

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

March 6, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on March 6, 1987 at 1:00 p.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Jan Brown and Rep. Gilbert who were excused and Rep. Darko and Rep. Bulger who were absent. Lee Heiman, Committee Counsel from the Legislative Council was also present.

CONSIDERATION OF SENATE BILL 135: Senator Al Bishop, Senate District 46 and sponsor of the bill, stated the bill consists mainly of existing law with one change. It involves moving a common boundary line between lots. Right now, the boundary line can be moved between two platted lots or between two pieces of property which are not platted. The boundary line cannot be moved between two pieces of property for which one is platted and one is not. The bill would provide for that contingency. Senator Bishop stated the reason for doing this in this manner is so it can be done through a certificate of survey rather than by amending the plat which is a more expensive process.

Senator Bishop stated there was an amendment to be proposed which would provide for a better way of cross-indexing so someone looking at a plat would know that there has been a certificate of survey filed.

PROPOSERS: Robert Holding, MT Association of Realtors, stated the bill is good common sense. It is a practical answer to a common problem when mistakes are made.

H. S. Hanson, MT Technical Council, stated one of their members is the Association of Registered Land Surveyors. He stated the bill substantially reduces the amount of money the registered land surveyors would charge because of not going into the review process. Mr. Hanson commented they felt the bill was very valuable and an asset to the people who have to move the boundaries.

Greg Jackson, MT Clerk and Records Association, handed out the amendment referred to by Senator Bishop (Exhibit 1). He stated the amendments clarify the language added to page 2,

subsection (3) and (f) of the bill to make it clear how the plats would be recorded and indexed in the clerk and recorders office.

OPPONENTS: Brooks Morin, Administrative Officer City of Helena, stated the city opposes SB 135 but has no major objection to exempting common boundary line relocations from the subdivision review process. The city objects because the bill does not clearly state whether the newly configured parcel would be considered as part of the subdivision or be excluded from the subdivision. Mr. Morin stated that lots with certain subdivisions may have certain assessments associated with their creation. As the bill is presently written, local governments are not given the authority to require a respreading of those assessments after the common boundary relocation has removed or added a lot or lots from the subdivision. The bill also does not address situations where SID boundaries coincide with subdivision boundaries. Perimeter boundaries of SID's cannot be changed without recreating the district or describing a new benefit area and determining who pays for the improvements.

Mr. Morin urged the committee to add language to the bill which would permit cities and counties to require a respreading of assessments at the time the relocated boundary line is filed at the clerk and recorder's office.

A handout was presented to the committee from Robert Rasmussen, who was not present at the hearing. Mr. Rasmussen represented the MT Association of Planners in opposition of SB 135 (Exhibit 2).

DISCUSSION (OR QUESTIONS) ON SENATE BILL 135: Rep. Brandewie asked Senator Bishop how many documents a person would have to get when researching a piece of land? He said it appears that as a realtor he would stand a greater chance of making a mistake or a person researching a piece of property on their own could more easily make mistakes. Rep. Brandewie stated he was amazed the land title people were not present.

Senator Bishop replied that there would not be any problem at all because when looking at the certificate of survey it would reference the recorded plat. There would be a cross-index with one document referencing the other. He said that is the reason for the amendment which was suggested by two clerk and recorders who are members on the Senate Local Government Committee.

Rep. Brandewie commented that he did not see in the amendment where it will be referenced one to the other. A person would have to search everything in the index on the whole quarter section to make sure everything on a third acre lot

is shown. Rep. Brandewie commented it appears it would be a cumbersome situation.

Senator Bishop commented that the title company would be doing the research and with the survey instrument being filed they will pick that up. He didn't feel there could be anyway to miss it with the cross-indexing.

Rep. Hansen commented that with this type of system there would be a hodgepodge of boundary lines.

