

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

March 13, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on March 13, 1987 at 1:00 p.m. in Room 312-F of the State Capitol.

All members were present with the exception of Rep. Gould who joined the meeting later, Rep. Brown who joined the meeting later and Rep. Whalen who was absent.

CONSIDERATION OF SENATE BILL 282: Senator Tom Beck, Senate District 24 and sponsor of SB 282, stated SB 282 was an act to reduce the personal liability of the county commissioner and county clerk for claims and warrants in excess of the budget appropriation. The statute currently state that if a county commissioner authorizes expenditures over any budget in the county that he will replace that expenditure fourfold. Senator Beck stated the bill eliminates the word "fourfold" and states the county commissioner will replace at its equal value.

PROPOSERS: Gordon Morris, MACo, asked for the committee's support on the dollar for dollar provision in SB 282.

OPPOSERS: None.

Senator Beck in closing stated the bill does not apply to any other elected officials only to county commissioners.

CONSIDERATION OF SENATE BILL 206: Senator Les Hirsch, Senate District 13 and sponsor of the bill, stated the problem SB 206 addresses is that there is in the law now a two year residency requirement for the district in order for a person to run for the county commission. Since the start of reapportioning, it is very difficult to meet the two year residency requirements of the district. The bill changes the two year requirement to the county and the district requirement is to the time of filing for the primary. Senator Hirsch stated this should take care of the problem.

PROPOSERS: Gordon Morris, MACo, stated the bill was a clean and simple bill and asked for support.

OPPOSERS: None.

Senator Hirsch in closing asked for the committee's concurrence.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 206: Rep. Brandewie moved that SB 206 BE CONCURRED IN. The question was called and the motion carried unanimously.

DISPOSITION OF SENATE BILL 282: Rep. Brandewie moved that SB 282 BE CONCURRED IN. The question was called and the motion carried unanimously.

Rep. Ramirez commented that he was not present at the hearing on SB 316 but understood the bill was tabled. He stated he would like to give some background information on the bill before it be ignored by the committee.

Chairman Wallin stated that Rep. Dave Brown had made the motion to table the bill and he was not present at this time. He stated he would like Rep. Brown to be present before taking up the subject.

Rep. Ramirez stated that would be fine.

Rep. Darko was asked to carry SB 282 on the House floor.
Rep. Hansen was asked to carry SB 206 on the House floor.

CONSIDERATION OF SENATE BILL 356: Senator Allen Kolstad, Senate District 7 and sponsor of the bill, stated the bill sets up some qualification standards for the office of county coroner and the deputies who serve that office. At the present time there are no age requirements or educational requirements. The bill asks to set up a 40-hour death identification school which is being conducted presently at the law enforcement academy. There will be no additional fiscal impact. Senator Kolstad stated the bill will ensure that only trained coroners and deputy coroners will investigate the deaths that happen within the state. He stated they will be required to update that training on a regular basis.

PROPOSERS: Charles Gravely, MT Coroners' Association, stated the reason for establishing an age of 23 years or older for holding a position of coroner was because that is the age for most people that take post secondary education that they will graduate from college. The primary reason, he said, is that they do not feel a person 18 years old has sufficient maturity to handle and deal with death and with people who must be contacted relative to those deaths. Mr. Gravely stated that presently there is no requirement for a high school education or equivalent. They feel that is very important. Another requirement in Section 2 of the bill removes the requirement that justices of the peace act in the place of an absent coroner. Mr. Gravely stated the Magistrates Association did testify in the Senate and are in supportive of the legislation because they do not want to perform as coroners.

Section 2 also sets up a provision for calling in another person who has to be qualified to act as coroner where there is a conflict. Mr. Gravely commented there have been no adverse comments regarding this provision and it has been put in there for the purpose of protecting the public as well as the office of the coroner.

The educational requirements are set forth in Section 4 on page 4. Mr. Gravely said there is currently a 40-hour course being conducted by the State Medical Examiner's Office. The cost will be picked up by the county and there will be no cost to the state. He stated initially, they received some opposition from the sheriffs who hold combined positions of sheriff/coroner. They did not feel they should be required to attend that initial course when they were not actually performing the duties of coroner. Mr. Gravely said they have not received any stated opposition from the MT Sheriffs' Association and felt if these persons are going to hold the position, receive the pay for it, and be responsible for what is being done they should be required to attend the course. He stated the 40-hours must be completed prior to assuming office and is a one time course. The continuing education part of it is 16 hours every other year.

He stated this is a good piece of legislation. It deals with people who serve the public and he stated they should be qualified.

Mickey Nelson, Lewis and Clark County Coroner and Secretary/-Treasurer MT Coroners' Association, stated the Association has had this legislation as a number one priority for several years and feel it is long overdue. Mr. Nelson stated the 40 hours of training is a very minimal requirement especially when compared with that of the MT Highway Patrol, 580 hours; sheriffs' deputies 450 hours; emergency medical technician, 110 hours; JP's 56 hours plus 40 hours every two years for upgrading. He stated this particular position deals with professionals and he hoped they would be able to conduct themselves in a professional manner also. He stated there should not be any great impact in the state for those that are already holding office except those that may be appointed between now and the '89 election but even then most of the coroners will already meet or exceed the qualifications set out in the bill.

William Linden, Lobbyist MT Funeral Directors Association, stated the Association was in support of SB 356 (Exhibit 1).

Leo Jacobsen, Butte-Silver Bow Coroner, stood in support of SB 356.

OPPONENTS: None.

DISCUSSION (OR QUESTIONS) ON SENATE BILL 356: Rep. Hansen asked Mr. Gravely if he could assure her that where the bill allows for a deputy coroner that that deputy would not be a funeral director?

Mr. Gravely replied that a funeral director if he were to become a deputy coroner would have to have the same qualifications as the coroner.

Rep. Hansen stated that was the reason before that the justice of the peace was in the bill.

Mr. Gravely responded that the justices are probably the least qualified to handle this type of activity. He stated they have indicated that to him.

Rep. Hoffman asked what problems have occurred that brought on the need for the bill?

Mr. Gravely replied that there have not really been specific problems. The purpose of it is to upgrade and put some minimum qualifications on the coroners office. There exists the possibility for lawsuits when individuals run for an office without having the qualifications or knowledge of performing the duties of the office.

Rep. Hoffman stated he was asking questions for the local coroner who had concerns. He asked to determine if an autopsy is needed if it requires the action of a coroner?

Mr. Gravely responded not necessarily. The county attorney or the attorney general could direct that an autopsy be undertaken.

Rep. Hoffman commented that in Madison County there is no qualified coroner. The sheriff takes on the coroner's responsibility. He said the concern was they would have to go to Bozeman or Butte to get a qualified coroner. They felt this would not be practical and they were getting along fine under current laws.

Mr. Gravely said it was very seldom that a coroner conducts an autopsy. The coroner can determine if an autopsy should be performed but it is done by the state medical examiner or deputy examiner.

Mr. Hoffman commented the other concern was that the coroner would lose business if the determinations or examinations would be required to be done by qualified coroners.

Rep. Brandewie asked if there was any problem with amending the bill to grandfather in the Clerk/Sheriff/Coroner as they have in Flathead County. He said in most cases they are dealing with gunshot wounds, death on the streets or highways of the state and the people are already there. They have several trained coroners and deputy coroners on the sheriff's department and it would make sense to continue with that program?

Mr. Gravely believed the interpretation of the bill would not be that the existing individual has to complete the 40-hour basic course. He requested if the bill was amended that the requirement for the 16-hour course not be eliminated.

Rep. Gould joined the meeting at this time.

The hearing was closed on SB 356.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 356: Rep. Bulger moved that Senate Bill 356 BE CONCURRED IN.

He commented that the bill was an excellent idea. He said there are acting coroners in the state who are excellent and others who are not. He said they certainly should have this minimal level of education. He said in regards to Rep. Hoffman's questions that each county is required to have a coroner so the person in question could still be the coroner. There is nothing in the bill that states he can not continue those duties as coroner.

Rep. Hoffman stated he would oppose the bill because of there being no proven need for the bill.

Rep. Bulger responded that Yellowstone County has four deputies who alternate and felt that was a horrible system. He said he did not know what education they give these deputies but felt all have a real interest in these people being well educated.

Rep. Brown joined the meeting at this time.

Rep. Kitselman stated the opposition to a bill on crib death that Rep. Bulger carried was this very issue of people who were not qualified in approaching survivors of the deceased in asking for autopsies. SB 356 would go a long way in answering objections of that problem of handling and approaching these people.

The question was called on Rep. Bulger's motion that SB 356 BE CONCURRED IN. The motion carried with Rep. Hoffman voting no.

DISCUSSION ON SENATE BILL 316: Rep. Ramirez commented that he wanted to give information on the bill. He did not want to make any motion because of the question raised of a conflict of interest. He said he would give the information and the committee may then want to take action.

Rep. Ramirez stated the bill addressed the difference in the law between state trust lands that are sold and state trust lands that are traded for other lands. If the state lands within the 4 1/2 mile limit of the city are sold, they are sold as subdivided land. If they are traded, that requirement is not imposed and there is a loophole where someone could trade land for substantially less value than if the same land were sold.

Rep. Ramirez stated the situation that gives rise to the bill has been ongoing. He is familiar with the situation because of owning 2,000 acres of land which partly butt upon the state sections in question for trade. His land and the state sections of land are within the 4 1/2 mile limit of Billings. Dennis Rehberg presently leases one of those sections. Rep. Ramirez stated Rep. Rehberg clearly has a conflict of interest, acknowledges this and will not vote on the bill if it reaches the House floor.

The Rehberg Family owns about 6,000 acres in this area just west of the Billings airport. Interspersed among this ranch are the two state sections. Rep. Ramirez stated this land has great potential for development. The Billings Heights are growing right toward this and if not for the economy would be directly in the path of that growth. The state land is rimrocks and pine trees and is closer to the city than the Yellowstone County Club and Subdivision. Rep. Ramirez stated in the past he has leased the section of state land that is divided by Highway 3, the airport road. He said that section could easily be subdivided with tracts fronting the airport road.

There are two people who are attempting to trade for those two sections. Rep. Ramirez stated they are friends of his, fine people and have every right to do what they are doing under the law. He said the problem is the land they want to trade is north of town and he felt the land worthless for anything that he could see but possibly a little grazing. He said the land is barren.

The current appraised value of the state sections is \$800,000. If the land were subdivided there would be greater potential

for the trust fund. Rep. Ramirez stated he had expressed his views at a public hearing. He stated the trade was denied at one time but there is another package put together to try to make the trade again. He said if someone were to get the land from the state at that amount, they would be getting a tremendous bargain. Rep. Ramirez has sold land on Highway 3 adjacent to the state land for as high as \$6,000 an acre. The state land appraised at \$800,000 for 1,280 acres which averages \$625 an acre. He said in order to fulfill the trust, the land needs to have a higher value or should not be traded at all. He stated it could someday be preserved for other public uses such as a park.

Rep. Ramirez stated the bill is simply to have that land valued on the same basis that it would have to be valued if it were sold by the state.

Rep. Brown commented his reasons for making the tabling motion on SB 316 was because of receiving phone calls from Billings in opposition to the bill and its impacts. He stated his concern beyond the case in Billings is that the Department of State Lands has a problem because of the affect on landfill areas in the rural areas. The bulk of the landfill trade is on state lands traded with local governments and they are within the 4 1/2 mile range. He stated they have not gotten back to him with his request for details on how extensive that is and what kind of impact the bill might cause. He said should the committee decide to take any further action on the bill, he would want that information.

Rep. Sales commented that he specifically asked Dennis Hemmer from State Lands if there were any reasons under existing law where the land would not be valued at its highest and best use. Mr. Hemmer indicated there was not anything in the law that would stop them from doing that. Rep. Sales stated he did not like the terminology of subdivided value used in the bill and stated he could see a lot of problems with that. He said any appraiser should have to take into consideration the land's value for subdividing. Rep. Sales stated if there has been actual sales in those areas that are 8 to 10 times what the state is talking about taking then there is a problem. He wanted to make sure that tabling the bill does not give up the chance to take care of a correction that may need to be made.

Rep. Brown stated one other thing he found in looking into the files at State Lands (DSL) since the vote on the tabling was that the landlord approved this particular land exchange twice. It was recommended by the local DSL Office, rejected by the commissioner and overturned by the landlord on 3-2 votes twice. It went back both times because of DSL and the

exchange program people in Billings being unable to reach an agreeable appraisal amount. They could not determine what a fair market value was for the potential use of the land.

Rep. Brown commented that the material he had read in the file stated the land the people wanted to trade according to the local DSL Office is a substantially higher value than the state land they are trading for. He stated that because of the poor water situation in this area, he was not sure it would be a good subdivision area.

Rep. Gilbert asked on what basis and what price they were speaking of using the land?

Rep. Ramirez replied he did not know all the history but the first recommendation of the local office was made before any hearing or evidence was presented four years ago. Once there were objections, then there was a hearing. He wasn't sure when the question of value came up. The second decision of the land board was not to approve the trade but to permit the land to be appraised at the expense of the people who wanted to trade for it.

There was discussion of the events before and after the public hearing. Rep. Gilbert was concerned of decisions being made without the benefit of public hearings.

Rep. Brown stated first there is a request for a land exchange made. The DLS Office goes out and makes an assessment and then makes a recommendation to the land commissioner's office. The commissioner decides whether or not to schedule a public hearing. In this case, the commissioner was concerned of whether there might be subdivision ability and did have a public hearing. If he makes a judgement that there is good reason for a sale, he can approve it and it then goes to the landlord. There would be a public hearing at this time if the landlord requires one. Rep. Brown stated somewhere in the process a hearing is required.

Rep. Ramirez commented that Tom Ebzery, the attorney representing these people is the source for some of the information the committee might want.

Rep. Gilbert stated he would support a motion to bring the bill back on the table because it merits more investigation because of dealing with state dollars and state trust. He said there are questions of whether those dealings have been fair and square.

Rep. Brown stated he didn't think there is any question about the process. The land exchange has been denied twice in three or four years for the reasons the committee was

talking about. He felt the bill was a bad bill and should be left tabled.

Rep. Grinde stated he was interested in getting the information from State Lands and moved to take the SB 316 off the table.

Rep. Brandewie stated one requirement of 77-2-203 is that there be an appraisal by a qualified land appraiser and 77-2-205 strictly prohibits the exchange of land to be made to induce or encourage large scale commercial, industrial, or residential development once the value assessors development is considered in determining the fair market value unless the proposed development will not adversely affect the resources as it exists in state tracts. He said one of the reasons the state would exchange land would be to consolidate state lands. He agreed it should be taken off the table and stated the land board should be contacted to see what the rules are regarding the land within the 4 1/2 miles of town.

The question was called on Rep. Grinde's motion to take SB 316 from the table. Rep. Ramirez was excused from voting. The motion carried.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 2:15 p.m.


Rep. Norm Wallin, Chairman

DAILY ROLL CALL
 LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-13-87

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	✓		
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	✓		

STANDING COMMITTEE REPORT

March 13

19 87

LOCAL GOVERNMENT

Mr. Speaker: We, the committee on _____

S3 206

report _____

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Rep. Vorn Fallin

Chairman

MS
(Rep. Stella Jean Hansen)

THIRD

BLUE

reading copy (_____)
color

STANDING COMMITTEE REPORT

March 13

19 **87**

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report SB 282

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Rep. Norm Wallin

Chairman

(Rep. Darko)

7/10
THIRD

BLUE

reading copy (_____)
color

STANDING COMMITTEE REPORT

March 13

19 97

Mr. Speaker: We, the committee on LOCAL GOVERNMENT
report SB 356

- do pass
- do not pass

- be concurred in
- be not concurred in

- as amended
- statement of intent attached

Rep. Norm Wallin

Chairman

(Rep. Grady)

THIRD

BLUE

reading copy (_____)
color

SENATE BILL 356

Testimony of William Lloyd Linden

Lobbyist for the

Montana Funeral Directors Association

Before the House of Representatives Local Government Committee

March 13th, 1987

Mr Chairman and members of the committee, for the record, I am William Lloyd Linden from Helena, Montana. I am the lobbyist for the Montana Funeral Directors Association.

The Montana Funeral Directors Association is in support of passage of Senate Bill 356, and would urge you to give Senate Bill 356 a DO PASS recommendation.

Thank you for your time and consideration.

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. SB 206

DATE March 13, 1987

SPONSOR Senator Hirsch

NAME (please print)	REPRESENTING AND/OR RESIDENCE	SUPPORT	OPPOSE
<i>Yvonne Mason</i>	<i>1112 St</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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. SB 356 DATE March 13, 1987

SPONSOR Senator Kolstad

NAME (please print)	REPRESENTING AND/OR RESIDENCE	SUPPORT	OPPOSE
M.E. "Mickey" Nelson, Coroner	MT Coroner's Assn.	X	
LEO L. JACOBSEN, CORONER	MT. CORONERS' ASSN.	X	
Wm Lloyd Kinder	MT FUNERAL DIRECTORS ASSN	X	
Charles Gravelog	MT Coroner's Assn	X	
Roland D Pratt	MT Funeral Directors Assn	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.