

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on March 7, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

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

Members Excused: none

Members Absent: Sen. Jeff Weldon

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

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

Committee Business Summary:

Hearing: HB 154, HB 165, HB 166, HB 185
Executive Action: HB 154, HB 165, HB 166, HB 185

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

HEARING ON HB 185

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 95, Malta, presented HB 185 by request of the audit committee. When they did an audit of the Department of Commerce, they were found to be complying with the wishes of the Legislature but not in affect with the law. The coal tax revenues are allocated by a specific amount of money (\$3,000) but when the coal revenues dropped they were unable to allocate this

amount to everyone. They began to allocate the money by a percentage of the total funds so everyone was being treated fairly as was the intent of the Legislature. HB 185 will make sure the Department will have the authority to allocate an equal amount of funds to all counties. A amendment was put on SB 83 that would do the exact same thing as HB 185 and REP. BERGSAGEL asked that coordinating language be put on HB 185 that if SB 83 passes HB 185 will die.

Proponents' Testimony:

Rob McCracken, Department of Commerce, stated that HB 185 is a housekeeping bill which would result in minor statutory difficulty in the distribution of county planning.

Opponents' Testimony: none

Questions From Committee Members and Responses: none

Closing by Sponsor:

CHAIRMAN TOM BECK closed for REP. BERGSAGEL as he was introducing another bill in another committee.

HEARING ON HB 154

Opening Statement by Sponsor:

REP. BETTY LOU KASTEN, HD 99, Brockway, submitted a letter from the Garfield County Attorney for the record (EXHIBIT 1). She presented HB 154 which relates to Medical Assistant Facilities (MAF). Most MAF are dependent on taxes so if the budget does not pass, it cannot come up for two years as the election can only be held on primary years. Because mills that would be needed to subsidize a facility that need \$150,000 to \$200,000 there usually isn't that kind of money available. HB 154 would allow for a mill levy to be held at the next election if it should fail. This bill will not increase the number of elections or any costs to the county. Due to an MAF using local money there would be a chance if the mill levy failed of losing the facility therefore, another election would be beneficial. She asked the indulgence of the committee.

Proponents' Testimony:

Beverly Gibson, Montana Association of Counties (MACO), stated their support of the concept of the bill. She pointed out that many counties are trying to get mill levies passed for their hospitals or health care facility but there is a very narrow time to go to the voters. HB 185 would help out this situation but she suggested to add an amendment to statute 7-34-2135 to include hospital districts to have the ability for more elections.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. DON HARGROVE asked if the levies may be voted on more than just at a primary, general, or school election? REP. KASTEN replied that they couldn't.

SEN. J.D. LYNCH asked REP. KASTEN if she felt the amendment MACO was suggesting is necessary or should the committee pass the bill as it is? REP. KASTEN said she did not feel it was necessary because she wanted to keep the bill as tight as possible. The reason the bill was not opened to hospital districts was because she only wanted to deal with county owned and operated hospitals or facilities.

CHAIRMAN TOM BECK asked if the suggested amendment was discussed in the House? REP. KASTEN stated that it was not.

CHAIRMAN BECK asked if the bill was amended if REP. KASTEN would have a problem with that? REP. KASTEN said she would not.

SEN. DELWYN GAGE asked who owns the hospital in a hospital district? REP. KASTEN stated that she was talking about an MAF in Garfield county which are not always county owned hospitals. She continued that you could form a hospital district if you wanted to expand a hospital for example, and then put a fee on the taxpayers. She noted that when the bill was first proposed to her it was to open up the mills which she refused, but she did offer what has become HB 154 in allowing further elections.

CHAIRMAN BECK said that the hospital district is identified for taxation purposes it is not just county wide. REP. KASTEN confirmed the statement.

SEN. GAGE asked when talking about the erection of a facility if it was meant a new hospital or an addition? REP. KASTEN replied that the MAF is owned by a non-profit organization that has a board to direct it's affairs but the county supports the MAF as far as operation and maintenance.

SEN. GAGE noted that this does not just apply to Garfield county and it appears that you could build a new hospital and finance it with payments every two years with a special election to cover the erection costs. REP. KASTEN stated that that was correct if you could persuade the voters that that is the way to go.

CHAIRMAN BECK asked REP. KASTEN what the maximum mill levy is currently that can be applied? She answered that it is ten mills.

Closing by Sponsor:

REP. KASTEN closed.

HEARING ON HB 165Opening Statement by Sponsor:

REP. ROBERT STORY, HD 24, presented HB 165 which would allow local government, specifically county commissioner and elected county officials, to set the hours at the court house and the various offices. Present law requires the court house be open from 8:00 am to 5:00 pm which causes problems in some jurisdictions. For some jurisdictions this nine hour day does not allow for lunches due to a small staff and the law does not allow the office to be closed when people are unavailable to service them. HB 165 was amended in the House Local Government committee because the power would have been with the county commissioners and some elected officials had problems with that. Now there would be a resolution and public hearing to set the hours. He urged the support of the committee.

Proponents' Testimony:

Beverly Gibson, MACO, stated that HB 165 is a result of a resolution adopted at their annual meeting (EXHIBIT 2). She continued that counties when strapped for funds cannot always cover all of the offices nine hours a day. Under the current law, for offices manned by two people, if one is gone, the other person cannot even take a lunch break. MACO is comfortable with the resolution and public hearing process put on the bill in the House. She urged the committee's support.

Blake Wordal, County Commissioner, Lewis & Clark County, supported HB 165. He said they felt this was a foolish law and the reason was when they carpeted the court house, they had to close one afternoon putting them in violation of the law.

Jim Halverson, representing the Oil, Gas, and Coal Counties, supported HB 165. He was once a county commissioner and has had experience with the need to do something like HB 165. This gives a better opportunity to coordinate and share employees in the court house. It could also give the bookkeepers and secretaries more uninterrupted hours to get more work done. Small and medium size counties will have the ability to be open to coincide with their work demand. He felt this would be a big help.

Sue Haverfield, Flathead County Clerk & Recorder, Legislative Chair, Montana Association Clerk & Records, supported HB 165 as amended.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. LYNCH asked who would determine the hours in a consolidated government, the executive branch or the legislative branch? Ms. Gibson answered that the language in section two states the governing body which in a consolidated county would be the council of commissioners.

SEN. HARGROVE asked if it was necessary to have a public hearing? Ms. Gibson noted that this was by request of other county elected officials in the House Local Government hearing.

SEN. HARGROVE wanted to have it clarified that there is nothing in law that requires the public hearing? Ms. Gibson stated that if HB 165 is passed it will become law in these instances otherwise it is set in statute.

SEN. DOROTHY ECK stated that for any resolution of the county commissioners, they have to have a public hearing.

CHAIRMAN BECK, giving the committee words of wisdom, stated that if you are going to pass a resolution, you should have public involvement.

Closing by Sponsor:

REP. STORY pointed out that since the bill has been amended, it may exclude the court house from being open on Saturdays and if the committee wants to take a look at that it would be fine. He appreciated the committee's consideration.

HEARING ON HB 166Opening Statement by Sponsor:

SEN. DANIEL MCGEE, HD 21, Laurel, presented HB 166 which is an act to allow fire service areas to adopt fire codes for enforcement and inspections. He drew a picture representing his district and showed a very small portion which is in the city of Billings that is serviced for fires by the Billings Fire Department. A fire service area services around 85% to 90% of his district. Currently, a contract exists between the City Fire Department and Yellowstone County so that the City will respond to any fire in the fire service area. When the fire service area was created, it left off the ability for the City Department to investigate a fire. Either a Deputy State Fire Marshall or a County Sheriff must be the primary investigator. Also, the fire service area may not adopt a fire code and must use a state wide fire code. HB 166 would put into law that a fire service area has the same weight in law as a fire district for investigatory work and enforcement of a fire code. Lines 19 through 23 on page one are the main text of the bill.

Proponents' Testimony:

Paul Gerber, Fire Marshall, Billings, presented the committee with a fact sheet on HB 166 and a page from their fire service contract with the Billings Fire Department and Yellowstone County (EXHIBIT 3 & 4). A fire service area is a geographical area that is formed for the purpose of fire protection which is similar to a fire district but it has a different organizational start up procedure. Currently there are around 22 fire service areas in which the Montana Fire Prevention and Investigation Bureau provides code enforcement. Four of the 22 service areas are provided fire protection by municipalities. Referring to the current situation in the Billings area, he expressed the need for HB 166 as it is difficult to not be able to intervene in a situation because they do not have the authority to do so causing a loss of valuable time in an emergency situation. The Billings City Attorney in concurrence with the Attorney General's Office has taken the position that the fire service areas have no code enforcement or investigation authority under the current state law. HB 166 would make the necessary changes to state law that would give fire service areas the opportunity to provide for their own code enforcement and if fire service areas do not want to provide their own enforcement, the Montana Fire Prevention and Investigation Bureau would continue to provide the enforcement. He encouraged support of HB 166.

Jim Kembel, City of Billings, urged support of HB 166.

Beverly Gibson, MACO, supported HB 166 and presented a MACO resolution in support of HB 166 to the committee (EXHIBIT 5).

Bruce Suenram, representing the Department of Justice, supported HB 166. When they formed fire service areas, they neglected to give them fire prevention and investigation authority.

Pat Clinch, Montana State Council of Professional Firefighters, urged the committees support of HB 166 which provides life safety to the people in fire service districts and safer fire fighting conditions for the firefighter.

James Loftus, Montana Fire District Association, supported HB 166.

Opponents' Testimony: noneQuestions From Committee Members and Responses:

CHAIRMAN BECK asked the difference between a fire district and a fire service area? Mr. Suenram said that the primary difference is that fire districts are established by more than 50% of the freeholders and land mass in the proposed area and goes to public hearing. A fire service area is formed by a petition of 30 signatures which goes to public hearing before the commissioner where boundaries are determined. The second major difference is

a fire district is a levy upon all the property in the fire district and a fire service fee area is a fee on the structures.

Closing by Sponsor:

REP. MCGEE stated that when first approached to carry the bill, he could not believe that the fire department could not investigate a fire and urged passage of the bill.

EXECUTIVE ACTION ON HB 166

Motion/Vote: SEN. LYNCH MOVED HB 166 BE CONCURRED IN. THE MOTION CARRIED.

EXECUTIVE ACTION ON HB 165

Discussion:

Susan Fox pointed out that the wording would preclude having office hours on Saturdays and Holidays could be perceived that way.

CHAIRMAN BECK pointed out that he did not know of any court houses open on a Saturday or Holiday.

SEN. ECK said she did not think that it was an issue.

Motion: SEN. LYNCH MOVED HB 165 BE CONCURRED IN.

Discussion:

SEN. SHARON ESTRADA expressed concern of the county commissioners closing early in unnecessary circumstances.

SEN. LYNCH pointed out that there are some safeguards being that the elected officials must consent and no one would want to upset the public. He would like to see unanimous consent of the commissioners involved rather than a two to one vote.

SEN. HARDING also pointed out that a public hearing is required.

CHAIRMAN BECK said that the benefit of the bill is for the smaller counties who would like to have their lunch breaks.

Vote: THE MOTION CARRIED.

EXECUTIVE ACTION ON HB 154

Motion/Vote: SEN. LYNCH MOVED HB 154 BE CONCURRED IN. THE MOTION CARRIED

EXECUTIVE ACTION ON HB 185

Discussion:

CHAIRMAN BECK stated that they need a coordinating amendment on HB 185.

SEN. ECK said she thought the committee could hold the bill until SB 83 is passed.

Susan Fox stated that the language in the two bills is exactly the same so they do not conflict but duplicate. It would be one less bill to the Governor but there is no conflict.

Motion: SEN. ECK MOVED HB 185 BE CONCURRED IN.

Discussion:

CHAIRMAN BECK asked that if they concur HB 185 if the coordinating language is needed.

SEN. LYNCH said that the code commissioner would do that when putting the new laws into affect.

Vote: THE MOTION CARRIED.

ADJOURNMENT

Adjournment: 3:51 p.m.


SEN. TOM BECK, Chairman


ELAINE JOHNSTON, Secretary

TB/ej

3-7-95

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 154 (third reading copy -- blue), respectfully report that HB 154 be concurred in.

Signed:


Senator Tom Beck, Chair

 Amd. Coord.

Sec. of Senate


Senator Carrying Bill

541120SC.SRF

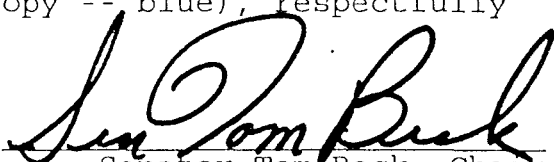
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 8, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 165 (third reading copy -- blue), respectfully report that HB 165 be concurred in.

Signed:


Senator Tom Beck, Chair


Amd. Coord.

Sec. of Senate


Senator Carrying Bill

541114SC.SRF

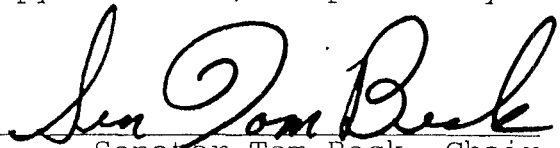
SENATE STANDING COMMITTEE REPORT


Page 1 of 1
March 8, 1995


MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 166 (third reading copy -- blue), respectfully report that HB 166 be concurred in.

Signed:


Senator Tom Beck, Chair

 Amd. Coord.

 Sec. of Senate


Senator Carrying Bill

541112SC.SRF

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1995

MR. PRESIDENT:

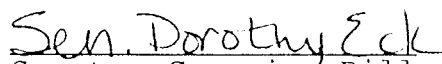
We, your committee on Local Government having had under consideration HB 185 (third reading copy -- blue), respectfully report that HB 185 be concurred in.

Signed:


Senator Tom Beck, Chair

07 Amd. Coord.

CA Sec. of Senate


Senator Dorothy Eck
Senator Carrying Bill

541109SC.SRF

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1DATE 3-7-95BILL NO. HB 154

DATE: January 17, 1995

TO: Betty Lou Kasten, Seat 66, House of Representatives

FROM: Nickolas C. Murnion, Garfield County Attorney, Box 375, Jordan,
Montana; Telephone: 406-557-2480 -- Fax: 406-557-2595

On behalf of the Garfield County Health Center in Jordan, Montana we urge approval of House Bill 154. In 1994 a new 26-bed nursing home, medical assistance facility and clinic was built at a cost of \$900,000. The old facility had been built in 1950 and consisted of 18 beds. The facility not only did not meet current health facility building codes but was too small to be an economic unit. The intent of the project was to attempt to fill enough additional beds by building a new facility to substantially reduce the government subsidy that had historically been poured into the facility by Garfield County. The original plan was also to convert the old hospital facility to a courthouse to replace the Garfield County Courthouse which is a converted dance hall built in 1916. Historically the Health Center had needed a subsidy of in excess of \$200,000 per year with an average occupancy of 12 nursing home beds per year. Our projections showed that if the occupancy could rise to 18 beds per year, the subsidy could be reduced to approximately \$120,000. A mill in Garfield County raises \$5,500. This would allow us to reduce the burden on our taxpayers by at least 10 mills.

In 1990 and 1992 the voters approved exceeding the 10 mills allowed for health facilities by 21 mills for a total of 31 mills. At the June primary of 1994, which was just a few days before the new facility was to be opened, the voters voted down the additional 21 mills requested by the Garfield County Commissioners to operate the facility for the next 2 years. Reasons given included general dissatisfaction of government and with taxes, the only tax levy that gave the taxpayers an option to say no, didn't understand that it was not a tax increase, lack of information, etc. For whatever reason, the loss of the mill levy was potentially disastrous for Garfield County. Our only hope lay in filling more beds than originally were projected. This in fact has occurred. We currently have 23 beds filled. Garfield County also had some reserves that would enable it to survive for the fiscal year of 1994-1995. However unless the occupancy level continues at the current level, a deficiency will face the Garfield County Health Center in the fiscal year ending June 30, 1996. Even with the increased occupancy, there is a potential need to exceed the 10 mills by some amount.

Currently §7-6-2531 only allows one vote at the primary. There is no second chance to take the issue back to the voters under the statutes. This bill would allow us to do that. With an effective date immediately it would allow Garfield County to go to the voters in the school elections in the spring of this year with another ballot measure to exceed the 10 mill levy.

This bill would also help other counties who rely on the same source of funding for their health care. Carter County has funded its 20 bed nursing home in the same manner. I believe the voters approved a levy of 26 mills in

1994. Potentially Carter County could have the same problem we have in a future election.

All we seek in our support of this measure is a second chance to save our facility which has so greatly enhanced the quality of health care in Garfield County. As the utilization of the facility has increased also has the public support in Garfield County. All we ask of the Montana legislature is to give us the tools to decide our destiny in this very important and essential element - health care in Garfield County.

Nick Murnion
Garfield County Attorney

**MONTANA
ASSOCIATION OF
COUNTIES**

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 2

DATE 3-7-95

BILL NO. HB 165

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

RESOLUTION 94-13

**A RESOLUTION FOR FLEXIBLE
COURTHOUSE HOURS**

WHEREAS, counties are needing more and more options of local control to balance their budgets; and

WHEREAS, the courthouse is provided to serve the local constituency; and

WHEREAS, this constituency elects the leaders to run the courthouse.

NOW, THEREFORE BE IT RESOLVED that the Montana Association of Counties draft and pass legislation in the 1995 regular legislative session to give local control of courthouse business hours.

SUBMITTED BY: Districts 6 & 7

PRIORITY: MEDIUM

ADOPTED: ANNUAL CONVENTION
SEPTEMBER 21, 1994

HB 166 - FSA BILL

- Would not require Fire Service Areas to enforce fire code or investigate fires - only give them option to do so if they desired
- No increased cost to local government unless they chose to enforce fire code or investigate fires
- Ease workload of Montana Fire Prevention and Investigation Bureau - State bureau cannot keep up with complete inspection program at this time
- Give local authorities opportunity to enforce fire code rather than have enforcement at state level
- Provide win-win situation for local and state entities - bill supported at local and state level
- Fire Service Areas did not exist when sections of state law governing fire district and municipality code enforcement and fire investigation were written
- Supported by Montana Association of Counties, Montana Fire Prevention and Investigation Bureau and Montana Fire Service, in general
- Enable fire service review of plans for structures being built in fire service areas
- Give greatest continuity and consistency for total fire protection - same agency that responds to emergencies would also be able to provide code enforcement and fire investigations
- Gives fire service agencies protecting fire service areas mechanism for becoming familiar with buildings and area their suppression personnel are protecting

AGREEMENT FOR FIRE SERVICES

THIS AGREEMENT is made and entered into this 27 day of June, 1994, by and between the CITY OF BILLINGS, MONTANA, a municipal corporation, hereinafter referred to as the "CITY" and the BILLINGS URBAN FIRE SERVICE AREA, hereinafter referred to as the "BUFSA".

W I T N E S S E T H

WHEREAS, the CITY maintains a fire department and is willing to provide fire protection, prevention, investigation and code enforcement services to properties within the BUFSA at the same level as such services are provided to properties within the corporate limits of the CITY, upon the terms and conditions hereinafter provided; and,

WHEREAS, the BUFSA has been duly and properly created by the Board of County Commissioners of Yellowstone County pursuant to the provisions of Sections 7-33-2401 through 7-33-2404, inclusive, of the Montana Code Annotated; and,

WHEREAS, inclusive of the agreement and attached hereto is the BUFSA boundary description and map; and,

WHEREAS, the BUFSA desires to continue with the above named fire services from the CITY and renew the contract with the CITY for such services; and,

WHEREAS, the Board of County Commissioners for Yellowstone County have elected to govern and manage the affairs of the BUFSA pursuant to Section 7-33-2403, MCA.

WHEREAS, the Board of County Commissioners shall retain the right to transfer the management of the BUFSA to a Board of Trustees in accordance with Section 7-33-2403, MCA, and written notice of such transfer shall be provided to the CITY thirty (30) days prior to the effective date of transfer.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. SERVICES

The CITY will furnish the following services to properties and residents within the BUFSA, at the same level as such services are provided to properties and residents within the corporate limits of the CITY:

- a. fire protection and suppression;
- b. fire prevention and investigation;
- c. hazardous material response;
- d. enforcement of the uniform fire code adopted by county or the state;
- e. medical emergency first responder.

City further agrees to provide grassland, rangeland, and timberland fire protection services to such properties located within the BUFSA.

2. SERVICE AREA

Fire services will be provided to all properties located within the boundaries of the BUFSA (including Metrapark) as specified in the resolution of the Yellowstone County Commissioners creating said BUFSA, and as amended from time to time by agreement of the parties. Any enlargement of the BUFSA will not receive fire services unless the enlargement is approved in writing by the CITY. Other than annexation,

MONTANA
ASSOCIATION OF
COUNTIES

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 5
DATE 3-7-95
BILL NO. HB 1166
2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

RESOLUTION 94-41

FIRE SERVICE AREA CODE ENFORCEMENT

WHEREAS, many county residents reside in fire service areas;
and

WHEREAS, state statute does not include code enforcement, fire investigation, or inspection for fire service areas, MCA 7-33-2402, 50-63-202, 50-61-114; and

WHEREAS, these are all services that exist in municipalities and fire service districts.

NOW, THEREFORE BE IT RESOLVED, that statutes be amended to give fire service areas code enforcement, investigation, and inspection services.

SUBMITTED BY: Yellowstone County/
 Board of Directors

PRIORITY: MEDIUM

ADOPTED: ANNUAL CONVENTION
 SEPTEMBER 21, 1994

DATE March 7, 1995

SENATE COMMITTEE ON LOCAL GOVERNMENT

BILLS BEING HEARD TODAY: HB 154 HB 165

HB 166 HB 185

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
W James Kembel	City of Billings	HB 166	✓	
Jim HALVERSON	OIL-GAS-COAL Co.	HB 165	✓	
Lee Haverfield	Flathead Co/MACR	HB 165	✓	
Bruce Suerbaum	Dept of Justice	HB 166	✓	
JAMES A LOFFTUS	MT FIRE DIST ASSN	HB 166	✓	
Paul Gerber	Billings Fire Dept.	HB 166	✓	
VERN ERICKSON	MT State Highway Dept.	"	✓	
Pat Clinch	MT State Council Prof. Firefighters	HB 166	✓	
DON HUANI	City of Helena	HB 166	✓	
Bruce M. M.	MACO	HB 154		
"	"	" 185		
"	"	" 165		
"	✓	" 166		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY