

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel Harding, on January 24,
1989, at 1:00 p.m. in Room 405 of Capitol Building

ROLL CALL

Members Present: Ethel Harding; Bruce D. Crippen; R.J.
"Dick" Pinsonault; Tom Beck; Eleanor Vaughn; H.W.
"Swede" Hammond; Mike Walker; Gene Thayer; Paul Boylan

Members Excused: None

Members Absent: None

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

Announcements/Discussion: Since Representative Stella Jean
Hansen is present as sponsor of HB 67 and HB 85 we will
hear those two bills first.

HEARING ON HOUSE BILL 67

Presentation and Opening Statement by Sponsor:

Representative Stella Jean Hansen, House District 57,
Missoula stated that the bill before you allows the
city council to enter into their records only the
resolution adopting their budget, rather than requiring
that they print their entire budget in their minutes.
This allows cities that have large, multi-paged budgets
to not have to copy the budget into the minutes. It
mandates that cities must keep a copy of the budget
with their municipal records so that they are available
to the public. I request that you give favorable
action on this bill.

List of Testifying Proponents and What Group they Represent:

Alec Hansen, Montana League of Cities and Towns

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Alec Hansen stated that Montana League of Cities and Towns supports this bill. He stated that an auditor in reading Section 7-6-4231 MCA on Page 4, Line 2 determined that the word "it" means the entire budget needs to be retyped into the minutes of the city council. For the city of Missoula that is 360 pages. This bill says the resolution adopting the budget be entered into the official minutes and that the budget be available for review in the clerk's office. It does away with some confusion regarding the opinion of the auditors and the city clerks.

Questions From Committee Members: Senator Crippen asked Alec Hansen have we seen this bill before? Mr. Hansen answered that this problem just came up when an auditor of the Missoula city told the city clerk she was required to put the entire city budget, 360 pages, into the minutes.

Senator Crippen asked if there are cities that use the resolution and not the budget? Mr. Hansen answered I'm sure there are. In fact, it was the city of Missoula's intent to use the resolution until the auditor told them they must use the entire budget. Other than the resolution and the copy with the minutes, where also is the budget posted for the public hearing? The budget is on file in the clerk's office, and they are involved in a long process of hearing and notification and every step of the way the public is involved. This bill specifically says that on Page 2, Lines 5 and 6. Senator Thayer stated that in Great Falls they are in the public library.

Closing by Sponsor: Representative Hansen stated that in the House hearings the clerk of Great Falls testified that they already use the resolution method and this bill puts all the cities using the same method.

DISPOSITION OF HOUSE BILL 67

Recommendation and Vote: Senator Hammond MOVED that HB 67 BE CONCURRED IN. The vote was UNANIMOUS in favor of this bill. Senator Walker will carry this bill on the Senate floor.

HEARING ON HOUSE BILL 85

Presentation and Opening Statement by Sponsor: Representative Stella Jean Hansen, House District 57, Missoula stated the bill before you now is to change

the way notices are given in bid proposals. This will allow the invitation to bid to be the official notice rather than having to come from a previous city council meeting. The previous methods were cumbersome and this will streamline the process. The council has to approve the bids anyway, so this would give those ready for bid a little more latitude.

List of Testifying Proponents and What Group they Represent:

Alec Hansen, Montana League of Cities and Counties

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Alec Hansen stated that the Montana League of Cities and Towns also support this bill. Current law says that the time and place for the opening of bids is set at a previous council meeting. Most big cities have a council meeting every week. The invitation to bid normally goes out 2 or 3 weeks ahead time for which they are opened, so, we are trying to put the time and place in the bid invitation rather than have the council set it the week before. This is an effort to clarify some laws that are confusing and contradictory and make the operation of city government more efficient.

Questions From Committee Members: Senator Beck asked Alec Hansen if there was any way that people won't get adequate notice? Mr. Hansen answered, no, they want people to know and to bid. This will not change the bidding procedure.

Connie Erickson looked up the laws regarding bid notification. It states that the time fixed for the opening of the bids shall be not less than 10 days from the time of publication of the notice. It references SB 4141 in the law for cities.

Closing by Sponsor: Representative Hansen stated that this is a good bill and hopes the committee will consider a do pass on this bill.

DISPOSITION OF HOUSE BILL 85

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Walker made a MOTION to DO CONCUR IN HB 85. The vote was UNANIMOUS in FAVOR of this bill. Senator Walker will carry this bill to the Senate floor.

Announcement: Senator Harding requested Vice Chairman Crippen to accept the gavel so that she could present SB 141 and SB 142 as she is the sponsor.

HEARING ON SENATE BILL 141

Presentation and Opening Statement by Sponsor: Senator Harding from Senate District #25 stated that SB 141 will allow the county clerk and recorders 15 days or until the treasurer's report is received for them to file their report to the county commissioners. It's hinged on when they get the report from the county treasurer as they cannot make their report to the commissioners until they have that report from the treasurer. I urge you to pass this bill.

List of Testifying Proponents and What Group they Represent:

Cort Harrington, representing County Clerk & Recorders
Gordon Morris, Executive Director of Montana
Association of Counties

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Cort Harrington stated that the Montana Association of Clerk and Recorders support this bill. On occasion the first Monday of the month is the first day of the month and it's practically impossible to close the books the first day of the month. Particularly when to do that you need the treasurer's report, and many times the treasurers are late in getting their books closed for the month. That's particularly the case in the months of May and November. Those two months are when the property tax payments are due and many times the treasurers will hold the books open for November and May to get all the tax collections recorded. After that the treasurer's report is prepared and the clerk and recorder can't report to the commission without first receiving a report from the treasurers. In

practicality the bill as it is now, is impossible to comply with, and we're asking the statute be changed so that the clerks can comply with the law.

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Gordon Morris stated that the Montana Association of Counties is in support of SB 141. From the stand point of the commissioners, we think it is appropriate to give the recorders this time. Presently they do not meet this requirement of the law. This would make their work more manageable.

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Questions From Committee Members: Senator Hammond asked why did they choose 15 days? Senator Harding answered that 15 days is not a lot of time and this bill states 15 days or upon receipt of the treasurer's monthly report. So if the treasurer gets their report there sooner, then the clerks could report to commissioners sooner. Senator Harding stated that it depends on what day the first day of the month falls on. Clerk and recorders cannot finish their report until they receive the treasurer's report. The treasurer's try to do their reports as quickly as possible, but, at times, the first Monday is impossible.

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Senator Pinsoneault asked if there is a deadline on the treasurer's report? Senator Harding answered, yes there is a deadline. Senator Pinsoneault asked is it less than 15 days? Senator Harding answered that the treasurer's report is due the last day of the month and is due to the clerk and recorder the first day of the next month. Treasurers don't report to the commissioners just the clerk and recorders.

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Senator Beck stated he thought this bill was a reasonable request. He thought the treasurers should have their report to recorders in 12 days so that recorders have a little time to prepare their report to the commissioners

Senator Crippen stated this bill says within 15 working days following the first Monday of each month or upon receipt of the treasurer's report. The treasurer's report is due the end of the month, so how much time do you need after the treasurer's report? Senator Beck said it looked as though the reports could be later than 15 days. Senator Pinsoneault stated lets clear this up. Senator Harding said we'll have Connie Erickson look up this problem. Connie Erickson reads it as the 15 days is the limit. The current law doesn't mention the treasurer's report in the statute. Senator Crippen stated we'll work on verbiage in executive session. Senator Vaughn asked if the

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Gordon Morris, executive director of Montana
Association of Counties

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Cort Harrington support this bill. He stated the elected officials are bound by the line item part of their budgets. The clerks are responsible for that budget but want to be given the flexibility to move expenditures around in that budget. Currently, that can take place, but requires transferring funds. The following year warps your budget somewhat and makes things a little more difficult to work with. This would be a better management tool for officials. This bill amends Section 7-6-2323 on page 1, line 20 after expenditure strike "or issuing such the warrant"; then page 2, line 8 strike "or clerk and recorder"; also on Line 15 strike "or county clerk and recorders". Basically what the bill says now is if one of those officials does exceed their budget that the county clerk and recorder could be liable personally for whatever that excess was. It is the clerks position that these elected officials should be responsible for their own budgets and the person who is in charge of the accounting for the county shouldn't be held responsible if they've exceeded that budget item.

Gordon Morris stated that the association of counties wanted to come in and endorse this bill wholeheartedly but there are a couple problems with the bill. I'm uncomfortable with the striking In Section 1, line 15 the word "any detailed appropriation". In Section 1 of the bill, particularly as further amended by Cort Harrington, which I also think is appropriate, in so far as striking the language "or issuing the warrant" because nobody in Section 1 is authorized to issue warrants to begin with. We are talking about department heads and not county commissioners. Department heads don't issue warrants, but they do incur expenditures by virtue of going out and making acquisition purchases and so on. They do that within the context of the approved and adopted budget which shows full and complete detail as authorized by the board of county commissioners when the budget is adopted on the second Monday in August. I don't think there is any reason to suggest striking the "detailed budget appropriations" for an office because if they

want to expend in excess of that it should be the case that they have to proceed through the regular and normal transfer procedures authorized in law for making appropriations that would be in excess of a line item as approved in the adopted budget. I suggest you put back on line beginning Line 14 " in excess of the detailed appropriation for an office, department". I concur in striking the language on Line 20 "issuing the warrant" because these people are not issuing warrants. County commissioners issue warrants based upon the recommendation of the clerk and recorders. In Section 2 it is appropriate that the recommendations there would basically be consistent that the clerk and recorder can simply recommend a warrant but can not issue a warrant as that is county commissioners sole authority. So to strike "or county clerk and recorder" on Line 8 is appropriate. The same reasoning applies to Section 2 (b) Line 15 where we should strike "or county clerk and recorders". With those observations, I recommend SB 142, but invite you to leave in "detailed office appropriation for office, department". This is appropriate from a management standpoint that they approve the budget on a line item basis and as a department head and you can go in and incur expenses simply by taking detailed expenditures and moving them into one that was not approved, you might end up with a situation where a department head is incurring expenses through this mechanism which are not approved by county commissioners. I think that is a significant consideration. I would ask for your consideration of this bill and with those changes I would support this bill.

Questions From Committee Members: Senator Crippen asked Cort Harrington if the county is not going to be liable but the person making them is going to be liable? Is that correct? That is correct. Senator Crippen asked about the person who has provided the goods or service to the county in good faith. Who is responsible to pay him? Senator Crippen stated that in Section 1, line 18 the word "shall" that makes the county liable for the bills is struck, so who is liable to pay for the service? Cort Harrington stated that the protection to the third party is given by the fact that elected officials are bonded and they could go against the bond to recover the cost for the service. Cort Harrington stated that "shall not" is not as strong a prohibitive as "may not". May not is the stronger prohibitive in legislative language. Cort Harrington said "may not" is both mandatory and discretionary. "May" is discretionary but when used with "not" it becomes both is what Connie Erickson

said.

Senator Crippen asked if Cort Harrington, Gordon Morris and Connie Erickson would submit these amendments in typewritten form.

Senator Beck asked will it be the burden of the warrant holder to get his money or will the county commissioners take the action to get the money back? Senator Harding answered that there are bonding companies that back up these warrants. Gordon Morris stated that it is the responsibility of the County Attorney to take action against a department head who has overspent the detailed approved budget, and, secondly to bring action against county commissioners who approve a warrant in excess of the budget. So there are two considerations. If in fact a warrant was issued for a claim against the county, the County Attorney would have to take action for recovery against the individual who approved the warrant. If you had a department head who authorized an expenditure above the approved line item, the warrant would not be approved, then you would go back on that individual to clear the books in regard to a supplier. No supplier would lose out in any instance. Cort Harrington stated county officials have at least a parent authority dealing with third parties in public domain who incur those obligations and I can't conceive of a third party not being made whole. This statute address who between the county and it's elected officials are liable.

Closing by Sponsor: Senator Harding stated that in closing she thought the word "detailed" should be restored as requested by county commissioners and striking the words "clerk and recorder" in two places as both parties requested. After we get these amendments I urge you to pass this bill.

DISPOSITION OF SENATE BILL 142

Discussion: Senator Beck asked about the courts being able to over-ride any appropriations, will they still be able to do that? That is specifically written into the bill. In other words, would the district judge be liable for the expenditure? Cort Harrington stated that unless there was a court order exempting them from the budget they would be bound by this.

Amendments and Votes: The proposed amendments to SB 142 are: In Section 1, page 1, line 15 following line 14, insert "details"; on page 2, line 8 following

commissioners strike "or county clerk and recorder"; on page 1, line 20 following expenditure, strike "or issuing such warrant"; on page 2, line 15 following commissioners strike "or county clerk and recorder". Senator Walker MOVED that these AMENDMENTS be adopted. The vote in favor of ADOPTING these AMENDMENTS was UNANIMOUS.

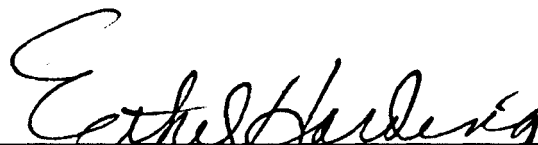
Recommendation and Vote: Senator Beck asked to hold this bill until Thurs.

DISCUSSION OF SENATE BILL 35

Chairman Harding stated she had talked with Senator Weeding today and he was going to propose an amendment that would satisfy Senator Farrell's questions. We'll wait until Thursday and ask him to present his amendment.

ADJOURNMENT

Adjournment At: 2:05 p.m.



SENATOR ETHEL HARDING, Chairman

EH/dh

Minutes.124

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date January 24, 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	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 25, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 67 (third reading copy -- blue), respectfully report that HB 67 be concurred in.

Sponsor: S. Hansen (Walker)

BE CONCURRED IN

Signed: Ethel M. Harding
Ethel M. Harding, Chairman

H.C.
1/25/89
11:45
P.M.

SENATE STANDING COMMITTEE REPORT

January 25, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 85 (third reading copy -- blue), respectfully report that HB 85 be concurred in.

Sponsor: S. Hansen (Walker)

BE CONCURRED IN

Signed:


Ethel M. Harding, Chairman

4/10
11/25/89
11:45
a.m.

SENATE STANDING COMMITTEE REPORT

January 25, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration SB 141 (first reading copy -- white), respectfully report that SB 141 be amended and as so amended do pass:

1. Page 1, line 15.

Strike: "15"

Insert: "4"

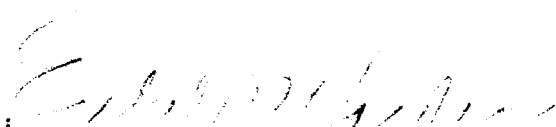
Following: "days"

Insert: "after"

2. Page 1, lines 15 and 16.

Strike: "following" through "upon"

AND AS AMENDED DO PASS

Signed: 

Ethel M. Harding, Chairman

H. C.
1/25/89
11:45

Amendments to Senate Bill No. 141
First Reading Copy

For the Committee on Local Government

Prepared by Connie Erickson
January 24, 1989

1. Page 1, line 15.

Strike: "15"

Insert: "4"

Following: "days"

Insert: "after"

2. Page 1, lines 15 and 16.

Strike: "following" through "upon"

Amendments to Senate Bill No. 141
First Reading Copy

For the Committee on Local Government

Prepared by Connie Erickson
January 24, 1989

1. Page 1, line 15.

Strike: "15"

Insert: "4"

Following: "days"

Insert: "after"

2. Page 1, lines 15 and 16.

Strike: "following" through "upon"

