHEN asked to make a comment. He said the general fund could go to its maximum now. You have given the commissioners permission to go to a maximum. Big Horn County, sitting at 14.67 mills, could go to their maximum and it will not break the county. The money is there because it is assessed against the mill. However, there is no reason to collect because you can't spend it. There is no use to go to the maximum because in the budgetary process, you can't spend it.

REP. HANNAH said there is a fundamental difference there. If you don't have to use the money, then you don't have to collect the tax. Whereas, if you said we need to collect the full 65 mills because we want to spend it, then you'd have a tremendous impact because the taxes would go up tremendously. The fear that I have with this particular legislation is that what we're doing is giving the counties a way to go out and get more money, which is what it is about to do. I read this to say that the counties don't feel they can override the mill limitations that have been set upon them in the different areas and/or they could get legislation that would change that. So rather than try and address it from that direction, we are going to try and open it up a little so that when we have problems in one area or another we can go outside of the mill limits and collect more money to handle special problems.

REP. SHONTZ said, yes, that is true. But again, remember that the county already has the authorization to raise this money. The point of the legislation is to allow them to use the dollars in cases where the law prohibits them from raising those from where they are needed. This has a lot to do with your faith in local government and in your county commissioners. If you trust those people, then you trust their judgment both in financial as well as administrative matters.

REP. SALES commented that one of the concerns was the accountability in transfers. Perhaps something could be put in the language whereby they would have to be transferred by resolution. Another thing I might mention is where you go through your budgeting process, you have a public hearing, and at that time this could be brought up and you'd have the public to back you up.

CHAIRMAN BERTELSEN asked if there were further questions, and as there were none, he closed the hearing on HB 651.

EXECUTIVE SESSION

HOUSE BILL 393 - sponsored by Rep. Orren Vinger

REP. VINGER said a few days ago he asked to have HB 393 tabled. At this time I'd like to have permission from the Committee to take that off the table and have it posted for hearing on February 19. At the present time the county commissioners have to publish a detailed list of that month's proceedings in the newspaper. Under this bill they'd only have to print in the paper the expenditure totals for each budget category. There isn't much sense in making them itemize every little expenditure as they do now.

REP. VINGER moved that House Bill 393 be taken off the table.

QUESTION: All those in favor say "aye." The motion carried unanimously.

HOUSE BILL 594 - Chairman Bertelsen said we passed HB 594 last night, but I have a note on it to hold it until tonight.

QUESTION: All in favor of reconsidering HB 594 say "aye." All voted "aye" and the bill was reopened for further consideration.

REP. DUSSAULT requested that this bill be reconsidered for the purpose of adding an amendment. She said one of her concerns with the bill is that she thinks implications to this bill might be unclear. One thing I am particularly concerned about is the current, very clear and specific exception in State law that exempts group homes for the handicapped from the provisions of any building requirements. That has been tested in the Montana Supreme Court and has been upheld. I would like to amend this bill so it is very clear that this exception applies within the statute also.

REP. DUSSAULT said she is ready with the amendment to HB 594, as follows:

1. Page 1, line 17.

Following: "agencies."

Strike: "The"

Insert: "Except as provided in 76-2-314 and for rights of way and easements, the"

This is an amendment to the bill as it now stands. It is a reference to the code that makes an exception from all zoning requirements for group homes.

QUESTION ON AMENDMENT:

All in favor of the amendment signify by saying "aye." All present said "aye." Motion carried unanimously.

REP. DUSSAULT then moved that HOUSE BILL 594 DO PASS AS AMENDED.

QUESTION:

A roll call vote resulted in the following: 15 of 19 committee members were present. 10 voted "aye"; 5 voted "no" as follows: Reps. Andreason, Gould, Neuman, Sales and Switzer. 3 committee members were absent, namely Reps. Azzara, Hurwitz and Pistoria. One abstained, being Rep. Kitselman. The motion carried and HB 594 received a DO PASS AS AMENDED recommendation.

HOUSE BILL 447 - sponsored by Rep. David O'Hara

CHAIRMAN BERTELSEN said this is an act providing additional alternatives for the assessment of costs for improvement districts.

REP. ANDREASON moved that HOUSE BILL 447 DO PASS.

REP. ANDREASON moved to amend House Bill 447 as follows:

Page 1, line 13.

Following: "one"

Insert: "or a combination"

QUESTION ON AMENDMENT: All in favor signify by "aye." All were in favor except Reps. Neuman and McBride. Motion carried and the above amendment was adopted.

REP. ANDREASON said he has another amendment, as follows:

Page 2, line 1.

Following: "as the"

Strike: "criteria"

Insert: "criterion"

REP. ANDREASON moved the amendment.

QUESTION: All in favor of the amendment, say "aye." Motion carried by unanimous vote.

REP. SWITZER moved that HB 447 DO PASS AS AMENDED.

QUESTION ON HOUSE BILL 447 - All in favor signify by "aye." All present voted "aye" with the exception of Reps. Neuman and McBride.

HOUSE BILL 424 - sponsored by Rep. Dave Brown

CHAIRMAN BERTELSEN said this is the act to raise the ceiling on rates charged by metropolitan sanitary and/or storm sewer districts.

REP. HANNAH said he is in favor of the bill with one amendment. The one thing I think needs to be addressed is the fact that they are going to have to come back to legislature any time they want an increase. I think they should go to the PSC, not the legislature. I don't think it is right that we have one city that has to come in for rate increases on their sewer system.

REP. KESSLER said this seems to be a bill which the whole delegation compromised on and wants.

REP. HOLIDAY: I agree with Rep. Hannah's feeling, but I also heard a gentleman say today that they planned to address that themselves.

REP. GOULD moved that we strike "\$10" and make it "\$1,000," both on page 1, lines 16 and 20. Motion was seconded.

QUESTION ON AMENDMENT: All in favor say "aye." All voted "aye" and the amendment carried by unanimous vote.

QUESTION ON HB 424 AS AMENDED: All in favor say "aye." All voted "aye" except Reps. Neuman, Hannah and Kessler. Motion carried and HB 424 received a DO PASS AS AMENDED recommendation.

HOUSE BILL 562 - sponsored by Rep. Bob Thoft

REP. SALES moved that HB 562 DO PASS.

THE CHAIRMAN said we have a motion for a DO PASS. This is 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.

QUESTION on DO PASS for HB 562. All in favor say "aye." All were in favor except Rep. Neuman. Motion carried and HB 562 received a DO PASS recommendation.

HOUSE BILL 673 - sponsored by Rep. Lory.

REP. SALES moved that HB 673 DO NOT PASS. It was obvious that he didn't care about it.

REP. KESSLER said he talked with Rep. Lory and the problem is

that you have a rather unique City Council. They feel it is virtually impossible to get any kind of review through with Council approval.

QUESTION ON HOUSE BILL 673: All in favor say "aye." All voted "aye" with the exception of Rep. Andreason, who voted "no" and Rep. Gould abstained. Motion carried and HB 673 received a DO NOT PASS recommendation.

HOUSE BILL 661 - sponsored by Rep. David O'Hara.

REP. SALES moved a DO PASS on HB 661.

QUESTION: On DO PASS for HB 661. All in favor signify by saying "aye." Motion carried by unanimous vote.

REP. KESSLER moved that this bill also be placed on "the consent calendar." All committee members voted "aye."

HOUSE BILL 675 - sponsored by Rep. David O'Hara.

CHAIRMAN BERTELSEN said this is an act to exempt cities and counties from contributing to the traffic education account and to increase the amount contributed from other earmarked sources. He stated there would be a loss to the fund of about one-half million dollars. He said he was on the committee and this bill seems to me to make the most sense as far as counties and cities, and is something that stated mandated rules, even if it ends up coming out of the general fund. There is this leeway that if they feel that this is creating an added burden, there would be the possibility you could raise registration fees or do something along that line. I suppose they could raise the Highway Patrol traffic fines a little bit. This bill is well worked out because it had an alternative method of taking care of it. The question came up as to why it wasn't carried by someone. What happened on that committee was that we had only about three members who returned to the legislature. Normally, you would have most of the committee returning and members would want to carry it. But the few who did come back left it open to the representatives to find somebody to carry it.

REP. MATSKO: Mr. Chairman, as a viewpoint on this, I think one of the reasons it was put on the fine originally is they wanted to have the people who were being arrested pay for the education they might be going through or should have gone through. But I think it is eminently fair that the money come from all driver's license fees. I don't see any problem with that. It is a philosophical kind of thing, because you are spreading it over all the people who drive. Almost all

of the young drivers have gone through Driver's Education training and they are paying for the services they received.

CHAIRMAN BERTELSEN said when it originated, it was thought the amount would be added to fines, but then it was found to be illegal by the Supreme Court. You can't legislate to increase people's fines.

REP. DUSSAULT moved that HOUSE BILL 675 DO PASS.

QUESTION ON DO PASS FOR HOUSE BILL 675.

All in favor signify by saying "aye." All voted "aye" except Rep. Gould, who voted "no." Motion carried and HOUSE BILL 675 received a DO PASS recommendation.

The meeting adjourned at 9:30 p.m.


VERNER L. BERTELSEN, CHAIRMAN

hbm

NAME S. KEITH ANDERSON, PRESIDENT BILL No. HOUSE BILL 651
ADDRESS P. O. Box 4909 DATE 2/12/81
WHOM DO YOU REPRESENT MONTANA TAXPAYERS ASSOCIATION
SUPPORT _____ OPPOSE XX AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

THE COUNTY BUDGET ACT ORIGINATED BACK IN THE 1920'S AND HAS BEEN MODIFIED BY THE LEGISLATURE FROM SESSION TO SESSION AS THE LEGISLATURE SAW FIT.

THE PURPOSE OF THE BUDGET ACT IS TO ALLOW COUNTIES TO BUDGET IN AN ORDERLY FASHION AND TO OFFER SOME PROTECTION FOR THE TAXPAYERS BY IMPOSING MILL LEVY LIMITS FOR THE VARIOUS FUNCTIONS OF GOVERNMENT. THIS HAS NOT ONLY ALLOWED PROPERTY OWNERS SOME PROTECTION BUT LIKEWISE HAS PROVIDED COUNTY COMMISSIONERS A LIMIT BEYOND WHICH THEY COULD NOT GO WHEN BESIEGED BY SPECIAL INTEREST GROUPS DEMANDING ADDITIONAL SPENDING FOR THEIR PARTICULAR PURPOSE.

THE LEGISLATURE HAS DETERMINED THROUGH THEIR COLLECTIVE WISDOM THE VARIOUS MILL LEVY LIMITS BEYOND WHICH COUNTY COMMISSIONERS CANNOT GO.

FOR ALL PRACTICAL PURPOSES HOUSE BILL 651 SERVES TO ELIMINATE THE PURPOSE OF THE COUNTY BUDGET ACT BY ALLOWING COUNTY COMMISSIONERS TO NOT ONLY LEVY AT THE STATUTORY LIMIT FOR THE VARIOUS FUNDS BUT TO EXCEED THOSE LIMITS BY TRANSFERRING PROCEEDS OF THE GENERAL FUND TAX TO OTHER COUNTY BUDGETS.

THIS BILL IS A SIMPLE WAY TO AVOID GOING THROUGH THE PROCESS OF PROVING THAT THE STATUTORY LEVIES NEED BE INCREASED. AS A PRACTICAL MATTER ALL COUNTY OFFICIALS WOULD HAVE TO DO IS INFLAT THE GENERAL FUND BUDGET TO THE STATUTORY LIMIT, IMPOSE THE LEVY THE SECOND MONDAY IN

HOUSE BILL 651

AUGUST AND TRANSFER THE PROCEEDS TO THE VARIOUS BUDGETS.

THIS WOULD ALSO AVOID THE PROCESS OF GOING TO THE PEOPLE AND VOTING SPECIAL LEVIES AS AUTHORIZED IN THE PRESENT BUDGET ACT. IT, IN EFFECT, WOULD AVOID TAKING THE ISSUE TO THE PEOPLE AS VOTED LEVIES CAN NOW BE IMPOSED FOR ANY COUNTY FUNCTION IF APPROVED BY THE ELECTORATE.

THE ATTACHED MEMORANDUM DETAILS THE STATUTORY LEVIES FOR THE VARIOUS CLASSES OF COUNTIES, THE LEVIES BEING IMPOSED CURRENTLY AND ADDITIONAL BUDGETING AUTHORITY THAT WOULD BE ALLOWED UNDER THIS BILL.

INSTEAD OF ELIMINATING OR EVADING MILL LEVY LIMITS, AS THIS BILL WOULD DO IN PRACTICE, THIS LEGISLATURE SHOULD CONSIDER CLAMPING THE LID ON NOT ONLY LOCAL SPENDING BUT STATE SPENDING AS WELL.

A RECENT SURVEY ANSWERED BY OVER 500 OF OUR MEMBERS FROM RURAL AREAS AND UP AND DOWN MAINSTREET ARE NOT AT ALL SYMPATHETIC WITH THE PLEA OF COUNTY GOVERNMENTS FOR MORE TAXING OR SPENDING AUTHORITY. IN FACT 34 PERCENT FELT THAT COUNTY GOVERNMENT HAD MORE FUNDING THAN NEEDED WHILE 56 PERCENT THOUGHT THAT COUNTY FUNDING WAS ABOUT RIGHT AND 10 PERCENT THOUGHT IT WAS LESS THAN NEEDED.

IT IS OUR OPINION THAT THIS LEGISLATION WOULD ESSENTIALLY MAKE MONTANA'S CURRENT BUDGET ACT MEANINGLESS AND WOULD ELIMINATE THE PROVISIONS OF BUDGETARY CONTROL ENACTED BY PREVIOUS LEGISLATURES.

WE URGE YOUR DEFEAT OF HOUSE BILL 651.

Maximum County General Fund Levies Allowed Compared To Levies Imposed for 1980-81

Form 4256 Counties

State Publishing Co.
Helena, Montana

	Class of County	Authorized G.F. Levy	1980-81 G.F. Levy	New Budgeting Authority	Budgeting Authority in Dollars
Beaverhead	4	27	23.50	3.50	\$62,818
Big Horn	1	25-	14.67	10.33	112,991
Blaine	2	25-	15.40	9.60	343,344
Broadwater	6	27-	20.55	6.45	48,304
Carbon	3	25-	16.37	8.63	204,220
Carter	6	27-	19.00	8.00	71,528
Cascade	1	25-	24.42	1.58	53,931
Chouteau	3	25-	14.44	10.56	311,773
Custer	3	25-	22.62	2.38	50,132
Daniels	6	27-	19.52	7.48	65,652
Dawson	3	25-	21.30	3.70	89,707
Deer Lodge	4	27-	—	—	—
Fallon	2	25-	8.80	16.20	751,664
Fergus	3	25-	22.23	2.97	74,244
Flathead	1	25-	23.40	1.60	128,817
Gallatin	1	25-	17.14	7.86	466,460
Garfield	6	27-	19.55	7.50	57,000
Glacier	2	25-	13.56	11.44	479,382
Golden Valley	7	27-	22.00	5.00	23,225
Granite	6	27-	27.00	—	—
Hill	2	25-	15.35	9.65	415,712
Jefferson	5	27-	19.94	7.06	72,189
Judith Basin	5	27-	23.64	3.36	35,962
Lake	3	25-	14.00	11.00	311,091
Lewis and Clark	1	25-	20.73	4.27	251,776
Liberty	4	27-	13.25	13.75	220,687
Lincoln	3	25-	3.05	21.95	645,242
Madison	4	27-	13.22	13.78	248,440
McCone	5	27-	25.50	1.50	17,502
Meagher	6	27-	26.50	.50	3,141

NAME LES PRENTICE BILL No. HB 675
ADDRESS 321 W. CENTRAL DATE 2/12/81
WHOM DO YOU REPRESENT CITY OF MISSOULA
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Section 20-7-504(1), MCA, currently requires that a city submit 20% of all fine and bond forfeiture monies generated from offenses relating to the operation or use of motor vehicles, except parking offenses, to a traffic education account in the treasury of the State of Montana. The City of Missoula objects to sharing the traffic fine revenues with the State of Montana.

The traffic fine monies that cities generate do not even begin to cover the costs associated with traffic enforcement and the processing of traffic offenses. General costs associated with traffic offenses include: (1) employing law enforcement personnel and equipping law enforcement with motor vehicles, radar units, ticket books, etc.; (2) court costs involved in processing traffic violations through court; (3) legal costs for prosecution of traffic violations in court. These fine monies logically and rightfully should be used to offset costs associated with enforcement of traffic offenses.

The driver's education program is a good program, but as a state program it should be funded from state revenues and not from city revenues. Section 20-7-504(2), MCA provides that:

"5% of all money received by the state from the collection of the motor vehicle driver's license fee provided for under the laws of Montana shall be contributed to the traffic education account." The driver's license fee is a more logical means of generating revenues for the state traffic education account. The City of Missoula proposes that the provision of state law that requires that 20% of traffic fines be submitted to the education account be repealed and that revenues from the driver's license fee be increased to fund the state traffic education account.

STANDING COMMITTEE REPORT

February 17, 1913

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 651

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE APPLICATION OF PROCEEDS OF THE COUNTY GENERAL FUND WILL LEVY TO OTHER COUNTY FUNDS WHEN CONSIDERED NECESSARY BY A MAJORITY OF THE BOARD OF COUNTY COMMISSIONERS."

Respectfully report as follows: That HOUSE Bill No. 651

DO NOT PASS

~~DO PASS~~

Werner I. Bertelsen, Chairman.

STANDING COMMITTEE REPORT

February 12, 1971

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 661

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR AN EXTENDED APPROVAL PERIOD OF MORE THAN 1 YEAR FOR A PRELIMINARY PLAN UNDER THE MONTANA SUBDIVISION AND PLANNING ACT; AMENDING SECTION 75-3-616, MCA."

Respectfully report as follows: That HOUSE Bill No. 661

DO PASS

CONSENT CALENDAR

STANDING COMMITTEE REPORT

..... FEBRUARY 11, 19⁶¹.....

MR. SPEAKER.....

We, your committee on LOCAL GOVERNMENT.....

having had under consideration HOUSE..... Bill No. 673.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT PLANNED UNIT DEVELOPMENT DISTRICTS FROM APPLICATION OF THE PROTEST PROVISION OF THE STATUTE GOVERNING ALTERATION OF ZONING REGULATIONS: AMENDING SECTION 76-2-305, MCA."

Respectfully report as follows: That..... HOUSE..... 673..... Bill No.

~~DO NOT PASS~~
~~DO PASS~~

..... Vernor G. Bertelsen.....
Chairman.

STANDING COMMITTEE REPORT

January 10, 1931

MR. SPINER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 675

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CITIES AND COUNTIES FROM CONTRIBUTING TO THE TRAFFIC EDUCATION ACCOUNT; TO INCREASE THE AMOUNT CONTRIBUTED FROM OTHER DESIGNATED SOURCES; AMENDING SECTIONS 20-7-504 AND 20-7-505, MCA."

Respectfully report as follows: That HOUSE Bill No. 675

DO PASS