MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

**Call to Order:** By **CHAIRMAN JIM BURNETT**, on January 20, 1995, at 1:05 pm

ROLL CALL

**Members Present:**
Sen. James H. "Jim" Burnett, Chairman (R)
Sen. Steve Benedict, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Arnie A. Mohl (R)
Sen. Mike Sprague (R)
Sen. Dorothy Eck (D)
Sen. Eve Franklin (D)
Sen. Terry Klampe (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Susan Fox, Legislative Council
Karolyn Simpson, Committee Secretary

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

**Committee Business Summary:**
Hearing: SB 55
Executive Action: None

*{Tape: 1; Side: 1}*

HEARING ON SB 55

Opening Statement by Sponsor:

**SENATOR DOROTHY ECK, SD 15, Bozeman,** said SB 55 addresses an issue that has been a divisive issue ever since the Department of Family Services was created in 1989. The act, at that time, stated that the Department would pay for protective services and there would be provisions for the county to make certain reimbursements, but it's never been clear. Until a couple of years ago, most of the non-assumed counties who levy their mill levy at whatever rate they need for the Poor Fund, but have not given the responsibility for the administration of welfare to SRS. Until 1994, almost all of these non-assumed counties, except Gallatin County, paid these costs, but Gallatin county believed they really didn't owe what they had billed. Beginning in 1994, there were quite a few counties that refused to pay. The Department of Social and Rehabilitation Service then had to pay these expenses and asked for an Attorney General's opinion. The Attorney General issued an opinion stating that the non-assumed counties were responsible for their proportionate share of the administrative costs, which the Department figured was about $160,000 for 1994. Since that time, the counties, the Department of SRS, and the Governor have been negotiating the situation, the result of which is SB 55.

She referenced line 26 of SB 55, stating "The department is responsible for administrative costs associated with the provision of protective services, including costs for rent, postage, and equipment." This makes it a rather simple bill except there are amendments. The amendments clarify the situation and address the section of law which the Attorney General addressed. If SB 55 does not pass, the department would still bill the counties. She referenced the Technical Notes of the Fiscal notes and said there may be conflicting statutes if the bill passes in its current form.

<u>Proponents' Testimony</u>:

**Ann Gilkey, Legal Council for the Department of Family Services,** said the amendments are intended to address the Attorney General's opinion, which was based on section 53-2-322, to clarify the bill so DFS would be responsible for these costs.

**Jane Jelinski, Gallatin County Commissioner and President of Montana Association of Counties,** read her written testimony in support of SB 55. **EXHIBIT 1.**

**Gordon Morris, Director of Montana Association of Counties,** spoke in support of SB 55. He said HB 325 was passed in 1987, and, since that time, they have struggled with this issue. The promise made in the 1988 and the family service section of the 1989 biennium budget, was "Counties will continue to provide current level support as in FY87, such as space, equipment, clerical, etc, to the protective services staff and the youth probation staff. During the 1989 biennium, these support services and related costs will be identified, along with corrective action, and presented to the 1989 session." The promise that was made to counties, when this law was enacted in 1987, was broken in 1989 and has not been fixed. He said the legislature should do what is fair, in terms of taking on the responsibility for these costs.

**Joan Davies, County Welfare Director in Gallatin County, Department of Welfare Services**, said she supports SB 55. When the Department of Family Services was created in 1987, the people in the field who actually work with clients, many of whom are served in-common with the Department of Family Services, and the fact that the administrative cost issue has not been settled has created friction, making it difficult to work together as a team.

**Bill Kennedy, Yellowstone County Commissioner**, spoke in support of SB 55. He said the administrative costs have been a high priority item for the county commissioners. He said that SB 55 will help clarify the state's assistance for the Department of Family Services.

**Hank Hudson, Director of the Department of Family Services**, said that the department and the administration support SB 55. There is a problem with one entity responsible for paying and raising the money and the other spending the money. The responsibility to manage, find the money, and the authority to spend it should be in one place, which is the department. The General Fund money to fund this is not in the Governor's budget now. The revenue is in the Governor's budget but it's revenue identified as the counties's paying into the department's coffers.

