

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 25, 1983

The meeting of the Local Government Committee was called to order by Chairman George McCallum on January 25, 1983 at 1:00 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called with all Senators present.

CONSIDERATION OF SENATE BILL NO. 140: Sen. Story, District #37, sponsor of the bill appeared before the committee and gave the following comments. These regulations were put into effect 10 years ago at which time most counties did not have county planning boards and no minimum subdivision regulations. The State did require countywide planning boards and required counties to adopt minimum subdivision regulations. Also, there are other requirements in the Water Quality Division pertaining to sewage, septic tanks, etc. Every time new restrictions or changes have been proposed, they have been preceded by a rash of land subdivisions, not necessarily sales, before the new regulations are in force. When the acreage for subdivisions was increased from 5 to 10 acres, and again from 10 to 20 acres, subdivisions were proposed at twice the rate. Due to the economic situation some of this subdividing has slowed down. Under the \$30 per lot provision, the Department of Health shares this with the county offices that perform the review. After the county review, the Department looks over the decisions of the individual that reviewed the proposal and either agrees or rejects it. They split this \$30, which has been proposed to be increased to \$50 per lot. The intent of this bill is to give those cities and counties that want that authority, to do what they are doing, make the final decision, send a copy to the state and take the money. Sen. Story stated that the "meat" of his bill is Section 3 and went through the subsections under Section 3. He feels there will be far less subdivision reviews by the State. If the Water Quality Bureau can handle it on an emergency basis he believed that with the small amount of subdividing that is currently being done they can continue to do this.

PROPONENTS: Dennis Rehberg, Montana Association of Realtors, supported the bill and presented written testimony which is a part of the minutes. He also submitted a "Subdivision Questions, Final Survey Results", which is also attached. (Exhibit #1) He felt that the present requirements are duplicated on subdivision review and are an unnecessary delay and cost to the people involved. He expressed his hope that the committee concur with this legislation. Mr. Rehberg submitted for the record, a letter and a resolution signed by the Sheridan County Commissioners which is attached to these minutes. (Exhibit #2).

Bill Spilker, representing himself, said that he had been involved, both as an owner and as an agent for others. He felt this was an especially important piece of legislation. They have had very good service from the Lewis and Clark County Sanitarian, however, after the review by the county this all has to be sent to the State office. He felt this is really meaningless and felt the authority granted

under SB 140 would solve that.

H.S. "Sonny" Hanson, Montana Technical Council of the Design Professions, supported this bill. He suggested that there should be something in the bill providing for an appeal from the local review.

Mike Stephens, Montana Association of Counties, supported the bill. He felt that if the counties used this option it would meet some of their needs and suggested that maybe it could be tried for a period and see how it works. He stated his uneasiness with the last comment on the fiscal note concerning "local impact".

Chet Dreher, representing himself, presented the committee with a "Chronology of Securing Approval for an Occasional Sale" which is attached to the minutes. (Exhibit #3). He felt the \$30 might be a little low.

Pat Trusler, representing the Board of Lake County Commissioners, Lake County Land Services and Northwestern Montana Sanitarians Association, gave written testimony to the committee, a copy of which is attached. (Exhibit #4). He also felt the fee might be a little low.

Ralph Knauss, representing himself, agreed with the statements made by Mr. Trusler. He felt first class cities should be allowed to continue review of subdivisions within their jurisdiction. The extension of sewer and water would have to be reviewed by the Department of Health. Engineering services could be contracted out.

John Hollow, Montana Home Builders, was in favor of the bill to the extent that it moved the authority to the local level, however, he had reservations about the setting of regulations. With an amendment requiring statewide regulations, they would definitely support this bill. Since there is to be some initial approval of someone taking on this job, perhaps the Department should approve the person or persons that are going to do it. There should be some immediate mechanism for telling the person wishing the review who is going to be doing it. With these three items, the Home Builders would recommend a do pass on this bill. (Copy of these three items attached).

There were no further proponents.

OPPONENTS: Jeannie Knight, Jefferson-Broadwater County Sanitarian and President of the Montana Environmental Health Association read her written testimony and submitted a copy to the committee which is attached to these minutes. (Exhibit #5) Included in her testimony is a poll of county health departments and health officers as to their feelings about this proposal.

Robert Stevenson, Area Supervising Sanitarian, City-County Health Department, Great Falls, submitted written testimony to the committee, a copy of which is attached to the minutes. (Exhibit #6). Faced with the option of taking on the full load, it would be his

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recommendation to the commissioners not to accept it.

Don Willems, Department of Health and Environmental Sciences, opposed the bill and submitted written testimony. A copy of this testimony is attached to the minutes. (Exhibit #7).

Charles Landman, Montana Environmental Information Center, appeared in opposition to the bill. Copy of his testimony is attached. (Exhibit #8).

Chris Deveny, Lewis and Clark County Health Department, stated that this bill was drafted without the input from people that carry out the law. She recommended that a do not pass come out of this committee as it is now proposed. A copy of her suggestions is attached to the minutes.

Jim McCauly, representing himself and a former sanitary engineer, felt there is not duplication by the county and state. Major subdivisions, which are six lots or more, have always been reviewed at the state level. Duplication only happens when the county is on contract to do the work and the state also does the review. The State does not do the work that the sanitarian performs.

Eugene Regan, Beaverhead County, expressed his opposition to the bill. When the local department has review of the surveys, if there are errors in them and they are brought to their attention, they are chastized. They should be reviewed by an engineer as the county sanitarian is not trained in subdivision review. He felt that most of the counties are contracted with the State to take care of the minor subdivisions, so why change it?

John Dilliard, Madison County, had questions about the setting of the review procedures and regulations. He felt there would be too much variation from county to county. He also felt they would have to increase their staff which would be unnecessary if it was maintained at the state level. He agreed with most that had been said in opposition to SB 140.

There were no further opponents.

In closing, Sen. Story stated he was amenable to any suggestions for improvements to this bill. In answer to some of the objections that were raised, Sen. Story stated that the counties must have met the minimum subdivision requirements but they can have no less and different counties have adopted a different approach, however, there is consistency in the Water Quality Bureau. These must be complied with and are enforceable. As to the fees, this is a real struggle but this is in the Committee on Appropriations whether this bill is passed or not. This bill does not require any county to do it if they don't want to. Also, perhaps the number of lots for a major subdivision should be changed to something higher.

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DISCUSSION OF SENATE BILL NO. 140: Sen. Marbut asked Mr. Stephens how many counties he represented, to which Mr. Stephens replied that he represented 52 county commissioner associations. His views are from the executive committee and they support this bill. He also stated that he felt that he represented the elected county officials in the counties that he does represent.

Sen. Fuller asked Mr. McCauley why he opposed the bill. Mr. McCauley told the committee that many of the proponents felt there was duplication but he did not feel there was. Both the local and state personnel perform different tasks.

Chairman McCallum asked Ms. Knight who she had contacted in her survey. She replied that first she contacted the health departments and health officers. Second, she polled the county commissioners but this is not complete so the figures shown on her survey, which is attached, are from the health departments.

Sen. Thomas asked Ms. Knight how many county commissioners oppose this. Of the returned questionnaires, only four indicated they want local control.

The hearing was closed on SB 140.

CONSIDERATION OF SENATE BILL NO. 202: Sen. Towe, sponsor of SB 202 appeared before the committee and requested that his bill be moved to the Committee on Taxation. There being no objections, the bill was rereferred to Taxation.

CONSIDERATION OF SENATE BILL NO. 255: Sen. Fuller, sponsor of the bill, stated that it was requested by the Montana Association of Counties to authorize the county commissioners to appoint fire district trustees. He had an amendment prepared.

Page 2, line 16.

Following: "district"

Insert: "and nominated by that district at a general meeting".

He felt this might be a saving to the local government by having them appointed.

PROPOSERS: Mike Stephens, Montana Association of Counties, said this was presented at the June convention. The individuals that are interested in serving should be the ones that serve. With this amendment the district will nominate those members.

There were no further proponents.

OPPOSERS: Dave Fisher, Montana Volunteer Firemen's Association, felt that the trustees should be from the fire district. They are the ones that know the needs of the district. They cannot support this bill until there is an amendment to change it. He asked the committee to hold this bill until they have an amendment drafted.

Art Korn, Montana State Volunteer Firemen's Association, said they want them taken from the ranks of the fire departments. They would

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like to have it say they must be members of the fire department and they would go along with the bill.

Clem Duaine, President of the Volunteer Firemen's Association, agreed with the statements by Mr. Korn.

Lyle Nagel, District #3 Vice President, Volunteer Firemen's Assoc., said they have a problem with no definition of size of the board and no length of term of office. Should this bill be passed, what would the effect be on other districts?

There were no further opponents.

In closing, Sen. Fuller stated he was open for suggestions and proposed amendments.

DISCUSSION OF SENATE BILL NO. 255: Sen. Ochsner asked Sen. Fuller why there wasn't a specified number of members in the bill. Sen. Fuller replied that the only reason was that there might be a district where five would be appropriate or it might be three or whatever.

Sen. Story asked if most of these fire districts have their own by-laws that we might be superceding. Sen. Conover replied that in their fire district they wrote their own by-laws and how they were going to operate.

Sen. Marbut felt that the fire district trustees have an awful lot of authority but Sen. Fuller felt that the appointment by the county commissioners would be just as accountable as anyone that is elected.

There being no further questions from the committee, the hearing on SB 255 was closed.

CONSIDERATION OF SENATE BILL NO. 219: Sen. Van Valkenburg, District #50, appeared as sponsor of this bill. This bill would limit the purposes for which county park lands could be leased. This bill was introduced because of a situation in Missoula where a person wished to lease county park land for a sewage drainage system. This land was undeveloped but had been used by the neighbors for ball games, etc. These people had paid for this park land in increased land costs when they purchased their property.

PROPOSERS: Dave Patterson, representing himself, said he had purchased a home right next to this park land and the law stated that it would forever be dedicated to park purposes (Sec. 7-16-2323). He felt it outrageous that anyone could lease, or propose leasing, this land for a drainfield or sewage development. However, he did feel that perhaps mining and private construction could be amended out of the bill.

There were no further proponents.

OPPOSERS: Howard Schwartz, Executive Officer of the Missoula County Commissioners, said that this particular question never came before the commissioners. There was one other item that did concern him and that was the prohibition of swapping land with the city,

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such as trading park land for land that cannot be developed and vice versa.

Joan Posten, Lewis and Clark County Park Board, felt that it could possibly create problems that they currently do not have. She felt that perhaps this could be dealt with on the local level. As to the inclusion of not being leased for "constructing privately owned structures", there is a fire house in the valley where the truck is stored on county owned park land and persons in Lincoln wish to construct a medical clinic on county owned land.

In closing, Sen. Van Valkenburg said he would certainly be willing to try and work out something and would hope the committee could draft some amendments to make this workable.

DISCUSSION OF SENATE BILL NO. 219: Sen. Marbut asked Mr. Patterson if this area was in the Rattlesnake and was he positive it was public land to which Mr. Patterson replied affirmative to both questions. Mr. Patterson said, in answer to Mr. Schwartz's comment that this had never come before the commissioners, that there was not a park board at that time.

Sen. Crippen felt that there could be a problem and urged the committee to not take this too lightly. He thought they could remove the private construction but there is a problem and there has to be some strong restraints on what they can do with this county owned land.

There being no further discussion, the hearing was closed on SB 219.

MEETING ADJOURNED 3:05 p.m.


SENATOR GEORGE MCCALLUM, CHAIRMAN

(Type in committee members names and have 50 printed to start.)

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/25/83

NAME	PRESENT	ABSENT	EXCUSED --
OCHSNER	✓		
CRIPPEN	✓		
HAMMOND	✓		
STORY	✓		
MARBUT	✓		
CONOVER	✓		
FULLER	✓		
THOMAS	✓		
VAN VALKENBURG	✓		
BOYLAN	✓		
McCALLUM	✓		

DATE _____

COMMITTEE ON _____

BILL NO. SB-140

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Ralph A. Krauss	Self	X	
CHET DREHER	SELF	✓	
Rose G. Leavitt	LWV		
Eugene Reagen	Helena		
Donna J. Judd	MT Coal Council		X
Steve Piche	DHES		
Dennis Rehberg	Realtors	✓	
H.S. Hanson	MT. TECHNICAL COUNCIL	✓	
M. Anderson	Uttern		
Pat Trusler	Jobe Co. Inc		X
Ed Zuleger	Missoula Co. Health Dept		X
Don Willem	State Dept. of Health		X
Jim Mc Caulley	self		X
Bob H. Hulse	Self		X
Byron L. Ophers	Indan		
JEANIE HIGHT	MEHA		✓
Christine Deveny	Lewis & Clark County		✓
BILL SPILKER	SELF	X	
Charles Landman	MEIC		✓
Bob Stinson	CASCADE CO		✓
Alec Hansen	LEAGUE OF CITIES	X	
JOHN COOPER	HELENA	X	
Bill Walker	"	X	
Eugene Reagen	Beaverhead County		✓
Jon A. Dillman	Madison County		X
Wavio J.	Wavio J. Dillman		

(Please leave prepared statement with Secretary)

over

DATE _____

COMMITTEE ON _____ BILL NO. _____

BILL NO. _____

VISITOR'S REGISTER

[illegible]

prepared statement with Secretary)

DATE _____

COMMITTEE ON BILL NO. SB 255

BILL NO. SB 255

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
MT KORN	MT ST VOL FIRE ASSOC		✓
Quagire	President		
P. Nagel	MT ST Vol Fire Assoc		✓
	Dist KP		✓
Quagire	MT Vol Fire Assn.		
	Clerk & Recorders	✓	

(Please leave prepared statement with Secretary)

DATE _____

COMMITTEE ON

BILL NO. SB 202

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)



MONTANA ASSOCIATION OF REALTORS®

EXECUTIVE OFFICE
600 NORTH PARK
HELENA, MONTANA 59601
TELEPHONE:
(406) 443-4032

January 25, 1983

r. Chairman, members of the Committee, I'm Dennis Rehberg, representing the Montana Association of REALTORS.

The Association wholeheartedly supports a local option in the Sanitation in Subdivision review.

We are not here debating subdivision review or no subdivision review. We are debating whether both a local agency and a state agency need to review the sanitation portion of the Subdivision and Platting Act.

While it might be argued that the current law allows an option for local review of subdivisions classified as occasional sales and minor subdivisions--final approval authority remains with the State Department of Health. And, accordingly, the state then retains a portion of the \$30 per lot fee.

We believe that government review is absolutely necessary to protect the public health and safety. But, under the current system of dual review, our state and local agencies have created a complex and often duplicative review procedure without any effort to balance the cost of their specific approach against the eventual benefits.

As the law stands, we have found that many of the local reviewing bodies possess neither the expert personnel, the procedures, or even the desire to properly analyze the information contained in a subdivision presentation. But why should they, what incentive do they have when the Department of Health in Helena is willing to not only review all their work, but also take all the legal responsibility. Who in this committee wouldn't like to have someone sitting next to them to correct their work, take the heat if they did something wrong, and be paid by someone else?

I am sure the argument will be made that even if the local area did want the responsibility the \$30 fee would not be enough to cover the expenses of hiring the technical expertise. In some cases that might be true - but - in others, it might not. Give the county or city the chance to choose for themselves.

First, under this bill, they can contract for the services rather than hire someone full time.

Second, and most obvious, they will find they can afford more by not having to split the fees with the State.

And last, they have the ability to supplement that \$30 lot fee in any way their creative minds can come up with. For instance, Al Thelen in Billings, often considered the most creative in modern revenue raising practices charges \$675 or \$16.90 per lot (whichever is greater) for a preliminary plat, and another \$260 or \$8.50 per lot (whichever is greater) for the final plat. This is in addition to the \$30 per lot fee allowed under the State Act.

I have in front of me a survey taken by the Montana Environmental Health Association that I am sure will be used in arguments against the bill. It is the response of sanitarians and health officers of 52 of the 56 counties.

What I find of particular importance are the questions:

1. Do you consider the fact that the subdivision bureau has ultimate legal responsibility for administration of the sanitation in subdivisions act? 38 counties responded crucial.
2. If all legal responsibility for subdivisions were transferred to local control, would your jurisdiction and its legal staff enforce the regulations? 24 counties responded minimally?
3. Is the amount of time required for a review excessive? 24 counties responded yes.

No wonder they were assured confidentiality in their responses.

--They don't want legal responsibility which is the ultimate check on their work.
--They want to minimally enforce the regulations.
--And half on them admit there are time delays.

And yet, the state is reimbursing these same people for the work they are doing out of the \$30 per lot fee.

30% per parcel for subdivisions containing over 5 parcels with individual sewage treatment systems.
50% per parcel for fewer than 5 parcels with public sewer.
40% per parcel for 3 to 5 parcels on individual sewage treatment systems.
85% per parcel, 2 parcels or less on individual sewage treatment systems.

No wonder the people of Montana and the nation are starting to wake up and say
--Hold on a minute--there's too much government, too many people unaccountable for their work.

We do not want the wholesale deregulation of all health and safety regulations. We want the best protection for the least cost.

As a result of the Health Association survey I decided to take one of my own. I did not call the sanitarians, but I called the people who have the ultimate responsibility to decide under this proposal. The county commissioners.

SB140 - Telephone Survey

Pat Delong - Sanders County

Stated that there shouldn't be dual review. Mr. Delong supports this bill.

Dan Garrison - Phillips County

Going to meet with other commissioners and call "Swede".

Larry Scanlon - Custer County

Stated that there shouldn't be dual review, but thought there should be local option.

David Gorton - Yellowstone County

State should do the review but should do it faster. Stated that there should not be a dual review.

Ken Spalding - Park County

Will go with MACO - stated that there shouldn't be dual review.

I also have here a letter and resolution signed by 3 commissioners of Sheridan County. They state in their resolution that their proposed amendments are reasonable and would better enable them to serve the public. They feel that the changes would in no way endanger public health and would enable them to more efficiently use available funds.

In summary, the present requirements of dual subdivision review and ultimate approval authority resting with the Department of Health present unnecessary delay, frustration, and costs to all people involved.

The present sanitation laws regarding subdivisions seem to imply that local governments do not have the expertise or integrity to review and approve the sanitary requirements, while in fact there are local sanitarians, planners, and engineers qualified to provide review services. How many of you honestly believe that local government officials are likely to make decisions which will endanger public health and safety?

The last legislature transferred all the subdivision review and approval authority from the Department of Community Affairs to the local level. I am not aware of any problems, as we were told there would be, and feel the costly and duplicative system we currently live under warrants a similar approach concerning sanitation in subdivisions.

Therefore, we hope you will concur with this legislation and allow the city and counties of Montana to decide for themselves.

C. H. Miller
January 25, 1983

Subdivision Questions
FINAL
Survey Results

Does your jurisdiction currently review Certificate of Survey and subdivisions under contract, with SDHES?

YES 27 NO 23 UNANSWERED 2

Estimated number of lots created subject to sanitation in subdivision act in your jurisdiction during 1981.

less than 5 3 5-25 7 25-100 16 100-500 24 500+ 2

UNANSWERED 0

How many times a year did you contact the bureau for technical assistance in the last year?

less than 5 3 5-10 5 10-25 13 25-50 12 50+ 19

UNANSWERED 0

Do you regard the bureau's assistance as irrelevant 0, of small importance 1, moderately important 3, quite important 8, very important 39? UNANSWERED 1

In the last several years, has the subdivision bureau been a party in legal action in your jurisdiction? Was your jurisdiction also involved?

YES 10 NO 40 UNANSWERED 2, YES 8 NO 27 UNANSWERED 17

Do you consider the fact that the subdivision bureau has ultimate legal responsibility for administration of the sanitation in subdivisions act a major obstacle 1, minor obstacle 1, neutral 4, mildly helpful 8, or crucial 38? UNANSWERED 0

If all legal responsibility for subdivisions were transferred to local control, would your jurisdiction and its legal staff enforce the regulations vigorously 12, moderately 6, minimally 24, or not at all 9? UNANSWERED 0 UNDECIDED 1

Do you have access to an Attorney to provide consultation on policy development?

YES 21 NO 13 LIMITED 14 UNANSWERED 4

Do you believe the current subdivision law (Sanitation in Subdivision Act) is accomplishing its goals?

YES 47 NO 4 UNDECIDED 0 UNANSWERED 1

Are its goals worthy? YES 50 NO 2 UNDECIDED 0 UNANSWERED 0

Should the law be changed to accomplish more?

YES 16 NO 29 UNDECIDED 1 UNANSWERED 5

Do we need to eliminate the subdivision law or revise it to scale down requirements?

Eliminate YES 1 Revise NO 14 UNDECIDED 0 UNANSWERED 0 NO change 37

Is the amount of time required for review excessive?

YES 14 NO 27 UNDECIDED 1 UNANSWERED 0

Do you believe that the State or Local Health Departments should be involved with EIS or Preliminary Environmental reviews?

YES 22 NO 20 UNDECIDED 0 UNANSWERED 10

Or should health agencies deal primarily with water, sewer, solid waste and drainage problems and leave wildlife, tax, transportation, and school impacts and esthetic concerns to other government entities?

YES 44 NO 4 UNDECIDED 0 UNANSWERED 4

Would your jurisdiction be prepared to develop an environmental impact statement within the 210 days allowed for major subdivisions?

YES 10 NO 49 UNDECIDED 2 UNANSWERED 1

If local health departments had complete responsibility for certificates of survey and subdivisions do you feel that political influences would affect the outcome of the review process for a particular submittal in your county frequently 18, not uncommonly 8, occasionally 19 or never 7? UNANSWERED

Do you believe there is a method of insuring consistency in administration of the Subdivision law without the State Department of Health being directly involved?

YES 3 NO 49 UNDECIDED 0 UNANSWERED 0

Does your jurisdiction have the technical expertise for complete subdivision review without assistance?

YES 5 NO 46 UNDECIDED 1 UNANSWERED 0

Do you have an engineer or access to an engineer for reviewing subdivisions that have water and sewer systems designed by an engineer?

YES 1 NO 44 UNDECIDED 0 UNANSWERED 1

Does your jurisdiction currently have the finances or personnel available for complete subdivision review?

YES 9 NO 43 UNDECIDED 0 UNANSWERED 0

Will your counties fund more personnel if subdivision activities increase?

YES 2 NO 38 UNDECIDED 12 UNANSWERED 0

If more time were to be devoted to subdivision activities, what other activities would be cut, if any?

L. E. Inspections 15 Water Quality 2 Air Quality 0

Solid Waste 1 Waste-Water Treatment 2 None 9 General 18

Undecided 3 Unanswered 6

If subdivision review were shifted to entirely local review would your jurisdiction welcome the opportunity for local control 1
feel that this would present no particular advantage or disadvantage 0
feel that some minor difficulties but not substantial problems would be encountered 11, foresee substantial problems 38

UNDECIDED 0 UNANSWERED 2

If you feel there would be problems rank them from most important (#1) to (#11):

liability for denials

#1 (10) #2 (6) #3 (4) #4 (4) #5 (5) #6 (6)
#7 (2) #8 (2) #9 (0) #10 (2) #11 (2) unanswered 5

liability for approvals

#1 (5) #2 (5) #3 (3) #4 (9) #5 (3) #6 (4)
#7 (5) #8 (3) #9 (4) #10 (1) #11 (1) unanswered 5

overloading of staff

#1 (6) #2 (4) #3 (8) #4 (3) #5 (5) #6 (2)
#7 (7) #8 (2) #9 (2) #10 (2) #11 (0) unanswered 4

lack of technical expertise

#1 (11) #2 (8) #3 (4) #4 (4) #5 (4) #6 (4)
#7 (4) #8 (1) #9 (2) #10 (2) #11 (0) unanswered 4

political interference

#1 (9) #2 (5) #3 (6) #4 (4) #5 (7) #6 (1)
#7 (2) #8 (4) #9 (2) #10 (2) #11 (2) unanswered 3

low volume (so low that would be difficult to maintain expertise)

#1 (2) #2 (2) #3 (1) #4 (2) #5 (3) #6 (2)
#7 (2) #8 (6) #9 (5) #10 (16) #11 (1) unanswered 6

unpredictable work flow

#1 (2) #2 (4) #3 (2) #4 (5) #5 (5) #6 (3)
#7 (2) #8 (11) #9 (6) #10 (4) #11 (11) unanswered

increased work flow during busy season

#1 (1) #2 (4) #3 (7) #4 (1) #5 (9) #6 (7)
#7 (7) #8 (5) #9 (2) #10 (1) #11 (0) unanswered 4

lack of funding

#1 (4) #2 (2) #3 (4) #4 (6) #5 (6) #6 (6)
#7 (3) #8 (2) #9 (10) #10 (1) #11 (0) unanswered 4

lack of support

#1 (2) #2 (4) #3 (5) #4 (4) #5 (4) #6 (6)
#7 (5) #8 (1) #9 (3) #10 (5) #11 (3) unanswered 6

other

#1 (3) #2 (0) #3 (0) #4 (0) #5 (0) #6 (0)
#7 (0) #8 (0) #9 (1) #10 (1) #11 (18) unanswered 25

UNANSWERED

Do you favor shifting all public health review of subdivisions and certificates of survey to local jurisdictions?

Strongly favor 1 Weakly favor 2 Neutral 3 Mildly oppose 7
Strongly oppose 40 UNDECIDED 0 UNANSWERED 0

Do you want to have final approval authority for minor subdivisions?

YES 13 NO 31 UNDECIDED 7 UNANSWERED 1

If the subdivision (Sanitation in Subdivision) law were eliminated do you think that control of subdivisions through the subdivision and plating act (local planning review) and a county sewage disposal program would be adequate?

YES 4 NO 45 UNDECIDED 2 UNANSWERED 1

In short - how would you like to see the current law administered?
Changed?

No changes (retain a Subdivision Bureau) 25

Retain and staff Subdivision Bureau adequately to hasten the review period; eliminate loopholes, clarify requirements 13

Final approval to local level for minor subdivisions; State review of major subdivisions 7

non-categorized 5 UNANSWERED 2

Approximately what cost is being incurred by local taxpayers for local subdivision review over and above the refund provided by the State?

Approximate cost/hour

3.00 ; 5.00 ; 11.30 ; 12.67

Approximate cost/parcel

10-15 ; 15 ; 25-30 ; 30 ; 40-50 ; 49.32

UNANSWERED

HARVEY ATOR
PLENTYWOOD

ELVIN LAGERQUIST
WESTBY

C. S. 'CHET' HOLJE
PLENTYWOOD

MILT HOVELAND
clerk

ymon
January 25, 1983

OFFICE OF THE

County Commissioners

SHERIDAN COUNTY

PLENTYWOOD, MONTANA
59254

January 11, 1983

Senator Ed Smith
Montana Senate
Capitol Station
Helena, MT 59620

RE: Proposed amendments to Sanitation in Subdivisions Act

Dear Ed,

Enclosed are some recommendations that we would like to pass along for consideration concerning the Sanitation in Subdivisions Act.

We believe the proposed amendments are reasonable and would better enable us to serve the public. We feel that they would in no way endanger public health and would enable us to more efficiently use available funds.

SHERIDAN COUNTY BOARD OF COMMISSIONERS

By: *Elvin C. Lagerquist*
Elvin Lagerquist, Chairman

C S Holje
C. S. Holje, Commissioner

Harvey Ator
Harvey Ator, Commissioner

MEMO

TO: Sheridan County Commissioners

FROM: Doug Smith, County Planning Director
Sheridan County Planning Board

RE: Proposed amendments to Sanitation in Subdivisions Act

DATE: January 6, 1983

There are a number of options available in providing for local review and approval of sanitation in subdivisions. As it is now, the Sanitation in Subdivisions Act (Section 76-4-101 through 76-4-131, M.C.A., 1981) provides an option for local review of subdivisions classified as occasional sales and minor subdivisions (2 to 5 lots). However, approval authority remains with the DHES.

OPTION 1. Return the review and approval of occasional sales and minor subdivisions to the local government, or allow the local government the option of assuming the responsibility for review and approval. The potential health threat, in large areas of eastern Montana in particular, from the development of occasional sales and minor subdivisions does not appear to warrant the unnecessary delay, attention to detail, and owner expense in preparing permit applications for DHES review and approval.

Particular suggestion in reducing those requirements of applications for DHES or local approval include:

1. Allow for site inspection and written report by qualified personnel to substitute for many of the application information requirements such as those concerning drainage, topography, soil and site suitability, and effect on neighboring property and uses.
2. Base the septic tank and drainfield requirements on the county soil survey and site inspection, leaving percolation tests optional on an individual basis.

OPTION 2. Return the review and approval authority or that option to local government for subdivisions which tie into existing public water and sewer systems. Most all public water and sewer systems, whether municipal or county district, employ their own engineers or retain consulting engineers who review a subdivision's impact to an existing system. Local governments or districts are not likely to allow additions to their systems which will endanger public health and safety or which will overload their system. In these

cases where new subdivisions use public water and sewer, DHES review and approval appears to be a duplication of effort. The recommendation would be that the law allow for plat certification and approval of health requirements by engineers retained by local government.

OPTION 3. Return the review and approval authority to local government for minor or major (6 lots or more) subdivisions and trailer courts that do not use existing public water or sewer systems. Under this option the local government would need to retain a consulting engineer for review and approval if it does not employ an engineer, or DHES could provide review services from its engineering staff.

The use of all of the three options mentioned above would, in effect, transfer all review and approval authority to the local level. Use of any or all of the options would also transfer the costs for personnel and review from the state to a local level.

In any case, the present requirements of DHES subdivision review and approval present unnecessary delay, frustration and costs to the subdivider. It is not uncommon for subdividers to have to wait six months for DHES approval although regulations require disapproval within sixty days. This presents increased costs to the subdivider in the form of construction delays and added interest on borrowed money. In some cases subdividers hire attorneys and consultants to provide application information simply because they are overwhelmed by the detail and information required on DHES applications. In many cases, and particularly with occasional sales and plat amendments, this information could be more easily supplied by a local review agency.

The present sanitation laws regarding subdivisions seem to imply that local governments do not have the expertise or integrity to review and approve the sanitary requirements for subdivisions, while in fact local sanitarians, planners, and engineers are generally well qualified to provide review services, and local government officials are not likely to make decisions which will endanger public health and safety.

The last legislature transferred all the subdivision review and approval authority from the Department of Community Affairs to a local level. I am not aware of any problems created by that change and I think the abuse of regulatory authority and the inadequate staffing of the DHES Subdivision Bureau would warrant a similar approach concerning sanitation in subdivisions.

D. S.

DS/mak

NAME: H.S. HANSON

DATE: 1/25/83

ADDRESS: HELEN

PHONE: _____

REPRESENTING WHOM? MONTANA TECHNICAL COUNCIL

APPEARING ON WHICH PROPOSAL: SB-140

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

COMMENTS: _____

1. REPLACE SANITARIAN WITH REGS. ENGINEER

2. USE STATE STANDARDS

3. APPEAL TO STATE AGENCY - LOCAL
RULINGS IN DISAGREEMENT

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

January 25, 1983

CHRONOLOGY OF
SECURING APPROVAL
FOR AN OCCASIONAL SALE

A tract of five acres in the
SW 1/4, Sec. 12, T9N, R5W,
Colorado Gulch, Lewis and Clark
County, Helena, Montana

Owned by Vera L. Dreher
1962 Colorado Gulch
Helena, MT 59601

- 30 September 1981 Test holes dug to depth of seven feet at each of two sites of proposed drain fields.
- 25-26 October 1981 Percolation test performed on site.
- 27 October 1981 Application filed with Lewis and Clark County Health Department; \$25 fee paid.
- 11 November 1981 Site checked by Will Selser, L & C County Sanitarian, okayed, application forwarded to subdivision Bureau, DHES.
- 1 December 1981 Letter dated 27 November 1981 received from Joseph Strasko, Subdivision Bureau, DHES, requiring additional information:
1. Topo map indicates slope at site is greater than 2%. Explain.
 2. Lot layout does not indicate distance of proposed drain field from proposed well.
 3. Provide detailed soils information.
 4. Provide \$30 review fee.
 5. Provide copy of COS.
 6. Provide hydrogeological study of entire quarter section. Proposed parcel, plus others on nearby properties, creates six parcels. When six or more parcels are created tests shall be conducted to determine yield and maximum drawdown of well, etc, etc.
- 1 December 1981 Phone call from Chet Dreher, husband of Vera, to Strasko asking if drilling an acceptable well would suffice instead of hydrogeological study. Strasko said "No."
- 1-4 December 1981 Calls made by Dreher to Lowell Hanson, engineer and Max Blotz, Hydrometrics, to get estimates for

chronology of
securing approval
for an occasional sale

hydrogeological study. Guesstimates ran from \$200 - \$2,000. Hanson, surveyor of Dreher tract, doubted need for study but doubted DHES would back down. Max Blotz agreed to do study but stated he could not begin until February 1982.

5 December 1982

Letter from Dreher to Strasko asking that he drop hydrogeological requirement because:

1. Financial hardship.
2. First subdivision of land.
3. Two of parcels Strasko cited as subdivided on other nearby ownerships are in fact remainders and are only parcels by virtue of being remainders of less than 20 acres, a statutory description.
4. The hydrogeological study would require permission of owners of land not belonging to Dreher.
5. While Dreher would be required to fund the study, benefits would accrue to others.

Dreher asked that if request to drop hydrogeological study was not granted, Strasko furnish information on administrative appeal process.

15 January 1982

After 41 days Strasko replies to Dreher refusing to drop hydrogeological requirement. Enclosed was copy of Jim Sparing well log from parcel nearest tract under consideration. Well was drilled to depth of 268 feet. Static level was 20 feet below surface. The drill tool was raised to the 250 foot level and air was blown into the bottom of the hole for one hour producing 6 gpm. Strasko interpreted this to mean the well had been pumped down from the 20 foot static level to the 250 foot level after one hour and therefore the well was marginal by DHES standards. He notified Dreher she should contact Ms. Paulette Duncan to implement appeal. Dreher learned that next Board meeting would take place at the end of January.

18 January 1982

Letter from Dreher to Duncan, DHES, requesting appeal be scheduled for her at "earliest possible date."

4 February 1982

Letter bearing that date but postmarked 8 February, well past Board meeting, sent from DHES Counsel Frank C. Crowley, to Dreher outlining appeal procedure. Crowley, in response to query from Dreher said, "The Department cannot advise you whether you

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securing approval
for an occasional sale

should retain...an attorney. I would only say that parties contesting Department action are normally represented by attorney's familiar with the State Administrative Procedures Act."

- 19 February 1982 Dreher phones Max Blotz, Hydrometrics. Blotz to be at Dreher property on 26 February 82.
- 19 February 1982 Chet Dreher talked by phone with Wes Lindsay, owner of firm that drilled Sparing well. Dreher read Strasko's interpretation of well-log to Lindsay. Lindsay stated interpretation was incorrect. Well was not pumped with casing full. The 6 gpm represented the recovery rate and the well would easilly meet 8 gpm over a two-hour period, the DHES minimum. Lindsay stated that they are drilling to meet the requirements of lending institutions, not DHES.
- 23 February 1982 Attorney Bill Romine contacted by Dreher to seek advice on appeal. Should hydrogeological study be cancelled and appeal process be pursued? Advised she write Dr. Drynan, DHES Director, in last-ditch effort.
- 24 February 1982 Letter from Dreher to DHES director reviewing all of above but stressing the faulty interpretation of well-log and time-lag involved in dealing with DHES. Dreher asked for his intervention but no response was ever recieved.
- 26 February 1982 Max Blotz, Hydrometrics visits property and reviews file. Secures permission from Herb Buckley to test his well which lies within 1/4 section to be studied. Confused by Strasko's claim re number of subdivisions and asks Dreher to request clarification. There are eight sepearate ownerships and as many as 11 parcels within area. Blots to return next week to conduct study.
- 26 February 1982 Dreher writes Strasko requesting clarification on ownerships he's interested in having studied.
- 3 March 1982 Strasko writes Dreher describing lots. Also requests he be called and meeting be set up for him to make on-site evaluation.
- 4 March 1982 Above letter recieved, call made to Strasko and meeting set up for next day for Strasko to view site.
- 4 March 1982 Romine advises against appeal. May lose appeal and have to do study in addition to paying his fee.

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for an occasional sale

5 March 1982 Strasko meets Dreher, goes to site, approves slope, soils and drain-field locus.

11 March 1982 Blotz and Joseph V. Baglio, Jr. conduct drawdown test on well owned by Bob and Leslie Kellogg. Blotz also gets permission to test Sparing well. Blizzard halts operations after Kellogg test.

12 March 1982 Baglio returns and conducts test on Sparing well, which produces 10 1/2 gpm (not the 6 gpm that Strasko read into the log) and then conducts test on well owned by Herb and Carlee Buckley. After reconnoitering land Baglio borrowed aerial photography of area from Dreher and departs.

24 March 1982 Baglio delivers study to Dreher. Water okay.

25 March 1982 Dreher sends report to Strako.

1 April 1982 Dreher receives permission from DHES to sell tract.

ELAPSED TIME:
FIVE MONTHS

CONCLUSIONS: The system works too slowly. Time to DHES is a commodity that only counts toward retirement.

The appeal process is so cumbersome and costly it can only be of use to corporate giants or wealthy individuals.

Drawdown tests are dubious since pump-size is not taken into account, line-size, etc.

Work done by the county is duplicated by the state.

Statute and rules beyond the ken of those without LLD.

The Administrative Procedures Act stinks.

DHES employees not fully conversant with well-drilling techniques.

The Subdivision and Platting Act stinks.

The \$615 I have to pay to Hydrometrics has bought nothing. We still don't know if there's water under the parcel.

Subdivision employees of DHES are intransigent and arrogant.

COSTS INCURRED BY

VERA L. DREHER
1962 Colorado Gulch
Helena, MT 59601

IN THE "OCCASIONAL SALE"

OF A FIVE-ACRE TRACT

ITEM	COST
Survey -----	\$250.00
Backhoe to dig test pits -----	180.00
L & C County Dept Hlth Sanitarian Review ---	25.00
DHES, Subdivision Bureau Review -----	30.00
Hydrogeological Study required by Strasko of Subdivision Bureau -----	615.00
Lawyer -----	175.00
Title Insurance -----	82.00
County Clerk & Recorder Fee -----	5.00
Escrow Account -----	35.00
 TOTAL	 \$1397.00

Costs for the test pits was unnecessary since there were other excavations nearby indicating soil depths and types.

DHES review was unnecessary since the county had performed substantially the same work, on the site, not from the office.

The hydrogeological study served no useful purpose and was required only because DHES Subdivision personnel were ill-equipped to comprehend the terminology used in well-logs. The study proved that Strasko's claim that a well pumped only 6gpm indeed pumped 10 1/2gpm, at a cost of \$615.

In all, \$825 was spent that provided no additional protection to either the environment or the consumer.

Six months were wasted in needless correspondence and waiting, not to mention lost income.

LAKE COUNTY
LAND SERVICES DEPARTMENT

POLSON, MONTANA
59860

ADMINISTRATOR

Paddy R. Trusler

TELEPHONE 406-883-6211

PLANNING

Jerry Sorensen
Nancy Thormahlen

January 24, 1983

SANITATION

Al Hawkaluk
Tim Read

Honorable George McCallum, Chairman
Senate Committee on Local Government
Capitol Station
Helena, Montana
59620

RE: SB 140

Ladies and Gentlemen of the Senate Local Government Committee:

My name is Pat Trusler and I am here today representing the Board of Lake County Commissioners, Lake County Land Services and the Northwestern Montana Sanitarians Association.

Senate Bill 140 as written will allow local government's the option to review and approve subdivision activity within their particular jurisdiction. While our organizations are strong advocates of expanded local government control we do recognize that in some instances the state must continue to be involved. SB 140 allows the reviewing agency to adopt reasonable rules and regulations. No guidelines are set forth thus it seems reasonable to assume that there is a potential for 56 different sets of rules and regulations. Certainly this is difficult for developers, surveyors, and the general public. We feel that minimum guidelines are needed in order to have consistency on a statewide basis. This is certainly a duty of a state department.

SB 140 allows the reviewing agency authority for all subdivision activity within their jurisdiction. The groups which I represent feel that this bill goes too far and would offer some thoughts regarding amendment. As you are aware subdivision is a many faceted situation. You have occasional sales, family transfers, minor and major subdivisions. Major subdivisions are normally the only divisions of property with complex water distribution and sewage disposal proposals. These proposals require engineering and thus review by engineers. It is our feeling that major subdivision review should be left a review function of the State Department of Health and Environmental Sciences. We do feel however that all other types of review previously mentioned could be handled on a local level with consent of the local government entity.

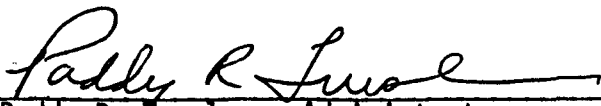
I would also question Section 76-4-105 as amended. It would almost seem that two review fees are to be levied for review purposes. The disposition of all fees collected is not clearly stipulated. Clarifications of this situation may be in order.

In conclusion and summary, it is our opinion that local government should be given review authority for those divisions of property not considered to be major subdivisions and that review authority be conducted under minimum, health related guidelines as set forth by the State of Montana.


Don Corrigan - Chairman
BOARD OF LAKE COUNTY COMMISSIONERS


Harold Fitzner - Member


Mike Hutchin - Member


Paddy R. Trusler - Administrator
Lake County Land Services

President - Northwest Montana
Sanitarfians Association

PRT/vhd

WITNESS STATEMENT

NAME John Hollow BILL No. AB 140
ADDRESS 40 W. 6th DATE 1/26/83
WHOM DO YOU REPRESENT MA Home Builders
SUPPORT W/ amendments OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

For passage with amendments

1. Consistent rules -- requirement that adopt those adopted by department or have rules approved by department
2. Have local government approved by department that is certified as qualified to review subdivisions -- small, medium major.
3. Immediate notice to applicant of who is going to review

Will assist staff w/ those amendments
443-5790

By: Elizabeth J. Knight R.S.

Mr. Chairman and committee members, my name is Elizabeth Knight. I am currently employed as the Jefferson-Broadwater County Sanitarian and am the president of the Montana Environmental Health Association. The association and I appreciate the opportunity to submit written testimony in opposition to SB 140.

Earlier this fall when the Subdivision Bureau was closed and rumors of legislation to alter the state's function in subdivision review began circulating, the association polled local health departments that would be directly impacted by the changes. 52 of 56 counties responded representing a 93% return. You should have received a copy of that survey synopsis by now, so I will only comment on several points the survey made.

- 94% of the respondents felt there would be no mechanism for insuring consistency of administration of the Sanitation in Subdivision Act.

- 88% of the counties indicated they currently do not have adequate technical expertise for complete subdivision review without assistance.

83% of the counties indicated that they currently do not have the finances or personnel available to perform complete subdivision review.

73% of the counties felt that the State Subdivision Bureau, having ultimate legal responsibility for administration of the Sanitation in Subdivision Act, as being crucial.

73% of the counties indicated that they foresee substantial problems should review be shifted entirely to the local level.

77% of counties strongly oppose while an additional 13% mildly oppose shifting all public health review of subdivisions and certificates of survey to local governments.

60% of the respondents do not favor final approval authority for minor subdivisions.

73% of the counties indicated a need to retain a Subdivision Bureau or an agency within some other Bureau such as the Water Quality Bureau.

90% of the counties believe the current Sanitation in Subdivision Act is accomplishing it's goals.

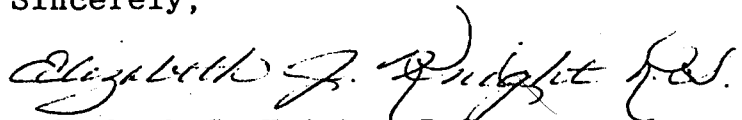
From the survey results, it can be concluded that a vast majority of counties, through their Health Officers and Sanitarians, feel that the Subdivision review process and final subdivision approval is a function of State government and an area in which the State Department of Health and Environmental Sciences should be directly involved. The results show that, with current funding and the lack of available technical expertise in the form of engineering and legal resources at the local level, local health departments would be unable to perform proper and adequate total subdivision review functions.

Several counties did desire final and total authority for review and approval of minor subdivisions only. The survey indicated overwhelmingly that the current Sanitation in Subdivision Act is accomplishing its goals and that those goals are worthwhile. The results indicated that there would be no method of insuring consistency in administration of the Act, without the State Department of Health and Environmental Sciences being directly involved,

either through a Subdivision Bureau, as in the past, or through an adequately staffed section within some other bureau of the State Department of Health and Environmental Sciences, such as the Water Quality Bureau.

Therefore, based on the survey results and conclusions, the Montana Environmental Health Association urges this committee to oppose SB 140 allowing for the voluntary transfer of total subdivision review and approval/denial functions under the Sanitation in Subdivision Act to local government entities. Further, it is strongly recommended that review fees per parcel be set at an adequate level to properly fund an adequate staff at the State level to provide final subdivision review and approval/denial functions, as well as properly offset the total review costs for minor subdivisions that may be incurred by local government and local taxpayers.

Sincerely,



Elizabeth J. Knight, R.S.
President, Montana Environmental
Health Association
Jefferson-Broadwater County
Sanitarian
Box 622
Boulder, MT 59632

*Exhibit
January 25, 1983*

TESTIMONY AGAINST SENATE BILL 140

FOR AN ACT ENTITLED "AN ACT TO PROVIDE REVIEW AND APPROVAL
TO LOCAL GOVERNING BODIES FOR SANITATION REQUIREMENTS IN SUB-
DIVISIONS PROPOSED IN THEIR JURISDICTIONAL AREAS." AMENDING SECTIONS

TESTIMONY PROVIDED BY ROBERT STEVENSON, AREA SUPERVISING SANITARIAN,
COUNTY HEALTH DEPARTMENT, GREAT FALLS, MONTANA, CASCADE COUNTY.

I have had an opportunity to review Senate Bill 140 and highly
recommend that it be defeated for the following reasons:

Under the bill local government has the option of accepting sub-
division review in its totality with regard to meeting the requirements
of the Sanitation in Subdivisions Act or leaving the responsibility with
the State Department of Health. This all or nothing approach to the
subject fails in our opinion to benefit the average taxpayer and citizens
of Montana. Subdivision review if placed at the local level would create
an unacceptable liability situation for local government. The lack of
technical and legal expertise available to (locals) would be a significant
drawback in that lawyers, engineers and other professional services
would not be available with current funding. We also believe that political
pressure now held in check by the State Department of Health's centralized
authority would occur with regularity in any locally administered sub-
division review program. Impacts on county time and resources expended
would be difficult to estimate but would no doubt be much more costly in
terms of manhours than the present system. Even if our Department
collected the full review fees for subdivisions it would fall far short
of offsetting the cost of administering a full subdivision review program
in our county.

The liability for approvals and denials place a totally inexcusable burden on local government. The local legal staff does not have the time, inclination or expertise to provide local departments with the kind of information and support to carry on an effective program. The State Department of Health does have a legal staff that can respond quickly and effectively to significant questions to provide that kind of continued guidance needed on a day to day basis to insure the law and resulting regulation interpretations are fairly administered throughout the State. It should be noted if the responsibility for approval of total subdivision programs is accepted by counties; there would no doubt be a wide range of review requirements applied. These variations in requirements may well provide the basis for suits by developers wishing to develop parcels in several counties but finding the review requirements varied. The consistency in the administration of the Act would be lost with the resultant burden falling on the counties.

Faced with these problems, Cascade County would not opt for the acceptance of this responsibility; rather land owners and developers in our county would be left to satisfactorily resolve subdivision requirements on their own and would be far removed from the decision making process. They would no doubt face a greater expenditure of time and money as they would have to consult with more professional services, (i.e., engineer, hydrologist, etc.) to insure compliance with subdivision requirements. There would be no sanitarian certifications or services to fill the gap. The once streamlined service provided would be lost and now would entail more time and dollars expended by local developers as well as the State Department of Health and Environmental Sciences in processing subdivision applications.

Senate Bill 140 in the final analysis will not solve subdivision problems, it will create them. Each county that accepts the responsibility to fully administer the subdivision program will inherit the full liability for decisions made without the full benefit of trained experts. These decisions so made will be inconsistent with other neighboring counties as well as the State Department of Health and Environmental Sciences.

Senate Bill 140 while having some surface appeal to many will probably result in a benefit for a few. This bill is not a plan for a more reasonable approach to subdivision review; but rather Senate Bill 140 is a blueprint for inequity, inconsistency, and inattention to needs of prudent land development.

January 25, 1983

Comments on SB 140

1-25-83

1. The ^{bill}~~amendments~~ allows local governments to establish their own subdivision sanitation standards. We feel the same minimum standards should be used throughout the state and the state should establish these standards.

2. The ^{bill}~~amendments~~ allows local reviewing authorities to review and approve water supplies and sewage disposal systems in subdivisions. Provisions for the state to contract with counties would no longer be provided. We have the following questions:

(a) Do counties have the capability of reviewing larger subdivisions, particularly those that are putting in new public water supply and sewage disposal systems?

(b) Shouldn't counties be allowed to contract with the state as they do now?

(c) Shouldn't someone have the responsibility to determine the capability of counties to perform the reviews?

(d) Shouldn't a state agency be responsible for assisting the local agencies and receive funding for this task?

3. The ^{bill}~~amendments~~ allow the counties to review and approve public water supply and sewage disposal systems. There will be duplication of effort on these projects as the state has review and approval responsibility under 75-6-112 MCA.

Don Williams

State Dept. of Health & Eny. Sci.

Exhibit # 8
January 25, 1983

MONTANA ENVIRONMENTAL INFORMATION CENTER COMMENTS ON SB 140.

Review of water quality, sewage disposal, and solid waste disposal within a proposed subdivision is required to safeguard public health by protecting water quality for domestic uses, public water supplies, and other beneficial uses. This review protects the public's right to a "clean and healthful environment", guaranteed by the Montana Constitution. The existing statutes provide for efficient, objective, technically competent review based on uniform scientific standards. MEIC sees no reason to disrupt the present system and introduce procedures which may not adequately protect public health and water quality.

1. In order to guarantee that public health is protected, sanitation review should be based on uniform scientific standards and criteria. MEIC is concerned with the provision in SB 140 that allows each local governing body to set their own standards for review without reference to the minimum standards necessary to protect health and water quality and without giving DHES the authority to examine the local standards to insure that they are adequate.

2. Sanitary review should be done in the most efficient, economical manner possible consistent with considerations of public health and water quality. The existing law provides one central reviewing authority so that the costs to developers and the public will be as low as possible. MEIC is concerned that SB 140 may actually raise costs and promote inefficiency by allowing the creation of numerous reviewing offices around the state. This may increase costs for developers who must go through local review, and by removing revenue from DHES would increase costs for those who continue to rely on the state for sanitary review.

For these reasons, MEIC opposes SB 140.

LEWIS AND CLARK
CITY-COUNTY HEALTH DEPARTMENT

TELEPHONE 443-1010

316 North Park
HELENA, MONTANA 59601

January 25, 1983

COMMENTS on SB140

Pg 2 lines 11-15. Granting each local agency the authority to adopt their own regulations will result in inconsistencies in the regulations throughout the counties in Montana. This can only lead to increased confusion, and unfairness to developers, realtors, and property owners.

Pg 5 lines 3-5. This will involve two separate government entities having review authority over a single submittal. This will increase confusion and make government's job more difficult.

Pg 5 lines 14-15. Granting the local government authority the discretion to perform or not perform review on a submittal would again add confusion and inconsistency to the whole process.

Pg 7 lines 12-16. If the intent of the proposed legislation is to put the review for subdivision at the local level, what is the purpose of requiring that costly copies of all approved submittals be sent to the state? This is important when considering the bills failure to increase the review fee per parcel.

Pg 7 lines 18-25. The section establishing fees for lot review is confusing and inconsistent. As written both the local government authority and the state would be setting fees for parcel review.

Sanitarians do not have the technical expertise to provide review for facilities such as sewage treatment plants and water systems for major subdivisions. Engineering consultants would have to be hired at the expense of the counties to perform this technical review.

Pg 9 lines 2-6. This section is indicative of the confusion written into the bill. This bill says the reviewing authority is the local governing body, but the review is to be done by a registered sanitarian. In many counties, the registered sanitarian is not under the direct jurisdiction of the local

government body. Who is really responsible for the review? Who is liable if the sanitarian makes an error? Can the "reviewing authority" require work of the registered sanitarian, even though it does not supervise that person?

Pg 10 lines 9-17. Again we find another inconsistency in that during hearings on violations the state is bound by the Montana Administrative Procedures Act, while local agencies are not. This would result in different justice in different places. The use of county attorneys could add to the expense burden footed by the counties.

Ms. Chris Deveny, R.S.
Environmental Health Specialist

Exhibit #9
January 25, 1983

Senate Bill No. 255 should be amended to read as follows:

Section 2, subsection (2) line 15: "appointed by the county commissioners from among persons residing in the district AND NOMINATED BY THAT DISTRICT AT A GENERAL MEETING for a term of office that the commissioners determine best serves the public interest."

NAME: Bill Romine DATE: 1-25-83

ADDRESS: Helen

PHONE: 442-2220

REPRESENTING WHOM? Clerk & Recorders

APPEARING ON WHICH PROPOSAL: S.B. 255

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: It must be remembered that five district trustees
elections are not hotly contested. Generally it is difficult
to get candidates. It makes more sense to have the
county commissioners appoint them. Also, districts are
different from areas, and it also makes sense
to appoint them for a term (and the number) that best
suits each district.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Hanna M. Forbes DATE: 1/26/83

ADDRESS: 1116 8th St. W. Billings Mt. 59101

PHONE: 259-1869

REPRESENTING WHOM? Yellowstone Art Center

APPEARING ON WHICH PROPOSAL: SB 173

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

COMMENTS: This increase in the permissive
mill levy for museums would
provide increased support for
museums in Counties where the
funds are available & the need great.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Suggested amendments to SB 121

1. Page 1, line 21
Following: "7-7-2227"
Insert: "(2)"
2. ~~Page 3, line 3~~
~~Following "7-7-2223"~~
~~Insert: "(2a)"~~

1/10/11

Proposed by Senator Marbut

Amendments to Senate Bill 121 (Introduced copy)

1. Page 1, line 20.
Following: "and"
Insert: "unanimously"

7-14-2530. Redemption of bonds authorized. (1) All bonds issued for a term longer than 5 years shall be redeemable, at the option of the county, 5 years after the date of issue and on any payment due date thereafter before maturity.

(2) This statement shall appear on the face of each bond.

History: En. Sec. 7-305, Ch. 197, L. 1965; amd. Sec. 30, Ch. 234, L. 1971; amd. Sec. 125, Ch. 116, L. 1974; R.C.M. 1947, 32-3805(3).

7-14-2531. Definition of term single purpose. (1) It shall be deemed a single purpose to:

- (a) acquire a right-of-way for and construct a public highway, including any bridge or bridges thereon;
- (b) contribute to the cost of a federal-aid bridge;
- (c) contribute to the cost of a federal-aid highway project on a highway leading to a federal-aid bridge.

(2) Construction of two or more bridges not forming a part of the same public highway shall be deemed separate purposes.

(3) Nothing contained in this section shall be construed as amending or repealing 7-16-2201 through 7-16-2205.

History: En. Sec. 7-303, Ch. 197, L. 1965; R.C.M. 1947, 32-3803.

Part 26

Establishment, Alteration, and Abandonment of County Roads

7-14-2601. Petition to establish, alter, or abandon a county road. (1) Any 10, or a majority, of the freeholders of a road district taxable therein for road purposes may petition the board in writing to open, establish, construct, change, abandon, or discontinue any county road in the district.

(2) When the road petitioned for is on the dividing line between two counties, the same procedure must be followed except that a copy of the petition must be presented to each board. The two boards shall act jointly.

(3) As used in this part, unless the context requires otherwise:

- (a) "board" means the board of county commissioners;
- (b) "abandonment" means cessation of use of right-of-way (easement) or activity thereon with no intention to reclaim or use again and is sometimes called "vacation".

History: (1), (2) En. Sec. 8-202, Ch. 197, L. 1965; Sec. 32-4002, R.C.M. 1947; (3) En. Sec. 2-101, Ch. 197, L. 1965; amd. Sec. 69, Ch. 316, L. 1974; Sec. 32-2203, R.C.M. 1947; R.C.M. 1947, 32-2203(part), 32-4002(part).

7-14-2602. Contents of petition. The petition must set forth:

- (1) the particular road or roads to be opened, established, constructed, changed, abandoned, or discontinued;
- (2) the general route thereof;
- (3) the lands and owners affected;
- (4) whether the owners who can be found consent thereto;
- (5) where consent is not given, the probable cost of the right-of-way;

7-14-2614. Record of road opening or alteration to be maintained. When a county road is opened or changed, the findings of the board, the plat field notes, and the report of the surveyor shall be recorded in the office of the county clerk in a book kept for that purpose.

History: En. Sec. 8-211, Ch. 197, L. 1965; R.C.M. 1947, 32-4011.

7-14-2615. Abandonment or vacation of county roads. (1) All county roads once established must continue to be county roads until abandoned or vacated by:

- (a) operation of law;
- (b) judgment of a court of competent jurisdiction; or
- (c) the order of the board.

(2) No order to abandon any county road shall be valid unless preceded by notice and public hearing.

History: En. Sec. 8-214, Ch. 197, L. 1965; R.C.M. 1947, 32-4014.

7-14-2616. Procedure to discontinue street. (1) The county commissioners may discontinue a street or alley or any part thereof in an unincorporated town or townsite upon the petition in writing of all owners of lots on the street or alley if it can be done without detriment to the public interest.

(2) Where the street or alley is to be closed for school purposes, a petition signed by 75% of the lot owners on the whole street or alley to be closed will be required.

(3) Before acting upon such petition, a notice must be published or posted in three public places, stating when such petition will be acted on and what street or alley or part thereof is asked to be vacated. Such notice must be published in a newspaper or posted at least 1 week before the petition is acted on.

History: (1), (2) En. Sec. 429, 5th Div. Comp. Stat. 1887; amd. Sec. 5030, Pol. C. 1895; re-en. Sec. 3479, Rev. C. 1907; re-en. Sec. 5306, R.C.M. 1921; amd. Sec. 1, Ch. 13, L. 1929; re-en. Sec. 5306, R.C.M. 1935; amd. Sec. 1, Ch. 1, L. 1941; amd. Sec. 1, Ch. 36, L. 1945; Sec. 11-2801, R.C.M. 1947; (3) En. Sec. 429, 5th Div. Comp. Stat. 1887; amd. Sec. 5031, Pol. C. 1895; re-en. Sec. 3480, Rev. C. 1907; re-en. Sec. 5307, R.C.M. 1921; re-en. Sec. 5307, R.C.M. 1935; Sec. 11-2802, R.C.M. 1947; R.C.M. 1947, 11-2801(part), 11-2802.

7-14-2617. Discontinuance of street not to affect utility easements. The vacation authorized by 7-14-2616 shall not affect the right of any public utility to continue to maintain its plant and equipment in any such street or alley.

History: En. Sec. 429, 5th Div. Comp. Stat. 1887; amd. Sec. 5030, Pol. C. 1895; re-en. Sec. 3479, Rev. C. 1907; re-en. Sec. 5306, R.C.M. 1921; amd. Sec. 1, Ch. 13, L. 1929; re-en. Sec. 5306, R.C.M. 1935; amd. Sec. 1, Ch. 1, L. 1941; amd. Sec. 1, Ch. 36, L. 1945; R.C.M. 1947, 11-2801(part).

7-14-2618 through 7-14-2620 reserved.

7-14-2621. Establishment and alteration of stock lanes. (1) A stock lane is a county road established and maintained for the driving and travel of livestock. It shall be not less than 60 feet wide. The width shall be determined by the board in the order creating it.

(2) Upon presentation of a proper petition, each board may establish, alter, or vacate stock lanes when it deems it expedient and necessary for the

Amendment to Senate Bill 173 (Introductory copy)

1. Title; line 5.

Following: "Museums;"

Insert: "And Providing An Effective Date;"

2. Page 1, line 25.

Following: "made."

Insert: "New Section, Section 2. Effective date.

This act is effective July 1, 1983."

NAME: Ferr Hart DATE: 1/27/83

ADDRESS: 16 Carriage Way Missoula

PHONE: 728-4624

REPRESENTING WHOM? Missoula County Treasurer

APPEARING ON WHICH PROPOSAL: SB 222

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

_____ LOCAL GOVERNMENTS
WE ARE REQUESTING THAT THE ~~LOCAL~~ RECEIVE
THE SAME PLEDGED SECURITY ON ITS INVESTMENTS
AS DOES THE STATE.

_____ THE 1979 LEGISLATURE LOWERED THE PERCENTAGE TO
BE PLEDGED AS SECURITY BY INSTITUTIONS TO 50%
FROM NO LIMIT.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Senate Bill 222

An act increasing from 50% to 100% the amount of security that may be required by local governing bodies for deposit of funds.

The only changes from current legislation would be:

The percentage which was reduced from no limit to 50% in the 1979 legislature.

The new section which details the effective implementation of the legislation.

The points to be considered:

Counties are major investors of the public monies--our county averages 10 million.

In a loss situation, we can recover only 50% with pledged collateral.

The state investments are allowed 100% pledging.

This statute would simply bring counties in line with state investment security on pledging.

Fern Hart
Clerk & Recorder/Treasurer
Missoula County

NAME: Michael W Schestedt DATE: Jan 27, 1983

ADDRESS: Missoula County Courthouse, Missoula MT 59801

PHONE: 721-5700 ext - 246

REPRESENTING WHOM? Missoula County

APPEARING ON WHICH PROPOSAL: SB 222

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: The bill gives to the county
the same power the state now has
with regard to assuring the security
of public money.

It does not require but does allow
an increase in security

It also allows a county to assure
that the securities pledged can be
liquidated if necessary and produce
the amount stated. The key here is
market value.

The bill allows the county to better
balance risk against return

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bill Pratt DATE: 1/27/83

ADDRESS: 1280 So. 3rd West - MSLA

PHONE: 543-8286

REPRESENTING WHOM? MT Arts Council

APPEARING ON WHICH PROPOSAL: 173

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Provides additional flexibility in county
funding to support Montana's 12
county art centers.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Senator Gripper - I wanted to give you ^{testimony} which has been entered ^{Secretary} at this afternoon meeting. I was unable to be at the hearing at 1:00 due to a meeting at the Helena Diocese. I have also started research

Kathleen M. Olson, Acting Director
Fort Missoula Historical Museum

TESTIMONY - LOCAL GOVERNMENT COMMITTEE HEARING

Thursday, January 27, 1983

1. what museums are supported by mills
2. of these museums, what percentage of the mill do they receive.

It may take approximately one week to pull this together. I will be in touch.

Missoula County has allocated the allowable one mill for museums. This mill of \$122,908.00 is currently shared equally between two museums: the Fort Missoula Historical Museum and the Missoula Museum of the Arts. The two museums currently serve a combined audience of approximately 40,000 people.

Thanks,
Kathi

This current level of funding is inadequate for both museums. Each requires further funding to maintain and improve a professional, stimulating and educational museum program. The increase of the permissive mill from one to two would allow the County to further develop this extremely vital asset to the community.

As I have mentioned, the Missoula County Mill Levy borders on \$123,000.00. There are numerous museums in Montana whose county tax base is so low that it is wholly inadequate to operate and staff their museums at the basic level.

Rising inflation has, naturally, strongly affected museum operational costs. Limiting a County's monetary support has curtailed their ability to further cover inflationary increases of general operations. Montana's museums have found it necessary to cut back far beyond minimum requirements. Although ready and willing, inadequate operational funding has deprived Counties and their museums of their ability to maintain and develop programs for a deserving and demanding public. At the present rate of funding, Montana's museums are unable to preserve existing resources in both historical and art environments. They are, in effect, taking two steps backward for every step forward. The one mill maximum does not allow the County Commissioners flexibility to respond to museum needs as they arise; rather it tends to establish an arbitrary limit on what a county museum might expect to achieve.

Kathleen M. Olson, Acting Director
Mont. Missoula Historical Museum
Testimony: Local Government Committee Hearing
Thursday, January 27, 1983
Page 2

An increase of the base funding makes it possible to increase matching funding from Federal, private, and corporate resources. Programs such as the Institute of Museum Services allows an applicant requests of not more than ten percent (10%) of their total operating budget. Obviously, an increase in the mill allocation for museums would give these institutions an even greater opportunity and new motivation to meet the fundamental requirements of existence.

The increase of the allowable mill would liberate the museum staff, whether paid or volunteer, to perform the duties a museum staff is meant to do, and to do it well. More often than not, an inadequate staff is overburdened with the responsibilities of fund raising which usurps its abilities to use available man hours in a creative and productive manner.

In closing, I would like to reiterate the importance of Montana's museums. Montana possesses historic and artistic resources worth preserving and interpreting. These museums provide access to the resources for residents in addition to stimulating and accentuating one of our major economic industries, tourism.

"He believes in hope, but he thinks he has lived on that long enough, and would now like something a little more substantial."

BILL SUMMARIES

SENATE LOCAL GOVERNMENT COMMITTEE

- SB 140
(Story) Currently, the department of health and environmental sciences is responsible for reviewing and approving sanitation facilities for subdivisions. This bill would allow municipalities or a county governing body, at their option, to approve the facilities, as well as the department of health and environmental sciences.
- SB 202
(Towe) This bill establishes a formula for determining coal development impact costs. The bill also establishes how the costs resulting from coal development would be reimbursed.
- SB 219
(VanValkenburg) Currently, county park boards may lease county park lands for any purpose that the board feels are "in the best interests of the county". This bill would limit the purposes for which county park lands could be leased.
- SB 255
(Fuller) Currently, fire district boards of trustees are elected to office for 3 year terms. The boards are limited to five members. This bill would authorize boards of county commissioners to appoint trustees in a number and for terms that the board feels is adequate.