

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 27, 1983

The meeting of the Local Government Committee was called to order by Chairman George McCallum on January 27, 1983 at 1:00 p.m., Room 405, State Capitol.

ROLL CALL: Roll call showed all Senators present.

Sen. Crippen introduced Mrs. Isabelle Johnson, Absarokee, one of Montana's most foremost artists who, the night before, had been awarded the Montana Arts Council's 1983 Governor's Awards for the Arts. Chairman McCallum extended the congratulations of the entire committee to Mrs. Johnson.

CONSIDERATION OF SENATE BILL NO. 173: Sen. Crippen, sponsor of SB 173, explained the bill to the committee and the intent of the bill. It is a very straightforward bill. Section 7-16-2205 provides for the funding of museums. Under this law (page 1, line 18) it states "not to exceed 1 mill. The purpose of this bill is to increase that to 2 mills. It gives the county commissioners the option to levy up to 2 mills.

PROPOSERS: Donna Forbes, Director of the Yellowstone Art Center in Billings and Past President of the Association was in favor of this bill as 23% of their budget is from the county. The public feels differently about a public museum than they do a private one; they consider it as theirs. She urged the committee to increase the mills to 2 mills and brought out that it is a permissive levy and does not have to be raised. She handed out "Montana Landscapes - One Hundred Years". (Exhibit #1)

Bob Archibald, Montana Historical Society, stated that although they receive no benefits from SB 173, they are in contact with over 100 museums and art centers across the state and felt that cultural activities, art centers, museums, etc., are one reason why people travel to different areas. He supported the bill to raise the permissive mill levy for museums and art centers.

David Nelson, Executive Director of the Montana Arts Council, stated that this is unique in Montana in that they have this millage available. The ones that benefit from this also do a considerable raising of their own funds. The Arts Council came before this committee some years ago and asked that it be raised from 1/2 to 1 mill and urge the support of this increase.

June Sampson, Western Heritage Center, Billings, said they were founded in 1971 after the Yellowstone Art Center. This increase would help them to continue with their quality programs and give the people the opportunity to express their interest in their institutions.

Louis Stackpole, Western Heritage Center, Billings, felt this would enable the continuation of qualitative and quantitative art centers.

J.D. Holmes, Montana Arts Advocacy, stated that their interest is in bettering the quality of life in Montana and supported the increase for museums and art centers, which is permissive and is up to the county commissioners. He submitted some letters from museum directors that couldn't attend the hearing. (Attached to the minutes). Some people feel that if you have a permissive levy it becomes the minimum, not the maximum, but he did not feel this is necessarily so.

No further proponents and no opponents.

DISCUSSION OF SENATE BILL NO. 173: Sen. Boylan asked Mr. Holmes how many counties are levying up to the maximum to which Mr. Holmes replied he could not get any comprehensive figure. Billings is at the full level, the art center in Sidney gets 90%, and he thought the other 10% goes to a new museum in Lambert.

Sen. Story asked if the County Association testified on this, to which the answer was no.

Sen. Ochsner asked how much money they received from the coal fund. Mrs. Forbes said they did not receive any money from the coal fund. The money is there for grants and they do qualify for this but it is not for operating costs.

Chairman McCallum asked how many art centers or museums there are in Billings to which the answer was three. He mentioned that 1 mill in Billings brings in about \$180,000 which would be increased, under this bill, to \$360,000. Sen. Story mentioned that reevaluation is coming up so 1 mill may be different than what it is now.

There being no further questions, the hearing on SB 173 was closed.

CONSIDERATION OF SENATE BILL NO. 222: Sen. Norman, District #47, said this bill relates to bank deposits. The school districts and counties do not spend their money at the same rate they collect it. The money comes in, is deposited in a local bank, then as the money is taken out of the bank there may be less in the latter part of the summer and in the spring it would be more. When it is deposited, there may be a substantial amount and the bank must pledge securities. In the counties, it is only 50% over and above what is insured. The banker might say the more security to be pledged, the money they will give will be less. This is a permissive bill. It would allow some of the larger counties to use this option if the measure passes.

PROPOSERS: Fern Hart, Missoula County Clerk and Recorder/Treasurer, stated that they began a very serious investment program in 1979. With their investments last year, they earned for the county general fund, \$900,000. The investment is done on the bidding process. They would like to have the option of asking for more pledging than 50%. They would like the law to be as it was before 1979 when the Legislature changed it to 50%. She asked the committee for their serious consideration of this bill and stated that local governments

want to be responsible.

Mike Senestadt, Deputy County Attorney from Missoula County, stressed all of Mrs. Hart's comments. It would give authorization if it was deemed necessary. It would give them the power to balance their securities of the funds against the yields they are receiving.

Mike Stephens, Montana Association of Counties, stated he is not involved in the investment portion of this but felt the counties should be given this option.

OPPONENTS: John Cadby, Montana Banker's Association, testified in opposition before the committee. Written testimony attached. (Exhibit #3). He stated that they must be able to compete with each other in this bidding.

Mike Dalton, Executive Vice President, Valley Bank, Helena, which was founded in 1978, stated that in 1979 they reduced it to 50%. They had to compete with five other banks in Helena and by reducing it they could compete with the corporate banks. They would prefer to have their money working in the community in the way of loans.

In closing, Sen. Norman stated he was not surprised that the banks would oppose this bill but some of the banks and savings and loan institutions are going broke and felt that perhaps more of them might. The FDIC does not cover it all. If they do not want to require 100% pledge they don't have to. He asked the committee to look at this bill favorably which would permit the counties to require the banks to put down more security.

DISCUSSION OF SENATE BILL NO. 222: Sen. Crippen asked Sen. Norman if he had any examples of counties losing money in Montana, to which Sen. Norman replied that he knew of none but felt they should pass a bill so if something should happen it would be taken care of. Sen. Crippen stated that if this bill was enacted this could possibly prevent the small banks from being competitive with the larger ones. Sen. Norman did not agree with that statement and said that if the county wants to invest in a small bank with less security, they may do so.

In answer to a question from Sen. Crippen, Mrs. Hart said when she sees a net profit of only \$531 for a quarter from a banking institution, she figures there is a problem. She said she could lower her yield but she did state that if it was her own money she would feel differently. She said that sometimes they invest \$22 million in Missoula county and they average around \$10 million per month. Sen. Crippen said that most deposits are covered up to \$100,000 and they could have a variety of accounts.

Chairman McCallum asked Mr. Cadby if a bank had to guarantee 100% security, how much would it reduce the percentage they would give on a deposit? Mr. Cadby had no way of answering that question.

Each bank is different and there is no study that would give even

Local Government Committee

January 27, 1983

Page 4

an average percentile. They cannot compete with the State of Montana.

Sen. Thomas asked Mrs. Hart if they invested the \$22 million in one bank. She replied that it is received at different times and they must also segregate federal revenue funds.

Sen. Hammond asked if it was a policy in Missoula County to put it in the bank where the return is the greatest? Mrs. Hart replied that is what the bidding process is all about and she would like to see this raised from 50% to 100%.

There being no further questions from the committee, the hearing on SB 222 was closed.

CONSIDERATION OF SENATE BILL NO. 234: Sen. Marbut sponsored this bill at the request of the Missoula County Deputy County Attorney. (Copy of his testimony attached). Sen. Marbut felt there was a conflict in the law, namely Sections 7-14-2601 and 7-14-2616. These two sections accomplish the same thing but have a different procedure. This bill puts language in concerning a hearing and also cleans up the language.

There were no proponents and no opponents.

DISCUSSION OF SENATE BILL NO. 234: Sen. Story did not feel it was necessary to have the definition of county road in the bill and he, personally, felt it was important that it not be in there. He was worried about a county road being one that has become a county road by prescriptive use. He felt that everyone should resist "a county road by prescriptive use". Sen. Marbut said he was not addressing what a county road is but the procedure for vacating such. Dave Bohyer said there was no definition in the codes as to what a county road is.

Sen. Ochsner said that anytime the county did any work on a road, no matter what kind of road, it was then considered a county road. Sen. Marbut felt he would have to depend on the words "has become a county road by prescription". Sen. Crippen said there is no definite act to acquire by prescriptive right.

Sen. Marbut asked that Dave Bohyer review this situation and report back to the committee on their interpretation and concerns. The bill intends to clear up the problem of abandoning a road and does not address what a county road is.

Pat Wilson, one of the witnesses, said that they build roads to their minds and the ranchers and various other people use them. They are afraid when they leave the mine they will have to leave the road for the use of others. Sen. Marbut felt that could be solved very simply by asking the users of the road to sign a written contract that the road would be abandoned at a future date.

In answer to Chairman McCallum's question about laws to do this now, Sen. Marbut said it can be done now but wanted to clear it up.

Local Government Committee

January 27, 1983

✓ Page 5

Sen. Story had no objection to the bill as long as the prescriptive use phrase was not included.

Sen. Van Valkenburg said he was not sure there was a conflict in the two sections of the law; one deals with county roads and the other with streets and alleys. Sen. Boylan felt there was really no need for it.

Sen. Story brought out the fact that there are law suits all the time about what is a county road and what is a public road.

The hearing was closed on SB 234.

DISCUSSION OF SENATE BILLS IN SUB-COMMITTEE: Sen. Thomas said they are in the midst of negotiations at the time and felt that by February 2 they could have them before the committee for final action.

DISPOSITION OF SENATE BILL NO. 121: Sen. Boylan moved that SB 121 do pass. Sen. Marbut felt that the amendments should be accepted again by the committee to make sure that everyone was in agreement, even though they were accepted at the January 20th meeting.

Sen. Marbut moved the amendment on:

Page 1, line 20.

Following: "and"

Insert: "unanimous"

MOTION PASSED with Sen. Van Valkenburg voting "no".

Sen. Van Valkenburg moved that the previous amendment be accepted.
MOTION PASSED. (See Committee Report)

Sen. Fuller moved that SB 121 DO PASS AS AMENDED. MOTION PASSED on a 6-5 vote. Roll call vote attached.

DISPOSITION OF SENATE BILL NO. 173: Sen. Crippen moved the amendment for an effective date of July 1, 1983. MOTION PASSED.
Sen. Conover moved that SB 173 do pass as amended.

Sen. Marbut asked if it would be appropriate to hold SB 173 and the library mill levy until we vote on the 55 mill levy? Chairman McCallum said that the 55 mill levy would not cover this. Being Sen. Crippen and Sen. Fuller were at another hearing no final vote was taken at this time.

Chairman McCallum scheduled an executive session for Tuesday, February 1 to get bills out of committee.

MEETING ADJOURNED 2:30 p.m.


GEORGE McCALLUM, CHAIRMAN

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

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/27/83

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

234

(Please leave prepared statement with Secretary)

January 27, 1983

1819 Iris Lane
Billings, Mont. 59102
January 24, 1983

Chairman of the Local Government Committee
Montana State Capitol
Helena, Montana

Dear Sir;

I am writing in support of Senate Bill 173, which will raise the permissive mill levy that counties may allocate to museums from one to two mills.

I firmly believe in the need for government support of major educational institutions. Professionally run museums are major educational institutions and public education is their goal. Their programs benefit all ages. I have many years experience as a volunteer and have led hundreds of adults and children on tours of this type of educational institution. The individual benefits as does the community in which such a facility is located. Major educational institutions help make a community attractive to incoming businesses and improve the quality of life for all its citizens.

Counties should be allowed to levy the increased two mills for museums if they wish to provide that degree of support. Please support Senate Bill 173 to raise the permissive levy that counties may allocate to museums from one to two mills.

Yours truly,

Patricia S. Etchart

Patricia S. Etchart

STANDING COMMITTEE REPORT

January 28

19 83

MR. **PRESIDENT**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE** Bill No. **121**

Respectfully report as follows: That **SENATE** Bill No. **121**,
introduced copy, be amended as follows:

1. Page 1, line 20.
Following: "and"
Insert: "unanimously"
2. Page 1, line 21.
Following: "7-7-2227"
Insert: "(2)"

**AND AS SO AMENDED,
DO PASS**

SENATE COMMITTEE LOCAL GOVERNMENT

Date SB Bill No. 121 Time 2:26

NAME	YES	NO
OCHSNER, J. Donald, Vice-Chairman		✓
CRIPPEN, Bruce	✓	
HAMMOND, H.W.		✓
STORY, Pete		✓
MARBUT, Reed	✓	
CONOVER, Max	✓	
FULLER, David	✓	
THOMAS, Bill	✓	
VAN VALKENBURG, Fred	✓	
BOYLAN, Paul		✓
McCallum, Geo.		✓

Louise Sullivan
Secretary

Sen. George McCallum
Chairman

Motion: 169
Do Pass As Amended

(include enough information on motion--put with yellow copy of committee report.)

Missoula Museum of the Arts

January 24, 1983

Mr. J.D. Holmes
512 N. Rodney
Helena, Montana 59601

Dear Mr. Holmes:

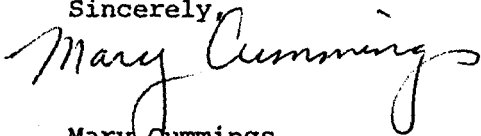
On behalf of the Montana Art Gallery Directors' Association and the Missoula Museum of the Arts, I would like to express my support of Senate Bill no. 173, "an act to raise the maximum permissive mill levy for county museums; amending Section 7-16-2205, MCA."

Although these are hard times for most people and organizations in our country, support for service areas such as museums is a good investment. Entertainment, education and enrichment in the arts, humanities and sciences are provided without charge to the citizens by museums. Our museum, for example, presents twenty different exhibitions per year plus about a hundred lectures, performing arts events, artist demonstrations, etc., in addition to school and club tours. People don't have to have money to enjoy our offerings, and we serve a very broad constituency.

I will try to be present at the Local Government Committee Hearing on January 27 to testify in favor of the bill for our county and for M.A.G.D.A. If I am unable to make it, your conveying of our support would be most appreciated.

Thank you very much.

Sincerely,



Mary Cummings
Director
Missoula Museum of the Arts

President
Montana Art Gallery Directors' Association



1500 North 30th Street
Billings, Montana 59101-0298

DEPARTMENT OF ART
406-57-2323

January 21, 1983

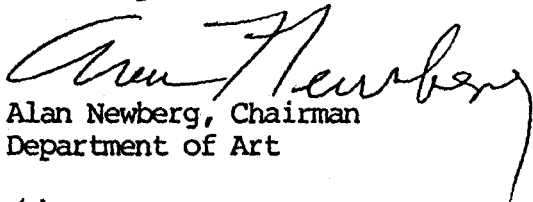
Chairman
Local Government Committee
Montana State Senate
Helena, MT 59601

Dear Sir:

I have served as a board member of the Yellowstone Art Center since 1980 and have also served on numerous other committees for that museum. In the course of my job, I have also come into contact with several other of the state's museums in a variety of communities. Further, I am, and have been, involved with and am in contact with a number of citizens' organizations where there is a commitment to the presence of the arts in our communities.

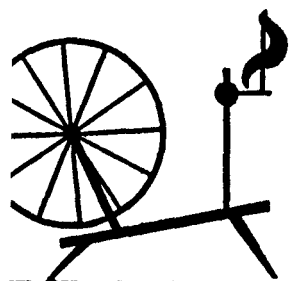
From these experiences I have learned that there is a great desire and need for public funding for museums. I urge you to vote affirmatively on SB 173 which grants local governments permissive authority to levy two mills to support such institutions. I know, on a first hand basis, that the current one-mill is inadequate to meet the needs in my community.

Sincerely,



Alan Newberg, Chairman
Department of Art

/wh



THE SPINNING WHEEL

**311B North Broadway
Billings, Montana**

January 24, 1983

Local Government Committee
Montana State Legislature
Helena, Montana

Dear Sir:

As a member of the Board of Trustees of the Yellowstone Art Center and as a concerned citizen of the city of Billings, -I am writing this letter to urge your Committee's support for Senate Bill 173.

This bill is in favor of raising the permissive mill levy from one to two mills and will be presented on January 27 of this year.

I know the budgets of the cities, counties and the state are stretched, being besieged from all sides because of the Federal cut-backs, but surely we are not to the point where our county government is not able to give the additional funding necessary to maintain the high performance of institutions such as the Yellowstone Art Center which contribute so mightily to our quality of life in Montana.

Again let me urge your support for this measure.

Sincerely,

Ann M. Teal

THE BILLINGS CLINIC

NINTH AVE. NORTH AT BROADWAY
MAILING ADDRESS: P.O. BOX 2555
BILLINGS, MONTANA 59103-9983
(406) 252-4141

THE BILLINGS CLINIC — HEIGHTS OFFICE

WICKS LANE AT BABCOCK BOULEVARD
MAILING ADDRESS: P.O. BOX 2555
BILLINGS, MONTANA 59103-9983
(406) 252-4141

ALLERGY

Bruce Anderson, Jr., M.D.

DERMATOLOGY

Thomas P. Gornley, M.D.

William H. Smoot, M.D.

IMMEDIATE CARE

Oscar W. Beltrush, M.D.

Gene V. Holden, M.D.

INTERNAL MEDICINE

Alan Lee Goulding, M.D., P.C.

George R. Brosius, M.D.

Paul V. Hoyer, M.D.

Lucinda M. Husby, M.D.

Office - Barry M. Hochstadt, M.D.

CARDIOLOGY

Walter C. Degnan, M.D.

John R. Burg, M.D.

Herman D. Sorensen, M.D.

ENDOCRINOLOGY

Martin E. Kodjeh, M.D.

GASTROENTEROLOGY

John C. Finks, M.D.

HEMATOLOGY

Warren D. Bowman, Jr., M.D.

Wilderness and Mountain Medicine

INFECTIOUS DISEASES

Ronald H. Smith, M.D.

MEDICAL ONCOLOGY

Donald I. Twito, M.D.

NEPHROLOGY

Donald L. Hicks, M.D.

James D. Knostman, M.D.

PULMONARY DISEASES

Terrence J. Fagan, M.D.

RHEUMATOLOGY

Philip E. Griffin, Jr., M.D.

NEUROSCIENCES

ELECTROMYOGRAPHY &

ELECTROENCEPHALOGRAPHY

Dale M. Peterson, M.D.

Patrick J. Cahill, M.D.

NEUROLOGICAL SURGERY

Robert C. Wood, M.D.

Leshman W. Soria, M.D.

PSYCHIATRY

William H. Hague, M.D.

PSYCHOLOGY

Robert E. Tompkins, Ed. D.

OBSTETRICS AND GYNECOLOGY

William H. Deschner, M.D., P.C.

Thomas C. Olson, M.D., P.C.

Mark E. Randak, M.D., P.C.

James R. Harris, M.D.

GYNECOLOGY AND INFERTILITY

Edward F. Randak, M.D., P.C.

OPHTHALMOLOGY

James S. Good, M.D., P.C.

ORTHOPEDICS

Sterling R. Hayward, M.D.

Willard J. Hull, M.D.

James E. Scott, M.D., P.C.

James F. Schwarten, M.D.

OTOLOGY

Stephen A. Kramer, M.D.

PEDIATRICS

Allen P. Hartman, M.D.

Patrick Sauer, M.D.

Roy F. Davis, M.D.

Paul H. Keller, M.D.

Heights Office - Marian A. Jones, M.D.

GENERAL, THORACIC, CARDIAC

AND VASCULAR SURGERY

John W. Heizer, M.D., P.C.

O. Adrian Johnson, M.D., P.C.

Hewes D. Agnew, M.D., P.C.

Paul F. Grmoljez, M.D., P.C.

Robert N. Hurd, M.D.

UROLOGY

Robert S. Hagstrom, M.D.

C. Dale Vermillion, M.D.

John J. Martin, M.D.

RADIOLOGY

Jerry D. Wolf, M.D.

V. Paul Johnson, M.D.

Bruce C. Pinkerton, M.D.

CONSULTANTS

MEDICAL DIRECTOR

Paul V. Hoyer, M.D.

January 24, 1983

Chairman,
Local Government Committee
Montana State Capitol
Helena, MT 59601

RE: SENATE BILL 172

Dear Sir:

I would like to express my strong support of Senate Bill 172,
which asks for a permissive mill levy for museums.

Sincerely yours,



L. BRUCE ANDERSON, JR., M.D.

djk

M A M museums association of montana

Ekalaka Mt

January 24, 1983

J. D. Holmes

Montana Arts Advocasy

512 N. Rodney

Helena Mt 59601

Dear Sir:

I have only recently learned of proposed Senate Bill 173 which, I understand, would raise the permissive levy for county museums to 2 mills.

I have not read the bill so am not able to comment on its wording. However, based on the single idea mentioned above, it would be a useful piece of legislation for a large number of communities across the state having county museums.

On this basis I recommend its support.

Respectfully,

Marshall E. Lambert
Marshall E. Lambert, Pres.

Montana Association of Museums

Carter County Museum

Ekalaka Mt 59324

CUSTER COUNTY ART CENTER

J.D. Holmes
Montana Art Advocacy
512 North Rodney
Helena, Montana 59601

January 25, 1983


Dear Mr. Holmes,

I am writing you in support of Senate Bill 173. It is my understanding that this bill would raise the maximum county permissive levy for museums from one mill to two mills. I would be heartily in favor of such a change.

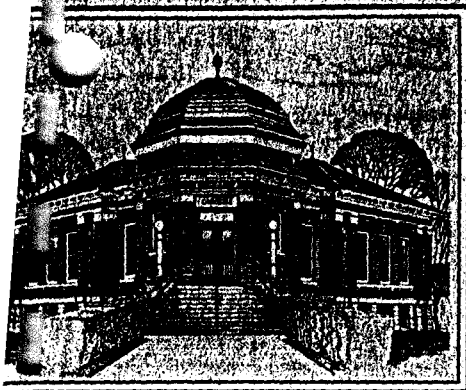
The Custer County Art Center now receives the equivalent of a half mill on a year-to-year basis from the county. I feel that the above mentioned change would benefit us and the community in several ways. First, it would make our county funding source somewhat more secure. Second, it would allow our county to fund us at a higher level without requiring such a move. And third, it would allow Custer County to fund other county museums without jeopardizing the Art Center's monies.

I hope that you will convey this letter to the appropriate legislators. Thank you very much.

Sincerely,



Julia A. Cook
Executive Director



Hockaday Center for the Arts
Second Avenue East & Third Street
P.O. Box 83
Kalispell, Montana 59901
(406) 755-5268

Jan 23, '83

Dear Mrs Holmes -

As director of the Hockaday Center for the Arts I am writing in support of the upcoming Senate Bill #173 to raise the ~~mini~~ maximum mill levy to 2 mill for county museums.

The Hockaday is a non-profit museum & arts center serving the Flathead Valley, a population of 52,000. We receive support annually from the Flathead County for our cultural programming. This support is crucial for our operation and the proposed bill would ensure ongoing support for the quality programs in Northwest Montana.

The Board of Directors of the Hockaday, members and community business leaders join me in support of this important bill.

Sincerely,

Walter J. Jorgensen -
Director

ROUBAL AND ASSOCIATES ARCHITECTURE AND ENGINEERING

January 24, 1983

Senator Bruce Crippen
State Senate
State of Montana
Helena, Montana 59601

Dear Senator Crippen:

As President of the Governing Board of Directors and Trustees of The Western Heritage Center in Billings, I would like to thank you very much for introducing SB173 to the Senate.

The passage of that Bill will offer significant opportunities to the Heritage Center and the Art Center for qualitative growth in the areas of education, exhibits and the administration of our programs.

It is my intent to be in Helena of Thursday the 27th for the hearing of SB173. If I may be of any particular service to its passage, please let me know. I am enthusiastically at your service.

Thank you for your time and consideration.

Sincerely,



Lewis Stackpole
Associate in the Firm

LS/jj

PARTNERS: IRVING R DANA AIA; WILLIAM L LARSON FAIA; JAMES P ROUBAL PE; ROGER K KRHOONEK AIA

PARTNERS: ARTHUR D JOHNSON AIA; WESLEY A PITTACK AIA; ROBERT J ROHOE PE; RICHARD L CARR PE; GEROLD D KLEIN
DALE D HALLOCK AIA; BRYCE D PEARSALL AIA; JOHN E PETERSON AIA; KEN B WATSON AIA; MERLE W RAMBO AIA

OMAHA NEBRASKA BILLINGS MONTANA CASPER WYOMING FARMINGTON NEW MEXICO
MILWAUKEE WISCONSIN IDAHO PHOENIX ARIZONA PIERRE SOUTH DAKOTA

ARCHITECTURE AND ENGINEERING

MONTANA BANKERS ASSOCIATION
Testimony on Senate Bill 222
Senate Local Government Committee

January 27, 1983

1:00 p.m.
Room 405

Thursday
January 27, 1983

Mr. Chairman and Members of the Committee:

My name is John Cadby. I am executive vice president of the Montana Bankers Association. Our association consists of 165 large and small, independent and system, state and national, city and rural, or 99% of all banks in the state of Montana. In their behalf, we thank you for giving us this opportunity to speak in opposition to Senate Bill 222.

Pledging requirements reduce competitiveness in the marketplace. If banks have to pledge, they cannot bid as high on government deposits as someone who doesn't have to pledge, such as the State Board of Investments. Further, if local government chooses to invest with the State Board of Investments, roughly 90% of that capital will flow out of state, thereby reducing the amount of funds available for investment in Montana's economy. The same holds true for government securities.

If the objective of pledging is to protect public funds, then this goal has been accomplished. The majority of public funds are already fully insured by the Federal Deposit Insurance Corporation. Further, FDIC will usually merge or reorganize any bank in trouble to protect all depositors. This policy has worked very well over the years. Of the 541 insured banks that have failed between 1934 and 1977, recovery of 99.8% of total deposits was effected.

The President's Commission of Financial Structure and Regulation recommended that financial institutions competing in the same market do so on an equal basis. Pledging requirements are contrary to this recommendation.

The long standing practice of pledging bank assets on public funds deserves serious re-evaluation. Elimination of pledging would reduce expenses for banks and increase yields for government. Because of the FDIC and relatively low risk of depositing funds in a bank, serious consideration should be given to remove pledging requirements altogether.

We urge this committee to recommend a "do not pass" on SB 222.
Thank you.

Marbut

MISSOULA COUNTY

OFFICE OF THE ATTORNEY
MISSOULA COUNTY COURTHOUSE
MISSOULA, MONTANA 59802
TELEPHONE: (406) 721-5700

M E M O

ROBERT L. DESCHAMPS III
COUNTY ATTORNEY

TO: SENATOR REED MARBUT, MISSOULA
FROM: JEAN WILCOX, DEPUTY COUNTY ATTORNEY *JW*
DATE: JANUARY 25, 1983
RE: VACATION OF COUNTY ROADS

The Montana statutes give two different procedures for abandoning county roads and streets. It is not clear when one applies and the other does not.

MCA 7-14-2601 provides that any ten, or a majority, of landowners in a road district may petition the county commissioners to abandon or discontinue a county road. The subsequent sections outline the procedure to follow, the contents of the petition, and an investigation and decision by the board of county commissioners. There is no express requirement for notice or a public hearing prior to the decision, except in the form of a later amendment which simply states that "no order to abandon any county road shall be valid unless preceded by notice and public hearing. (MCA 7-14-2615).

MCA 7-14-2616 sets out a different procedure for the discontinuation of "streets". A petition signed by all owners of lots on the streets or alley must be presented to the county. Under this method there are specific notice requirements.

A review of the legislative history of each of these statutes reveals that each section was enacted independently. The 1979 recodification placed both provisions in the same chapter and part entitled "Establishment Alteration, and Abandonment of County Roads," creating a question about which method should be used.

The statutes do not provide definitions to distinguish between county roads and county streets. Moreover, in the modern setting where urbanization has encompassed rural areas and vineyard and orchard tracts have been redivided into urban-sized lots, there is no longer a clear distinction between what once were rural county roads and town streets enabling one to determine the applicable statutory petition requirements.

In one recent case, the Montana Supreme Court confirmed that a petition to abandon a county street must contain at least ten signatures of freeholders. In Chennault v. Sager, Mont., 610 P2d 173 (1980), the road in question was one created by dedication on a subdivision plat filed prior to 1973. No mention

To: Senator Reed Marbut, Missoula
January 25, 1983
Page 2

was made of the procedure for discontinuing streets in unincorporated towns and townsites, even though the petitioners, who had had only four signatures on their original petition, contended that only those persons directly affected by the abandonment needed to sign the petition. Instead, the court restated the procedure for abandoning county roads by referring to MCA 7-14-2601 and 2603 which requires a petition from any ten or a majority of freeholders of a road district.

Because title to the land underlying a public road reverts to the adjacent landowner upon vacation or abandonment of the road, there is a great deal of importance placed on the validity of the abandonment procedure. In many cases, protesting landowners have successfully challenged county commissioner abandonment actions by arguing that the procedure was incorrect. The uncertainty of which procedure applies in a particular circumstance leaves the local governing body open to lawsuits, the outcome of which depend on supreme court interpretations.

We believe it is the public interest to provide for one road abandonment procedure to avoid litigation, preserve ownership title, and to insure notice and hearing prior to an abandonment decision. The proposed amendments are a combination of existing statutes.

Please let me know if I can be of further help.

BILL SUMMARIES
SENATE LOCAL GOVERNMENT

SB 173
(Crippen)

Currently, a county may levy up to 1 mill for museums. This bill would permit the county to levy up to 2 mills for such purposes.

SB 222
(Orman)

Currently, a local governing body can require a maximum 50% security for the value of uninsured or unguaranteed deposits of public funds. This bill would allow the governing body to require a maximum of 100% security.

SB 234
(Marbut)

This bill requires that a public hearing be held when a county road is to be established, altered, or abandoned. Currently, no hearing is required.

ABANDONMENT AND VACATION OF COUNTY ROADS, STREETS, AND ALLEYS

AMEND 7-14-2601(3) by adding a new subsection (c):

"county road" includes any public road, street, or alley located outside the boundaries of an incorporated municipality within the county.

AMEND 7-14-2603 by replacing (3) and adding (4):

(3) Before acting on the petition, notice of a public hearing must be published or posted in three public places stating the time and place of the hearing and what road, street, or alley, or portion thereof, is asked to be vacated. Notice must be published in a newspaper or posted at least one week before the public hearing.

(4) After considering the testimony at the public hearing, the petition, and the results of the investigation, the board shall make an entry of its decision on the minutes.

REPEAL 7-14-2616

AMEND 7-14-2617 to read:

The vacation or abandonment authorized by this part shall not affect the right of any public utility to continue to maintain its plat and equipment in anysuch county road, street, or alley.