

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 7, 1985

The nineteenth meeting of the Local Government Committee was called to order at 1:00 p.m. on March 7, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 166: Representative Jack Sands, District #90, is the sponsor of this bill. The bill was introduced to relieve the county treasurer of the duty to post in three public places the delinquent list of persons and property owing taxes, and requiring the treasurer to post only the notice of tax sale, including a statement that the delinquent list is available for inspection in the treasurer's office.

PROPOSERS

Gordon Morris, representing the Montana Association of Counties, stated his support of the bill.

OPPOSERS

There were no opposers to HB 166.

Chairman Fuller opened the hearing for questions. There were no questions from the Committee regarding HB 166.

ACTION TAKEN ON HOUSE BILL 166: Senator Crippen moved that HB 166 be concurred in. The motion passed unanimously with Senator Regan absent. Senator Crippen will carry the bill.

CONSIDERATION OF HOUSE BILL 196: Representative Jan Brown, District #46, is the sponsor of this bill. The bill was introduced to abolish the population limitation in the statute allowing political subdivisions to dispense with nonpartisan primary elections in certain circumstances.

PROPOSERS

Alec Hansen, representing the Montana League of Cities and Towns, spoke in favor of the bill. He said it would be a method of saving money.

Bill Verwolf, representing the City of Helena, stated his support of the bill.

OPPOSERS

There were no opposers to HB 196.

March 7, 1985

Chairman Fuller opened the hearing for questions. There were no questions from the Committee regarding HB 196.

ACTION TAKEN ON HOUSE BILL 196: Senator McCallum moved that HB 196 BE CONCURRED IN. The motion passed unanimously. Senator Fuller will carry the bill.

CONSIDERATION OF HOUSE BILL 239: Representative Norm Wallin, District #78, is the sponsor of this bill. The bill was introduced to allow for the formation of multi-jurisdictional service districts among municipalities and towns, to provide certain services allowed to be provided by local governments, and providing for the creation, administration, and financing of such districts. Representative Wallin distributed a memo in support of the bill from the Montana League of Cities and Towns. The memo is attached as Exhibit A to these minutes.

PROPONENTS

Bill Verwolf, representing the City of Helena, stated his support of the bill.

Alec Hansen, representing the Montana League of Cities and Towns, spoke in favor of the bill. He said the bill would create a system that would guarantee people who use services are the people who pay for them. It would relieve people from outside areas from paying for services they are not receiving. The bill provides a more equitable method of financing services.

Mike Young, Finance Director for the City of Missoula, stated his support of the bill.

Gordon Morris, representing the Montana Association of Counties, spoke in favor of the bill. He said it would provide county commissioners with the authority to consider entering into regional jail facilities.

Jim Wysocki, Bozeman City Manager, stated his support of the bill.

Representative Paul Pistoria, District #36, stated his support of the bill. He submitted a proposed amendment to include animal control programs in the bill. The proposed amendment is attached as Exhibit B to these minutes.

OPPONENTS

Julie Hacker, representing the Missoula County Freeholders' Association, spoke in opposition to the bill. Her written testimony is attached as Exhibit C to these minutes.

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David Whitesitt, a Seeley Lake resident, spoke in opposition to the bill. His written testimony is attached as Exhibit D to these minutes.

Chairman Fuller opened the hearing for questions.

Senator McCallum asked how many mills could be levied. Mr. Hansen said the amount of tax would be included in the petition.

Senator Crippen said he objects to saying property owners can vote on the petition, when one property owner may own much less land than another property owner. Even though you would be paying more taxes, your vote is not proportionately larger. He also feels that the things being done with this bill could be done with a special improvement district (SID) tax.

Alec Hansen said that they do not want the bill held up on technical points and are more than willing to amend it.

Senator Harding asked Representative Wallin if he would object to amending out the portion of the bill which states that a jurisdiction may "adopt an authorizing ordinance that differs from the petition." Representative Wallin said he would not object.

Chairman Fuller assigned Senators Mohar, Eck, and Crippen to form a subcommittee on this bill. Senator Mohar will chair the subcommittee. The first meeting of the subcommittee will be Tuesday, March 12, 1985, at 12:00 p.m.

Representative Wallin closed by reading a letter of support from the Missoula County Commissioners.

