

MINUTES OF THE MEETING  
LOCAL GOVERNMENT COMMITTEE  
MONTANA STATE SENATE

March 5, 1987

The sixteenth meeting of the Local Government Committee was called to order by Chairman Bruce D. Crippen at 1 p.m. on March 5, 1987, in Room 405 of the Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 563: Representative Ted Schye of Glasgow, representing District #18, said he was presenting the bill in answer to a problem brought to his attention by the city clerk from Glasgow. This bill will allow the city clerk to issue duplicate warrants and checks in the same manner as the state auditor with exception of "checks" -- the city does issue checks, but the auditor issues only warrants.

PROPONENTS:

Ramona Tow, City Clerk of Glasgow, stated that statutory authority is necessary to issue duplicate warrants and checks in order to get a clean audit report.

Alec Hansen, lobbyist for the League of Cities and Towns, said this is part of the package presented by the Municipal Clerks, Treasurers and Finance Officers of the state and he urged support for the bill.

Brooks Morin, Administrative Officer for the City of Helena, said he believed it was an excellent housekeeping measure.

QUESTIONS FROM THE COMMITTEE:

Sen. Harding, referring to page 1, line 24, asked if a bond had to be provided for double the amount of the warrant. Karen Renne and Chairman Crippen agreed that a bond was still required, but that page 1, line 24 referred to an exception.

CLOSING: Rep. Schye closed the hearing.

CONSIDERATION OF HOUSE BILL 624: Rep. Mel Williams of Laurel, representing District #85, said the bill was to authorize, at public auctions, the purchasing of items exceeding the \$10,000 limit by increasing the limit to \$25,000, without taking bids. Sometimes at an auction there is an opportunity to make an excellent buy, but at a price over the \$10,000 limit. This would enable cities this option.

PROPOSERS:

Alec Hansen, League of Cities and Towns, said that counties already have this option and said that lines 13 through 17 closely parallel county authority.

Ramona Tow, the City Clerk of Glasgow, felt this bill would give cities more prudent buying power and help them to remain within their budgeting appropriations.

Allen Tandy, Billings City Manager, spoke in support of the bill. (See Exhibit 1)

Chuck Stearns, lobbying for the City of Missoula Finance Office, urged support for the bill.

OPPOSERS:

There were none.

QUESTIONS FROM THE COMMITTEE:

Senator Beck said the codes presently provide a bid stipulation from \$10,000 to \$25,000 and wondered why that hadn't been included in the bill. Rep. Williams said that would broaden the scope of the bill considerably. It was discussed and determined that this was the only amendment the cities really needed in this area, he said.

CLOSING: Rep. Williams closed the hearing. Sen. Walker was assigned to carry the bill in the Senate.

CONSIDERATION OF HOUSE BILL 639: Richard Corne, of Bozeman, representing District #77, said his bill provides for the registration of licensed individuals to be process servers to serve writs of execution. On pages 1 through 4, Sections 1 through 8, new language added to the codes provides for licensing, fees for licensing, bonding requirements, revocation and suspension of their certificates and required proof of service. He said he wished to call attention to an amendment that the House had placed on the bill, requiring the process servers to carry a badge and identification, but no provision had been made for the issuer of these items. He suggested that the Senate Local Government committee amend in that the Clerk and Recorder do that and provide a fee for doing so.

PROPOSERS:

Larry Jent, Attorney from Bozeman, Montana, representing Swanson-Eaton process servers, said the bill does two major

things: It licenses process servers and allows them to serve writs of execution. He said that present statute is unclear and that even the Attorney General will not give a written opinion regarding the serving of writs of execution. The California Codes of Civil Procedure was used as a model in drafting the bill, according to Mr. Jent. He said a writ of execution is a court paper which allows the sheriff to collect a civil court judgment, regarding wages, collect funds from a bank, pick up an automobile, or whatever the judgment stipulates is to be collected. The problem with the sheriff is that he has an ever increasing workload and that the serving of summons falls ever-further behind.

Mr. Myles Eaton was himself cleared by the State Public Service Commission for writs of execution, but was advised by Mr. Jent that an amendment to the state codes was necessary for statutory authorization. He mentioned instances where collection of judgments was delayed because the sheriff's office was busy, and by the time the writ could be served, the money and/or car were out of town. Time is very important in this area, he said. The service does not cost government any more money, and in fact provides jobs -- three in Gallatin County at present, and many more if process servers are allowed to be licensed and recognized, he felt. He supported the amendments suggested by Rep. Corne. The "levying officer" referred to in the bill is the process server, said Mr. Jent, and he suggested that the Clerk of the District Court be named to license.

Greg Jackson, lobbyist for the Montana Clerk and Recorders, Association, said he had prepared amendments for Karen Renne, committee legal researcher, to distribute later in the meeting. They would change the "Clerk and Recorder" to the "Clerk of District Court", where it is more appropriate. Secondly, they would say the fees to the District Court Fund, or if there is no District Court Fund, it would go to the General Fund. Thirdly, p. 4, Sec. 7 the suspension stipulation would be assigned to the County Attorney rather than the County Clerk and Recorder. Fourth, p. 4, Sec. 7, (3) the county attorney shall notify the clerk of district court of suspension, revocation or reinstatement. (Refer to EXHIBIT 2.)

Gary Dupee, owner of Guard Process Servers here in Helena, spoke in favor of the bill, but felt it should include something about testing or examinations for the process servers. He felt the licensing should require more stringent requirements. He felt the amendment requiring a badge should be amended out since private investigators are not allowed to carry badges.

OPPONENTS:

Tom Harrison, lobbyist for the Montana Sheriffs' and Peace Officers' Association, said he is not really an opponent of the entire bill but had some problems with the badge, which he thought there might be some confusion because the badge would be "deceptively similar" to those carried by peace officers. He had empathy for collecting on small judgments, but said on the other end of the scale, there are judgments for large sums i.e. he had one for \$75,000. He felt the bonding requirement of \$2,000 inadequate for levying on a bond for \$75,000 or even more out of a bank account. He is worried there would be temptation for the process server to take off to Acapulco. Further, if the process server disappears after the judgment has been collected, where does that leave the plaintiff.

Clayton Bain, Chairman of the Board of Private Investigators, and Director of the Montana Peace Officers' Training Council, strongly objected to the amendment made in the House whereby a badge would be issued.

QUESTIONS FROM THE COMMITTEE:

Sen. Beck asked if the private process servers would collect the same fees for their services set by statute. He felt the fees charged by the sheriff were quite low and wondered about the advantage of using private process servers. Mr. Jent said the fees would be either the same or very little higher, but that collecting the judgment was a timely matter and that the sheriff didn't always have time to do it when it was most critical.

Sen. Pineseault asked how Mr. Jent felt about the possibility of a process server absconding with "\$75,000" and taking off for "Acapulco." Mr. Jent agreed that the bonding requirement should be commensurate with the judgment.

Sen. Pineseault asked how a process server was instructed in the exact piece of property on which to levy. Mr. Jent said the lawyer gives a praecipe (instruction) to the levying officer, which gives exact instructions. This is also a requirement when asking the sheriff to levy. Mr. Jent said it is the lawyer's responsibility to know which properties are exempt from execution, such as a Workers' Compensation settlement.

Sen. Harding asked if the Clerks of District Court had been consulted about being named in this bill. Tom Harrison said it was his understanding that the amendment was made with their approval and that the writs would also be issued by them.

Sen. Walker asked if there would be any objection to raising the bonding authority. Mr. Harrison agreed that it should be done.

Sen. Crippen asked if amending out the badge would be agreeable to the sponsors. Rep. Corne said he had no objection.

Sen. Crippen asked who would have the legal responsibility for writs served. Rep. Corne thought it could be placed in the hands of the Department of Commerce and creating a licensure board, but they didn't want to do that at this time. They wanted some time to test out the system.

Myles Eaton said he trains his own process servers to read a praecipe. His firm does extensive research and has a 95% success rate and has even served when the sheriff has been unsuccessful, he said. The servers are thoroughly instructed on what they can and can't do. As to the writs, he said they have requests from banks to collect writs of execution. The process server presently doesn't have the authority, and the sheriff may not have time to do it. He said he learned by experience and that an exam is not required at present. He said that his firm presently does business with 50-60% of the Bozeman attorneys, as well as for attorneys in Missoula, Billings and in Helena. His firm is able to complete the service faster and charge exactly the same fees as the sheriff would, he said. He agreed there should be basic rules for training and bonding.

Sen. Vaughn asked what type of training he would suggest and Mr. Eaton said it could be similar for licensing to sell insurance. A book can be purchased from the state book store and an exam is then given on the material in the book.

Sen. Beck asked how many private processors there presently are in the state. Mr. Eaton said he only knows of those in his firm - a total of 26.

Sen. Crippen asked specifically how the process servers trained in his firm. Mr. Eaton said the training includes instruction on what can be served: subpoenas, summons, notices, and how it is to be done. They must identify themselves, and must show the original to the person. They must state it is a summons of the District Court or Justice Court. The person must be asked to read the original and then they are handed the copy. Logging must be done on time and date the complaint is received and served. The server must write a history of the serving-- how, what, where, who said what. The attorney must be notified. A new server serves an apprenticeship period when an experienced server goes along until the person

is trained. The process server must follow the proper procedure exactly, or they do not stay in his employ, he said.

CLOSING: Rep. Corne said he hoped the committee would address the proposed amendments and closed the hearing.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 563: Sen. Harding moved that HB 563 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY. Sen. Harding was assigned to carry the bill.

ACTION ON HOUSE BILL 624: Sen. Walker MOVED HB 624 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY. Sen. Walker was assigned to carry the bill.

CONSIDERATION OF HB 734: Rep. Tom Bulger of Great Falls, representing District #37, sponsored the bill, However, he was not present at this portion of the meeting, so the bill was presented by Sen. Story. The purpose of the bill is to provide uniform public notice for public bond sales.

PROPOSERS:

Craig Jones, representing D. A. Davidson, said that House Bill 734 was presented at the request of the House Local Government Committee to allow for a more orderly issuance of obligations to provide proceeds in time to permit funds for construction, while also take construction bids. If the bonding is done before the project, it allows the money to be available, but there is either too little or too much money bonded.

The two-week advertising period will allow for advertising for the bonds and receive the bond proceeds. The time frame will allow them to pay the contractors on time. The 4-week period does not enhance the marketability of the bonds, he said. Also, there should be a savings of taxpayer's money in addition.

Brooks Morin, representing the City of Helena, supported the bill.

OPPOSERS:

There were none.

QUESTIONS BY THE COMMITTEE:

Sen. Eck asked how the Clerk and Recorders would feel about this bill. Sen. Harding thought it would be accepted as a good bill, after hearing Mr. Jones presentation.

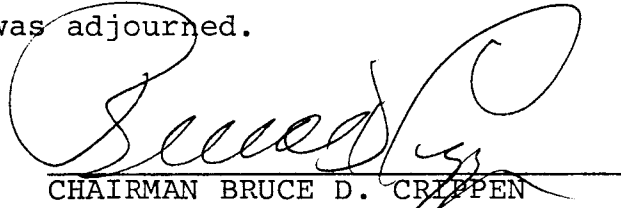
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CLOSING: The hearing was closed by Sen. Story.

EXECUTIVE ACTION ON HOUSE BILL 734:

Sen. Harding MOVED that HB 734 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY. Sen. Vaughn was assigned to carry the bill.

ADJOURNMENT: The meeting was adjourned.



CHAIRMAN BRUCE D. CRIPPEN

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Mar. 5, 1987

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

Each day attach to minutes.



DATE March 5, 1987

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Lamy Dent (Atty)	Swanson - Eaton	HB639	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alan Tandy	City of Billings	HB624 HB 734	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clayton Bain	Board of Private Investigators	HB639	<input type="checkbox"/>	<input type="checkbox"/>
Gary Dupuis	E.A.R.D. Process Serv	HB639	<input type="checkbox"/>	<input type="checkbox"/>
RAMONA TOW	City of Glasgow	HB563	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		HB624	<input checked="" type="checkbox"/>	<input type="checkbox"/>
M. S. EATON	SWANSON - EATON	HB639	<input checked="" type="checkbox"/>	<input type="checkbox"/>
D. Swanson	Swanson - Eaton	HB639	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chuck Stearns	City of Missoula	HB624 <del>HB734</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fred Jackson	MT Clerk & Rec.'s Assn.	HB629	<input type="checkbox"/>	<input type="checkbox"/>
Tom Harrison	MT Sheriff & Peace Officers	HB639	<input type="checkbox"/>	<input type="checkbox"/>
Alec Hansen	MLCT	HB 563 624	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ernest & Betty Ree			<input type="checkbox"/>	<input type="checkbox"/>
Brookes Morin	City of Helena	HB563 HB734	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

(Please leave prepared statement with Secretary)



CITY OF BILLINGS  
ADMINISTRATOR'S OFFICE  
P.O. BOX 1178  
BILLINGS, MT 59103  
PHONE (406) 657-8433

SENATE LOCAL GOVERNMENT  
EXHIBIT NO. 1  
DATE 3-5-87  
BILL NO. HB 624

HOUSE BILL 624

Mr. Chairman, members of the Committee, my name is Alan Tandy, City Administrator for the City of Billings. The City of Billings wishes to express support for the passage of HOUSE BILL 624.

Municipalities should have the same alternatives, in terms of capability to acquire less costly materials at auction, as counties do. Periodically, the City of Billings has need for used equipment which, if we are allowed to spend up to \$25,000 at auction, we could realize potential savings on, compared to the formal bid procedures that are otherwise utilized. This is particularly true during a time of a declining economy for some private sector groups that may be selling equipment.

Please support passage of HOUSE BILL 624.

March 1987

AMENDMENT FOR HB 639

1. Page 1, line 17.

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

2. Page 1, line 22.

Following: "employment:"

Insert: "or"

3. Page 1, lines 23 through 25.

Following: "attorney"

Strike: remainder of line 23 through "investigator" on line  
25

4. Page 2, line 20.

Following: "fund"

Insert: "for district court operations, unless the county  
has a district court fund. If the county has a  
district court fund, the fee must be deposited in that  
fund"

5. Page 2, following line 25.

Insert: "NEW SECTION. Section 4. Training and  
certification of process servers. (1) The Montana  
law enforcement academy shall offer a course of instruction for  
process servers and lawing officers at least twice during each  
calendar year after 1987. Each enrollee who completes the  
course and passes an examination administered by the law

AMENDMENT FOR HB 639

as a trained process server and levying officer.

(2) Upon applying to the clerk of the district court of any county for registration as a process server, an applicant shall apply for admission to the law enforcement academy course described in subsection (1). Failure to enroll in and successfully complete this course within a year after receiving a certificate of registration is grounds for revocation of the certificate.

(3) Each process server who enrolls in the course described in subsection (1) shall pay a tuition fee to the law enforcement academy that is sufficient to pay his share of the costs of offering the course."

Reambers: subsequent sections

6. Page 3, line 2.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

7. Page 3, line 4.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

8. Page 3, line 10.

Following: "POSSESSION"

Strike: "A BADGE"

Insert: "an identification card"

9. Page 3, line 11.

Following: "AND"

Strike: remainder of line 11

10. Page 3, line 12.

Following: "SERVER."

Insert: "The clerk of the district court shall furnish the identification card, the cost of which must be reimbursed by the process server."

11. Page 3, lines 13.

Following: "required."

Insert: "(1)"

12. Page 3, lines 13 and 14.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

AMENDMENT FOR HB 639

19.....

13. Page 3, line 16.

Following: "bond of"

Strike: "\$2,000"

Insert: "\$10,000 per individual or \$100,000 per firm"

14. Page 3, line 17.

Following: "through"

Strike: "8"

Insert: "9"

15. Page 3, following line 18.

Insert: "(2) A levying officer may not levy on a judgment that exceeds the value of the bond."

16. Page 3, line 24.

Following: "section"

Strike: "5"

Insert: "6"

17. Page 4, lines 3 and 4.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

18. Page 4, line 8.

Strike: "clerk and recorder"

Insert: "attorney"

19. Page 4, line 11.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

20. Page 4, lines 16 through 20.

Strike: subsection (3) in its entirety

Insert: "(3) The county attorney shall notify the clerk of the district court when a certificate of registration is suspended, revoked, or reinstated."

21. Page 4, line 25.

Following: "section"

Strike: "4"

Insert: "5"

22. Page 13, following line 25.

Insert: "NEW SECTION. Section 29. Extension of authority. Any existing authority of the department of justice to make rules on the subject of the provisions of this act is extended to the provisions of this act."

# STANDING COMMITTEE REPORT

March 5, 19 87

MR. PRESIDENT

## Local Government

We, your committee on

having had under consideration

House Bill

No. 734

Third reading copy ( blue )  
color

**Bulger (Vaughn)**

## UNIFORM PUBLIC NOTICE FOR PUBLIC BOND SALES

Respectfully report as follows: That

House Bill

No. 734

BE CONCURRED IN

~~XXXXXX~~  
DO NOT PASS

~~XXXXXXXXXX~~  
DO NOT PASS

Senator Crippen

Chairman.

# STANDING COMMITTEE REPORT

March 5,

19 87

MR. PRESIDENT

We, your committee on Local Government

having had under consideration House Bill No. 563

Third reading copy ( blue )  
color

**Schye (Harding)**

**AUTHORIZE ISSUANCE OF DUPLICATE MUNICIPAL WARRANTS AND CHECKS**

Respectfully report as follows: That House Bill No. 563

BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXX~~

Senator Crippen

Chairman.

# STANDING COMMITTEE REPORT

March 5, 19 37

MR. PRESIDENT

We, your committee on Local Government

having had under consideration House Bill No. 624

Third reading copy (blue color)

**Williams (Walker)**

**ALLOW MUNICIPAL PURCHASES AT AUCTION NOT TO EXCEED \$25,000**

Respectfully report as follows: That House Bill No. 624

**BE CONCURRED IN**

**~~XXXXXX~~**

**~~XXXXXXXXXX~~**

**Senator Crippen**

Chairman.