

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
February 5, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 1:15 p.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 175:

AN ACT TO REVISE THE COST OF COPIES OF
COURT PROCEEDINGS.

Senator Ochsner, District No. 26 and sponsor of the bill, said he was requested by the Montana Court Reporters to introduce this bill. This will change the amount on page 1, line 16 for the fee charged to be 17 cents per folio instead of 7.5 cents.

Bob Nieboer, court reporter from Kalispell, said recently the Supreme Court issued an order which is going to reduce the number of copies of transcripts on appeal that go to the Supreme Court from 6 to 3 copies so reporters will get less money. They are presently receiving 7.5 cents, they will need an increase of at least 12 cents to stay at par with what they are making now. The additional 5 cents is for additional costs in preparing transcripts. The committee is still considering Senate Bill No. 84 which will raise the court reporters salaries. They are two separate and distinct bills. This bill, hopefully will give them an income for work they do on weekends and evenings. Most of the income from transcripts on appeal is absorbed by their expenses. They get \$1.50 per page and expenses run about \$1.00 so they come out with about \$.50 per page. If they went to 17 cents per folio they would average \$2.125 per page. The average in surrounding states is \$2.50 so they would still be below average with this increase. It is not a cost to the county and state but to the appellant. There is great pressure in their job and the workload becomes heavier each year. He hopes the committee will not punish them on one bill because of the other. This is a very specialized field and the training is rough. They should be compensated for additional training required in this position. He hopes the committee gives favorable consideration of this bill.

Jim Hathaway, court reporter from Miles City, wanted to add that some court reporters in larger districts are busier and have more appeals than some smaller districts that may have only one or no appeals per year. He asks support of this bill.

There were no further proponents. Senator McCallum then called for opponents of the bill.

Representative Pistoria, District No. 39, said he testified against Senate Bill No. 84. He said besides receiving their salaries, the reporters get their facilities and fringe benefits and also income from taking depositions and testimony. In 1979 the legislature introduced a bill to raise the reporters' salaries and he supported it. He now is no advocate of it because he did not know they were on two salaries. A folio is 100 words, that should be put in the law. Reporters now want 51 cents per page. He mentioned a case in Great Falls where the reporter received \$8,000. If this bill goes into effect, think what that case would cost now. In fiscal year 1979-80 in Cascade County, five court reporters earned \$28,537.10 besides their salary. They usually do all this on taxpayers' money during working hours. Some take 2 or 3 weeks to do these transcripts. Great Falls has a closed corporation. He is against this bill because he thinks the court reporters are getting two salaries and the taxpayers are getting rooked. He is totally against Senate Bill No. 175 and Senate Bill No. 84.

There being no further opponents, Senator McCallum then called for questions from the committee.

Senator O'Hara told Mr. Nieboer we never got a clear picture of what court reporters do make. We are totally in the dark in this area and are not always told the complete story. He asked how many carbons they usually run.

Mr. Nieboer said most reporters don't run carbons but have copies made. The Supreme Court wanted 6 copies of transcripts on appeal. On a standard appeal you need one copy for each party.

Senator O'Hara asked if you only had to hire a typist for one copy then.

Mr. Nieboer said yes.

Senator O'Hara asked if it was correct that you pay for the one dictation and beyond that there is no additional work to you, other than having copies made, and you get \$1.50 for each page.

Mr. Nieboer said they get 7.5 cents per folio and you have 2.5 or 3 folios per page. You multiply that by the number of copies.

Senator Thomas asked how many appeals there were in Cascade County.

Mr. Nieboer said it varies so much from district to district and area to area as to what their income is. His actual dollar gross income prior to expenses in 1979 was between \$4,000 and \$5,000. After taking out expenses he probably got about \$1,500 or \$2,000. This year he has grossed about \$6,000 or \$7,000 so far. After expenses are deducted, he will have less than \$3,000. It varies

widely in other areas. It takes about 5 hours of work to get 1 hour of testimony out.

Senator Thomas asked how many appeals there are a year in Cascade County. If the county paid \$28,000, how many private appeals would there be.

Mr. Nieboer said that was for 5 reporters. There are other reporters and a lot of free lance reporters.

Senator Thomas asked what the breakdown was from private sources.

Mr. Nieboer said it varies a lot in different areas. He does very little outside work because he is so busy with his own work.

Senator Thomas asked if they used word processing machines.

Mr. Nieboer said no, most reporters use stenographic machines.

Senator O'Hara asked what takes so long to transcribe their notes, don't they just read off their shorthand.

Mr. Nieboer said you have to spell a lot of the words for the typist and look up medical terms, etc. so the typist does not have to. Reporters dictate from 2 to 3 hours for 1 hour of testimony.

Senator O'Hara asked how much training is required for a court reporter.

Mr. Nieboer said general court reporting schools run about 2 full years. You must be able to reach 225 words per minute on the machine. You have to know English, spelling, terms, etc.

Senator Van Valkenburg asked why we stick with a folio rate when no one understands it.

Mr. Nieboer said reporters would love to have a page rate but are always fearful of changing more than they have to. They feel they have a less chance of doing something if they are always changing procedures. They would much rather have a page rate.

Senator Van Valkenburg said the obvious concern of Representative Pistoria and Senator O'Hara is the reporter mixing public duties and private business. If you got what you are asking for in Senate Bill No. 84 in terms of salary and if you got what you are asking for in terms of transcripts on appeal, would you be willing to agree not to engage in private work from 8:00 to 5:00, Monday through Friday, when you are suppose to be working for the district.

Mr. Nieboer said attorneys would be the ones to suffer from that. He is not able to speak for the entire association but he would have problems with that.

Senator Van Valkenburg said recently in Missoula it was virtually impossible to get a court reporter to come in and take regular court proceedings unless there was a trial. Is this happening in the rest of the state.

Mr. Nieboer thinks this situation does not exist anymore. The association had problems with the reporters in the Missoula area. Court reporters feel their official job of being in court is their number 1 job. If his official reporting job is suffering, something should be done. He doesn't think Missoula has that problem anymore.

Senator Hammond asked what percent of Mr. Nieboer's pay comes from the county.

Mr. Nieboer said \$18,000 is paid for by the county in the district. The only time the county would pay for transcripts on appeal is when the person is indigent.

Senator Hammond asked what they have done to encourage court reporters.

Mr. Nieboer said more and more reporters are coming into the state all the time. Each judge has one official court reporter.

Senator Hammond asked what had the association done to encourage court reporters.

Mr. Nieboer said if the demand is there, reporters come to the area to do the work. They try to encourage qualified people to do it.

Senator Hammond asked Mr. Nieboer if these two bills were to pass, what would be a rough estimate as to how they would effect your salary.

Mr. Nieboer said if the salary bill passed, it would increase by whatever the bill comes out at. As far as the effect of Senate Bill No. 175, if appeals increased next year at the same rate they did this year, it would be a little less than a 50% increase.

Senator O'Hara asked what a free-lance court reporter is paid.

Mr. Nieboer said he can't really answer that.

Senator O'Hara said some associations have been discouraging competition.

Mr. Nieboer said they like to encourage only well-qualified reporters because they like to keep the quality up.

Senator O'Hara said if that is their motive he likes to see it but thought it might be to keep competition down. There was an abuse of this in Missoula. They are refusing to do their official duties

and are doing private work and getting paid as if in the courtroom. He asked Mr. Nieboer if he had a suggestion to remedy this.

Mr. Nieboer said the district judge hires the reporter and has authority over him.

Senator O'Fara said the judges want to be on your side, they don't want the reporter to be against them. He doesn't feel this is a good check and balance system.

Mr. Nieboer said he has not seen any real problem with this. The judge and reporter try to work as a team but he does not feel reporters put any pressure on the judge.

Senator McCallum asked Mr. Nieboer if the county pays the reporter for private transcripts.

Mr. Nieboer said no.

Senator McCallum asked if there was no official record of what reporters receive outside the courtroom.

Mr. Nieboer said that was correct.

Senator McCallum asked Mr. Nieboer how often he went out and took depositions for lawyers.

Mr. Nieboer said on occasion. They did quite a bit of it in the past but are doing less and less because of their workload.

Senator McCallum said he can see that in a busy judicial district. In those that are not that busy the reporters are going out into the private sector and taking depositions. They are competing with private reporters while being compensated by the district.

Mr. Nieboer said attorneys want this service. Depositions eliminate a good percentage of time spent in the courtroom but agreed this does happen.

Senator Ochsner asked Mr. Hathaway if he worked for one judge or two.

Mr. Hathaway answered he basically works for one. If another judge comes into the district, he works for him also.

Senator Van Valkenburg asked Mr. Nieboer if there was anything Representative Pistoria said that he would now like to rebut.

Mr. Nieboer said as far as their offices being supplied for them, all county and state people have their offices provided for them.

CONSIDERATION OF SENATE BILL NO. 256:

AN ACT TO REDUCE THE POPULATION PREREQUISITE
FOR MUNICIPAL INCORPORATION.

Senator Hammond, District 3 and sponsor of the bill, said this is a bill to take care of a special situation occurring in Valley County, the town of Fort Peck which is government owned. The town is managed by the Corp of Engineers. The government has given notice they are going to sell Fort Peck. By law they cannot organize a municipality because they have fewer than 300 people, they would like to change this to 200. He would like an amendment added that would lower the number of registered electors required in each ward. (See attached Exhibit A.) He feels if these people are trying to help themselves, we should try to help them. It is not costing anyone anything.

There were no proponents or opponents appearing before the committee. Senator McCallum then asked for questions from the committee.

Senator Ocshner asked if there were 200 people in Fort Peck.

Senator Hammond said the U. S. Census shows there are 260, but the population is declining.

Senator Hammond moved the amendments DO PASS. This motion passed unanimously. He then moved Senate Bill No. 256 DO PASS as amended. This motion also passed unanimously.

Senator McCallum then turned the hearing over to Vice-Chairman O'Hara as Senator McCallum was the sponsor of the next two bills.

CONSIDERATION OF SENATE BILL NO. 302:

AN ACT TO ALLOW COUNTY ATTORNEYS AND DEPUTY
COUNTY ATTORNEYS TIME TO COMPLETE LEGAL MATTERS
REMAINING FROM PREVIOUS PRIVATE PRACTICE OF LAW.

Senator McCallum, District No. 12 and sponsor of the bill, said in his county the elected county attorney resigned. They had to hire a lawyer to come in as county attorney. The attorney, who had run for election and was defeated, did not want the job on a part-time basis. The county hired him as full-time. The attorney had to drop his practice. This bill would give a grace period for him to finish up his private business.

Doris Shepherd of the Montana Association of Counties wanted to support this bill as this problem occurs in other counties. They generally do it but would like it to be legal.

There were no opponents appearing before the committee. Senator O'Hara then called for questions from the committee.

Senator Hammond asked if this was not to exceed 3 months.

Senator McCallum said that was correct.

Senator Ochsner asked if the outgoing county attorney would stay on for 3 months.

Senator McCallum said the incoming county attorney could do it on his spare time; the county commissioners could appoint a deputy; or they could keep the outgoing county attorney.

Senator Ochsner asked if the county attorney takes office immediately after the election.

Senator McCallum said when you are elected to office, you are there until the next election and then you are out.

Senator Van Vallenburg added that this applies to every elected office in the state.

Senator Ochsner asked if we needed to define this as the first of January.

Senator McCallum said he has up to 90 days. This would clear up the law and make it simpler.

CONSIDERATION OF SENATE BILL NO. 303:

AN ACT TO ALLOW CERTAIN BOARDS OF COUNTY
COMMISSIONERS AND COUNTY ATTORNEYS TO ESTABLISH
THE OFFICE OF COUNTY ATTORNEY AS A PART-TIME
POSITION.

Senator McCallum, District No. 12 and sponsor of the bill, said this is a companion bill to Senate Bill No. 302. The county attorney in his county wanted to be part-time after he was elected to a full-time position. It is now legal to change a part-time position to full-time by a resolution of the county commissioners but he is not sure the reverse is true. This bill provides it would be a mutual agreement between the county commissioners and the county attorney to make such a resolution before the first of July.

Doris Shepherd of the Montana Association of Counties supports Senator McCallum on this bill. It does give the county flexibility to go back to what they were doing previously. Some county attorneys are willing to be part-time even if they are now full-time. She feels they should be allowed to do this.

There were no opponents appearing before the committee. Senator McCallum wanted to add, in closing, that half of the county

attorney's budget is paid by the county and the other half is paid by the state. Everyone could save money here.

Senator O'Hara then called for questions from the committee.

Senator Hammond asked if there was any place in the statutes that designates where a county attorney must work if he is part-time. Does he have to work in the courthouse or can he work out of his private office.

Senator McCallum said he was not sure if there is any designation. The county usually furnishes the county attorney with an office, a stenographer and a library. He said he thinks some county attorneys do not work in their courthouse. County commissioners have the authority to make sure the attorney is doing his job.

Senator Van Valkenburg said it is hard for one elected official to tell another elected official when he has to be at work.

Senator Ochsner said we are talking about a county with under 30,000 population but are paying them for over 30,000.

Senator McCallum said the base salary for a county attorney is \$30,500. Any county over 30,000 population receives the base salary plus 7%. Any county under 30,000 population receives the base salary.

DISPOSITION OF SENATE BILL NO. 302: Senator Van Valkenburg moved this bill DO PASS. The motion carried unanimously.

DISPOSITION OF SENATE BILL NO. 303: Senator Van Valkenburg asked for another day to think about this bill because it is more substantive. He is concerned with the salary. He added he was surprised no county attorneys showed up today.

Senator Hammond was concerned with the last statement Senator Ochsner made.

