



LOCAL GOVERNMENT INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Kenneth Bogner
Ellie Boldman
John Esp
Mark Sweeney – Vice Presiding Officer

HOUSE MEMBERS

Geraldine Custer – Presiding Officer
Larry Brewster
Mary Ann Dunwell
Dave Fern
Steve Gist
Kathy Kelker

COMMITTEE STAFF

Toni Henneman - Research Analyst
Julie Johnson - Attorney
Bri Nordhagen - Secretary

MINUTES LOG

November 19, 2021
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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MEMBERS PRESENT:

Rep. Geraldine Custer, Presiding Officer (R)
Rep. Larry Brewster (R)
Rep. Mary Ann Dunwell (D)
Sen. John Esp (R)
Sen. Mark Sweeney, Vice Presiding Officer
Sen. Kenneth Bogner (R)
Rep. Steve Gist (R)
Rep. Kathy Kelker (D)

MEMBERS PRESENT VIA ZOOM

Rep. Dave Fern (D)

MEMBERS EXCUSED

Sen. Ellie Boldman (D)

STAFF PRESENT:

Toni Henneman, Research Analyst
Julie Johnson, Attorney
Nadine Spencer, Secretary

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

RECONVENE/ROLL CALL

- 09:00:30 Presiding Officer Geraldine Custer reconvened the meeting at 9:00 a.m. The committee secretary called the roll.
- 09:01:27 Rep. Custer gave opening remarks.

DEPARTMENT OF ADMINISTRATION LOCAL GOVERNMENT SERVICES BUREAU

- 09:01:30 Kristin Reynolds, Bureau Chief, Local Government Services Bureau, Department of Administration, gave a presentation on the Bureau' mission which is to provide structure and guidance for local governments on financial compliance regarding budgets, financial reports, and audits.
- 09:07:51 Ms. Reynolds gave an overview of Senate Bill 302 (2019).

Questions from the committee of Ms. Reynolds

- 09:11:48 Rep. Kelker asked about the workload to help a local government to be in financial compliance.
- 09:13:12 Rep. Gist asked what happens when a local government entity is noncompliant.
- 09:14:06 Rep. Dunwell asked about the difficulty that local governments are facing in hiring experienced workers.
- 09:15:54 Rep. Dunwell asked if the Local Government Services Bureau has adequate staffing.
- 09:16:34 Sen. Esp asked about the compliance case that Ms. Reynolds discussed in her presentation.
- 09:17:59 Rep. Dunwell asked about the distribution of the American Rescue Plan Act (ARPA) funds to the three metropolitan cities mentioned in Ms. Reynolds' presentation and if local governments are having trouble with the match in ARPA.
- 09:19:59 Rep. Fern asked if Ms. Reynolds can provide anecdotal stories on how the Local Government Services Bureau assists water and sewer districts in their financial compliance.
- 09:21:55 Rep. Gist asked about audits performed on entities receiving ARPA funds.
- 09:22:47 Sen. Esp asked Julie Johnson, Committee Attorney, to look into the concept of SB 302 regarding receipt of a response from an entity who is not in compliance and does not work with the department to bring themselves into compliance within six months.
- 09:23:01 Ms. Johnson responded.
- 09:23:53 Rep. Custer asked Ms. Reynolds if her reference to the \$750,000 is for the federal single audit or for the state when the Bureau has to conduct an audit.
- 09:24:24 Rep. Custer asked Ms. Reynolds about creating a final form for special district revenues and expenditures.

SJ 23 STUDY OF PUBLIC NOTICE BY ELECTRONIC MEANS

Follow-up of committee question regarding due process concerns

09:26:29 Julie Johnson, staff attorney, Legislative Services Division (LSD), discussed the memorandum regarding SJ 23 Study, Publication of Notice via Electronic Means. [\(Exhibit 11\)](#)

Questions from the committee

09:31:57 Rep. Kelker asked Ms. Johnson if the language in the proposed bill will be written in a way so that the average legislator could understand it.

09:33:22 Rep. Fern asked if a qualified electronic publication could be published in a newspaper in an electronic format, and if not, has Ms. Johnson seen an example of media that would qualify.

09:36:36 Rep. Dunwell asked Ms. Johnson about a news radio that posts articles online as well as broadcasting them.

09:38:33 Rep. Brewster asked Ms. Johnson about the publication in Billings whose sole purpose is public notices. If that publication added an online version, would they qualify as a news function when they just provide public notices.

09:39:45 Rep. Fern asked Ms. Johnson if there is something equivalent in the statute as constructed for a public circulation threshold that needs to be attained to be a qualified presenter of public notices, and would it be helpful to have some distinction as to the legitimacy of the publication's reach in moving forward with electronic media.

09:41:35 Rep. Gist expressed his concern that electronic notices are not being read by the public but are being overlooked.

09:44:30 Ms. Henneman explained that the intent of the bill drafter was to match the current language so that the process for a hard copy newspaper is mirrored with the process for a qualified online publication.

09:44:52 Rep. Dunwell asked Ms. Johnson if there is a check and balance for a special interest blog masquerading as a general news source or if an enforcement mechanism is in place to prevent that.

Summary of legislation allowing a state public notice repository

09:46:17 Ms. Henneman gave a presentation on "SJ23: State-wide Repository for Public Notices" [\(Exhibit 12\)](#). She discussed ways to search online for public notices in Montana and in other states. Ms. Henneman also discussed proposed legislation from other states requesting the creation of a public notice website.

Questions from the committee

10:00:05 Rep. Gist asked Ms. Henneman what the cost would be to have a state repository.

10:00:33 Rep. Kelker commented that not everyone is going to be interested in receiving or reading public notices.

10:03:31 Rep. Dunwell said that she is reluctant to require state agencies to do another project when there is a staff shortage. She would like a bill to require a county to hold a public hearing to determine whether people have access to the internet or if they like receiving public notices in hard copy format and allow the counties to decide whatever suits them.

Public Records Retention Requirements

10:06:03 Ray Dagnall, Secretary of State Records and Information Management, Montana Secretary of State's Office [\(Exhibit 13\)](#)

Questions from the committee

10:11:34 Rep. Gist asked Mr. Dagnall if a state-run repository for notices would be beneficial, and if Mr. Dagnall has any ideas of what the costs would be to increase the FTEs.

Public comment

None.

County Clerk Discussion

10:13:52 Paula Jaconetty, Teton County Clerk and Recorder, and Elections Administrator
(Exhibit 14)

10:15:17 Eric Semerad, Gallatin County Clerk and Recorder, and Elections Administrator

Questions from the committee

10:20:25 Rep. Dunwell asked the speakers if county elections officers are concerned with the lack of training for the new voting machines that are to be implemented by the Secretary of State's Office.

Rep. Custer said that issue is not in the Local Government's purview and should not be discussed.

10:22:07 Rep. Dunwell said this is an important issue that needs to be on the record.

10:22:53 Rep. Fern asked Mr. Semerad about his experiment with emails, and whether he has any thoughts on how to implement it, staff it, and what the costs might be.

10:25:18 Rep. Gist asked Mr. Semerad if it is a one-way email or a dialogue-type email where people can respond.

Public comment

10:27:21 Rhonda Wiggers, Montana Broadcasters Association

BREAK (reconvene at 10:46 a.m.)

HOMEOWNER'S ASSOCIATION

Overview of Senate Bill 300 and House Bill 196

10:46:17 Ms. Henneman gave an overview of Senate Bill 300, revising real property laws to protect real property rights. (Exhibit 15)

10:47:24 Ms. Henneman briefly discussed House Bill 196, revising Homeowners' Association Laws. (Exhibit 16)

10:47:41 Ms. Henneman briefly discussed House Bill 196's Amendment 196.1.2.
(Exhibit 17)

Discussion of intent and legal implications

10:48:05 Sen. Bogner briefly discussed the intent of Senate Bill 300. (Exhibit 18)

10:49:18 Stephanie Baucus, Attorney, gave a presentation on Statutes, Case Law, and Legislative Proposals for the Homeowners' Associations. (Exhibit 19)

Questions from the committee

11:21:04 Rep. Dunwell asked Ms. Baucus about a Homeowners Association increasing dues and condo fees.

Public comment

11:30:39 Andy Skinner distributed a copy of Article II, part II, section 31 ([Exhibit 20](#)) and discussed the covenant contract with his Homeowner's Association. Mr. Skinner also distributed an advertisement for a VRBO in Helena ([Exhibit 21](#)). Zoe King, President, HOA, Helena

11:39:13

11:53:53 Pat Keim, President, HOA, Helena

11:56:43 Pat Simmons, Bozeman, commented and asked Ms. Baucus about short-term and long-term rentals.

12:01:11 Sarah Peterson, Child Care Connections

Questions from the committee

12:05:05 Rep. Fern asked Ms. Baucus about the impacts of covenants that already exist in Homeowners' Associations. He asked what takes precedence if a state law or a zone is developed that may conflict with the CCRs and various HOA rules.

12:09:07 Rep. Gist commented on the occupancy load for short-term rentals and Airbnbs that impacts people living in these areas. He also asked if there is a checklist for all agencies to sign off on for new construction.

GENERAL PUBLIC COMMENT

12:10:40 Nick VanBrown, Legislative Fiscal Division, presented the agenda for the MARA meeting on November 29-30, 2021. ([Exhibit 22](#))

COMMITTEE WORK SESSION

Review Interim Timeline

12:12:21 Ms. Henneman reviewed the Proposed Work Plan Timeline. ([Exhibit 23](#))

Questions from the committee

12:15:41 Rep. Kelker expressed her concern regarding local districts not having any oversight and not doing what they are supposed to do.

12:16:33 The committee members discussed revisiting House Bill 694 to see if it could be used a tool for reporting local government entities being in compliance.

12:18:18 Rep. Gist explained that the bill was set up with a sunset date so it could be studied for two years, come back during the interim and be readdressed.

12:21:31 Ms. Henneman discussed the SJ 13 study and asked if the proposed timeline would still be of interest to the committee.

12:22:10 Rep. Dunwell said that during public comment, Mr. Adam Haight and Ms. Amanda Friekel mentioned a need for an enforcement mechanism for addressing wage complaints. She said she would like to look at what other states are doing with respect to prevailing wage and enforcing prevailing wage law.

12:25:36 Ms. Henneman discussed the SJ 23 study.

12:25:45 Sen. Bogner requested that staff provide more information about how many Montanans don't have internet or web access, how many Montanans have a subscription to newspapers and how many newspapers are available online.

12:25:50 Ms. Henneman discussed receiving updates on the HJ 6 study from the Revenue Interim Committee and having the Land Use Working Group present updates at future meetings.

12:26:15 Rep. Fern said he would like to look at model legislation to lead the committee in a direction regarding regulations and smooth operations of HOAs.

12:28:27 Rep. Kelker reminded the committee that SB 300 was heard in Judiciary and there is a reason why it was sent to Judiciary.
12:29:56 Sen. Esp commented that the enforcement of labor law could be an issue for the Economic Affairs Interim Committee.

ADJOURNMENT

12:30:54 With no other business before the committee, Rep. Custer adjourned the meeting at 12:30 p.m.