

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel M. Harding, on March 9, 1989, at 1:00 p.m. Room 405, State Capitol

ROLL CALL

Members Present: Chairman Ethel M. Harding, Vice Chairman Bruce D. Crippen, Senators R.J. "Dick" Pineseault, 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, Committee Secretary

Announcements/Discussion: Gordon Morris, Executive Director of Montana Association of Counties and Alex Hanson, Executive Director of Montana League of Cities and Towns invited this committee, staff and spouses to dinner on March 29 at 7:00 p.m. at the Montana Club.

HEARING ON HOUSE BILL 375

Presentation and Opening Statement by Sponsor:

Representative Budd Gould, house district 61, Missoula, stated this bill is a product of I 105 and it allows consolidation of rural fire district, and provides procedures for consolidation. The House Local Government Committee amended the bill that was an adequate safe guard.

List of Testifying Proponents and What Group they Represent:

Paul Laisy, Msla. Rural Fire District
Charles H. Gibson, MT. St. Fire Chief
Lyle Nagel, MT. St. Vol. Firefighters Assn.
Rich Gebhardt, Msla Rural Fire Dist.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Paul Laisy stated that in these times of tight budgets, there are areas that could be better served and more economically by being able to combine services into one fire district. Instead of having 2 fire trucks, because of boundary lines, training and maintenance, all can be combined in the hope that they can provide an equal or better service more economically. I urge your approval of this bill.

Charles Gibson stated that the U.S. Fire Administration and the U.S. Fire Cabinet place emphasis on consolidation of fire departments where that consolidation is effective and efficient to the fire service area. He feels that this bill facilitates that goal.

Lyle Nagel stated his group supports this bill and hopes this committee will support it also.

Questions From Committee Members: Senator Vaughn asked do the boundaries have to be contiguous or can they be two rural fire districts in a county? Rich Gebhardt stated they do not have to be contiguous. Senator Walker stated that would have to be some pretty special circumstances for the 2 districts to want to consolidate and have it beneficial to both. Mr. Gebhardt stated the hearing and protest safeguards are in the bill. Senator Vaughn explained that is the case in her area and the one district contracts with another district for service.

Connie Erickson asked Representative Gould about page 2, subsection 3 where it talks about the protest being 30 days. Then in subsection 2 it talks about the notice itself being made as provided in 7-1-2121. 7-1-2121 states the first notice must be made within 21 days. These days should be consistent. Rep. Gould deferred to Rich Gebhardt who acknowledged that, that is a problem in court hearing and stated the two places in the bill should have the same number of days.

Senator Harding asked Rep. Gould if they could change 30 days to 21 days to standardize notices? He said fine.

Closing by Sponsor: One important thing is that our fire districts are like our schools, very important to us. We don't want to lose a fire district but with the budget constraints we have, there are things we'd rather not do, but sometimes have to do. Please support this good bill.

DISPOSITION OF HOUSE BILL 375

Discussion: Connie Erickson explained that the protest period should be the same in both sections of the bill. Without changing the 30 days it's conceivable that some action might be taken before the 30 days was up.

Amendments and Votes: Senator Walker MOVED that we AMEND HB 375 on Page 2, line 9 to strike 30 and insert 21. The VOTE was UNANIMOUS in FAVOR of this AMENDMENT.

Recommendation and Vote: Senator Hammond MOVED that we DO CONCUR in HB 375 as AMENDED. The VOTE was UNANIMOUS in FAVOR of PASSING HB 375.

HEARING ON HOUSE BILL 411

Presentation and Opening Statement by Sponsor:

Representative Jan Brown, house district 46, Helena, stated HB 411 allows the local government to establish and administer a sick leave bank if they chose to do so. The state has been doing this, so the local governments asked if they could, and this gives the statutory authority. The heart of the bills is page 3, line 17 through 22. On line 19, the House changed "any" to "a". She said this bill does not allow transfer of sick leave from state to local government employees. The local government can set up their bank any way they want to. This is permissive legislation. Some local governments are doing this already so this is for those who feel they need statutory authority.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

Questions From Committee Members: Senator Beck asked if they trade amongst employees, besides setting up the pool? I'm not certain, but they could do that. SB 58 will not sunset this year.

Senator Walker explained that giving sick leave is done on an individual basis and they look at the merits of each

person as the problem arises.

Senator Boylan said there is no sunrise or sunset in this bill.

Closing by Sponsor: Representative Jan Brown stated this is permissive legislation. She asks Senator Beck to carry the bill.

DISPOSITION OF HOUSE BILL 411

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 416

Presentation and Opening Statement by Sponsor:

Representative Budd Hoffman, house district 74, stated this is an appropriation's bill from the 1987 legislature that would appropriate money to repair the roof of the West Yellowstone Airport. That legislature added a rider to the bill that asked the Department of Commerce to find a local entity to take over the airport. In the past 2 years legislators have found that the airport was cherished by the community although they do not have the expertise to manage it and it does not make money, although during the fires of summer, 1988 the airport was fulfilled in the purpose for which it was built. The legislators have decided that this airport should remain and deleted from the bill all reference to getting rid of it.

List of Testifying Proponents and What Group they Represent:

Gerald C. Burrows, State Aeronautics Division

List of Testifying Opponents and What Group They Represent:

None

Testimony: None

Questions From Committee Members: Senator Walker asked why did they go to the stripper well payment contained in the federal special revenue fund? Rep. Hoffman answered that those funds were available.

Senator Boylan stated that the West Yellowstone is an international airport that was built by federal funds for air access to National Parks. The only other one like it is at the Grand Canyon. Montana is fortunate. He stated that if foreclosure was made the State would have to come up with \$2.3 million to cover some federal obligations.

Closing by Sponsor: Representative Hoffman closed.

DISPOSITION OF HOUSE BILL 416

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Walker MOVED that we DO CONCUR in HB 416. The VOTE was UNANIMOUS in FAVOR of passing HB 416. The secretary was instructed to ask Senator Anderson to carry this bill to the floor.

HEARING ON HOUSE BILL 424

Presentation and Opening Statement by Sponsor:

Representative Ed Grady, house district 47, stated the purpose of HB 424 is to authorize the county treasurer or a deputy county treasurer to acknowledge a signature for purposes of certification of transfer of ownership, registration, and taxation of motor vehicles, boats, and snowmobiles. For the past 20 years the registrar of motor vehicles at Deerlodge has accepted the treasurer or deputies acknowledgement of signature. In August, 1988, the motor vehicles division found a statute that said only a Notary may acknowledge signatures for the purpose of transferring title. The system in place since Aug., 1988 is an inconvenience to the taxpayer, and makes work with the taxpayer more difficult. In Lewis & Clark County there is usually a long line doing this business, and if he is informed his signature needs notarization at the Clerk and Records office, then they let him in front of the line. This makes taxpayers angry all the way around.

List of Testifying Proponents and What Group they Represent:

Cort Harrington, County Treasurers Association
Peter Funk, Asst. A. G., Dept. of Justice

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Cort Harrington stated that for the past 20 years or more the registrar at Deerlodge had accepted the signature or the county treasurer or the deputy in transferring motor vehicles. The purpose of this bill is to authorize the treasurers or their deputy to do this work.

Peter Funk stated that the current statute stated that signatures had to be notarized. His office encouraged the treasurers to seek this statutory change. It will make life a lot easier for all the citizens, the state, treasurers and the motor vehicle bureau in Deerlodge. The Department of Justice gives strong support to the language in this bill.

Questions From Committee Members: Senator Beck asked Cort Harrington if country treasurer's were also notaries? He stated, no, not generally and it is not the treasurer who is at the window doing the transfer. He thinks the treasurer designates the person working the motor vehicle window as deputy so they can acknowledge the signature.

Senator Harding commented that the Lake County Commissioners set up a notary in the office, so this bill would save that expense to her county.

Closing by Sponsor: Representative Grady stated this makes people legal.

DISPOSITION OF HOUSE BILL 424

Discussion: Connie Erickson stated that Greg Petesch asked her to consider amending this bill in this committee, because the Senate passed 123, and in order to clear up technical problems in the language and make this law match 123 and make codifying easier, they want it amended. See exhibit 1, which she gave to all the committee members.

Amendments and Votes: Senator Beck MOVED that the committee DO PASS the AMENDMENTS as presented in exhibit 1. The VOTE was UNANIMOUS in FAVOR of the amendments.

Recommendation and Vote: Senator Beck MOVED that we DO

CONCUR AS AMENDED with HB 424. The VOTE was UNANIMOUS in FAVOR OF HB 424 AS AMENDED. Senator Beck will carry this bill to the Senate floor.

HEARING ON HOUSE BILL 443

Presentation and Opening Statement by Sponsor:

Representative Timothy J. Whalen, House District 93, stated HB 443 is an act to allow county commissioners to appoint more than one constable for each justice's court. Presently, the fee structure for the district courts made justice courts more busy. If the bill goes through that raises their jurisdiction from \$1500 to \$2500 there will be even more filings. If the wrongful detainer act goes through, they will need more constables to notice. This is an option open to commissioners, and the counties would have to fund the constables themselves.

List of Testifying Proponents and What Group They Represent:

Wallace A. Jewell, Montana Magistrates Association

List of Testifying Opponents and What Group They Represent:

None

Testimony: Wally Jewell presented written testimony, see exhibit 1.

Questions From Committee Members: None

Closing by Sponsor: Representative Whalen closed the hearing.

DISPOSITION OF HOUSE BILL 443

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Thayer MOVED that we DO CONCUR in HB 443. The VOTE was UNANIMOUS in FAVOR of passage. Senator Thayer will carry HB 443 to the Senate floor.

HEARING ON HOUSE BILL 505

Presentation and Opening Statement by Sponsor:

Representative Ted Schye, Valley County, Glasgow, explained that this bill was asked by the Fort Peck Fine Arts Council, who now own the Fort Peck Theatre. It was built in 1934 when the dam was built. It has always been owned by the U.S. Government until last year. At that time the whole townsite of Fort Peck and all the buildings were sold. The theatre was used for summer plays for the last 14 years. To keep this building in operations is costly. They asked the county commissioners for financial help. They didn't have any extra funds but they suggested this bill. Presently there is 2 mils that can be used in every county for museums. Very few counties use the 2 mils. Valley County uses .4 of 1 mil to fund a museum. A mil in Valley Co. brings approximately \$29,500. Commissioners suggested changing the statute to include performing arts centers, and visual arts centers along with the museums. He stated the heating bill last year for that theatre was \$12,000. This year they closed the building. This is just an option available to commissioners.

List of Testifying Proponents and What Group they Represent:

David Nelson, Exec. Director, Mont. Arts Council
Gloria Hermanson, Mt. Cultural Advocacy

List of Testifying Opponents and What Group They Represent:

None

Testimony:

David Nelson stated that he's seen the origin of this bill in 1948. He was director of Yellowstone Art Center in Billings and that was one of the first county owned buildings that benefited from this legislation. Montana is well known nationally because of the number of art centers that exist here at the local level. This bill extends the ability for the county to support arts and it is done with the understanding of the tight budgets. In the future this bill may be helpful to more counties than just Valley, for economic development along tourist lines. This is permissive. It is up to county commissioners and they are a difficult lot to convince in most cases, so when they do agree to do this, it is with sound reasoning. I encourage support of this bill.

Gloria Hermanson representing the Montana Cultural Advocacy which is a coalition of people across the state dedicated to development of cultural resources. They

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stand in support of this bill.

Questions From Committee Members: Senator Vaughn asked who owned the theatre now? Rep. Schye answered it belongs to the Fort Peck Fine Arts Council. Would you have to turn it over to the County for them to support this building? He isn't certain.

Closing by Sponsor: Rep. Schye thought that there might be someone representing museums that might object to sharing these mills. There are very few museums using this money right now. This is a good way to help the performing arts people.

DISPOSITION OF HOUSE BILL 505

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Walker MOVED that we DO CONCUR in HB 505. The VOTE was UNANIMOUS in FAVOR of passage. Senator Hammond will carry HB 505 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 205

Discussion: Connie Erickson stated there was concern expressed by realtors that this district would be formed by the county commissioners, and they wanted the district formed by petition.

The other concern expressed was, will county residents be taxed twice for maintenance of a road. Connie Erickson stated that section 7-14-2501 talks about counties being able to levy mills for the construction and maintenance or improvement of public highways. Counties already have a levy for road maintenance.

Senator Walker said it appears that the passage of this bill could set up a situation whereby the counties could totally ignore a certain area, knowing that sooner or later they would call for an SID and get the road upgraded.

Senator Vaughn stated she's had letters expressing this same concern, that they are being ignored all the time and in order to get any help they, ll have to set a special levy on themselves, and where will the county set their

priorities? Will they continue to ignore these roads that are out of the way and don't have too many people on them.

Senator Thayer stated they could set up the whole county as a special district.

Recommendations and Vote: Senator Boylan MOVED that we DO NOT CONCUR in HB 205. Senator Boylan MOVED a substitute motion that we TABLE HB 205. The VOTE was 6 in FAVOR of TABLING and Senators Pinsoneault, Crippen and Walker voted AGAINST TABLING. MOTION CARRIED to TABLE HB 205.

EXECUTIVE ACTION ON HOUSE BILL 439

Discussion: Senator Hammond thought this would make wars between towns with this bill. They do give 3% for out of state. This bill also involves goods and services.

Senator Pinsoneault stated that sitting on the school board, you give a contract for fuel for the school district. You have a bidder in a nearby city. Is that person local or not? They gave the bid to the lowest bidder. He has problems with this bill.

Senator Thayer stated that in his B & I Committee they heard a bill to repeal all bidder preference. That came out of the legislative auditor's office. They did a study that showed where contractors objected to the preference they were sometimes able to turn the award around. This is a problem for large contractors because they are going outside their own towns to bid. Contractors find other states are doing this same thing back and they're finding it difficult to compete. Inside Montana it isn't having that much effect. It causes all kinds of problems with determining whose the low bidder. To further complicate the matter, those companies who have an out of state domicile aren't eligible for the preference, such as Northern School Supply or Johnson Controls, or companies have been doing business in Montana for many years but were formed in another state. He's leaning toward abolishing the whole preference law section. To start this at the local level when it's not working at the State level is a mistake.

Senator Vaughn suggested on line 19 after primary amend this to read have an established place of business within the geographical boundary. Would that answer the concerns? Senator Thayer said no, there isn't a good way to designate this contractor. He thinks we should

not go down that path.

Recommendation and Votes: Senator Walker MOVED that we DO CONCUR in HB 439. Senator Hammond made a substitute MOTION to DO NOT CONCUR IN HB 439. Seven Senators Voted Yes to the MOTION and Senators Boylan and Walker voted No. The MOTION CARRIED to DO NOT CONCUR IN HB 439. The bill has failed. Senator Thayer will carry HB 439 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 291

Discussion: Senator Pinsoneault stated if we do anything with this bill we should pass it without any amendments.

Connie Erickson said the question of sufficiency of title on this bill, would not apply if you add the amendments to the bill. The title talks about medical expenses and some of the proposed amendments address costs of running jails. The other concern she has is the bill in its current form says if a prisoner is financially able to pay, he pays. It does not address the issue if he is financially unable to pay. It is probably more the case where the prisoner is unable to pay. The implication is left that the county will pay. The Legislative Council drafted the bill with a section in there where the Dept. of Justice would pay if the sheriff presented a bill and the House Judiciary Committee amended that section out. If you passed it in its present form, the implication is that the county will pay the medical expenses for those financially unable to pay.

Senator Pinsoneault asked who pays the medical expenses now? Connie Erickson stated the law currently reads "the expense of the medication, medical services, or hospitalization shall be borne by the agency or authority at whose instance the prisoner is being detained". It's the county, if the county detains; it would be the city, if the city detains. Testimony revealed that some cities do not pay for prisoners detained in a county jail. Even though the law reads that cities should pay if it is a city ordinance that causes their jail stay. There is some real disagreements between cities and counties over that particular issue.

Senator Hammond stated there is concern about the judges tacking on the surcharge. From testimony given at the hearing there are a number of judges around the state that are not levying the surcharge.

Senator Walker stated that if it was in violation of a city code, the city would be responsible, and if it is a violation of state law, then the county pays. Connie Erickson said that is the way the law currently reads. Mrs. Erickson stated there are two ways to do that. 1. You pay according to who detains, or 2. You pay according to whose laws were broken. Presently you pay according to who was detaining.

Senator Vaughn asked if the State Highway Patrol pay for their prisoners? Gordon Morris answered there are several things happening. Fish and Game pay. The State pays for some. The Border Patrol pay for some. But those instances do not relate to this bill.

Gordon Morris stated that recent court case decisions have brought to the forefront a need to clarify this issue. It is no longer a question of agencies. It's a question as to whether a city ordinance was broken or a state law was broken. There is a section in Senate Bill 451 (section 2) parallels this section. They have some very tight language in that bill relative to the issue in terms of who pays. It's not just medical but all prisoner expenses.

Senator Vaughn asked if SB 451 would cover this enough so that this bill would be unnecessary? Gordon Morris answered that this bill would only bring out that if a prisoner is able to pay for his own medical expenses, he would do so. That's a whole new issue.

Senator Walker asked if we passed a bill like this, would it help, when a lawbreaker is pursued and injured in the pursuit, to remove state responsibility somewhat? Senator Pinsonault said he didn't think so because you would have some nexus between the damages and what caused them. Senator Pinsonault stated this has always been a problem, and if anyone has a solution, please come forward.

Senator Hammond asked if the only thing this bill does is makes it possible to collect from a prisoner if he has the money? Yes, that's what this bill does. Connie Erickson says it doesn't say anything about if you can't pay.

Senator Beck asked if in the drafting of the bill the language was struck? Connie Erickson stated in the drafting the language on page 2, line 8 through 11, and lines 17 through 24 were added. Then in the House Judiciary Committee lines 17 through 24 were struck.

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He asked if we should re-insert lines 17 through 24?
Connie Erickson said she didn't know.

Senator Crippen stated he has problems with this bill in the sense that the prisoner may not want services, may want his own physician. There is no provision in this bill to protect the prisoner. It says the county attorney shall collect from the prisoner.

Senator Pinsoneault said that under present law there is a certain sharing of expense. This appears fair.


Senator Beck referred to the problem that a person does something and gets put in jail to get their medical expenses paid. He said even though a person in jail has their own medical insurance, the county is responsible to pay for expenses incurred during the jail stay. He thinks the intent of this bill is to relieve the taxpayer from assuming these costs.

Senator Vaughn stated it is amazing how many aches and pains prisoners can find wrong when they get in jail that need taken care of. She's seen that happen with all kinds of problems, bad teeth that they haven't cared for themselves but while in jail those teeth really ache. Senator Crippen stated that person probably couldn't afford the medical expenses. Senator Pinsoneault stated that the arresting officer is usually very careful when arresting a person to question him to find if this person has anything wrong with him. They are meticulous about that and many times that will be a deciding factor to turn him loose and let him go his way.

Recommendations and Votes: Senator Hammond MOVED that we TABLE HB 291. The VOTE was 6 in FAVOR of TABLING and Senators Beck, Vaughn, and Walker OPPOSED. The MOTION CARRIED to TABLE HB 291.

ADJOURNMENT

Adjournment At: 2:25 p.m.


SENATOR ETHEL M. HARDING, Chairman

EMH/dh

Minutes.209

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 375 (third reading copy -- blue), respectfully report that HB 375 be amended and as so amended be concurred in.

Sponsor: Gould (Walker)

1. Page 2, line 9.

Strike: "30"

Insert: "21"

AND AS AMENDED BE CONCURRED IN

Signed: *Ethel H. Harding*

Ethel H. Harding, Chairman

*W.C.
3/10/89
2:26
P.M.*

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 416 (third reading copy -- blue), respectfully report that HB 416 be concurred in.

Sponsor: Hoffman, R. (Anderson)

BE CONCURRED IN

Signed: Ethel M. Harding

Ethel M. Harding, Chairman

Y/C
3/10/89
3:36
J.P.M.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 424 (third reading copy -- blue), respectfully report that HB 424 be amended and as so amended be concurred in:

Sponsor: Grady (Beck)

1. Page 9, line 5.
Strike: "person entitled"

2. Page 9, line 6.
Strike: "to them"
Insert: "transferee"

3. Page 9, line 7.
Strike: "subsection"
Insert: "section"

4. Page 9, line 8.
Following: "such"
Insert: "of"

5. Page 9, line 21.
Strike: "part"
Insert: "chapter"

6. Page 10, line 23.
Strike: "transfer"
Insert: "the assignment"

7. Page 10, line 25.
Strike: "certificates"
Insert: "certificate"
Strike: "remain"
Insert: "is"

AND AS AMENDED BE CONCURRED IN

Signed: Ethel H. Harding
Ethel H. Harding, Chairman

J.C.
3/10/89
2:36
2:27

SENATE STANDING COMMITTEE REPORT

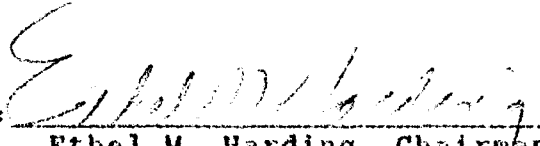
March 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 443 (third reading copy -- blue), respectfully report that HB 443 be concurred in.

Sponsor: Whalen (Thayer)

BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

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3110189
36
J. P. M.

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 505 (third reading copy -- blue), respectfully report that HB 505 be concurred in.

Sponsor: Schye (Hammond)

BE CONCURRED IN

Signed: 

Ethel M. Harding, Chairman

H.C. 3/10/89
3:36
g: n
scrhb505.310

SENATE STANDING COMMITTEE REPORT

March 10, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 439 (third reading copy -- blue), respectfully report that HB 439 be not concurred in.

Sponsor: Kilpatrick (Thayer)

BE NOT CONCURRED IN

Signed:

Ethel M. Harding

Ethel M. Harding, Chairman

M.P.
3/10/89
2:30 p.m.

Amendments to House Bill No. 375
Third Reading Copy

For the Committee on Senate Local Government

Prepared by Connie Erickson
March 9, 1989

1. Page 2, line 9.
Strike: "30"
Insert: "21"

For the Committee on Senate Local Government

Prepared by Connie Erickson
March 9, 1989

1. Page 9, line 5.
Strike: "person entitled"

2. Page 9, line 6.
Strike: "to them"
Insert: "transferee"

3. Page 9, line 7.
Strike: "subsection"
Insert: "section"

4. Page 9, line 8.
Following: "~~such~~"
Insert: "of"

5. Page 9, line 21.
Strike: "part"
Insert: "chapter"

6. Page 10, line 23.
Strike: "transfer"
Insert: "the assignment"

7. Page 10, line 25.
Strike: "certificates"
Insert: "certificate"
Strike: "remain"
Insert: "is"

Amendments to House Bill No. 424
Third Reading Copy

For the Committee on Senate Local Government

Prepared by Connie Erickson
March 9, 1989

1. Page 9, line 5.
Strike: "person entitled"

2. Page 9, line 6.
Strike: "to them"
Insert: "transferee"

3. Page 9, line 7.
Strike: "subsection"
Insert: "section"

4. Page 9, line 8.
Following: "~~such~~"
Insert: "of"

5. Page 9, line 21.
Strike: "part"
Insert: "chapter"

6. Page 10, line 23.
Strike: "transfer"
Insert: "the assignment"

7. Page 10, line 25.
Strike: "certificates"
Insert: "certificate"
Strike: "remain"
Insert: "is"

Montana Magistrates Association

9 March 1989

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 3-9-89

BILL NO. 443

Testimony offered in support of HB443, a bill for an act entitled: "An act to allow county commissioners to appoint more than one constable for each Justice's Court."

Given before the Senate Local Government Committee by Wallace A. Jewell on behalf of the Montana Magistrates Association representing the judges of courts of limited jurisdiction of Montana.

The Montana Magistrates Association is in favor of the intent of this legislation. The bill would be more effective if there were some provision made to mandate the appointment of at least one constable per Justice's Court in the larger counties. In speaking with Justice of the Peace Gladys Vance in Great Falls, she stated that in Great Falls there has only been one constable appointed to be shared by the two Justice Courts. The constable position could be utilized more if there were two constables, one per court. Perhaps HB443 could be amended so that it would mandate two constables per justice court, or more if needed, in counties of 75,000 population or more.

The problem, of course, is that the county commissioners do not have the money to appoint any more county officials or to offer more county services; merely allowing for the appointment of more than one constable will be of little benefit if there is no money in the county budget to pay his or her wages.

In most counties the Sheriff is responsible for the serving of civil papers because the county commissioners have not appointed even one constable. In those counties the Sheriff would be able to devote more of his time to criminal investigation work if the commissioners were required to appoint at least one, and perhaps more, constable per justice court. The sheriffs are going to be spending even more of their valuable time time serving civil papers if HB649 is passed by the legislature. HB649 increases the small claims jurisdiction of justice courts to \$2500 from \$1500.

The Montana Magistrates Association supports the intent of this legislation but as written it will be of little or no benefit to the courts.

Wallace A. Jewell

