

MINUTES OF THE MEETING  
LOCAL GOVERNMENT COMMITTEE  
MONTANA STATE SENATE

February 5, 1985

The ninth meeting of the Local Government Committee was called to order at 1:00 p.m. on February 5, 1985 by Vice Chairman John Mohar in Room 405 of the Capitol Building.

ROLL CALL: All members were present with the exception of Chairman Fuller. He joined the meeting temporarily and then was excused to introduce bills at other committee meetings. Senators Crippen and Regan arrived late.

Senate Bills 25 and 142 were presented together as Senate Bill 142 is contingent upon the passage of Senate Bill 25.

CONSIDERATION OF SENATE BILL 25: Senator Tom Towe, District #46, is the sponsor of this bill. The bill was introduced at the request of Joint Interim Subcommittee No. 3. The purpose of the bill is to require the State to assume funding for certain district court expenses and requiring the legislature to provide full funding for the district court grant program.

Senator Towe stated the district courts are state courts but most expenses are now paid by the county. He said costs vary widely throughout the state and one case can be devastating to a smaller county. Twenty two other states already fund the district courts based on a 1979 survey. North Dakota went to this system in 1981. Senator Towe also submitted two proposed amendments to Senate Bill 25. The proposed amendments are attached as Exhibit A to these minutes.

CONSIDERATION OF SENATE BILL 142: Senator Mike Halligan, District #29, is the sponsor of this bill. The bill was introduced to increase the fee in lieu of tax on light vehicles; providing that the increased revenue be used, contingent on passage and approval of Senate Bill No. 25.

PROPONENTS

Gordon Morris, representing the Montana Association of Counties, spoke in favor of Senate Bills 25 and 142. He stated that counties live in fear of the one major court case that would break their budget. The Montana Association of Counties would like to see the State take full assumption of district court funding, but consider this is at least a start. Mr. Morris submitted a funding summary regarding Senate Bill 142. That summary is attached as Exhibit B to these minutes.

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Greg Jackson, representing Urban Coalition, spoke in favor of the bills. Urban Coalition takes the position that district courts are state courts. They would also like to see full assumption by the state of district court costs. He said seven of the largest counties constitute fifty two percent of the district court costs. They would also like to go on record as being in support of Senate Bill 142 as the funding mechanism for Senate Bill 25.

George Bousliman, Executive Director of the State Bar Association, spoke in favor of Senate Bill 25. He said they have no position on Senate Bill 142. He stated that Senate Bill 25 adds financial stability to the district courts.

Clara Gilreath, Clerk of the District Court for Lewis and Clark County and representing the Association of Clerks of Court, stated they would like to go on record as being in favor of the bills.

#### OPPONENTS

Jim Manion, Assistant Manager of the Montana Automobile Association, stated they have no problems with Senate Bill 25 but are opposed to Senate Bill 142 as a funding mechanism for the bill. They do not feel it is fair to ask automobile owners in the State to again be asked to fund something that does not have any relationship to automobiles.

Tom Harrison, representing the Montana Automobile Dealers Association, stated they also have no problems with Senate Bill 25 but are opposed to Senate Bill 142 as the funding mechanism for the bill. They do not feel there is sufficient justification to change the current funding procedure.

Questions from the Committee were called for.

Senator Crippen asked Senator Halligan how he came up with this funding method. Senator Halligan said he felt this method would be easily trackable and the most convenient.

Senator McCallum brought up the fact that vehicles weighing more than two thousand eight hundred fifty pounds were also being assessed the five dollar fee according to the funding summary passed out by Mr. Morris. Mr. Morris said Senator McCallum was correct and the title of the bill should read "tax on automobiles and light trucks" which would be consistent with the State Code.

Senator Crippen expressed concern about doubling the fee for disabled veterans. Senator Halligan stated that he felt they would be able to handle the increase.

The hearing was closed on Senate Bills 25 and 142.

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CONSIDERATION OF SENATE BILL 177: Senator Allen Kolstad, District #7, is the sponsor of this bill. The bill was introduced to specify requirements for the office of county coroner and to mandate educational requirements for the coroner and deputy coroners. Senator Kolstad explained the only current requirements to be a coroner are to be a resident of the county and a registered voter.

PROPOSERS

Charles Gravely, representing the Montana County Coroners' Association, spoke in favor of the bill. He stated there are virtually no requirements at the present time for a coroner and something needs to be done to upgrade the personnel serving in these positions. This bill would require mandatory education and remove the responsibility from justices of the peace to be acting coroners. He said the fiscal impact on counties would be small, less than seven hundred fifty dollars in most cases.

Ron Rivers, representing the Division of Forensic Sciences, Department of Justice, spoke in favor of the bill. He said the State Code mandates him to educate county coroners but he cannot mandate them to attend the training.

M.E. "Mickey" Nelson, Lewis and Clark County Coroner, spoke in favor of the bill. He gave a list of causes of death that he or any other coroner may have to confront. He also stated coroners are often responsible for keeping large amounts of personal property and need to be trained in these matters.

Leo Jacobsen, representing the Montana Coroners' Association, spoke in favor of the bill. He said he has been involved in putting together twelve or thirteen schools and they have not had good attendance at the classes.

Joe Christians, Pondera County Coroner, stated his support of the bill.

Roland Pratt, Executive Director of the Montana Funeral Directors' Association, stated his support of the bill.

Jim Jensen, representing the Montana Magistrates' Association, stated Justices of the Peace do not want to be coroners and they support the bill.

Richard Burroughs, Sheriff and Coroner of Liberty County, stated his support of the bill.

OPPOSERS

There were no opposers to SB 177.

Questions from the Committee were called for.

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Senator Pinsoneault said some people had concerns as to whether failure to attend classes, resulting in forfeiture of office, was unconstitutional or inappropriate. Mr. Gravely said Justices of the Peace are required to attend classes or they forfeit their offices and the same is true with attorneys.

Senator Eck asked Mr. Rivers if the courses would provide additional valuable information. Mr. Rivers said sixteen hours of classes would be offered every two years that would provide new and exciting issues in the field of forensic sciences.

Senator Hirsch expressed his concern that this bill would make it even harder to find coroners for counties where it is already difficult. Mr. Nelson said he did not think it would be a burden to have a coroner come from another county in rural areas rather than have someone not trained doing the job.

Senator Harding asked if both county coroners and deputy county coroners would be required to attend classes. Mr. Gravely said yes.

Senator Regan asked if courses would only be offered in Missoula. Mr. Rivers said the courses would be offered anywhere the Montana Coroners' Association desired.

Senators Regan and Eck expressed their concerns about travel costs and tuition costs. Mr. Rivers said some travel costs are already budgeted out of other funds and tuition will not be paid for by the State but by county budgets.

The hearing was closed on SB 177.

FURTHER CONSIDERATION OF SENATE BILL 140: Karen Renne explained the proposed amendment, which would make the amount five hundred thousand dollars for class one and two counties and three hundred fifty thousand dollars for all other counties. The proposed amendment is attached as Exhibit C to these minutes.

ACTION TAKEN ON SENATE BILL 140: Senator McCallum moved the amendments to the bill be adopted. The motion passed unanimously.

Senator McCallum then moved the Committee recommend a DO PASS as amended on SB 140. The motion passed with Senator Story voting no.

ACTION TAKEN ON HOUSE BILL 77: Senator Harding moved that HB 77 be concurred in. The motion passed with Senators Story and McCallum voting no. Senator Harding will be asked to carry the bill.

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FURTHER CONSIDERATION OF SENATE BILL 127: Senator Regan moved adoption of the proposed amendment to SB 127, which adds "full payment" to line nineteen of the bill. The motion passed unanimously.

Senator Regan moved the Committee recommend a DO PASS as amended on SB 127.

Senator Harding and other senators expressed their concerns about taking money from the county budgets to pay for city road improvements.

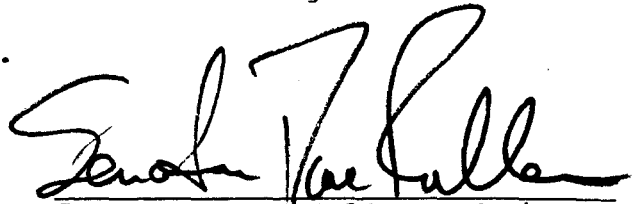
Senator Regan withdrew her motion, saying that because the bill was controversial, she would like to wait until everyone on the Committee was present for a vote.

FURTHER CONSIDERATION OF SENATE BILL 62: Karen Renne again explained that the amendments to the bill would remove the option for police forces to join the Public Employees Retirement System. They would have to either join the statewide police retirement system or form their own retirement fund.

Senator McCallum and other senators would like to see the fiscal note on the bill as amended before voting on it. They have some specific questions and would like Larry Nachtsheim to be present when they bring the bill up again.

ACTION TAKEN ON SENATE BILL 177: Senator Pinsoneault moved the Committee recommend a DO PASS on SB 177. The motion passed with Senators Hirsch, Story, Mohar, and McCallum voting no.

The meeting adjourned at 2:45 p.m.

  
Senator Dave Fuller, Chairman

# ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th  
~~48th~~ LEGISLATIVE SESSION -- 1985

Date 2-5-85

NAME	PRESENT	ABSENT	EXCUSED
13 Senator Crippen, Bruce	late ✓		
18 Senator Eck, Dorothy	✓		
11 Senator Harding, Ethel	✓		
47 Senator Hirsch, Les	✓		
4 Senator McCallum, George	✓		
28 Senator Mohar, John (V.Chair)	✓		
44 Senator Pinsoneault, Dick	✓		
19 Senator Regan, Pat	late ✓		
21 Senator Story, Pete	✓		
43 Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

# STANDING COMMITTEE REPORT

February 5

85

19.....

MR. PRESIDENT

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

having had under consideration..... **HOUSE BILL** No. **77**

**THIRD** reading copy ( **BLUE** )  
(**HARDING WILL CARRY**) color

**REVISING FEES CHARGED BY THE COUNTY CLERK**

Respectfully report as follows: That..... **HOUSE BILL** No. **77**

**BE CONCURRED IN**

~~**XXXXXX**~~  
~~**DO PASS**~~

~~**XXXXXXXXXX**~~  
~~**DO NOT PASS**~~

.....  
**Senator Dave Fuller**

Chairman.

# STANDING COMMITTEE REPORT

February 5

19 85

MR. PRESIDENT

## LOCAL GOVERNMENT

We, your committee on

## SENATE BILL

having had under consideration

No. 140

**FIRST**

**WHITE**

reading copy ( )  
color

## INCREASING COUNTY DEBT WITHOUT A VOTE TO \$500,000

## SENATE BILL

Respectfully report as follows: That

No. 140

be amended as follows:

1. Title, line 6.

Following: "VOTE"

Insert: "FROM \$150,000"

Following: "\$500,000"

Strike: "FROM \$150,000"

Insert: "IN CLASS 1 and CLASS 2 COUNTIES AND TO \$350,000 IN  
ALL OTHER COUNTIES"

2. Page 1, line 20.

Following: line 19

Insert: "in class 1 and class 2 counties and \$350,000 in  
all other counties"

## AND AS AMENDED

DO PASS

~~DO NOT PASS~~

Senator Dave Fuller

Chairman.



# STANDING COMMITTEE REPORT

February 5

1985

MR. PRESIDENT

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE BILL**

No. **177**

**FIRST**

reading copy ( **WHITE** )  
color

## **CORONER QUALIFICATIONS AND EDUCATION**

Respectfully report as follows: That **SENATE BILL**

No. **177**

DO PASS

~~XXXXXXXXXX~~  
DO NOT PASS

**Senator Dave Fuller**

Chairman.

Sponsor amendment to LC 32: [58 25]

1. Title, line 9.

Following: "7-6-2426,"

Insert: "7-6-2427"

2. Page 10.

Following: line 2

Insert: "Section 8. Section 7-6-2427, MCA, is amended to  
read:

"7-6-2427. Special provisions for certain charges related to criminal prosecutions. ~~(1)~~ Notwithstanding 7-6-2426, all costs of a criminal prosecution, including attorneys' fees, of an offense committed in the state prison are not charged against the county in which the state prison is located. Such costs shall be paid by the department of institutions.

~~(2)-When-a-criminal-action-is-removed-before-trial,-the costs-accruing-upon-such-removal-and-trial-must-be-a-charge against-the-county-in-which-the-indictment-was-found-or information-filed-~~"

Renumber: subsequent sections

Amendments to Senate Bill 25, Introduced Copy

Title of Bill is amended as follows:

Page 1, Line 10, following 46-14-202, insert: "46-14-221,"

Body of the bill is amended as follows:

Page 13, after line 5, add a new section as follows: "Section 13. Section 46-14-221, MCA, is amended to read:

**"46-14-221. Determination of fitness to proceed — effect of finding of unfitness — expenses.** (1) The issue of the defendant's fitness to proceed may be raised by the defendant or his counsel or by the county attorney. When the issue is raised, it shall be determined by the court. If neither the county attorney nor counsel for the defendant contests the finding of the report filed under 46-14-203, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to summon and cross-examine the psychiatrists who joined in the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection (4) of this section, and the court shall commit him to the custody of the director of the department of institutions to be placed in an appropriate institution of the department of institutions for so long as the unfitness endures. The committing court shall, within 90 days of commitment, review

the defendant's fitness to proceed. If the court finds that he is still unfit to proceed and that it does not appear that he will become fit to proceed within the reasonably foreseeable future, the proceeding against him shall be dismissed, except as provided in subsection (4) of this section, and the county attorney shall petition the court in the manner provided in chapter 20 or 21 of Title 53, whichever is appropriate, to determine the disposition of the defendant pursuant to those provisions.

(3) If the court determines that the defendant lacks fitness to proceed because he is developmentally disabled as provided in 53-20-102(4), the proceeding against him shall be dismissed and the county attorney shall petition the court in the manner provided in chapter 20 of Title 53.

(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution which is susceptible to fair determination prior to trial and without the personal participation of the defendant.

(5) The expenses of sending the defendant to the custody of the director of the department of institutions to be placed in an appropriate institution of the state department of institutions, of keeping him there, and of bringing him back are chargeable to the state ~~but the state may recover them from the estate of the defendant.~~

And Payable According To Procedures  
Established Under [Section 2 (1)]."

Page 13, Line 6, renumber Sections 13, 15 and 16 accordingly.

**MONTANA  
ASSOCIATION OF  
COUNTIES**

LOCAL GOVERNMENT COMMITTEE  
FEBRUARY 5, 1985  
EXHIBIT B

*Gordon Hottel's  
MACD*

1802 11th Avenue  
Helena, Montana 59601  
(406) 442-5209

SENATE BILL 142

DISTRICT COURT FUNDING

SENATE LOCAL GOVERNMENT COMMITTEE

FEBRUARY 5, 1985

	<u>2,850 - LESS</u>	<u>2,850 - MORE</u>
<u>AUTOMOBILES</u>		
4 years - newer	60,896	48,804
4 years - 8 years	47,058	57,980
8 years and older	72,569	191,513
 <u>LIGHT TRUCKS</u>		
4 years - newer	8,452	36,825
4 years - 8 years	8,016	40,309
8 years and older	9,142	137,539
 TOTAL VEHICLES	 719,103	
TOTAL FEE INCREASE	\$ 3,595,515	

**MACo**

LOCAL GOVERNMENT COMMITTEE  
FEBRUARY 5, 1985  
EXHIBIT C

PROPOSED AMENDMENTS TO SB 140

1. Title, line 6.  
Following: "VOTE"  
Insert: "FROM \$150,000"  
Following: "\$500,000"  
Strike: "FROM \$150,000"  
Insert: "IN CLASS 1 and CLASS 2 COUNTIES AND TO \$350,000 IN  
ALL OTHER COUNTIES"
2. Page 1, line 20.  
Following: line 19  
Insert: "in class 1 and class 2 counties and \$350,000 in  
all other counties"

Proposed by committee on 1/31/85

DATE 2-5-85

COMMITTEE ON

LOCAL GOV'T

## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)