

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Darko, on January 24, 1989, at
2:40 p.m.

ROLL CALL

Members Present: All except:

Members Excused: McDonough, Johnson, Rehberg, Wallin

Members Absent: None

Staff Present: Lee Heiman, Legislative Counsel

Announcements/Discussion: Chairman Darko reported that
Executive Action on HB 148 will not be taken because
Rep. Rehberg still has some concerns. HB 105 is still
in sub-committee.

HEARING ON HOUSE BILL 183

Presentation and Opening Statement by Sponsor: Rep. Roth,
District 96, stated that this bill would increase the
number of days from 40 to 120 days in which the county
has to prepare the financial statements at the end of
the year. The financial condition and growth of the
counties make it difficult to prepare the statement.
He also suggested that an amendment be made giving
them 90 which more than doubles the time they are
given at present.

List of Testifying Proponents and What Group They Represent:

Linda Stoll Anderson, Montana Association of Counties

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Linda Stoll Anderson, stated that the bill would give the
counties the same amount of time that is presently

given to the cities. She supported the amendment made by Mr. Roth but felt that it should be left at 120 days.

Questions From Committee Members: None

Closing by Sponsor: Rep. Roth asked for the committee's support.

DISPOSITION OF HOUSE BILL 183

Motion: Rep. Stickney moved HB 183 DO PASS. Rep. Dave Brown seconded.

Discussion: Rep. Dave Brown felt that the counties should be given the same amount of time as a municipal government.

Rep. Hoffman was concerned with why the counties needed more time with computerization. Rep. Good reiterated Rep. Hoffman's concern and also stated that one-third of the next year will have passed before reports are due. It is too long.

Amendments and Votes: Rep. Good moved to amend from 120 to 90 days. Rep. Brooke seconded. Roll call vote was taken. Amendment FAILED 6 to 5.

Recommendation and Vote: HB 183 will be recommended DO PASS with Rep. Brooke, Hoffman, Guthrie, Good and Wyatt opposing.

HEARING ON HOUSE BILL 205

Presentation and Opening Statement by Sponsor: Rep. Barry Stang, District 52, stated that this bill would allow the creation of street maintenance districts in the county. It may not be needed immediately but will be in the near future because of the restraints of I-105.

List of Testifying Proponents and What Group They Represent:

Horace Brown, Missoula County Surveyor
Gordon Morris, Montana Association of Counties
Alec Hansen, Montana League of Cities and Towns

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Horace Brown, proponent, stated that the residents of a district could pay for services that they desire and which the county could not supply because of budget constraints. Loss of revenue to the counties may, in the future, restrict the services that can be supplied to the residents. Maintenance of roads by the county is mandatory. This bill would enable counties to continue providing services in the future.

Gordon Morris, proponent, expressed support for this bill.

Alec Hansen supported the concept of this bill as long as the maintenance districts do not include incorporated municipalities. City residents are presently exempted from paying county road taxes and should continue to be exempted from these taxes.

Questions From Committee Members: None

Closing by Sponsor: Rep. Stang reiterated that the problem arises from I-105 and the city annexing land. He expressed support for the amendment proposed by Mr. Hansen.

DISPOSITION OF HOUSE BILL 205

Motion: Rep. Gould moved the committee DO PASS HB 205.
Rep. Dave Brown seconded.

Discussion: Rep. Gould felt that the problem was with outlying areas and these people realize that they will have to pay for many services. He thinks the act would be used infrequently but it should be available.

Amendments and Votes: Rep. Gould moved the amendment prepared by Lee. Rep. Stickney seconded. The motion to amend PASSED unanimously.

Recommendation and Vote: Rep. Gould moved HB 205 DO PASS AS AMENDED. Rep. Nelson seconded. The vote was unanimous.

HEARING ON HOUSE BILL 160

Presentation and Opening Statement by Sponsor: Rep. Don Stepler, District 21, stated that this bill would make

the county attorney the legal advisor to the county weed district. The weed district is not presently listed as being able to receive legal assistance from the county attorney without cost.

List of Testifying Proponents and What Group They Represent:

Rep. Ted Schye, District 18
Reeves Petroff, Montana Weed Control Association

List of Testifying Opponents and What Group They Represent:

John Connor, Montana County Attorneys Association
Gordon Morris, Montana Association of Counties

Testimony:

Rep. Ted Schye, District 18, expressed his support for this bill because of a situation in Glasgow where the Weed Control District needed some legal work done and was forced to pay for the work even though they are a county entity.

Reeves Petroff expressed his support of this bill because the weed district are a county entity, the county attorney is the legal advisor for the county commissioners and county commissioners appoint Weed Board members. In addition, any action taken by the Weed Board eventually falls back on the county commission.

John Connor, opposed the bill because he believes that, if it is mandated by statute, there will be the potential for a conflict of interest with the Weed Board and the county commissioner. He wanted the Weed Board to hire its own attorney.

Gordon Morris, presented himself as a "No-opponent". He felt that the bill would expand the scope of the responsibilities of the county attorneys' duties and doing it at the expense of the county's general fund. County budget law presently states that no fund can be used to the detriment of any other fund. He believes that the county attorney should receive "cost back" from the Weed Board as the attorney of record for the weed districts.

Questions From Committee Members:

Rep. Hoffman asked Mr. Connor if a weed district was a legal county entity and why is this bill necessary. Mr.

Connor thought they were, but the statutes are unclear about mosquito districts and weed boards. There is potential for conflicts of interest and this bill would make it clear that weed boards are to be represented.

Rep. Hansen asked Mr. Connor if the county attorney was unable to represent them due to a conflict of interest, then why are they presently forced to get private counsel. Mr. Connor stated that they should not have conflicts but there may be some instances where they do.

Rep. Good asked Mr. Connor why weed districts would be treated any differently. Mr. Connor stated that the county attorney may have to make a decision as to which entity he is going to represent, then he should represent the county commissioners since the statutes specifically state that he represents the commissioners.

Rep. Hansen asked Mr. Morris about the expense against the general fund and if there a way to determine a figure as to cost to the counties. Mr. Morris was unsure how a figure could be determined.

Closing by Sponsor: Rep. Steppler stated that the intent of this bill was that the county attorney be the legal advisor for weed districts since they are funded and appointed by the county commissioners. Any entity of the county could have conflicting interests with the county commissioners and that would be the time to retain separate counsel. The county attorney represents the county commissioners first and second, it represents the county subdivisions.

DISPOSITION OF HOUSE BILL 160

Motion: Rep. Guthrie moved that HB 160 DO PASS. Rep. Stickney seconded.

Discussion: Rep. Gould questioned the need for the bill. Rep. Hoffman concurred. Rep. Stickney felt that the bill was needed to clarify the issue since there are apparent problems. Rep. Hansen did not want to give the counties more duties without an appropriation to pay for them. Rep. Wallin asked Lee if he felt it was necessary. Lee thought it would clarify the issue especially about fees.

Amendments and Votes: None

Recommendation and Vote: HB 160 was recommended DO PASS
with Reps. Hansen, Gould, Hoffman and Good opposing.

HEARING ON HOUSE BILL 182

Presentation and Opening Statement by Sponsor: Rep. Joe Quilici, District 71, stated that this bill enables the closure of a particular street or alley with to have more than 50% of the property owners agreeing with council approval. Presently the statute requires that 100% of the property owners agree. The majority of the county commissioners must also agree and it cannot be detrimental to the public interest. This bill would prevent one person from stopping a closure and make unproductive property usable again.

List of Testifying Proponents and What Group They Represent:

Bob McDonough, self

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Bob McDonough, a property owner, asked for the committee's support for this bill. One property owner in California is withholding his support and preventing development of property adjoining his property. He asked that local governing bodies have control if the majority of property owners request it.

Questions From Committee Members: Rep. Hansen asked if 51% would make it clearer than the 50% in the bill. Rep. Quilici had no objection - his intention is to prevent one person from controlling.

Rep. Stickney wanted to know why this shouldn't be handled by local zoning laws. Rep. Quilici stated that it must be by statute to give the local governing bodies the ability to change it from 100%.

Closing by Sponsor: Rep. Quilici asked for the support of the committee.

DISPOSITION OF HOUSE BILL 182

Motion: Rep. Hansen moved that HB 182 DO PASS. Rep. Gould seconded.

Discussion: Rep. Hansen moved to amend by striking "more than 50%" and putting in "51%". Rep. Gould seconded. Mr. Heiman did not think the amendment was necessary since more than 50% means there would be a majority. Rep. Hansen withdrew her motion to amend. Rep. Gould gave his permission to withdraw since he had seconded it. Rep. Good was not happy with 50% and suggested 75% would be better. Rep. Hoffman concurs and would like it even higher to protect the minorities that bought property with certain amenities. Rep. Hansen supported Rep. Good's motion but does not think the minority should be able to control the outcome. Chairman Darko pointed out that the majority vote of the council is also necessary. Rep. Good stated that some communities have councils that are elected at large. Rep. Nelson asked for clarification about the motion - does it continue the "more than"? The amendment will continue to read as such. Rep. Stickney pointed out that it is very hard to get 100% concurrence on any issue and felt that 75% was more attainable.

Amendments and Votes: Rep. Good moved to amend from "50" to read "75". Rep. Wyatt seconded. The motion CARRIED with Rep. Gould, Rep. Wallin and Rep. Hoffman voting against the amendment.

Discussion: Rep. Hoffman moved for another amendment changing "council" to "governing body". Mr. Heiman pointed out that this bill only applies to city streets. Mr. Hoffman withdrew the motion.

Recommendation and Vote: Rep. Hansen moved DO PASS AS AMENDED. Rep. Gould seconded. The motion CARRIED with Reps. Wallin, Hoffman and Wyatt voting "nay".

HEARING ON HOUSE BILL 180

Presentation and Opening Statement by Sponsor: Rep. Tom Hannah, District 86, stated that this bill removes the requirement that the county commissioners receive permission from the county attorney to hire an attorney for some legal work. He believes that it would give the county commissioners more control and flexibility on legal advice they may do so.

List of Testifying Proponents and What Group They Represent:

Gordon Morris, Montana Association of Counties

List of Testifying Opponents and What Group They Represent:

John Connor, Department of Justice, Montana County Attorneys' Association

Testimony:

Gordon Morris expressed his support of this bill by way of adopting a resolution. The association adopted a resolution supporting this bill also. The statutes presently provide that Class 2 through 7 counties can hire outside counsel. This bill would enable 1st class counties to do so also.

John Connor opposed this bill because it is not conducive to good government. The statutes presently provide that the county attorney give his written opinion to the county commissioners. If the bill is passed and the county commissioners do not like the opinion they will simply find someone to give them the opinion they are seeking. It would create legal havoc within the county. He disagrees with Mr. Morris "vociferously". He believes that good government warrants a unified approach to representation of the county through one entity only - the one created by statute, the county attorney. An Attorney General's opinion states that a county attorney may not unreasonably withhold his consent of the employment of another attorney by the Board of County Commissioners to perform legal services in connection with the legal business of the county. The decision to withhold is subject to the supervisory authority of the Attorney General.

Questions From Committee Members:

Rep. Good asked Mr. Morris why Class 1 counties were excluded in the first place. Mr. Morris was unsure unless it was because they are the more urban.

Rep. Hansen asked Mr. Connor if the Class 1 county attorneys were so busy that they do not have time to address all issues and what if the county attorney refuses as he did in Missoula where he was asked to defend 2 commissioners against another commissioner. Mr. Connor stated that the county attorney must have a

valid reason. They do believe that the county attorney should be a part of the decision to retain outside counsel. The Attorney General's opinion would come into play and the Attorney General could order the county attorney to represent the county.

Rep. Hoffman asked Mr. Connor about a conflict of interest when the county attorney is representing two different county entities. Mr. Connor felt that at that point the county attorney would defend the commission first and other subdivisions of the county secondly.

Closing by Sponsor: Rep. Hannah felt that the bill was making the authority of Class 1 counties consistent with other counties. It would help develop good government. Civil cases take back seat to criminal cases and county attorneys will not promote the use of outside attorneys because of cost. There has not been havoc in the lower class counties and he saw no reason that it would create havoc in Class 1. They simply want the same statutory authority that other counties have.

DISPOSITION OF HOUSE BILL 180

Motion: Rep. Gould moved DO PASS. Rep. Nelson seconded.

Discussion: None

Amendments and Votes: None

Recommendation and Vote: HB 180 recommended DO PASS with Rep. Hoffman opposing.

ADJOURNMENT

Adjournment At: 3:58 p.m.



REP. PAULA DARKO, Chairman

PD/TD

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DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1/24/89

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	tardy	X	
HOFFMAN, ROBERT	X		
NELSON, THOMAS	X tardy	X	
REHBERG, DENNIS			X
WALLIN, NORM			X

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE _____ BILL NO. 183 amendment NUMBER _____

NAME	AYE	NAY
DARKO, PAULA		X
MCDONOUGH, MARY		
BROOKE, VIVIAN	X	
BROWN, DAVE		X
BROWN, JAN		X
HANSEN, STELLA JEAN		X
JOHNSON, JOHN		
STICKNEY, JESSICA	X	
WYATT, DIANA		X
GOOD, SUSAN	X	
GOULD, BUDD	X	
GUTHRIE, BERT		
HOFFMAN, ROBERT	X	
NELSON, THOMAS		X
REHBERG, DENNIS		
WALLIN, NORM		

TALLY

5 6

Tami Dore
Secretary

Paula Darko
Chairman

MOTION: Rep. Good moved to amend from 120 days to 90 days.

Rep. Brooke seconded. Motion failed (5 in favor, six opposed.)

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that
House Bill 160 (first reading copy -- white) do pass.

Signed: _____
Paula Darko, Chairman

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that
House Bill 180 (first reading copy -- white) do pass .

Signed: _____
Paula Darko, Chairman

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 182 (first reading copy -- white) do pass as amended.

Signed: _____
Paula Darko, Chairman

And, that such amendments read:

1. Title, line 6.

Strike: "50"

Insert: "75"

2. Page 1, line 19.

Strike: "508"

Insert: "758"

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 183 (first reading copy -- white) do pass .

Signed: _____
Paula Darko, Chairman

STANDING COMMITTEE REPORT

January 24, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 205 (first reading copy -- white) do pass as amended .

Signed: _____
Paula Darko, Chairman

And, that such amendments read:

1. Page 2, line 12.

Following: "county"

Insert: ", except that part of the county within the limits of an incorporated city or town,"

Local Government COMMITTEE

DATE 1/24/89

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Local Government COMMITTEEBILL NO. 180DATE 1/24/89SPONSOR HANNAH

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
LINDA STOLL-ANDERSON	MACO	✓	
Gordon Morris	MACO	✓	
John Connor	Mt. County Atlys Assn		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Local Government COMMITTEE

DATE 1/24/89

[illegible]

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VISITORS' REGISTER

Local Government COMMITTEEBILL NO. 183DATE 1/24/89SPONSOR ROTH

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Linda Stoll Anderson	UACO	✓	
CHARLES WALK	Mt. Newspaper Assn		✓
Brian Morris	MA Co.		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Local Government COMMITTEE

DATE _____

1/24/89

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