

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel Harding, on February 7, 1989, at 1:00 p.m. in Room 405, Capitol

ROLL CALL

Members Present: Senator Ethel Harding, Vice Chairman Bruce D. Crippen, Senator R.J. "Dick" Pinsoneault, Senator Tom Beck, Senator Eleanor Vaughn, 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, Secretary

Announcements/Discussion: Senator Harding introduced her son and his family, Mr. & Mrs. Greg Harding, Jamie, Tyler, Gen and Trenton. Greg took video pictures of the committee hearings for his children's history class.

HEARING ON SENATE BILL 261

Presentation and Opening Statement by Sponsor: Senator Al Bishop, Senate District 46, Billings, stated Senate Bill 261 is an act exempting from the Montana subdivision and platting act the relocation of a common boundary line between a lot within a platted subdivision and land adjoining the platted subdivision and amending Section 76-3-207, MCA. This is a duplicate of the bill presented last session. The changes to be made are outlined on Page 2, line 12, (f) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision.

List of Testifying Proponents and What Group they Represent:

Tom Hopgood, Montana Association of Realtors
Linda Stoll-Anderson, Lewis & Clark Co. Commissioner
Chicago Title Ins. Co. of Idaho
David L. Johnson, Billings, MT 59101

List of Testifying Opponents and What Group They Represent:

Kathy Macefield, City of Helena

Testimony:

Tom Hopgood stated that the realtors are in support of SB 261.

Senator Bishop gave out written testimony from David L. Johnson, a Billings resident, who supports this bill. See exhibit 2.

Senator Bishop presented written testimony from Steve Edwards, Title Officer of Chicago Title Insurance Company of Idaho. See exhibit 1. His testimony states SB 261 would not create any problems for them.

Kathy Maysfield asked what would happen to special improvement districts if this bill became law? Senator Bishop stated that nothing different would happen. You can't change the SID by re-plating.

Questions From Committee Members: Senator Vaughn asked if you change the platted subdivision who is responsible for the fees on the land?

Senator Harding stated that in some SIDs the fees are on the lots and some are on square footage, depending upon how the district is set up. An owner can ask to be added to an SID.

Closing by Sponsor: Senator Bishop closed.

DISPOSITION OF SENATE BILL 261

Discussion: Senator Harding asked if the committee would like to hold this bill until Thursday so that questions regarding SIDs, the rules for square footage could be reviewed. Why was the bill defeated in 1987? Senator Hammond stated the fees go with the land. Senator Beck wants to review subdivisions and platting.

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON SENATE BILL 271

Presentation and Opening Statement by Sponsor: Senator Richard Manning from Senate District 18, Cascade County, stated SB 271 is an act requiring a city or town to levy a special tax for a fire department relief association disability and pension fund when the fund contains an amount that is less than 5 percent, rather than 3 percent, of the city's or town's taxable valuation; and amending Sections 199-11-402 and 19-11-504, MCA. There is a fiscal note attached. The changes in the law are: page 1, line 16; page 1, line 23; and page 1 line 24.

List of Testifying Proponents and What Group they Represent:

Lyle Nagel, Mt. St. Vol. Firefighters Assn.
Henry E. Lohr, Mont. St. Vol. Firefighters Assn.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Lyle Nagel stated that this bill came from a resolution presented at the firefighters association meeting. The relief association fund that earns the money for the disabled firemen is based on the taxable valuation of the town. Their funds can only go down as the taxable valuation goes down and with the cost of living, they would like to be able to increase the percent from 3% to 5%. Some towns are levying 4 mills to bring the fund up to 5%. I urge your support of this bill.

Henry Lohr stated he supported this bill and asked for passage.

Questions From Committee Members: Senator Crippen asked Senator Manning, if you do this, what about I 105? How can you do this? There is a provision in the law to provide for the 4 mills already. They are not increasing the taxes. They are increasing the amount of their fund.

Senator Thayer asked what kind of money is an increase of 2% in an average town in Montana? Mr. Nagel answered there are some towns whose income is less than \$300 per

year, Shelby and Conrad have income around \$8,000 to \$10,000.

Senator Hammond asked how do you pay pensions? Mr. Nagel answered this has been a state law in effect for 25 years or more, originally all cities and towns used this law. This is for second and third class towns with a volunteer fire department.

Senator Harding asked what would 5% of taxable valuation for these types of cities and towns be? What amount of money? For some towns it would be less than \$500. What are some amounts of pensions? The lowest are \$2.50 or \$3.00 per month.

Senator Thayer stated that it must cost more than that to administer the law. Mr. Nagel stated that he knew of 9 relief association funds that couldn't pay the \$350.00 audit fee required for state audits. It was brought out that under \$20,000 you don't need a state audit.

Senator Hammond stated that paid firemen are under Social Security. Why are we considering this bill in the context? What is the cap? \$125.00 per month. Black Eagle gets around \$75.00 per month. Senator Harding stated Polson gets \$50.00 per month.

Closing by Sponsor: Senator Manning closed stating he hoped that they would pass this bill.

DISPOSITION OF SENATE BILL 271

Discussion: Senator Crippen asked about I 105. Senator Hammond stated you can't do that under I 105. Senator Thayer stated that it is capped at 5%. Senator Beck mentioned the cap is at 3% and they want a raise to 5%. Senator Crippen stated that the dollar level would have to be the same. Their basic idea is trying to maintain their present level. The committee decided to HOLD SB 271 for research.

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON SENATE BILL 274

Presentation and Opening Statement by Sponsor: Senator Darrell Meyer from senate district 17, Great Falls stated SB 274 is an act requiring a local government to

levy a tax to establish a fund to promote, establish, and maintain activities for the elderly; providing an exception for this purpose to the amount of property taxes that may be levied by a local government. He stated page 1, Section 1, lines 16 and 17 changes "may in its discretion" to "shall". There is a fiscal note attached.

List of Testifying Proponents and What Group they Represent:

Chris Johansen, G.F. Senior Citizens Corp.
Don McDermid, G.F. Senior Citizens Corp.

List of Testifying Opponents and What Group They Represent:

Ann Mary Dussault, MACO
Tom Hopgood, Mont. Association of Realtors
Alec Hansen, M.L.C.T.

Testimony: Chris Johansen read his testimony supporting SB 274. See exhibit 1.

Don McDermid stated this is not an additional levy. Most communities do it now but it does make the mill levy mandatory. We would like to know what money we have to work with.

Ann Mary Dussault stated the Montana Association of Counties oppose the mandatory mill levy. She stated Rosebud County mill brings in a high yield and Silver Bow is quite different. Mandatory mill levies don't make any sense. You would cause an automatic tax increase in 37 counties. On page 6, line 2 there is an exemption to I 105.

Tom Hopgood stated the Montana Association of Realtors opposed this bill as presented. He called attention to pages 5 and 6, beginning on line 18 limitations on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 402. The items (a) through (g) are more or less necessary and unless there is a very strong emergency, the taxpayers of this state passed I 105.

Alec Hansen stated Montana League of Cities and Towns obviously is against mandatory levies for cities or towns. More and more the monies are going to mandatory requirements, giving the communities less flexibility in budget management.

Questions From Committee Members: Senator Crippen asked Chris Johansen if his group originated this bill? Mr. Johansen stated they are supporting it.

Closing by Sponsor: Senator Meyer closed the hearing on this bill by asking the committee to give this bill good consideration.

DISPOSITION OF SENATE BILL 274

Discussion: I 105 was discussed along with mandatory mill levies. Senator Thayer stated Great Falls senior citizens seemed to want to know what their budget would be so they could plan their activities.

Amendments and Votes: None

Recommendation and Vote: Senator Beck made a MOTION to TABLE SB 274. Six senators VOTED in FAVOR of TABLING SB 274. Senators Walker, Thayer and Vaughn voted AGAINST TABLING SB 274. MOTION CARRIED.

EXECUTIVE ACTION ON HOUSE BILL 17

Senator Beck stated HB 17 gives cities and towns the ability to spend appropriations when they receive them. Senator Beck asked how would you spend if you didn't budget and have a hearing by the people? Senator Vaughn stated you would have to have a public hearing. Senator Crippen stated counties has the authority to do this now. If they don't spend it would it go to the general fund? Ms. Dussault stated we can amend and spend emergency relief funds, block grants, etc.

Senator Beck asked if they have to have a public hearing to amend the budget? In emergencies you can make capital expenditures but both have to have a public hearing.

Senator Pinsoneault made a MOTION to DO CONCUR in HB 17. The VOTE was UNANIMOUS in FAVOR of this MOTION. Senator Pinsoneault will carry HB 17 to the senate floor.

EXECUTIVE ACTION ON HOUSE BILL 62

Connie Erickson researched HB 62 and stated that we could amend the cemetery section but not the other districts. There are a number of statutes that apply. Originally the committee wanted to give the audits to private auditors rather than the Commerce Dept. She stated this bill in its present form needs 2 amendments.

Senator Pinoneault stated there is already a provision in the law that any public office is subject to answer to the public for their actions and to get audits. The county attorney can enforce present regulations. A community can go to the Attorney General if necessary.

Senator Walker made a MOTION to TABLE HB 62. The VOTE was UNANIMOUS in FAVOR of TABLING this bill.

EXECUTIVE ACTION ON SENATE BILL 256

Senator Harding stated this is act authorizing a county road and bridge depreciation reserve fund.

Senator Thayer made a MOTION to STRIKE SECTION 2, the effective date, and AMEND the TITLE. The MOTION CARRIED UNANIMOUSLY. Connie Erickson will provide the proper wording for these 2 amendments.

Senator Beck asked Linda Stoll-Anderson if you can legally do this. Mrs. Stoll-Anderson stated she thought there was a conflict with Section 7-7-2319, MCA, that allow counties only a 30% reserve. That reserve is used to pay bills until the taxes come in, and the reserve in this bill would apply against that 30%. Mrs. Stoll-Anderson, Don Dooley, and Connie Erickson will work on an amendment to clarify that issue. MACO strongly supports this bill but with these accounting concerns, we need an opportunity to work on this bill.

Senator Beck asked if you have to budget for this reserve? Commissioner Stoll-Anderson said they would budget to a reserve until enough funds accumulate to do a project.

Ann Mary Dussault she equates this fund to a capital improvement fund. We have to appropriate and budget for that fund. Mrs. Stoll-Anderson stated capital improvement fund is contingent upon millage whereas this is the same mills money.

Chairman Harding stated that we'll HOLD SB 256 so that the committee can review the amendments that will be written.

DISCUSSION OF SENATE BILL 119

Chairman Harding announced that we are HOLDING SB 119 pending what happens to HB 111 and nothing has happened. We were told SB 119 isn't necessary if HB 111 doesn't pass.

ADJOURNMENT

Adjournment At: 2:20 p.m.

SENATOR ETHEL HARDING, Chairman

EH/dh

Minutes.207

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USER NAME : DOLORES
BANNER : LST:

SENATE STANDING COMMITTEE REPORT

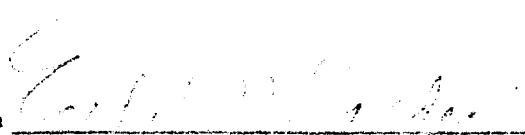
February 8, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 17 (third reading copy -- blue), respectfully report that HB 17 be concurred in.

Sponsor: Squires (Pinsoneault)

BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

41. C.
3/18/89
12:10 P.M.

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date Feb 7, 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.



Chicago Title Insurance Company of Idaho

490 N. 31 St., Suite 130
P.O. Box 1377
Billings, Montana 59103
(406) 245-3064

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE Feb 7, 1989

BILL NO. SB 261

February 3, 1989

Senator Al Bishop
Capitol Building
Helena, MT 59601

Re: Senate Bill 261

Dear Senator Bishop:

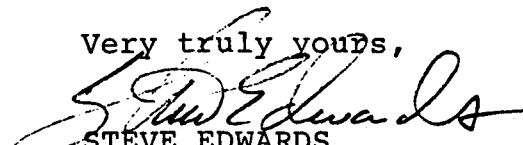
Section 76-3-207(1), MCA, provides, in subparagraph (a), that a division outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties is not considered to be a division which is a subdivision. Further, subparagraph (e) provides that relocation of common boundary lines between lots in a platted subdivision would also be exempt from subdivision requirements.

It is my understanding that SB 261 would add an additional exemption: if there is a relocation of a common boundary line between a platted and an unplatted lot. I am told that when this bill was before the 1987 Legislature, that someone objected to it on the basis that the relocation of a boundary line between a platted and an unplatted lot would not show up in the records.

I am employed as a real estate title examiner. In any situation where the size of a tract of land, whether platted or unplatted, is either expanded or decreased, that will appear as a matter of public record. When we perform our title examinations, we start with the inception of title, and thus our exam would always include the matters pertaining to the boundary change.

That would be the case whether there is a relocation of a boundary line between platted lots, unplatted lots, or between an unplatted lot and a platted lot. There would be absolutely no difference in our examination approach, and the public records would reveal the same information. SB 261 would not create any problems for us.

Very truly yours,


STEVE EDWARDS
Title Officer

256-2785

500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
BILLINGS, MONTANA 59101

January 21, 1987

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2

DATE Feb 7, 1989

BILL NO. SB 261

Senator Al Bishop
Montana State Senate
P. O. Box 9
Capitol Station
Helena, Montana 59620

Re: Senate Bill No. ²⁶¹ ~~135~~

Dear Senator Bishop:

I appreciate your notifying me this morning that Senate Bill No. 135, which you introduced at my request, will be the subject of a hearing before the Local Government Committee, tomorrow at 1:00 p.m. Since I will be unable to be present at the meeting, I am hopeful that my comments in this letter can be taken into account as my written testimony for the benefit of the committee members.

Under the Montana Subdivision and Platting Act (Section 76-3-101 et. seq.), the general rule is that any division from an existing parcel of land is considered a subdivision, and necessitates a full subdivision review process.

Part 2 of Title 76, Chapter 3 then contains a number of miscellaneous exemptions which are not considered to constitute subdivisions. In each instance, the exemptions do not apply if the method of disposition is adopted for the purpose of evading the general subdivision requirements.

Prominent among the exceptions are those set out in §76-3-207, which enumerates a number of subdivisions which are exempted from the subdivision review process, but not from survey requirements. Among those are exemptions provided when there is to be a mere change in a boundary line between adjoining parcels:

- (a) Change of Boundary Lines Between Lands Outside a Platted Subdivision. The first exemption is set out in §76-3-207(1)(a), and states that if there is to be a boundary line change between two parcels that are outside of platted subdivisions, the same is considered to be an exempted subdivision (again, unless done for the purpose of evading the act), and is subject only to the survey requirement.
- (b) Boundary Line Changes Between Subdivided Lots. In addition, subsection (e) considers a relocation of common

Senator Al Bishop
Page 2
January 21, 1987

boundary lines within a platted subdivision, if applicable to five or fewer lots, to also be an exempted subdivision.

Thus, we have exemptions for a change in boundary lines between adjoining subdivided lots, and also a change in the boundary line between adjoining unplatted lots. If the statute is read literally, there is no similar exemption if a boundary line is being changed in a situation where there is a "mix" of the two lots, in the case of two parcels adjoining each other where one is a platted lot, and the other is an unplatted lot.

Though I feel that the statute can be interpreted to mix the two exemptions so as to allow the exemption for a platted-unplatted situation, that is not the interpretation which has been furnished to me by the City of Billings or the Yellowstone City-County Planning Board. My dwelling house is located on a platted lot. My immediate neighbor to the south is the owner of an unplatted lot. Several years ago I agreed to convey to my neighbor the south 15 feet of my lot so that my neighbor would have a larger lot and I would have a smaller lot. We engaged a surveyor to draw a plat so that I could legally describe in a deed the 15-foot strip I was transferring to my neighbor. When submitted for review, the governmental officials said they would not accept the mere filing of the certificate of survey, but instead would process it as a "minor plat", which would require park dedication and street dedication.

Although I disagree with the position of the City, I am unable to complete the project without going through the minor plat review process.

I am unaware of any specific legislative intent which would distinguish between the moving of a boundary line between a platted and unplatted lot, while at the same time, ^{providing for an exemption} when the adjoining lots are either two platted lots or two unplatted lots. For that reason, we are proposing enactment of an additional exemption under §76-3-201, which would permit the relocation of a common boundary line where the adjoining parcels ~~include~~ ^{consist of} an unplatted lot and a platted lot.

I would be happy to furnish any additional information which the Committee may desire.

Sincerely yours,

DAVID L. JOHNSON

DLJ:bm

Great Falls Senior Citizens' Center

1004 Central Avenue
Great Falls, MT 59401
Telephone (406) 761-7860

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 1
DATE 2-7-1989
BILL NO. 274

To: The Honorable Local Government Committee

We, representing the Great Falls Senior Citizens' Corporation, are in support of Senate Bill 274. By making the present permissive one mill levy mandatory, senior programs can be planned by all Senior Centers statewide for more accuracy in planning for programs and budgets.

Thank you for your consideration.

Sincerely,



Chris Johansen, President
Senior Citizens' Corporation Board

