

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

April 22, 1985

The thirty-first meeting of the Local Government Committee was called to order at 12:10 p.m. on April 22, 1985, by Chairman Dave Fuller in Room 405 of the Capitol Building.

ROLL CALL: Senators Story and Regan were excused. All other members were present.

FURTHER CONSIDERATION OF HOUSE BILL 954: Representative Fred Thomas, House District #62, explained that the bill has been amended to apply to any county in Montana. All counties would have the option of putting secession on the ballot. The bill would give sixty days from notice of the election to the actual election. This would give the public plenty of time.

Karen Renne explained the administrative process of transition and indebtedness. Karen said the processes for these administrative procedures are currently contained in the laws regarding formation of a new county. The current law also contains material regarding school district boundaries. She said the procedure regarding indebtedness is also in the current law. The receiving county takes over any indebtedness incurred by the previous county.

Senator Pinsoneault said he will vote against the bill because it is much too complicated to take action on this late in the session. He wants the bill to be properly researched and not have matters go to court immediately because of acting hastily on the bill. He said while he will vote against the bill in Committee, he will not speak against the bill on the floor. He stated he heartily agrees with the concept of the bill.

Senator McCallum stated he would like to see a time period put in the bill for when the issue can be put back on the ballot if it fails. This would discourage having it put on the ballot every election. Karen stated there was a current time period of two years contained in the law.

Senator Mohar expressed concern over the cost of putting the issue on the ballot and asked what happened with the idea of having the receiving county vote first so that, if the election failed, the receiving county would not have to hold an election. Karen explained that, in the case of a boundary change, both counties must vote. Senator Harding said the only cost involved would be that of the ballots, which is relatively inexpensive.

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Senator Mohar asked about having a study conducted by the local government before the issue is put on the ballot and having the people who want to secede pay for the study. Karen said this could not be done. It is a shared expense by the existing counties.

Senator Crippen said that, although we may be acting a little hastily, the people have the right to do this and to wait another two years would be too long.

Senator Eck said she would not feel comfortable voting for the bill until the local county people look at it to see if it is workable.

Senator Hirsch said he feels the urgency of the situation is such that there is not much risk if there is a portion or two of the bill that is not immediately workable.

Senator McCallum stated that he is not voting for the bill for the Clinton or Lolo areas specifically, but for the State of Montana. He would also like to see the limit for being able to put the issue back on the ballot after failure changed from two years to four years. The other Committee members expressed agreement with this and Karen Renne will see that it is changed in the amendments.

ACTION TAKEN ON HOUSE BILL 954: Senator Hirsch moved that the Committee adopt the proposed amendments to the bill. The motion passed unanimously.

Senator Hirsch moved that the Committee recommend that HB 954 as amended BE CONCURRED IN. The motion passed with Senators Mohar, Pinsoneault, and Eck voting no. Senator Fuller will carry the bill.

ACTION TAKEN ON HOUSE BILL 950: Senator Crippen moved that HB 950 be TABLED. The motion passed unanimously.

The meeting adjourned at 12:40 p.m.


Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 4-22-85

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)	✓		
44 Senator Pinsoneault, Dick	✓		
19 Senator Regan, Pat			✓
21 Senator Story, Pete			✓
43 Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

HOUSE BILL 954
PAGE 1 of 11 PAGES

APRIL 23

19. 85

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

HOUSE BILL

954

having had under consideration.....

No.....

THIRD

BLUE

reading copy (.....)

(FULLER WILL CARRY) color

CHANGE BOUNDARY BETWEEN MISSOULA AND RAVALLI COUNTIES IN THE LOLO AREA

HOUSE BILL

954

Respectfully report as follows: That.....

No.....

be amended as follows:

1. Title, lines 4 through 6.

Following: "AN ACT" on line 4

Strike: remainder of line 4 through "COUNTY" on line 6

Insert: "PROVIDING FOR THE DETACHMENT OF TERRITORY FROM ONE
COUNTY AND ITS ANNEXATION TO ANOTHER COUNTY"

2. Title, lines 8 and 9.

Following: "CONSTITUTION;"

on line 8

Strike: remainder of line 8 through "TAXATION;" on line 9

3. Title, lines 10 and 11.

Following: "SECTIONS" on line 10

Strike: remainder of line 10 through "DATE" on line 11

Insert: "7-2-2201, 7-2-2205 through 7-2-2207, 7-2-2215

THROUGH 7-2-2207, 7-2-2215 THROUGH 7-2-2219, 7-2-2221

THROUGH 7-2-2224, AND 7-2-2243, MCA; AND REPEALING SECTIONS
7-2-2203 AND 7-2-2210, MCA"

4. Page 1, line 13 through line 22, page 2.

Strike: preamble in its entirety

5. Strike everything after the enacting clause and insert:

(continued)

~~XXXXXX~~

~~XXXXXXXXXXXX~~

CONTINUED

Chairman.

Section 1. Section 7-2-2201, MCA, is amended to read:

*7-2-2201. Authorization to create new counties. (1) New counties may, from time to time, be formed and created in this state from portions of one or more counties which shall have been created and in existence for a period of more than 2 years, in the manner set forth and provided in this part.

(2) A county enlarged by the addition of territory taken from one or more other counties is a new county under the provisions of this part.

Section 2. Section 7-2-2205, MCA, is amended to read:

*7-2-2205. Petition for creation of new county.

(1) Whenever it is desired to divide any county or counties and form a new county out of a portion of the territory of the then-existing county or counties, a petition shall be presented to the board of county commissioners of the county from which the new county is to be formed, in case said proposed new county is to be formed from but one county, or to the board of county commissioners of the county from which the largest area of territory is proposed to be taken for the formation of such new county, in case said new county is to be formed from portions of two or more existing counties.

(2) (a) The If the proposed new county is to be formed from a portion of only one existing county, the petition shall must be signed by at least 50% of the registered electors of the proposed new county.

(b) in-cases-where If the proposed new county is to be formed from portions of two or more counties, separate petitions must be presented from the territory taken from each county, and each of the petitions must be signed by at least 50% of the registered electors of the proposed portions.

(c) If the proposed new county is to be an existing county enlarged by territory taken from one or more other counties, a separate petition must be presented from each such territory, and each petition must be signed by at least 50% of the registered electors of the territory.

(d) The signatures need not all be appended to one paper but may be signed to several petitions, which must be similar in form. When so signed, the several petitions may be fastened together and shall be treated and presented as one petition.

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Section 3. Section 7-2-2206, MCA, is amended to read:

"7-2-2206. Contents of petition. (1) Such petition or petitions shall must contain:

411 (a) a particular legal description of the boundaries--of-the-proposed-new-county territory proposed to be taken from the county in which the petition is circulated;

421--a-statement-that-no-line-therof--passes--within 15--miles--of--the--courthouse--situated--at-the-county-seat of-any-county-proposed-to-be-divided;--except-as-otherwise provided-in-this-part;

431 (b) a statement of the assessed valuation of such proposed county as shown by the last preceding assessment, inclusive of all assessed valuation;

441 (c) a statement of the surveyed area, in square miles, which will remain in the county or counties from which territory is taken to form such new county after such county is formed, and a statement of the surveyed area in square miles, which will be in the new county after formation;

451 a warning that a person is subject to a \$500 fine or 6 months in jail, or both, if he purposefully:

(i) signs a name other than his own to the petition;

(ii) signs more than once for the same issue; or

(iii) signs when not a legally registered voter residing in the territory to be added to the proposed new county,

451 (e) if the proposed new county is to be formed from one existing county, or from portions of two or more existing counties, the name of the proposed new county; and

461 a prayer that such proposed new county be organized into a new county under the provisions of this part; and

(f) if the proposed new county is to be an existing county enlarged by territory taken from one or more other counties, a prayer that this territory be added to the proposed new county under the provisions of this part.

(2) Each person must sign his name and address in substantially the same manner as on his voter registry card, or the signature will not be counted.

(3) Numbered lines must be provided for signatures. Each numbered line must contain spaces for the signature, the printed last name of the signer, and the signer's address."

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NEW SECTION. Section 4. Submission of petition for approval. (1) Before a petition may be circulated for signatures, a sample petition must be submitted to the county election administrator in the form in which it will be circulated for approval as to form.

(2) The county election administrator shall refer a copy of the sample petition to the county attorney, who shall review the sample petition to ensure compliance with the requirements of this part.

(3) If the petition is rejected as to form, the county election administrator shall within 10 days after submission of the sample send written notice to the person who submitted the petition.

(4) If the petition is approved as to form, the election administrator shall within 21 days after submission of the sample send written notice to the person who submitted the petition. Thereafter the petition may not be challenged except with regard to the number and validity of signatures appended to it.

NEW SECTION. Section 5. Number of signatures required -- time allowed for collecting them. (1) For the purpose of determining the number of signatures needed on a petition to meet the percentage requirements of this part, the number of registered electors in a territory proposed to be included in a new county is the number of people registered to vote in that territory in the most recent general election.

(2) All petition signatures must be collected and filed within 130 days of the date of the notice that the petition has been approved as to form.

Section 6. Section 7-2-2207, MCA, is amended to read:

"7-2-2207. Affidavits to be attached to petition.
++ There shall be attached and filed with said each sheet or section of the petition or petitions an affidavit of five--qualified-electors--residing-within-each-county sought-to-be-divided--to--the--effect--that: ----(a)---they---have---read---said---petition---and---examined---the---signatures---affixed---thereto---and---they---believe---that---the---statements---therein---are---true the person who circulated the petition, stating that it is his belief that:

(b) (1) it is signed by at least 50% of the qualified electors, as herein provided, of the proposed new county or of the proposed portion thereof taken from each existing county, where the proposed new county is to be formed from portions of two or more existing counties;

(c) (2) the signatures affixed thereto are genuine; and

(d) (3) each of such persons so signing was, at the date of such signing, a qualified elector of such county-thereto-sought to-be-divided; the proposed new county or of the portion thereof taken from an existing county.

~~(2) -- Such petition or petitions, so verified, and the verification thereof shall be accepted in all proceedings permitted or provided for in this part as prima facie evidence of the truth of the matters and facts therein set forth.~~

NEW SECTION. Section 7. Verification of signatures by county clerk. The clerk of the county receiving the petition shall check the names of all signers to verify that they are registered electors of the proposed territory to be taken from the county. In addition, the county clerk shall randomly select signatures on each sheet or section of the petition and compare them with the signatures of the electors as they appear on the registration records of the office. If all of the randomly selected signatures appear to be genuine, the number of signatures of registered electors on the sheet or section may be certified without further comparison of signatures. If any of the randomly selected signatures do not appear to be genuine, all signatures on that sheet or section must be compared with the registration records of the office.

Section 8. Section 7-2-2215, MCA, is amended to read:

*7-2-2215. Election on question of creating new county -- proclamation and notice. (1) Within 2 weeks after its determination of the truth of the allegations of the petition, the board of county commissioners shall order and give proclamation and notice of an election to be held on a specified day, not less than 90 60 days or more than 120 days thereafter, in the territory which is proposed to be taken for the new county, for the purpose of determining whether such territory the territory proposed to be taken from the county shall be established and organized into a new or enlarged county and for the election of officers and location of a county seat therefor

in case the vote at the election is in favor of the establishment and organization of the a new county formed from a portion of one existing county or from portions of two or more existing counties.

(2) The question of determining whether the proposed territory shall be taken from the county and added to the proposed new county must be included on the ballot for the next countwide primary, general, or school election scheduled not less than 60 days after the date of the proclamation and notice.

~~(2) (3) All registered electors residing within the proposed new county who are registered electors of the county or counties from which territory is taken to form the proposed new county and who are to be registered under the provisions of the registration laws of the state shall be entitled to vote at the election. Registration and transfers of registration shall be made and shall close in the manner and at a time provided by law for registration and transfers of registration for a general election in Montana.~~

~~(3) The proclamation and notice of election shall be published as provided in 13-1-108, and a copy thereof shall be mailed immediately by the election administrator of the county in which the petition is filed to the election administrator of each county from which territory is to be taken for the proposed new county.~~

~~(4) The proclamation calling the election and the notice thereof provided for in this part shall be made and given exclusively by the board with which the petition for the formation and establishment of the new county is filed.~~

(4) If the proposed new county is an existing county to be enlarged by territory taken from the county in which the petition was filed, the board of county commissioners of the proposed new county shall hold an election in the manner described in subsections (1) through (3).

Section 9. Section 7-2-2216, MCA, is amended to read:

"7-2-2216. Establishment of election precincts. Said
The board of county commissioners of the county in which the petition was filed shall also, if necessary for the purpose of the election provided for in
7-2-2215 7-2-2215(1), change the boundaries of the election precincts in said the old county or counties to make the same conform to the boundaries of the proposed new county,

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provided that the boundary lines of no such precinct shall extend beyond the boundary lines of the then-existing county in which it is located and from which the territory is proposed to be taken."

Section 10. Section 7-2-2217, MCA, is amended to read:

"7-2-2217. Appointment of election officials. The board of county commissioners of the county concerned shall appoint election judges to act at the election provided for in 7-2-2215 7-2-2215(1) or 7-2-2215(4) and to be paid by the board."

Section 11. Section 7-2-2218, MCA, is amended to read:

"7-2-2218. Form of ballot. (1) ~~The~~ If the proposed new county is to be formed from one county, or from portions of two or more existing counties, the ballot shall be in the following form: (a) proclamation and notice required by 7-2-2215 shall require the electors to cast ballots which shall contain the words "For the new county of (giving the name of the proposed new county) -- Yes" and "For the new county of (giving the name of the proposed new county) -- No"; and each elector desiring to vote for the establishment and organization of the new county shall mark a cross (X) opposite the words "For the new county of ----- Yes" in the manner now required by law in other elections; and each elector desiring to vote against the establishment and organization of the new county shall mark a cross (X) opposite the words "For the new county of ----- No" in the manner now required by law in other elections;

(2) (b) The ballots shall also contain the names of individuals to be voted for to fill the various elective offices designated in the proclamation for counties of the class to which the proposed county will belong, as determined by the board of county commissioners, as herein otherwise provided.

(3) (c) There shall also be printed upon the ballot the words "For the county seat" and the names of all cities or towns which may have filed with the election administrator a petition, signed by at least 25 registered electors, nominating any city or town within the proposed new county for the county seat. The elector shall designate his choice for county seat by marking a cross (X) opposite the name of the city or town for which he desires to cast his ballot.

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(2) If the proposed new county is to be an existing county enlarged by territory taken from one or more other counties, the proclamation and notice required by 7-2-2215 (1) shall require the electors to cast ballots which shall contain the legal description of the territory to be taken from the county in which the election is held, together with any name or names for the territory that may be in common use, and the words "For the territory described (or commonly known as) to be detached from County and added toCounty -- Yes" and "For the territory described (or commonly known as) to be detached from County and added to County -- No".

Section 12. Section 7-2-2219, MCA, is amended to read:

"7-2-2219. Conduct of election. (1) (a) The board issuing the proclamation and notice of election pursuant to 7-2-2215 shall cause the county election administrator to furnish to the election judges of each precinct in the proposed new county all election supplies and equipment necessary to conduct the election and which are not specifically directed to be furnished by the election administrator of another county or counties.

(b) The election administrator of each county from which territory is taken for the proposed new county shall, not less than 5 days before the date of the election, furnish for each precinct within the proposed new county a precinct register for the precincts of the proposed new county which are within their respective counties.

(2) The election elections provided for in 7-2-2215 shall be governed and controlled by the general election laws of the state, so far as the same are applicable and except as otherwise provided herein. The provisions of the election laws relating to preparation, printing, and distribution of sample ballots, except the provisions of these laws relating to primary elections in this state, apply to any election provided for in this part. All returns of an election shall be made to and canvassed by the board of county commissioners calling the election.

(3) All nominations of candidates for offices required to be filled at the election shall be made in the manner provided by law for the nomination of candidates by petition."

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Section 13. Section 7-2-2221, MCA, is amended to read:

"7-2-2221. Determination of county seat -- temporary county seat. (1) ~~At the special election to be held as provided in 7-2-2215~~ If the proposed new county is to be formed from one county or from portions of two or more existing counties, the question of the election of the county seat is hereby provided to be submitted to the qualified electors of the proposed new county at the election provided for in 7-2-2215(1), and the majority of all the votes cast therefor shall determine the election thereon.

(2) (a) In case any city or town fails to receive a majority of all the votes cast, then the city or town receiving the highest number of all votes cast shall be designated as the temporary county seat. The temporary county seat selected upon the organization of such county shall remain as such county seat until the permanent county seat shall be established as provided by law.

(b) In case any city or town is not the choice of the election for the county seat by a majority of all the votes cast, the question of choice between the two cities or towns for which the highest number of votes shall have been cast shall be submitted in like manner to the qualified electors at the next general election thereafter.

(c) When the county seat shall have been selected as herein provided, it shall not thereafter be changed except in the manner provided by law."

Section 14. Section 7-2-2222, MCA, is amended to read:

"7-2-2222. Effect of election -- resolution by county commissioners. (1) If, upon the canvass of the votes cast at the election, it appears that more than 50% of the votes cast by those voting in an election under 7-2-2215(1) in the county, by those voting in the same election in the territory proposed to be taken from the county, and by those voting in an election held under 7-2-2215(4) are ~~affirmative, on the issue as after the new county is formed~~ affirmative, the board of county commissioners shall, by a resolution entered upon its minutes, declare the new or enlarged county such territory duly formed and created as a county of this state, of the class to which the same belongs and under the name of County, and, if appropriate, that the city or town receiving the highest number of votes cast at the election for county seat

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shall be the county seat of the county until removed in the manner provided by law and designate and declare the individuals receiving, respectively, the highest number of votes for the several offices to be filled at the election to be duly elected to the offices.

(2) However, if upon such canvass it appears that more than 50% of the votes cast on the issue by those voting in the county, or by those voting in the territory proposed to be taken from the county, or by those voting in an election held under 7-2-2215(4) are negative at the election era--~~For the new county of-----~~ No², the board canvassing the vote as provided herein shall pass a resolution in accordance therewith, and thereupon the proceedings relating to division of such county or counties shall cease. No other proceedings in relation to any other division of the old county or counties shall be instituted for at least 2 4 years after such determination."

Section 15. Section 7-2-2223, MCA, is amended to read:

"7-2-2223. Procedure to complete creation of county.

(1) The board of county commissioners shall immediately file a copy of its resolution, authorized by 7-2-2222(1) and duly certified, together with a legal description of the new boundaries of each affected county, in the office of the secretary of state. Ninety days after the date of such filing:

(a) the new county is considered to be fully created;

(b) the organization thereof is considered completed; and

(c) the any new county officers, other than the county commissioners and the county clerk, are entitled to enter upon the duties of their respective offices upon qualifying in accordance with law and giving bonds for the faithful performance of their duties, as required by the laws of the state.

(2) The election administrator of the county with which the petition was filed must immediately make out and deliver to each of the individuals declared and designated to be elected a certificate of election authenticated by his signature and the seal of the county. The individuals elected members of the board and the county clerk shall, immediately upon receiving their certificates of election, assume the duties of their respective offices."

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Section 16. Section 7-2-2224, MCA, is amended to read:

"7-2-2224. Offices and supplies for new county. The if the new county has a new county seat under 7-2-2221, the board of county commissioners of the new county may provide a suitable place for the county officers and purchase supplies necessary for the proper conduct of the county government."

Section 17. Section 7-2-2243, MCA, is amended to read:

"7-2-2243. Compensation of commission members. Members of the board of commissioners provided for under 7-2-2241 shall receive a compensation of not to exceed \$8 \$25 per day for every day they are actually employed under the provisions of this part. All of which expenses, together with the reasonable expenses of stationery, postage, and incidental expenses, shall be borne in equal proportions by the counties affected by such division, including said new county. The amounts payable by each county shall be paid by the treasurers of the respective counties after the same shall have been presented to and allowed by the board of county commissioners as is provided by law for claims against any county."

NEW SECTION. Section 18. Repealer. Sections 7-2-2203 and 7-2-2210, MCA, are repealed.

NEW SECTION. Section 19. Codification instruction. Sections 4, 5, and 7 are intended to be codified as an integral part of Title 7, chapter 2, part 22, and the provisions of Title 7, chapter 2, part 22 apply to section 4, 5, and 7.

AND AS AMENDED

BE CONCURRED IN