

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JOHN C. BOHLINGER**, on February 19, 2003 at 12:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John C. Bohlinger, Chairman (R)
Sen. John Esp, Vice Chairman (R)
Sen. Brent R. Cromley (D)
Sen. Kelly Gebhardt (R)
Sen. Bill Glaser (R)
Sen. Rick Laible (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: Sen. Jeff Mangan (D)
Sen. Jim Elliott (D)
Sen. Jerry W. Black (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Phoebe Olson, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted:
Executive Action: SB 326; SB 340; SB 393; SB 426

EXECUTIVE ACTION ON SB 393

Motion: SEN. JOHN ESP, SD 13, Big Timber moved that SB 393 DO PASS.

SENATOR KELLY GEBHARDT, SD 4, Roundup said he thought it was a good bill. He maintained it allowed them an extra avenue to dispose of property at the best possible price they can get for it.

SENATOR MIKE WHEAT, SD 14, Bozeman asked Senator Gebhardt to explain the bill.

SENATOR GEBHARDT, said for example if the county had a piece of land that was completely land locked by Senator Glaser land, obviously he would be the highest bidder on that land at a auction. This would allow the county to at least have the land appraised and ask a reasonable price for the land.

SENATOR RICK LIABLE, SD 30, Victor asked if this would assist the counties in maximizing the most amount of dollars from their assets.

SENATOR GEBHARDT, said he thought if they could not negotiate a deal with someone they could still sell it at action and take whatever they can get for it.

Vote: Motion carried 10-0. Senator Mangan and Senator Black voted by proxy.

EXECUTIVE ACTION ON SB 426

Motion: SEN. ESP moved that SB 426 DO PASS.

SENATOR GEBHARDT said he thought it was a good bill. He thought the proponents made a good point, if you buy a lot in town, you should not have to subsidize low income housing in that town. That should be the duty of everyone who lives in the town, not just someone who was building a house.

SENATOR WHEAT, said he did not like the bill. He said it was designed for Bozeman and a few specific developers. He thought it was not a good idea to get in the business of passing a bill to deal with one little segment of what was happening in one area.

He said the proponents were all from Bozeman and the opponents were from all over the state. He thought it went to far, and he did not like it.

SENATOR CAROLYN SQUIRES, SD 34, Missoula said she had lived through a period of time bringing forth annexation bill after annexation bill. She maintained she was always told to deal with the problem locally. She said she had a lot of scars from that particular issue, and Representative Gould at that time was able to keep them out of the annexation problem in Missoula, but it did occur, and again she believed these things needed to be settled at the local level and she was not in favor of this bill.

SENATOR ESP, said he would support the bill. He thought local governments should have the right to impose certain conditions on the provisions of streets and utilities and those kind of things, but believed it was the responsibility of the developer to help with the dedication of park land. He said he could not stretch to providing low income housing as the responsibility of someone developing property.

SENATOR LIABLE, said because he had not been there to hear the testimony he was basing his decision on the comments being offered and from reading the bill. It seemed to him that the requirements that dictate the participation of the developer in the NEXUS of proportionality to what that project is going impact a community would be covered in the subdivision regulations. He had a hard time that communities would use a NEXUS proportionality to have a developer build low income housing. He maintained that was not in direct relationship to his or her development. He said he would support the bill.

SENATOR SQUIRES, said she was amazed by the affordable housing. She said in here area they were doing more in fill than subdivisions. She said a 1400 square foot house for 118,000 dollars was unaffordable. She said if they added a whole bunch of fees to these houses it would get even worse. She said she could not support the bill.

Vote: The vote was tied. They held the vote open for **SENATOR JIM ELLIOT'S** vote.

EXECUTIVE ACTION ON SB 326

Motion: SEN. ESP moved that SB 326 DO PASS.

Motion: SEN. ESP moved that AMENDMENT SB032601.AMV DO PASS.

SENATOR ESP, said the amendment took out the mandatory vote and made it permissive. He said the bill generally revises laws relating to growth policy. He maintained it had a good hearing. He thought most of the committee understood what the bill did or did not do. He said the main objection in the hearing was that it required a mandatory vote and this amendment took care of that.

Vote: Motion **carried 7-0.**

Motion: **SEN. ESP** moved that **SB 326 DO PASS AS AMENDED.**

Motion: **SEN. WHEAT** moved that **AMENDMENT SB032601.ALK DO PASS.**

Discussion:

SENATOR WHEAT, said the purpose behind the amendments was to incorporate Jerry Sorenson's recommendations. He thought they addressed Senator McGee's worries that local governments are being sued because growth policies are considered regulatory. He said he wanted to make sure to keep language that said growth policies could not be used a regulatory documents. He said the amendment was designed to make that clear. He said the next amendment gave local governments clear discretion in dealing with the priority list. He thought the amendments also allowed a local government to simply amend an old master plan or comprehensive plan to meet the criteria in 76-601 rather than creating an entirely new growth policy. He said this would give local governments more time to implement growth policies, because it added the date October 1, 2006. He said he was trying to preserve the integrity of the growth policy statutes and still address the concerns of the various people.

SENATOR DAN MCGEE, SD 11 Laurel said he thought the amendments would do two things he did not want to do. First was take away the option to put a growth policy in place on a portion.

SENATOR ESP, thought the other substantial change was the extension of the time limit.

SENATOR MCGEE, asked if the amendments still required a growth policy to be regulatory.

SENATOR WHEAT, replied no. He said it made it not regulatory. He said it also made the list of requirements discretionary.

SENATOR MCGEE, asked about the date.

SENATOR WHEAT, said it extends the time to develop a growth policy.

SENATOR MCGEE asked if it still recognized a master plan or comp plan as growth policy.

SENATOR WHEAT, said they could incorporate those into growth policy.

SENATOR MCGEE, said he thought the amendments struck the definition of growth policy which would mean that a comprehensive plan or master plan.

Leanne Kurtz, replied they struck section one.

SENATOR MCGEE, so the entire definition of growth policy came out. He said that was an important consideration. He said one of the things they were trying to do was acknowledge that a master plan or comp plan constitutes a growth policy plan. He said the other thing the bill addressed was the planning department would be directly responsible to local government not a planning board. He wondered if that was addressed by the amendment.

SENATOR WHEAT, said he knew he had changed it to make them responsible to the commissioners.

Leanne Kurtz, stated these amendments did not do anything to section 3.

SENATOR MCGEE, said he did not believe this was the direction the people who had him bring the bill forward had in mind. He said if it was the wisdom of the committee to change the philosophy, he would ask them to keep in mind that it was supported by Billings County Planning Staff, Still Water County Planning Staff, Flathead County, and Great Falls. He thought it had broad support state wide. He said it would be his preference that the bill leave the committee the same way it came in with the exception of the amendment he had suggested to change the voting requirement.

SENATOR ESP, said he urged the committee to resist the amendments.

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SENATOR LIABLE, said he would resist the amendment. He said this bill would give county flexibility to do their jobs, and get community support.

SENATOR WHEAT, said he was not trying to take over the bill, but he had heard Senator McGee say, "you know this body passed this bill one or two sessions ago and now here we are tinkering with it again." He said they had heard testimony about the interim

study that put together growth policy. He said this body made it a policy to encourage our communities to make growth policy and he did not think they should gut them now. He thought his amendments responded to the cries of the communities for flexibility. He encouraged support for the amendments.

Vote: Motion **failed 6-4**. Senator Mangan and Senator Black voted by proxy.

Motion/Vote: SEN. ESP moved that **SB 326 DO PASS AS AMENDED**.
Motion carried 6-4.

EXECUTIVE ACTION ON SB 340

SENATOR ESP, asked in light of what they had just done with SB 326 if there was still a need for SB 340.

SENATOR WHEAT, said if the language was the same he did not see a need.

SENATOR BOHLINGER, asked Leanne to comment.

Leanne Kurtz, said section 76-1-605 is one of the common sections and she had prepared amendments to this bill that strike the word required on page 1 line 24 and insert the word authorized. She asserted that if the amendments Senator Grimes was interested in were adopted the section would be different than SB 340. She said subsection 2b would be stricken and on line 24 the word required would be stricken and the word authorized would be inserted.

SENATOR ESP, asked what bill she was referring to.

Leanne Kurtz, said SB 340.

SENATOR BOHLINGER, reiterated Leanne's comments.

Leanne Kurtz, replied he was correct, she also did not think SB 326 dealt with section 76-3-504 which was section 3 of this bill. She believed with the amendments the two bills would be different.

Motion: SEN. GEBHARDT moved that **SB 340 DO PASS**.

Motion: SEN. WHEAT moved that **AMENDMENT SB034002.ALK DO PASS**.

Discussion:

Leanne Kurtz, said if these amendments were put on this bill and SB 340 would conflict in one section but that could be worked out somewhere down the line.

SENATOR ESP, moved a conceptual amendment that on page 1, line 24 the word required be changed to authorized. **DO PASS.**

Leanne Kurtz, said then the difference between the two bills would be section 3.

SENATOR GEBHARDT, clarified there would still be a difference in section three of the bill.

SENATOR ESP, said he thought they could handle that on the floor.

Vote: Motion carried 8-0.

Motion/Vote: SEN. GEBHARDT moved that SB 340 DO PASS AS AMENDED. Motion carried 6-4 with BLACK, CROMLEY, ESP, and SQUIRES voting no.

Motion: SEN. WHEAT moved that SB 293 DO PASS.

Motion: SEN. WHEAT moved that AMENDMENT SB029301.ALK DO PASS.

SENATOR WHEAT, started to explain his handout. **EXHIBIT(1os37a01)**

SENATOR BOHLINGER, stated this looked to complicated for the amount of time the had and they postponed action until Thursday.

ADJOURNMENT

Adjournment: 1:00 P.M.

SEN. JOHN C. BOHLINGER, Chairman

PHOEBE OLSON, Secretary

JB/PO

EXHIBIT(los37aad)