

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 27, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on January 27, 1981 at 1:15 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with all members of the committee being present.

Several visitors were in attendance. (See attachments.)

CONSIDERATION OF SENATE BILL NO. 170: Senator Towe of Senate District No. 34 in Billings, sponsor of the bill, said he has been requested by the Montana Clerk and Recorders to introduce this bill. It is a simple bill that will repeal or eliminate the filing fee for corner recordation. A corner record certificate is one that is filed by a surveyor whenever he is requested by someone to verify the survey and tie it in to the corner. The state of Montana was surveyed by the U. S. Geological Survey and they surveyed it into sections. Each section of 640 acres has a stake or marker at each of the four corners. Old surveys were not always accurate. When another surveyor comes along and verifies that corner, a 1963 statute says he has to file what he has found a problem with. In order to file a certificate, there is a filing fee of \$.50. There are some surveyors who do not get around to filing their findings. The surveyor is doing everyone a favor by filing this information so he should not be charged. More surveyors might comply if there is no fee. Clerk and recorders want the fee eliminated. The committee might want to consider adding an amendment to the effect that "there is no filing fee" to make clearer the intention. Senator Towe presented the committee with three letters written to him in support of Senate Bill Nos. 170, 171 and 173. The letters are from Merrill H. Klundt, Yellowstone County Clerk and Recorder; Joyce Lippert, Big Horn County Clerk and Recorder; and Eleanor L. Vaughn, Lincoln County Clerk and Recorder. (See attached Exhibit A.) Senator Towe then called on Bill Romine to speak before the committee.

William Romine, representing the Montana Clerk and Recorders, feels the filing of these documents is absolutely necessary. If the filing fee is what is stopping the surveyors from filing their information, let's do away with it. He agreed with Senator Towe's suggested amendment.

Ethel M. Harding, also representing the Montana Clerk and Recorders, said this is a housekeeping bill. Corner recordation

is vital to their records. She appreciates everyone's help on this bill.

H. S. (Sonny) Hanson of the Montana Technical Council said anything we can do to encourage the filing should be done. Surveyors do not like doing this anyway so we certainly should not be charging them for this filing.

There were no opponents to Senate Bill No. 170 appearing before the committee.

Senator McCallum then asked for questions from the committee.

Senator Hammond asked if corner recordation is just for section line corners or quarter corners as well.

Mr. Hanson felt it was primarily section corners. He added that the highway department is not even doing this.

Senator Towe said he had looked at the 1963 statute and it requires them to do this for section line corners, not quarter corners.

The suggestion was made the word "fee" be stricken from page 1, line 10. This was agreed upon by Senator Towe.

There were no further questions from the committee.

Senator Ochsner motioned the amendments DO PASS. This motion passed unanimously.

Senator Van Valkenburg motioned Senate Bill No. 170 DO PASS as amended. This motion also passed unanimously.

CONSIDERATION OF SENATE BILL NO. 171: Senator Towe, sponsor of the bill, said this deals with an antiquated statute that generally causes difficulty to the clerk and recorders. It has a provision that allows anyone that wants to satisfy their mortgage to pencil in "satisfied" and the date in the margin, then the clerk signs her name. It works very well, however, there is one problem. You cannot put a margin entry on microfilm. This physically cannot be done. This bill is eliminating this margin entry. A mortgage can be discharged by filing a separate certificate.

William Romine, representing the Montana Clerk and Recorders and proponent of the bill, stated this is not only effecting clerk and recorders but title insurers as well. The title insurers are very reluctant to use margin releases. He would like the committee to decide favorably on this bill.

Ethel Harding, representing the Montana Clerk and Recorders and proponent of Senate Bill No. 171, said attorneys still come into the office and say the law says we make a marginal release. The clerk and recorders explain they cannot do this because of the microfilm problem and ask them to please file a satisfaction certificate. The clerk and recorders would like the law to state they must file a separate certificate. She believes all counties in the state are on microfilm and there is absolutely no way for a margin release.

No opponents of the bill appeared before the committee.

Senator McCallum then called for questions from the committee.

