

50TH LEGISLATIVE SESSION
MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

January 27, 1987

The sixth meeting of the Local Government Committee was called to order at 1 p.m. on January 27, 1987, by Chairman Bruce Crippen in Room 405 of the Capitol.

ROLL CALL: All committee members were present.

HEARING ON SENATE BILL 148: Senator Al Bishop of Billings, District 46, sponsored the bill. He distributed Exhibit 1, a letter from S. R. "Pete" McEwen of Hawk Electric & Plumbing Supply Co. of Great Falls. Senator Bishop said that consolidating counties is presently provided by law. The difference with this bill is that it reduces the number of registered electors required from 50% to 10% to petition for consolidation. A vote of the people would still be required. Senator Bishop proposed by his bill, a method of reducing taxes--less government means less cost to the taxpayers. The bill was requested by Commissioner Mackay of Billings, who feels 20 to 25 counties would be sufficient in Montana.

PROPOSERS: There were no proposers.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE: Senator Hammond asked if this would allow Silver Bow to take over nearby counties. Senator Bishop answered there are many built-in safeguards to prevent undesirable results. The law permits parts of counties to join together, or whole counties to join together, but this bill only pertains to the 10% petition requirement.

Senator Harding asked how the 10% was determined, and Senator Bishop said he felt 50% was restrictive.

Senator Eck commented on parts of county dissidents splitting off, and thought that the bill would get more support if it was restricted to whole county consolidation.

Senator Walker asked if 10% of the people of Great Falls could get up a petition to make the city a county, so they wouldn't have the responsibility of all the county roads, etc.

Senator Bishop thought it might be possible, but not likely because of all the other safeguards built into the law, including a vote of the people.

Senator Walker asked if a large county could take over a small county. He was told each county would have to have a majority vote for the two counties to join.

After further discussion by committee members, Senator Bishop closed.

HEARING ON SENATE BILL 158: Senator Dick Manning, Great Falls, District 18, sponsored the bill. He said the bill was requested by Great Falls cabin owners whose cabins are located on school trust leased land, and would like to buy the land. His bill would allow that option, and makes it clear that the Land Board need only sell such sites where it is in the best interest of the school trust.

PROPOSERS: Dennis Hemmer, of the Department of State Lands, distributed written testimony supporting the bill. See Exhibit 2.

OPPOSERS: There were no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Hammond asked if the property were put up for sale, would the cabin owner have the first right of refusal. Mr. Hemmer said the land would be auctioned, but that the owner would have the ability to meet the highest bid. Senator Hammond asked, then did the owner have no absolute assurance of getting the property. Mr. Hemmer said that was correct. Senator Hammond asked how a person with a 99 year lease would be effected. Mr. Hemmer said this pertained to 10 year leases. The property owner also has some protection in that he, himself, must request that the property be sold.

Senator Pinsoneault asked if a minimum bid must be made and Mr. Hemmer said yes, that the minimum bid is the appraised value.

Senator Walker asked if the appraised value included the cabin. Mr. Hemmer answered negatively, and said it was only for the land.

Senator Crippen asked if the lease continued should the property owner decide to purchase the land. Mr. Hemmer said he'd have to research that. He said if a piece of commercial land is sold, the lease terminates with the sale.

Senator Crippen asked if the law didn't already allow for the sale of this type of property. Mr. Hemmer said no, not if you are on a navigable river or lake. This law would change that.

Senator Eck asked if someone other than the cabin owner won the bid, would the cabin owner be compensated for the improvements.

Mr. Hemmer said the land buyer and the cabin owner would have to settle on a price for the cabin. If they were not able to, then it would have to be arbitrated. If the arbitration is disputed, it could then be appealed to the department, who would decide if the arbitration was fair. Another option is that the cabin owner can remove the cabin from the property.

Senator Harding asked if the improvements were taxable. The answer was yes.

Senator Crippen asked if 20 cabin sites were adjacent to one another, what would happen if 10 wanted to have the option to buy and the other 10 didn't. Mr. Hemmer said the department would not be able to put any up for sale unless all property owners were willing.

Senator Eck asked if the state was likely to stop renewing these leases to cabin owners. Mr. Hemmer felt it was unlikely, as they did make money.

The hearing closed on Senate Bill 158.

HEARING ON SENATE BILL 180: Senator Ethel Harding, Polson, District 25, sponsored Senate Bill 180, which pertained to recording instruments relating to land subject to survey requirement. She said her bill was requested by the State Clerks and Recorders. It provides for land that was subdivided prior to the July 1, 1973 Subdivision Act be recorded, and that a notation be made on the face of the document. However, she said there is no subdivision survey or plat to go with it. She said the title companies had suggested an amendment to show the page and number of a previously recorded document. It places the burden of proof

on the party doing the recording, to show that it was subdivided prior to 1973.

