

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 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: Senator Conover was excused due to illness, all other members were present with Senators Thomas and Van Valkenburg coming in late due to other meetings.

CONSIDERATION OF HOUSE BILL NO. 256:

AN ACT INCREASING CERTAIN LIMITS OF DIS-
CRETIONARY AUTHORITY OF COUNTY OFFICIALS
TO ACT IN FISCAL MATTERS IN ORDER TO ADJUST
FOR INFLATION.

Representative Orren Vinger, District No. 3 in Wolf Point, was the sponsor of the bill. Lines 19 through 21 on page 1 provide that, with regard to competitive, advertised bids, no contract shall be entered into by the county commissioners for building roads, buildings, or bridges in excess of \$10,000 or repair or maintenance to existing buildings, roads or bridges in excess of \$25,000 without calling for bids. On page 2, line 11 they are changing, with regard to competitive, nonadvertised bids, the minimum from \$4,000 to \$10,000 and the maximum from \$10,000 to \$25,000 that they are allowed to purchase vehicles or supplies without advertising for bids. The people have their names listed in the courthouse so they can be contacted. On page 3, line 9, they would like to change \$10,000 to \$25,000 for the amount the counties are allowed to pay for vehicles or equipment at a public auction. On line 22 on page 3 they are changing \$40,000 to \$150,000 for the maximum the county may become indebted for a single purpose without going to a vote of the people.

Mike Stephen of the Montana Association of Counties supports the bill. It gives local governments more flexibility and some assistance in trying to continue county operations and make decent purchases.

Rose Leavitt of the League of Women Voters supports the bill for the same reasons Mr. Stephen gave. It gives flexibility to the local governments.

There were no opponents appearing before the committee.

Representative Vinger gave brief closing remarks.

Senator McCallum then called for questions from the committee.

Senator Hammond asked why, on line 18, page 1, \$10,000 was marked out and then reinserted.

Representative Vinger said it was originally \$10,000. When they introduced it they changed it to \$25,000 but received too much opposition from construction so they changed it back to \$10,000.

Senator Ochsner thought the \$10,000 figure on page 2, line 11, was too high. He was wondering if they would be buying vehicles without bids.

Representative Vinger said they have the list of names at the courthouse so they are obligated to go to those people.

Senator Van Valkenburg asked if there was another bill that deals with leases or if they were covered in this bill.

Mr. Stephen said he doesn't recall one on leases. His interpretation is that this wouldn't cover leases, only purchases.

Senator McCallum said increasing \$40,000 to \$150,000 on page 3 was a pretty healthy raise.

Representative Vinger said the cost of a cat or a scraper is that much. They can't purchase one for any less. He felt it would be nice to have a higher figure to work under, anything higher than that has to go to a vote.

CONSIDERATION OF HOUSE BILL NO. 271:

AN ACT PERMITTING AN ACTIVE VOLUNTEER FIRE-FIGHTER WHO IS PERMANENTLY AND TOTALLY DISABLED FROM A DUTY-RELATED INJURY TO RECEIVE A PARTIAL PENSION AT ANY AGE.

Representative Thoft, District No. 92, said this bill makes it possible for volunteer firemen who are totally disabled to receive a partial pension at any age, based on years of service.

Dave Fisher of the Montana Volunteer Firemen's Association and the Montana Fire Chiefs Association supports the bill. Under the present pension law you have to be 55 years of age. A younger fireman could be permanently disabled and unable to collect a pension. They do not feel that is fair.

Art Korn, secretary of the Montana Volunteer Firemen's Association, said they did not add the amendment "FROM A DUTY-RELATED INJURY." That was inserted in the House and they passed it in its present status. The association hopes in two years they can get it amended to "any injury."

Robert Ellis of the Montana Volunteer Firemen's Association supports the bill.

At this point Senator McCallum turned the hearing over to Vice-Chairman O'Hara as Senator McCallum had to go to another meeting.

Jim Turcotte, representing the Public Employees' Retirement System, spoke in favor of the bill and suggested some amendments to conform the bill to other high-risk job disability pensions. (See attached Exhibit A.)

There were no opponents appearing before the committee.

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

Senator Thomas asked if this affects funding in the fiscal note.

Art Korn said it would not bother funding at all, maybe 1%.

Jim Turcotte said in paying benefits, they pay an amount equal to 95% of the previous year's growth. If they don't have enough, they reduce everyone else's accordingly.

CONSIDERATION OF HOUSE BILL NO. 202:

AN ACT TO AMEND SECTION 50-60-101, MCA, RELATING
TO THE STATE BUILDING CODE, IN ORDER TO CLARIFY
THE DEFINITION OF PUBLIC PLACE.

James Kembel of the Building Codes Division of the Department of Administration presented the bill to the committee in the absence of Representative Sivertsen, sponsor of the bill. This bill clearly defines "public place." There were amendments added in the House that would add condominiums. They had a charge filed against them for a four-plex. Apartments have been public places but the judge ruled a four-plex should not be covered. At some number of units, apartments should be covered. Without the legislature clarifying public places, there are going to be a lot of problems. This bill provides that apartment houses of more than five units and condominiums of more than five units should be classified as public places. Hopefully this bill will clarify the definition.

There were no opponents of the bill appearing before the committee.

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

Senator Hammond asked in what way were they being sued.

Mr. Kembel said the case he was talking about wasn't necessarily a lawsuit. They have always been covering apartment buildings as public places. Last year a four-plex owner challenged their right to cover four-plexes. They went to court and the judge ruled against them. They would like to know where they stand.

Senator Van Valkenburg asked where that was at.

Mr. Kembel said he was not sure, he thought it was near Plenywood.

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Senator Van Valkenburg asked what the significance of "public place" was in terms of the building codes. Are building code regulations more stringent with respect to public places.

Mr. Kembel said no, building codes cover all buildings. When the law was passed in 1969, it stipulated the building codes at the state level would only be applied to public places. The problem was what buildings should be classified as public.

Senator Van Valkenburg asked if there was no enforcement of building codes outside of incorporated cities and towns except for public places.

Mr. Kembel said that was correct.

Senator Hammond asked if this was in Turner.

Mr. Kembel said yes, he thought it was.

Debbie Schmidt of the Legislative Council said the building code can apply outside incorporated municipalities if there is a written ordinance applying to a jurisdictional area within the 4.5 mile limit. If a subdivision was partly in the limit, it would cover the entire subdivision. We do need more specific language, there have been a lot of problems with interpreting the definition.

Senator McCallum returned to chair the meeting.

DISPOSITION OF HOUSE BILL NO. 256: Senator Hammond moved the bill be concurred in.

The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 271: Senator Thomas moved the bill be concurred in.

Senator Van Valkenburg said he would like to wait on this bill. He has asked Jim Turcotte, PERS, to give the committee a written copy of his testimony (Exhibit A) because he was talking about amending this to provide that if a person had any amount of service in at all, he would be entitled to pension for any duty-related injury, to be consistent with other law enforcement agencies.

Senator O'Hara said someone mentioned they would be back next session to take "duty-related" out.

Senator McCallum agreed to wait for Mr. Turcotte's testimony.

DISPOSITION OF HOUSE BILL NO. 202: Senator Van Valkenburg moved this bill be concurred in.

The motion carried unanimously.

Senator Hammond said he would carry both House Bill Nos. 202 and 256.

There being no further business before the committee, the meeting was adjourned at 2:10 p.m.


Chairman George McCallum

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/5/81

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 _____

MARCH 5, 1981

COMMITTEE ON LOCAL GOVERNMENT

BILL NO. HB202

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: James H. Hager DATE: 3/5/81

ADDRESS: 517 Johnson Road

PHONE: 657-1706 442-7821

REPRESENTING WHOM? the FFA's

APPEARING ON WHICH PROPOSAL: 4 D 256

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Tom Fisher DATE: 3/5/81

ADDRESS: 1908 S. Wash St. Butte Mont

PHONE: 795-8858

REPRESENTING WHOM? First Nat American Assn Butte Branch

APPEARING ON WHICH PROPOSAL: HB-271

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

Agree

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: ART KORN DATE: MARCH 5 81

ADDRESS: 1916 S O WASH ST BT MT

PHONE: 723 4191

REPRESENTING WHOM? MONT ST VOL FIRE ASSOC

APPEARING ON WHICH PROPOSAL: H B 271

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: W. J. KEMBEL DATE: Aug 1, 1967

ADDRESS: 1111 N. 4th St. - 1st Fl.

PHONE: 414-333-1111

REPRESENTING WHOM? Rep. Sivertsen

APPEARING ON WHICH PROPOSAL: H.B. 202

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS:

BUILDING CODES DIVISION

STATEMENT OF W. JAMES KEMBEL, ADMINISTRATOR

CONCERNING H.B. 202

The bill was introduced by Representative Sivertsen at the request of the Department of Administration.

The definition of "public place" has been the source of many disputes between the Department and the general public.

The Department has been covering apartments as "public places" and recently that practice was challenged in court by the owner of a new four-plex. The judge ruled that a four-plex should not be covered but that at some number of units, apartments probably should be covered.

The Department needs legislature to clarify what buildings should be under the code enforcement program. If we make this decision, without the guidance of law, the state may be found liable for any incidents occurring in those buildings administratively omitted.

Exhibit A

In the Retirement Systems administered by the Public Employees' Retirement Division, the following systems provide for duty-related disability.

Municipal Police Officers' Retirement System

Highway Patrolmen's Retirement System

Game Wardens' Retirement System

Judges' Retirement System

Sheriffs; Retirement System

Generally the duty-related disability is available to a member regardless of years of service. Additionally a duty-related disability provides a benefit based upon 1/2 of the Final Average Salary in the above systems.

Under House Bill 271, as amended, a volunteer fireman who was disabled, due to his volunteer service, would be entitled to a disability payment only if he had completed at least 10 years of volunteer service and he would receive a proportionate benefit.

The pension benefit payments in the volunteer firemen's system are calculated each year for all recipients. The Volunteer Firemen's Pension Fund presently has assets in excess of \$2 Million. The Retirement Division may only pay in benefits, 95% of the growth in the fund for the previous year. This guarantees that 5% of the growth will remain in the fund. The growth during the last two years has been sufficient to pay the maximum allowance of \$100/month, or the maximum proportionate allowance allowed for each volunteer.

Should the growth not be sufficient to pay the maximum to all recipients, each benefit is reduced proportionately so that only 95% of the growth is expended.

This legislation will not require additional funds because of the method in providing benefits.

HB 271

Suggested amendment to House Bill 271.

1. Page 2, line 22.

Following: "(b)"

Strike: "If an"

Insert: "An"

2. Page 2, line 25.

Following: line 24

Strike: "qualifies" thru "he"

2. Page 3, line 1.

Following: "age"

Strike: "."

Insert: calculated as follows:

- (i) for a member with less than 10 years of service, a pension calculated as provided in subsection (1)(b) in which the numerator equals 10;
- (ii) for a member with 10 years or more of service, a pension calculated as provided in subsection (1)(b)."

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/5/81 House Bill No. 202 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	Excused	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved the bill
be concurred in.

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

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/5/81 House 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	Excused	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Hammond moved the bill be
concurred in.

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

STANDING COMMITTEE REPORT

March 5

19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 202

SIVERTSEN (HAMMOND)

Respectfully report as follows: That HOUSE Bill No. 202

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 5

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19.....

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 256

VINGER (HAMMOND)

Respectfully report as follows: That HOUSE Bill No. 256

BE CONCURRED IN

DEPASS

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