Senator Bishop replied that right now boundary lines can be moved between two platted pieces of land or two unplatted pieces of land. He couldn't see that anymore of a hodgepodge would be created by allowing for boundary lines to be moved between one platted and one unplatted piece of property.

Rep. Sales asked for an explanation in regards to the concern of respreading the assessments.

Brooks Morin responded if a grid was made to illustrate a number of lots, there is a potential to remove one of those lots from the subdivision boundaries and therefore the assessments then are placed on those remaining in the subdivision.

Rep. Sales asked if the assessments would not follow the land?

Brook Morin replied that it would just be that the respreading would be within those that remain in the subdivision.

Rep. Brandewie commented if you redescribed the certificate of survey and the assessments are based on a lot rather than a square footage basis, the boundaries could be moved so that the lot could be taken out of existence as far as assessments are concerned. Rep. Brandewie commented the subdivision plats are not being amended, the certificate of survey is being replatted.

Rep. Whalen asked Senator Bishop if he would consider putting in a limitation on how far the boundary line could be moved?

Senator Bishop thought that would be a judgement call. The planning people or authorities would look at that. He said if the method of disposition is adopted for the purpose of evading this chapter it will be looked at and will be denied. There will be a judgment on the part of the clerk and recorder and county attorney so each movement of a boundary even if just a foot will be looked at. He didn't see any problem and felt the protection is there.

Senator Bishop in closing stated the bill will not affect the subdivision. A subdivision boundary will not be able to be changed. SID's will not be affected. The only way to affect a SID is to petition to have the boundary changed. He said he could not envision how it could be done and the assessment spread. It will stay within the SID as an entity within itself with a definite legal description and there is no way to change that through the bill. Senator Bishop commented he felt it was a good bill. It just gives people an opportunity to correct a mistake.

CONSIDERATION OF SENATE BILL 28: Senator J. D. Lynch, Senate District 34 and sponsor of the bill, stated the Senate Committee amended the bill to address the problem he spoke of. He stated the Butte Water Company is the owner and maintenance of the water system in his community. Last November a situation arose where the company dug a hole in the middle of the street in front of his home in order for a water pipe to be fixed. The company wanted a document to be signed which stated he was responsible for the hole that was dug. Senator Lynch did sign the document but the company would not let him use the companies barricades for the hole. He said the repair to the pipe in front of his home was a small repair that the water company would previously have done until it was taken over by the present owner.

Senator Lynch stated the bill states that in a middle of a public thoroughfare that the water company is responsible for fixing the main. The bill has been amended to say that the homeowner will pay for whatever equipment goes into fixing the pipes and the company will pay for the labor. Senator Lynch felt the bill was a good bill and tells the public they will be protected.

PROPOSERS: Rep. Brown, Rep. Hansen and Rep. Pistoria asked to be listed as proponents because of problems in their communities.

OPPOSERS: John Alke, Attorney in Helena appearing on behalf of Mountain Water Company, stated the bill specifies that the utility will be responsible for repairing and maintaining the customer's line. This speaks of the service line from the main into the house which is owned by the customer. The utility owns the main. Mr. Alke thought this unconstitutional particularly when considering the enormous liability that is attached. If a customer does not want to replace an old delapidated main, and it is his decision to replace it, the liability falls on the utility to cover those errors or omissions in not replacing the main. Mr. Alke said no sane landowner is going to replace his line if he can say he is satisfied with his service and it is the

companies responsibility to maintain it. He stated this is unconstitutional and if necessary Mountain Water will be forced to litigate on that basis.

He said there is a second defect in the bill that is also unconstitutional. The bill originally applied to both municipalities and private companies. He said municipalities have a great deal of clout with the legislature and after the hearing in the Senate committee they were amended out of the bill. Now the bill essentially speaks of two companies, the Butte Water Company and Mountain Water Company in Missoula. Mr. Alke stated that the legislature is prepared to say that it is public policy of the state that a private company must maintain a private owner's service line but municipals have no such obligation. He said he maintained that as a violation of the Equal Protection Clause. There is absolutely no basis for the municipal and private water to be distinguished between. He said the bill Senator Lynch proposed would cause a great deal of damage to Mountain Water Company and respectively submitted that the bill is unconstitutional.

James Chelini, President and General Manager, Butte Water Company, stated he was present to clarify any questions the committee might have. He presented a handout to the committee (Exhibit 3).

DISCUSSION (OR QUESTIONS) ON SENATE BILL 28: Rep. Sales
asked who owns the mains right now ?

Rep. Lynch replied the Butte Water Company and replied that was the same in Missoula.

Rep. Sales commented the service line from the main in to the home was the homeowners responsibility.

Rep. Lynch commented that was correct. In Bozeman the water company takes care of the line from the property line to the curbside.

Rep. Sales asked if what Senator Lynch wanted was that the homeowners still be responsible for the cost of the maintenance of the service line from the main to the property?

Senator Lynch said he was saying the property owner will pay for any equipment but that the five minute job will be done by the water company as was done for years before the new owner. He said they should not leave people stranded in the middle of a street without any barricades and he felt the only way to handle that was through the bill.

Rep. Brown asked Mr. Alke to explain the construction of the lines.

Mr. Alke stated the service line is owned from main to premises by the customer. The bill states it is the water companies' obligation to repair the service line or that portion of the service line from property line to the main. Materials and supplies will be paid by the landowner. The water companies will pay for the labor which is the greater expense of the installation and the liability will be borne by the water companies for failure to maintain. If something goes wrong with the service line and damages done, the liability will follow the persons responsible for maintaining.

Rep. Brown asked what the constitutional problem was between distinguishing municipal and private operations? He asked if they are not already by law very clear and separate entities in this field?

Mr. Alke replied the doctrine of equal protection prohibits the legislature from arbitrarily distinguishing between similarly situated entities. In this case, the fact that one water company is municipally owned and one is privately owned has no relationship with the underlying question of obligation to repair and who should fund the liability.

Rep. Brown stated a privately held company and a publicly owned operation has both in court cases of the past as well as in every way dealt with in the legislature been considered as separate entities. He asked Mr. Alke if he could provide the committee with some cases for his opinion that it was unconstitutional?

Mr. Alke replied that he could not provide the committee with a case on this specific issue because to his knowledge it is the first time anyone has tried to impose this duty on someone else.

Rep. Squire asked if the publicly owned water companies are under the control of the PSC?

Mr. Alke responded yes and no. They are controlled to the extent that they file rate increases in excess of 12 percent per year that are not EPA mandated. Service considerations may or may not be under the control of the PSC.

Senator Lynch in closing stated the question of the unconstitutionality was just a smoke screen. All he was saying in the bill was how could they build a hole in the middle of the street which is not owned by the homeowner and tell the homeowner they are responsible for it. He stated the

difference between privately and publicly owned companies is that both of them do not maintain the streets. Senator Lynch stated that Jim Johnston, Butte Business Department, a proponent on the bill, had said the problem is the water companies do not know what gets filled in and what doesn't and consequently the streets are damaged and it costs the city thousands of dollars to repair them. Senator Lynch stated Butte-Silver Bow is in favor of the bill. He commented he would follow the bill to the PSC and the Supreme Court because they would not rule that it is unconstitutional. He said it is a good bill, a citizen bill and taxpayer bill and urged a do pass.

CONSIDERATION OF SENATE BILL 141: Senator Esther Bengtson, Senate District 49 and sponsor of the bill stated SB 141 gives a management tool and flexibility to counties to allow the counties an option to levy a 55 all purpose mill. The bill establishes those levies that go into the 55 mill all purpose levy and gives the counties the opportunity to put it all into the general fund budget and use it for not only those particular things that the levies are designated for but for other things included in their budget. This can be done for one year and the next year they can eliminate the all purpose levy and go back to levying according to the caps in the bill. The counties have not raised those levies since 1973. They do not have the flexibility within their budgets as the cities do. Cities have a 65 mill all purpose levy. Senator Bengtson stated counties have been asking for this flexibility for a number of years. She felt it had been approved in the Senate because of the time. She said I105 has capped the levies and she stated in tough times they need this management discretion.