PROPONENTS: Sue Bartlett, Clerk and Recorder of Lewis and Clark County, said that present law prohibits a clerk and recorder from recording a property transfer without reference to a COS (Certificate of Survey). This bill would change that. She agreed the title companies' proposed amendment had merit.

Gene Phillips, Kalispell, appeared on behalf of the Montana Land Title Association. He stated he supports the bill and the proposed amendment.

Bill Gowen, president of the Helena Abstract and Title Company, suggested the bill be amended to refer back to a recorded document that created the subdivision prior to the Subdivision Platting Act of July 1, 1973. The procedure has been to refer to the previous deed reference or COS.

OPPONENTS: There were no opponents.

QUESTIONS FROM THE COMMITTEE: Senator Pinsoneault asked how a person could prove their property was subdivided prior to the Subdivision Act of 1973. Mr. Gowen said it was not a problem to get the last deed of reference.

Senator Harding closed the hearing saying she felt the bill cleared up a gray area in the law. She asked that the title companies and Sue Bartlett work to clarify the intent by changing some language.

EXECUTIVE SESSION:

SENATE BILL 135 (Bishop): Senator Story presented an amendment (see Exhibit 3). Karen Renne, staff researcher, said the amendments were prepared at the request of the Department of Commerce, who felt any action should be handled by an amended plat, and felt more than one lot should be allowed to participate in this property line adjustment. (see Exhibit 4)

The committee discussed the amendments. Senator Story thought they defeated the purpose of the bill. Senator Eck thought review was necessary. Chairman Crippen said that if the boundaries are changed, then the platted parcel is either being increased or decreased and should be reviewed. Margaret Clark of the Department of Commerce said 5 or fewer lots within the plat are done on a COS, and 6 or more would be done on an amended plat. The Depart-

ment suggests that Senator Bishop's amendment be shown on the other plat. The law doesn't specify review.

Senator Harding commented that with a subdivision plat, you are suggesting a COS which would include the boundary on the inside of the subdivision and refer to the unplatted lots. If a person changed a property from unplatted to platted, than a COS would be required for both.

Mr. Hanson explained the amendments because he felt (Exhibit 2) the recording should be done in both COS and Subdivision (cross index) Plat Index. He said amended plats are \$800 to \$1000 and a COS is \$350. Most people prefer the low cost. He felt this amendment is too complicated.

ACTION ON SENATE BILL 135: Senator Story moved the amendments DO PASS. The motion passed UNANIMOUSLY.

Senator Story moved the bill DO PASS AS AMENDED. The motion passed UNANIMOUSLY.

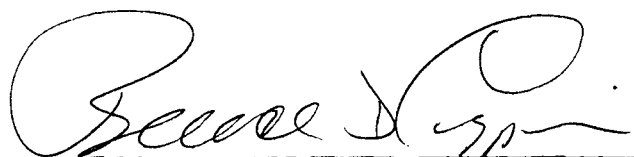
ACTION ON SENATE BILL 141: After committee discussion, Senator Hirsch moved that Senate Bill 141 DO PASS. The motion carried UNANIMOUSLY.

ACTION ON SENATE BILL 148: Karen Renne explained to the committee that Senate Bill 148 was becoming a redundant bill because house bills were coming up that covered the same subject.

Senator Eck, sponsor of the bill, moved that Senate Bill 148 BE TABLED. The motion carried UNANIMOUSLY.

ACTION ON SENATE BILL 158: Senator Eck moved that Senate Bill 158 DO PASS, but after committee discussion, RESCINDED the motion. It was the consensus of the committee to postpone action until a future meeting.

The meeting adjoured at 2:40 p.m.



SENATOR BRUCE CRIPPEN, Chairman

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 27,
1987

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
R. J. PINSONEAULT	X		
TOM BECK	X		
DOROTHY ECK	X		
H. "SWEDE" HAMMOND	X		
ETHEL HARDING	X		
LES HIRSCH	X		
PETER STORY	X		
ELEANOR VAUGHN	X		
MIKE WALKER	X		

Each day attach to minutes.

