

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 23, 1985
(SECOND MEETING)

The seventeenth meeting of the Local Government Committee was called to order at 12:30 p.m. on February 23, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: Senators Crippen and Pinsoneault were excused for another committee meeting. They were present at various times during the meeting. All other members were present.

CONSIDERATION OF SENATE BILL 456: Senator Dick Pinsoneault, District #27, is the sponsor of this bill. The bill was introduced to provide that the local government initiative process extends to all legislative actions of the local government with certain economic consequences.

PROPOSERS

Gary Marbut, representing Petitioners, a Missoula group, spoke in favor of the bill. He said the bill defines legislative actions by setting a threshold of economic consequence of greater than two mills of revenue to the government. The bill would not include minor legislative actions.

John Larson, a Missoula attorney, spoke in favor of the bill. He talked about a recent lawsuit where the City of Missoula sued several petition signers because the City is challenging the petition. The Supreme Court is now deciding the case, which will cause much delay. This bill would avoid such delays by imposing a more objective standard to define what constitutes a legislative action.

Trish Buckingham, a Missoula resident, spoke in favor of the bill. She said she was outraged that her city would sue her for exercising her constitutional right.

Martha Powell, a Missoula resident, spoke in favor of the bill. She said the lawsuit denies the constitutional rights of citizens.

Doris Olofson, a Missoula resident, spoke in favor of the bill. Her written testimony is attached as Exhibit A to these minutes. She also submitted a letter of support from David Maclay, a Missoula resident. His letter is attached as Exhibit B to these minutes.

OPPONENTS

Alec Hansen, representing the Montana League of Cities and Towns, spoke in opposition to the bill. He said that this is general legislation with broad statewide implications that is intended to deal with a specific local problem. The bill is vague and unclear. He does not understand what the term "economic consequences" means or how the bill would effect emergency expenditures. Rather than the legislature providing a quick fix, the courts should decide this case. If the people of Missoula are dissatisfied with who is representing them, they should elect someone else.

Gordon Morris, representing the Montana Association of Counties, spoke in opposition to the bill. He said ultimate authority resides with the electors.

Chairman Fuller opened the hearing for questions.

Senator Mohar asked if this lawsuit lists everyone on the petition. Mr. Larson said the City sues fifteen to twenty people on the petition specifically and everyone else in general.

Alec Hansen said the initiative process has a very important place in government, but because of a local issue, this bill would extend the process into areas that would frustrate the local government process.

Senator Hirsch asked Mr. Larson why they couldn't just let the courts decide the case. Mr. Larson said every time the City wants to sue over a petition, they can tie it up in the Supreme Court for two years.

The hearing was closed on SB 456.

CONSIDERATION OF SENATE JOINT RESOLUTION 26: Senator Delwyn Gage, District #5, is the sponsor of this resolution. The resolution was introduced to urge the United States Congress to establish an impact aid program similar to the payment in lieu of taxes program whereby money would be appropriated to local governments adjacent to Indian reservations for the provision of services to Indians and Indian tribes.

PROPONENTS

Alec Hansen, representing the Montana League of Cities and Towns, spoke in favor of the resolution. He said the City of Browning gets about twenty six thousand dollars from their mill levy and they have a law enforcement contract for fifty one thousand dollars. He said they are facing the very real possibility of bankruptcy.

OPPONENTS

Gordon Morris, representing the Montana Association of Counties, stated he was neutral on this resolution. He expressed concerns that this concept might compete with the payment in lieu of taxes program, since this program is under severe scrutiny by the federal government. He said the resolution could have the effect of taking money from an already limited pot of money. He feels it could actually cause a loss of money overall.

Chairman Fuller opened the hearing for questions.

Senators Harding and Mohar expressed concern about the language "adjacent to." Senator Gage said that the local government which is responsible for providing the services would receive the funding for that area.

The hearing was closed on SJR 26.

CONSIDERATION OF SENATE BILL 454: Senator Dave Fuller, District #22, is the sponsor of this bill. The bill was requested by the Senate Local Government Committee and the Department of Commerce. The bill was introduced to enable county housing authorities and county governing bodies to assist in the provision and rehabilitation of rural dwellings for any low-income resident.

PROPONENTS

Dave Cole, representing the Department of Commerce, spoke in favor of the bill. He said twenty-three of the fifty-five projects they now have involve housing. He said the obstacle is that counties lack the authority to administer a community development block grant program unless they create a housing authority to do so. This bill would remove that obstacle and help low-income families in rural areas. He has concerns with amendment number three that requires that the financial assistance may not involve a county obligation to repay. It is already the county's responsibility to assume the responsibility of repaying funds if they are misused or illegally spent.

Gordon Morris, representing the Montana Association of Counties, stated his support of the bill and agreed with striking amendment three.

OPPONENTS

There were no opponents to SB 454.

Vice Chairman Mohar assumed the Chair for Senator Fuller's bill and opened the hearing for questions. There were no questions from the Committee regarding SB 454.

The hearing was closed on SB 454.

ACTION TAKEN ON SENATE BILL 454: Senator Story moved the Committee adopt amendments one and two. The motion passed unanimously.

Senator McCallum moved the Committee recommend a DO PASS on SB 454 as amended. The motion passed unanimously.

FURTHER CONSIDERATION OF SENATE BILL 441: Senator Regan moved the Committee recommend a DO PASS on SB 441.

Senator Harding made a substitute motion that the Committee recommend a DO NOT PASS on SB 441.

Senator Regan said counties should be able to decide for themselves if they want a finance department.

Senator Mohar expressed concern that if the county commissioners are allowed to designate which duties the clerk and recorder and finance officer have, there will be a lot of fighting over who is doing what. He is concerned that no one will have a handle on how much money the county is spending.

Senator McCallum said some counties already have finance persons appointed by the county commissioners.

Senator Fuller asked Sue Bartlett, Lewis and Clark County Clerk and Recorder, her feelings on this bill. Ms. Bartlett said existing State law makes very clear what the functions of the clerk and recorder are and that making this option permissive would put pressure on first class county commissioners to take over the finance departments.

Senator Harding stated that she thought this was an isolated problem in Yellowstone County and expressed concern that Yellowstone County is not yet on the computerized BARS system when third class counties are already on the system.

Senator Mohar asked why county treasurer duties are not included in this bill. One of the Yellowstone county commissioners answered that they have clear authority on investments so it is not necessary to include county treasurers in the bill.

The Committee decided to wait until Senators Pinsoneault and Crippen were present before taking a vote.

ACTION TAKEN ON SENATE JOINT RESOLUTION 26: Senator McCallum moved the Committee recommend a DO PASS on SJR 26.

Senator Eck made a substitute motion to amend the resolution to take all mention of "payment in lieu of taxes" out. The motion failed with Senators Eck and Regan voting yes. Senators

Harding, Hirsch, McCallum, Mohar, Story, and Fuller voted no. Senators Crippen and Pinsoneault were absent for the vote.

Senator McCallum moved the Committee recommend a DO PASS on SJR 26. The motion passed unanimously with Senators Crippen and Pinsoneault absent.

ACTION TAKEN ON SENATE BILL 456: Senator Harding moved the Committee adopt an amendment to read "2 mills or \$100,000, whichever is greater". The motion passed with Senators Eck and Regan voting no.

Senator McCallum moved the Committee recommend a DO PASS as amended on SB 456. The motion failed with Senators Harding, McCallum, Pinsoneault (absentee vote), and Story voting yes and Senators Eck, Hirsch, Mohar, Regan, and Fuller voting no.

Senator Regan moved the Committee recommend a DO NOT PASS as amended on SB 456. The motion passed with the above vote being reversed. Senator Regan will carry the Adverse Committee Report.

ACTION TAKEN ON SENATE BILL 441: Senator McCallum moved the Committee recommend a DO PASS on SB 441. The motion passed with Senators Crippen, Eck, Hirsch, McCallum, Pinsoneault, and Regan voting yes and Senators Harding, Mohar, Story, and Fuller voting no. All members were present for the vote.

The meeting adjourned at 2:30 p.m.

Senator Dave Fuller, Chairman

February 23, 1985
(SECOND MEETING)

Harding, Hirsch, McCallum, Mohar, Story, and Fuller voted no. Senators Crippen and Pinsoneault were absent for the vote.

Senator McCallum moved the Committee recommend a DO PASS on SJR 26. The motion passed unanimously with Senators Crippen and Pinsoneault absent.

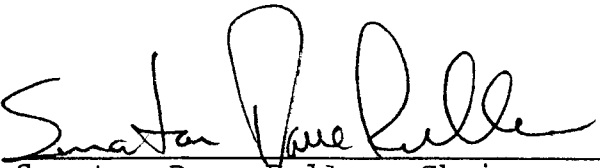
ACTION TAKEN ON SENATE BILL 456: Senator Harding moved the Committee adopt an amendment to read "2 mills or \$100,000, whichever is greater". The motion passed with Senators Eck and Regan voting no.

Senator McCallum moved the Committee recommend a DO PASS as amended on SB 456. The motion failed with Senators Harding, McCallum, Pinsoneault (absentee vote), and Story voting yes and Senators Eck, Hirsch, Mohar, Regan, and Fuller voting no.

Senator Regan moved the Committee recommend a DO NOT PASS as amended on SB 456. The motion passed with the above vote being reversed. Senator Regan will carry the Adverse Committee Report.

ACTION TAKEN ON SENATE BILL 441: Senator McCallum moved the Committee recommend a DO PASS on SB 441. The motion passed with Senators Crippen, Eck, Hirsch, McCallum, Pinsoneault, and Regan voting yes and Senators Harding, Mohar, Story, and Fuller voting no.

The meeting adjourned at 2:30 p.m.



Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th
LEGISLATIVE SESSION -- 1985

12:30
Date 2-23

SENATE
SEAT

#

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

Each day attach to minutes.

2-23-85 12:30

LOCAL GOVT

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretariat)

STANDING COMMITTEE REPORT

FEBRUARY 23

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

SENATE BILL 454

454

having had under consideration..... No.....

FIRST

WHITE

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ENABLING COUNTIES TO REHABILITATE RURAL NONFARM HOUSING

SENATE BILL

454

Respectfully report as follows: That..... No.....

be amended as follows:

1. Page 3, line 4.
Following: "(1)"
Insert: "using the funds provided in (2),"
2. Page 3, line 8.
Following: "(2)"
Insert: "accept gifts of property or"
Following: "apply for and accept"
Strike: "advances, loans"

AND AS AMENDED

DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

Senator Dave Fuller

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 23

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

SENATE NINE JOINT RESOLUTION

26

having had under consideration..... No.....

FIRST

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RESOLUTION ASKING CONGRESS TO ENACT FILT PROGRAM FOR
INDIAN RESERVATIONS

SENATE JOINT RESOLUTION

26

Respectfully report as follows: That..... No.....

DO PASS

~~XXXXXXXXXX~~

Senator Dave Fuller

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 23

19. 85

MR. PRESIDENT

the minority of

LOCAL GOVERNMENT

We, your committee on.....

SENATE BILL

having had under consideration.....

No. **456**

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LOCAL INITIATIVE PROCEDURE EXTENDS TO ADMINISTRATIVE ENACTMENTS

SENATE BILL

456

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Page 2, line 9.

Following: "2 mills"

Insert: "or \$100,000, whichever is greater,"

Senator Ethel Harding

Senator George McCallum

Senator Dick Pinsoneault

Senator Pete Story

AND AS AMENDED

DO PASS

XXXXXXXXXX
DO NOT PASS

.....
XXXXX
Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 23

19 85

MR. PRESIDENT

the majority of

LOCAL GOVERNMENT

We, your committee on

SENATE BILL

456

having had under consideration

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LOCAL INITIATIVE PROCEDURE EXTENDS TO ADMINISTRATIVE ENACTMENTS

Respectfully report as follows: That

SENATE BILL

No. 456

be amended as follows:

1. Page 2, line 9.

Following: "2 mills"

Insert: "or \$100,000, whichever is greater,"

Senator Dorothy Eck

Senator Les Hirsch

Senator John Mohar

Senator Pat Regan

Senator Dave Fuller

AND AS AMENDED

XXXXXX
DO NOT PASS

XXXXXX
Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 23

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

SENATE BILL

441

having had under consideration..... No.....

FIRST

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color

ALLOW ESTABLISHMENT OF COUNTY FINANCE OFFICE

SENATE BILL

441

Respectfully report as follows: That..... No.....

DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

Senator Dave Fulfer

Chairman.

Mr/

Chairman & Committee members

Im Davis Olofin from Misima

My husband and me, are being

sued for signing a Petition to

put the purchase of the water

System on Ballot

I urge you to support this bill.

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 23, 1985
SECOND MEETING
EXHIBIT A

2/24/85

Senate Bill 456

LOCAL GOVERNMENT COMMITTEE
FEBRUARY 23, 1985
SECOND MEETING
EXHIBIT B

I am a long time resident of Missoula City. I have always believed in the initiative process and ~~and~~ I signed a petition designed to require the City to place the question of the purchase of the municipal water system on the ballot.

I have been sued by the City with other defendants in an effort to deny what we believe is our inalienable right to sign.

I have been intimidated by at least one City official and believe and hope that SB 456 will help safeguard my right of petition.

David J. MacLay

David J. MacLay
628 Ronald Avenue
Missoula, MT 59801

Francis H. MacLay
828 Ronald
Missoula, Mont.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-23 Bill No. 456 Time 12:30

*DO PASS
AS amended*

NAME	YES	NO
CRIPPEN, BRUCE		
ECK, DOROTHY		✓
HARDING, ETHEL	✓	
HIRSCH, LES		✓
McCALLUM, GEORGE	✓	
MOHAR, JOHN (VICE CHAIRMAN)		✓
PINSONEAULT, DICK	✓	
REGAN, PAT		✓
STORY, PETE	✓	
FULLER, DAVE (CHAIRMAN)		✓

absent

Motion failed

Cheryl Ghilardi

Dave Fuller

Secretary

Chairman

Motion: SB 456 DO PASS as amended.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-23 Bill No. SB 441 Time 12:30

Motion
DO PASS

NAME	YES	NO
CRIPPEN, BRUCE	✓	
ECK, DOROTHY	✓	
HARDING, ETHEL		✓
HIRSCH, LES	✓	
McCALLUM, GEORGE	✓	
MOHAR, JOHN (VICE CHAIRMAN)		✓
PINSONEAULT, DICK	✓	
REGAN, PAT	✓	
STORY, PETE		✓
FULLER, DAVE (CHAIRMAN)		✓

Cheryl Ghilardi

Dave Fuller

Secretary

Chairman

Motion: SB 441 DO PASS