

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
February 19, 1981

The Local Government Committee met Thursday, February 19, 1981, at 11:30 a.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 Rep. Pistoria, who was absent. Staff Researcher Lee Heiman also attended.

HOUSE BILL 765 - sponsored by Gene Donaldson

REP. DONALDSON said he is from District 29 in Lewis and Clark County. Throughout the legislative session we are often confronted with the decision as to how much regulation and control we need as private citizens, and also how much control and regulation the municipalities need. HB 765 is an attempt to address that particular issue relative to municipally owned water and sewer systems. Presently, these systems come under the Public Service Commission (PSC) review. What we are trying to do in HB 765 is not remove them entirely, but allow some flexibility on the part of the local governments to make minimal type increases without the PSC review. Rep. Donaldson went through the bill section by section, explaining what each section would accomplish.

REP. DONALDSON stated that we all understand the ravages of inflation and certainly it takes time and is costly because municipalities have to meet commitments. They are restrained as far as making minor improvements and are delayed, and in the final analysis because they cost more. I think the big problem with the present statute is the fact that it is very time consuming. A lot of time is spent in getting decisions and I don't think it protects the consumer that much. I would suggest to you that the same people who elected us also elected those public officials who serve on the city commissions, and I think they are in a better position to make small changes than the PSC which is a statewide organization. They probably lack staff to review these problems. There are a number of people who will testify for the against the bill, so I will let you call on them.

PROPOSERS TO HB 765

BILL VERWOLF, Finance Director for the City of Helena, said we have several individuals from Helena who I will introduce quickly, as I will be testifying and they won't take your time. Will the following stand: City Manager Robert Erickson, Commissioners Jim Nybo, Dale Johnson and Russell Ritter, who have come to express their support for this bill.

The municipal feeling is that municipal utility rates for our water and sewer systems are set by the cost of providing these services. The placing of these utilities under the PSC

has not dramatically changed those costs. Municipal utility systems are non-profit. We try to raise enough money in revenue to meet the actual costs involved. We are not interested in how big our base gets and how big our profits get. We are talking about a break-even operation. Some of the problems cities have had because of PSC regulation has to do with time. Inflationary pressures and replacement of equipment come up fairly rapidly and create a problem that has to be dealt with on a timely manner. The process of going to the PSC and going through their entire process for a rate increase creates a delay and in some cases has created deficit problems for the utilities. There are a lot of communities in Montana that have deficit problems. Public Service Commission rules have been determined by their process that they cannot fund that, so once you arrive at a deficit that is not allowed to be part of the process of setting the rates.

We feel the locally elected officials who are representing the people served by that utility by a direct vote should be able to make the changes necessary for a normal operation. If we get into a situation where there is a major improvement needed or something that is just an improvement to the system, that would have to go to the PSC and be subject to the same review it has today. The other section in HB 765, as far as allowing the local government the ability to raise rates, has to do with mandated costs. For example, this would mean if EPA and the state department felt the environmental service comes in and says "you have to build a plant and meet certain requirements of turbidity," that the cost of building that plant and paying off the bond issue would be passed through into the rate structure of the community through this process rather than through the PSC. However, if the community wanted to build a plant for their own reasons or approve the system, that would have to go through the PSC.

We feel that this bill provides a balance between complete removal of the PSC and allowing some flexibility to the local government. Mr. Verwolf closed his testimony by affirming that this bill provides reasonable flexibility without allowing the cities the ability to go for radical programs to keep the PSC control on, but allows us to cope with inflation and cope with mandated building projects without having to go to the PSC to get approval of those rates. Primarily it eliminates the problem of generating deficits while you are trying to go through the process of raising the rates.

CHAIRMAN BERTELSEN reminded everybody to sign the witness sheet. He also reminded them that we have eight bills to hear before 10:30 tonight, so we are on a real time crunch. If you have information which repeats what has been said, I would rather you hand in your statement, unless you have new information to present.

CALVIN CALTON, Utilities Attorney for the city of Billings, said he is speaking on behalf of the city of Billings. Mr. Calton presented a statement from the city of Billings in support of the bills eliminating PSC jurisdiction over municipal utilities which include this bill, HB 765, and HB 771, which we are hearing later today. He read the letter to the committee. (Mr. Calton's testimony is attached to and made a part of these minutes.)

RUSS RITTER said he is an elected official of the city of Helena, and in view of time constraints, he'd like to say that he supports specifically the testimony of our City Finance Director, Mr. Verwolf.

CURTIS MCKENZIE said he is the City Engineer of Laurel, Montana. They support the statements made by the other petitioners and we support HB 765 and HB 771. He introduced the Mayor of Laurel, Larry Herman; Ken Bevin, a member of the Utility Committee and Dick Metzger, who is the maintenance director for the city of Laurel. We do wish to point out that it is very hard to get a rate increase even though we've gone through this nine month period and sometimes longer. Our city has a water tank which has needed maintenance for five years and we cannot get the funds to maintain it. If we can't get the raises to maintain it, one of these days we may have a failure. We have water lines and pipes which have been installed for 60 years and subject to electrolysis. It is very difficult under the guidance of the PSC to keep up with our system. Laurel has grown about twice in population in the last 15 years, yet we have half as many people maintaining the water system today as we had 15 years ago.

LARRY HERMAN, the mayor of Laurel, said generally they support both bills. A fundamental issue before the committee is the PSC's roll in regulation of municipal utilities. The present involvement of the PSC restricts the ability of cities to respond to the needs of its residents, and this results from the PSC's attempt to rigidly control local government powers.

The PSC does not have what might be called a city or urban policy which is responsive to the needs of the community. From a local view, many points can be made for local regulation of city utilities. A local government is responsive to the needs of its residents and is the best judge of the needs of the city. If they are not, they will not be returned to office.

The cost of providing utilities to the city's residents can be reduced. The city must spend unnecessary monies for every hearing before the PSC to meet purely bureaucratic rules and regulations without any relevance to the real needs of the city. As an example, the city of Laurel must spend between

\$10,000 and \$15,000 for each hearing before the PSC.

The PSC's continuance in regulation of city utilities results in increasing the bureaucracy to regulate this utility. Already the PSC is asking for more staff, more money to work with, and who will bear the cost but the state, the cities and the consumers. Increase in the cost of local utilities due to the bureaucratic paper work and studies is again passed on to the public. The present bills before the committee do provide protection to the public in two ways. First, consumer council remains as a watchdog for the consumer and, second, the courts have authority to review all methods. If the public officials are not responsive, they will not be returned to office. The present bills before this committee will return the regulation of local utilities where they belong, to the people affected. We urge your strong support of these two bills.

WADE WEAKLEY, utility manager for the city of Great Falls, said he won't reiterate any of the things which have already been said. The city of Great Falls concurs with most of the statements already proposed. One thing I do want to bring up is the cost of PSC regulation to the consumers of Great Falls. It is reaching staggering proportions. We are now talking of a Master Plan rate study, and legal fees, just for the water, range to about \$108,500. Of that, approximately \$25,000 to \$30,000 is allocated toward legal preparation of the presentation of the case to the PSC. In addition to this, sanitary sewer regulation fees would also be in the same neighborhood of \$25,000. We want to go on record as supporting the bills.

JOHN FLODEN, the public works director for Great Falls, said he is also here at the request of Tom Flynn, who is the consultant doing the rate studies for Kalispell and Whitefish right now. We support both of these bills, preferably the one to be discussed this evening.

DAVE GOSS said he is representing the Billings Chamber of Commerce. He said they want to testify today as a group in favor of both bills being heard today.

SAM GESKO said he is representing the city of Bozeman. We have not had a water increase in 23 years. We have been preparing a presentation to the PSC for two years and I hate to mention what the cost is. I can assure you it will not be another 23 years before request of our second rate increase, and I hope in subsequent requests we won't have to be saddled with the time and costs involved in this one. We endorse both of these bills, preferably the one to be heard this evening, HB 771, but as a second resort, this one.

ALEC HANSEN said he is representing the Montana League of Cities and Towns. This evening you'll hear testimony on HB 771, which would totally remove the municipal utility regulation of the PSC. Although the League of Cities and Towns prefers HB 771, we do support Rep. Donaldson's bill as an acceptable alternative.

Other proponents signed the visitor's register.

OPPONENTS TO HOUSE BILL 765

JIM PAINE, Consumer Counsel for the state of Montana, said he is appearing in opposition to HB 765 on one ground only, and that is the significant adverse fiscal impact on his office. We do not take a position in regard to substantive merits of this bill. We're letting the committee do that. We are not commenting on substantive merits, but I'll be happy to answer any questions, however, in regard as to what this would cost my office, which is composed of four people, myself, an attorney, a rate analyst and a clerical position. I don't think we can do it under our current situation. There are over 105 cases on the priority list which are waste water projects from the Department of Health. There are over 25 major water works on their priority. There are a number of communities in this state that are going to have extensions, additions which would result in increased rates to the community. I can't keep track of every city commission meeting that is going to take into consideration a rate increase or discuss a capital improvement and represent the consumers. I am not equipped to do this under the current situation. There isn't sufficient time under the framework of this particular bill to allow my office to handle the problems.

BILL OPTIZ said he doesn't want to be classified as an opponent. The Commission's position on this bill is neutral. I do want to point out in reporting on section 4, that the information contained in the report, in the event of an appeal to the Commission, would be insufficient in my opinion to have the Commission make a decision. If the reporting requirements presently on the utilities remain the same, in the event there is a problem of a municipality having it appealed to the Commission, we would have the data base on hand to get going. I'm afraid that if they only kept this information and there was opposition to their increase, the Commission would have insufficient data to present it to make a decision.

JIM JENSON said he is representing the Low Income Senior Citizen's Advocate. They oppose this bill for one particular reason and that is the pragmatic result of the Consumer Council's office being understaffed. We will have to retain lawyers and rate attorneys to deal with complaints of the low income group because we don't feel they will be properly represented. We are quite concerned about eliminating the protection of the Consumer Counsel. This complaint is addressed to HB 765 only. There will be even more concern when House Bill 771 is addressed

tonight. I am concerned that we are almost always in favor of decentralizing local control not only in senior citizen matters, but in this particular case there is a real financial impact on individuals when they are intimidated to go before local governing bodies when they are opposed by lawyers. They hope to be able to rely on some expertise from the Consumer Counsel.

REP. DONALDSON was asked to close. First of all, Mr. Paine has indicated that his staff is probably inadequate. I am sure if they have to review every one of the cases, he is probably correct. But I would like to refer you to page 2, lines 18 to 24, where we state we don't expect them to be involved in everyone's project. It allows them to have the opportunity if the need arises. I am not familiar with the PSC reports, but I would suggest this is not a particular problem if the PSC were to request additional information, if needed. It would be better to request it than have it gathered unnecessarily. As far as the senior citizens, I recognize their problem, and I think we are in a very desperate situation at this point. I am fearful that they are going to be poorly represented when they pay their utility bills unless we start doing something about this problem. We must do something very soon because we are talking about basic utilities and basic services cities have to provide. I hope you will give this bill very serious consideration.

QUESTIONS FROM COMMITTEE MEMBERS

REP. AZZARA asked Mr. Paine why he thinks this bill would place enormous review obligations on him, because sections 4 and 5 seem to restrict it to those areas where it would be beyond a certain rate of increase. Section 4 suggests that only the copies of the intention of the local level reports be made available to you.

MR. PAINE said in order to do a reasonable job for the consumers of the particular municipality, you have to keep track of what capital improvements are going to be installed and the cost of same. That means keeping up to date with the engineers that do consult with the city, which means participating in city commission meetings. The time scenario here would indicate to me that if you do not do that, then the city will give notice at least 28 days prior to a hearing on a matter. If we did not gear up to know what a particular city was doing, whether it was justified or not prior to that time, we'd be real pressed for time in order to try to draw a meaningful conclusion as to whether or not it was justified.

REP. AZZARA said the point is that you are not obligated to do that under this bill. The municipality is obligated to make certain information available to you. I think a reason-

able case could be made then. If problems result from the lack of your attention to each individual situation, it has to be taken up at that time. But I don't see the need for the argument to review everything the municipality does with the depth and detail you are suggesting.

REP. AZZARA asked Jim Jensen how the consumer might be protected. Do you have any idea on this?

JIM JENSEN said it would be limited to less than 15% possibly in this bill. We find 15% not necessarily to be a minimal amount of increase annually in either sewer or water increases. In terms of representation, I don't know who at the local level would be sufficiently well versed in the utilities language and rates to stand before a regulatory body involved at the local level to make an active presentation to refute the very technical efforts presented by utility lawyers.

REP. AZZARA said we are not talking about utility lawyers. We do have municipal attorneys.

JIM JENSEN said we have had utility attorneys representing utilities.

REP. KITSELMAN asked Bill Opitz: When you gather facts for a rate increase, you held hearings and the people came up and gave you the input, didn't they? Or was their preparation by attorneys from both sides?

BILL OPITZ said he wasn't at the hearing, but he knew Jim Paine represented the consumer Counsel. We had our attorney and beyond the city having their attorney, I don't know of any others.

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, he closed the hearing on HB 765. We'll clear the room and allow witnesses for HB 760.

HOUSE BILL 760 - sponsored by Rep. Steve Waldron

REP. WALDRON said on the way down here, he had a good feeling because this is probably the first bill he's introduced that hasn't been controversial. When I got here I found out that the sheriffs were going to come in against the bill and they told me the reasons why. The bill was requested by the Billings Chamber of Commerce, and since Missoula didn't endorse me, I thought I could help out the Billings Chamber.

The bill deals with consolidation of services between local governments, city and county. Under current law there is

something called an Interlocal Cooperation Commission that can be set up by various governments. The local governments make the appointments to the commission and they look at the possibility of cost and efficiency savings by consolidating services and then make recommendations. The problem is that there is so much turf building going on and so much concern over turf that it is practically impossible to get that consolidation or transfer of services to work. One way to do that would be to allow the Interlocal Cooperation Commission as provided by law to present the voters with their recommendation for consolidation of transferred service.

The bill also provides the petition process for providing consolidation and transfer of services for the bodies that control those services. A petition for consolidation or transfer of services must be signed by at least 15% of electors registered at the last general election of local governments affected by the proposed consolidation or transfer.

REP. WALDRON explained the different sections of the bill, explaining the way for setting up the election, advertising, and so forth. He said there will be some opposition because of the possibility that you could do away with an elected office or combine elected offices. That is true. Under this bill you could, but you could also do it now because there are several choices available under the alternative forms. I would also like to point out to the committee that Dave Wanzenreid from the Department of Community Affairs is here. He wrote the bill on the recommendation of the Billings Chamber of Commerce and is capable of answering questions.

CHAIRMAN BERTELSEN said he doesn't like to limit the time for witnesses, but due to the time crunch each side can have 15 minutes to present their testimony.

PROPOSERS TO HOUSE BILL 760

DAVE GOSS said he is representing the Billings Chamber of Commerce. He urged that HB 760 receive a do pass recommendation. (His written testimony is attached to and made a part of these minutes.)

AL THELEN, City Administrator of Billings, said he is here to support HB 760. (He said he has a letter from Cy Jamison, Council Member from Ward 3, which he presented as testimony and is attached to and made a part of these minutes.) Mr. Thelen said he has been before this committee several times and talked about the economic condition of local government, and the tough times they are having. He feels this is one of several pieces of legislation which might allow us to eliminate a lot of duplication. It is enabling legislation. We need all of that we can get. He mentioned they do have an interlocal commission at work, appointed by the three cities,

as well as the counties, looking specifically at law enforcement. This would give them an added opportunity in terms of the recommendation that they consider if the bill does pass. I just want to underscore the problems of law enforcement in terms of equalizing the cost of consolidation. In my judgment, in the large urban areas of Montana, that simply will not happen, if the people of the unincorporated areas have to vote and the cities have an independent vote. Certainly, the people that get a very strongly subsidized system around the city will not vote for that and for that reason this allows a unified vote by the county which we particularly support.

OPPONENTS TO HOUSE BILL 760

JOHN SCULLY said he is representing Sheriffs and Peace Officers. This is the third bill dealing with this. As Mr. Thelen pointed out to you, if you think about consolidation, what you really wind up with is you won't be consolidating the Clerk and Records or the Assessor's office. You may have some consolidation with regard to a city or county treasurer, even though the job functions would be carried on separately as there is not much duplication there. The only place where there might be consolidation would be in law enforcement. I recognize there are problems and frustrations with bigger cities dealing with law enforcement efforts and the expense of law enforcement and their problems. In terms of the dollar cost, there hasn't been much duplication going on. They try to avoid that simply because of the fact that they would like to have some time off with their family and avoid 24 hour shifts when possible.

Some inherent problems with law enforcement are that you have a different retirement system. It doesn't go away just based on an election. Secondly, you have to take a look at the section in the bill about the ability to alter the function of elected officials. With regard to the sheriff, he is an elected official. About the only other county official you are really dealing with is the county attorney who shares that responsibility.

I empathize with the problem the cities are having, but if you go back in the history of law enforcement, it used to be the other way around. The cities really had a good thing going for them because they had enough money to have officers all the time, while the people in the county could never get a law enforcement officer there unless he drove by for a basketball game on Saturday night and left. I recognize the burden but I don't think it can be solved with this bill.

The other major item I'd like to point out to you is that you have the ability to consolidate local governments now and

change your form of government by election of the people. Silver Bow and Madison counties have done it but it hasn't worked well. It doesn't solve the problem, it creates one. I also think it is too far gone to say that you can isolate and pick out of local government and county government particular functions and isolate those and expect the government to work well when you get finished. I think the way to solve that problem would be consolidation of government and not to isolate law enforcement. I think you'd have a real problem if it really is aimed at the sheriffs and police officers. We've gone through the problem in Gallatin County. We respectfully ask you to not pass HB 760.

CHAIRMAN BERTELSEN said if someone has testimony they'd like to hand in and save some time, we'd appreciate it.

FURTHER OPPONENTS

CHUCK O'REILLY said he is Sheriff of Lewis and Clark County and a member of the Board of Directors of the Montana Sheriffs and Peace Officers Association. Mr. O'Reilly said he'd try to be brief. We feel this a piecemeal approach to the consolidation problem and we could end up with a hybrid government that is city, yet county, yet city-county and not a well oiled machine. The only other issue I'd like to address that hasn't been mentioned is the comment that those in opposition, one or two people, can kill their interlocal agreement. That, as pointed out, is a people problem. If those elected officials are not in tune with the wishes of the electorate, then they are going to be gotten rid of and replaced with those who are. This may extend the length of the process, but I'm not so sure that this isn't good rather than bad. As it has been pointed out, this is a lengthy procedure. A lot of errors can be made and I think the time would be in favor of the process rather than against it.

GEORGE HAGERMAN said he is a member of the American Federation of State, County and Municipal Employees and he stated they are opposed to the bill.

JOHN ONSTAD, Sheriff of Gallatin County and President of the Montana Sheriffs and Peace Officers Association, said they oppose HB 760.

JULIE HAGER of Missoula County and a rural resident opposed HB 760.

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

REP. WALDRON said when we're talking about consolidation of services, we are not talking about law enforcement. In Missoula County I see snow plows come up the road and at the city line they lift up the plow and keep on going back to the garage or wherever they are going. That seems to me to be rather inefficient to say the least. There are things like parks, park departments, cemetery services, accident investigations and those types of things that could perhaps be consolidated within the administrative structure as noted in the bill, leaving the elected officials, but perhaps using the same dispatcher. There are a lot of things you can do as far as law enforcement and other services provided by local government. I would also like to point out that I pulled out the law book and there is a section 7-32-101, which is referred to in the bill which provides for consolidation of police services, police and sheriff services, and it is called the Department of Public Safety. There is a whole provision of law in there for that, so I think if the sheriffs are really concerned that their turf is going to be destroyed, they should be looking carefully at that law.

I'd like to point out that it seems rather hypocritical to oppose a bill which has the potential, after a vote of the people in an area, of combining an elective office or making an elective office an appointive office when in fact there are several positions of sheriffs who have the title of sheriff-coroner because they have done away with an elective coroner. With that, I will close.

QUESTIONS FROM THE COMMITTEE

REP. MATSKO commented to Mr. Thelen that this seems to be a Billings bill. Since you are from Billings, you would probably know better than anyone else what specific offices are being anticipated for consolidation.

AL THELEN said the Interlocal Commission that was set up has jurisdiction across the board in city and county, but the three cities asked them to look at law enforcement first and they are still on that and probably will be for another six months. I would suspect they will look at financial management as one, but we have not gone into it yet. There will probably be one in the area of park and recreation programs and maintenance. Those are the only three we have identified to date.

REP. MATSKO asked Mr. Thelen if they have attempted to consolidate law enforcement at this time?

AL THELEN said the Interlocal Commission is currently studying that issue.

REP. MATSKO commented the question will probably come as to why there is a need for a bill that principally removes exceptions in the law now that apply directly to consolidating procedures. I understand the intent of the bill is to circumvent the present exceptions and rules governing consolidation of government functions.

AL THELEN said we are trying to find as many options as possible for supporting a disincorporation bill which would change procedures and be easier to implement. We are supporting this bill because it provides some easier ways to implement consolidation.

REP. MATSKO said principally the reason for introduction of this bill is that you want to have a mechanism whereby you can implement the decisions of the Interlocal Commission that you set up regardless of who else might stand in the way. Is this correct?

AL THELEN said no, I think we want to give that Commission additional options. I think as we look at the possibility of specifically consolidating law enforcement by an independent vote, our study would be a futility. That is a specific change we want to see, because if we do come up with a positive recommendation in that area, the only way to really implement it would be by disincorporation.

REP. KITSELMAN asked a question of Al Thelen. Would this bill be aimed at implementing a city-county jail type of cooperation?

AL THELEN said the committee was asked to look into that particular issue by number of groups in the community. If you are looking at total law enforcement, it would include that. They indicated they would look at separate issues. Yes, that would be included in their study to some way consolidate total law enforcement services.

REP. HANNAH asked Dave Goss if the City of Billings asked the Billings Chamber to put this legislation together.

DAVE GOSS said we were the ones that came up with the concept. We approached the city. We talked to people who were on the Interlocal Cooperation Commission to see what their reaction would be if we introduced this bill. Their reaction was good. When we started our study some three years ago, we became concerned with the lack of a way to allow the voters to decide how the service should be formed.

REP. KESSLER addressed a question for a sheriff. It is unfathomable to me that you can be opposed to this when it is up to the people to make that judgment. Why don't you think the people should be able to make this decision?

CHUCK O'REILLY said we are in favor of the people making the decision. The current law works and works well. We don't want to see a piecemeal approach. Sometimes people aren't fully aware of the result when an initiative or process is brought to them for a vote. We are afraid of a hybrid type government.

REP. SALES asked Dave Wanzenreid a question. Don't we presently have a way to reach an Interlocal Agreement to provide any type of service in any class of county between a county and a city or a county and a town?

DAVE WANZENREID said an Interlocal Agreement Act provides that any local government can, by an interlocal agreement, transfer any local service on consent of the governing body. There are separate laws on libraries, planning and other functions that are specifically provided for in the law and specific legislation addresses those points.

REP. SALES commented that all this does is provide another way for the people to vote on whether they want an interlocal agreement. Is there more to it than that?

DAVE WANZENREID said the bill provides two vehicles. This would provide a vehicle to take their recommendations to the voters. In the two previous instances where we had an Interlocal Cooperation Commission in the state, the recommendations had no vehicles passed on for voter approval. The other thing it provides is where the governing bodies and two local governments concerned agree upon something, the voters should have some participation in making that decision.

CHAIRMAN BERTELSEN closed the hearing on HB 760.

HOUSE BILL 715 - sponsored by Rep. Earl Lory

REP. LORY of District 99, Missoula, Montana, introduced HB 715. He gave a brief history of the bill, stating it had been introduced in 1979, but failed. He said he feels this is an excellent law. This is an act to revise the Montana subdivision and platting act and related land-use statutes. No subdivision law will please everyone because people have two very opposite views on what subdivisions should do. On one side you have the people who consider the land should be held in trust for the people of the nation or the state. On the opposite side are the people who say that land is a private property and they should be able to do as they wish with no interference from anyone. There is a battle between those two extremes and we've tried to walk the middle of the line.

Many people are fearful of a review of any kind and, therefore, make a great effort to obviate the department for hearing a

subdivision. Any parcel of land larger than 20 acres is exempt from any review by any planning board. That is one of the chief problems. A recent study was made in Missoula County and 92.5% of all the subdivisions in the last few years have been subject to no review, mainly because they were made on the 20 acre division. Another problem addressed was the so-called sale which allowed anyone to make one division per year and that again was not subject to review. The third problem was the fact that you could use the so-called family split which allows a person to subdivide and give that land to his immediate family. Another problem is the fact that there were great delays in the review process. One of the great complaints from subdividers was the large amount of time required before the review process was completed. This was a very serious problem.

The committee tried to address most of those problems which we felt were substantially better than the present subdivision law. These are entailed in HB 715.

The bill defines what a Master Plan is, for either a county or a city. One of the major changes the committee made is to change the designation of a minor subdivision. A minor subdivision means a subdivision containing 5 or fewer parcels of land, from which there is proper access to all the lots, and wherever park land is required, it shall be done by a donation of money and not by actual land. There are certain things which are set out which are not subdivisions, such as a subdivision which creates security for construction mortgages, liens, or trust indentures, and a cemetery plot.

REP. LORY went through the sections of the bill and explained the contents, explaining the various things which are not subdivisions that require review.

There are two types of review in the bill. One is a summary review and the next is a full review. The summary review is simplified, and the full review covers several things. I can mention very briefly what the differences are. A summary review does not require any environmental assessment and does not require that it be found in the public interest. A full review of a large subdivision requires both a full review and an environmental assessment. The time limit on a summary review is 35 days and on a full review it is 60 days. They both must be acted on within the time limits or they are automatically approved.

REP. BERTELSEN said he will limit the time for proponents and opponents to 15 minutes per side because of the time crunch. He asked that witnesses try not to repeat what was said previously.

PROPOSERS FOR HOUSE BILL 715

JIM RICHARD from the Department of Community Affairs spoke at the request of Rep. Lory. HB 715 might be viewed as a double edge sword. One of the edges tries to bring more land under review. At the current time a fair estimate is less than 10% of the land being divided in Montana is being reviewed. A law that covers less than 10% of the land is really pretty ineffective. This is an effort to try to make reviews meaningful and covers conditions which should be reviewed. The other edge of the sword is that a real effort to expedite the review process has been made to minimize the uncertainty that subdividers and developers face when they propose a subdivision. I stress the review aspect because I think it is a basic premise that review generally enhances the likelihood of good subdivision design. Good subdivision design is a real money saver, particularly for the taxpayers not having to go back and repair roads that have been washed out, flooding, steep roads that preclude the use of existing snow removal equipment, road equipment, snow plows and school buses. If these things are not done well in the first place, they create an added expense for the taxpayers.

One of the worst bargains in Montana is for a prospective home owner to buy a piece of raw, unimproved land. It is very expensive to prepare the land for a decent building site. The lot buyer is the number one benefactor of this bill. In order to make the process as expeditious as possible, tremendous concessions have been made to the real estate industry. The bill has defined what a plan must contain if it is going to be used to deny a subdivision. There is a provision in the bill which says the rules have been changed and need not be as stringent as the ones adopted. The biggest concession of all in HB 715 is the fact that under this bill there is mandatory automatic approval if the governing body does not act within the time frame. For a minor subdivision that is 35 days and for a fullblown subdivision 60 days. This is a tremendous step in favor of the subdivider because he is assured that the delay, whether inadvertent or not, is not going to increase the cost.

ROSE LEAVITT represented the League of Women Voters of Montana. She said the League supports HB 715 and she submitted written testimony which is attached to and made a part of these minutes.

DON SNOW said he is staff coordinator of the Montana Environmental Information Center, which is a citizens organization with 1300 members directed by an 18 member board. He said he is here in support of HB 715. He wanted to clarify that

under the existing subdivision platting act, certain subdivisions are required to be reviewed and others are merely required to be recorded. Under the law there are two instruments of records used to file subdivisions under local governments. They are the platt and the certificate of survey. Parcels of land not qualifying for exemptions under the Platting Act must be surveyed, reviewed and approved according to the law's requirements. If approved, the subdivision becomes a platt. Reviewed platts usually bear a name. Parcels qualifying for exemptions in the law must be surveyed and often are informally commuted by county attorneys and planners if they are not subject to the provisions of the law. They are then filed as certificates of survey.

DAVID B. ADKISSON of Missoula submitted written testimony which is attached to and made a part of these minutes. He did say the Missoula Planning Office wishes to take this opportunity to express general support for HB 715, and encourages this committee to take do pass action. A good many problems have developed because of this helter-skelter subdivision of land. He showed maps showing poor zoning. He also mentioned the fire hazard problem in connection with lands adjoining forest service land. When subdivisions are not reviewed, roads become the responsibility of the local government.

CHAIRMAN BERTELSEN asked any other proponents to submit their written testimony and it will be reviewed.

OPPONENTS TO HOUSE BILL 715

WILLIAM SPILKER, from Helena, a member of the Montana Realtors Association, appearing here in their interest and also on his own behalf, said he is opposed to HB 715. My primary objection to this legislation is the broad powers and authority given to the local governing bodies when it appears to me they have actually failed to accept these responsibilities under the existing act. The proponents of this legislation have been quick to point out the number of land transfers made without a review and the approval of the local governing body. There is an implication that anybody who has made an occasional sale or given land to a member of the family is guilty of poor land use. No effort has been made to specifically document those cases where abuse has occurred. The accusation that a subdivision without review must be a bad subdivision is not necessarily the case. I would say conversely not all reviewed subdivisions are good either.

Because of the numbers approach taken by the proponents of this bill, the net effect has penalized everybody because

local authorities have failed to act responsibly. The existing act clearly states certain divisions of land are exempt from review and I'll submit that this position is adaptive to the purpose of debate. They indicated there is an implication of guilt associated with unreviewed transfers, yet you can count on one hand the number of times anybody has been taken to task. In short, I don't think they have the courage of their own convictions and now they are asking for more authority backed by overly restrictive legislation. Jim Richard just mentioned that only 10% of the land is reviewed. How in the world can the local planning board handle another 90% of what has gone on?

Proponents and sponsors of HB 715 state the summary review provisions would streamline the subdivision act, and ballyhooed the ease of going through a summary review. I strongly disagree with that suggestion. I am suggesting that while the sponsors are well-intentioned in their belief that HB 715 would streamline the procedure. In actual fact the opposite will occur. On the 20 acre exemption, I think there has possibly been some poor land use, but I question seriously that by raising the level to 40 acres, won't that compound the problem? If you remove the 20 acre exemption, I think you will penalize some agricultural interests because it will tend to reduce the price the farmer may receive for some property. I think a lowering of the acreage will result in better land use in this state. The present bill should be left in its present form because it does provide some advantages to small landowners that are not in the development business.

It seems to me that most of the defense for HB 715 has been geared to the result of the two-year study. Despite the time put into the study and conscientious effort of committee members, I do not buy the fact the study makes a good product. I think if you would read the study closely you would find that the legislation proposed before you today really reflects legislation inconsistent with the findings of that study. HB 715 seems like a poor substitute for what may or may not be a bad existing situation in Montana. I don't think there is any question that something is very wrong with our subdivision law in this state when it is amended every session since its 1973 passage, and that doesn't take into consideration all the other laws that have been proposed or amended. Certainly it would be beneficial if a solution could be reached that would reduce the polarization in favor of a consensus. Perhaps the best approach would be to scrap the existing legislation and start from scratch with a total rewrite of the subdivision law. I do urge you to recommend a do not pass on HB 715.

BOB GANNON with Montana Power Company said he'd speak to a

very limited portion of the bill. I have a proposed amendment for every member of the committee and I gave Rep. Lory a copy before the hearing. Under this bill provisions of land which could be created by eminent domain are not subject to full subdivision review but are subject only to the survey requirements. We have no problem with that change. However, there are certain instances, specifically microwave sites and compressor station sites, which we do not have the power of eminent domain for, but I do not believe the subdivision was meant to cover this. This language simply would allow those types of situations to be subject to the survey requirements and make it clear that the law of eminent domain does not in our situation make an exemption to us.

SCOTT CUREY said he represents the Montana Association of Realtors. We oppose this bill, but would support it with some amendments which I will discuss. We agree with a lot of what has been said today. The present Subdivision Planning Act is inefficient and it allows a lot of abuse which has taken place. We agree there are a lot of loopholes which create poor planning. The present law does not address these problems. It is our belief that HB 715 will address them. I must agree with what Mr. Richard and Mr. Spilker both stated that the association would like to see a complete overhaul of the subdivision laws. Mr. Curey went through the amendments one by one and explained what he thought they would accomplish. He said he would remain to answer questions should there be any.

TOM WESTER said he is second vice president of the Montana Chapter of the National Association of Homebuilders. I support Mr. Spilker's remarks 100%. There are a few other things I think need to be brought out.

The Master Plan concept on the surface would tend to do other things and I have some concerns with that. Primarily, it does not specify the implementation procedures of the Master Plan. Perhaps that is mentioned elsewhere in the law, but I haven't been able to find it. I suspect the potential developer who owns property within the boundary of the Master Plan would have little input into the contents of the Master Plan. My other concern with that is that a Master Plan can be obsolete the day it is written. This is typical of all Master Plans. The other problem with a Master Plan, the way it is written, combining this with the summary review and the provision for corporate subdivisions, constitutes rezoning. The problem of rezoning is the antithesis of the streamlining that is trying to be accomplished here. The Master Plan will not stay current with market conditions. I can see the writing on the wall where a Master Plan would be adopted, say in 1982, and in 1984 we have the same Master Plan with a different set

of market conditions so the whole thing is unworkable.

We are concerned with the requirements stating that subdivisions bordering on municipalities or separated only by a public road be subjected to review by both the city and the county bodies. I can understand the reason it is included there and I am sympathetic toward their reasoning. However, I'm afraid that dealing with two separate entities, we're going to have subdivisions that are a long time coming and will be very expensive when we get them.

JULIE HACKER of Missoula opposed HB 715 and left her written testimony which is attached to and made a part of these minutes.

REP. LORY closed. He mentioned that Rep. Hurwitz was also on the Interim Committee with him, so you can direct your questions to him.

QUESTIONS FROM THE COMMITTEE

REP. HANNAH asked Rep. Lory the following: If this is such a problem, did the committee look at whether or not it would be easier for the government to subdivide the whole state so the people would know in advance what the land could be used for?

REP. LORY: No, we didn't discuss that, but I assume the committee would feel it would be an impossible problem.

REP. HANNAH then asked, "If 90% of the land that is being subdivided is not reviewed, did you discuss the question that maybe the law is too restrictive and that the people aren't able to operate under those laws?"

REP. LORY said yes, we did. One of the problems we addressed was the long delay in review. That is why you'll notice there are limits which require automatic approval if the Planning Board does not act. That was the reason for putting the 35 and 60 day limits on the reviews.

REP. HANNAH asked what provisions are there in this bill to allow the Commission to refuse to approve inside of that 35 day limit?

REP. LORY said the final decision is made by the governing bodies. There are provisions, however, that if the platt is not accepted, they have to write the developer and give a written decision of why they turned it down and the reasons for turning it down.

REP. HANNAH: Are there standard rules in here on what are acceptable reasons and what are not?

REP. LORY: No, I don't think so because that would be very difficult.

REP. HANNAH: So what you're saying is that in the case of any subdivision in a local area, the governing bodies would have the right to turn down a subdivision request within the 35-day limit. Do you sense that there may be a problem built into this bill that in the event planning boards aren't really able to look at a subdivision within a 35-day limit, that they might say, "I can't do it," and just turn it down rather than let it be approved?

REP. LORY said he doesn't think so.

REP. SWITZER asked Rep. Lory where the shortcoming is if they only get around to some of this testimony, which indicates that 10% of the subdivisions are reviewed? Doesn't there seem to be something needed besides legislation? What is the matter with the present system?

REP. LORY said the present system says we are reviewing subdivisions when we are actually not. Only 10% of the subdivisions are being reviewed. Not all subdivisions are good or bad, but we are convinced that many of them are bad. It does not allow our Planning Board to look over those subdivisions. They use the family split method. That is not illegal. They are not breaking the law, but they are not being reviewed.

REP. SWITZER said that answers part of the question, but the long delay could be a specific problem.

REP. LORY said that is one of the complaints with subdividers in our hearings. There was a long delay and that was the reason for including the 35-day and 60-day limits.

REP. AZZARA asked Jim Richard the question, "What is the principal reason why 90% of the subdivisions are escaping review? Is it because of the loopholes or is it too much work or what?"

JIM RICHARDS said they are escaping review because there is a legal way to get around it. Anything over 20 acres cannot be reviewed and the occasional sale and the family conveyance need not be reviewed.

REP. KESSLER: So it is not really the time factor that the Planning Boards can't go out and do it. It is just other loopholes.

JIM RICHARD said yes, you just never see them.

REP. AZZARA asked Scott Curey a question. Did I understand you to say that the Association of Realtors objects to a survey requirement for the family conveyance method?

SCOTT CUREY said the way the amendment would affect this is that the person who owns the land for five years may then make one occasional sale per family member after that five years.

REP. AZZARA said he doesn't know who the gentleman from the Homebuilders Association was, but would address this question to him. You discussed comprehensive plans. Is this equal to the force of law? Are they recommendations of the local planning body? Are you aware of that?

ANSWER: My point was that as I read this piece of legislation the Master Plan would have the effect of binding the property to within its guidelines from a practical standpoint.

REP. AZZARA said, "what do you mean by a practical standpoint?"

ANSWER: The governing body has an option to ignore the Master Plan and the comprehensive plan.

REP. HANNAH had one question for Don Snow: From the studies your Missoula group did on subdivisions that were made but not reviewed, you indicated that there were 90%. Can you tell me what you used as a basis for defining a subdivision in that study?

DON SNOW said these were basically land splits. Subdivision, as defined in the law, is the land is split under the existing act.

REP. HANNAH commented that any occasional sale or family platt is classified as a subdivision in your study?

DON SNOW said I believe so. I didn't perform all of the detailed work on the study myself. The people who did were very careful not to include in their tally certificates of survey that involved any kind of land splits such as cemetery lots.

REP. HANNAH: So the survey that you did could probably include parcels of ground where there was possibly an acre of ground that was divided in half and noncontiguous pieces of ground.

DON SNOW said, "I believe so."

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, he closed the hearing on HB 715.

HOUSE BILL 393 - sponsored by Rep. Orren Vinger.

REP. ORREN VINGER from House District 3 said he is the sponsor of HB 393. Currently the County Commissioners have to itemize their expenditures for the month and turn all of them in to the paper. What this bill does is break that down so we can categorize the budget and show the totals in the paper each month instead of itemizing each particular item. That is all the bill does.

JIM HALVORSON from Wolf Point said what we are asking here is not to change the amount of publication in the newspaper, but merely to change the amount of publication that the county taxpayers have to pay for. The law already allows that the newspaper can publish proceedings and claims of school districts and cities. The amount of the expenditures will be listed in lump sum amounts and will categorize the proceedings of our minutes. On lines 20 and 21 we recommend the following amendments. Following expended on page 1, line 20, strike "from." On page 1, line 21, strike "cash funds" and insert "each fund."

LOUAINE MOLITOR, Madison County Clerk and Recorder, said she strongly supports this legislation and hopes you will give it a do pass recommendation.

BASILO PERES said he is an ex-county commissioner of Choteau County and also a member of the County Printing Board. From past experience both on the County Printing Board and as County Commissioner, I have seen the costs of printing rise. I think in 1976-77, the Printing Board gave a flat 20% increase to the paper for the cost of printing these publications. In 1978-79 the complete printing vote was rewritten and that was an increase from 50 to 75%. These costs are getting prohibitive for publishing the minutes and I see no reason why this bill can't be passed and just show a total. If anybody wants to see details, all they have to do is call on the county commissioners and ask to see the records. Actually, I see no reason why it has to be published in the local paper.

GARY LANG, Fallon County Commissioner, said they were written up because they did not publish the hourly wages of our employees. We feel that if we had to publish their wages, we would lose a lot of our employees.

MIKE MELOY, representing the Montana Press Association, said he tried to figure out some way he could come in as a proponent of the bill. One of my newspaper people suggested that I suggest an amendment to the committee that would make the same requirements apply to school boards and cities and towns as now applies to counties. That would provide some equity in the whole process and replace some of the income that may be lost as a result of this. But I decided it wouldn't be appropriate to do that so I simply signed up as an opponent.

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

REP. VINGER said he'd close and leave it open to committee questions.

REP. WALDRON asked a question for Mr. Meloy: We don't require school boards and cities to publish this information. It is totally useless. Most people never read it. It is dull and boring. If we don't require them to do this, why do we continue to require the counties to publish the information other than to keep their newspapers rolling in dough?

MR. MELOY said I don't read those things either, but I'm from the city. I know there were a couple of people from Bonner who signed up in opposition to the bill. I thought they signed up because they enjoy reading those claims. It is fun to see where the taxpayer's money is going. I think that is why it is a good idea to keep publishing them.

As there were no further questions, CHAIRMAN BERTELSEN closed the hearing on HB 393.

HOUSE BILL 737 - sponsored by Rep. Ann Mary Dussault

REP. DUSSAULT introduced the bill by saying it simply authorizes the establishment of municipal facilities districts. I'll just take you through the bill as it is all new material. Section 1 defines the purpose of the bill, which is to establish the municipal facilities districts. Section 2 includes your standard definitions. I will have a couple of proposed amendments. Sections 3, 4, 5 and 6 really deal with the method in which the municipal facilities districts would be created. Sections 7 and 8 are the hearings provision and it would require, once the signatures have been certified, that the county commissioners hold a public hearing on the establishment of the district and this simply sets up the mechanism for doing that. Sections 9 and 10 deal with the election to be held after the hearing is held by the commissioners. Sections 11 and 12, 13, 14, 15, 16 and 17 deal with the membership on the Board and it lays out similar to the urban transportation districts how the Board would be established, set up and subsequently they would be elected.

Some very important language is in Section 18 on page 8. That talks about the powers of the facilities board. The facilities board shall have all powers necessary and proper to the acquisition, purchase, construction, renovation, establishment, operation, improvement, maintenance, and administration of adequate public facilities within the district. This is very important to the bill. In section 19, I would like to propose an amendment on page 8, line 8 and change the "shall" to "may" to

indicate that they may then employ an administrative officer. Section 20 and 21 deals with the budget of the municipal facilities district. Section 22 deals with the collection of the tax and how it would be distributed. Section 23 warrants the payments. Sections 24 and 25 deal with authorizing bonding indebtedness. Section 26 deals with the provisions for enlarging a facilities district by petition and by election. The final pages, 11 and 12, simply deal with the dissolution of the district and set out procedures in sections 27 through 30 on how the district should be dissolved, if that becomes appropriate, and the final section is the severability clause.

I'd like to introduce you to Mr. William Coffee of Missoula. He will talk to you about the purpose of the bill and what it would do for communities in the state of Montana.

WILLIAM COFFEE said by profession he is a real estate broker. He is vice president of the Missoula Chamber of Commerce, and for the past four years has worked with Missoula and numerous agencies, both government and private organizations, on the question of facilities. An exhaustive and extensive study was made of existing facilities and facility needs in the Missoula area. A conference was held with public and quasi-public agencies and private organizations to discuss the existing and needed facilities and the cost of those facilities. Within a matter of less than three hours in Missoula alone, we had totalled up a need for \$50 million worth of facilities. This is a capital expenditure which is far beyond the budget of the people in Missoula. The most important thing that came out of that conference was an understanding that what most people need is what most other people also need. Throughout the process of the conference, it became understandable that by building a multipurpose facility the needs of most organizations and governmental units, school districts, university, etc. in this area could be met.

One of the highest recommendations that came out of the study was this type of legislation. There are two primary purposes for it. One is political practicality and the other is economic practicality. We have a city grade school district, a county high school district, a state university plus all of the private organizations. Those private organizations who wish to use the university's facilities do so after the university has their shot at them. Other organizations can use county high school facilities after the high school has scheduled their events. The same thing is true of grade school and private organizations. The problem is in terms of cost of the facilities. Right now I'm discussing fine arts, athletic, recreational, tourist and convention type facilities. They are extremely expensive. Not only are they expensive to build, they are expensive to maintain. The only way they can be justified is

through proper utilization. In order for us to attain proper utilization, such facilities must be owned by the community so that each organization, each public agency and each taxing entity that might want to use the facilities uses them on exactly the same priority basis.

We're not asking for authorization to spend state money or county money, school district money or any other kind of money of that sort. What we are asking is to allow a group of people (resident taxpayers who can see the need to form a district to include themselves) to provide for themselves the type of facilities that they need. However, it does not take much imagination to include community halls, grange halls, all types of public meeting facilities in rural areas that people need but can't get because of a political impracticality. They make up such a small segment of a large political, geographic area that it is not possible for them to go through the county process. They might be an unincorporated city and have difficulty in getting these special things in that manner. This would allow them to acquire this type of facilities.

It is not an open ended, give away money type of situation, because to start with they have to acquire the necessary petitions in order to get a hearing, get the matter on the ballot and then elect the people who will administer it. They must realize that they are going to have to pay for it. At a time when the cost of government and the cost of providing good service is very high and very troublesome to you as legislators and to all city and county government people, we feel that it is appropriate to provide some kind of mechanism in this large state where people who are bound together by a common need have a facility for satisfying that need. This facilities bill allows the creation of a district that can overlap either city-county boundaries or county-county boundaries to attain that kind of a district and the kind of facilities the people in the areas might receive, need and want.

PROPOSERS FOR HOUSE BILL 737

J. D. HOLMES of Helena represented the Montana Institute of the Arts Foundation and its legislative arm, the Montana Arts Advocacy. He said he supports the concept in this bill. It is my understanding the original drafting came through with substantial help from the Montana Arts Council, which is the only state funded agency. This bill certainly falls in with the pattern that President Reagan was urging because it provides the mechanics for more input from the public sector. If they really want a municipal center such as the Historical Museum or an art center, they could get together and start it under this bill. We urge you to give a do pass to it.

CHAIRMAN BERTELSEN asked if there were any further proponents, and there were none. He asked if there were any opponents and there were none. He then asked Rep. Dussault if she would like to close.

REP. DUSSAULT said, "I close."

QUESTIONS FROM COMMITTEE MEMBERS

REP. WALDRON asked a question of Bill Coffee. He said he has a real problem which he discussed with you before. If you have proliferation of these type districts, what happens is the same thing that happens in rural fire districts. You never know who the people are who run them. I worked with a rural fire district for years, and I never knew who the people were that we elected. I think the same sort of thing will happen here. What you are creating is another governmental entity, a separate sovereign entity with an elected board, that no one is going to know who is on the board.

WILLIAM COFFEE: I can't argue with that successfully other than to say that the legislature is made up of the same kind of people. We don't all know them. The problem I see with that philosophy is not that it is right or wrong. The problem stems from the fact that we are going to have to place back in the hands of those who are paying the tax burden some of the discretion over what they pay. This has a tendency to bring us much closer to them. They have to initiate it. They have to agree with it as they get two or three votes on it. So rather it being done in the county courthouse or in the legislature, it is done in the neighborhood of the metropolitan area in which it is impacted.

Somewhere along the line we'll have to find a solution to what you are talking about. All levels of government don't seem to be as efficient as they once were. I think this bill addresses that by attempting to give some control for the things people need back to the people who need them. I probably feel about taxes the way you do, and yet I find a distinct difference between the philosophy within the taxpayer's mind regarding those things they can see touching them as to services that are invisible to eye, particularly if those services are addressed to a segment of the population of which they are not a part. I am talking about a lot of social services and this type of thing.

REP. AZZARA: Bill, I haven't had an opportunity to look this bill over as well as I'd like to, but perhaps you can help me with the question of financing. Assuming this passed, do I understand correctly that the maximum capital you have in Missoula County, if it was employed right away, would be the equivalent of three county mills?

MR. COFFEE said no. You will notice in the bill that it gives the authority bonding capacity with respect to either general obligation bonds or revenue bonds which would not exceed 5% of the assessed property valuation within the district itself. From a study we did last fall, we understand we can do the entire job in the neighborhood of \$16 million instead of \$50 million by doing comprehensive cooperative multipurpose development. This brings the thing down to where it can either be done in phases that can be addressed by the community where a budget is sufficient if the people want to pay for them.

REP. SWITZER asked a question of either Rep. Dussault or Mr. Coffee. "Are these structures anticipated to be something like the Metro or Four Seasons?"

MR. COFFEE said in the Missoula area the constructions we are looking at are fine arts structures and athletic recreational family entertainment convention type structures. I want to make one thing clear here, and that is we are not addressing programmatic needs of school districts or university needs or anything else. In other communities I cannot address what type facility they might need.

REP. SWITZER commented that they are structures. Did you ever try to do it without legislation?

MR. COFFEE said Missoula's problem is that other organizations cannot use the facilities of the schools or universities. We must come in and use them only after the university or schools have done all of their scheduling. We need community owned facilities, but that community really does include more than the city but less than the total county. Those organizations who would come to use these facilities need to be able to come on the same priority basis. There is no favoritism.

REP. SWITZER: I have one more question. "What does a mill raise in Missoula County?"

MR. COFFEE said he believes a mill raises about \$125,000, but if we're talking about the metropolitan area, I assume we could trim that by about 15%.

REP. SWITZER asked, "What does this facility need \$375,000 a year for?"

MR. COFFEE said in Missoula we are talking about several facilities. It will be cheaper if we can acquire two of our local theaters which are really no longer viable economically, namely the Fox Theater as a music performance facility, and the old Roman Theater, which is an excellent facility for the spoken word, dramatic theater; and build an athletic recreational family show-type facility that we don't have. So we're talking about three facilities. This is the type of problem that

must be addressed by the community as a whole.

REP. HURWITZ: Bill, you speak of municipal facilities and yet you include the county. From what I have been hearing for the last six years, the county doesn't want to be included in the municipality. I'm also hearing that Missoula is in such terrible financial straits, that they are threatening disincorporation. The three mills would still have to fall on that same municipality.

REP. WALDRON commented there is a huge portion of the urban area outside of the city also, which falls into that mill levy. It wouldn't necessarily be three mills.

MR. COFFEE said no, three mills is the maximum.

REP. ANDREASON: I want to clear up one point. Would these districts include the county or just the area around Missoula, the three mile area?

REP. DUSSAULT said the boundaries of the district can be drawn in any way the people want. If you look on page 2, line 9, the petition that would create the district would have to be signed by 20% of the registered electors within the district and contain a map of the boundaries. The boundaries could theoretically be the city of Missoula. They could extend outside the city of Missoula into the county but not into Seeley Lake, or it could be all of Missoula county and Ravalli County.

REP. DUSSAULT closed.

CHAIRMAN BERTELSEN announced that before adjourning, he'd like to establish a subcommittee for subdivisions for HB 715. I have tentatively chosen Rep. Hurwitz, Andreason, Kitselman, Dussault and Waldron. Rep. Hurwitz would be in charge of the committee and I'd like a report for an executive committee meeting Saturday morning before the session.

The meeting adjourned at 2:50 p.m.


VERNER L. BERTELSEN, CHAIRMAN

hbm

VISITORS' REGISTER

HOUSE

COMMITTEE

R T L L

AL 393

Date 2-17-81

SPONSOR

Rep. Orren Vinger

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPO
Mike Meloy	H. R.		✓
MIKE Meloy	... HICAWA	MFA MT. PRESS BLS		✓
Jim Halverson	Weymouth	Booseville County	✓	
Ray Long	...	Fall ... County	✓	
Joanne Pires	Fort Benton	Clerk - Recorder Chouteau County	✓	
Francis M.	✓	

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

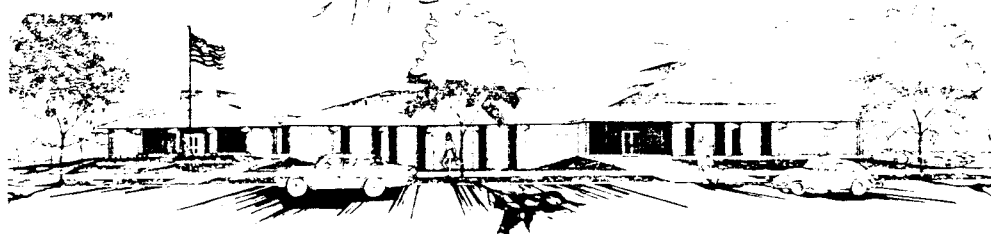
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Louise A. Miller BILL No. 393
ADDRESS Box 366 Virginia Ct. DATE 2-19-81
WHOM DO YOU REPRESENT Madison Co. & Mt. Assn. of Co.
SUPPORT yes OPPOSE Check & Record pass AMEND yes
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This is a useless costly
procedure - Proceedings are
written up in detail & are at
the disposal of all who have to
scrutinize - such proceedings -
This bill has been long overdue.
I fully support the remarks of
representative Wadman
Thank you -

COMMISSIONERS:
Box 846 Phone 778-2846
Delane Beach, Baker,
Chairman
Gary Lang, Plevna 59344
Art Koenig, Baker



ASSESSOR:
Curtis Huether
Box 499 Phone 778-21

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SHERIFF:
Emil A. Hoem
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SUPT. OF SCHOOLS:
Marlene A. Ferrel
Box 1117 Phone 778-2

TREASURER:
Faye M. Koenig
Box 787 Phone 778-21

FALLON COUNTY

BAKER, MONTANA 59313

February 6, 1981

Local Government Committee
House of Representatives
Capitol Station
Helena, Montana 59601

Dear Committee Members;

HB 393 to change Section 7-5-2123 (1) (a), M.C.A. 1979 states the expenditure totals for each budget category, the total expended from cash funds for the budget year. This is not the way it was intended to be introduced, it should have read the expenditure totals for each budget category and total expended from each fund. The reason I am challenging this is that Commissioner Gary Lang and myself drew up this proposal for MACO and also presented it to the Montana Clerk & Records Association which passed the enclosed resolution at their annual convention.

MACO was proposing a draft for quarterly totals only which the Clerk & Records don't have but could compile with additional bookwork; so Commissioner Lang volunteered to draft this bill to comply with figures the Clerk & Records would already have which was presented to MACO through their Commissioner district. My protest to HB393 is that we do have the total expended from cash funds for the budget year but again would take additional book work to add them together from our expense book to make a complete total for publishing; our intention was to propose something that would come from just the claims that the Commissioners approved in that session which would give the taxpayers this information and also not be an added burden to the Clerk & Records office. As an example the claims our Commissioners just approved would be published as follows:

Fund	Salaries	Maintenance & Operation	Capital Outlay	Total
General	\$31,811.34	\$15,582.24	\$ 111.00	\$47,504.58
Road	19,240.66	8,323.70	804.00	28,368.36
Poor		9,448.55	5,995.00	15,443.55
Bridge	3,140.03	10,098.31		13,238.34
Library	1,814.58	850.25		2,664.83
Airport		730.35		730.35
Emergency Medical		291.37	950.45	1,241.82
Cemetery	1.38			1.38
Land Planning	214.00	300.55		514.55
Gas Tax	2,449.80			2,449.80
Revenue Sharing			15,915.00	15,915.00
Motor Vehicle Disposal	100.00			100.00

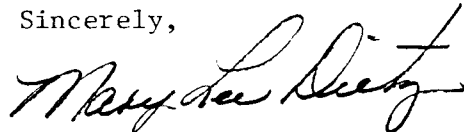
page 2
February 6, 1981
Local Government Committee
HB 393

Your consideration to this will be greatly appreciated as the way it is proposed will again cause considerable more work for our office at least in our county, Fallon, the way our books are set up and I feel our original proposal will give the taxpayers the information they need. If they care to check into any of these expenditures anyfurther they can always inquire in the office as all of this is public record. This will be way more information than they receive from the schools or cities and they are also tax supported so feel the counties have been and still are being descriminated against having to publish their minutes and claims but our proposal should reduce our printing cost.

A copy of the resolution adopted at the Montana Association of Clerks and Recorders convention is enclosed.

Thank you.

Sincerely,

A handwritten signature in cursive script, reading "Mary Lee Dietz". The signature is written in dark ink and is positioned above the typed name and title.

Mary Lee Dietz
Clerk & Recorder

cc: Senator S. A. Olsen
Representative Hubert J. Abrams
Lorraine Molitor, President MACR

WHEREAS, we as Clerks and Recorders are concerned about the increasing costs and time involved in publishing claims, and

WHEREAS, the Montana Association of Counties has passed a resolution #80-9 to recommend that Sec. 7-5-2123-1 (a), M.C.A., 1979 be changed from "showing the name, purpose and amount," to read "showing expenditure totals for each budget category (salaries, maintenance and operation, capital outlay, and miscellaneous) and total expended from each fund.", and

WHEREAS, the Montana Association of Counties Board of Directors has prioritized this resolution as number eight of eighteen resolutions and may merely indicate support of the issue rather than introduce the necessary legislation,

NOW THEREFORE BE IT RESOLVED, that the Montana Association of County Clerks and Recorders introduce legislation, if necessary, to change Sec. 7-5-2123-1 (a), M.C.A., 1979 as recommended by MACO's Resolution No. 80-9.

HOUSE Local Govt COMMITTEE

Date 2-19-81

Larsen

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE Local Govt COMMITTEE

BILL HB 715

Date 2-19-81

SPONSOR LOR.

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.


MISSOULA COUNTY

MISSOULA PLANNING OFFICE · 301 West Alder · Missoula, Montana 59801
(406) 721-5700

MEMO

TO: Members of the House Local Government Committee
FROM: Missoula Planning Office
DATE: February 18, 1981
RE: H.B. 715

The Missoula Planning Office wishes to take this opportunity to express general support for House Bill 715 and to encourage the Committee to give this legislation a do-pass recommendation.


Daniel A. Obermeyer
Missoula Interim Planning Director

DAO:OJO:rs

To: House Committee on Local Government
From: League of Women Voters of Montana

The League of Women Voters would like to state our support of HB 715 in its attempt to rectify some of the problems created by the many loopholes and inadequacies in the laws regulating subdivisions in Montana. Nevertheless we have deep reservations about some of the changes proposed in the bill.

We approve the tightening of the use of the occasional sale and family conveyance (pp. 8 and 9). These changes should cut down somewhat on the more questionable uses of these exemptions.

We also are pleased to see the exemption for parcels of more than 20 acres in size eliminated. This provision has created unreviewed land divisions of 20 acres in size throughout many Montana counties. These 20 acre splits are often further subdivided through the other exemptions. With this history in mind, it is somewhat ominous that HB 715 proposes that the review of subdivisions consisting of parcels larger than 40 acres "shall be limited to a written determination that appropriate access and any easements are properly provided." (pp. 17). It would be too bad if we were just adding another layer to the loophole game.

Our most serious reservations, however, have to do with the provisions for summary review. We believe that the category of "minor subdivisions" created by the law is based on the false premise that these subdivisions have very little impact. In fact in many parts of the state the law has created a large sub-class of scattered development subject to minimal review.

HB 715 proposes to make that review even more minimal by exempting the first minor subdivision created from a tract of record from the finding that the subdivision is in the public interest. (p. 16) It would seem equally, if not more, important that the public interest criteria apply to the first subdivision than to the subsequent divisions.

Section 13 (p.18) implicitly recognizes the serious problems created by minor subdivisions. While the intent of this section is laudable, we fear that it might be unworkable in practice. The terms of the section are imprecise and it is not clear how separate developments with separate owners would be treated as a major subdivision. This section could invite lawsuits from all sides and would require a potentially arbitrary decision from the governing body.

The cumulative effect of minor subdivisions is a huge problem and must be dealt with, but we fear that HB 715 provides an inadequate answer to the problems created by loopholes. It would be far better to eliminate the loopholes themselves. At the very least all minor subdivisions should receive adequate review, including findings that they are in the public interest.

Finally we have a few other questions about provisions of this bill. Might not the automatic approval (in 35 days for minor subdivisions and 40 acre parcels and in 60 days for major subdivisions) create a "pocket approval" which could be abused by officials who didn't want to explain their decisions? On p. 12, line 11, why should the department of community affairs bother to put together minimum regulation requirements if they can be superseded by less stringent local regulations?

We thank you for this opportunity to comment.

WITNESS STATEMENT

Name Rose Leavitt Date 2-19-81
Address 318 Harrison - Helena Support ? ☒
Representing LWV of Montana Oppose ? ☐
Which Bill ? HB 715 Amend ? ☐

Comments:

please refer to written statement

Please leave prepared statement with the committee secretary.



MONTANA ASSOCIATION OF PLANNERS

February 19, 1981

My Name is Gale Allen

I would like to take this opportunity to support House Bill 715.

Though I represent the Montana Association of Planners I feel myself more capable of relating experiences I have encountered as the Director of the Butte-Silver Bow Planning Board. It is the Board's opinion that the legislative intent of the subdivision regulation concerning the family and occasional sale were based on the need to provide a mechanism for a landowner to occasionally sell or divide land to family members or a neighboring farm or ranch. This will most likely occur in the case where a son or daughter may want to begin farming or ranching (family sale) or perhaps where a piece of land does not tie in with farm operations, in which use it may be better suited for his neighbors (occasional sale) operations.

In Butte-Silver Bow we do indeed see this type of division, however, many divisions of land are small parcels divided and sold in urban areas via the family and occasional sale. Cases as these should and sometimes are challenged in court. As in other cities and counties, however, the Attorney's Office is very hesitant to take such a case to court because the law is not clear concerning what constitutes a violation of the law. It is our opinion that the five-year ownership requirement and a clarification of when that five year begins would aid greatly in carrying out the legislative intent. It would seem that only those interested in stretching the law would argue against the legislative intent of the subdivision law and the above amendment's attempt to clarify the intent of the legislation.

Another argument for some type of summary review is the case of home financing and road maintenance and improvements. It is our experience that with certificate's of survey and divisions of land into parcels greater than twenty acres that the streets or roads are private with no means to maintain or improve them. This leads to two problems:

1. that lending institutions (FHA, VA, Bank, etc.) will not issue a home loan where there is a private road and no means to maintain it. Thus an individual purchases the property but has no means to obtain a loan and develop it as a homesite. If there is a question concerning this please contact the HUD/FHA office in Helena; and
2. that where there is no mechanism, such as a homeowners association, to maintain or improve a road - 100 percent land owner approval is needed. Such approval, as I'm sure you are aware, is nearly impossible. Consequently a road could continue to deteriorate until it can no longer be traveled on or until a handful of property owners do minimum

maintenance. This problem has been severely compounded in large tract developments where family and occasional sales have been used to further split the land and increased travel on roads designed for strictly rural capacities.

Overall, the basic exemptions have been used or abused so that over 90% of land subdivisions are not reviewed.

The real problem of unreviewed parcels is that the poor land development design which frequently occurs can create excessive costs for construction, repair and maintenance of county roads and facilities. The general property taxpayer suffers by paying higher taxes to fund excessively costly roads and services. Poor subdivision design can create health and safety hazards to the general public and to residents of the subdivision. Contaminated water, steep road grades, and hazardous intersections are examples of public health and safety problems.

The lot buyer is saved a tremendous amount of money where his lot is designed and with access, water, sewer and drainage is properly provided.

The Montana Association of Planners is enclosing some pictures of situations arising from unreviewed land developments. These pictures document that poor design can result in hazardous or costly circumstances.

House Bill 715 addresses every argument the development industry has raised in the past to oppose strengthening the state subdivision law. HB 715 would overcome undue delay by local officials; mandate a truly summary review of a minor subdivision; broaden the use of summary review to include subdivisions within a city or master planned area and restrict the use of a master plan to deny a subdivision. A very important provision for subdividers is the automatic approval if a governing body fails to act within the 60 or 35 day time limit.

To oppose HB 715, given all of its concessions to subdividers and the benefits of review, is tantamount to defending the right to do a haphazard subdivision.

Testimony Prepared for Hearing on HB715

Local Government Committee

February 19, 1981

My name is David Adkisson. I live in Missoula and I am here along with my associate, Jean Parodi, to illuminate some of the dramatic problems that are occurring in western Montana valleys, in particular Missoula County, due to the unreviewed subdividing of land. Our perspective comes from having gathered data for the Montana Environmental Information Center, 1980 Missoula County Subdivision Inventory Report, which was completed last August. I am going to quickly summarize these findings and give a few examples. We would be happy to answer any questions you might have following this summary.

Without going into the methodology of how this study was done, it will suffice to say that a comprehensive documentation on total number, size, how divisions occurred, and other facts revealed that since 1973 (when the Subdivision and Platting Act was enacted) 91.3 percent of the subdivided land in Missoula County was split using unreviewed certificates of survey. A majority of these COS's used the exemptions for occasional sale, family conveyance and the acreage exemption for divisions larger than 20 acres. Another significant number of parcels resulted from the "remainder" left over when divisions were made by other means.

Typically, someone who wishes to avoid review can use the acreage exemption to first divide a large piece of land into 20 acre plots and then, through a fairly simple maneuvering with other exemptions, chop a 20 acre plot into lot sized parcels. In the last seven years, 94 major "subdivisions" were created by unreviewed COS while only 78 were platted and reviewed.

A good many problems occur because of this helter-skelter division of land and the associated settlement patterns that result along with it. People end up living in areas of likely fire hazard, wildlife is pushed out of winter grazing ranges, the county is unable to build and maintain its own roads without large sums of revenue sharing funds, school officials have great difficulty in planning for education needs, and much of our precious little agricultural land is removed from potential production.

The Forest Service's Northern Fire Lab in Missoula has developed a fire hazard classification system based on forest fuel loads and fire behavior. All private

lands adjoining national forest in Missoula County were mapped and classified. Several subdivided areas lie in Extreme and High fire hazard zones. For example, the unreviewed development on the west fork of Petty Creek has only one way in, no escape route, and the likelihood of burning hot and quick when it does. Often times lot buyers don't make themselves aware of these problems and aesthetic reasoning wins out over more practical considerations. Many people buy lots, move into an area, and then decide they need services - services that should be accounted for in the first place.

The Houle Creek area near Frenchtown is a good example of this happening. After people moved into this area, they discovered their access road was too steep for fire trucks and school buses during the winter. After years of complaints, Missoula County officials appropriated funds to improve the road. When subdivisions are not reviewed, roads may become the responsibility of local government, as developers are not required to provide them and have little economic incentive to do so. One ingenious developer near Potomac split his land by COS, sold lots, and kept the roads in his name. He later defaulted on the taxes and the County had to take over the roads. Developers and home buyers should pay for site- and user-specific roads rather than dispersing the costs throughout the community by subsidizing them with public money. School systems also have problems with uncontrolled growth and development because of unreviewed land splits. Accurate enrollments are hard to predict and this makes planning for the future difficult leaving schools short on space and personnel.

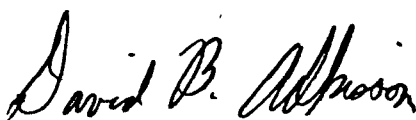
Poorly located developments can also have serious effects on wildlife. Animal herds tend to establish very specific winter ranges and are often unable to relocate and survive when houses, fences, people and dogs encroach. The unreviewed subdivision on the west fork of Petty Creek is winter range for elk, deer, and bighorn sheep. These animals are already competing with each other for food and cover. The added stress from residential development will undoubtedly mean smaller elk and deer herds and probable extinction for bighorn sheep in the area.

Finally, unreviewed subdivisions take their toll on agriculture - destroying both a way of life and our potential for food production in the future. Granted, one can make more money in growing houses than crops now-a-days. Only three small scale farming operations are currently functioning in Missoula


County. (Although according to local agricultural officials, at least seven to eight million dollars worth of produce could be grown locally.) Yet, only one of those three truck-farms remains financially successful without outside income. This is a gross departure from what was once truly the "garden" city, an area that raised produce for distribution throughout Montana. But, as energy costs soar and along with it, transportation costs, it would be wise for society to retain our food production potential close at hand. Only a small amount of Missoula County's total area is prime agricultural soil, nine-tenths of one percent. Important farmlands make up another 1.1 percent. When the subdivision inventory was completed the figures indicated that a shocking 48 percent of our prime soils were already built on or divided to lot size. Thirty-three percent of the important farmland soils were in that situation. Recently, however the Soil Conservation Service was able to classify other soils into these categories of prime and important soils. Fortunately, revised figures indicate that we have only subdivided 20 percent of our prime soils and 12 percent of the important farmland. Still, there is no need to celebrate. The point is we have very little of these soils in the first place - they must be used wisely. Development in the wrong areas destroy this vital resource - soil - as it is disturbed by house, driveway and road construction.

Although a good many people have said the entire Subdivision and Platting Act should be scrapped and completely rewritten, we don't see this as being possible at this time. We feel this bill would allow for controlled growth of residential development in our area and still provide people the flexibility to legitimately divide their land as they may wish and yet take into account the interest of society at large. We urge your support of this legislation.

Thank you,



David B. Adkisson



Jean Parodi

MISSOULA COUNTY

Public land or large holdings by single owners. 81%
Land available for private ownership. 19%

1973 - 1979

Total area subdivided 42,623.02 acres
Total area reviewed platted parcels 8.7% - 3,699.91 acres
Total area unreviewed COS parcels 91.3% - 38,923.11 acres
Acreage exemptions. 44.0%
Occasional sale 23.0%
Family conveyance 14.0%
Remainder 17.0%

Agricultural Impact Figures

*Total amount prime agricultural soils 14,577 acres
Total amount important farmland. 18,697 acres
Currently subdivided prime agricultural soils. 20.0%
Currently subdivided important farmland. 12.0%
7,055 acres

*Nationwide prime agricultural soils (Class I & II) comprise only 20 percent of the total land area. Missoula County prime soils fall into the Class II division and require irrigation.

*From Bob Gannon
Int River Co*

HOUSE BILL 715

1. Amend page 9, line 17.

Following: "domain."

Add new subsection as follows:

- (h) divisions used for utility sitings or easements provided no structure requiring water or sewerage disposal is erected on the parcel.

From: Don Snow

Proposed Amendments to HB 715

- 1) Page 4, lines 15-17: Strike in entirety
- 2) Page 8, lines 23 to Page 9, line 7: Strike in entirety
(Option) Page 9, line 4: after "subdivisions", strike ", if the transaction is an occasional sale"
- 3) Page 8, line 5: after "division", strike "within a 12-month period"
(Option) Page 8, lines 5-14: Strike in entirety; insert: "one division made outside of a platted subdivision for the purpose of gift or sale to each member of the landowner's immediate family, provided that any additional conveyance to the same family member shall be reviewed under the summary review procedures of 76-3-609;"
- 4) Page 14, line 9: after "within", strike "60", insert "90"
- 5) Page 17, line 25, after "within", strike "60", insert "90"

7413 715

From Bob Gorman,
Mont, Dunes

SUBDIVISIONS

16.16.699

(d) Divisions made for agricultural or pasture use when no structures requiring water and sewage facilities are to be erected or utilized, provided the parties to the transaction enter into a covenant running with the land and revocable only by the governing body and the property owner. Any change in land use subjects the division to the provisions of Title 76, Chapter 4, Part 1, MCA and this chapter.

(e) Boundary changes for the purpose of aggregating lots (five or fewer) in a platted subdivision when the lots are presently served by public water and sewer.

(f) Parcels used for utility sitings, easements, gravel pits and ski lifts provided no structure requiring water or sewerage disposal be erected on the parcel. Any change in land use subjects the division to the provisions of Title 76, Chapter 4, Part 1, MCA, and this chapter. (History: Sec. 76-4-104, MCA; IMP, Sec. 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77.)

16.16.606 EXCLUSIONS -- COMPLIANCE WITH PUBLIC WATER SUPPLY ACT (1) Exclusions of a subdivision from the requirements of this chapter shall not relieve the party responsible for construction of municipal water and sewer from the duty to comply with the requirements of the Public Water Supply Act, Title 75, Chapter 6, Part 1, MCA. (History: Sec. 76-4-104, MCA; IMP, Sec. 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77.)

Rules 16.16.607 through 16.16.698 reserved.

16.16.699 MISCELLANEOUS (1) No construction of structures requiring water and sewerage facilities in a subdivision excluded under this chapter shall commence until the department has reviewed and approved plans and specifications for the water and sewerage facilities. (History: Sec. 76-4-104, MCA; IMP, Sec. 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77.)

Sub-Chapter 7 reserved

NEXT PAGE IS 16-849

Sec. 76-4-104, MCA, IMP, Sec. 76-4-125, MCA; Eff. 12/31/72; AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD, 1977 MAR p. 746, Eff. 10/25/77.)

Rule 16.16.604 reserved

16.16.605 EXCLUSIONS (1) The exemptions stated in sections 76-3-207(1)(c), 76-3-207(2)(b), 76-3-201 and 75-3-204, MCA, are not subject to the provisions of this chapter:

- (a) Divisions created by order of any court of record in this state or by operation of law, or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain (Title 70, Chapter 30, Parts 1, 2 and 3, MCA);
 - (b) Divisions created to provide security for construction mortgage, liens or trust indentures;
 - (c) Divisions which create an interest in oil, gas, minerals, or water which is now or hereafter severed from the surface ownership of real property;
 - (d) Divisions which create cemetery lots;
 - (e) Divisions created by the reservation of a life estate;
 - (f) Divisions created by lease or rental for farming and agricultural purposes;
 - (g) Sale, rent, lease or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land. (This exemption does not apply to condominiums prior to their construction.)
- (2) The following divisions of land are also exempt from this chapter and must bear on the survey document the acknowledged certificate of the property owner stating that the division of land in question is exempt from review and quoting in its entirety the wording of the applicable exemption.
- (a) Divisions for the purpose of acquiring additional land to become part of a parcel that does not have sanitary restrictions imposed provided that no dwelling or structure requiring water or sewage be erected on the additional acquired parcel.
 - (b) Divisions made to correct errors in construction where building or shrubs may encroach upon the neighboring property.
 - (c) Divisions made for convenience when highway relocation divorces a portion of the land from the original tract making it more desirable for the property to be sold to become part of a contiguous tract or if sufficiently large as an individual tract.

NEXT PAGE IS 16-835

HB 715

From:
Bob Cannon,
Mt. Power

SUBDIVISIONS

16.16.605

Sec. 76-4-104, MCA, IMP, Sec. 76-4-125, MCA; Eff. 12/31/72;
AMD, Eff. 11/4/73; AMD, Eff. 11/3/75; AMD, Eff. 5/6/76; AMD,
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(b) Divisions made to correct errors in construction
where building or shrubs may encroach upon the neighboring
property.

(c) Divisions made for convenience when highway reloca-
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come part of a contiguous tract or if sufficiently large as
an individual tract.

NEXT PAGE IS 16-835

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(e) Boundary changes for the purpose of aggregating lots (five or fewer) in a platted subdivision when the lots are presently served by public water and sewer.

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Sub-Chapter 7 reserved

NEXT PAGE IS 16-849

NAME Julie Tracker BILL No. 715
ADDRESS Star Rte - Benson DATE 2-19-81
WHOM DO YOU REPRESENT None
SUPPORT OPPOSE X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The philosophy behind this bill is purely social control and land reform. We don't need any more consumer legislation. If property is divided properly the people will come & live in peace and growth by the 10th. 20th is slow. People need places to live and the land is where.

Legislators could concentrate on other matters such as research on the small acreages as is being done in the Bitterroot R. Cor. & Rev. You know you can grow a lot of food on 10A. This bill keeps popping up like a cork. You could do us all a favor and kill it.

over 1

Planning dept. has too much
authority by admin. law.

NAME Neal Cohen BILL No. 715
ADDRESS Star Pk. - Bronx - N.Y. DATE Feb 19/81
WHOM DO YOU REPRESENT Neale Co. - Developer
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

With the County's City growth
Crying - broke - this bill increases
you know the planning dept where
Neale Co. has a budget of \$11,986
& a staff of 25 - already broke and
registering warrants. You are attempting
to bring all parcels of land under
the revised process. You are again
attacking those who are not really
in the land business - It could
be a hardship on those who wish to
sell one parcel of land for financial
reasons (taxes mortgage etc) they may not
be able to hang on for five years
you have not addressed the Condo
loophole & that's the worst of all
the MTA situation has repeatedly gone ignored.

the wishes of the people

The gentleman from F I C. who
said the subdivider defaulted
on his taxes in a subdivision
near Patomac & the County had
to take over the roads. I live
in Patomac & this is a false
statement. ~~There~~ The people
who live there are maintaining
their own roads - plowing &
their own snow or hiring
it done. - No County funds

2 0 81 @ 11:30.2m

MEMORANDUM

February 20, 1981

TO: THE HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: R. SCOTT CURREY, MAR STATE COUNSEL

RE: PROPOSED AMENDMENTS TO HB 715

Amendment #1. This amendment clarifies the definition of "occasional sale" by reinstating existing language. The underlined material on lines 16 and 17 comes from last session's HB 46 and was added in Committee. The word "transaction" is undefined and it is uncertain what it refers to.

Amendment #2. This amendment would allow one division of land per family member without review. The language of HB 715, if adopted, would discontinue the use of a valuable tax and estate planning tool.

Example. The income from a rancher's operation is, of course, taxable. However, if a portion of his ranch land is sold or gifted to one of his children, the income produced by the gifted property is taxable to the child and not the original landowner. This "income spreading" allows many families involved in agriculture to make use of a valuable tax break. Under the present language of HB 715 this "income spreading" technique could not be used for five years after acquiring property. The language in our proposed amendment comes directly from last session's HB 46 as proposed by the interim Committee on Subdivisions.

Amendment #3. This amendment allows one unreviewed occasional sale per parcel. It is to allow the private landowner who is not a developer one unreviewed division of property. It is unreasonable to believe that the allowing of a single unreviewed sale per parcel will greatly affect overall planning.

Amendment #4. HB 715 allows for summary review of all subdivisions consisting exclusively of parcels larger than forty acres in size. Jim Richards, of the Department of Community Affairs, and a supporter of HB 715, informs me that this forty acre figure is arbitrary. The attempt was to find a

figure that would insure that the parcel would be used for agricultural purposes. Under the present law, all lots of twenty acres or more receive no review. Allowing summary review for these size lots allows some planning, where before there was none. This would also limit the greatly increased number of reviews that local planning departments will be required to perform if this bill passes.

Amendment #5. Representative Lory, HB 715's sponsor, admits that its strong point is its provisions for summary review. Subsection (2) of Section 7 (page 11, lines 23 through 25) allow local planning boards to negate the summary review provisions, thereby gutting the intent of the bill.

Amendment #6. Subsection (iii) of Section 9 (page 13, lines 9 through 16) creates a situation where a subdivider may be subject to conflicting requirements from city and county governments.

Amendment #7. Section 76-3-605 requires local planning departments to make their recommendation to the governing body within ten days. HB 715 omits that requirement. There has been some indication that the ten-day limitation is unreasonable and often requires the governing body to call special meetings. MAR fears that removing this time limit all together will allow planning departments to sit on proposals without making recommendations. If the ten-day limitation is unrealistic then it should be lengthened. However, we feel some limitation should remain. Our amendment suggests this be changed to fourteen days.

Amendments #8, 9, and 10. As written, HB 715's summary review procedures are of limited benefit to subdividers since the summary review procedure may only be used once per parcel. This creates an unreasonable limitation considering the addition of Section 13. Section 13 allows the governing body to require preparation of an environmental assessment and hold a public hearing if a number of minor subdivisions in the same area have a significant effect. Conversely, if a number of minor subdivisions are created from the same tract and there is no significant effect, then no need exists for anything other than a summary review.

Amendment #11. See explanation of Amendment #4.



MONTANA
ASSOCIATION
OF REALTORS®

EXECUTIVE OFFICE
600 NORTH PARK
HELENA, MONTANA 59601
TELEPHONE:
(406) 443-4032

COMMENTS ON H.B. 715

CLIFF CHRISTIAN

MONTANA ASSOCIATION OF REALTORS

H.B. 715 HAS SOME PROVISIONS THAT PURPORT TO STREAMLINE THE REVIEW PROCESS FOR SUBDIVISIONS. HOWEVER, THOSE PROVISIONS ARE MINOR COMPARED TO THE INCREASED ACREAGE DEFINITION THAT STATES THAT ANY DIVISION OF LAND IS A SUBDIVISION, THE LIMITS PLACED ON THE OCCASIONAL SALE AND GIFT TO THE FAMILY EXEMPTIONS, PLUS THE ADDITION OF A "CUMMULATIVE EFFECT" SECTION BEGINNING ON PAGE 18, LINE 4.

IN OUR OPINION, THE MAJOR DEFECT IN THIS BILL IS THAT VIRTUALLY EVERY LAND DIVISION WILL HAVE SOME TYPE OF REVIEW (EXCEPT THE SEVERELY RESTRICTED EXEMPTION SECTION) BY THE LOCAL PLANNING BOARDS AND GOVERNING BODIES. THERE IS NO WAY THAT THEY ARE EQUIPPED TO HANDLE ALL THESE REVIEWS IN A TIMELY MANNER. THE DCA CLAIMS THAT TODAY THE PLANNING BOARDS ARE ONLY REVIEWING 10-15% OF THE LAND DIVISIONS. YET, EVEN WITH THESE FIGURES THEY SEEM TO BE SWAMPED. DELAYS ARE THE ORDER OF THE DAY, RATHER THAN THE EXCEPTION. WE SUBMIT THAT, UNDER CURRENT OPERATING PROCEDURES THE PLANNING BOARDS HAVE NEITHER THE MANPOWER OR THE BUDGETS TO DO WHAT THIS BILL ASKS THEM TO DO. AND, AT BEST, THE STATE DIVISION OF PLANNING WILL ONLY BE ABLE TO GIVE MINIMUM ASSISTANCE TO LOCAL GOVERNMENTS, WHO WILL MOST CERTAINLY BE PLEADING FOR HELP AND GUIDANCE. WITHOUT STRONG GUIDANCE, WE WILL PROBABLY END UP WITH 56 DIFFERENT COUNTIES INTERPRETING THIS ACT 56 DIFFERENT WAYS.

WE WERE SUCCESSFUL IN GETTING THE AUTOMATIC APPROVAL SECTIONS INTO H.B. 715. WE HAD TO BECAUSE OF THE TERRIBLE TIME DELAYS WE ARE CURRENTLY EXPERIENCING IN SOME AREAS. THESE TIME DELAYS ARE COSTLY, NOT AS YOU MIGHT EXPECT-TO THE DEVELOPER- BUT TO MONTANANS, BUYING THE LAND FOR A HOME. WE HOPE THESE TIME PERIODS REMAIN IN H.B. 715. HOWEVER, THEY REALLY DON'T MEAN MUCH. THE PLANNING BOARDS CAN STILL REQUEST THE DEVELOPER TO WAIVE THE LIMITS IMPOSED. THE DEVELOPER WILL AGREE TO LIFTING THE TIME LIMITS EVERY TIME, BECAUSE THE ALTERNATIVE, IS THE DENIAL OF THE SUBDIVISION, ON SUCH NEBULOUS GROUNDS AS THE ADVERSE EFFECT ON WILDLIFE OR AGRICULTURE.

THE SECOND MAJOR DEFECT (AND ITS A BIG ONE) DEALS WITH WHERE A PERSON CAN USE THE OCCASIONAL SALE OR FAMILY EXEMPTIONS. IF THIS BILL PASSES AS IS, EVERY DIVISION OF LAND WILL BE DEFINED AS A PLATTED SUBDIVISION. THE EXEMPTION SECTIONS FOR THE OCCASIONAL SALE AND GIFT TO THE FAMILY (PAGE 8 AND PAGE 9) STATE THAT YOU CAN USE THESE EXEMPTIONS ONLY OUTSIDE PLATTED SUBDIVISIONS. IN EFFECT, THESE LEGITIMATE EXEMPTIONS WILL BE WIPED OUT.

ANOTHER MAJOR CONCERN IS THE "CUMMULATIVE EFFECT" SECTION FOUND ON PAGE 18 BEGINNING ON LINE 4. THIS SECTION STATES THAT AFTER THE FIRST MINOR SUBDIVISION OF 5 PARCELS OR LESS, THE GOVERNING BODY CAN REVIEW ANY ADDITIONAL MINOR SUBDIVISIONS AS IF THEY WERE MAJOR SUBDIVISIONS. I'LL BET MY ENTIRE YEARS SALARY THAT EVERY MINOR SUBDIVISION, AFTER THE FIRST ONE, WILL BE REVIEWED AS MAJOR SUBDIVISIONS. THE ENVIORNMENT-ALISTS, THE PLANNERS AND THE LEAGUE OF WOMEN VOTERS WILL SEE TO THAT.

WE CONTEND THAT THIS SECTION DOES NOT ALLOW EQUAL TREATMENT UNDER THE LAW. THE FIRST DEVELOPER SUBMITTING A MINOR SUBDIVISION SHALL BE GIVEN ALL THE BENEFITS (35 DAY REVIEW, NO PUBLIC HEARING, WAIVER OF THE PUBLIC

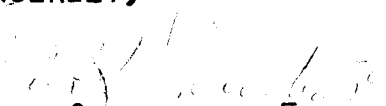
INTEREST CRITERIA, ETC.). YET THE SECOND LANDOWNER WITH THE SAME TYPE OF MINOR SUBDIVISION COULD BE FORCED TO UNDERGO A FULL BLOWN REVIEW. WE FEEL, THERE ARE SERIOUS LEGAL QUESTIONS REGARDING FAIR AND EQUAL TREATMENT UNDER THIS SECTION.

AS MENTIONED BEFORE, H.B. 715 STATES THAT ANY DIVISION OF LAND IS A SUBDIVISION. HOWEVER, FOR PARCELS GREATER THAN 40 ACRES, THE REVIEW IS ONLY FOR ACCESS AND EASEMENTS. IF THE ACREAGE DEFINITION PASSES AS IS, WE CAN MOST ASSUREDLY GUARANTEE YOU THAT THE 40 PLUS ACRE SUBDIVISIONS WILL BE COMMONPLACE. THAT, IS HORRID LAND USE PLANNING. NEVERTHELESS, 40 ACRE SUBDIVISIONS WILL BE THE ORDER OF THE DAY. PAST HISTORY PROVIDES POSITIVE PROOF THAT EVERY TIME THE ACREAGE DEFINITION IS INCREASED, SO ARE THE SIZES OF THE INDIVIDUAL PARCELS. SOME LANDOWNERS WILL ALWAYS TAKE THE LEAST FORM OF RESISTANCE, REGARDLESS OF WHAT TYPE OF LAND PLAN RESULTS. AND, WE DON'T CONDEM THOSE LANDOWNERS FOR TAKING THE LEAST FORM OF RESISTANCE. EACH ONE OF US CAN RELATE, EITHER A PERSONAL STORY, OR ONE OF A FRIEND, WHO ATTEMPTED TO FIGHT THEIR WAY THROUGH THE RED TAPE JUNGLE OF THE SUBDIVISION AND PLATTING ACT.

EACH AND EVERY LEGISLATIVE YEAR THIS ACT IS AMENDED DRASTICALLY. THE NEW CHANGES ARE ADOPTED THE FOLLOWING JULY. THEN, THE NEW RULES AND REGULATIONS ARE BROUGHT ON LINE; AND BY THE TIME THE PLANNING BOARDS AND THE PUBLIC BEGIN TO UNDERSTAND WHAT IS REQUIRED, A NEW LEGISLATURE HAS CONVENED, WITH MAJOR CHANGES AGAIN PROPOSED. BY PROPOSING TO MAKE EVERY DIVISION OF LAND A SUBDIVISION, SUBJECT TO SOME TYPE OF REVIEW BY GOVERNMENT, WE WILL FORCE EVEN MORE LANDOWNERS TO FIND THE LEAST FORM OF RESISTANCE - WHICH AS STATED BEFORE, DESTROYS THE VERY PURPOSE OF THIS ACT - GOOD LAND USE PLANNING.

PLEASE VOTE NO ON H.B. 715.

SINCERELY,


CLIFF CHRISTIAN, EXECUTIVE VICE PRESIDENT
MONTANA ASSOCIATION OF REALTORS

February 18, 1981

Rep. Verner Bertelsen
Chairman, House Local Government Committee
State Capitol
Helena, MT 59620

Re: HB 715 hearing, 12:30 p.m., Feb. 19, 1981

Dear Rep. Bertelsen:

Chairman Verner Bertelsen and members of the Local Government Committee: the Flathead County Planning Board is committed to good land use planning. It is the policy of our Board to carry out the wishes of the majority of the people residing within our jurisdiction. With this in mind we support HB 715.

Over the past few years our planning staff have conducted surveys and put together a comprehensive land use plan for Flathead County which saw thousands of people involved in public hearings - along with the formation of 23 individual planning units. From this our Board has formed the policy:

- 1) Encourage development near existing developed areas to minimize increased demand on local services.
- 2) Discourage development on productive farmland (class I-IV soils); recent surveys have shown that an overwhelming majority of county residents feel that good farm land should be preserved.
- 3) Discourage development that would degrade the environment.
- 4) That a quality life style can be maintained.

The effectiveness of our Board in carrying out this policy has been negated by the existing loopholes in the law -- most notably: The 20 acre split and the occasional sale. These loopholes have caused great problems in our county:

- 1) Over a 12-year period 1/6th of Flathead County's farmland was platted into lots
 - a) 21,900 acres have been divided into 20 acres or less
 - b) From October 1976 to August 1980, 20,771 acres have been subdivided with the 20 acre or larger exemption
- 2) We have an increased property tax burden caused by "leapfrog" subdivisions not paying their way.
- 3) And, a developer using these loopholes can avoid public opinion -- greatly altering an entire community's lifestyle.

It is our opinion that passage of HB 715 would enable our Board and County Commissioners to effectively implement the policy our residents have directed us to, and in so doing would enable us to preserve our community lifestyle and agricultural land, while saving our taxpayers a great amount of money.

Thank you, Henry L. Ficken, Chairman, Flathead County Planning Board

Bill Rinck, Vice Chairman

Henry L. Ficken

Bill Rinck

February 18, 1981

MEMORANDUM

To: House Local Government Committee
From: The Flathead Conservation District
Re: HB 715

The Flathead Conservation District has its #1 goal in their long range plan --
PRESERVE PRODUCTIVE FARMLAND

HB 715 is a move in the right direction by narrowing down some of the loopholes that are in the present law. We feel that it is time that something has to be done to protect the agricultural base of our communities and country. Often subdivisions will be located on agricultural land which is easier and less expensive to develop.

The statistics and projections presented in the recently completed National Agricultural Land Study bear out the fact that we do not have productive agricultural land to squander.

We would like to see more changes in HB 715 to have all land splits come under a review process with an environmental assessment where there is not a master plan. The possibility of tracts of land 40 acres and larger in size should be fully reviewed as well as commercial and industrial developments where there is no detailed master plan.

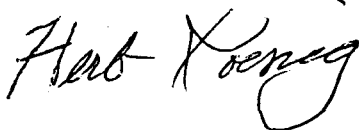
In Flathead County there are 120,000 acres of important farmland of which there are 21,956 acres developed or lotted. In the last 4 years from October 1976 to August 1980, 800 lots for a total of 20,771 acres have been established by the 20 acre split. Occasional sales have helped 2,695 lots to be established. Family transfers 474 lots, and mortgage exempts 113 lots in the same above period.

Altogether there were many more thousands of acres broken up prior to this last 4 year period resulting in an approximate total of 50,000 acres of our valley.

The local governments need a law to help slow down this trend. Flathead Conservation District urges you to consider these facts and give us a measure that will conserve our agricultural industry.

Flathead Conservation District

Herb Koenig, Supervisor

A handwritten signature in cursive script that reads "Herb Koenig". The signature is written in dark ink and is positioned below the typed name of the supervisor.



LAURE ABRAHAM LAMSON © 1976

The Montana Environmental Information Center

• P.O. Box 1184, Helena, Montana 59601 (406) 443-2520
• P.O. Box 8166, Missoula, Montana 59801 (406) 728-2644

Testimony in Support of HB 715
Presented to
The House Local Government Committee
2/19/81

Don Snow

Mr. Chairman, members of the Committee, my name is Don Snow. I am Staff Coordinator of the M.E.I.C., a citizens' organization with 1,300 members and directed by an 18-member Board. I am here today to support HB 715.

EIC believes that this bill represents a reasonable compromise among the various interests in Montana who struggle to solve the many dilemmas presented by residential and commercial land development. Our role in that struggle has been significant.

Through 1979 and 1980, EIC engaged in a comprehensive land use inventory in Missoula and Ravalli Counties. We also investigated Gallatin and Flathead Counties, though not in as great detail. Unlike our much publicized 1975 Subdivision Inventory, the 1980 study was thorough, comprehensive, and exhaustive. It resulted in the publication of a report on Missoula County (entered for the record) and a tabloid offered to the public as a special issue of our newsletter, Down to Earth. I would today like to report briefly on our findings, which have been documented in part by other studies. I think the data I'm about to report expresses very well the need for HB 715.

The existing Subdivision and Platting Act calls for the review of certain subdivisions and the mere recording of others. Under the law, two instruments of record are used to file subdivisions with local governments. They are the plat and the certificate of survey. Parcels of land not qualifying for exemptions in the S & PA must be surveyed, reviewed, and approved according to the law's requirements. If approved, the subdivision is recorded

as a plat. Reviewed plats usually bear a name, such as Influential Estates. Parcels qualifying for exemptions in the law must be surveyed and often are informally reviewed by county attorneys and planners, but are not subject to the provisions in the law. They are then filed as certificates of survey. Usually they are referred to by numbers.

It is now common knowledge that enormous amounts of subdivision activity is occurring through the certificate of survey process as unreviewed development. Our inventory shows that a large majority of subdivided land in the four counties has been split without regard to the public interest criteria or the impacts to local taxation, schools, roads, wildlife, or even the safety of the new buyers.

Statistics from the Missoula County phase of our inventory clearly show that subdivision by certificate of survey has far outstripped formally reviewed and platted subdivisions every year since the passage of the act in 1973. Since then, 91.3% of the total 46,000 acres subdivided in the County has been parcelled through certificates of survey as unreviewed subdivisions. How did this occur? It occurred legally by using exemptions in the Act. The exemptions are intended to allow flexibility for people who are not developers but wish to make an occasional sale or pass land on to their family. However, the exemptions have been used increasingly in ways that more resemble subdivisions intended to be reviewed than for the individual needs defined by the exemptions.

Our Missoula County study found that since 1973, certificate of survey lands were being divided most frequently by using the following exemptions:

20-acre exemption. . . .	44%
occasional sale	23%
remainders	17%*
family conveyance . . .	14%
court orders	1.4%

*Remainders are not exemptions. They are parcels left from a previous subdivision that may in turn be divided.

In Ravalli County, the results are equally alarming. Ravalli is fast becoming a bedroom county for those who want the quiet rural life. Thousands have now occupied the valley. Without an industrial tax base to contribute to county funds, the residents themselves shoulder the weight of development costs. Although new homes increase the taxing capacity, the additional revenues often does not meet the added costs of services to accommodate growing populations.

Since 1974, 37,181 acres in the county have been subdivided. 92.7% of that activity occurred through certificates of survey, leaving about 7% to review, or 2,726 acres. The exemptions commonly used in Ravalli County are as follows:

20-acre exemption	40%
occasional sale	21%
family conveyance	8.5%
agricultural covenant . .	3%

Why is unreviewed subdivision activity of such concern to so many Montanans?

The 1973 Act contemplated a way to head off the unanticipated side effects of random land splitting, and it allowed for public examination and comment on major land use changes that affect more lives than just those of the buyer and seller. The loss of agricultural lands, critical wildlife habitat, floodplain lands, and other rare places is of great concern to Montanans. A later speaker will describe some of these losses in detail. The review process is not intended to delay or frustrate development, although in a few instances the process has been abused. Instead it is merely intended to open the private decisions that sometimes affect others to brief public examination.

HB 715 is a new version of a bill originally submitted by the 1978 Interim Committee. The original version eliminated the 20 acre and occasional sale exemptions and tightened up the family conveyance exemption. In HB 715, the occasional sale is re-defined and occasional sales are permitted when the parcels have been held continuously in one owner's name for 5 years. This would cut down on some of the more flagrant misuses of the exemption, where parcels are shuffled back and forth under different owners' names

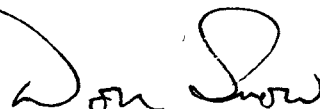
to be split and re-split within one year. However, it would still allow one split to occur without review per year. We have an amendment to this provision that the Committee can consider. We propose that either the occasional sale definition and exemption be eliminated entirely or else delete the definition of occasional sale, allowing one split from a tract without review (not one per year) and require summary review for further splits.

We are in concurrence with the deletion of the 20 acre exemption and the summary review provisions for subdivisions with parcels over 40 acres.

The criterion for family conveyance has been expanded, but this is also not the same provision recommended in the Interim Committee report. We propose amending it back to the interim form, which allows one conveyance to each family member without review. The new provision to allow one family member conveyance per year weakens the purpose of this provision.

I offer a few amendments for consideration of the Committee and attachments with my testimony. Thank you for your attention.

Respectfully submitted;

A handwritten signature in dark ink, appearing to read "Don Snow", is written over a horizontal line.

Don Snow

NAME JOAN BIRD BILL No. 715
ADDRESS 714 3RD Ave E. KALISPELL DATE 2-19-81
WHOM DO YOU REPRESENT CITIZENS FOR ORDERLY DEVELOPMENT
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am Bringing letters from ^{the} chairman and co-chairman of the Flathead County Planning Board and ^{one of} the Conservation District Supervisors. They wanted to be here but must come tomorrow to testify on the purchasing of development rights for agricultural lands. (HB 777).

I came down this morning from Kalispell and am upset that there was not time for me to speak. I would like to point out that we have no representatives from Flathead County or indeed even northwestern Montana to represent us on this committee. Flathead County is the fastest growing populous county in the state. We have almost twice as many Certificates of Survey on file as does Missoula County! We are under heavy pressure from developers and desperately in need of help. One subdivision currently under review was found by the County Planning Office to be deficient in all eight public interest criteria and we are not sure it will be turned down. The developers have taken out full page advertisements in the local papers to convince that the subdivision is good for all eight public interest

criteria. This is an example of what I mean by development pressure.

As you are all aware, the Flathead River Basin is threatened by many types of development. One of, if not the most important threat is the impact from 3 full-scale open pit coal mines planned for development on ^{Canadian} tributaries of the North Fork of the Flathead River. Without cooperation from the Canadians, this development could potentially ruin the Flathead River and Lake. The chairman of the steering committee for the Flathead River Basin Study, Thurman Trosper, has said that the Canadians are not taking our international negotiations seriously, because of the lack of planning in the area for lake protection and future development. If we aren't concerned about the future of the Flathead River Basin, why should the Canadians be concerned?

The county commissioners are becoming more and more aware of the problems, but as I mentioned before, we are under heavy pressure from recreational developers like those that developed Lake Tahoe.

Flathead Lake is a resource for every resident in this state. It needs protection, and the only way we can be assured of this is by having a subdivision law that works better than the one we've got. These changes are happening fast. © don't think we can last for another two years. Give us something we can lean on. Thank you. BIRD

NAME Juanita A. Mollita BILL No. 715
ADDRESS Box 366 Virginia City DATE 2-19-87
WHOM DO YOU REPRESENT Madison County & Mt. Assoc. of Co. Clerk & Recorders
SUPPORT OPPOSE AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I as Madison County Recorder and as president of the Mt. Assoc. of Co. Clerk & Recorders feel that there is merit to this bill. Especially 16-3-207 of exemption pursuant to 40-4-402 of the Uniform Marriage & Divorce Act or pursuant to the law of decedent's Estates. And Section 13 on the final page -

We do think that the raising the size of subdivisions to 40 acres is unnecessary. 20 acres is expensive enough. There is only so much land. Not everyone can have 40 acres.

We also object to the 5 year limitation on transfers for Occasional Sales & Family Exemptions. This is an imposition on small land owner & long time residents.

NAME

Wendy Capron

BILL No.

715

ADDRESS

St. Pt. - Bonanza Mt

DATE

Feb 19/81

WHOM DO YOU REPRESENT

Moala Co. Fairbairns

SUPPORT

OPPOSE

☒

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

With the Counties city growth
 crying - broke - this bill increases
 gov't. in the planning dept where
 Moala Co. has a budget of \$511,986
 & a staff of 25 - already broke and
 requesting warrants. You are attempting
 to bring all parcels of land under
 the review process. You are again
 attacking those who are not really
 in the land business - It could be
 be a hardship on those who wish to
 sell one parcel of land for financial
 reasons (taxes mortgage etc) they may not
 be able to hang on for five years
 you have not addressed the Condo
 loophole & that's the worst of all.
 done against

the wishes of the people

The gentleman from I T C. who
said the subdividers defaulted
on his taxes in a subdivision
near Patomac & the County had
to take over the roads. I live
in Patomac & This is a false
statement. ~~There~~ The people
who live there are maintaining
their own roads - plowing &
their own snow or hiring
it done. - No County funds

VISITORS' REGISTER

HOUSE 500 COMMITTEE

DTLL *HA* 737

Date 2-17-81

SPONSOR Rep. Mary Ann Dussault

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE

COMMITTEE

Date 2-17-61

SPONSOR

OPPO

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✓

2.

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



The Billings Area Chamber of Commerce supports House Bill 760.

The consolidation or transfer of similar service functions of local governments is one possible way to bring greater efficiency to government. House Bill 760 would not mandate such consolidation or transfer, but it would allow the voters, those who are paying for and receiving the service, to decide how a particular service is to be provided.

This bill would allow a service consolidation or transfer to be proposed either by a petition of the voters, or by an interlocal cooperation commission, a public body which is allowed to be created by existing state law. This proposal for consolidation or transfer would have to clearly spell out such things as the service function that would be consolidated or transferred, how it would be administered, and how it would be funded. Whether this proposed consolidation or transfer would be implemented would be decided by the voters.

The advantages to this system are many. First of all it would provide the people with a means of determining the structure and manner in which their governments will provide services. It would also provide a method by which a desired service consolidation or transfer can be brought about when political considerations prevent the local governing bodies from being able to reach an agreement. And it would provide a way for the recommendations of an interlocal cooperation commission to be implemented, something which the Chamber feels is lacking under existing state law.

With the financial plight of local governments and the increasing cost of providing services, all options aimed at increasing the efficiency of local government need to be explored including the option of consolidating or transferring service functions. We ask that you give the people the option of deciding whether such consolidation or transfer is best for them and their community. We urge you to give House Bill 760 a "do pass" recommendation.

NAME Chuck O'Reilly BILL No. HB760
ADDRESS 8530 N. Mont. Blvd. DATE 2-19-81
WHOM DO YOU REPRESENT Mont. Sheriffs Assoc
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME L John Oustad BILL No. 760
ADDRESS Bozeman DATE 2-19-81
WHOM DO YOU REPRESENT Montana Sheriffs + Peace Officers
SUPPORT _____ OPPOSE ☒ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME John Sully BILL No. 260
ADDRESS B-234 W DATE 2-19-81
WHOM DO YOU REPRESENT West. Hwy. Rence. Dlt
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



CITY OF BILLINGS

February 18, 1981

Verner Bertelsen, Chairman
House Local Government Committee

220 NORTH 27TH STREET
P. O. BOX 1178
BILLINGS, MONTANA 59103
PHONE (406) 248-7511

The City of Billings supports House Bill 760.

With the economic conditions facing local governments today, it is becoming increasingly apparent that local governments must search for more efficient ways to deliver services including the consolidation or transfer of similar city and county functions. In this respect, we feel that House Bill 760 provides a good method of bringing about such consolidation or transfer.

While there are presently methods available with which to consolidate or transfer such services between local governments, there are times that political considerations make reaching such agreements difficult if not impossible. House Bill 760 would provide a means whereby such political consideration and problems could be overcome by referring the question to the voters.

House Bill 760 would also allow the consolidation and transfer of a service function to be tailored to meet the individual needs and unique problems of a specific community, flexibility that is not always available under present law.

In Yellowstone County at the present time, an interlocal cooperation commission has been formed to examine law enforcement in the county and its cities. While we are not trying to second-guess what their findings and recommendations will be, House Bill 760 would certainly provide an important means of implementing any recommendation they may make with regards to any consolidation.

The City of Billings urges that House Bill 760 be given a "do pass" recommendation.

Sincerely,

A handwritten signature in cursive script, likely belonging to Cy Jamison, is written over a horizontal line.

Cy Jamison
Ward 3 Council Member

NAME G. F. Nagerman BILL No. H.R. 768
ADDRESS 600 North Cooke Avenue DATE 2-1981
WHOM DO YOU REPRESENT AFSCME
SUPPORT _____ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: amend New Section 3. to read at least 1/3 of
the electors.

amendment to be added to New Section 4.
Employees shall not receive a reduction
in wages, benefits, or any other working
condition.

VISITORS' REGISTER

HOUSE

Local Govt

COMMITTEE

BILL

HB 765

Date

2-19-81

SPONSOR

Rep Gene Donaldson

NAME

RESIDENCE

REPRESENTING

SUPPORT

OPP

John A. Peltier	Billings	Billings, City of	765	
Carl McKenzie	Laurel	City of	765	
John A. Peltier	Billings	Billings, City of	765	
Donald D. Underwood	Billings	Billings, City of	765	
James H. Hinkle	Great Falls	City of Great Falls	765	
Wade Wendley	Great Falls	"	765	
Jan Dolan	Laurel	City of Laurel	765	
Robert M. Miller	Laurel	City of Laurel	765	
John R. Flooden	Columbia Falls MT.	City of Col. Falls	765	
John M. Dalton	Great Falls, MT	City of Great Falls	765	
John Verwoelf	Helena	City of Helena	765	
James Nybo	Helena	"	"	
John Hinkle	Helena	League of Cities	765	
Jim Hinkle	Helena	LD 20	765	
James Cain	Helena	Montana Council		76
John Hinkle	Helena	LD 20		
Jim Jensen	Helena	LISCA		X
SAM GESKO	BOZEMAN	CITY OF BOZEMAN	765	
John Hinkle	Helena	League of Cities	765	
John Hinkle	Billings	City of Billings	765	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

From Colleen Calton

CITY OF BILLINGS PUBLIC UTILITIES DEPARTMENT



GERALD D. UNDERWOOD, P.E.
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Statement of City of Billings in Support of Bills Eliminating PSC Jurisdiction over Municipal Utilities (H.B. 765, H.B. 771)

The City of Billings supports these bills, with preference given to H.B. 771.

A very brief and concise statement of the reasons for our support is as follows:

A. Policy Considerations

1. Past Montana Legislatures have acknowledged the need and desirability of increased municipal powers to control their own destinies in passage of "Home Rule" legislation. The voters of the city of Billings approved the "Home Rule" concept in adopting Billings' City Charter form of government.
2. 45 out of 50 states do not allow their PSC's to regulate municipal utilities.
 - a. Until 1979 sewer utilities were not regulated by the PSC in Montana. A Supreme Court decision changed this. Consumers were not adversely affected by the nonregulation so far as we are aware.
 - b. Most states find it desirable to allow municipalities to regulate their own utilities.
 - c. Duplicative regulation and the attendant cost would be eliminated if PSC review is limited.
 - d. All consumers, whether residing inside or outside the cities, have protection from unreasonable rates through the Montana Consumer Counsel, who has the expertise necessary to address unreasonable or inequitable rates. Such consumers

REMEMBER

WATER IS PRECIOUS!

PLEASE DON'T WASTE IT!

would also have the right to have the courts review rates, with or without the Consumer Counsel's assistance.

- e. Generally cities and towns are capable of setting their own rates equitably, but in any event, expert rate consultants are available to small as well as large municipalities. The involvement of EPA in sewer systems mandates the use of such consultants. The municipal utilities are non-profit operations.

3. Multiple levels of regulatory review are avoided.

- a. Now new sewer rates must be reviewed by:

- (1) City Council
- (2) Department of Health and Environmental Sciences (State)
- (3) Environmental Protection Agency, EPA (Federal)
- (4) Public Service Commission (State)
- (5) Consumer Counsel (State)

By any common sense definition this must be an excellent example of over regulation, even "overkill".

4. PSC's proposed water service rules, upon which a hearing was held on February 18th, would---

- a. Do away with Special Improvement Districts as a financing mechanism for water utility expansion. The legislature has long granted this right to cities in Montana. The PSC proposed rules would essentially require "free extensions"- a boon to developers, a new burden to existing rate payers.
- b. Require free extensions to be paid for by the water utility. This means, to be paid for by customers. Developers would not have to pay the cost of their own extensions. If a developer applied for an extension and the city water utility built facilities at its rate payers expense and the development never went forward, the funds would be tied up to no one's benefit and to all customers higher rates.
- c. Prohibit re-sale of water. Billings has numerous water haulers which could not then purvey city water to country homeowners.

5. City councils have to live with the day-to-day results of its management decisions. The PSC does not; yet the PSC's decisions on rates and regulations affect management more substantially than practically any other decision. Cities should be left free to adopt their own regulations to meet their unique requirements.

B. Economic Considerations

1. In its rate order on Billings 1977 water rate application, the PSC held:

A municipal water utility cannot recover past deficits nor project rates to allow for inflation.

If you were so prohibited in your business, what would you do?

2. The PSC budget will have to be increased substantially if it is to have adequate staff to examine and hear all Montana municipal water and sewer requests in the future. The city of Billings must now contemplate new applications on water every two (2) years. Sewer can be expected to fall in the same pattern.
3. Non-profit municipal utilities in Montana are in grave financial trouble. The basic problem is PSC regulation. This is compounded by the current inflationary spiral. It is now a "gray" area in Montana law as to whether it is the PSC or the municipality which is to manage the utility. If you really intend that the PSC manage the municipal non-profit utilities, then pass laws so doing. Then fully fund the PSC so they can do the job well. Don't leave it the way it is now.

In the past the legislatures have given cities excellent legislation with which to govern their utility growth and operation, such as The Municipal Revenue Bond Act. However, the PSC refuses to acknowledge the clear language of this Act as well as other laws. In view of the PSC's political intransigence, the only recourse available is to eliminate PSC interference entirely. PSC regulation is unneeded, unwanted, uneconomic, unefficient, and unnecessary.

The nine month regulatory lag cannot be tolerated. The costs of this unnecessary regulation are proliferating boundlessly.

4. The cities' bonding capabilities are being adversely affected. The PSC does not understand bond coverage considerations. The City of Billings, partly because of the high interest rates, is currently still trying to issue \$3.5 million in revenue bonds, for which approval by the PSC was first sought in its 1977 water rate application. Construction costs continue to escalate incredibly in the interim.
5. The PSC would be much better off, as would Montana consumers, if the PSC were to devote its limited resources to regulate private, for profit, utilities who are not subject to voter concurrence in their rate policies.

Respectfully submitted,

The City of Billings

NAME Ray Thomas BILL No. 765
ADDRESS 1000 1st St NW DATE 10/1/71
WHOM DO YOU REPRESENT City of Miami
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The City of Miami supports HB No 765 and
also HB No 771. Opposes any attempt to amend HB No 771.

STANDING COMMITTEE REPORT

January 22, 1912

MR. C. B. BROWN

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 715

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTEANA SUBDIVISION AND PLATTING ACT AND RELATED LAND-USE STATUTES; EXEMPTING CERTAIN SUBDIVISIONS FROM REVIEW; REDEFINING SUBDIVISIONS; AND MAKING CERTAIN MINOR CHANGES; AMENDING SECTIONS 76-1-606, 76-3-103, 76-3-104, 76-3-201, 76-3-207, 76-3-304, 76-3-305, 76-3-306, 76-3-301, 76-3-304, 76-3-305, 76-3-306, MCA; AND REPEALING SECTION 76-3-210, MCA."

HOUSE

715

Respectfully report as follows: That

Bill No.

Among House Bill 715, introduced copy, as follows:

1. Page 4, line 17.

Following: "the"

Strike: "transaction"

Insert: "time of conveyance"

2. Page 6, lines 5 and 6.

Following: "division"

Strike: "within a 12-month period"

3. Page 8, line 9.

Following: "period of"

Strike: "5"

Insert: "3"

DO PASS

Amendment to House Bill 715 (Continued)
Page Two

4. Page 9, line 3.

Following: "period of"

Strike: "8"

Insert: "3"

5. Page 9, line 13.

Following: line 12

Strike: "40-4-501"

Insert: "40-4-502"

6. Page 9, line 15.

Following: "array;"

Strike: "and"

7. Page 9, line 17.

Following: "domain"

Strike: "."

Insert: "; and"

8. Page 9.

Following: line 17

Insert: "(b) divisions used for utility sitings or enclosures
provided no structure requiring water or sewage disposal is
erected on the parcel"

AM APPROVED

DO PASS

STANDING COMMITTEE REPORT

January 31, 1911

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 760

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES FOR THE ELECTIONS OF LOCAL GOVERNMENTS TO CONSOLIDATE OR TRANSFER THE ADMINISTRATIVE AND FINANCIAL RESPONSIBILITY FOR SERVICES BETWEEN OR AMONG MUNICIPALITIES AND COUNTIES; AMENDING SECTION 7-11-230, MCA."

Respectfully report as follows: That HOUSE Bill No. 760

DO PASS

STANDING COMMITTEE REPORT

January 12, 1911

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 737

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE ESTABLISHMENT OF MUNICIPAL FACILITIES DISTRICTS BY PETITION, GRADING, AND ELECTION; TO PROVIDE FOR THE ELECTION OF COMMISSIONERS TO ADMINISTER THE FACILITIES IN THE DISTRICTS; TO AUTHORIZE THE LEVY OF 3 MILLS FOR THE ESTABLISHMENT AND OPERATION OF MUNICIPAL FACILITIES; AND TO ALLOW THE ISSUANCE OF BONDS TO FINANCE THE OPERATION OF THE DISTRICT."

HOUSE

737

Respectfully report as follows: That Bill No.

Amend House Bill 737, introduced copy, as follows:

1. Page 2, line 1.
Following: "thereof"
Insert: "and real property"
2. Page 3, line 23.
Following: line 22.
Strike: "The"
Insert: "Subject to the limitations of this section the"
3. Page 3, line 4.
Following: "board"
Strike: "shall"
Insert: "may"

AS AMENDED

DO PASS

DO PASS

STANDING COMMITTEE REPORT

February 21, 1911

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 765

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR MUNICIPAL REGULATION OF MUNICIPALLY OWNED UTILITIES; TO ESTABLISH MAXIMUM INCREASES ALLOWED; TO REQUIRE REPORTING TO THE PUBLIC SERVICE COMMISSION AND THE MONTANA CONSUMER COUNCIL; AND AMENDING SECTION 69-3-101, MCA."

Respectfully report as follows: That HOUSE Bill No. 765

DO PASS