

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 13, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on February 13, 1987 at 12:30 p.m. in Room 312-F of the State Capitol.

ROLL CALL: Roll call was taken with all members present. Reps. Bulger, Gilbert, Ramirez and Sales joined the meeting at 1:00 p.m. Lee Heiman, Committee Counsel, from the Legislative Council was also present.

CONSIDERATION OF HOUSE BILL 639: Rep. Dick Corne, House District 77 and sponsor of the bill stated HB 639 would provide for the registration of individuals to act as process servers. He stated Sections 1 through 8, pages 1 through 4, were the new language that provided for registration of process servers, established fees, bonding requirements, revocation or suspension of certificates and required proof of service. Sections 9 through 27, pages 5 through 13 add to the existing statutes the words "registered process server". Rep. Corne stated this responsibility is primarily carried out by sheriffs and their departments and they could better utilize their time. Rep. Corne proposed an amendment to be inserted in Section 4, page 3 following line 6 (Exhibit 1).

PROPONENTS: Larry Jent, Bozeman Attorney, stated the first purpose of the bill was to clarify existing law by specifically allowing a private person, if licensed and bonded by the state, to serve writs of execution, writs of garnishment and so forth. He commented that law enforcement is needed only during the execution process for seizing a vehicle to pay a judgement. When a vehicle needs to be picked up, the sheriff's department goes with a tow truck operator to get the vehicle. Mr. Jent stated there would be no difference in a private person with a badge going with the tow truck operator than a sheriff going.

Mr. Jent stated the rest of the actions contemplated by the bill involve the serving and delivery of court papers. The bill establishes controls and registration over those people who serve as private process servers.

He stated that often a writ of execution stays in the sheriff's office for four to five days or longer before being served. Often people who owe money or have property which could be held for the judgements are present in the

county but by the time the sheriff delivers the writ, the property is gone or the people have cleared their bank accounts. Mr. Jent stated the people who are affected by this slow service of papers are generally small businesses trying to collect small judgements.

Another reason for the legislation is when a private attorney serves a praecipe, he can only tell the sheriff to seize one thing. A private process server could have the general writ of execution and could do the research that credit bureaus and other entities do and it would be one process to collect a judgement. A private process firm could do that and make money. The sheriff's department is not in that business of finding assets nor did Mr. Jent feel they should be.

Mr. Jent stated the justification for the bill was it would take a government function and allow private citizens to have a hand in it. He stated it takes a lot of manpower to serve these papers and if firms were allowed to do this on a free enterprise basis, it would create jobs and save tax dollars. Mr. Jent stated using a private process server would be more efficient and would be a welcome and needed change.

OPPONENTS: None.

DISCUSSION (OR QUESTIONS) ON HB 639: Rep. Hoffman asked what the fees are that the process server would charge?

Myles Eaton, Bozeman Attorney, replied they have copied the fee schedule the sheriff's department uses. They charge 20¢ a mile as the sheriff does and they charge for research time which the sheriff does not do.

Rep. Wallin asked in regards to the wrecker that goes out to get a vehicle, if the process server goes along with the wrecker or if the wrecker is given a badge and picks up the vehicle himself?

Mr. Jent replied the process server would do what the sheriff does which would be to go along and carry the papers.

Chairman Wallin asked if the process server picked up the papers from the sheriff?

Mr. Jent replied he would pick up the writ of execution from the justice of the peace or the clerk of district court.

Rep. Corne closed on HB 639.

DISPOSITION OF HOUSE BILL 639: Rep. Brandewie moved to DO PASS HB 639.

Lee Heiman revised the amendment and read it to the committee.

Rep. Pistoria moved the amendment. The question was called and the motion carried unanimously.

Rep. Brandewie moved DO PASS on HB 639 AS AMENDED. The question was called and the motion carried unanimously.

CONSIDERATION OF HOUSE BILL 646: Rep. Barry Stang, House District 52 and sponsor of the bill, stated there were amendments to the bill (Exhibit 2). He stated the purposes of the bill were to give people a vehicle to enable them to get electricity in an area. The bill adds rural improvement districts to the law that takes care of the special improvement districts of cities and towns. It also gives the county the chance to set up a rural improvement district for people who feel they need it.

Rep. Stang stated the bill was set up to help people that live approximately 15 miles from his town. They have been negotiating with MT Power and a couple of the coops to get electricity and in order to get it to that area it would cost approximately \$250,000. The five people wanting to get the service would have to split that amount between them. After five years, other people could hook up for nothing. Rep. Stang commented the bill allows these people to go to their county commissioners and set up a rural improvement district. The process is then everyone would be taxed accordingly for the \$250,000.

PROPONENTS: Bob Quinn, MT Power, stated they were in favor of the legislation. He stated MT Power generally will offer an optional method of financing for putting in electricity in rural areas. He said they have put a lot of work into the legislation and hoped the committee would pass it.

OPPONENTS: None.

DISCUSSION (OR QUESTIONS) ON HOUSE BILL 646: Rep. Sales asked what the difference was before the amendment?

Lee Heiman responded that it seemed to raise a specter of public utility districts with the SID owning the line themselves. This way the applicable power company would own the lines.

Rep. Gould asked with the bill, if the majority does not want a service and the minority does, would the service go in and would it be by area or number of freeholders?

Mr. Quinn replied if the majority does not want the service, it would not be enacted. He stated as far as the assessments, historically in those areas he was involved with, they are done on an ownership or square foot basis. He stated the five years is a PSC rule that governs the advances and contributions made by the customers. They are guaranteed that if the low characteristic of the line changes within five years, that amount times five would be allowed back to the original contributors of the line.

Rep. Gilbert asked why the sudden switch from a utility company financed in a construction entity to an SID entity? He stated in speaking about transmission, electricity, natural gas and telecommunications, that historically the power, gas and telephone companies have only laid the lines and maintained the lines. The cost of that is deferred back through the customer through rate fixes. He said now SID's are being talked about. The other things are publicly owned entities and that is why SID's were created for them. Now it is going into a whole new area.

Mr. Quinn responded the utilities themselves do not flow back the construction costs from the initial customers to the existing customers. The customer is considered on an individual basis and his contribution as far as the power bills are the only thing taken into consideration for the company's expense of extension to him. If the power bills multiplied by five on an annual basis do not give enough money to cover the cost of the construction, the customer is asked to make an advance which is held in escrow for five years. During that five-year period of time, if there is enough customers going on that existing line or even if he changes his own characteristics, five times that amount would be refunded to him.

Rep. Stand, in closing, stated he hoped the concerns had been answered. He said it was not that the power company wanted to do this. He stated the people are ultimately the ones to pay for the service. He stated rather than have one or two people pay for the service at an exorbitant amount, it could be spread over all the people in the area. He asked the committee to remember that the bill only allowed a vehicle for the people to use. In order to set up the district, they would have to go to the county commissioners to show a need and they would receive more public scrutiny. He stated the bill would at least give these people a chance at getting some power.

DISPOSITION OF HOUSE BILL 646: Rep. Brandewie moved to DO PASS HB 646. He moved the sponsor's amendment (Exhibit 2). The question was called and the motion carried unanimously.

CONSIDERATION OF HOUSE BILL 676: Rep. Mike Kadas, House District 55 and sponsor of the bill, stated the bill gives local government an additional tool for financing equipment; machinery purchases; acquiring, constructing and improving real property; and refinancing outstanding obligations in those two categories. He stated the MT Economic Development Board brought the bill to him. The Board thought that through this method they could save local governments money by allowing them to use notes rather than some of the contracts they go through now to finance equipment purchases.

PROPONENTS: David Ewer, Bond Program Manager for MT Economic Development Board, stated the Board is working on a program to allow counties, cities and towns to pool their needs for modest capital expenditures in order to take advantage of lower bond costs as a result of being under one bond issue instead of several. He stated it would be useful for the program to have one statute to look to, to finance modest expenditures. He stated they are not looking at doing large projects.

Mr. Ewer stated the bill would allow for any political subdivision to finance a project up to \$500,000 per project. There is a limit on the amount of no more than 5 percent of the assessed valuation. The projects would be limited to seven years and that time period would be from the beginning of the obligation.

He commented that current legal statutes are a hodgepodge. What can be done for a county is different from a city and also different from a school district. He said there would be a substantial benefit in using this program. The bill does not limit local governments in participating through this vehicle but tries to make one statute available so all districts would be treated equally and so they would have a clear sense of what they could do.

Alec Hansen, MT League of Cities and Towns, stated the organization supported the bill. In October, cities and towns in MT received the last revenue payment from the federal government. He said that amounted to \$7.2 million a year. Many cities used the revenue for general operating but others used it for financing capital projects and equipment acquisition. He stated with the federal revenue gone, they have to do everything they can to continue the capital improvement programs in the cities. Mr. Hansen commented the state, through this program, can offer the cities and counties an advantage of a few interest points and anything that can be done to alleviate the pressure is critically important at this time.