Senator McCallum said that salary is for a full-time county attorney. The county attorney does not have to go to part-time if he does not want to. It is to be mutual consent between the attorney and the county commissioners.

Senator Hammond moved that Senate Bill No. 303 DO PASS.

Senator Van Valkenburg said if there is a problem, he would take care of it before the 2nd reading.

Senator Hammond's motion passed unanimously. Senate Bill No. 303 DO PASS.

Senator McCallum then appointed a subcommittee to study Senate Bill No. 50. He appointed Senator Ochsner, Senator Thomas and himself. The committee will work with Debbie Schmidt of the Legislative Council.

There being no further business before the committee, the meeting adjourned at 2:40 p.m.


Chairman George McCallum

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ROLL CALL
LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/5/81

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.

DATE _____

FEBRUARY 5, 1981

COMMITTEE ON LOCAL GOVERNMENT

BILL NO. 100

SB302

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: Bob Nieboer DATE: 2-5-87

ADDRESS: Kalispell MT

PHONE: 755-2678

REPRESENTING WHOM? Court Reporters

APPEARING ON WHICH PROPOSAL: S.B. 175

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: JIM HATHAWAY DATE: 2/5/81

ADDRESS: Box 865 Miles City, MT

PHONE: 232-4423

REPRESENTING WHOM? MONTANA COURT REPORTERS

APPEARING ON WHICH PROPOSAL: SA 175

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Low Myquist DATE: 2/5/81

ADDRESS: Great Falls

PHONE: 467-2009 (Fort Shaw)

REPRESENTING WHOM? Montana Court Reporter

APPEARING ON WHICH PROPOSAL: SB 175

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Ed. H. A.

Senate Bill No. 256

INTRODUCED BY HAMMOND ETCHART

AMENDMENTS

1. Title, line 6
Following: "AMENDING"
Strike: "SECTION ~~7-2-4103~~"
Insert: "SECTIONS 7-2-4101 ~~AND 7-2-4103~~"
2. Page 1
Following: line 9
Insert: "Section 1. Section 7-2-4101, MCA, is amended to read:
"7-2-4101. Petition to organize municipalities. (1) Whenever the inhabitants of any part of a county desire to be organized into a city or town, they may apply by petition in writing, signed by not less than two-thirds of the registered electors but not more than 300 such electors, who are residents of the state and residing within the limits of the proposed incorporation, to the board of county commissioners of the county in which the territory is situated.
(2) (a) The petition must describe the limits of the proposed city or town and of the several wards thereof, each of which shall contain ~~150~~ **50** or more registered electors and must not exceed 1 square mile for each 500 inhabitants resident therein.
(b) The petitioners must annex to the petition a map of the proposed territory to be incorporated and state the name of the city or town.
(3) The petition and map must be filed in the office of the election administrator."
Renumber: all subsequent sections

STANDING COMMITTEE REPORT

February 5

19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE

Bill No. 256

Respectfully report as follows: That SENATE
be amended as follows:

Bill No. 256

1. Title, line 6.
Following: "AMENDING"
Strike: "SECTION"
Insert: "SECTIONS 7-2-4101 AND"

2. Page 1
Following: line 9
Insert: "Section 1. Section 7-2-4101, MCA, is amended to read:
"7-2-4101. Petition to organize municipalities. (1) Whenever
the inhabitants of any part of a county desire to be organized into
a city or town, they may apply by petition in writing, signed by not
less than two-thirds of the registered electors but not more than 300
such electors, who are residents of the state and residing within the
limits of the proposed incorporation, to the board of county commissioners
of the county in which the territory is situated.
(2) (a) The petition must describe the limits of the proposed city
or town and of the several wards thereof, each of which shall contain

DO PASS

(cont'd)

February 5

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19.....

159 50 or more registered electors and must not exceed 1 square mile for each 500 inhabitants resident therein.

(b) The petitioners must annex to the petition a map of the proposed territory to be incorporated and state the name of the city or town.

(3) The petition and map must be filed in the office of the election administrator."

Renumber: all subsequent sections

And, as so amended,
DO PASS

STANDING COMMITTEE REPORT

February 5

19 21

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 302

Respectfully report as follows: That SENATE Bill No. 302

DQ PASS

STANDING COMMITTEE REPORT

February 5 19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 303

Respectfully report as follows: That SENATE Bill No. 303

DO PASS

ME

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/5/81 Senate Bill No. 256 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: Senator Hammond motioned SB 256 DO PASS
as amended.

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

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/5/81 Senate Bill No. 302 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 M. McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved SB302 DO PASS.
Passed unanimously.

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

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/6/81 Senate Bill No. 303 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: Senator Hammond moved this bill to PASS.

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