

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 10, 1983

The meeting of the Local Government Committee was called to order by Chairman George McCallum at 12:30 p.m. in Room 405 of the State Capitol on February 10, 1983.

ROLL CALL: All Senators were present.

CONSIDERATION OF SENATE BILL NO. 135: Sen. Halligan, District #48, appeared before the committee for the second time, to explain the proposed amendments to the above bill. The cities have been able to do this since the 1960's and it is not intended to provide any more taxing authority. With the proposed amendments it would not be called an all-purpose mill levy but a consolidated services levy. The bill is a compromise bill and there is no duplication or additional authority.

PROPOSERS: George Bousliman, Urban Coalition, said in addition to what Sen. Halligan stated, that in its current form it would give counties flexibility they don't have now. The Montana Taxpayers Assoc. has another amendment and he felt their amendment is a fair and reasonable approach and would support the amendment. (Amendment attached).

Steve Meyer, Montana Association of Conservation Districts, handed out a proposed amendment to the committee and felt this would clear up any confusion. (Amendment attached hereto).

Dennis Burr, Montana Taxpayers Association, said that the objectionable portions have been removed. A county can now consolidate those into one levy and use this revenue. If, in a particular case, there is no civic center, then there is no reason to allow them to implement a levy and there should be some language inserted to that effect. He read the amendment and explained it to the committee. With the Association's amendment and what has been done to the bill, they have no objections. (Amendment attached hereto).

OPPOSERS: J.D. Holmes, Montana Arts Advocacy, opposed the bill as written and the amendments that were proposed didn't satisfy the objections of his group. They have worked hard to increase the permissive levy for libraries, museums and art centers. He offered an amendment to the introduced copy of the bill which would add an exemption for the library board and the museum board. They hate to have to fight for money. (See Exhibit #1 for proposed amendment).

Bill Asher, Agricultural Preservation Association, Park County Legislative Association and the Sweetgrass County Preservation Association, appeared as an opponent to the bill.

Gordon Darlinton, Three Forks rancher representing the Agricultural Preservation Association, said they were not aware of the amendments. Most of their group was opposed to the bill. Any kind of increase in taxes would be very detrimental to agriculture. The county commissioners could collect taxes and then spend as they see fit. Agriculture is being taxed almost as much as it can stand and requested

February 10, 1983

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that this bill be defeated in committee.

Vera Cahoon, Missoula Freeholders Association, said that in line with what Mr. Darlinton said, she wished to register their opposition to this bill.

There being no further opponents, Sen. Halligan closed his presentation of the bill, saying they tried to deal with all the considerations by not providing any increased taxing authority and felt it is an excellent alternative to what we have now.

DISCUSSION OF SENATE BILL NO. 135: Sen. Crippen said, in other words, this is a new bill with the amendments. Where is the old Section 3 in this bill? Dave Bohyer said this is a replacement bill. Sen. Crippen stated that all these special service levies - they are included in this all-purpose 24 mill levy in addition to the levies that used to run the counties. All these different areas will be competing with each other. Sen. Hammond said they will all have to go before the county commissioners and there will be less cash available because they will be competing in the 24 mill levy.

Chairman McCallum said, for instance, he and Dave Bohyer figured out what would be in the 24 mill consolidated services levy in Cascade County - the bridge fund, the fair board, library, airport, mosquito board, weed board and museum, plus livestock (1/4 mill), developmentally disabled (1 mill), civic center and the ferry. This adds up to 23 3/4 mills. On top of that would be the 25 for the general fund, 13 1/2 for welfare and 15 for roads. Sen. Crippen asked if these 24 mills could be used anywhere within those authorized areas.

Mr. Burr stated that these little levies may add up to 20 mills. Under this bill they could go to 24. This all-purpose is not mandatory. If you provide for all the functions it would be 24 mills. If not, those other levies would be taken out. The conservation districts would be outside the consolidated levy.

Sen. Marbut asked how this list of special service levies that is being replaced by the consolidated services levy was developed?

Mr. Bousliman said this was in recognition of the fact that there are 12 enumerated levies that the counties levy for. This gives the county commissioners some options they don't have now. He also understood why there are some concerns about losing money under this bill for certain areas. This would be based upon say, the library board's case before the commissioners.

Sen. Conover asked if libraries were allowed 3 mills now, is this doing away with all that? Chairman McCallum answered yes, they could levy the whole thing for one certain area if they desired to.

Mr. Bousliman said that he didn't think it could all be spent on libraries, etc., because the counties still have statutory law that they must observe. Chairman McCallum suggested that the members check their books from the Montana Taxpayers Assoc. to see what is outside the all-purpose levy. Sen. Crippen felt that if this is passed all these areas are going to have to compete within this 24 mills. If we

are going to give 24, why not 28? Sen. Halligan replied that he is trying not to give anybody additional taxing authority; just flexibility.

Sen. Marbut asked how Sen. Halligan sees this as working with the libraries and museums to which Sen. Halligan replied that he wanted to put them in here. Mr. Bousliman said if they wanted to pass something like this, they should increase the consolidated services from 24 to 26 at the same time that the library millage is increased in separate legislation.

Sen. Van Valkenburg asked if, for example, Missoula County adopted this all-purpose levy and put all the money into recreation and the 1985 session comes around and the libraries and museum people come in and say they need their own levy, what do you think we should tell them? Sen. Story said that we would have to do it for them. He felt that it could be written to make it so that you would have to have a vote of the people in order to do it. Sen. Van Valkenburg felt that the Legislators seem to feel that they know better than the county commissioners and can predict the future and never give the county commissioners any discretion whatsoever.

The hearing closed on SB 135.

CONSIDERATION OF SENATE BILL NO. 364: Sen. Norman, sponsor of the bill, said that some of his witnesses could not appear because of the inclement weather and asked if their testimony could be included in the minutes for when the committee considered the bill.

This bill authorizes a board of county commissioners to employ an attorney other than the county attorney at the board's discretion. Currently, the county attorney must approve the hiring of another attorney. The county commissioners are elected officials and now must depend on another elected official for their legal advice. If the philosophies differ, this could make it difficult for the commissioners. In the case of a commissioner being charged with a misdemeanor, he consults with the county attorney and the county attorney, in turn, must prosecute him. However, criminal matters, in this bill, remain with the county attorney. This bill addresses only civil matters.

PROPONENTS: Howard Schwartz, Missoula County, handed out his written testimony and explained that the other county commissioners don't feel as strongly as Mr. Palmer does and they took no position against or in favor of the bill. He read his testimony, on behalf of Bob Palmer, Missoula County Commissioner, (copy attached) and stated that there are many states that have this provision. Mr. Schwartz presented the committee with a letter from James Lofftus of the Missoula Rural Fire District which expressed their support of this bill. The county commissioners have to have the ability to hire their own staff to represent them and not someone else.

Mark Racicot, representing the Attorney General's Office, stated that in the criminal cases there are frequently conflicts.

DISCUSSION OF SENATE BILL NO. 364: Sen. Marbut asked why this couldn't be solved by simply removing the words in 2705, "except in counties of the first class". Mr. Racicot felt it would be an excellent way. Sen. Marbut asked if they would get the same effect by just amending this section as they would if they passed the bill. Sen. Story said they don't have the time. Sen. Thomas said that in Great Falls the county attorney doesn't want to go to the school board meetings so the school board hires their own attorney. If this is repealed they would not be able to do that. Chairman McCallum asked if this would be a fulltime position and Mr. Schwartz said that it would be at the option of the county commissioners. The intent was to eliminate "the consent of the county attorney"; just a parttime attorney to help out. Chairman McCallum asked where the state pays 1/2 of the county attorney fees, would they be expected to pay 1/2 of this to which Mr. Schwartz said "no".

Sen. Crippen stated that the bill does not address criminal cases, only civil. The first class counties, now, cannot hire outside attorneys. He wondered why the exception was there in the first place and said that it was because the smaller counties did not have full-time county attorneys. He would go along with this in civil cases, but not in criminal situations.

Mr. Racicot stated that this was much more volatile than what he had first thought. The county attorneys felt this was to be only on an occasional basis. The county attorney veto has held the lid on outside counsel expenses. Sen. Crippen brought out the fact that in smaller counties where the county attorney can have a private practice, he might have represented some of the people. Chairman McCallum stated that any fulltime county attorney cannot practice privately; that is why they have gone to a fulltime county attorney - so they would have legal advice when needed.

Mr. Schwartz stated that as first class counties get larger, there are built-in conflicts, both administratively and politically.

There being no further questions from the Committee, the hearing on SB 364 was closed.

DISPOSITION OF SENATE BILL NO. 130: SB 130, which had been held in committee because of a tie vote, again was considered. Sen. Marbut MOVED DO PASS AS AMENDED. MOTION PASSED, vote 7-4. (See committee report).

DISPOSITION OF SENATE BILL NO. 87: Sen. Thomas offered his proposed amendments and MOVED ADOPTION OF AMENDMENTS. MOTION CARRIED UNANIMOUSLY. Sen. Thomas moved SB 87, DO PASS AS AMENDED. MOTION CARRIED UNANIMOUSLY.

Sen. Thomas MOVED TO TABLE SB's 85, 86, 112, 113, 115. MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 140: Sen. Story MOVED SB 140 DO PASS AS AMENDED. Sen. Van Valkenburg felt there should be some comments from the sanitarians on the amendments.

Joan Miles, Lewis and Clark County Health Department, said that basically, from the local sanitarian's view, they are shifting it to the local governments if they are certified by the department. There is no fund in Lewis and Clark County to do this. The department would have to certify them as to the size of the subdivision, consequently this would have to be on a case to case basis. In answer to Sen. Van Valkenburg's question as to counties wanting to do this, Sen. Story felt that the counties that want to and have the ability to do this, can be certified by the state to do it. Sen. Van Valkenburg felt that if there are no counties right now that want to do it, it is going to create a whole bundle of confusion. Dennis Rehberg, Montana Association of Realtors, pointed out that Sheridan County did ask for this ability, and the city of Billings, as long as there is an inter-jurisdictional agreement.

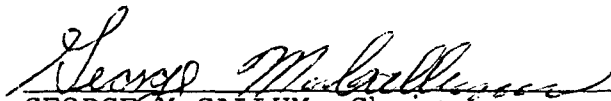
Sen. Story said that he represented people, not sanitarians, county commissioners or the department and in his district there have been people that thought this should be available to them. If the county commissioners don't agree with the people, they don't have to do it. Sen. Ochsner stated that all of eastern Montana is asking for this so they can get something going without having to send everything to Helena and Mr. Rehberg said at least for the minor subdivisions. Sen. Story said there is a difference in major and minor subdivisions - it is set at 6 so some can do five or less and some can do more than 6.

Sen. Marbut asked Joan Miles if she didn't think the resources were available. She said they don't have a contract with the State for subdivision review, just permits for septic systems. All of the fee, in the case of Lewis and Clark County, goes to the State because they don't have the contract with the State. Sen. Thomas asked who is going to get the fee. The answer was that the fee would go to the reviewing authority but it wasn't clear who determines what the fee will be.

ORIGINAL MOTION FOR DO PASS AS AMENDED, MOTION CARRIED with Sens. Fuller and Van Valkenburg voting "no". Vote 9-2.

Chairman McCallum asked Sen. Story to work with Dave Bohyer on a
*Statement of Intent for SB 140.

MEETING ADJOURNED 2:16 p.m.


GEORGE McCALLUM, Chairman

*See addendum to minutes attached.

ADDENDUM TO MINUTES

February 11, 1983

RE: SENATE BILL NO. 140

Chairman McCallum contacted each committee member individually and the Statement of Intent was thus adopted. Therefore, it was reported out of the Committee with the bill.



GEORGE MCCALLUM, CHAIRMAN

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

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/10/83

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

DATE 2/10/83

COMMITTEE ON Local Government

BILL NO.

364 + 135

| NAME | REPRESENTING | Check One | |
|------------------|------------------------------------|---------------|---------------|
| | | Support | Oppose |
| J. D. Holmes | Montana Arts Advocacy | | SB 135 |
| Dave Nelson | Montana Arts Council | | ✓ |
| Steve Meyer | MT Assoc of Conservation Districts | | |
| James Parker | Montana State Library | | SB 135 |
| Willie Hodge | Bozeman | | SB 135 |
| Darland Pryor | E. Missoula | | 364 SB 135 |
| Vivian Cadman | Trail Co. Foundation | | SB 135 |
| Edna Thompson | Missoula Wildlife Society | | 364 SB 135 |
| John R. H. H. | Miss. Co. Foundation | | SB 135 |
| George Zaudman | URBAN COALITION | 135 | |
| Robert Hodge | Trail | | 5135 |
| William E. Hodge | Trail | | 5135 |
| Gordon Darlson | A PA | | 5135 |
| Howard Schwartz | Missoula County | 364 SB 135 | |

(Please leave prepared statement with Secretary)



MISSOULA COUNTY

2/10/83

BOB PALMER, COUNTY COMMISSIONER

• Missoula County Courthouse • Missoula, Montana 59802
(406) 721-5700

BCC-83-76

February 10, 1983

TESTIMONY IN FAVOR OF SB 364

There are two sets of related problems that SB 364 seeks to address. The first is the political problem that county commissioners need to depend on other elected officials for legal advice, and the second problem is that the county commissioners have to depend on employees not under their control to do work on their behalf.

The political problem arises because, by law, the county attorney or his/her deputies represents the county commissioners in all legal matters. However, there are times when the political interests of the county attorney differ from those of the county commissioners; therefore, it is entirely possible that the county commissioners may seek legal advice from the county attorney in which there is a political difference between the two sets of elected officials. Under current law, there is nowhere for the commissioners to turn. If the commissioners seek a county attorney's opinion, and it is rendered against what they deem to be in the best interest of the county, they may seek to have this opinion clarified by the Attorney General, but he/she too is an elected official who may or may not have a political interest of his/her own in the matter. If the commissioners disagree with the Attorney General's ruling, they may of course appeal that to district court, but in order to do so, they would need the consent of the county attorney to hire outside counsel, or else they would have to do it out of their own pocket.

There are simply times when the county attorney, who has a constituency of his/her own, and the commissioners, who have a constituency of their own, will not see eye to eye on legal matters. The present system requires that the chief civil legal advisor to the county commissioners have a political constituency of his/her own that may or may not be the same as the people he/she is required by law to advise.

The administrative problem involves the fact that the county commissioners are dependent on persons over whom they have no direct supervisory control to respond to their requirements for legal support. This has caused the Missoula County Commissioners problems when the priorities that they have are not the same as those of the County Attorney's Office. On the whole, things tend to get done, but not necessarily at the pace or in the manner that the County Commissioners want. There have been times when the County Attorney

or Deputy County Attorney was unavailable to be at Commissioners' meetings, when relevant County Attorney Deputies have been sent out of state at a time when the Commissioners needed them to work on pressing Board of County Commissioner business, and when County Commissioner business disappeared under a stack of requests for action from other County departments and from the County Attorney's Office itself.

From a management point of view, the present system is clearly irrational. This bill would provide a rational alternative by allowing all or part of the civil side of the county attorney's office to be placed directly under the county commissioners, who generate the largest volume of civil work for the county attorney's office. This bill would in no way undermine the authority of the county attorney as the definitive arbiter of what is legal, but would provide the commissioners with their own staff attorney to put forth their point of view when such decisions are being made. In the long run, perhaps, what is needed are new forms of county government for large counties where the traditional form has lost its ability to function adequately. Short of that, however, this bill would go a long way towards reducing inevitable tensions between elected officials, and would make sure that the elected county commissioners have a legal staff that is responsive to their needs. I should note, in closing, that despite the fact that the Attorney General is legally required to represent the State in all matters, every state department and the Governor's Office itself has its own legal counsel, which represents those departments in court. These attorneys have been funded by the Legislature, and this does not seem to have caused any appreciable problem. Allowing a similar relationship at the county level would be equally beneficial.

Submitted by,



Howard Schwartz, Executive Officer
Missoula County, on behalf of
Missoula County Commissioner Bob Palmer

2/10/83



MISSOULA RURAL FIRE DISTRICT

2521 SOUTH AVENUE WEST MISSOULA, MT 59801 (406) 549-6172

February 9, 1983

Senate Local Government Committee
Montana State Senate
Capitol Station
Helena, Montana 59601

Honorable Members of the Committee:

The Missoula Rural Fire District would like to go on record in support of Senate Bill 364.

The Fire District, for the past two years, has retained private counsel and we are extremely pleased with the promptness and quality of advice we receive.

We felt it was necessary to hire private counsel due to:

1. The slow response of the County Attorney to Fire District concerns.
2. The fact that the County Attorney wanted to charge the Fire District \$2,000.00 per year for his service.
3. The fact that private counsel would not be concerned with the politics of opinions issued to the Fire District, and
4. Private counsel would issue opinions to the Fire District within a matter of days and not months, as in the case of the County Attorney.

We urge you to recommend approval of Senate Bill 364.

Sincerely,

James A. Lofftus, Chairman
Missoula Rural Fire District
Board of Trustees

JAL:lcd

NAME: Julie Hacker DATE: 2-10-83

ADDRESS: Star Route Bonner

PHONE: 244-5521

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: AB135

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

COMMENTS: This bill does not guarantee a dept. of the
co. a guaranteed mil levy. It is very confusing.
Please note Section 3 - no 10. which
as I understand it would be an
unlimited authority for the commissioners
to add tax upon tax.
This bill originated with the urban co. coalition
and ^{some of} the Missoula delegation. Missoula Co. would have
a hey day with this & the rural people again will lose.
This bill should be killed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE: 2-10-83

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Karl Cahoon DATE: 2/10/83

ADDRESS: Star Pte Borneo

PHONE: 244-5550

REPRESENTING WHOM? Massachusetts Truckholders

APPEARING ON WHICH PROPOSAL: SB 135

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: Not financing road & should
the amendment - I have to
oppose this bill on the basis
of confusion. Under amendment
has suggested by MTA. it is still
has appeared to the Urban
Coalition continually waiting
legislation to change. Control from
the people to go it.

I strongly oppose
this bill. It is a
child of Massachusetts Gov't.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: David MacLay DATE: 2/10/83
ADDRESS: 828 Ronald Av Missoula
PHONE: 549-7645
REPRESENTING WHOM? self -
APPEARING ON WHICH PROPOSAL: S 135

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

COMMENTS: The confusion is too great.
Nobody is pleased. The provisions
do not serve Missoula or others as
a library; others
the bill should be killed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Kera Cahoon DATE: 1/10/83

ADDRESS: Star Rte - Bonner Mt

PHONE: 244-5550

REPRESENTING WHOM? Missoula Co. Trustees

APPEARING ON WHICH PROPOSAL: S.B. 364

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: Missoula County Comm.
Palmer is once again bringing
his problems to the legislature.
It will be one more expense
I am opposed to paying for
Mr. Palmer's attorney.
This takes Palmer away from
Att. Gen. It would be free
time attorney in Missoula
County & could become very
costly. Kill this bill.
County Attorney generally do a good
job. This is a result of Com. Palmer's
release attempt.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

DATE:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

Let's written way to
expand in Missoula Co. This
bill is another attempt at
writing provisions of charter
into state law so that
Missoula Co. will have home
rule without a charter. There is
a package of bills from Missoula
& the Urban Coalition to get
home rule powers without the
consent of the electorate. The people
who sit on this committee are the
state legislature are over-represented.
Kill this bill!!!

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

What is wrong with regarding the
Attorney as having the final
approval & hiring a legal representative?
On Missoula this would be full
time. See who is going to pay for it?

BILL SUMMARIES

SENATE LOCAL GOVERNMENT COMMITTEE

SB 135
(Halligan)

Currently, counties may levy a maximum 25 or 27 mills for general county expenses depending on their class. In addition, counties may levy for a variety of special purposes.

This bill would permit a county to levy up to 55 mills for general purposes, but would limit levies for special purposes.

SB 364
(Norman)

Senate Bill 364 authorizes a board of county commissioners to employ an attorney other than the county attorney at the board's discretion. Currently, the county attorney must approve the hiring of another attorney.

Amendments to Senate Bill 87 (Introduced copy)

1. Title, line 4.

Following: "ENTITLED: "AN ACT"

Strike: the remainder of line 4 through "YEARS" on line 9

Insert: "ALLOWING"

2. Title, line 10.

Following: "BODY"

Insert: "TO RANGE FROM 1 YEAR TO 3 YEARS"

3. Title, line 11.

Following: "AMENDING"

Strike: "SECTIONS 76-2-303, 76-2-605, AND"

Insert: "SECTION"

4. Page 1, line 14.

~~Following: the enacting clause~~

Strike: Section 1 and Section 2 in their entirety

Renumber: subsequent section

5. Page 3, line 11.

Following: "years"

Insert: "or less than 1 calendar year"

PROPOSED AMENDMENTS TO SENATE BILL 140 (Introduced Copy)

1. Title, line 7.

Following: "SECTIONS"

Strike: "76-3-504"

Insert: "75-6-112" "75-6-112"

2. Title, line 8.

Following: "76-4-125"

Insert: "76-4-126" the 2nd "THROUGH" Strike: "76-4-125"

3. Page 1.

Strike: Section 1 in its entirety.

Insert: "Section 1. Section 75-6-112, MCA, is amended to read:
"75-6-112. Prohibited acts. A person shall not:

(1) discharge sewage, drainage, industrial waste, or other wastes that will cause pollution of state waters used by a person for domestic use or as a source for a public water supply system or water or ice company;

(2) discharge sewage, drainage, industrial waste, or other waste into any state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3) build or operate any railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) construct, alter, or extend any system of water supply, water distribution, sewer, drainage, wastewater, or sewage disposal without first submitting necessary maps, plans, and specifications to the department or appropriate reviewing authority certified by the department under 76-4-104 for its review and approval;

(5) operate or maintain any public water supply system which exceeds the maximum contaminant level established by the board unless he has been granted or has an application pending for a variance or exemption pursuant to this part."

Renumber: subsequent sections

4. Page 3, line 20.

Following: Line 19

Insert: "(5) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37, Chapter 40.

(6) "Registered professional engineer" means a person licensed to practice as a professional engineer under Title 37, Chapter 67."

Renumber: subsequent subsections.

5. Page 4, line 19.

Following: "(1)"

Strike: "The"

Insert: "If the governing body or bodies have been certified by the department as competent to review a subdivision of the number of units proposed, the"

6. Page 5, line 7 through 9.
Following: "body"
Strike: "does not have a registered sanitarian on staff or on contract to perform the necessary review under this part"
Insert: "has not been certified by the department as competent to review a subdivision of the number of units proposed"
7. Page 5, line 16.
Following: "department"
Strike: "reviewing authority"
Insert: "department"
8. Page 5, line 19.
Following: "part."
Insert: "The department shall also establish and adopt standards and procedures for certifying a governing body as competent to review a subdivision of a specified number of units or to review specifications of construction, alteration, or extension of a water supply or wastewater system under subsection (4) of 75-6-112, or both."
9. Page 9, line 8.
Following: "sanitarian"
Insert: "or registered professional engineer"
10. Page 9, line 10.
Following: "sanitarian"
Insert: "or registered professional engineer"
11. Page 14, ~~line 26~~.
Following: line 25
Insert: "Section 13. Section 76-4-126, MCA, is amended to read:
"76-4-126. Right to hearing. (1) Upon denial of approval of subdivision plans and specifications relating to environmental health facilities, the person who is aggrieved by such denial may request a hearing before the board.
(2) If denial of approval has been by the local governing body, the person who is aggrieved by such denial may request a hearing before the department.
(3) Such hearings will be held pursuant to the Montana Administrative Procedure Act."
Renumber subsequent sections.

NAME: David J. MacLay DATE: 2/10/83

ADDRESS: 828 Ronald Ave Missoula

PHONE: 549-7645 or 721-5440

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SD 364

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

COMMENTS: Missoula County has ample
representation for all departments of
the county by the County Attorney and
the employees of his office.

I see no need for extra legal help
for our officials or county employees.

Any involvement of any employee
or official in civil case work is for the
individual involved —

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Garland L. Pryor DATE: 2/10/83

ADDRESS: 813 Montana E Missoula, MT, 59802

PHONE: 543-3603

REPRESENTING WHOM? Myself.

APPEARING ON WHICH PROPOSAL: SB135

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: Section 2 The all-purpose 55 mill levy
appears to be very excessive as does Section 4
that allows the county commissioners to exceed
the 55 mill levy in Section 2. This bill should
be killed.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Witterberg DATE: Feb. 10 83

ADDRESS: 3939 Paxson

PHONE: 251 4200

REPRESENTING WHOM? Missoula County Freeholders

APPEARING ON WHICH PROPOSAL: SB 135

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENTS: a very confusing bill.

There seems to be no limit the mill
levy may be advanced.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ellen Imboden DATE: 2-10-83

ADDRESS: Po Box 75-31 Missoula Mt 59807

PHONE: 258 6253

REPRESENTING WHOM? Missoula County Taxpayers

APPEARING ON WHICH PROPOSAL: Senate Bill 135

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

COMMENTS: In my opinion there is too many
unanswered questions to allow this bill
to pass.
We can not support any raise in taxes
it will tax some land owner out of
business
Please Please do not pass such a bill

Ellen Imboden

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Ellen Imboden DATE: 2-10-83

ADDRESS: PO Box 7531 Missoula mt 59807

PHONE: 2586233

REPRESENTING WHOM? Missoula Co. Landholders

APPEARING ON WHICH PROPOSAL: Senate Bill 364

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? Strongly Oppose

COMMENTS: We elect our County Commissioners under the
assumption they can perform their duties
I object to the Commissioners coming over
me, thinking they should have a private
attorney.
We have a County attorney and several
deputies, I think we have enough on
the pay roll as it is.
they don't need another attorney.

Ellen Imboden

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE COMMITTEE LOCAL GOVERNMENT

Date SB Bill No. 130 Time 1:50

| 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, George | ✓ | |
| | | |

Louise Sullivan
Secretary

Sen. George McCallum
Chairman

Motion: 16 2 11

Do Pass As Amended

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

STANDING COMMITTEE REPORT

February 11

19 83

MR. **PRESIDENT**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE** Bill No. **140**

Respectfully report as follows: That **SENATE** Bill No. **140**,
introduced copy, be amended as follows:

1. Title, line 7.
Following: "SECTIONS"
Strike: "76-3-504"
Insert: "75-6-112"
2. Title, line 8.
Following: the 2nd "THROUGH"
Strike: "76-4-125,"
3. Page 1.
Strike: Section 1 in its entirety.
Insert: "Section 1. Section 75-6-112, MCA, is amended to read:
"75-6-112. Prohibited acts. A person shall not:
(1) discharge sewage, drainage, industrial waste, or other
wastes that will cause pollution of state waters used by a person
for domestic use or as a source for a public water supply system
or water or ice company;

DO PASS--

(Continued)

J.C.

(2) discharge sewage, drainage, industrial waste, or other waste into any state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3) build or operate any railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) construct, alter, or extend any system of water supply, water distribution, sewer, drainage, wastewater, or sewage disposal without first submitting necessary maps, plans, and specifications to the department or appropriate reviewing authority certified by the department under 76-4-104 for its review and approval;

(5) operate or maintain any public water supply system which exceeds the maximum contaminant level established by the board unless he has been granted or has an application pending for a variance or exemption pursuant to this part."

Renumber: subsequent sections

4. Page 3, line 20.

Following: Line 19

Insert: "(5) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37, chapter 40.

(6) "Registered professional engineer" means a person licensed to practice as a professional engineer under Title 37, chapter 67."

Renumber: subsequent subsections

5. Page 4, line 19.

Following: "(1)"

Strike: "The"

Insert: "If the governing body or bodies have been certified by the department as competent to review a subdivision of the number of units proposed, the"

6. Page 5, line 7 through 9.

Following: "body"

Strike: "does not have a registered sanitarian on staff or on contract to perform the necessary review under this part"

Insert: "has not been certified by the department as competent to review a subdivision of the number of units proposed"

7. Page 5, line 16.

Following: "department"

Strike: "reviewing authority"

Insert: "department"

(Continued)

Local Government Committee
Senate Bill 140
Page 3

8. Page 5, line 19.

Following: "part."

Insert: "The department shall also establish and adopt standards and procedures for certifying a governing body as competent to review a subdivision of a specified number of units or to review specifications of construction, alteration, or extension of a water supply or wastewater system under subsection (4) of 75-6-112, or both."

9. Page 9, line 8.

Following: "sanitarian"

Insert: "or registered professional engineer"

10. Page 9, line 10.

Following: "sanitarian"

Insert: "or registered professional engineer"

11. Page 14.

Following: Line 25

Insert: "Section 13. Section 76-4-126, MCA, is amended to read:
"76-4-126. Right to hearing. (1) Upon denial of approval of subdivision plans and specifications relating to environmental health facilities, the person who is aggrieved by such denial may request a hearing before the board.

(2) If denial of approval has been by the local governing body, the person who is aggrieved by such denial may request a hearing before the department.

(3) Such hearings will be held pursuant to the Montana Administrative Procedure Act."

Renumber: subsequent sections

AND AS SO AMENDED,
DO PASS

Statement of Intent attached.

STANDING COMMITTEE REPORT

February 11

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MR. **PRESIDENT**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **Statement of Intent,** **SENATE** Bill No. **140**

Respectfully report as follows: That **Statement of Intent,** **Senate** Bill No. **140**
be adopted.

STATEMENT OF INTENT RE: SB 140

A statement of intent is required because this bill modifies existing rulemaking authority in sections 4 and 5. Section 4 will require the department of health and environmental sciences to make a new rule setting out how it will certify local governments as competent to review proposed subdivisions. Criteria for certification should be limited to the availability to the unit of registered sanitarians or registered professional engineers, either on staff or by contract. Qualifications should include registration with state licensing authorities and a reasonable amount of experience, not more than the department would require in hiring such persons to perform these duties on its staff. Contractual arrangements may be with other units of local government or with consultants having no conflicts of interest.

DO-PASS-

(Continued)

J.C.

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Local Government Committee
Statement of Intent Re: SB 140
Page 2

Section 4 also adds the words "or standards" after "rules". This is not intended to broaden authority or to affect the substance of present rules adopted by the department in ARM 16, chapter 16, except as the bill otherwise limits the application of these rules by the department to those subdivisions where the department retains reviewing authority.

Section 5 of the bill will require the department to amend ARM 16.16.804, Disposition of Fees, to reflect that the local government receives and keeps the entire fee when it is the reviewing authority, and that the department receives and keeps the entire fee, as provided in the new second sentence of 76-4-105, when it is the reviewing authority.

BE ADOPTED

MC

STANDING COMMITTEE REPORT

February 11

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MR. **PRESIDENT**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE** Bill No. **87**

Respectfully report as follows: That **SENATE** Bill No. **87**,
introduced copy, be amended as follows:

1. Title, line 4.
Following: "AN ACT"
Strike: the remainder of line 4 through "YEARS" on line 9
Insert: "ALLOWING"
2. Title, line 10.
Following: "BODY"
Insert: "TO RANGE FROM 1 YEAR TO 3 YEARS"
3. Title, line 11.
Following: "AMENDING"
Strike: "SECTIONS 76-2-303, 76-2-605, AND"
Insert: "SECTION"
4. Page 1, line 14.
Strike: Section 1 and Section 2 in their entirety
Renumber: subsequent section

~~DO PASS~~

(Continued)

Local Government Committee
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Page 2

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5. Page 3, line 11.
Following: "years"
Insert: "or less than 1 calendar year"

AND AS SO AMENDED,
DO PASS

M.C.

STANDING COMMITTEE REPORT

February 11

19 83

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 130

Respectfully report as follows: That SENATE Bill No. 130,
introduced copy, be amended as follows:

1. Page 1, line 23.

Following: "officials"

Insert: "or organizations representing local agencies or
officials"

AND AS SO AMENDED,
DO PASS

W.C.