Senator Hammond asked if there will be an additional fee for this separate certificate.

Ms. Harding said the fee is the same. It is \$2 per page in either case.

There were no further questions from the committee.

Senator Conover motioned that Senate Bill No. 171 DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL NO. 173: Senator Towe, sponsor of the bill, explained that at the present time there is a special section in the law that deals with liens for farm laborers. Persons who have worked on a farm, given their labor and have not been paid, have a right to file a lien. There are a large number of different kinds of liens. The filing fee is \$1 for various liens but in the case of the farm laborers, there is a special provision that says their filing fee is \$.50. He would like to strike the reference to \$.50. The Big Horn County Clerk and Recorder suggested they replace the language with new language. They would like to add, "and he shall be entitled to a fee as provided in Section 7-4-2631", to page 1, line 15, after the word "same". Senator Towe feels that suggestion is a valid one.

William Romine, representing the Montana Clerk and Recorders and proponent of the bill, said the advantage to this bill is we would have all the laws in one spot. He feels it is wise to have all the fee laws in one section.

Ethel Harding of the Montana Clerk and Recorders and proponent of the bill said that was exactly their position - to have uniform fees and to have them in the same place in the same code. It makes it easier for the clerk and recorders, the general public and attorneys as well. They would like to see all fees established under one section.

There were no opponents appearing before the committee on Senate Bill No. 173.

Senator McCallum then asked for questions from the committee.

Senator Van Valkenburg asked how long the fee has stood at \$.50.

Senator Towe did not have the history but thought it to be 20 or 30 years.

Senator Van Valkenburg looked in the codes and found it was enacted in 1935.

There were no further questions from the committee.

Senator Conover motioned the amendment DO PASS. This motion passed unanimously.

Senator Conover also motioned that Senate Bill No. 173 DO PASS as amended. This motion passed unanimously.

Senator McCallum then opened discussion on Senator Severson's bill that was brought to the attention of the committee during the January 20, 1981 hearing. Senator Severson wanted the committee to take the bill.

Debbie Schmidt explained the bill would provide that developers would have a period of 5 years, between filing the preliminary plat and final plat, as opposed to the provision now for 1 year. This would allow the governing body to set conditions on phase development, they would not be able to add new conditions. When approval was given with certain conditions, they would remain in effect and could not be modified for 5 years instead of 1 year. This allows a longer period of time for different phases of development in the larger developments.

Senator O'Hara thinks this has merit because there should be more planning instead of rushing through and doing a poor job.

Ms. Schmidt said people suggested this in order that certain conditions cannot be added. They always get initial development approval and then people start changing that approval.

Senator Hammond asked if we haven't had a bill like this before.

Ms. Schmidt thought there was a bill like this in the past but not this session.

Senator O'Hara moved we make this a committee bill if Senator Severson presents it.

Senator Van Valkenburg said Senator Severson has the opportunity to have the rules suspended to introduce the bill.

Senator McCallum said it would have been different if he had received the bill in time. In the past we have done this in the Local Government Committee. He said this will be a committee bill but Senator Severson will have to carry it. This was unanimously agreed upon.

Debbie Schmidt told the committee that the rules provide there has to be a vote of 3/4 by committee to request it be drafted, then another 3/4 vote would be needed to introduce it.

Senator O'Hara moved that Senator Severson's bill be drafted. The committee voted unanimously to have the bill drafted.

DISCUSSION ON SENATE BILL NO. 84: Senator McCallum asked the committee what they wanted to do on Senate Bill No. 84.

Senator Van Valkenburg thought the committee should hear Senate Bill No. 175 before we take any action on Senate Bill No. 84.

Debbie Schmidt handed out Senator Eck's proposed amendments to the bill. (See attached Exhibit B.) Debbie explained the amendments eliminate the provisions of "spouse, child, or parent" and would change it to qualified "person". It would only apply when no other qualified person has applied for that position and reasonable efforts had been made to advertise.

Senator Thomas asked what the procedure was to advertise.

Ms. Schmidt had called the personnel division of the Department of Administration. There is no statute requiring advertising a state position. Generally, the language used is "reasonable efforts to advertise". The courts would have to determine what was a reasonable effort and what was not.

Senator Thomas asked if this would completely eliminate teachers in these amendments.

Debbie Schmidt said when Senator Eck worked on these amendments, she felt teachers would not be covered unless the teacher had a particularly strong background in technical or scientific skills. This would not cover English or art teachers but could conceivably cover science or math teachers.

Senator McCallum said we are talking about nepotism. If you want to qualify someone you can or you can disqualify them just as easily.

Senator McCallum said he was going to try to hold the meeting on January 31, 1981 at an earlier hour than 1:00 p.m.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 2:05 p.m.


Chairman George McCallum

gs

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1/27/81

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

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 27

1981

PRESIDENT

MR.

LOCAL GOVERNMENT

We, your committee on

SENATE

having had under consideration Bill No. **170**

SENATE

Respectfully report as follows: That Bill No. **170**

be amended as follows:

1. Page 1, line 10.

Following: "clerk"

Strike: "-- fee"

2. Page 2

Following: line 1

Insert: "(5) There is no filing fee."

And, as so amended,

DO PASS

3d

STANDING COMMITTEE REPORT

January 27

19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 171

Respectfully report as follows: That SENATE Bill No. 171

DO PASS

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STANDING COMMITTEE REPORT

January 27

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MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE

Bill No. 173

Respectfully report as follows: That SENATE

Bill No. 173

be amended as follows:

1. Page 1, line 15.

Following: "same"

Insert: ", and he shall be entitled to a fee as provided in 7-4-2631"

And, as so amended,

~~DO PASS~~

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 1/27/81 SENATE Bill No. 170 Time 1:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: DO PASS as amended.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 1/27/81 SENATE Bill No. 171 Time 1:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Passed Unanimously.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 1/27/81 SENATE Bill No. 173 Time 1:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: DO PASS as amended.

(include enough information on motion—put with yellow copy of committee report.)

NAME: William L. Rouse DATE: 1-27-81

ADDRESS: P.O. Box 1691 Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Clerk & Records

APPEARING ON WHICH PROPOSAL: S.B. 170

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

COMMENTS: The small fee for filing the course record should be
Repealed. Although it is small, it has prevented some filing the
course record. It is necessary that complete records be kept,
and since the fee is very small, it would be wise to repeal the fee.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Exchel M Harding DATE: 1-27-1981

ADDRESS: La Re County Courthouse, Polson Montana

PHONE: 883-6211 EXT 245

REPRESENTING WHOM? Montana Association of Clerk & Recorders

APPEARING ON WHICH PROPOSAL: SB. 170

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: The Montana Association of
Clerk and Recorders believe corner
recordation is vital to county records
therefore ^{want to} ~~if~~ we eliminate a filing
fee ^{and} ~~we~~ hope to encourage
surveyors to record corners.
Thank you for your consideration.

NAME: William L. Remine

DATE: 1-27-81

ADDRESS: P.O. Box 1691 Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Clerks & Records

APPEARING ON WHICH PROPOSAL: S.B. 171

DO YOU: SUPPORT? x

AMEND?

OPPOSE?

COMMENTS: At one time, mortgages were released by a notation
being made in the margin of the mortgage itself. However, for
many years, a formal satisfaction of mortgage has been used.
In addition, mortgages are, in this day and age, are microfilmed.
It is impossible to make a release by an entry in the margin
on a microfilm. Therefore, this obsolete law should be
repealed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Ethel M Harding DATE: 1-27-1981

ADDRESS: Lake County Courthouse, Polson, Mont

PHONE: 883-6211 Ext 245

REPRESENTING WHOM? Montana Association of Clerk and Recorders

APPEARING ON WHICH PROPOSAL: S.B. 171

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

COMMENTS: Due to the fact that most
Montana Counties microfilm permanent
records there is no way of making
a marginal release - no margin to
write on, therefore the only way feasible
to refer to original documents is to
record subsequent ^{document} with reference to
micro file number of original document
to release - amend - or whatever you
wish to do.

