

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

March 10, 1987

The seventeenth meeting of the Senate Local Government Committee was called to order on March 10, 1987, at 1:00 p.m. in Room 405 of the Capitol by Chairman Bruce Crippen.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 549: Representative Mercer, House District #50, said that service districts can be formed for airports if more than 50% of the landowners agree, under this bill. They will no longer be restricted by city boundaries or county boundaries. He said there is some dispute in his county at present, but this bill does not mandate it be done, only allows it if more than 50% of the landowners agree.

PROPOSERS: Gordon Morris, MACo, said this is a bill that was supported by MACo in 1986 and now supports the additional language to include airports.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL 549: Senator Pinsoneault said he had heard from a constituent who had hoped fire districts would be added to the bill, and asked if that had been considered. Rep. Mercer said it had, but was attempting to keep the bill as simple as possible. Mr. Morris said that current statutes provide for them. There is presently one that overlaps from Lake to Missoula County.

Senator Eck asked about the multi-jurisdictional bill passed in 1985. Mr. Morris said it had not been actually used. The intent of that bill had been jails. It was, he said, simply an authority on the books which can be utilized.

Senator Harding asked who requested this legislation. She was told the mayor of the city of Polson, who apparently had been requested by a group of residents. Rep. Mercer, in closing, said the statute was being used to build a library, and it was thought the bill could provide for an airport for Polson. The hearing was closed.

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CONSIDERATION OF HOUSE BILL 579: Rep. Cobb, House District 42, said the bill allows creation of fire service areas and fees for certain rural fire services. He said it is difficult to raise money to support rural fire districts, and this would raise money through the tax system. Section 3 is the heart of the bill, and explains how the fire areas are financed.

PROPONENTS: Lyle Nagel, president of the Montana State Volunteer Firefighters Association, said because it has gotten to be a difficult thing to form a fire district, all the firefighters made a resolution at their convention to solve the problem in this way. Structure fires in rural areas are not addressed in statute. The large landowners have objected to being levied on the land they own, as they might have few structures. He said Senator Story has amendments to the bill and he has no objection to them. Testimony of Lyle Nagel is attached as Exhibit 1.

Ray White, Gallatin County Commissioner, appeared to support the bill but presented several amendments. He strongly disagreed with having the county commissioners run the proposed fire area and explained the amendments. (See Exhibit 2) The subscription fee of \$35 for homes and \$50 for commercial buildings had worked well. However, his fire department had let a non-subscribing home burn down and had been in litigation for 5 years over it. This bill would correct that problem. He proposed a board of trustees to manage the district. He felt the 7% figure was far too much and would allow a small district to get too much in debt.

Tom O'Hara, Cascade County Rural Fire Coordinator from the Cascade County Sheriff's department, feels this is needed even if it may put him out of a job. There are two types of fires - wild land and structure. State law pretty well takes care of the wild land fires, but the structure fires need to be addressed, the cost and safety in particular. The money that is available is used to keep the doors open on the fire houses instead of buying helmets and boots. The money must be provided for to eliminate possible death or injury to the volunteer firefighters. Henry Lohr, Montana State Volunteer Firefighters Association, urged passage of the bill.

OPPONENTS: There were no opponents.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL 579: Senator Story distributed amendments to the committee, which are attached as Exhibit 3. He said he felt the fire area should be established by petition and proposed the amendment for that reason and to allow for sparsely populated areas by stipulating a "majority" of property owners, if it is not possible there are 30 to sign a petition. He said that remote property owners may not have any benefit from a fire area as they live too far away from a fire department.

Senator Beck asked how the schedule of rates was determined. Mr. White said a budget is drawn up and that is divided by the number of households. In his fire district the fee is \$35 and it is \$50 for commercial structures. In a sparsely populated area it can run as high as \$100 per year. If a department becomes indebted, a debt retirement has to be worked out. These set fees are considerably less than what a rancher pays on a tax district because a tax district takes in cattle, machinery, bare land, etc.

Senator Beck said in his district the property owners are not taxed for cattle, machinery, or bare land, but for the structures that need fire protection. He asked what was the difference between this bill and present statute. Mr. White said this bill is very close to present day law, but he objected to the provision of the county commissioners running the fire area.

Senator Walker said as a point of interest, the professional firefighters in Great Falls are allowed to contract out and fight fires within 5 miles of the city limits. However, liability is a problem and also directions can be confusing.

Senator Beck asked if the cost for this bill would be collected by taxes. Mr. White said it would be levied.

Senator Eck said a \$10 limit on county fees had been passed by the legislature, and wondered if this would be in conflict with that law. It was the consensus it would not.

Senator Story asked Senator Beck what law his fire district used providing for fees on the structures only. Senator Beck said he didn't know. Karen Renne, staff researcher, said Powell County might be deviating from statute.

Senator Hammond felt the law should be broadly written so different districts could handle their own problems in the best way for their areas.

Senator Eck said Burlington Northern did not pay to fire districts but would pay bills submitted to them. She thought this might have to be taken into consideration.

Rep. Cobb said he knew there were some problems with the bill and hoped they could be worked out. He closed the hearing.

Chairman Crippen suggested everyone with amendments meet with the staff researcher, work out the amendments and bring them back to the committee for action.

CONSIDERATION OF HOUSE BILL 783: Rep. Brandewie of Bigfork, District 49, said this bill was to repeal a bill he had sponsored in a previous session that had proved confusing. He had promised to repeal it if it did not turn out well, and he was doing just that. He presented a letter from the office of the Valley County Attorney which explained the problems in the law. (See Exhibit 4)

PROPOSERS: Robert Holding, Montana Association of Realtors, agreed with Rep. Brandewie, and supported the bill.

Bill Spilker, Helena realtor, said the law has been unclear and confusing to county officials. Even the Attorney General wouldn't issue an opinion on what was "appropriate" and "suitable". Good intentions turned out badly.

Gordon Morris, MACO, thanked Senator Story and Rep. Brandewie for their part in undoing a confusing law.

OPPOSERS: There were no opposers.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL 783: None.

Rep. Brandewie closed the hearing.

DISPOSITION OF HOUSE BILL 783: Senator Story moved that House Bill 783 BE CONCURRED IN. The motion PASSED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL 612: Rep. Roth, Billings, House District 96, said the bill requires if a county water or sewer district is dissolved, the assets be given to the owners of land within the district, the same percentage of the assets as the owner's land is a percentage of the total district area.

PROPONENTS: Bruce Restad, General Manager of the Yellowstone County Water District of Billings Heights, and a member of the Montana Rural Water Systems Legislative Committee, appeared before the committee presenting Exhibit 5.

Discussion on reimbursement followed and Chairman Crippen felt an amendment might be necessary.

Senator Beck asked if much money was involved in this land, and Rep. Roth replied no.

Chairman Crippen asked if these water districts are ever purchased by the city. Restad said the city of Billings had purchased some.

Senator Hammond said many times rural water districts are taken over by other districts. He asked if they were required to provide a better water system. He also wondered if the city would have to buy out a district if the land is taken into the city.

Chairman Crippen asked Karen Renne to research possible amendment of the bill and report to the committee.

Representative Roth closed the hearing.

EXECUTIVE SESSION:

DISCUSSION ON HOUSE BILL 549: Senator Harding said in her county there are 3 airports. She felt this bill resulted from a disagreement between Ronan and Polson regarding airport improvements. She said because there is more valuation and more population, Polson would probably have an advantage. The airport bond deals with funding for all three airports. This bill would create a district around Polson, but might have an effect on St. Ignatius. The bill came to be because of Polson's airport attempting to enlarge.

Chairman Crippen felt all parties involved should have a meeting with Karen Renne to see if amendments are needed. No action was taken.

ACTION ON HOUSE BILL 639: Karen Renne distributed amendments on House Bill 639, Exhibit 6, stating they refer to training, identification, bonding and clerk of district court provisions.

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Senator Beck felt in connection with the training, it should be amended to read "at least" 8 hours of training. Chairman Crippen moved it to say just "a course of instruction". The motion CARRIED UNANIMOUSLY.

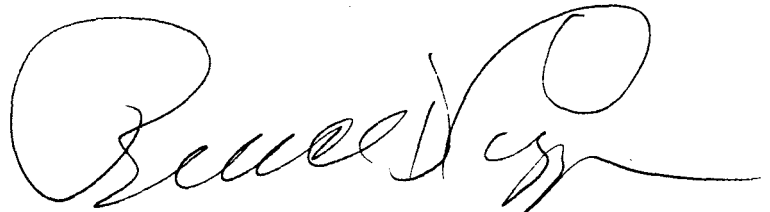
Regarding a fee for the course of instruction, Senator Hammond moved that the fee should cover the cost of the instruction. The motion CARRIED UNANIMOUSLY.

Discussion was held in committee concerning bonding requirements for a process server. Senator Pinsoneault moved to require \$10,000 bonding per process server, or \$100,000 per firm. The motion CARRIED.

Senator Eck moved the Corne amendments (Exhibit 6) be adopted. The motion CARRIED UNANIMOUSLY.

Senator Pinsoneault moved House Bill 639 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senators Harding and Hammond voting no. Senator Pinsoneault was assigned to carry the bill in the Senate.

ADJOURNMENT: There being no further business, the meeting adjourned.

A large, stylized handwritten signature in black ink, likely belonging to Senator Bruce D. Crippen, is written over a horizontal line.

SENATOR BRUCE D. CRIPPEN, Chairman

ry

ROLL CALL

Senate Local Government

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Mar 10, 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.

(March 10

Local Government

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

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

NAME: DM O'HARA DATE: 3-10-87

ADDRESS: 325 2ND AVE NO. GT. FALLS.

PHONE: 761-6842

REPRESENTING WHOM? CASCADE COUNTY RURAL FIRE

APPEARING ON WHICH PROPOSAL: HB 579

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: SUPPORT OF THIS BILL WILL PUT THE BURDEN
OF THE FIRE COMPANIES ON THE BACKS OF THOSE
RECEIVING THE SERVICE.

SOBELY OVERLOOKED SAFETY EQUIPMENT DUE TO USING
ONLY FUNDS GENERATED VIA DONATIONS TO KEEP
FIRE HOUSE DOORS OPEN COULD THEN BE PURCHASED.

THIS ADDRESSES THE STRUCTURAL FIRE SIDE OF
THE HOUSE WHICH IS THE MOST COSTLY AND NO
STATE PROGRAM HELP AID THESE COSTS.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Lyle Nagel Simms President
Lyle Hacke Libby Vice President at Large
Art Korn Butte Secretary-Treasurer

Tom Wood
Paul Krahn
Chuck Gray
Richard N. Clements
Garry Adams
Kenneth Connor
Tom Southland
Jesse Schell

Libby
Hamilton
Belt
Sheridan
Malta
Big Timber
Scobey
Plevna

Vice-Pres. Dist. #1
Vice-Pres. Dist. #2
Vice-Pres. Dist. #3
Vice-Pres. Dist. #4
Vice-Pres. Dist. #5
Vice-Pres. Dist. #6
Vice-Pres. Dist. #7
Vice-Pres. Dist. #8

Montana State Volunteer Firefighter's Association

From the Office of
Lyle Nagel, President, Lobbyist

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 3-10-87

BILL NO. HB 579

House of Representatives
Local Government Comm.

Feb. 9, 1987

RE: HB. 579

Committee Members:

H.B. 579 came to be introduced because of a resolution that was introduced to, and passed by unanimous vote at our annual convention held in Dillon Mt. June 5,6,7, 1986. The purpose of the resolution was to have our assn. introduce a bill that would provide for funding of fire protection based a fee system assessed on structures on the property.


7-33-2202 (1) (b) and 7-33-2311 MCA. provide the means by which volunteer fire companies in unincorporated and rural areas may be established.

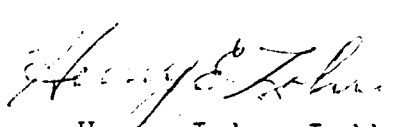
7-33-2209 MCA. provides a means by which county commissioners may fund fire protection for range, farm and forest land. Also, a cooperative agreement with the Dept. of State Lands may be signed by the county commissioners. This results in at least some of the counties having access to some state owned wildland fire fighting equipment.

Nowhere in the statutes is there a provision for funding fire protection for improvements in rural or unincorporated areas. H.B. 579 would remedy this problem. There is one way to provide this protection and that is by forming fire districts under 7-33-21 MCA. This has proven to be impossible in areas where there are large farms or ranches with one owner. Under the present statutes they control enough land to prevent the forming of fire districts.

The increase in rural subdivisions has added greatly to the problem. This property needs some way to fund fire protection and H.B. 579 will provide that protection.

The Mt. State Volunteer Firefighters Assn. ask you to please support H.B. 579.


Lyle Nagel, Lobbyist


Henry Lohr, Lobbyist

Dedicated to the Betterment of the Fire Fighting Service

It is not what this Association is doing for you, but what are you doing for the Association

Ray White

EXHIBIT NO. 2
DATE E. 4. 2 3-10-8
BILL NO. HB 579

HOUSE BILL 579

Amend Line 22, Page 1

Delete - Pass a resolution of intent to form the area

Add - Section (2), paragraph (a) - The Board of County Commissioners shall pass a resolution of intent upon presentation of a petition in writing signed by the owners of 50% or more of the property owners of the proposed Fire Service Area.

Add line 2 Page 3 - Any assets remaining after all indebtednesses have been satisfied shall be returned to the owners of property within the area.

Add to Section (3) - Whenever the board of County Commissioners have established by resolution of a Fire Service Area, they shall appoint 5 qualified trustees to govern and manage the affairs of the area.

"Powers and duties of trustees" (1) The trustees shall prepare and adopt suitable bylaws.

(2) The trustees shall have the authority to provide adequate and standard firefighting apparatus, equipment, housing, and facilities for the protection of the district. They shall appoint and form fire companies that shall have the same duties, exemptions, and privileges as other fire companies.

(3) The trustees shall prepare annual budgets and request special rates therefor. The budget laws relating to county budgets shall, as far as applicable, apply to fire areas.

"Details relating to board of trustees of fire service areas"

(1) The five trustees initially appointed by the county commissioners shall hold office until their successors are appointed.

(2) The term of office shall be 3 years beginning at the first district meeting following their appointment and continuing until

E-42, p. 3
3-10-87
HB 579

their successors are appointed and qualified. Appointments to fill vacancies shall be made by the county governing body.

(3) The trustees shall organize by choosing a chairman and appointing one member to act as secretary.

Line 2, Page 4 - delete board of county commissioners and add board of trustees of fire service area.

Line 6, Page 4 - delete assessed and add taxable

Senate Committee on Local Government

March 10, 1987

AMENDMENT TO HOUSE BILL 579
(requested by Senator Story)

1. Page 1, line 15.

Following: "(1)"

Strike: "The"

Insert: "Upon receipt of a petition signed by at least 30
property owners of the proposed service area, or by a
majority of the property owners if there are no more
than 30 property owners in the proposed service area,
the"

DATE 3-10-87BILL NO. 1-6-87

OFFICE OF COUNTY ATTORNEY
VALLEY COUNTY
P.O. BOX 1187
GLASGOW, MONTANA 59230

DAVID L. NIELSEN
COUNTY ATTORNEY
(406) 228-2404

KENNETH L. OSTER
DEPUTY COUNTY ATTORNEY
(406) 228-9015

February 27, 1987

Mr. Ted Schye
Capitol Station
Helena, Montana 59601

RE: Repealer of House Bill 791
1985 Session

Dear Ted:

The purpose of this letter is to discuss reasons for the support of the repealer which you have presented in the 1987 Session of House Bill 791, also known as Section 1, Chapter 579, Session Laws 1985.

This statute required counties to review all divisions of parcels of land 20 acres or larger for the purpose of determining whether suitable access and easements were available for the providing of services to that divided land.

The problems which I see with the law and the need for a repealer are as follows:

- 1) It appears that the initial law was intended as a consumer protection device so that people who purchased land could rely upon the information in the Clerk and Recorder's office to determine whether services were provided to that land. If this is the purpose, it seems to me that a really frugal person who was concerned about whether he is going to have school buses available to his land, utility easements, etc., would either go to the school district or the utility company to find out if there is such an easement rather than relying upon an oversimplified statement appearing on the prior recorded deeds contained in the Clerk and Recorder's office.
- 2) The act talks about access and easements. Upon the first reading we thought this only applied to roads, but in reviewing the legislative history it appears that the intent was to include easements for utility services as well as easements for roads. This becomes

Repealer

Mr. Ted Schye
Re: Repealer of
House Bill 791
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a near impossible task to approve any division of land and guarantee that there will be access and easements for not only roads but also for all other utility services which would include water, sewer, electrical, gas, and telephone.

- 3) The Attorney General in Opinion 43, found in Volume 41, held that it is up to the land owner to request a review through the submission of an application. If the applicant does not ever file the request for review, the governing body does not have to take the initiative to complete the review but rather the deed is just not recorded until this application is filed. He further noted that the governing body does not proceed with an independent review on access suitable of determination until this application is filed. This, of course, would delay the recording of deeds and could be of some concern in land transactions where it is the desire of the parties and especially of a lender that the deeds and mortgages all be recorded near simulataneously to ensure a clear title to the purchasers with no intervening liens or encumbrances.
- 4) The new law requires that a copy of the determination of the review is to be reflected on the certificate of survey or deed of conveyance. We are not clear as to what happens to the original of the determination. If only a copy is put on the record, I am not sure whether the original goes back to the landowner or should be filed in the minutes of the County Commissioners. Allowing a copy to be filed is a little inconsistent with recording laws where the general principal is that you record the originals. I do not know if copies mean a machine reproduced copy or a carbon copy, or whether the copies should be signed by one of the County Commissioners and attested to by the Clerk and Recorder. Additionally, we are not clear on how this determination is to "be reflected" on the face of the certificate of survey or deed of conveyance. When a deed comes in, it usually does not leave ample space to put in that sort of determination on the face of the document. I assume that if we attach it to the document as an appendix that this might be suitable.

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- 5) The law further provides that the governing body may upon application redetermine the suitability and if there is a new determination made then a copy of that redetermination is given to the Clerk and Recorder who reflects that on the certificate of survey or deed of conveyance. The practical problem with this is when a deed is recorded only a microfiche copy is kept and the original is returned to the owner. Thus it is at this time physically impossible to place a copy of any redetermination upon the face of the microfiche picture of the original. Even worse than this, in talking to other attorneys we are somewhat taken aback by a legal mandate that the Clerk and Recorder is to make changes upon recorded documents. One of the basic premises of our recording system is to make a permanent record of transactions which are unalterable by anyone for any purpose. This law allowing changes to be made upon recorded documents flies in the face of the historical assurances that recorded documents can never be altered or tampered with.
- 6) The present law does not make any reference to contracts for deeds. Thus we do not know if the determination is made at the recording of the contract for deed or if the determination need not be made until the contract is paid off and the deed is submitted for recording.
- 7) The law provides that the governing body must review the application within 35 days of submission. If this review is not completed within 35 days, is the deed automatically recordable or is this simply a malfeasance of office for the governing body?
- 8) It is not clear as to what point in time we look to determine if there is a "division of land." I am not sure whether we look at the date of the Subdivision Act which is 1973, or the new Act which is 1985. One of the problems which comes about is that land through time is combined with other parcels and included in other descriptions and then later is subdivided again. For a hypothetical, let me propose the following. Assume a purchaser bought four different quarter sections from four different sellers and ended up with 640 acres of contiguous land. If that buyer later sold

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to two different purchasers 320 acres, would that constitute a division of land? If on the other hand, the seller sold all 640 acres and subsequently his purchaser sold one of the 320-acre parcels, is that a division of land? When we talk about a division of land we have to look at what point in time there was a division made. If we use the rule that it is the smallest division which ever existed before the Subdivision Act or before 1985, then on all land transactions we would have to go back and find out if that land had ever been divided into a smaller or equal sized tract to the one being proposed for sale. I believe you can understand the difficulty in trying to make this determination.

- 9) If the deed is recorded and a review has not been made, is that deed recording then void, voidable, or of no consequence? The Act does not state.
- 10) Another problem which we have encountered in Valley County and in my discussion with many other county attorney they have the same problems, that is determining the legality of even our county maintained roads. It appears that in early 1900's many road petitions were presented in mass to the County Commissioners to determine roads to be opened. Petitions were presented and the Commissioners in the minutes then "opened" certain roads. The practical problem is that no one ever obtained easements or rights-of-way or some sort of public dedication for these opened roads. As we search the records we find that even the counties do not have any sort of legal title or legal right-of-way on county roads which have been maintained and used by the public for many years. The problem then arises if a determination is to be made as to whether there is access and easement, we end up with two different answers. As a physical practical matter there is an existing road maintained by the county so there is access. As a legal matter since the county never acquired title to the road or any right-of-way or dedication then there is no legal easement. Legally I do not believe the counties have any problem because you can have a public right-of-way by prescriptive use, especially when it is maintained by

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the County Road Department. But to make a determination on a deed that there is easement or access is not reliable. If the county had a road which is based only upon a prescriptive use, if the county discontinues using that road or the public does not use that road anymore and there is a lack of maintenance of that road by the county, there is a high probability that the prescriptive right-of-way would be lost and the road would revert to the original owner. If a determination is made on a deed that there is access and easement based on a prescriptive use, then we would run into the problem of misleading the public if that use is not continued since the road right-of-way would then revert upon nonuse. The basic rule is use it or lose it.

As I discussed with you I believe the Legislature was well-meaning in extending consumer protection to purchasers of parcels of land to ensure that certain basic services were available. However, the practicalities of applying this law are overwhelming. We have researched the law, we have obtained copies of proposed regulations, and we have reviewed the Attorney General's opinion. In reading all of these, we are totally not sure what sort of review we should or could make. We do not want to make a review so difficult that no one can ever obtain a determination of availability of access and easements, but on the other hand, we do not want to have standards so loose that a liberal finding of availability of access and easements becomes misleading to the public.

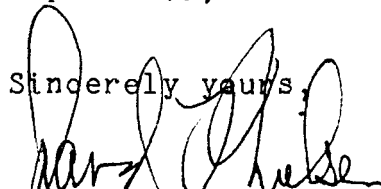
I have tried to think of some way in which the law could be amended to handle some of the problems which I have mentioned. In all honesty I cannot think of any way of patching it up to cure these defects.

Our one experience with utilizing this review process resulted in the seller feeling as if he was being greatly hassled by a county review on a determination that he felt was not necessary. He finally agreed to apply for a determination that there was no access and easement.

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I would encourage the passage of the repealer of House Bill 791, also known as Section 1, Chapter 579, Session Laws 1985.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'David L. Nielsen', written over the typed name.

David L. Nielsen

DLN:bg
cc: Swede Hammond
County Commissioners

DIRECTORS

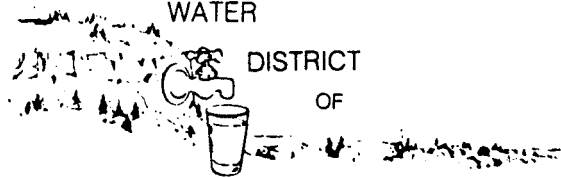
JIM HURRY, Pres.
DEL JONES, V. Pres.
ROBERT LINDSEY
REX MARQUARDT
VIC REICHENBACH
GORDON SLOVAP
DOROTHY TIMMERMAN

COUNTY

WATER

DISTRICT

OF



BILLINGS HEIGHTS

BRUCE RESTAD
GENERAL MANAGER
JUDY WEIS
SECRETARY

TELEPHONE 252-0539

618 RADFORD SQUARE, BILLINGS, MONTANA 59105

My name is Bruce Restad. I am a member of the Montana Rural Water Systems Legislative Committee and General Manager of the County Water District of Billings Heights.

Two years ago HB483 was introduced and passed. This bill addressed the problem of desolving a County Water or Sewer District. Until that time no provisions to deal with this problem existed.

It has come to our attention that in Section 7-13-2351 Number 5 MCA, any assests of the District after dissolution would be distributed to the General Funds of the Counties in which the District was located.

The County Water District of Billings Heights, as other Districts in the state, was formed by selling bonds with the understanding that revenue from the sale of water would be used to retire the bonds and fund capital improvements within the District. The land owners within a water or sewer district have built the system and therefore if they choose to sell the system the proceeds should go to the people that have been responsible for the creation and continued operation of the system.

Therefore we respectfully request that House Bill 612 receive a Do Pass reccommendation from this committee.

Senate Committee on Local Government

March 10, 1987

AMENDMENTS TO HOUSE BILL 639

(requested by sponsor*) CORNE

*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 an 8-hour course of instruction for process servers and levying officer at least twice during each calendar year after 1987. Each enrollee who completes the course and passes an examination administered by the Law Enforcement Academy must be certified by the Law Enforcement Academy 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."

Renummer: subsequent sections

Ex 6
3-10-87

*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 and 14.

Following: "The"

Strike: "county clerk and recorder"

Insert: "clerk of the district court"

12. Page 3, line 16.

Following: "bond of"

Strike: "\$2,000"

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

13. Page 3, line 17.

Following: "through"

Strike: "8"

Insert: "9"

14. Page 3, line 24.

Following: "section"

Strike: "5"

Insert: "6"

*15. Page 4, lines 3 and 4.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

..

*16. Page 4, following line 7.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

*17. Page 4, line 11.

Following: "county"

Strike: "clerk and recorder"

Insert: "attorney"

*18. 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."

19. Page 4, line 25.

Following: "section"

Strike: "4"

Insert: "5"

20. 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."

*Amendment requested by the Montana Clerks and Recorders
Association; sponsor concurs

STANDING COMMITTEE REPORT

SCR05639

MARCH 10, 1987

MR. PRESIDENT

Local Government

We, your committee on

House Bill

639

having had under consideration

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reading copy (color)

No.

PROVIDE FOR REGISTERED PROCESS SERVER

Respectfully report as follows: That House Bill No. 639
 BE AMENDED AS FOLLOWS:

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 levying officers at least twice during each calendar year after 1987. Each enrollee who completes the course and passes an examination administered by the law

XXXXXX

XXXXXX

CONTINUED

Chairman.

March 10,

81
19

enforcement academy must be certified by the law enforcement academy as a trained process server and levying officer.

(12) 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.

(13) 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."

Numbers: 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"

CONTINUED

March 19,

87

10

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 16.

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: "count,"

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 14 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 23.

Following: "section"

Strike: "4"

Insert: "5"

22. Page 13, following line 13.

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."

AMENDS AMENDED,
 BY CONCURRING IN

Senator Crippen

STANDING COMMITTEE REPORT

March 10 1987

MR. PRESIDENT

We, your committee on Local Government

having had under consideration..... House Bill No. 783

Third reading copy (blue)
color

Brandewie (Story)

LIMITS REVIEW FOR ACCESS TO DIVISIONS OF LAND

Respectfully report as follows: That..... House Bill No. 783

BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~

Senator Crippen

Chairman.