

**MINUTES**

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

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN JOHN C. BOHLINGER**, on March 31, 2003  
at 4:05 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

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

**Members Excused:** None.

**Members Absent:** Sen. Jim Elliott (D)

**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 368

**EXECUTIVE ACTION ON SB 368**

**SENATOR JOHN BOHLINGER** asked **SENATOR GLASER** to explain the sub-committees work.

**SENATOR BILL GLASER** said that they had told the two parties to get together and talk about the bill, they spent a great amount of time working on it and came back to the committee with a lot of agreement and a few disagreements. The first thing they had disagreements on were the definitions and the second was a time line. He said the subcommittee put in their definition and added a cap to it. The amendments were in front of the committee. He maintained the parties were not in absolute concurrence with it, but he did not know if they would ever be. He suggested the committee pass the amendments and send the bill to the house and let them, and the interested parties, to continue to work on the bill. He said if the bill was not acted upon this day a lot of hard work would go down the drain.

**SENATOR MIKE WHEAT** said he agreed with **SENATOR GLASER'S** recommendation to the committee. He said there were a couple of things that the cities did not like about the amendments, but he thought the amendments should be put on and go from their.

**SENATOR JOHN BOHLINGER** said SB 368 in its original form would have allowed certain impact fees to be permissible. He said development of roadways and streets were essential, sewer and water are essential. He maintained that the amendments that were crafted expanded that list of essential components. He wondered if they would discuss what had been added to the list.

**SENATOR WHEAT** said the committee should look at page 3 of the amendments under instruction 19, it would tell them.

**SENATOR GLASER** said the primary item of contention was how parks were handled. He said the other significant item was on page 6 where they had capped the fees at \$2.50 per square foot for residential and \$10.00 a square foot for commercial.

**SENATOR BOHLINGER** asked the committee to look at amendment 19 on page 3. He went through them one at a time and asked if the committee had any comment. **EXHIBIT (1os68a01)**

**SENATOR CAROLYN SQUIRES** asked if amendment 19(c) included sidewalks.

**Clark Johnson** replied the on sight installation of sidewalks was usually part of the development. Normally when you build a street

in a transportation plan, you have some that include sidewalks and some don't.

**SENATOR BOHLINGER** went on to item (d).

**SENATOR SQUIRES** read a letter from Mayor Kadas on that subject.  
**EXHIBIT (1os68a02)**

**SENATOR BOHLINGER** went on to item (e).

**SENATOR JOHN ESP** asked if the logic behind that was land acquisition was part of subdivision review.

**SENATOR WHEAT** replied that was correct.

**SENATOR ESP** asked if they were talking about equipment and landscaping of parks.

**SENATOR WHEAT** replied it was his understanding it was only land acquisition.

**SENATOR RICK LAIBLE** said he read it differently. He maintained that in existing statute there is a formula for how much land is going to be donated as part of the development. He read this to include a completed park, that included the land covered under the other statute.

**SENATOR GLASER** said this was improvements on parks.

**SENATOR SQUIRES** read what Mayor Kadas wrote in his letter regarding this. See exhibit two.

**SENATOR GLASER** said there was not an agreement on this issue at the current time.

**Alec Hanson** passed out the letter from Mayor Kadas to the whole committee.

**SENATOR Bohlinger** asked if there were further comments on the amendment that dealt with the inclusion of parks.

**SENATOR LAIBLE** asked what they were doing with parks.

**SENATOR BOHLINGER** replied the amendment would say impact fees could be used for parks; excluding the cost of land acquisition.

**SENATOR LAIBLE** asked what the scope of that would be.

**SENATOR GLASER** said the folks in Missoula wanted to include open spaces and other things consistent with the communities capital improvement program. The building people don't like that parks are in there at all.

**SENATOR LAIBLE** said it would be difficult for a developer, because they would not know what the cost would be. How do they give them land for a park and then development the park to some unknown scope of completion.

**SENATOR GLASER** pointed to the cap on the bill.

**SENATOR WHEAT** said these impacts fees would only be charged after the city had undertaken to develop a facilities plan. They can only charge these under that plan, and they have to provide for Nexus and proportionality. They have to show the connection to the development and the proportionality. The cap is what they can charge after the whole process is finished.

**SENATOR LAIBLE** asked if a development went in with 20 houses at 2000 square feet a piece, the way the math would work you would have \$5,000.

**SENATOR WHEAT** replied that would be the cap, but they would still have to establish what the fee would be in the facility plan.

**SENATOR GEBHARDT** asked if the \$2.50 was on the lot or the building.

**SENATOR WHEAT** replied it was on the building.

**SENATOR MANGAN** commented that the subcommittee had put together some substantial amendments. He thought the main issue was whether local governments had enough flexibility. He did not think it would be a good idea to segregate the amendments.

**SENATOR BOHLINGER** said he believed that both parties had something to gain from this legislation. He said the bill with the amendments should be kept alive so there would be a chance to bring to the House a bill that will accomplish something for both entities.

**SENATOR ESP** asked if the bill had been moved.

**SENATOR BOHLINGER** said the bill was just here.

**Motion:** SEN. ESP moved that SB 368 DO PASS.

**Motion:** SEN. ESP moved that SB 368 BE AMENDED.

**Discussion:**

**SENATOR GLASER** maintained there were four things that the two parties were not in 100% concurrence on. Those were the parks and open spaces in the definition, the amount of the fees or the cap; the distance from a city that this would encompass; and finally the time you have to commit the money.

**Vote: Motion carried unanimously.**

**Motion: SEN. ESP moved that SB 368 DO PASS AS AMENDED.**

**Discussion:**

**Leanne Kurtz** asked if there was any interest in the amendment that was passed out at the hearing to exempt non-profit corporations.

*{Tape: 1; Side: B}*

**SENATOR GLASER** thought everyone should pay their share. He maintained that the cities had the option not to charge a fee. He said if no one moved the amendment it would die.

**SENATOR MANGAN** said he appreciated the work of the subcommittee, but he felt it restricted local government to much. He hoped they could work it out in the house, but he thought they were tying hands. He hoped the subcommittee would have looked at section four and moved on. He felt it was too restrictive.

**SENATOR CROMLEY** asked who the proponents and opponents of the bill were.

**SENATOR GEBHARDT** read him the list.

**SENATOR GLASER** asserted the opponents and proponents were the ones that had worked extensively on the amendments to the bill.

**SENATOR WHEAT** said the subcommittee took everything the proponents and opponents had agreed upon and plugged them into the amendments. Then they plugged in the things they did not agree on.

**SENATOR BOHLINGER** said that he knew the subcommittee had met with all the entities concerned and tried to come to agreements. He believed compromises had been made.

**Vote: Motion carried 6-4 with CROMLEY, GEBHARDT, MANGAN, and WHEAT voting no.**

**ADJOURNMENT**

Adjournment: 4:40 P.M.

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SEN. JOHN C. BOHLINGER, Chairman

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PHOEBE OLSON, Secretary

JB/PO

**EXHIBIT (1os68aad)**