

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 20, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on January 20, 1981 at 1:15 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with Senator Story being excused.

Several visitors were in attendance. (See Attachments.)

Chairman McCallum reported to the committee that Senator Story has asked to be taken off the Local Government Committee. Senator Story feels he has an overload of work with the Finance and Claims Committee and the State Administration Committee. Senator Hammond would take his place.

Chairman McCallum then called on Senator Severson, at his request, to ask the committee to consider introducing a bill presented to him by the Montana Surveyors. The bill would amend the Montana Subdivision and Platting Act to provide for an extension of preliminary plat approval. The extension would be to 5 years instead of 1 year if there is a specific written condition of the written agreement entered into between the governing body and the subdivider. Deborah Schmidt of the Legislative Council will research this matter.

CONSIDERATION OF SENATE BILL NO. 84: Senator Bob Brown of Senate District No. 10 and sponsor of the bill said the maximum salary for court reporters was increased in 1979 from \$16,000 to \$18,000 and the minimum was increased in 1975 up to \$12,500 and has not been increased since. The reporters would now like an increase of the maximum to \$27,500 and an increase of the minimum to \$16,000. Senator Brown then introduced Bob Nieboer from Kalispell as spokesman for the court reporters.

Bob Nieboer spoke in favor of Senate Bill No. 84. He said in 1975 the Legislature established a salary for district court reporters. That was the first time there was a minimum or a maximum, before that it was a straight salary the district judge set. In 1977 a bill was presented for an increase. In 1979 the maximum was increased to \$18,000 and the minimum remained the same. This was a 2% increase per year in salary. In 1963 the district court reporter's salary was a little over 60% of the district judge's salary. Today their salary would have to be between \$23,000 and \$24,000 if they received 60% of the judge's salary. The average salary of reporters in surrounding states runs between \$20,000 and \$26,500 for a maximum. That is the salary they are receiving now and many states are going to the legislature this session to ask for increases, also. He thinks up until two years ago Montana was staying comparable to other

states but now it is decreasing. The reporters' workload has increased tremendously. They are spending more and more time in court and have less time to process the transcripts. In Kalispell he is falling way behind in the transcripts on appeal. When giving dictation for transcripts, they sometimes have to work nights and weekends. Court reporting is difficult to try to explain, some judges and lawyers do not fully understand it. There is a great deal of pressure in the job. They are required to record every word that is spoken and at times this is extremely difficult. Technical terms are becoming more common in trials and the reporter has to keep up on all these terms. Often there are seminars on maintaining quality writing for court reporters. If they wish to go to these seminars, they must go on their own time and at their own expense. He feels there is not much income involved in appeals due to all the time they spend dictating their notes and paying their secretaries. If this bill would pass as it is now, he is sure very few judges would reward the \$27,500 maximum. Most reporters now are receiving the maximum. The judge has discretion to set the salary.

Doris Shepherd of the Montana Association of Counties said the association has no objection to a salary increase for the court reporters; however, in view of Senate Bill No. 50 which requests a \$14,000 base for elected officials, they would like this bill to be amended to have the district court reporters' salaries begin with the \$14,000 base and not exceed \$20,000.

No further proponents of this bill appeared before the committee. Senator McCallum then called for opponents of Senate Bill No. 84.

Representative Pistoria, opponent of the bill, said in the last legislative session court reporters had House Bill No. 442 and he supported it all the way. He thought the reporters needed a raise and especially the minimum amount raised. He stated if he knew then what he knows today that he would have taken a different view of it. He mentioned that Senate Bill No. 175, introduced in this session, would raise another portion of the reporters' salary. He feels the two salaries should be incorporated in some way. When they are taking depositions or writing up transcripts on appeal, they are getting the salary from the county and, due to a provision of the law, they also receive 7.5 cents per folio or 22.5 cents per page. They are asking to raise this, along with the salary, from 7.5 cents to 17 cents or 51 cents per page. He said he was recently involved in making an appeal to the court and had to pay \$1345. The reporter did this at the taxpayers' expense while at the office. Representative Pistoria said some court reporters are making more than the district judges. He said in Great Falls they have

a "closed corporation" whereby 3 or 4 qualified reporters in the area are not allowed to be called upon to do any court reporting. In Great Falls there are 4 court reporters in the closed corporation. In one case in Great Falls a court reporter received approximately \$8,000 which the county had to pay. If this were raised to the 51 cents per page the cost would be over \$11,000. He feels everyone should know about the two salaries.

Senator Brown said he feels the court reporter has a very important job. He suggested the committee listen to closing remarks from Mr. Nieboer.

