

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on January 7, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Dave Brown (D)
Rep. Tim Dowell (D)
Rep. Dave Ewer (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Ed McCaffree (D)
Rep. Sheila Rice (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

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

Committee Business Summary:

Hearing: HB 63
Executive Action: None.

HEARING ON HOUSE BILL 63

Opening Statement by Sponsor:

REP. VERNON KELLER, HD 83, Fishtail, presented HB 63, a bill which would eliminate the requirement for religious and non-profit organizations to have a permit in order to conduct a raffle. The Legislature in the 1991 session exempted churches and other non-profit organizations from payment of administrative fees associated with the permitting for conducting raffles. However, permits are still required to conduct a raffle. The

counties are faced with having to absorb the administrative costs associated with the permitting process and, as a consequence, are now requesting that they not be required to issue permits for raffles conducted by church groups or non-profit organizations (as defined in Section 23-5-112). EXHIBIT 1

Proponents' Testimony:

Donna Heggem, Fergus County Commissioner, testified in support of HB 63. EXHIBIT 2

Gordon Morris, Executive Director, Montana Association of Counties (MACo), stated the Association supports HB 63. He informed the committee of an amendment to the bill. EXHIBIT 3 Mr. Morris pointed out there was not an effective date, however, if the committee felt it was necessary, the Association would be supportive.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. BERGMAN asked why these groups were ever required to be permitted. Mr. Morris replied that back in 1989 it was believed there would be regulatory oversight through permitting and an investigative process through the county commissioners. Mr. Morris said that in truth, it is booster clubs and the like who are having raffles and there has not been a single instance they are aware of where there has been a problem regarding the conducting of a raffle.

REP. VOGEL asked Mr. Morris if removing the language would allow just anyone, regardless of whether or not they are a non-profit organization, to get a permit. Mr. Morris stated they are currently by law required to be a non-profit organization. He explained if there was an abuse, questions would be raised as to the non-profit status and whether it could be demonstrated. Mr. Morris said the information provided in the permitting process would prevent that particular type of abuse.

REP. EWER asked Chairman Wallin for permission to question one of people present in the audience.

CHAIRMAN WALLIN stated it is their option to respond, but this person must be signed in.

REP. BRANDEWIE stated it would be a poor precedent to allow those who have not testified to be questioned.

REP. DOWELL stated that in his experience it has been common practice to allow a person who is viewed as an expert to respond to questions.

REP. EWER asked Janet Jessup if she had signed the visitors

register. Ms. Jessup, Gambling Control Administrator, Department of Justice (DOJ), stated she had signed in, however, was present neither as a proponent nor opponent of HB 63.

REP. EWER asked Ms. Jessup if the attorney general's office had a view on this or if the information which had been collected by the counties had ever been used by the DOJ to effectively monitor this type of activity. Ms. Jessup replied the DOJ is not responsible for monitoring or permitting in this area. They do not use the information. The department would only respond to complaints of fraud which eventually are turned back to the county attorneys to handle. The attorney general's position is to neither support nor oppose HB 63, but would support the amendment.

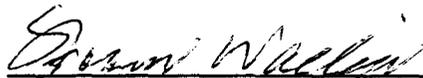
REP. VOGEL asked Ms. Jessup if the attorney general's office supports the expansion of gambling or deregulation of the gambling statutes. Ms. Jessup stated the attorney general is not currently supporting any expansion of gambling and would prefer not to have any of the enforcement ability deterred in any way. She also stated this is simply an area where they do not have any enforcement responsibility.

Closing by Sponsor: REP. KELLER closed HB 63.

Informational Presentation: Dr. Kenneth Weaver, Director of the Montana State University Local Government Center, along with Judy Mathre, Assistant Director, gave a presentation on the Montana Local Government Policy Council. EXHIBIT 4 Dr. Weaver informed committee members that during the 1991 session the speaker of the house appointed four legislators to the Council, two from the Senate and two from the House. REP. DIANA WYATT and REP. JIM RICE are on the Council. Dr. Weaver suggested that perhaps the Local Government Committee would be the best source for making any future appointments.

ADJOURNMENT

Adjournment: 4:15 p.m.



NORM WALLIN, Chairman



PAT BENNETT, Secretary

lates or is not specifically authorized by a statute or a rule of the department. The term includes:

(a) a card game, by whatever name known, involving any bank or fund from which a participant may win money or other consideration and that receives money or other consideration lost by the participant and includes the card games of blackjack, twenty-one, jacks or better, baccarat, or chemin de fer;

(b) a dice game, by whatever name known, in which a participant wagers on the outcome of the roll of one or more dice, includes craps, hazard, or chuck-a-luck, but does not include an activity in which a participant rolls one or more dice for a chance to obtain a drink or music; and

(c) sports betting, by whatever name known, in which a person places a wager on the outcome of an athletic event, including bookmaking, parlay bets, or sultan sports cards, but not including those activities authorized in chapter 4 of this title and parts 2 and 5 of this chapter.

(17) "Keno" means a game of chance in which prizes are awarded using a card with 8 horizontal rows and 10 columns on which a player may pick up to 10 numbers. A keno caller, using authorized equipment, shall select at random at least 20 numbers out of numbers between 1 and 80, inclusive.

(18) "Keno caller" means a person 18 years of age or older who, using authorized equipment, announces the order of the numbers drawn in live keno.

(19) "License" means an operator's, dealer's, or manufacturer-distributor's license issued to a person by the department.

(20) "Licensee" means a person who has received a license from the department.

(21) "Live card game" or "card game" means a card game that is played in public between persons on the premises of a licensed gambling operator or in a senior citizen center.

(22) "Lottery" or "gift enterprise" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

(a) lotteries authorized under chapter 7; or

(b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

(23) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

(24) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial,

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civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity.

(25) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(26) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(27) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(28) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(29) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it.

(30) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access;

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization; or

(c) a place, building; or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominantly commercial manner.

(31) "Raffle" means a form of lottery in which each participant pays valuable consideration for a ticket to become eligible to win a prize. Winners must be determined by a random selection process approved by department rule.

(32) "Senior citizen center" means a facility operated by a nonprofit or governmental organization that provides services to senior citizens in the form of daytime or evening educational or recreational activities and does not provide living accommodations to senior citizens. Services qualifying under this definition must be recognized in the state plan on aging adopted by the department of family services.

(33) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything

EXHIBIT 1
DATE 1/7/19
HB 62

Testimony - HB 63

Donna Heggem - Fergus County Commissioner

Rep. Wallin, Members of the Committee. My name is Donna Heggem, Commissioner of Fergus County.

I am here on behalf of County Commissioners to ask that you consider HB 63. Brief History: The 1989 Session put into effect statues requiring County Commissioners to issue permits and require information on raffles conducted in their jurisdiction. Counties had the ability to charge for a permit with the exception of veterans organizations. In 1991 a bill was passed requiring counties to continue issuing permits but taking away abilities to charge permit fee for religious and nonprofit organizations.

The problem is that large number of raffles by nonprofit going on in the county is causing an administrative nightmare. It is an inefficient use of local government time and is basically unenforceable. Example: I attend basketball games at Winifred High School during the season. There are a minimum of 3 raffles being conducted at any home games each weekend as fun raisers for classes and the booster club. Multiply that times 100 Class C schools in Montana - There could possibly be 300 raffles going on in small schools on a given night. By current law each organization needs to come in to get a separate permit for each raffle. This system is impractical, and also poses a hardship on many nonprofit organizations to travel long distances to get permits. Yesterday one small school was in to pick up 8 applications for permits for a 50/50 raffle at a school - One for each remaining basketball game.

The large increase in raffles being conducted as fund raisers by nonprofit also makes it unrealistic to enforce the law as written.

For these reasons, we ask that you consider HB 63.

EXHIBIT 3
DATE 1/7/93
7 HB63

**MONTANA
ASSOCIATION OF
COUNTIES**

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

House Bill 63

Amendment

Introduced by Keller

Amend page 2 line 2 as follows:

corporation sole or a nonprofit organization AS DEFINED IN 23-5-112,

EXECUTIVE SUMMARY

JOINT MEETING HOUSE AND SENATE LOCAL GOVERNMENT COMMITTEES
FIFTY-THIRD LEGISLATIVE SESSION

Purpose:

To provide the Members an overview of the work of the Montana Local Government Policy Council and to report research results related to local government.

Presenters:

Ken Weaver, Director, Local Government Center, MSU
Judy Mathre, Assistant Director, Local Government Center

Local Government Policy Council:

The Local Government Policy Council was formed in 1989 to identify policy problems impacting county and municipal government and to sponsor applied research to assist state and local government in the resolution of those problems.

The research is coordinated and published in the Montana Policy Review by the Local Government Center at MSU and is funded by a grant from the Northwest Area Foundation of Saint Paul, Minnesota. No state appropriated dollars are used to support the Policy Council.

The Policy Council is comprised of 17 members including two members drawn from the Local Government Committee in each House; four county and municipal government officials; the Director of the Department of Commerce; the State Coordinator of Indian Affairs; the Governor's Local Government Policy Advisor; and two representatives from the private sector. The Executive Directors of the League of Cities and Towns and the Association of Counties serve as ex-officio members, as does the Director of the Local Government Assistance Division of the Department of Commerce. The Director of the Local Government Center also serves as Director of Research and Secretary to the Policy Council.

HJR 45 was adopted by the 1991 Legislative Session endorsing the Montana Local Government Policy Council as an appropriate agency to sponsor and conduct applied policy research in support of local government needs.

Local Government Center:

The Local Government Center is a Regents approved outreach program within the Department of Political Science at MSU. Its purpose is to provide training, on-site

2. Funding Local Infrastructure: The Treasure State Endowment Program: by Dr. Kenneth L. Weaver.

- Renewal of community water, waste water and other essential infrastructure systems is a top priority among citizens and local officials nationally and in Montana.

- In June, 1992 Montana voters adopted the legislative referendum entitled "Treasure State Endowment Program" (TSEP) which is the most innovative infrastructure renewal program in our region.

- The TSEP initiative provides a mix of incentives to local officials to address essential infrastructure repair and replacement. These include:

- Direct loans at subsidized interest rates;
- Annual debt subsidies to reduce rate impacts;
- Matching grants up to 50% of project cost; and
- Deferred loans to fund preliminary planning and engineering.

- The deadline for the first round of TSEP proposals was December 31, 1992 for approval during this Legislative Session. Approximately \$1.5 million is available during the first biennium. This amount is projected to grow to approximately \$5.6 million in FY 2000 and \$8.8 million in 2004.

- This study of ten Montana Class III cities indicates that local officials have already undertaken considerable debt in support of infrastructure renewal (p.19). Yet each community expressed need for major additional infrastructure investment.

- The annual average water/waste water rate in these ten communities now exceeds 1% of the annual average household income (p.19).

- New debt of \$1 million at 7% interest for 20 years will exceed the 8% household debt standard of the five smallest communities in this sample and, by inference, of most Montana communities with populations of less than 1500 people, which includes 84 of Montana's 128 incorporated municipalities and nearly all of its 530 rural water/waste water districts p. 20).

- Up front grants should provide a greater incentive to smaller communities to address infrastructure needs than will subsidized interest rates. Whereas, Montana's larger communities with greater capital needs will be more interested in reduced interest rates than relatively modest, near term grant opportunities.

Conclusions:

- From the point of view of the local officials in the smaller communities, relatively easy access to planning and engineering loans and grants in the near term is perhaps the most powerful incentive to address infrastructure needs.
- The enactment of direct and substantial infrastructure loan authority at advantageous rates will be of greater interest to Montana's larger communities.

3. Montana Land Use Policy: by Mr. Gordon Meeks.

- Montana and most western states exempt large land parcels from regulation under the subdivision review statutes. Under the 1973 Montana Subdivision Review and Platting Act, any division of a parcel of 20 or more acres is exempt from review by local governments.
- By comparison, Colorado exempts 35 acre parcels, California exempts 40 acre parcels and Wyoming exempts 35 acre parcels.
- The most commonly exempted subdivisions occur just outside city or town limits which places excessive demand on local infrastructure, fiscal capacity, public services and the environment
- In Gallatin County between 1973 and 1992, 5,246 lots were created on 108,425 acres without any local review. This represents 12% of the privately owned land in the county and 91.4% of the acreage subdivided since 1973.
- Legislation increasing the 20 acre exemption to 35 or 40 acres and increasing the time period allowed for "occasional sales" to a minimum of five years may be feasible.

Conclusions:

- The issue of land use policy goes beyond amending the language of the 1973 Montana Subdivision Review and Platting Act and may require "interest based negotiations" among all interested parties to find trade-offs between amended land use regulations (new occasional sale and acreage limits) and, for example, lower agricultural property taxes.
- Perhaps not every county in Montana should be guided by the same statutory language concerning subdivision review; counties with declining populations may not require the same land use planning as do the fast growth counties.

Additional Research Projects Completed:

- "Solid Waste Disposal Options for Montana" by Mr. James Goehring.
- "The Missoula Region Study: Rethinking the Concept of Community" by Dr. Pat Edgar.
- "The Potential Development of a Rocky Mountain Trade Corridor", by Dr. Larry Swanson.
- "Fiscal Trends in Montana Local Government", by Ms. Judy Mathre.
- "Migration into Small Communities: Problems and Solutions", by Dr. Patrick Jobs.
- "Local Initiatives in Economic Development", by Ms. Jill Ramaker.

Planned Research Projects For 1993-1994:

- Local Government Consolidation Options.
- Funding Alternatives for County Rest Homes.
- Small Government Planning for Infrastructure Renewal.
- The Impact of a Sales Tax on Local Governments.
- County - Tribal Relations.
- Montana Local Government Year Book.
- Local Government Review: 1994-1996.
- Other projects sponsored by the Local Government Policy Council.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. HB 63
DATE 1/7/93 SPONSOR(S) REP. KELLER

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Louise Korbuk	Christian Coalition of MA	-	
Janet Gessing	Dept of Justice	-	-
Gordon Morris	M.A.O.	✓	
Yu Weaver	Loc Gov Center	-	-
Alonna Heggen	Fergus Co - MACO	✓	
Judy Mathre	Loc. Gov. Center		
Gloria Hermann	Rev. Gambel w/ the Future	-	-

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