

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON SENATE BILL 339

Call to Order: By CHAIRMAN TOM BECK, on April 17, 1997, at 5:00 p.m., in Room 402.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck (R)
Sen. Dorothy Eck (D)
Sen. Lorents Grosfield (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Cliff Trexler (R)

Members Excused: None

Members Absent: None

Staff Present: Martha Colhoun, Legislative Services Division
Jodi Jones, Committee Secretary

HEARING ON SB 339

Discussion:

SENATOR LORENTS GROSFIELD discussed amendments to SB 339 (EXHIBIT 1).

Motion:

SENATOR GROSFIELD MOVED TO ADOPT THE AMENDMENTS (EXHIBIT 1).

Discussion:

REP. EMILY SWANSON asked what the effect of this will be and what is the purpose of making it retroactive? SENATOR GROSFIELD said everyone agrees that if you buy 20 acres from one person and 20 from another and so on you can sell any one of them without review. There was never a tract of record before 1973 and there was never local regulation of sub-divisions before the 1940's.

REP. SWANSON asked for an example of someone who bought land in the 1930's and might want to use retroactivity. SENATOR GROSFIELD said if Grandpa Jones bought land and passed it on to his sons and many family generations and one of the owners wanted to part with one of the 20 acre plots, if it was a separate parcel it could be marketed at any time.

REP. SWANSON asked if those people would go in and do a title search and establish that Grandpa Jones bought that separately. SENATOR GROSFIELD said yes, you would do a title search.

Vote:

MOTION TO ADOPT AMENDMENTS CARRIED UNANIMOUSLY.

{Tape: 1; Side: A; Approx. Time Count: 5:25 p.m.; Comments: .}

Discussion:

REP. DAN MCGEE, HD 21, Laurel, explained amendments for SB 339 (EXHIBIT 2).

SENATOR GROSFIELD asked about lake and river front property and what affects would this amendment have on lots on township lines. REP. MCGEE said each one of those is a separate entity today and there is nothing that will prohibit people from going out and building a house.

SENATOR GROSFIELD said what about selling it. REP. MCGEE said it is no different than selling one unit without regard to acreage.

SENATOR GROSFIELD said what about an L shaped piece of land, how many can be sold without review? REP. MCGEE said three.

SENATOR GROSFIELD said this is an interesting proposal and compromise. This is a policy issue and river and lake front property are a concern. He drew a diagram to illustrate his point of township and L shaped plots.

REP. MCGEE drew a diagram of a sub-division. He said the real problem is people who build along a river or lake should have to go under review.

SENATOR GROSFIELD said if we leave the bill as it is and forget about the amendment, then what are the chances that it will go to court before the next session. How would the court rule on this issue? George Schunk, Attorney General's Office said it is difficult to know as each plot of land has its own description, etc. Commonly what happens with Attorney General's opinions is they are issued and then they are overruled by the courts or the legislature. This is a large issue and he would rather see a group of legislators resolve it, rather than the court. John Shontz, MT Assoc. of Realtors said he didn't know what would happen in court if the amendments were not added.

SENATOR GROSFIELD asked what would the courts do with the sub-division law and the intent to try and give local government control over sub-division development? Mr. Shontz said it depends on where the case is heard. The best court to go to is the district court.

SENATOR TOM BECK asked if there had ever been a case taken to the federal court that they didn't uphold the federal government survey. **Mr. Shontz** said no.

REP. JAY STOVALL said if he owns a piece of property and it is divided with the federal government survey and he wants to sell it, can he still use the federal government survey descriptions. **Mr. Schunk** said that kind of segregation of a parcel might cause this type of a review. However, it would depend on the size of the parcel and other factors.

REP. STOVALL said he wanted an explanation for a track of land that is recognized by the state. He said land has a deed and it is recorded and they all have federal government descriptions. Could you use this to describe these individual pieces of land? **Mr. Schunk** said yes you can use them to describe the tracts of land.

REP. STOVALL said can you use them to make a division of the land. **Mr. Schunk** said you can't use them to divide land to escape review by your local county.

REP. STOVALL said if you have sixteen 40's in a section, then the federal government descriptions can be used to sell portions of that section. **Mr. Schunk** said yes.

REP. STOVALL said he has tried to use this in the past and has been denied the use of the federal government descriptions. **Mr. Schunk** said 20 and 40 acre parcel already come under review. Unless all 20's were bought separately and sold separately then they wouldn't have to go under review.

REP. CLIFF TREXLER asked when a piece of land is surveyed, it is recognized as a legal description of land. **REP. MCGEE** said that was correct.

REP. TREXLER said that doesn't mean a piece of land that has been surveyed doesn't have to go under a sub-division review? **REP. MCGEE** said he cannot sell it without sub-division review.

REP. TREXLER discussed amendments (EXHIBIT 2). **REP. MCGEE** discussed the amendments further (EXHIBIT 2).

Motion/Vote:

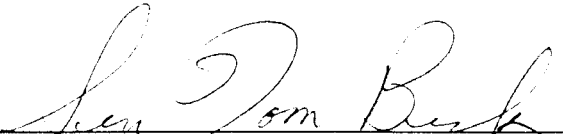
SENATOR GROSFIELD MOVED TO LEAVE THE BILL AS IS WITH PREVIOUS AMENDMENTS AND NOT ADD THE AMENDMENTS BY **REP. MCGEE**. MOTION PASSED 5-1 WITH **REP. TREXLER** VOTING NO.

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ADJOURNMENT

Adjournment: 6:00 p.m.


SEN. THOMAS A. "TOM" BECK, Chairman


JODI JONES, Secretary

TB/jj