

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
February 3, 1983

The meeting of the Local Government Committee was called to order by Chairman Kathleen McBride, February 3, 1983, at 12:30 p.m. in Room 224A of the Capitol Building. All members were present except Reps. Neuman and Vinger, who were absent.

HOUSE BILL 426

REP. BERTELSEN, sponsor. This bill implements the requirement that a vote be taken every ten years on whether to establish a study commission to examine a local government's form of government (EXHIBIT 1).

PROPONENTS:

GEORGE BOUSLIMAN, representing Urban Coalition, stated it is necessary to comply with the new Constitution and he urged that the Committee give this bill a do pass.

ANN MULRONEY, League of Women Voters supported this bill.

DEBBIE WILLIAMS, Montana League of Cities and Towns, also supported this legislation. She stated that it promotes more effective economical government by including citizens in the choice of their governments, giving them options to make.

REP. BERTELSEN closed.

QUESTIONS:

REP. PISTORIA: When they had the last study commission in 1976, did the citizens run for the study commission. Would it be the same procedure in 1984.

REP. BERTELSEN: It would with a few minor changes.

REP. SALES: Would the election deciding whether or not you are going to go through the review process, occurring every ten years, meet the requirements of the Constitution. He thought the Constitution said you had to be reviewed every ten years.

CHAIRMAN McBRIDE: That was the case until the Constitutional amendment passed in 1979. The people voted and passed a change requiring a vote as to whether or not to have a study and it is that change that this bill is implementing.

REP. PISTORIA: The community would have to put it to a vote whether they are going to have a study commission and that would come up when?

REP. BERTELSEN: 1984.

CHAIRMAN McBRIDE: What is the impact if this bill does not pass?

REP. BERTELSEN: Referred the question to LEE HEIMAN who stated it may end up with the Supreme Court mandating the petition process or striking down a repealer in the former law to implement the Constitution.

REP. BERTELSEN: We do not have a proper process unless this bill passes.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 426.

HOUSE BILL 367

REP. BERGENE, sponsor. This bill proposes an added option to the way a question can be put on the ballot whenever there is an alternate form of government proposed in any municipality in the county. The bill is an act to provide that the governing body of a local government may, by resolution, call for an election on the adoption of an alternative form of local government. There are some very good reasons why we should consider the idea of a resolution as well as the petition process.

PROPONENTS:

GEORGE BOUSLIMAN, representing Urban Coalition, stated it does give the governing body one of two choices in putting changes of local government before the voters. It could either be done through the petition process or through a resolution or ordinance of the governing body. There are two sets of procedures on the books now by which local governments can change their forms of government. One of them applies only to counties. The second one, which would be amended by this bill deals with counties, cities, and towns. The significant thing is that the county bill allows county commissioners to put changes of government before the voters by resolution so there is precedent to what is being proposed here. The principal purpose is to give citizens in towns, cities, and counties an opportunity, not necessarily to change their form of government, but to vote on self-government powers. Most local Montana governments operate under a general form of government. They can only do those things that are authorized by the Legislature. If it was easier to get self-government issues before the voters, he suspected that a lot

of communities would opt for self-government powers. That would have a direct effect of reducing the burden on the Legislature. He urged passage of this bill.

ANN MULRONEY, representing the League of Women Voters, stated that the League is pleased to support HOUSE BILL 367 (EXHIBIT 2).

OPPONENTS:

VERA CAHOON, representing the Missoula County Freeholders, stated that the Constitution allows adequate provisions for placing the issue on the ballot. The petitioning process will tell the government whether the people really want this form of government. The people need the petition process in order to learn. She urged that the Committee not pass this bill.

DAVID McCLAY, Missoula, stated he would oppose any change in the petition process that would give the elected officials an opportunity to get their proposition on the ballot without proper consideration of the people. He opposed HOUSE BILL 367.

TINA FAUCETT, Missoula, stated that the petitioning process must be saved for the people according to the Federal Constitution (EXHIBIT 3).

REP. PISTORIA stated he did not want to deprive people of constitutional rights of voting for the petition process.

JULIE HACKER, stated there is enough burden put on the people by the government at the present time. The people should seek from the government a change--not government imposing a change--and put it on the ballot. She is opposed to HOUSE BILL 367.

REP. BERGENE, in closing, stated either way--petition or resolution--goes to the electorate and it is subject to ratification of the voters.

QUESTIONS:

REP. SALES: What are the petition requirements?

REP. BERGENE: Most are 15% of the electorate that voted in the last general election.