**Sue Olson, Musselshell County Commissioner**, spoke in support of SB 55. She said that Musselshell County has run the gamut of funding the Department of Family Services. For years they paid administrative costs, then decided not to pay them and billed the Department of Family Services. DFS paid the county, then the county decided they would not pay the expenses at all, then DFS billed the county. She feels that this issue needs to be clarified.

Opponents' Testimony:None

Questions From Committee Members and Responses:

**SENATOR BENEDICT** asked if there isn't a simpler way to do this. Strike everything after the enabling clause, and insert language that says the Department of Family Services must provide the same level of services to non-assumed counties as it does to assumed counties. The counties are not required to participate in administrative costs.

**Gordon Morris** said that Title 52 needs to be taken into account and strike those relevant portions. That is what SB 55 attempts to do.

**SENATOR BENEDICT** wants to make sure the level of services to the non-assumed counties does not drop if the funding is not available and the department must absorb $307,000 in general fund.

**Hank Hudson** said there are a couple of issues. Because there are some costs that counties share with DFS, it becomes a very complicated issue. The department wants to assume the administrative costs, which include rent, telephone, paper, and supplies. Salaries and travel is another cost which is shared with counties, and that won't be changed.

**SENATOR BENEDICT** said he thought that the Department of Family Services should assume the all costs, including salaries and travel, if they want to run the programs for the counties, whether the counties are assumed or non-assumed. It's an unfunded mandate for the counties.

**Hank Hudson** said if DFS assumed all costs, the fiscal note with SB 55 would change dramatically, and if funding were not available, there would be reduction in available services.

**SENATOR BURNETT** asked if the assumed and non-assumed counties get different treatment.

**Hank Hudson** said "No." But, no matter what happens, DFS has to answer every referral, has to have chairs, desks, offices, and telephones, which will have to be supplied one way or another. Regardless of the budget, DFS can't stop providing protective services, whether counties are assumed or non-assumed. Counties would not be treated differently, assumed or non-assumed.

**SENATOR BURNETT** asked of all counties are treated the same.

**Hank Hudson** replied that DFS doesn't have a choice because the law says that all to be treated the same.

**SENATOR SPRAGUE** asked for clarification of the fiscal impact on the Governor's budget.

**Hank Hudson** said these administrative costs are not in the budget. The decision to support **SENATOR ECK'S** bill and resolve this issue with counties wasn't made until after the budget was completed. DFS is willing to support SB 55 and solve this issue if counties are willing to pay their legally obligated debt that they have from the past. Counties are willing to settle past debts if DFS supports the change.

**SENATOR SPRAGUE** asked about the counties repayment.

**Hank Hudson** said the issue can be settled, once and for all, when counties pay their debts.

**SENATOR SPRAGUE** asked if counties are given the responsibility but no authority, and if so, shouldn't the counties be given both responsibility and authority.

**Hank Hudson** said operation of children service programs, including foster care, protective services, juvenile corrections, etc. hasn't been a part of county operation since the creation of the department. The Montana Association of Counties have indicated they're not supporting or proposing county assumption of foster care and protective services. He said he doesn't support it, in the best interests of serving children and families. He thinks the present system works.

**SENATOR SPRAGUE** feels that if SB 55 passes, that differences with the state could be resolved.

**Sue Olson** said it's her understanding that the counties would pay what is owed from the past, and Yellowstone County would be willing pay what is owed.

**SENATOR BENEDICT** posed a philosophical question. Are we asking the counties to participate in an unfunded mandate with the passage of SB 55, and if it's a worthwhile program, shouldn't the state fund everything.

**Hank Hudson** replied, it might be discussed whether property taxes, which are the primary source of revenue for counties, are ever an appropriate source of money for state operated programs that rely on income taxes and other taxes. In the past, the county poor fund, which was based on property taxes, was the source of revenue for human services. When the switch was made in 1987 to create the Department of Family Services, some balance had to be made from relieving the county poor fund from all its responsibilities of children's services, and shifting the entire burden to the income tax at the state level. It also was recognized that, some counties would be assumed and send their entire poor fund revenue to the state, and other counties wanted to stay non-assumed and control some of the poor fund responsibilities.

**SENATOR FRANKLIN** asked Gordon Morris to make a statement.

**Gordon Morris** said this was a mandate in 1987 and was unfunded. In 1982, the Director of the Department of Social and Rehabilitation Services asked counties to make a deal, with the Department taking over all the administration of welfare if the counties would give SRS thirteen and one-half mills. Twelve counties agreed because it was a good a deal for the counties. In 1987, there was an intensive study on youth services and HB 325 was introduced. Now there are 44 non-assumed counties and 12 assumed. The 12 assumed counties have nothing to do with welfare, including family services, youth services, general assistance, or county medical, in return for thirteen and one-half mills which they give to the state. The remaining non-assumed counties are still self-administering the welfare program. HB 325 took welfare, which was administered by SRS, and family services out of SRS and created a new department. HB 325 was a mandate to counties to fund a newly created state department.

He said there is a way to deal with the problem. The assumed counties are now sending nine mills, because the 1993 session reduced the welfare load on the twelve assumed counties. There are 44 counties that will benefit from the $360,000 that will be saved, and a receivable in the department's budget, going into the next biennium, from counties making good on their past debts.

**SENATOR MOHL** asked if family services is a federally mandated program.

**Hank Hudson** replied it was not. He said most of the DFS programs are state statute, following state law, but there is considerable federal money in the programs, and if didn't protect children in danger, the federal government would become involved.

**SENATOR FRANKLIN** asked **Ann Wilke** to make a statement on the issue.

**Ann Wilke** said it's her understanding that it is a state mandate, but there is so much federal money involved, and there are strings attached.

**SENATOR ESTRADA** asked about the 12 assumed counties.

**Gordon Morris** named the 10 of the 12 assumed counties, which are Cascade, Missoula, Powell, Lincoln, Flathead, Ravalli, Silverbow, Anaconda, Lewis & Clark, and Park County.

**SENATOR SPRAGUE** asked if this is an increase to current spending.

**Hank Hudson** replied that it is. The total amount is $307,654 each year of the next biennium, of which $63,382 is federal. The amount that is being collected from counties is smaller than this because some counties provide space for DFS in the county courthouse.

**SENATOR SPRAGUE** asked if it will be perceived that there is an increase in funding and spending.

**Hank Hudson** didn't know, but hoped people would think than an unfunded mandate had been rectified.

**SENATOR BENEDICT** asked about the amount of money in the next biennium.

**Hank Hudson** replied that the amount is $614,000.

**SENATOR BENEDICT** asked what the department will do if the bill is passed then the money is not appropriated by the legislature.

**Hank Hudson** replied the issue needs to be resolved and probably the department would be willing to "eat" the costs if monies did not become available. The department would have to prioritize services.

**SENATOR BURNETT** said, even if the bill is passed, it will still have to go before Finance and Claims.

**SENATOR ESTRADA** asked how the assumed counties doing, with respect to the welfare system.

**Gordon Morris** said he thought the counties were doing very well. When he was in Missoula County, which is an assumed county, more than seventeen and one-half mills was levied for the total welfare budget, then traded it with the state for twelve mills. Now it's being traded for nine mills and keeping three mills, with which to do community service programs. He said it's at the expense of the State General Fund.

Closing by Sponsor:

**SENATOR ECK** said SB 55 will end up in Appropriations, but, the passage of SB 55 will solve a long-standing problem.

*{Tape: 1; Side: 1; Comments: tape malfunction, lost last 5 minutes.}*

**Hearing closed on SB 55.**

## ADJOURNMENT

**Adjournment:** 2:05 PM

Jim Burnett
JIM BURNETT, Chairman

Karolyn Simpson
KAROLYN SIMPSON, Secretary

JB/ks

MONTANA SENATE
1995 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL DATE 1/20/95

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| LARRY BAER | X | | |
| SHARON ESTRADA | X | | |
| ARNIE MOHL | X | | |
| MIKE SPRAUGE | X | | |
| DOROTHY ECK | X | | |
| EVE FRANKLIN | X | | |
| TERRY KLAMPE | X | | |
| STEVE BENEDICT, VICE CHAIRMAN | X | | |
| JIM BURNETT, CHAIRMAN | X | | |
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SENATE STANDING COMMITTEE REPORT


January 25, 1995

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration SB 55 (first reading copy -- white), respectfully report that SB 55 be amended as follows and as so amended do pass.

Signed: Jim Burnett
Senator Jim Burnett, Chair

That such amendments read:

1. Title, line 6.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "52-1-110"
Insert: "AND 53-2-322"

2. Page 1, line 15.
Following: "commissioners"
Insert: "of counties that have not become state-assumed pursuant to 53-2-811"

3. Page 1, line 29.
Insert: "**Section 2.** Section 53-2-322, MCA, is amended to read:

"**53-2-322. County to levy taxes, budget, and make expenditures for public assistance activities.** (1) The board of county commissioners in each county shall levy 13.5 mills for the county poor fund as provided by law or so much of that amount as may be necessary. The board may levy up to an additional 12 mills if approved by the voters in the county. A county shall levy sufficient mills to reimburse the state for any administrative or operational costs in excess of the administrative and operational costs for the previous fiscal year. The department shall notify the counties of the number of mills required to be levied. Once an additional levy has been approved, the amount of the approved levy may continue to be levied without voter approval.

(2) The board shall budget and expend so much of the funds in the county poor fund for<u>:</u>

<u>(a)</u> public assistance ~~and protective services purposes~~ as necessary to reimburse the department ~~and the department of family services~~ for the county's proportionate share of the administrative costs and of all public assistance ~~and~~ <u>costs;</u>

<u>(b) salaries, travel expenses, and indirect costs, as provided in 52-1-110, of</u> protective services <u>employees of the department of family services;</u> and ~~its~~

<u>(c) the county's</u> proportionate share of any other public assistance activity that may be carried on jointly by the state

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and the county.

(3) The amounts set up in the budget for the reimbursements to the department and the department of family services must be sufficient to make all of these reimbursements in full. The budget must make separate provision for each ~~one of these~~ public assistance activity and for salaries, travel expenses, and indirect costs for protective services activities~~, and proper~~ of the department of family services. Proper accounts must be established for the funds for all the activities.

(4) The department shall submit to the counties, no later than May 10, the most current county participation percentages that are necessary to establish preliminary county budgets. As soon as the county proposed budget provided for in 7-6-2315 has been agreed upon, a copy must be mailed to the department, and at any time before the final adoption of the budget, the department shall make recommendations with regard to changes in any part of the budget relating to the county poor fund as considered necessary in order to enable the county to discharge its obligations under the public assistance laws.

(5) The department shall promptly examine the county proposed budget in order to ascertain if the amounts provided for reimbursements to the department are likely to be sufficient and shall notify the county clerk of its findings. The board shall make changes in the amounts provided for reimbursements, if any are required, in order that the county will be able to make the reimbursements in full.

(6) The board of county commissioners may not make any transfer from the amounts budgeted for reimbursing the department without having first obtained a statement in writing from the department to the effect that the amount to be transferred will not be required during the fiscal year for the purposes for which the amounts were provided in the budget.

(7) The county poor fund, irrespective of the source of any part of the fund, may not be used directly or indirectly for the erection or improvement of any county building so long as the fund is needed for paying the county's proportionate share of public assistance and protective services, as described in 52-1-110, or its proportionate share of any other public assistance activity that may be carried on jointly by the state and the county. Expenditures for improvement of any county buildings used directly for care of the poor, except a county hospital or county nursing home, may be made out of money in the county poor fund, whether the money was produced by the mill levy provided for in subsection (1) or from any additional levy authorized by law. The expenditure may be authorized only when any county building used for the care of the poor must be improved in order to meet legal standards required for the building by the department of health and environmental sciences and when the expenditure has been

approved by the department of social and rehabilitation services and the department of family services.

(8) Money in the county poor fund may be used as matching funds for the receipt of federal money.""

Renumber: subsequent section

-END-

County Commission

# GALLATIN COUNTY

331 West Main, Rm. 301 • Bozeman, MT 59715

Kris Dunn
Jane Jelinski
Phil Olson

Phone (406) 582-3000
FAX (406) 582-3003

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 1/20/95
BILL NO. SB 55

To: Senate Local Government Committee
Fr: Jane Jelinski
Re: Senate Bill 55
Date: January 20, 1995

I am here to speak in support of SB 55. This is long overdue legislation which is needed to clarify the responsibility for funding the administrative costs of the Department of Family Services. When the Department was proposed in 1987, counties vehemently opposed the loss of local control and the imposition of fiscal responsibility without management control. The state assured counties that their financial liability would be frozen at 1987 levels. When funding was found to be inadequate, rather than going back to create thorough and realistic budgets, the state simply abandoned its assurances about 1987 levels of funding and asked counties to pay additional costs.

When the Department was found deficient in its ability to deliver services, Governor Stevens created a Task Force to study ways to improve the system. The Task Force discovered that the Department was grossly underfunded at its inception, and has been ever since. Nevertheless, new funding was never requested nor provided by the state.

In addition, confusion and lack of clarity in the legislation creating the Department was cited year after year as a problem the Legislature needed to address. Until now. Thank you for taking on the task of funding this agency.

On behalf of all of the 44 nonassumed counties in the state of Montana, I urge you to pass this bill implementing the 1987 agreement to require the state of Montana to fund the administration of its department for the following reasons:

1. **Fiscal Responsibility Must Be Accompanied By Administrative Authority.**

Counties have managed inflation, staffing changes, and a steady stream of new unfunded mandates both from the state and federal governments while budgeting under the constraints of I-105 and in many cases, declining property values. Since counties have no authority over the Department of Family Services staff, space, phone systems, purchasing, and operating procedures, counties should not be responsible to pay those bills for a state agency. Such a requirement would give the Department of Family Services license to spend without regard for cost. If counties must pay for the administration of the Department of Family Services, then counties should be able to administer the Department.

2. **Shift of Tax Burden**.

When the citizens of Montana passed I-105, it was a revolt against property taxes. When the state passes its costs down to counties, it shifts the funding source for services from the income tax to the property tax. The legislature has already done this by imposing an additional 40 mills on the property tax to fund school equalization. To compound this problem by burdening the property tax with another state function would be contrary to the clearly expressed citizen revolt against ever-increasing property taxes.

3. **The Drake Amendment**.

If counties are required to pay for the administration of the Department of Family Services, then counties must be provided with a source of revenue to pay for these services as required by 1-2-112 MCA. We remind you that property values have steadily decreased in 42 percent of the counties in Montana, therefore those counties have less revenue every year to fund on-going programs, and must absorb annual inflationary increases by continually cutting local programs.

Please pass SB 55 and finally resolve the problem of funding the administrative costs of the Department of Family Services.

Respectfully submitted,

Jane Jelinski

Jane Jelinski
Gallatin County Commissioner
President of MACo

DATE 1/20/95

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 55

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Check One

| Name | Representing | Bill No. | Support | Oppose |
|---|---|---|---|---|
| Jim Wysocki | City Bzn/Gallatin | SB55 | X | |
| Marcia Youngman | from Bozeman | SB55 | X | |
| Gordon Morris | MACo. | SB 55 | X | |
| Jane Jelinski | Gallatin Co + MACo | SB55 | X | |
| Kris Dunn | " " " | SB55 | X | |
| JOHN DAVIES | Gallatin Co / SRS | " | X | |
| Bill Kennedy | Yellowstone Co. Commission | SB55 | X | |
| Ann Gilkey | DFS legal counsel | SB 55 | X | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY