MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 40

Call to Order: By **CHAIRMAN BOB HAWKS**, on April 14, 2005 at 5:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. Bob Hawks, Chairman (D)
Sen. Kelly Gebhardt (R)
Sen. Dan McGee (R)
Rep. Debby Barrett, (R)
Rep. Emelie Eaton (D)
Rep. Teresa K. Henry (D)
Rep. Wayne Stahl (R)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Lois O'Connor, Committee Secretary

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

Committee Business Summary:
Hearing & Date Posted: SB 40, 4/12/2005
Executive Action: SB 40

CONFERENCE COMMITTEE HEARING ON SB 40

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SEN. BOB HAWKS, SD 33, requested that **SEN. DANIEL MCGEE, SD 29,** provide a brief history of SB 40.

SEN. MCGEE said that when a subdivision is created in Yellowstone County, the Yellowstone County Commissioners require a conditional approval that includes the creation of a Rural Special Improvement District (RSID). Under current law, counties must advertise the formation of the RSID and allow for periods of objections. However, the objections are limited to the citizens who will be residing in the RSID or the RSID boundary.

SEN. MCGEE stated further that when an individual owns the land and must create a RSID for the purpose of meeting the subdivision requirements, there is 100% participation in the formation to that RSID. Following discussions with the Yellowstone County Commissioners and the Montana Association of Counties (MACo) regarding RSIDs, SB 40 was amended to clarify that any creation of a RSID where there is 100% participation in requesting the formation of the district, the creator of the RSID would not have to go through the advertising and opposition periods. SB 40 shortens the process by two to three months.

He added that when SB 40 reached the House, it amended the bill to require that, even though the Commissioners are going to approve a RSID, an opposition period will still be allowed for people who do not reside in the district. He said that the intention of SB 40 was to shorten the timeframe for the formation of a RSID.
SEN. MCGEE requested that the House amendments to SB 40 be stricken and that the bill be returned to its original language.

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REP. WAYNE STAHL, HD 35, said that the House Local Government Committee requested an amendment to allow for a public hearing because if a RSID failed, counties would be responsible for any improvements or debts incurred on the RSID. **Susan Fox, Legislative Services Division (LSD),** said that was the direction the Committee was headed when SB 40's language got into trouble. The Committee decided to strike Section 2, while leaving the hearing provisions intact. It chose the simple route of striking the exception to a hearing rather than constructing new language regarding holding a public hearing.

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Motion: SEN. MCGEE moved that the House amendments to SB 40 be rejected and to further amend SB 40 to return it to its original language.

Discussion:

REP. TERESA HENRY, HD 96, said that her concern is that the House Local Government Committee unanimously agreed to the amendments.

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REP. STAHL said that the point of the amendment was that, if counties can still be responsible for the RSID, at a regularly scheduled meeting, county commissioners should notice the hearing so that people who do not reside in the RSID have input because they may ultimately be responsible for the RSID if it fails. **SEN. MCGEE** said that a RSID is a vehicle by which counties can tax the people within the district. Nothing can be done to the residents outside the RSID because current law does not apply. Whether the district be a lighting district or sidewalks, only the residents of the district can be taxed under the RSID.

Harold Blattie, MACo, said that **REP. STAHL'S** concern about a "RSID failing" refers to the subdivision developer failing in the attempt to form the RSID. The cost or annual assessment will become a lien on the property and ultimately collected. He knows of no mechanism that the general taxpayers or county would assume the responsibility for the RSID. It is clearly a lien on the subdivision property.

REP. STAHL commented that when the Glasgow Air Force Base shut down, there were many subdivisions in the outskirts of Glasgow that were abandoned when the Air Force Base left. The residents, when living in the subdivision, had to pay for the lighting and streets. However, when the people in the subdivisions left, the rest of the residents of Glasgow had to finish paying for them. Under that circumstance, he felt it fair that the remaining residents have the opportunity to voice their opinions because the county, as a whole, is responsible for RSIDs if they fail. He added that he would have no objection to the motion if his concerns could be covered in law.

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SEN. KELLY GEBHARDT, SD 23, said that the only way that the general electorate can become responsible for paying the RSID is if the property goes for tax deed. The county then becomes liable for the RSIDs on that property to clear the title of the property to sell. Most of the property will be worth more than the RSID

amount due on it. **Ms. Fox** cited 7-12-2163, MCA, indicating that **SEN. GEBHARDT** was correct in his assessment.

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SEN. MCGEE said that the tax burden remains on the land no matter who has to dispose of it. When a subdivision and a road system, etc., within that subdivision is created, counties do not want the responsibility to maintain it. In Carbon County, there have been a few subdivisions that transferred title to the Homeowners Association for road maintenance and have defaulted reverting it back to the county. Since the county did not have a RSID in place, it could not tax the landowners without the creation of a RSID. Yellowstone County is requiring a RSID up front. If a landowner owns the entire piece of property, why would the County want to make it a 2- or 3-month process for a landowner to receive approval for a RSID when the person is a 100% landowner creating the RSID.

SEN. HAWKS said the notification requirements for a hearing are two weeks. He asked what, in addition to the 2-week hearing notice, would be tacked on to stretch the approval time out. **SEN. MCGEE** said that the subdivision would first have to be created, then it has to be noticed, followed by the objection period, and the passage of the resolution.

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Mr. Blattie said that there are two successive weeks for public notification. Rural counties only have a weekly paper. If the publishing deadline is missed, a week is lost. Although statute is specific about a time period to file for an application, often times, circumstances extend the period of time to get things put together.

Referring to previous concerns, **Mr. Blattie** added that when the public entity holds the tax lien, the taxes do not get paid by the public entity. Fees, such as light district fees, are added to the lien. When the property is ultimately sold, the fees are collected at that time and revert back to the coffers from which they came.

SEN. HAWKS said that the question is notification of individuals outside of a subdivision. He asked what approvals may impact surrounding properties in such a way that those individuals should be noticed for certain types of RSIDs. **Mr. Blattie** was unsure of any other approval that may infringe on individuals outside the boundaries of the subdivision other than light. Even if allowing for publication and public hearing, the bottom line

is that no amount of public input is going to overcome the creation of that district because they do not have standing to protest its creation.

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SEN. GEBHARDT said that as a former county commissioner, he knew of three instances in his area involving RSIDs that were situations of circumstance. He thought nothing wrong with the motion. If a landowner owns a section of land and wants to subdivide it, and if the landowner want to be responsible for the streets and lots, the landowner will recover all of the costs as he or she sells the lots. He felt it an advantage to the community to continue with the project not an adverse effect.

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SEN. HAWKS asked if Committee members remembered the discussion by **REP. MIKE JOPEK, HD 4,** who amended SB 40. **REP. STAHL** said that, being on the Planning Board of Whitefish, **REP. JOPEK** felt that the RSID could ultimately affect the people who may have to pay the bill. He felt that they should have at least one chance to be noticed. The House Committee on Local Government tried to make it as simple as it could.

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SEN. MCGEE reminded the Committee that all it is talking about is the mechanism which county governments can use to tax the land within the district. The district had to be the same boundary as the subdivision boundary. It is only the land within the subdivision that would be affected by what county commissioners are requiring.

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REP. EMELIE EATON, HD 58, asked who would be inconvenienced by lengthening the notification process and how often did the problem occur. **SEN. MCGEE** said the owner of the property or the person trying to develop the land would be inconvenienced, and the problem arises in every RSID case.

REP. DEBBY BARRETT, HD 72, commented that **REP. JOPEK** did not give specifics about the amendment.

Vote: SEN. MCGEE'S motion passed unanimously on a roll call vote.

ADJOURNMENT

Adjournment: 5:30 P.M.

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SEN. BOB HAWKS, Chairman

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LOIS O'CONNOR, Secretary

DB/BH/lo

Additional Exhibits:

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