COMMITTEE ON _____

DATE Jan. 27, 1987
Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Jrene Neben		158	✓	
M. K. Quigley		158	✓	
Dennis Hemmer	Dept of State Lands	158	✓	
Kara Stornitz	League of Women Voters	8148		
Endon Munn	MACo			
Bill Gowen	Montana Land Title Assn	180	✓	
DAN CAMP	SELF	158	✓	
D.K. Quigley		158	✓	
Carl Hester	Dead Man's Bogon Cabins	158	✓	
Don Hughes	Mt. Chamber of Commerce	148		
JENE PHILLIPS	MCTA	180	✓	
Margaret Clark	Dep of Commerce	135	✓	

HAWK ELECTRIC & PLUMBING SUPPLY, INC.

4058 - 10TH AVE. SOUTH
GREAT FALLS, MONTANA 59401

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 1, p. 1
DATE 1-27-87
BILL NO. SB 148

PHONE 761-5410

Jan. 23, 1987

Senator Al Bishop
State Capitol
Helena, Mont. 59620

Dear Senator Bishop;

I recently read your article in the Agri-News regarding consolidation of Counties. I could'nt agree more. This problem is truly taking a slice out of the money needed to run the state.

We have approximately 820,000 people in Montana and 56 counties. Also, 56 assessors, Treasurers, Court Recorders, etc. We also have 168 County Commissioners for the Counties. This is redicules for the amount of population that we have.

King County, Washington, for example, has 1,300,000 people in the county and have only 1 Treasurer, recorder, assessor, etc.

This just shows how far out of step Montana has gotten in regard to our government.

Fifty-six counties were established years ago when communications were bad and travel was tough. This is no-longer the case. Some counties only have a population of 650 people and it takes just as many officials to support that county as one with 100,000 population. It is definately time for a change. We should probably have about 25 counties thru out the state. This would also make room in build-ings that are overcrowded and also get rid of the bureaucracy in the state capitol.

WHOLESALE, ELECTRICAL AND PLUMBING SUPPLIES

Ev. 1, p. 2

HAWK ELECTRIC & PLUMBING SUPPLY, INC.

4058 - 10TH AVE. SOUTH
GREAT FALLS, MONTANA 59401

PHONE 761-541

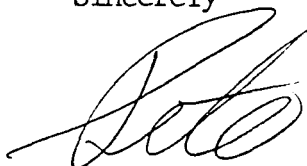
This would be the beginning of true tax reform. I hope our legislature has the guts to get this job done.

As far as our colleges are concerned, we should have two strong Universities, with good accreditation and doctoral departments. The rest of the schools should be 2 year schools working with and flowing into the Universities. With the system we have now we must be the smartest people in the U. S.

Seven 4 year schools and all of them competing with each other for the students we have and the taxpayers are footing the bills. Two year schools make more sense for this vast area. Let's spend the money to make Bozeman and Missoula strong.

I certainly hope you can make it happen. It's good to see a Statesman in Helena for a change.

Sincerely



S.R. "Pete" McEwen

PM:mm

cc: All Cascade Co. Rep. & Senators

TESTIMONY FOR SENATE BILL 158

An Act to Provide for the Sale of State Lands
Comprising Cabin Sites

(Hearing 1/27/87, Room 405, 1:00 p.m.)

The Department of State Lands agrees that the Board of Land Commissioners should have the ability to sell certain cabin sites which are now being leased. This bill will add needed flexibility in this area, where such sales are in the best interest of the school trust. Such sales must only take place, however, where it is needed for the efficient management and orderly development of this trust asset. Most importantly, the Land Board must have the discretion to determine when such sales are needed for proper trust management. For instance, where there are several adjacent cabin sites, either all sites should be sold together or none should be sold. Otherwise, the resulting ownership patterns would be difficult to manage.

The statutes require that when such sales take place, there must be competitive bidding in order that the trust receive full market value. Presently, many cabin sites do not have proper surveys, therefore, many of such sales would require the person requesting the sale to be responsible for providing an adequate survey. Also, a large number of sales in a given year could easily exceed the Department's resources available to process the sales, or could result in "flooding the market" with reduced returns to the trust. Finally, sales of such cabin sites would fall within the provisions of Montana's subdivision laws which can be very expensive to comply with.

In summary, this bill provides some needed flexibility in the law; but the bill also makes it clear that the Land Board need only sell such sites where it is in the best interest of the school trust. Therefore, this Department supports the bill.

Senate Bill No. 135

be amended as follows:

1. Page 2, Line 10
Following: ";"
Add: ", which shall be recorded in both the
Certificate of Survey and the Subdivision Plat Index,
Pursuant to 76-3-613."

2. Page 2, Line 12
Following: "between"
STRIKE: "a Single Lot"
Insert: "Five or Fewer Lots"

3. Page 2, Line 14
Following: "."
Add: ", which shall be recorded in both the
Certificate of Survey and the Subdivision Plat Index,
Pursuant to 76-3-613."

Presented by Margaret Clark
of the DEPARTMENT OF COMMERCE
LOCAL GOVERNMENT ASSISTANCE DIVISION

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 4

DATE 1-27-84

BILL NO. SB 135



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING—ROOM C 211
CAPITOL STATION

STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620

January 26, 1987

Summary of Testimony on SB135 by Margaret Clark representing the Department of Commerce.

The Department agrees with Senator Bishop in trying to find solutions to relocating a boundary line between a lot in a platted subdivision and adjoining land outside of the subdivision.

However we would suggest that any action that affects a platted subdivision should be handled by an amended plat and not a certificate of survey (COS) for the following reasons:

1. COS's are filed separately from subdivision plats and although a COS may affect a lot in a subdivision, COS's are not referenced on the face of the subdivision plat. This may cause problems for a member of the public who may have questions about a particular subdivision and who goes to the subdivision plat and is not made aware of changes that were made by a COS filed separately.
2. We would also suggest that a provision be added to allow boundary line adjustments between more than one lot in a platted subdivision and adjoining land outside of the subdivision, e.g., this situation may arise when an error in a survey results in the original landowner/subdivider owning a 10' wide strip outside the subdivision along the boundary of a number of lots. This was never the intention. Therefore a boundary line adjustment would be necessary to deed this strip to the landowners within the subdivision.
3. We would further suggest that in cases where the boundary line adjustment would make significant changes e.g., changes that could have made a difference in the original plat approval that the amended plat be reviewed by the governing body and that lot owners in the subdivision be notified. For example if a landowner is proposing to sell part of his lot within the subdivision to an adjacent property owner outside of the subdivision, this would decrease his lot size which might make the lot non-conforming to the minimum area requirements of the zoning ordinance (if one is in place) or may cause the lot to be substandard in terms of health department requirements if a septic tank is utilized.

Thus, in summary DOC is in favor of the bill but would suggest three amendments:

Ex. 4, p 2
1-27-84
SB 135

1. The proposed changes be done on an amended plat.
2. For housekeeping purposes, to allow more than one lot within the platted subdivision to be involved in a boundary line adjustment with adjoining property outside of the subdivision.
3. Allow the governing body to determine whether a proposed boundary line adjustment would have a significant change on the approved subdivision. In such a case, the governing body shall review it as a minor subdivision with the authority to notify other property owners within the subdivision. If the proposed change would be insignificant, the amended plat should be reviewed only for compliance with surveying requirements.

A: SB 135
SOR 16 125 TXT

Chippen

Senate Local Government Committee
(Bill passed as amended)

January 27, 1987

AMENDMENTS TO SENATE BILL 135

1. Page 2, line 10.

Following: ~~that~~ " "

Insert: "~~which~~ ^{that} must be recorded in both the certificate of survey and the index of subdivision plats provided for in 76-3-613"

2. Page 2, line 12.

Following: "between"

Strike: "a single lot"

Insert: "five or fewer lots"

3. Page 2, line 14.

Following: "subdivision"

Insert: "~~that~~ ^{which} must be recorded in both the certificate of survey and the index of subdivision plats provided for in 76-3-613"

STANDING COMMITTEE REPORT

28
JANUARY 27, 19 97

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on

having had under consideration..... **SENATE BILL** No. **141**

first reading copy (**white**)
color

ALLOW COUNTIES OPTION OF USING 55-MILL ALL-PURPOSE LEVY

Respectfully report as follows: That..... **SENATE BILL** No. **141**

DO PASS

~~XXXXXXXXXX~~

.....
SENATOR BRUCE D. CRIPPEN Chairman.

STANDING COMMITTEE REPORT

SB135

.....January 28..... 1987.....

MR. PRESIDENT

Local Government

We, your committee on.....

Senate Bill

135

having had under consideration..... No.....

First

white

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color

EXEMPTS RELOCATION OF COMMON BOUNDARY LINE FROM SUBDIVISION AND PLATTING ACT

Respectfully report as follows: That.....Senate Bill..... No. 135.....

BE AMENDED AS FOLLOWS:

1. Page 2, line 10.

Following: "+"

Insert: "that must be recorded in both the certificate of survey and the index of subdivision plats provided for in 76-3-613"

2. Page 2, line 11.

Following: "between"

Strike: "a single lot"

Insert: "five or fewer lots"

3. Page 2, line 14.

Following: "subdivision"

Insert: "that must be recorded in both the certificate of survey and the index of subdivision plats provided for in 76-3-613"

AND AS AMENDED

DO PASS

~~XXXXXXXXXX~~

~~DO NOT PASS~~

.....
Chairman.

Senator Oringer