



## HB 49 Subcommittee on Local Government Special Purpose Districts

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### 60th Montana Legislature

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BILL NOONEY

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CLAUDIA (CJ) JOHNSON,  
Secretary

ED MEECE  
MARTY REHBEIN  
PAULA ROBINSON  
SHOOTS VEIS

# MINUTES

## HB 49 Subcommittee -- Special Districts

September 4, 2008,  
1 - 4:30 p.m.

Capitol Bldg.  
Room 350

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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### **COMMITTEE MEMBERS PRESENT**

SEN. KIM GILLAN, Chair  
REP. GARY BRANAE, Vice Chair  
SEN. RICK LAIBLE  
REP. BILL NOONEY

PAULETTE DEHART  
MIKE MCGINLEY  
ED MEECE  
MARTY REHBEIN  
PAULA ROBINSON  
SHOOTS VEIS

### **STAFF PRESENT**

HOPE STOCKWELL, Lead Staff  
GREG PETESCH, Staff Attorney  
CLAUDIA (CJ) JOHNSON, Committee Secretary

### **Visitors/Agenda**

Visitors' list, Attachment #1.  
Agenda, Attachment #2

### **COMMITTEE ACTION**

#### **LC 9208**

- motion to clarify in the definition of "special district" which districts are not included in the Uniform Act
- motion to add the term "40%" after the word "or" in Section 3
- conceptual motion was made to include all key elements of the petition requirements in Section 3
- motion that a petition submitted to create a special district be given 30 days for review by the local governing body clerk, instead of 15
- motion that notice of the intent to create a special district be sent to property owners that would be affected
- motion to change language in Section 2, so that a written protest for a property with multiple owners be signed by all owners of the property
- motion that the threshold for sufficient protest be set at 50% of the proposed method of assessment
- motion that Section 5 include language that the resolution of intention designate the estimated cost of the proposed program or improvements and the proposed method of financing the special district
- motion that the referendum language designate the method of administering the special district
- motion that affected municipalities be notified of a successful referendum
- motion that any references to an order or ordinance being passed also include reference to the passage of a resolution
- motion to change the word "review" to "record" in Section 9(2)
- motion to allow the use of the county attorney or a private contractor for legal counsel
- motion to allow the addition of 3(b) in the assessment combination provided in Section 15(3)(f)
- motion to reference library district statutes for multijurisdictional library districts included in the Uniform Act
- motion to keep the 40% protest threshold for dissolution
- motion to amend Section 17, so that 7-1-201 includes language that a "municipality creating a special district in accordance with the provisions of [sections 1-20] must

comply with this subsection if the governing body chooses to have the district governed by a different board."

- motion to change transition date from July 1, 2010 to July 1, 2015
- motion to pass LC 9208 as amended

#### **LC9209**

- motion to amend Section 5, so that legal descriptions and boundary maps for all altered districts after July 1, 2009 must be digitized by July 1, 2015
- motion stating that "financial institution" has the meaning provided in 32-1-102
- motion to pass LC 9209 as amended

#### **Work Report**

- motion to approve the subcommittee's work report for submission to the Education and Local Government Interim Committee

#### **CALL TO ORDER AND ROLL CALL**

00:00:10 Sen. Gillan called the committee to order at 1:04 p.m. The secretary called the roll. Attachment #3.

#### **Brief overview of last meeting and today's considerations**

00:02:18 Hope Stockwell gave an overview of HB 49. **EXHIBIT 1** She stated that the following districts were taken from the Uniform Act: water, sewer, public library, and urban transportation districts.

00:05:00 Uniform Act

- ▶ Review of draft legislation (LC9208), with changes from July 29 meeting
- ▶ Subcommittee comments/questions
- ▶ Public Comment
- ▶ Subcommittee action -- proceed with LC9208

00:05:28 Sen. Gillan directed the committee members and the public on how to address questions to and for the committee.

00:07:55 Sen. Gillan summarized the last meeting and talked about those that attended. She talked about unintended consequences on the repeal of a lot of sections of law in the draft.

00:10:35 Ms. Stockwell provided an analysis that the Montana Association of Counties (MACO) conducted. The statutes that would be repealed under HB49 are listed, including which bill they were replaced with and the reference to what is being repealed and finally, a list of comments made by the Director of MACO showing statutes that are missing references to the repealed items. For example, he

commented that there were no replacements, however, some of the items were covered, just in different language.

00:12:35 Ms. Stockwell went through the changes that were addressed in LC9208 from the last committee meeting in Bozeman. **See her comments written on EXHIBIT 1 .**

00:13:48 Steve Wade, Rural Water Systems, asked the committee to put in the definition what is not included like the water and sewer districts and transportation districts so there is no confusion for the public later.

00:14:55 Sen. Gillan asked Greg Petesch for clarification of language normally found in bills. She asked if the committee could list the districts not included in the bill. Mr. Petesch said yes this would be in conformity with that practice.

**Motion:**

00:15:57 **Motion** to change the definition to state which districts were not included. **REP. BRANAE** moved to accept the motion to include the districts that are not included in the Uniform Act.

**Discussion:**

Ms. Stockwell named the districts that are not included and will be added to the Uniform Act. They are: business improvement districts, cattle protective districts, conservation districts, conservancy districts, consolidated government water and sewer districts, county planning districts, county planning and zoning, county water and sewer districts, drainage districts, grazing districts, irrigation districts, library districts, livestock protective committees, local water quality districts, metropolitan sanitary and/or storm districts, municipal zoning districts, parking districts, resort area districts, rural improvement districts, special improvement districts, lighting districts, street maintenance districts, street parking districts, tax increment financing districts, urban transportation districts, water conservation and flood districts, weed management districts and water conservation and flood control projects.

