

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By VICE CHAIRMAN RAY BRANDEWIE, on March 9, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (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. Diane Wyatt (D)

Members Excused: Rep. Norm Wallin, Chairman
Rep. Dave Brown (D)
Rep. David Ewer (D)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (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: SB 52, SB 92, SB 63, SB 106
Executive Action: SB 92, SB 63, SB 52

HEARING ON SENATE BILL 52

Opening Statement by Sponsor:

SEN. TOM BECK, SD 24. Deer Lodge, introduced SB 52 on behalf of
SEN. GERRY DEVLIN who was absent due to an injury. SB 52 would
give county commissioners the option of placing interest earned
from a county road or bridge fund, back into the road or bridge
fund rather than only into the general fund.

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties, (MACo), testified in support of SB 52.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. BOHLINGER asked SEN. BECK how much is earned in interest. SEN. BECK replied the bridge fund usually receives a minimal amount. He estimated approximately \$200,000 was earned in his county for the road fund and the interest earned on that amount was approximately \$20,000 per year. The bill will allow the county commissioners to use their discretion of whether to put the money in the road or bridge fund or back into the general fund.

Closing by Sponsor:

SEN. BECK closed the hearing on SB 52.

HEARING ON SENATE BILL 92

Opening Statement by Sponsor:

SEN. TERRY KLAMPE, SD 31, Florence, stated that SB 92 would allow the formation of a park district in an area where the ground is in more than one county. There is no existing provision in the current statute to collect funds from one county and transfer them to another county's park district. SB 92 would allow this transfer of funding. Referring to page 5, line 25, SEN. KLAMPE explained the change would allow the park board members to be elected during school elections. School elections are held on a yearly basis. The park district will be outlined by the school district and by those voting in that district. He also submitted a copy of the January 19, 1993 Senate Local Government Minutes along with written testimony submitted at the meeting. EXHIBIT 1

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties, (MACo) testified in support of SB 92 stating that it is a straight forward revision in the law specifying when elections will be held.

REP. WAYNE STANFORD, HD 62, Stevensville, expressed support for SB 92. He explained that his district has been trying for some time to establish a park district and SB 92 would assist them in this effort.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. SAYLES asked why language was stricken on page 3.

SEN. KLAMPE answered that the language was stricken in order to be consistent with the water and sewer district law.

REP. HERRON asked Mr. Morris who decides who owns a park that is formed by two counties.

Mr. Morris said first there would need to be a mutual agreement between the two counties. SB 92 would allow a district to be formed based on petitions signed by 10% of the people in each of the respective portions of the counties involved.

Closing by Sponsor:

SEN. KLAMPE informed the Committee that SB 92 passed the Senate Committee unopposed.

HEARING ON SENATE BILL 63

Opening Statement by Sponsor:

SEN. JEFF WELDON, SD 27, Arlee, stated that SB 63 is being introduced at the request of Missoula. SB 63 would assist municipalities and counties in financing the conversions of overhead utilities to underground utilities.

Proponents' Testimony:

Chuck Stearns, Finance Officer/City Clerk, Missoula, explained that SB 63 was merely a clarification bill because the law already exists to do underground power lines through an SID process. He informed the Committee that when the city of Missoula initiated the process they went to Title 69, which is the utility section of law that governs SIDs for conversion of power lines. Typically SID bonds are done by resolution of the city council and in Title 69 the law requires an ordinance which has a thirty-day waiting period. This waiting period would delay the process creating confusion for the property owners. In researching, it was determined it would be better to leave the substance of underground conversion of power lines in Title 69, but cross reference and move the process decreeing SIDs over to Title 7. SB 63 will accomplish this change in section 2, page 5, lines 21-23. Most of the other changes deal with coordination issues.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SEN. WELDON closed the hearing on SB 63 and said REP. STELLA JEAN HANSEN would be carrying the bill on the House floor should it pass Committee.

HEARING ON SENATE BILL 106Opening Statement by Sponsor:

SEN. DEL GAGE, SD 5, Cut Bank, introduced SB 106 by stating that the purpose of the bill is to insure that individuals would get a refund on net or gross proceeds taxes, centrally assessed property taxes, and local government severance taxes if the department determines a refund is due. EXHIBIT 2

Proponents' Testimony:

Dave Woodgerd, Chief Legal Counsel, Office of Legal Affairs, Department of Revenue, (DOR), testified in support of SB 106. The intent of the bill is to add fairness. As the law currently reads, the DOR has the right to audit tax returns for a period of ten years. However, in that same ten-year period there is no guarantee that the taxpayer can get a refund if the audit determines they actually overpaid their taxes. He stated this was a glitch resulting from a bill passed last session. The bill was passed retroactively resulting in a problem with the ten years.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. WYATT asked if, because the bill was retroactive, the taxpayer lost money for the two years because of the biennium. Mr. Woodgerd explained that the bill last session guaranteed the taxpayer a refund for the first time, before that there was never a guarantee. There was still a requirement that the taxpayer must file within ten years with the county commissioners if they wanted a refund, however, the DOR has ten years to start an audit and issue a preliminary assessment. As long as the DOR issues a preliminary assessment within ten years then the DOR is in agreement with the statute of limitations. The preliminary assessment is the beginning of the process. At that point the taxpayer has an opportunity to give reasons why they feel the audit is incorrect or why they do not owe additional money. As a result of this process taking a long time, a taxpayer could go beyond the ten-year period before there is a final determination. At this point it would be too late to go to the county commissioners for a refund.

Closing by Sponsor:

SEN. GAGE closed the hearing on SB 106.

EXECUTIVE ACTION ON SENATE BILL 92

Motion/Vote: REP. HANSEN MOVED SB 92 BE CONCURRED IN. Motion carried unanimously.

Motion/Vote: REP. WYATT moved to put SB 92 on the consent calendar. Motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 63

Motion/Vote: REP. WYATT moved SB 63 be concurred in. Motion carried unanimously. REP. HANSEN will carry SB 63.

EXECUTIVE ACTION ON SENATE BILL 52


Discussion: REP. BRANDEWIE explained again that SB 52 would give county commissioners an option of whether the interest is to be returned to the bridge or road fund or deposited in the general fund.

Motion/Vote: REP. HANSEN moved SB 52 be concurred in. Motion carried unanimously. REP. BRANDEWIE will carry SB 52.

Motion/Vote: REP. BERGMAN moved to put SB 52 on the consent calendar. Motion carried unanimously.

ADJOURNMENT

Adjournment: 3:45 p.m.


RAY BRANDEWIE, Vice Chairman


PAT BENNETT, Secretary

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL

DATE

3/9/93

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

March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 63 (third reading copy -- blue) be concurred in .

Signed: Norm Wallin
Norm Wallin, Chair

Carried by: Rep. Hansen

Committee Vote:
Yes 11, No 0.


531654SC.Hpf

HOUSE STANDING COMMITTEE REPORT

March 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 92 (third reading copy -- blue) be concurred in and be placed on consent calendar .

Signed: 
Norm Wallin, Chair

Carried by: Rep. Stanford

Committee Vote:
Yes 11, No 0.

531653SC.Hpf

None.

EXHIBIT 1
DATE 3/9/93
SB SB 92

Informational Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Representative Ewer stated this same requirement for schools was eliminated during the last session.

EXECUTIVE ACTION ON HB 54

Motion/Vote:

Senator Weldon moved HB 54 BE CONCURRED IN. Motion passed unanimously.

HEARING ON SB 92

Opening Statement by Sponsor:

Senator Terry Klampe, Senate District 31, stated SB 92 would permit the formation of a park district having territory in more than one county. He said SB 92 was drafted for two reasons. First, SB 92 would make it possible for park districts to encompass land in more than one county. Second, SB 92 would make the procedure for creating a park district uniform with the procedure for creating all other districts. Senator Klampe stated he discussed SB 92 with other county clerk and recorders who agreed SB 92 was a good idea. He said an example of the changes sought by SB 92 could be found on page 1 line 17 which states, "A county, a part of a county, or territory in more than one county". He said the Florence Civic Club is authorized to sell only hot dogs and other concession items to support the park in Florence since existing statute allows park districts to exist in only one county.

Proponents' Testimony:

Ms. Marjorie Lubinski, President, Florence Civic Club, spoke from prepared testimony in support of SB 92. (Exhibit #2) She also submitted two letters in support of SB 92 from Florence residents. (Exhibits #3 and #4)

Mr. Gordon Morris, Montana Association of Counties (MACo), stated his support for SB 92. He said he viewed SB 92 as a multi-jurisdictional bill and requested the Committee consider not changing the election requirement from a majority to forty percent voter turnout as requested on page 5 line 2. Mr. Morris stated counties have experienced difficulties with the forty percent turnout requirement and believed the majority vote required in existing law was sufficient.

Opponents' Testimony:

None.

EXHIBIT 1
DATE 3/9/93
SB 92

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage asked why on page 6 subsection 4 the petition for nomination must be filed by the county which owns more of the land in the park district instead of by both counties. Connie Erickson replied the requirement conforms with the sewer district laws. Senator Bartlett added there are provisions in the law which specify the clerk in the county with the largest amount of territory is also the clerk in charge of the election.

Senator Rye asked Senator Klampe if he objected to the amendment offered by Mr. Morris to change the election requirement from a forty percent voter turnout to a majority. Senator Klampe said he did not object to the amendment and thought it might make things easier as far as he was concerned. Senator Weldon asked Connie Erickson if she knew why the forty percent voter turnout, not a majority, was specified in SB 92. Ms. Erickson stated the forty percent voter turnout requirement was in compliance with water and sewer district laws.

Senator Bartlett asked why the date for park district elections was changed from school to city elections. Connie Erickson replied the change was consistent with water and sewer district laws. Senator Bartlett told Senator Klampe that SB 92, as currently written, states elections for park district commissioners would be held in November of odd numbered years with elections for incorporated cities. Prior to SB 92, park district elections were held in the first week in April of every year with school district elections. Senator Bartlett asked

Senator Klampe which election date he preferred for the election of park district commissioners. Senator Klampe replied he preferred holding elections for park district commissioners every other year as is done with city elections to keep some consistency.

Senator Eck asked why the election date for park district commissioners was changed from annually to every other year. Senator Bartlett replied most other special district governing bodies are elected in conjunction with the school election.

Senator Kennedy asked whether or not the only change suggested to SB 92 at present was to change the voting requirements from forty percent to a majority, to which Connie Erickson agreed.

Closing by Sponsor:

Senator Klampe stated SB 92 would be a needed change in the law. He said the Florence Civic Club decided to use the school district boundary in determining the area to be taxed. Senator Klampe concluded Representative Stanford would carry SB 92 in the House.

EXECUTIVE ACTION ON SB 50

Discussion:

Connie Erickson stated there were a number of amendments suggested to SB 50. She said the Committee decided not to amend the title to specify public land management agencies. Ms. Erickson also said she would recommend the Committee consider adding a sentence on to page 3, Section 3, subsection 3 to read, "The offer must be made in writing and mailed to the agency", to clarify formal notification of abandonment. She said another concern of the Bureau of Land Management (BLM), Department of State Lands (DSL) and the Committee pertained to whether or not an agency would be required to maintain roads for which they had accepted responsibility. She said the amendments offered by the BLM and DSL did not conflict with one another, however, one amendment says the accepting agency was not required to maintain roads while the other says they may. Ms. Erickson said the final concern of the Committee pertained to the procedure by which land is deeded over to the accepting agency. She said she spoke with Mr. Paul Stahl, the Deputy County Attorney for Lewis and Clark County, who voiced a few concerns about SB 50. First, Mr. Stahl stated roads with deeds may be transferred, however, roads with out deeds must first be surveyed before they can be deeded over which is cost prohibitive. Mr. Stahl added a new deed on a road must reference a pre-1973 deed in order to be used to transfer a road. He said many old roads which have deeds are no longer located in their original place as noted by the original deed. Mr. Stahl also said it must be absolutely clear the county has



Florence Civic Club

P. O. Box 544
Florence, Montana 59833

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2

DATE 1-19-93

BILL NO. SB 92

January 11, 1993

Hon. Ed Kennedy Jr., Chairman
Local Government Committee
Capitol Station
Helena, MT 59620

EXHIBIT 1
DATE 3/9/93
SB 92

Dear Senator Kennedy:

I am writing this letter as President of the Florence Civic Club representing the views of our members in support of Senate Bill 92, sponsored by Senator Terry Klampe. This bill proposes to change the territory of a county park district to allow inclusion of more than one county.

Over the past 10 years, the Florence community has worked very hard to establish, develop and maintain the Florence Community Park which has now become a major focal point for recreation in the area. It provides fields for baseball and soccer, it has a tennis and volleyball court as well as a developed playground and a picnic area.

Historically, the Florence Civic Club has paid for the maintenance and development of the park, but over the past few years it has become increasingly difficult to raise enough funds for this and still allow us to respond to the needs of a growing community. We are finding ourselves in a situation of only providing park maintenance and nothing more. The Florence community is growing rapidly and it will be even more difficult in the future to maintain existing facilities much less make any improvements there. We are a small, non-profit organization and our fundraising activities consist of selling sausages and drinks in a few yearly events. Even though people are eager to help, they can only eat so much! This year we are forced to divide the cost of maintenance between the Civic Club, Baseball and Soccer Associations. This will, however, place a tremendous burden on families with several children involved in these sports since it will raise the cost of each child's fees. We feel this will preclude the ability of some families to have their children take part in these activities. We don't want to create this kind of situation and our only other option is to ask the community to support the creation of a park district.

Here is where the problem lies in the existing legislation. We would like to use the school district boundary to establish our park district boundary since the principal users of the park are these students and their families.

Present legislation says a park district cannot cross county lines. We are, however, in the unusual situation of having our school district boundary include residents of both Missoula and Ravalli Counties. With Senator Klampe's bill, we would be able to create this district along the school district lines, and thereby provide a more equitable solution.

With your committee's support of this legislation, the Florence Civic Club will be able to continue its efforts in establishing a park district to ensure the park's financial stability. It will also allow us to respond to the future needs of our community. Thank you for your consideration.

Respectfully,

Marjorie Lubinski

Marjorie Lubinski, President
Florence Civic Club

EX-100
DATE 3/9/93
SB-92

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 3DATE 1-19-93BILL NO. SB 92

January 15, 1993

Honorable Ed Kennedy, Jr., Chairman
Local Government Committee
Capitol Station
Helena, MT 59620

Senator Kennedy:

I am writing in support of Senate Bill 92. I am a 14 year resident of Florence, and have been active in our local Civic Club for 10 years. Florence has experienced substantial growth within that time, with the largest growth taking place now, and slated to continue.

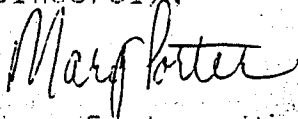
There was a time when Florence Civic Club could afford to maintain the park with fundraising proceeds, and if in a given year, we earned any extra money it was used for moderate additions. The community has grown, the demand for park use has increased, and the cost of goods and services has increased. Florence Civic Club is no longer able to care for the park adequately with what it takes in each year.

I am very proud of the work Florence Civic Club has done to date in the park, and am especially gratified when the Little League teams take over the fields in the spring. I want to be assured that the park will always be there for everyone's enjoyment! The possibility of using our funds for new equipment and landscaping is very exciting!

We will need a park district in order to continue meeting the needs of our community, and preserve the park for the enjoyment of all.

Please give this Bill your consideration and your support. Thank you very much.

Sincerely,



Mary Porter, Vice-President
Florence Civic Club

EXHIBIT 1DATE 3/9/93SB 92

SENATE LOCAL GOVERNMENT

EXHIBIT NO.

4

DATE

1-19-93

BILL NO.

SB 92

January 15, 1993

I am asking for your support for the passage of Senate Bill #92. I am on the Florence Park Board and I want to assure you that the support and interest in our community is very strong in favor of getting an initiative on the ballot as soon as possible. The passage of this bill will allow communities that occupy areas in more than one county to collect and disperse the revenues in the same form that fire and school districts do now.

Thank you for supporting the passage of this bill.



Ed Greef
Park Board Committee
N.W. 300 Poplar Lane
Florence, MT. 59833
777-3022

EXHIBIT

1

DATE

3/9/93

SB 92

TESTIMONY OF THE DEPARTMENT OF REVENUE
ON SENATE BILL NO. 106
First Reading
January 21, 1993

The purpose of this bill is to insure that taxpayers get a refund on net or gross proceeds taxes, centrally assessed property taxes, and local government severance taxes if the department determines a refund is due.

Under 15-8-601, the department has 10 years to conduct an audit. The audit usually reveals that the taxpayer owes more taxes to the county. Sometimes the taxpayer is due a refund from the county. The current law does not require counties to give a refund when the taxpayer did not file a claim with the county within 10 years of the date the taxes were paid. Because this provision was enacted retroactively last session and because of delays, the taxpayer can not always file a claim within 10 years.

Section 15-16-601 has been repealed and replaced by Sections 1, 2 and 3. This change in format is simply to clarify what is presently in 15-16-601. The change in existing law to correct the above problem is found in Section 1(1)(d), page 2, lines 1 - 5.

This bill also makes the following changes in existing law to clarify the refund process:

1) Section 1(2), page 2, lines 9 through 10, provides that where an independent authority has not determined that a refund is due, the taxpayer must show that a refund is due.

2) Section 2, page 2, line 17, through page 3, line 6, provides for judicial review of a decision by the county commissioners to deny a tax refund.

There are no other substantive changes to existing law.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Government COMMITTEE BILL NO. SB 106
DATE 3/9/93 SPONSOR(S) Senator Gage
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dave Woodyard	Dept. of Revenue	X	

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. SB 92
DATE 3/9/93 SPONSOR(S) Senator Klumpke
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gordon Morris	MAA	✓	
Wayne Stanford	Rep HD. 62	✓	

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.

SB 63

DATE

3/9/93

SPONSOR(S)

Senator Weldon

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>CK Stearns</u>	<u>City of Missoula</u>	<u>✓</u>	

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. SB 52
DATE 3/9/93 SPONSOR(S) Sen. Durlin / Sen. Buch
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Gordon Morris</i>	<i>MA Co.</i>	<i>SB 52</i>	

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