

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 8, 1985

The meeting of the Local Government Committee was called to order by Chairman Darko on January 8, 1985 at 3:10 p.m. in Room 129 of the State Capitol.

ROLL CALL: All members were present with the exception of Representative Gilbert who was excused by the Chairman.

Chairman Darko read the Rules of Procedure for the Local Government Committee, and copies were passed out to each committee member. She said we will work hard on Tuesdays and Thursdays so that we won't always have to meet on Saturdays. If someone is going to be absent, let the Chairman know. Everyone should be present on important votes.

Chairman Darko introduced Lee Heiman, Committee Counsel for the Local Government Committee, who explained that his primary job is to make sure that the action of the committee reflects its wishes. Primarily he works on preparing amendments for bills, preparing bill summaries on every bill, and gathering background information, and he is available for sub-committee work.

HOUSE BILL NO. 8: Hearing commenced on House Bill No. 8. Representative Bob Marks, District 75, sponsor of the bill, called on staff personnel to explain the bill. Lee Heiman, Committee Counsel, went over the Code Commissioner Bill - Summary (green sheet). Exhibit 1.

PROPOSERS: Alex Hansen, Montana League of Cities and Towns. He stated they have no problem with the bill, that it is good business, that confusion is eliminated now and it makes the job easier.

There were no opponents to House Bill No. 8.

There being no further discussion of House Bill No. 8, the hearing was closed by Representative Marks.

HOUSE BILL NO. 76: Hearing commenced on House Bill No. 76 at 3:15 p.m. Representative Mel Williams, District 85, sponsor of the bill, explained that the bill was an act to increase the fees charged by the County Clerk for filing notarial commissions and issuing certificates of official character to conform with the fee charged by the Secretary of State.

PROPOSERS: Joe Tropila, Cascade County Clerk and Recorder, representing Yellowstone County Clerk and Recorder, Merrill Kelundt, who was unable to attend because of personal reasons. He believes there should be an increase in fee from 50 cents to \$2.00. Everything has gone up in cost, including mailing of

letters across town. He felt fees should be brought up to standard.

Sue Bartlett, representing the Montana Association of Clerks and Recorders from Lewis and Clark County, wished to indicate her support of House Bill No. 76.

Mike Stephen of the Montana Association of Clerks and Recorders of Lewis and Clark County, stated he feels we are asking a modest increase in providing a service and should be standard.

There were no opponents to House Bill No. 76.

In closing, Representative Williams stated that it is important that we update some of these fees and make them consistent throughout the state. Fees are needed to support the office of the clerk and recorder.

QUESTIONS: Representative Kadas: Is this a fee for notarizing a document?

ANSWER: Joe Tropila: No, for recording the Notarie's Commission and, when asked, to make certified copies of the commission.

HOUSE BILL NO. 77: Representative Mel Williams, District 85, presented this bill. He stated that is is recommended by the Montana Association of Clerks and Recorders to increase the fee for recording from \$2.50 to \$5.00 per page, and deleting the 50 cent per name indexing fee. This is the only increase since 1959.

PROPOSERS: Joe Tropila, Cascade County Clerk and Recorder's office, representing Yellowstone County Clerk and Recorder. He feels there is a problem with the fee structure now of \$2.50 per page, plus 50 cents for each index entry. By charging a \$5.00 standard fee by page it will prevent delay in recording documents, and also prevent erroneous fees when documents come in.

Sue Bartlett, representing the Lewis and Clark Clerk and Recorder's office stated that fees taken in for recording are the single largest source of general fund non-tax revenue. She doesn't feel that a recording fee of \$5.00 from \$2.50 is unreasonable. She passed out Exhibit 2, showing fees charged by Lewis and Clark County Clerk and Recorder.

Mike Stephen, Montana Association of Clerks and Recorders, stated these records are essential to people and are set aside for prosperity, and are worth a lot to buyers of property. Money paid into Clerk and Recorders goes into the county general fund and is used to offset the budget for the following year. The Clerk and Recorder's office does not get it.

Bill Gowen, President of Montana Land and Title Association, supports increase in page charge if they get rid of the 50 cent charge. Each county uses a different interpretation of the 50 cent charge.

There were no opponents to House Bill No. 77.

In closing, Representative Williams stated that Merrill Kelundt, Clerk and Recorder of Yellowstone County, wanted to be on record as supporting House Bill No. 77.

