

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Darko, on January 12, 1989, at  
2:20 p.m.

#### ROLL CALL

Members Present: All except:

Members Excused: Dave Brown

Members Absent: None

Staff Present: Lee Heiman, Legislative Counsel

Announcements/Discussion: None

#### HEARING ON HOUSE BILL 91

Presentation and Opening Statement by Sponsor: Rep. Rande Roth, District 96, stated that this bill would allow the county clerks to recover some of their costs when preparing copies and certifying copies of birth certificates, death certificates and other documents.

List of Testifying Proponents and What Group They Represent:

None.

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Cort Harrington, representing the Clerks and Records Association, arrived late. He decided not to request permission to testify.

Questions From Committee Members: None.

Closing by Sponsor: Rep. Roth asked for the support of the committee on this bill.

DISPOSITION OF HOUSE BILL 91

Motion: Rep. Brooke moved HB 91 DO PASS. Rep. Wallin seconded.

Discussion: Rep. Good stated that a lobbyist informed her that death certificates would be hard to obtain with the passage of this bill. Rep. Gould expressed disappointment that the Clerk & Recorders were not represented because he wanted to know how many records are still available at the county level and which are available at the Department of Health. At this point, Cort Harrington from the Clerk & Recorders Association, walked in. Rep. Gould asked Mr. Harrington his question about birth certificate availability. Mr. Harrington stated that the certificates were available at both the county and the state level. The bill would make the cost of obtaining the documents the same at both places.

Amendments and Votes: None.

Recommendation and Vote: The committee voted unanimously that HB 91 DO PASS. Rep. Gould asked that the bill go on the Consent Calendar. Rep. Darko stated it would be recommended that HB 91 be placed on the Consent Calendar since the vote out of committee was unanimous.

HEARING ON HOUSE BILL 105

Presentation and Opening Statement by Sponsor: Rep. Orval Ellison, District 81, stated that this bill would make Montana the first to pass such legislation. This bill would allow a facsimile of a document to serve as the official document for five days when the original would then be placed in the file.

List of Testifying Proponents and What Group They Represent:

Sharon Cleary, Montana Association of Realtors

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Sharon Cleary, MT. Assn. of Realtors, asked that this bill be passed to facilitate real estate transactions in Montana from the beginning through the financing portion and closing. "Fax" transmission of documents is an integral part of all real estate transactions.

Questions From Committee Members: Rep. Stickney asked what a "fax" copy is, and if the term was so widely accepted that no further explanation is needed in the bill. Rep. Ellison answered that the facsimile machine is simply sending a picture over telephone wires. He assured Rep. Stickney that the term is universal.

Closing by Sponsor: Rep. Ellison stated that there is a problem and an amendment might be needed. The amendment would allow the fax document to be filed. If the original is not received within the five day period, the clerk would be able to remove the document.

DISPOSITION OF HOUSE BILL 105

No action taken.

HEARING ON HOUSE BILL 85

Presentation and Opening Statement by Sponsor: Rep. Stella Jean Hansen, District 57, stated that this bill would change the method of opening bids. The bill would allow the city council more latitude in opening bids.

List of Testifying Proponents and What Group They Represent:

Alec Hansen, Montana League of Cities and Towns  
Rep. Diana Wyatt, District 37

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Alec Hansen, Mt. League of Cities & Towns, stated that the League supported this bill. It simply deletes the requirement that the city council set a date and time of a bid opening, that it be posted and mailed two to

three weeks before the actual bid opening. This bill would make the operation of bid openings and city government in general work more smoothly and efficiently.

Rep. Diana Wyatt, District 37, expressed her support for this bill. It shortens the notice requirement in bid opening. It would increase the number and quality of bidders, therefore, it has the potential to save the cities money and time. Great Falls is currently operating as if this bill were already law. Exhibit 2

Questions From Committee Members: None.

Closing by Sponsor: Rep. Hansen asked for the committee's support of this bill and stated that the City of Missoula is also operating as if it were already law.

#### DISPOSITION OF HOUSE BILL 85

Motion: Rep. Wallin recommended that HB 85 DO PASS. Rep. McDonough seconded.

Discussion: None.

Amendments and Votes: None.

Recommendation and Vote: The committee voted that HB 85 DO PASS unanimously. Rep. Good moved that HB 85 be placed on the Consent Calendar. Rep. J. Brown seconded.

#### DISPOSITION OF HOUSE BILL 58

Motion: Rep. Rehberg moved that HB 58 DO PASS. Rep. Jan Brown seconded.

Discussion: Lee Heiman passed out copies of proposed amendments. Rep. Wallin asked about the three year limit which requires that the new owners stay in business three years or the tax is reassessed against the property. Rep. Rehberg stated that the three year limit is an incentive to the new owners. The city or county is not any further behind than they would have been if there was not a new business there. Rep. Good remarked about the difficulty in getting back taxes out of closed businesses. Lee Heiman did not see any particular legal problem with the three year limit.

Rep. Gould commented that the three year limit seemed necessary so that the governing body could be at least attempting to get the property back on the tax roll. Rep. Johnson asked how many times the three year limit be used. Rep. Rehberg stated that it is hoped only once but it can be given on the same property more than once. Rep. Darko felt that the whole process of the bill should be looked at - that the waiver will not be granted without careful thought and a public hearing.

Rep. Hansen asked Rep. Rehberg what would prevent previous owners from buying back the business. Rep. Rehberg stated that the bill does not forgive the indebtedness of the taxes. It simply removes the tax for the new owners. The previous owners cannot be granted the waiver since it would not be an arms length transaction.

Amendments and Votes: Rep. Stickney moved that all three amendments prepared by Mr. Heiman be attached. Rep. Gould seconded the motion. The motion to amend CARRIED unanimously.

Discussion: Rep. Good asked Mr. Heiman if he was satisfied that the amendment would not impact the bond ratings. Lee said the amendment would set the problem to rest 100%.

Motion: Rep. Rehberg moved HB 58 DO PASS AS AMENDED. It was seconded by Rep. Wyatt. The motion CARRIED unanimously.

#### ADJOURNMENT

Adjournment At: 2:55 p.m.



REP. PAULA DARKO, Chairman

PD/TD

1011.min

# DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date

1/2/89

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		

1/12/89

Rep. Parker:

Please vote my proxy for  
Rep. Driscoll's bill # 58 and  
you vote me as you see fit on  
all amendments. Also vote my  
proxy on all other bills in  
the session as you see fit.

Dave Brown

STANDING COMMITTEE REPORT

January 12, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 58 (first reading copy -- white) do pass as amended.

Signed: Paula Darko  
Paula Darko, Chairman

And, that such amendments read:

1. Page 15, line 2.

Strike: "due"

Insert: "providing"

Strike: "defined"

Insert: "set forth"

Strike: "76-15-103"

Insert: "7-1-2121"

2. Page 15, line 11.

Strike: "including"

Insert: "except: (a)"

3. Page 15, line 12.

Following: "20-25-423"

Insert: "; or

(b) assessments made against property for the payment of bonds issued pursuant to Title 7, chapter 12"



STANDING COMMITTEE REPORT

January 12, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 85 (first reading copy -- white) do pass and that it be placed on the CONSENT CALENDAR.

Signed: Paula Darko  
Paula Darko, Chairman

STANDING COMMITTEE REPORT

January 12, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 91 (first reading copy -- white) do pass and that it be placed on the CONSENT CALENDAR.

Signed: \_\_\_\_\_  
Paula Darko, Chairman

RECEIVED  
11/12/89  
105

Amendments to House Bill No. 105  
First Reading Copy (White)

Requested by Representative Orval Ellison  
For the Committee on Local Government

Prepared by Valencia Lane, Council Drafter  
January 11, 1989

1. Title, line 7.

Following: "DOCUMENT;"

Insert: "TO MAKE A PERSON WHO FILES A FALSE DOCUMENT BY FACSIMILE  
LIABLE FOR ANY DAMAGES OCCASIONED THEREBY;"

Following: "7-4-2613"

Insert: ", 7-4-2623,"

2. Page 4.

Following: line 13

Insert: "Section 2. Section 7-4-2623, MCA, is amended to read:

"7-4-2623. Liability of clerk relating to duties as recorder  
-- liability for filing false document by facsimile. (1) A county  
clerk is liable to the party aggrieved for three times the amount  
of the damages which may be occasioned thereby and is punishable  
as provided in this code if the county clerk, as ex officio  
recorder to whom an instrument, proved or acknowledged according  
to law, or any paper or notice which may be recorded by law is  
delivered for record:

(1)(a) neglects or refuses to record such instrument, paper,  
or notice within reasonable time after receiving the same;

(2)(b) records any instruments, papers, or notices untruly  
or in any other manner than as hereinbefore directed;

(3)(c) neglects or refuses to keep in his office such indexes  
as are required by this part or to make the proper entries therein;

(4)(d) neglects or refuses to make the searches and to give  
the certificates required by this part or if such searches or  
certificates are incomplete or defective when such incompleteness  
or defect is due to his direct responsibility particularly  
affecting the property in respect to which it is requested;

(5)(e) alters, changes, or obliterates any records deposited  
in his office or inserts any new matter therein.

(2) A county clerk is not liable under subsection (1) for  
damages that may be occasioned by the filing of a false document  
by facsimile under 7-4-2613(2) if the facsimile document appears  
on its face to be valid and authentic. A person filing a false  
document is liable for the damages occasioned thereby as provided  
in subsection (1)."

Renumber: subsequent section



*The Big Sky Country*

EXHIBIT 7  
DATE 1/12/89  
NO. \_\_\_\_\_

## MONTANA HOUSE OF REPRESENTATIVES

JANUARY 11, 1989

### TESTIMONY

TO LOCAL GOVERNMENT COMMITTEE

DEPENDING UPON THE FREQUENCY OF CITY COUNCIL MEETINGS, THIS AMENDMENT EXTENDS THE FIRST NOTICE TO THE PUBLIC AND THE CONTRACTOR FROM THE POSSIBLY SHORT (2) TWO-WEEKS NOTICE TO UP TO (3) THREE MONTHS.

THEREFORE, THE AMENDMENT POTENTIALLY INCREASES THE NUMBER AND QUALITY OF BIDDERS AND THE PUBLIC'S PARTICIPATION.

AS A MATTER OF POLICY, THE CITY OF GREAT FALLS IS CURRENTLY OPERATING AS IF THIS AMENDMENT WERE LAW, AND HAS BEEN DOING SO FOR SOME TIME.

A handwritten signature in cursive script, reading "Diana Wyatt".  
DIANA WYATT

Local Government COMMITTEE

DATE 1/12/89

SPONSOR ELLISON

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FO  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Local Government COMMITTEE

DATE 1/12/89

SPONSOR ROTH

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HR 85

DATE 1/12/89

SPONSOR HANSEN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR  
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.