

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

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

SENATE BILL 162

SEN. MAZUREK, sponsor. This bill repeals the requirement for an oath on disclosure of interested persons on a city contract prior to payment. The repealed section:

7-5-4309. Oath of contractor required for payment. No money must be paid to any person claiming under a contract with the council until such person has first filed with the clerk a statement under oath disclosing the names of all persons directly or indirectly interested in the contract or the proceeds or profits thereof and declaring that no persons other than those named are interested and that no person forbidden by this title has any interest in the same.

The problems are: (1) it is not being followed now; and (2) what names are to be included? The auditors are not requiring compliance with this law. It was enacted in 1895. This is not required of county governments. We should clean this off the books.

PROPONENTS:

BILL VERWOLF, City of Helena and the Municipal Clerks, Treasurers and Finance Officers, said this bill was drafted to clean up some of the language and the rules that people have to follow. This section has lain hidden in the law. Most people don't know about it until you look it up and show it to them. Rather than have people violate it, we would rather get rid of it.

OPPONENTS: None

SEN. MAZUREK closed.

QUESTIONS: None

CHAIRMAN McBRIDE closed the hearing on SENATE BILL 162.

REP. SANDS was asked to carry this bill on the floor.

Page 2

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

EXECUTIVE SESSION

SENATE BILL 162

REP. KITSELMAN: Moved HOUSE BILL 162 BE CONCURRED IN.
There were no questions.

The motion that HOUSE BILL 162 BE CONCURRED IN PASSED
UNANIMOUSLY.

REGULAR SESSION

SENATE BILL 178

SEN. VAN VALKENBURG, sponsor. This bill would provide that payments due a deceased county or city employee may be paid to a person that the deceased employee had previously designated to receive the payment. He stated that the state does this when you sign up as an employee. You can say, "In case I die on the job this morning, send my check to my spouse." That authority does not exist in local government.

PROPONENTS: None

OPPONENTS: None

SEN. VAN VALKENBURG closed.

QUESTIONS:

CHAIRMAN McBRIDE: It is my understanding that what is being proposed actually is designed right after the state law as far as the designation of person to receive warrants.

SEN. VAN VALKENBURG: It is my recollection that it is taken out of state statutes.

REP. SALES: If I put down my girlfriend's name instead of my wife's, what recourse does my wife have?

SEN. VAN VANLENBURG: I am not sure she has any. The girl-friend would get the money.

Page 3

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

REP. SCHYE: Wouldn't it be handled the same way as an insurance policy?

REP. KITSELMAN: No, it would not. The beneficiary must have insured interest in you. That can be through a monetary arrangement, an assignment policy to cover death, a partner in a corporation or a lineal descendant.

CHAIRMAN McBRIDE: In looking at the existing statute regarding the designating of a person to receive warrants, under the state law, it is the same. You could designate under state law your girlfriend if you wanted to.

CHAIRMAN McBRIDE closed the hearing on SENATE BILL 178.

EXECUTIVE SESSION

SENATE BILL 178

REP. HANSEN: Moved that SENATE BILL 178 BE CONCURRED IN.

The motion that SENATE BILL 178 BE CONCURRED IN PASSED with REP. SALES voting no.

REGULAR SESSION

SENATE BILL 121

SEN. FULLER, sponsor. This bill allows the Board of County Commissioners to call a special election on the issuance of county general obligation bonds by resolution without requiring a petition for the election.

PROPOSAL:

GEORGE BOUSLIMAN, representing Urban Coalition, said that under current law, the only way a county can put general obligation bond issues before the voters is through the petition process which requires 20% of the registered electorate in the county to sign the petition. Currently, what the counties are after here is the same thing that is allowed cities--the same thing that is allowed school districts. Both have two ways of putting these kinds of questions before the voters--either the petition process or resolution of governing body. It was amended before it got through the Senate. As introduced, it would have required 2/3 vote (two out of three). The Senate amended it to require a unanimous vote.

ROSEMARY TODD, representing Urban Coalition and Gallatin County, stated it would allow them to cut some of the government red tape which they have to go through for general obligation bond issues; it would save time and money involved in the petition process yet it would still preserve the requirement for voter approval before the issue could go. She urged the Committee to give favorable recognition to this bill.

DAVE GORTON, County Commissioner, Billings, said their particular dilemma is the jail. He worked hard to get 10,000 signatures to put the issue on the ballot. From the commissioners' standpoint, we are not concerned with putting a frivolous issue on the ballot. He urged support of SENATE BILL 121.

DAVE GOSS, Billings Chamber of Commerce, said the authority is presently given to school boards and city councils. In many cases, it is the same electorate that put the school board and the city council in and has also elected the county commissioners. They see no reason why one group of an elected body elected by the same people should have restrictions on them than others elected by the same people. He asked the Committee to support this legislation.

DORIS POPPLER, Yellowstone County, expressed support of the bill for reasons stated by Mr. Gorton and Mr. Goss.

OPPONENTS: None

SEN. FULLER closed saying as an example, we had two bond issues on the ballot. The signature process cost \$8,000. He asked support of the Committee on this legislation.

QUESTIONS:

REP. SALES: In the bill we talk about doing away with the petition and then we go on talking about the examination of petition. I am assuming there are still some issues that would require the petition process?

GEORGE BOUSLIMAN: The reason the language stays in the law, this is an optional provision. Counties could, if they wanted to, use the petition process or they could do it by resolution.

REP. BERTELSEN: As I understand it, it still requires 40% of the electorate to be voting at the bond election for the election to be valid.

GEORGE BOUSLIMAN: It would not change that requirement.

Page 5

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

CHAIRMAN McBRIDE: What is your feeling regarding the amendment the Senate suggested to make it unanimous.

SEN. FULLER: I have no problem with that.

CHAIRMAN McBRIDE closed the hearing on SENATE BILL 121.

EXECUTIVE ACTION

SENATE BILL 121

REP. DARKO: Moved SENATE BILL 121 BE CONCURRED IN.

REP. HAND: There are two ways to get an initiative on the ballot if it is a legislative matter--a petition to get the initiative started and the other is to enact a referendum. I see a parallel. I don't see why people should be subject to that.

The motion that SENATE BILL 121 BE CONCURRED IN PASSED with REP. PISTORIA voting no.

REP. BERTELSEN will carry SENATE BILL 121 on the floor.

The meeting adjourned at 1 p.m.

Kathleen McBride
CHAIRMAN KATHLEEN McBRIDE

Janice Brusett
Secretary

(2) When there are sufficient funds in the budget for supplies or equipment, a city or town may, without bid, purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town.

History: En. Sec. 1, Ch. 48, L. 1907; Sec. 3278, Rev. C. 1907; re-en. Sec. 5070, R.C.M. 1921; amd. Sec. 1, Ch. 22, L. 1927; re-en. Sec. 5070, R.C.M. 1935; amd. Sec. 1, Ch. 18, L. 1939; amd. Sec. 1, Ch. 59, L. 1941; and. Sec. 1, Ch. 153, L. 1947; and. Sec. 1, Ch. 139, L. 1949; amd. Sec. 1, Ch. 220, L. 1959; and. Sec. 1, Ch. 26, L. 1963; amd. Sec. 1, Ch. 121, L. 1969; and. Sec. 1, Ch. 371, L. 1971; R.C.M. 1947, 11-1202(part).

7-5-4304. Certain contracts to be submitted to voters. No contract shall be let extending over a period of 5 years or more without first submitting the question to a vote of the taxpaying electors of said city or town.

History: En. Sec. 1, Ch. 48, L. 1907; Sec. 3278, Rev. C. 1907; re-en. Sec. 5070, R.C.M. 1921; amd. Sec. 1, Ch. 22, L. 1927; re-en. Sec. 5070, R.C.M. 1935; amd. Sec. 1, Ch. 18, L. 1939; amd. Sec. 1, Ch. 59, L. 1941; and. Sec. 1, Ch. 153, L. 1947; and. Sec. 1, Ch. 139, L. 1949; amd. Sec. 1, Ch. 220, L. 1959; and. Sec. 1, Ch. 26, L. 1963; amd. Sec. 1, Ch. 121, L. 1969; and. Sec. 1, Ch. 371, L. 1971; R.C.M. 1947, 11-1202(part).

7-5-4305. Prohibition on division of contracts to circumvent bidding requirements. Whenever any law of this state provides a limitation upon the amount of money that a city or town can expend upon any public work or construction project without letting such public work or construction project to contract under competitive bidding procedures, a city or town shall not circumvent such provision by dividing a public work or construction project or quantum of work to be performed thereunder, which by its nature or character is integral to such public work or construction project or serves to accomplish one of the basic purposes or functions thereof, into several contracts or separate work orders or by any similar device. . . .

History: En. Sec. 1, Ch. 183, L. 1971; R.C.M. 1947, 11-1202.1.

7-5-4306. Use of installment purchase contract. (1) Subject to the requirements of subsection (2), when the amount to be paid under any such contract shall exceed \$4,000, the council may provide for the payment of such an amount in installments extending over a period of not more than 5 years; provided that at the time of entering into such contract, there shall be an unexpended balance of appropriation in the budget for the then-current fiscal year available and sufficient to meet and take care of such portion of the contract price as is payable during the then-current fiscal year and the budget for each following year in which any portion of such purchase price is to be paid shall contain an appropriation for the purpose of paying the same.

(2) When such amount is extended over a term of 2 years, at least 40% thereof shall be paid the first year and the remainder the second year. When such amount is extended over a term of 3 years, at least one-third thereof shall be paid each year. If such amount is extended over a term of 4 years, at least one-fourth is to be paid each year. If such amount is extended over a term of 5 years, at least one-fifth is to be paid each year.

History: En. Sec. 1, Ch. 48, L. 1907; Sec. 3278, Rev. C. 1907; re-en. Sec. 5070, R.C.M. 1921; amd. Sec. 1, Ch. 22, L. 1927; re-en. Sec. 5070, R.C.M. 1935; amd. Sec. 1, Ch. 139, L. 1949; amd. Sec. 1, Ch. 26, L. 1947; and. Sec. 1, Ch. 53, L. 1947; and. Sec. 1, Ch. 121, L. 1969; and. Sec. 1, Ch. 371, L. 1971; R.C.M. 1947, 11-1207. Sec. 1, Ch. 139, L. 1949; amd. Sec. 1, Ch. 220, L. 1959; and. Sec. 1, Ch. 26, L. 1963; amd. Sec. 1, Ch. 121, L. 1969; and. Sec. 1, Ch. 371, L. 1971; R.C.M. 1947, 11-1207.

7-5-4307. Sale or trade-in of old supplies or equipment. Old supplies or equipment may be sold by the city or town to the highest responsible bidder after calling for bid purchases as herein set forth for bid sellers, and such city or town may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price.

History: En. Sec. 1, Ch. 48, L. 1907; Sec. 3278, Rev. C. 1907; re-en. Sec. 5070, R.C.M. 1921; amd. Sec. 1, Ch. 22, L. 1927; re-en. Sec. 5070, R.C.M. 1935; and. Sec. 1, Ch. 18, L. 1939; amd. Sec. 1, Ch. 59, L. 1941; and. Sec. 1, Ch. 153, L. 1947; and. Sec. 1, Ch. 139, L. 1949; amd. Sec. 1, Ch. 220, L. 1959; and. Sec. 1, Ch. 26, L. 1963; amd. Sec. 1, Ch. 121, L. 1969; and. Sec. 1, Ch. 371, L. 1971; R.C.M. 1947, 11-1202(part).

7-5-4308. Procedure to modify contract. (1) When it becomes necessary in the prosecution of any work to make alterations or modifications of the specifications or plans of a contract, such alteration or modification must only be made by resolution of the council. Such resolution is of no effect until the price to be paid for the same is agreed to in writing and signed by the contractor and approved by the council.

(2) No contractor must be allowed anything for extra work caused by an alteration or modification unless a resolution is made and an agreement signed as provided in subsection (1). He must not in any case be allowed more for such alteration than the price fixed by such agreement.

History: En. Secs. 4809, 4810, Pol. C. 1895; re-en. Secs. 3280, 3281, Rev. C. 1907; re-en. Secs. 5072, 5073, R.C.M. 1921; re-en. Secs. 5072, 5073, R.C.M. 1935; R.C.M. 1947, 11-1204, 11-1205.

7-5-4309. Oath of contractor required for payment. No money must be paid to any person claiming under a contract with the council until such person has first filed with the clerk a statement under oath disclosing the names of all persons directly or indirectly interested in the contract or the proceeds or profits thereof and declaring that no persons other than those named are interested and that no person forbidden by this title has any interest in the same.

History: En. Sec. 4808, Pol. C. 1895; re-en. Sec. 3279, Rev. C. 1907; re-en. Sec. 5071, R.C.M. 1921; re-en. Sec. 5071, R.C.M. 1935; R.C.M. 1947, 11-1203.

7-5-4310 through 7-5-4320 reserved.

7-5-4321. Grant of franchise — election required. (1) The council must not grant a franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No franchise for any purpose whatsoever shall be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the resident freeholders whose names shall appear on the city or county tax roll preceding such election.

History: (1)En. Sec. 4813, Pol. C. 1895; re-en. Sec. 3290, Rev. C. 1907; and. Sec. 1, Ch. 29, L. 1921; re-en. Sec. 5074, R.C.M. 1921; re-en. Sec. 5074, R.C.M. 1935; Sec. 11-1206, R.C.M. 1947; (2)En. Sec. 1, Ch. 85, L. 1903; re-en. Sec. 3291, Rev. C. 1907; re-en. Sec. 5075, R.C.M. 1921; re-en. Sec. 5075, R.C.M. 1935; Sec. 11-1207, R.C.M. 1947; R.C.M. 1947, 11-1206, 11-1207.

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT

COMMITTEE

BILL **SENATE** 121

DATE March 3, 1983

SPONSOR SENATOR FULLER

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

March 3, 1983

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 121

third reading copy (blue)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A BOARD OF COUNTY
COMMISSIONERS TO INITIATE AND ADOPT A RESOLUTION THAT CALLS FOR
AN ELECTION ON THE QUESTION OF ISSUING COUNTY BONDS; AMENDING
SECTIONS 7-7-2223 AND 7-7-2227, MCA."

Respectfully report as follows: That SENATE Bill No. 121

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

March 3, 1983

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 162

third reading copy (blue)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING THE REQUIREMENT THAT A CONTRACTOR TAKE AN OATH OF DISCLOSURE BEFORE RECEIVING PAYMENT UNDER A CONTRACT WITH A MUNICIPALITY; REPEALING SECTION 7-5-4309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 162

BE CONCURRED IN
DOLASSEK

STANDING COMMITTEE REPORT

March 3,

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MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 178

third reading copy (blue)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A PERSON WHO IS EMPLOYED BY A COUNTY OR MUNICIPALITY MAY DESIGNATE A PERSON TO CLAIM ANY WARRANTS OR PAYCHECKS DUE THE EMPLOYEE ON THE DEATH OF SUCH EMPLOYEE."

Respectfully report as follows: That SENATE Bill No. 178

BE CONCURRED IN

DONALD