Don Peoples, Chief Executive Butte-Silver Bow, stated local governments are hard pressed in regard to capital equipment

purchases and find that in budget cutting, those purchases are usually what get cut. He stated HB 676 could help them better manage the local governments and save the taxpayer money in these purchases. He felt they should be treated like any other businesses in the state and be allowed to use as many vehicles as possible for capital purchases.

Gordon Morris, MACo, stated he would like to endorse HB 676 and supports the additional flexibility the bill gives to counties.

Jim Nugent, City of Missoula, stated the city strongly supported the bill.

OPPONENTS: None.

DISCUSSION (OR QUESTIONS) ON HOUSE BILL 676: Rep. Hoffman stated he was concerned with the use of political subdivision. He wondered if the intent of the bill should not be to say municipalities or counties instead of political subdivisions?

Rep. Sales replied that political subdivisions defined in 17-5-101, included counties, cities, towns, school districts, irrigation districts, drainage districts, special improvement districts, or any other governmental subdivisions.

Mr. Ewer responded the intent was to allow those districts to participate.

Rep. Hoffman stated in some instances a particular subdivision could be given the same limitations financially as a complete city or county might receive. They would be given an option of issuing these notes against 5 percent of the whole taxable valuation of the county. He stated that was what he questioned as to intent.

Mr. Ewer responded that was their intent.

Rep. Pistoria asked what this bill would do that could not be done now? Will this give authority to go ahead without the people being involved and just sell bonds to get the equipment?

Mr. Ewer responded the purpose is to have one law that could be looked to to enable the whole multitude of local governments to participate in their program. He stated no government could exceed its statutory mill levies in financing these notes. To go outside the mill levies or debt service, the local governments would have to go to general obligation bonds. If the local government is up to its mill levy, it has to decide whether to cut back or do without. Mr. Ewer commented that was some protection.

There was discussion and concern voiced by committee members for other cities or political subdivisions being able to issue notes for capital expenditures and not being able to repay the obligation.

Rep. Hoffman commented that within a school district, there could be a city, a rural fire department, a cemetery and an irrigation district. He asked under the proposed legislation if each of those taxing jurisdictions could sign a note on the full value of that school district? He stated all those areas encompass a complete school district and they would all have the same taxable value except the irrigation district.

Mr. Ewer responded each district would have the ability of 5 percent of its valuation or \$500,000. They could not exceed their current levy. The other limitation is if they are up against their mill levy they would not be able to take advantage of the 5 percent.

Rep. Hoffman asked if they could not exceed their legal statutory mill levy then what advantage would the bill give them for borrowing powers?

Rep. Kadas responded that the bill would give those jurisdictions the ability to go out and get a much better interest rate on a purchase they would be trying to make. He said right now most of those purchases are made under installment contracts and the jurisdictions would still be under all the existing statutory limitations as far as how much debt they can incur.

Rep. Brandewie commented that every political subdivision could encumber the property to 5 percent of the taxable valuation. He could envision 50 percent of the property encumbered and the taxpayers would have to pay for that. If they could not pay out of the regular levy, he stated services would be cut to pay those debts.

Mr. Ewer responded that was true but local governments have the option to use their taxable base for debt service now. He stated a city has the right to encumber debt based on its entire valuation and the encumbered debt by the county and school district does overlap.

Rep. Sales asked Mr. Heiman if he could tell the committee what the indebtedness limits are on different political subdivisions?

Mr. Heiman responded that counties are 23 percent; municipalities, 28 percent; hospital districts, 22 1/2 percent. He would check on fire and school districts.

Rep. Sales commented that the limits seemed to be awfully high and the seven-year term would cover several changes in the elected officials. He was concerned with the limits being set so high.

Rep. Kadas, in closing, stated he felt the bill had gotten a confused hearing. He commented if there was concern with the limits being too high, there was no problem with lowering the \$500,000 down to \$100,000. He stated cities and counties could gain a financial advantage and save themselves and the taxpayers a lot of dollars by being able to use the lower interest rates, especially for equipment purchases. He stated if the committee was concerned about the ability of other jurisdictions to use this, he would suggest amending the bill to just cities and counties. He said he would be willing to work with the committee on the bill in those areas of concern.

Chairman Wallin stated he would appoint a subcommittee on HB 676 after the hearing on HB 625.

CONSIDERATION OF HOUSE BILL 625: Rep. Stella Jean Hansen, House District 57 and sponsor of the bill, stated the bill would make it easier for city and counties to collect sewer fees. She stated there were in some counties outstanding sewer fees that amounted to quite a bit of money and the counties really do not have any way to collect them. The bill would be a big help to the cities and counties in collecting these debts.

