**MINUTES**

**MONTANA SENATE**
**59th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **SEN. KIM GILLAN**, on March 22, 2005 at 3:23 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**
Sen. Jeff Mangan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Mike Wheat (D)

**Members Excused:** Sen. Carolyn Squires (D)

**Members Absent:** None.

**Staff Present:** Jennifer Kirby, Committee Secretary
Leanne Kurtz, Legislative Branch

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

**Committee Business Summary:**
Hearing & Date Posted: HB 743, 3/7/2005; HB 636, 3/7/2005; HB 507, 3/7/2005; HB 431, 3/7/2005
Executive Action: HB 636; HB 743; HB 507; HB 220; HB 142; HB 230; HB 212; HB 454; HB 365

## HEARING ON HB 743

***{Tape: 1; Side: A; Approx. Time Counter: 0.5}***

**Opening Statement by Sponsor**:

**REP. CHRISTOPHER HARRIS (D), HD 66,** opened the hearing on **HB 743,** Clarify authority for local government to enter into certain contracts.

***{Tape: 1; Side: A; Approx. Time Counter: 0.5 - 3.4}***

**REP. HARRIS** explained that his bill was a follow-up to **HB 19,** which conferred upon county governments the authority to enter into contracts with their deputy sheriffs which stated that if a deputy did not stay with the sheriff's office for a requisite amount of time, the deputy would have to reimburse the county for some of the training costs. **REP. HARRIS** stated that the municipalities had the ability. He said that **HB 743** was a legislative finding that counties and other local governments the inherent authority to enter into the contracts. **REP. HARRIS** believed that **HB 743** would reduce the clog on the legislature. **HB 743** stated that if the action was within the local government's inherent authority, the local governments did not need legislative permission.

**Proponents' Testimony**:

***{Tape: 1; Side: A; Approx. Time Counter: 3.4 - 7.2}***

**Gordon Morris, Montana Association of Counties (MACo),** supported **HB 743.** He explained that the bill came up because counties wanted to be able to require deputies that did not stay a requisite amount of time with the county would have to reimburse the county for part of the cost of the academy. **Mr. Morris** said **HB 743** would ensure that local governments had the authority to enter into contracts.

**Jim Smith, Montana Sheriffs and Peace Officers Association,** gave the committee some background for the bill. He said that new recruits would go to the law enforcement academy for training. Then the newly trained deputies would be recruited by other municipalities that would pay better. **Mr. Smith** told the committee that it cost the originating county $1200.00 to send their new recruits to the academy and then they would be recruited by a larger and wealthier local government. **Mr. Smith** stated that **HB 19** gave municipalities the ability to enter into

reimbursement contracts and **HB 743** would ensure local governments power.

**Opponents' Testimony**: None.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

***{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 12}***

**SEN. O'NEIL** asked **REP. HARRIS** if he was correct in thinking that the bill gave counties the authority to write a reimbursement clause into their contracts. **REP. HARRIS** answered that the counties already had the authority but the bill makes clear the inherent authority of municipalities.

**SEN. SHOCKLEY** wanted to know about counties with a "self-governing charter." **SEN. LAIBLE** answered his question.

**SEN. WHEAT** questioned **Mr. Morris** about a bill that **SEN. STORY**'s bill that granted counties and municipalities the authority and asked why **HB 743** was needed. **Mr. Morris** responded that the bill was **SB 301** and that the bill dealt with just tax and levy authority.

**SEN. LAIBLE** asked **Mr. Morris** if **HB 743** was a large policy change and what would be the benefits to local governments to be self-governing. **Mr. Morris** replied that the bill was limited to contractual powers. **SEN. LAIBLE** said that **SB 301** reduced the benefits of self-governing powers as well and feared that it would be reduced too much. **Mr. Morris** responded that **HB 743** would reduce the number of "cat and dog" bills.

**Closing by Sponsor**:

***{Tape: 1; Side: A; Approx. Time Counter: 12 - 13.5}***

**REP. HARRIS** directed the committee to look at page two of the bill and that was the action of the bill. He stated that local governments already have the ability but **HB 743** confirmed the power.

## HEARING ON HB 636

***{Tape: 1; Side: A; Approx. Time Counter: 13.7}***

**Opening Statement by Sponsor**:

**REP. WAYNE STAHL (R), HD 35,** opened the hearing on **HB 636,** Revise the bid threshold for municipal government contracting and bidding.

***{Tape: 1; Side: A; Approx. Time Counter: 13.7 - 15.1}***

**REP. STAHL** said that his bill would give cities more latitude in acquiring equipment and services without requiring bids. He explained that it would change the statutory limitations on when an item or service must go up for bid from $10,000 to $50,000. **REP. STAHL** noted that the local governments would still have to get quotes but would not have to bid.

**Proponents' Testimony**: None.

**Opponents' Testimony**: None.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

***{Tape: 1; Side: A; Approx. Time Counter: 15.1 - 15.8}***

**SEN. GEBHARDT** wanted to know how the sponsor got by so easy. **REP. STAHL** answered that he inherited an easy bill.

**Closing by Sponsor**:

***{Tape: 1; Side: A; Approx. Time Counter: 15.8 - 16}***

**REP. STAHL** thanked the committee.

## HEARING ON HB 507

***{Tape: 1; Side: A; Approx. Time Counter: 16.6}***

**Opening Statement by Sponsor**:

**REP. LLEW JONES (R), HD 27,** opened the hearing on **HB 507,** Allow more compensation for clerk & recorder who is an election administrator.

***{Tape: 1; Side: A; Approx. Time Counter: 16.6 - 19.3}***

**REP. JONES** told the committee that he was carrying the bill on behalf of the Montana Clerks and Recorders. He said that elections were getting more difficult to administrate and more training was required to be an election administrator. **HB 507** would allow local compensation boards to increase the compensation for the election administrator up to $2000. He commented that the bill was permissive and there was no mandate for local governments. He commented that it was capped at $2000. He explained that the reason that they did not raise the Clerk and Recorders salary directly was because the Clerk and Recorder's salary was tied to other salaries and would change salaries all through local governments. **REP. JONES** stated that **HB 507** gave special consideration for elections administrators.

**Proponents' Testimony**:

***{Tape: 1; Side: A; Approx. Time Counter: 19.3 - 26.7}***

**Gordon Morris, Montana Association of Counties (MACo),** stood in support of **HB 507.**

**Art Kleinjan, Blaine County Commissioner,** said that the election administrator's job had gotten significantly harder and they deserved compensation. He stated that the bill was long overdue.

**Robert Throssell, Montana Association of Clerks and Recorders,** explained why they did not just raise the Clerk and Recorder's salary directly. He stated that the job salary was tied to other jobs. He noted that other jobs had an arrangement where the County could increase compensation for a specific duty without changing the base salary. **Mr. Throssell** commented that the increase was optional.

**Brad Martin, Montana Democratic Party,** stated that he worked to increase voter access and make elections easier. He thought that the election administrator deserved compensation and that **HB 507** was good and fair.

**Bonnie Ramey, Jefferson County/Montana Association of Clerks and Recorders,** told the committee that there have been significant changes in election law in the last 20 years. She said that they were now required to keep lists of active and inactive voters. She informed the committee that in 1993, the Help America Vote Act (HAVA) was passed and it changed election procedures. Election administrators are provided with training every odd-numbered year. **Ms. Ramey** noted that 20 years ago, the training was two hours and last year the training lasted almost 3 days.

**Ms. Ramey** said that with advancing technology and changing election laws, the job of the election administrator was more difficult and more time-consuming. **Ms. Ramey** wanted the ability to ask for additional compensation.

**Elaine Graveley, Secretary of State's Office,** rose in support of **HB 507.** She told the committee that training would only increase and the election administrators deserved compensation. She encouraged the committee to concur in **HB 507.**

**Opponents' Testimony**: None.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

***{Tape: 1; Side: A; Approx. Time Counter: 26.7 - 30.7}***
***{Tape: 1; Side: B; Approx. Time Counter: 2.2 - 13.1}***

**SEN. WHEAT** wanted to know if the Montana Association of Clerks and Recorders participated in the drafting of **HB 507. Mr. Throssell** answered that they did. **SEN. WHEAT** asked how the election staff could get additional compensation. **Mr. Throssell** replied that County Commissioners set salaries through the budgeting process. **SEN. WHEAT** questioned if they passed the bill, it would still be up to the County Commissioners whether to raise the salaries of elections staff. **Mr. Throssell** answered affirmatively. **SEN. WHEAT** wanted to know if the salary of election staff was tied to other salaries. **Mr. Throssell** deferred to **Ms. Ramey. Ms. Ramey.** said that some staff were tied to the Clerk and Recorder's salary. She explained that a lot of the staff were union and they got time and a half for extra hours.

**SEN. WHEAT** asked **Ms. Graveley** if the counties received any of the money for the HAVA program. **Ms. Graveley** said that most of the money went for punch-card buyout, some went for precinct counties, and some went to pay for election judges. **SEN. WHEAT** asked if eventually the counties would get some of that money. **Ms. Graveley** answered that they had not reached a decision at the time.

**SEN. LAIBLE** questioned if County Commissioners determined a base salary amount and that staff got percentages of that base. **Mr. Morris** stated that was correct and explained that the salaries had to be uniform. **SEN. LAIBLE** asked if the bill just allowed a extra payment for duties. **Mr. Morris** said that was correct.

**SEN. GEBHARDT** asked **Mr. Kleinjan** if the Clerk and Recorders would start at the maximum and negotiate down with their County Commissioners and whether the $2000 was per year or per election. **Mr. Kleinjan** answered that it was up to $2000 and it would not before the Salary Board but would be up to the County Commissioner. **SEN. GEBHARDT** wanted to know about the Deputy Clerk and Recorders. **Mr. Kleinjan** said that they would get overtime and they also get the afternoon off, in order to work election night. **SEN. GEBHARDT** asked if the deputies got overtime pay. **Mr. Kleinjan** replied that they did.

**SEN. WHEAT** asked **Mr. Morris** if $2,000 was enough. **Mr. Morris** answered that $2,000 was relative to other bonuses in local government. **SEN. WHEAT** wanted to know why the sheriffs got a duty bonus. **Mr. Morris** explained that the sheriff got that if they also acted as coroner.

**SEN. WHEAT** wanted to know if $2,000 was enough. **Ms. Ramey** answered that it may not be enough but that it helped. She noted that some counties could not afford more than the $2,000. **SEN. WHEAT** asked if **Ms. Ramey** thought the bonus would be graduated. **Ms. Ramey** replied that it probably would be graduated, depending on what counties could afford to pay. **SEN. WHEAT** questioned if Lewis and Clark County could afford to pay more than $2,000. **Ms. Ramey** said that she though that they probably could.

**Closing by Sponsor**:

***{Tape: 1; Side: B; Approx. Time Counter: 13.1 - 14.5}***

**REP. JONES** told the committee that the bill was about fairness and equity. He noted that the bill was permissive and retains local control. **REP. JONES** said the clerk and recorders deserved more compensation with the extra duties of election administrator.

## EXECUTIVE ACTION ON HB 743

***{Tape: 1; Side: B; Approx. Time Counter: 14.9 - 15.4}***

**Motion/Vote**: **SEN. GEBHARDT moved that HB 743 BE CONCURRED IN. Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**SEN. LAIBLE** was appointed to carry **HB 743.**

## EXECUTIVE ACTION ON HB 636

***{Tape: 1; Side: B; Approx. Time Counter: 15.4 - 17.9}***

**Motion**: **SEN. GEBHARDT moved that HB 636 BE CONCURRED IN.**

**Discussion**: **SEN. WHEAT** asked if the bill just made the cities consistent with the counties' law. **SEN. GEBHARDT** answered that it did and told the committee that he had offered to add the cities to his bill last session but the cities were afraid the bill would not pass. **SEN. SHOCKLEY** asked if the limit was high enough. **SEN. GEBHARDT** responded that the cities still had to solicit quotes but that the bid process was a waste of money for anything below $50,000. **SEN. SHOCKLEY** questioned if they should increase the limit. **SEN. GEBHARDT** said that $50,000 was a good limit at the time.