The hearing was closed on HB 239.

FURTHER CONSIDERATION OF SB 293: Senator Van Valkenburg and Karen Renne explained the proposed amendments to the bill. They are attached as Exhibit E to these minutes.

Chairman Fuller asked for further proponents or opponents to the bill.

PROPOSONENTS

Ken Hirt, Mayor of St. Ignatius, spoke in favor of the bill. He said they are levying the maximum mills allowed by law and that raises only twenty four thousand dollars a year. They are on an Indian reservation where Indians do not have to pay taxes but they still receive services. The only thing left for the City to do is disincorporate and fall back on county funds. They need some sort of local option tax considered.

March 7, 1985

OPPONENTS

Dennis Burr, representing the Montana Taxpayers' Association, stated his opposition to the bill.

Julie Hacker, representing the Missoula County Freeholders' Association, spoke in opposition to the bill. Her written testimony is attached as Exhibit F to these minutes.

Chairman Fuller opened the hearing for questions.

Senator Crippen said that he can see where more funds are necessary for small local governments to operate, but he does not feel that this bill would generate enough money.

Senator Pinsoneault said he would like to see the bill amended to apply only to towns and third class cities and, exclude the larger counties if it would mean the bill would pass.

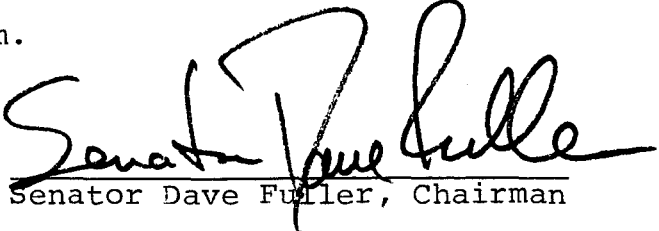
The hearing was closed on SB 293.

ACTION TAKEN ON HOUSE BILL 333: Karen Renne explained the proposed amendments to the bill. They are attached as Exhibit G to these minutes.

Senator Eck moved the Committee adopt the proposed amendments. The motion passed with Senators Crippen, McCallum, Harding, and Story voting no.

Senator Regan moved that HB 333 BE CONCURRED IN as amended. The motion passed with Senators Harding, McCallum, Crippen, and Story voting no. Senator Regan will carry the bill.

The meeting adjourned at 2:50 p.m.


Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT COMMITTEE
 49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-7-85

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)	✓		
4 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

MARCH 7

25

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

HOUSE BILL

333

having had under consideration.....

No.....

THIRD

reading copy (BLUE)
color

**ALLOW A JP OR MUNICIPAL JUDGE TO NAME A PERSON
TO ACT AS JUDGE IN HIS BEHALF**

Respectfully report as follows: That..... **HOUSE BILL**..... No..... **333**

be amended as follows:

1. Title, lines 3 and 6.
Following: "PEACE" in line 5
Strike: remainder of line 3 through "COMMISSIONERS," in line 6
2. Page 2, lines 1 through 8.
Following: "return"
Strike: remainder of line 1 through "PERSON," in line 8
Insert: "call in another justice, if there is one readily
available, or a city judge or some other qualified
person to hold court for the absent justice until
his return."
3. Page 2, lines 19 and 20.
Strike: subsection (5) in its entirety

AND AS AMENDED

BE CONSIDERED IN

~~XXXXXX~~
DO PASS

~~XXXXXXXXXX~~
DO NOT PASS

Senator Dave Fuller

Chairman.

STANDING COMMITTEE REPORT

MARCH 7

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

HOUSE BILL

having had under consideration.....

No. 166

THIRD

reading copy (BLUE)
color

REMOVE REQUIREMENT TO POST LIST OF DELINQUENT TAXPAYERS

HOUSE BILL

166

Respectfully report as follows: That.....

No.....

BE CONCURRED IN

~~XXXXX~~
DO PASS

~~DO NOT PASS~~

Senator Dave Fuller

Chairman.

STANDING COMMITTEE REPORT

MARCH 7

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

HOUSE BILL

196

having had under consideration.....

No.....

THIRD

BLUE

reading copy ()

color

ABOLISH POPULATION LIMITATION FOR DISPENSING WITH
NONPARTISAN PRIMARY

Respectfully report as follows: That.....

HOUSE BILL

196

No.....

BE CONCURRED IN

XXXXXXXX

DO PASS

XXXXXXXXXX

DO NOT PASS

Senator Dave Fuller

Chairman.

The logo features a stylized silhouette of the state of Montana. Inside the outline of the state, there is a graphic of a city skyline with several buildings of varying heights.

Montana League of Cities and Towns

P.O. BOX 1704

HELENA, MONTANA 59601

LOCAL GOVERNMENT COMMITTEE

MARCH 7, 1985

EXHIBIT A

MEMORANDUM

TO: MEMBERS OF THE SENATE LOCAL GOVERNMENT COMMITTEE
FROM: THE MONTANA LEAGUE OF CITIES AND TOWNS
RE: HOUSE BILL 239

THE PURPOSE OF HOUSE BILL 239 IS TO ESTABLISH A MORE EQUITABLE METHOD OF PROVIDING SPECIFIC SERVICES IN AREAS DIVIDED BY JURISDICTIONAL BOUNDARIES. THE BILL WOULD ALLOW FOR THE CREATION OF SEPARATE TAXING DISTRICTS TO FUND RECREATION SERVICES, STREET AND ROAD MAINTENANCE, LIBRARIES, JAILS AND WEED CONTROL PROGRAMS.

UNDER EXISTING LAW, CITIES AND COUNTIES HAVE THE AUTHORITY TO NEGOTIATE INTERLOCAL AGREEMENTS TO PROVIDE COOPERATIVE SERVICES. THESE AGREEMENTS, HOWEVER, COVER THE ENTIRETY OF THE PARTICIPATING JURISDICTIONS. FOR EXAMPLE, IF BOZEMAN AND GALLATIN COUNTY PUT TOGETHER A COMBINED RECREATION PROGRAM, PEOPLE IN WEST YELLOWSTONE, THREE FORKS AND OTHER OUTLYING AREAS WOULD BE PAYING FOR A SERVICE PRINCIPALLY INTENDED FOR THE CITY AND ITS SUBURBS.

IF HB-239 IS PASSED, A RECREATION DISTRICT COULD BE CREATED THAT WOULD INCLUDE BOZEMAN AND THE NEARBY SUBURBAN AREA. PEOPLE LIVING IN THE DISTRICT WOULD PAY FOR THE SERVICES THEY USE. THOSE IN OTHER PARTS OF THE COUNTY WOULD NOT BE REQUIRED TO PAY, BECAUSE THEY ARE TOO FAR AWAY TO USE THE SERVICES ON A REGULAR BASIS.

UNDER THIS BILL, HELENA AND LEWIS AND CLARK AND JEFFERSON COUNTIES COULD ESTABLISH A LIBRARY DISTRICT. PEOPLE IN THE CITY AND THE NEARBY SUBURBS IN BOTH COUNTIES WOULD PAY THE LEVY. PEOPLE LIVING 60 OR 70 MILES AWAY IN AUGUSTA, LINCOLN AND WHITEHALL WOULD NOT BE OBLIGATED.

THIS BILL WAS AMENDED IN THE HOUSE LOCAL GOVERNMENT COMMITTEE TO PROVIDE ADDITIONAL PROTECTION FOR THE RIGHTS OF PROPERTY OWNERS. IT CLEARLY STATES THAT THE RIGHT OF PROTEST APPLIES TO THE PROPERTY OWNERS IN THE AREA OF THE DISTRICT OF ALL PARTICIPATING JURISDICTIONS. THIS MEANS THAT A CITY COULD NOT FORCE ITS WILL ON A MINORITY OUTSIDE THE CORPORATE BOUNDARIES, BECAUSE PROPERTY OWNERS IN THAT AREA WOULD HAVE THE RIGHT OF PROTEST. THE BILL ALSO PROTECTS AGRICULTURAL INTERESTS BY PROVIDING THAT DISTRICT ASSESSMENTS ON PROPERTIES OF 10 ACRES ARE MORE CAN BE LEVIED ONLY AGAINST THE PRINCIPAL RESIDENCE. THIS PROVISION WAS INCLUDED TO ASSURE THAT FARMS AND RANCHES WOULD NOT PAY A DISPROPORTIONATE SHARE OF THE COSTS OF OPERATING THE DISTRICT.

THIS BILL ADDRESSES A BASIC ISSUE OF FAIRNESS IN TAX POLICY. IT PROVIDES A METHOD OF FINANCING PROGRAMS BY PEOPLE WHO USE THE SERVICES. OF EQUAL IMPORTANCE, IT FREES OTHER PEOPLE OF PAYING FOR SERVICES THEY DO NOT USE. FOR THESE REASONS, THE LEAGUE OF CITIES AND TOWNS URGES PASSAGE OF THIS BILL.

* original

amendment for H.B. 239
Thur. Mar. 7, 1985 - by Pistoria & Nisbet

Submitted by
Paul Pistoria

PROPOSED AMENDMENTS
House Bill No. 239
Introduced Copy

1. Page 2, line 5.

Following: ";"

Strike: "AND"

LOCAL GOVERNMENT COMMITTEE
MARCH 7, 1985
EXHIBIT B

2. Page 2, line 6.

Following: "PROGRAMS"

Insert: "; and

(f) animal control programs"

NAME Julie Wacker BILL NO. HB 239
ADDRESS Star Rte Box 335 Banner DATE 3/7/85
WHOM DO YOU REPRESENT Tioga Co. Truellers
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Confusing, poorly written as it contains conflicting statutes
2. Sets up another bureaucracy with interlocal agreements
3. What is the limit to jurisdictions involved? Could it cross state lines?
4. Note line 12 - can invited subjects?
5. Discriminatory taxes
6. Protest would be impossible

NAME DAVID D. WHITESITT BILL NO. 239
ADDRESS P.O. BOX 322 SEELEY LAKE, MT. 59868 DATE 3/7/85
WHOM DO YOU REPRESENT SELF
SUPPORT _____ OPPOSE ☒ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WE HAVE ALL THE SERVICES WE NEED.
2. WE CAN'T AFFORD MORE SERVICES THAN WE DO NOT NEED.
3. THIS WOULD CREATE A MORE BUREAUCRATIC LOCAL GOVERNMENT.
4. PAPERWORK AND ADMINISTRATION WOULD BE VERY COSTLY.
5. PEOPLE SHOULD BE FREE TO MEET THEIR OWN NEEDS, NOT FORCED INTO BIG SERVICE DISTRICTS THAT WOULD TAKE THEIR MONEY ELSEWHERE AND PROVIDE SERVICES AT SOME REMOTE LOCATION.

LOCAL GOVERNMENT COMMITTEE
MARCH 7, 1985
EXHIBIT E

PROPOSED AMENDMENTS TO SB 293

1. Page 1, line 15.
Following: "local"
Insert: "individual"
2. Page 1, lines 16 through 18.
Following: "residents" in line 16
Strike: remainder of line 16 through "county" in line 18
3. Page 1, line 19.
Following: line 18
Strike: "not exceed"
Insert: "be 5, 10, 15, or"
Following: "liability"
Insert: "computed in accordance with Title 15, chapter 30, but
may not exceed 20% of that liability"
4. Page 1, line 15.
Following: "(2)"
Insert: "(a)"
5. Page 2, line 4.
Following: line 3
Insert: "(b) The proposal for such election must include the
percentage of the state individual income tax liability
to be imposed as a local income tax."
6. Page 2, line 12.
Following: "tax"
Insert: "at the same rate"
7. Page 2, line 22.
Following: "exceed"
Strike: "1"
Insert: "10"
8. Page 3, lines 13 and 14.
Following: "is" in line 13
Insert: "only"
Following: "residents" in line 13
Strike: remainder of line 13 through "boundaries" in line 14
Insert: "of the municipality"
9. Page 3, lines 15 through 19.
Strike: section 8 in its entirety
Renumber: subsequent sections

NAME Julie Hacker BILL NO. B293
ADDRESS Star Pt Bonner DATE 3/7/85
WHOM DO YOU REPRESENT Ms. Co. Truckholders
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Fiscal decisions left up to electors
Transient population could not in
additional taxes on already overloaded
taxpayers.
2. Economic development in co. could
be impaired by local option taxes.
Would a re-locating company look
with favor on a govt with local option tax?
3. No guarantee this would replace
property taxes. Working people would
have another add-on cost (tax)
4. Not needed. Legislators should say no.

Do not pass this bill.

LOCAL GOVERNMENT COMMITTEE
MARCH 7, 1985
EXHIBIT G

PROPOSED AMENDMENTS TO HB 333

1. Title, lines 5 and 6.
Following: "PEACE" in line 5
Strike: remainder of line 5 through "COMMISSIONERS," in line 6
2. Page 2, lines 1 through 8.
Following: "~~return~~"
Strike: remainder of line 1 through "PERSON" in line 8
Insert: "call in another justice, if there is one readily available, or a city judge or some other qualified person to hold court for the absent justice until his return"
3. Page 2, lines 19 and 20.
Strike: subsection (5) in its entirety

Explanation

Amendment 2 restores the "second reading" version of the bill, at the request of the sponsor. Amendment 1 makes the title conform to Amendment 3 and to the second reading version. Amendment 3 was requested by Jim Jensen and passed by the committee on 3/5/85.

The amendment added by the House and deleted by proposed Amendment 2, above, seems contrary to the intent of the original bill. Other considerations favoring the original bill, as opposed to the amended third reading version, are:

(1) A justice of the peace is comparable to a city court judge -- both are elected, and one may hold court for the other under 3-10-231 and 3-11-205. A city court judge unable to act due to illness or disqualification may call in a replacement under 3-11-203 (attached). It seems reasonable to give a justice of the peace the same authority.

(2) A justice of the peace is also a county officer under 7-4-2203 and as such may not absent himself from the state for more than 5 days without the consent of the county commissioners; if he does, he forfeits his office, under 7-4-2208.

(3) County commissioners have in addition the power to refuse to pay a replacement justice, should abuse occur.

(4) The phrase "qualified person" in the existing statute presumably limits selection of substitutes to persons qualified to be a justice of the peace under 3-10-202 (either an attorney or a former justice of the peace or a person who has completed the orientation course provided for all justices).

3-11-203. When substitute for judge called in. (1) The city judge or mayor may call in a justice of the peace or some qualified resident of the city or town to act in the judge's place whenever the judge is:

- (a) a party in a case;
- (b) interested in a case;
- (c) the spouse of or related to either party in a case by consanguinity or affinity within the sixth degree; or
- (d) sick, absent, or unable to act.

(2) The city judge may call in a justice of the peace or some qualified resident of the city or town to act in his stead when a disqualifying affidavit is filed against him pursuant to the supreme court's rules on disqualification and substitution of judges.

3-11-205. Justice of the peace as city judge. (1) In a town, the council may designate a justice of the peace of the county in which the town is situated to act as city judge and may by ordinance fix the compensation for his services. The justice of the peace so designated who agrees to act in that capacity shall act as city judge in all cases arising out of violations of ordinances in which the town is a party. If the justice of the peace must travel from his place of residence to hold court, he shall be paid his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, by the town in which the court is held.

(2) The offices of city judge and justice of the peace may be combined if a justice of the peace is authorized in a city pursuant to 3-10-101. 6

NAME Jim Wysocki BILL NO. SB 293
ADDRESS 415 MORROW - BOZEMAN, MT. DATE 3-7-85
WHOM DO YOU REPRESENT CITY OF BOZEMAN
SUPPORT / OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

LOCAL Govt. wishes ENABLING
~~LEGISLATION~~ LEGISLATION FOR LOCAL OPPORTUNITY
TO DETERMINE IF A TAX SHOULD
BE ENACTED.

NAME DAVID D. WHITESITT BILL NO. 293
ADDRESS P.O. BOX 322, SEELEY LAKE MT. 57868 DATE 3/7/85
WHOM DO YOU REPRESENT SELF
SUPPORT OPPOSE ✓ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WE ALREADY HAVE TOO MUCH TAXING.
2. THIS TAX DOES NOT HAVE TO BE USED TO OFFSET PROPERTY TAX SO WOULD ONLY BE AN ADDITIONAL TAX.
3. IF THE ONLY TAXES TO RESIDENTS, COMMERCIAL PROPERTY OWNERS WILL BE EXEMPT FROM ADDITIONAL TAXES OF ANY KIND.