

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on January 19, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
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. Ray Brandewie, Vice Chairman (R)
Rep. Dave Brown (D)

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 139; HB 137; HB 132
Executive Action: HB 132; HB 137

HEARING ON HOUSE BILL 139

Opening Statement by Sponsor:

REP. LARRY GRINDE, HD 30, Lewistown, introducing HB 139 on behalf of the Montana Surveyors, stated that the statute under Section 61-4-502 was enacted to protect those who were digging utility lines and phone lines with backhoes, etc., from injury or death. This law does not address surveyors. HB 139 would exempt surveyors from this statute. The surveyors would be hand digging no further than 12 inches into the ground. Prior notification to

the appropriate authority would be required. The registered land surveyor would be liable for damages incurred under any utility construction. The utility companies, U.S. West and Montana Power, have indicated their cables and wires are well below the 12 inches, therefore, they did not see any problem. REP. GRINDE distributed a proposed amendment. EXHIBIT 1 He informed the Committee that an amendment would also need to be drafted to protect the line owner from liability.

Proponents' Testimony:

Tom Sands, President, Montana Association of Land Surveyors, said this change in law is necessary because under current law when a surveyor goes out to dig up existing monuments they are required to get approval from the utility companies. This requirement causes a delay in the job and creates problems.

Gary Willis, Montana Power Company (MPC), said MPC supported the bill and stated he would have an amendment drafted to address the liability issue.

Dan Walker, representing U S West, testified in favor of HB 139 as written and with the proposed amendments. He stated that U S West believes the changes are reasonable.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. MCCAFFREE asked REP. GRINDE if the local governing body would be assuming any liability through the suggested amendment. REP. GRINDE replied that if the governing body gives approval it could be opening itself up to liability. He said neither he nor the surveyors would be opposed to drafting an amendment to also eliminate any liability with the governing body.

Mr. Campbell clarified whether the committee wished to provide an amendment preventing the governing body from being liable and not be required to give approval.

REP. GRINDE said he would want the governing body required to give approval, but on the other hand, would not want the governing body to be held liable.

REP. EWER asked if the committee was comfortable with the term "registered land surveyor."

Mr. Sands said there is only one definition for a "registered land surveyor" and it has been referenced.

REP. VOGEL asked Mr. Sands if he stated that he was willing to accept more liability.

Mr. Sands said Montana Power Company had a proposed amendment

which would put more liability on the surveyor. This would cover liability in the event the surveyor was injured and would prevent the surveyor's spouse from suing the power company. Mr. Sands stated that under current law he already assumes responsibility.

REP. MCCAFFREE informed the committee that the above-mentioned amendment only addresses the company's liability and he would like to address the local government's liability.

REP. HANSON asked Mr. Sands to describe the extent of his surveying.

Mr. Sands explained that a surveyor digs for monuments which are usually at intersections. Sometimes these monuments are buried due to construction requiring the surveyor to dig three or four inches at the most.

Closing by Sponsor:

REP. GRINDE said he would arrange with Mr. Campbell to have the amendments drafted.

HEARING ON HOUSE BILL 137

Opening Statement by Sponsor:

REP. TIM SAYLES, HD 61, Missoula, said HB 137 would repeal Section 2-15-2011. The Department of Justice (DOJ) publishes a fire code manual which is estimated to cost approximately \$3,000 biannually. The DOJ believes it can relay this information through the computer or if necessary, through a hard copy.

Proponents' Testimony:

Bruce Suenram, Chief of Fire Prevention Investigation Bureau, Department of Justice, (DOJ), explained that DOJ was responsible for publishing the fire codes of Montana. The Fire Codes of Montana manuals are excerpts from the Montana Code Annotated (MCA). Referring to his previous experience as a fire chief, Mr. Suenram stated his fire department purchased the entire set of MCA. The information needed usually could not be found in the Fire Codes of Montana. EXHIBIT 2

Vern Ericksen, representing the Montana State Firemen's Association, as well as a member of the State Fire Marshall's Advisory Board, informed the committee of a discussion at a recent board meeting in which the board concurred with HB 137. Larry McCann, Fire Marshall, Billings, also a Board member, indicated that the manual created confusion.

Alec Hansen, Montana League of Cities and Towns, stated the League would have no problems with the bill as long as small towns will still have access to the codes. In an effort to keep

small towns in compliance with fire laws, a hard copy would need to be available to these communities.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

CHAIRMAN WALLIN asked, when a person applies for a permit to build, if the application also goes to the fire marshall. Mr. Suenram explained the Fire Codes of Montana had nothing to do with the Uniform Building Code which is used to enforce building code regulations.

Closing by Sponsor:

REP. SAYLES closed on HB 137.

HEARING ON HOUSE BILL 132

Opening Statement by Sponsor:

REP. DIANA WYATT, HD 37, Great Falls, said HB 132 was one of seven bills dealing with Title 7 revisions which the MSU Local Government Policy Council had worked on over the past several years. The bill would not affect any land held in trust for specific purposes. All property obtained through a tax deed must be disposed of through an ordinance or a resolution passed by a two-thirds vote of the city council. The only exception is it need not be taken to a majority vote of the electors in that municipality.

Proponents' Testimony:

Alec Hansen, Executive Director, Montana League of Cities and Towns, expressed support for HB 132 stating it would give Title 7 some clarification. There was some uncertainty whether tax deed property acquired by municipalities was exempt from the voter approval requirement in Section 2.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. VOGEL asked Mr. Hansen for an example of a tax deed being acquired. Mr. Hansen said that if the property is located within a municipality, the tax deed can be acquired from the county. The city pays the delinquent property taxes and acquires the property. There is a bill in the Senate which would waive the requirement for the city to pay the delinquent property tax.

Closing by Sponsor:

REP. WYATT closed on HB 132.

EXECUTIVE ACTION ON HOUSE BILL 132

Motion/Vote: REP. STELLA JEAN HANSEN MOVED HB 132 DO PASS.
Motion carried unanimously.

Discussion: REP. VOGEL said he could see where there would not be the opportunity for the people to participate in the sale.

REP. WYATT stated the city would take over responsibility for the sale, but first must pay the county back taxes.

Mr. Campbell explained that in order for the city council to put property up for sale it must first get the vote to do so and then the property must be put back up for bid as required by other provisions. This bill would not take away a person's option to purchase property.

EXECUTIVE ACTION ON HOUSE BILL 137

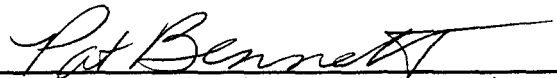
Motion/Vote: REP. BOHLINGER MOVED HB 137 DO PASS. Motion carried unanimously.

ADJOURNMENT

Adjournment: 4:30 p.m.



NORM WALLIN, Chairman



PAT BENNETT, Secretary

NW/PB

HOUSE STANDING COMMITTEE REPORT

January 20, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 137 (first reading copy -- white) do pass .

Signed: _____

Norm Wallin
Norm Wallin, Chair

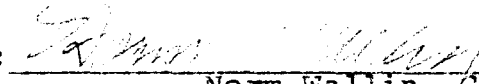
HOUSE STANDING COMMITTEE REPORT

January 20, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 132 (first reading copy -- white) do pass .

Signed:


Norm Wallin, Chair

Written for: Representative Grinde

Section 1, (b) shall be amended to read:

(b) A registered land surveyor or a person under the supervision of a registered land surveyor may hand dig for shallow survey monuments at a depth of 12 inches or less below the road surface of a highway or at the intersection of the center lines of public streets. The registered land surveyor, prior to hand digging, shall obtain proper approval from the appropriate governing authority regarding safety and pavement repair and, when appropriate, shall reference the monument upon exposure. The appropriate governing authority shall provide guidance and approval as soon as possible, but not to exceed 2 working days. The registered land surveyor is liable for damages incurred regarding utility destruction.

FACT SHEET: HB 137
Department of Justice
January 1993

Purpose: To remove the requirement that the Department of Justice compile, publish and biennially update and distribute fire protection laws.

Funding Source: Presently, state law requires the Fire Prevention and Investigation Bureau to compile, index, publish, and distribute all Montana statutes relating to fire protection, under the title "Fire Codes of Montana," and to provide replacement pages within 90 days after the close of the Legislative session. The approximate cost to print the "Fire Codes of Montana" every other year is \$2,500 and postage is approximately \$500.

Need: Information contained in The "Fire Codes of Montana" can be found in the Montana Codes Annotated. Many hours are spent researching, compiling and distributing a document that is readily available. The Fire Prevention and Investigation Bureau is currently understaffed and is responsible for conducting fire safety inspections of approximately 50,000 facilities, arson investigations, maintaining reports of all fires occurring in the state, providing training and information to local officials, and regulating installation, servicing and sales of fire safety equipment dealers. The cost and time spent on the "Fire Codes of Montana" is more effectively used to deliver fire safety services to the citizens of Montana.

Relationship of Funding to Services Performed: Because the Fire Prevention and Investigation Bureau is severely understaffed, all energy has been directed toward fire safety services. Additionally, the printing budget has been consumed by the increased number of fire incident report forms that are provided to nearly 500 Montana fire departments.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. HB 137
DATE 1/19/93 SPONSOR(S) Rep. Sayles

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
BRUCE Suenram	Justice	✓	
Whickson	MT State Foreman Assoc	✓	
(in) Sayles	H.D. 61	✓	
Tom Jans	139	✓	
Gary Willis	H.P.C.	✓	
Ken Welden	US WEST	X	

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