



## **LOCAL GOVERNMENT INTERIM COMMITTEE**

### **67th Montana Legislature**

#### **SENATE MEMBERS**

Kenneth Bogner  
Ellie Boldman  
John Esp  
Mark Sweeney

#### **HOUSE MEMBERS**

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

#### **COMMITTEE STAFF**

Toni Henneman - Research Analyst  
Julie Johnson - Attorney  
Katya Grover - Secretary

# **MINUTES LOG**

## **January 27 & 28, 2022**

January 27, 2022

Room 137

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, Chair (R)  
Sen. Kenneth Bogner (R)  
Rep. Larry Brewster (R)  
Rep. Mary Ann Dunwell (D)  
Sen. John Esp (R)  
Rep. Kathy Kelker (D)  
Sen. Steve Gist (R)

#### **MEMBERS EXCUSED:**

Sen. Mark Sweeney, Vice Chair (D)  
Sen. Ellie Boldman (D)  
Rep. Dave Fern (D)

#### **STAFF PRESENT:**

Toni Henneman, Research Analyst  
Julie Johnson, Attorney  
Katya Grover, Secretary

## **AGENDA (Attachment 1)**

### **VISITORS' LIST (Attachment 2)**

#### **CALL TO ORDER/ROLL CALL**

13:00:02 Presiding Officer Custer called the meeting to order at 1:00 p.m. The committee secretary took roll.

#### **SENATE JOINT RESOLUTION 13: PREVAILING WAGE STUDY**

13:00:59 Toni Henneman, Research Analyst, Legislative Services Division, gave an overview SJ 13 Study.

13:01:44 *Sen. Sweeney joined the meeting.*

#### **Bidding Process for State Projects**

13:02:26 Russ Katherman, Administrator, Architecture & Engineering Division, Department of Administration, gave a presentation on the state's bidding process ([Exhibit 1](#)). He discussed the document "State Construction Contracting Requirements" ([Exhibit 2](#)).

#### **Committee Questions of Mr. Katherman**

13:10:24 Rep. Kelker asked about the prevailing wage rates rule.

13:13:03 Rep. Dunwell asked what the wage requirements are for projects \$25,000 and under.

13:14:49 Rep. Dunwell asked about benefits being paid to employees on projects \$25,000 and under and benefits paid for projects \$25,000 and over.

13:15:30 Rep. Gist asked if there has been any discussions about the rising costs of building materials or the size and complexity of a job.

#### **Enforcement Mechanisms**

13:17:03 Eric Strauss, Administrator, Employment Relations Division, Department of Labor and Industry, gave a presentation on enforcement efforts as it relates to prevailing wage. He discussed the DLI's 4-prong approach to compliance.

#### **Committee Questions of Mr. Strauss**

13:25:18 Rep. Brewster asked what kind of workforce the department has to work on compliance.

13:25:46 Sen. Esp asked if the five field officers include the officers that do the work comp verification.

13:26:29 Sen. Esp asked Mr. Strauss to give him the total fees collected for the Independent Contractor exemptions and what the salary is for the five field inspectors.

13:27:11 Rep. Dunwell asked about the 20 claims filed in 2021 and of those claims filed how many violations he found.

13:28:33 Rep. Dunwell asked how the committee can help to increase compliance inspections that is currently done by the five field inspectors.

13:30:24 Rep. Dunwell asked if Mr. Strauss' staff are FTEs or bodies in positions.

13:30:53 Rep. Custer asked if Mr. Strauss will have enough staff to deal with upcoming projects.

13:32:41 Rep. Custer said that other states report by electronic means. She asked if Montana might be leaning towards using a computer software to report.

13:33:33 Sen. Esp asked how many projects audited are projects that fall in the range from \$25,000 to \$75,000.

### **Other State Enforcement Processes**

13:38:10 Ms. Henneman gave a presentation on a report by Columbia Law School entitled "Enforcement of State Wage and Hour Laws: A Survey of State Regulators." ([Exhibit 3](#))

### **Public Comment on the SJ 13 Study**

13:41:41 Amanda Frickle, Political Director, Montana AFL-CIO  
13:45:12 Julie Spencer, District Manager, Bigfork County Water and Sewer District  
13:46:35 Derek Hitt, Carpenters Local 82  
13:47:56 John Johnson, business agent with the Operating Engineers

### **Committee Questions**

13:49:15 Rep. Dunwell asked Mr. Johnson to clarify what he meant by "third party" and who pays the third party.  
13:51:22 Rep. Gist asked Mr. Hitt if he reports the discrepancies in payroll to the state and if he follows the same process that Mr. Johnson described in identifying the discrepancies.

### **Committee Work Session on the SJ 13 Study**

13:53:05 Ms. Henneman referred the committee to the committee's Timeline ([Exhibit 4](#)) and discussed what the committee wanted for the SJ 13 Study.  
13:54:30 Rep. Kelker said she is in favor of the portal and suggested taking action certifying payroll. She is interested in what areas of law would need to be changed to be more efficient in compliance.  
13:55:50 Rep. Gist said that it would be beneficial to hear from the builders who might use this portal and how friendly it is for reporting payroll or how labor intensive it is for them.  
13:56:27 Sen. Esp expressed an interest in learning more about Ms. Spencer's suggestions regarding templates for payroll.  
13:58:03 Rep. Gist said that there are many payroll programs and to have someone input data is labor intensive and there are more chances of making mistakes.  
13:58:30 Rep. Dunwell said we need to build capacity for compliance.  
14:01:45 Rep. Gist suggested that the industry and DLI collaborate and come up with some proposed legislation.  
14:02:42 Sen. Esp requested more information from the DLI on how much time is spent on those projects between \$25,000 and \$80,000.  
14:04:00 Rep. Dunwell said that one size doesn't work for all contractors and some contractors may not have access to online portal.

### **SENATE JOINT RESOLUTION 23: PUBLIC NOTICE STUDY**

#### **Follow-up Question: Internet Connectivity**

14:05:55 Ms. Henneman discussed the briefing paper entitled "Internet and Online Newspaper Access in Montana." ([Exhibit 5](#))  
14:10:02 *Rep. Fern joined the meeting.*

### **Committee Discussion**

- 14:15:06 Rep. Dunwell discussed affordability for people having newspaper subscriptions with access to public notices vs. newspaper subscriptions online with access to public notices.
- 14:16:23 Rep. Kelker said that public notices need to be in both the newspaper and online. She discussed what the online requirements are, how to determine compliance, and how people find particular notices that they are interested in.
- 14:19:12 Rep. Dunwell commented on local people knowing what works best for them.
- 14:20:12 Rep. Fern commented on internet access.
- 14:21:36 Rep. Custer commented on looking at the printed newspaper vs. digital.

### **Electronic Notice Security Issues**

- 14:23:00 Jenn Rowell, editor of The Electric, an online publication in Great Falls, spoke on publishing notices in a digital publication.

### **Committee Questions of Ms. Rowell**

- 14:26:03 Rep. Gist asked about the number of clicks that Ms. Rowell's website receives, the success rate, and the number of unique vs. repeat visitors.
- 14:27:02 Rep. Brewster asked how the person who placed the notice online in The Electric received a statement or an affidavit of print if the notice is not printed on paper.
- 14:28:21 Rep. Kelker asked if Ms. Rowell knew the number of people who accessed The Electric's public notices and if that person is considered a "visitor" who accessed the online newspaper once or several times.
- 14:29:21 Sen. Bogner asked if it would be possible to get how many visitors were sent from a search engine website.

## **SENATE JOINT RESOLUTION 23: PUBLIC NOTICE STUDY**

### **Panel of Newspaper & Broadcast Personnel**

- 14:31:23 Jim Strauss, Missoulian, discussed the importance of legal notices appearing in print and online, the ability to verify that the notices have been archived, the number of digital subscribers vs. the number of hard copy subscribers, and the importance of revenue.
- 14:47:41 Tamy Wagner, NBC Montana, discussed accessing news in a variety of ways.
- 14:52:33 Cam Maxwell, CEO, Desert Mountain Broadcasting, discussed how people can find notices online and whether there is a specific website where customers could find and search all the public notices.
- 14:56:36 Anita Fasbender, Independent Record, thanked the committee for organizing the panel with key players in the newspaper industry.

### **Committee Questions/Discussion**

- 14:57:47 Rep. Dunwell asked the panelists about the statute that says the public and state must place a public notice in the area publication of record. What would the panelists suggestions be as broadcasters to assure that notices will be on record and archived.
- 14:59:56 Ms. Wagner responded.
- 15:00:46 Rep. Fern asked about security issues if broadcasters gain exclusivity to public notices, what are the assurances that they would be secure and not altered in any way.

15:01:20 Mr. Maxwell responded.

15:02:22 Rep. Kelker asked the panelists if they see Montana as a leading edge in having a number of choices that the government can look at where there would be competition in the market place.

15:04:07 Mr. Maxwell

15:05:28 Mr. Strauss

15:07:21 Ms. Wagner

15:09:57 Rep. Dunwell asked the panelists about printing ads digitally online or doing a commercial broadcast and the costs associated with that.

15:11:37 Mr. Maxwell

15:14:21 Mr. Strauss

15:16:57 Ms. Wagner

15:17:33 Rep. Fern commented about the importance of legal placement of notices and the information being interpreted in the right way.

15:19:36 Mr. Strauss responded.

15:21:02 Rep. Dunwell asked Mr. Maxwell if his radio stations have a digital component where someone can go on the website and if that is a venue that he would use for publication of legal notices.

**BREAK** (reconvened at 3:33 p.m.)

**Public Comment on SJ 23 Study**

15:34:30 David Smith, Executive Director, Montana Contractors' Association

15:38:44 Ronda Wiggers, Montana Broadcasters Association

**Committee Questions**

15:41:24 Rep. Kelker asked Mr. Smith about niche markets as a place for contractors to go to for bids.

**SENATE BILL 302 (2019) UPDATE AND REVIEW**

**Legal Analysis**

15:43:50 Julie Johnson, Staff Attorney, discussed her legal analysis on Senate Bill 302 Application. ([Exhibit 6](#))

**Committee Questions of Ms. Johnson**

15:48:58 Rep. Fern asked about the six months of technical assistance provided by the state.

15:49:56 Sen. Esp explained that the state has to offer the six months of assistance but the entity doesn't have to accept it. It is unclear that if the entity does accept it, does the department wait for the 6-month period to expire before the taxpayers file for the claim, and is there sufficient evidence to go to court.

15:50:37 Ms. Johnson responded.

**Public Comment**

None.

## **HOUSE JOINT RESOLUTION 6: COAL TRUST STUDY UPDATE**

15:53:19 Megan Moore, Research Analyst, Revenue Interim Committee (RIC), gave an update on the progress of the RIC on the HJR 6 Study.

## **Constitutional Initiative 121: Limit annual increases and decreases in valuations of residential property**

15:56:36 Ms. Moore discussed the Constitutional Initiative 121 (CI-121) and the letter from the RIC to the Local Government Interim Committee (LGIC) expressing the concerns regarding the initiative ([Exhibit 7](#)). She also discussed the proposed amendment to CI-121 ([Exhibit 8](#)).

## **Committee Questions of Ms. Moore**

- 15:59:05 Rep. Fern asked if the RIC has had a chance to look into acquisitions as part of the study on residential property taxes.
- 16:00:51 Rep. Fern asked if Ms. Moore knows if the system used in California is inclusive of what CI-121 proposes.
- 16:01:55 Rep. Kelker asked how CI-121 would affect schools.
- 16:02:54 Sen. Esp asked if Montana has ad valorem taxes on residential real property.
- 16:03:39 Sen. Esp asked if there has been any discussions on the notion that the Constitution requires equal valuation for equal property throughout the state.
- 16:04:36 Rep. Dunwell asked about the next steps that RIC will take and what is the timeframe.
- 16:07:23 Rep. Fern said that in order to better understand the impact of CI-121 on local government, counties, or cities, there needs to be some feedback or development of models that will show what will happen if CI-121 passes and what the impact on high growth areas or low growth areas will be.
- 16:09:07 Rep. Custer asked Ms. Moore if the Legislative Fiscal Division has any information on what the 2019 value of residential was compared to what it is now.
- 16:10:41 Rep. Custer asked about a 740 mill cap on some cities.
- 16:11:32 Rep. Brewster commented on the multiplier changing down to 1% when calculating the mill value.
- 16:12:56 Rep. Fern commented on schools having equity and adequacy constitutional mandates. Rep. Fern stated that it would be helpful to get the perspective from the Office of Public Instruction and how that would work.
- 16:14:07 Rep. Kelker said that CI-121 would save Montanans \$170 million annually on excess property taxes but that amount would have to be made up in order to adequately fund schools, police, and fire departments.
- 16:14:44 Sen. Esp responded.
- 16:15:43 Ms. Moore responded.

## **COMMITTEE WORK SESSION**

16:16:31 Ms. Henneman discussed the RIC's letter regarding CI-121 and proposed three options: (1) not to pursue the matter further; (2) entertain public comment on the matter; and (3) have the LSD and LFD staff gather as much data as possible between now and the time of the next meeting in March to present to the committee.

### **Committee Discussion on Letter from RIC**

16:18:02 Rep. Kelker  
16:18:56 Ms. Henneman  
16:19:09 Rep. Custer  
16:19:14 Sen. Esp  
16:19:24 Rep. Custer  
16:19:31 Rep. Dunwell  
16:20:34 Sen. Esp  
16:21:20 Rep. Fern  
16:22:31 Ms. Henneman  
16:22:49 Rep. Custer

### **Motion/Vote**

16:23:00 Rep. Kelker moved to proceed with Option 3 as presented by Ms. Henneman.  
The motion passed unanimously on a voice vote.

### **Committee Discussion on the Studies**

16:23:20 Ms. Henneman  
16:24:20 Rep. Kelker  
16:27:22 Rep. Custer  
16:27:37 Ms. Henneman  
16:28:05 Rep. Dunwell  
16:29:52 Rep. Kelker  
16:30:37 Rep. Brewster  
16:31:59 Chair Custer  
16:32:27 Rep. Brewster  
16:32:50 Rep. Dunwell  
16:33:20 Rep. Kelker  
16:34:24 Rep. Fern  
16:35:26 Rep. Brewster  
16:36:25 Chair Custer  
16:36:43 Rep. Dunwell  
16:37:30 Rep. Brewster  
16:38:00 Chair Custer  
16:38:13 Rep. Kelker  
16:39:03 Chair Custer  
16:39:08 Ms. Henneman

### **RECESS**

16:40:10 Rep. Custer recessed the meeting at 4:40 p.m., to reconvene on January 28, 2022.