

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

February 17, 1987

The twelfth meeting of the Local Government Committee was called to order at 1:00 p.m. on February 17, 1987, by Chairman Bruce D. Crippen, in Room 405 of the Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 452: Rep. Norm Wallin, Bozeman, District 78, presented the bill to the committee for the League of Cities and Towns. The statutory requirement for a municipal council/mayor government regarding elections is that they be partisan, and there are several communities in the state that are in violation of this requirement. This bill is designed to correct the problem.

PROPOSERS: Alec Hansen, lobbyist for the League of Cities and Towns, said this bill would allow the towns in violation, by adoption of a resolution by the city council, to legalize their non-partisan elections. The October 1, 1989 effective date would give the local governments a year to accomplish this and save them money by eliminating the cost of a special election.

OPPOSERS: There were no opposers present.

QUESTIONS FROM THE COMMITTEE: Senator Harding asked for clarification of the bill. Mr. Hansen said this bill was to free towns from having to have partisan elections if they wished. This was only to deal with towns which have traditionally had non-partisan elections, but were required to, by law, hold partisan elections if they had not formally proclaimed their desires to the contrary.

Senator Eck asked if people who were strongly partisan might object to this becoming law. Mr. Hansen said it was a possibility, but didn't feel it would be any great problem.

Senator Wallin closed the hearing on House Bill 452.

CONSIDERATION OF SENATE BILL 297: Senator Ethel Harding, Polson, District 25, said in presenting this bill she was doing so at the request of several disgruntled taxpayers who felt they would be better served by a five-member county tax appeal board than by one with three members. They felt the board should be comprised of various taxation segments in the county, such as, but not limited to, agriculture, business and industry, retirees, and urban residents."

PROPOSERS: There were no proposers present.

OPPOSERS: There were no opposers present.

QUESTIONS FROM THE COMMITTEE: Chairman Crippen asked if there was a Fiscal Note. Senator Harding said there was, but for some reason it was not yet in distribution. She read from her copy that the cost would be \$74,000 for the biennium.

Senator Beck asked if this 5-member board could be discretionary for counties desiring it, as opposed to counties who were satisfied with their 3-member boards. Senator Harding said the thought had occurred to her after the bill had been drafted, and she would not oppose an amendment along those lines.

Senator Eck suggested it would be possible for 3 persons to represent several segments. Senator Harding agreed, but was trying to come up with legislation that would satisfy her constituents who felt they could be better represented with a 5-member board. She mentioned that different parts of the county were sometimes not represented and that that had caused some problem, too.

Senator Harding closed the hearing on Senate Bill 297.

CONSIDERATION OF SENATE BILL 304: Senator Yellowtail, Wyola, District 50, said the bill would require a vote of local residents on the question of whether to publish the county commission's proceedings and the annual statement of financial condition. He reviewed the bill with the committee.

PROPOSERS: George Moore, representing the Montana Press Association, said counties already have the option of publishing the proceedings, but that the cost usually dictates a summary or reference be published. The price of the complete proceedings runs from \$700 to \$5,000, depending on the size of the counties. He said in some counties, the citizens are not getting enough information about what is

going on in their county government and this would rectify that, if the citizens want it rectified.

Jim Moore, co-publisher of the Carbon County News in Red Lodge, co-publisher of the Record in Bridger, and editor of The Carbon County News in Red Lodge, rose in support of the bill. He said there seems to be great irony existing right now -- the counties where public accountability is most needed, are the counties where the county commissions are least likely to publish their proceedings and reports. The same is true in the reverse -- counties where accountability is least needed are most likely to publish. He noted that since publication had stopped, a \$15,000 pickup had been purchased for a commissioner ("even in a different county!"), \$500 worth of lunches had been charged to the county for 3 months, and other questionable purchases had taken place. Publication of the warrants would stop these abuses, in his opinion. Mr. Moore said newspapers were not able to cover all the commission meetings in news articles, as the meetings might continue for several days, and that no agenda would be provided by the commission in several counties. He said the cost to print the proceedings, etc., is \$104 per month, so its loss is not a large income item for the newspapers. He said setting up the printing of these items is more difficult and more time consuming than a normal ad. He said the people's money is being used for this printing, so the people should decide if it should be done.

OPPONENTS: Jim Halverson, county commissioner of Roosevelt County and a member of MACO, said the public is demanding cost cuts and said the election provided by this bill would only add costs to the taxpayers. He said local newspapers and citizens' groups are already very watchful of how money is being spent by commissions. He said all county records are open to the public and it was cheaper to make individual copies as requested than to have everything published.

Jim Campbell, Lewis and Clark County Commissioner, said Senate Bill 304 is asking the legislature to legislate cooperation. In Lewis and Clark County, it would cost the taxpayers \$500 per month plus \$2,000 for an annual statement. He felt this would be unnecessary legislation and unnecessary expense.

Doug Schmitz, commissioner from Jefferson County, said when the publications previously became mandated, the county was also faced with a 30% tax protest and thus, was required to

lay off 4.5 people. If we are mandated to publish, we will have to lay off more people. He said his commission has nothing to hide and that copies of bills and minutes are filed at the two public libraries, the two newspapers and at three stores. Since this has been instituted, there has been no complaints. He feels the county is saving \$7,000-\$8,000 per year by not publishing.

Greg Jackson, representing the Montana Clerk and Records' Association, opposes Senate Bill 304 for the following reasons. Cost of publishing, cost of election, and fitting into the 14-day time period.

Joe Tropila, Cascade County Clerk and Recorder and president of Montana Association of Clerk and Records, said in his county the minutes are summarized in the newspapers with a clamor that everything else is available at the Clerk and Recorder's Office. Mr. Troplia feels publication in his county would cost from \$7,000 to \$12,000. He distributed copies of the printed summaries, which is attached as Exhibit 1.

Former Senator Patrick L. Ryan, Cascade County Commissioner, said the commission is honest and has nothing to hide. He also said the information is open to the public and this bill is not needed. He urged a Do Not Pass recommendation.

Janice Jennings, Park County Clerk and Recorder, said she would like to point out that if the committee passes the bill, it also has to find a way to fund the requirement.

QUESTIONS FROM THE COMMITTEE: Senator Vaughn asked Mr. Tropila if there had been any complaint from the public regarding the printed summaries. Mr. Tropila said there had been none in the 3 years it has been done.

Senator Story said the bill has overlooked mentioning that the cost should be printed on the ballot required. He thought the public should have that information. Also, he said if the legislature passes a bill costing counties, it must also be funded. Senator Yellowtail said he wasn't aware of that requirement, but he thought a general purpose mill levy would take care of the cost.

Senator Eck asked Senator Yellowtail if he intended to address the non-published agendas. Mr. Moore felt it was a valid idea and that it might be addressed another time. He said that a "straw vote" was taken in Stillwater County on whether to continue the publications and came back strongly in the affirmative.

Senator Beck asked if the newsmen would object to an amendment requiring newspapers to publish these minutes, etc. in as small a space as possible. He felt some newspapers had raised the costs to the counties by spreading out the reports. Mr. Jim Moore said that legal publishing is charged by the word and not by the space it takes.

Senator Pinsoneault asked how difficult it would be for a citizen to look at information if requested in the commission office. Mr. Campbell said it would be easy and the commission would be happy to give it out. He said only one person had requested it since it wasn't being published. In addition, he complimented the Helena Independent Record for its cooperation in publishing the agenda for the commission meetings each week.

Chairman Crippen asked why the newsmen were trying to change this law back after it had just been in effect for two years. Mr. Jim Moore said that counties vary in cooperation. In his county, he said the commissioners will not give out an agenda which he would be happy to publish as news. They do give an appointment-type of calendar which he does publish. He said he had written his "355th" editorial asking for an agenda without results.

Senator Eck asked if Mr. Halverson had an agenda it could provide to a newspaper. Mr. Halverson said it would be impossible. He said people know when the commissioners are going to be in their offices and come in and discuss problems. Some counties might, he said, but we do not. Senator Eck asked if they published resolutions. Mr. Halverson replied they could.

In closing, Senator Yellowtail said he didn't want to cast any doubt on the integrity of the county governments, just accessibility and to set time limits. Senator Yellowtail said he lives 60 miles from the county seat in his county, and said it would be convenient if he could get the information in the local weekly newspaper. He said open meetings and agendas were not addressed in this bill. He agreed the fiscal impact should be addressed. He urged passage of the bill saying it would let the people make the decision about publication.

CONSIDERATION OF SENATE BILL 316: Senator Les Hirsch, Miles City, District 13, said he was carrying the bill on the request of former Senator Bill Mathers, Rep. Ramirez and Rep. Rehberg. The bill is to revise the requirements for exchange

of state lands within a 4.5 mile limit of a municipality. He said he had talked to former Senator Max Conover who had passed the previous law for the sale of state lands, whose original intent was to include the 'exchange of state lands' in the same bill, but that it hadn't been done. This bill is to allow the same criteria for exchange of state lands as for their sale. He felt a subdivision requirement would raise the value of the lands to a more accurate appraisal.

PROPOSERS: Robert VanDevere felt this was a good bill because the state would get the highest value out of the land, the proceeds going to the School Foundation, which is much needed.

Dennis Hemmerer, Department of State Lands, said this bill changes the distance requirement for subdividing from 3 miles to 4.5 miles. He asked the committee to carefully consider whether a trade should be treated the same way as a sale of state lands. He commented he felt this bill related to one specific trade and thought a law should relate to the entire state.

QUESTIONS FROM THE COMMITTEE: Senator Beck asked why the 3 miles was changed to 4.5 miles. Senator Hirsch said he wasn't sure, but thought it had something to do with zoning. Senator Story said a city planning board controlled to 3 miles and a county to 4.5 miles. He said it might not be in the interest of anyone involved to require the subdividing.

Senator Eck said she thought it would have a negative effect to require the subdividing. Senator Hirsch said his bill only related to exchange of state lands and was attempting to get a higher appraisal value. Mr. Hemmerer said everything must be done in conjunction with the planning board. In connection with parks, he said easements are granted within fair market value.

Senator Crippen said the way he read the bill, the 5-acre subdividing must occur when trading property, regardless of the ordinance or the long range planning. He asked Mr. Hemmerer if this might be conflicting. Mr. Hemmerer agreed. Senator Story suggested amending the bill adding that the land be "appraised as if it were subdivided" on page 1, line 22.

Senator Beck and Senator Eck thought it would be expensive and probably not be allowed by the county to ask for a

subdivision because of financial risk. Mr. Hemmerer said the goal of present legislation is not necessarily to encourage subdivision. The state is bound to hold land within 3 miles because its value is eventually going to increase.

Senator Beck asked if it wasn't the policy to exchange more land than sell it. Mr. Hemmerer said that was correct and that it had been the state's policy for about 20 years. He said the department preferred that residential land be sold rather than exchanged.

In closing, Senator Hirsch said the intent of the bill was to see that state land being traded be appraised for its highest value and said he would be open to amendment. He urged passage of the bill.

EXECUTIVE SESSION

SENATE BILL NO. 259: Amendments were distributed on Senate Bill 259 for study by the committee. (See Exhibit 2)

SENATE BILL NO. 288: Senator Eck moved that Senate Bill 288 DO PASS. The motion CARRIED UNANIMOUSLY.

SENATE BILL NO. 283: Karen Renne, Staff Researcher, said she had been asked to look into the possibility of an amendment, but that she had been unable to come up with a way to make the bill more palatable. The state already has legislated that it is illegal for underage persons to purchase or consume alcoholic beverages, and this bill intended to go even further, which the Attorney General said could not be done in a previous ruling.

Senator Beck moved to TABLE Senate Bill 283. The motion CARRIED UNANIMOUSLY.

SENATE BILL NO. 284: Ms. Renne said an amendment had been proposed by Alec Hansen, which is attached as Exhibit 3, to keep the county commissioners from imposing a fee for a service on another local government, the object being the city or town, or the local school district.

Senator Beck said there are fees presently for jails, elections, school districts, water, sewers, etc. If this bill is going to nullify the present system of fees, he would oppose it. Ms. Renne said there are in place many intergovernmental cooperative agreements in the enforcement

area where the county provides law enforcement for the city and others where money is exchanged for services.

Senator Harding said she opposed the intent of the bill.

Chairman Crippen asked if any committee member would care to move the amendments. There was no response, and the amendment was discarded.

Senator Hirsch commented that the League of Cities and Towns had proposed the legislation in an effort to increase funding. He moved that Senate Bill 284 Do Pass.

In the ensuing discussion, Senator Story expressed concern that there might be abuse of a fee system. Senator Eck said cities already have the authority to charge fees. Senator Beck said citizens would not allow abuse of fees and felt that people who use the services far more than average, should pay a fee. Senator Hirsch said a public hearing was required and that people would not allow unnecessary fees.

The motion of DO PASS, FAILED by a 3-7 vote. The no votes were cast by Senators Crippen, Pinsoneault, Hammond, Harding, Story, Vaughn and Walker.

Senator Beck said he would like an amendment prepared and discussed again at the next meeting.

SENATE BILL NO. 211: Regarding the building inspection dealt with by Senate Bill 211, Chairman Crippen commented on the Big Sky Condominiums which were inspected under the present system of inspection and which are uninhabitable. This had been brought up in previous discussion by Senator Eck and Senator Crippen agreed it was a valid point.

Ms. Renne distributed amendments that had created the grey bill. (See Exhibit 4) She called attention to a new amendment on page 4, line 7 of the original bill.

It was the consensus of the committee that more time was needed to study the new amendments. Action was delayed until the next meeting.


SENATE BILL NO. 297: Ms. Renne said she would prepare written amendments for the next meeting.

SENATE BILL NO. 91: Chairman Crippen asked Senator Hammond

if he wanted Senate Bill 91 to be heard, or if he preferred it continue to stay in committee unheard. Senator Hammond said there was a bill in the House dealing with the same subject, and for the time being, he wanted Senate Bill 91 to stay on postponement in the Senate Local Government Committee.

Chairman Crippen announced the committee would act on all remaining bills at the next meeting and that the meeting would commence at 12:15 and that he would provide lunch.

The meeting adjourned.


SENATOR BRUCE D. CRIPPEN, Chairman

rj

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 17, 1987

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

Each day attach to minutes.

COMMITTEE ON

DATE

Feb. 17, 1987

Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Greg Jackson	MT. CLK & Rec. ASSN.	304		✓
James Jennings	Park Co. Clerk & Recorder	304		✓
Kelly Blake	Dept. of State Lands	316		
Sharon Barber	visitor	297		
Jim Kumbel	Business Regulation Div DCC			
Dennis Hammer	Dept of State Lands	316		
George A. MacPhee	MT. PRESS ASSN.	304	✓	
Tim Moore	Montana Press Assn / Carbon Co. News	304	✓	
Joe Tropila	MT. Assoc. of CLKs & Rec	304		✓
Jim Campbell	Lewis & Clark County MACO	304		✓
Jim Halverson	Roosevelt Co MACO	304		✓
Doug Schmitz	Jefferson County			✓
Patrick L. Ryan	Cascade County	304		✓
Robert Verkerk	visitor	316	✓	

(This sheet to be used by those testifying on a bill.)

NAME: GEORGE W. MOORE DATE: 2/17/87

ADDRESS: 1900 W. MAIN, JEFFERSON

PHONE: 443-2850

REPRESENTING WHOM? MR. ARMS JR.

APPEARING ON WHICH PROPOSAL: 384

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME Tim Moore BILL NO. SB 307

ADDRESS Box 2238 Red Lodge DATE 2/17/86

WHOM DO YOU REPRESENT Carbon County News

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Joe TROPILA ⁵⁶ BILL NO. 304
ADDRESS 209-2 NW GREATFALLS MT DATE 2/17/87
WHOM DO YOU REPRESENT MT. ASSN OF CUBAN-AM RECREATORS
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

azi crimes

Summary

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE

2-17-87

BILL NO.

SB 304

OF MINUTES OF THE BOARD OF COUNTY COMMISSIONERS, CASCADE COUNTY, MONTANA FOR THE MONTH OF DECEMBER, 1986.

Claims were examined against various funds and warrants were ordered issued in payment thereof.

Board members attended various meetings outside their offices during the month.

Resolutions passed: #86-49 In The Matter of an Emergency Appropriation for the City-County Health department to purchase needed flu vaccine; #86-50 A Resolution of Intention to Amend County Zoning District Map from "A" Agricultural to "R-1" Suburban, Residential for Mark #7, Lot 8, Section 23, Township 20 North, Range 3 East, M.P.M. Cascade County after holding necessary public hearings; #86-51 In The Matter of Vacating Central Addition to Belt, Montana after petition and public hearings on same.

Appointed Wayne Bakke and Re-appointed Ernie Grasseschi to the State Fair Board for two-year terms; Appointed Tom O'Connor and Re-appointed Orlan Sorensen to the City-County Planning Board for two-year terms; Extended the term of Phillip Reidy on The County Tax Appeal Board for one year.

Open bids for Weed Chemicals: 500 gallons of 2,4-D, 250 gallons of Banvel, 250 gallons of Tordon, 150 gallons of Hi-Dep: Wilbur Ellis Co., \$34,585.00; Western Agri-Chem, \$34,571.50; Power Farmer's Elevator, \$33,830.00; Farmer's Union Oil, \$34,122.50. Awarded bid to Power farmer's Elevator for all but Hi-Dep, which went to Western Agri-Chem.

Approved a split for subdividing at Simms upon recommendation of the County Planner for lot 50, Simms Townsite.

EXPENDITURES

General Fund.....	\$ 355,608.12
Road Fund.....	90,359.46
Workfare Adm.....	3,520.93
Bridge Fund.....	25,269.45
Weed Control.....	9,109.30
District Court.....	65,569.63
Rural Fire.....	672.56
Mosquito Control.....	21,259.05
Parks.....	198.04
Library.....	782.86
Local Gov't Study Comm.....	703.00
Planning Board.....	2,317.26
Health.....	41,219.83
Air Pollution.....	2,766.27
Health-Special Proj.....	810.35
Title III-B Center.....	4,618.99
Title III-C1 Nutrition.....	18,054.63
R.S.V.P.....	2,417.24
State Grant.....	4,834.89
Title III-C2 Deliv. Meals.....	355.90
Foster Grandparents.....	7,851.85
Home Chore.....	1,592.99
I&R State Project.....	769.64
County Extension.....	11,972.69
Conservation District.....	3,366.11
Alcohol Rehab.....	11,357.00
Jail Improv/Education.....	3,550.80
Crime Control.....	452.77
Crime Control Juvenile.....	1,389.36
Gasoline Tax.....	30,588.31
Motor Vehicle Disp.....	5,531.79
Alcohol Traffic Safety.....	6,561.77
Area VIII Agency/Aging.....	4,923.28
E.M.S.....	7,833.44
Revenue Sharing.....	17,694.80
WIC.....	4,011.22
Capital Bids. Reserve.....	2,577.53
Convalescent Nurse Home.....	404,215.10
State Fair.....	46,174.25
Redemptions.....	14.43
Payroll.....	428,501.15
Refunds.....	4,393.96
Planning & Serv./Aging.....	1,668.00
Solid Waste Disp.....	18,314.23
#6 Light Maint. Dist.....	22.89
#12 Light Maint. Dist.....	90.18
#13 Light Maint. Dist.....	26.77
#17 Light Maint. Dist.....	259.14
#21 Light Maint. Dist.....	30.52
#23 Light Maint. Dist.....	775.64

TOTAL ALL FUNDS.....\$1,676,953.38

Expenditures in all funds may be seen during normal business hours at the office of Clerk and Recorder, Cascade County Court house, Great Falls, Montana.

RICHARD G. GASVODA,

Chairman, Board of

Cascade County Commissioners

JOE TROPILA,

Clerk and Recorder

Attest:

Identified Demjanjuk as the sadistic guard on two pictures, one taken in 1941, the other in 1951.

The trial was conducted under tight security to prevent possible attacks on Demjanjuk by survivors of the Holocaust or their families.

However, he was not confined to a bulletproof glass cage, as was Adolf Eichmann, who was tried in 1962 on charges he masterminded the extermination of European Jews. Eichmann was convicted and hanged the same year.

NOTICE

Notice is hereby given that it is the intention of Cascade County, Montana, to lease the county parkland in the Twin Silos Ranchettes subdivision, consisting of 11.33 acres. In the lease agreement to provide that the lease will fence the property and maintain

All persons wishing to be heard regarding such action are invited to be present at the next meeting of the County Park Board on Monday, March 9, 1987, at 10:00 a.m. in the Board Room of the County Commissioners' Office, Room 111 Courthouse Annex, Great Falls, Montana.

Dated this 11th day of February, 1987.
Board of County Commissioners of Cascade County.

RICHARD G. GASVODA, Chairman.
PATRICK L. RYAN, Commissioner.
JACK T. WHITAKER, Commissioner.
(23923) 2/17/24.

INVITATION FOR BIDS

Sealed bids will be received by the State of Montana, Department of Administration, Architecture and Engineering Division, 1520 East Sixth Avenue, Helena, Montana 59620, until 2:00 P.M. on March 3, 1987, for the Department of State Lands, Anaconda II Mine Waste Reclamation Project, Cascade County, Montana.

The project site is located in the vicinity of Belt, Montana.

The work will consist of, but not be limited to providing all labor, materials, and equipment necessary to relocate and regrade mine wastes, construct a drainage ditch, haul mine slack, backfill and rebuild levee along Belt Creek, riprap and provide erosion control.

Bids will be received for one General Contract.

Bids shall be submitted on the form provided with the Contract Document. Contract Documents may be viewed and secured at the Department of State Lands, Office of Reclamation Division, Abandoned Mine Reclamation Bureau, 1625 Eleventh Avenue, Helena, Montana 59620 upon a non-refundable payment of \$25.00 for each set of documents. Requests should be made for Mont A/E 86-44-124. Bids shall be accompanied by bid security meeting the requirements of the State of Montana in the amount of ten percent (10%) of the total bid. Successful bidder will furnish an approved Performance Bond and Labor and Materials Bond each in the amount of 100% of the Contract.

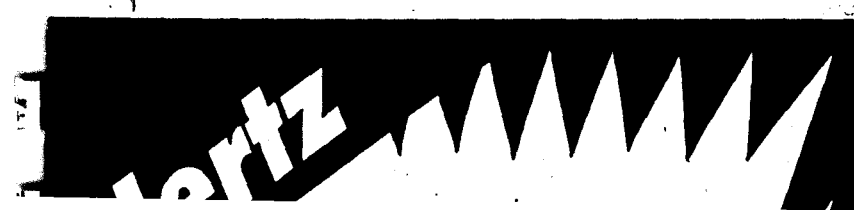
The Contractor shall comply with all fair labor practices and must meet the requirements of State and Federal Statutes.

Each bidder will be required to have a Montana Public Contractor's License. Subcontractors for work over \$5,000 shall also be the holder of a Montana Public Contractor's License in the proper classification.

No bidder may withdraw his bid for at least thirty (30) days after the scheduled time for the receipt of bids except as noted in the Instructions To Bidders.

The Owner reserves the right to accept or reject any or all bids, and to waive any informalities in the Bidding.

Department of Administration,
ELLEN FEAVER,
Director.
(23903) 2/10,17,24.



Senate Committee on Local Government

February 17, 1987

AMENDMENTS TO SENATE BILL 259
(suggested by the Department of Administration)

1. Title, following line 5.
Insert: "CERTAIN"

2. Title, line 6.
Following: "STATE"
Strike: "AND LOCAL GOVERNMENTS"
Insert: "GOVERNMENT"

3. Title, lines 7 and 8.
Following: "LIST;"
Strike: remainder of line 7 through "CONSENT;" on line 8

4. Strike everything after the enacting clause and insert:

"Section 1. Section 2-6-109, MCA, is amended to read:

"2-6-109. ~~Prohibition-on-distribution~~ Distribution or sale of mailing lists ---~~penalty~~. (1) ~~Except-as-provided-in subsections-(3)-(4)-(5)-and-(6)-in~~ In order to protect the privacy of those who deal with state and ~~local~~ government:

(a) ~~nea~~ state agency may not distribute or sell for use as a mailing list any list of persons without ~~first-securing the-permission-of~~ providing an opportunity for those on the list to withhold their consent to be included on the list; and

(b) except as provided in subsections (3) through (8), no list of persons prepared by the agency may be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.

(2) As used in this section, "agency" means any board, bureau, commission, department, division, authority, or officer of the state ~~or-a-local~~ government.

(3) Except as provided in 30-9-403, this section does not prevent an individual from compiling a mailing list by examination of original documents or applications which are otherwise open to public inspection.

(4) This section does not apply to the lists of registered electors and the new voter lists provided for in 13-2-115 and 13-38-103, or to lists of the names of employees governed by Title 39, chapter 31.

(5) This section shall not prevent an agency from providing a list to persons providing prelicensing or continuing educational courses subject to Title 20, chapter 30, or specifically exempted therefrom as provided in 20-30-102.

(6) This section does not apply to the right of access either by Montana law enforcement agencies or, by purchase or otherwise, ~~of~~ by private citizens to public records dealing with motor vehicle registration.

~~(7) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor~~ An agency may distribute or sell for use as a mailing list a list of persons in one or more of the following categories:

- (a) subscribers to magazines published by the agency;
- (b) persons who have requested one or more of the agency's publications;
- (c) retirees who are members of the public employees' retirement system established in Title 19, chapter 3, or the teachers' retirement system established in Title 19, chapter 4;
- (d) persons who have purchased or applied for a permit, license, license decal, or registration certificate from the department of fish, wildlife, and parks; and
- (e) persons who have responded to advertisements or other notices published or distributed by the department of commerce for purposes of attracting tourists to the state.

(8) An agency may sell a mailing list for no more than the cost of producing it, unless the cost of producing the list was paid from a proprietary fund, in which case the agency may sell a list for its market value or trade it for another list of equivalent value.

(9) Money paid to an agency for a mailing list must be deposited in the fund from which the cost of producing the list was paid.

(10) Nothing in this section allows an agency to distribute or sell a list of persons that is confidential by law or under federal regulations."

NEW SECTION. Section 2. Rule-making authority. The department of administration shall adopt the rules necessary to administer the provisions of this act, including rules:

- (1) for providing public notice that an agency may sell or distribute a list of persons for use as a mailing list;

Senate Bill 259

STATEMENT OF INTENT
Senate Committee on Local Government

A statement of intent is required for Senate Bill 259 because section 2 grants rule-making authority to the Department of Administration.

The intent of this act is to allow reputable persons access to lists of persons who have requested information about Montana or expressed an intention to participate in Montana's recreational opportunities, in the expectation that use of such lists will enhance the state's effort to promote tourism and business expansion.

It is intended that in adopting rules to administer this act the department will require agencies either to provide public notice that a list of persons is to be made available for sale or distribution or to include a check-off on new forms that enables an individual to withhold consent to have his name or address on a list. It is further intended that the department will establish methods whereby an agency can recover the full cost of producing a list, and that the department will adopt rules that allow sale or distribution of any list that is consistent with the intent of this act.

(2) prescribing a method for establishing the price of a list; and

(3) prescribing criteria for determining whether a particular list may be sold or distributed for use as a mailing list.

NEW SECTION. Section 3. Effective date. Section 2 and this section are effective on passage and approval. Section 1 is effective July 1, 1987."

- end -

NOTE: A statement of intent must accompany this bill when it leaves the Senate Committee on Local Government.

Senate Committee on Local Government

February 17, 1987

AMENDMENT TO SENATE BILL 284
(suggested by Alec Hansen)

1. Page 1, line 25.

Following: "service."

Insert: "Nothing in this subsection authorizes the board of county commissioners to assess a fee for a service to another local government or jurisdiction unless it is specifically allowed by law."

SB 0211/gray
SENATE LOCAL GOVERNMENT
EXHIBIT NO. 4
DATE 2-17-87
BILL NO. SB 211

SENATE BILL NO. 211

INTRODUCED BY STORY

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE CITIES AND COUNTIES RESPONSIBLE FOR BUILDING CODE INSPECTIONS; AMENDING SECTIONS ~~50-60-103~~ 50-60-102 THROUGH 50-60-104, 50-60-106, AND 50-60-107, 50-60-109, 50-60-302, AND 50-60-303, MCA; AND REPEALING SECTION ~~50-60-104~~ SECTIONS 50-60-205, 50-60-501 THROUGH 50-60-515, AND 50-60-601 THROUGH 50-60-607, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 50-60-102, MCA, IS AMENDED TO READ:

"50-60-102. Applicability. ~~{1}~~ The state shall enforce the state building codes ~~do--not--apply--to--residential~~ ~~buildings-containing-less-than-five-dwelling-units-or--their~~ ~~attached-to--structures, any farm or ranch building, and any~~ ~~private garage or private storage structure--used--only--for~~ ~~the--owner's--own--use, located within the municipality's or~~ ~~county's jurisdictional area, unless the--local--legislative~~ ~~body--or--board--of--county--commissioners--by--ordinance or~~ ~~resolution makes the state building code applicable to these~~ ~~structures. The state may not--enforce--the--state--building~~ ~~code under 50-60-205 for the aforementioned buildings. Local~~ ~~governments---that---have---made---the--state--building--codes~~ ~~applicable--to--the--aforementioned--buildings--may--enforce~~

1 within-their-jurisdictional-areas-the-state-building-code-as
 2 adopted--by--the--respective-local-government.-The-state-may
 3 not-enforce-the-state--building--code--under--50-60-205--for
 4 those-buildings-

5 (2)--Where--good-and-sufficient-cause-exists,-a-written
 6 request-for-limitation-of-the-state--building--code--may--be
 7 filed--with-the-department-for-filing-as-a-permanent-record-

8 (3)--The-department-may-limit-the--application--of--any
 9 rule--or--portion--of--the-state-building-code-to-include-or
 10 exclude-

11 (a)--specified-classes-or-types-of-buildings--according
 12 to--use-or-other-distinctions-as-may-make-differentiation-or
 13 separate-classification-or-regulation-necessary,-proper,-or
 14 desirable-

15 (b)--specified--areas--of--the--state--based-upon-size,
 16 population-density,-special-conditions--prevailing--therein,
 17 or--other--factors--which--make--differentiation-or-separate
 18 classification---or---regulation---necessary,-proper---or
 19 desirable- only with respect to the following:

20 (1) factory-built buildings;

21 (2) recreational vehicles as defined in 50-60-101;

22 (3) school buildings as specified in 20-6-622;

23 (4) tramways; and

24 (5) passenger elevators and passenger escalators as
 25 provided in Title 50, chapter 60, part 7."

Section 2. Section 50-60-103, MCA, is amended to read:

"50-60-103. Administration by department. The department shall administer parts 1 through 4 and for that purpose shall:

(1) issue orders necessary to effectuate the purposes of parts 1 through 4 and enforce the orders by all appropriate administrative and judicial proceedings;

~~(2) enter, inspect, and examine buildings or premises necessary for the proper performance of its duties under parts 1 through 4;~~

~~(3)~~ (2) study the operation of the state building code, local building regulations, and other laws related to the construction of buildings to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health and safety;

~~(4)~~ (3) recommend tests or require the testing and approval of materials, devices, and methods of construction to ascertain their acceptability under the requirements of the state building code and issue certification of such acceptability;

~~(5)~~ (4) appoint experts, consultants, and technical advisers for assistance and recommendations relative to the formulation and adoption of the state building code; and

~~(6)~~ (5) advise, consult, and cooperate with other agencies of the state, local governments, industries, and

interested persons or groups."

SECTION 3. SECTION 50-60-104, MCA, IS AMENDED TO READ:

"50-60-104. Inspection fees. The department shall establish a schedule of fees and may collect fees for the inspection of plans and specifications and for the inspection of school buildings, factory-built buildings, recreational vehicles, tramways, ~~or any other facility or structure~~ passenger elevators, and passenger escalators."

Section 4. Section 50-60-106, MCA, is amended to read:

"50-60-106. Powers and duties of ~~municipalities~~ LOCAL GOVERNMENTS. (1) The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the ~~municipal~~ jurisdictional area OF LOCAL GOVERNMENTS shall be the responsibility of the ~~municipalities~~ LOCAL GOVERNMENTS of the state.

(2) Each ~~municipality~~ LOCAL GOVERNMENT may:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state or ~~municipal~~ LOCAL GOVERNMENT building code, and direct the inspection of the buildings during and in the course of construction;

1 (b) require that construction of buildings be in
2 accordance with the applicable provisions of the state or
3 ~~municipal~~ LOCAL GOVERNMENT building code, subject to the
4 powers of variance or modification granted to the
5 department;

6 (c) enter, inspect, and examine buildings or premises
7 as required for the enforcement of the state or ~~municipal~~
8 LOCAL GOVERNMENT building code;

9 ~~(d)~~(d) order in writing the remedying of any condition
10 found to exist in, on, or about any building in violation of
11 the state or ~~municipal~~ LOCAL GOVERNMENT building code;
12 orders may be served upon the owner or his authorized agent
13 personally or by sending by registered or certified mail a
14 copy of the order to the owner or his authorized agent at
15 the address set forth in the application for permission for
16 the construction of the building; any local building
17 department, by action of an authorized officer, may grant in
18 writing such time as may be reasonably necessary for
19 achieving compliance with the order;

20 ~~(d)~~(e) issue certificates of occupancy, permits,
21 licenses, and such other documents in connection with the
22 construction of the buildings as required;

23 ~~(e)~~(f) make, amend, and repeal rules for the
24 administration and enforcement of the provisions of this
25 section and for the collection of reasonable fees, which

1 shall be comparable to fees imposed or prescribed by
2 existing local building regulations; and

3 ~~(f)~~(g) prohibit the commencement of construction until
4 a permit has been issued by the local building department
5 after a showing of compliance with the requirements of the
6 applicable provisions of the state or ~~municipal~~ LOCAL
7 GOVERNMENT building code."

8 SECTION 5. SECTION 50-60-107, MCA, IS AMENDED TO READ:

9 "50-60-107. Certificate of occupancy. (1) A
10 certificate of occupancy for a building constructed in
11 accordance with the provisions of the state or ~~municipal~~
12 local government building code shall certify that the
13 building conforms to the requirements of the building
14 regulations applicable to it.

15 (2) Every certificate of occupancy, unless and until
16 set aside or vacated by a court of competent jurisdiction,
17 is binding and conclusive upon all ~~municipal~~ local
18 government agencies as to all matters set forth, and no
19 order, directive, or requirement at variance therewith may
20 be made or issued by any other state or ~~municipal~~ local
21 government agency."

22 SECTION 6. SECTION 50-60-109, MCA, IS AMENDED TO READ:

23 "50-60-109. Injunctions authorized. (1) The
24 construction or use of the building in violation of any
25 provision of the state or ~~municipal~~ local government

1 building code or any lawful order of a state building
 2 official or a local building department may be enjoined by a
 3 judge of the district court in the judicial district in
 4 which the building is located.

5 (2) This section will be governed by the Montana Rules
 6 of Civil Procedure."

7 Section 7. Section 50-60-302, MCA, is amended to read:

8 "50-60-302. Certification of ~~municipal--and--county~~
 9 LOCAL GOVERNMENT building codes. (1) A ~~county--or~~
 10 ~~municipality~~ LOCAL GOVERNMENT may not enforce a building
 11 code unless the code adopted and a plan for enforcement of
 12 the code have been filed with the department.

13 (2) The department shall set forth rules and standards
 14 governing the certification of ~~municipal-and-county~~ LOCAL
 15 GOVERNMENT building code programs as required in subsection
 16 (1).

17 ~~{3}--A-county-that-adopts-a-building-code-shall:~~

18 ~~{a}--examine--and--approve--or--disapprove--plans--and~~
 19 ~~specifications;~~

20 ~~{b}--issue--and--revoke--building--permits,--licenses,~~
 21 ~~certificates,--and--similar-documents;~~

22 ~~{c}--inspect-buildings;~~

23 ~~{d}--administer-and-enforce-building-regulations-within~~
 24 ~~the--area--of-the-county-not-in-any-municipal-jurisdictional~~
 25 ~~area;--and~~

~~(e) make, amend, and repeat rules for the
administration and enforcement of the county building code
and for the collection of reasonable fees.~~"

SECTION 8. SECTION 50-60-303, MCA, IS AMENDED TO READ:

"50-60-303. ~~Municipal~~ Local government appeal
procedure. ~~(1)~~ If a ~~municipality~~ local government adopts a
~~municipal~~ local government building code, it shall also
establish an appeal procedure by ordinance which is
acceptable to the department.

~~(2) If a municipality does not adopt a code, appeals
on the application of the state building code within the
municipal jurisdictional area shall be made to the
department.~~"

NEW SECTION. Section 9. Extension of authority. Any
existing authority of the department of commerce to make
rules on the subject of the provisions of this act is
extended to the provisions of this act.

NEW SECTION. Section 10. Repealer. Section--50-60-104
SECTIONS 50-60-205, 50-60-501 THROUGH 50-60-515, AND
50-60-601 THROUGH 50-60-607, MCA, is ARE repealed.

-End-

ROLL CALL

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-10

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	✓		
R. J. PINSONEAULT	✓		
TOM BECK	✓		
DOROTHY ECK	✓		
H. "SWEDE" HAMMOND	✓		
ETHEL HARDING	✓		
LES HIRSCH	✓ <i>came late</i>		✓
PETER STORY	✓		
ELEANOR VAUGHN	✓ <i>came late</i>		✓
MIKE WALKER	✓		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-17 Senate Bill No. 284 Time _____

NAME	YES	NO
BRUCE CRIPPEN		✓
R. J. PINSONEAULT		✓
TOM BECK	✓	
DOROTHY ECK	✓	
H. "SWEDE" HAMMOND		✓
ETHEL HARDING		✓
LES HIRSCH	✓	
PETER STORY		✓
ELEANOR VAUGHN		✓
MIKE WALKER		✓
<i>Motion failed</i>	3	7

Rosemary Jacoby
Secretary

Bruce Crippen
Chairman

Motion: Do Pass

STANDING COMMITTEE REPORT

February 17

1937

MR. PRESIDENT

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE BILL** No. **288**

First reading copy (**white**)
color

CLARIFYING APPLICABILITY OF TOWN MEETING FORM OF GOVERNMENT

Respectfully report as follows: That **SENATE BILL** No. **288**

DO PASS

~~XXXXXXXXXX~~

SENATOR BRUCE CRIPPEN

Chairman.