



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 18, 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

Sen. Ellie Boldman (D)
Rep. Dave Fern (D)

STAFF PRESENT:

Toni Henneman, Research Analyst
Julie Johnson, Attorney
Fong Hom, Secretary

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

10:06:23 Presiding Officer Geraldine Custer called the meeting to order at 10:06 a.m. The committee secretary called roll. **(Attachment 3)**

LAND USE PLANNING TRAINING

10:06:47 Renee Lemon, Administrator, Community Development Division, Department of Commerce, gave a presentation on Montana Land Use and Planning Statutes: Growth Policy, Zoning, and Subdivision. **(Exhibit 1)**

Committee Questions

10:23:47 Rep. Dunwell asked Ms. Lemon what she meant by "exemption".

10:29:19 Rep. Kelker asked Ms. Lemon if cities and counties collaborate together even though they might have different ideas about growth plans.

10:30:22 Ms. Lemon and Tara DePuy, Contract Land Use Attorney, Montana Association of Counties, responded.

10:31:46 Rep. Fern asked Ms. Lemon how transportation is addressed in a growth policy and how it relates to zoning and subdivision regulations.

10:35:15 Rep. Dunwell asked Ms. Lemon if there are any requirements in statute that zoning must accommodate the needs of shelter or housing for people.

10:35:55 Rep. Kelker asked Ms. Lemon if the state has a role in enforcing a timeline requirement.

10:36:56 Rep. Custer asked Ms. Lemon how many counties have zoning policies and how many don't.

10:37:25 Ms. DePuy responded.

10:39:45 Sen. Esp asked Ms. DePuy about the administration of zoning permits.

10:40:48 Rep. Fern asked Ms. DePuy to define a planned unit development and to explain its role in the categories mentioned in Ms. Lemon's presentation.

Public Comment on Land Use and Planning Statutes

10:42:56 Sam Sill, Montana Association of Realtors, presented the Status Report from Land Use Interim Working Group. **(Exhibit 2)**

10:50:17 Abigail St. Lawrence, Montana Building Industry Association

10:55:48 Sen. Boldman asked Ms. St. Lawrence if her reference to Missoula County in her public comment was anecdotal or real.

10:56:46 Kelly Lynch, Deputy Director and Legal Counsel, Montana League of Cities and Towns

11:00:10 Tara DePuy, Contract Land Use Attorney, Montana Association of Counties

11:01:25 Karen Alley, Associate General Counsel, Montana Association of Counties

11:02:12 Rep. Dunwell asked Ms. St. Lawrence if she knew what the holdup is regarding a subdivision review in Missoula.

11:08:29 Rep. Dunwell asked Ms. St. Lawrence about the Land Use Working group's meeting that will take place on November 23, 2021.

AFFORDABLE HOUSING - ACCESSORY DWELLING UNITS (ADUs)

Overview of Senate Bill 397 (2021)

- 11:10:28 Toni Henneman, Research Analyst, gave an overview of Senate Bill 397 ([Exhibit 3](#))
- 11:11:36 Sen. Boldman commented on SB 397.

National Trends in ADUs

- 11:13:11 Alex Horowitz, Consumer Finance Project Principal Officer, PEW Charitable Trusts, gave a presentation on Accessory Dwelling Units. ([Exhibit 4](#))
- 11:23:02 Mr. Horowitz gave a presentation on "A Guide to Accessory Dwelling Units". ([Exhibit 5](#))

Committee Questions of Mr. Horowitz

- 11:33:25 Rep. Dunwell asked how much of the ADU supply is going to the Airbnb type facility and how much to housing.
- 11:35:35 Rep. Gist asked about the percentage of people who are profiting from ADUs versus building a mother-in-law apartment, and if there is a system or structure in place to ermine taxation as business vs. personal income.
- 11:43:52 Sen. Bogner asked about the square footage of ADUs, and if those numbers are arbitrary.
- 11:47:53 Sen. Esp asked about lot coverage.
- 11:51:46 Rep. Kelker asked about the structural quality of ADUs and how that is regulated.

Public Comment on ADUs

- 12:01:30 Sam Sill, Montana Association of Realtors
- 12:03:04 Mike Batista, Government Affairs Director, AARP
- 12:05:10 Kelly Lynch, Montana League of Cities and Towns
- 12:07:48 Rep. Dunwell asked Mr. Horowitz if there are any ADU lots sold where the property is split.
- 12:09:48 Sen. Esp commented on the reason why he wanted to look at the ADU issues.

LUNCH BREAK

SJ 13 - PREVAILING WAGE STUDY

Contract Thresholds in Other States

- 13:07:24 Ms. Henneman gave a presentation on the SJ13: Contract Thresholds in Other States. ([Exhibit 6](#)).

Discussion of Economic Impacts of Prevailing Wage Law

- 13:09:31 Kevin Duncan, Professor of Economics, Colorado State University-Pueblo, presented his paper, What the Research Tells Us About the Costs and Benefits of Prevailing Wage Laws ([Exhibit 7](#)), and Implications of Prevailing Wage Zone Pay and the Contract Threshold in Montana ([Exhibit 8](#)).

Committee Questions of Mr. Duncan

- 13:40:51 Sen. Esp asked if it is comparable to look at large projects in urban areas like California against projects in Montana.

- 13:43:57 Mr. Duncan clarified the data on prevailing wage scale in the five California cities that he spoke of in his presentation.
- 13:52:25 Rep. Kelker asked if having workers go through the apprenticeship process is helpful in terms of safety and efficiency.
- 13:55:16 Rep. Dunwell asked how prevailing wages might help train new people.
- 13:58:38 Rep. Gist asked how a 4% decrease in wages could put someone into poverty.
- 14:00:54 Rep. Fern commented on prevailing wages and whether or not the threshold should be raised.

Public Comment on Economic Impacts of Prevailing Wage Law

- 14:05:38 Adam Haight, representing Labors Local 1686
- 14:09:15 Joel Worth, representing the Carpenters Union
- 14:12:02 David Smith, Montana Contractors Association
- 14:15:03 Amanda Frickle, Political Director, Montana AFL/CIO
- 14:17:37 Dan Johnson, representing self
- 14:21:46 John Johnson, Operating Engineer
- 14:23:14 Jessica Wicks, Teachers Local 2

Montana Contractors Panel

- 14:24:50 Erik Sletten, President, Sletten Construction, discussed raising the threshold on the prevailing wage and protecting the prevailing wage.

Public Comment on Montana Contractors Panel Presentation

- 14:28:29 Derek Hitt, representing the carpenters

BREAK (reconvened at 2:45 p.m.)

- 14:46:51 Sen. Esp commented on Mr. Duncan's presentation regarding prevailing wage laws and the costs of affordable construction.

HJ 30 - STUDY OF COUNTY WATER AND/OR SEWER DISTRICTS
Follow-up of committee question regarding methods of correction

- 14:48:30 Julie Johnson, Staff Attorney, discussed the memo "Overview of Laws to Address Delinquency in Duties". [\(Exhibit 9\)](#)

Committee Questions

- 14:52:54 Rep. Kelker asked who pays the court costs if a citizen sues the county for holding meetings without notice to prevent the public from attending the meeting.

Historical Summary of Statutes

- 14:55:47 Ms. Henneman gave a historical summary of statutes of County Water and/or Sewer district board composition, appointment, election, and vacancies of Districts. [\(Exhibit 10\)](#)

Committee Questions and Discussion

- 15:11:12 Rep. Kelker asked if oversight exists to ensure that the districts are in compliance.

- 15:13:19 Rep. Kelker commented on needing something outlining that a county is responsible for collecting information on noncompliance and making sure that those things are done.
- 15:14:42 Rep. Gist said that the bottom line is that the members on the board are ultimately the ones to hold the boards accountable because they are going to be the ones that actually govern.
- 15:16:35 The committee had a discussion on the statutes, qualified electors, and appointments.
- 15:18:15 Rep. Fern said he would like to look at a district's financial reports and compliance with the law in open meetings and how elections are run.
- 15:19:53 Rep. Brewster commented on the appointment of a municipal director and having the mayor appoint a replacement every four years, and allowing the county commission to appoint enough members to a board to form a quorum.
- 15:23:51 Rep. Kelker asked if the board members are paid a salary or if they are unpaid volunteers.

Overview of election and appointment process

- 15:25:37 Susan Swimley, Attorney, gave an overview of the election and appointment process.

Committee Questions of Ms. Swimley

- 15:45:10 Rep. Dunwell asked why a board member who was just appointed but has to file for election at the end of the term can remain as appointed to that board without actually running for election.
- 15:47:59 Rep. Custer asked Ms. Swimley to explain the difference between when a 4-year-term member who files for nomination is the only one running and the county commissioners then declares that person as elected for another 4-year term even though there wasn't an election, and when a board appoints someone to fill in because a member left in the middle of the term.
- 15:50:54 Rep. Brewster asked if members of an existing board who are up for re-election and who want to stay on the board may be reappointed to that board and not go through the election process.

Panel Discussion Follow-up

- 15:52:30 Peyton Brookshire, Assistant Manager, County Water Sewer District of Billings Heights, gave a presentation on the County Water Sewer District's election process.

Public Comment

- 15:59:54 Susan Swimley, Attorney, said that compensation for board members is set out in 7-13-2273, MCA.

RECESS

- 16:01:29 Rep. Custer recessed the meeting at 4:01 p.m., to reconvene at 9:00 a.m. on November 19, 2021.