REP. SALES: Some of them are more than that.

REP. BERGENE: When Great Falls changed to manager-commission form, it was 25% of the electorate.

Page 4

Minutes of the Meeting of the Local Government Committee
February 3, 1983

REP. SANDS: In the case of county-municipal consolidation, who would adopt this resolution?

GEORGE BOUSLIMAN: It would require a resolution if that were the procedure employed by both bodies--the board of commissioners and the municipality involved.

REP. HANSEN: Would this allow local governments to do a little manipulating?

GEORGE BOUSLIMAN: It could work both ways. In the ultimate analysis, it is the voters who are going to decide if they are going to change the form of government.

REP. SANDS: Where, in this bill, does it require the approval of both bodies--county and municipal?

GEORGE BOUSLIMAN: He thought it was found on page 5, section 3. He stated it is clearly intended to require that if consolidation is the issue, it would require the approval of both governing bodies.

REP. KITSELMAN: Could this be put before the people every election?

GEORGE BOUSLIMAN: There is no prohibition against that.

REP. KADAS: What is wrong with having locally controlled government?

TINY FAUCETT: The officials are elected to govern us--not to change the form of government.

REP. WALLIN: Would it be easier to put the pressure on the local officials to call for an election than it would be to carry a petition of 15%.

GEORGE BOUSLIMAN: The answer would depend on the community.

Written testimony is attached (EXHIBIT 4).

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 367.

HOUSE BILL 348

REP. HOWE, sponsor. This bill is an act to provide for the nonpartisan election of county superintendents of schools and county clerks.

PROPONENTS:

REP. VINCENT stated that the reason this bill was introduced was to give the community and the Legislature time to think

about the question of partisan and nonpartisan for office. He presented several questions: (1) Does the partisan nature of these elections help produce better qualified office holders; (2) Would nonpartisan elections for these positions tend to focus more attention on the professional qualification of the candidates; and (3) Does the partisanship involved here play a beneficial role in these partisan elections as they are presently conducted. He stated these two offices lend themselves to those kinds of questions better than others. The Office of County Superintendent and County Clerk have specific tasks that demand specific qualifications. It was felt that we would have better elections for these positions if qualifications and specifications were addressed nonpartisan.

BARBARA MCGREGOR, Billings, stated we need politics at the state and the national level but she could think of no decisions that needed to be reached on the basis of a party at the local level. She felt this law should be passed.

OPPONENTS:

RICHARD TREWISE, County Superintendent of Lewis and Clark County, appeared in opposition to HOUSE BILL 348. He disagreed with REP. VINCENT concerning the two particular offices being addressed. He stated that county auditor, treasurer, or assessor may be more eligible for nonpartisanship than superintendent of schools (EXHIBIT 5).

DARLENE HUGHES, Clerk and Recorder, Hamilton, asked what will happen with consolidation of superintendent of schools and the treasurer. Would the treasurer run nonpartisan? She would have to run as a party for treasurer. She said it would have to be resolved before anything could happen with this bill (EXHIBIT 6).

CARL DONOVAN, Great Falls, wanted to go on record as opposing HOUSE BILL 348.

REP. HOWE closed.

QUESTIONS:

REP. SWITZER asked BARBARA MCGREGOR if she thought there was a tendency to stimulate interest in these contests by their being partisan. She stated the interest should be from the issues.

REP. SWITZER asked her if she felt the election interest was high enough that it doesn't need any additional stimulation? She stated the general attention is probably apathy. If they did not register as a Republican or a Democrat, the voters would look more closely at the candidate and his qualifications.

REP. KITSELMAN: Is it not the job of county central committees to line up candidates for local office? If you remove that partisanship from those county offices, is it not likely that you will have less partisanship by some groups ensuring that we have candidates on the ballot.

REP. BERTELSEN said that DARLENE HUGHES brought up a valid problem and asked REP. VINCENT if he could submit an amendment to take care of that problem.

REP. VINCENT: It would be his preference that the bill lives or dies as is.

REP. HANSEN: Do the candidates have to make the choice of whether to run on the Democrat or Republican ticket? Wouldn't it be better to address that problem with a closed primary.

REP. VINCENT: No.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 348.

EXECUTIVE SESSION
HOUSE BILL 426

REP. BERTELSEN, sponsor. This bill implements the requirement that a vote be taken every 10 years on whether to establish a study commission to examine a local government's form of government.

REP. KITSELMAN: Moved HOUSE BILL 426 DO PASS.

LEE HEIMAN: We have a technical amendment on this bill. We left out a date for the primary filing. On page 4, line 15, following "nomination", insert: "not later than 60 days before the date of the election".

REP. BERTELSEN: Moved the amendment be adopted. It PASSED UNANIMOUSLY.

REP. KITSELMAN: Moved HOUSE BILL 426 DO PASS AS AMENDED. It PASSED UNANIMOUSLY with REPS. DARKO and SCHYE voting yes by proxy.

HOUSE BILL 348

REP. HOWE, sponsor. This bill provides for nonpartisan election of county superintendents of schools and county clerks.

REP. KADAS: Moved HOUSE BILL 348 DO NOT PASS.

The motion was voted on and PASSED with REP. DARKO voting yes by proxy and REPS. SANDS, KITSELMAN and SCHYE voting no.

HOUSE BILL 189

REP. BENGTON, sponsor. This bill discusses consolidation of services.

REP. SANDS: Moved that this bill be brought back to Committee and reconsidered. He stated that in fairness to the people who were not there, he would have no objection to deferring consideration of the previous action to another time.

CHAIRMAN McBRIDE said action would be taken on this bill at 12:00 Saturday, February 5.

The Committee adjourned at 2:10 p.m.

Kathleen McBride

CHAIRMAN KATHLEEN McBRIDE

Joni Brust

Secretary

Ex 1
HB 42

TO: The House Local Government Committee

FROM: Lee Heiman, Committee Counsel

DATE: February 3, 1983

RE: Summaries of House Bills 348, 367, and 426

HB 348 (Vincent). Provides that county superintendents of schools are to be elected on a nonpartisan ballot.

HB 367 (Bergene). Provides that the governing body of a local government by resolution may submit a question on a change in the form of government to a vote. Currently the question can be put to a vote only by petition of the electorate.

HB 426 (Bertelsen). Implements the requirement that a vote be taken every 10 years on whether to establish a study commission to examine a local government's form of government. If authorized by the voters at the primary election this spring, a study commission would be elected at the general election this November. The commission would receive the equivalent of one-mill of support from the local government -- this may be partially provided by the local government in in-kind services. The local government is authorized to levy up to one mill for the study commission.

The study commission would hold hearings and prepare a report recommending either some change or no change in the government. An election on the change must be held no later than the general election in 1986.

The bill is applicable for calling for an election on whether to have a study commission each 10 years as required by the constitution. The bill also provides for such an election if the local government is petitioned to call the election or if they by resolution call an election.

VISITOR'S REGISTER

HOUSE _____ LOCAL GOVERNMENT _____ COMMITTEE _____

BILL HOUSE BILL 426

DATE 2-3-83

SPONSOR REP. BERTELSEN

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
<i>Hacker</i>	<i>Bonner mt</i>	<i>self</i>	X	X
<i>A. Hacker</i>	<i>Bonner, MT</i>	<i>self</i>	X	X
<i>M Hunter</i>	<i>Missoula Mont</i>	<i>self</i>	X	
<i>Mary Cahoon</i>	<i>Bonner</i>	<i>mta co grubbers</i>	X	
<i>John Wittenberg</i>	<i>Missoula</i>	<i>self</i>	X	
<i>George Buschman</i>	<i>Helena</i>	<i>Urban Coalition</i>	X	
<i>Tom Jensen</i>	<i>Clinton</i>	<i>self</i>	X	
<i>Mike Wand</i>	<i>Bozeman</i>	<i>self</i>	X	
<i>Deborah Williams</i>	<i>Helena</i>	<i>MT League of Cities</i>	X	
<i>Naris Shepherd</i>		<i>MT Co</i>	X	
<i>Ann Mulrony</i>	<i>Helena</i>	<i>League of Women Voters</i>	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Keren Cahoon Committee On Local Govt
 Address 502 Pte - Bonner Date Feb 3/83
 Representing Mslw Co Truckers Support _____
 Bill No. HB-367 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Constitution provides adequate provisions for placing the issue on the ballot
2. Other issues of less or equal serious nature must be petitioned onto the ballot
3. such as voter initiatives, amendments to the election act
4. Petitioning provides learning exp. & provides needed voter information on a 1-to-1 basis
 Voters will let you know during the petitioning process if they want to get for this change -
 Saw the costly election

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

I out of 10 will be performed without petitioning process

WITNESS STATEMENT

Name Ann Mulvaney
Address 700 Power, Helena
Representing League of Women Voters
Bill No. HB 367

Committee On Local Gov't
Date Feb 3, 83
Support X
Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The League of Women Voters is pleased to support HB 367. Like so many individuals and groups we have been working since the 60s
2. to provide a framework of state laws which will enable local governments to respond to rapid change and increasing demands. Our local government statutes providing for alternate forms
3. of local government are the key to this ability to respond to change. Local elected representatives should be able to ask us to consider alternative
4. government structures. Statutes do not now give them this opportunity yet they are the people who daily confront the problems of new federalism and an increasingly demanding electorate. This bill keeps the responsibility for deciding where it should lie - with us. It correctly extends to our elected representative the responsibility for asking us to do so

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

WITNESS STATEMENT

Name Jina Fausett Committee On Local Gov.
 Address Box 625 Date Feb. 3, 1983
 Representing myself Support _____
 Bill No. 367 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Why are we faced with this legislation to undermine the petition process? In fact
2. it is a personal reason in counties pressing for charter consolidation
3. gone. This is a real misrepresentation of the people. Petitioning process
4. must be saved for the people according to the Federal Const.

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

Observer's
WITNESS STATEMENT

Name Laura Brown Committee On Local Govt
 Address 501 W. Pittman Date 2-3-82
 Representing _____ Support X
 Bill No. HB 367 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *Changes in government form can be made by petition or by resolution by existing governing bodies because the ultimate decision is made by the vote of the people.*
2. *Amendments to the U.S. Constitution can be made both ways; why not on the local level?*
- 3.
- 4.

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 367 _____

DATE 2-3 _____

SPONSOR BERGENE _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
R. Backer	Bonner mt	self		X
A. Backer	Bonner, mt.	self		X
M. Hunter	Missoula Mt	self		X
Theresa Cabon	Bonner	Msle Co. Truckholders		X
John Myttenbe	Missoula Mt.	self		X
David MacClary	Helena	self		X
Jean Fayest	Helena	self		X
Gene Baulman	Helena	Urban Coalition	X	
Mike Ward	Bozeman	Self	X	
Ann Mulrooney	Helena	League of Women Voters	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name Richard Treise Committee On Local Govt
Address 316 N Park Helena Date 2-3
Representing MT Assoc. Co Supts Support _____
Bill No. HR 348 Oppose
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Bill is discriminatory, why these two offices
2. what about combined offices. one half non-partisan?
- 3.
- 4.

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

WITNESS STATEMENT

Name Darlene E Hughes Committee On Local Government
376
Address P.O. Box 5002 Hamilton, Mt Date 2-4-83
Representing Clerk + Recorder - self Support _____
Bill No. 348 Oppose ✓
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *What happens when the office of Supt. of Schools is consolidated with Treas. or some other office*

2.

3.

4.

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

STANDING COMMITTEE REPORT

February 3, 1983

MR. **SPEAKER**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **348**

first reading copy (**white** color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE NONPARTISAN ELECTION OF COUNTY SUPERINTENDENTS OF SCHOOLS AND COUNTY CLERKS; AMENDING SECTION 7-4-2203, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **348**

DO NOT PASS
HOUSE

STANDING COMMITTEE REPORT

February 5, 1983

MR. **SPEAKER**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **367**

first reading copy (white color)

A BILL FOR AN ACT ENTITLED; "AN ACT TO PROVIDE THAT THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY BY RESOLUTION CALL FOR AN ELECTION ON THE ADOPTION OF AN ALTERNATIVE FORM OF LOCAL GOVERNMENT; AMENDING SECTIONS 7-3-123, 7-3-141 THROUGH 7-3-148, 7-3-150, 7-3-151, AND 7-3-158, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **367**

DO NOT PASS
HEREIN

STANDING COMMITTEE REPORT

February 3,

19 83

MR. **SPEAKER**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **426**

first reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT ARTICLE XI, SECTION 1(2), OF THE MONTANA CONSTITUTION BY PROVIDING FOR ELECTIONS ON THE QUESTION OF REVIEW OF LOCAL GOVERNMENT AND PROCEDURES FOR THE ESTABLISHMENT AND FUNCTIONING OF LOCAL GOVERNMENT STUDY COMMISSIONS AND FOR THE IMPLEMENTATION OF THEIR RECOMMENDATIONS; AMENDING SECTIONS 7-3-143 AND 7-3-151, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **426**

BE AMENDED AS FOLLOWS:

1. Page 4, line 15.

Following: "nomination"

Insert: "not later than 60 days before the date of the election"

AND AS AMENDED

DO PASS.