

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 10, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 7:30 p.m.

ROLL CALL: All members were present, Senator Thomas came in late.

CONSIDERATION OF HOUSE BILL NO. 357:

AN ACT TO CLARIFY THE STATE FIRE MARSHAL'S
AUTHORITY CONCERNING THE ALTERATION, REPAIR,
OR DEMOLITION OF BUILDINGS DECLARED TO BE
A PUBLIC NUISANCE.

Representative Manning had presented the bill to the committee at the afternoon meeting today because he could not be in attendance this evening.

Senator McCallum called for opponents of the bill. There were none appearing before the committee.

CONSIDERATION OF HOUSE BILL NO. 59:

AN ACT TO ELIMINATE THE DISTINCTION BETWEEN
RIGHTS OF RESIDENT AND NONRESIDENT FREEHOLDERS
IN MATTERS OF ANNEXATION.

Representative Fabrega, District No. 44, introduced this bill at the request of the study committee on annexation laws. The bill does one thing, it removes the distinction of resident and nonresident freeholders of corporations or out-of-state individuals. Corporations are considered nonresident freeholders. The law denies nonresident freeholders the right to object in annexation proceedings in cities of the first class. The amendments in the bill apply to cities of the first class. Property right is the issue, not residency right. He would like the bill either to be passed the way it is or killed.

Dave Goss, Billings Area Chamber of Commerce, supports the bill. Annexation raises questions of property rights not residency rights. He does not think there should be a distinction.

Dan Mizner of the League of Cities and Towns said this bill deals with the orderly growth of cities in the state. If the legislature does not want them to grow, that is their decision. Cities and towns should have the legal right to grow, expand and have orderly growth. His only concern with the bill is on page 4, line 7, there are distinct methods of annexation. In the past this only pertained to first and second class cities but now

the study committee feels the same problems are happening all across the state. On line 7, page 4, he feels the "resident" freeholder should be reinstated in that particular method of annexation. He asked that the committee consider the total package of annexation bills, don't consider the bill itself but in relation to the others. It is a package of methods to allow cities to grow in an orderly manner. Please consider the one amendment. They support the bill with the passage of that amendment.

Jim Nugent, city of Missoula, supports the bill with one reservation, the one given by Mr. Mizner. He requests "resident" be left in on page 4, line 7. Nonresident freeholders might be holding property for speculation. Absentee land owners might not consider what would be in the best interest of residents. People who are absentee freeholders should not be able to block what resident freeholders are interested in having in their community.

Senator McCallum then called for opponents of the bill.

Al Thelen, city administrator for the city of Billings, said they do not think corporations in other states who hold a lot of speculative property in cities should have this authority extended to them. This has been the law since 1905.

Representative Fabrega, in closing, said if you adopt the proposed amendment, you turn the bill around. It extends the privilege that has only been enjoyed by cities of the first class. That was not the intent of the bill. Either pass it as is or kill it. This bill should pass with House Bill No. 56. They should rise or fall together.

Senator McCallum then called for questions from the committee.

Senator Conover asked Representative Fabrega if "resident" was in there when you first had the bill.

Representative Fabrega said it has been the law since 1905.

Senator Conover told Al Thelen he could not understand why he was opposing it.

Mr. Thelen said the city council is opposed because of corporations outside the state that own substantial property in the state. They are not interested in the cities in the state.

Senator McCallum asked if nonresidents had anything to say about it in the old law.

Mr. Thelen said they were notified and had the right to protest.

Senator Van Valkenburg said it would appear from reading the interim committee's report that it was the interim committee's desire to make uniform the method of annexation in first, second and third class cities, not necessarily to do it just in the first class cities. You can make it uniform by going the other way and making the same apply to second and third as applies to first.

Representative Fabrega said it was never posed in that form to the committee. Putting everyone in the same class was doing away with freeholder.

Senator Van Valkenburg asked Representative Fabrega if it was fair to say that Section 5 of the bill makes annexation more difficult under part 43 of annexation of contiguous land.

Representative Fabrega said the balancing of this was with passing HB56 with HB59. The committee's choice was to eliminate distinction. The amendment would do away with the title.

Senator Conover asked if this bill was strictly a property owner bill.

Senator McCallum said this allows that if you are a property owner, you have the right to protest if you so desire. Some people on the study committee felt strongly that this should be there.

Senator O'Hara asked what the vote was on that.

Senator McCallum said there were only one or two opposing this bill.

Representative Fabrega said this was one of the less controversial ones.

Senator Van Valkenburg remarked to Representative Fabrega that he had said this should be considered in terms of a package with HB56. Is there any connection between this bill and HB33.

Representative Fabrega said no, that is a separate philosophy. The package was House Bill Nos. 56, 57 and 59. If you take the whole package, it puts cities in a much better position to carry out annexation.

Senator O'Hara called on Al Thelen for his response.

Mr. Thelen said if HB56 was enacted as was introduced by the interim committee, it would have been offsetting. It is now substantially watered down.

CONSIDERATION OF HOUSE BILL NO. 295:

AN ACT TO CLARIFY THE PETITION REQUIREMENTS
FOR CREATING OR ABANDONING THE COMMISSION-
MANAGER FORM OF GOVERNMENT.

Representative Pistoria, District No. 39, presented the bill to the committee. (See attached Exhibit A.)

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

Dan Mizner, League of Cities and Towns, said this bill applies only to Bozeman, Great Falls and Whitefish. It would have applied to Poplar a few weeks ago. These have a charter or commission form of government. This legislation does not do anything to any other cities or towns. When you say it is making uniformity across the state, it isn't. You are changing the law that voters in those three cities have utilized to create the government they want to have. If you change this, you are changing what those people adopted. It is not proper for the legislature to do that. On page 4, line 8, you need to reinstate not less than 25% of qualified electors. On page 5, line 5, you need to reinstate 25%. He has no objection to the 120 days on page 1 or the 25 days on page 2. It is not fair to the public and to the taxpayers to change the rules they have created something under.

Representative Toni Bergene, District No. 36 in Great Falls, spoke in opposition of the bill. (See attached Exhibit B.)

Jan Dolan, administrative assistant to the manager of the city of Great Falls, said the city commission could not be here tonight because of a meeting in Great Falls. She is here to say they are opposed to the bill. Their form of government was created using laws that presently stand, where 25% of electors were required to get the issue on the ballot. They do not want to see this abandoned in Great Falls. It should be tough to alter local government, we need stability. Only taxpayers suffer from these changes. She was speaking for four of the commissioners, the fifth was in the hospital and they were unable to get his feelings on the issue. Those commissioners are acting on behalf of the taxpayers who would like the law left the way it was.

George Roskie, Great Falls Chamber of Commerce, said Great Falls went through a traumatic experience 12 years ago. He was browsing through some files and ran into articles spelling out the difficulties they were having. Bankers were receiving \$1 million in warrants against them. The city could not, under

that present system, effectively manage itself. Between 1967 and 1973, under previous council form, they suffered an increase of 21 mills in taxes and at the same time they were seeing a \$6 million increase in their taxable valuation. The commission-manager form of government has done an excellent job in getting the city out of the red and into the black. The problem boils down to whose interests are you really concerned with. When you manage a \$25 million business you cannot run it with a mayor. The 25% figure has been considered in the 1977 session and again in 1979. Amendments were made and no change was considered.

Representative Pistoria closed in saying that all opponents were commenting on what happened in Great Falls. He does not see where this bill has anything to do with what happened in Great Falls. (Attached Exhibit A has further comments.) The third reading tally from the House was 90-10 in favor of the bill. He cannot understand why anyone would not want to make the laws uniform.

Senator McCallum then called for questions from the committee.

Senator O'Hara asked how many signatures this would require with 15%.

Representative Pistoria answered that based on 28,000 population in Great Falls, it would be approximately 4,500.

There being no further business before the committee, the meeting was adjourned at 8:35 p.m.


Chairman George McCallum

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/10/81
7:30

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.

NAME: DAVE Goss DATE: March 10, 1981

ADDRESS: P.O. Box 2519 Billings MT 59103

PHONE: 245-4111

REPRESENTING WHOM? Billings Area Chamber of Commerce

APPEARING ON WHICH PROPOSAL: HB 59

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

COMMENTS: Annexation raises questions of property

and not residency rights. If a person

owns property, pays taxes on it and would

receive services for it, it ~~should~~ he should have

a say in the future of that property regardless

of where he lives.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jim Nugent DATE: 3/12/71

ADDRESS: 2115 Lullwater Rd. 2nd Street Service Mt. Pleasant

PHONE: 72-0523 / 72-1344 ext. 2

REPRESENTING WHOM? City of Mt. Pleasant

APPEARING ON WHICH PROPOSAL: HA-54

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: The City of Mt. Pleasant reports that a

be awarded within 7 to 10 days the work on the

is still in the 72-0523 / 72-1344 ext. 2

absentee freholders who are interested in

before the present Board. When the present Board

operation simply because they are interested in

negative interest in a subject interest of the

because the absentee shareholder is with the interest

to not only be in the community but also to

they are absent from the community. The

should be the same as the other but the

and the community. Further if the

on to pass the case as the present

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: George Ruskic DATE: 3/10/84

ADDRESS: _____

PHONE: _____

REPRESENTING WHOM? East Falls Area C.A.C.

APPEARING ON WHICH PROPOSAL: HB 295

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

FRI-FEB. 13 1981- FOR H.B. 295. Debate on 2nd ^{Exhibit #1} (1)
USE - (FOR THE SENATE HEARING) Pending in House,
HAVE BILL & FOLLOW LOCAL GOV'T

Feel good
H.B. 295- An act to clarify the petition requirements for creating or abandoning the Commission-Manager form of Government to conform & be uniform with General Powers & provisions in Section 7-1-4130 & Alternate forms of Government in section 7-3-121 thru 161.

It is not a complicated Bill, not changing any wording or adding new words.

Only to clarify a few inequities, which should have been done in the 1979 session for signature requirement on petitions.

S.B. 503 by Senator "Sonny" Lackrem in the 1979 session was an act to establish General provisions & definitions common to all forms of Municipal Governments & to establish basic requirements (LOOK AT BILL) in Section 7-1-4130 - page 1 - line 14 - 15% signatures are required. Then on Page 1 - line 24 - sub section (c) the 90 days to get signatures on petition is not enough time. I was going to require 180 days, instead was amended to 120 days (only 30 days more) to receive 7 or 8000 signatures.

Page 2 - line 5 - sub section (3) changed

10 days to 25 working days for Election Administrator or Clerk & Recorder to check approx 7 or 8000 signatures & higher - 10 days was not enough time, this was requested by them. ②

Now, in the 1979 session in H.B. 851 by "Bobby" Spulker an act to provide procedures for Alterations of Existing forms of Local Government - Section 7-3-121 thru 161. it requires 15% signatures of the electors at the last General Election & a 3 year moratorium (This section was not necessary in this bill because of no changes required).

Now, in the next 2 sections 7-3-4305 & 7-3-4334 they really should have been Repealed.

But, in Section 7-3-4305. for a Commission-Manager form of Government Page 4, line 8 - left in 25% qualified Electors changed to 15% to conform & be uniform as I previously mentioned in Sections 7-1-4130 & 7-3-121 thru 161.

Now, in Section 7-3-4334 disbanding commission-Manager form of Government - Page 4 - line 25 - changed 2 year moratorium to 3 yrs to conform with moratorium as in Section 7-3-121 thru 161 - Thus taking longer - shouldn't be to alter & save cost of Elections.

Senator Spulker & Rep. Leaning & Rep. Spulker should be commended for correcting these "for" portions in the bill.

(3)

Then on page 5-line 5 change 25% to 15% to conform & be uniform as previously mentioned in Sections 7-1-430 & 7-3-121 thru 161.

NOTE - As I previously stated in the General Powers & Basics requiring 15% Signatures in Section 7-1-4130 ~~of~~ an act to provide procedures for Alternates for existing forms of Local Government. requires 15% signatures & 2 year ^{moratorium} with these changes in this bill to 3 yrs and to 15% signatures it makes every Section the same & uniform & that's what it should be.

It now makes it all simple to look up & understand.

Thank you.

If the Extension of time from 90 days to 120 days is questioned. MENTION - now there is no limit of time to get signature for Referendums or Initiatives, no one questions that.

If the 25% to 15% is questioned by opponents. mention. Then why was all alternate forms on Local Govt was changed

sections 7-1-4130 & 7-3-121 thru 161 in ⁽⁴⁾ the 1979 session & left in the 25% in sections 7-3-4305 & 7-3-4334 when both of sections are all part of alternate forms of Local Govt. It was an oversight not repealing these 2 sections, which should have been done. It is so confusing. Therefore, in this bill it would have been impossible to repeal. Instead changed only 25% to 15% and extended 2 yr moratorium to 3 yrs to conform with all forms of Local Govt laws and now it will be uniform and will not confuse anyone anymore.

Also, why was S.B. 86 killed in the House Committee on Mar 5, 1981 in this session, it would have required doubling the signatures from 5% to 10% on initiatives & Referendums? Because of so much opposition at the hearing & opposition by Committee members that it is hard enough ^{now} to get the 5% required signatures with no time limit prior to the Election.

Finally, an important reason which should not be overlooked, it will prevent district court cases involving attorneys & district court judges to determine the legality of which percentage shall be used. It would result in a financial burden to

STATE OF MONTANA
HOUSE OF REPRESENTATIVES

1981

VOTE TABULATION

Date:

2-17-81

5

HB 295

3rd READING IN

90-10

HOUSE

3811

02 17 81

READING

HB295

CALL

MOTION

96

89 AYE

10 NAY

02 ABSENT

Y	Abrams, Hubert J. (D)	Y	Harper, Hal (D)	Y	Nordtvedt, Kenneth (R)
Y	Anderson, Robert Lewis (R)	Y	Harrington, Dan W. (D)	Y	Oberg, Danny (D)
Y	Andreason, Aaron W. (R) ✓	Y	Hart, Marjorie (D)	Y	O'Connell, Helen G. (D)
Y	Asay, Tom (R)	Y	Hemstad, Andrea "Andy" (R)	Y	O'Hara, David A. (R)
Y	Azzara, James D. (D)	Y	Holliday, Gay (D)	Y	Pavlovich, Robert J. "Bob" (D)
Y	Bardanouve, Francis (D)	Y	Huennekens, Herb (D)	Y	Phillips, John E. (R)
Y	Bengtson, Esther G. (D)	Y	Hurwitz, Burt L. (R)	Y	Pistoria, Paul G. (D)
Y	Bennett, Gary W. (R)	Y	Iverson, Dennis (R)	Y	Quilici, Joe (D)
N	Bergene, Toni (R)	Y	Jacobsen, Glenn E. (D)	Y	Robbins, Ken (D)
Y	Bertelsen, Verner L. (R)	Y	Jensen, William Ray (R)	Y	Roth, Audrey G. (R)
Y	Brand, Joe (D)	Y	Kanduch, Joe F., Sr. (D)	Y	Roush, Glenn A. (D)
N	Briggs, G.H. "Harold" (R)	Y	Keedy, Michael H. (D)	Y	Ryan, John A. (R)
Y	Brown, Dave (D)	Y	Kemmis, Daniel (D)	Y	Sales, Walter R. (R)
N	Burnett, James H. "Jim" (R)	Y	Kennerly, Roland F.(D)	Y	Schultz, James M. (R)
Y	Conn, Alison R. (R)	Y	Kessler, Gerald R. (D)	Y	Seifert, Carl A. (R)
Y	Conroy, Thomas R. (D)	Y	Keyser, Kerry (R)	Y	Shelden, Arthur H. "Art" (D)
Y	Cozzens, Chuck (R)	Y	Kitseiman, Les (R)	Y	Shontz, John M. (D)
N	Curtiss, Aubyn A. (R)	Y	Kropp, Paul K. (R)	Y	Sivertsen, Robert (R)
Y	Daily, Fred "Fritz" (D)	Y	Lory, Earl C. (R)	Y	Smith, Carl M. (R)
Y	Delvin, Michael G. "Gerry" (R)	Y	Lund, Art (R)	Y	Spilker, Barbara J. "Bobby" (R)
Y	Donaldson, Gene (R)	Y	Manning, Richard E. "Dick" (D)	N	Stobie, Chris H. (R) ✓
Y	Dozier, Robert (D)	Y	Manuel, Rex (D)	N	Switzer, L. Dean (R)
N	Dussault, Ann Mary (D)	★	Marks, Robert L. "Bob" (R)	Y	Teague, Wes (D)
Y	Ellerd, Robert A. (R)	Y	Matsko, John G. (R)	Y	Thoft, Bob (R)
Y	Ellison, Orval S. (R)	Y	McBride, Kathleen (D)	Y	Underdal, Melvin (R)
Y	Ernst, Gene N. (R)	Y	McLane, Jean (R)	Y	Vincent, John (D)
Y	Eudaily, Ralph S. (R)	Y	Menahan, William "Red" (D)	Y	Vinger, Orren C. (R)
Y	Fabrega, W. Jay (R)	Y	Metcalf, Jerry (D)	Y	Waldron, Steve (D)
N	Fagg, Harrison G. (R)	Y	Meyer, Darryl (R)	Y	Wallin, Norm (R)
Y	Feda, G.C. "Jerry" (R)	Nx	Moore, Jack K. (R)	Y	Williams, J. Melvin "Mel" (D)
Y	Gould, R. Budd (R)	Y	Mueller, Glenn H. (R)	yes ★	Winslow, Calvin (R)
Y	Hannah, Tom (R)	Y	Neuman, Ted (D)	Y	Yardley, Dan (D)
Y	Hanson, B.T. "Ben" (R)	Y	Nilson, L.H. "Les" (D)	Y	Zabrocki, Carl J. (D)
Y	Harp, John G. (R)			N	Mr. Speaker

Winslow yes

Local Government....Senate
March 10 7:30 p.m.

Exhibit B

Mr. Chairman: Members of the committee...

My opposition to HB 295 stems from my being part of the formation of the City Commission - Manager form of government in Great Falls.

The Mayor - Aldermanic form of government did well from the time it was formed in 1895 and lasted until 1972. The proposal for change did not arise as a matter of a philosophical preference for one form of government over another.

Rather, the change came as a response to some specific political problems that had developed.

The very major problem was a blurring of the distinction between legislative and administrative functions in city government and a 5 million dollar deficit.

It was clear that the city's business needed professional administrative attention. Great Falls was experiencing a declining tax base due to inflation .. there was a crisis in the water and sewer department, and it was clear state law also needed addressing.

I was part of the campaign to collect signatures amounting to 25 percent of the voters registered for the last general city elections. We need 5,440.

The election was held on March 7, 1973. 11,633 for... 3,037 against.

To establish stability within a government means to not threaten change. It happens that a Study Commission will be elected within five years to prepare a study on alternative forms of local government.

Page 2
Local Government....Senate
March 10, 1981

The City Commission - Manager form of government was created with 25 percent of petitioners. I believe it should remain so.

I urge the defeat of HB 295.

INTER-OFFICE MEMORANDUM

FILE:

CITY OF GREAT FALLS, MONTANA

TO: George Roskie
FROM: Jan Dolan
SUBJECT: HB 295

DATE March 9, 1981
REPLY REQUESTED ON OR BEFORE:

ELECTION INFORMATION:

1. Change of Great Falls local government from Council-Mayor to Commission-Manager (12-7-72)

Electors:	25,994
For:	11,733
Against:	3,307

2. Local Government Study/Review (Alternate form of government) (11-2-76)

Alternate Charter:

Adopt:	7,041
Existing (City Manager):	13,505

Suboption I

Appointed City Manager:	11,982
Elected Mayor	9,042

Suboption II

Non-Partisan Commissioners:	14,599
Partisan Commissioners	4,998

3. 1979 City Election

City Electors	28,184 registered
25% =	7,046
15% =	4,278

4. Election Costs

1979 primary election: City's share was \$18,416. Special election would be at least a minimum of that amount, probably closer to \$20,000 to \$21,000.

5. Tribune Articles:

- a. 5-11-72 "Faced with a deficit of at least \$500,000 in the City's general fund..."

"Already operating at a \$250,000 deficit with a month and a half left in the fiscal year..."

5. Tribune Articles (cont.)

b. 4-29-72 State examiner's report on Great Falls

"The general fund of the City of Great Falls has been faced with a deficit balance at the end of each fiscal year since 1968."

"Based on past history, we believe this deficit could reach \$850,000 by June 30."

"The City has been transferring funds from the special improvement district revolving fund for a number of years while maintaining the full 2-mill levy (for the revolving fund) at the same time. Thus, it would appear that the City is using the revolving fund as a source of additional revenue for the general fund rather than for the purpose for which it is intended.

6. In reviewing Title 7, M.C.A., it appears that there are several discrepancies in the Statutes as they relate to abandoning, creating, altering and/or amending forms of local government. Sections that may need review/clarification include: 7-3-155, 7-3-128, 7-3-141, 7-3-142, 7-3-149, 7-3-103, 7-3-104, 7-3-150, 7-3-4305, 7-3-4334. Possibly what is needed is an interim committee to study this issue.

gb

March 2, 1981

Senator George McCallum
Chairman
Local Government Committee
Capitol Station
Helena MT 59601

Dear Senator McCallum:

I am writing to respectfully request your defeat of HB295. The author of this bill seems to have a personal vendetta against the municipal government of our community and when he does not succeed in getting "what he wants" at the local level, attempts are then made to change long-standing State Statutes to suit his own personal tastes.


The citizens of this community have twice in recent years expressed their approval of the current form of government; in 1972 when the change was overwhelmingly (78%) adopted and then again in 1976 (65%) when the Local Government Review options were placed on the ballot. As you are aware, these options will (by law) be available to all residents in Montana in 1986.

To allow a mere 15% of the electorate to initiate abandoning any form of government is ludicrous and absurd! And extending the time allotted is absolutely unnecessary. The current statutory regulations certainly offer an adequate opportunity to make whatever changes are desired should the interest, in fact, be there. The recent petition submitted to our local governing body was a "sham"; the petition was circulated from 1974 to 1979 (a period of five years!). In addition, there were many, many irregularities on the petition so naturally the County Election Official disqualified it.

It is also interesting to note that from the years 1968 through 1972 (author of HB 295 was member of our governing body from approximately 1969-1971) not only had our municipal budget reached a deficit in excess of a half million dollars but our tax mill levy in the last seven years of the Mayor-Council form of government had increased more than 21 mills. Since 1973, we have only increased our mill levy by 5.49 mills and our budget is "in the black"--an excellent record--especially when considering the current rate of inflation.

I respectfully urge your defeat of HB295 and would appreciate your help in rejecting this "self-serving" piece of legislation. Thank you.

Respectfully submitted,


Georgia Beaulieu
3832 Vigilante Drive
Great Falls MT 59401

IT COSTS IN EXCESS OF \$20,000 TO CONDUCT A REFERENDUM ELECTION
A HIGH PRICE TO PAY WHEN ONLY 15% OF THE ELECTORATE ARE ASKING FOR AN ELECTION

*P.S. I would appreciate your distributing
copies to the Committee. Thank you.
(attached)*

HOUSE BILL NO. 357

Representative Richard E. Manning

A Bill for an Act Entitled: " An Act to Clarify the State Fire Marshal Authority Concerning the Alteration, Repair, or Demolition of Buildings Declared to Be a Public Nuisance; Amending Section 50-62-107 MCA."

50-62-107 MCA describes the procedures to be followed by the State Fire Marshal or local authorities in the removal of fire hazards that have been declared public nuisances. The word shall as used in the statute does not allow local authorities or the State Fire Marshal discretionary uses of local ordinances or statutes of other state agencies that in many instances addresses the problem of public nuisances in a better manner than does 50-62-107 MCA. To allow local authority and the State Fire Marshal some discretionary authority House Bill 357 changes the word shall to may.