00:18:25 Sen. Gillan asked about irrigation districts. Ms. Stockwell stated that irrigation districts are not included in the Uniform Act.

00:18:37 Committee member Paulette DeHart asked what will happen if one district is missed or if four years from hence a new district is not listed, but is included. Mr. Petesch said for districts not included, specific statutes have been created, and they take precedence over general statutes. For newly created districts, all bill drafters will ask if they want to operate under the Uniform Bill or a special law to govern them. Once the Uniform Act is in place that decision must be made by the bill drafter. Sen. Gillan asked if this will make the law more stilted. Mr. Petesch thought it would actually clarify the bill.

**Motion:**

- 00:20:14 Rep. Branae made a motion to clarify in the definition of "special district" those districts that are not specifically covered under the Uniform Act. The **motion** carried unanimously.
- 00:20:39 Ms. Stockwell addressed section 3, (1) (b) "petitioners may initiate the creation of a special district to serve inhabitants of the special district." Ms. Stockwell presented the committee with a sample petition. **EXHIBIT 2.**
- 00:21:41 Marty Rehbein asked if the petition had to be signed by 40% of registered voters or owners of real property. She wondered if it needed to say and, or instead of just and. She stated that she was unclear if the petition should differentiate between registered voters and/or owners of real property. Ms. Stockwell answered that in reference to (2) (b) that if the special district needed to be funded by a mill levy, then the petition must be signed by registered voters or property tax payers. If the petition is broad then it would be up to those petitioning to decide which group of people are needed. It would be up to those petitioning to decide which set of people they would need. Ms. Rehbein asked that it be made more clear.
- 00:24:17 Mike McGinley requested that the committee insert the term "40%" after the word instead of "and/or". Paulette DeHart stated that the term could be "or combination thereof". Ms. Stockwell disagreed stating a combination is undesirable. Mr. Petesch stated that Commissioner McGinley's request would solve the issue.
- 00:25:29 Alec Hansen, Montana League of Cities and Towns (MLCT) wanted to know if this was the number of property owners or the percentage of value owned. Sen. Gillan answered that it was the number of property owners.

**Motion:**

- 00:26:14 Mike McGinley made the **motion** to add the term "40%" after the word "or". The **motion** carried unanimously.
- 00:27:35 Sen. Gillan asked Mr. Petesch if there is precedence in putting a sample petition in statute. Mr. Petesch said yes, however, he said it makes codification more difficult.
- 00:28:06 Ms. Rehbein wanted to leave it to the local governments to create a petition if needed.

**Motion:**

00:28:27 Ms. Rehbein **moved** to include language under (2) (c) that authorizes local government to create a sample petition for the formation of special districts.

00:29:00 Harold Blattie, Executive Director of MACO, asked the committee to include requirements that a petition must include the signature, printed name, and the address of each person signing the petition.

**Motion:**

00:29:54 Ms. Rehbein made a **substitute motion** to include in a sample petition the printed name of a petitioner and the address of the petitioner.

00:30:07 Ms. Stockwell added that the form may be prescribed by the governing body and must supply a printed name.

00:30:31 Shoots Veis asked about including the legal name of the districts, and all the different elements not just the printed name.

00:31:14 Sen. Gillan talked about the need to have them state whether they are an owner or a resident. Then the names will not be co-mingled.

**Motion:**

00:31:65 A conceptual motion was made to include all key elements of the petition. A conceptual **motion** passed by unanimous voice vote.

**Motion:**

00:33:12 Marty Rehbein **moved** that on a petition being submitted, the clerk should have 30 days after receipt to review the petition instead of 15 days.

00:34:03 Shoots Veis asked how the date coincided with other dates in the petition.

00:34:43 Ms. DeHart stated that the Board of Commissioners must act within a certain timeframe.

00:35:14 Ms. Stockwell stated that the time clock starts at the time the petition is verified.

00:35:15 Sen. Gillan stated no additional burden would be on the local government.

**Motion:**

00:35:30 The **motion** passed unanimously.

00:36:27 Sen. Gillan stated that, if the bill passes out of the subcommittee, this will not be the only opportunity to discuss the 40% threshold for the number of signatures required for a successful petition.

00:37:34 Ms. Stockwell discussed section 5 (3) (b), "At the same time that notice is published pursuant to subsection (3) (a), the governing body must provide a list of those persons subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a mailing list in accordance with 2-6-109." She suggested sending a copy of the notice to the people on the list.

00:37:44 Sen. Laible said the committee should include (3) (b) a copy mailed to those listed on document. Ms. Stockwell clarified that it will be mailed by regular mail, not certified.

00:38:19 Sen. Laible did not think certified mail was necessary. It would place an excess cost on local governments.

**Motion:**

00:39:07 Ms. Rehbein **moved** that the governing body must include notice to the property not to the person.

00:39:49 Sen. Gillan clarified if that meant a registered voter connected to property. Marty responded about that the assessment goes to property tax payers.

00:40:43 Sen. Gillan asked if the mortgage companies will receive the notice rather than the property owner as normal practice is to have the mortgage company include the property taxes in escrow.

00:41:43 Ms. DeHart explained that it is the property owners responsibility to receive the notice, not the mortgage company's responsibility. Ms. Rehbein restated that the notice would be sent to property owners.

00:042:59 Harold Blattie requested that the wording should state that the governing body should provide notice to the property owner.

00:43:33 Ms. Stockwell on sending a copy of notice of resolution to property owners

**Motion:**

00:44:07 Sen. Laible repeated the **motion** that under 3(b) that the committee change it from those persons to those properties and follow it with a paragraph stating that the notice will be mailed to the property owners. The **motion** carried unanimously.

00:44:55 Ms. Stockwell addressed section 6 (1) "An owner of property liable to be assessed for the program or improvements in the proposed special district has 30 days from the date of the first publication of the notice of passage of the resolution of intention to make a written protest against the proposed program or improvements." Ms. Stockwell asked if 30 days is sufficient. Mike McGinley

asked if there are different time schedules for different protests. He stated that the committee just wants to keep everything uniform. Ms. Stockwell stated that there currently is no uniformity to the time schedules.

- 00:46:24 Harold Blattie stated that 15 days was unreasonably short and the committee settled on 30 days. Since there is no uniformity, Mr. Blattie thought that 30 days was reasonable.
- 00:47:22 Ms. Stockwell identified a list of time requirements for a set number of days. This Uniform Act would clear up the time schedules.
- 00:48:38 Ms. Stockwell addressed section 6 (5) (c) "If the protest against the proposed program or improvements is made by the owners of more than 50% of the area in the proposed special district, further proceedings may not be taken by the governing body for at least 12 months." Ms. Stockwell wished to confirm that 50% in 12 months, as the committee had moved to change the number from 6 months to 12 months in the last meeting.
- 00:49:10 Alec Hansen, MLCT stated that 6 (5) (c) may not work with 4 (b), "in determining the sufficiency of the protest each protest must be weighed in proportion to the amount of the assessment. . . sufficient protest is 50% of the area." He stated that in (b) it talks about assessment and area in (c). He wants it to be connected or coordinated. Ms. Stockwell agreed that the wording needed to be changed. Mr. Hansen suggested that the wording could be, "50% of the assessments of the proposed area".
- 00:51:14 Mary Whittinghill with the Montana Tax Payers Association would like the committee to consider different types of districts that are necessary vs. a non-essential districts and rather than asking for tax payers to cover the cost of an entire area, but rather get the total assessed value of the district. She also asked for clarification about the wording of "the protest must be in writing, identify the property in the district owned by the property . . . be signed by all the property owners."
- 00:53:40 Ms. Stockwell responded by saying that specifically identifying the property in the district owned by the protester was requested by the committee. Also, the subcommittee specifically requested that the issue of having multiple owners and that all of the owners be on the protest.
- 00:53:50 Mr. Veis asked if the protest should be signed by all of the property owners that are protesting the district rather than all those in the area. Ms. Stockwell responded that the protest would be per property rather than multiple properties. Mr. Veis thought the wording needed to be clearer. The language was suggested to read "all of the owners of that property".

**Motion.**

- 00:54:48 Mr. McGinley made a motion to change the language on section 2, page 7 after the comma to "be signed by all owners of that property,." The **motion** carried unanimously by voice vote.
- 00:55:28 Sen. Gillan moved to page 8, 5 (b). Sen. Gillan asked why "In determining the sufficiency of protest, each protest must be weighted in proportion to the amount of the assessment to be levied against the lot or parcel with respect to which it is made." Ms. Rehbein explained about the numerous ways a property can be assessed under a district. One way to assess is the equal benefit option which allows that the benefit is equal among the property owners. The area method may show a larger property benefiting more than a smaller property. The assessment depends on the nature of the improvements. Under municipal law combined methods may be used. Sen. Gillan asked if that determination is an easy mathematical equation. Ms. Rehbein stated that the statute is very clear and the process is clear. For example the owners might be over 50% of proposed assessments of the districts. Sen. Gillan asked what language should be used.
- 00:58:56 Committee member Ed Meece said that a local government is often allowed to choose which assessment it will use. He suggested attaching the protest provision to the chosen method of assessment. Then the protest mechanism would be based on whatever the funding mechanism would be. Sen. Gillan asked if the protesters could tell the local government what type of assessment they want. Mr. Meece stated that the local government chooses according to the resolution.
- 01:00:57 Ms. DeHart proposed changing the wording to: "50% of assessed method".
- 01:01:05 Mr. Veis commented that the language in (b) should stay the same, but to make (c) conform with the language in (b). He agreed with Ms. DeHart's proposed language.
- Motion:**
- 01:02:14 Mr. Meece made the motion to item 5 (c) page 8 of the draft legislation language be changed to "identify that the protest be equal to 50% of the proposed method of assessment." The **motion** carried unanimously by voice vote.
- 01:02:33 Mr. Veis asked Ms. Stockwell about improvements instead of programs. Section (6) the word "program" was used and it also ties to the section that delineates the duties and power, which it uses the word "programs" as well. Ms. Stockwell stated that the language should be as broad as possible. Sen. Gillan asked if 12 months would be appropriate.
- 01:03:36 Ms. Stockwell went back to section 5 on comparative analysis that MACO provided. MACO suggested that the resolution to create the district should also

include how it will be administered. For example will the local government be the governing body or will there be a board of trustees that oversees the district. In addition, the method of payment should be included. So the resolution would read, "estimated cost to the proposed program or improvements" add "and the method of payment."

01:04:53 Ms. Rehbein moved to add section 5 a new (g) to read, "with the method by which the programs or improvements will be administered." and then amend (e) to read, "the estimated cost of the proposed program or improvements and the method of payment".

01:06:16 Ms. Stockwell suggested the bill to read, "method of financing" instead of "method of payment".

**Motion:**

01:06:47 Sen. Gillan asked that the record note that the change from payment to financing be included. The **motion** carried unanimously.

01:07:00 Ms. Stockwell discussed section 7 (2). She suggested the addition of, "method of administration" for the referendum language.

01:07:37 Mr. McGinley so **moved** Ms. Stockwell's suggestion. Sen. Gillan asked Ms. Stockwell if there was enough room in the document to add the language. Ms. Stockwell stated that it would not be an issue.

01:08:41 Ms. DeHart stated that clerk and recorder offices are not allowed to use an abbreviated ballot, therefore Sen. Gillan's concern is valid. However, all of it will be included.

**Motion:**

01:29:10 The **motion** passed unanimously.

01:09:16 Ms. Stockwell read from section 7 (8), "The election administrator of each county shall immediately. . .", she suggested that the section be rewritten to state, "if the referendum passes the election administrator of each county shall, a) immediately file with the Secretary of State a certificate. . . b) and they shall notify any affected municipalities lying within the boundaries of the special district." Ms. Stockwell said the bill is not going so far to suggest that the town councils would need to sign off on the creation of a special district, because there are significant protest provisions that would afford anyone lying within the district the opportunity to protest in one form or another. Still notification of the affected municipalities lying within the boundaries of the special district seems like a reasonable thing.

**Motion:**

01:10:36 Sen. Gillan so moved. The **motion** passed unanimously.

01:10:47 Ms. Stockwell Section 10 (1) states, "Within 60 days of the creation of a special district or by the following January first, whichever occurs earlier, the governing body shall. . ." She wanted to verify with the committee that they were comfortable with the 60 days.

**Motion**

Ms. Rehbein asked that under section 9 (2) and (3) it references, "shall issue an order or pass an ordinance. . ." She wished to change it to "or resolution" in the sections. She made a motion to that affect. The **motion** passed unanimously.

Ms. Stockwell read from section 10 (1) (c) "list of property tax payers or owners of real property within the special district's boundaries to the department of revenue." Ms. Stockwell said this was written to be consistent with sending a list to the department of revenue, per the committee's request.

**Motion:**

01:13:49 Ms. Rehbein moved in section 9 (2) change the word from "review" and change to "record". The **motion** carried unanimously by voice vote.

**Motion:**

01:13:52 Ms. Stockwell stated that section 12 discusses the choice of using a county attorney for legal advise or issuing a private contract. Ms. Rehbein interjected to make a blanket motion to change wording wherever it states "order or ordinance" to state "order, resolution or ordinance ". The **motion** carried unanimously.

01:16:21 Ms. Stockwell continued on with section 12 under 2 (b). She said that it states , "The governing body may grant additional powers to the board. This includes the authorization to use legal counsel, either by private contract or the county attorney." Ms. Stockwell stated that the county attorney issue comes up in the MACO comparative analysis.

01:16:28 Mr. Petesch explained said that currently a county attorney is directed to be the legal counsel for some types of districts, but not all. Mr. Lambert at the last meeting explained that it is a burden on the resources of the county attorneys' offices. County attorneys view their primary function as criminal prosecution, rather than civil litigation. He suggested changing the document to read, "hiring independent counsel after providing notice to the county attorney." Then the county attorney is aware of which legal counsel represents the county.

01:17:26 So moved by Sen. Gillan. The **motion** approved by unanimous voice vote.

**Motion:**

01:18:27 Ms. Rehbein asked to amend the motion from "county attorney" to "governing body". The **motion** carried unanimously.

**Discussion:**

01:19:09 Ms. Stockwell stated that she wrote at the end of section 12 in (4) two words "and approval" at the request of Ms. DeHart from the previous meeting. Ms. Rehbein suggested, "must submit annual budget and work plans to the governing body" to indicate that it is done on an annual basis.

01:20:43 Ms. Rehbein **moved** to keep in "approval" and add in "annual budget and work plans." Sen. Gillan asked if this was standard.

01:21:09 Ms. DeHart stated that it was standard for Lewis and Clark County.

01:21:15 Micheal Harris, Gallatin County, do the county commissioners have the oversight to dismiss the proposal. Ms. DeHart stated that she believed that commissioners do have the right now.

**Motion:**

01:21:25 The **motion** passed unanimously.

01:21:29 Ms. Stockwell pointed out that subsection 5 gave the right to exercise eminent domain. This part was rewritten to remove water and sewer districts and includes cemetery districts "the right to exercise eminent domain pursuant to 70-30-102 is limited to cemetery districts". The eminent domain has been limited only to the districts that have that power currently and cemetery districts are the only one on the committee's list that does. Sen. Gillan asked for clarification on eminent domain. Mr. Petesch explained.

01:22:27 Break

01:36:23 Return from the break. Sen. Gillan called the committee to order to continue work on the Uniform Act.

01:36:31 Ms. Stockwell discussed section 15, 3 (f), "any combination of the assessment options provided in subsections (3) (a), (3) (c), (3) (d) and (3) (e). . ." Ms. Stockwell asked if committee approved the language.

01:37:40 Mr. Petesch explained that the combination excludes (3) (b) where the government determines the benefits are substantially equivalent to the lot or parcel. If that determination is made, then it is unlikely that you would impose something on an assessable area, a flat fee and determined that the benefits are equal. Therefore if the benefits are equal you can use that method or any other

method or combination of benefits. Previously, Ms. Rehbein had stated that we have a district in which everyone pays a flat fee.

**Motion:**

01:38:43 Mr. McGinley **moved** to include 3 (b) in the combination provided in section 15, 3(f). Mr. Veis asked briefly for clarification.

01:40:56 Mr. Petesch said it could be conflicting but if the governing body wanted to use a combination of assessments and included (3) (b) they would have to make findings as to why it was appropriate to benefit everyone equally and then assess differently, they would have to make specific findings to allow that.

**Motion:**

01:41:30 The **motion** passed with Rep. Branea and Shoots Vies voting no.

01:42:33 Harold Blattie asked about section 15 regarding the methodologies of assessment, one of the notations was per household. An example the city of Glasgow only wanted to assess class four to build a swimming pool stating that only people benefit from swimming pools, not businesses. Mr. Blattie wanted the committee to add "per household unit or class four properties".

01:43:51 Ms. Stockwell discussed the issue of multijurisdictional library districts.

01:45:21 Mr. Petesch discussed section 15 (2) "For the purposes of this section, 'assessable area' means the portion of a lot or parcel of land that is benefitted by the special district." This would allow a per household assessment. The residential property is the assessable area. Therefore, for example, on the county swimming pool the agricultural land would not be taxed, but rather the area on which the residence sits.

01:46:08 Mr. McGinley asked for clarification of parks districts. Mr. Petesch said he read that too, large land owners don't need recreational land as much as densely populated residential property owners. Therefore the cost would be equal. The assessable area for purposes of financing can be restricted from the size of the tract, but can not exceed the tract.

01:47:30 Sen. Gillan discussed the multijurisdictional library districts, asking for a motion to remove them from the Uniform Act. Mr. Petesch interjected to state that there is a specific statute that states that multijurisdictional library districts have to be governed by the library district laws.

**Motion/vote:**

01:49:11 Sen. Gillan made a **motion** to reference that statute in the library district laws as an exception to this bill. The **motion** passed by voice vote unanimously.

- 01:50:17 Ms. Stockwell continued to section 17--Collection of Special District Assessments. The MACO comparative analysis stated that solid waste and local improvement districts have allowances for installment payments on assessments. Installment payments are not discussed in the bill, but it is implied that the governing body can handle their assessments the way that they want to. Therefore, when they set up the assessments they can chose how they are paid.
- 01:51:48 Mr. Petesch suggested that two installments rather than four be conducted.
- 01:52:00 Ms. DeHart stated that county treasurers do not accept installment payments other than the first and second installment and to add more would that would be administratively costly.
- 01:52:32 Ms. Stockwell stated that solid waste would then be paid twice a year.
- 01:53:01 Ms. Stockwell continued to section 20 and asked the committee if they wanted to include a petition process in the dissolution provisions of the Uniform Act. Sen. Gillan asked if petitions depend on districts. Sen. Gillan looked to precedence.
- 01:54:01 Ms. Rehbein stated that in a previous irrigation district in Missoula people petitioned to withdraw from the irrigation district as they had to pay on the irrigation district, however were unable to use the water. Sen. Laible asked what would be the disadvantage to allowing petitions. He stated that he did not think it was much of a concern.
- 01:55:25 Mr. Petesch stated that if debt has been issued, then provisions for the alterations of boundaries are in place. Under this bill the person would remain liable for the debt.
- 01:56:30 Mr. McGinley and Mr. Blattie discussed television districts in Fergus County. Mr. Blattie explained that under current law the only way to dissolve districts is through a petition.
- 01:58:59 Harold asked the committee to **not** get rid of the governing body's ability to initiate the process to get rid of districts.
- 01:59:00 Ms. Stockwell said upon reviewing current statues for the districts that would be included in the Uniform Act, about half allow petitioners to dissolve the districts.
- 01:59:31 Sen. Laible asked for clarification. Ms. Stockwell explained that the mechanism in this bill allows the governing body to initiate dissolution, however there is no process to initiate dissolution by petition. In current statute half of the affected districts allow dissolution to be initiated by the governing body. Sen. Laible

suggested allowing a petition process for the dissolution of the districts. Then it would still go to the governing body.

02:00:50 Mr. Meece worried that the petition process would fall back onto the county or city commissioners.

02:01:28 After discussion the committee decided not to add the additional petition process that Sen. Laible suggested.

02:01:52 Ms. Stockwell continued on to 4 (a) and 4 (b) and asked the committee if 40% still satisfactory for protest dissolution.

**Motion:**

02:02:32 Ms. Paula Robinson so **moved**. The **motion** passed unanimously by voice vote.

02:04:50 Ms. Stockwell section 21, the amendment of 7-1-201 in reference to boards. She added subsection 17 "a municipality creating a special district in accordance with [sections 1 through 20] must comply with this section if the governing body chooses to have the special district governed by a separate board." The subsection makes municipalities comply with county standards.

02:06:05 Ed Meece asked if the city then had the ability to appoint the members of the board. Ms. Stockwell verified that the municipalities would appoint the members.

02:06:26 Alec Hansen wanted clarification if the subsection was clear on allowing the city to appoint board members.

02:26:49 Mr. Petesch stated that logic would dictate the conclusion, however, the language could state, "municipality creating a special district in accordance with the provisions of sections 1-20, that if a municipality created a special district the governing body of the municipality must comply with this subsection if the governing body chooses to have the district governed by a different board."

02:07:58 Mr. Hansen agreed with Mr. Petesch's revisions.

**Motion:**

02:08:24 Sen. Laible made a **motion** to reflect that change.

02:08:41 Ms. Rehbein stated that most municipal appointments are made by the chief executive with the advice and consent of the city council. Mr. Petesch stated that the city council needs to determine the appointments then present them to the executive. Ms. Rehbein agreed that the provision would provide for that. **Motion** passed unanimously.

- 02:09:27 Ms. Stockwell addressed Section 50. The MACO comparative analysis stated that "property owned by special districts, therefore government entities is exempt from taxation." Under section 50 this would be (b) (6) under rural fire districts. Ms. Stockwell asked if the language needed to be changed to make the intention completely clear.
- 02:10:52 Mr. Petesch stated that the MACO comparative analysis pointed out an anomaly in current law. We generally don't tax governmental property. So in (1) (a), (ii), the states, cities, counties and school districts are not taxed. So the question is do we want to list all the districts as exempt, when in fact they are exempt.
- 02:12:43 Ms. Rehbein asked about fire districts. Mr. Petesch stated that property owned by the state is explicitly exempt from property tax levies, not assessments. This section deals with tax exemptions, not assessments. The distinction of property owner and real property owners in the formation and assessment sections. But as a general rule government owned property is tax exempt. Sen. Gillan asked if the committee wanted to explicitly exclude the taxation of all property owned by special districts or just that property related to entities providing fire protection, which is how this statute is written now.
- Motion:**
- 02:14:40 Sen. Laible asked Mr. Petesch to provide language in (6) in 59 or 7 ii, "special districts created pursuant to sections 1-20". Sen. Laible moved to adopt that language. The **motion** passed unanimously.
- 02:14:52 Ms. Stockwell stated that the MACO comparative analysis under mosquito districts is a statute labeled disposition of fines, bonds, and penalties. "All fines forfeited bonds and penalties collected under the provisions of this part except those collected by a justices' court must be paid to the county treasurer of each county and deposited to the credit of the mosquito control fund. The question of whether or not special districts assess fines was posed by Harold Blattie since it is not addressed in HB49.
- 02:16:13 Ms. Rehbein asked if fire suppression in the event of someone burning grass, etc. and it accidentally gets out of hand. Is it a fine or an assessment? Mr. Petesch stated that in that case it is an assessment of the cost of the government action against the person responsible for creating the fire. Mr. Petesch explained that in that case, it is a tort liability.
- 02:16:52 Mr. Veis stated that in a solid waste district people are not allowed to throw away trees any more, without cutting them up. A district may want to impose fines on people who are not following the rules as to what should go into the landfill. Sen. Gillan asked Mr. Petesch if existing statute allows for fines or if it is specific to the district. Mr. Petesch stated that if the municipality or the county adopted an

ordinance stating that you can not do such and such, then a violation of the ordinance or resolution than may result in a fine. Then you are not authorizing fines by state law, rather you are authorizing fines for violation of locally adopted laws.

- 02:18:32 Mr. Petesch answered an earlier question posed by Mr. Blattie. He stated that specific questions could be publically addressed at the committee or privately with Mr. Blattie.
- 02:19:34 Harold Blattie said the committee needs another meeting. He said there are other things the committee needs to address based upon MACO's comparative analysis. He suggested if the committee goes forward with the bill, MACO will bring amendments.
- 02:20:50 Mr. Petesch responded, saying that most questions raised by the comparative analysis are covered under other parts of current law. For example, hospital districts not being allowed to refuse patients on the basis of race, color, sex or religion. That is all covered in title 49--Discrimination. Further, agreements with fire districts to provide mutual aid. Intra-state agreements are covered under title 10--Disaster and Emergency Services. There are specific provisions there that cover fire districts. Mr. Petesch stated that he could provide Mr. Blattie with the answers he requested, but thought the committee did not need to address those.
- 02:22:27 Ms. Stockwell responded to Harold Blattie, saying the only questions raised by the comparative analysis that were not covered under other current law, were raised with the subcommittee today and amended into the Uniform Act.
- 02:22:45 Sen. Laible asked what the disposition would be for 9209. Will it be presented later. Ms. Stockwell stated that it is slated for later today on the agenda.
- 02:23:38 Sen. Gillan addressed a letter from Mae Nan Ellingson commenting on LC 9208. Mr. Petesch stated that all of the points that Mae Nan Ellingson questioned had been discussed by the committee. Specifically, the bill provides that only the governing body may issue general obligation bonds. There are also provisions specific to existing revenue bond laws.
- 02:27:17 Sen. Gillan asked if the committee had any questions.
- 02:28:13 Sen. Laible asked if a **motion** is needed on this draft to present to full committee. He praised the committee on the progress on this draft.
- 02:28:41 Erin Garaghty from the Department of Administration base map service center recommended a proposed date change in section 62 under the transition section.

It states, "By July 1, 2011. . ." Ms. Garaghty thought that the two years may be an unattainable date and proposed changing it to July 1, 2015.

02:29:27 Paulette DeHart stated that there are many special districts that the boundaries are not in electronic form. Ms. DeHart moved to change the date from July 1, 2001 to July 1, 2015.

02:30:00 Ms. Rehbein stated that the districts need to be specific to the bill. For example, the light district is not included under this bill, so she wants to clarify that. Mr. Petesch stated that this section references section 10, which is the additional reporting requirements for special districts which are defined in section 2 in the bill. "All existing districts submitted in section 2" could be added if it clears up for the committee.

**Motion:**

02:31:20 Ms. DeHart amended her **motion** to include the wording proposed by Mr. Petesch, as well as, changing the date to July 1, 2015. The **motion** passed unanimously.

02:31:01 Ms. Rehbein stated that for the on parks maintenance district current statute requires that there must be a public vote.

**Motion:**

02:32:44 Mr. Veis moved to adopt LC9208, as amended and discussed and to present it to the full committee for approval. The **motion** passed unanimously by voice vote.

**(LC9209)**, with changes from July 29 meeting

02:34:38 Ms. DeHart asked if LC9209 was essentially the same as LC9208. Ms. Stockwell reported that LC9209 is a stand alone bill. The GIS reporting requirement could be redundant if both bills passed, however that would be rectified if that should occur.

**Motion:**

02:36:10 Ms. Robinson made a motion to change the date in section 5 from July 1, 2011 to July 1, 2015, as well as, clarifying the definition of which special districts to include.

02:36:52 Ms. DeHart asked for clarification on the intent of the bill. Mr. Petesch stated that the bill allows private sales of bond issues to local financial institutions up to \$1,000,000. It does not allow for a private sale to an individual. The other provisions of LC9209 allow for the GIS mapping for all districts. LC9209 would include all districts, not just those that are in the definition in LC9208.

- 02:38:33 Robin Trenbeath is the State Geographic Information Officer for the Department of Administration. He stated that he supported the date change. He further supported that the bill specifically included all districts. He asked the committee to consider changing the language to include "as districts change they need to be reported". Digitizing of the district under this bill is not a county or city responsibility, it is the Department of Administration (DOA) responsibility. The DOA needs those legal descriptions of the boundaries.
- 02:39:54 Ms. DeHart stated that special districts within the state of Montana do not always have legal description boundaries set.
- 02:40:35 Sen. Gillan asked if an amendment that stated, "as they change, or if the change" would be acceptable. Mr. Petesch stated that the said bill as written has a specific requirement for newly created districts to conform to this standard. The transition section says by a certain date all districts have to do this. He stated that the committee could make a policy choice of whether the legal descriptions established by 2015 or would you rather have that process occur when the districts change. If the cost exceeds the value of the bill, then the committee makes the decision.
- 02:41:18 Ms. Rehbein stated that the value of mapping is important, however she did not think the DOA needs to remap what the local governments already finished. She asked Mr. Trenbeath if local governments could share the mapping already completed with DOA. Mr. Trenbeath stated that if the map is in digital form, they would not remap it, however if it is not digitized, then it is the responsibility of the DOA to do so. Then DOA would return the digitized map back to the local government.
- 02:43:10 Sen. Gillan asked Mr. Trenbeath which department bears the cost. Mr. Trenbeath stated that DOA bears the burden. Ms. Rehbein confirmed that the local government still has to provide the information to DOA and that is where the cost arises for local government.
- 02:44:31 Mr. Petesch asked permission to revise the title to comply with a request by Mae Nan Ellingson.
- 02:46:37 Sen. Gillan proposed one of two amendments, "as special districts are amended and/or any special district created or mapped after a certain date". Ms. Stockwell stated that in section 4-- Additional Reporting Procedures. . ."apply to newly created special districts" if the committee leaves out the transition clause. Sen. Gillan asked Mr. Trenbeath if it is the DOA's intent to gather all district information or only the newly created districts. Mr. Trenbeath stated that the DOA would like all districts, but if it has to go one step at a time, then new districts are needed.

**Motion:**

- 02:48:11 Sen. Gillan moved to strike "new" out of section 5.
- 02:48:23 Mr. Veis commented that when special districts are amended that city councils must go through a public hearing. Mr. Veis asked Ms. DeHart if the hearing process must be conducted anyway.
- 02:48:38 Ms. DeHart responded to Mr. Veis's question. She stated that the burden is the existing districts, the new districts are not the problem. Mr. Veis asked if the language could be changed from "existing special districts" to "all amended special districts" would that solve the burden? Ms. DeHart agreed.
- 02:49:15 Ms. Rehbein asked if it included districts that are created for a certain period, like a rural improvement district or a special improvement district. Ms. Rehbein asked Mr. Trenbeath if DOA would track when properties are paid off on an assessment and are no longer liable to be assessed. Ms. Rehbein suggested that the committee consider a perpetual district that you want to map.
- 02:52:13 Mr. Trenbeath responded to Ms. Rehbein by saying that the mapping is done on districts that are older. Mr. Trenbeath stated that the information is on the DOA website. Ms. Rehbein worried that two differing sources of information may be on the website.
- 02:53:08 Mr. Veis proposed to amend section 5 to change the date to 2015. Legal descriptions and boundary maps for all altered districts after July 1, 2009 must be digitized by July 1, 2015.

**Public Comment**

- 02:54:41 Harold Blattie, from MACO, said that section 6 states sections 1-4 are intended to be codified as an integral part of title 7, chapter 1, part 2, which is county ward law. So he asked Mr. Petesch if that would not confine this applicability of this to those districts that we have discussed that fall under the Uniform Act.
- 02:55:46 Mr. Petesch the title would be changed so the title is in local government, so that it would include all districts, including those excluded in the other bill.

**Motion:**

- 02:56:21 Sen. Gillan called for a vote on the amendment proposed by Mr. Veis. The **motion** carried unanimously.
- 02:56:57 Ms. Stockwell interjected to include the banking provision that explains what constitutes a financial institution. She included letters of public comment for the record. The public comments were all in favor. However, all the letters used the same language, for example, "financial institution" is that really just local banks

or does it also include mortgage companies, second, "financial institution" needs to be more narrowly defined. Ms. Stockwell asked if the committee could decide if the provision needs to be more narrowly defined. Mr. Turkiewicz, from Montana Banking Association, sent Ms. Stockwell a letter confirming that the language was adequate. Sen. Gillan asked Mr. Turkiewicz if he wished to add anything further. He reconfirmed what his letter stated to Ms. Stockwell and did not add any additional information.

02:59:08 Alec Hansen, from the MT League of Cities and Towns, spoke specifically in regard to the city of Glendive. The definition provided by Ms. Ellingson's letter, in 32-1-102 provided for a better definition of financial institutions and the City of Glendive would ask the committee to approve that language amendment.

03:00:07 Mr. Petesch stated that the definition in 32-1-102 is that banks, savings and loans, credit unions, trust companies and investment companies are included. However, as written the bill does not use the language, "financial institution".

03:00:34 Sen. Gillan asked Mr. Turkiewicz stated that 32-1-102 is fine.

03:01:44 Mr. Petesch stated that on page 2 of the bill the amendment would read after the word financial institution "as defined in 32-1-102"

**Motion:**

03:02:18 Mr. Vies **moved** that the committee add the definition based on the code in both places. The **motion** carried unanimously.

03:02:57 Ms. Stockwell further stated that in Ms. Ellingson's letter, she expressed concern for the amount of \$1 million, bond amounts less than \$500,000 did not seem to warrant competitive sale. Ms. Stockwell asked the committee if the dollar amount is fine or if a lower amount should be used.

03:04:07 Mr. Vies stated that with the rising construction costs, that \$1 million should remain. In fact, Mr. Vies thought an index should be attached. Mr. Vies asked Mr. Petesch asked if all the parties would have access to the documents. Mr. Petesch stated that yes, those are public documents. Mr. Vies asked Mr. Petesch to explain the difference between a privately negotiated sale and a public sale.

03:05:23 Mr. Petesch stated that at a privately negotiated sale only one party is involved, as opposed to a negotiated sale that could encompass more than one party. Mr. Vies asked if it's a small town and only two banks exist and the counsel wants to do business with the one bank and not the other, then Mr. Vies thought that it could become difficult. Mr. Petesch stated that the language was used to mirror subsection 2 and that was used to distinguish that from bids that are required when they are not in private sale. It should not prevent local government from

going to both banks during the privately negotiated sales, but it could allow them to chose one over the other.

- 03:06:55 Ms. Stockwell asked Mr. Petesch if the phrase negotiated sale preclude a town from opting to just use one bank instead of both. Mr. Petesch stated that it gives the town the option.
- 03:09:09 Alec Hansen stated that the entire purpose is to reduce issuance costs and extend the value through special districts. Alec stated that the local government would shop for the best price, so it would naturally shop around.
- 03:10:15 Mr. Vies stated that when local government has good intentions it works well. The problem that he sees is that the small ties in a community may encourage the local government to only use one source.
- 03:11:40 Ms. Rehbein suggested to authorize a private negotiated sale between two or more financial institutions.
- 03:12:47 Mr. McGinley said not to do anything with it and leave language as is. He talked about flexibility with local government.
- Motion:**
- 03:12:47 Rep. Branae **moved** the bill LC9209 as amended. LC9209 as amended voice vote all in favor, including **ED MEECE** who left a proxy in favor of the amendment. The **motion** is unanimous.
- 03:14:01 Ms. Stockwell reported on the subcommittee summary work report. Ms. Stockwell presented the draft to the committee. The report is sufficient as written, however, the committee is able to add or change the report in any way. Sen. Gillan specifically stated that LC9209 is not housekeeping legislation, but rather substantive. Appendixes are attached for HB49 in the subcommittee work and that the inventory for the special districts is attached in Appendix B. The inventory was directed by HB49, so is attached.
- 03:17:20 Ms. Rehbein suggested a change on the last paragraph that the City of Glendive would like authorization that the purpose of the legislation is to reduce the cost of issuing bonds so that more of the assessments can be used for the actual improvements.
- 03:18:15 Mr. McGinley requested that a list of districts be provided that are being left out.
- 03:18:27 Ms. Stockwell clarified that Mr. McGinley requested a full list. Mr. McGinley confirmed.

**Motion:**

- 03:18:47 Ms. Rehbein **moved** to approve the report as discussed. The report was **approved** by unanimous vote.
- 03:19:50 Administrative matters and the full meaning of education and local government.
- 03:19:54 Ms. Stockwell gave an overview of the budget. A balance of \$13,435.00 remains of the appropriated \$20,000. The travel expenses for this meeting will lower that number some.
- Also, Ms. Stockwell stated that the travel expense reports did not get reordered and there is a shortage right now. The actual travel expense reports have been provided to the public members of the committee, but not to the lawmakers. She requested that the legislative members fill out one expense report, which will be provided at the full committee tomorrow. The full committee meets at 8:00 a.m. tomorrow. At 10:30 a.m. all of the individual pieces of legislation that the subcommittee has worked through will be discussed, including what was approved by this subcommittee today.
- 03:21:45 Sen. Gillan thanked the committee and Mr. Petesch and Ms. Stockwell for their work. She encouraged the public committee members to stay involved.
- 03:23:42 Sen. Gillan adjourned the committee at 4:24 p.m.