QUESTION: Representative Sales asked Representative Williams the difference between filing and recording. Joe Tropila answered by saying filing records are placed in the vault, and given to Recorder's office; recording is a copy of the instrument on microfilm, and instrument is given back.

QUESTION: Representative Sands asked how much additional revenue will be generated. Tropila answered: Not much with the 50 cent deletion.

ACTION ON HOUSE BILL NO. 8: Representative Sales made a motion that HB 8 DO PASS. The motion was PASSED UNANIMOUSLY.

ACTION ON HOUSE BILL NO. 76: Representative Kadas made a motion that HB 76 DO PASS. The motion was seconded by Representative Wallin. The motion was PASSED UNANIMOUSLY.

ACTION ON HOUSE BILL NO. 77: Representative Hansen made a motion that HB 77 DO PASS. Representative Fritz seconded the motion. The motion was PASSED UNANIMOUSLY.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 4:30 p.m.



PAULA DARKO, Chairman

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

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-8-85

[illegible]

STANDING COMMITTEE REPORT

January 8

19 85

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 3

FIRST reading copy (WHITE)
color

REVISE AND CLARIFY LOCAL GOVERNMENT LAW

Respectfully report as follows: That HOUSE Bill No. 3

DO PASS

JR 1/8/85

STATE PUB. CO.
Helena, Mont.

REPRESENTATIVE DARKO

Chairman.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

.....January 9..... 19 85.....

MR. SPEAKER.....

We, your committee on LOCAL GOVERNMENT.....

having had under consideration HOUSE..... Bill No. 76.....

FIRST reading copy (WHITE)
color

CHANGING FEE FOR FILING NOTARIAL COMMISSION
WITH COUNTY CLERK

Respectfully report as follows: That HOUSE..... Bill No. 76.....

DO PASS

DR 1/8/85

STATE PUB. CO.
Helena, Mont.

.....
REPRESENTATIVE DAREO Chairman.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

January 2, 19 35

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 77

FIRST reading copy (WHITE)
color

REVISING FEES CHARGED BY THE COUNTY CLERK

Respectfully report as follows: That HOUSE Bill No. 77

~~DQ PASS~~

2/1/85

STATE PUB. CO.
Helena, Mont.

REPRESENTATIVE DANKO

Chairman.

COMMITTEE SECRETARY

1 HOUSE BILL NO. 8

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 LOCAL GOVERNMENT; AMENDING SECTIONS 7-2-2209, 7-3-1216,
4 7-3-1219, 7-4-2619, 7-4-2631, 7-5-4208, 7-5-4304, 7-6-2211,
5 7-13-2225, 7-13-2236, 7-14-2531, 7-14-2823, 7-21-2306,
6 7-21-2407, AND 7-32-2102, MCA.

7 Section 1. 7-2-2209. This amendment deletes the first
8 "at" in dated line for clarity.

9 Section 2. 7-3-1216. This amendment clarifies when
10 commission members for the older city/county consolidation
11 process take office. All other municipal officers take
12 office on the first Monday in January and serve until their
13 successors are elected and qualified. This section missed
14 amendment in the Elections Revision Act of 1979. This form
15 of city/county consolidation has never been used in Montana.

16 Section 3. 7-3-1219. Same explanation as section 2.

17 Section 4. 7-4-2619. In subsection (6), the amendment
18 corrects an error from the 1907 recodification. The
19 subsection has never been amended, yet the phrase change
20 appeared in 1907 code and carried forward. Note that label
21 of second column is "To whom powers are executed".

22 In subsection (17), there are only five column headings
23 so "six" is deleted to conform.

24 Section 5. 7-4-2631. This amendment deletes the charge
25 for filing and indexing each certificate of fictitious name.
26 These are no longer used since Ch. 260, L. 1979, repealed
27 the filing requirement for fictitious names. County Clerks
28 continue, however, to hold those filed and indexed prior to
29 1979, by virtue of Title 35, chapter 11, part 2, MCA.

30 Section 6. 7-5-4208. This amendment deletes erroneous
31 references to initiatives and referenda which are governed
32 by Title 7, chapter 5, part 1. The balance of the section
33 was amended for clarity. Numerous questions indicated added
34 words of explanation were necessary. Meaning stays
35 unchanged.

36 Section 7. 7-5-4304. This amendment clarifies that
37 this section applies only to contracts entered into under
38 7-5-4302, MCA. This section was part of a very large section
39 in the R.C.M. 1947, and applied only to that portion
40 codified as 7-5-4302, MCA, but when the section was broken
41 up it appeared to apply to all contracts entered into by

1 municipalities.

2 Section 8. 7-6-2211. This amendment harmonizes the 23%
3 established in 7-7-2101, MCA, with this section.

4 Section 9. 7-13-2225. This amendment is needed because
5 7-13-2248, MCA, was repealed.

6 Section 10. 7-13-2236. This amendment provides for
7 elections for directors of County Water and/or Sewer
8 Districts every 2 years. The terms of directors are 4 years,
9 but they are on staggered terms, thus the necessity for
10 elections every 2 years.

11 Section 11. 7-14-2531. This amendment deletes, from
12 county road law, an exception that use of single purpose
13 there doesn't affect county library law. The predecessor of
14 this section was enacted to define "single purpose" for the
15 purposes of local government finances under the 1889
16 Constitution, and subsection (3) was amended in to preclude
17 finding that county libraries were not a single purpose. At
18 the time of this section's amendment and inclusion into
19 county road law in 1965, it was conceded that the whole
20 section was probably meaningless, but it was retained intact
21 nonetheless. Since the adoption of the 1972 Constitution
22 there is no requirement for single purpose financing, and
23 this section cannot under present law be considered to have
24 any bearing on libraries.

25 Section 12. 7-14-2823. This amendment deletes "penal"
26 before "bond" to standardize bonding language. This is the
27 only occurrence of the phrase "penal bond" in the Code.

28 Section 13. 7-21-2306. This amendment deletes "penal"
29 before "sum" to standardize language to conform to
30 provisions established by the Uniform Commercial Code.

31 Section 14. 7-21-2407. Same explanation as section 13.

32 Section 15. 7-32-2102. This amendment deletes
33 reference to eighth class counties. There are no eighth
34 class counties, and there weren't any when this section was
35 enacted.

EFFECTIVE OCTOBER 1, 1983
REVISED JULY 26, 1984

Exhibit 2
HB 77
1-8-85
Rep. Mel
Williams

F E E S

LEWIS AND CLARK COUNTY CLERK & RECORDER

RECORDING - \$2.50 per page plus 50¢ for each index entry in excess of the first entry:

Affidavits

Affidavits of Annual Labor on Mining Claims (the first claim is indexed as a part of the \$2.50 per page fee; each additional claim costs 50¢ for indexing.)

Assignments

Bills of Sale

Certificates of Location for Mining Claims

Condominium Declarations, including:

Architect's or Engineer's Statement

Bylaws and Amendments

Final Declaration

Preliminary Declaration

Floor Plans

Contracts for Deed

Court Decrees

Covenants, Declarations of

Deeds

Easements

Homestead, Declarations of

INH (Inheritance Tax Forms)

Judgments

Leases

Mortgages

Notices of Purchasers Interest

Notices of Trustee Sale with Affidavits

Powers of Attorney

Promissory Notes

Releases (satisfactions) of Mortgages, Assignments, Powers of Attorney

Rental Agreements

Trust Indentures

Water Users' Association Stock Subscription, Contract, Stock Certificate &

Articles of Incorporation

WATER RECORDING:

*Water Rights Transfer Certificates - \$2.50 per page plus 50¢ for each index entry in excess of the first entry; a second check or money order payable to the County Clerk & Recorder is required for the additional State fee of \$5.00.

INDEXING EXAMPLES:

Indexes are kept by surname, business name, and/or mining claim name. In a transaction involving two parties, each party is allowed one surname before there is an additional indexing fee.

EXAMPLES: John Doe to Jane Smith (No indexing fee)

John and Mary Doe to Jim and Jane Smith (No indexing fee)

additional surname is charged the 50¢ indexing fee.

EXAMPLES: John Doe and Mary Johnson to Jane Smith (extra 50¢)

John Doe and Mary Johnson to Jane Smith, dba Consulting Professionals (extra \$1.00)

HOUSE Local Government COMMITTEE

DATE 1-8-85

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

FORM CS-33

HOUSE Local Government COMMITTEE

DATE 1-8-85

SPONSOR Rep. M. Williams

FORM CS-33

HOUSE

Local Government

BILL H.B. 76

DATE 1-8-85

SPONSOR

Rep. M. Williams

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.