

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Senator Kennedy, on February 16, 1993, at
1:00 p.m.

ROLL CALL

Members Present:

Sen. Ed Kennedy, Chair (D)
Sen. Sue Bartlett, Vice Chair (D)
Sen. Dorothy Eck (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. John Hertel (R)
Sen. David Rye (R)
Sen. Bernie Swift (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Rosalyn Cooperman, Committee Secretary

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

Committee Business Summary:

Hearing: SB 288, SB 324, SB 332, SB 358, SB 364
Executive Action: None.

HEARING ON SB 288

Opening Statement by Sponsor:

Senator Harry Fritz, Senate District 28, stated HB 288 would establish a local government records committee to deal with the retention and disposal of local government and school district records. He said in the 1991 session Representative Forrester (who is now a state senator) introduced a bill abolishing the requirement that the Department of Commerce sign-off before the disposal of any local government records. He noted most local governments were not aware there was such a requirement. Senator

Fritz added that the Records Management Division was transferred during the 1991 session from the Department of Administration to the Secretary of State's office. He said the Secretary of State's office already has a policy for the retention and disposal of state records, and SB 288 would extend this policy to local government records. Senator Fritz apologized for the lengthy amendments to SB 288 (Exhibit #1) but noted the bill was improperly drafted and the amendments are required to return SB 288 to its original intent.

Proponents' Testimony:

Mr. Ed Eaton, State Records Manager, Secretary of State's office, said the Secretary of State appointed an advisory committee last year to come up with guidelines for the retention and disposal of state and local government records. He said SB 288 would enable local government entities to draw upon a pool of knowledge and expertise accumulated by the committee to solve their records problem. Mr. Eaton said the absence of retention and disposal guidelines has resulted in the tendency for local governments to keep everything as long as possible. He added SB 288 would also update and/or remove any conflicting language to existing law.

Ms. Marcia Porter, Supervisor, Missoula County Records Management Program, stated Missoula County is the only county with a records management program. She said there are major problems with the existing records retention schedules because they do not address retention and disposal schedules for all local government documents. Ms. Porter noted there are no guidelines for determining which documents may have historical significance and added there are no guidelines for the disposal of confidential government material. She said because Missoula County is the only county with a records management program, she receives inquiries from counties across Montana as to the correct procedure for disposal and retention of documents. Ms. Porter concluded retention schedules are antiquated and in need of serious revision.

Ms. Kathryn Otto, State Archivist, Montana Historical Society, stated SB 288 is a necessary response to the concerns and needs of local governments and their records. She said the local government records committee will provide a forum for local government records custodians to interact with each other and with state government to provide leadership, advice and coordination for local governments regarding their record keeping practices. Ms. Otto said SB 288 would ensure records of permanent value are retained and preserved. She concluded the housekeeping portion of SB 288 is the result of participation by local records custodians on the records advisory council who identified sections of existing laws which are outdated and contradictory.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked Senator Fritz why retention and disposal guidelines varied according to type of document. Mr. Eaton replied there are some records which need to be kept for longer periods than others.

Senator Hertel asked Senator Fritz why these decisions cannot be left to county governments to decide. Senator Fritz said the guidelines in SB 288 were developed by local governments. He added local governments have no general policy of use to them to help them resolve this problem.

Senator Eck stated she was disappointed Senator Fritz did not explain the "Dillon rule" and asked if SB 288 pertained to municipalities and school districts. Senator Fritz replied municipalities and school districts were included in SB 288.

Senator Rye asked Senator Eck to define the "Dillon rule". Senator Eck replied the "Dillon rule" states unless a government has adopted self-governing powers, they do not have the authority to do anything not authorized by the State.

Closing by Sponsor:

Senator Fritz stated SB 288 was not an appropriations bill and would not give any additional authority to the Secretary of State.

HEARING ON SB 324

Opening Statement by Sponsor:

Senator Fritz, Senate District 28, stated SB 324 would allow cities to annex wholly surrounded property with the exception of agricultural property.

Proponents' Testimony:

Mr. Alec Hansen, Montana League of Cities and Towns, distributed to the Committee copies of a Montana Legislative Council's evaluation of Montana annexation laws. (Exhibit #2) He said SB 324 was drafted at the request of the City of Havre.

Mr. Hansen said current law prohibits cities and towns from annexing wholly surrounded industrial, manufacturing or transportation properties. He said there are islands of these tax-exempt properties located within the boundaries of cities and towns. Mr. Hansen said current law is confusing, especially in the event of an emergency when it is unclear as to who should respond. He said the 1980 study by the Legislative Council on Montana annexation laws revealed that Montana was the only state surveyed with a prohibition against the annexation of wholly surrounded industrial properties. He said the study recommended the prohibition be removed and added opponents of SB 324 want to protect their interests at the expense of Montana's cities and towns.

Mr. Don Driscoll, Mayor of Havre, stated SB 324 is a result of the turn-of-the-century mining company policies and is outdated. He said cities do not wish to annex all wholly surrounded property but want some assistance in paying for city services used by these industries and their employees.

Mr. Dan Kemmis, Mayor of Missoula, stated his support for SB 324. He said SB 324 raises substantial equity questions since cities may annex all other types of wholly surrounded properties. He said these industries usually have all the benefits afforded to city properties and their employees take advantage of city services. Mayor Kemmis said it is inefficient to continue to have a range of city, municipality and county services for these islands within a city.

Mr. John Lawton, Great Falls City Manager, stated his support for SB 324. He said SB 324 is a matter of tax equity since cities already have the authority to annex wholly surrounded residential and commercial properties. He said the City of Great Falls supports three main types of services from tax revenues: fire; police; and, recreation and parks. He added industrial properties use these services as much as commercial or recreational properties. Mr. Lawton said industrial properties should not be treated any differently than other city properties.

Ms. Kathy Macefield, City of Helena, stated her support for SB 324. She said allowing wholly surrounded industrial property to be annexed encourages the cost effective extension of public works infrastructures such as roads, water and sewer systems. She added the annexation of wholly surrounded industrial property eliminates the confusion over jurisdictional boundaries for emergency services as well as zoning and subdivision review.

Opponents' Testimony:

Mr. Vern Evans, Montana Fire Districts Association, stated his opposition to SB 324. He said when land within a fire district is annexed into the city, the land is pulled from the revenue of the fire district. Mr. Evans said SB 324 would present a hardship to fire districts who have contracts out for new equipment and apparatus. He added that when an area is annexed into the city, any volunteer members of a fire department from that area could lose their retirement benefits.

Mr. Paul Laisy, Fire Chief, Missoula rural fire district, stated his fire district is 85 square miles and touches the City of Missoula on all sides. He said his fire district provides fire protection and emergency medical services from six fire stations to 35,000 people in the Missoula area. He added that his fire district is the only district in Western Montana that has a hazardous material response team. Mr. Laisy said he has 20 full time firefighters and 80 volunteers. According to the U.S. Census, Mr. Laisy said, service districts far outnumber traditional municipalities. He added this was so because districts are organized and managed by the people who want the services and because districts specialize in one type of service. Mr. Laisy noted that service districts can be abandoned if they are no longer desired or required and taxpayers can petition to be removed from the district if they do not wish to receive the services. He said Missoula rural fire district taxpayers save enough money on their fire insurance premiums to pay their fire district taxes. Mr. Laisy noted that recent annexations by the City of Missoula have taken \$300,000 from the rural fire district's tax base. He said one third of the district's full time fire fighters have been lost as a result of these forced annexations. Mr. Laisy stated the rural fire district cannot provide adequate emergency services to taxpayers with the ongoing deterioration of their tax base. He said, if enacted, SB 324 would impact everyone in a community since owners of annexed property would see a 20% increase in their property taxes and owners of non-annexed property would have to pay more to receive district services. Mr. Laisy concluded industrial properties require special fire protection not available from municipalities.

Ms. Kathy Bessette, Hill County Commissioner, spoke from prepared testimony in opposition to SB 324. (Exhibit #3)

Mr. Pat Keim, Burlington Northern Railroad, spoke from prepared testimony in opposition to SB 324. (Exhibit #4)

Ms. Nora Nelson, Hill County Commissioner, stated the Hill County road levy is limited to twenty mills while the city is operated on an all purpose levy. She said if SB 324 were enacted, Hill County could lose between \$1.8 to \$5 million of their taxable value. Ms. Nelson said this loss of revenue would devastate the county road department and their ability to maintain roads on

their system. She said a city should not annex property just to derive a greater tax base. She concluded if the city does annex property, it should offer benefits as a result of the annexation.

Mr. Lloyd Wolery, Hill County Commissioner, stated his opposition to SB 324.

Mr. Howard Gipe, Flathead County Commissioner, stated his opposition to SB 324.

Mr. Gordon Morris, Montana Association of Counties, stated SB 324 was not accurately presented. He said wholly surrounded residential areas can be annexed under current law without the permission of the majority of freeholders. He said the result of this is the creation of islands of property by design, not by choice. Mr. Morris said property owners currently have the right to opt for annexation, however that choice should not become a city mandate. He characterized the attempt to pass SB 324 as a "blatant tax grab" by a handful of cities.

Mr. Russ Ritter, Montana Rail Link, stated he had served in city government for years and can appreciate the desire of cities to expand their tax base. He stated the 900 employees of Montana Rail Link contribute to their areas' tax base by living in communities throughout Montana. Mr. Ritter added that companies like Montana Rail Link give back to the communities in which they are located by providing jobs and a solid economic base.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Rye asked Mr. Ritter if his opinion on this matter was the same when he was the Mayor of Helena. Mr. Ritter replied his position has not changed and added it is unfair to isolate a particular group and increase their taxes.

Senator Gage asked Connie Erickson if a bill was introduced in the last session which dealt with taxable property and the ability to receive taxes from the property until bonds were paid off. Senator Eck replied she remembered such a bill but thought it had not passed. She said the fact that this bill has been introduced in the last couple of sessions signifies there is a serious problem for cities and their ability to generate revenue.

Senator Bartlett asked Mr. Lawton to describe the annexation process for wholly surrounded industrial properties if SB 324 were passed. Mr. Lawton replied SB 324 would allow the city to annex property unilaterally. He added the City of Great Falls has no current plans to annex any such property. Senator

Bartlett asked Mr. Lawton if SB 324 would extend full authority to the city to annex such property. Mr. Lawton replied SB 324 would permit cities to unilaterally annex wholly surrounded industrial properties as they currently may with residential and commercial properties.

Senator Kennedy asked if rural fire districts respond to fires on non-city property located within the city limits. Mr. Lawton said they do and added rural fire districts may cover wholly surrounded industrial or commercial properties if the property is part of the rural fire district. He added that city and rural fire districts may enter into agreements with one another to be responsible for certain areas or properties.

Senator Gage asked Mr. Hansen how Butte-Silver Bow would be affected by SB 324. Mr. Hansen said SB 324 would not affect Butte-Silver Bow because their consolidation eliminated the problem.

Closing by Sponsor:

Senator Fritz stated Montana has been classified by the U.S. Census since 1960 as an urban state. He said while more than one-half of Montana's population lives in six counties, the laws governing cities and towns reflect the time when Montana's population was rural. Senator Fritz stated cities and towns should be able to govern themselves. He said opponents to SB 324 represented special interests wishing to retain the status quo. Senator Fritz stated current law has rendered many urban areas into the political equivalent of gerrymandering. He concluded cities should be given the authority to govern themselves in a compact geographical matter and urged the passage of SB 324.

HEARING ON SB 358

Opening Statement by Sponsor:

Senator Tom Hager, Senate District 48, stated SB 358 would allow Yellowstone County to sell the county nursing home to its current operator, St. Johns Lutheran Home. He said SB 358 was drafted at the request of Yellowstone County and would give them the authority to deal directly with St. Johns. Senator Hager added SB 358 requires an appraisal of the facility followed by a public hearing before the sale may occur.

Proponents' Testimony:

Mr. Ken Haikus, Yellowstone County, presented to the Committee a letter from Yellowstone County Commission in support of SB 358. (Exhibit #5) Mr. Haikus said in 1987, Yellowstone County

transferred management of the county nursing home to St. Johns Lutheran Home. He said the county negotiated a five year lease with St. Johns which has since been extended through 1994. Mr. Haikus added that St. Johns would like to expand and renovate the nursing home, however, Yellowstone County does not wish to spend any additional money on the home and would like to sell it. He said it was his understanding state law allows the sale of property by auction only, so Yellowstone County is asking for permission to enter into a negotiated sale based on an appraisal and public hearing. Mr. Haikus urged the Committee to pass SB 358.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Waterman asked why Yellowstone County needed permission from the Legislature to sell the nursing home. She said Cascade County recently sold their nursing home by auctioning it off. Mr. Larry Fasbender, Cascade County, replied the county sold the nursing home by auction and added they had difficulty in doing so. Senator Hager replied Yellowstone County wants the authority to negotiate directly with St. Johns because the county is pleased with their management of the facility.

Senator Bartlett asked Mr. Haikus why Yellowstone County was not interested in continuing their lease with St. Johns. Mr. Haikus replied St. Johns wants to expand the facility but Yellowstone County does not and would prefer to allow St. Johns to finance the expansion and manage the home.

Senator Gage asked Mr. Haikus what would happen if another corporation bid higher for the ownership and operation of the county nursing home. Mr. Haikus replied the situation would be a desirable one for the county, but added it was probably unrealistic. He said St. Johns has been a good operator of the facility and has presented the best proposal for ownership.

Senator Eck asked Mr. Haikus when the public hearing would occur in this process. Mr. Haikus replied the public hearing would occur after the appraisal was received. He said SB 358 has a sunset which requires this process to take place within a certain amount of time.

Senator Bartlett asked Mr. Morris if cities and counties owned

any other facilities they wanted to sell to private corporations. Mr. Morris replied he believed this to be a unique situation. He said Montana has fourteen county-administrated nursing homes and stated at some point in the future any of these counties may wish to sell to a private corporation. Mr. Haikus replied Yellowstone County requested permission from the Legislature during the last session to donate land to the Yellowstone Art Center.

Closing by Sponsor:

Senator Hager stated he closed his remarks on SB 358.

HEARING ON SB 332

Opening Statement by Sponsor:

Senator Jeff Weldon, Senate District 27, stated SB 332 recognizes that county and city governments have a unique interest in urban transportation issues. He said SB 332 was drafted at the request of Missoula County and the City of Missoula. Senator Weldon stated SB 332 would allow local governments to appoint all or part of the membership of urban transportation district boards.

Proponents' Testimony:

Mr. Dan Kemmis, Mayor of Missoula, stated as a freshman legislator in 1975, he introduced legislation to allow the creation of urban transit districts. If he had it to do over again, he said he would not have introduced legislation calling for a three member board for a special service district because these boards do not receive much public attention. Mayor Kemmis said this small board is subject to abuse where special interests dominate the election. He said new Federal legislation exists which calls for a higher level of coordination between cities and counties in transit districts to ensure that transit districts are fully integrated into the overall transit planning. He said Missoula would like to have more appointment authority in order to facilitate this coordination. Mayor Kemmis concluded he did not object to any amendments limiting the number of appointments by the city and county as long as better coordination of services was the end result.

Mr. Keith Baer, Mountain Line, spoke from prepared testimony in support of SB 332. (Exhibit #6)

Mr. John Lawton, City Manager of Great Falls, stated his support for SB 332. He said existing legislation is inadequate because it allows this small elected board to become invisible to the public. He said the transit board in Great Falls met out of the public eye and passed policy without public notification or

consent. Mr. Lawton said SB 332 would raise the profile of this board and make it consistent with the manner of appointment to all other joint city/county boards. He urged the Committee to pass SB 332.

Mr. Alec Hansen, Montana League of Cities and Towns, stated his organization's support for SB 332.

Mr. Gordon Morris, Montana Association of Counties, stated he had reservations about SB 332 in its current form. He said SB 332 would allow for the partial appointment or election of members. Mr. Morris said board members should either be elected or appointed, not both. He stated under existing law, transportation districts have independent taxing authority. Mr. Morris said all other appointed boards are accountable to the Board of County Commissioners and stated this should apply to transportation district boards as well if they are appointed.

Mr. Larry Fasbender, Cascade County, stated his support for SB 332.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Kennedy asked Mayor Kemmis of his opinion regarding the amendments offered by Mr. Baer of Mountain Line. Mayor Kemmis replied he would not object to limiting the number of appointments but added he did not support the ability of the transportation board to appoint fellow members.

Senator Bartlett asked Mr. Morris if any provisions existed for a mix of appointed and elected board members if the district crossed jurisdictional lines. Mr. Morris replied he was not aware of any provision.

Closing by Sponsor:

Senator Weldon stated local governments have an interest in urban transportation and SB 332 would give cities and towns the opportunity to participate. He concluded he would speak with the proponents of SB 332 before executive action to work out their respective concerns.

HEARING ON SB 364Opening Statement by Sponsor:

Senator David Rye, Senate District 47, stated SB 364 was drafted at the request of the Associated Students. He said University students have great difficulty finding suitable housing due, in part, to a zoning code which prohibits two or more unrelated individuals from sharing housing.

Proponents' Testimony:

Mr. Bruce Barrett, Attorney for the Associated Students, stated in the early 1970's, the Supreme Court ruled that cities had the right to enact zoning laws based on consanguinity (family relations). He said many cities in Montana have passed zoning ordinances which prohibit two or more unrelated adults from living in a dwelling unit. Mr. Barrett added that since this time, the United States and Montana legislative bodies have passed fair housing laws which prohibit housing discrimination on the basis of marital status, familial status and age. He said SB 364 clarifies existing law and does not prohibit eviction if tenants violate other codes including noise and parking restrictions. While SB 364 was requested by the Associated Students, Mr. Barrett said, this issue affects people of all ages. He said opponents to SB 364 believe this measure will ruin their neighborhoods. As a landlord, Mr. Barrett said, it is nearly impossible to determine ahead of time who will be good and bad tenants.

Mr. Jim Bendickson, Missoula property owner, stated his support for SB 364. Mr. Bendickson said he is currently representing an individual who owns a house that was rented to four university students. He said attempts were made to rent the house to a family, however, no family who could afford it wanted to rent the house. Mr. Bendickson stated within three weeks of the time the students had moved in, they were served with an eviction notice from the city because a complaint had been filed by a neighbor who objected to the rental arrangement. He said he considered this complaint unfounded because he also lives in the neighborhood and has never seen any problems with the arrangement, especially since the tenants have only one car. Mr. Bendickson added he spoke with all the adjacent homeowners who agreed to allow the students to remain in the house until the end of the school year.

Mr. John Mc Carthy, Associated Students, stated students at the University of Montana are severely limited in their choices for affordable and accessible housing. He said SB 364 does not repeal noise ordinances or health standards.

Mr. Todd Mitchell, Eastern Montana College, stated students in Billings cannot find affordable housing close to campus. He said as students mature, they wish to study more and be in an environment where they can do so whenever they please.

Mr. Mitchell said the average cost of living in a dormitory is \$300 a month which is too expensive for many students. He added that expected cuts in the University system will place a larger financial burden on students and added this situation does not need to be worsened with a shortage of affordable housing. Mr. Mitchell said Eastern Montana College owns homes near campus but cannot rent them to students because of zoning restrictions. He urged the Committee to support SB 364.

Ms. Melissa Case, Montana Peoples Action, stated her organization's support for SB 364. She said SB 364 would increase accessibility to affordable housing for all Montana residents.

Mr. Dan Kemmis, Mayor of Missoula, stated SB 364 is a good piece of human rights legislation. Mayor Kemmis added he is leading local efforts to revise this zoning restriction in the City of Missoula.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Eck stated Bozeman zoning codes allow up to four unrelated adults to live together but even that requirement was too restrictive. She said current law creates a hinderance for people of all generations wishing to save money by sharing housing.

Closing by Sponsor:

Senator Rye stated he believed landlords should have the right to refuse to rent to unmarried couples, however, he hoped the Committee would pass SB 364.


SENATE LOCAL GOVERNMENT COMMITTEE

February 16, 1993

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ADJOURNMENT

Adjournment: 2:58 p.m.


SENATOR JOHN "ED" KENNEDY, Jr., Chair


ROSALYN COOPERMAN, Secretary

JEK/rlc

ROLL CALL

SENATE COMMITTEE Local Government

DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
Senator John "Ed" Kennedy	✓		
Senator Sue Bartlett	✓		
Senator Dorothy Eck	✓		
Senator Delwyn Gage	✓		
Senator Ethel Harding	✓		
Senator John Hertel	✓		
Senator David Rye	✓		
Senator Bernie Swift	✓		
Senator Mignon Waterman	✓		
Senator Jeff Weldon	✓		
Senator Eleanor Vaughn	✓		

FC8

Attach to each day's minutes

Amendments to Senate Bill No. 288
First Reading Copy

SENATE LOCAL GOVERNMENT

Requested by Senator Fritz
For the Committee on Local Government

EXHIBIT NO. 1
DATE 2-16-93
BILL NO. SB 288

Prepared by Greg Petesch
February 12, 1993

1. Title, line 9.
Following: "SECTIONS"
Insert: "2-6-201,"

2. Title, line 10.
Following: line 9
Insert: "7-4-2221, 7-4-2222, 7-4-2223, 7-4-2612, 7-4-2613, 7-5-
2131,"
Strike: "15-1-104,"
Strike: "20-9-215,"
Insert: "22-3-201, 22-3-202, 22-3-203,"

3. Page 3, line 24.
Strike: line 24 in its entirety

4. Page 4, line 10.
Strike: "periodically"
Insert: "twice a year"

5. Page 5, line 24.
Following: line 23
Insert: "Section 5. Section 2-6-201, MCA, is amended to read:
"2-6-201. Purpose. The purpose of this part is to create an
effective records management program for executive branch
agencies of the state of Montana and political subdivisions by
establishing guidelines and procedures for the efficient and
economical control of the creation, utilization, maintenance, and
preservation of state and local records." "
Renumber: subsequent sections

6. Page 6, line 24.
Following: line 23
Insert: "Section 7. Section 7-4-2221, MCA, is amended to read:
"7-4-2221. Manner of keeping records and storing documents.
(1) Whenever any officer of any county is required or authorized
by law to record, copy, file, recopy, or replace any document,
plat, paper, written instrument, or book on file or of record in
his the officer's office, he the officer may do so by
photostatic, microphotographic, microfilm photographic,
micrographic, electronic, or other mechanical process which that
produces a clear, accurate, and permanent copy or reproduction of
the original document, plat, paper, written instrument, or record
in accordance with standards not less than those now approved for
permanent records by the national bureau of standards.

~~(2) Nothing in 7-4-2613 shall be construed as preventing
the recording or photographing or copying of such instruments~~

~~separately upon a single or loose page or pages of a book if such page or pages shall immediately become a part of such book or volume which, when completed, shall be firmly bound and the pages thereof securely locked or sealed into the volume."~~

Section 8. Section 7-4-2222, MCA, is amended to read:

"7-4-2222. Substitution of reproduction for original document. (1) Any ~~such~~ document, plat, paper, written instrument, or book reproduced as provided in 7-4-2221(1), ~~the original of which is not less than 10 years old,~~ can be disposed of or destroyed only upon order of the district or probate court having jurisdiction, and the reproductions may be substituted ~~therefor~~ as public records.

(2) The ~~photostatic, microphotographic, or microfilmed~~ copy of any ~~such~~ record destroyed or disposed of as herein authorized in this section or a certified copy thereof ~~shall be is~~ admissible as evidence in any court or proceeding and shall have has the same force and effect as though the original record had been produced and proved.

(3) It ~~shall be is~~ the duty of the custodian of ~~such~~ the records to prepare enlarged typed or photographic copies of the records whenever their production is required by law."

Section 9. Section 7-4-2223, MCA, is amended to read:

"7-4-2223. Duplicate records -- safe storage of one copy.

(1) Whenever any record or document is copied or reproduced by ~~microphotographic, microfilm, or other mechanical process~~ as provided in 7-4-2221, it ~~shall must~~ be made in duplicate.

(2) The custodian ~~thereof of the record or document~~ shall place ~~one the master~~ copy, the contents ~~thereof of the copy~~ being first duly identified and indexed, in a fireproof vault or fireproof storage place. He The custodian shall retain the other copy in ~~his the~~ office with suitable equipment for displaying ~~such record by projection to not less than its original size or for preparing copies of the record reproducing the record or document for persons entitled thereto to the record or document."~~

Section 10. Section 7-4-2612, MCA, is amended to read:

"7-4-2612. Books for recording documents. The county clerk, as ex officio recorder, ~~must shall~~ procure such books or other recording materials for records as that the business of his the office requires, but orders for the same books or materials must first be obtained from the board of county commissioners."

Section 11. Section 7-4-2613, MCA, is amended to read:

"7-4-2613. Documents subject to recording. The county clerk ~~must shall~~, upon payment of ~~his the appropriate~~ fees ~~for the same, record, photograph, or correctly copy, separately, in large and well bound or to be bound separate books, either in a fair hand or by printing, typewriting, or photographic, micrographic, or electronic process or by the use of prepared blank forms:~~

(1) deeds, grants, transfers, certified copies of final judgments or decrees partitioning or affecting the title or possession of real property any part of which is situated in the county, contracts to sell or convey real estate and mortgages of

real estate, releases of mortgages, powers of attorney to convey real estate, leases which have been acknowledged or proved, and abstracts of such the instruments which that have been acknowledged or proved;

(2) notices of buyer's interest in real property, notwithstanding any other requirement of law or rule relating to eligibility for recording of the deed, contract for deed, or other document relating to the notice of buyer's interest; however, if the instrument of conveyance underlying a notice of buyer's interest would be unrecordable, the clerk and recorder shall notify the buyer by certified mail that the underlying instrument is unrecordable and may be void;

(3) a document on a form provided by the department of revenue certifying that the holder of a nonprobate interest in real property is deceased and that his the deceased's interest is terminated. A nonprobate interest in real property is a joint tenancy interest, a life estate interest, or any other interest not requiring probate. The document may be on the form used by the department of revenue for responding to the application for determination of inheritance or estate tax. It ~~shall~~ must contain:

(a) a statement that the holder of the nonprobate interest has died and that his the deceased's interest in the property is terminated;

(b) a certification by the county treasurer that the inheritance or estate tax, if any tax was due, has been paid or that no inheritance or estate tax was due;

(c) a description of the property;

(4) certificates of births and deaths;

(5) wills devising real estate admitted to probate;

(6) official bonds;

(7) transcripts of judgments ~~which that~~ by law are made liens upon real estate;

(8) instruments describing or relating to the individual property of married persons;

(9) all orders and decrees made by the district court in probate matters affecting real estate and ~~which that~~ are required to be recorded;

(10) notice of preemption claims;

(11) notice and declaration of water rights;

(12) assignments for the benefit of creditors;

(13) affidavits of annual work done on mining claims;

(14) notices of mining locations and declaratory statements;

(15) estrays and lost property;

(16) a book containing appraisal of state lands; and

(17) ~~such~~ other writings as that are required or permitted by law to be recorded."

Section 12. Section 7-5-2131, MCA, is amended to read:

"7-5-2131. Records to be available to public. The books, records, and accounts must be kept at the office of the clerk, and must be open at all times for public inspection free of charge."

Renumber: subsequent sections

7. Page 6, line 25.

Strike: "old"

Strike: "(1)"

8. Page 7, line 1.

Following: "with the"

Insert: "written"

9. Page 7, lines 4 through 6.

Following: "destroy" on line 4

Strike: remainder of line 4 through "permanent" on line 6

Following: "records" on line 6

Insert: "that have met the retention period, as contained in the
local government records retention and disposition
schedules, and that are no longer needed by the office"

10. Page 7, lines 7 through 21.

Strike: subsection (2) in its entirety

11. Page 7, lines 23 and 24.

Strike: "old" on line 23

Following: "." on line 23

Strike: remainder of line 23 through "upon" on line 24

Insert: "Upon"

12. Page 7, line 25.

Following: "the"

Insert: "written"

13. Page 8, lines 3 through 5.

Following: "destroy" on line 3

Strike: remainder of line 3 through "permanent" on line 5

Following: "records" on line 5

Insert: "that have met the retention period, as contained in the
local government records retention and disposition
schedules, and that are no longer needed by the office"

14. Page 8, line 12 through page 9, line 1.

Strike: subsection (2) in its entirety

15. Page 9, lines 2 through 8.

Strike: section 8 in its entirety

Renumber: subsequent sections

16. Page 9, line 10.

Strike: "old"

Following: "by"

Insert: "school"

17. Page 9, lines 11 through 15.

Strike: line 11 through "upon" on line 15

Insert: "Upon"

18. Page 9, line 16.
Following: "with the"
Insert: "written"

19. Page 9, lines 18 and 19.
Following: "l" on line 18
Strike: remainder of line 18 through "years" on line 19
Insert: ", a school officer may destroy records that have met the retention period, as contained in the local government records retention and disposition schedules, and that are no longer needed by the office"

20. Page 9, lines 20 through 23.
Following: "(2)" on line 20
Strike: remainder of line 20 through "the" on line 23
Insert: "Student"
Following: "kept"
Insert: ", and employment records must be kept for 10 years after termination"

21. Page 9, line 24 through page 10, line 5.
Strike: section 10 in its entirety
Insert: "Section 16. Section 22-3-201, MCA, is amended to read:
"22-3-201. **Public policy.** The legislature declares that it is the public policy of the state of Montana that noncurrent records of permanent value to the state and to local governments should be preserved and protected; that the operations of state government should be made more efficient, more effective, and more economical through current records management; and that to the end that the people may receive maximum benefit from a knowledge of state and local government affairs, the state and local governments should preserve ~~its~~ noncurrent records of permanent value for study and research."

Section 17. Section 22-3-202, MCA, is amended to read:
"22-3-202. **Archives created -- appointment, duties, and compensation of archivist.** There is a state archives in the Montana historical society for the preservation of noncurrent records of permanent value to the state and local governments and for records management. The director of the Montana historical society shall appoint a state archivist, who serves at the pleasure of the director, define ~~his~~ the archivist's duties, and fix ~~his~~ the archivist's compensation with the approval of the board of trustees of the Montana historical society."

Section 18. Section 22-3-203, MCA, is amended to read:
"22-3-203. **Preservation of noncurrent records of permanent value.** The state archivist shall preserve noncurrent records of permanent value to the state and is responsible for the ultimate preservation of local government records of permanent value. Upon request, ~~he~~ the archivist shall assist and advise in the establishment of records management programs in the executive, legislative, and judicial branches of state government and in

local governments, with due regard to the functions of the officers and agencies involved.""

Renumber: subsequent sections

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2

DATE 2-16-93

BILL NO. SB 324

Montana's Annexation Laws: An Evaluation

November 1980



MONTANA LEGISLATIVE COUNCIL

Room 138

State Capitol

Helena, Montana 59620

(406) 449-3064

V. ANNEXATION IN SELECTED WESTERN AND MIDWESTERN STATES

In order to compare Montana's annexation procedures to those of other western and midwestern states, which might be experiencing similar problems and perhaps have found a preferable method for solving them, the committee directed that a survey of selected "western" states be undertaken. Those states selected to receive questionnaires included: Minnesota, Wisconsin, Iowa, Nebraska, South Dakota, North Dakota, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, Alaska, and Hawaii.

From preliminary study on the question of annexation, five questions were asked that would potentially be of use to the committee in its deliberations. Each state was asked to respond to the following questions:

(1) What are your state's procedures for annexing property to municipalities? In Montana, there are eight different statutes that now govern the annexation process.

(2) What are your state's provisions for allowing affected property owners to protest annexation to a municipality? Are those protest provisions viewed as being unduly restrictive to necessary annexation?

(3) Is there a distinction made under your annexation statutes between rights of resident versus nonresident property owners? Historically in Montana that distinction has become more pronounced over the years.

(4) One legislative proposal in Montana that has stimulated some interest is that of streamlining the annexation process for areas of a sufficiently high density to favor annexation. Has your state adopted or considered any similar proposals?

(5) Finally, has your agency developed substantial evidence or studies indicating that unannexed urban fringe areas constitute a major drain on the financial and service resources of nearby municipalities? Are municipal residents subsidizing neighboring areas outside municipal limits or are cities and towns merely eager to annex these areas primarily to gain a larger tax base?

Fifteen of the 21 states surveyed responded in varying degrees of detail to the questionnaire. While the responses and accompanying reports, statutes, etc. make interesting reading, it is difficult to make any broad judgments concerning common trends in annexation procedures throughout the midwestern and western region.

In reviewing the statutes and descriptions of annexation procedures submitted in response to the first question, it

2-16-93

SB-324

appears that Montana stands somewhat on the more restrictive end of the scale. Montana's eight different statutes are also more complicated than other states' -- the notable exception being California with its 226-page procedures. Several states have different procedures for cities of various sizes. Boundary review commissions of some kind are fairly common in the West.

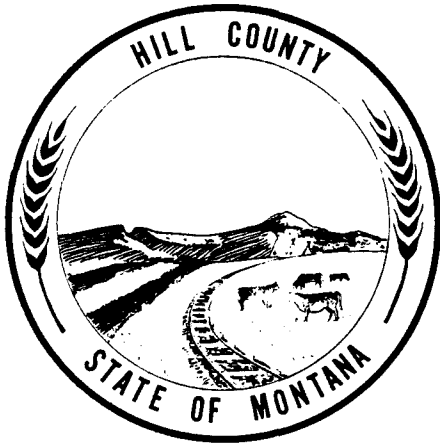
Few states have protest provisions as favorable to affected property owners as does Montana. And significantly, no other states had exclusions for industrial, manufacturing, smelting, etc. purposes. Agricultural exclusions were more common, however. No other states protected special service districts, such as fire districts, as is done in Montana's statutes. Most states reported that protest provisions favoring property residents were viewed as a hindrance to needed annexation by cities, while in a few states, property owners felt they had little recourse in annexations affecting them.

A majority of the states responding did not distinguish between a resident and nonresident property owner's rights in the annexation process.

Few states, in responding to question 4, reported any proposals considered or adopted to streamline annexation in areas of higher density. Those that had adopted some sort of expedited process for more urbanized areas were Utah, Wyoming, and possibly South Dakota.

Very few states responded affirmatively to question 5 regarding studies documenting whether urban fringe areas constitute a drain on city services. Wyoming's response was most interesting, as few of their cities' services are financed by property taxes but instead are financed by a sales tax. Several states' statutes specifically prohibit the annexation of land solely for the purpose of increasing city revenue.

Summaries of the responses to the survey questions are contained in Appendix B.



COUNTY OF HILL

STATE OF MONTANA
Havre, Montana 59501

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 3
DATE 2-16-93
BILL NO. SB 324

Kathy Bessette, **Chairman**
Nora Nelson, **Commissioner**
Lloyd Wolery, **Commissioner**

[406]265-5481 Ext. 2

February 16, 1993

TO: Senator Ed Kennedy, Chairman of Local Government Committee

FR: Hill County Commissioners

We, the Board of Hill County Commissioners, vehemently oppose Senate Bill 324, which removes the restrictions on annexation of land used for mining, smelting, refining, transportation or any industrial or manufacturing purpose. Changing the wording on Sections 7-4-4503 would allow for the annexation of Burlington Northern Railroad property in the Havre area. This would create a tremendous hardship on our county road budget due to loss of valuation.

Hill County is a large county in area and must maintain over 1800 miles of State recognized roads. Last year the Road Department was cut \$50,000.00 of gasoline tax monies due to re-evaluation of county roads, by the Department of Transportation. If we lose more valuation due to annexation of the railroads, etc., our "farm to market" road maintenance will have to be curtailed affecting farming and ranching, one of our main economic basis. This would also hurt the downtown businessman. Also curtailed would be the maintenance of our tourism roads potentially affecting the Canadian trade.

In the Planned Community Development Act of 1973 one of the findings was that many cities are annexing, not for the benefit of those being annexed, but to derive a greater tax base for the city. One question to be asked is, are cities providing more services with the annexation of these properties?

Again, we ask that you oppose SB-324 which is another attempt to erode our tax base and would have a devastating affect on our road network.

Sincerely,

Kathy Bessette
Kathy Bessette
Chairman of the Board

Mr. Chairman and Members of the Committee:

For the record, my name is Pat Keim. I am Director of Government Affairs for Burlington Northern Railroad, and I am located in Helena, Montana.

I am here today in opposition to Senate Bill 324. Senate Bill 324 is nearly identical to a measure that was considered and rejected by the 1991 Session of the Legislature.

Senate Bill 324 would seek to annex railroad and other properties into cities where they are currently now ineligible to be annexed.

Railroads place relatively minimal demands upon local governments. Often they own their own water and sewer systems.

Where they do use municipal water and sewer systems, they pay for those services. They often pay for those services at a higher rate than they would if they were within the city. For example, the City of Whitefish charges Burlington Northern a 25% premium for the water and sewer services that it uses there.

The roads that the railroad facilities use are generally either state or county access routes supported by tax dollars. Within the facilities themselves, the railroads maintain their own roads.

In nearly all instances, the railroad property that may be in question is already included in the local school districts, and therefore, the local school districts are already benefiting from the property.

In Burlington Northern's case, we maintain our own security forces and place very little use and stress upon local security forces.

So what's the issue really all about? Well, the real loser in this issue would be the rural taxing districts. Rural fire districts would see tax revenues, that they now participate in, go to the city fire districts. County sheriff's office would see those revenues going to the local police department instead.

Other county taxing districts, such as weed control boards, would be similarly affected. County bonding authority would also be affected. Many county bonds are secured by district valuations.

What will happen is major parts of that district valuation are removed from that district and brought into cities. Even the threat of removal may jeopardize county bonding authorities and their ability to issue and sell bonds.

The potential of a domino effect is also there for adjacent land owners. As railroad land would be annexed, adjacent land will then become contiguous to cities and perhaps eligible for annexation.

This bill is clearly aimed at the railroads, but it's effect will be only the movement of taxable valuation for the benefit of one government entity at the expense of another. There is no benefit for the railroads.

County of Yellowstone



COMMISSIONERS

February 16, 1993

(406) 256-2701

SENATE LOCAL GOVERNMENT

Box 35000

EXHIBIT NO. 5

Billings, MT 59107

DATE 2-16-93

BILL NO. 98 332

Senator Ed Kennedy
Senate Local Government Committee
Capital Station
Helena, MT 59620

Dear Ed,

In 1987 Yellowstone County issued a request for proposals for a private provider to operate our County nursing home. After careful consideration of all proposals, St. John's Lutheran Home was selected and on December 17, 1987 signed a five (5) year lease with the County.

Since that time, the facility has been run very well and the contract has been extended through 1994. This has taken the operational liability away from the County. The County does still hold responsibility for the facility and has spent money on asbestos removal and roof repairs during this lease time. Yellowstone County would like to eliminate the ongoing liability of the facility.

By selling directly to St. John's, Yellowstone County feels the client population primarily being served, i.e. the medicaid patient, would continue receiving the excellent care they currently are. This would also best serve the existing staff who have had to make one transition in their employment already.

The other benefit that can occur is the ability for St. John's to plan an expansion to this facility.

The use of the public hearing process will open the process to any concerns that may exist.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mike Mathew". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Mike Mathew
Yellowstone County Commissioner

MM:sa

Oral Testimony of Keith Baer

Chair of the Missoula Urban Transportation District Board of Directors

LOCAL GOVERNMENT In response to transportation bill drafted by Jeff Weldon

NO. 6
2-16-93
SB 332

February 15, 1993

The three member elected Board of Directors of the Missoula Urban Transportation Board, here after referred to as Mountain Line, met last night in a special meeting to discuss this proposal at length.

Highlights of our discussion were as follows;

1. The Mountain Line district does not mirror that of the city or that of the county. Part of Missoula's city limits are not located within the transportation district. Part of the transportation district is not in Missoula city limits.
2. Over half of Mountain Line's funding comes from property tax within the district. We need to assure these voters that their voices are heard. As presently presented, this bill would greatly reduce voter input into how Mountain Line is run.
3. We need to cooperate with other government entities in helping to promote mass transportation in Montana.

With the above in mind, we would like to see the bill amended as follows;
(Our additions are in bold print)

New Section. Option for district to be governed by a combination of elected and appointed transportation board. (1) The existing transportation board, the commissioners and the governing bodies...

(a) (*change to read*) agree that a portion of the members, of the transportation board may be appointed;

(b) (*change to read*) increase or decrease the number of persons on the transportation board provided that the number of elected members may not be less than three and must be selected pursuant to 7-14-212 through 7-14-215;

(2) (*change to read*) The existing transportation board, the

commissioners and the governing bodies of each city included or partially included in the district shall appoint members to the board as provided for in subsection (1) (d) and shall appoint replacements for any vacancies on the board involving a membership position.

The Mountain Line Board supports the rest of the bill as written and would like to encourage this committee to pass this piece of legislation as amended. Thank you.

DATE 7/16/93

SENATE COMMITTEE ON Local Governments

BILLS BEING HEARD TODAY: SB 288 - Fritz; SB 324 - Fritz;
SB 332 - Weldon; SB 358 - Hager; SB 364 - Rye

Name	Representing	Bill No.	Check One	
			Support	Oppose
Keith Baer	Mountain Line	332	X	
Kathy Bessette	Hill County	324		X
MORA Nelson	Hill County	324		✓
Lloyd Wolery	Hill County	324		X
BRUCE BARRETT	Missoula	364	XX	
Jim Dolan	"	332	X	
Brian Cochriel	Ht. Hist. Soc.	288	✓	
Paul LAISY	Miss. Rural Fire Dist.	324		X
Pat Zeim	Burlington Northern	324		X
Kathryn Otto	MT Historical Society	288	✓	
ED EATON	Secretary of State	288	✓	
MICHELLE PORTER	Missoula Co.	288	X	
Todd Mitchell	EMC	364	X	
John McCarthy	U of M	364	X	
John Lawton	City of Great Falls	SB 332 SB 324	✓	
DENNIS FLICK	CITY OF BILLINGS	SB 324	✓	
DENNIS FLICK	CITY OF BILLINGS	SB 388 SB 364		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/16/93

SENATE COMMITTEE ON Local Governments

BILLS BEING HEARD TODAY: SB 288 - Fritz; SB 324 - Fritz;
SB 332 - Weldon; SB 358 - Hager; SB 364 - Rye

Name	Representing	Bill No.	Check One	
			Support	Oppose
Edue Vasio	MDT	388		
Daniel Kimmie	City of Missouri	364	✓	
		324	✓	
		332	✓	
Gordon Morris	MACO			324
Jim Bendickson	MISSOURI	364	✓	
Ruthynacefield	City of Helena	324	✓	
VERN EVANS	MT FIRE DISTRICTS	324		✓
Larry Jashen	Cascade County	332	✓	
HOWARD Gipe	Flatherd Comm	324		✓
Russ Ritter	M R L	324		✓
Alec Harn	CITIES	324	✓	✓
Donald X. Hirsch	Home	324	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY