

The Local Government Committee met Thursday, April 9, 1981 at 12:55 p.m. in Room 103 of the Capitol. CHAIRMAN BERTELSEN called the meeting to order and asked the secretary to call the roll. All committee members were present with the exception of Reps. Andreason, Azzara, Hurwitz, Kessler, Hannah, Sales, Switzer and Waldron. Staff Researcher Lee Heiman also attended.

SENATE BILL 383 - sponsored by Senator Bill Brown

SENATOR BROWN said he is from District 47, Missoula County. This is a very simple bill. It changes only one number. It relates to Special Improvement Districts and the percentage of freeholders required for protest to create such a district. The City Council, as the law is now, establishes a Special Improvement District and 51% of the freeholders are required to sign a petition to oppose the establishment of the district. This bill would reduce the figure to 40%. This is compatible with what is going on in the Rural Special Improvement Districts.

I am sure there is opposition. There may be argument that this is not democratic; it isn't the American way. We are certainly familiar with the two-thirds vote in the Legislature, and we are familiar with the three-fourths vote in the United States Constitution to adopt changes in the Constitution. 51% is the usual majority but often times in the most democratic government it takes more than the simple majority. That, in essence, is the bill.

PROPOSERS TO HOUSE BILL 383 - There were none.

OPPOSERS TO HOUSE BILL 383

DAN MIZNER, Executive Director of the Montana League of Cities and Towns, said he appears here today in behalf of the cities and towns, so I will not speak for the counties, but to the part of the Section on Page 1 which changes the county protest from 50% to 40% for a Rural Improvement District. In the cities and towns there are three or four methods of creating SIDs, either by square foot, front foot, and so forth. In the other section it does not change and it seems as though you can go as high as 75% to protest a sewer operation, but in a curb, gutter or paving project, what you are saying is if you go to the 40% figure and somebody in a city block owns 50% of that block, with front footage, and 40% of the people in that block wanted to petition to do it, the 40% could stop the paving of that block. It is almost the same to me as saying that if 59% of the Legislators vote for something, say putting them in the place of a city council, then 40% of the people can later stop that action. Our concerns, as Dr. Norman has said, are in the democratic process. The majority rules and we have lived with the 50% figure.

I know in some cases that 45% of the people have protested a Special Improvement District and yet it has gone in. It seems to us at the

local level that the 50% protest is the figure that should be used in respect to those who are proposing a Special Improvement District. The requirements are that the city or county has to notify all property owners. They know what the estimated costs are going to be, and they have the opportunity to appear before the public hearing. They then have the right to collect the 50% protest if they want to stop the SID. We would like to see it remain at 50%.

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

SENATOR NORMAN closed. First of all, the freeholders can appear before the City Council who will listen to their protest, but they can ignore it and often times do. In the instance that was cited, suppose a large landowner owned 50% or 51% of the property, he could block some desired development. But the reverse is also true that if a large landowner wanted to force a Special Improvement District upon someone, or on a minority of the people, that could be done as well. That is the difficulty with this sort of legislation, be it 51%, or 40% or whatever. "You pays your money and you takes your choice." I just treat the bill with the belief that if a Special Improvement District is clearly desired by the people, then there will be no difficulty to gather the necessary votes.

QUESTIONS FROM COMMITTEE MEMBERS

REP. WALDRON: Is this bill needed and does it have merit?

SENATOR NORMAN: It was needed and had merit in the Senate, and I hope it will be a good bill.

CHAIRMAN BERTELSEN: Senator Norman, does it come from a particular situation that you are familiar with?"

SENATOR NORMAN replied yes, both in my district in two instances, and it has also been a problem in Senator Turnage's district of Polson. One developer had a large percentage of the land, had a district started, and then headed out.

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, he closed the hearing on Senate Bill 383.

REP. DUSSAULT moved that SENATE BILL 383 be tabled. First of all, I have some substantive problems with the bill. Secondly, I'd like some time to look into a rules question on the bill -- unless it was transmitted by the 45th day, or after that, it was considered a finance measure.

CHAIRMAN BERTELSEN asked, "What is the option of the Committee? Do you want to Table it?"

QUESTION: All in favor of tabling SENATE BILL 383, say "aye". Of the 11 committee members present, 9 voted "aye" and 2 voted "no". Those opposed were Reps. Waldron and Pistoria. MOTION CARRIED and SENATE BILL 383 was tabled.

The meeting adjourned at 1:00 p.m.


Verner L. Bertelsen, Chairman

hbm

[illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible]