

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By CHAIRMAN WILLIAM BOHARSKI, on January 19, 1995, at 3:00 P.M.

**ROLL CALL**

**Members Present:**

Rep. William E. Boharski, Chairman (R)  
Rep. Jack R. Herron, Vice Chairman (Majority) (R)  
Rep. David Ewer, Vice Chairman (Minority) (D)  
Rep. Shiell Anderson (R)  
Rep. Ellen Bergman (R)  
Rep. John C. Bohlinger (R)  
Rep. Matt Brainard (R)  
Rep. Matt Denny (R)  
Rep. Rose Forbes (R)  
Rep. Antoinette R. Hagener (D)  
Rep. Bob Keenan (R)  
Rep. Linda McCulloch (D)  
Rep. Jeanette S. McKee (R)  
Rep. Norm Mills (R)  
Rep. Joe Tropila (D)  
Rep. Diana E. Wyatt (D)

**Members Excused:**

Rep. Chris Ahner (R)  
Rep. Debbie Shea (D)

**Members Absent:** None

**Staff Present:** Bart Campbell, Legislative Council  
Evelyn Burris, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 113; HB 129; HB 165  
Executive Action: None

**HEARING ON HB 129**

**Opening Statement by Sponsor:**

REP. BOB RANEY, House District 26, Livingston, stated that a record committee was established at the last legislative session. The purpose of this committee was to provide retention schedules for local government school district records, provide for destruction of the records and to provide for local governments

to be able to apply for permission to destroy records. It was determined that this committee may establish a retention and disposition schedule for certain categories of records and in **REP. RANEY's** opinion, this created a lot of confusion. He concluded by saying things will work better with a basic word change that says they "shall" publish and establish a retention and disposition schedule.

**Proponents' Testimony:**

**Bill Adamo, Director of Business Services, Livingston School District,** spoke in favor of the bill. **EXHIBIT 1**

**Jim Kembel** representing the **City of Billings**, stated they are in favor of this bill because it would allow local governments more control of their records, provide more specific guidelines for destruction of local government records and improve the timeliness of the destruction of records. They also like the idea of creating a category that does not require a request to get rid of the records and the fact that the retention disposition schedule would be updated annually.

**Lynda Brannon** representing the **Montana Association of School Business Officials**, stated they are supporting this bill because it does not require any additional money and does not put additional control on local government. She also noted that if the records subcommittee had received a request from one school district to dispose of a certain type of record and the subcommittee approves that, it doesn't make sense for the committee to still look forward to 400+ more requests coming from the rest of the school districts. **Ms. Brannon** urged a do pass.

**Opponents' Testimony:**

**Kathy Otto, State Archivist, Montana Historical Society,** presented testimony in opposition to **HB 129** and distributed copies of the Local Government Records Destruction Subcommittee Request and Authorization for Records Disposal. **Ms. Otto** also distributed and read her written testimony. She concluded with her testimony stating local government records are important resources that can and should be managed just as any other resources of government are managed. **EXHIBIT 2**

**Marcia Porter, Supervisor, Missoula County,** and member of the **Local Government Records Committee**, read her written testimony and submitted it to the committee members. **EXHIBIT 3**

**Ed Eaton, Secretary of State's Office,** stated he was presenting his testimony in an informational capacity rather than as an opponent. **Mr. Eaton** said he was instrumental in putting **SB 288** together last session authorizing a local government records committee that is under the auspice of the Secretary of State. One of the major concerns he addressed was certain counties have resources and handle their records well while others have limited

resources and do not have the ability to develop a records program. It is their intent to combine the skills and knowledge at a state level with the strong committees to make resources available to all the local governments to improve what they do with their records. The major intent was not to create additional bureaucracy as there are no funds appropriated for this function. All the people on the committees are employees in either the state and local government. They have full time jobs and these are additional duties they take on. When they mandate, there will be retention schedules of these annually. No one is assigned to the group with a computer, there's not a secretary, assistants, or publishing fees.

They are currently broken down to seven members, three sub-committees, and are attempting to bring a schedule together for clerks and recorders, city governments and courts. The committee met three times in the last year and a half and have yet to complete one of the schedules. As soon as they do, within the resources they have, they will be distributed to the units affected. In the absence of the revised schedule, all the various segments of local government generally have a retention schedule in effect that is approximately ten years old that needs to be revised. This is the impetus for having this group. Once they start to mandate output within time, at that point they are going to talk about FTE, computers and if so, there is no large bureaucracy. It has been the intent at the onset to keep the cost locally and provide and distribute the combined knowledge of the state with the local government to improve local government records. The question would arise if they go further with this, would a fiscal note be appropriate to identify any additional costs necessary to implement HB 129.

#### Informational Testimony:

**Newell Anderson, Dept. of Commerce, Accounting and Auditing Department for Records Disposition**, stated he is one of the two members of the sub-committee for the approval of the disposition of records. **Mr. Anderson** said there is only one reason why he would not sign a request for a disposition and that is because of the law or accounting principles established and mandated for local governments, accounting requiring they be held for some period further then what they want them to be held for. The issue of unanimous consent between the two employees in Helena is somewhat puzzling because **Mr. Anderson** does not know if he said "no, sorry you can't dispose of that record yet because the law says you can't," if you then put that request out to the full committee, he's not quite sure how they would say yes.

**Mr. Anderson** stated it is not a discretionary thing that he has to say. He is the third person in the Department of Commerce to hold this position in the last twelve months. The other two positions before him have been eliminated. He does this function in addition to the other duties he has been doing. One of the other members of the outlining team that is on the committee is a

member of his staff, an auditor that lives in Glendive and one of the realities of both of their times is they are both proprietorially funded. That means, they charge for their services for those functions they perform. They don't have any way of charging for this service whether it be simply having a piece of paper placed in front of them for their signature or getting together as a group in Missoula to come up with one of these standards. There is no opposition to the intent of what they are trying to do with this bill, what it is practical reality. He concluded by saying the issue of disposition of records is becoming more important everyday to all of us.

**Nancy Sweeney, Lewis and Clark County Clerk of District Court** presented her testimony in opposition to HB 129. **Ms. Sweeney** submitted and read her testimony. **EXHIBIT 5**

*{Tape: 1; Side: 1; Approx. Counter: 34.1;}*

**Questions From Committee Members and Responses:**

**REP. JOHN BOHLINGER** questioned the argument that instead of streamlining government this bill would do just the opposite and cause conflict. He felt this bill would promote efficiency and asked **REP. RANEY** to comment on some of the questions **Ms. Sweeney** brought up. **REP. RANEY** responded he was totally confused by what the opponents said because the purpose of the bill and the way the drafter said it would work is that if a record needs to be disposed of it won't change if this bill is passed. If the record is not on a list somewhere, they would send it in and the commission would review to dispose like they currently do. Every school district and every local government has the same record, it should then be put on a list that says, for this particular record, here is the retention period and at the end of that retention period you may destroy that record.

**REP. RANEY** said perhaps to satisfy the archivist it would need an amendment that needed to say, you must then keep a record of disposing the records. You would then have a room full of records that would say you disposed the records and that would not make too much sense.

**REP. RANEY** stated again he was confused like **REP. BOHLINGER** and does not understand where this creates more work. It may upfront in the very beginning, to have to publish the very first intention of disposal notice that local government and school could work under. The schools have already worked one up that says they must retain this record for three years and then it can be destroyed. He asked why they would have to get permission to destroy it. They already have the schedule printed saying at the end of three years they can destroy it. That is what the original goal was to establish a category of records that could be disposed of without having to get permission. **REP. RANEY** senses they are saying they do not want that, they still want to

give permission to dispose of everything. He feels the opponents did not make their case.

**REP. BOHLINGER** said it appears some of the concern might be expressed in a job preservation concern wanting to keep this work flowing their way so there is plenty to do. He asked if there was any validity in this observation. **REP. RANEY** responded that is the conclusion he drew as he listened to the opponents. He reiterated that the opponents did not make their case that more work would be created by doing this and local government and schools would be destroying records they should not. They would be doing it under a schedule they would get stating when it could be destroyed and therefore, permission would not have to be asked for. This bill would reduce government paperwork and government review of every piece of paper.

**REP. SHIELL ANDERSON** asked **Mr. Anderson** how many he has signed. He stated that he has signed several hundred in the last three months and has never rejected any. **REP. ANDERSON** asked of the 2% to 20% destroyed, are the records reviewed for value, etc. **Ms. Otto** replied they review them for four things; administrative value, fiscal value, legal value and research value. **REP. ANDERSON** asked if the local government wanted to set up and use their own committee to determine which of the records they want to keep, are they ultimately liable. **Ms. Otto** replied yes, currently there are no records committees in the state, no local government has one.

**REP. ANDERSON** asked **Mr. Adamo** if he had a sense of direction on this. **Mr. Adamo** said of the already published records retention schedule, if they were allowed to dispose of those records based on that schedule, there would be no problem. Documenting every record they destroy according to the schedule creates unnecessary burden on the local schools. If there is a fear that local schools are going to throw away valuable records or not follow that schedule, who is going to police that. The most obvious way is every school district has to be audited annually, the local auditor could determine whether the file was scheduled or not. Submitting pieces of paper to the state is not going to insure that documents were disposed of according to schedule.

**REP. ANDERSON** asked if the destruction subcommittee already had a destruction schedule. **Mr. Adamo** responded yes, they have a rather comprehensive retention schedule they have published. The problem is they still have to ask permission to dispose of documents. **Mr. Adamo** gave the example of an invoice eight years old cannot be thrown away unless he writes and identifies this document and receive a response back that it's okay to throw away. He affirmed that he did not know what any state level bureaucrat could determine whether it is an important invoice to throw out or has any legal implementation to the Livingston school. Based on his experience in the Livingston schools if anyone at the state level was there keeping track of litigation against them, they would have to hire one FTE.

**REP. TONI HAGENER** asked **REP. RANEY** to clarify if this is another committee besides the historical society archives committee. He responded yes, in the last session of the legislature, they created this new local government committee and the purpose was to help local government and school districts get rid of records that are no longer needed. Because the budget was so tight they grabbed people from all over and told them part of their work now was going to be writing this schedule and approving of destruction, therefore, they all now have this added responsibility which becomes part of their job. If they had a schedule printed that said this is the record, you keep it this long and then you destroy it, then nobody has to write to them so those five people have less work to do now, once the original document is created, which for the most part has been created.

*{Tape: 1; Side: 1; Approx. Counter: 45.2;}*

**REP. TONI HAGENER** asked **Mr. Adamo** if his primary concern is school records. He responded that it is because that is his frame of reference. He is business manager for a school system and felt it would be applicable to other governmental entities as well, towns and counties. **REP. HAGENER** stated she vaguely remembered belonging to a county that was desperately afraid to throw anything away and as a result, documents were tucked everywhere in storage areas. There was a review at one time to come up with a records retention schedule and disposition. She asked if any objections were heard from any county regarding the operation of the committee as it was set up. **Mr. Morris, Director of Association of Counties** said since the records retention committee program was set up a couple years ago, he has not heard a single complaint in terms of the counties' ability or inability to dispose of records based upon the determination that they are historical or legal.

**REP. JEANETTE MCKEE** asked if the retention schedules have already been set up and in place. **Ms. Sweeney** stated they have a schedule in district court and she understands the school districts have a separate one. She said this question should be referred to the committee but as she understands, the compilation of the comprehensive records retention schedule has not been completed yet. In their own fashion, the committee has been working diligently on this and that is what the majority of the group meetings happen to be.

**REP. MCKEE** asked if anyone else would like to respond to this. (Unidentified person responded) There are a lot more records out there and the Livingston school district probably have their records very well in hand. Most of the county and city governments stick them away in the basements until they run out of space and then they chuck everything with no regard for what is there. That is what is trying to be prevented, the inadvertent throwing away of things that should be kept.

**REP. NORM MILLS** asked if the city of Billings has a retention schedule committee or if they have addressed this problem at all. **Mayor Richard Larsen**, representing the city of Billings, replied their city clerk has responded to this and although they are not a sponsor of the bill they see this as a value. **Mayor Larsen** offered the city clerk of Billings comments along with the many clerks she represents stating their basic issues they are interested in are if a schedule could be put out on an annualized basis, updated, added to, taken off and added to on such a list. This would be a great benefit. Basically on the issue of a unanimous decision of the two members of the sub-committee, if there is a disagreement, it can then go to the full committee for their review. The basic thing is being able to put the schedule together. **Mayor Larsen** said they have a program of retention the city clerk has worked very hard at but said he could not answer if there is a full committee.

{Tape: 1; Side: 1; Approx. Counter: 52.4; Comments: .}

**REP. ROSE FORBES** stated that she did get information from **Peggy Bourne, City Clerk, Cascade County**. She then proceeded to read **Ms. Bourne's** opposition to this bill. **EXHIBIT 5**

**CHAIRMAN WILLIAM BOHARSKI** stated that this committee established a retention schedule of records they would have to keep and the proposal is to tell this committee to create a disposition schedule, updated annually and made available so people can know when to dispose of things, rather than have to send everything to get permission. **REP. RANEY** responded that is almost right, they did not create a schedule of things they would have to keep. The purpose was to create a schedule of what they could get rid of. He continued making the point that the new committee shall establish a retention and disposition schedule for which a disposal request is not required.

"If this committee meets and after four hours they decide to quit for six months, that's okay. It doesn't say they have to include every single item that comes before local governments and schools. It does say they will create this and add to it annually. When they know there are things that belong on the schedule, that it absolutely does not make any sense at all for the local government to have to write in about it, they could just put it on the schedule. Then, they do not have to deal with it anymore." **REP. RANEY** said not one opponent stated that did not make sense. They are not saying they have to have 175 items on the schedule by July 1st and another 100 the following year. They are saying this committee will do as much as they can and they are not being told they have to any longer.

**CHAIRMAN BOHARSKI** asked **Ms. Otto** to respond to the same question. that **REP. RANEY** wants the committee to adopt a schedule, to minimize, for example, warrants over eight years old can be disposed of. The information could be published so when they want to destroy warrants over eight years old they can do it.

**Ms. Otto** said it's a matter of wording. When reading that they had to have the schedules, publish the schedules and publish updates every year, **Ms. Otto** said perhaps it just needs the word "or" the committee shall publish retention schedules or updates to those schedules every year. They are having to publish every thing every year and perhaps that is not the intent.

**REP. JOE TROPILA** asked if the records retention committee was paid and are they placing more work on a committee that is not getting any funding. **REP. RANEY** said they are public employees so they are paid for their work and he also feels this bill would not put more work on them. On the contrary, it would be less work. As they know, an item that belongs on the schedule for retention and disposal will be put on and it is up to them. He is not telling them they have to put 200 items on their list, the list can be published annually and upgraded annually. This would reduce the work.

**REP. TROPILA** said as he understands, the committee is doing this on their own time and not on local government time. **REP. RANEY** said that may be, he doesn't know.

**REP. MILLS** asked **REP. RANEY** if they are going to end up with a schedule that talks about every piece of paper, every element of government that says what will go to the waste basket and what will go to the archives. Who is going to decide. **REP. RANEY** said they will, the same people. He explained it says they will establish a schedule for categories of records and they get to decide what the category of records will be for and which request is not required. If they decide there are four subjects, that is all they have to put on the schedule. The other 10,000 would still have to go through the present system.

**Mayor Larsen** read a paragraph from the city clerks comments that stated she believes the proposed changes are good because it would require the state to provide an updated retention and disposition and this identifies and establishes a retention and disposition annually. This would insure that local government would always have something current (the key word) to guide them in their destruction and this is something they have not had. The overall effect would give local government managers some concrete guidelines in handling the destruction of local government records. The clerk does not want a long list but they could say "add to the current list or delete from the current list" so they do not have to republish the entire list every year.

**CHAIRMAN BOHARSKI** stated that some of the confusion has been dealt with and then asked if **REP. RANEY** could work with **Ms. Otto** and some of the other opponents. **REP. RANEY** said he would because two groups of people are reading it in a completely different way.



Closing by Sponsor: Sponsor closed.

HEARING ON HB 165

Opening Statement by Sponsor:

REP. ROBERT STORY, House District 24, Park City, stated this bill's only purpose is to allow the local governing body to set the hours for county offices.

Proponents' Testimony:

Vicki Hyatt, Commissioner, Stillwater County, and also representing Montana Association of Counties (MACO), said this bill was a unanimous resolution passed by MACO and it would give flexibility for small counties. She explained that many offices are run by a single person and there is a violation of the law if the office is locked during the eight-hour work day. They are asking for flexible office hours to better serve the public.

Gordon Morris, Director of the Montana Association of Counties (MACO), gave his support for HB 165 saying this bill would take out the references of 8-5 as regular office hours and would make it a local discretionary decision as to which offices could be appropriately closed and not disabuse the public to which those offices are intended to serve. Mr. Morris then reviewed various sections of the bill and asked the committee's favorable decision.

Leo Hudetz, Yellowstone County Auditor, spoke in favor of HB 159. He then told the committee about an incident when his office was locked while he was working alone one day and had left for a short time. He locked up to protect the records and a complaint was made about the office not being open from 8-5. As a result of this, if his assistant is on vacation or not able to be in, the office has to be left unlocked.

Gordon Morris acknowledged the presence and support of HB 159 from several commissioners of various counties that are present but will not be testifying (see Visitors Register).

Opponents' Testimony:

Bob Gilbert representing the Montana Clerks of District Court Association, disagreed with the proponents of this bill saying it would create a state statute to correct a few local problems. Even though Mr. Morris said it is not the intent, this bill is perceived by many local elected officials as a power struggle. This would allow county commissioners to abolish an elected official by a vote. That makes elected officials very uneasy. They have statutory obligations when they are elected and they are very strong in defending their jobs and very intent in providing a service to the public. This is not to make the

government happy, it's providing a service to make the people happy. This bill would allow county commissioners to set office hours for up to seven other elected officials without them having a vote in the matter. **Mr. Gilbert** referred to the bill stating this observation. He then spoke about a clerk that is in a one-person office and was aware of the situation when she ran for office and accepted the position knowing this. **Mr. Gilbert** offered an amendment that would allow, through a memorandum of understanding between the governing bodies, an elected official the right to change an office's hours.

**Nancy Sweeney, Lewis & Clark County Clerk of Court**, attested that **Mr. Gilbert** had expressed their concerns as well. Many clerks of court around the state are in one-person offices and are well aware of the problems and dedication that is required to bring in their lunch or call down the hall to have someone watch the office while they take a break. The clerks of court take this very seriously and believe in their obligation to the public to provide services to meet the requirement of continually staying open. If this bill would only provide a short reprieve for those necessary times, it wouldn't be objectional and the clerks are fearful this would be used as a tool in fiscally difficult times to deny access to the public. Basic rights must not be compromised by fiscal constraints. Open and unencumbered access to the offices of sheriff, county clerk, clerk of district court, treasurer, county attorney and county auditor are vital services provided to the citizens. The residents of Lewis & Clark County that reside in Augusta must travel in excess of eighty miles to Helena to obtain marriage licenses, pay taxes, search for records such as birth or death certificates, land surveys, divorce records, etc. Some records may be obtained through the mail and additional costs are incurred. **Ms. Sweeney** urged the committee to amend this bill to allow it to be an agreement that public officials would be fulfilling their obligation to the public and prevent them from denying public access to the courthouse.

**Robert Throssell**, representing the **Montana Association of Clerk and Recorders**, reiterated previous testimony stating their position is similar to **Mr. Gilbert** and **Ms. Sweeney**. **Mr. Throssell** asked that the bill be amended to include the independent elected official when deciding the setting of office hours.

Informational Testimony: None

Questions From Committee Members and Responses:

**REP. DAVID EWER** asked **Mr. Morris** what his and MACO's thoughts are on the amendment to allow the elected officials to have concurrence on changing the hours along with the county commissioners. **Mr. Morris** responded that they would be open to consideration, and to specify there is a role and they have to be involved in any determination made by the local governing body to change the 8-5 schedule. This language would make this clearly

an option based upon input from the other elected officials. Ultimately, the choice has to reside with the individuals who have the ultimate accountability with regard to budgetary authority over the county-wide budget.

REP. EWER said they have to work 8-5 now and asked "When they talk about budget considerations are they proposing they work from 8:00 a.m. to 7:00 p.m.?" He then suggested an amendment that says "upon the concurrence of the elected officials." Mr. Morris responded no, he was trying to suggest that and he pointed out that ultimately, somebody has to have responsibility for making decisions. Trying to do everything by virtue of consensus among the elected officials as demonstrated today, is part of the problem.

**Closing by Sponsor:**

REP. STORY closed by saying the law is specific now but there needs to be some flexibility built into the laws so that the commissioners or someone can set flexible hours. Those hours may benefit the public and County Commissioners bear the ultimate responsibility.

**HEARING ON HB 136**

**Opening Statement by Sponsor:**

REP. ALVIN ELLIS, JR., HD 23, Red Lodge, explained this bill simplifies the requirement placed on the county commissioners in regards to printing. "It seems ridiculous when they, by their own actions, can encumber the county for five mills on a SID that they cannot make judgments on what printer can best serve the counties needs." He then outlined the sections in the bill. His amendment takes care of the concern by MACO that they are trying to solidify both legal and other printing in a non-contract.

REP. ELLIS asserted this is not the intent of this legislation, therefore they are putting "or" on line 4, page 4. If that is not adequate, they may want to replace lines 29-30, page 2 that states county commissioners may separate the printing contract of the two parts.

*{Tape: 1; Side: 2; Approx. Counter: 4.4;}*

**Proponents' Testimony:**

Jim Moore, Red Lodge, stated his company publishes newspapers in Carbon, Stillwater and Big Horn counties and he is here out of the conviction that business and government should follow the law in conducting their day-to-day activities. He said this conviction becomes meaningless in the face of part 24 of the local government code which is entitled "county printing." The county printing code is contradictory, incomprehensible, impossible to follow, vague, ambiguous and anti-competitive. He

then discussed the contradictions in printing contracts and gave background information on his businesses and property. He wondered if every paper in Montana which carries legal advertising is operating outside the law in this area. He believed this is so.

HB 136 would allow the county commissioners to accept the lowest and best bid without regard of the origin of the bid and special preference. It eliminates the self-serving and anti-competitive language about who can or cannot bid. It makes a clear distinction between legal advertising and printed forms so there is no confusion that these are two entirely separate things. Stillwater and Big Horn county have both said they have to have a bond to carry legal advertising. They were told they cannot get one, but have been granted legal contracts anyway. Under this code, the Franklin catalog has been adopted as the official pricing of printed products in Montana. The county clerks and recorders and the county commissioners, people who need to know if the county is being cheated or not, probably have not read this catalog either and if they have, probably could not understand it. Free and open bidding would allow the price of printing to be set in the free marketplace and would require every printer to compete for county monies and would not show favoritism. **Mr. Moore** said this bill would give county governments and printers in Montana a statute that is clear, understandable, fair, and enhances the ability for county governments to operate efficiently.

{Tape: 1; Side: 2; Approx. Counter: 15.2;}

**Opponents' Testimony:**

**Beverly Gibson, Assistant Director, Montana Association of Counties (MACO)**, submitted and read her written testimony.  
**EXHIBIT 6**

**Charles W. Walk, Executive Director, Montana Newspaper Association**, which represents 75 Montana newspapers, including all 11 dailies and 64 weeklies, stated they reluctantly rise in opposition to HB 136. **Mr. Walk** presented and read his testimony.  
**EXHIBIT 7**

**Informational Testimony:** None

**Questions From Committee Members and Responses:**

**REP. EWER** asked **Ms. Gibson**, why, in 1995, there is a compelling need to have part 24 on the books that gets down to the level of county printing and why not repeal this section entirely and quit micro-managing county governments. He suggested they allow the competitive bidding exception in county contracts that gives counties some flexibility with the \$20,000 for road machinery, equipment, materials and supplies. He noted there is a specific exemption for the printing that appears to have been on the books

since 1933. **Ms. Gibson** replied that this question has been asked many times and there is not a sure answer. There has been a love/hate relationship with county printing board over the years and there have been a number of county commissioner representatives on the county printing board who have worked their way through this. The county printing board does not meet annually because they do not have enough business. **Ms. Gibson** discussed the stack of amendments the printer committee came up with to the current job printing guidelines that itemized every piece of paper, letterhead and envelope. This was given up and they have been slowly working their way towards making the county printing board more useful and responsive to both the printers and to the counties.

**REP. EWER** then redirected this question to **Mr. Walk**. He responded this is a very legitimate question and there is a need to work toward that. The problem is there has been a technology change in not only the printing industry but the entire communications industry. The code needs to be addressed and have the board look at it. The introduction of computers and laser printers has made a big difference. This needs to be done in a step-by-step basis rather than doing away with the entire section of the code.

**REP. JOHN BOHLINGER** asked **Ms. Gibson** if there were any caps in the proposal. She responded by saying there has always been a cap on the legal advertising and job printing. This bill does not deal with the caps on the legal advertising. She was not sure that the counties are ready to abolish the cap on legal advertising. They are mandated to do a great deal of legal advertising through the statutes. That varies from newspapers depending on the circulation. The newspapers are all bound by having a schedule no matter what their size. Counties such as Cascade who had to do their advertising in the Great Falls Tribune, would find their legal advertising skyrocketing to match what the person off the street would have to pay for legal advertising. Their legal advertising would then go to market and the Tribune would then set their price. The counties are not yet ready to abandon their cap on legal advertising.

**REP. BOHLINGER** referred to Section 6 stating the county commissioners are held by this bill to accept the bid that the commissioners determine to be the lowest bid of the printing contracts. His question then was wouldn't that assure the citizens of the county the best possible price in the market place. **Ms. Gibson** responded that through this section of the law the counties have always been required to accept the most responsible low bid. The language was moved around a little in the re-draft to reflect the fact that they are separating out the two overseeing functions of the county board. As drafted under this, the board of county printing would no longer oversee job printing. If in fact they will not be doing it any longer, all references to job printing should be removed from this as there are really two issues.

**REP. NORM MILLS** noted that **Ms. Gibson** said the price of printing in Cascade County would go "sky high" and asked if someone is printing less than the cost should be and therefore subsidizing her county. **Ms. Gibson** responded "At this time, under the task, the Great Falls Tribune is now making as much money as they can on county advertising."

**REP. EWER** said they have a state-wide county printing board and they set the ceiling for legal printing and counties use that all the time, so the concern is if there was no board or process, the fear is there will be additional costs on certain counties that might be at the mercy because most communities only have one newspaper of legal record. **Ms. Gibson** responded that in some counties there are two county published newspapers. Jefferson County is a small county but has two newspapers so legal advertising could be done in either one and fulfill the requirements of the law. **Ms. Gibson** clarified the going rates of legal advertising.

**Closing by Sponsor:**

**REP. ELLIS** said the intent of this bill is not trying to change the way legal advertising is handled or try to roll legal advertising into the other forms and other printing that counties do. Separating the way they are handled speaks to that issue. He concluded by saying if it is the committee's desire to make it more clear he has no problem with that. Printing has become more complex. He was informed by a Montana printer that the "Made in Montana" labels were printed in Salt Lake City because they require a flexographic printing process. This process was not available in the state of Montana. He feels the county commissioners are charged with the duty of doing the best job for their counties they possibly can and should be given free reign to accomplish this. There are 46 printing establishments advertised in the yellow pages in the Billings phone book. Five of them are newspapers that are printed in that area, two of which belong to **Mr. Watts'** organization.

**HEARING ON HB 113**

**Opening Statement by Sponsor:**

**REP. EWER** explained the bill saying it would make it very clear that rural fire districts would have the ability to use the money they have collected from tax revenues and use the money to borrow against without going through the process of bonds. He then reviewed the history of previous laws as to the powers local fire districts have in regard to borrowing and he reviewed the language in the bill and its meaning. He pointed out the inconsistencies and the consequences of this bill, unless clarified. He said the Board of Investments that lends money to local governments has taken the stand they will no longer lend money to fire districts without a vote of the people, which is

expensive. Most of the costs of fire districts are to buy a fire truck or building a fire hall, not paying personnel because they are mostly volunteers.

{Tape: 1; Side: 2; Approx. Counter: 43.4; Comment.}

**Proponents' Testimony:**

**James A. Lofftus, President, Montana Fire District Association,** stated that for years, fire districts have been in a quasi-legal position of borrowing money, that was never spelled out. He spoke of the coupon bonding borrowing money by the vote of the people and the laws passed. **Mr. Lofftus** said to his knowledge, only one fire district in the state has passed a bond issue by the vote of the people. He concluded by saying this bill will clarify and legalize what they have been doing all along that has never been challenged. Under the present law, if challenged, there will be fire districts that may be in trouble. A lot of fire district budgets are less than \$25,000. **Mr. Lofftus** said he is authorized to speak for Lockwood rural fire district east of Billings and others that also rise in support of this bill.

{Tape: 1; Side: 2; Approx. Counter: 45.7;..}

**Mr. James Balke, Belgrade Rural Fire District** attested to the incident last summer when they applied to the State Board of Investments to borrow money to build a new fire station in Gallatin County. When they were through, there was much doubt they could borrow money due to the weakness of the old law. The old law they have been operating under was a result of changing over from the RCM to the Montana Codes Annotated and have not been changed since then. **Mr. Balke** said he would like to assist in this change in the law and urged support of this bill.

**Paul Laisy, Missoula Rural Fire District,** reiterated comments made by **REP. EWER** and stated this bill would clarify the law so they can use the money they have to purchase needed equipment. The fire district indebt themselves to help people and promise to do everything they possible can to save lives and property, take care of medical emergencies, vehicle accidents, and therefore are asking to indebt themselves slightly so they may get the tools and equipment to do the job.

**Tim Burton, Executive Assistant, Lewis and Clark County Commissioners,** expressed their support of HB 113 saying it provides consistencies between fire service areas and fire districts. Through sound fiscal management and good planning, it allows fire districts to provide the protection and service they were created to do. He reiterated previous testimony.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions From Committee Members and Responses:**

REP. JACK HERRON referred to Section 732-2109, Line 26, and asked why the difference between 18% and 7%. REP. EWER responded the 18% refers to rural fire districts currently in the law and the 7% refers to rural service areas. He said it is very strange that when there is a rural service area that gets its fees and assessments at a 7% limitation it is a different matter but whenever they make a loan based on fees, they have to also be sure that the taxable value is okay. On a 7% taxable value, the debt capacity for rural service areas is very small. The current law is 18% and this bill does not change that. Any loans considered with bonds, would have to be no more than 18%.

