



LOCAL GOVERNMENT INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Kenneth Bogner
Ellie Boldman
John Esp
Christopher Pope

HOUSE MEMBERS

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

COMMITTEE STAFF

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

MINUTES LOG

May 17, 2022
Room 102/Zoom
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 IN PERSON:

Rep. Geraldine Custer, Chair (R)
Sen. Kenneth Bogner (R)
Sen. Ellie Boldman (D)
Rep. Larry Brewster (R)
Rep. Mary Ann Dunwell (D)
Sen. John Esp (R)
Rep. Dave Fern (D)
Rep. Kathy Kelker (D)

MEMBERS PRESENT VIA ZOOM:

Sen. Christopher Pope, Vice Chair (D)
Rep. Steve Gist (R)

STAFF PRESENT:

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

AGENDA (Attachment 1)

VISITORS' LIST (Attachment 2)

COMMITTEE ACTION

The committee elected Sen. Chris Pope as Vice Presiding Officer.

The committee moved to draft two letters:

- Letter to the Education Interim Budget Committee requesting the committee consider including additional funding for the MSU Local Government Center in the next biennial budget; and
- Letter to the Economic Affairs Interim Committee directing the committee to request the Department of Labor and Industry to investigate software system options to aid in prevailing wage compliance.

The committee also informally requested that all bill drafts discussed at the meeting be revised as noted and sent out for public comment before the July meeting.

CALL TO ORDER/ROLL CALL

- 13:01:00 Presiding Officer Geraldine Custer called the meeting to order at 1:01 p.m. The committee secretary took roll. **(Attachment 3)**
- 13:03:04 Rep. Custer asked for a moment of silence for Sen. Mark Sweeney who passed away. She welcomed Sen. Christopher Pope as Sen. Sweeney's replacement.
- 13:05:07 Several committee members gave their remembrance of Sen. Sweeney.

ELECTION OF VICE CHAIR

- 13:11:46 Rep. Kelker nominated Sen. Pope to serve as Vice Presiding Officer.
- 13:13:24 The motion passed unanimously on a voice vote.

HJ 30: COUNTY WATER AND/OR SEWER DISTRICTS STUDY

District Dissolution Discussion

- 13:14:36 Nathan Bilyeu, Attorney, discussed the Montana statutes governing county water and/or sewer district dissolution. **(Exhibit 1)**

Questions from the Committee of Mr. Bilyeu

- 13:38:57 Rep. Gist asked how often water or sewer districts dissolve its district.
- 13:40:52 Rep. Kelker asked if there is a law that covers a situation where there weren't enough people on the board to vote to dissolve a district.
- 13:41:20 Rep. Brewster presented a scenario where a municipality wanted to take over the operations of a water/sewer district. He asked Mr. Bilyeu if he agreed that the laws of dissolution did not apply in that particular situation.

Review draft legislation, PD1TH and PD2TH

- 13:50:57 Toni Henneman, Lead Researcher, reviewed the following bill drafts:

- 13:52:29 PD1TH: Revising county water and/or sewer district administration laws related to the election, appointment, and composition of a board of directors **(Exhibit 2)**
- 13:56:48 PD2TH: Revising county water and/or sewer district administration laws to remove certain appointed county water and/or sewer district board positions **(Exhibit 3)**
- 13:57:57 Ms. Henneman referred the committee to public comment submitted by Steve Wade. **(Exhibit 4)**

Public Comment on PD1TH and PD2TH

- 13:58:34 Julie Spencer, Manager, Bigfork Water and Sewer District
- 13:59:51 Pam Ellis, County Water District, Billings Heights

Questions from the Committee

- 14:01:42 Rep. Fern asked Rep. Brewster if he prefers the appointment flexibility as outlined in PD1TH versus the simpler language of PD2TH.
- 14:04:22 Rep. Fern asked Rep. Brewster if there has ever been a discussion regarding the scenario that Rep. Brewster had presented earlier where a municipality wanted to take over a water/sewer district.
- 14:07:42 Rep. Custer commented on the public comment from Steve Wade.

BREAK (reconvened at 2:30 p.m.)

SENATE JOINT 13: PREVAILING WAGE STUDY

Review draft legislation, PD4TH

- 14:30:26 Ms. Henneman discussed PD 0004: Revising the amount at which the prevailing wage contract laws apply to counties, cities, state agencies. **(Exhibit 5)**
- 14:32:10 Ms. Henneman gave a presentation on the briefing paper, "Revising the Contract Threshold - Why \$80K?" **(Exhibit 6)**

Public Comment on PD4TH

- 14:33:31 David Smith, Executive Director, Montana Contractors Association
- 14:34:32 Kim Rickard, Labors Local 1686
- 14:37:03 John Johnson, Business Agent, Operating Engineers Local 400
- 14:38:15 Amanda Frickle, Political Director, Montana AFL-CIO

Questions from the Committee

- 14:43:14 Rep. Dunwell asked Mr. Smith to clarify his statement "that raising the threshold puts money back into the workers pocketbooks."
- 14:47:19 Rep. Fern asked Ms. Frickle her thoughts of moving the threshold upward because inflation impacts the numbers.
- 14:51:23 Rep. