

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Darko, on January 10, 1989, at
3:00 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council

Announcements/Discussion: Bill Summary prepared by Lee and
Bill Status Sheets in front of journal.

HEARING ON HOUSE BILL 67

Presentation and Opening Statement by Sponsor: Rep. Stella
Jean Hansen, District 57, stated that HB 67 would allow
county government to incorporate a resolution adopting
a summary budget into the minutes. The actual budget
would accompany the resolution but would not have to be
printed into the minutes.

List of Testifying Proponents and What Group They Represent:

Chuck Stearns, Finance Director and City Clerk,
Missoula
Alec Hansen, Montana League of Cities and Towns

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Chuck Stearns, Finance Director and City Clerk, Missoula,
testified that the City of Missoula would not have to
go to the expense of printing the entire budget into
the minutes if this bill was passed. The resolutions
would be printed into the minutes verbatim but the
official budget document would be kept at the City

Clerk's office. Mr. Stearns stated that a small change may be necessary to assure that the entire budget would be kept on file with the Clerk. He suggested an amendment clarifying it. Exhibit 1.

Alec Hansen, League of Cities and Towns, stated that the League was in favor of HB 67.

Questions From Committee Members: None

Closing by Sponsor: Rep. Hansen offered the amendment for consideration and asked for support for this change.

DISPOSITION OF HOUSE BILL 67

Motion: Rep. Hansen moved that HB 67 DO PASS. Rep. Wyatt seconded the motion.

Discussion: Rep. Brooke asked Lee to please read the amendment.

Amendments and Votes: Rep. Wallin moved that the amendment as drafted be adopted. Rep Good seconded the amendment. The motion CARRIED unanimously.

Recommendation and Vote: Rep. Hansen moved that HB 67 DO PASS AS AMENDED. Rep. Nelson seconded. It CARRIED unanimously.

HEARING ON HOUSE BILL 68

Presentation and Opening Statement by Sponsor: Rep. Stella Jean Hansen, District 57, stated that the bill would increase the length of the audit contract from 3 years to 5 years without the cost of rebidding the contract.

List of Testifying Proponents and What Group They Represent:

Chuck Stearns, Finance Director and City Clerk,
Missoula
Alec Hansen, Montana League of Cities and Towns

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Chuck Stearns, City of Missoula, testified that the Governmental Accounting Office published a report suggesting that public audit contracts be increased to five years from the present three years in an effort to save costs of rebidding and to take full advantage of the auditors' familiarity with the work. Exhibit 2.

Alec Hansen, League of Cities and Towns, stated that the League supports the bill for the same reasons cited by Mr. Stearns.

Questions From Committee Members: Rep. Gould asked Mr. Stearns how complicated it is for the city to get out of a contract if they are not pleased with the auditor's work. Mr. Stearns stated that the standard City of Missoula contracts contain termination clauses. He was unsure of the exact termination clause but said that he would get the information for Rep. Gould.

Rep. Wallin asked Mr. Stearns if he would object to an amendment stating that the contracts would continue to be for three years but with the option to increase the contract another 2 years without bid. Mr. Stearns said that would be acceptable.

Closing by Sponsor: Rep. Hansen asked committee members for their support of this bill.

DISPOSITION OF HOUSE BILL 68

Motion: Rep. Hansen moved that HB 68 DO PASS. Rep. Guthrie seconded.

Discussion: Rep. Wallin asked that the committee consider an amendment stating that the contract can be extended for another 2 years without rebidding. Lee Heiman read the amendment.

Amendments and Votes: Rep. Wallin moved that HB 68 be amended. Rep. J. Brown seconded. The motion to amend CARRIED unanimously.

Recommendation and Vote: Rep. Good moved that HB 68 DO PASS AS AMENDED. Rep. Johnson seconded. The motion CARRIED unanimously.

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor: Rep. Jerry Driscoll, District 92, stated that HB 58 would allow the county commissioners to forgive property taxes due on a business to facilitate the sale of the business after a public hearing, with certain restrictions. There is presently no provision to forgive such taxes. Special improvement districts would not be affected since they are assessments rather than taxes. The bill provides for one hearing for all taxes involved. Mr. Driscoll said there is one drafting problem with the notice section and he has prepared amendments. Exhibit 3.

List of Testifying Proponents and What Group They Represent:

Kay Foster, Billings Chamber of Commerce
Dennis Rehberg, House District 88
Don Ingels, Montana Chamber of Commerce
John Lawton, City of Billings
Tom Hopgood, Montana Association of Realtors
Bruce MacKenzie, D.A. Davidson & Co.
Alec Hansen, Montana League of Cities and Towns
Bill Verwolf, City of Helena
Chuck Stearns, City of Missoula
Gregg Groepper, Office of Public Instruction

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Kay Foster testified that the Billings Chamber has worked throughout the past year to develop some legislation that would be beneficial in the possible re-opening of packing plants in the Billings area. HB 58 represents a joint effort of their business community, Billings labor, representatives of the city, county and school districts. It would remove one of the initial impediments that investors face in reopening closed businesses. Exhibit 4.

Dennis Rehberg, House District 88, stated that he is in support of this bill because it would eliminate some encumbrances on property that prevent others trying to re-open the plants.

Don Ingels, Montana Chamber of Commerce, added their support for HB 58.

John Lawton, Assistant City Administrator, City of Billings, stated that the City Council supports this bill because of the numbers from Pierce Packing (\$975,000). A lien from Economic Development Administration adds another \$2.2 million. The packing facility has taxes due dating back to 1979. The question is now before Bankruptcy Court and no one is sure who will receive monies from their liens on the property. The EDA would like to auction the property with them receiving first place for funds, which would mean that the county would never realize much, if any, of their taxes due on the plant. He felt that the legislation might have benefited the plant in its attempt to re-open a few years and it may still be operating today had they been able to experience the benefits of this bill. He felt that the bill may prevent such losses in the future if it is used properly. It is another tool to keep the business that is already present in a community plus attract new businesses.

Tom Hopgood, Montana Association of Realtors, testified that every realtor is aware of good commercial property that cannot be sold because of the back taxes due on the property. The result is the property sits idle when it could be employing people and creating tax revenue for the various governmental entities. They feel that the bill is good for government, business and for realtors.

Bruce MacKenzie, General Counsel, Vice-President, D.A. Davidson & Co., stated that they were in favor of any bill that would provide municipalities with flexibility with respect to tax collections, especially in the area of tax collections and the sale of property. The one concern they have has to do with SID assessments as addressed by Rep. Driscoll. Section 11, subsection 5 of the bill on page 15 addresses this issue but the wording is not clear. As addressed by others, property with taxes do not sell because of the back taxes due on them. Taxes cannot be waived in many cases because the taxes due are pledged in payment of bonds sold by the community to D.A. Davidson's customers. Revenues are pledged by the city as well as covenanted within the bonds themselves. For the county to unilaterally waive those payments would be a detriment to the bondholders. So long as this bill does not affect the ability to collect and seek re-payment of SID assessments against those properties, they are in favor of the

bill. There is other legislation being proposed enabling counties and cities to sell a property with the first lien in place and move the property and get it back on the tax roll in an orderly fashion.

Alec Hansen, Montana League of Cities and Towns, stated that at their annual meeting in September, a resolution was unanimously passed in favor of the bill. The members recognize that this bill offers the prospect of re-opening some abandoned plants and putting people back to work and going forward with the job that is most important to Montana - rebuilding the economy. It is not just a Billings bill but will work for a lot of cities and towns in Montana. Butte is a fine example that plant closings, etc. is not necessarily the end of the line since Butte is again flourishing with the mines re-opening.

Bill Verwolf, City Manager, City of Helena, indicated the City's support for this bill.

Chuck Stearns, Finance Director, City of Missoula, expressed their support for this bill.

Gregg Groepper, Office of Public Instruction, stated that they have no quarrel with the concept of the bill but they are uncomfortable with the 6 mills and 45 mills provided for in state taxes. It has been a concern in the past with Sections 15-24-1401 and 15-24-1501 and local options taxes. The Tax Committee last session provided some incentives for local government to insure the fidelity of the 6 mills and 45 mills. They would like a mechanism that allows for those same types of incentives and want the language to reflect that.

Questions From Committee Members: Rep. Hansen asked Mr. Lawton if she understood correctly that Pierce Packing is trying to buy the plant again. Mr. Lawton explained that he was simply using their attempt to re-open several years ago as an example of how this bill might have helped them be more successful.

Rep. Wallin asked Mr. Lawton at what point the city takes over the property. Mr. Lawton explained that the county usually takes the property. Technically, it takes four years for the county to take the property but it can speed up that process and try to return the property to the tax rolls rather

than wait the 4 to 5 years and take their chances on payment at a tax sale.

Rep. Wallin asked if after 5 or 6 months their fortunes change and the original owners wanted to come back in business, are they able to take advantage of the tax suspension. Mr. Lawton said that under the provisions of the bill the business must be bought by completely new owners. If the old owners re-opened the business they would still be liable for the back taxes. Rep. Driscoll stated that, at the public hearing, if the county finds that it is not an arms length transaction or it appears that it is simply a re-structuring for the primary purpose of escaping the tax then the county cannot grant the waiver.

Rep. Wallin asked if at the end of three years what is the advantage of re-opening. Rep. Driscoll stated that it would provide jobs for the time that the plant was open. The new person would not get a windfall but be liable for the tax if they closed within three years and possibly lose the property for non-payment of taxes. The taxes would be reassessed with penalty and interest if they closed within three years.

Rep. Hoffman asked what governing body could take such action besides county commissioners and wanted to know what a "consolidated government" was. Rep. Driscoll stated that Butte-Silver Bow or Anaconda-Deer Lodge County.

Rep. Hansen asked Rep. Driscoll if the city or county pursue those back taxes against the old owners. Rep. Driscoll stated that the taxes are against the property, not the people. There is presently no way to pursue the owners other than taking the property and this bill does not provide anything to get those taxes from the old owners.

Rep. Brooke told Mr. MacKenzie that she did not understand whether the bill clearly addresses assessments. Mr. MacKenzie said that he believed that counsel should be sure that the wording be very clear and that he wanted it presented as testimony that it was only intended to affect specific tax sections within the bill itself and not for SID assessments.

Closing by Sponsor: Rep. Driscoll stated that he checked with the Legislative Counsel and it was felt that

SID's, bonded indebtedness and improvements are not taxes, so would not be affected. He did not want the State of Montana's bond rating affected. It would give some control to the community on the local level as to whether or not some properties could be sold and re-opened and get people back to work. It is a tool for local government to try to get some taxes generated from property that is sitting idle.

DISPOSITION OF HOUSE BILL 58

No action taken.

EXECUTIVE ACTION ON HOUSE BILL 22

Motion: Rep. Brooke moved that HB 22 DO PASS. It was seconded by Rep. Good.

Discussion: None

Recommendation and Vote: HB 22 recommended DO PASS unanimously.

ADJOURNMENT

Adjournment At: 3:45 p.m.


PAULA DARKO, Chairman

PD/td

0811.min

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1/10/89

NAME	PRESENT	ABSENT	EXCUSED
DARKO, PAULA - Chair	X		
McDONOUGH, MARY - Vice-Chair	X		
BROOKE, VIVIAN	X		
BROWN, DAVE	X		
BROWN, JAN	X		
HANSEN, STELLA JEAN	X		
JOHNSON, JOHN	X		
STICKNEY, JESSICA	X		
WYATT, DIANA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HOFFMAN, ROBERT	X		
NELSON, THOMAS	X		
REHBERG, DENNIS	X		
WALLIN, NORM	X		

STANDING COMMITTEE REPORT

January 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that
HOUSE BILL 22 (first reading copy -- white) do pass.

Signed: _____
Paula Darko, Chairman

STANDING COMMITTEE REPORT

January 10, 1969

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 67 (first reading copy -- white) do pass as amended

Signed: _____
Paula Darko, Chairman

And, that such amendments to House Bill 67 read as follows:

1. Title, line 7.

Following: line 6

Insert: "CLARIFYING THAT THE BUDGET BE KEPT WITH MUNICIPAL
RECORDS;"

2. Page 2, line 4.

Following: "council."

Insert: "The clerk shall keep a copy of the budget with the
resolution in the official records of the municipality."

STANDING COMMITTEE REPORT

January 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 68 (first reading copy -- white) do pass as amended

Signed: Paula Darko
Paula Darko, Chairman

And, that such amendments to HOUSE BILL 68 read as follows:

1. Title, line 5.

Strike: "5"

Insert: "3"

Following: "YEARS"

Insert: "WITH AN OPTION TO EXTEND THE CONTRACT AN ADDITIONAL 2
YEARS"

2. Page 1, line 17.

Strike: "5"

Insert: "3"

Following: "years"

Insert: "but the contract may be extended an additional 2 years
upon the request of the governmental entity"



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FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT

CITY OF MISSOULA CHUCK STEARNS TESTIMONY ON HOUSE BILL #67

The City of Missoula supports House Bill #67 and would like to thank Representative Hansen for sponsoring the bill. This bill is desired because an issue arose where the City's auditor, in an audit two years ago, said that the City had to enter the entire budget into the minutes of the City Council meeting at which the budget resolution and the tax levy resolution were adopted. We maintained that the clear language of 7-6-4231 (2) MCA indicated that only the resolution had to be entered into the minutes of the meeting rather than our entire 360 page budget document. The auditors maintained that the entire budget had to be entered into the minutes.

We would like this provision of state law to be clarified so that only the budget and tax levy resolutions have to be entered into the minutes of the meeting. The budget resolution contains the individual appropriations of all departments and the summary appropriations of all City funds.

When we met with members of Missoula's legislative delegation to go over some of our proposed legislative issues, Representative Ralph Eudaily wanted to be sure that the budget document is kept with the resolution in the official records of the City. Therefore, if the committee is willing to consider an amendment to the bill, we would propose to add another sentence to sub-section (2) on page 2, line 4 which would read as follows:

- 1 (2) The council shall then by resolution approve and
- 2 adopt the budget as finally determined, and the clerk shall
- 3 enter it the resolution at length in the official minutes of
- 4 the council. The clerk shall keep the budget with the
- 5 resolution in the official records of the municipality.

This addition or similar language would clarify that the budget document as well as resolutions and the minutes be maintained in the official records of the city. Thank you for your consideration of this bill.

EXHIBIT 1
DATE 1/10/89
HB #67

EXHIBIT 2
DATE 1/10/89
HB #68


period of time, to assist in monitoring the audit firm, (3) obtain volunteers from local professional and educational organizations to assist the entity, and (4) communicate with the appropriate RIG about the results of its desk review and possible quality control review of the CPA's audit.

The last example in appendix III illustrates the importance of monitoring contract performance.

Conclusions and Recommendations

As discussed in the previous sections, our analysis of questionnaire responses indicates that there is a strong relationship between procurement and audit quality. It further indicates that entities are much more likely to receive acceptable quality audits when they employ a procurement process that meets the criteria for each of the four attributes as described in this report. However, we believe that entities are not taking steps to ensure that they have an effective procurement process. As a result, entities are almost three times more likely to receive an unacceptable quality audit.

Accordingly, we recommend that entities carefully assess their procurement practices and take actions to include the framework established in this report to better assure themselves of obtaining qualified auditors at a reasonable cost. The following recommendations for improving current procurement procedures are not intended to supercede existing state or local law or regulation. Instead, entities should consider these recommendations in light of their own legal and administrative requirements and incorporate them where feasible. Specifically, we recommend that entities:

- 
- Ensure that at least two audit firms are considered when selecting a qualified auditor. Where feasible, entities should obtain competition in all circumstances, except when exercising renewal options on multiyear contracts.
 - Provide multiyear contracts when possible, preferably for 5 years, to the winning audit firm to benefit from the auditor's learning curve and experience and to take advantage of cost savings associated with not procuring audit services on an annual basis. However, once the contract period expires, entities should rebid to ensure that they receive a qualified auditor at a reasonable price. The entities must also decide whether they will permit their current auditor to submit a proposal for the upcoming audit.

Amendments to House Bill No. 58
Introduced Copy

Requested by Rep. Driscoll
For the Committee on Taxation

Prepared by Jim Lear
January 6, 1989

EXHIBIT 3
DATE 1/10/89
HB #58

1. Page 15, line 2.
Following: line 1
Strike: "due"
Insert: "providing"
Following: "as"
Strike: "defined"
Insert: "set forth"
Following: "in"
Strike: "76-15-103"
Insert: "7-1-2121"



January 10, 1989

TESTIMONY IN SUPPORT OF HB58

My name is Kay Foster. I appear on behalf of the Billings Chamber of Commerce in support of HB58.

The Billings Chamber has worked throughout the past year to develop legislation which would be beneficial in facilitating the possible reopening of two packing plants in the city. HB58 represents a joint effort of the business community, labor, and representatives of our local city, county and school district. It would remove one of the initial impediments which any possible investor faces when assessing the feasibility of operating any Montana plant currently closed and burdened with mounting property taxes. We feel this legislation addresses the concerns of the local taxing jurisdictions while providing some incentive for a major employer to consider a Montana manufacturing location.

Respectfully submitted,

Kay Foster

EXHIBIT 4
DATE 1/10/89
HB# 58

VISITORS' REGISTER

Local Government COMMITTEEBILL NO. 58DATE 1/10/89SPONSOR Driscoll

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
John Lawton	City of Billings	✓	
Chuck Stearns	City of Missoula	✓	
Tom Hoggard	Mont. Assoc. of Realtors	✓	
Don Ingels	MT Chamber of Commerce	✓	
Tony CAMPBELL	Intern MT BOARD Pub. Ed.		
Gordon Munn	MA Co.		
Bruce MacKenzie	D.A. Davidson & Co		
Alec Hansen	CITIES & TOWNS	✓	
Kay Foster	Billings Chamber	✓	
Bill Kennerly	City of Helena	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. 67

DATE 1/10/89

SPONSOR Hansen

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Local Government COMMITTEE

DATE 1/10/89

[illegible]

CS-33