*{Tape: 1; Side: 2; Approx. Counter: 52.4; Comments: .}*

REP. LINDA McCULLOCH asked REP. EWER if other types of districts have the ability. He responded that the point he was trying to make was the way they deliver fire protection in a number of different areas. In a rural fire district where they service areas they already have this. REP. EWER said for the record, in 7-332-404 sub (4) rural service areas already can do this and he feels that rural fire districts should be able to do it as well.

**Closing by Sponsor:** The sponsor closed.



ADJOURNMENT

**Adjournment:** The meeting adjourned at 6:00 p.m.

*Wm E Boharski*

---

WILLIAM BOHARSKI, Chairman

*Evvy Burris*

---

EVY BURRIS, Secretary

WB/ev

# HOUSE OF REPRESENTATIVES

## Local Government

ROLL CALL

DATE 1-19-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner		✓	
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea		✓	
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		

January 13, 1995

EXHIBIT 1

DATE 1-19-95

HB 129

**A Position Paper**

**on**

**HB 129**

**by Bill Adamo**

**Director, Business Services**

**Livingston Schools 222-0861**

***An act to mandate the establishment of categories of records for which a disposal request is not required; and amending section 2-6-403, MCA.***

1. 1993 legislation (MCA 2-6-403) created a Local Government Records Committee whose purpose is, among other things, to approve, modify, or disapprove proposals for local government retention and disposition schedules; approve or disapprove requests to dispose of or destroy records; *establish categories of records for which a disposal request is not required.*
2. Since utilization of space and management of unneeded records consume district resources, school business officials supported this legislation in hopes of finally getting clear definitions, from an authority, as to how long specific records must be kept. The problem is **not** that valuable records are being disposed of across the state.
3. The Committee, by statute, is composed of the state archivist, the state records manager, the bureau chief of the Local Government Services Bureau manager, the bureau chief of the Local Government Services Bureau of the Dept. of Commerce, and 4 appointed local records custodians.
4. MCA 2-6-403(3) states that "The local government records committee *may* (emphasis added) by *unanimous* (emphasis added) approval establish categories of records for which a disposal request is not required, providing that those records are retained for the designated retention period."

January 13, 1995

5. The problem is that the committee **did not** establish categories (at least for school districts) of records for which a disposal request is not required.
6. The committee *did* establish local government retention and disposition schedules for some categories of records but *failed* to eliminate the requirement for a written "Request and Authorization for Records Disposal" This omission has the effect of establishing a whole new level of bureaucracy that will consume state and local resources unnecessarily.
7. This new records retention bureaucracy can be taken to absurd levels. For example, and if the Livingston School District gets permission (in writing) to destroy a 10 year old warrant to a vendor, must the district get permission to destroy the permission slip? And if the district gets permission to destroy the permission slip, how long must it keep *that* permission slip? Who is going to police all this paper shuffling bureaucracy?
8. HB 129 would **require** that the committee establish categories of records and there respective retention schedules and, for those records, not require a written " Request and Authorization for Records Disposal".
9. HB 129 would **require**, as new retention schedules requests arise, that the committee to consider the establishment of retention schedules (that do not require a written " Request and Authorization for Records Disposal") for those categories as well.
10. HB 129 would **require** that the committee publish, *at least annually*, the retention schedules and updates retention schedules.
11. HB 129 would **eliminate** *any* references to unanimous votes and provides for resolution of tie votes of the subcommittee.
12. HB 129 would **clarify** the authority and functions of the full committee verses the subcommittee

Mr. Chairman, members of the Committee. My name is Kathryn Otto. I am the State Archivist with the Montana Historical Society and a member of the Montana Local Government Records Committee and its Destruction Subcommittee.

Local government records are important resources that can and should be managed, just as any other resources of government are managed. When average citizens want to sell property, clear up a tax dispute, get a business license, or settle an estate, they must rely on the efficient management of local government records. Local officials want to do a good job managing their records, but often need information and advice. That is one of the main reasons the Montana Local Government Records Committee was established--to provide that information, advise, and expertise.

One area of expertise the Local Government Records Committee has is which records should be retained and which records should be disposed of. All government officials depend on records from their own files for the information needed for day-to-day management. Good records provide officials the right information for decision making. Records also document both the rights of citizens and the responsibilities of government. In addition, local government records are important sources for research. Lawyers, public interest groups, students, genealogists are just a few who use them for research purposes. Records also help to ensure and measure government's accountability. By systematically documenting government operations and performance, records provide a revealing look at government and a means for studying its effectiveness and efficiency.

It's obvious that taking care of local records can't be left to chance. Local governments must manage records, which means seeing to their systematic creation, organization, maintenance, use, and periodic disposition. Most records become obsolete after a certain period of time, the information loses its value, and for these records disposition should mean outright destruction. A small amount--anywhere from 2-20% depending on the importance of the office or function--possess enduring value because of the information they contain. For these records disposition should mean permanent retention.

How do you determine which records are no longer needed and may be destroyed and which records have enduring value? That is the purpose behind a "retention and disposition schedule." Research into the legal requirements, combined with realistic, informed assessments of the current and future needs for a document form the basis for establishing a retention period and final disposition. Every state has legal requirements which come from the states' responsibilities to ensure that records are retained for local government administration, for state oversight responsibilities such as audit, and for long-term historical and other research. The two members of the Montana Local Government Records Destruction Subcommittee represent these interests. The Local Government Services Bureau in the Dept. of Commerce looks after the state oversight responsibility--especially in the area of records needed for audit purposes--and the State Archives in the Montana Historical Society looks after the long-term historical and other research needs.

When a local government sends in a disposal request, they have had to carefully look at their records, make the list, check it against the existing retention and disposition schedules, and make a well-thought-out decision that these records are no longer useful. In most cases, they are completely correct. Since the Subcommittee began reviewing disposal requests in July 1993,

68% of all requests have been approved without any exceptions. Occasionally, however, the Local Government Services Bureau will find a record that needs to be retained longer for audit purposes, or the Archives will find a record that has potential value for other uses. In either case, the local government is contacted by phone or by letter. Sometimes it's a case of just needing more information than what was provided on the form. Sometimes it's as simple as someone using a different name for the record. In no case is the entire disposal request rejected. All disposal requests are signed and returned to the local governments with notes regarding any records which must be kept longer. The change proposed in House Bill 129 on page 1 at lines 18 & 19 would seem to require the Subcommittee to take all such requests--32%--to the full committee. This would be time-consuming and would mean the local government would not receive a speedy reply to their request. The final outcome would probably not change because the full committee would ask the same questions and mostly likely come to the same conclusions. The Destruction Subcommittee was established for the purpose of reducing the number of hands the requests had to go through, thus reducing the amount of time it takes for the local government to get the signed request back.

At the end of the process, the local government has a record of what was destroyed, plus signatures of the records custodian, the local board or judge, the Local Government Services Bureau, and the State Archives. This document would stand up in court if a local government was ever asked to produce records that it had destroyed. It proves that the records were approved for destruction and were destroyed in the normal course of business. It is a standard government records management procedure to require a disposal request and sign-off by a records committee. In a publication jointly produced by the National Association of Government Archives and Records Administrators along with the Association of Records Managers and

Administrators titled "Essential Elements of Local Government Records Management Legislation," the chapter on Records Retention and Disposition recommends that QUOTE To ensure uniformity, the state archival or records management agency ... should regulate the disposition of local government records.... The act can address this function by establishing procedures for state review and approval of local retention/disposition requests. END QUOTE.

The change in House Bill 129 on page 1 at lines 16 & 17 would do away with this disposal request and sign-off once a retention and disposition schedule is published. This would open the door wide to any official wanting to improperly destroy records. But, it would also mean that well-intentioned records custodian who uses a different name for a record than what is used on the retention schedule is busy destroying permanent records. It could also mean a hefty fine for a local government that destroyed records needed in a court case because they fudged a little and destroyed the records a year sooner than the schedules allowed. I can also tell you from years of experience on the State Records Committee that many records custodians don't bother to read the retention schedules. I am constantly be asked to approve the disposal of records that are clearly marked as permanent. If the disposal request procedure did not exist, these valuable records would be destroyed.

The disposal request and sign-off also provides evidence of what has been destroyed and when. Many county courthouses, city offices, and school district offices are overcrowded and understaffed. Finding a particular record can take days. If it's not found, was it because it was destroyed? or is the searcher simply not finding it? A disgruntled citizen might think that the searcher was not trying hard enough. If you know what's been destroyed and can prove it, it saves time, effort, and money.



EXHIBIT 2  
DATE 1-19-95  
HB 129

Finally, the change on page 1 at lines 21-24 is unnecessary. The disposal request is already one of the two primary places the Committee gets lists of records to use in creating disposal requests. The records that would have a retention not needing approval for disposal consist of a fairly standard list of what are considered "non-records." Things like catalogs from suppliers and superfluous copies of documents. There is also a category of correspondence that can be routinely disposed of that consists of items like thank-you letters, congratulations, and quasi-official notices such as notices of holidays or charity appeals. That's not to say no records will ever be added to this list. All records reviewed in the retention and disposition process are potential candidates, but few records are unimportant enough to make this list.

I urge you to reconsider these two changes. Thank you.

# MONTANA LOCAL GOVERNMENT RECORDS COMMITTEE

## Local Government Records Destruction Subcommittee

### REQUEST AND AUTHORIZATION FOR RECORDS DISPOSAL

**FROM:** Flathead County  
c/o Bookkeeping, Deb Deist  
800 South Main Street  
Kalispell, MT 59901

**TO:** Montana Local Government Records Committee  
c/o Dept. of Commerce, Local Government Services  
1424 Ninth Ave.  
P.O. Box 200501  
Helena, MT 59620-0501

Authorization is hereby requested for the disposal of the following records under the provisions contained in  
2-6-403, Montana Code Annotated

DESCRIPTION OF RECORDS (include case no. or other identifying nos.)	INCLUSIVE DATES FROM TO	APPROVED ✓	DISAPPROVED ✓
<i>Example: District Court civil exhibits no. D79-D130</i>	<i>1979 July 1-1980 June 30</i>		
All school District Cancelled Warrants eight years old and older	Prior to Dec, 1986	✓	
Flathead County Payroll Cancelled Warrants Eight years old and older	Prior to Dec, 1986	✓	
Flathead County Expense Cancelled Warrants Eight years old and older	Prior to Dec, 1986	✓	
Flathead County Trust and Agency Funds Cancelled Warrants- Eight years old and older (Fire Districts, etc)	Prior to Dec, 1986	✓	

Authorization is granted on the express condition that all the fiscal records involved have been audited and the audit approved, or such records are not required for future audit, and that all of the records listed have ceased to have sufficient additional value to warrant future retention.

**ORDERED BY**

**APPROVED BY**

*William B. Hedstrom* 12/14/94  
Judge, or Chair of Board of Trustees/Commissioners Date

*NEWELL ANDERSON* 12/22-94  
Local Government Records Destruction Subcommittee Member  
NEWELL ANDERSON, Administrator

*Anita Hoyer* 12/14/94  
Records Custodian Date

*Kathryn Otto* 12-22-94  
Local Government Records Destruction Subcommittee Member

FROM: Earl B. Lamb  
Clerk of the Board of Trustees  
Great Falls Public Schools

SUBJECT: Destruction of Old Records

We are asking permission to destroy the following records:

(SEE FOLLOWING PAGE)

Number of Years Items are  
to be Held

Vouchers

1985-86 Approved

1986-87

1987-88

5

County Treasurer Reports

1988-89

1989-90

2

PERS and Teachers Retirement

1983-84 Approved

1984-85 Approved

8

Activity and Expense

1983-84 Approved

1984-85 Approved

8

Time Sheets/Cards

1987-88

1988-89

3

Social Security Reports

1988

1989

1990

4

Duplicate W-2's

1988

1989

1990

4

Teacher/Administrator Contracts

1986-87

1987-88

5

Although Section 20-9-215, MCA, provides for a five year retention for claims, vouchers, bonds, and receipts, the auditors of the Local Government Services Bureau recommend an eight year retention to meet various statute of limitation requirements. We therefore, have approved the items marked above for destruction and ask that you retain all others for a retention period of 8 years. Permission must also be received from the Board of Trustees.

BOARD OF TRUSTEES

DATE

NEWELL ANDERSON, Administrator  
Local Government Services Bureau

DATE

EXHIBIT 3  
DATE 1-19-95  
HB 129  
*MARCIA PORTER*

INTRODUCTION- *L&S*

MEMBER OF LGRC

MSLA CO ONLY CO IN STATE WITH A CENTRALIZED RECORDS MGNT DEPT. MY DEPARTMENT IS RESPONSIBLE FOR STORAGE, RETRIEVAL AND DISPOSITION OF RECORDS INCLUDING MFILM, COMPUTER TAPES AND DISCS, FOR 30-40 COUNTY DEPARTMENTS AND SOME CITY DEPARTMENTS

WHEN MY DEPARTMENT INHERITED THE RECORDS MANAGEMENT FUNCTIONS 10 YEARS AGO, THE WAREHOUSES AND MANY OF THE OFFICES, WERE NOT INVENTORIED. MANY DEPARTMENTS HAD NOT KEPT <sup>DOCUMENTATION</sup> ~~RECORDS~~ AS TO WHICH RECORDS WERE STORED IN THEIR OFFICE, OR ELSEWHERE; OR, IF THEY HAD BEEN DESTROYED.

IN DISCUSSING THIS PROBLEM WITH RECORDS CUSTODIANS IN OTHER COUNTIES, I FOUND THIS PROBLEM EXISTED WITH <sup>MANY</sup> ~~MOST~~ OF THEM.

LIKE MISSOULA COUNTY, MOST OTHER COUNTIES HAD STORAGE SPACE IN THE BASEMENTS, CLOSETS, OR ATTICS, BUT MANY HAD NO IDEA WHAT RECORDS WERE STORED IN THOSE AREAS. THEREFORE, THE RECORDS WERE INACCESSABLE TO THE PUBLIC. EVERYONE I TALKED TO AGREED THIS WAS A PROBLEM.

IN 1938 THE WPA SPONSORED A PROGRAM THAT INVENTORIED THE RECORDS CONTAINED IN COURTHOUSES THROUGHTOUT THE NATION. IN COMPARING THE RECORDS IN THAT INVENTORY OF MISSOULA COUNTY, TO OUR CURRENT INVENTORY OF RECORDS, SOME OF THESE <sup>PERMANENT</sup> "PUBLIC" RECORDS ARE MISSING. *yes maps LAND RE*  
WHO KNOWS WHAT HAS HAPPENED TO THEM. CERTAINLY NOT THE CURRENT

ELECTED OFFICIALS OR DEPARTMENT SUPERVISORS! WHY? THERE IS NO DOCUMENTATION OF THEIR DISPOSAL!

ELECTED OFFICIALS AND OFFICE SUPERVISORS CHANGE PERIODICALLY, <sup>HAVE NOT LEFT</sup> MANY ~~DO NOT LEAVE~~ DOCUMENTATION FOR THEIR REPLACEMENTS AS TO WHICH RECORDS ARE AVAILABLE TO THE PUBLIC, OR WHICH HAVE BEEN DESTROYED.

THE LOCAL GOVERNMENT RECORDS COMMITTEE WAS CREATED TO ENSURE THE PROTECTION AND AVAILABILITY OF "PUBLIC" RECORDS TO THE PUBLIC, BY MEANS OF RETENTION SCHEDULES; AND TO TRACK THE DISPOSITION OF RECORDS.

THE CHANGES IN HB129 COULD ELIMINATE TRACKING THE DISPOSITION OF RECORDS IF APPROVAL IS NOT REQUIRED. IF APPROVAL IS NOT NECESSARY TO DESTROY THE RECORDS, WOULD DOCUMENTING THE DISPOSAL BE DONE? JUDGING FROM THE PAST, IT WAS NOT!

I HAVE FOUND FROM EXPERIENCE THAT THE TURN AROUND TIME FOR APPROVAL FROM THE DESTRUCTION SUBCOMMITTEE IS USUALLY ABOUT A WEEK. THIS TIMEFRAME HAS NEVER CREATED A PROBLEM FOR MISSOULA COUNTY, AND IN FACT REQUIRING DESTRUCTION APPROVAL HAS HELPED DEPARTMENTS BY DOCUMENTING WHICH RECORDS ARE IN STORAGE, AND WHICH HAVE BEEN DESTROYED. DISPOSALS ARE NOW PLANNED. RECORDS ARE NOT INDISCRIMINATELY THROWN OUT JUST TO MAKE SPACE FOR SOMETHING ELSE.

HB129 ALSO REQUIRES THAT THE LGRC "PUBLISH RETENTION SCHEDULES AND DISPOSITION SCHEDULES AND UPDATES TO THOSE SCHEDULES AT LEAST

EXHIBIT 3  
DATE 1-19-95  
HB 129

ANNUALLY". THE COMMITTEE IS REQUIRED TO MEET TWICE A YEAR. WE ARE WORKING ON UPDATING THE EXISTING RETENTION SCHEDULES AND CREATING RETENTION SCHEDULES FOR THOSE DEPARTMENTS THAT HAVE NONE.

WHEN THIS IS FINISHED, OUR HOPE IS THAT THE SCHEDULES WILL ONLY NEED TO BE REVISED PERIODICALLY. TO REQUIRE THE COMMITTEE TO PUBLISH RETENTION SCHEDULES AND UPDATES TO THOSE SCHEDULES AT LEAST ANNUALLY IS UNREASONABLE AND IMPRACTICAL.

BECAUSE OF THESE REASONS, I PROTEST HB129

**NANCY SWEENEY**  
**CLERK OF DISTRICT COURT**  
*Lewis and Clark County Courthouse*  
*P. O. Box 158*  
*Helena, MT 59624-0158*  
*447-8216*

EXHIBIT 4  
DATE 1-19-95  
HB 129.

January 19, 1995

Bill Boharski, Chairman  
Local Government Committee  
Capitol Station  
Helena, MT 59620

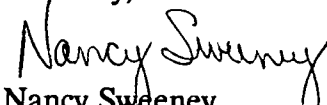
Dear Chairman Boharski and Committee Members,

As custodian of local government records I submit this letter in opposition to House Bill 129, which would modify the existing laws applicable to the local government records committee. The existing committee is an example of government working in the most accurate, economical and expeditious manner possible. The last requests and authorization for records disposal submitted by my office to the committee were approved in less than one month. The records I am referring to were original documents which had been recently preserved on microfilm and the speedy approval of the committee allowed Lewis and Clark County to avoid any additional costs that the microfilming company may have charged us to store the converted documents.

Counties do not have adequate space to store old records in a protected environment and most of the records in my office are required to be kept permanently. Although some counties have never microfilmed any of their records, it is of vital importance to preserve those documents, by means of microfilming, while the documents are in their most legible condition. Once the records have been preserved on microfilm there is no need for the counties to maintain the original documents. There are limited funds available on the county level and proper management of records is necessary to allow the agencies to properly preserve the records in the most economical fashion.

During a time when the political climate is against creating more bureaucracy and expense of government, House Bill 129 would unnecessarily create more work for a committee that is more than adequately providing the necessary services and require the committee to incur more costs. Lorraine Van Ausdol, clerk of district court and chairperson of the local government records committee, has asked me to inform the committee that she does not receive reimbursement of costs incurred by traveling to Helena for a local government records meeting. Gallatin County does not have the funds available to provide for the meeting required under current law not alone the increased frequency of meetings which would occur by implementation of House Bill 129 and it is not fair for Ms. Van Ausdol to do more at her own expense. An additional expense would be incurred by the requirement to annually publish the retention and disposition schedules and some government agency would be required to absorb that cost.

At a time when it is the clear message of the people to not create more bureaucracy or increase the expense of government, House Bill 129 simply does not make sense. The system functions well, why change it. I encourage the committee to vote Do Not Pass on House Bill 129.

Sincerely,  
  
Nancy Sweeney  
Clerk of District Court

DATE 1-19-95HB 129.

# CITY OF GREAT FALLS FAX TRANSMITTAL FORM

&lt;&lt;&lt;PLEASE DELIVER ASAP&gt;&gt;&gt;

TO: Councilperson **ROSE FORBES**  
House of Representatives  
Fax: 1-900-225-4300

FROM: Peggy Bourne, City Clerk/Records Manager  
Fax: 727-0005  
Phone: 771-1180 ext. 351

Dear Representative Forbes,

Please note, for the record, that I stand opposed to HB129. HB129 changes the intent, structure, and workability of the Local Government Records Advisory Committee created during the 1993 legislature via SB288. The intent of SB288 was to create a committee to provide a vital mechanism advising and educating local governments on records management issues. While, at the same time, adding a level of protection for historical records documenting our State's history. The protection, requiring authorization from the Department of Commerce and the State Archivist prior to destroying any local government records. I have confidence in the knowledge, skill and expertise of our State Archivist regarding records retention and destruction. I feel that those historical records are more protected now, than two years ago. I also feel that HB129 strips that protection away.

There is only one way to legally destroy a record...by following a retention schedule process. That process is complicated and time consuming. Only three municipalities in the State of Montana have trained records managers serving as the City Clerk or Clerk of Commission, who know and understand that process.

SB288 added another legal, easier way for local governments to dispose of records. The new process passes the disposal/destruction decisions to a State Archivist who is an expert in retention scheduling. Local governments no longer need to train their staff. They can rely on a new service provided to them. HB129 changes the new, easy to use process by adding the more complicated process of retention schedules. HB129 takes us backward to where we were before SB288. What was happening before SB288 was local governments adopted a retention schedule and did not properly use it. Records were still either kept needlessly or randomly destroyed. The retention schedule system did not work before, and I suspect, it still will not work. Retention schedules are like tools. Once you are trained to use the tool properly the tool is useful. But without the training to know how the tool works, it is useless and dangerous.



**HB129 Peggy Bourne Brief**

Another reason why I do not support HB129 is based on the term "workability". HB129 legislates that retention schedules be created and updated at least annually by the Local Government Records Advisory Committee (LGRAC). Why won't it work? The LGRAC is voluntary. I serve on that Committee. I also have a full time job. I have been working on updating the municipal retention schedule now for 18 months. I am not completed. It is an on-going task. When I can get a few minutes in my busy day...I work on it.

If HB129 was coupled with funding...then perhaps it would work. However, the added protection of the local government records via SB288 would not be replaced. Funding for HB129 could pay someone to keep the retention schedules up-to-date. Funding could pay to print and distribute retention schedules. Funding could provide a means for educators to teach local government personnel how to use retention schedules. But as long as the LGRAC remains a committee of volunteers, without paid staff support, I don't see how HB129 can work. And our history remains at risk.

If you have any questions regarding this, please feel free to contact me. Thank you for your time and consideration of my position!

54th Legislature

HB0129.01

## HOUSE BILL NO. 129

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT MANDATING ESTABLISHMENT OF CATEGORIES OF RECORDS FOR WHICH A DISPOSAL REQUEST IS NOT REQUIRED BY THE LOCAL GOVERNMENT RECORDS COMMITTEE; AND AMENDING SECTION 2-6-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-6-403, MCA, is amended to read:

"2-6-403. Duties and responsibilities. (1) The local government records committee shall approve, modify, or disapprove proposals for local government records retention and disposition schedules.

(2) The local government records committee shall appoint a subcommittee, known as the local government records destruction subcommittee, to handle requests for disposal of records. The subcommittee consists of the state archivist and the bureau chief of the local government services bureau of the department of commerce. Unless specifically authorized by statute or by the retention and disposition schedule, a local government public record may not be destroyed or otherwise disposed of without the unanimous approval of the subcommittee. If there is no unanimous approval by the subcommittee, the issue of the disposition of a record must be referred to the local government records committee for approval. When approval is required, a request for the disposal or destruction of any local government records must be submitted to the subcommittee by the entity concerned. When approval is obtained from the subcommittee or from the local government records committee for the disposal of a record, the local government records committee shall consider the inclusion of a new category of record for which a disposal request is not required and update the schedule.

(3) The local government records committee ~~may by unanimous approval establish categories of records for which a disposal request is not required, providing that those records are retained for the designated retention period~~ shall establish a retention and disposition schedule for categories of records for which a disposal request is not required. The committee shall publish the retention and disposition schedules and updates to those schedules at least annually.

(4) The committee shall respond to requests for technical advice on matters relating to local

STATE BBS COPY

54th Legislature

HB0129.01

1 government records.

2 (5) The committee shall provide leadership and coordination in matters affecting the records of  
3 multiple local governments."

4 -END-

**MONTANA  
ASSOCIATION OF  
COUNTIES**

EXHIBIT 6  
DATE 1-19-95  
HB 136

2711 Airport Road  
Helena, Montana 59601  
(406) 442-5209  
FAX (406) 442-5238

HOUSE LOCAL GOVERNMENT COMMITTEE  
January 19, 1995

HB 136 - Rep. Ellis

Good afternoon; I am Beverly Gibson, Assistant Director of the Montana Association of Counties, and I wish to oppose House Bill 136.

I understand that the intent of this bill is to separate out the legal advertising from the job printing for county governments, and in so doing, removing the cap on the cost of job printing but not on legal advertising.

The County Printing Board was established to protect counties, as tax-supported entities, by placing a cap on the cost of legal advertising the county is mandated to buy, and a cap on the cost of job printing for county purposes, such as ballots, letterheads, envelopes and other forms.

However, as drafted, the proposed legislation before you, in addition to removing that protective cap on job printing, also would require counties to award their printing for legal advertising and job printing to the same establishment. Because there are stringent criteria for awarding legal advertising to a county-based newspaper, tying the two contracts together could result in higher prices for job printing, especially since the cap is removed. No longer could a county take the lowest bid for printing of ballots, letterheads, envelopes, and other forms.

Because many counties have only one legally-qualified newspaper, such a combined printing contract would unnecessarily expose those counties to the possibility of paying the maximum rate for job printing. It is possible that the lone newspaper publisher would offer a low price to the county, but not probable, because there is no requirement nor opportunity to call for bids when there is only one supplier.

In the 1989 legislative session, MACo was successful in passage of HB 365, which allowed all counties to separate their printing contract into two parts. County commissioners may call for bids to publish their legal advertising in one or more county newspapers; at the same time, they may call for bids from those newspapers or from other job printers to print the ballots, letterheads, forms, envelopes and myriad other orders.

**MACo**

Montana Association of Counties  
January 19, 1995  
Opposing HB 136 (Ellis)

The proposed legislation before you would again require counties to award their printing for legal advertising and job printing to a single establishment, even though that newspaper may not have the equipment to do the job printing and would have to sub-contract out that part of the order.

Let's not undo the gains that have been made to allow counties to consider the lowest bids for their job printing.

House Local Government

HB 136

Testimony by Charles W. Walk

January 19, 1995

Mr. Chairman, members of the committee, for the record my name is Charles W. Walk. I am executive director of the Montana Newspaper Association, which represents 75 Montana newspapers, including all 11 dailies and 64 weeklies.

We reluctantly rise in opposition to HB 136 today. HB 136 would make significant changes in the sections of Montana code governing public notice advertising and county printing.

While we believe some changes in the sections of the code covered by HB 136 law may be appropriate, we have some serious reservations about the method of determining these changes.

We believe the appropriate forum for changing the sections of MCA included in HB 136 would be for the Montana Board of County Printing to study the code sections in question, decide on a course of action — including changes in the code, if desireable — and bring those changes back to the legislature in two years for action. The county printing board is the body designated to carry out sections of the code covered by HB 136 and to make the wholesale changes in those sections without input from the board seems inappropriate to us.

We are not suggesting that all the changes proposed in HB 136 are bad or inconsistent with possible suggestions the county printing board might make. But I have had conversations with the two newspaper members of the board — Verle Rademacher of the Meagher County News in White Sulphur Springs and Curtis Starr of the Phillips County News in Malta — and they

agree that they would like additional input into changes in the code sections under which the county printing board operates. They agree that the time restraints of a legislative hearing and complexity of the changes suggested in HB 136 are not the best way to achieve the best changes in the code.

I have had contacts with a half-dozen other members of my association involved in county printing and public notice advertising and they have raised other questions about changes proposed by HB 136 to make me suspect about the legislation.

I, therefore, respectfully ask the committee to table HB 136 and let the county printing board meet during the interim to more carefully and thoughtfully study needed changes in the sections of the code covered by HB 136. I am confident the printing members of the board would contact the bill sponsor and other proponents of the bill to obtain their suggestions and reasons for the changes they have proposed in the bill before you today.

Thank you for your time and consideration. I will be available for questions.

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Local Government

COMMITTEE

BILL NO. 165

DATE 1-19-95 SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Vern Petersen	Fergus	✓	
Gordon Morris	MA Co	✓	
Bev Gibson	"	✓	
Vicki Heggatt	Stillwater Co	✓	
Mona Nutting	Cashon	✓	
James W. Heggatt	Flinthead	✓	
Nancy Sweeney	Lewis & Clark County Clerk of Court		✓
Allen C. Herzfeldt	Ravalli Co. Commission	✓	
Tim Burton	Lewis & Clark Co Commission	✓	
Bob Gilbert	Mt. Clerks of District Court, ASSN.		✓
Robert Throssell	MT Assoc. Clerk & Recorder		✓

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



HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Local Govt COMMITTEE BILL NO. HB129  
DATE 1-19-95 SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
NORM KOLPID	City of Billings	✓	
OWEN NEITER	" " "	✓	
RALPH STONE	" " "	✓	
W James Kembel	City of Billings	✓	
Nancy Sweeney	Lewis & Clark County Clerk of Court		✓
Jim Binston	Lewis & Clark Co	✓	
BILL ADAMO	Livingston Schools	✓	
Ed Eaton	Secretary of State		✓
MARCIA PORTER	Missoula Co		✓
Kathryn Otto	State Archives		✓
Lynda Brannon	MASBO	✓	
Leo Hudlet		✓	
Naxell Anderson	Dept of Commerce	—	

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

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Local Gov. COMMITTEE BILL NO. HR 136  
DATE 1-19-95 SPONSOR(S) Edis

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Benny D. L...	MALCO		✓
Chuck Dalk	MVA		✓
Allen Horsfall	Ravalli County Commission		✓
Tim Moore	News Montana Inc.	✓	
<del>David L. Gray</del>			

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

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Local Government

COMMITTEE

DATE 1/19/95

BILL NO. 113

SPONSOR(S) EWOR

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
James Balke	Belgrade Rural Fire D	X	
Paul Laissy	MSA Rural Fire D.	X	
SANDY CLOSE	Belgrade Rural F. Dist	X	
Tom Banton	Levis & Clark Co	X	
Alan R. Riey	Lockwood F.D. #8	X	
JAMES A. LOFFTUS	MT FIRE DIST ASSN	✓	
Bill Reed	Midway Rural Fire	c	

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

HR:1993

wp:visbcom.man

CS-14