

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

March 18, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on March 18, 1987 at 1:00 p.m. in Room 312-F of the State Capitol.

All members were present with the exception of Rep. Gilbert who was excused. Rep. Pistoria was absent. Lee Heiman, Committee Counsel from the Legislative Council was also present.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 316: Chairman Wallin stated to the committee that there were copies of proposed amendments before them (Exhibit 1).

Mr. Heiman explained that Amendment No. 1 makes sure that the requirements in the bill do not relate to governmental entities for uses of landfills, airport extensions, etc. He said Amendments No. 2 and 3 return the bill to the way it was introduced in the Senate as requiring the subdivision rather than just an appraisal as if it were subdivided. Amendment No. 4 is a technical amendment. He stated if the bill requires an appraisal as if it were subdivided then the platting requirements of Section 2 are not needed and that section can be stricken from the bill.

Rep. Brandewie moved that SB 316 BE CONCURRED IN. He moved the set of amendments that Mr. Heiman explained.

Rep. Brown stated he would like to divide the amendments in order to vote on them separately.

Mr. Heiman stated that Amendment No. 4 should be considered after the other amendments.

Rep. Brandewie stated that there is a lot of difference between land that has been subdivided and land that has not. He said to appraise the land as if it had been subdivided puts an unfair burden on the person trading it or selling it because of an inflated value for the expense of the subdivision. He said if it will be charged for as subdivided, then it should be subdivided.

Rep. Sales suggested something could be added which states "appraised as if subdivided less the estimated cost of actual subdivision".

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Rep. Brandewie responded it would be very difficult to figure out what problems would be run into with any given piece of ground. He said when subdividing, the costs associated with mitigating environmental problems and drainage and those type of things are not known in the beginning. He stated that is a very gray area to try to guesstimate.

Rep. Bulger asked for explanation of why all land within the 4 1/2 miles of the city should be subdivided land. He asked if there would not be land inappropriate for subdividing? He stated he understood the point of the instance in Billings, but the law would relate to the whole state.

Rep. Brandewie commented the rationale behind the 4 1/2 mile limit is that is the limit beyond the city limits where the city zoning laws apply because of the natural assumption that those areas could at some point in time become part of the city due to growth. This allows the city input into the planning, and structures so they are built to city codes, etc. He said there will be some junk land, but if it is subdivided that will be made known. Rep. Brandewie stated it makes sense to require the subdividing because that is where the state will get the maximum amount of money for the school trust fund.

Rep. Grinde stated he was also not familiar with many subdivision laws and asked what would happen if the state has land that they want to trade with other land? Does the state have to subdivide and put this high price on?

Rep. Brandewie replied that if it was within the 4 1/2 miles, the law would apply to the state as well.

Rep. Brown stated that 77-2-205 places the restriction on the exchange of private land. He said Mr. Hemmer eluded to this previously that a block situation was not being dealt with here. The statute states no exchange shall be made which will induce or encourage large scale commercial, industrial or residential development unless the value of such development is considered in determining the fair market value and unless the proposed development will not adversely impact the resources of the existing state tracts or those tracts which will be received in the proposed exchange. He stated Amendments 2 and 3 substantially complicate the state's flexibility to get the maximum value. He said there is going to be situations where subdivided acreage or potentially subdivided acreage is not a consideration for an exchange. Rep. Brown stated there are a lot of rural areas in the state where those exchanges do not have anything to do with a situation like what is apparent in Billings.

Rep. Sales moved that the amendments be separated and moved to vote on Amendment No. 1.

Rep. Ramirez was present during the executive action but was excused from voting on all motions on SB 316.

The question was called and the motion carried unanimously.

Rep. Sales asked the committee to refer to the amendments on the 4 1/2 miles (Exhibit 2). On the last amendment, line 2, he asked to strike "within 4 1/2 miles of such limits if that area is". He stated the reason to strike that is although a city/county planning board can go out to a limit of 4 1/2 miles, they can go out to a lesser area. He said the area would be that which the city/county board has already claimed as their jurisdiction. He said the rest of the amendment would allow for a first-class city to go out 3 miles; a second-class city, 2 miles and a third-class city, 1 mile. He said this would refer to areas that are actually being controlled by either the planning board or zoning and subdivision regulations.

The question was called on Rep. Sales amendments. The motion carried with Rep. Brown voting no.

The committee referred back to Amendments Nos. 2 and 3 on Exhibit 1. Rep. Sales stated it would depend on whether the committee wanted the subdivision to actually be done. He moved that the land be treated as if it were first appraised with consideration given to the cost of subdivision in the appraisal.

Lee Heiman stated the amendment would read on page 1, line 24, following subdivided ",less the estimated cost of actual subdivision".

Rep. Sales commented he did not want to force subdividing unless it was the only way that they can arrive at a fair value.

Rep. Bulger asked Rep. Sales to explain his amendment and asked if some land is appropriate for subdividing should it not be required to be subdivided before trading?

Rep. Sales stated that by telling the state they have to subdivide the land into five-acre tracts or less that a subdivision is actually being forced to occur before the value is determined. He said there should be a reasonable way to say that subdividing is the highest and best value without actually forcing the subdivision to occur. He stated one person might subdivide differently than another and the best value might not be the same for one person as another.

Rep. Brandewie felt the amendments proposed by Rep. Sales were very good amendments. He thought the State Land Department should take a good look at the law and amend other sections so they would conform with Rep. Sales's amendment in regard to the distances out from the various cities and towns in the state. In regards to the other amendment, he felt the cost of subdividing could reasonably be backed out of an appraisal.

The question was called on Rep. Sales' amendment to insert, "less the estimated cost of actual subdivision,". The motion carried with Rep. Brown voting no.

Chairman Wallin stated the technical amendment should be addressed at this time.

Rep. Dave Brown moved to adopt the technical amendment. The question was called and the motion carried unanimously.

Rep. Brandewie moved that SB 316 BE CONCURRED IN AS AMENDED.

Rep. Brown commented that the discussion by the committee described a substantial amount of the concern of the potential impacts of SB 316. He said he was not sure he knew what they did especially in terms of the second amendment and the impacts that would be imposed on places like Butte-Silver Bow and his district which covers a large rural area. He stated he would offer an interim study resolution to look at the whole area so the impacts would be known. He stated while the committee partly addressed some of the concerns as well as the way the bill came here, the differences between exchanges for purposes such as those in the Billings area and those exchanges in rural areas for landfills and hazardous waste sites have not realistically been dealt with. He said he objected to the whole mechanism as he understood it as to the way the bill came into committee and the reasons for it coming in.

Rep. Brown moved as a substitute motion for all motions pending to TABLE SB 316.

Rep. Sales asked if there could be discussion.

Rep. Brown stated he would withdraw his motion for discussion but reserved the right to reinstate the motion.

Rep. Sales commented he agreed with Rep. Brown that they were all very uneasy with the manner in which the bill originated and came before the committee. He said, however, that is the way errors in the law sometimes get pointed out. He said he mentioned before that this thing will be back and the same sections will be worked on again. He felt it

absolutely proper to go ahead and make the changes to the bill. He said he would also help sponsor a study not only in this area but in the whole subdivision area. He felt the bill should be passed.

Rep. Bulger asked for information in regards to the land being valued for trade regardless of where it is for highest and best use. He asked where the system was breaking down? He said he shares the committee concern of how the bill got here.

Rep. Brandewie commented, putting all personalities aside in this situation, that the legislature's responsibility to the people is to get the most money for the state lands if they are going to be sold or exchanged. He said the bill is here because of a loophole in the law. He stated it was unfortunate that two people surrounding the property are also representatives but he did not think that should be looked at. He commented the only reasons to pass the bill is not for any of those personalities but for the people of the state and the foundation program because the land is valuable.

Rep. Bulger commented that if the point was just to equalize between sale and trade that is not being done because the mechanism is changed in the sale from 3 miles to 4 1/2 miles. He said the real question is why does the present mechanism not work? He said if it is supposed to be appraised for the highest and best use how did they get \$500,000 as an appraisal?

Rep. Brandewie responded when another portion of state law was changed to 4 1/2 miles for the city/county zoning, all other aspects of law including Title 77 should have been changed at that time but were not. He stated there were laws passed in 1973 and 1935 and they are not meshing together. He said the most money for an exchange is not being received for the state and that is why the bill is here. He felt the bill should be passed.

Rep. Kitselman also responded to Rep. Bulger's question that the system is open to influence of the five state officials and one other board member. He said those six people are subject to influence by all others and that is where the system is breaking down at this time.

Rep. Brown also responded stating there is no indication that the system is breaking down. He said the land board met once on this issue, approved the sale, sent it out for agreement on an appraisal and that agreement could not be made. He stated a new proposal was brought back to the land board and they approved it again subject to appraisal which

is where the process is right now. Commissioner Hemmer recommended against both of the proposed exchanges because of the land value which has held up the process to this point. He said the exchange has been in the process for 4 1/2 years. Rep. Brown stated the statute clearly says and the commissioner has stated twice that yes the highest and best value for the land can be received.

Rep. Gilbert joined the meeting at this time.

Rep. Sales agreed the system has worked so far but is very close to a breakdown with the votes of 3 to 2. He stated he was not sure the appraiser had done the right thing until access was brought up. Rep. Sales stated access to that land is not worth \$300,000. He stated it does not cost \$300,000 to get access to that land and is not that valuable to Mr. Scott to get over to see his horses. Rep. Sales stated the value of that access is to open it up for subdivision possibilities. He said he hoped to get something into the law that would carry through for the time being but a decision needed to be made now.

Rep. Dave Brown made a substitute motion to TABLE SB 316. A roll call vote was taken and the motion failed on a tie vote.

Rep. Dave Brown made a substitute motion that SB 316 BE NOT CONCURRED IN. A roll call vote was taken. The vote tied and the bill was left in committee with no further action taken.

Rep. Dave Brown moved for the committee to put in an interim study resolution that would not be bound by time restrictions and he encouraged the committee to work with Lee Heiman for a draft that would look at the whole section of exchanges in the law. He said to differentiate the subject matter, EQC would continue its efforts in the subdivision area. He stated the exchange and sale provisions was a bit outside of that even though it involves some subdivision.

The question was called and the motion carried unanimously.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 1:50 p.m.

  
Rep. Norm Wallin, Chairman

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-18-86

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	✓		





ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 3-18-87

BILL NO. SB 316

NUMBER \_\_\_\_\_

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

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Vonnie Evans  
Secretary

Rep. Norm Wallin  
Chairman

MOTION: Rep. Dave Brown moved as a substitute motion

that SB 316 BE NOT CONCURRED IN.

The vote was tied.

~~Amend SB 170~~ SB 316

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Governmental exchange.

1. Page 1, line 21.

Strike: "No"

Insert: "Unless the exchange is made with a governmental entity,  
no"

=====  
Reinsert original language requiring subdivision

2. Title, line 8.

Following: line 7

Insert: "REQUIRING A SUBDIVISION BEFORE SUCH LAND MAY BE  
EXCHANGED;"

3. Page 1, lines 23 and 24.

Strike: "APPRAISED" line 23 through "WERE" on line 24

Insert: "first"

=====  
Technical -- If amendments 2 and 3 above are not adopted to  
delete a requirement only if subdivision is required.

4. Page 2, lines 2 through 9.

Strike: section 2 in its entirety

Renumber: subsequent sections

Amend SB 316

Distances  
Rep. Sales

1. Page 1, line 21.

Following: "(2)"

Insert: "(a)"

2. Page 1, lines 22 through 23.

Strike: "the" on line 22 through "limits" on line 23

Insert: "the area described in subsection (b)"

3. Page 3.

Following: line 1

Insert: "(b) The requirements of subsection (2)(a) apply to land within the limits of any municipality and [within 4 1/2 miles of such limits if that area is] within the jurisdictional area of a city-county planning board under 76-1-505. If there is no such city-county planning board jurisdiction, the requirements of (2)(a) apply within the distances established for municipal zoning and subdivision regulation set forth in 76-2-310(2)."

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