Thank you for your consideration -

NAME: William L. Romaine DATE: 1-27-81

ADDRESS: P.O. Box 1691 Helena

PHONE: 442-2220

REPRESENTING WHOM? Mont. Clerk & Recorder

APPEARING ON WHICH PROPOSAL: S. B. 173

DO YOU: SUPPORT? x AMEND? OPPOSE?

COMMENTS: this bill merely consolidates the filing fee structure. Rather
than having a separate section, under the Laborer's Lien statute,
concerning liens, it is easier to have the filing fees codified
in one section of the law.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Ethel M. Harding DATE: 1-27-1981
ADDRESS: Lake County Courthouse, Polson, Montana 59860
PHONE: 883-6211 EXT 245
REPRESENTING WHOM? Montana Association of Clerk & Recorders
APPEARING ON WHICH PROPOSAL: S.B. 173

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

COMMENTS: We recommend your approval of
this Housekeeping bill to keep the
Clerk and Recorders fee schedule
all under Section 7-4-2631, M.C.A. and
erase mention of a fee ^{of fifty cents} on lines 14 &
15, by inserting words after statement-
on line 14 "and he shall be entitled to a
fee as set forth in Sec. 7-4-2631 M.C.A.
thankyou for your consideration.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

County of Yellowstone

MERRILL H. KLUNDT
Clerk & Recorder



BILLINGS, MONTANA

59101

January 22, 1981

Senator Thomas E. Towe
Senate District 34
Capitol Building
Helena, Montana 59601

Dear Tom:

I will be unable to attend the hearing on January 27, 1981, at 1:15 p.m. on Senate Bills 170, 171 and 173, as this is the day we have the Commissioner Board meetings and have many important issues to handle this date.

The Montana Clerks and Recorders Association has obtained a lobbyist now and it is Bill Romine and he will be present at the hearing as well as Helen Kovich and possibly other Clerks that I have contacted.

I have examined the bills carefully and find them worded exactly as requested. However, I would like to explain to you what each bill will accomplish.

1. Senate Bill #170 is amending Section 70-22-109 MCA and removing the filing fee only. The Clerks and Recorders Association feels that these corner locations must be recorded as it is a benefit to all the public and land surveyors. The Montana Association of registered land surveyors support this bill also. The filing fee seemed to be the problem, so we as an Association decided to remove the filing fee requirement.
2. Senate Bill #171 is an act amending Section 7-1-211 MCA. The purpose of this bill is to repeal the provision allowing a release on the margin of the document. This process was fine when documents were typed or photostated. With the advent of the microfilm process and nearly all counties use this process, some use photostatic, it is impossible to stamp a 16 mm image on a roll of film. With this provision repealed, they must comply with the new section 1 of this bill.

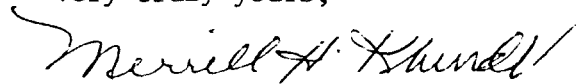
Senator Thomas E. Towe
Page 2

3. Senate Bill #173 is an act amending Section 71-3-403 MCA. The purpose of this bill is to repeal the 50 cents filing fee as stated therein. The fee is provided in Sec. 7-4-2631 MCA, the provision of law designating fees to be charged by the County Clerk and Recorders.

Tom, I wish to thank you personally, as well as the Montana Association of County Clerks and Recorders, for sponsoring these bills, and your prompt action in setting up a hearing whereby they will be heard the same day. These bills were prepared in an excellent manner.

Thank you very much and if I can assist you on any bill, please feel free to contact me.

Very truly yours,



MERRILL H. KLUNDT
Yellowstone County
Clerk and Recorder

MHK/jc

cc: Helen Kovich
Clerk and Recorder
Lewis and Clark County

BIG HORN COUNTY



HARDIN, MONTANA 59034

January 22, 1981

Senator Tom Towe
Montana Senate
Capitol Station
Helena, MT 59601

Dear Senator Towe:

As a member of the Legislative Committee of the Montana Association of Clerks and Recorders, I would like to thank you for introducing some of the housekeeping legislation the Clerks and Recorders had proposed.

