

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE  
February 16, 1981

The Local Government Committee met Monday, February 16, 1981 at 6:15 p.m. in room 103 of the Capitol, for executive session. CHAIRMAN BERTELSEN called the meeting to order. All members were present but REP. HURWITZ who was ill and REP. PISTORIA was absent. Staff Researcher Lee Heiman was also present.

EXECUTIVE SESSION

CHAIRMAN BERTELSEN said only executive action would be considered.

HOUSE BILL 192

This bill had been assigned to a subcommittee to study further and report their recommendation to the full committee. The committee was composed of REP. HANNAH, Chairman; and REPRESENTATIVES KITSELMAN and DUSSAULT.

REP. HANNAH reported he felt the meeting was very productive. Our recommendation to the committee is this. He went through the amendments step by step and they were discussed by the committee. Lines 11 and 12 deal with an area of the law that made the subcommittee feel it should not be dealt with in this bill. It is a whole different area of the law. We recommend that we strike the amendment on lines 11 and 12 and restore the original language.

REP. SALES agrees and he moved the above amendment DO PASS. All in favor answer "aye". Vote was unanimous. Motion carried.

REP. HANNAH: On lines 17, 18 and 19 the language has been struck; we recommend that that language remain struck; on lines 22 thru 25, page 1; and lines 1 thru 7 on page 2 that language should remain the same. Then starting on line 8, subsection (a) and subsection (b), and reletter from there on down. REP. HANNAH asked Staff Researcher LEE HEIMAN to read the amendments.

MR. HEIMAN read the following:

2. Page 2.

Following: line 7

Insert: "(a) expressed public opinion provided that it is in the context of the other criteria;

(b) effects on agriculture and agricultural land, considering at least the productive capability of the land, agricultural preservation plans for the area, and the uniqueness or importance to the local economy of the agricultural commodities produced;"

Relletter: subsequent subsections.

REP. HANNAH went on to say the intent of these amendments is simply this. We did not want to have one of these criterion to be an absolute veto power. That is why after "expressed public opinion" the language is inserted as provided as it falls within the other criteria. We also wanted to leave the commissioners involved in this flexibility to say "well, one of the areas here 'expressed public opinion', for example, is so overriding that we are going to use it as the reason to Veto or as a reason to deny this petition". We didn't want an exclusive veto power for any one. On the other hand we didn't want to bind their hands. We think this bill does that to the point where you need a combination of these things in order to deny. It is not an automatic veto but any one of them can be used as grounds for denial.

REP. AZZARA asked the question, "Does this mean that no one of the criteria can be denied a veto?"

REP. HANNAH: If you had a case for example where one of the subsections, either a, b, c etc., was not met and all other 7 or 8 criterion were met, the county commissioners could say the involvement could have a heavy impact on schools and facilities but we don't believe it will be such a heavy impact that it will be grounds to deny the petition for the subdivision. They have that flexibility, whereas if it was an absolute veto power, they could deny the subdivision.

REP. DUSSAULT moved that the amendments DO PASS.

QUESTION: CHAIRMAN BERTELSEN asked that all in favor say "aye".

MOTION CARRIED UNANIMOUSLY, and all amendments received a DO PASS.

REP. DUSSAULT then moved that HOUSE BILL 192 DO PASS AS AMENDED.

QUESTION: CHAIRMAN BERTELSEN asked all in favor to say "aye".

The MOTION CARRIED UNANIMOUSLY, and HOUSE BILL 192 received a DO PASS AS AMENDED recommendation.

#### HOUSE BILL 438

CHAIRMAN BERTELSEN said we'd now consider HOUSE BILL 438.

REP. SALES: I'd move that HOUSE BILL 438 DO PASS, if I knew what happened to city-city or county-county consolidation.

REP. WALDRON said the bill as it currently stands is in his opinion not constitutional. As a courtesy to the sponsor, I would move as a substitute motion that we table the bill.

CHAIRMAN BERTELSEN asked the Staff Researcher to speak to that motion.

MR. HEIMAN said he wrote a memo on this matter, which he read. There are two problems with HOUSE BILL 438. The first arises because municipal electors are also county electors and they would have the right to vote on municipal form of government. Under 7-3-1102, sub 1 and 7-3-1202, MCA a city-county consolidated government has the status of a county with municipal powers added. This eliminates the county electoral status of the people within the municipality. The second problem is a splitting of vote which runs into the prohibition of article XI, section 3(1), Montana Constitution, in addressing the alternate forms of government. That section provides that for each unit or combination of units they may adopt, amend or abandon an optional or alternative form of government by a majority of those voting on the question. This has two parts; first, the provisions of a majority voting on the question doesn't seem to prohibit a splitting of majority, except that splitting a majority is specifically mentioned in article 11, section 2 regarding county consolidation. It allows a splitting of votes for that provision. The second problem is that it is mathematically possible for a majority of those voting on a question of city-county consolidation to favor it, but they'd have the question fail because either the city residents or the county residents not within the city had disapproved consolidations.

CHAIRMAN BERTELSEN asked if there was any further discussion on that.

QUESTION: All in favor of TABLING the motion say "aye".

All were in favor of TABLING HOUSE BILL 438.

#### HOUSE BILL 461

CHAIRMAN BERTELSEN said we'd now take up HOUSE BILL 461.

REP. GOULD said he'd move to table the bill for another day.

The CHAIRMAN called the question on TABLING HOUSE BILL 461 for another day and the vote was unanimous.

#### HOUSE BILL 516

CHAIRMAN BERTELSEN now said the committee would consider HOUSE BILL 516. He mentioned the fiscal note is now in committee books. This is where the universities would get money for their fire and police services from the State. REP. NORDTVEDT told me before I came down that this cost is actually about 50% too high because normally houses today are assessed at about 50% of their sale value so the value of that property should have been cut in half before they multiplied by the 8.55 multiplier.

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REP. AZZARA: I didn't have time to look over the report extensively but it seems to me the problem was, first of all, to find an adequate system of computation, and secondly, restricting the scope of this bill to those areas that it really attempts to address, and not open up minutia where small calculations could never be made. But I see that somebody in the budget office has been able to compute specifically a figure and even though it was 50% in error, that error is specific too. Do you think there is a computation that is possible and workable?

REP. ANDREASON; I have the same concerns. Unless we can provide some specific kind of aid based on some qualifiable thing in terms of each situation, I don't think we can go ahead with this bill. It is so general and contains so many possibilities for error. If the bill were more specific, perhaps I could go along with it, but I can't go along with it the way it is because of the total physical impact, whether it is written here or even 50% of that.

REP. SALES said values are carried on all state property, even though they may be for just insurance values.

REP. DUSSAULT: So the bottom line is not a \$4.5 million impact but about a \$2.2 million impact.

CHAIRMAN BERTELSEN said it is per REP. NORDTVEDT, and I'm not about to question his mathematics.

REP. DUSSAULT: I wouldn't question his calculation, but I wonder whether it makes a whole lot of difference.

CHAIRMAN BERTELSEN said it might get into trouble along the way just because of the appropriation. I still have some problems with it as I mentioned before and feel we are taking an awful blanket approach. When we think of the total value of state property around the state, there are houses sitting out on abandoned areas of a Fish and Game farm or a little shed in another town belonging to the highway department. They have an insurance value but I don't know if they have an appraisal value that is accurate for tax purposes.

REP. AZZARA: I think, because it really impacts several cities substantially, that it's a good idea and maybe we should keep the bill alive and get it out on the floor and see if REP. NORDTVEDT can make some amendments there.

REP. AZZARA: For those reasons, I will move that HOUSE BILL 516 DO PASS.

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REP. DUSSAULT said unless there is a statement of intent we cannot send it out.

CHAIRMAN BERTELSEN said there is none.

REP. ANDREASON: One of the things we have here is a number of assumptions. They are very broad if you look at them one by one. Assumption #1: That is where all the work was done. They went to the insurance pool and got the insured value of state owned property and did their calculations from that.

REP. ANDREASON: There is no other property in the State of Montana that is based on insurance value so immediately you have a doubtful factor to work with.

REP. NEUMAN moved that HOUSE BILL 516 DO NOT PASS. I'll make this a substitute motion.

QUESTION ON SUBSTITUTE MOTION OF DO NOT PASS. A roll call vote came up with an 8 to 8 figure, so the motion failed.

REP. WALDRON said he'd like to get this on the floor and the vote shows there could be some amendments to make it workable. He suggested placing it in a subcommittee to see if they could do something with it. The time is short but perhaps a subcommittee will come back with a recommendation that we kill it.

REP. GOULD: Would the title of the bill stand amending to the point where property could be appraised at perhaps \$2 million in a local government. For major complexes like a university unit, or Helena, say up to \$100,000 or more. Could you possibly come up with a figure which would pay for a fairly reasonable part of the cost of insurance, etc. You still have to take into consideration the value of the property to the community.

REP. AZZARA: The idea of a deductible feature in the bill would certainly solve the problem of finding a lot of little areas of land that wouldn't be cost effected.

CHAIRMAN BERTELSEN said he heard that the factor might be different in different units because of impact on the community, but it would cause a lot of dissension if you didn't use the same factor.

REP. HANNAH: The problem I have is that if you look at this on a long-range basis where you put on a minimum base or a percentage or value, or however you calculate it, we have a vastly fluctuating valuation. What will happen is two years after this goes through with a deductible on it, there are going to be 14 cities in here saying our property has now reached the value where we should qualify for this. I see this as an alligator, as we call it in the real estate business, where it just keeps eating away. I

hate to see a situation like that get on the books. What I am trying to say is I hope it stays on the table because I don't think we have the time nor resources, not in people, but in facts, that are available for us to come up with an answer by the deadline.

REP. DUSSAULT: I was going to make a suggestion that we appoint a committee and ask the sponsor to work with us on this bill.

REP. HANNAH: I withdraw my motion and move that we defer action.

CHAIRMAN BERTELSEN appointed a committee consisting of REP. MATSKO as Chairman, and REPRESENTATIVES AZZARA, WALDRON and HANNAH to meet with REP. NORDTVEDT and come back to the whole committee with a recommendation.

HOUSE BILL 651

CHAIRMAN BERTELSEN asked if the group wanted to consider HOUSE BILL 651.

REP. SALES moved that HOUSE BILL 651 DO NOT PASS.

REP. HANNAH; I feel this bill is the wrong way to approach the legal limits that have been set on the counties by the legislature as far as the mill levies. It blows a gaping hole in the back door and says "once you reach your limit, you can go ahead and expand upon that and you can take in more money into your general fund by transferring funds".

REP. SALES: There is a real problem in this bill where the counties can levy a full millage general fund which goes against everybody in the city and towns, and then they can spend it on the county roads, if they wish. I don't think this is the way to go.

REP. AZZARA: I am wondering what is the way to do it? This bill may not be terrific in its construction but it's the result of the lack of any autonomy. The reason we have bills like this is because we shoot down local control legislation; the comprehensive attempt to enable the constitutional mandates that they have with this package time after time. As long as we're not willing as a body to accept the fact that both the governments have to have autonomy, especially the urban areas, these bills are necessary. They place us all in a dilemma because they don't seem to do what they were intended to do in the best way, but they are the least offensive considering what the other reality is and that is that counties don't have any flexibility. These bills take up our time with endless amounts of detail.

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REP. DUSSAULT: I agree with your statements, but I really don't feel any conflict with this bill. Once you develop your all-purpose mill levy, I think that is a good solution. Having worked on that for the first and second class counties, is it reasonable to assume that in a relatively short period of time he could develop that same structure for the smaller class counties?

LEE HEIMAN said you take the same wording out of HOUSE BILL 191 and put it in here.

REP. BERTELSEN said he'd like to see it start with the county and come in on the ground floor with some legislation which will give them an all-purpose levy all the way through.

REP. KESSLER: Jim, I think you raised a good point. Maybe we could come up with some kind of committee resolution to deal with this.

Staff Researcher LEE HEIMAN said he is writing something on county-municipal finance resolutions because of the budgeting time and the fact we can't get to them. That is a narrow point of local government finance. It would be really nice to have a resolution covering all of local government finance with the mill levies all the way through.

REP. SWITZER: I had a county commissioner call me today about another bill and I asked him about this one in particular. He said he really believes that the funds, as they are, are a necessary part of county government. Not specifically the millage, but the designated funds for each purpose.

CHAIRMAN BERTELSEN said some county commissioners have mixed feelings and emotions and are scared to death of working on their own. They like this protection from a certain levy; the taxpayer can't push them.

The CHAIRMAN said we have a DO NOT PASS motion, so we better work on that.

QUESTION: ALL PRESENT voted "AYE" with the exception of two, REPS. HOLLIDAY AND VINGER who voted no. MOTION CARRIED, and HOUSE BILL 651 received a DO NOT PASS.

The meeting adjourned at 7:10 p.m.

  
VERNER L. BERTELSEN, Chairman