

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel Harding, on March 2, 1989,
at 1:00 p.m. in room 405, State Capitol

ROLL CALL

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

Members Excused: none

Members Absent: none

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 205

Presentation and Opening Statement by Sponsor:

Representative Barry Stang, house district 52,
representing Mineral, and parts of Sanders, and Missoula
Counties stated HB 205 is an act to allow the creation
of street maintenance districts by a county. This bill
was proposed to him by the county surveyor in Missoula
County, because I was upset by the way Missoula County
was taking care of some of the county roads. This bill
requires the district to be assessed by the taxable
value of the property. If you want to add a vote of
the people, that would be fine. The way this bill is
written, a district could be formed by signatures on a
petition. The constraints of I105 are a problem but
they will live within the regulation.

List of Testifying Proponents and What Group they Represent:

Horace S. Brown, Missoula County Surveyor sent written
testimony. See exhibit 1.
Gordon Morris, MACO

List of Testifying Opponents and What Group They Represent:

Tom Hopgood, MT Association of Realtors

Testimony:

Gordon Morris stated that Montana Association of Counties supports HB 205. Stated that in Title 7, Section 12, part 4401, particularly 4407, would be the section that would allow for a vote of the people, and the people protest or prevent the creation of a district. So that issue is addressed in current law. He recommended this bill for consideration.

Tom Hopgood stated he is concerned about this being a tax increase. He suggested an amendment regarding people's voice.

Questions From Committee Members: Senator Crippen asked Gordon Morris (1) If improvement districts are exempt from 1105? Gordon Morris stated that SB 71 does contain an expressed exemption for SIDs; and (2) Is there a right of protest? Gordon Morris said that is answered in 4407. Senator Crippen stated that if you are taxed on a taxable value then the protest is weighted on taxable value and not free holders. The method of protest always follows the method of levying. You can't stick one person with the bulk of the property and only give him one vote. That person has the same vote as his or her relationship to the taxable value of the whole.

Senator Beck asked if this does not stay within constraints of 105 will people be paying on the county road mill levy plus on the maintenance district? Gordon Morris answered, yes, they would. This is clearly outside 105. All SIDs and maintenance districts were always outside 105. Could this bill be used on any county road then so the county could get around 105?

Senator Hammond felt the reason for this was to increase the amount of funds available in one particular area for road maintenance. Mr. Stang stated this is for a created district, not county wide. He stated that on one road near Missoula the school bus could only travel 15 MPH because of the terrible road conditions. Missoula county commissioners say that road has lower priorities than some others and they don't have the money, so this bill would enable the people along the road to get the road fixed and set up the district. Senator Hammond mentioned that they are already paying taxes to improve county roads and they aren't getting the benefits of those taxes. This would be an additional tax on themselves. Mr. Stang admitted they

get minimal road work benefit. He thought seal coat or dust protect would extend the benefit they now get if they wanted to pay for it.

Senator Vaughn thought these outlying districts would always be on the low priority list. Senator Crippen stated there is no such thing as a county maintenance district. He thinks that in 71 the intent was to exclude these type of districts. Tom Hopgood stated that with maintenance districts the county commissioners would set up a district and if there is a protest by the property owners, then they delay the district. Tom Hopgood suggested a petition to establish this process.

Senator Hammond asked if priority is given to school bus routes? Gordon Morris answered that school bus routes are required priorities for maintenance, snow plowing and everything else across the whole state of Montana. What's happening in Missoula county? Representative Stang rode the school bus; it had 60 kids on it and it only goes 5 or 6 miles up this road and the bus cannot go over 15 miles an hour. Rep. Stang stated the road needed improvements more than the minimal service they currently receive. Senator Hammond felt this issue could be forced.

Senator Harding asked if the people on that road brought this problem to Rep. Stang? The school district complained. The county doesn't take care of the people up there because there is not a high concentration of people. The county commissioners help the city of Missoula more.

Senator Crippen stated this bill would be good for people starting a sub-division outside the city limits. Presently, it would be done with private money or get the county commissioners to do it. This would give another option. This is a benefit.

Senator Beck asked if it was any road in the county, not just designated "county" roads. This applies to all the roads in the county. Senator Harding asked if this works the same as any SID in the county? She stated that in Lake County they petition for an oiling district and have the cost added onto their tax rolls? How is that different than this bill? Tom Hopgood stated that the people who want the oiling create the district; this is started by a resolution of the county commissioners. People can object to this.

Tom Hopgood pointed out that the language of I 105 is as

expressed in 15-10-412 has the exemptions in there. The exemption for maintenance districts is for city street maintenance, not county street maintenance. He stated the way maintenance districts are set up is that the County Commissioners would pass a resolution and then if there is a protest, then it is delayed. If 51% object it won't happen. Senator Crippen stated that in cities there is an ordinance that if enough people complain they get something done. In the county they have no way of doing that. Mr. Hopgood suggests a petition from the people to start this process instead of from the commissioners.

Closing by Sponsor: This is a very comprehensive hearing and he thinks realtors should like this because a developer asked for a SID in his area. He is willing to work with the committee on this bill. It is a necessity for rural areas that are getting minimal services. Senator Halligan will carry this bill to the Senator floor.

DISPOSITION OF HOUSE BILL 205

Discussion: Senator Crippen thought Gordon Morris and Connie Erickson could research the laws regarding roads. Senator Harding stated that Tom Hopgood said 205 is a tax that is imposed by the county, but not the people in the district. The committee decided to wait for more research on this bill.

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 388

Presentation and Opening Statement by Sponsor:

Representative John Mercer, house district 50, Lake County, Flathead Lake, MT, stated the problem this bill is trying to solve is there is a road on Finley Point that serves all the homes on that point. Because of the geography, it is a very narrow peninsula in spots, with homes along, the road is a narrow public road. It's not a county road. The county commissioners and some of the residents want improvements to the road, but because of owners being gone, they want to improve it on a governmental, organized basis. This bill allows a public road, one that is sub-county standards, to be improved through petition to county commissioners and setting up an improvement district. The assessment is outlined in Section 4 on page 5. The concern of this

being used to construct county roads where they could be constructed to standard was expressed in the House.

List of Testifying Proponents and What Group they Represent:

Gordon Morris, MACO
Tom Hopgood, MT Association of Realtors

List of Testifying Opponents and What Group They Represent:

Senator Pete Story

Testimony:

Gordon Morris stated HB 388 very clearly addresses non-county roads. For county roads, there are mechanisms to do what is intended in this bill. This gives residents in that area the alternative of asking for improvements, the residents have control with the 60% requirement, and I recommend this bill for favorable consideration.

Tom Hopgood stated that his association likes this bill because it commences with petition by property owners.

Senator Pete Story expressed his situation where he has allowed jeep roads across his lands. A piece of land adjoining his was sold to the Church Universal Triumphant and they have 500 members. He had given the previous owner easement across his land. With this bill he could be forced to pay assessments for improving this road. He gave out his proposed amendment to all the committee members, which changes the assessment to benefited property. This allows the people who use the road to be assessed, but they can't assess him on his whole ranch to pay for their road. A road that passes over agricultural land is not considered benefited property. Please add these amendments.

Questions From Committee Members: Senator Thayer asked if the road could go back to the county for county maintenance purposes? Rep. Mercer said no, because of the sub-county standards they wouldn't take it. He stated building a road up to county standards would be extremely costly.

Senator Crippen asked Gordon Morris about private roads, private sub-division roads, public roads. G. Morris explained that a county road has been accepted by the county for maintenance and has been brought up to

county prescribed minimal requirements of standards. It has to have a ditch, be 40 feet wide, have gravel, etc. This bill applies to roads that are physically impossible for this road to be brought up to county standards.

Senator Story stated there are public roads and rural roads that are not county roads. They are that through adverse use the public acquired the right to pass over that road.

Senator Crippen talked about 60% of landowner petition, then you have 3 different ways to pay for the improvement. If 1 landowner has 75% of the property and 99 others have 25% of the property, will those 99 people dictate to that one large land holder? He stated in cities the right of protest follows the right of assessment, and he wants to be certain that happens with this legislation.

Senator Vaughn asked if the county would snow plow, grade, and the regular maintenance? Rep. Mercer answered yes. She stated new roads have to meet county standards before the county accepts them.

Senator Crippen asked about 205 and 388. Rep. Mercer stated 205 deals with county roads and 388 deals with roads that are not county roads. He thinks an easement is over private land and not considered public road.

Senator Beck stated that any time 2,3, or 4 autos travel the same road it becomes a public road. He agrees with Senator Story that there is the danger that easement would be considered a public road.

Rep. Mercer stated a county road is a road accepted by the county. A public road is a road that is not a county road but is every member of the public has a right to travel over. A private road is one where several may use it but not everyone has the right to use it. HB 388 is intended for public roads. Senator Hammond stated it is quite easy for a private road to become a public road.

Senator Harding stated that Lake County has road standards. Gordon Morris stated the county road requirements are set forth in Title 7714. Senator Hammond stated a County Surveyor ascertains the standards and if a county doesn't have one, there isn't so much emphasis made on specifications. Senator Beck mentioned utilities along county roads.

Closing by Sponsor: Rep. Mercer said he hoped the assessment issued as raised by Senator Crippen can be addressed before a decision is made and Senator Story's amendment is fine. Please give your approval to this bill. He asked Senator Harding to carry HB 388 to the Senate floor. She agreed.

DISPOSITION OF HOUSE BILL 388

Discussion: Senator Crippen asked Gordon Morris and Connie Erickson to work on this bill. Senator Vaughn expressed concern that if you give counties this out they will never include outlying districts in their priorities adequately. Senator Harding asked Tom Hopgood why he opposed 205 and like 388? Mr. Hopgood stated that 205 is a tax that is imposed by the county on the people that are in the district, and 388 is a plan that the people in the district petition the county for. Tom Hopgood will return on Tuesday. Connie Erickson will work on these problems and we'll act on these later.

Amendments and Votes: None

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 2:05 p.m.


SENATOR ETHEL M. HARDING, Chairman

EMH/dh

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MISSOULA COUNTY

MISSOULA COUNTY SURVEYOR

Missoula County Courthouse
Missoula, Montana 59802
Telephone (406) 721-5700

HB 205 - ROOM 405 - SENATE HEARING 1:00 P.M.

Ethel Harding, Chairman
Local Government Committee
MT State Senate
Capitol Station
Helena, MT 59624

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 3-2-89

BILL NO. HB205

Dear Chairman Harding & Committee Members:

I think this bill is very important for the Counties in the State of Montana. Because of I-105 the amount of money available for maintenance of County roads has decreased. Most maintenance of roads is mandated by State law. The cost of doing the desired maintenance increases approximately 8% per year. So far I have been able to keep the current level of maintenance by cutting projects and services not mandated by State law. However, the time will come when I can no longer do this. At that time all maintenance would have to be by priority and there is a good possibility that we would violate the mandates.

This bill would enable a County to set up road districts and supply the citizens with the services that they desire in that district. For example, dust abatement is a service that the County can't supply in Missoula County. Citizens who desire this service could then have a method of obtaining it. I get calls during most of the summer from people who want this service.

My desire as County Surveyor, is not to circumvent the section 15-10-412 but only to be able to provide the services that are

mandated and in addition provide services desired by the road districts. Under 15-10-412, section 8-D - City street maintenance districts were exempted from the limitation of taxes. I think the Counties should also be given this option.

The officials who manage the Counties are elected, so they must listen to the people, or the people will have their answer, when they are up for election again.

Sincerely,



Horace S. Brown, County Surveyor

