

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on February 17, 1995, at
7:05 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

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

Committee Business Summary:

Hearing: none
Executive Action: SB 296, SB 299, SB 323, SB 282

{Tape: 1; Side: A; Approx. Counter: ; Comments: .}

EXECUTIVE ACTION ON SB 296

Discussion:

CHAIRMAN TOM BECK asked SEN. ETHEL HARDING if there were
amendments to her bill? SEN. HARDING said there were.

CHAIRMAN BECK asked the representative from the Department of
Health (DOH) to talk about the amendments.

SEN. HARDING pointed out that she visited with Mitzi Schwab of
the DOH to draft some amendments to the bill and Ms. Schwab would
send a representative to the committee meeting.

Ron Brooke, representing the Consumer Safety of the Department of Health, said he was stepping in for Mitzi Schwab who was not able to attend.

Two sets of amendments were presented. The first set was prepared by Elle Parker and the other by Susan Fox.

SEN. HARDING said that the first set of amendments essentially allows the sale of baked goods and preserves and took out potentially hazardous foods.

Susan Fox said that the amendment left in the definition of potentially hazardous, and brought it closer to current Federal regulations. Therefore it does not talk about milk products and eggs, but more the biological conditions which are safe.

Motion: SEN. HARDING MOVED the AMENDMENTS BE ACCEPTED.

Discussion:

Susan Fox mentioned that the amendment is compromise language between the DOH and the proponents. The amendment brought the bill closer to where the DOH felt they would have some public safety involved and it did take out some language the other party felt was inflammatory regarding potentially hazardous foods.

SEN. JEFF WELDON asked if the amendment offset some of the concerns of the local folks?

SEN. HARDING replied that it did and the next amendment gives the farmer's markets some responsibility.

Vote: The MOTION CARRIED UNANIMOUSLY

Motion: SEN. J.D. LYNCH MOVED TO ACCEPT THE AMENDMENTS.

Discussion:

Susan Fox noted that the amendment makes the people who organize farmers markets to at least keep a record so if some sort of outbreak occurs they can track it.

SEN. HARDING stated that she thought most are keeping records but this amendment will put in language for those who do not.

CHAIRMAN BECK asked if the DOH was ok with the amendment? Mr. Brooke stated that the bill is a compromise on all sides and it is something everyone can work with. There have not been a lot of outbreaks in this area so they do not expect it will increase or decrease but they will be looking at it in the next few years.

Vote: The MOTION CARRIED UNANIMOUSLY

Motion/Vote: SEN. LYNCH MOVED SB 296 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 299

Motion: SEN. LYNCH MOVED TO ACCEPT THE AMENDMENTS.

Discussion:

CHAIRMAN BECK said that this amendment would coordinate that a vote to remove a water quality district would be at the next regular election, rather than a vote within 30 days because they did not want to create a special election.

Susan Fox noted that the second amendment offered did not work so the referendum is still offered to the voters and 20% of the fee owners are needed to petition. She continued that 7-5-136 also has a provision if it should be past the period to get ready for the next election there is a vehicle in case they need an emergency election.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. LYNCH MOVED SB 299 DO PASS AS AMENDED.

Discussion:

SEN. WELDON pointed out that SB 299 asks the locals to take on an additional responsibility. If 20% of the fee owners petition they have to hold a special election. He said the reason he posed this was because there is the potential of a local authority taking responsibility or not. An example he gave was a board of commissioners who do not want to dissolve the water quality district and the mandate from the people to hold an election. The local commissioners could use the unfunded mandate constitutional amendment in statutory changes to stop the election from going through. He stated that his interpretation of SB 299, is that they are passing down an additional responsibility to respond to 20% of an election.

CHAIRMAN BECK said that there is a funded mandate right now for water quality districts. In a different prospective, if the people petition to get rid of the water quality district, that is getting rid of a mandate.

SEN. JEFF WELDON responded that SB 299 is a new responsibility to hold an election to get rid of a water quality district.

SEN. DOROTHY ECK pointed out that it is the next regular election and not a special election that is called for.

CHAIRMAN BECK noted that on the law books now they cannot get rid of a mandate.

SEN. DELWYN GAGE recalled that he had asked if **CHAIRMAN BECK** wanted it to be a majority of the voters who turned out or a majority of the voters and **CHAIRMAN BECK'S** answer was his intention was a majority of the voters voting and SB 299 does not change that.

CHAIRMAN BECK called on **Ms. Fox** to clarify because it was his intent to have it be the majority of voters who turned out.

Ms. Fox pointed out that lines 23 through 25 are deleted in the amendment and leave it up to 7-5-136.

SEN. GAGE asked what 7-5-136 was? **Ms. Fox** answered that it deals with the majority voting.

SEN. ECK stated that if it is a whole county district, the whole county votes.

Vote: The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 323

Motion: SEN. LYNCH MOVED TO ADOPT THE AMENDMENTS.

Discussion:

CHAIRMAN BECK noted that the county came in with some amendments which he asked **Ms. Fox** to look at but did not want the bill gutted. He asked if it would be more appropriate to send the bill to the House and have the amendments put on.

Susan Fox said that the amendments do change the meaning of emergency and it is up to people's interpretation if it guts the intention.

SEN. ECK noted that there were quite a few people who said they would support the bill with the amendments.

Susan Fox went through the amendments (EXHIBIT 1).

CHAIRMAN BECK noted that he wanted to leave in lines 15 and 16 and he did not want them to go in and do zoning just to stop a project. He want them to have an emergency provision to be able to go in and locate schools, streets, water, and other things.

SEN. ECK asked what if it is a stock yard going in at the edge of a town.

CHAIRMAN BECK stated that if it is a stock yard, there are nuisance issues to take care of that. The counties need to have some latitude.

SEN. WELDON stated that the problem he has with the bill is the irony that on one hand we try to move affective government closest to the people, which means county and city government, so measurements are passed to empower them. However, if the local governments do something that is not liked, and people complain, restrictions are put on the local governments. He said he felt SB 323 did this. In the Lewis and Clark County area the process worked. There was a hearing and the county commissioners finally responded to the outcry. He said that SB 299 tells people what an emergency is, which is something they should be able to define for themselves.

CHAIRMAN BECK stated that it was not his intent to restrict the county to putting in a master plan and zoning, but to go through the proper hearings and election if necessary. He continued that when he was at the hearings for Lewis and Clark County, he felt the emergency provision they were using went way outside the boundary, and it could have been handled with a master plan and with proper county wide planning. An emergency is designated more to certain areas in the county. He said his main concern was to define an emergency and when talking about aesthetics, that should be in the master plan as it is not an emergency provision.

SEN. WELDON stated that he thought the best way to handle the definition of emergency was to convince the local officials of a definition rather than convince the legislature. In regards to aesthetics, he referred to his bill board bill where certain counties used emergency zoning to restrict bill boards being built which was an aesthetic purpose.

CHAIRMAN BECK stated that he wanted to get a bill and if it took accepting the amendments to at least get a bill he would go for that.

SEN. GAGE said that he did not like part of the amendments particularly the one on line 19 (**EXHIBIT 1**). He continued that this is exactly what some of the proponents of the bill said not to do.

SEN. ECK said that they were coming in with a lot of detail on what counties can and cannot do.

CHAIRMAN BECK asked **SEN. GAGE** if he would just want the one amendment out or all of them but he would like to carry the bill with or without the amendments.

SEN. LYNCH said that he would support the bill with the amendments and depending how they go on the floor **CHAIRMAN BECK** can start dissecting the amendments.

Vote: The MOTION CARRIED with SEN. GAGE, SEN. HARDING, AND CHAIRMAN BECK voting NO.

Motion: SEN. LYNCH MOVED SB 282 DO PASS AS AMENDED.

Discussion:

SEN. WELDON said that a point made in the hearing was that the notice requirement be the same for city and county. Currently under county there is a notice once a week for two weeks and for cities it is seven days. He felt that if the local folks feel they have an emergency it should be kept at a seven day hearing notice. He asked for Susan to draft an amendment concerning this issue.

Motion: SEN. WELDON MOVED to adjust the language on page 2 lines 24, 25 to reflect a seven day notice requirement.

Discussion:

Ms. Fox asked if SEN. WELDON wanted it to read "at least seven days"? SEN. WELDON replied that he did.

CHAIRMAN BECK pointed out to SEN. WELDON that there are other postings in county government required once a week for two weeks especially in rural areas.

SEN. WELDON asked if ten days was reasonable especially if it is an emergency and two weeks is to much time?

CHAIRMAN BECK said that would be fine.

SEN. DON HARGROVE commented that if it is standard procedure once a week and if it is a familiar term it might be better to leave it alone.

SEN. ECK asked if there would be some districts under both city and county jurisdiction? She continued that she would prefer to leave this item up to the House.

SEN. WELDON WITHDREW HIS MOTION.

Vote: The MOTION CARRIED with SEN. GAGE voting no.

EXECUTIVE ACTION ON SB 282

Motion: SEN. GAGE MOVED TO RECONSIDER ACTION ON TABLING SB 282.

Discussion:

SEN. GAGE said that SB 282 dealt with the Highway Department having to redo their description of land they are taking right-

of-ways on and as discussed in the February 16 meeting if he presented amendments they would reconsider.

CHAIRMAN BECK asked if the amendments dealt with all the things the Highway Department was annoyed about.

SEN. GAGE said that the amendments he had were from the Highway Department and they said they should be doing this when surveying anyway.

SEN. LYNCH asked if this was agreeable with the Highway Department? **SEN. GAGE** pointed out that the Highway Department drafted the amendment.

SEN. HARGROVE asked if this amendment got rid of the large fiscal note? **SEN. GAGE** answered that it does get rid of the fiscal note.

SEN. ECK asked if the Highway Department would only survey when something was going to be sold and it made a difference?

SEN. GAGE said they did not put that in the amendment but the Department must establish by survey the property boundaries of the parcel being acquired if such property was previously subdivided and subject to the provisions in this chapter.

Vote: The MOTION CARRIED UNANIMOUSLY.

Motion: SEN. GAGE MOVED TO ADOPT THE AMENDMENTS.

Discussion:

SEN. GAGE stated that the amendment takes the repealer section out of the bill and puts it back. He said it also adds to the section, however the Department of Transportation must establish by survey the property boundaries of the parcel being acquired if such property was previously subdivided and subject to the provisions in this chapter. The Highway Department said that they could do that as they are surveying if the property has already been subdivided prior to the taking of the property.

Vote: The MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. GAGE MOVED SB 282 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 7:35 p.m.


SEN. TOM BECK, Chairman


ELAINE JOHNSTON, Secretary

TB/ej


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CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 282 (first reading copy -- white), respectfully report that SB 282 be amended as follows and as so amended do pass.

Signed: 

Senator Tom Beck, Chair

That such amendments read:

1. Title, line 4.

Following: "REQUIRING"

Strike: through "TRANSFER"

Insert: "THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH THE
PROPERTY BOUNDARIES"

2. Title, lines 5 through 8.

Following: "ACT" on line 5

Strike: through "PLAT" on line 6

Following: "HIGHWAYS;" on line 6

Strike: the remainder of line 6 through "REPEALING" on line 8

Insert: "AND AMENDING"

3. Page 1, lines 12 through 24.

Strike: sections 1 through 3 in their entirety

Insert: "

Section 1. Section 76-3-209, MCA, is amended to read:

"76-3-209. Exemption from surveying and platting requirements for lands acquired for state highways. Instruments of transfer of land ~~which~~ that is acquired for state highways may refer by parcel and project number to state highway plans ~~which~~ that have been recorded in compliance with 60-2-209 and are exempted from the surveying and platting requirements of this chapter. If ~~such~~ the parcels are not shown on highway plans of record, instruments of transfer of ~~such~~ the parcels ~~shall~~ must be accompanied by and refer to appropriate certificates of survey and plats when presented for recording. However, the department of transportation shall establish by survey the property boundaries of the parcel being acquired if the private property was previously subdivided and subject to the provisions of this chapter."

Renumber: subsequent section

-END-



Amd. Coord.



Sec. of Senate

421313SC.SPV


SENATE STANDING COMMITTEE REPORT

Page 1 of 4
February 18, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 296 (first reading copy -- white), respectfully report that SB 296 be amended as follows and as so amended do pass.

Signed: _____


Senator Tom Beck, Chair

That such amendments read:

1. Title, lines 5 and 6.

Following: line 4

Strike: "POTENTIALLY" on line 5 through "SELL" on line 6

2. Title, lines 9 and 10.

Following: "MARKETS" on line 9

Strike: "ORGANIZED" on line 9 through "AUTHORITY" on line 10

3. Title, lines 11 through 14.

Following: "LAWS;" on line 11

Strike: the remainder of line 11 through "LAWS;" on line 14

Insert: "REQUIRING ORGANIZED FARMER'S MARKETS AUTHORIZED BY A
MUNICIPAL OR COUNTY AUTHORITY TO KEEP RECORDS;"

4. Page 1, lines 22 and 23.

Following: "that" on line 22

Strike: "do not contain any meat, poultry, or fish"

Insert: "are not potentially hazardous foods"

5. Page 3, lines 2 through 4.

Following: "means"

Strike: "any perishable"

Insert: "a"

Following: "that" on line 2

Strike: the remainder of line 2 through "ingredients," on line 4

Insert: "is natural or synthetic and is"

6. Page 3, line 4.

Following: "supporting"


Insert: ":"


(i) the"

7. Page 3, line 5.

Following: "microorganisms"

Insert: "; or (ii) the growth and toxin production of
Clostridium botulinum.

 Amd. Coord.

 Sec. of Senate

421309SC.SPV

(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts"

8. Page 3, lines 6 and 7.

Strike: "(b)" on line 6

Insert: "(c)"

Following: "include" on line 6

Strike: "clean, whole, uncracked, odor-free"

Insert: ":

(i) an air-cooled, hard-boiled egg with intact"

Following: "shell" on line 6

Strike: the remainder of line 6 through "pH" on line 7

Insert: ";

(ii) a food with a hydrogen ion concentration (pH)"

Following: "below" on line 7

Strike: "or"

Insert: "when measured at 24°C (75°F);

(iii) a food with"

Strike: "(a_w)" on line 7

Insert: "(a_w)"

Following: "less" on line 7

Insert: ";

(iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

(v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur"

9. Page 3, lines 8 and 9.

Following: "means" on line 8

Strike: the remainder of line 8 through line 9 in its entirety

Insert: "processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24°C (75°F) and that are aseptically processed, packaged, and sealed."

10. Page 3, line 10.

Following: "include"

Strike: the remainder of line 10

Insert: ":

(i) tomatoes or food products containing tomatoes; or

(ii) any other food substrate or product preserved by any method other than that described in subsection (17)(a)."

11. Page 3, line 12.

Following: "not"

Insert: "packaged and labeled and are not"

12. Page 3, line 15.

Strike: "or"

13. Page 3, line 16.

Following: "products"

Insert: "; or

(e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures"

14. Page 3, lines 23 through 25.

Following: "of" on line 23

Strike: "i" through line 25 in its entirety

15. Page 3, line 26 through 29.

Strike: "(ii)" on line 26

Following: "markets" on line 26

Strike: "i" through "year" on line 29

16. Page 4, line 4.

Strike: ", farmers market sellers, and occasional sales"

17. Page 4, line 5.

Following: "requirement"

Insert: "-- farmer's market records"

18. Page 4, line 8.

Strike: "(a)"

19. Page 4, line 11.

Strike: "(i)"

Insert: "(a)"

20. Page 4, line 13.

Strike: "(ii)"

Insert: "(b)"

21. Page 4, lines 15 through 17.

Strike: lines 15 through 17 in their entirety

22. Page 4, lines 21 through 23.

Strike: lines 21 through 23 in their entirety

Insert: "(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.

(b) The registration records must include, but are not limited to, the name of the seller, the seller's address and telephone number, the products sold by the seller and the date the products were sold.

(c) The registration records must be made available to the local health officer or the officer's agent."

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 18, 1995

MR. PRESIDENT:


We, your committee on Local Government having had under consideration SB 299 (first reading copy -- white), respectfully report that SB 299 be amended as follows and as so amended do pass.

Signed: 
Senator Tom Beck, Chair

That such amendments read:

1. Page 1, lines 17 and 18.
Following: "and" on line 17
Strike: the remainder of line 17 through "to" on line 18
Insert: "validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the owners of fee-assessed units located within the district, the county clerk shall notify"
2. Page 1, lines 21 and 22.
Following: "shall" on line 21
Strike: the remainder of line 21 through "referendum," on line 22
Following: "district"
Insert: "in accordance with the provisions of 7-5-136"
3. Page 1, lines 23 through 25.
Strike: lines 23 through 25 in their entirety

-END-


Amd. Coord.
51 Sec. of Senate

421305SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 18, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 323 (first reading copy -- white), respectfully report that SB 323 be amended as follows and as so amended do pass.

Signed:


Senator Tom Beck, Chair

That such amendments read:

1. Page 2, lines 6 through 8.

Following: "actual"

Insert: "or potential impacts resulting from"

2. Page 2, line 7.

Strike: "will"

Insert: "may"

Strike: "imminent"

3. Page 2, line 8.

Strike: "development"

Insert: "emergency"

4. Page 2, line 9.

Following: "impacted;"

Insert: "and"

5. Page 2, lines 10 and 11.

Following: "(b)" on line 10

Strike: the remainder of line 10 through "(c)" on line 11

Strike: "such an immediate" on line 11

Insert: "a potential"

Following: "that" on line 11

Strike: "the"

6. Page 2, line 12.

Strike: "harm cannot"

Insert: "may not"

7. Page 2, line 15.

Following: "(a)"

Strike: "the remainder of line 15 through "(b)" on line 16

8. Page 2, line 17.

Following: "impacts;"

Insert: "and"




Amd. Coord.

Sec. of Senate

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9. Page 2, lines 18 and 19.

Strike: "(c)"

Insert: "(b)"

Following: "property"

Strike: "; or" on line 18 through "permitting" on line 19

-END-

Amendments to Senate Bill No. 323
First Reading Copy

Requested by Senator Beck
For the Committee on Public Health, Welfare, and Safety

Prepared by Susan Byorth Fox
February 17, 1995

1. Page 2, lines 6 through 8.

Following: "actual"

Insert: "or potential impacts resulting from"

2. Page 2, line 7.

Strike: "will"

Insert: "may"

Strike: "imminent"

3. Page 2, line 8.

Strike: "development"

Insert: "emergency"

4. Page 2, line 9.

Following: "impacted;"

Insert: "and"

5. Page 2, lines 10 and 11.

Following: "(b)" on line 10

Strike: the remainder of line 10 through "(c)" on line 11

Strike: "such an immediate" on line 11

Insert: "a potential"

Following: "that" on line 11

Strike: "the"

6. Page 2, line 12.

Strike: "harm cannot"

Insert: "may not"

7. Page 2, line 15.

Following: "(a)"

Strike: "the remainder of line 15 through "(b)" on line 16

8. Page 2, line 17.

Following: "impacts;"

Insert: "and"

9. Page 2, lines 18 and 19.

Strike: "(c)"

Insert: "(b)"

Following: "property"

Strike: "; or" on line 18 through "permitting" on line 19