

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Harding, on January 5, 1989, at
1:00 p.m.

ROLL CALL

Members Present: Chairman Ethel Harding, Vice Chairman
Bruce D. Crippen, Senator R.J. "Dick" Pinsoneault,
Senator Tom Beck, Senator Eleanor Vaughn, Senator H.W.
"Swede" Hammond, Senator Mike Walker, Senator Gene
Thayer, Senator Paul Boylan

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council;
Dolores Harris, Committee Secretary

Announcements/Discussion: Connie Erickson gave to each
committee member a description of her service.

HEARING ON SENATE BILL 14

Presentation and Opening Statement by Sponsor: Senator
Beck, Senate District 24, stated SB 14 is asking that
Counties be allowed to fix their tax levies prior to
the second Monday in August. Right now the law states
that after they've gone through their hearings, it is
the second Monday in August when they have to prepare
their budget and set their limits. Counties are asking
to be able to prepare their budgets before that date.
Senator Beck asked the Committee to support this bill.

List of Testifying Proponents and What Group they Represent:

Gordon Morris, Montana Association of Counties
Cort Harrington, representing Clerk & Recorders and
County Treasurers
Shelly Lane, representing City of Helena

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Gordon Morris indicated that the Montana Association of County Commissioners past a resolution # 884 in favor of fixing a tax levy prior to the second Monday in August.

Cort Harrington stated the County Treasurers Association are interested in efficient workable budget procedures.

Shelly Lane from the city of Helena spoke as a proponent of this bill and requested that this bill be extended to cover the cities as well as the counties. The Helena City Codes # 7-6-4232 covers this issue of the timing of setting the mill levies.

Chairman Harding asked if she was requesting an amendment to this bill to include the cities of Montana as well as the counties. Mrs. Lane said yes, the cities need this flexibility, also. Chairman Harding requested the staff researcher to begin drafting this amendment.

Questions From Committee Members: Senator Vaughn mentioned the hearing date for the final budget having to be due and concluded in August. Senator Harding read section 7-6-2317, MCA, which states on the Wednesday before the second Monday in August, the county commissioners shall meet at the time and place designated where taxpayers may appear and talk about the budget. Chairman Harding stated 7-06-2317 may have to be changed so that both sections agree. Senator Beck stated we should keep the hearing process. In some counties that could go over day and over night. Senator Crippen asked Gordon Morris if this would create any notice problems. Mr. Morris stated that the notice codes are quite definitely spelled out. Senator Beck asked about the length of these hearings. Chairman Harding responded that the hearing could go continuously day and night until the second Monday in August. Senator Beck requested the staff researcher to research this matter.

Closing by Sponsor: Senator Beck said we should include the cities in the bill and staff person Connie Erickson was

instructed to draft this amendment and he urged this committee to accept this legislation. It's beneficial to the counties.

DISPOSITION OF SENATE BILL 14

Discussion: none

Amendments and Votes: Staff researcher was instructed to write an amendment to include the cities.

Recommendation and Vote: None

HEARING ON SENATE BILL # 24

Presentation and Opening Statement by Sponsor: Senator Al Bishop, District 46, stated that this bills brings the County Clerk and Recorders record keeping into the computer age by allowing them to use document numbers and or book and page numbers.

List of Testifying Proponents and What Group they Represent:

Cort Harrington representing the County Clerk &
Recorders Association
Sue Bartlett, Lewis & Clark County Clerk & Recorder

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Cort Harrington indicated that the County Clerk & Recorder's Association is in favor of this bill allowing them to use either method of numbering to find documents quickly.

Sue Bartlett provided the Committee with Exhibit 1 which shows a stamp that provides her office both methods of finding documents quickly.

Questions From Committee Members: None

Closing by Sponsor: Senator Bishop closed.

DISPOSITION OF SENATE BILL #24

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Beck made a motion to DO PASS and Senator Walker seconded. The vote was unanimous in favor.

HEARING ON SENATE BILL # 35

Presentation and Opening Statement by Sponsor: Senator Cecil Weeding, District #14, states that SB 35 is new language that allows counties to provide retirement homes for the elderly. This came about because of a problem Rosebud County had several years ago when then tried to purchase a motel for a retirement home and found it was not within the powers of county government. The Attorney General's opinion was that was not a proper activity of county government. Rosebud county, as well as other counties, believes there is a need for county sponsored retirement homes. The bill is not meant to get into the area of commercial housing or to compete with privately owned retirement homes, thus it stipulates 50 beds to fill a gap where none exists. Rosebud County wanted to stipulate these homes for senior citizens and also comply with the provisions of 49-2-305 and 49-3-205.

List of Testifying Proponents and What Group they Represent:

Gordon Morris, Executive Secretary of Montana
Association of Counties

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Gordon Morris, MACO, stated that rural counties are seeing a need for retirement facilities and are not wishing to do this where private facilities are available. In Rosebud's case there was not a need for a 100 bed facility, which a privately owned home needs to enter into this business. The county, because of the absence of specific enabling legislation, was prohibited from entering into this activity. This is enabling legislation that would establish the authority for the county to go into and create a retirement home. It has nothing to do with providing any medical care, or aid. It would be a retirement community per se of 50 units.

SENATE COMMITTEE ON LOCAL GOVERNMENT

January 5, 1989

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Questions From Committee Members: Senator Beck asked what the funding source would be if the county did get involved in this as I'm concerned about 105. Mr. Morris responded that there is no specific finance authority attached to this enabling legislation so that it would be assumed that any county that was looking to go into and create a county administered and operated retirement home would have to do it within the framework of their current operating budget. That would be primarily out of their general fund or any other funds that might be available. As long as the freeze is in place we are not talking about any other specific additional mill levy with this particular provision.

Senator Thayer asked if as long as private enterprise refused to go to a community with less than 100 beds, will this be a losing proposition? Mr. Morris responded that in the Rosebud case the private sector indicated they would only come in with 100 bed being proposed. I don't know if this implies this would be a losing proposition. I think it is feasible to believe that you can have a self-sustaining operation with as few as 50 beds. You probably will not be making a profit. My understanding is that they did not plan to lose money.

Senator Crippen as with respect with the occupants age and physical condition, can we waive that federal law? Can we waive that even though we have a disclaimer there?. Mr. Morris responded that he didn't think it would be a problem if you did not use federal funds to support the facility. The reason that provision is in there is to make it very clear that it is not being operated as a nursing home. Senator Crippen said there would be no payments made to the occupants from the federal government. Mr. Morris responded they would not be medicaid or medicare eligible by way of offset, this is simply a housing alternative for the elderly. Senator Crippen asked if a motel or home where elderly lived would be a private nursing home? Mr. Morris responded that would be a retirement house as described under this enabling legislation.

Senator Beck asked if a county was to build this new facility wouldn't they have to have some bonding authority? Do we have the authority in the law now? Mr. Morris responded that nursing homes have in the law now a bonding authority attached to a voter levy. We have taken a look at the bonding authority we have now

and I don't think it would be included. Rosebud County has the funds available right now to go in and purchase the motel unit and simply turn around and open it back up again as a retirement option.

Senator Weeding stated that originally we had a bill that just add onto the nursing home bill but the county commissioners were not happy with the age thing. They wanted to restrict this to senior citizens so that's why it appears as a new bill rather than just an amendment to an existing act and I think they contemplated that any other powers that were part of the general government powers applied to this, but that this allowed that exception. Senator Beck stated that some of the people living there would still be eligible for medical assistance so it appears to be difficult to designate a retirement home from a nursing home. Senator Thayer asked if there would be a problem with counties taking action and giving unfair competition where the private sector could fill this need. Senator Weeding responded that under 100 beds doesn't interest the private sector. He cannot foresee that any commissioners want to get into the business, but they may feel the necessity to provide a solution for their citizens.

Closing by Sponsor: Senator Weeding closed.

DISPOSITION OF SENATE BILL # 35

Discussion: Hold for research and take executive action on
January 10, 1989

Amendments and Votes:

Recommendation and Vote:

HEARING ON SENATE BILL # 37

Presentation and Opening Statement by Sponsor: Senator Harding, District 25, stated this bill increases fees from \$3.00 to \$25.00 plus actual costs incurred in order to make up a deed acknowledging property sold for delinquent taxes. The way it is set up, after 3 full years of delinquent taxes the county treasurer then advertises this property for sale and whoever buys these taxes will receive a tax deed from the county. Even though the purchaser does a lot of notification themselves, there is still a certain amount of research a county treasurer has to do to provide an exact

description of the land. It's an exacting process and it's a matter of increasing the costs of this service.

List of Testifying Proponents and What Group they Represent:

Gordon Morris, Montana Association of Counties
Cort Harrington, representing County Clerk & Recordors

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Gordon Morris from the Montana Association of Counties states that this bill is primarily a result of legislation passed in 1987 wherein Section 15-18-211 established a \$25.00 fee for making a deed for property sold for delinquent taxes. In the process of adopting that omnibus tax bill we overlooked the coincidental section in Title 7 to bring this \$3.00 fee in Title 7 in line with \$25.00 in Title 15. He is asking for favorable consideration of SB 37.

Cort Harrington, representing the County Clerk and Recordors, asked a favorable vote for this bill as all of the county clerk and recordors are now charging \$25.00 for this service. He states it's an effort to bring the older law into agreement with the 1987 legislation.

Questions From Committee Members: Senator Pinsoneault questioned what the actual costs would you contemplate incurring. Senator Harding stated that was her question also. Senator Pinsoneault stated he was very reluctant to leave it open for clerk and recordors to tack on actual costs. Mr. Harrington responded that it's been the practice of the counties to contract with title companies to provide a title search and those title searches cost, depending upon what kind of a relationship there are, \$15.00 to \$75.00 per parcel. That is one of the costs the counties plan to recover. They also have mailing costs, and costs to protect their interests, which would be in addition to the \$25.00 fee stipulated to cover the cost of preparing the deed and recording it. Senator Pinsoneault asked if the title company provided title insurance and Mr. Harrington responded that they do not. They get a tax deed and generally the people who take title have to file a quiet title action with the court to satisfy the law. Senator Vaughn asked does the \$25.00 include the recording fee? Mr. Harrington stated he believed the

\$25.00 covered drawing the deed and the recording fee.

Senator Crippen stated he didn't understand what was meant by "actual costs". Could this include costs dating back a year or several years? The costs might get to be more than the property is worth. He wants a sum certain included in the bill. Hidden costs could even bring forth lawsuits against the state, then the state appeals board and then the district court. Cort Harrington stated there is a problem in the code defining the costs more specifically. When the clerk and recorders send out the notices to the interested parties they have already figured the actual costs for redeeming the property. That is a sum certain. There is a bill being introduced by Senator Joseph P. Mazurek which would define what the costs are. Senator Boylan asked if all of these things are being done by people that are in place now and that is there job? Why are these costs there? Do they farm out? There is a system set up to take care of these things. Mr. Harrington stated there are actual costs the county incurs. The process of determining who are interested parties is the part that the counties contract out to the title companies. Interested parties include the owner of record plus any lien or mortgage holder and it is much easier to contract with the title company for this information. Prior to 1987 when the tax deed process was implemented the counties were required to do that. Senator Beck suggested they insert the term "actual contracted costs" in the bill. The question of costs is probably better addressed in Title 15. I think the purpose of this bill is to make it consistent with Title 15.

Closing by Sponsor: Senator Harding stated that Gordon Morris pointed out to me that we're making this statute conform to the other statute that has plus actual costs incurred in it. So we are just conforming this statute to agree with what was passed in 1987.

DISPOSITION OF SENATE BILL #37

Discussion: The Committee decided to hold this bill until Senator Mazurek's bill has been heard. Staffer Connie Erickson was asked to research the new bill.

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON SENATE BILL #40

Presentation and Opening Statement by Sponsor: Senator Harding stated that Senator Bishop requested that the hearing on Bill #40 be postponed. Because the bill had been posted for hearing on this date, she asked if there was anyone from out of town that wished to testify. No one responded. Senate Bill 40 was not heard.

DISPOSITION OF SENATE BILL #40

Discussion: Hearing postponed until a later date.

ADJOURNMENT

Adjournment At: 2:11 p.m.



SENATOR ETHEL HARDING, Chairman

EH/dh

MINUTES.105

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date JAN 5, 1989

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen			

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 5, 1989

Mr. President: We, the committee on Local Government report that SB 24 (first reading copy -- white) do pass.

DO PASS

Signed:

Ethel H. Harding
Ethel H. Harding, Chairman

41 C. 189
115189
2:40

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 1-5-1989

BILL NO. 24

439712 * Document number

SENATE CLERK & REC.
LEWIS & CLARK BLDG., MONT.

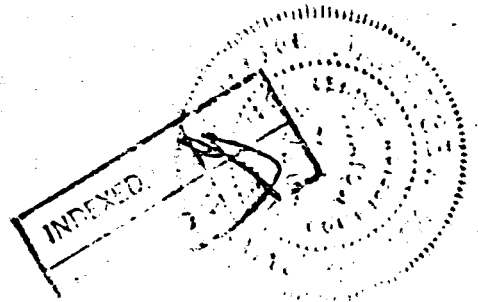
1989 JAN -4 PM 4:10

PUT OF RECORD AT

BOOK 9 PAGE 5467

BY Shirley Macintosh
10-00

→ Book and Page number



SENATE MEMBERS
J.D. LYNCH
CHAIRMAN
PAUL F. BOYLAN
JACK E. GALT
ALLEN C. KOLSTAD



SENATE LOCAL GOVERNMENT

ENR. 1111

DATE 1-5-89

BILL NO.

HOUSE MEMBERS
RALPH S. EUDAILY
VICE CHAIRMAN
REX MANUEL
ROBERT L. MARKS
JOHN VINCENT

Montana Legislative Council

State Capitol
Helena, Montana 59620
(406) 444-3064

January 2, 1989

TO: Senate Local Government Committee
FROM: Connie Erickson, Staff Researcher
RE: Services available to committee members

I will perform the following functions in support of the Senate Local Government Committee:

- (1) Draft all amendments adopted by the committee with the same bill drafting guidelines applied to the original bill, with the Chairwoman's authorization to make necessary changes in grammar, punctuation, word choice, and sentence structure, not affecting meaning;
- (2) draft proposed amendments upon request of individual committee members before committee action on a given bill;
- (3) draft proposed amendments to be moved on second reading upon request of any committee member;
- (4) draft statements of legislative intent or obtain drafts from state agencies;
- (5) draft committee bills;
- (6) review proposed legislation and advise the committee as to constitutionality, internal consistency, possibility of conflict with or duplication of existing provisions, and compliance with other bill drafting provisions such as grammar, punctuation, word choice, and statutory sentence structure;
- (7) attend subcommittee meetings to perform the appropriate functions listed above;
- (8) attend conference committee or free conference committee deliberations as invited to perform the appropriate functions listed above; and

- (9) assist the committee or individual member in obtaining data or any pertinent information from state or local agencies, the federal government, or other states pertaining to bills under deliberation.

My office is located on the first floor of the Capitol in Room 141 A (Legislative Council Research Division), and my telephone extension is 3597. My office hours are Monday - Friday, 7:30 a.m. - 6:00 p.m.; Saturday, 8 a.m. - noon.

I look forward to working with you this session.

M5025 90021mga

COMMITTEE ON

DATE

Jan. 5, 1989

Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<i>Erwin Morris</i>	<i>M A Co</i>	<i>SB 14, 35, 37, 40</i>	<input checked="" type="checkbox"/>	
<i>Chuck Walt</i>	<i>Mt. Newspaper Assoc</i>	<i>SB 40</i>		<input checked="" type="checkbox"/>
<i>Joe Battlett</i>	<i>Lewis & Clark Co. Clerk & Recorder</i>	<i>SB 24 & 40</i>	<input checked="" type="checkbox"/>	
<i>Shelby Laine</i>	<i>City of Helena</i>	<i>14</i>	<input checked="" type="checkbox"/>	
<i>Carl Harrington</i>	<i>City of Helena Clerk & Recorder County Treasurer</i>	<i>SB 27, 37 & 40</i>	<input checked="" type="checkbox"/>	

(Please leave prepared statement with Secretary)