**Motion**: **SEN. LAIBLE CALLED THE QUESTION ON HB 636.**

**Vote**: **Motion that HB 636 BE CONCURRED IN carried 10-1 by voice vote with SEN. ESP voting no. SEN. SQUIRES voted aye by proxy.**

**SEN. GEBHARDT** was appointed to carry **HB 636.**

**SEN. HAWKS** exited.

## EXECUTIVE ACTION ON HB 507

***{Tape: 1; Side: B; Approx. Time Counter: 17.9 - 24.3; Comments: The tape skips at 23.3.}***

**Motion**: **SEN. GEBHARDT moved that HB 507 BE CONCURRED IN.**

**Motion**: **SEN. WHEAT moved that HB 507 BE AMENDED.**

**Discussion**: **SEN. WHEAT** wanted to increase the limit to $3,000 per year. He felt that the election administrators deserved more, and many counties could afford to pay $3,000. **SEN. LAIBLE** was concerned that it would cause problems with other duty-based salary increases. **SEN. ESP** stated that some things may have gotten more complex but some things got easier. He noted that it was like $50 an hour at the $2,000 cap. **SEN. GEBHARDT** explained that the larger counties already pay a higher salary anyway and $2,000 was enough leeway in the bill. **SEN. WHEAT** noted that the bill read "up to $2,000" and the amendment would give more local control and gives local governments extra discretion.

**Vote: Motion that HB 507 BE AMENDED failed 5-5 by roll call vote with SEN. GILLAN, SEN. MANGAN, SEN. MOSS, SEN. SQUIRES, and SEN. WHEAT voting aye. SEN. SQUIRES voted aye by proxy.**

**Vote: Motion that HB 507 BE CONCURRED IN carried 10-0 by voice vote. SEN. SQUIRES voted aye by proxy.**

## EXECUTIVE ACTION ON HB 220

***{Tape: 1; Side: B; Approx. Time Counter: 24.3 - 27.1}***

**Motion: SEN. SHOCKLEY moved that HB 220 BE CONCURRED IN.**

**Motion: SEN. ESP moved that HB 220 BE AMENDED.**

**Discussion: SEN. ESP** explained that his amendment made the electronic fund transfers permissive based on capability.

**EXHIBIT(los63a01)**

**Vote: Motion that HB 220 BE AMENDED carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**Motion/Vote: SEN. ESP moved that HB 220 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**SEN. LAIBLE** was appointed to carry **HB 220.**

## EXECUTIVE ACTION ON HB 142

***{Tape: 1; Side: B; Approx. Time Counter: 27.1 - 30.2}***

**Motion: SEN. MANGAN moved that HB 142 BE CONCURRED IN.**

**Motion: SEN. MANGAN moved that HB 142 BE AMENDED.**

**EXHIBIT(los63a02)**

**Discussion: SEN. MANGAN** said that his amendment would give more flexibility and the choice of reducing the interest rate, forgiveness of the principle, or a combination of both.

**Vote: Motion that HB 142 BE AMENDED carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**Motion**: **SEN. LAIBLE moved that HB 142 BE AMENDED.**

**EXHIBIT(los63a03)**

**Discussion**: **Leanne Kurtz, Legislative Services,** explained that the amendment was a coordination amendment.

**Vote**: **Motion that HB 142 BE AMENDED carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**Motion/Vote**: **SEN. MANGAN moved that HB 142 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**SEN. MANGAN** was appointed to carry **HB 142.**

## EXECUTIVE ACTION ON HB 230

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.7}***

**Motion**: **SEN. LAIBLE moved that HB 230 BE CONCURRED IN.**

**Motion**: **SEN. GEBHARDT moved that HB 230 BE AMENDED.**

**EXHIBIT(los63a04)**

**Discussion**: **Leanne Kurtz, Legislative Services,** explained that the amendment was a coordination amendment with **SB 116.**

**Vote**: **Motion that HB 230 BE AMENDED carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**Motion/Vote**: **SEN. GEBHARDT moved that HB 230 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**SEN. LAIBLE** was appointed to carry **HB 230.**

## EXECUTIVE ACTION ON HB 212

***{Tape: 2; Side: A; Approx. Time Counter: 1.7 - 9.7}***

**Motion**: **SEN. MANGAN moved that HB 212 BE CONCURRED IN.**

**Discussion**: **SEN. ESP** explained that the bill allowed government organizations to use money saved by installing more energy efficient equipment to finance the installation project. **SEN. GEBHARDT** said he thought it was part of the weatherization program.

**SEN. HAWKS** entered.

**SEN. WHEAT** stated that it was the same type of program and it allowed schools to work in coordination with the energy companies to finance the installation of more energy efficient systems. **SEN. WHEAT** said that it helped schools lower their energy use by upgrading their energy savings programs. **SEN. SHOCKLEY** asked whether the bill added anything. **SEN. O'NEIL** said that he thought the bill was for putting weatherization on courthouses so he might be off base. **SEN. LAIBLE** told the committee that he believed the bill was more complex than that program. He said the savings would pay off the bond. **SEN. GEBHARDT** directed the committee to the fiscal note for the best explanation.

**SEN. O'NEIL** exited.

**SEN. LAIBLE** asked if it was something that self-governing communities could do but that other local governments could not. **SEN. ESP** explained what he thought the bill did.

**SEN. SHOCKLEY** told the committee that he was not going to vote for the bill. **SEN. HAWKS** commented that there was no downside to the bill. **SEN. WHEAT** read that the fiscal vote said that the state building energy conservation program was not available to local governments. **SEN. WHEAT** concluded that the state government could do this and that if it was good for the state, the local governments should benefit as well. **SEN. WHEAT** noted that there were no opponents. **SEN. MOSS** directed the committee to their packet and explained it was an energy performance contract. **SEN. MANGAN** said that the bill was permissive and that he supported the bill.

**Motion**: **SEN. MANGAN CALLED THE QUESTION ON HB 212.**

**Vote**: **Motion that HB 212 BE CONCURRED IN carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy.**

**SEN. HAWKS** was appointed to carry **HB 212.**

## EXECUTIVE ACTION ON HB 454

*{Tape: 2; Side: A; Approx. Time Counter: 9.7 - 13.7}*

**Motion**: **SEN. MANGAN moved that HB 454 BE CONCURRED IN.**

**Discussion**: **SEN. SHOCKLEY** noted that this was the "urban cowboy bill." **SEN. ESP** stated that he did not support the bill and that it was bad policy to allow outside people to vote in an election. **SEN. HAWKS** called the **HB 454** a "legal quagmire." **SEN. LAIBLE** agreed with **SEN. ESP.**

**Vote**: **Motion that HB 454 BE CONCURRED IN failed 1-10 by voice vote with SEN. SHOCKLEY voting aye. SEN. SQUIRES voted no by proxy. SEN. O'NEIL voted no by proxy.**

**Motion/Vote**: **SEN. LAIBLE moved that HB 454 BE TABLED AND THE VOTE REVERSED. Motion carried 10-1 by voice vote with SEN. SHOCKLEY voting no. SEN. SQUIRES and SEN. O'NEIL voted aye by proxy.**

## EXECUTIVE ACTION ON HB 365

*{Tape: 2; Side: A; Approx. Time Counter: 13.7 - 26.7}*

**Motion**: **SEN. ESP moved that HB 365 BE CONCURRED IN.**

**Motion**: **SEN. ESP moved that HB 365 BE AMENDED.**

**EXHIBIT(los63a05)**

**Discussion**: **SEN. ESP** explained his amendment. **SEN. MANGAN** said that he supported the amendment because it made a bad bill better.

**Vote**: **Motion that HB 365 BE AMENDED carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy. SEN. O'NEIL voted aye by proxy.**

**Motion**: **SEN. ESP moved that HB 365 BE CONCURRED IN AS AMENDED.**

**Discussion**: **SEN. ESP** explained that with his amendment made the time frame easier. The bill now gave about three weeks for the error and omission review of a survey. **SEN. ESP** said it would not affect counties that had an in-house surveyor. **SEN. MANGAN** stated that it was a contract service and a business decision that counties needed to make. **SEN. LAIBLE** told the committee that he

originally did not support the bill but that he did now. He said that **SB 116** gave guidelines for subdivisions but **SB 116** did not cover error and omission review. **SEN. LAIBLE** stated that **HB 365** gave the incentive for surveyors and the county to get surveys done and provided recourse for the developer. **SEN. SHOCKLEY** declared that the guts of the bill had already been taken out. **SEN. HAWKS** stated that the counties should be in charge of their own contract services. **SEN. ESP** informed the committee that the bill only dealt with the review and omission review. He pointed out that under current law, the developer has no course of action against the county or surveyor to get the survey done.

**Motion**: **SEN. SHOCKLEY CALLED THE QUESTION ON HB 365.**

**Vote**: **Motion that HB 365 BE CONCURRED IN AS AMENDED failed 5-6 by roll call vote with SEN. ESP, SEN. GEBHARDT, SEN. LAIBLE, SEN. O'NEIL, and SEN. SHOCKLEY voting aye. SEN. SQUIRES voted no by proxy. SEN. O'NEIL voted aye by proxy.**

**Motion/Vote**: **SEN. WHEAT moved that HB 365 BE TABLED AND THE VOTE REVERSED. Motion carried 8-3 by voice vote with SEN. ESP, SEN. LAIBLE, and SEN. O'NEIL voting no. SEN. SQUIRES voted aye by proxy. SEN. O'NEIL voted no by proxy.**

## HEARING ON HB 431

***{Tape: 2; Side: A; Approx. Time Counter: 26.8}***

**Opening Statement by Sponsor**:

**REP. HOLLY RASER (D), HD 98**, opened the hearing on **HB 431**, Revise property owner protest rights on sewer projects.

***{Tape: 2; Side: A; Approx. Time Counter: 26.8 - 31}***
***{Tape: 2; Side: B; Approx. Time Counter: 2.2 - 7.7}***

**REP. RASER** explained that **HB 431** dealt with issues of a urban area surrounded by rural areas. She noted that the areas were experiencing rapid growth. **REP. RASER** told the committee that infrastructure, especially sewer lines, was being forced on existing residents. **HB 431** revised the sewer notice process for rural improvement districts (RIDs). **REP. RASER** said that it also revised the protest method. **REP. RASER** went over her bill. She explained that her bill would mandate if a project was related to a larger project, the entire scope of the project must be described in the notices. It would include: the full scope of the project, related projects, estimated costs, and impacts on

property rights. **REP. RASER** shared a story of what happened in her district in Missoula. **REP. RASER** stated that **HB 431** would change the protest thresholds. She passed out a copy of current Montana law.

**EXHIBIT(los63a06)**

**REP. RASER** explained that under current law, in order to protest a RID, only the property owners that would bear more than fifty percent of the cost of the project could protest. **REP. RASER** said that business improvement districts are different, they have three thresholds: the people that would pay more than fifty percent of the cost of the project, fifty percent of the number of owners, or owners of fifty percent of the taxable valuation of the property. **REP. RASER** told the committee that **HB 431** gave those same thresholds to RIDs. **REP. RASER** said that county commissioners could overrule protest if they found scientific evidence that the sewer project was needed for public health and safety or protection of environmental quality.

**Proponents' Testimony**:

***{Tape: 2; Side: B; Approx. Time Counter: 7.7 - 10.5}***

**Gordon Morris, Montana Association of Counties (MACo)**, said that he initially opposed the bill because of problems with Section 4. He felt that one year was too long. He told the committee that they had re-written part of the bill, improved the language, and he could now support the bill. He explained that it was important for the county commissioners to be able to overrule protests. He added that a protest could also be overruled if ordered by the Department of Environmental Quality or Department of Public Health and Safety.

**Opponents' Testimony**:

***{Tape: 2; Side: B; Approx. Time Counter: 10.5 - 13.9}***

**Linda Stoll, Montana Association of Planners**, stated that she opposed the bill because of section 4. She opposed the bill because it made it more difficult to create sewer districts. She told the committee that many rural areas have failing septic systems and property owners whose septic system is fine do not care that someone else's septic system was failing. She stated that it was too tough to override protests, a unanimous vote of county commissioners was tough to get. **Ms. Stoll** explained that sewer systems were a matter of public health. She felt that the bill was vague in regards to "scientific studies" and that people

would be hard pressed to find peer-reviewed scientific studies to support a local sewer district.

**Informational Testimony**: None.

**Questions from Committee Members and Responses**:

***{Tape: 2; Side: B; Approx. Time Counter: 13.9 - 29.7}***
***{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.1}***

**SEN. HAWKS** asked **Ms. Stoll** if she felt that section 4 was an attempt to replace the Department of Environmental Quality. **Ms.** Stoll said that she felt so. **SEN. HAWKS** questioned **Mr. Morris** about the rational in replacing the DEQ with scientific study. **Mr. Morris** answered that the state did not have a role in local sewer districts. **SEN. HAWKS** asked if the state's expertise was not an asset. **Mr. Morris** responded that the expertise was an asset but DEQ had a lot to do and did not need to be involved. He felt that a protest should only be overridden based on scientific evidence.

**SEN. MANGAN** wanted to know what was the purpose of bringing back the original language on 26 through 30. **REP. RASER** answered that she had worked on the bill last session and asked sewer project engineers about the best language. The engineers arrived at and approved this language.

**SEN. MANGAN** asked **Mr. Morris** how counties currently overruled protests. **Mr. Morris** said that they do not overrule without good rational. The county commission would have to have evidence and facts. **SEN. MANGAN** wanted to know if they currently go find peer-reviewed scientific studies. **Mr. Morris** responded that it was not required but he assumed that it would be normal practice. He noted that the commission would need a compelling reason to even consider overriding a protest. He told the committee that the language was copied from another part of the code.

**SEN. O'NEIL** exited.

**SEN. SHOCKLEY** questioned the sponsor about her original intention. **REP. RASER** stated that the intention was to allow growth. **SEN. SHOCKLEY** commented that the amendments did not serve her purpose. **REP. RASER** contended that the bill simply required public hearings and for overruling to be based on fact and scientific evidence. **SEN. SHOCKLEY** asked if the DEQ said the septic systems were bad, why they should second-guess the DEQ. **REP. RASER** answered that they were not second-guessing, they just wanted rulings to be based in fact and verifiable evidence.

**SEN. HAWK** asked **REP. RASER** what happened if the DEQ or EPA identified a site but there was a protest. **REP. RASER** replied that they would need a study to override the protest. **SEN. HAWKS** said that the new amendments did not seem consistent. **REP. RASER** responded that she wanted to provide a process for overruling a protest and wanted a fact-based decision.

**SEN. WHEAT** wanted to know if **Mr. Morris** had any objections to striking subparts B and C. **Mr. Morris** said that he would be comfortable with that.

**SEN. WHEAT** questioned **Ms. Stoll** if she would be agreeable to striking subparts B and C. **Ms. Stoll** answered that she would and her only other problem would be with the method of valuation.

**SEN. LAIBLE** asked **Ms. Stoll** if the state was opening itself up for litigation because they would be making RIDs so difficult. **Ms. Stoll** stated that she hated setting the bar so high. **SEN. LAIBLE** gave a hypothetical situation of one large land owner wanting a sewer line and his two neighbors could protest and block the RID. **Ms. Stoll** said that would be accurate. **SEN. LAIBLE** asked if they would be happier if the committee amended out Paragraph 2, part C. **Ms. Stoll** answered that she thought so.

**SEN. LAIBLE** questioned for the sponsor if she would agree tot hat compromise. **REP. RASER** responded that the language came directly from the language in the business improvement district. She noted that business improvement districts still occur. She felt that the bill would just force developers to justify their improvements and pick up more of the assessed costs. **SEN. LAIBLE** asked whether the other residents would pick up a percentage ratio. **REP. RASER** answered that they would, it would be proportionate to the land ownership.

**Closing by Sponsor**:

***{Tape: 3; Side: A; Approx. Time Counter: 6.1 - 8.2}***

**REP. RASER** stated that sewers were necessary and expensive. She said that the bill was not intended to block RIDs but to address rural concerns. She noted that RIDs should show whether they are in the public interest or the developers interest. **REP. RASER** went over **SEN. WHEAT**'s proposed amendments. She wanted decisions to be based on fact and evidence. **REP. RASER** said that if systems were failing, people would want them fixed. She stated that the question was about forced infrastructure and protecting people's rights.

**ADJOURNMENT**

Adjournment: 5:31 P.M.

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SEN. JEFF MANGAN, Chairman

_____
JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

**EXHIBIT(los63aad0.PDF)**