

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN MARK NOENNIG**, on February 18, 2003 at 3:00 P.M., in Room 472 Capitol.

**ROLL CALL**

**Members Present:**

Rep. Mark Noennig, Chairman (R)  
Rep. Scott Mendenhall, Vice Chairman (R)  
Rep. Arlene Becker (D)  
Rep. Rod Bitney (R)  
Rep. Larry Cyr (D)  
Rep. Ronald Devlin (R)  
Rep. Gary Forrester (D)  
Rep. Ray Hawk (R)  
Rep. Hal Jacobson (D)  
Rep. Jesse Laslovich (D)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Penny Morgan (R)  
Rep. Alan Olson (R)

**Members Excused:** Rep. Eileen J. Carney, Vice Chairman (D)  
Rep. Holly Raser (D)

**Members Absent:** None.

**Staff Present:** Linda Keim, Committee Secretary  
Connie Erickson, Legislative Branch

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

The time stamp for these minutes appears at the beginning of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: HB 512, HB 517, HB 520, 2/11/2003  
Executive Action: HB 416, HB 298, HB 426, HB 249, HB 442, HB 520

**EXECUTIVE ACTION ON HB 416**

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 13.2}*

**Motion/Vote:** REP. DEVLIN moved that **HB 416 DO PASS. Motion carried unanimously** 16-0, on a voice vote. The Committee voted to recommend placing HB 416 on the consent calendar.

**EXECUTIVE ACTION ON HB 298**

**Legislative Staffer Connie Erickson** stated that an amendment (Exhibit 1) was adopted on 2/13/03.

**EXHIBIT** (loh36a01)

**Motion:** REP. JACOBSON moved that **HB 298 DO PASS AS AMENDED.**

**Motion:** REP. JACOBSON moved that **HB 298 BE FURTHER AMENDED.**

**Legislative Staffer Connie Erickson** explained the amendment.

**EXHIBIT** (loh36a02)

**Vote:** Motion passed 15-1 with REP. LASLOVICH voting no.

**Motion:** REP. DEVLIN moved that **HB 298 DO PASS AS AMENDED.**

**Discussion:**

**REP. BECKER** suggested striking the amendment (Exhibit 1) that was a DO PASS on 2/13/03. She said that local governments should have the option of establishing a fee.

**REP. MAEDJE** suggested amending HB 298 to say "fees commensurate with costs."

**REP. LAWSON** said that amending the bill to say "fees commensurate with costs" would be a friendly amendment.

**Substitute Motion/Vote:** REP. LAWSON made a substitute motion **TO RECONSIDER PREVIOUS ACTION AND STRIKE THE PREVIOUS AMENDMENT** (Exhibit 1). Substitute motion carried unanimously, 16-0.

**Motion:** REP. DEVLIN moved that **HB 298 DO PASS AS AMENDED.**

**REP. MAEDJE** suggested changing the language to read "costs not to exceed \$200."

**Motion/Vote:** REP. MAEDJE moved that **HB 298 BE AMENDED. Motion failed 2-14** with REPS. MAEDJE and MENDENHALL voting aye.

**Vote:** Motion that **HB 298 DO PASS AS AMENDED** carried unanimously, 16-0 on a voice vote.

**HEARING ON HB 520**

***{Tape: 1; Side: A; Approx. Time Counter: 13.2 - 30}***

**Sponsor:** REP. RON ERICKSON, HD 64, MISSOULA

**Opening Statement by Sponsor:**

**REP. ERICKSON** explained HB 520, an act creating the Blue Ribbon Committee on Affordable Housing. The act establishes membership, duties and responsibilities of the Committee, requires a Committee Report, implements an immediate effective date, and stipulates a termination date of 6/30/2005.

**Proponents' Testimony:**

**Peter Hansen, Missoula Housing Authority,** stated that the private market needs to get involved. He said the concern is that there are impediments to getting the private market involved. He stated that incentives are needed, that what worked in other jurisdictions may not work in Missoula. Mr. Hansen said that a way is needed to look at the trust fund and make sure that funding is in good shape.

**Judy Smith, HOMEWARD,** said that a major problem is land availability. She said that a possible incentive would be to eliminate hook-up fees.

**Roger Halver, Montana Association of Realtors,** said that the National Association of Realtors and the Housing Opportunity Program work to develop, allocate, promote business opportunity programs, acquire products and resources, and expand housing availability to ensure that an adequate supply of housing opportunities is on the market.

**Stuart Doggett, Montana Manufactured Housing and Recreational Vehicle Association,** spoke in favor of HB 520.

**Al Littler, Billings Citizen,** said that "affordable housing is as elusive as good jobs." He stated that decent affordable housing is needed across the state so that it can be coupled to economic development.

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.4}***

**Tim Davis, Montana Smart Growth Coalition**, spoke in support of HB 520 and asked everyone to work together for a good cause.

**Joe Roberts, representing Human Resource Development Council (HRDC)**, said that HRDC participates in providing low income and affordable housing throughout the state. He said that HRDC has ideas on how the process can be improved, and would like to participate.

**Lani Candelora, Executive Director, Montana Catholic Conference**, spoke in support of HB 520. She said that housing availability contributes to poverty in Montana.

**Opponents' Testimony:** None

**Informational Testimony:**

**Bruce Brensdaal, Division Administrator, Department of Commerce**, stated that he was available for questions.

**Questions from Committee Members and Responses:**

**REP. JACOBSON** asked if Montana Manufactured Homes would be another possible participant on the Committee. **REP. ERICKSON** said that an 11-person committee is possible. **REP. JACOBSON** suggested that having someone from the engineering and the architectural communities would be a good addition to the Committee. **REP. ERICKSON** said that a committee could get too large to be workable. He stated that the Blue Ribbon Committee would make sure that there were open hearings available for the public to make comment at.

**Closing by Sponsor:**

**REP. ERICKSON** thanked the committee and asked for a DO PASS.

**HEARING ON HB 517**

*{Tape: 1; Side: B; Approx. Time Counter: 5.8 - 28}*

**Sponsor:** **REP. BILL WILSON, HD 46, GREAT FALLS**

**Opening Statement by Sponsor:**

**REP. WILSON** said that HB 517 will correct a situation that resulted from HB 124 which was passed in the 2001 Legislature. **REP. WILSON** stated that HB 124 unintentionally altered the ability of an Airport Authority to levy mills which affects Great

Falls, as well as Helena, Missoula, Butte, and Malta. In the past, Great Falls Airport had the ability to levy two mills in the county, and two mills in the city, but Great Falls has not levied any mills since 1991. He stated that Great Falls does not plan to levy any mills currently, and explained that an unintended consequence of HB 124 was that an airport's ability to levy mills was hampered. HB 517 authorizes mill levies for airports that have not made a request in the prior two years.

**Proponents' Testimony:**

**Debra Kottel, Chair of the Great Falls International Airport Board,** said that airports that have lost the right to levy mills are now in monetary default, since the mills are used as security. The result is that banks are recalling bonds. If an airport is considering issuing more bonds, the airport loses the bond rating because the bonds are unsecured. She said that there is an ambiguity in the law. The Great Falls airport's attorney says airports can levy inside the cap of the city and the county, but the Attorney General issued an Opinion letter that did not agree.

**Cynthia Schultz, Director, Great Falls International Airport,** said there are 13 Airport Authorities and 120 airports in Montana. The majority of the independent authorities were created with levying authority. Six of the top seven airports are affected by this bill. Billings is not affected because it is a "state" airport. Great Falls and Missoula have two current bond issues that are in noncompliance because airports no longer have the ability to levy mills.

**Ms. Schultz** said that airports that are financially healthy do not have an incentive to quit taking tax dollars. Kalispell and Butte have lost the incentive to quit and are still assessing their mills. If airports quit assessing mills, that ability is forfeited forever under HB 124.

Bond ratings are greatly improved and airports are able to obtain a better interest rate with the ability to assess mills. Bond ratings for airports have taken a severe blow since the 9-11 disaster. Economic growth and stability of communities is greatly restricted without HB 517.

**Tom Ebzery, Montana Independent Airport Managers Association,** stated that a levy is not likely, and that the ability to levy mills will not be abused. He asked for a DO PASS to correct the situation that resulted from HB 124 in 2001.

**Opponents' Testimony:** None

**Informational Testimony:**

**Deb Alke, Administrator for the Aeronautics Division of the Department of Transportation**, said that she was available for questions.

**Questions from Committee Members and Responses:**

**REP. LAWSON** asked if an immediate effective date would be necessary. **REP. WILSON** commented that an immediate effective date might be better.

**REP. MENDENHALL** asked if the security for the bonds is the right to levy mills. **Debra Kottel** said that the right to levy mills is one of many securities. **REP. MENDENHALL** asked if the loss of the right to levy creates a bond-rating litigation issue. **Debra Kottel** said that the loan could be called due because of the failure of the security. A copy of the Attorney General's Opinion was provided for the record.

**EXHIBIT (loh36a03)**

**CHAIRMAN NOENNIG** asked for an explanation of HB 124 as it relates to airports. **Debra Kottel** gave an explanation, and said that anytime the airport needs funds, the airport could ask the city or the county to take the money from their General Revenue fund and the city or the county would have no way of getting the money back. Without clarification from the legislature as to what their intent was, the issue would have to be decided in court.

**CHAIRMAN NOENNIG** asked if there was an unlimited ability to levy. **Debra Kottel** stated that the ability is two mills to the city, and two mills to the county and cannot be increased. She said that the Great Falls Airport became self-sufficient in 1991 and stopped asking for funds. Their levy was in effect since 1984.

**REP. JACOBSON** asked if Billings was affected. **Debra Kottel** confirmed that Billings was not affected.

**Closing by Sponsor:**

**REP. WILSON** thanked the Committee for a good hearing and said that there are differing legal opinions that need clearing up.

**HEARING ON HB 512**

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 17}*

**Sponsor: REP. JOHN SINRUD, HD 31, BOZEMAN**

**Opening Statement by Sponsor:**

**REP. SINRUD** said that HB 512 authorizes revision of the boundaries of a zoning district upon petition of 60 percent of the freeholders in the affected area. This bill has the potential to extend zones of existing districts. He presented an amendment. **EXHIBIT (loh36a04)**

**Proponents' Testimony:**

**Jennifer Madgic, Gallatin County Planning Director**, spoke in favor of HB 512.

**Mona Jamison, Lobbyist for Gallatin County**, asked for a DO PASS. She said that "the citizens who have land get together, and if they don't want it, it won't happen." She stated that HB 512 deals with 101 and 201 in statute, and the same procedures are used to add as to create, that there is nothing new.

**Al Littler, Yellowstone County Zoning Committee**, spoke in support of HB 512.

**Roger Halver, Montana Association of Realtors**, asked for support of HB 512.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MAEDJE** asked why the language was permissive in Section 1. **Mona Jamison** replied that may just be the way it was drafted. "But if the 60% is met, why not use 'shall'?"

**REP. LAWSON** asked if a second opinion was sought. **Jennifer Madgic** replied (tape inaudible).

**CHAIRMAN NOENNIG** referred to Statutes 101 and 201 and asked where the expansion procedure is found. **Mona Jamison** said that the 201 expansion procedure is in the statute. She deferred to Ms. Madgic for further information. **Jennifer Madgic** said that Statute 201 contains top-down ability, and Statute 101 covers citizen initiation of a petition. She said that this bill gives additional options for revising zoning districts.

**Closing by Sponsor:**

**REP. SINRUD** thanked the Committee and said that HB 512 will streamline the planning and zoning process.

**EXECUTIVE ACTION ON HB 426**

*{Tape: 2; Side: A; Approx. Time Counter: 18 - 30}*

**Motion:** **REP. MORGAN** moved that **HB 426 DO PASS.**

**Motion:** **REP. MORGAN** moved that **HB 426 BE AMENDED.**

**Discussion:**

**REP. MORGAN** explained the amendment (Exhibit 5). She said that the amendment narrows the bill as relates to the cost-factor and protects citizens.

**EXHIBIT (loh36a05)**

**REP. MAEDJE** asked for an explanation of how the third amendment works and whether ambulances or the fire department would be affected. **REP. MORGAN** explained that the exemption for a public safety facility or service would apply.

**REP. MAEDJE** commented that "a service operated by the county" is so broad that it could cover most anything. **REP. MORGAN** explained that the amendment specifies "public health or public safety facility or service."

**REP. JACOBSON** asked how the county would administer item three and if the county would need additional staff? **REP. MORGAN** said that additional staff would not be needed unless counties build a facility that competes with the private sector.

**REP. JACOBSON** asked if this prohibition applies only to counties. **REP. MORGAN** said that the prohibition also applies to municipalities.

**CHAIRMAN NOENNIG** asked why there is a difference between counties and municipalities. **REP. MORGAN** explained that it was done because opponents to the bill objected that there was no distinction between counties and municipalities.

**REP. LAWSON** commented that there are gravel pits in cities also.

**REP. MORGAN** said that the language change for municipalities is in the amendment.



*{Tape: 2; Side: B; Approx. Time Counter: 0 - 30}*

**Substitute Motion:** REP. MAEDJE made a substitute motion that HB 426 BE AMENDED.

**Discussion:**

REP. MAEDJE explained that his conceptual motion would insert counties and municipalities together. It would make the requirements the same for both. **Legislative Staffer Connie Erickson** stated that it will not work to have counties and municipalities together. She said that the language must be repeated.

**CHAIRMAN NOENNIG** asked if there was any reason why item five requiring the governing body to "present its plan at a public hearing" could not apply to counties. **CHAIRMAN NOENNIG** asked, "Who decides whether the plan is effective?" He said that he thinks that the county is also deciding. The county is presenting, holding a public hearing, and also deciding whether the plan is effective. **Connie Erickson** responded (inaudible).

REP. MORGAN commented that making the amendment change to have amendments five and three read the same would be good. She said that change would add the requirement for an itemized list of costs to amendment five. She expressed her support for the conceptual amendment.

**CHAIRMAN NOENNIG** explained REP. MAEDJE's conceptual amendment.

**Vote:** Conceptual amendment to HB 426 carried 14-2 with JACOBSON and LAWSON voting no.

**Motion:** REP. MAEDJE moved that HB 426 DO PASS AS AMENDED.

**Discussion:**

REP. OLSON asked how the amended bill would work for county campgrounds. REP. MORGAN said that county campgrounds would not be affected.

REP. BECKER said that existing facilities would not be affected.

**CHAIRMAN NOENNIG** explained that there are two parts to the bill as amended. One is the procedure by which the entity can provide a service that does not affect public health or safety or that can be done less expensively. He said that cost has to be

established. The second part is the itemized types of facilities that can be established, as enumerated in amendment five.

**Connie Erickson** gave a further explanation of the bill.

**REP. MAEDJE** asked who would pay for all this. **REP. MORGAN** answered that costs would be borne by the county government, not by the private sector.

**REP. RASER** asked if there would be a cost for the users. **REP. MORGAN** said that museums may or may not charge admission. She said that a private business needs protection and that a public hearing would be held to see if there were objections.

**REP. RASER** voiced concern about unintended consequences such as governments supplying copy machines, etc. that compete with private businesses. **REP. MORGAN** said that they already exist.

**CHAIRMAN NOENNIG** asked why amendment five only allows these types of recreational facilities to be added to city parks. **REP. MORGAN** said that it was because that was probably the only place that recreational facilities would be added.

**CHAIRMAN NOENNIG** commented that there are municipally-owned ice rinks. **REP. MORGAN** said that a public ice-skating rink that freezes water on the ground is not a business entity, but a water slide is a physical asset.

**REP. LAWSON** commented that motel swimming pools are rented out to the public. **REP. MORGAN** spoke about health clubs that have swimming pools.

**REP. FORRESTER** asked about the possibility of a city or county establishing another golf course. **REP. MORGAN** said that adding a golf course would be possible depending upon the circumstances. **REP. BITNEY** commented that an interim study would be helpful.

**Vote:** Motion that **HB 426 DO PASS AS AMENDED** carried 9-7 with **REPS. BECKER, CARNEY, CYR, JACOBSON, LASLOVICH, LAWSON, and RASER** voting no by roll call vote.

#### EXECUTIVE ACTION ON HB 249

**Motion/Vote:** **REP. OLSON** moved **HB 249** be taken off the table. Motion carried 10-5 with **REPS. BECKER, CYR, FORRESTER, LASLOVICH, and RASER** voting no by roll call vote.

**Motion:** **REP. OLSON** moved that **HB 249 DO PASS**.

**Discussion:**

**REP. OLSON** said that he wanted to re-refer HB 249 to the Appropriations Committee. **REP. RASER** commented that the Fiscal Note indicates that the money for this comes from the General Fund. **REP. OLSON** said that the money comes from the FWP Habitat Fund.

**REP. MENDENHALL** objected that he is not in favor of automatically designating where the money for this program comes from as that is not a local government decision. He commented that he does like the bill.

**REP. MAEDJE** suggested darting the urban deer and moving them.

**REP. RASER** asked when a re-referral could take place. **CHAIRMAN NOENNIG** stated it could be anytime before the second reading. **REP. OLSON** said that **REP. BARRETT** would make the decision about (tape inaudible).

*{Tape: 3; Side: A; Approx. Time Counter: 0 - 8}*

**REP. RASER** stated opposition to HB 249.

**REP. MAEDJE** referred to House Rule sub 30-50, 3(a)(1).

**REP. BECKER** asked about the Special Revenue Account from Fish, Wildlife and Parks. **REP. DEVLIN** explained the Special Revenue account.

**Vote:** Motion that HB 249 DO PASS carried 10-6 with REPS. BECKER, CARNEY, CYR, FORRESTER, LASLOVICH, and RASER voting no by roll call vote.

**Motion/Vote:** REP. (inaudible) moved to RECONSIDER HB 249. Motion failed 7-9 by roll call vote. REPS. BECKER, CYR, FORRESTER, LASLOVICH, RASER, CARNEY (by proxy), and MENDENHALL voted aye.

**EXECUTIVE ACTION ON HB 442**

*{Tape: 3; Side: A; Approx. Time Counter: 13.5 - 30}*

**Motion:** REP. RASER moved that HB 442 DO PASS.

**Discussion:**

**REP. RASER** said that HB 442 removes the exemption on voter approval for annexation of less than 300-parcels of land.

**REP.** (tape inaudible) stated that HB 442 would make annexation easier to force because of the waiver of protests. If the city wants annexation, they should bear the burden.

**REP. OLSON** spoke against HB 442.

**REP. HAWK** spoke in favor of HB 442.

**CHAIRMAN NOENNIG** explained that this bill would remove the requirement for property owner disapproval when annexing less than 300 parcels of land. HB 442 would give citizens the right to vote on the issue.

**REP. MORGAN** commented that not all property owners are registered voters and would not be able to participate in the process.

**REP. MENDENHALL** asked if the effect of HB 442 would be to nullify existing annexation waivers. **REP. RASER** said that the intent of HB 442 is to change the balance of power.

**REP. MENDENHALL** asked if the intent is to nullify existing waivers. He said that many of the waivers of protest were signed years ago and cities may have a problem with those existing contracts. **REP. MENDENHALL** asked, "Would there be litigation?"

**CHAIRMAN NOENNIG** stated that the waivers have been used for a long time. Age does not matter; the waivers are still effective.

**REP. MAEDJE** asked if the existing over-300-parcel requirement would be invalidated with HB 442. **CHAIRMAN NOENNIG** said that it would be a judgment call only if waivers are in existence.

**REP. RASER** said, "They would not want to annex over 300 parcels."

**REP. NOENNIG** stated, "That is right in theory, but it is a challenge to carry out."

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 9}*

**REP. MENDENHALL** referred to testimony about a rancher's assessment of \$650,000 for forced annexation and said that amount is not justified or reasonable. He said that he opposed HB 442.

**REP. DEVLIN** said that a serious consequence of HB 442 is the nullification of existing waivers, and voiced his opposition.

**CHAIRMAN NOENNIG** commented that the \$650,000 assessment may have been reasonable because of the numerous benefits that the rancher received. He said that the rancher or his heirs may decide to

subdivide and develop the property at some point. Having these services already in place raises the property value extensively.

**REP. MAEDJE** said that he would support the bill.

**REP. FORRESTER** stated that a subdivision is viable without city water. He said that the legislature is going back on its word.

**REP. RASER** spoke briefly on annexation by petition.

**Vote:** Motion that **HB 442 DO PASS failed 4-12 with REPS. HAWK, LASLOVICH, MAEDJE, and RASER voting aye** by roll call vote.

**Motion/Vote:** **REP. DEVLIN** moved that **HB 442 BE TABLED. Motion carried 12-4 with REPS. HAWK, LASLOVICH, MAEDJE, and RASER voting no.**

**EXECUTIVE ACTION ON HB 520**

*{Tape: 3; Side: B; Approx. Time Counter: 9 - 16.9}*

**Motion:** **REP. JACOBSON** moved that **HB 520 DO PASS.**

**Discussion:**

**REP. MENDENHALL** referred to Page 2, Line 27 of the bill. He said that one purpose of the Blue Ribbon Committee on Affordable Housing is to identify and analyze specific impediments to affordable housing. **REP. MENDENHALL** said, "Affordability is a function of two things: the housing is there, and then the income. Income level is dead last in this state because we have let our natural resource industries down." He said that he would support HB 520 because "it is not only a function of the affordability of the housing in the area but of the income and the causes of that." He said that he hoped that the people on the commission recognize this.

**REP. OLSON** said that another funding source would be the Transition Advisory Committee.

**REP. MAEDJE** said that he opposed the bill.

**REP. JACOBSON** stated that the size of the group on the committee should be expanded to include people from more areas.

**REP. DEVLIN** spoke in favor of HB 520.

**Vote:** Motion that **HB 520 DO PASS carried unanimously, 16-0, on a voice vote.**

**ADJOURNMENT**

Adjournment: 5:35 P.M.

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REP. MARK NOENNIG, Chairman

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LINDA KEIM, Secretary

MN/LK

**EXHIBIT (loh36aad)**