S.B. 170. A corner recordation is an important piece of information not only for the surveyors and engineers but the general public. Very few are being placed of record. As I understand, it is quite time consuming and expensive for the surveyors to prepare the document needed for filing. It is the feeling of our organization that there should be no fee because of the value of the information. We charge, of course, for certificates of survey and subdivision plats and when these instruments are drawn, etc. is when the a corner is either established or re-established. For clarity and for the information of surveyors and new clerks and recorders, I would suggest that paragraph 5 state that there shall be no filing fee.

S.B. 173. The clerks and recorders are trying to have referenced in each law or piece of legislation the provisions of Section 7-4-2631 which is the fee schedule that we follow. Again for new clerks and recorders and attorneys, banks, etc., it would be most helpful to have this reference and a uniform fee schedule. I would hope that a reference could be included in this legislation to Section 7-4-2631.

S.B. 171. The act of releasing a real estate mortgage on the margin of the original instrument is archaic. With the advent of photographic means of recording such as microfilm, it is impossible to release any instrument on the margin. When this was a popular way of releasing a margin, the proof needed to identify the person performing the act was non-existent.

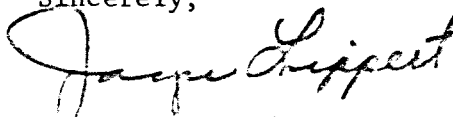
Senator Tom Towe

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January 22, 1981

It will be impossible for me to attend the hearings on these bills on the 27th since that is the regular meeting day for the Board of Commissioners. Again, thank you for carrying these bills for the clerks and recorders.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joyce Lippert". The signature is written in dark ink and is positioned above the printed name.

Joyce Lippert (Mrs.)
Clerk and Recorder

EXHIBIT A (3)

LINCOLN COUNTY
MONTANA

Office of
ELEANOR L. VAUGHN
County Clerk and Recorder

January 21, 1981

LIBBY, MONTANA

Senator Tom Towe
Montana State Senate
Capitol Building
Helena, Montana 59601

Dear Senator Towe:

I am writing in regard to the hearing on January 27 for the following Senate Bills:


Senate Bill 170 - amending 70-22-109 to remove the filing fee for filing the complete corner record under the corner recordation act - in dealing with surveyor's we feel it would be easier to get corner recordations filed if there was no fee required, and since this information is so valuable to the records it would be to our advantage and the advantage of the public to get these on record and it seems eliminating the fee might help.

Senate Bill 171 -amending 71-1-211 to prohibit the method of entering a release of a mortgage in the margin of the record. Since most counties are using some form of micro-filming and it is impossible to do a marginal satisfaction on these records, therefore this law should be amended.

Senate Bill 173 - Amending 71-3-403 to remove the specific fee for filing Farm Laborers' Liens - since there is already a section dealing with filing of liens, therefore this is repetitious law and should be amended.

I want to express my thanks for your efforts in sponsoring the bills for the Clerk & Recorder's Association. Without Senators like you who are willing to help us with sponsoring bills that we feel are needed in order to do a competent job in our offices it would be most difficult. If there is ever anything I can do to help with any of these bills, please feel free to contact me.

Sincerely,


Eleanor L. Vaughn, Clerk & Recorder
Lincoln County, Libby, Montana

Proposed Amendments to SB 48

1. Title, line 5.

Following: "A"

Strike: "SPOUSE, CHILD, OR PARENT"

Insert: "PERSON"

2. Title, line 6.

Following: "TECHNICAL"

Strike: ", "

Insert: "OR"

Following: "SCIENTIFIC"

Strike: ", OR LICENSED"

3. Title, line 7.

Following: line 6

Strike: "IS THE MOST QUALIFIED APPLICANT OR"

4. Page 1, lines 24 through line 5 on page 2.

Strike: subsection (b) in its entirety

Insert: "(b) the appointment of a person to employment requiring specialized skills that are technical or scientific in nature based upon recognized objective criteria when no other qualified person has applied for that position and reasonable efforts have been made to advertise the position."