

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 6, 1981

The meeting of the Local Government Committee was called to order by Chairman, George McCallum, on January 6, 1981, at 1:00 p.m. in Room 405, State Capitol.

ROLL CALL: All members were present.

Several visitors were in attendance. (See Attachment.)

CONSIDERATION OF SENATE BILL NO. 28: Senator Mazurek of Senate District 16, sponsor of the bill, stated the bill was proposed by the Department of Community Affairs. It is basically a housekeeping bill. Audits of local governments were transferred to the Department of Community Affairs in 1975. The law as currently written provides for forfeiture of office by public official upon filing of audit if audit shows cash shortage. In 1945 the Supreme Court ruled that the officer is entitled to a hearing prior to forfeiture of position. Therefore, they find the current statute, as presently written, to be unconstitutional. They would like the Department of Community Affairs to be able to suspend the officer until a hearing, the date of which must be set within ten days after the department's finalized audit report.

Daniel Diemert, Department of Community Affairs, then testified in favor of the bill. Mr. Diemert stated a specific case, Ryan V. Norby, where the Supreme Court ruled the office holder was entitled to a hearing prior to forfeiture of his position. (See Attachment.)

Mike Stephen of the Montana Association of Counties concurred with the proposed bill.

Dan Mizner of the Montana League of Cities and Towns recommended the bill do pass.

There were no opponents of the bill present at the meeting.

A motion was made by Senator Story that the bill do pass. Senator Conover seconded the motion. The motion carried unanimously.

Senator McCallum stated future meetings would be held at 1:15 p.m.

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ADJOURN: There being no further business, the meeting
was adjourned at 1:30 p.m.


Chairman, George McCallum

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/6/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator Pete Story	✓		
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

DATE January 6, 1981

COMMITTEE ON LOCAL GOVERNMENT BILL NO. 28

BILL NO. 28

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: DANIEL G DIEMERT DATE: 1/6/81

ADDRESS: 1424 9th Ave Helena

PHONE: 449-3494

REPRESENTING WHOM? DCA

APPEARING ON WHICH PROPOSAL: SB. 28

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Legislation is necessary to correct unconstitutional
provision of law which provides for forfeiture
of office by public official upon the mere filing
of an audit report. The Montana Supreme Court
held in Ryan v. Norby (118 M. 283) that
the office holder is entitled to a hearing prior to
such forfeiture.

STANDING COMMITTEE REPORT

January 6 1981

MR. President:

We, your committee on Local Government

having had under consideration Senate Bill No. 28

Respectfully report as follows: That Senate Bill No. 28

INFORMATION REPORT

DO PASS