

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE  
February 12, 1983

Chairman Kathleen McBride called the Local Government Committee to order on February 12, 1983, in Room 224A of the Capitol Building, Helena, Montana at 8:30 a.m. All members were present.

EXECUTIVE SESSION  
HOUSE BILL 129

REP. KITSELMAN, sponsor. This bill is an act to amend and clarify terminology in Section 7-1-114, MCA, relating to mandatory provisions affecting a local government with self-government powers.

REP. KITSELMAN: Moved DO PASS HOUSE BILL 129.

REP. SANDS: Why was zoning left out of the self-government idea initially?

REP. SALES: It is a sensitive subject because it does give only guidelines.

CHAIRMAN McBRIDE: Why strike zoning?

REP. KITSELMAN: What happens under present zoning is that if you change, that's it, until you apply for another change. What this will do is if a person wants to develop a condo, this allows some time that the developer can seek new zoning. If he doesn't build, then it goes back to the original zoning.

REP. SANDS: If this passes, you could write a zoning ordinance by a simple majority?

MR. THIELAN, Billings: Yes, they could write a basic law that could provide for a zoning change by a simple majority or it could provide that it be fore more than a simple majority. I would point out that in our city charter, we have many more restrictions on property taxes than exist in state law. There have been many more laws written in Montana to restrict cities than to expand them.

Question was called and the motion CARRIED with REPS. SALES, SANDS, VINGER, SCHYE, NEWMAN, SWITZER and HAND voting no.

HOUSE BILL 306

REP. ERNST, sponsor. This bill would allow certain local government entities to restrict audit report publication to a statement concerning availability.

REP. BERTELSEN: Moved DO PASS HOUSE BILL 306.

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REP. HAND: Moved a substitute motion DO NOT PASS HOUSE  
BILL 306.

REP. BERTELSEN: These audits that come out in the newspaper  
are so involved that unless you are willing to read them  
carefully, you are going to miss everything. I think it is  
just a waste of money to the school district.

REP. WALLIN: I will move the amendment requested to send a  
copy of the audit to the newspaper so they may use it if  
they like.

Question was called and the motion CARRIED UNANIMOUSLY.

REP. KADAS: I think this is a good bill because no one  
does pay any attention to these.

REP. HAND: These little publications are going out of  
business like crazy and I don't think it hurts to let the  
public know it is there.

REP. KITSELMAN: These publications are available in the  
library.

Question was called and the motion DO NOT PASS AS AMENDED  
FAILED with four members voting yes (REPS. PISTORIA, HAND,  
SCHYE and VINGER) and fourteen members voting no (REPS.  
BERGENE, BERTELSEN, DARKO, HANSEN, HOLLIDAY, KADAS, KEENAN,  
KITSELMAN, NEUMAN, SALES, SANDS, SWITZER, WALLIN and  
CHAIRMAN McBRIDE). The motion REVERTED to original motion  
of DO PASS AS AMENDED.

#### HOUSE BILL 120

REP. WALDRON, sponsor. This act would provide for state  
funding of the operational expenses for district courts,  
including district court staff, court reporters and their  
staff.

CHAIRMAN McBRIDE: Appointed REP. WALDRON, BERTELSEN and  
KADAS to a subcommittee to study HOUSE BILL 120 and report  
back.

#### HOUSE BILL 477

REP. WALDRON, sponsor. This would amend county and municipal  
budget laws to allow the transfer of appropriations  
within funds; deleting restrictions on transfer of appropri-  
ations between and among expenditure classes.

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REP. PISTORIA: Moved DO PASS HOUSE BILL 477. Does this mean that you take water and sewer funds and use it for anything?

CHAIRMAN McBRIDE: It is within any individual fund - you can't take it out of water and put it in sewer.

REP. HAND: This would all have to be with the approval of the governing body?

CHAIRMAN McBRIDE: Yes.

Question was called and the motion that HOUSE BILL 477 DO PASS CARRIED with REPS. VINGER and PISTORIA voting no.

#### HOUSE BILL 495

REP. HANNAH, sponsor. This bill would provide a term of four years for appointed city judges.

LEGAL COUNCIL: The amendments would strike "provide a term of four years for appointed" and insert: "to clarify filling a vacancy in the offices of" and "must be filled as provided in 7-4-4112."

REP. NEWMAN: Moved the amendments.

Question was called and the motion CARRIED UNANIMOUSLY.

REP. VINGER: Moved TO PASS AS AMENDED HOUSE BILL 495.

Question was called and the motion CARRIED UNANIMOUSLY.

#### HOUSE BILL 538

REP. SANDS, sponsor. This bill would reduce the vote necessary to effect a change in zoning regulations.

REP. HAND: Moved DO PASS HOUSE BILL 538.

REP. SANDS: If anyone would like to make a zone change, it can be overturned by a 3/4 majority of the city council. This bill would change it to 3/5 - a small change but it would make zone changing easier.

CHAIRMAN McBRIDE: How many members on the city council?

REP. SANDS: Ten.

REP. KITSELMAN: The problem is, it is difficult to have all ten present and if you don't have 100% of the people, it becomes difficult to override a protest. It takes 8 to make 3/4 of 10.

REP. SWITZER: How many regularly attend the council meetings?

AL THIELAN: We average 8 or 9 and often have 10. It is 3/4 of the "total" council. If two people vote against it and one is gone, we have a lot of 7-3 votes.

REP. KADAS: One possibility would be to change it to 2/3 and that way your 7-3 vote would win.

REP. NEWMAN: I move we amend the bill to 2/3 of all members present. I am concerned about property rights.

REP. SANDS: I am opposed to the amendment. We have gone over this and the 3/5 is reasonable. It has to go through the zoning commission and city planning. You are provided more protection than is really appropriate.

REP. WALLIN: We talk a lot about the neighbors--how about the person who owns the property and wants to do something with it?

Question was called and the amendment FAILED. A roll call vote was taken and seven members voted yes (REPS. DARKO, HANSEN, KADAS, NEUMAN, SALES, SWITZER and CHAIRMAN McBRIDE) and ten members voted no (REP. BERGENE, BERTELSEN, HAND, HOLLIDAY, KEENAN, KITSELMAN, SANDS, SCHYE, VINGER and WALLIN).

REP. SALES: Moved a substitute motion of DO NOT PASS HOUSE BILL 538. I would like to see the law stay as it is.

A roll call vote was taken and four members voted yes (REPS. HAND, NEUMAN, SALES and SWITZER) and thirteen members voted no (REPS. BERGENE, BERTELSEN, DARKO, HANSEN, HOLLIDAY, KADAS, KEENAN, KITSELMAN, SANDS, SCHYE, VINGER, WALLIN and CHAIRMAN McBRIDE). The motion FAILED. The motion reverted to original motion DO PASS.

#### HOUSE BILL 388

REP. HARRINGTON, sponsor. This bill authorizes self-governing counties and self-governing city-county consolidated local governments to regulate gambling within their jurisdictions.

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REP. KITSELMAN: Moved DO NOT PASS on HOUSE BILL 388. We just had a referendum put before the people that was defeated overwhelmingly 2 to 1. It would be a mistake now to go against the wishes of the people.

REP. KADAS: Moved the amendments to include voter approval (EXHIBIT 1).

Question was called and the motion CARRIED UNANIMOUSLY.

REP. KEENAN: I would have to oppose the Do Not Pass motion. Even though in the whole state it was defeated, in that area it was voted for. Basically, you are giving the self government down there the power to the people to initiate a business. It is a business maybe not conducive to the people in all of the state, but to those people, it is conducive.

REP. BERGENE: I would also oppose the motion. This might look like a self-interest bill but so do others. The problems that these areas have now are very unique and as long as it has voter approval, I oppose the motion of Do Not Pass.

REP. KADAS: I am kind of in support of this. I think they should be able to do anything they want to. I would not like to see a lot of casinos come in because that is when we will have impact on the rest of the state. I wonder if you will accept some kind of limitation on this?

REP. KEENAN: They don't want casinos either; but there is a game that is going on now and we are not generating revenue off of it, and the city-counties are concerned about that. As far as putting some regulations to no casinos, I wouldn't have any problem with that.

REP. BERTELSEN: I am very much opposed to this piece of legislation and, undoubtedly, it will be the foot in the door as far as wide open gambling in the state of Montana. The testimony at the hearing showed me that once the industry penetrates the state, it brings with it the kinds of pressure and lobbying that is very difficult to resist. If the people as a whole don't want it, then we should not allow one county.

CHAIRMAN McBRIDE: I have just one question for REP. KEENAN who may be able to clarify it for me. . .I'm hearing what you are hearing that they do not want casino-type gambling; and when it comes right down to it, isn't that the type of gambling that brings in tourist dollars? If you are talking

about smaller type gambling than what people are going to utilize the facilities except the people who live there already? This is something that I kept hearing in the testimony that didn't make any sense to me.

REP. KEENAN: I think when you talk about 21 tables, poker tables, etc., that kind of gambling can generate a lot of money. Punchboards in bars...

CHAIRMAN McBRIDE: My questions is, who in fact are we allowing to do this? Is it the tourist dollar we're after or is it the money of the people in town who are hurting for money anyway?

REP. KEENAN: I think what you would see is what we see when people go to Jackpot. If you realize how many people go to Jackpot, it is amazing how many people in Montana go down just over the border. I wish I had the facts on how many people go down just to play cards and come home on a weekend. I think it's intent is to draw that. Instead of going to Jackpot, they'll come to Anaconda and Butte.

REP. HANSEN: I remember when this issue was before the Legislature before and one of our legislators was approached with a cut on the casinos. They were just waiting for a break in the wall and I see this as that break.

REP. WALLIN: I lived in Montana when we had wide open gambling. From a merchant's viewpoint, it is bad. I have seen the effects on family life and I really oppose it.

A roll call vote was taken and the motion DO NOT PASS PASSED with eleven members voting yes (REPS. BERTELSEN, HANSEN, KADAS, KITSELMAN, SALES, SANDS, SCHYE, SWITZER, WALDRON, VINGER and WALLIN) and six members voting no (REPS. BERGENE, HAND, HOLLIDAY, KEENAN, NEUMAN and CHAIRMAN McBRIDE).

REP. DARKO abstained.

The Executive Session adjourned at 10 a.m.

  
CHAIRMAN KATHLEEN McBRIDE

  
Linda Palmer, Secretary

AMENDMENTS TO HB 388

1. Page 1, line 6.<sup>CAP</sup>

Following: "Gambling"

Insert: "subject to the approval of the electorate"  
<sup>CAP</sup>

2. Page 1, line 17.

Following: "by Ordinance"

Insert: "approved by the electorate in a referendum conducted  
pursuant to 0 7-5-132,"

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# VISITOR'S REGISTER

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## VISITOR'S REGISTER

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Cliff Bridgman  
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