

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE  
March 21, 1981

The Local Government Committee met Saturday, March 21 at 7:00 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 REPS, HURWITZ, KITSELMAN and McBRIDE who were excused and REP. AZZARA who was absent. Staff Researcher LEE HEIMAN attended also.

EXECUTIVE SESSION:

SB 115 Sponsored by SENATOR GEORGE McCALLUM

CHAIRMAN BERTELSEN stated this was the bill which had been put into a subcommittee headed by REP. ANDREASON and REPS. DUSSAULT and McBRIDE. He asked Staff Researcher HEIMAN to go over the proposed amendments.

LEE HEIMAN read the following amendments:

1. Page 3, line 20.

Following: "fee."

Insert: "Following the hearing the commissioners may adopt the proposed fee or a different fee."

2. Page 4, lines 5 through 7.

Following: "provided"

Strike: the remainder of subsection (1).

Insert: "a public hearing has been held if written protest has been made as provided in 7-13-211. An increase in fees may not be approved and implemented unless notice of such increase is given as provided in 7-13-208 and opportunity for protest is allowed as provided in 7-13-209 and 7-13-211."

REP. ANDREASON moved that SENATE BILL 115 BE CONCURRED IN.

QUESTIONS ON AMENDMENTS:

REP. DUSSAULT: Lee, in section 5 beginning on page 4, line 3, there is reference to "the board shall establish a fee for service, with approval of the county commissioners." Is that the Refuse Board? Lee replied yes.

REP. DUSSAULT said it seems to me if we adopt these amendments, we allow the Refuse Disposal District Board to establish the fees, with the approval of the county commissioners.

MR. HEIMAN said the commissioners must have the approval of the Refuse Board.

REP. MATSKO said he thinks there is a contradiction on page 3, section 4, sub (1) and sub (2). Sub 1 says that if more than 50% of the family residential units protest, no further proceedings shall be taken. Then in the next section it says they shall hold

a hearing to determine an acceptable fee. So, if no further proceeding can be taken, how can they hold a hearing?

LEE HEIMAN replied that subsection 2 is the hearing on the proposed fee protest going directly towards the fee; subsection 1 is the protest against creation of the district.

REP. MATSKO said this adoption is a proposed fee.

QUESTION ON AMENDMENTS: All in favor of the amendments, say "aye". All voted "aye" and the motion in favor of the amendments carried.

THE CHAIRMAN said we'll now consider the body of the bill.

REP. KESSLER asked if this was a problem stemming from one particular area?

REP. SALES said no. Any time you set up a district and people don't know what it is going to cost them individually, you have a problem.

REP. HANNAH asked the question, "do you mean to tell me that when the District in Gallatin County was put together, no one ever asked and the people who put the project together never said what \$3,000,000 was going to break down to for each person and they voted for it?

REP. SALES said there was no vote; it was just established by the commissioners.

QUESTION ON SB 115: All committee members present voted "aye", with the exception of REPS. DUSSAULT, HANNAH, KESSLER, and NEUMAN. The motion carried and SB 115 received a recommendation of AS AMENDED BE CONCURRED IN.

SB 131. Sponsored by SENATOR PAUL BOYLAN

REP. SALES moved that SB 131 BE CONCURRED IN.

REP. HANNAH made a substitute motion that SB 131 NOT BE CONCURRED IN. He spoke for the motion. It was kind of the Senate to allow the bill to come out for Senator Boylan and it is kind of Senator Boylan's representative to move the bill. But, I think the bill does absolutely nothing in regards to what his original intent was and I think it is unworkable. Nobody thought of the house next door, for example, if there are two houses. This is a drastic step in the wrong direction where now somebody who owns a home is forced to fence out the other guys cows rather than the owner having to fence them in. I feel it is nonsense for us to pass a bill which does something completely different than what was originally intended.

REP. ANDREASON: Lee was going to look up something about legal fences and I think that is the key element.

