

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN WILLIAM BOHARSKI**, on March 2, 1995,
at 3:15 PM.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Ellen Bergman (R)
Rep. John C. Bohlinger (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Debbie Shea (D)
Rep. Joe Tropila (D)
Rep. Diana E. Wyatt (D)

Members Excused:

Rep. David Ewer (D)
Rep. Matt Brainard (R)
Rep. Bob Keenan (R)

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: SB 121; SB 142; SB 254; SB 299
Executive Action: SB 60 DO CONCUR
SB 58 DO CONCUR
SB 254 DO CONCUR
SB 299 DO CONCUR

HEARING ON SB 121Opening Statement by Sponsor:

SEN. JOHN HERTEL, SD 47, Moore, said this bill comes from the Montana Association of Counties Organization (MACO), and is an act to eliminate the requirement for publishing the county annual report in a newspaper. SEN. HERTEL explained this bill has potential to save tax dollars. Under present law, the county commissioners must publish in the newspaper the annual county meeting report so interested members of the public can review it. The county commissioners can use a summary form of the report, which can also be quite sizeable. The cost of printing this report is in excess of \$800. SEN. HERTEL believed few people study and comprehend the report, however this report can be sent to anyone requesting it or can be observed at the Clerk and Recorder's office.

Proponents' Testimony:

Gordon Morris, Director, MACO, said this bill will give the commissioners one additional option on their part to note the fact that the annual report is available for review in the clerk and recorders office. It could also be made available through the public library and to the county and the public, if they deem it appropriate. Mr. Morris pointed out that the bill went through the Senate Local Government Committee and the only change they made in the bill was to add the effective date of July 1, 1995. He asked the committee for favorable consideration on SB 121.

Charles Brooks, Yellowstone County Commissioners, Billings, voiced support of SB 121. They also viewed this from the prospective of Mr. Morris' testimony and believe taxpayer dollars need to be conserved and this is an unnecessary expense.

Opponents' Testimony:

Charles Walk, Executive Director, Montana Newspaper Association, (MNA), which represents 75 Montana newspapers, including all 11 dailies and 64 weeklies, said the proponents have spent three legislative sessions getting the full disclosure reduced to a disclosure by "summary," in which the county commissioners determine the length and content of that summary. This is an erosion of the public's right-to-know about public business and the expenditure of public funds. The government has the obligation to provide what is going on in the public sector. The MNA believe government has the obligation to provide information to as many people as it possibly can in the most efficient and effective method and the public notice publication process is one of the checks within the entire system of government.

Mr. Walk said the claim that the newspapers are "greedy" and have been charged with wanting what amounts to be a government

"subsidy" is far from the truth. MNA urged the committee to defeat this bill. **EXHIBIT 1**

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SHIELL ANDERSON asked **Mr. Morris** what the purpose was for publishing the county notices in the newspaper in the first place, as opposed to letting the public get the information from the county clerk's office. **Mr. Morris** responded years ago it was a practical means to advise and inform the public.

REP. ANDERSON asked if there were factors when this was first done that are different presently, other than costs. **Mr. Morris** responded yes. Travel to the courthouse is easier. The public's right to know is not being infringed upon. Any member of the public has ample opportunity to access the information by virtue of being advised of its availability.

REP. ANDERSON questioned **Mr. Walk** on how many people actually read this report and are there road blocks to these people to get this information from the county. **Mr. Walk** responded he did not have specific numbers for every newspaper, however in 1991 they asked about 800 Montanans how they wanted to receive their public notice advertising and 66% said they wanted it to be in the newspapers and they wanted the county, cities, and municipalities, school boards and affected bodies to pay for it, if necessary.

REP. ANDERSON asked if the questionnaire was separated into the legal notices versus the notice of what the county's financial situation was. **Mr. Walk** answered no, they talked about public notice advertising as a generality.

REP. JOHN BOHLINGER asked **SEN. HERTEL** if the annual report would be sent to anyone who requested it and is this stated in the bill. **SEN. HERTEL** answered that it is not in the bill and perhaps he should not have made that statement in it. He spoke with some county commissioners and they said that was a practice they would use if requested from a citizen. They also said they could present this report to be available in the library as well.

REP. BOHLINGER spoke about the savings and efficiency provided in SB 121 but added before he could support this bill an amendment would have to be provided that would state "the annual report would be mailed upon request" to the party who requested it. **SEN. HERTEL** was agreeable with this request.

CHAIRMAN WILLIAM BOHARSKI asked **Mr. Morris** how many pages comprise the entire document to be published. He deferred this question to **REP. JOE TROPILA**, stating he was the former Cascade County Clerk and Recorder and routinely had to publish the reports in the paper in Great Falls. **REP. TROPILA** referred to

the language on line 19 that was passed by the Association of Montana Clerk and Recorders three sessions ago. They used to publish the full and complete financial condition of the county and it would take one full complete page in the Great Falls Tribune. The cost of one page is \$1,000. The summary was sent out to different counties at a cost of \$100 or less. The savings to the county is almost \$1,000. He said he did not have many requests for the annual report.

CHAIRMAN BOHARSKI asked how many pages would be sent out in a request. **REP. TROPILA** responded it would be in a computer print out that would be quite detailed.

Closing by Sponsor:

SEN. HERTEL suggested the amendment replace the word "available" with "and be provided". Passage of this bill would result in some loss of revenue to the newspaper industry, however, the intent is not to hide any information from the public. The reason for the bill is to save some tax dollars. He commended the county commissioners on doing a terrific job in trying to work with their restricted budgets. He strongly recommended a do pass on SB 121.

EXECUTIVE ACTION ON SB 58

Motion: **REP. NORM MILLS** MOVED SB 58 BE CONCURRED IN.

Discussion: **REP. STOVALL** will carry the bill on the House floor.

Vote: Voice vote was taken. Motion carried unanimously.

HEARING ON SB 142

Opening Statement by Sponsor:

SEN. TOM BECK, SD 28, Deer Lodge, said this is a constituent bill which would generally revise junk vehicle laws. He told about the junk vehicle yard that is an eye sore to the neighboring people in the Deer Lodge area. **SEN. BECK** said the definition of a junk vehicle is as long as the motor runs, it's not classified as a junk vehicle and does not have to be within a fenced-in perimeter.

Proponents' Testimony:

Roger Thorvilson, Acting Administrator, Waste Management Division, Department of Health and Environment Sciences (MT DHES) spoke in favor of SB 142. He worked with **SEN. BECK** on the bill and are fully in support of its intent and the way it has been crafted. There have been a number of important changes in clarifying existing language and this bill would grant authority

to the department to use administrative orders to correct violations. He outlined the features of the bill which would establish a fee to offset a portion of the expense involved in processing an application for a new wrecking facility. This bill would impose a \$200 application fee which would offset a portion of the costs of doing reviews, and processing and ultimately approving an application for a wrecking facility. He outlined the features of the bill and offered some amendments.

Earl Hoppe, Deer Lodge, distributed pictures of the junk vehicle facility in question for the committee to view.

Norma Johnson, Deer Lodge, presented written testimony and reiterated the problem with the junk yard located directly below their house that has not been improved nor cleaned up and deflates the value of their land. **EXHIBIT 2**

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN BECK asked for the committee's favorable consideration.

HEARING ON SB 299

Opening Statement by Sponsor:

SEN. TOM BECK, SD 28, Deer Lodge, said SB 299 is another constituent bill to revise the water quality district laws to include termination procedures. It was brought to his attention that if people wanted to get out of the water quality district, there was no language in the bill to allow them to do so. He wanted to incorporate the language stating 20% of the landholders can sign a petition that would go before the board giving them the opportunity to vote to get out of the water quality district, if they desire. If for some reason the water quality district is disbanded, the excess revenues will revert to the general fund and this gives the county commissioners a way to get out of the water quality district also.

Proponents' Testimony:

John Shontz, Montana Association of Realtors, said they support this bill for all the reasons **SEN. BECK** mentioned.

John Arrigo, DHES, said the department oversees implementation of the local water quality districts and they support this bill. He explained that the termination process is the same process that is followed to create a district but in reverse.

Mike Murphy, Montana Resources Association, said they support SB 299 for the previous stated reasons.

Larry Brown, Agriculture Preservation Association, and resident of Lewis and Clark County, District 28, said on behalf of the association and himself, they fully support what the bill does.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SHIELL ANDERSON asked **SEN. BECK** if the provisions would pass with the general election. **SEN. BECK** responded yes, this was amended to coincide with either a primary, general or school election so a special election would not have to be held.

REP. ELLEN HAGENER questioned if this was going to leave the county commissioners in trouble with money. **SEN. BECK** responded no, this will not hurt the counties financially and said the water quality districts are assessed upon a fee basis, per unit, times the number of dollars. He believed if people want to get out of the water quality district they should have this option.

Closing by Sponsor:

SEN. BECK asked for a do concur consideration.

HEARING ON SB 254

Opening Statement by Sponsor:

SEN. GARY FORRESTER, SD 8, Billings, said this bill was requested by the city manager in Billings which would change criteria upon which a governing body/district court reverts vacated plats.

Proponents' Testimony:

Jim Kembel, City of Billings, explained that under state law, if a street is vacated, regardless of the way the property was originally given, if the property of the street is split half and half between the adjacent property owners, what this bill proposes to do is to give the property back in the same fashion it was dedicated for the street in the original place. **Mr. Kembel** submitted and explained a drawing showing the current statute and the proposed statute. **EXHIBIT 3**

John Schontz, Montana Association of Realtors, supported this bill because it is an issue of fairness and he asked for a do concur consideration.

Charles Brooks, Yellowstone County Board of Commissioners, Billings, reiterated the fairness of this issue. If the property is vacated, the person that gives the property should receive it back rather than it be given to an adjacent piece of property who did not contribute to the road way or the alley way.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. JOHN BOHLINGER question **Mr. Schontz** about the present laws that establish streets or roadways in real estate developments and asked if under present law, does the property not come from property owner (A). **Mr. Schontz** explained if property owner (A) is a subdivider and creates parcel (B) and a street is dedicated to go between the two parcels, if the street is later abandoned, under current law, parcel (B) gets half. This bill would return all of it to property (A).

REP. NORM MILLS questioned **Mr. Kembel** on how it would be handled if a street was dedicated before any lots were sold, and if one of the streets was to be abandoned, if this bill addresses how that would be apportioned back to anyone because the original subdivider has sold all the lots and left. **Mr. Kembel** said he believed the half and half would be applicable.

Closing by Sponsor:

SEN. FORRESTER said this is a clean-up bill and would allow the property owner that has given the street to get it back and redesign the property and redevelop the property differently. He asked for do concur.

REP. MILLS agreed to carry the bill to the House floor.

EXECUTIVE ACTION ON SB 254

Motion/Vote: **REP. CHRIS AHNER** MOVED THAT SB 254 BE CONCURRED IN. Voice vote taken. Motion carried unanimously.

EXECUTIVE ACTION ON SB 299

Motion: **REP. BOHLINGER** MOVED THAT SB 299 BE CONCURRED IN.

Discussion:

REP. ANDERSON asked **REP. MILLS** how they currently resolve the districts. **REP. MILLS** answered he has never seen one resolved yet. The water districts have been resolved but not the water quality districts that he knows of.

CHAIRMAN BOHARSKI said he will check with **REP. ED GRADY** to carry the bill to the House floor.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON SB 60

Motion: **REP. ROSE FORBES** MOVED SB 60 BE CONCURRED IN.

Discussion: **REP. MILLS** said this affects Butte/Silverbow County because it affects the consolidation of county/city, not two counties.

CHAIRMAN BOHARSKI explained this bill came from Yellowstone County and one of the stumbling blocks of getting consolidated law enforcement is that when they consolidate, the local undersheriff does not have any protection and police officers have all the protection.

REP. MILLS agreed and said whether or not they do consolidate is not the question; if they do, the sheriff's office and his staff should have the same right of tenure and seniority as the police officers do.

REP. TROPILA said the reason for this bill at this time is because the study commission is in the process of doing this and there will be more consolidation coming forth.

REP. MILLS said there is apt to be considerable consolidation for smaller counties and with one small town in a rural area there can be significant savings.

REP. DENNY agreed and said in the case of Missoula County if they were to consolidate, he would hesitate to have the urban police have precedence over the rural people who know what's going on in the county.

REP. TROPILA will carry to House floor.

Vote: Voice vote taken. Motion carried unanimously.

HOUSE LOCAL GOVERNMENT COMMITTEE

March 2, 1995

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ADJOURNMENT

Adjournment: 4:10 PM.

Wm S Boharski
WILLIAM BOHARSKI, Chairman

P. Berneman
for EVY BURRIS, Secretary

WB/ev

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 3-2-95

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	✓		

259 YES
260 NO
270 ~~NO~~ YES
289 NO

Ellie Shea
Local Gov't

3-2-95

My proxy to
Jack Herron
Local Gov't

B.

121

Bob
Keenan

EXHIBIT 1
DATE 3-2-95
HB SB 121

House Local Government Committee
SB 121 Testimony by Charles W. Walk
March 2, 1995

For the record, I am Charles Walk, executive director of the Montana Newspaper Association, which represents 75 Montana newspapers, including all 11 dailies and 64 weeklies.

I am disappointed at being here today to testify in opposition to SB 121. I had hoped we were past strip-mining activities on the Montana public notice advertising schedule, but obviously we are not.

They've gotten the easy meat off the carcass....now they're starting to pick at the bones that remain.

That's the best way I can describe what proponents of SB 121 are doing to the public notice portion of another sector of Montana law.

Not satisfied with previous efforts which knocked out the requirement that county annual statements be carried in full in their community newspapers, these proponents spent three legislative sessions getting that full disclosure reduced to a disclosure by "summary," in which the county commissioners determined the length and content of that "summary."

Now, these proponents are back saying even reporting the summary of the single most important county financial document is too much. Now, they are saying they want their disclosure responsibility to end with a printed notice that anyone who wants to see the complete county clerk's annual statement can find it at the courthouse.

So where are we?

The public is provided very little information through the public notice advertising schedule about regular county commission meetings and the county clerk's annual financial statement. The commissioners can simply use a couple of lines telling county residents that the complete board proceedings are available on request. In the case of the clerk's financial statement, they can simply use a summary of the statement.

But apparently these reduced public notice requirements are still too much for the counties. Now they say that the only thing they want to do with regards to the clerk's annual financial statement is "publish a notice that the annual statement is available upon request from the county clerk."

While we can sympathize with the economic problems of the public sector, we cannot buy the argument of economy in this case. The dollars we are talking about simply do not add up to the sums that bear out the contention that we must sacrifice the public's right-to-know for the sake of this kind of economy.

It seems to us that this is a case more of accountability than accounting.

Are these officials really saying that the obligation of the county commission to inform the public ends with telling the public "when" and "where," but very little, if any, of the "what" of their activities?

Are they really saying that whatever obligation and responsibility there is for more information than these few sentences rests with the newspapers to provide on their own?

If this is, in fact, what is being said then the proponents of SB 121 and all other legislation of this kind have blatantly shifted

That, I'm afraid, is what is behind legislation such as SB 121 and it is why we urge you to defeat this bill.

EXHIBIT 2
DATE 3-2-95
HB SB-142

To Local Government

Senator Tom Beck - Bill 142

We, Arman & Norma Johnson of Deer Lodge, Mt. are here to present our case as to the "Monte Dokson Junk yard."

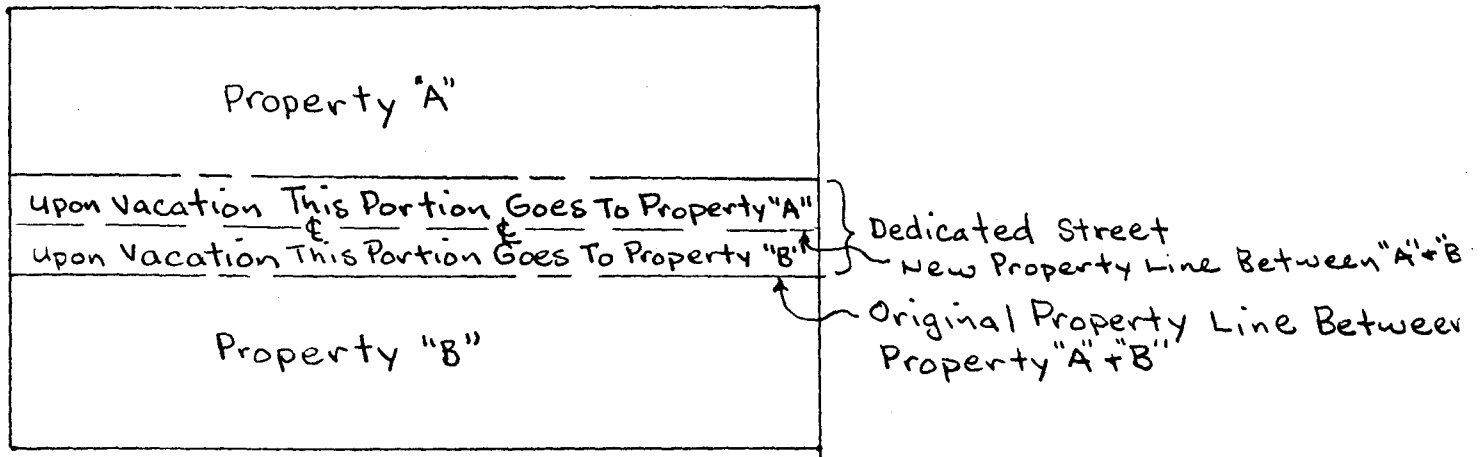
The location of this business is directly below our house, at the west side of the County road, and our home faces this unbearable junk yard, a mile South of the City limits of Deer Lodge.

There has been no improvement, as far as Cleanup is concerned. There has not been anything done to improve any fencing.

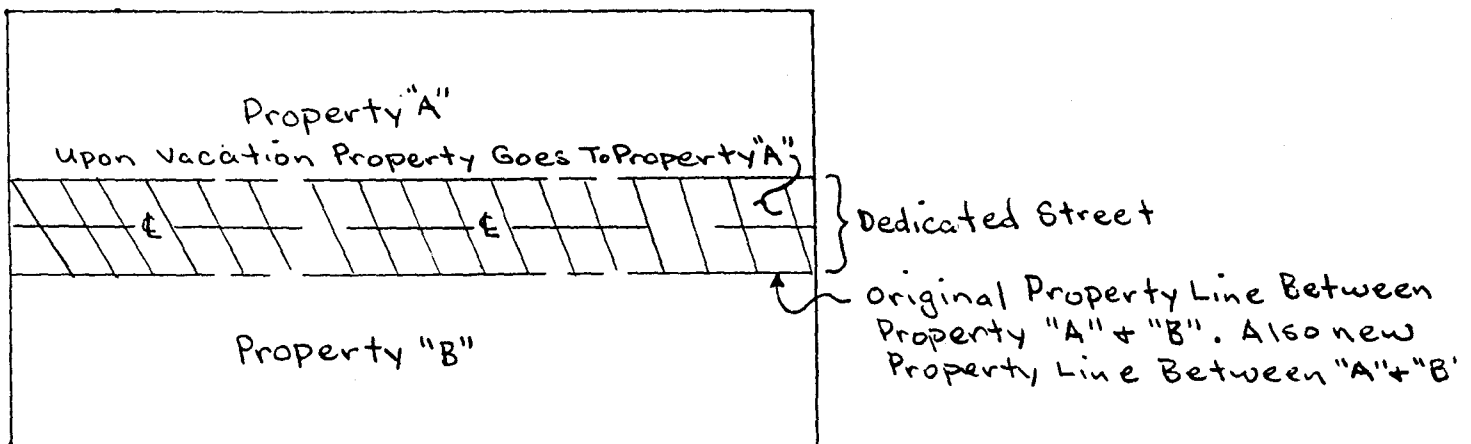
We feel that this municipality could be better, where all the neighbors and people passing by, do not have to view such a sight so close to the road and so near to Deer Lodge. It is a detriment to the value of our land.

Jim Kemel

CURRENT STATUTE



PROPOSED STATUTE



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Government

COMMITTEE

BILL NO. _____

DATE 3-2-95

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Norma Norman Johnson		142		
Carl Hoyspe		142		
W James Kembel	City of Billings	SB254		✓
Roger Thorvilson	MT DHES	142		✓
Charles WALK	MT Newspaper	EB121	✓	
Gordon Morris	MTA Co	121		✓
JOHN ARRIGO	DHES	299		✓
MIKE MURPHY	MT. WATER RES. ASSN	299		✓
Larry Brown	Ag Pros. Assoc	299		✓

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