

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
January 25, 1983

The meeting of the Local Government Committee convened at 12:30 p.m., January 25, 1983, in Room 224 A. It was called to order by Chairman Kathleen McBride. All members were present except Rep. Wallin, who was absent, and Reps. Neuman and Bertelsen, who were excused.

EXECUTIVE SESSION
HOUSE BILL 212

REP. FABREGA, sponsor. This act would increase the mill levy limit for libraries from 3 mills to 5 mills and in municipalities from 4 1/2 mills to 7 mills.

REP. KITSELMAN: Moved HOUSE BILL 212 DO PASS.
REP. DARKO: Seconded the motion.

QUESTIONS:

REP. PISTORIA: Did not think it should be so much all at once.

REP. SALES: Said he would have to oppose the bill. He voted to put the coal tax money into the library system. One of the reasons he voted for it was to relieve property taxes at the local level.

REP. SCHYE: He was in favor of the motion. Libraries are having to cut back on their hours and books and inter-library loans are very important things to have. The coal tax was put in to be used by the libraries. But libraries have also lost federal funding in the last few years and the coal tax money has not been able to keep up with the other money that they have lost. This is a permissive levy. It is not a levy that has to be put on by the county commissioners.

REP. SANDS: Asked why people are not doing more to generate funds from private sources.

REP. BERGENE: Efforts are made to raise funds.

REP. DARKO: You would have to have a special staff to raise monies for libraries. She didn't think we could afford to have that kind of administrative costs.

CHAIRMAN McBRIDE: In our previous hearing, there was some comment that there was some private fund raiding but it was done for special things. Public library operations should be supported by tax dollars.

REP. KADAS: The decision to levy money for libraries is one the county commissioners should be making.

REP. SALES: Agreed.

The motion of DO PASS for HOUSE BILL 212 was carried with all voting yes (REP. BERTELSEN and REP. NEUMAN by proxy) and REPS. PISTORIA, SALES, and SWITZER voting no.

HOUSE BILL 58

REP. RYAN, sponsor. This bill would separate medical facilities from county welfare mill levies. (HOUSE BILL 145, REP. HARPER'S bill did similar things but put no cap on mill levy ceilings.) (EXHIBIT 1)

REP. SWITZER: Moved DO PASS on HOUSE BILL 58.
REP. KADAS: Seconded the motion.

REP. SWITZER: Every two years they can review whether or not they want to leave the unlimited levies available for hospitals. The other bill does not put a time limit on it.

CHAIRMAN McBRIDE: HOUSE BILL 58 has a 10-mill ceiling on what the county commissioners may assess. It also gives flexibility with hospital districts.

REP. SWITZER: The limit is not imposed on hospital districts but is reviewed every two years.

REP. VINGER: SRS had nothing to do with the money raised for a tax levy. It would not affect your medicaid payments whatsoever because that is only based on cost.

CHAIRMAN McBRIDE: This bill would separate medical facilities out of the current welfare fund by making two separate accounts. There will be a separate levy for the mill for the medical facility and a separate account for the welfare and care for the indigent. The amendments say that hospital maintenance costs may not be taken out of the welfare fund. Only care for the indigent in that hospital may be taken from that fund.

REP. HAND: Moved that the amendments be accepted.
REP. BERGENE: Seconded the motion.
The motion PASSED UNANIMOUSLY.

REP. KITSELMAN: Moved HOUSE BILL 58 DO PASS AS AMENDED.
REP. KADAS: Seconded the motion.

REP. HANSEN: What will happen to HOUSE BILL 145.

CHAIRMAN McBRIDE: It could be tabled. She wanted to make everyone aware that there are some counties that may bump off or may be over this 10-mill limit for medical facilities. In talking with some people who have followed how much some counties

Page 3

Minutes of the Meeting of the Local Government Committee
January 25, 1983

spend on medical facilities, there may be several counties that are over that but 10 mills seemed to be a reasonable compromise at this point. She stated each representative might want to follow up in their own county how much they do spend for medical facilities.

HOUSE BILL 58 PASSED UNANIMOUSLY DO PASS AS AMENDED.

The motion to TABLE HOUSE BILL 145 PASSED UNANIMOUSLY.

REP. BERTELSEN was present.

REGULAR SESSION
HOUSE BILL 126

REP. KITSELMAN, sponsor: This bill authorizes an increase to 3% project costs of rural special improvement districts. It also authorizes 5% of the principal amount of funds to be deposited in the district revolving fund and at the end of the project 5% goes to the district maintenance fund. He presented an amendment that would give the revolving fund to the owners of record of the property of the district in direct proportion of the original assessment on each piece of property. The reason he proposed this amendment is that most of the time a developer will absorb the front-end costs. This provides the option, once the special improvement district is dissolved, to have the choice of either leaving the money in the maintenance district or returning it to the owners of record. The reason for this particular piece of legislation is that as of July 1, 1983, federal laws will change; and this is the manner in which special improvement district bonds have to be registered (EXHIBIT 2).

PROPOSERS:

BILL ROMINE, representing the Clerks and Recorders, supported this bill (EXHIBIT 3).

MERRILL KLUNDT, representing the Clerk and Recorder of Yellowstone County, also supported this bill (EXHIBIT 4).

BILL SPILKER, representing the Montana Association of Realtors, supported HOUSE BILL 126 with amendments and recognized the concept that we do have to fund a revolving fund from the standpoint of legality and from the practical aspect of getting the bonds sold. Any monies left in the revolving fund should go to the benefit of that district--either to the maintenance fund of that district or apportioned back to the property owners of record.

Page 4

Minutes of the Meeting of the Local Government Committee
January 25, 1983

DORIS SHEPHERD, representing the Montana Association of Counties, supported HOUSE BILL 126.

OPPONENTS: None.

REP. KITSELMAN closed the hearing on HOUSE BILL 126.

QUESTIONS:

REP. SANDS: Referring to page 2, lines 1-6, asked if these monies were to reimburse the county for expenses to process improvements and if lines 17-21 relate to providing security for the bonds. He asked if subparagraph (2), lines 1-6, could be in addition to the costs that are provided in subparagraph (1). Could they duplicate those costs? He said that subparagraph (1) allows you to charge for any incidental expenses. He asked if subparagraph (2) allows you to have 3% on top of incidental expenses.

MERRILL KLUNDT: These are all the costs the county can charge for. We are now getting 80% of the costs borne by the county.

REP. SANDS: If the 3% that you are going to charge in subparagraph (2) includes all the expenses enumerated in subparagraph (1), would it be appropriate to eliminate subparagraph (1)

MERRILL KLUNDT: It defines what we can charge for. It should not be eliminated.

CHAIRMAN McBRIDE: Does this allow up to 8% to be taken out from the monies from the income of the special improvement district?

MERRILL KLUNDT: Yes. Cities are currently at 10%.

REP. SALES: What the 3% covers in Section 1 is the costs in setting up the district--engineering, bond sales, etc., that you normally have in the past included as part of the costs of the district. This new section will allow the counties to also recoup any additional costs that they have in setting up the district.

BILL ROMINE: We do not want to strike subsection (1) as you have two different costs. The costs referred to in subsection (2) are in subsection (1) but subsection (1) is broader.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 126.

HOUSE BILL 239

REP. HEMSTAD, sponsor. This bill merely adds the words "full payment of the ". 25% of the forest reserve money comes back to the state and the state auditor then disperses that to the county. This has been done in interim payments, based on estimates. Some of the time the state auditor has overestimated how much money has gone to the counties, and, sometimes, underestimated. To make the dispersal easier for the state auditor's office, the auditor would like to, after thirty days, give the full payment as they receive it from the forest reserve monies.
(EXHIBIT 5)

PROPOSERS:

JOSOPHIE ISAAK, State Auditor's office, stated corrections have to be made for the estimates from the federal forest reserve. Since it is an estimate, the auditor's office cannot predict how much the counties are going to make. This year, they originally predicted \$8 million to be distributed to the counties and there was quite a disparity. When one county is overpaid, other counties have to be shorted. If the auditor's office could wait for two months until we get the final payment from the Department of Agriculture, the totals would be complete and correct. This would correct the problems of overestimation and shortfalls (EXHIBIT 6).

OPPOSERS: None.

REP. HEMSTAD closed.

QUESTIONS:

REP. SANDS: What would be done with the money for two months?

JOSOPHIE ISAAK: It would go into state funds and be invested as surplus cash and the interest would go into the General Fund.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 239.

HOUSE BILL 240

REP. HANSEN, sponsor. This is a bill to change the protest process from 40% to (the bill says 60%) 51% (by amendment). This is a bill to make it easier for the county to zone new land. We think it is a little fairer since 40% of the people can keep the county from zoning that piece of land. This way, it would take a majority.

PROPONENTS:

HOWARD SCHWARTZ, representing the Missoula County Commissioners, stated that the county needs greater ability to zone unzoned portions of the county, especially in the urban area (EXHIBIT 7).

DANIEL A. OBERMEYER, Assistant Director of the Missoula Planning Office, stated the main problem is trying to promote the community's comprehensive plan, the main tool of which is zoning (EXHIBIT 8).

REP. REAM, House District 93, said he saw this bill as presenting an opportunity to make some improvements in the law as it exists. He submitted proposed amendments (EXHIBIT 9).

OPPONENTS:

VITO CILIBERTI, president of the Rattlesnake Valley Alliance, an organization set up in 1982 to represent the interests of a small locality north of Missoula, appeared in opposition of HOUSE BILL 240 as it severely limits effective citizen participation in the zoning process. He felt the 40% process now in law, provides for reasonable citizen input (EXHIBIT 10).

WILLIAM (BILL) CLARK, Vice-president of Rattlesnake Valley Alliance, said that 40% could reflect the majority. He also felt it was impossible to contact all the property owners (EXHIBIT 11).

THOMAS L. FINCH, representing the University Area Homeowners Association, Inc., said this bill excludes property owners from affairs vital to their interest by making the protest process impossible to operate (EXHIBIT 12).

REP. HANSEN closed by saying that opponents lost sight of what the bill was trying to address which is unzoned property in the county. She stated the county is interested in implementing the comprehensive plan with reasonable zoning to make the county conform. She said she would be happy with this bill if it were to address only unzoned property in the county.

QUESTIONS:

REP. WALDRON: Do you see a problem in Missoula with the unzoned areas?

MR. FINCH: I am in favor of reasonable planning and equitably applied zoning. He said there is an alternative that county and board simply refuse to consider, and that is that certain times people should have the right to say that they don't want zoning.

Page 7

Minutes of the Meeting of the Local Government Committee
January 25, 1983

REP. KEENAN: Referring to Section B where it speaks to one vote per parcel, what if the wife and husband do not agree and there is only one vote that comes from them?

REP. REAM: The vote would be split--one-half for and one-half against.

REP. SALES: Could we consider the Ream amendments under the title of this bill?

LEE HEIMAN: Yes.

REP. SALES: The comment was made they did accept changes--40% unzoned land and 50% on zoned land. When you are talking about unzoned land, are you talking about the establishment of the district?

HAROLD SCHWARTZ: The principal problem we have is unzoned land and, particularly, unzoned land adjacent to the city surrounded by zoned land. What we are going to do is allow the increase in protests to deal only with creating a new zone. The parcels that we are concerned with adjacent to the city are subject to the extraterritorial zoning of the City of Missoula. By making it easier for commissioners to zone unzoned land, it would be possible to have some sort of protest level.

REP. SWITZER: Does the size of the parcel (1/4 acre or 10 acres) make any difference regarding the vote?

ANSWER: The one homeowner who owns one lot gets one vote where the lot owned by two homeowners gets two votes.

REP. KADAS: Why hasn't the city zoned the surrounding areas?

HAROLD SCHWARTZ: They have been reluctant to zone outside the city.

MR. KADAS: Have you read REP. REAM'S amendments?

MR. FINCH: I have not seen the final development.

REP. KITSELMAN: Has the City of Missoula adopted the comprehensive plan?

MR. FINCH: There was an adopted comprehensive plan--urban and rural.

REP. KITSELMAN: Does that plan use the 4 1/2 mile limit?

MR. FINCH: I believe the figure is a 4 mile limit. He said he favored planning but it has to have public support. They don't want any agency forcing it on the people.

Page 8

Minutes of the Meeting of the Local Government Committee
January 25, 1983

REP. SCHYE: How far outside the city limits is the land we are talking about? The chief planner for the City of Missoula stated that some are approximately two miles out; some are 1/4 mile out and some are hillsides that are four or five miles away. Having sat on City-county Planning Boards, the cities could zone one mile outside the city limits with no protest. Missoula can do the very same thing. We could only go one mile because we are a very small town. Missoula may be able to go up to six miles outside the city limits. I am not saying that is right; but I am not saying that this legislation is needed, either.

REP. WALDRON: How far out can the city zone?

DAN OBERMAYER: Since it is a first-class city, they can zone three miles.

REP. WALDRON: Has the city considered zoning those unzoned areas that surround the zoned areas.

DAN OBERMAYER: The city deferred to let the county decide that issue instead of letting the city come in and impose that on the people who are not voted on by the city. It is a matter of jurisdiction.

REP. WALDRON: Why hasn't the city zoned the area right next to the mall.

DAN OBERMAYER: One of the reasons is the cost; the other factor is the matter of the railroad tracks. The city does not feel that it is as threatened as it would be if a development could have access to the city.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 240.

EXECUTIVE SESSION
SENATE BILL 13.

SEN. MAZUREK, sponsor. This bill eliminates the sunset of July 1, 1983 for setting the interest rate ceiling.

REP. HAND: Moved that SENATE BILL 13 BE CONCURRED IN. It was seconded by REP. VINGER.

The motion was voted on and PASSED UNANIMOUSLY.

The meeting adjourned at 2:00 p.m.

Kathleen McBride
CHAIRMAN KATHLEEN McBRIDE

Ann Brunell
Secretary

County-owned
and/or operated
hospitals and/or
nursing homes

EXH
H.B. 58

1982-83

Form 4256 Counties

State Publishing Co.
Helena, Montana

Class

mill
value

(1981-82)

med. fee
in per
fund

mills
outside
per fund

hospital
district
mills

✓	County	Class	mill value	med. fee in per fund	mills outside per fund	hospital district mills
✓	Beaverhead	4	15345		3.00	
✓	Big Horn	1	123926	1.15	2.99	
	Blaine	2	33607			
✓	Broadwater	6	7131	4.17		
✓	Carbon	3	27321			
✓	Carter	6	6518	1.00		
✓	Cascade	1	89479	(2.75 7482-83)		
✓	Chouteau	3	28683			12.39*
✓	Custer	4	18321			
✓	Daniels	6	8035		9.00	
✓	Dawson	2	30045	1.84		
	Deer Lodge	5	13208			
✓	Fallon	1	118325			
	Fergus	3	22220			
✓	Flathead	1	80101	1.06		
✓	Gallatin	1	56944	1.90		
✓	Garfield	6	6521	13.50		
✓	Glacier	2	44961	4.32		
	Golden Valley	7	4245	1.00		
✓	Granite	6	5308	6.00		
	Hill	2	44742			
	Jefferson	5	10877			
	Judith Basin	6	9768			
	Lake	3	26272			
✓	Lewis and Clark	1	54722			
✓	Liberty	3	21520	9.00		
	Lincoln	2	32594			
✓	Madison	5	14208			6.00*
✓	McCone	5	11516	1.38		
✓	Meagher	6	5732		3.00	
✓	Mineral	7	4643		3.00	
	Missoula	1	124355			7.00
✓	Musselshell	3	29304		2.04	
	Park	4	17827			
	Petroleum	7	2682			
	Phillips	2	32896			
✓	Pondera	3	23698	1.65		
✓	Powder River	1	73083	3.80	5.10	
✓	Powell	5	11475	1.25		
✓	Prairie	6	6228	9.30	9.00	
✓	Ravalli	3	21801	2.57		
	Richland	1	144666			
✓	Roosevelt	1	67518			11.46*
✓	Rosebud	1	163639			
✓	Sanders	4	19357			3.00
✓	Sheridan	1	92393			
	Silver Bow	2	47571			
✓	Stillwater	5	13967		.68	
✓	Sweet Grass	6	7308			
✓	Teton	4	17886			
✓	Toole	2	45258	7.85 (10.66 7482-83)		3.00
	Treasure	7	4402			
✓	Valley	3	29389	.0001528		
✓	Wheat	6	5692	2.0		
✓	Yellowstone	1	196095	.15		

Amendments to House Bill 126 (Introduced copy)

1. Page 3, line 20.

Following: "of"

Strike: "the revolving fund"

Insert: "the owners of record of the property of the district in direct proportion of the original assessment on each piece of property"

NAME: Bill Ramine DATE: 1-25-83

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? cleaks & Recorders

APPEARING ON WHICH PROPOSAL: H.R. 126

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: this bill does reveal things. First of all, Section 1 makes
it clear that the costs connected with R.S.D.s will include the preparation
of annual assessment rolls. In addition, Secs 1 & 2 give the governing
body the option of assessing up to 3% or 5% to be deposited
in the Revolving fund. Finally, Section 2 provides that if any
moneys are left over, then it shall go to the operation
& maintenance fund to be used as necessary in the future.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 126

DATE 1-25-83

SPONSOR KITSELMAN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

County of Yellowstone

MERRILL H. KLUNDT
Clerk & Recorder



BILLINGS, MONTANA
59101

January 24, 1983

Kathleen McBride, Chairman
House Local Government Committee
Capitol Building
Helena, Montana 59601

Dear Chairman McBride and Members:

House Bill #126 is a bill which provides the following options:

1. Under Section 7-12-2153, the county can charge for incidental expenses to the formation of any special improvement district. The county surveyor in Yellowstone County employs a person full time on R.S.I.D. projects for inspection and problems. My office is involved with the levying of the assessments, publication of notices, mailing of notice, etc. and the levying of maintenance assessments and bond assessments annually.

Further, Federal law was enacted and will become effective July 1, 1983, whereby R.S.I.D. bonds will have to be registered in a different manner and the county may have to hire a trustee and etc. and this will increase costs. (See Exhibit A attached). It is administratively difficult to keep an accurate record as to time and costs and would require employing a full time person in my office for the numerous districts we have in Yellowstone County.

Therefore by adding the language contained in lines 1 through 6 on page 2, under Section 7-12-2153, Sub-Section (2) will allow the governing body the option to include an amount not to exceed 3% of the principal amount of any bonds or warrants to be issued and the funds shall be deposited in the revolving fund created under Section 7-12-2181 or deposited in the County General Fund. This would be a one time charge against each district.

2. The provision under Section 7-12-2182, lines 17 - 21, page 2, Section 2(a) (ii) is a provision for a source of money for the revolving fund. This provision should be used before the method stated in lines 11 through 16, sub-section (1) (a) (i).

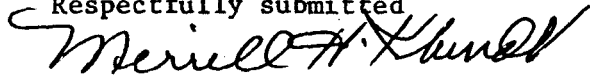
The local governing bodies should use the new provision in lines 17 - 21, page 2 with wise discretion. If 1% is needed, that is all that should be levied under this provision. It should be used wisely. This provision is exactly the same as for the cities under Section 7-12-4222.

3. Section 7-12-2182, subsection 2 is being revised as stated in lines 9 through 22, page 3.

This provision as revised states "Whenever there is money remaining in the district fund after all bonds or warrants and interest thereon, and all loans as provided for in 7-12-2183, have been fully paid on any rural special improvement district, the money remaining in the district fund shall by the order or resolution of the board be transferred to the revolving fund or to the operation and maintenance fund as provided for in 7-12-2162 of such district.

The Yellowstone County Board of County Commissioners, the County Attorney and myself feel that after all bonds, warrants and loans have been fully paid the remaining funds should be transferred to the operation and maintenance fund as provided for in 7-12-2162 of such district.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "Merrill H. Klundt".

MERRILL H. KLUNDT
Yellowstone County Clerk & Recorder
Chairman, Montana Association of
Clerks and Recorders

STATE LAW LIBRARY OF MONTANA

Search Request

Requested by: John Mohar Firm: Senate District # 11

Date requested: 1/24/83

Deadline: 1/25/83

Requested for: _____

Address: _____

Phone: _____

Other State Statute (list States) _____

Leg. hist. _____

Information needed: _____

*payments in lieu of taxes
Forest Management Recovery Act*

Federal Forest Reserve Money

to County 2/3 to road fund

1/3 to School Foundation Program.

*Also any state laws or guidelines that
tells how that money can be
spent on highways. i.e. county roads
only vs ^{state} primary system roads.*

earmarked for specific functions

Response: (provide citations or brief answer)

CFR

USCLA 500

MCA 17-3-211 thru 17-3-214

Search time 60 min Date terminate: 1-25 Response date: _____

How responded P M

1/25/83

1 USCA s. 500

R= 1 P= 1 OF 2 USC T

TITLE 16--CONSERVATION
Chapter 2--National Forests

Subchapter I--Establishment and Administration

500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of each year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: provided, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, hardwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the

16 USCA s 500

R= 1 P= 2 OF 2 USC T

National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

- May 23, 1908, ch. 192, 35 Stat. 260
- Mar. 1, 1911, ch. 186, s 13, 36 Stat. 963
- June 30, 1914, ch. 131, 38 Stat. 441
- Sept. 21, 1944, ch. 412, title II, s 212, 58 Stat. 737
- Apr. 24, 1950, ch. 97, s 17(b), 64 Stat. 87
- Pub. L. 94-588, s 16, Oct. 22, 1976, 90 Stat. 2961

17 USCA s 500

END OF DOCUMENT.

DORSEY & WHITNEY

A Partnership Including Professional Corporations

2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402
(612) 340-2600

TELEX: 29-0605
TELECOPIER: (612) 340-2868

880 WEST-FIRST NATIONAL BANK BUILDING
ST. PAUL, MINNESOTA 55101
(612) 227-8017

P. O. BOX 848
340 FIRST NATIONAL BANK BUILDING
ROCHESTER, MINNESOTA 55903
(507) 288-3156

312 FIRST NATIONAL BANK BUILDING
WAYZATA, MINNESOTA 55391
(612) 475-0373

201 DAVIDSON BUILDING
8 THIRD STREET NORTH
GREAT FALLS, MONTANA 59401
(406) 727-3632

SUITE 675 NORTH
1800 M STREET N.W.
WASHINGTON, D. C. 20036
(202) 296-2780

30 RUE LA BOÉTIE
75008 PARIS, FRANCE
TEL: (1) 562 32 50

November 9, 1982

Yellowstone County Clerk
County Courthouse
Billings, Montana 59103

Re: Registration Requirement for Municipal Bonds

Dear Sir

Enclosed is a memorandum to all of the cities, counties, school districts and other public bodies in the States of Minnesota, Wisconsin, North Dakota, South Dakota and Montana for whom we act as Bond Counsel. It relates to a new requirement, that, as of January 1, 1983, all municipal bonds must be issued in "registered form" in order for the interest on those bonds to be exempt from federal income taxation.

Please review this memorandum carefully. It will apply to all bonds which you issue after the end of this year. As your Bond Counsel, we want to make sure that you are aware of this new change and what it will mean to you. If you have any questions concerning this requirement, or any of the issues discussed in the memorandum, please feel free to call me or any of the other members of our Public Finance Department.

It has been a pleasure working with you to date and we look forward to being of further service in the future.

Yours very truly,


Joseph C. Gonnella

DORSEY & WHITNEY

A Partnership Including Professional Corporations

2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402
(612) 340-2600

TELEX: 29-0605
TELECOPIER: (612) 340-2868

MEMORANDUM

TO: Our Municipal Clients
RE: Registration of Municipal Bonds
DATE: November, 1982

As your Bond Counsel, we are sending you this memorandum in order to inform you of a change in the law which will affect almost all municipal bonds issued (i.e. - delivered to the purchaser) beginning January 1, 1983. This law will affect both your procedures and your costs in connection with future bond issues. For the purpose of this memorandum, the term "bonds" includes warrants, certificates of indebtedness and all other evidences of debt.

General Practice.

Interest on municipal bonds is exempt from federal income taxation under Section 103 of the Internal Revenue Code of 1954. This August, Congress amended that section so as to provide that, except with respect to bonds of a type not offered to the public, or bonds of a maturity of not more than one year, interest on municipal bonds shall not be exempt from federal income tax unless the bonds are issued in registered form. This change applies to all bonds issued on or after January 1, 1983.

Most municipal bonds are now issued in bearer, or "coupon", form, rather than registered form. With a coupon bond, the principal of the bond is payable at maturity to the bearer of the bond: whoever has possession of it. The interest on a coupon bond is represented by interest coupons which are clipped off by the bondholder on each interest payment date and turned in to the bank, or other financial institution, which acts as paying agent for the bonds. On or before each interest payment date, the municipality (city, county, school district or other bond issuer) deposits with the paying agent the amount of money necessary to make the principal and interest payments due on that date. The paying agent holds that money and pays the interest coupons and maturing bonds as they are turned in to it. No one has a record of who owns any of the bonds, and any bondholder can sell or transfer his bond simply by delivering it to the person to whom he is selling or transferring it.

A registered bond is significantly different from a coupon bond. The principal of a registered bond is payable only to the person who is named on the bond as its owner; his name is typed or printed on the face of the bond itself. Someone, referred to herein as the Bond Registrar, must maintain a bond register in which the name and address of the owner of each bond is entered. The semiannual interest payments are made by check mailed to the owner of each bond at his address as it appears on the bond register. Whenever a bondholder wishes to sell or transfer a bond he must deliver his bond to the Bond Registrar together with a written instrument of transfer, executed in compliance with applicable law, giving the name and address of the new registered owner. The Bond Registrar must then cancel the original bond and deliver to the new owner a new bond registered in the new owner's name.

This new requirement will apply to all bonds issued after January 1, 1983, whether they be general obligation bonds, special assessment bonds, utility revenue bonds or any other obligation which has a maturity of greater than one year. This change will have no practical effect on bonds issued to the Farmers Home Administration, for FMHA bonds are already issued in registered form.

Many people regard this new requirement as an unfortunate change; it will have the effect of making it more cumbersome for cities, counties, school districts and others to issue bonds, and it will probably increase your costs. The expressed reason for this requirement (which is part of an overall change by Congress requiring all debt obligations to be issued in registered form) is to reduce the amount of avoidance of income, estate or other taxes by people who fail to report the ownership of securities, or the interest payments realized thereon, on their tax returns. Whether or not requiring all bonds to be issued in registered form will actually reduce tax avoidance, we must now live with this requirement as of the first of the year.

The purpose of this memorandum is to make you aware of this change and to suggest certain things which you may want to keep in mind when and if you issue bonds after January 1.

Who will do the work?

The first question which each municipality must face is who is going to act as the Bond Registrar, to keep the bond register, make and record all transfers and send

the interest checks out every six months. There are two possibilities: your municipal financial officer could perform those functions, or you could enter into an agreement with a bank, trust company or other financial institution (referred to herein as an Agent) for the Agent to perform those services for you for a fee. No matter who does the work, the activities which must be performed will include:

1. prior to or upon the initial issuance of the bonds, establishing a bond register in which the names and addresses of all bond owners are listed;
2. upon the initial issuance of the bonds, completing a sufficient number of blank, executed bonds with the names of the respective bondholders and the appropriate information as to maturity date and interest rate of the bonds owned by such person;
3. mailing interest checks on each interest payment date to each of the bondholders in the aggregate amount owed such holder;
4. when a bond is sold or transferred, recording the transfer on the bond register, cancelling the original bond and completing, authenticating and delivering a replacement bond, but only when the transferor has provided the Bond Registrar with all necessary legal documents and other supporting items which are necessary to assure that the registered owner has given proper authorization for the transfer (this item becomes very important in connection with the transfer of bonds from the estate of a deceased owner, bonds held by a married couple after a divorce, bonds held by a minor, a receiver, a trustee, etc.); in the corporate securities industry such transfers are required to take place and the new security delivered to the new owner within three business days;
5. payment of the principal of the bonds, upon surrender thereof by the registered holder.

Many municipalities will probably not want to perform these services themselves but will want to contract with an Agent to perform them. Subject to the particular legal requirements in your state, any bank or trust company could, most likely, act in this capacity. However, some institutions may not be capable of performing all of these

services or, even if capable, may not be interested in doing so. As your Bond Counsel, we suggest that, prior to selecting any financial institution to act as your Agent, you describe carefully what services that institution will have to perform and make sure that that institution will be able to perform them satisfactorily. It may be advisable to deal with those institutions which already act as stock transfer agent or bond registrars on corporate securities; those institutions should already have the necessary capabilities to perform the services which you will need to have performed. In that regard, we have prepared a suggested form of Agreement between a municipality and an Agent, which spells out the duties and responsibilities of the Agent and which you can use in discussing this matter with any financial institution.

It is almost certain that the fees which Agents will charge to perform these services will be significantly higher than the fees which they have been charging to act as paying agent on coupon bonds. There is more work and responsibility involved in acting as a bond registrar and transfer agent. At the same time, the job of paying agent will not be quite as rewarding as it has been in the past, for the following reason. With coupon bonds, the interest is not paid until the bondholder detaches his interest coupon and turns it in. Sometimes, bondholders don't turn in their coupons for months or even years. During that time, the paying agent has money on deposit with it to pay those coupons; that money is earning interest and that interest is kept by the paying agent. With registered bonds, however, the paying agent must send out interest checks on each interest payment date. Because bondholders are likely to cash those checks as soon as they get them, there will be a much lower amount of interest earnings, or "float", earned by the paying agent on the idle monies. For both of these reasons, we expect that the fees charged to act as Agent will be significantly higher than they have been in the past.

Each Agent will charge according to its own fee schedule, which will probably include an initial charge for setting up the account, an annual charge for supervision of the account, a per-transfer charge for each transfer of a bond, and a per-check charge for each interest and principal check mailed out on each interest payment date. Most, if not all, of those fees must be paid by you, the bond issuer. At the time that the bonds are issued, you will know what the Agent's current charges for these services are, but those charges may well change over the life of the bonds.

For that reason, we will include, in your bond proceedings, a provision giving you the right to change Agents at any time, so that if the fees of the initial Agent become too high you will be free to switch the account to another Agent whose fees may be more reasonable.

Who will choose who does the work?

This leads to the question of how the initial Agent is to be chosen. Historically, the paying agent for a coupon bond issue has been chosen by the purchaser, or underwriter, of the bonds, subject to the approval of the municipality. Bond purchasers have been able to use the paying agency position as tool to aid in reselling the bonds; they offer a bank, whom they wish to persuade to purchase some bonds, the opportunity to act as paying agent if it agrees to buy a specified number of bonds. The investment bankers and underwriters may well want to use the Bond Registrar and transfer agent position in the same way. If this is the case, and if you have no particular concern over who acts as your Agent, you could call for the sale of your bonds and state that the Agent will be a suitable bank or other financial institution to be selected by the purchaser of the bonds and approved by you, much like the paying agent is presently selected. However, if you want to decide who the Agent will be, you could make the selection yourself and enter into an agreement with that institution before you call for the sale of your bonds. The potential purchasers must then be told, prior to the sale, who the Agent will be. If you are one of those issuers which issues bonds on a regular basis, for example every year, it may be important to you to have only one bank or financial institution to act as Agent on all of your bonds; this could be significantly easier, administratively, than having five or six different Agents on five or six different bond issues. In that event, you should choose the Agent, and enter into an agreement with it, prior to your next bond sale.

Conclusion.

The foregoing information regarding this new legal requirement may well come as news to you. If you have any questions regarding this matter at the present time, please contact the lawyer in our Public Finance Department who has recently been working with you on your bond issues, or any other member of our department. The names and telephone numbers of our public finance lawyers are listed below. If

DORSEY & WHITNEY

Page 6

you work with a municipal financial consulting firm, you could also contact that firm with any questions you have about this new requirement. We, or they, will be glad to answer your questions, go into these requirements in more detail, meet with you and any prospective Agents to discuss the services which must be performed, or, in any other way, assist you in complying with this new requirement.

In any event, because this change will involve an additional amount of work, especially with respect to the first issue of bonds which you issue after January 1, please contact us, or your municipal financial consultant, well in advance of your next planned bond sale. We can then help you decide which of the various alternative procedures would be the best for you to adopt and then help you implement that decision.

Yours very truly,

DORSEY & WHITNEY

Public Finance Department

(Area Code - 612)

Arthur Whitney	340-2807
C. D. Mahoney, Jr.	340-2813
Thomas S. Hay	343-7965
David L. McCuskey	340-2834
John D. Kirby	227-8017
William A. Johnstone	340-2815
Verlane L. Endorf	340-2651
Owen C. Marx	340-2975
Mark A. Jarboe	340-2686
Suzanne B. Van Dyk	340-8708
Catherine A. Bartlett	340-2840
Michael E. Reeslund	340-2960
Jerome P. Gilligan	340-2962
Pamela A. Fergen	227-8017
Joseph C. Gonnella	227-8017
Leonard S. Rice	343-7971
Shelly M. Nelson	227-8017
Paula S. Dykstra	343-7983

RECEIVED
STATE AUDITORS
OFFICE

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE
P.O. BOX 2417

Washington, D.C. 20013

JUN 2 2 32 PM '79
HELENA, MONT.

Exhibit
HB239

6540

JUN 13 1979



Treasurer, State of Montana
Helena, Montana 59601

Dear Sir:

I am pleased to announce that we are now able to make an interim payment of funds due you from the National Forest Receipts. The interim payment will be made October 1 and will consist of 75 percent of the estimate that we published earlier this year. This means that you will now receive a majority of the funds 2 months earlier than before.

This interim payment will be calculated only on the estimated amount due the State. We will not be able to calculate the amount due the counties in time for the October 1 payment. However, you will have the options of: (1) distributing the funds to the counties based on our earlier projections; (2) holding the funds in an interest bearing account for later distribution; or (3) using another procedure you may prescribe.

The balance of the payments will be made in early December and will include the county calculations.

Since this is an estimated procedure, there will be some small risk of overpayment. If there is an overpayment, you will have to refund the overpayment in December.

Payments made to the counties based on receipts from the use of National Grasslands will not be affected by the new policy. The counties' share of these funds will continue to be made on or about March 1 of each year.

For your information, enclosed is a summary of the procedure we will now follow in processing the 25 percent payment of monies due the States and counties from National Forest receipts.

Sincerely,

John R. McGuire

JOHN R. MCGUIRE
Chief

Enclosure

*Titles 17-3-211, 17-3-212 MCA.
Forest Reserve Shared Rev.*

Procedure for Administering the 25 Percent
Payment of Monies Received from National Forest to
the States, 16 U.S.C. 500, as Amended

*More estimate received
dated in May.
And this same
dated at that time
estimates are
prepared.*

January -

Publish and distribute to the State Treasurers, the estimated payment to be made in the next fiscal year based on estimated receipts for the current fiscal year ending September 30. The distribution will be made in late January or early February.

October -

Pay to the State Treasurers, 75 percent of the estimate published in January or February. This estimate may be adjusted if the estimated receipts for a particular National Forest will vary more than 25 percent from the original estimate. The individual State affected will be notified of the revision. The interim payment will be made on October 1.

December -

Make final payment early in December to State Treasurers based on actual receipts and acreages for each National Forest.

RECEIVED
STATE AUDITORS
OFFICE

JUL 2 2 32 PM '79
HELENA, MONT.

		1 Original Oct 79 found in Dec 79	2 Original Oct 80 found in Dec 80	3 Working Oct 81 S/Interim paid	4 Working Oct 82 S/Interim paid	5	6
1	Beaverhead						
2	Broadwater						
3	Carbon						
4	Carter						
5	Cascade			118752			
6	Chouteau			27135			
7	Deer Lodge						
8	Fergus			57173			
9	Flathead						
10	Gallatin		2492502				
11	Glacier			5537			
12	Golden Valley			16484			
13	Granite			1921355			
14	Jefferson	352464		2644254			
15	Judith Basin			1,89681			
16	Lake						
17	Lewis & Clark						
18	Lincoln						
19	Madison						
20	Meagher						
21	Mineral		1313644		584477		
22	Missoula						
23	Park		3062857				
24	Pondera			75170			
25	Powder River						
26	Powell						
27	Ravalli				4388738		
28	Rosebud						
29	Sanders		3429459		3734675		
30	Silver Bow	111438		990524			
31	Stillwater						
32	Sweet Grass		617750				
33	Teton			249921			
34	Wheatland			100298			
35							
36	Totals	453902		6396284			
37			109,162.12		8707890		
38							
39							
40							

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

FEDERAL BUILDING
P.O. BOX 7669
MISSOULA, MONTANA 59607

6540
December 31, 1980



E.V. "Sonny" Omholt
State Auditor
Room 270, Sam W. Mitchell Bldg.
Helena, MT 59601

Subject: 25 percent Payment to States -
National Forest Fund

Dear Mr. Omholt,

During a recent telephone discussion between Josephie Isaak and John Baker of our office, it was agreed that we would provide additional input regarding federal requirements associated with the interim payment procedure.

The payment procedures for the subject payment for fiscal year 1979 and thereafter were changed to provide for an interim payment on or about October 1 and a final payment on or about December 1. This change, providing for an interim payment, was administratively authorized by the Secretary of Agriculture to assist in speeding up cash flow to the states. The interim payment is 75 percent of the calculated payment based on estimated receipts. The final payment is the net amount due to accomplish full payment based on actual receipts.

Distribution of the interim payment below the state level is not necessary for conformance to federal requirements. These requirements are associated with the final payment and related distribution basis.

If there is a need for clarification or further information please feel free to contact either John Baker or myself.

Sincerely,

GEORGE M. FLEMING
Director
Fiscal Management

HELENA, MONT.
JAN 5 10 19 AM '81
RECEIVED
STATE AUDITORS
OFFICE

Prior years records on the distribution of Forest Reserve Funds show that the distributions were made in September of the calendar years 1970 through 1975. In 1976 the new Federal fiscal year was established and the fiscal year distribution was in September 1976 with a supplemental distribution for the three months transitional period in December 1976. Distributions were the latter part of December in 1977 and 1978. In 1979, the United States Department of Agriculture, Forest Service, made an interim payment to the State of Montana. Distribution of the interim payment was made in October 1979. Receipt of the final payment in December 1979 and the actual calculation of the distribution due each county showed that two counties had been overpaid. The distribution of the 1980 interim payment was made in October and the final receipt and calculation in December 1980 revealed that five counties had been overpaid.

The United States Department of Agriculture, Forest Service, sends the 25% PAYMENT TO STATES to the state of Montana in two separate payments. A listing of an estimated amount to be paid each county is submitted with the first payment and a new listing based on actual earnings for each county is furnished with the final payment.

The fiscal year 1980 original estimated amount to be paid to county treasurers and the listing of actual earnings for each county differed from \$72,839.56 over estimated to \$560,494.97 under estimated. Therefore, overpayments to counties can result from such estimating and must be balanced with underpayments to other counties.

There is no historic consistency in the actual amount of payments to each county treasurer in the past five (5) years in relation to the total payments to the state of Montana.

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT

COMMITTEE

BILL HOUSE BILL 239

DATE 1-25-83

SPONSOR HEMSTAD

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Howard Schwartz Committee On Local Gov't
 Address Missoula Date 7/12/82
 Representing Missoula County Commission Support ✓
 Bill No. HB 240 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. County ~~needs~~ ^{needs} greater ability to zone unincorporated portions of county, especially in urban area
2. This bill, even as proposed to be amended, would make it easier to implement Comprehensive Plan & protect community at large.
3. The County & City of Missoula have not pursued extra territorial zoning by the City because of legal ambiguities and the reluctance of the city to
4. intrude into the commission's authority. City zoning would provide no protect rights whatsoever, and this less protection to landowners than under this bill.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Daniel A. Obermeyer Committee On Log Gov't
 Address 201 W. Spruce, Missoula, 59802 Date Jan 25, 1983
 Representing Missoula County Support X
 Bill No. HB 240 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Zoning is a tool to implement the community's master plan. The plan is a statement of public interest. The 60% protest provision would require a substantial protest to over turn the County Commissioners decision to use zoning to implement the master plan.
2. The 60% protest would actually represent a small portion of the community. The zoning district represents a neighborhood or small number of property owners while the County Commissioners decision represents a community-wide based action.
3. The present protest provision of 40% has stymied efforts of the county to implement the community's master plan through zoning.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

House Bill # 240
Amendments suggested by Representative Bob Ream

1) Page 3, line 5: insert (a) after (6)

2) Page 3, beginning line 8: insert

and/or establishing the zoning regulations for the district,
except as indicated in (6), (b) through (e).

(b) If persons whose names appear on the last completed assess-
ment roll and who represent 25% or more of the freeheld parcels
within such district shall have protested the establishment
of the district or adoption of the regulations, the board of
county commissioners shall call for a referendum on the resol-
ution.

(c) Within 10 days of the close of the protest period, the
board of county commissioners shall poll by registered letter
all persons within the district whose names appear on the last
completed assessment roll regarding approval or disapproval
of the resolution. One ballot shall be mailed for each parcel
within the district. Each ballot shall indicate the names of
the persons qualified to cast the ballot. The ballot shall
include an explanation of:

(i) the resolution and

(ii) the polling procedure.

(d) Ballots shall be received by the board of county commis-
sioners for a period of 30 days following the polling. Votes
shall be tabulated on a one-vote-per-parcel basis and fractional
votes shall be accepted. Votes shall be secret.

(e) If a majority of the votes tabulated disapprove of the
resolution, the board of county commissioners shall not adopt
the resolution and no further zoning resolution shall be pro-
posed for the district for a period of 1 year.

WITNESS STATEMENT

Name Vito Ciliberti Committee On Local Govt
Address No. 1 Carriage Way Missoula Date Jan 25-83
Representing Rattlesnake Valley Alliance Support _____
Bill No. HB-240 Oppose ✓
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. HB-240 severely limits effective citizen participation in the zoning process. The 40% process, now in law, provides for reasonable citizen input.
2. Zoning once changed, is very hard change; the petition process when passed by 40% of the freeholders only prohibits a zoning change for one year.
3. The petition process, requiring signatures from 40% of the freeholders is equitable because it is very difficult to reach all freeholders. Deaths, divorces, changes of ownership, etc which are not reflected on the tax rolls remain as part of the base calculation in figuring the 40%.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name WM. H. (BILL) CLARKE Committee On LOCAL GOVT.
 Address 5900 RATTLESNAKE DR. Date 1/25/83
 Representing _____ Support _____
 Bill No. HB 240 Oppose HB 240
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- ① HB 240 IN CHANGING TO 60% FRUSTRATES ONLY MEANINGFUL CHANCE FOR CITIZEN INPUT; SO WOULD ANY CHANCE EVEN APPROACHING 50% MAKE MEANINGFUL INPUT DIFFICULT.
- ② EXISTING 40% PROVISION REFLECTS (OR CAN REFLECT) MAJORITY WILL WIN THE DIFFICULTIES IN GATHERING PETITION SIGNATURES IS TAKEN INTO ACCOUNT, AND THEREFORE IS FAIR AS IT STANDS.
- ③ A PROPOSAL PRIMARILY DESIGNED TO ZONE UNZONED LAND, AS HB 240 STATES IN ITS TITLE, SHOULD NOT INCLUDE RE-ZONINGS, WHERE PEOPLE HAVE BOUGHT WITH EXPECTATIONS AS TO ALLOWED DEVELOPMENT AND THAT IT WILL NOT BE UNDUPLY DIFFICULT TO
- ④ PROTECT THEIR ZONING.
 - ↳ DIFFICULTIES IN FORGERING
 - INABILITY TO CONTACT FREEMOLDERS (VACATION, ABSENTEE, SICK, ETC)
 - DIFFICULTIES FOR MANY TO SIGN WHEN SUCH OPPOSITION THREATENS THEIR FRIENDS, JOBS, (SINCE THE BILLING AS IT WOULD BE IS NOT SECRET)
 - COUNTY RECORDS PROBLEMS
 - RECORDS CLOSE BEFORE YOU KNOW YOU WILL NEED TO RELY ON THEM
 - INDIVIDUALS INURE TO DEVELOPERS BENEFIT SINCE EVERY SIGNATURE YOU FAIL TO GET IS COUNTED AS FOR A ZONING CHOICE

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

5900 Rattlesnake Dr.
Missoula, MT 59802
Jan 18, 1983

Representative Stella Jean Hansen
Capitol Station, Box 50
Helena, MT 59604

Re: House Bill #240, introduced by you, to change the protest provision for the adoption or amendment of zoning regulations from 40% to 60% of the freeholders.

Dear Rep. Hansen:

I talked with you by phone last evening concerning the Bill above, and you suggested that I follow up and write my objections to you. Since then I have received a copy of the Bill from Mr. Howard Schwartz. I remain opposed to the Bill even if the 60% is changed to 51%, and I am opposed to its including amendments to zoning with the adoption of zoning. I explain below.

[1.] The Bill is drawn more broadly than its title indicates, and more broadly than necessary.

I understand, through one who talked with Mr. Schwartz, that the county only wants to make it easier to zone unzoned land. However, inserted where it is, the change from 40% to 60% also makes it easier to force changes in zoning designations. Protesting the adoption of any zoning at all is a different animal from protesting the amendment of existing zoning. When there is no zoning, it is difficult to say that one buys land with legitimate expectations on limits to development that can occur there. However, people very definitely buy into areas which have zoning with expectations that the zoning will continue, and that it will not suddenly be made more difficult to protect that zoning.

[2.] A change from 40% to 60%, or even 51%, does not mean that "the majority" would rule rather than "a minority" now.

Given the realities of petition gathering, a change to 60%, or even 51%, would mean that many, many more than a simple majority would be needed to stop a proposed action.

In gathering petitions, the base number from which, in fact, signatures can be received will be substantially smaller than the base number which the county will use in calculating whether the protest percentage has been met:

(a.) There are people who are usually not at home, and cannot be contacted with repeated attempts: vacations, unusual work hours, divorces, sickness, and absentee freeholders, just to name a few.

(b.) There are those who disagree with the zoning change but will not sign a petition to that effect: some people just don't like petitions (one couple whose son had a military security clearance would not sign because they were afraid that opposing any governmental body in a petition would jeopardize his clearance); others will not sign the particular petition, though they are against the change, because they are known to and pressured by the developer, or because they work for power companies, consulting firms, or other development interests and are afraid for their jobs.

(c.) Although the petition gatherers will be held strictly accountable for any signatures they fail to get, the county clerk does not have adequate records during the protest period which can point gatherers to the signatures they need:

(1.) In our case, we were told that it was "taxpayers" whose signatures we needed, but after we were done, the county decided that "freeholders" included anyone with an equity interest in the property, and so signatures of purchasers and sellers under contracts for deed were needed (this affected quite a number of the core group against the zoning change, but not knowing that, they did not have their sellers' signatures).

(2.) The county records are not drawn to reflect zoning boundaries, and so the gatherer must do all his own research to determine the district boundaries. There are many opportunities for error.

(3.) Inaccurate county records control over realities. If the freeholder as shown on the records is dead, but the records have not been changed to show the new heir, the records control, even if we have the heir's signature.

(d.) There are situations where you have the land pinpointed, but you don't know whose signature to get, or there isn't time, or you can't get to talk to them. For instance, the land is owned by a church, a school, the highway department, a park district, a corporate business (even a nursing home).

(e.) Even the present situation seems to be stacked in favor of the developer, and the 40% figure is realistic considering the uphill fight of the petitioners.

For instance, only one man, the property owner/developer, is necessary to initiate a zoning change, but 40% of the freeholders in the district have to be galvanized and motivated to sign a petition to stop the change. In all of the public hearings leading up to the change, there were vastly more people protesting the change than ever supported it, but we were largely ignored by the governing bodies. For the developer, his expenses and time

Rep. Hansen, Jan. 18, 1983, p. 3

are all deductible, but the freeholders trying to stop the change get to deduct nothing and have to work on their free time in the evenings or on weekends. Even the county employees get paid for verifying the signatures and determining the base number. The petition gatherers have to talk to literally hundreds of freeholders to get the signatures, and many return trips must be made, whereas the developer never need talk to the homeowners unless he wants to solicit withdrawals of signatures. We are required to have detailed, individual contact, whereas the developer is allowed to work in generalities.

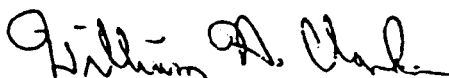
[3.] Summarizing my point: I accept the principle, which I think you are trying to implement in changing the percentage to even 51% that only a majority should be able to stop a zoning change. But you don't more properly implement that principle in changing from the present 40%. The reason is because the 40% signatures you get on a successful petition do not represent all those who oppose the zoning change, rather it represents only those who not only oppose the change, but also who you can locate and get to talk to, who can or will sign a petition on the matter, and who the county will agree are the proper freeholders. In short, there are many more who oppose the change than ever get to appear on a petition, and therefore the 40% in all likelihood reflects majority will.

I think reasons such as these propelled the legislature which originally picked the 40% figure to do so.

+++

I am authorized to say that my comments represent those of the neighborhood association of which I am an officer.

Cordially,



William H. Clarke
Vice-President, Rattlesnake Valley
Alliance, Inc.
721-6606

Cc.: Rep. Bob Ream
Capitol Station
Helena, MT 59604

WITNESS STATEMENT

Name Thomas L. Finch Committee On Local Gov't
Address 415 E. Beckwith Missoula Date Jan. 25, 1983
Representing University Area Home-owners Association, Inc. Support _____
Bill No. HB 240 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Excludes property owners from affairs vital to their interest by making protest process impossible to operate
2. This is enabling legislation that will affect cities as well counties only as identified in the bill.
3. While the counties may have a legitimate concern about unzoned lands, there are better ways to deal with them than to simply exclude
4. the people from the process.

Suggested amendments are last minute patchwork on a bad bill.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT

COMMITTEE

BILL HOUSE BILL 240

DATE 1-25-83

SPONSOR HANSEN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

February 2, 1983

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 126

first reading copy (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PREPARATION OF ANNUAL ASSESSMENT ROLLS IS A COST OF THE IMPROVEMENT FOR A RURAL SPECIAL IMPROVEMENT DISTRICT; ALLOWING COUNTIES TO ADD A MAXIMUM OF 3 PERCENT OF THE PRINCIPAL TO ANY BOND OR WARRANT ISSUED TO COVER INCIDENTAL OR GENERAL FUND EXPENSES; ALLOWING COUNTIES TO INCLUDE A MAXIMUM OF 5 PERCENT OF THE PRINCIPAL AMOUNT AS A COST OF RURAL SPECIAL IMPROVEMENT DISTRICTS TO BE DEPOSITED IN THE REVOLVING FUND; AMENDING SECTIONS 7-12-2153 AND 7-12-2182, MCA."

Respectfully report as follows: That HOUSE Bill No. 126

BE AMENDED AS FOLLOWS:

1. Page 3, line 20.

Following: "of"

Strike: "the revolving fund"

Insert: "the owners of record of the property of the district in direct proportion to the original assessment on each piece of property"

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

January 26, 1983

MR. **SPEAKER**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **239**

first reading copy (**white**)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE DISTRIBUTION
PROCEDURE OF FOREST RESERVE MONEY; AMENDING SECTION 17-3-211, MCA;
AND PROVIDING AN EFFECTIVE DATE."**

Respectfully report as follows: That **HOUSE** Bill No. **239**

DO PASS

STANDING COMMITTEE REPORT Page 1 of 2

January 26, 1983

MR. **SPEAKER**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **240**

first reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE PROTEST PROVISION FOR THE ADOPTION OF COUNTY ZONING DISTRICTS FROM 40 PERCENT TO 60 PERCENT OF THE FREEHOLDERS IN THE DISTRICT; AMENDING SECTION 76-2-205, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **240**

AMEND HOUSE BILL 240 AS FOLLOWS:

1. Title, line 6.

Following: "TO"

Strike: "60 PERCENT OF THE FREEHOLDERS"

Insert: "A MAJORITY OF THE OWNERS OF PARCELS"

2. Title, line 7.

Following: line 6

Insert: "PROVIDING FOR A METHOD OF PETITIONING FOR A SECRET VOTE ON THE QUESTION BY SUCH OWNERS;"

3. Page 3, line 8.

Following: "district"

Strike: ","

Insert: ", except as provided in subsection (7)."

DEKISSY