

LOCAL GOVERNMENT COMMITTEE MEETING
February 21, 1981

The Local Government Committee met Saturday, February 21, at 7:00 a.m. in room 103 for an Executive Session. All committee members were present except Reps. Azzara, Sales and Waldron, who were excused. The purpose of the meeting was to take executive action on all remaining bills.

CHAIRMAN BERTELSEN stated the first bill to be considered would be HB 781. This is the bill introduced by Rep. Harper authorizing a local governing body to contract with a financial institution for a repurchase agreement.

REP. GOULD moved that HOUSE BILL 781 DO PASS. The Chairman said he'd move the amendments to HB 781 as follows:

1. Page 1, lines 20 through 24.
Following: "terms"
Strike: remainder of subsection (2) in its entirety.
Insert: "."
2. Page 2, line 10.
Following: "bids"
Insert: "as provided in 7-6-206"
3. Page 2, lines 14 through 16.
Following: "shall"
Strike: remainder of line 14 through "shall" on line 16.
4. Page 2, line 19.
Following: "requirements"
Strike: ", "
Insert: "and"
5. Page 2, line 19 through line 2 of page 25.
Following: "invested"
Strike: the remainder of subsection (5) in its entirety.
Insert: "."
6. Page 4, line 19.
Following: line 18
Strike: "not"

THE CHAIRMAN asked for questions, and as there were none, the question was called. All in favor say "aye." The amendments carried by a unanimous vote.

REP. PISTORIA said he still doesn't understand who will pay the interest.

REP. BERTELSEN said there is a deal where the local governing body can call the bank if there is surplus money and buy securities on a short term basis and earn more interest through that agreement. If they don't want to use it, they don't have to do so, but if it will help somebody, it apparently has

some merit.

LEE HEIMAN said that basically there are three or four banks in the state that work with local governments, but some banks don't trust the law as it is. What it amounts to is the bank keeps certain securities on hand. When a local government has extra money and it is deposited, the bank automatically uses that money to purchase securities for the local government which pay high interest. Any time the local government needs money, the bank sells what is needed from those securities and puts the money with the local government checking account so they can write a check. The balance of the checking account is always zero and every amount of spare cash is always invested in a security except on that hour when the checks become due. It couldn't be done without a computer.

REP. BERTELSEN said his understanding is that prior to this time, banks hated to invest any money in securities unless they were for a long-term period like a bond or raising money for a school or something like that. This is just an advantage that will help the banks and the counties.

QUESTION: All in favor of HB 781 say "aye." The motion carried unanimously.

CHAIRMAN BERTELSEN stated HOUSE BILL 393 was next.

REP. VINGER moved that HOUSE BILL 393 DO PASS.

REP. SWITZER moved the amendments.

REP. VINGER said they were presented by Jim Halvorsen with the Association of Counties. He explained the amendments by going over each one. Amendments are as follows:

1. Page 1, line 20.
Following "expended"
Strike: "from"

2. Page 1, line 21.
Following: line 20
Strike: "cash funds"
Insert: "in each fund"

QUESTION ON AMENDMENTS: All in favor say "aye." All were in favor of the amendments and they carried.

SPONSOR VINGER said the purpose of the bill is to remove the requirement that the Boards of County Commissioners must publish a detailed list of their expended claims, requiring the publishing of expenditure totals. This would give them the

right to print the totals of each budget category instead of itemizing each little thing.

REP. PISTORIA asked if this bill will list mileage and that type of expenses.

REP. VINGER said yes, for each individual, but not as a budget item as a whole. It will show their salary in one lump sum and will be printed monthly. This cuts the printing down to about half.

QUESTION on HB 393. All in favor signify by "aye." The vote was unanimous for DO PASS and motion carried.

HOUSE BILL 805

CHAIRMAN BERTELSEN said this is an act to simplify and economize the provision of public services by authorizing the creation of multipurpose self-governing metropolitan districts.

REP. KITSELMAN moved that HB 805 DO PASS.

REP. GOULD asked what this bill covers besides schools?

REP. KITSELMAN said it covers fire districts, cemeteries, roads, weed control, pest control, etc. Basically, what you are doing is taking nine services and forming a special improvement district by combining them as one metro district. In the area of Billings we have a subdivision that covers about 5,000 acres and the city is not interested in putting up the capital and annexing it. This bill allows the people within that area to form a district, bond the district, assess taxes, set up a board of directors and so forth. There is a codicil in the bill that upon annexation the district then will be dissolved and the annexing body, whether it is a county or city, would assume the responsibility for the maintenance of the district plus the remaining time of the bonds. The bonds are your standard 40-year General Obligation bonds.

REP. NEUMAN said he thinks this bill is creating a bunch of little cities outside the city limits, and if they have all these services and are bonded, why would they ever want to come into the city?

REP. KITSELMAN said that is a problem we have in this area. Why do you have to penalize the person that is in a district for not having those services when the city or county has no intention whatsoever of offering those services? It has the nine services allowed by law now in Montana's statute that can be formed under the jurisdiction of a governing body.

It is a metro district that is located close to a metropolitan area. If they needed police and fire protection, there might then be a need for them to come into the city.

QUESTION: A roll call vote was taken. Of the 17 committee members present, 13 voted "aye" and 4 voted "no." Those voting no included Reps. Vinger, Azzara, McBride and Switzer.
MOTION CARRIED and HB 805 received a DO PASS.

HOUSE BILL 770 - sponsored by Rep. Lory.

CHAIRMAN BERTELSEN said that HB 770 is an act to reconcile conflicts regarding municipal ordinance, resolution, and initiative and referendum procedures.

REP. SWITZER: I didn't see any glaring discrepancy in the two codes.

REP. BERTELSEN said there was one area where the code didn't give a clear definition.

REP. DUSSAULT moved that HB 770 DO PASS.

QUESTION: All in favor signify by saying "aye." All replied aye with the exception of Reps. Vinger, Switzer, Pistoria and Gould. Motion carried and HB 770 received a DO PASS.

CHAIRMAN BERTELSEN said he thought perhaps we'd consider House bills 765 and 771 together. What is the feeling of the committee to table 771 and act on 765. HB 771 takes the PSC out completely, and I don't think that was the wish of the committee.

REP. VINGER said he feels we should vote on each bill separately.

REP. BERTELSEN agreed, but he said we should consider what the total effect is.

REP. SWITZER moved that HB 771 DO PASS.

REP. BERTELSEN said HB 771 is for complete elimination of the PSC.

REP. PISTORIA: This has come up every session. The reason for it is HB 771 would get rid of the Public Service Commission. If these rights are taken away from our people, where is their protection. I wouldn't want that. If they are legitimate, they have to hire people anyway and make a cost analysis. Their hearings don't amount to anything as the people don't

have a right to vote on them. The bad thing about it is that I, as an individual, would have to hire an attorney to protest and go to District Court. Imagine putting people to this expense. I think that is taking their rights away.

REP. SWITZER said Rep. Pistoria has some rather substantial amendments and one of them would entirely eliminate section 5.

REP. HANNAH commented he can't understand the argument. If it costs the city \$100 more to run the sewer district and the PSC only allows a \$90 increase, that is breaking down the district. Another thing is the cost of getting the PSC to consider the matter. The time involved in preparing the case causes the city to lose more funds, so by the time the PSC does grant an increase, the city is again behind. I have more confidence in my elected city officials than I do in the PSC.

REP. MCBRIDE: I support Paul in what he is saying. First of all, I have problems about putting this into the political arena. Coming from a city that has had its sewer rates set by the legislature, it becomes very political. However, I'd rather see it stay with the PSC where you have a disinterested group setting rates that will affect the community.

REP. MATSKO: You were talking about how much rate increase the PSC can justify. If you have to go to another body to justify your rates, they may not give it to you. You will not be able to justify as large an increase unless you can just hire more people, buy more equipment, allocate more funds to the area, say the water and sewer, the utility systems, and then say "we have to make up our losses by raising the cost." It happened before where people have built their own little empires inside city government. Someone in the water department, for instance, can hire extra people and buy equipment and then turn around and justify increasing the costs because they have more people and more equipment. If we have the PSC to oversee that and not allow it to happen, I think we are going to be much farther ahead.

REP. VINGER: I wonder if Rep. McBride doesn't think the PSC was ever political?

REP. MCBRIDE: No, I don't mean to imply that it is not, but I think it takes it out of the local electives.

REP. SWITZER, I would like to offer two amendments. One is on line 22, page 1: Insert the word "public" in front of "hearing" and the second amendment is to strike all of new section 5 on page 4, line 19, and renumber 6 and 7 to 5 and 6. REP. SWITZER moved the above amendments.

REP. SWITZER said that instead of being just a hearing, it is a public hearing with the qualifications it takes to be a public hearing, such as good records. Second, it strikes out the temporary approval feature which was in section 5.

REP. BERTELSEN called for the question on the amendments. All in favor signify by "aye." Motion carried in favor of the amendments.

REP. HANNAH said he is totally baffled by the whole thing. We have spent the first half of the session talking about local control and working on legislation to give the authority and power back to the local entities because there is more control and people have the ability to vote in more of a direct fashion. We talked about the disadvantages of big government over the advantages of people having control on the local level. We have talked about the accountability factor of people on the local level and the elected official. All of it has been good and rational to this point. Now we say turning control back to the local government is a bad thing. I can't understand it. We talked about building empires. I think we are building a pretty good empire around here called the Public Service Commission. I can't believe that we don't support a bill like this.

REP. MCBRIDE: If we let every municipality set their own rates, who serves as the consumer counsel for me as the consumer?

REP. HANNAH: Maybe I misunderstood the Consumer Counsel, but I've felt their function is primarily to the consumer.

REP. KESSLER: From a practical standpoint, if you want to look at this realistic point, politically I don't think this bill would ever get through the whole House. If you want to go for this type of thing, I think we should go for HB 765.

QUESTION: DO PASS AS AMENDED on HB 771. The roll call vote was 5 yes, 11 no. Motion failed.

REP. DUSSAULT moved that we reverse the vote to a DO NOT PASS for HB 771. All in favor say "aye." Motion carried.

REP. BERTELSEN said since HB 771 did not pass, he'd like to make a motion to table the bill as he doesn't want a big argument on the floor before we get into action on HB 765.

REP. MCBRIDE moved that HB 771 be tabled.

QUESTION on tabling HB 771: The vote was "aye" by all committee members with the exception of Rep. Hannah, who voted "no." Motion carried.

HOUSE BILL 765:

CHAIRMAN BERTELSEN said this bill is also in reference to the PSC.

REP. KESSLER moved that HB 765 DO PASS. He feels this is a compromise bill as there is definitely a problem with HB 771.

REP. PISTORIA said he'd like to see this bill not involve first class cities.

QUESTION on HB 765: A roll call vote was taken and the result was 15 to 2 for DO PASS. Those voting "no" were Reps. McBride, and Pistoria. HOUSE BILL 765 received a DO PASS recommendation.

HOUSE BILL 790 - sponsored by Rep. Daily.

STAFF RESEARCHER LEE HEIMAN explained the amendments to HB 790. He stated we have a problem. If we vote in the metropolitan sewer bill and put it under the PSC, or pass HB 765 for a 15% PSC increase control, my suggestion would be to put a coordinating clause in the Butte metropolitan sewer district PSC bill that if HB 765 passes, then those portions of HB 765 which would prevent Butte's local control should be kept in. The new parts that give it to the Public Service Commission should be struck. The bill would return to much the way it is now. The parts which show \$7 a year would be struck.

REP. MCBRIDE wondered if passing the other bill, which changed the actual date, and now passing another bill effecting that same section with an immediate effective date, would cause any problem in modifying the same law.

MR. HEIMAN said he talked with Rep. Daily and others on that, and the Senate would put in a coordinating clause on the rate increase bill so that if this bill passes the increase would be effective only until this bill becomes effective. The coordinating clause would be taken care of in the Senate.

REP. HANNAH moved that the amendments to HB 790 DO PASS.

CHAIRMAN BERTELSEN: All in favor of the amendments signify by saying "aye." All voted in favor, and the motion on the amendments carried by unanimous vote.

REP. MCBRIDE moved that HB 790 DO PASS AS AMENDED.

QUESTION: The chairman said all in favor of HB 790 as amended say "aye." Motion carried by unanimous vote and HB 790 received a DO PASS recommendation.

HOUSE BILL 769, sponsor REP. HURWITZ, said this is a bill to provide for an election in a county with a commission form of government on a proposition for filling the position of county sheriff through appointment by a sheriff commission. He took the bill to Diana Dowling and one of the other research attorneys, since Lee was not available, and they assured him that the bill, from what they could see, was constitutional. He asked Lee to comment on this.

LEE HEIMAN said both of them came back and asked him if they'd given you the right pitch. It is my opinion that it is constitutional because the constitution speaks of an alternate form which is still available. This fits into the alternative forms and is compatible.

CHAIRMAN BERTELSEN said Rep. Hurwitz moved an amendment that we change the percentages on the petition in the bill wherever necessary to 15%. All those in favor of the amendment say "aye." All responded aye so the motion carried unanimously for the amendment.

REP. HURWITZ moved that HB 769 DO PASS AS AMENDED.

REP. PISTORIA: You are voting to have a commission appoint a sheriff, is that right?

REP. HURWITZ said, yes, if the electors approve it.

REP. PISTORIA: The commission then, in turn, appoints a sheriff?

REP. HURWITZ: Yes, they hire a sheriff.

REP. PISTORIA: How long would the appointed sheriff serve?

REP. HURWITZ: He serves at the pleasure of the commission. As long as he does his job properly, he can serve as long as the commission wants him.

REP. PISTORIA: What if there is a difference between the commission and the people? What will they do if the people want to get rid of the sheriff?

REP. HURWITZ: The same process works. You can turn it around and do away with the commission and go back to an elected sheriff.

REP. MATSKO: I think we're going backwards. Now we are going to hire three people and pay them more money to hire a sheriff. If he or one of his deputies arrest one of their kids, that person is out of a job. I don't think that is the way to go.

REP. MATSKO made a substitute motion of DO NOT PASS.

QUESTION: A roll call vote was as follows: 11 were in favor of DO NOT PASS and 6 were in favor of the bill. Motion failed by an 11 to 6 vote of DO NOT PASS. Those voting no included Reps. Dussault, Holiday, Hurwitz, Kessler, Kitselman and Switzer.

CHAIRMAN BERTELSEN said HOUSE BILL 280 by Rep. Azzara is next.

REP. MCBRIDE moved that the amendments to HB 280 DO PASS.

THE CHAIRMAN asked Lee Heiman to explain the amendments.

MR HEIMAN said that in order to be grammatical, the word "stricter" be stricken and that we insert "more stringent."

REP. MATSKO: What are more stringent energy conservation standards? It sounds like it's doing a little more than the original bill. It is not just insulation now; it could be anything that would relate to conserving energy.

LEE HEIMAN: Right. It could include anything; namely, wiring, heating (types of furnaces), things allowed under tax credits for conservation, such as caulking, storm windows, etc. But I think this bill applies strictly to the building codes.

REP. DUSSAULT: I move that rather than the words "more stringent energy conservation," we say "more stringent insulation."

CHAIRMAN BERTELSEN asked if that is a substitute motion reading "there be a more stringent insulation."

QUESTION: All in favor say "aye." Motion carried by unanimous vote.

REP. DUSSAULT moved that HB 280 DO PASS AS AMENDED.

REP. HANNAH: What is the benefit to people involved with this program?

REP. DUSSAULT: Here are some examples in Missoula. Missoula has some very serious air quality problems which are directly related to the use of certain types of wood burning stoves. For example, wood burning stoves relate to housing standards. They need additional types of alternative heating or dependency on that type of heating, because current codes are not as strict as they should be. If we want to get to the root

of the problems, they are fairly simple to get at.

REP. VINGER: One of the things that came out was a fellow from Missoula talked about the Canadian insulation project. If the R factor is high enough, they could require double walls in a house. In my opinion, this could bring construction costs to a tremendously high figure.

REP. MCBRIDE: I agree with you. It could go to that extreme. But you also have to look at the fact that our state building standards are considerably lower than what most builders would normally use. My point is that either we begin to consider, as consumers, that we pay an up-front cost for higher insulation standards if they are forced on us or we, as consumers, in the long run pay the higher energy costs of heating and energy. That is the trade off because in this day and age there is a greater up-front cost when you buy a house with better insulation. But with the way energy prices are increasing, it is fairly insignificant compared to what we'll pay for those energy costs.

REP. VINGER: FHA has those standards now for loans. You have to have a certain R factor. I think there are 38 included in the ceiling. When you get an FHA loan, everything is based on a square foot cost as far as purchasing a home.

REP. GOULD: What is the situation as far as modular homes?

CHAIRMAN BERTELSEN: There is no provision in this bill as it now stands to eliminate or exempt modular homes from this act.

REP. DUSSAULT: I am confused because when we had Rep. Keyser's bill, at least half of them said they had no objection to this particular provision in Keyser's bill. We had a problem specifically about modular homes. The builders said there is no problem because they could put the additional insulation in because of the basic construction of the building. It makes sense to me in terms of standarization that items like wiring and plumbing don't need different codes. But it seems to me insulation is a completely different category, because of weather conditions, the amount of sun and many other factors which could be determined at the local level.

REP. SWITZER: I believe we are trying to protect these people so well from their foolishness that they are going to have to live in a tent. They won't be able to afford the kind of house we're talking about. As far as having somebody building it already for the market, the more restrictions we put into it, the less available they'll be, thus reducing the number on the market. It is very expensive to start raising

insulation factors in the walls, ceilings, etc. Maybe over a hundred years they'll average out, but people who are building the houses now won't live to be a hundred years old.

REP. KESSLER: I bought my first home last year. It is terribly expensive not to have these standards. I wish we could have had them then because it would have been a lot cheaper to insulate when a house is being built than what it is costing me to do it now. Lots of the insulation won't get done because of the inflationary costs.

REP. HANNAH: The problem with me is one of housing. I think Rep. Vinger stated it right to a T, because if you look at FHA and VA housing for example, in the city of Billings last year somewhere around 40 to 50% of the houses purchased were FHA or VA approved houses. FHA-VA approved housing must meet certain specifications and regulations. Appraisals are based with those facts built into it. The problem you'll have potentially on a deal like this is if the city were to increase its standards so that the base line cost of the house increased, you are going to have appraisal problems from government subsidized and government insured loans which will in effect force purchasers to have more immediate cash.

REP. HURWITZ said he feels this bill is passing laws just to be passing laws. When the house Jerry is talking about was built, the cost of energy fuels was very low and there was no point to go overboard for insulation. But if you look around today, wherever they can afford it, they are putting in lots of insulation.

REP. GOULD: Whether this is dictated by law or done on its own, you are still going to have to pay the same amount of money for the additional insulation, whether you buy a house that was built by choice or by law.

CHAIRMAN BERTELSEN: Are you ready for the question?

QUESTION is for a DO PASS AS AMENDED FOR HB 769. A roll call vote resulted in the following: 6 to 12 for DO PASS. Motion failed.

A MOTION was made to reverse the vote. The final vote then was 12 to 6 for a DO NOT PASS AS AMENDED. Those voting against DO NOT PASS were Reps. Andreason, Azzara, Bergene, Dussault, Kessler and McBride.

THE CHAIRMAN announced that the business is finished. The meeting adjourned at 8:20 a.m.


VERNER L. BERTELSEN, CHAIRMAN