LEE HEIMAN said a legal fence is used two ways throughout the code and the law. The first one is a legal fence if it is built with three strands of wire, or various other ways. The second part is the doctrine of the legal fence where two abutting property owners get together and put up and maintain a fence jointly and are liable jointly for any problems that occur because of their joint maintenance of the fence. Here there is no joint maintenance, but there is a legal fence involved. You have a possibility here of joint liability with the owner of the livestock. If he doesn't build the fence, the homeowner will have to build the fence. You'd be having the livestock owner being liable for cattle that escape through a fence that he isn't legally liable to build.

REP. SWITZER said he is going to oppose the DO NOT PASS motion simply for the reason that he feels almost all livestock is restrained in an area that is in that close proximity to a town. By law you are required to take care of your own property. To me this addresses a situation which an adequate fence may have been demolished by someone who has done some changing in the surface of the property, whether he leveled or built a basement or whatever he did. I don't think it's that cut and dried.

REP. BERTELSEN said he sees the problem and the attempt to solve it, but I don't feel this bill clearly deals with the problem.

REP. ANDREASON said he agrees that this still does not solve the problem. I think the bill could be amended severely to do so, but I would recommend that we solve it in a senatorial manner and continue to vote.

QUESTION ON BE NOT CONCURRED IN ON SENATE BILL 131. A roll call vote was taken, resulting in the following" nine voted yes for the DO NOT PASS: Seven voted "NO" for DO NOT PASS, and three representatives were excused or absent. Those voting "NO: included REPS. BERTELSEN, VINGER, ANDREASON, GOULD, PISTORIA, SALES and SWITZER. SB 131 received a BE NOT CONCURRED IN recommendation.

SB 152 Sponsored by SENATOR JOE MAZUREK

CHAIRMAN BERTELSEN said this is the bill which deals with city lighting.

REP. KESSLER moved that SB 152 BE CONCURRED IN. One thing which has come up and which I feel is important is a lot of cities have reached the limit on their mill levy. In order to have a new lighting district, they will have to take the millage from somewhere else and cut back elsewhere. If a new area comes in and wants lighting

and 25% of that has to be assessed to the entire city, they just can't do it unless they cut on expenses some place else. Rather than hinder lighting districts, I think in some places this will help it.

REP. PISTORIA said he must oppose the whole thing. He discussed a letter from Dennis Taylor. He is telling our committee what to do. We are the legislative body; not Dennis or the City of Helena. This letter is insulting. If the cities have reached their mill levy, why haven't we introduced legislation to allow them to increase it. We should encourage street lighting; it is something everybody uses. The business area has 16 times more lighting than the residential areas. 30% to 40% of the street lighting in major cities, because of the size of the lamps, is paid for by the business area. If this passes, I'll oppose it on the floor.

REP. HANNAH stated that REP. PISTORIA is complaining about lighting districts not being formed. Yet much of the testimony heard states the cities are up to the maximum in their districts and in their millage. The reverse has happened. We have a situation where developers have developed an area and have put in a lighting district. The city is paying 25% of that and it is outside of the city's control. Now the people who want to form a lighting district cannot do so because the cities are up to the limit of their involvement. People who genuinely want a lighting district cannot have one. I think this is a super bill.

REP. ANDREASON said he has the same concern as before. We talk about the lighting districts and the mill levies being up to their limit, but the people are up to their limits too. We are thinking of a city and not the people. I feel that lighting is a community resource. It does not only help the people in the particular area but it helps the whole community that travels through it. It cuts down on crime. There are other ways of dealing with the problems on the mill levies and establishing new lighting districts other than saying, "those who have it now will keep it and those who come in the future are going to have to pay a lot more and that is the bottom line." Those who come later will have to pay a lot more and it is unfair to them.

REP. KESSLER said he would in some cases agree it is a community resource, such as main thoroughfares, downtown areas, shopping districts. We have to use discretion in those areas. In the areas which I never go into, that lighting isn't a community resource, particularly where the new areas are requesting very expensive type of lights. Why should I subsidize them? Secondly, you mention the people who have it now don't have to pay for it. In the neighborhood I moved into, the lights have been there for years and I didn't have to pay for them. These are valid cases so we can spread the cost around. I'm not going to pay for lighting in new areas that have been installed.

REP. MATSKO: If you move into a new area, under the current law because you are subsidizing other areas in your town that are bringing in new lighting, you will in fact pay for installation of lighting throughout your city and that is in the law. I think that is fair to help out people in other areas even though you personally don't go into them. But there are many people who do go into those areas who also live in your area. If they have lighting in their areas, it makes serving the areas much easier for firemen and policemen. You can respond to a call much easier in a lighted area than you can in some of the dark side streets. Any minute you can save in getting into an area to help people or to provide a city service benefits the entire community.

REP. KESSLER said he agrees that we need the lighting services. I'll pay for the lighting in my district. There is an equalization factor there.

REP. BERGENE said she likes the flexibility of the bill. There is a possibility that cities could go beyond this 25% with the bill.

REP. WALDRON said coming from a city that has a large section without street lights, including the section I live in, I can really appreciate the need for lighting and I agree with REP. MATSKO that when it comes to law enforcement, lighting seems to help. But if the city is at the top of their millage, they simply cannot afford to put in a lighting district and consequently you will not have lights. I think we should pass the bill.

REP. PISTORIA said he disagrees with REP. WALDRON. It isn't the city that asks for street lighting; it's the people who ask for it. Does the 25% apply to the whole city if they want it? Because of inflation today, what would cost \$100 today would have probably cost \$30 then.

QUESTION: The chairman said the motion was for a BE CONCURRED IN recommendation. A roll call vote resulted in 10 voting "aye", and six voting "no". Those voting no included REPS. BERTELSEN, VINGER, ANDREASON, MATSKO, NEUMAN and PISTORIA. Three committee members were not present. SB 152 received a BE CONCURRED IN recommendation.

SB 353, Sponsored by SENATOR MAX CONOVER

CHAIRMAN BERTELSEN said this is the bill that deals with auctioning of junk vehicles by counties.

LEE HEIMAN said he was requested to get a letter on this regarding rule making authority from the Department. They have the rule now that prohibits the selling of items in the yards. Their problem is that even if they do away with that rule, all of the money goes to the State. They could now write a rule to allow in some manner sales out of the junk yards. But they could not allow that money to go to the local governments. It has to come to the state.

THE CHAIRMAN asked LEE HEIMAN to go over the amendments.

MR. HEIMAN said they are as follows:

Page 3, line 2, after the word "accepted" insert "or vehicle".

Page 3, line 3, strike "acquisition" and insert "retrieval".

CHAIRMAN BERTELSEN asked REP. SALES what he feels these amendments do?

REP. SALES said that these amendments make sure that there is enough money to cover the cost of taking a vehicle out of the junk yard. Everyone is worried that if a car is taken out of the junk yard one or two pieces are taken off of it and it might remain on the streets and would then have to be retrieved again. The charge should be great enough to cover that cost.

REP. SALES said he'd move the amendments for SB 353.

QUESTION ON THE AMENDMENTS: All in favor say "aye". All voted "aye" and the amendments carried.

REP. SALES moved that SB 353 BE CONCURRED IN AS AMENDED.

REP. HOLIDAY said she still has a number of questions, as she has talked with a number of people who contacted her concerning this bill. I know that the idea was when SENATOR CONOVER introduced the bill that component parts could be sold. Now I'm being told no, that in order to get a component part you must take the entire vehicle. But as I read it, on page 2, starting with line 24, it says "motor vehicles or component parts." One or the other may be done, and yet I have had several calls from wrecking yards who now as individuals have become opposed to the bill even though the Association supports the bill. They are now opposing it mainly because of competition. They did raise the question about the hazards involved if someone goes into a wrecking yard and tries to remove a part from under a car and the car might fall on them. Who is liable for an injury, and so forth?

REP. ANDREASON said he doesn't understand why that would be any different from what would happen in the normal wrecking yard now if someone went in and tried to remove a part. Why would one situation be any different and why would this bill present a situation and the present law does not?

REP. HOLIDAY said she sees it as "once in the graveyard and under government control," which this is. That would be the difference. If you were having an auction and if someone was injured, that would be the difference.

REP. BERGENE asked "what does the county get for doing that? Do they keep the funds collected?"

CHAIRMAN BERTELSEN said all revenue must be paid into the county general fund according to this bill.

REP. BERGENE asked if they will have enough money to keep dragging these vehicles back and forth to the graveyard? The Board of Health is most concerned about that.

REP. HANNAH commented he thinks there is a major difference between a private wrecking yard and the type of wrecking yard in this bill. Most of those wrecking yards have gotten away from a situation where they allow a private citizen to go in and take a part from a vehicle. The wrecking yard personnel must do this because there is a liability problem.

REP. ANDREASON said "what is in the bill that says they can't do the same thing?" There is nothing in the bill that says the private party may remove the parts. We are talking about an auction where you auction off the vehicle or the part. I'm sure they'd auction a part off and give it to you.

REP. HOLIDAY said she wanted to go back to the revenue. The bill states that the county or local government would receive the money for any vehicle or component part sold. But did I understand LEE to say that was not right; that the money would go to the Department of Revenue.

LEE HEIMAN said no. If this bill does not pass and they change their rules to allow the sale of a vehicle or component parts from the junk yard, as the law stands prior to this bill, the money would go to the state. In this bill it goes to the county general fund. The county graveyard runs off the motor vehicle fund, so there are three separate funds.

REP. PISTORIA said his county sells parts, and he's glad they do.

REP. SALES said they are breaking the law.

REP. VINGER said he is opposed to the bill because he doesn't think the county should be selling parts or cars to the public. They could put the vehicles on bids, if they have too many, and let the wrecking yards bid on them and do the business.

REP. ANDREASON said that is exactly his concern. I'd rather see the money go to the county, but my concern is that we're taking a vehicle in, crush it and send it off. There has been a lot of time and effort going into that vehicle and I think it is a waste.

REP. KESSLER: Aren't these vehicles pretty stripped down by the time the county gets them?

CHAIRMAN BERTELSEN said no. We must keep in mind that this is

permissive legislation. It is not mandatory. So it does leave that much leaway.

REP. MATSKO said he thinks there is enough leaway in the bill so the graveyard could establish rules providing an auction to the parts supply houses, or could set up a counter, or they could establish rules as to how they could run it.

CHAIRMAN BERTELSEN said one of the fears people have expressed to him was that the people who are in charge of that operation feel they don't want to become an auctioneer; that isn't part of their duties as a state employee, and suddenly they may be standing around trying to auction parts of vehicles.

REP. MATSKO said it could end up being the type of auction such as a sheriff's sale. I wouldn't particularly care for that.

QUESTION for a BE CONCURRED IN recommendation for SB 353. A roll call vote resulted in 6 voting "yes"; 10 voting "no". MOTION FAILED. It was then moved that the vote be reversed, and a BE NOT CONCURRED IN recommendation be given to SB 353. Those voting against the motion included REPS. BERTELSEN, ANDREASON, HOLIDAY, KESSLER, MATSKO and SALES.

SB 133 Sponsored by SENATOR JOHN MANLEY

REP. GOULD moved that SB 133 BE CONCURRED IN.

CHAIRMAN BERTELSEN said there were some suggested amendments. One of them had to do with making the bill apply to all landowners as well as voters. Another one had to do with changing the number of people who could petition to remove the action by 40% of the total number of qualified electors owning land within the zoning district. The feeling I had expressed to me, and my feeling as well, is if we are going to vote in such a procedure it seems improper to allow 40% to petition and destroy the zoning district. Once a majority has voted, I feel the percentage should be greater than 40%.

REP. HANNAH made a substitute motion that SB 133 BE NOT CONCURRED IN.

REP. GOULD said he thinks the people should have the right to vote.

REP. HANNAH said he'd like to address his problems with the bill. I think it became very evident that this is a local problem, but that doesn't mean it isn't a problem that could surface in other areas. In the testimony I asked a lady named Margaret whether or not the current law, as it exists today, works in the problem as far as they were able to assess it? The lady answered it did work, but they just didn't like doing it that way. If the law works and it did work in that situation, this is a bad bill because you addressed one point that it becomes a minority control situation, and secondly,



in section 2, page 3, line 12 they call for a petition for a referendum, yet one of the things they harped on the most at the meeting was the people didn't understand what they were doing. Now they are going right back to the same thing. People don't understand what they are doing, but yet we want to have the right for them to petition for the referendum. The final thing I feel is wrong with the bill is that we're asking people who are outside of the zoning district to be willing to pay for the cost of the election. I think that if people in the zoning district want to vote on it, they should pay for it. I don't think we should pass this kind of legislation.

REP. VINGER asked REP. HANNAH the following question. In that particular situation evidently the plan has been changed how many times, in the last 10 or 12 years? What protection do the people have against every new person coming in and making a new plan?

REP. HANNAH said he thinks they have all the protection they want. From the onset they have complete control over their county commissioners. We have a situation where they are complaining about what the county commissioners are doing, and rather than dealing with it there, either putting in a new county commissioner or forming a group that will visit with the county commissioners about this problem, they are coming here with a bill that will revise the laws around the whole state.

REP. VINGER wondered if changing the county commissioners would solve the problem?

REP. HANNAH said it could be a step in the right direction.

REP. WALDRON: I think there was a lot of misinformation given at the hearing. There was plenty of notice that the landowners in that area had wanted some zoning. The people had to know there were plans in the making for a zoning change unless they were sitting on a mountain top or in a cave. The request was made by a number of landowners in the area. As I recall, Mr. chairman, and correct me if I'm wrong, the county commissioners also sent out a letter to the landowners in that area notifying everyone of their intention to hold a hearing and zone that area. If you give them that kind of notice and you have the 40% protest provision in the law, then I don't know why you need this bill. Also, zoning does not have to follow precinct lines. If you are going to hold an election and it crosses precinct lines, it is extremely difficult for that Clerk and Recorder to set up an election, and not to mention the cost of it. While this committee may have been told about some problems, those problems were manufactured. There was no problem. Some of the people carrying the petitions were also spreading some misinformation as to exactly what the zoning was doing.

REP. KESSLER said it seems there is adequate protection in the bill. If you go to page 2, starting on line 17, it gives you notice of the hearing, the proposed boundaries, the general character of the zoning regulations, time and place, etc. It seems to me we have a problem here where people just didn't take advantage of the opportunity the first time and then called sour grapes when they didn't get what they wanted.

REP. SWITZER said he seems to recall testimony that they were subject to plans by ambitious type planners that did it all interiorly. They didn't go over the ground. They just drew a plan and said this looks good and that was one of the things these people were defending themselves against.

CHAIRMAN BERTELSEN said there were two different situations. One was in Missoula County and one was in Powell County, where quite different conditions existed. The one in Powell County was entirely outside the planning and it was done on a local level.

REP. KESSLER said whatever did happen, they still had the hearing to go through and why weren't the people there?

REP. SWITZER said they may have been satisfied with the status quo.

REP. HOLIDAY said Senate Bill 133 deals primarily with the situation you were aware of, and if so, I would ask you to respond to MR. SWITZER.

CHAIRMAN BERTELSEN said it deals with situations both in Missoula and Powell Counties. In the situation I was aware of, it was publicly announced and worked on for seven years. Not only were they given public notice, but they were given a copy of the zone plan. Every single landowner was mailed a copy and public meetings were called to consider the plan. Changes were made and then for a year and a half it was up for discussion. Finally even petitions were brought in to the County Commissioners, not because they needed them but because they asked to have some listing of names to show support for it. When over 60% of those names came in, a public hearing was announced in the paper for three weeks and published in posters around the town of Ovando as this was the only area concerned. The hearing was held and 50 people were present and two people opposed. This was absolutely public. After the hearing, the commissioners announced their plan to institute the zoning and again mailed the people a notice of this plan to institute zoning. It was then the action took place to counteract it. They succeeded in getting the number of votes to stop the zoning plan. I just wanted to be sure that everyone understands how that particular situation occurred.

REP. MATSKO wondered if it would be safe to say there were a number of people who signed petitions without really understanding what the petition would do or were they either uninformed or misinformed about the final results on both of the petitions?

CHAIRMAN BERTELSEN said there was probably a certain amount of misunderstanding that occurs when anyone reads something because they all had it to read. It shouldn't have been that difficult. There is a fear any time you institute zoning that what you are going to do is take away the people's opportunity to control their own destiny, so to speak, and I suspect you can say there were people who misunderstood on both sides, and even after it is all done there are people who still misunderstand the issue. But whether that is the fault or benefit of this, I personally don't know.

REP. PISTORIA said he thinks this is a good bill. It gives the people the right to vote. My rights are worth more to me than all the money in the world.

QUESTION of BE NOT CONCURRED IN for SB 133. A roll call vote was taken resulting in the following: 9 committee members voting yes for "DO NOT PASS", 7 voted no for "DO NOT PASS" and three committee members were either absent or excused. MOTION FAILED, and SB 133 received a BE NOT CONCURRED IN recommendation. Those voting "NO" included REPS. BERTELSEN, VINGER, ANDREASON, GOULD, PISTORIA, SALES and SWITZER.

SB 399, Sponsored by SENATOR MANLEY

REP. SALES moved that SB 399 BE CONCURRED IN.

CHAIRMAN BERTELSEN said SB 399 deals with planning rather than zoning.

REP. ANDREASON said he'd like to support the DO PASS motion. Since we have just taken away from the people the right to vote on specific zoning, I would like to see them be able to participate in deciding on the Master Plan. They should have the minimum opportunity to decide on what is going to happen to their land.

REP. DUSSAULT made a substitute motion of BE NOT CONCURRED IN. I feel some of the testimony was misleading. I remember SENATOR TURNAGE suggesting that part of the reason for introduction of this bill was to allow the Master Plan to be revised because apparently there was no ability in the current law to do that. I think that was probably a fictitious statement because I know the plans are being updated and revised. It is also my understanding that Master Plans are essentially advisory in nature to further action taken by the planning and zoning staff and it doesn't necessarily have any affect.

REP. ANDREASON said they may be advisory but it is my understanding that they pretty well follow it, without too much deviation. There may be an opportunity now to revise their Master Plan but not in the way proposed.

CHAIRMAN BERTELSEN asked if this requires a vote in case the Master Plan is revised?

REP. ANDREASON said yes, it does require a vote.

REP. SALES said this is shown on lines 13-15, page 2.

REP. WALDRON: If you find that your plan isn't going to fit the best use of an area, which has happened in Missoula County, then in order to change the plan you have to go to an election. Is this correct?

REP. MATSKO said that on page 2, lines 13 and 14, sub 6, doesn't that statement say that the governing body may revise or repeal the Master Plan? He asked Lee to reply.

LEE HEIMAN said it would give the governing body an option in saying we will revise or repeal or else throw this plan out and start on a new one.

REP. SALES said it isn't automatic. Either initiative or referendum would have to occur before there would be a vote on the revision.

REP. HANNAH said he is going to attempt an amendment. I MOVE TO amend SB 399 as follows: Page 1, line 17 through line 12 of page 2, strike the subsections (2) through (5) in their entirety. Also on page 2, line 13, following line 12, strike "(6)(a)" and insert "(2)", and following "may" insert "adopt,". With these changes, it would read:

"1) The governing bodies shall adopt a resolution of intention to adopt, revise or reject such proposed plan or any of its parts.