PROPONENTS: Gordon Morris, MACo, presented a handout to the committee (Exhibit 4). He stated county government resources have become increasingly scarce over the years through declining revenues. This has made it increasingly difficult to manage county operations. Current state law will not allow counties to reduce bridge levy funding and use those funds for other purposes such as jails or public safety services which are funded from the general fund. As a consequence there is little incentive to reduce those levies. The all purpose levy approach gives the ability to distribute those scarce resources, property tax dollars in this case, and use them where they are identified as essential services. This bill is not a property tax increase bill. Mr. Morris stated that by giving the 55 mill authority does not mean the county commissioners will go out and levy 55 mills for all purposes. Counties are currently levying between 35 and 45 levies on the average across the state.

Mr. Morris introduced into the record from Yellowstone County and Missoula County letters in support of SB 141. (Exhibit 5 and 6).

Dave Fuller, Chairman Lewis and Clark Board of County Commissioners, stated there are two key bills in the legislature to help them with their problems, SB 141 and one dealing with local option taxing. Mr. Fuller stated what is going on in Helena right now will be replicated across the state when the legislature adjourns and the counties start their budgeting processes. Mr. Fuller commented that in the counties there is a very complicated inefficient system that is further compounded by the lack of flexibility that the legislature has refused to give local governments. He said they have such little ability to respond and plan for the kinds of problems that occur.

The advantage of the bill would be to give the flexibility to move on their own. It keeps a cap on the various earmarked funds and in the long term this bill could have a better chance of decreasing taxes than current statutes. He said it could happen in some counties that the county commissioners might raise taxes but he felt the vast majority who have the ability to levy 55 mills are levying 35 to 36. Mr. Fuller said they have responded to the concerns of the legislature.

He stated if every bill they have been able to catalog passed, Lewis and Clark would have to levy 100 mills just to keep even. The only way they have to generate the revenues if they are needed is property tax. He said in Lewis and Clark alone they are looking at serious deductions in services, as far as 50 percent in the sheriff's department and they may have to close the fairground. Mr. Fuller said this bill will not do everything but will give some ability to move some money around and the net affect is positive for the taxpayer.

Greg Jackson, MT Clerk and Records' Association, stated they were in support of the bill. The clerks and recorders in over 2/3 of the counties in the state are actually the quasi administrative officers and they agree that the bill provides the flexibility to develop and adhere to the budgets.

Doug Schmitz, Jefferson County, stated he was in support of the bill.

OPPONENTS: Dennis Burr, MT Taxpayers Association, stated counties do not use the entire 55 mills that is available in SB 141. He said the average is about 35 mills. By replacing those individual levies and giving the authority for 55

mills, about a 55 percent increase in mill levies at the county level is being authorized. He said he agreed with Mr. Morris that all counties would not need the entire increase but the authority is there and it is much higher than the current authority. All counties do not have all of the functions and services that go into adding up to the 55 mills. Museums were in the bill when introduced as a 2 mill levy. Under SB 141 that 2 mills could be levied for a different purpose if a county didn't have a museum. Mr. Burr commented the individual levies at some point in time were authorized by the legislature as being important functions for local governments to fill. With passage of the bill, there is no assurance that any of those projects would receive any funding by a unit of local government. The history of the bill is that the mill levies listed that have a constituency generally come in and have themselves pulled out of the bill. Libraries were in the bill in 1985. The museum levy was stricken from the bill which was 4 mills.