Jim Nugent, City Attorney Missoula, stated the bill was requested by the city attorneys in Montana. He presented written testimony which included his statements to the committee (Exhibit 3).

Alec Hansen, MT League of Cities and Towns, stated the bill was important in order to have clear statutory authority for delinquent sewer charges. He stated the people who do not pay, make it difficult on those who do and they wanted to make sure that the people on the systems pay a fair and rightful share.

OPPONENTS: None.

Rep. Hansen closed on HB 625.

DISPOSITION OF HOUSE BILL 625: Rep. Darko moved to DO PASS HB 625. The question was called and the motion carried unanimously.

DISPOSITION OF HOUSE BILL 676: Chairman Wallin asked for discussion as to whether a subcommittee was needed.

Rep. Ramirez moved to DO NOT PASS HB 676.

Rep. Ramirez thought the bill would require a tremendous amount of work to take care of the problems. He stated the bill mentioned other personal property which could mean anything. He said there might be a way to work around the limits but there was a problem with the accumulative impact on the taxable value. He felt there was not enough time in the coming week to spend on the bill.

Rep. Brandewie spoke in favor of Rep. Ramirez's motion. He stated the bill was wide open.

Rep. Sales felt there was real merit to the bill but would not vote for it without knowing if in anyway other limits were being avoided in the law. He asked Lee Heiman to explain what Section 5 meant.

Mr. Heiman explained that the bill did not take the place of any other manner of local governments going into debt.

Rep. Bulger stated, in the interest of time, he would move to TABLE HB 676.

Rep. Bulger stated if there were merit to the bill, Rep. Kadas would have a chance to save or reconstruct it in the following days.

The question was called and the motion carried unanimously.

DISPOSITION OF HOUSE BILL 405: Rep. Darko moved to TABLE HB 405. The question was called and the motion carried unanimously.

DISPOSITION OF HOUSE BILL 579: Rep. Brandewie moved to DO PASS HB 579. He moved the amendments proposed by the subcommittee (Exhibit 4).

Rep. Brandewie explained the amendments. He said the amendments answered the concerns of the committee during the hearing on the bill. He stated HB 405 was tabled because it was not workable and HB 579 satisfied the problems of Rep. Grady's people and of the unclear gray areas for setting up a fire district. He said it also took care of the large landowner who does not want to be taxed on the basis of land because of being in a regular fire district.

Rep. Ramirez was concerned that the bill was not equitable because the fire organizations would still fight the range and crop fires of the large rancher and the rancher would pay only on the basis of structures. He did not feel that was fair to the small homeowner.

Rep. Brandewie commented that range and timberland was paying every year on a per acre basis to the Department of State Lands. He said the big landowner was paying for his land for fighting wildland fires. The fire companies fight the structure fires but do not have to fight the grass or range fires.

Rep. Gilbert felt it was a landowner's relief act. He asked what statute states the farmer pays State Lands for fire protection? He asked how much does he pay?

Rep. Brandewie stated he could not give the statute but knew timberland and rangeland pays. He said no one is paying right now for the service of the fire company and so no one is being relieved. The group of dedicated citizens that call themselves a fire company are out raising money by themselves and fighting the peoples' fires but have no way of generating money to buy capital equipment. The bill will require the owner of the structures to pay something that he is not paying now.

Rep. Brandewie responded to Rep. Gilbert's concern on fee assessments that the board of county commissioners would set up the fire district and may put the assessments on a square foot basis for buildings. They did not address that but left it up to the people in the district and the county commissioners.

Rep. Bulger stated in order for a fire company to be established, there would be a hearing and the county commissioners would have to vote it in. Many of the objections could be brought up then. He did not think an additional burden of cost was put on the ratepayers in the group. He commented if he owned a trailer and paid a fee to the district and one day they helped fight a grass fire that would not particularly impact how much he paid. He would get his service for the rate he asked for.

Rep. Ramirez agreed with Rep. Bulger but felt the bill could be more equitable if something was added so if a landowner wanted extra protection on land or equipment he could pay an extra fee. He said limitations were needed so the fire companies would not be created and have to fight all types of fires.

The question was called on the subcommittee amendments. The motion carried with Reps. Gilbert, Hansen and Ramirez voting no.

Rep. Sales moved to AMEND HB 579 to require written notice and a 60-day protest period after the original meeting. The question was called and the motion carried unanimously.

Rep. Brandewie moved to DO PASS HB 579 AS AMENDED. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 531: Rep. Ramirez moved to DO PASS HB 531. He moved his proposed amendments (Exhibit 5). Rep. Ramirez explained the amendments. The question was called and the motion carried unanimously.

Rep. Squires offered an amendment to HB 531 (Exhibit 6). She explained that the amendment dealt with the issue of collective bargaining units within some of the city/county offices.

Rep. Squires moved the amendment.

Rep. Bulger asked if the amendment would give municipalities a special force or just the ability if both sides agreed to open up the contracts?

Lee Heiman replied it did not open it up for renegotiating as a requirement but as an option.

Rep. Squires responded also it dealt with issues of the hours of work but no other portion of the contract would be touched unless agreed upon at the bargaining table to do that.

The question was called and the motion carried unanimously.

Rep. Gould moved DO PASS on HB 531 AS AMENDED. The question was called and the motion carried with Reps. Darko, Hoffman, Pistoria and Whalen voting no.

DISPOSITION OF HOUSE BILL 450: Rep. Pistoria stated he accepted the amendment from the subcommittee.

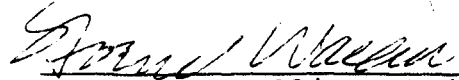
Rep. Gilbert moved to DO PASS HB 450 and he moved the subcommittee amendments (Exhibit 7). He explained the amendments. The question was called and the motion carried unanimously.

Rep. Hansen moved to DO PASS HB 450 AS AMENDED. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 638: Chairman Wallin stated that Rep. Addy had brought in an amendment. He read the amendment which had stricken subparagraph 4 on page 1, line 25 in its entirety and inserted "local improvement districts shall be subject to availability of the county road budget up to 10 percent of funds annually budgeted for construction and maintenance of county roads".

The committee consensus was to wait until Monday for executive action.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 2:45 p.m.


Rep. Norm Wallin, Chairman

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/13/87

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. BUDD GOULD	✓		
REP. REP. TIMOTHY WHALEN	✓		
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT	✓ 100		
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓ 100		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA	✓		
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓ 100		
REP. DAVE BROWN		✓	
REP. CAROLYN SQUIRES	✓		

STANDING COMMITTEE REPORT

February 13

19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 639

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Rep. Norm Wallin

Chairman

1. Page 3, line 1.

Following: "servers"

Insert: "-- identification"

Following: "servers."

Insert: "(1)"

2. Page 3.

Following: line 5

Insert: "(2) During the course of serving process or acting as a levying officer, a registered process server must have in his possession a badge with the number assigned under subsection (1) and an identification card that has attached a photograph of the registered process server."

FIRST

reading copy (WHITE)
color

STANDING COMMITTEE REPORT

February 13

19 37

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 450

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Rep. Norm Wallin

Chairman

1. Title, lines 5 through 9.

Strike: "ELIMINATING" on line 6 through "SERVICES" on line 9

Insert: "SPECIFYING THAT THE OPERATION OF A PLANT PROVIDING
WATER, SEWER, OR POWER DOES NOT CONSTITUTE SUCH A SERVICE"

2. Pages 1 and 2.

Strike: everything following the enacting clause

Insert: "Section 1. Section 7-5-4301, MCA, is amended to read:

"7-5-4301. Power to enter and execute contracts. (1) The city or town council has power to make any and all contracts necessary to carry into effect the powers granted by this code and to provide for the manner of executing the same.

(2)(a) All necessary contracts for professional, technical, engineering, and legal services are excluded from the provisions of 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307. Provided, however, contracts wherein the value of the majority of the services to be rendered constitute services other than professional, technical, engineering, and legal services must be awarded under the bidding procedure provided for in 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307.

(b) Supervision over or operation of a physical plant that provides water, sewer, or power services to a municipality does not constitute a service excluded under the provisions of subsection (2)(a)."

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval."

FIRST

WHITE

reading copy ()
color

STANDING COMMITTEE REPORT

Vonnies Copy Standing Com. Report February 13 19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 579

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Rep. Norm Wallin

Chairman

1. Title, line 5.

Strike: "DISTRICT"

Insert: "AREA"

Following: "WITHIN"

Insert: "UNINCORPORATED AREAS NOT PART OF A RURAL FIRE DISTRICT
IN"

2. Title, line 8.

Strike: "DISTRICT" in both places

Insert: "AREA" in both places

3. Page 1, line 12.

Strike: "district"

Insert: "area"

4. Page 1, line 14.

Strike: "districts in"

Insert: "areas within unincorporated areas not part of a rural
fire district in"

5. Page 1, line 17.

Page 1, line 23.

Page 2, line 11.

Page 2, line 13.

Page 2, line 17.

Page 2, line 18, following "service"

Page 2, line 20.

Page 3, line 12.