(a) The governing bodies may revise, or repeal a Master Plan adopted under this section.

(b) The qualified electors of the jurisdictional area, etc."

My intent is that I feel those are two good parts of the bill. If the attorneys are right that the governing body doesn't have the ability to revise a Master Plan, then I think they should and they would then have that freedom to revise or repeal the plan. I feel it is important that if there are people out there that can get together, get a petition and a vote of the people, that is right. I feel the part I've stricken is very unclear as to who does what, it is an inflexible plan once it passed and I think that when you get down to the fact that it is a voted plan, I think you are in fact stopping zoning. I'm not a real advocate of zoning.

REP. ANDREASON asked REP. HANNAH why he removed those particular areas?

REP. WALDRON said he understands those parts are already in the current law and were just dealt with in the previous bill.

LEE HEIMAN said this is in a separate section. I handed out a sheet at the hearing that had all of the planning parts on it. The open meeting law does require a notice.

REP. SALES said he thinks this is a very good bill. The two sections REP. HANNAH wants to leave in are important because they are one of the areas that are unclear at the present time and it does set up an issue to provide for revising or repealing a plan that should be in there. I don't like to see the section on the election process taken out. I think if people were allowed to vote on the Master Plan they would feel a lot more comfortable. It strengthens the plan if people have a chance to vote on it.

REP. SWITZER said he opposes the amendment. I think each section serves a little purpose, particularly on page 2, line 7, subsection 5. I can see a lot of merit in the line that says it may not be resubmitted to the qualified voters for a period of one year.

REP. PISTORIA opposes the amendment too. REP. SALES just stated it all. I have attended hearings that have been practically knock-down drag-out affairs. Once you have a majority the thing should be settled and the beefs should be over.

REP. GOULD said most Americans feel if they vote on something, even if they are on the losing side of the vote, that that is the will of the majority and that is what they will go along with. I like the idea of voting.

REP. DUSSAULT asked "then why don't we vote on everything? Why don't we say that every proposed action the county commissioners take as elected officials will be submitted to the people for a vote? Every action the Legislature takes will be submitted to the people for a vote? It seems to me that we don't live in a pure democracy; we live in a representative democracy, and that elected representatives are delegated the power to act for people.

REP. SALES this isn't just anything. This is a very important matter.

REP. DUSSAULT said I know it is, and that is why my opposition to this bill is so strong.

REP. ANDREASON said he agrees with REP. DUSSAULT and thinks that is the question. Why don't we vote on everything? We should have the option of deciding the things upon which we vote and the things upon which we don't vote. Things that should be more feasibly voted upon at that time are all right and should have that option and the things that are more likely to be ruled upon by a governing body should have that option too. I think we should vote on some things and not on others.

REP. HANNAH said that being the case, my amendment does exactly what everybody wants. It gives everybody the option to vote.

REP. SALES said you struck out the vote on the adoption.

REP. HANNAH said yes, but I've also left in the fact that the people can by the initiative process call for a vote.

REP. SALES said not on the adoption, only on the revision and the appeal.

REP. MATSKO: I feel strongly about this myself. When you are talking about a Master Plan, something whereby other decisions will be made, the public right to vote is important. I think this bill can give some direction to it. In the previous bill where you are voting on each individual change, they become very cumbersome and costly. But here you are talking about the Master Plan. I think the adoption of that is something that should rightly be put to a vote of the people as well as the repeal of it.

REP. HANNAH said he apologizes to the committee. That wasn't my intent. Lee just brought me a revision to my amendment and if you'll look at line 13, page 2, after "may" insert "adopt", and on "page 2, line 17 following 7-5-137, insert "adopt,". My intent is to allow the people to have the option to vote on the adoption of the plan, the revision of the plan and the repeal of the plan. But it is to also give the governing bodies the freedom to do their job. This is more consistent with the representative form of government that we have today.

REP. SWITZER said he will now agree on subsection 5. We like to vote but we don't want to vote all the time and this limits it to once for that year.

REP. DUSSAULT said she doesn't think sub 5 says that at all. All it says is that the same plan cannot be submitted. Nothing can prevent them from changing two lines in the thing, calling it a new plan and resubmitting it.

REP. SWITZER said in that case, you'd hastily change planners.

REP. DUSSAULT said hopefully in the process you'd change commissioners. Planners simply work for the governing body. Those people are hired to do a job and instead of berating them, we should hold the elected officials responsible.

REP. WALDRON asked Rep. HANNAH if he wants to make the appropriate title change. Rep. Hannah replied, yes.

QUESTION was called on the amendments: The CHAIRMAN asked that a roll call vote be taken. Result was 7 voted for the amendments and 8 voted against them. AMENDMENTS FAILED.

QUESTION ON BE NOT CONCURRED IN for SB 399. A roll call vote resulted in a vote of 8 to 8, MOTION FAILED.

REP. WALDRON, I move that we reconsider our action on the amendments recommended by REP. HANNAH. I think we could get a positive action on the bill if we include the amendments.

REP. SALES said all we end up with then is instead of "we shall have an election", we "may have an election". I'll second the motion.

CHAIRMAN BERTELSEN said the motion has been made that we reconsider the amendments.

QUESTION: A voice vote to reconsider the amendments resulted in 12 committee members voting "aye" and 4 voting "no". Those voting no were REPS. KESSLER, PISTORIA, SWITZER and VINGER. Three members were absent. The amendments will be reconsidered.

REP. DUSSAULT then said she wonders where the authority is for the governing body to adopt, revise or reject the original plan?

LEE HEIMAN said it would be on lines 13 and 14, page 2, resolution of intention should be dropped on the left or adopt a new section on the right.

REP. HANNAH moved that the amendment includes the word "adopted" be dropped on page 2, line 14, and on line 18, page 2 also strike "adopted".

REP. SALES moved the amendments. All in favor of the amendments say "aye". Opposed, 4, including REPS. KESSLER, PISTORIA, SWITZER and VINGER. (Amendments are attached and made a part of these minutes, and shown as Exhibit A).

QUESTION ON SB 399 for a BE CONCURRED IN AS AMENDED. A roll call vote resulted in the following: 12 committee members voted "yes"; 4 voted "no" and 3 were absent. Those voting no included REPS. KESSLER, KITSELMAN, PISTORIA and SWITZER. MOTION CARRIED and SB 300 received a recommendation of AS AMENDED BE CONCURRED IN.

CHAIRMAN BERTELSEN said this takes care of executive action for today. We do have action to take on the disincorporation bill and the salary bills dealing with court reporters and county salaries.

The meeting adjourned at 9:30 a.m.

  
VERNER L. BERTELSEN, Chairman

Local Government Committee

March 23, 1981

Amendments to Senate Bill 399, third reading copy as follows:

1. Title, line 4.

Following: "ACT TO"

Strike: "REQUIRE"

Insert: "PROVIDE FOR"

2. Title, lines 5 through 7.

Following: "APPROVAL"

Insert: ",,"

Strike: everything through and including "PROVIDING FOR THE"

3. Page 1, line 17 through 12 of page 2.

Strike: subsections (2) through (5) in their entirety

4. Page 2, line 13.

Following: Line 12

Strike: "(6)(a)"

Insert: "(2)"

Following: "may"

Insert: "adopt,"

5. Page 2, line 14.

Following: "plan"

Strike: "adopted"

6. Page 2, line 17.

Following: "7-5-137,"

Insert: "adopt,"

7. Page 2, line 18.

Following: "plan"

Strike: "adopted"

8. Page 2, line 15.

Following: line 14

Strike: "(b)"

Insert: "(3)"