Mr. Nieboer said, in regard to the Montana Association of Counties' suggestion on the \$14,000 base, that some district courts handle cases in as many as 7 different counties. They work for the district judge and in many cases he has more than 1 county so he does not feel the \$14,000 should apply to district court reporters. He also said that the county does not offset their costs for typists, dictation machines, typewriters, paper, carbon and often times an office. Last year he actually showed a loss on his tax return. He said as far as the closed shop order, when you are taking a deposition, any reporter can come in and do this.

There being no further proponents or opponents, Chairman McCallum asked for questions from the committee.

Senator O'Hara stated that last time they went over this bill no one would venture a figure on income regarding the folio issue. He also said some attorneys are quite dissatisfied with the court reporters and the way they handle things. They said they are also very expensive.

Mr. Nieboer said he hoped that was a general criticism of some reporters and not a criticism of the whole. In his area he has no problems with attorneys. They have a very good working relationship with the local bar. He hates to hear that some attorneys are dissatisfied with the court reporter.

Senator Van Valkenburg directed a question to either Senator Brown or Mr. Nieboer. He asked why, on page 2, line 5, they strike the word "travel" from the bill. He said it was added in the last session because of the concern to keep judicial employees and judges on the same schedule of travel reimbursement as all other public employees.

Mr. Nieboer answered that the change to \$16,000 was the only change the reporters requested. One reviewing agency proposed the other changes. If the committee would want to leave off the extra wording, he would agree to that. It was not the court reporters' change. The bill drafter thought they needed it.

Senator Van Valkenburg then asked Mr. Nieboer how he calculated the average yearly increase to be slightly more than 2% since 1975. In 1973 the Legislature increased the salary to \$12,500. Assuming most are now making the maximum of \$18,000, that is a \$5,500 increase since 1975 and computes to be an increase of 44% or 7.3% per year.

Mr. Nieboer said he took \$16,000 in 1975 and ran through to 1981 and came up with a 2% increase. He still feels it is extremely low with today's inflation.

Senator O'Hara said he finds it hard to understand how Mr. Nieboer could have suffered a loss last year.

Mr. Nieboer said this was purely tax-wise. He showed a loss on his income tax forms due to all his write-offs for expenses.

Senator O'Hara then asked Mr. Nieboer if he was overworked what was the problem with hiring more court reporters.

Mr. Nieboer answered that each judge is entitled to one official reporter.

Senator Ochsner asked Mr. Nieboer if he did a lot of outside work for people other than the district judge.

Mr. Nieboer said the important thing to remember is the reporters try to run their time the best they can in order to get their work out. There are a lot of freelance reporters now because court reporters do not have extra time.

Senator Conover then asked Mr. Nieboer how the reporters arrived at an increase in the maximum salary of 52%.

Mr. Nieboer said they should have requested a larger increase last session. If they had, they would not have had to increase it nearly as much this time.

Christine Lively of the Montana Shorthand Reporters Association wanted to add that the maximum salary would be received by very few reporters. She said it would be more likely that they would, in the first year, receive a 7% increase from their present salary and then more later.

Senator McCallum asked Mr. Nieboer if the folio was 100 words.

Mr. Nieboer said yes, that it has always been considered 100 words.

Senator McCallum then asked Mr. Nieboer if he had an office in his courthouse and does the county furnish him with a secretary.

Mr. Nieboer said he did have an office but he was not furnished a secretary. He said the judge has one but he himself does not.

Senator McCallum asked if Mr. Nieboer was allowed to use the judge's secretary.

Mr. Nieboer said he could to a certain degree when it pertained to court orders, such as having the secretary get him a certain file. She does not do any typing for him unless it is for a court order. Any other typing he must hire someone to do.

Senator O'Hara asked what Mr. Nieboer pays his secretary for 100 words, and what does the reporter receive for the same.

Mr. Nieboer said the individual reporters vary in what they pay to the secretaries. He said it is usually between 60 and 75 cents per page. He pays his secretary 60 cents per page. The reporter gets \$1.60 per page on a transcript appeal.

There were no further questions from the committee. Chairman McCallum said the committee would act on the bill in executive session and would like to see the companion Senate Bill come in before they act on this one.

Senator McCallum then turned the hearing over to Vice-Chairman O'Hara as Senator McCallum was the sponsor of Senate Bill No. 115.

CONSIDERATION OF SENATE BILL NO. 115: Senator McCallum, chief sponsor of the bill, said this bill came about when a garbage district was formed in his area. Everyone was told the fee would be \$18 per year for residents and double that for commercial business. They never heard, until the taxes came out, that the fee for residences was \$28 and \$56 for commercial property. If they had come out and told the people they needed that much it probably would have been okay; but the way they went about it was underhanded. He introduced this bill so people would know what their fees were going to be.