Page 3, line 20.

Strikes: "district"

Insert: "area"

6. Page 1, line 18.

Following: "with"

Insert: "public"

following: "7-1-2121"

Insert: "and written notice as provided in 7-1-2122"

FIRST

WHITE

reading copy ()
color

Rep. Worm Wallin, Chairman

7. Page 2, line 3.

Strike: "district"

Insert: "fire service area. The area is created effective 60
days after passage of the resolution"

8. Page 2, line 4.

Following: line 3

Strike: "the"

Insert: "that"

Strike: "set for the public hearing"

9. Page 2, line 13.

Strike: "District"

Insert: "Area"

10. Page 1, line 16.

Page 1, line 25.

Page 2, line 2.

Page 2, line 5.

Page 2, line 8.

Page 2, line 14.

Page 2, line 15.

Page 3, line 1.

Page 3, line 2.

Page 3, line 6.

Page 3, line 9.

Page 3, line 11.

Page 3, line 17.

Strike: "district"

Insert: "fire service area"

~~7. Page 2, lines 22 and 23.~~

~~Strike: "of the area of"~~

~~Insert: "within"~~

STANDING COMMITTEE REPORT

February 14,

19 87

LOCAL GOVERNMENT

Mr. Speaker: We, the committee on

report **HB 531**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Rep. Norm Wallin

Chairman

1. Title, line 5.

Strike: "AND"

Insert: "OR"

2. Page 1, line 15.

Following: "commissioners"

Strike: "finds"

Insert: ", pursuant to a resolution meeting the criteria set forth in subsection (2), find"

Strike: "it is in the best"

3. Page 1, line 16.

Strike: "interest of the county"

4. Page 1, line 17.

Strike: "by resolution"

5. Page 1, line 19.

Strike: "and"

Insert: "or"

6. Page 1, line 20.

Following: "provides"

Insert: "or both a reduction in hours and services"

7. Page 1.

Following: line 23

Insert: "(2) For the purposes of this section the resolution ~~must be~~ adopted by a unanimous vote of the board of county commission and must contain:

(a) a finding by the board of insufficient funds to adequately operate county functions;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the county;

(d) a statement that applicable fund balances are, or by the end of the fiscal year will be depleted;

FIRST

reading copy (

WHITE

color)

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the board has considered;

(g) a statement of the need for the reduction in hours or services; and

(h) the county plan for implementation of a reduction in the hours offices are open and reductions in hours of employment."

Renumber: subsequent subsections

8. Page 1, line 24.

Following: "(2)"

Insert: "(a)"

Strike: "A"

Insert: "Except as provided in subsection (2)(b), a"

9. Page 2, line 1.

Strike: "and a lack of work"

10. Page 2.

Following: line 3

Insert: "(b) Reductions made pursuant to this section are subject to any collective bargaining agreements entered into by the county and its employees. If there are such collective bargaining agreements, the board of county commissioners must give each bargaining unit at least 15 days notice of its intention to adopt the resolution. The board and collective bargaining units may renegotiate collective bargaining agreements for the purpose of effectuating the purposes of this section."

11. Page 2, line 9.

Strike: "shall"

Insert: "may elect to"

STANDING COMMITTEE REPORT

February 13

19 37

LOCAL GOVERNMENT

Mr. Speaker: We, the committee on

HB 625

report

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Rep. Norm Wallin

Chairman

FIRST

WHITE

reading copy ()
color

CLERICAL

Date: 3/31
Time: 9:00

House Bill 639

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

House Committee on Local Government 3/10

blue copy
page 1, line 19
strike "8"
insert "9"

#20. Insert: "(3) The country attorney..."

Sponsor

Secretary of Senate
or
Chief Clerk

Donna Miller
3-31-87
15:00

KH

Legislative Council

Rep. Code



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

~~Section~~ Section 4. ^{after} P. 3, & ~~6~~
add. Each process server / levying
officer shall carry in his
possession a badge with
his identifying number
thereon, ~~and~~ as well as
a photographic I.D.

Amend House Bill 646
Sponsor's Amendments
Feb 13, 1987

1. Title, line 6.

Strike: "ERECTING"

Insert: "FACILITATING THE CONSTUCTION OF"

2. Page 3, lines 16 and 17.

Strike: subsection (viii) in its entirety

3. Page 4.

Following: line 8

Insert: "((f) create special improvement districts to make monetary advances or contributions to aid in the construction of additional natural gas and electric distribution lines and telecommunications facilities in order to extend such public utility services;"

XT01

\wp\lee\amdhb646



OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

2-13-87
625

February 13, 1987

87-102

Representative Stella Jean Hansen
State House of Representatives
Montana State Capitol
Helena, Montana 59620

Representative Norm Wallin
House Local Government Chairman
House of Representatives
Montana State Capitol
Helena, Montana 59620

Re: Support for HB-625, pertaining to penalties for delinquent sewer billings

Dear Representatives Hansen and Wallin:

The City of Missoula supports House Bill 625, entitled, "An Act to Clarify the Penalties a City or Town may Invoke for Non-payment of a City Water or Sewer Assessment," providing that sewer service may be discontinued, that full payment must be made prior to re-establishment and that past due payments are a debt collectable in court.

City of Missoula sewer rates are established pursuant to Federal Environmental Protection Agency requirements that require users of a municipal sewer system to pay sewer rates based on impacts on the usage of the municipal sewage treatment facility. This is required in order to be eligible for sizeable and substantial federal EPA grants for sewage treatment facilities.

The purpose of HB-625 is to clarify what remedies exist for dealing with municipal utility delinquencies by expressly establishing statutory remedies.

Currently, pursuant to Montana law, legal uncertainty exists as to whether a city or town may collect delinquent municipal sewer bills pursuant to a lawsuit if it is deemed necessary to do so. Further, Section 7-13-4306, M.C.A., pertaining to the effect of failure to pay charges, only expressly authorizes the discontinuance of water to a premises when nonpayment of either water or sewer bills occurs. If the city or town does not own the municipal water system, it is difficult for the city to terminate the supply of water pursuant to current law in Section 7-13-4306, M.C.A.

There is substantial reason to believe that, pursuant to Montana Supreme Court case law, where the State Legislature creates statutory remedies, those are deemed by the Montana Supreme Court to be exclusive remedies. Pursuant to current Montana state law statutory remedies, delinquent sewer bills may become a real estate lien similar to a tax lien pursuant to Section 7-13-4309, M.C.A., or the supply of water may be discontinued pursuant to Section 7-13-4306, M.C.A., which is of little value to a city or town that does not own its water system.

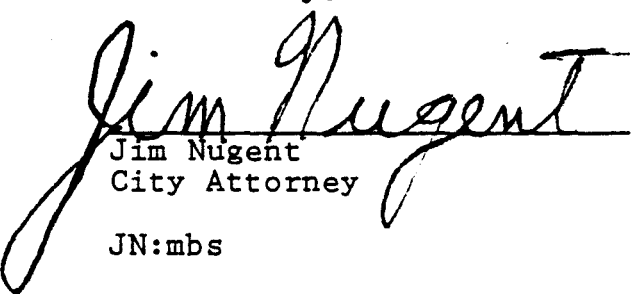
Representative Stella Jean Hansen
Representative Norm Wallin
February 13, 1987
Page Two

Sewer delinquency real estate liens are of inadequate value to a municipality attempting to collect delinquent sewer bills for industrial and commercial business entities that make substantial use of and have significant impacts on a municipal sewage treatment facility. At the beginning of 1986 the City of Missoula was owed more than \$120,000.00 in delinquent sewer payments by less than thirty (30) industrial and commercial business entities, each of whom's sewer delinquency was at least \$1,000.00 in arrears.

A dairy in Missoula had the greatest delinquency with a bill that had accumulated over several years to the point of being more than \$30,000.00 in arrears. The City has now collected a major portion of these delinquencies pursuant to additional delinquency notices and letters threatening to bring a lawsuit. However, at this time there is legal uncertainty as to whether the City actually possesses statutory authority to sue to collect delinquent sewer bills.

Therefore, your favorable consideration of and support for HB-625 would be greatly appreciated.

Yours truly,



Jim Nugent
City Attorney

JN:mbs

cc: Missoula County Representatives Ralph Eudaily, Harry Fritz, R. Budd Gould, Mike Kadas, Earl C. Lory, Janet Moore, Bob Ream and Carolyn Squires; and Alec Hansen, Executive Director of the Montana League of Cities & Towns; Legislative File

Amend House Bill 579

Subcommittee Recommendations Feb. 13, 1987

1. Title, line 5.

Strike: "DISTRICT"

Insert: "AREA"

Following: "WITHIN"

Insert: "UNINCORPORATED AREAS NOT PART OF A RURAL FIRE DISTRICT
IN"

2. Title, line 8.

Strike: "DISTRICT" in both places

Insert: "AREA"

3. Page 1, line 12.

Strike: "district"

Insert: "area"

4. Page 1, line 14.

Strike: "districts in"

Insert: "areas"

Following: "in"

Insert: "areas within unincorporated areas not part of a rural
fire district in"

5. Page 1, line 17.

Page 1, line 23.

Page 2, line 11.

Page 2, line 13.

Page 2, line 17.

Page 2, line 18, following "service"

Page 2, line 20.

Page 3, line 12.

Page 3, line 20.

Strike: "district"

Insert: "area"

6. Page 2, line 18.

Strike: "District"

Insert: "Area"

7. Page 1, line 16.

Page 1, line 25.

Page 2, line 2.

Page 2, line 3.

Page 2, line 5.

Page 2, line 8.

Page 2, line 14.

Page 2, line 15.

Page 3, line 1.

Page 3, line 2.

Page 3, line 6.

Page 3, line 9.

Page 3, line 11.

Amend House Bill 531
Feb. 13, 1987

1. Title, line 5.

Strike: "AND"

Insert: "OR"

2. Page 1, line 15.

Following: "commissioners"

Strike: "finds"

Insert: "pursuant to a resolution meeting the criteria set forth
in subsection (2) find"

Strike: "it is in the best"

3. Page 1, line 16.

Strike: "interest of the county"

4. Page 1, line 17.

Strike: "by resolution"

5. Page 1, line 19.

Strike: "and"

Insert: "or"

6. Page 1, line 20.

Following: "provides"

Insert: "or both a reduction in hours and services"

7. Page 1.

Following: line 23

Insert: "(2) For the purposes of this section the resolution
must be adopted by a unanimous vote of the board of county
commission and must contain:

(a) a finding by the board of insufficient funds to
adequately operate county functions;

(b) an explanation of the nature of the financial
emergency;

(c) an estimate of the amount of funding shortfall
expected by the county;

(d) a statement that applicable fund balances are, or
by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of
revenue;

(f) a summary of the alternatives that the board has
considered;

(g) a statement of the need for the reduction in hours
or services; and

(h) the county plan for implementation of a reduction
in the hours offices are open and reductions in hours of
employment."

Renumber: subsequent subsections

8. Page 2, line 1.

Amend House Bill 531
Collective Bargaining

1. Page 1, line 24.

Following: "(2)"

Insert: "(a)"

Strike: "A"

Insert: "Except as provided in subsection (2)(b), a"

2. Page 2.

Following: line 3

Insert: "(b) Reductions made pursuant to this section are subject to any collective bargaining agreements entered into by the county and its employees. If there are such collective bargaining agreements, the board of county commissioners must give each bargaining unit at least 15 days notice of its intention to adopt the resolution. The board and collective bargaining units may renegotiate collective bargaining agreements for the purpose of effectuating the purposes of this section."

Amend House Bill 450

1. Title, lines 6 through 9.

Strike: "ELIMINATING" on line 6 through "SERVICES" on line 9

Insert: "SPECIFYING THAT THE OPERATION OF A PLANT PROVIDING WATER, SEWER, OR POWER DOES NOT CONSTITUTE SUCH A SERVICE"

2. Page 1 through 2.

Strike: everything following the enacting clause

Insert: " Section 1. Section 7-5-4301, MCA, is amended to read:

"7-5-4301. Power to enter and execute contracts. (1) The city or town council has power to make any and all contracts necessary to carry into effect the powers granted by this code and to provide for the manner of executing the same.

(2)(a) All necessary contracts for professional, technical, engineering, and legal services are excluded from the provisions of 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307. Provided, however, contracts wherein the value of the majority of the services to be rendered constitute services other than professional, technical, engineering, and legal services must be awarded under the bidding procedure provided for in 7-5-4302 through 7-5-4304, 7-5-4306, and 7-5-4307.

del (b) Supervision over or operation of a physical plant that provides water, sewer, or power services to a municipality do not constitute a service excluded under the provisions of subsection (2)(a)."

NEW SECTION. Section 2. Effective date. This act is effective on passage and approval."

XT01

\wp\lee\amdhb450

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. HB 676DATE February 13, 1987SPONSOR REP. KADAS

NAME (<u>please print</u>)	REPRESENTING	SUPPORT	OPPOSE
Jim Nugent	CITY OF MISSOULA	✓	
David Ewer	Mr. Ewer, Rep. 21	✓	
Brian Moore	Miss	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

LOCAL GOVERNMENT

BILL NO. HB 639

DATE February 13, 1987

SPONSOR REP. CORNE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. HB 625DATE February 13, 1987SPONSOR REP. HANSEN

NAME (<u>please print</u>)	REPRESENTING	SUPPORT	OPPOSE
Jim Nugent	City of Missoula	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.