

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN NORM WALLIN, on January 12, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Dave Brown (D)
Rep. Tim Dowell (D)
Rep. Dave Ewer (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Ed McCaffree (D)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: Rep. John Bohlinger (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

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

Committee Business Summary:

Hearing: HB 39; HB 62; HB 88
Executive Action: HB 62; HB 88; HB 44; HB 63

Announcement: CHAIRMAN WALLIN informed committee members that on Thursday, January 21, the county planner from Lake County and the county planner from Gallatin County, Mary Kay Peck, will each give a 20-minute presentation on planning and zoning. Questions from the Committee will follow.

HEARING ON HOUSE BILL 39Opening Statement by Sponsor:

REP. DAVE EWER, HD 45, Helena, explained HB 39 originally sought to repeal Section 7-7-4222 which essentially states that if you have any bonds for water or sewer it would require a vote of the people. It is not specific as to whether those bonds would be general obligation or enterprise backed.

REP. EWER distributed a proposed amendment for HB 39. EXHIBIT 1 He stated the purpose of the general obligation part of the code is to detail the procedures required for local governments to have debt backed by the full faith and credit of the local government. The amendment would make the bill clearly state that bonds issued for water and sewer projects with the city, backed with the full faith and credit, (i.e. the general credit backing them), must be voted on by the people. Most water and sewer bonds in this state are issued under different authority in Section 7-7-4421. There currently are two contradicting statutes. On one hand, Section 7-7-4422 states money cannot be borrowed for a water or sewer project without a vote of the people and yet, Section 7-7-4421 states that local governments can issue bonds and pledge the revenues. HB 39 would clarify local governments do have an option to have an enterprise-backed bond and that option involves the general credit of the local government and would require a vote of the people. These types of bonds are known as "double-barrel bonds". The bondholder gets the benefit of not only the revenues pledged to the bonds, but also the general full faith and credit of the local government which sometimes results in a better rate. Once general obligation debt is placed on the books, it does limit the bonding capacity of the local government.

Proponents' Testimony:

Alec Hansen, Executive Director, Montana League of Cities and Towns, testified in favor of HB 39 and the amendment stating the amendment would protect the interests of the taxpayer.

Opponents' Testimony:

Tom Hopgood, Montana Association of Realtors, said the Association was concerned because the bill removed from the electorate the power to approve general obligation bonds. However, the amendment proposed by REP. EWER resolves this concern. Mr. Hopgood stated he would caution the committee whenever it comes to removing the power of the people.

Questions From Committee Members and Responses:

REP. SAYLES said that as of November 1, 1992 in Missoula County, a water/sewer district was enacted and the people had 30 days to respond, however, they did not get enough signatures to block it.

He asked REP. EWER if the bill could be grandfathered or if it would have an effective date. REP. EWER informed REP. SAYLES that water and sewer districts would not be affected by this legislation. HB 39 relates to municipal city or town bonds which are a different entity from water and sewer districts. The water and sewer districts have their own statute which enables local governments to issue bonds backed by tax proceeds. These bonds also, if cut back by a deficiency levy, must be voted on by the people. This clarification applies to cities and towns.

CHAIRMAN WALLIN explained the problems they have had in Bozeman with SIDs. The city has had to pick up SIDs which did not produce. He then asked if the rates were too high for the people to pay, would the city be required to make good on those bonds? REP. EWER replied that ordinarily in Montana water and sewer bonds are issued only as revenue bonds. This means the enterprise fund is solely responsible and there would be no guaranteed promise by the city to pay.

CHAIRMAN WALLIN asked if the bill could be amended to give a percentage of the assessed valuation of the city. REP. EWER stated those limitations are already constrained by a different statute under general obligation which is 26% of the taxable valuation.

Closing by Sponsor: None.

HEARING ON HOUSE BILL 62

Opening Statement by Sponsor: None.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

REP. BRANDEWIE announced that REP. KELLER, House District 83, Fishtail, sponsor of HB 62, requested the committee not have a hearing and table the bill.

Questions From Committee Members and Responses: None.

EXECUTIVE ACTION ON HOUSE BILL 62

Motion/Vote: REP. BRANDEWIE MOVED TO TABLE HB 62. The motion carried with REP. SMITH opposing.

HEARING ON HOUSE BILL 88

Opening Statement by Sponsor:

REP. ED McCAFFREE, HD 27, Forsyth, opened the hearing on HB 88 which eliminates the minimum bid requirement at a sheriff's sale. He gave an example of a situation in his county: A furniture store had burned down, leaving only the walls and the county claimed ownership in lieu of taxes owed and advertised the building for \$12,000 but received no bids. The cost to demolish the building was \$6,000. A short time later, a local druggist offered \$6,000 and the county commissioners accepted. EXHIBIT 2
REP. McCAFFREE then offered amendments for HB 88. EXHIBIT 3

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties (MACo), explained what the Association goes through to change statutory provisions. He distributed copies of Resolution 92-11. EXHIBIT 4 He said the Association supports HB 88.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. BRANDEWIE said that since the bill would not affect real property, it is more a "personal property" bill dealing with trailer houses. Trailer houses are one of the major categories of uncollected taxes in counties. Mr. Morris stated that REP. BRANDEWIE was correct. The bill specifically speaks to personal property which is particularly mobile.

REP. SAYLES asked why we don't address real property as well. Mr. Morris informed REP. SAYLES the real property section of the law requires a bid process and there is no minimum. Once you go through the bid process and do not receive a bid which matches the appraisal price on the real property, it is possible to go back and take whatever you can get for it.

REP. EWER asked why we couldn't parallel the real property law along with the personal property law. Mr. Morris said the sections of law dealing with personal property and the handling and treatment of delinquent taxes on real property are covered under separate statutes. There is very little that could be parallel except for personal property which is "affixed" to real property. Personal property which is affixed to real property is treated like real property. An example of affixed real property would be a trailer set on a foundation rather than on wheels.

REP. EWER asked Mr. Morris if he thinks a person who owns machinery and owes taxes actually gets a fair bid. Mr. Morris said the law requires local governments get a minimum bid and defines minimum in terms of the amount sufficient to pay the delinquent taxes, interest and costs. Mr. Morris noted it might

be the case that the defined "minimum" could be in excess of what might be a bid that would be determined to be fair relative to market considerations. He stated that was the problem. You have personal property which, due to the tax owing on it, is worth virtually nothing and yet there might be several thousand dollars in taxes which have gone uncollected.

REP. DOWELL asked what happened to this personal property. Mr. Morris said it just piles up somewhere; it is accumulating and you cannot get rid of it.

REP. WYATT expressed concern about protection of the people. For instance, if someone owns a \$40,000 ring and without any minimum bid and with only a few select people knowing about it, what would protect the owner from getting the remainder after taxes are paid. Mr. Morris stated that nothing protects a person once they have forfeited due to failure to pay taxes.

REP. BRANDEWIE asked if there should be an amendment disbursing the balance to the owner. Mr. Morris stated that by the time the county takes the property the owner has had ample time for redemption. The redemption for personal property is ten years, whereas the redemption time for real property is annual. Anyone who wished to choose to sell property for more than the taxes owed would do so before the county seized the property.

Mr. Campbell, referring to page 2, 6B, asked for clarification. Mr. Morris said he did not believe there would ever be a case where money would be left after the sale.

Closing by Sponsor:

REP. McCAFFREE thank the committee and closed on HB 88.

EXECUTIVE ACTION ON HOUSE BILL 88

Motion/Vote: REP. McCAFFREE MOVED HB 88 DO PASS. Motion carried unanimously.

Motion/Vote: REP. McCAFFREE moved to adopt the amendments. Motion carried unanimously.

Motion/Vote: REP. McCAFFREE MOVED HB 88 DO PASS AS AMENDED. Motion carried with REP. WYATT opposing.

EXECUTIVE ACTION ON HOUSE BILL 44

Motion/Vote: REP. WYATT MOVED HB 44 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 63

Motion: REP. BRANDEWIE MOVED HB 63 DO PASS.

Discussion: REP. BROWN asked about the definition of non-profit and religious organizations.

CHAIRMAN WALLIN noted there was an amendment which would clarify the definition of a non-profit organization. EXHIBIT 5

Motion/Vote: REP. BRANDEWIE moved to adopt the amendment.
Motion carried with REP. VOGEL opposing.

Motion/Vote: REP. BRANDEWIE MOVED HB 63 DO PASS AS AMENDED.
Motion carried with REP. VOGEL opposing.

ADJOURNMENT

Adjournment: 4:00 p.m.



NORM WALLIN, Chairman



PAT BENNETT, Secretary

NW/pb

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL

DATE

1/12/93

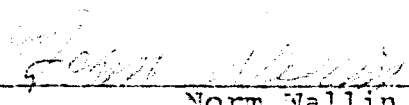
NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. ELLEN BERGMAN	-✓		
REP. JOHN BOHLINGER			✓
REP. DAVE BROWN	✓		
REP. TIM DOWELL	✓		
REP. DAVID EWER	✓		
REP. STELLA JEAN HANSEN	✓		
REP. JACK HERRON	✓		
REP. ED McCAFFREE	✓		
REP. SHEILA RICE	✓		
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. RANDY VOGEL	✓		
REP. KARYL WINSLOW	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

January 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 44 (first reading copy -- white) do pass.

Signed: 
Norm Wallin, Chair

HOUSE STANDING COMMITTEE REPORT

January 13, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 63 (first reading copy -- white) do pass as amended.

Signed: Norm Wallin
Norm Wallin, Chair

And, that such amendments read:

1. Page 2, line 2.
Following: "organization,"
Insert: "as defined in 23-5-112,"

HOUSE STANDING COMMITTEE REPORT

January 13, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Local Government report that House Bill 88 (first reading copy -- white) do pass as amended

Signed: Norm Wallin
Norm Wallin, Chair

And, that such amendments read:

1. Title, line 5.

Following: "PROPERTY;"

Insert: "PROVIDING FOR THE DISTRIBUTION OF MONEY COLLECTED FROM THE SALE; ALLOWING COUNTY COMMISSION TO CANCEL ANY PERSONAL PROPERTY TAXES, INCLUDING INTEREST, PENALTY, COSTS, AND CHARGES THAT REMAIN UNSATISFIED AFTER SALE OF THE PERSONAL PROPERTY;"

2. Page 2, line 12.

Following: "(6)(a)"

Strike: the rest of line 12 through line 15

Insert: "After sale of the property, the proceeds of the sale must be used first to reimburse the county for all costs and charges incurred in seizing the property and conducting the sale. Any excess, up to the total amount of the taxes owed, must be distributed proportionally to the funds that would have received the taxes if they had been paid before becoming delinquent. Any remaining excess, up to the amount of the penalty and interest owed, must then be distributed proportionally to the fund that would have received the penalty and interest if they had been paid in full."

Page 2 of 2

Following: line 8

-END-

TABLED BILL

LOCAL GOVERNMENT

JANUARY 12, 1993
Date

Name of Committee

The following bill HOUSE BILL 62

was TABLED, by motion, on TUESDAY, JANUARY 12, 1993.


For the Committee

For the Chief Clerk

Time

Date

CS-04
1991

Amendments to House Bill No. 39
First Reading Copy

Requested by Rep. David Ewer
For the Committee on Local Government

Prepared by Connie F. Erickson
December 31, 1992

1. Title, line 5.
Following: "SEWER"
Insert: "REVENUE"

2. Title, line 6.
Following: "AND"
Strike: "REPEALING"
Insert: "AMENDING"

3. Page 1, line 9.
Strike: section 1 in its entirety

4. Page 1.
Following: line 10
Insert: "Section 1. Section 7-7-4222, MCA, is amended to read:
"7-7-4222. Election required for bond issue relating to
water and sewer systems. ~~No money must be borrowed on bonds~~ Bonds
backed by the full faith and credit of the city or town and
issued for the construction, purchase, or securing of a water
plant, water system, water supply, sewage treatment and disposal
plant, or sewer system may not be issued until the proposition
has been submitted to a vote and the majority vote cast in favor
thereof.""

MONTANA COUNTY TREASURERS ASSOCIATION

To: Rep. Ed McCaffree

From: J. Cort Harrington, Jr.

Re: HB 88

The Montana County Treasurers Association supports HB 88 which would remove the minimum bid requirement at a sheriff's sale of personal property. The following two changes however would help the County Treasurer implement this bill.

1. There is nothing in the bill which tell the treasurer where to distribute less than the total tax. Section 7-8-2306 MCA addresses the sale of real property for less than the total owed. It directs the treasurer to first pay the cost of conducting the sale, then the taxes and then the penalty and interest. The Treasurers Association would like to add similar language to §15-17-911(6) MCA. Subsection (6)(a) should read:

(6)(a) Upon the sale of the property, the proceed of the sale must be used first used to reimburse the county for all costs and charges incurred in seizing and conducting the sale. Any excess, up to the total amount of the taxes owed, will be distributed proportionally to the funds that would have received the taxes if they had been paid before becoming delinquent. Any excess, up to the amount of penalty and interest owed, will then be distributed proportionally to fund that would have received the penalty and interest had it been paid in full.

2. If the property is sold for less than the total owed the county commissioners should have the discretion to write off the remaining balance. This could be accomplished by adding a new subsection as follows:

(9) The county commission, in their discretion, may cancel any personal property taxes, including penalty, interest, cost and charges that remain unsatisfied after the property upon which the taxes were assessed has been seized and sold. If the taxes are canceled, a copy of the order of cancellation must be filed with the county clerk and one copy with the county treasurer.

J. Cort Harrington, Jr.
442-2856

Amendments to House Bill No. 88
First Reading Copy

Requested by Rep. McCaffree
For the Committee on Local Government

Prepared by Bart Campbell
January 12, 1993

1. Title, line 5.

Following: "PROPERTY;"

Insert: "PROVIDING FOR THE DISTRIBUTION OF MONEY COLLECTED FROM
THE SALE; ALLOWING COUNTY COMMISSION TO CANCEL ANY PERSONAL
PROPERTY TAXES, INCLUDING INTEREST, PENALTY, COSTS, AND
CHARGES THAT REMAIN UNSATISFIED AFTER SALE OF THE PERSONAL
PROPERTY;"

2. Page 2, line 12.

Following: "(6)(a)"

Strike: the rest of line 12 through line 15

Insert: "After sale of the property, the proceeds of the sale
must be used first to reimburse the county for all costs and
charges incurred in seizing the property and conducting the
sale. Any excess, up to the total amount of the taxes owed,
must be distributed proportionally to the funds that would
have received the taxes if they had been paid before
becoming delinquent. Any remaining excess, up to the amount
of the penalty and interest owed, must then be distributed
proportionally to the fund that would have received the
penalty and interest if they had been paid in full."

3. Page 3.

Following: line 8.

Insert: "(9) The county commission, in its discretion, may
cancel any personal property taxes, including penalty,
interest, costs, and charges that remain unsatisfied after
the property upon which the taxes were assessed had been
seized and sold. If the taxes are canceled, one copy of the
order of cancellation must be filed with the county clerk
and one copy with the county treasurer."

EXHIBIT 4
DATE 11/12/93
HB 88

RESOLUTION 92-11

SHERIFF'S SALE OF PERSONAL PROPERTY

WHEREAS, the counties are charged with collecting taxes, and

WHEREAS, this can and does lead to Sheriff Sales on personal property, and

WHEREAS, Section 15-17-911(3) MCA requires that "A minimum bid for any property offered for sale must be of a sufficient amount to pay the delinquent taxes including penalties, interest and costs", and

WHEREAS, this makes no sense when you are selling numerous items of personal property, and

WHEREAS, we believe the intent of the law was to sell items until the entire bill was satisfied;

NOW, THEREFORE BE IT RESOLVED that the Montana Association of Counties seek legislation in the 1993 Legislature amending Section 15-17-911 MCA to delete the second sentence sub-section three of the statute.

SUBMITTED BY: Fergus Co.

RECOMMENDATION: DO PASS

PRIORITY: MEDIUM

APPROVED: JUNE 18, 1992

EXHIBIT 5
DATE 1/12/93
1 HB 63

Amendments to House Bill No. 63
First Reading Copy

Requested by Representative Keller
For the Committee on Local Government

Prepared by Bart Campbell
January 12, 1993

1. Page 2, line 2.
Following: "organization,"
Insert: "as defined in 23-5-112,"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. HD 88
DATE 1/12/93 SPONSOR(S) Rep. McCaffrey

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Gordon Morris</u>	<u>MALCO</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. HB 62
DATE 1/12/93 SPONSOR(S) Rep Keller
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPC
<i>Dorden Morris</i>	<i>MACo</i>	<input checked="" type="checkbox"/>	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. HB 39
DATE 1/12/93 SPONSOR(S) Rep Evers

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Hopgood	Mont. Assoc. Realtors		✓
Alec Hansen	MLCT	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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