There being no further proponents of the bill, Senator O'Hara called for opponents.

Peter M. Frazier of the City-County Health Department in Great Falls spoke against Senate Bill No. 115 and submitted

written testimony. (See attached Exhibit A.) He wanted to add one statement to his testimony. He said in Cascade County they have had their garbage district for eight years and fees have remained the same up until two years ago. He urged the committee to kill this bill.

Chris Deveny of the Lewis and Clark County Health Department and also a member of a small solid waste disposal district, opposed the bill. She said the other members of the board are volunteers from the community and give up several hours each month to administer and make decisions for the solid waste disposal district. Senate Bill No. 115 would impose additional work and problems for these community volunteers. They would be forced to hear protests from friends and neighbors and the end result would be a lack of volunteers to serve on the board. Citizen participation would be impaired and local governments would be faced with operating the district.

There were no further opponents of the bill appearing before the committee. Senator O'Hara then asked for questions from the committee.

Senator Hammond asked Ms. Deveny if there were many protests from patrons of the solid waste districts.

Ms. Deveny said often times people in small towns get together on an issue and she does see that happening.

Senator Hammond asked if perhaps Ms. Deveny thought we were going in the wrong direction if there are that many people protesting.

Ms. Deveny said no. She thinks people have the right to protest.

Mr. Frazier added that people have the opportunity to protest now without any new legislation. If they think they are being assessed for something they should not be, they are currently allowed to protest.

Senator Van Valkenburg asked if this was in the law.

Senator McCallum said if it is in the law the district broke the law. The county attorney could not find it in the law. When they first heard of a new garbage district they were in favor of it but it was with the way they assessed the fee that they find trouble with. If the government is going to do things underhanded, we need something written in the law to prevent it. He added that when they received their tax notice they did not know what this charge was for, they had to call

the county assessor because the explanation was in code.

Senator Van Valkenburg asked Mr. Frazier if he had the section of law that covers refuse districts.

Mr. Frazier said Sections 7-13-201 through 7-13-243 covers this. He thought Section 7-13-204 covered the estimated cost of services. Section 7-13-208 covers the notice of resolution of intention. In Cascade County their resolution of intention stated from \$1.25 to \$2.10 so people would be aware of the range. On their tax notices they show it as a fee for solid waste.

Senator Conover said in looking at Senator McCallum's tax notice, there is a code number by the fee but no explanation of the code.

Senator McCallum said they could not figure out what the code was for. The county attorney suggested if they did not like the charge, they should write a letter of protest and perhaps they would be refunded their money. Senator McCallum ended that he did not think it is right for these kind of things to go on.

Deborah Schmidt of the Legislative Council said she thinks there is a provision in the law whereby commissioners do hear protests. She feels the problem is we need more precise language written in the law on the range of fees.

Senator Hammond said there are a couple situations where they are threatening suit against towns because of this. We need to take a good look at this and protect the rights of the people.

Senator Conover said the district in his area thoroughly described to the people what the cost would be to operate the district. This shows that some districts do it correctly and some don't.

Senator McCallum asked how they could assure the districts did it properly without passing laws.

Deborah Schmidt said she would research the statute further. The committee agreed.

There was no further discussion on Senate Bill No. 115.

Senator McCallum mentioned at this time that Ms. Schmidt was working on amendments to Senator Eck's Senate Bill No. 48.

Senator McCallum said he would like to form a subcommittee to study Senate Bill No. 50.. He will appoint members to that committee perhaps some time next week.

Senator O'Hara suggested we hear Senator Regan's bill before we make any decisions on it.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 2:30 p.m.


Chairman George McCallum

gs

BILL NO. _____

INTRODUCED BY

Sevenson

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA SUBDIVISION AND PLATTING ACT TO PROVIDE FOR EXTENSION OF PRELIMINARY PLAT APPROVAL, AMENDING SECTION 76-3-610, M.C.A."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

76-3-610. EFFECT OF APPROVAL OF PRELIMINARY PLAT.

(1) Upon approving or conditionally approving a preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than 1 calendar year except that the governing body may grant an extended approval period provided such period is to be a specific condition of written agreement to be entered into between the governing body and subdivider pursuant to Section 76-3-507. At the end of this period the governing body may, at the request of the subdivider, extend its approval for no more than 1 calendar year.

(2) After the preliminary plat is approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval providing said approval is obtained within 1 year the original approval period or extensions thereof as set forth in Sub-Section (1).

NAME:

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Bob Nieboer DATE: 1-20-81

ADDRESS: 175 Backboard Lane, Kellogg, MT

PHONE: 755-5300 - 755-2678

REPRESENTING WHOM? Court Reporter Assn.

APPEARING ON WHICH PROPOSAL: SB-84

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: DORIS SHEPHERD DATE: 1-20-81

ADDRESS: 1802 11TH - HELENA

PHONE: 442-5209

REPRESENTING WHOM? MT ASSN COS

APPEARING ON WHICH PROPOSAL: SR 84

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

COMMENTS: ADDED DOLLAR INCREASE FROM

\$16,000 DOWN TO \$14,000 + 100 AT \$21,000

+ 20000 THAN 22500

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Christine Lively DATE: 1/20/81

ADDRESS: 3304 W. BABCOCK ROZEMAN

PHONE: 587-2013

REPRESENTING WHOM? M. S. R. A. Shorthand Reporters Assoc.

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? / AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: PETER M. FRAZIER DATE: 1/20/81

ADDRESS: CITY-Co. Health Dept. 1130 17th Ave. So., Great Falls, Mt. 59405

PHONE: 761-6700 Ext 545

REPRESENTING WHOM? City - County Health Dept

APPEARING ON WHICH PROPOSAL: SB 115

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Cheis Deveny DATE: 1-20-81

ADDRESS: 316 N. Park Helena, MT

PHONE: 443-1010 Ext 353

REPRESENTING WHOM? Lewis & Clark City Co Health Dept.

APPEARING ON WHICH PROPOSAL: SB 115

DO YOU: SUPPORT? AMEND? OPPOSE? ☒

COMMENTS: As a sanitarian with the Lewis & Clark
City Co Health Dept, I am also a board member
of a small solid waste disposal district. Other
members of the board are volunteers from the
community who give up several hours each
month to administer and make decisions for and
about the solid waste disposal district. Senate Bill 115
would impose additional work and problems for
these community volunteers. They would be forced
to hear protests from friends and neighbors and
the end result would be a lack of
volunteers to serve on the board, because of the
negative connotations placed on the ~~board~~ board
in administering and hearing protests. Citizenry
PARTICIPATION WOULD BE IMPAIRED, AND LOCAL GOVERNMENTS
WOULD BE FACED WITH OPERATING THE DISTRICT.

Exhibit A

CITY-COUNTY HEALTH DEPARTMENT

1130 - 17TH AVE. SOUTH

GREAT FALLS, MONTANA 59405

January 19, 1981

PHONE 781-6700
EXT. 540

BOARD OF HEALTH

COUNTY COMMISSIONER

MAYOR

SUPERINTENDENT CITY SCHOOLS

REPRESENTATIVE MEDICAL SOCIETY

REPRESENTATIVE DENTAL SOCIETY

TESTIMONY IN OPPOSITION TO SB 115

By Peter M. Frazier

Mr. Chairman, Committee members, my name is Pete Frazier. I am Environmental Health Coordinator with the City-County Health Department in Great Falls. I also serve as Director of the Cascade County Solid Waste Disposal District. I appreciate the opportunity to testify on SB 115.

I feel that SB 115 is a duplication of effort and is an unnecessary piece of legislation. The Montana Law governing refuse disposal districts requires that at the time a refuse disposal district is created, the County Commissioners must pass a Resolution of Intention to create such a district. This resolution must be published for ten (10) consecutive days in a daily newspaper or in two issues of a weekly newspaper and posted in three (3) public places within the boundaries of the proposed district. In addition a copy of this resolution must be mailed by first-class mail to each property owner within the boundaries of the proposed district. This Resolution of Intention must include the proposed range of assessments for the operation of the proposed district. A thirty (30) day time period following the date of the first publication must be provided for written protests and, after the end of the 30 day period, the Commissioners must hear and pass on all protests made. Should insufficient protests (under 50% of property owners in the proposed district) be

made and the County Commissioners decide to establish a refuse disposal dist. they must publish a resolution of creation of a district and again indicate the range of fees to be assessed, indicating the fees to be no lower than a specified amount and no higher than a specified amount.

From my previous explanation of the procedure for establishing a district, it can be seen that the fees for a refuse disposal district already comes under a procedure for public notice and protest. To require each district to re-publish the fees for district operation each year would do nothing but increase the costs to the district for publication fees, which in turn, would be paid by the individuals within the district boundaries, and add one more unnecessary layer of bureaucratic red tape to local government, yet providing no benefits to the general public paying the bill. Therefore, I urge this committee to kill SB 115 and save the taxpayer an unnecessary expense.

Should you have any questions I will be happy to answer them.
Thank you.