

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Vice-Chairman Eleanor Vaughn, on March 21, 1991, at 3:15 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: none

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

HEARING ON HB-813

Presentation and Opening Statement by Sponsor: Representative Mark O'Keefe, District 45, said HB-813 is a very simple bill. In 1979 he was working with the Department of Natural Resources in Adjudication program. He went to work as a field person, and ended up running the program state wide. The program had about 63 employees handling records throughout the state to try to verify existing water rights under the adjudication process. In 1979 he walked in Ravalli County's Courthouse, and was helping a gentleman with his filing of his water rights under the Tin Cup Creek Decree out of Darby area. The clerk pulled out the original decree, which had been passed some 70 years ago by the court, and it literally fell apart when he opened. From then on

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 2 of 15

in Ravalli County, to look at some of the decrees was quite a chore. This bill addresses the preservation of the records in the county courthouses in the state. These records deal with the history of our state. We have records that go back over 100 years in these county seats. Because of I-105, and even before it, there was general disregard for the historical records, and so no one has maintained these records. This bill was brought to him by an attorney in Helena, Doug Olson, and it raises the fee on the recording done by mechanical means from \$5 to \$6/page that is recorded. This additional \$1/page goes into a Records Preservation Fund which is set up by the board of county commissioners in each county. If they need the money to preserve records they then have the funds to protect both the legal and historical records. The House committee amended this bill on the bottom of Page 1 and the top of Page 2, to read that "if the governing body of the county doesn't need the money then the county may transfer those funds to the general fund". This is the case in 6 or 7 of the oil and gas counties where they have realized that the oil and gas industry needs these records so badly that they are willing to pay to keep them preserved and protected. The House committee felt this would make sure money was not put in a Preservation Fund that would not be used. In the long run, if they are currently preserving their records then they will just substitute the general fund that they were using to do it.

Proponents' Testimony: Doug Olson, Helena Attorney, supported this bill (Exhibit #1).

Linda Stoll-Anderson, County Commissioner, Lewis and Clark County, representing Montana Association of Counties, said she wanted to go on record that MACo is in full support of HB-813.

Mike Stephen, Montana Clerk and Recorders Association, said they certainly support this bill. As we look at what county courthouses are needed for this is one of the major duties is to preserve records. We need to be able to look at and retrieve records, and these records must be put in a proper form to be preserved. They must be indexed and retrievable and usable when people need them. This bill goes along way in safe guarding them for all generations. It particularly assists the county in this large task of preserving hundreds of years of records.

Opponents' Testimony: none

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 3 of 15

Questions From Committee Members:

Senator Hammond asked Mr. Olson why this bill only takes in records in the Clerk and Recorders office? Most information is in the Abstract office. Mr. Olson said that abstract information is from the records in the Clerk and Recorders information. Senator Hammond said mortgage information isn't. Mr. Olson said that yes mortgage information is recorded. All loan records can be found in the county Clerk and Recorder's office. All mortgages, liens, mortgages that are satisfied the satisfaction is also filed in the Clerk and Recorder's office. Senator Hammond said that the abstract has a whole lot more information than the Clerk and Recorder has. He has used abstracts that tell when they borrowed the money, what the collateral was, and everything else right from the homestead days. This is the legal history that needs to be preserved.

Senator Vaughn stated that from her experience as Clerk and Recorder there is a tremendous amount of information in that recording in the Clerk and Recorder's office that has to do with all types, water rights, liens, mortgages, deeds, and any number of things that really make a difference. The title companies have done a great deal in getting their information right from these records. Some of the old ones are in terrible shape, and very difficult to even read. You will find that there is a lot of information in the Clerk and Recorder's office that needs to be preserved.

Senator Hammond said he agreed that their information needed to be preserved, but he thought abstracts should also be preserved. Senator Vaughn said the abstractors are private companies, and we do not have anything to do with that government wise.

Senator Beck said he did water research for water adjudication process, and he did most of it in the Clerk of Court. Is this all the combination, or can this be used, what is the difference? Mr. Olson said it depends on what county you're in. During the adjudication process he worked with Judge Lesley, the judge recommended to the Clerk of the Courts in many of these counties that their records be given to the Clerk and Recorder's office, so that the Clerk of Court would not be bothered by the Tom Becks of the world walking in researching their water. Some counties did this, but others didn't. Those initial court records are not the ones covered in this bill. This is only the case in decreed water rights for instance. All of the filed water rights, many of the things for historical proof of water on the land, are in the Clerk and Recorder's office. Senator Beck asked how much

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 4 of 15

money would this raise, and will it be enough to do what they want to do? Mr. Olson said the amount generated will vary from county to county by the number of deeds or instruments that are filed each year. He spoke with Sue Bartlett, formerly Lewis and Clark Clerk and Recorder, now with the Senate staff, and she indicated that the \$1 increase in this county would be more than adequate to make a good start on the cost. He guessed that Lewis and Clark County probably get may be 5,000 pages per year. All the new ones are on microfilm, and he thought this would work. If the volume dealing with the old records is often related to the current traffic. The more urban counties are going to be generating more money, but they also have a lot more old records that go back and look at. He was sorry he could not give an exact amount. Senator Beck asked about the small, isolated counties, and whether there would be enough money generated to those counties to even make the program work? Mr. Olson said he thought there would be. In the small counties its a start. Representative O'Keefe has mentioned, a lot of the small counties are in eastern Montana, and they have oil and gas exploration underway, and so their records are in good shape. It is water rights and things like this were there really are problems. Many of them are in shoe boxes by year.

Closing by Sponsor: Representative O'Keefe said he had two things to add. Senator Hammond mentioned the abstracts. Abstracts are a lot of fun, and they may reference all the information that you need, but in the case of water adjudication, the court declared that abstracts were not admissible in court. So if you have a wonderful abstract that traced 15 different filed rights clear back to their source, we still had to go to the Clerk and Recorder and copy the original document as prima facie evidence of the claim before it was submitted to the water courts. So he agreed that it is fun looking over abstracts in the Bitterroot country, but the Clerk and Recorder's office have the documents that the abstracts are written. We need to protect these documents. The question about smaller counties was answered when he spent a lot of time in the courthouses of Hamilton, Missoula, Superior and Phillipsburg, and in Phillipsburg the way we able to access the records was by getting the key to the basement. Then we went into the dungeon where there were rows and rows of boxes marked by year. Then we would have to go through, and literally shovel the dirt from around the boxes, to see if we could find what we needed. He would venture to say Phillipsburg and Granite County have not come a lot further. But in Missoula County he walked in and found the records. They could not be touched because they weren't preserved or in usable shape, but they knew where they were.

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 5 of 15

This type of money does two things; #1 it lets them get started, #2 it sets the policy that these records are valuable and should be preserved. This should have been a Centennial project. We should have said that the history of Montana is in these boxes in basements, and we are going to try to protect them. We are a little late, but the records that go back 100 years are important to us, and this bill says that. We are going to let the users pay to preserve them. He thanked the committee, and asked if one of them would carry this bill?

EXECUTIVE ACTION ON HB-813

Motion: Senator Kennedy moved to Concur in HB-813. The motion passed unanimously, and was recorded as a roll call vote. Senator Vaughn, with her Clerk and Recorder experience, will carry HB-813.

Senator Vaughn turned the chair back to Senator Bengtson.

EXECUTIVE ACTION ON HB-706

Motion: Senator Eck moved to Concur in HB-706.

Discussion: Senator Hammond said that he agreed this bill may be needed in some areas, but not all. He did not feel this should be imposed on all areas.

Senator Bengtson asked if this does apply to rural areas? C. Erickson said yes.

Senator Beck stated that Senator Kennedy had brought up the question of "noise pollution" during the hearing. Did we find a definition of it? Senator Eck said it comes up around lakes usually regarding motor boats. Senator Bengtson said Fish and Game have a hearing today concerning noise pollution in regard to motor boats.

C. Erickson said she found no definition in the statutes for "noise pollution".

Senator Vaughn asked Senator Kennedy if it was his area that this

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 6 of 15

problem had been in that prompted this bill? Senator Hammond answered by stating that a subdivision had been built, and then a wrecking facility went in uphill from the subdivision. Senator Kennedy asked C. Erickson if legally there would be problems with the language "noise pollution"? C. Erickson said with no definition there might be.

Senator Beck questioned the language on Page 2, line 15. He felt this needed to be removed. C. Erickson said if the DHES had something in their rules that talks about decibel level then they could use this, but there is nothing in the statutes. She was not sure of anything in rules about this.

Senator Bengtson questioned whether this was a form of zoning.

Senator Hammond agreed with Senator Beck that there the word "potential" could cause a lawsuit very easily. Senator Beck reiterated what Senator Hammond said about this not being necessary to all areas of Montana. He could see that his area might need this.

Senator Kennedy felt that the public hearing gives the option part of this bill.

Senator Eck said if the committee wanted it to be an option they could change the "shall" to "may" on Page 1, line 16. C. Erickson suggested it would be better to change Page 1, line 25, and change the "shall" to "may". Senator Vaughn asked if the title needed to be changed too? C. Erickson said that whenever amendments are made the Legislative Council changes the title too, if it is affected by the amendment.

Amendments, Discussion, and Votes: Senator Beck made a substitute motion to amended Page 1, line 25 to "may" and any affect it has on the title. The motion was unanimous.

Senator Eck then moved to delete Page 2, line 15, subsection b. Senator Bengtson said that section could actually call for a small EIS or at least an environmental review. The motion passed unanimously.

C. Erickson said found a section of code in Title 75-20-503, environmental factors, and it takes about facility sighting and the environmental factors that are evaluated in doing that. All it says as far as noise is "noise impact."

Senator Kennedy asked C. Erickson about Page 2, line 13, couldn't this encompass what was struck on Page 2, line 15? C. Erickson

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 7 of 15

felt that what was covered in line 15 could be covered by line 13, but it does not specifically state what to investigate. But all effects on adjoining landowners and landuse is broad enough to include those things that were in line 15.

Recommendation and Vote: Senator Eck moved to Concur in HB-706 as Amended. The vote was 8 to 1, and was recorded as a roll call vote. Senator Hammond voted against. Senator Kennedy will carry HB-706.

EXECUTIVE ACTION ON HB-791

Motion: Senator Kennedy moved to Concur in HB-791.

Discussion: Senator Beck asked for a brief explanation of this bill because he missed the hearing. Senator Hammond said the bill simply stated that a sheriff could designate someone to be the official representative of the department during search and rescues or training so these people would be covered by MACo's Workers' Comp regulations. C. Erickson added that the law currently states that the sheriff must be there physically, and the new language allows telephone or radio contact. Senator Hammond added that the sheriff can't be in two places at one time. Senator Bengtson said the example of scuba diving rescues was used, and many sheriffs are not certified divers, so the dive master could be the designee in this case.

Recommendation and Vote: Senator Kennedy moved to Concur in HB-791. The motion passed and was recorded as a roll call vote. Senator Kennedy will carry HB-791.

EXECUTIVE ACTION ON HB-536

Motion: Senator Eck moved to Concur in HB-536. The motion passed unanimously, and was recorded as a roll call vote. Senator Eck will carry HB-791.

EXECUTIVE ACTION ON HB-650

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 8 of 15

Discussion: Senator Beck asked for a brief history of this bill. Senator Hammond stated that the intent of this "good government" bill was to widen the base of people serving in the Legislature. The secretary summarized the testimony of Representative Squires from the minutes of the hearing on HB-650. Senator Hammond added that this bill would give employees the chance to run, but that it did nothing for employers who would like to run for the Legislature. Senator Bengtson said this might even tilt the make-up of the Legislature by exaggerating it.

Senator Kennedy agreed with Senator Hammond, but said he would support this bill because of his own job. He is a Pharmacy Manager for Pamida, and they could send him back to a "similar" job in Omaha, Nebraska. Then he would have to relocate. They could do this the way the law is currently.

Senator Thayer said he would like to support this bill because he believes that Representative Squires has always been for legislation that is fair and just. Large companies would probably not suffer any hardship from this, but a small company of less than 5 people could be severely impact. His own business could be devastated. He asked the committee if they would consider an amendment that would exempt small businesses of 5 or less employees?

Senator Eck said this is evidently granted to National Guard members now. They feel it is important enough for someone serving their country to return to the same job, then it should be important enough for the Legislature. Serving your country, and deciding how your state is run should be considered to be the same importance. Many of the people now serving in the Legislature did not leave a job to come here. We have a Legislature of people with nothing in jeopardy, and at no risk of losing a job to come here. She said she has always felt that we should do whatever we can to make it possible for more people, a broader base of people to serve.

Senator Bengtson said she agreed that we needed a broad base of representation in the Legislature. The bill in theory is good, but she said that making good government legislation to run this state does require some kind of background in managerial responsibility. The employee and the employer have to negotiate this.

Senator Eck asked what do they do in the National Guard? Senator Bengtson argued that serving in the National Guard and serving in the Legislature can not be compared. She said the number one reason we have government is to protect this country and its

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 9 of 15

people. So she can not compare the two.

Senator Hammond said we can let someone go take part in the National Guard because he can't hurt you. But then to let someone come serve in the Legislature and make decision that could hurt you here is another matter.

Senator Harding said she thought this bill was good, but then she looked at it from her business standpoint. When she comes to serve in the Legislature, the very mild winter has caused hardship on her business because they have had to replace her. They hired a part time replacement, but you can't always do that. She did not think this bill was good for small business.

Senator Bengtson said to consider the long term effect, and what type of Legislature we will have. We don't want all retired people, but will there be a cross section of the population? Senator Eck commented that the Legislature is not a cross section of the population now.

Senator Vaughn felt that there was a strong feeling presented that this bill would provide more possibilities for a cross section. Some of these people who are younger with children do not feel they can run for the Legislature if they are unsure that they will get the same job back.

Senator Bengtson asked if a law had been passed that if you were riffed (reduction in force) like in a school district that you then could be hired back at a teacher's salary if you had been an administrator? Senator Beck thought we did.

Senator Hammond repeated that this takes care of employees, but it does nothing for the employers. How about young employers trying to make a company grow?

Senator Beck thought Representative Squires would have been covered by a union contract, and wouldn't this be negotiated? The secretary referred to the minutes that stated this was one of the things given away at the bargaining table because it only affects a couple of people.

C. Erickson read from the code about re-employment of veterans, 10-2-211, and re-employment of public employees, 10-2-221. This provides for them to return to their same job.

Senator Bengtson asked C. Erickson if this uses "similar" job?

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 10 of 15

C. Erickson said they state re-employment to the position that you left.

Senator Beck asked if Representative Squires took a pay cut? C. Erickson said no. He said present law allows a leave of absence to serve in the Legislature, and you if you return in 180 + 10 days, you will have a job to return to.

Senator Vaughn said she lost the security of the time shift and the permanent location of work in the Rehab Center.

Senator Beck said if someone takes a maternity leave, and when they return and someone is in their position can they bounce that person out? Senator Eck said that is maternity leave. Senator Beck said they come back to the same pay, but just a little different job.

Senator Bengtson said she gave the example of young mothers that work day shifts. If they serve in the Legislature, they need to be able to return to the job on the day shift. A night shift may pay the same, but there will be the added problems of night time day care.

Senator Thayer said he could support this bill if there was an exemption of companies with 10 or less employers.

Motion: Senator Eck moved to Do Pass HB-650. A roll call vote was taken and failed 4 to 5. Senators Eck, Kennedy, Vaughn and Waterman voted for the do pass.

Senator Thayer moved to table HB-650. A roll call vote was taken and passed 5 to 4. Senators Eck, Kennedy, Vaughn and Waterman voted against the table motion.

EXECUTIVE ACTION ON HB-707

Motion: Senator Thayer moved to Do Not Concur in HB-707.

Discussion: Senator Thayer felt there was overwhelming testimony against this bill. He hoped the committee was going to take that in to consideration.

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 11 of 15

Senator Vaughn said that she had talked with the Libby cable company and there are problems with the t.v. districts. The cable t.v. company provided her with a stack of letters supporting what they do for the community. Local government can't afford to put this kind of money into the community.

Recommendation and Vote: The motion to Do Not Concur in HB-707 passed unanimously, and was recorded as a roll call vote. Senator Eck did not vote because she did was not present at the hearing. Senator Thayer will carry the adverse committee report.

EXECUTIVE ACTION ON HB-952

Motion: Senator Harding moved to Do Not Concur in HB-952.

Discussion: Senator Bengtson asked Steve Welch, Department of State Lands, to answer some questions she had. She asked what the department's rules and regulations are about siting gravel pits? What consideration is given to local zoning that exists in a proposed area? Mr. Welch said that the way the current zoning statutes read the local zoning can not restrict the complete use or recovery of any natural resource including sand and gravel. So as it is now, the local zoning official do not have any control. We receive an application that may lie in a zoned residential area, and we do discuss it with the county authorities and any other state organization. Through the application procedure, the Opencut Mining Act, we try and put as many mitigating measures on these sites that will reduce the impact to neighboring residential areas. These measures may be large vegetative topsoil berms to deflect some of the noise, vegetative screens to absorb noise and cut down on visual deterioration, restriction of operating hours of crushing or mining operation, fencing of entire operation for safety, and we restrict hauling through nearby subdivisions. But when the application complies with the Opencut Mining Act, despite it is in a zoned residential area, there is no way we can deny it based on that one reason. If the department can't prove that the operation will not affect the taxable value of the property, and also complies with the act. Senator Bengtson asked if taxable property valuation is considered? Mr. Welch said the Act states that we have to protect and perpetuate the taxable value of the property. Anything that may be affected by the Opencut Mining operation is taken into consideration. As yet, there have been

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 12 of 15

no verified instances where taxable value has been reduced from the siting of one of these operations. Senator Bengtson asked how many complaints do they receive per year? Mr. Welch said they get a number of complaints, and may be two or three applications have this as a problem. This is not necessarily always in an area zoned, but just sites near other rural subdivisions.

Senator Bengtson tried to clarify that the department just has two or three problem applications? Mr. Welch said they have that number in those sites located in a zoned residential area.

Senator Hammond asked why core samples are not taken when the law is stated this way? Mr. Welch said he agreed that this would be the best policy to solve this problem. Identify all the areas sand and gravel potential in these rapid growth areas, and then restrict development around those identified until the sand and gravel can be mined.

Senator Eck said that the Gallatin Planners have said that the best place for a subdivision is where there is sand and gravel for housing and streets instead of eating up the agricultural sites. How many areas of the state have a scarcity of gravel? Senator Hammond said in his area they can't find it for miles. Mr. Welch said it depends on the area, and the specifications for the gravel.

Senator Waterman said she is troubled by the fact that you can have a sand and gravel pit put into a subdivision. Does the department feel that there is a need for this bill, or do they belong in these residential areas? Mr. Welch said the department does not take a stand on this. The things we have done to try to reduce the impact are the maximum that we can do when we review a sand and gravel application. Senator Waterman said that as the department goes through the restrictions that they use, the hours to operate, the landscape, etc. that we are creating headaches for the department, sand and gravel pits, and the neighbors. We have two incompatible things here, and this will only increase in urban areas if something isn't done now. If we pass this bill it does not affect existing sand and gravel operations, so it seems to stop this from happening in the future that this bill is the wise thing to do.

Senator Hammond said that gravel is becoming scarce. Phillips county travels 54 miles to the closest pit. It is important that they be able to mine it where they find it.

Senator Vaughn said that the Livingston site testimony was that

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 13 of 15

there was terrible dust created and is this part of the department's consideration? Mr. Welch said yes, and through the DHES through the Air Quality Permit, and the Department of State lands require a spray bars in the crushers to keep dust down, and other dust control measures.

Senator Thayer added that he was told that this example was not fairly stated. The sand and gravel operation had been there before the residential homes were built. Mr. Welch said that was correct. The pit opened in the 50's, and then they closed and reopened after the law was enacted in 1971. People had taken out small loads before the law was in affect. The application we received was the first one to be considered under the Opencut Mining Act.

Senator Beck asked if a contractor is constructing a road, and it must be through a zoned residential area, can they get a temporary gravel pit, then under this bill they will have to get another permit from the zoning board? Mr. Welch said he understood the bill that the local zoning board would be the first to get the approval of the location of the site. Senator Beck said then before they come to the State Lands to apply for the permit, they would need to go through the zoning board first, then go through the steps to get the permit from the state. The zoning board could make it impossible to site that pit there? Does the Department of State Lands consider whether that area is zoned or not? Mr. Welch said they do not have a state wide zoning map. However they do research it if we feel it might likely be zoned. The zoning board has no authority over us. Senator Beck said we a temporary pit is reviewed, are attempts made to comply with the residents in the neighborhood? Mr. Welch said they do work with the adjacent residential areas and the operators as much as possible to work out a compromise.

Senator Bengtson asked what comes first? Mr. Welch said that the operator would go through zoning authority first, and then they would send us verification that the operator is in compliance with local zoning regulations. Senator Bengtson asked how many new applications the department gets per year? Mr. Welch said about 250 new applications.

Senator Eck said she understood that current law states that a gravel pit can be put in a residential neighborhood, and also they can put in a batch mix, a concrete plant, etc. In Bozeman there is an area that they wanted to put in an asphalt plant in an area of mixed residential and light industry. They were turned down because they were too close to a residential area for that kind of operation. Had they put in a sand and gravel pit

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 14 of 15

first, then they would have been o.k.? Mr. Welch said it depends on where the area lies. The enabling legislation for zoning comes under two separate parts, and the cities zoned areas may restrict sand and gravel mining. The Supreme Court ruled that crushers and asphalt plant are an integral part of the mining operation, and as such they could not be restricted either. Senator Eck said in this rural area, the county could restrict a cement plant or asphalt plant if they are not associated with a sand and gravel operation? Mr. Welch said he was not sure. He said they do not regulate, through the Opencut Mining Act the crushers and asphalt plants if they are not associated with a sand and gravel operation.

Senator Harding said of the 250 permits, how many of them are new permits? Mr. Welch said those are all new permits. Senator Harding said in regards to the 2 or 3 complaints received per year, the department contacts the business, and do they cooperate and meet the specs and regulations that you advise them of. Mr. Welch said anytime they get an application that is near a residential area, after the environmental assessment is prepared, we hold a public meeting to discuss the entire operation. We try to work out what can be done through the Opencut Mining Act. Senator Harding said he misunderstood what she asked. When they have complaints, how are they handled? Mr. Welch said he needed to back up. They have many more than 2 or 3 complaints per year. He meant that they have 2 or 3 applications that may impact a residential area. Senator Harding said she understood that, but how does the department handle those complaints? Mr. Welch said they are not actually complaints. They do try to weigh all the concerns of those affected citizens in to consideration when they review the application. We try to decide which concerns we can address under the Opencut Mining Act. Some we can't touch, but the ones we can then we do.

Senator Eck made a substitute motion to Concur in HB-952.

Discussion, and Votes: Senator Thayer said that this bill wants to involve local government planning and zoning boards that have admitted that can't find people to serve on these boards. We will take this efficient operation away from the State Lands that acts as an independent reviewer, and put it in the hands of local zoning boards. We will really create problems. There is a comfort level in the current system, and if it ain't broke, don't fix it.

Senator Harding this is an anti-business bill. It will shut down future sand and gravel operations.

LG032191.SM1

SENATE LOCAL GOVERNMENT COMMITTEE

March 21, 1991

Page 15 of 15

Senator Eck said she thought this was a property rights bill. Your ability to dig gravel stops where my property begins. This could ruin a person's life. Your home is your castle, and this could destroy that dream.

Recommendation and Vote: The vote on the substitute motion to Concur in HB-952 failed 2 to 7. Senators Eck and Waterman were the minority voting for the motion, and was recorded as a roll call vote.

Senator Harding's motion to Do Not Concur in HB-952 passed 7 to 2, and was recorded as a roll call vote. Senator Harding will carry the adverse committee report.

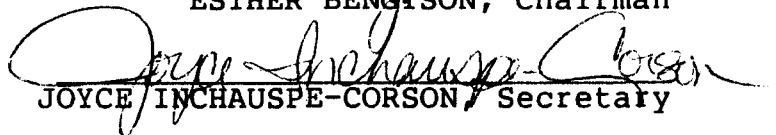
Senator Waterman said Senator Farrell has requested a Minority Report. The secretary will request one, and Senators Eck and Waterman will sign on it as the minority.

ADJOURNMENT

Adjournment At: 4:38 p.m.



ESTHER BENGTSON, Chairman



JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

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ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 3-21-91

52 LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck	X		
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

SENATE LOCAL GOVT. COMM.

DOUGLAS B. OLSON
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EXHIBIT NO. 1
DATE 3-21-91
BILL NO. HB-813

March 21, 1991

Senate Local Government Committee
52nd Montana Legislature
State Capital
Helena, Montana 59620

re: HB 813

Dear Madam Chairperson &
Committee Members:

My name is Doug Olson, I am an attorney residing in Helena and I am appearing before you today representing myself to encourage you to support House Bill 813. I contacted Representative O'Keefe to request that he sponsor legislation to increase by one dollar (\$1.00) the fees that are charged for filing legal documents with the County Clerk and Recorders' Offices (Section 7-4-2632, MCA). My intent was to create a County Records Preservation Account to be funded by this increase.

Last summer I spent many hours in the Lewis and Clark County Clerk and Recorder's Office researching many old land transaction records in relation to a water project I was working with the City of Helena on. The records in Lewis and Clark County go back as far as 1864, almost 130 years. While some counties in Montana may not have been created 130 years ago, most counties are at close to being one hundred years old.

What types of records are maintained by the County Clerk and Recorders? Land grants from the federal government (Patents), mining claims, water rights, deeds, leases, mortgages, mineral rights, as well as birth and death records. Many of these older county records, statewide, are deteriorating at an alarming rate and should be repaired, laminated in plastic to protect them, and then microfilmed.

Most County Clerk and Recorders do microfilm new deeds, etc., that are submitted for recording. They do not, however, have the financial resources to microfilm their older records or to laminate pages in the record books that are becoming frayed.

Of the five dollars (\$5.00) that is currently collected for filing deeds, etc., under 7-4-2632, MCA, none of these monies are earmarked for maintaining and preserving the records of the County Clerk and Recorders' office. All of these fees are deposited in the County General Fund. County Clerk and Recorders must apply for appropriations from the county commissioners to run their offices.

Letter to Senate Local Gov't Committee
re: HB 813
March 21, 1991
Page 2

All local governments are strapped for funding as a result of "I-105" and so trying to establish a County Records Preservation Fund out of the existing County General Fund monies is unrealistic.

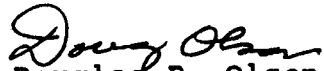
Preserving county records is important not only from the perspective of maintaining our history but also for preserving the legal rights that these documents reflect. Once records become torn or faded, it is often impossible to re-create legible records that we or our descendents will need or desire. Time is really of the essence for our older records are becoming more brittle and faded as each day passes.

It is important that counties establish an earmarked County Records Preservation Fund so that the one-dollar increase in recording fees clearly will be allocated for the purposes for which it is being sought.

A specific July 1, 1991 effective date is included in HB 813 to reflect the county government fiscal year that County Clerk and Recorders operate under.

I wish to thank Representative O'Keefe for introducing this bill and I would urge your support of this bill. Thank you for your consideration of my testimony and I would welcome any questions that you may have.

Sincerely,


Douglas B. Olson
Attorney

HB813S.txt

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-813 Time 3:34

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER		
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-813
Senator Vaughn will carry

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91

Bill No. HB-706 Time 3:48

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND		X
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-706 as
Amended.
Senator Kennedy will carry

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-791 Time 3:50

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-791
Senator Kennedy will carry

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-536 Time 3:52

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-536
Senator Eck will carry

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-650 Time 4:10

NAME	YES	NO
SENATOR BECK		X
SENATOR BENGTON		X
SENATOR ECK	X	
SENATOR HAMMOND		X
SENATOR HARDING		X
SENATOR KENNEDY	X	
SENATOR THAYER		X
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: motion to Do Pass it

Failed #5

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-650 Time 4:11

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK		X
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY		X
SENATOR THAYER	X	/
SENATOR VAUGHN		X
SENATOR WATERMAN		X

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: to table HB-650

Passed 5-4

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-707 Time 4:14

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK		didn't hear
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: Do Not Concur in HB-707
Senator Thayer will carry
adverse committee report

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-952 Time 4:37

NAME	YES	NO
SENATOR BECK		X
SENATOR BENGTON		X
SENATOR ECK	X	
SENATOR HAMMOND		X
SENATOR HARDING		X
SENATOR KENNEDY		X
SENATOR THAYER		X
SENATOR VAUGHN		X
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: Do Concur in HB-952
Failed

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-21-91 Bill No. HB-952 Time 4:38

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK		X
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	 	 X

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Do Not Concur in HB-952

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

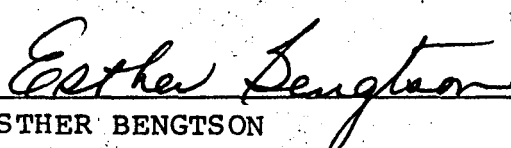
To: Secretary of the Senate

Dated this 21 day of MARCH, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: HB-650

Action: move to table


Signature ESTHER BENGTON

Amendments to House Bill No. 706
Third Reading Copy

Requested by Senator Beck
For the Committee on Local Government

Prepared by Connie Erickson
March 25, 1991

1. Title, line 6.
Strike: "REQUIRING"
Insert: "ALLOWING"

2. Page 1, line 25.
Strike: "shall"
Insert: "may"

3. Page 2, line 12.
Strike: ":"

4. Page 2, line 13.
Strike: "(a)"

5. Page 2, lines 14 through 16.
Strike: ";" on line 14 through "pollution" on line 16

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1921

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 536 (third reading copy -- blue), respectfully report that House Bill No. 536 be concurred in.

Signed: _____
Esther C. Bengtson, Chairman

3-22-11
Amd. Coord.

3-22-11 9:10
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 791 (third reading copy - blue), respectfully report that House Bill No. 791 be concurred in

Signed: Esther G. Bengtson
Esther G. Bengtson, Chairman

191 3-22-91
Amd. Coord.

191 3-22-91
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 813 (third reading copy -- blue), respectfully report that House Bill No. 813 be concurred in.

Signed: *Esther G. Bengtson*
Esther G. Bengtson, Chairman

191 3-22-11
Ad. Coord.

191 3-22-11
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 707 (third reading copy as amended - blue), respectfully report that House Bill No. 707 be not concurred in.

Signed: *Edith Bengtson*
Edith C. Bengtson, Chairman

Edith Bengtson
Amd. Coord.

Edith Bengtson 9:10
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 252 (third reading copy -- blue), respectfully report that House Bill No. 252 be not concurred in

Signed: *Esther Bengtson*
Esther G. Bengtson, Chairman

3-22-91
R. E. D.
Amd. Coord.

R. E. D.
Sec. of Senate

MINORITY REPORT

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1991

MR. PRESIDENT:

We, the minority of the committee on Local Government having had under consideration House Bill No. 952 (third reading copy blue), respectfully report that House Bill No. 952 be concurred in.

Signed: _____

Dorothy Eck

Signed: _____

Hignon Waterman

MA 3-22-91
And. Coord.

B. J. 2
Sec. of Senate

4:00

MAJORITY REPORT

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1991

MR. PRESIDENT:

We, the majority of the committee on Local Government having had under consideration House Bill No. 952 (third reading copy -- blue), respectfully report that House Bill No. 952 be not concurred in.

Signed: _____

Esther G. Benqtson, Chairman

MA 3-22-91

And. Coord.

SP 3/22 4:00

Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 25, 1921

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 706 (third reading copy -- blue), respectfully report that House Bill No. 706 be amended and as so amended be concurred in:

1. Title, line 6.

Strike: "REQUIRING"

Insert: "ALLOWING"

2. Page 1, line 25.

Strike: "shall"

Insert: "may"

3. Page 2, line 12.

Strike: ":",

4. Page 2, line 13

Strike: "(a)"

5. Page 2, lines 14 through 16.

Strike: ":", on line 14 through "pollution" on line 16

Signed:

Esther G. Bengtson
Esther G. Bengtson, Chairman

191 3-25-21
Md. Coord.

515 2 2 10:10
Sec. of Senate