Mr. Burr stated one reason for the bill passing the senate was because of I105. He stated the levies will not be any higher next year than this year. He said it would make it easier to vote for the bill because as long as that is in place the legislature really would not have done much in authorizing the 55 mill levy. One thing that will have been done by putting the mill levy on is to ensure that there is a lot more shifting between those funds than would exist if I105 didn't put the cap at current mill levy limits. If 35 mills are being levied there will be a strong tendency to shift money from some of those projects to the ones the county commissioners feel are more important. That may be important but the fact that the individual levies are capped indicate that at some time those programs were worthy of their own levies to ensure that they did receive funding at the county level.

Mr. Burr stated when the 65 mill all purpose levy was passed for the cities, the 65 mills was not a cumulative total of the individual mill levy, but was less than the cumulative total of the individual mill levies.

If the committee was to look favorably on the bill to provide the flexibility the local governments are asking for, Mr. Burr suggested that levy be cut down to around 40 mills which would still be above the average of the counties. If that 40 mill general levy is too low for a county they will still be able to budget according to the individual levies. Overall, he stated he would want the situation to stay the way it was.

Vera Cahoon, Missoula Freeholders Association, stated they opposed the bill. They fear that the 55 mills may very well

become the base levy. They were concerned that the money within the levies will no longer be able to be kept track of. She stated there is no way of knowing what will be funded with the 55 mill general levy.

DISCUSSION (OR QUESTIONS) ON SENATE BILL 141: Rep. Sales commented that there are limits but extra millage is allowed for particular situations. Some counties can have a 5 mill bridge levy while others have a six mill bridge levy.

Rep. Bengtson responded that goes with the classification of counties. That would not affect the bill at all. She said when the museums were taken out in the Senate that perhaps the committee would want to reduce the mills to 53 with those 2 mills taken out for museums.

Rep. Bengtson, in closing, stated Mr. Burr suggested that there would be a lot of shifting. She said that is the point, there needs to be some management flexibility to be able to respond to a crisis situation. She said this is an emergency situation with the budgets the local governments are facing. This is a painless way to give them some flexibility. It is not a local option tax. Senator Bengtson stated in the Department of Institutions' budget the subcommittee gave that flexibility to the department to move monies from institution to institution and as a result saved money. She commented the commissioners will have to face hard decisions and people who are tied to those mills, will come in and justify their budgets to them. Senator Bengtson felt this the right thing to do. She stated the requests of local government really haven't been responded to. She felt the local commissioners and local officials should be trusted to make the right choices. As far as the county commissioners raising taxes, she didn't see that as a possibility because of the elections and constituents they have to face. She stated it has been seen that they have been conservative and responsible and their levies are not 55 mill levies now.

Senator Bengtson asked Rep. Sales to carry the bill on the House floor.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:25 p.m.


Rep. Norm Wallin, Chairman

DAILY ROLL CALL
 LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-6-87

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			✓
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA	✓		
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓		
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES	✓		

Amend Senate Bill 135, Third Reading Copy (blue)
Suggested by Sue Bartlett, Clerk and Recorder,
Lewis and Clark County

1. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "76-3-207"
Strike: ", "
Insert: "AND 76-3-613"

2. Page 2, lines 10 through 12.
Strike: "THAT" on line 10 through "76-3-613" on line 12

3. Page 2, lines 16 through 18.
Strike: "THAT" on line 16 through "76-3-613" on line 18

4. Page 3.
Following: line 8
Insert: "Section 2. Section 76-3-613, MCA, is amended to read:
 "76-3-613. Index of plats to be kept by county clerk
 and recorder. (1) The county clerk and recorder shall
 maintain an index of all recorded subdivision plats and
 certificates of survey.
 (2) This index shall list plats and certificates of
 survey by the quarter section, section, township, and range
 in which the platted or surveyed land lies and shall list
 the recording or filing numbers of all plats depicting lands
 lying within each quarter section. Each quarter section list
 shall be definitive to the exclusion of all other quarter
 sections. The index shall also list the names of all
 subdivision plats in alphabetical order and the place where
 filed.
 (3) The county clerk and recorder shall enter surveys
 filed under 76-3-207(1)(e) and (f) in both the alphabetic
 index of subdivisions plats and the quarter section index of
 certificates of survey."

MONTANA

ASSOCIATION OF
PLANNERS

DATE 3-6-87
SB 135

March 6, 1987

Honorable Representative Wallin
Committee Members
House Local Government Committee
Capitol Building
Helena, Montana 59806

Dear Mr. Chairman and Members of the Committee:

My name is Robert Rasmussen and I am writing on behalf of the Montana Association of Planners. The Montana Association of Planners oppose SB135 for the following reasons:

1. Any action that affects a platted subdivision should be handled by an amended plat and not a Certificate of Survey. The proposed bill would allow a Certificate of Survey to be filed if the boundary line relocation affects five or fewer lots within the platted subdivision and adjoining land outside of a platted subdivision. This results in the perimeter of the boundary of a platted subdivision being changed. However, this new perimeter is not shown on one document (e.g. an amended plat) but is shown on two separate documents - the original filed subdivision plat plus a new Certificate of Survey. Imagine the confusion of someone trying to understand what the actual subdivision looks like today if he/she has to study an original plat in addition to a number of Certificates of Survey.
2. In addition, a property owner buys a lot within a subdivision with the understanding that the lots have been approved by the governing body. If a change was to occur to these lots by use of a Certificate of Survey, property owners within the subdivision would have no say in the matter. An amended plat would require that all property owners within the subdivision approve substantial changes or redesign of the subdivision.

I would also like to point out several issues relating to subdivision boundaries that this bill does not address and which would result in real confusion should this bill be implemented.

1. The bill does not clearly indicate whether the newly configured parcel would be considered as part of the subdivision, or be excluded from the subdivision. This is important because lots within certain subdivisions may be entitled to certain services or may have certain assessments or other obligations associated with lots in the subdivision. Only the amended plat process provides for adequate review of such circumstances.

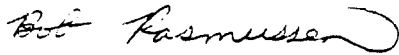
2. The bill does not address situations where SID boundaries coincide with subdivision boundaries. This is critical in that the external boundaries of such a district cannot be changed without re-creating the district and describing the new benefit area.

Finally, several invalid arguments in support of the bill were used in the Senate by proponents of the bill. A rebuttal is necessary.

1. It was argued that a mere indexing system for filing plats and Certificates of Survey is sufficient to resolve the previously noted problems. This is not the case. If modifications to platted subdivisions are made by Certificates of Survey, the governing body will not be able to ensure that boundary changes do not violate the conditions of the approval of the original subdivision plat. If changes are made by Certificate of Survey and it effects the location of a public road or park, the governing body needs to review the proposal.
2. It was argued that the amended plat procedure automatically invokes full subdivision review - including the "public interest criteria." This is not necessarily the case. Only where there is a significant and substantial change will a limited subdivision review be necessary. In very simple boundary changes, the amended plat procedure will only mean a drafting standard (the full subdivision review process will not apply).
3. It was argued that amended plats are too expensive, thus, we should use a Certificate of Survey. It is true that an amended plat may cost more initially but over the long run the amended plat may prevent lawsuits and other expensive costs associated with confusing boundary changes or public facility changes made by Certificate of Survey. Amended plats will save money for the property owner and the taxpayer when all costs are considered.

The MAP lobbyists were committed on other bills at the time this bill is being heard by your Committee. I am sorry I had to go out of town at the time of the hearing date. I would like the opportunity to work with the Committee or its staff to further explain the public interest problems with this bill prior to Committee executive action on the bill. Thank you.

Sincerely,



Bob Rasmussen
MAP Legislative Representative
Lewis and Clark County Planning Board
316 North Park
Helena, MT 59624
443-1010

BUTTE WATER COMPANY

124 WEST GRANITE STREET - P.O. DRAWER 398

BUTTE, MONTANA 59703-0398

DATE 3-6-87

SB 28

February 12, 1987

State of Montana
House of Representatives
Helena, Montana 59601

RE: Senate Bill 28

Gentlemen:

This bill was introduced based on an experience between Senator Lynch and Butte Water Company. I would like to give you the background on this bill.

On May 31, 1986, a motorcycle hit a mound of dirt at a water line excavation. The driver and passenger were seriously hurt causing permanent disability. The past practice at Butte Water Company was to dig the water line up and allow the resident to repair or have repaired. In this case, the home owner viewed the leak in his service line at 11:30 A.M. and was told it was his responsibility. The accident happened at 2:00 A.M. the next morning. To our knowledge, we are the only water company providing this service, and the Public Service Commission does not require we do so.

Our insurance company demanded a change, but even if they did not, the practice is not functional or safe. We changed our policy to provide for the consumers to sign for the responsibility and liability for the excavation. Senator Lynch was handled under this policy. Mr. Lynch signed the release, but wanted some of Butte Water Company barricades and cones left at job site. We had previous instructions from our insurance company to remove all barricades, signs, and material from the premises. (Letter dated June 30, 1986).

Since this incident with Mr. Lynch, our insurance company and our legal advisor determined we can not release an excavation to the resident. The home owner policy, if they have one, is not adequate to protect Butte Water Company.

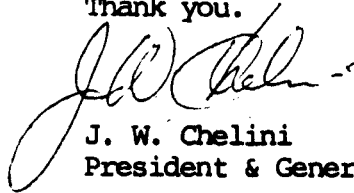
Our policy, at this time, is to determine by sound where the leak is, and Butte Water Company will repair their water mains, and the water users will repair their water service lines.

The additional cost for Butte Water Company to assume the maintenance of the service lines to a surface point which has no relation to the water pipe is very expensive to all rate payers and non-functional. Excessive costs, confusion and discrimination would be the result. At present it requires all of our resources to thaw Butte Water Company's frozen pipes during extreme cold. A hard freeze would create a confusing disaster for Butte Water Company, the water user's, and our insurance company.

Butte Water Company agrees with Mr. Alke's position that SB28 is unconstitutional as it discriminates against private business.

Butte Water Company recommends a do not pass on SB28.

Thank you.

A handwritten signature in black ink, appearing to read "J. W. Chelini". The signature is written in a cursive style with a large, looping initial "J".

J. W. Chelini
President & General Manager

BUTTE WATER COMPANY

JWC/df

MONTANA ASSOCIATION OF COUNTIES

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

ALL PURPOSE LEVY

The proposed "All Purpose Levy" is endorsed by MACo from the standpoint that "Such an all purpose levy would allow Commissioners greater flexibility in managing county operations and achieve greater efficiency managing county operations and achieve greater efficiency in the delivery of services and the cost associated with those services."¹

(1) general fund levy, as approved in 7-6-2501;	25/27 mills
(2) bridge levy, as provided in 7-14-2052;	4
(3) recreation levy, as provided in 7-16-101;	1
(4) museum levy, as provided in 7-16-2205;	2
(5) county fair levy, as provided in 7-21-3410;	1.5
(6) weed levy, as provided in 7-22-2142;	2
(7) insect pest levy, as provided in 7-22-2306;	3
(8) poor fund levy, as provided in 53-2-321; OR	13.5
(9) developmental disabilities facility levy, as provided in 53-20-208.	<u>1</u>
	53/55 mills

The aggregate total, while lower than the 55 mill authority proposed is justified from the standpoint that most of these levies have been fixed by state law dating back to 1973.

¹ Revenue Enhancement Report, MACo, P. 8

County of Yellowstone



COMMISSIONERS

(406) 256-2701

Box 35000
Billings, MT 59107

MEMORANDUM:

TO: Honorable Chairman Bruce Crippen
and
Members of the Senate Local Government Committee

FROM: Dwight MacKay, Yellowstone County Commissioner

DATE: January 21, 1987

RE: 55 Mill All Purpose Levy

Because the financial condition of counties is similar to that of the State of Montana, we all need new ways to manage our governments in order to survive. Each county has needs that are different and we each should be allowed flexibility to meet our individual needs. Let us manage our tax dollars as each of our communities sees fit.

Our intent of support is not for more tax collections, but to allow us to be better managers of our funds. In light of frozen collections, we must and will have to begin for the first time to prioritize our services. Government must review what its role is locally and state-wide. We cannot afford to do all that we have done in the past. Yes, in our county we will have to begin to establish what are essential services and what are not. Commissioners may not like this but that is what we are here for - to insure the best service with the funds available.

Support of this bill would also lend itself for better reporting, easier documentation, audits, and consolidated accounting for a cost saving.

Yellowstone County is one of the most conservative counties in the State, and when 105 was passed, it froze us far below many other counties' levy amounts. Therefore, for us to operate efficiently and effectively, we must roll these funds together in order to operate our jail, Youth Services Center and our essential services.

There is discussion of tax roll backs and if this does happen, we will need to expand this bill further in order for us to operate local government.

Thank you for your consideration. We need your help!

DM:gp

1-22-87

COMMENT ON SENATE BILL 141
(Senate Local Government Committee)

The maximum number of mills currently allowed for each of the levies in Section 3 is as follows:

General fund	25 (27 in 4th-7th class counties)
Bridges	4 (plus 1-2 more in some counties)
Recreation (elderly)	1
Museum	2
County fair	1.5
Weed control	2
Insect control	3
Poor fund (welfare)	13.5
Developmental disability	1
TOTAL	53

Other levies not included in this bill are:

Roads	15 (18 in 4th-7th class counties)
Public library	5
District court	6 (down to 4 in 5th-7th class counties)
Planning board	2 (first class; up to 5 in 5th-7th class counties)

MISSOULA COUNTY

3-6-87

141

BOARD OF COUNTY COMMISSIONERS

• Missoula County Courthouse • Missoula, Montana 59802
(406) 721 5700

BCC-87-113
March 3, 1987

Norm Wallin, Chairman
House Local Government Committee
Montana House of Representatives
Capitol Station
Helena, MT 59620

Dear Representative Wallin:

We are writing in support of Senate Bill 141, which would authorize counties to consolidate certain mill levies into an "all purpose levy." We have consistently supported this legislation, believing that it would give us greater flexibility to manage our diminishing property tax revenues, while at the same time making it easier to deal with any possible property tax limitations or tax base and services that their citizens need and want. Some counties find that they need more property tax dollars than the statutes allow for a county fair, while others do not come close to reaching the mill levy cap on the fair, but find they need more levy authority for, say, museums or bridges.

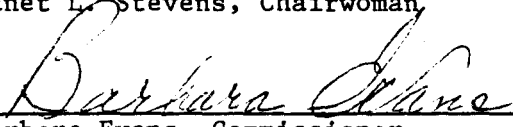
We believe that having a cap on property taxes as a whole, rather than on individual mill levies, would better enable us to meet local needs. While some argument can be made that other individual mill levies should be added into the all purpose levy, or possibly that one of those specified in section 3 of Senate Bill 141 should be taken out, we believe that the concept is an excellent one, and we are sure that we can live with virtually any all purpose levy bill that emerges from the Legislature.

Sincerely,

MISSOULA BOARD OF COUNTY COMMISSIONERS

NOT AVAILABLE FOR SIGNATURE

Janet L. Stevens, Chairwoman


Barbara Evans, Commissioner


Ann Mary Dussault, Commissioner

BCC/HS/lm

cc: Committee Members
Missoula House Members

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. 40 28

DATE 7 27

SPONSOR South America

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
✓ James		✓
✓		✓
✓ John		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

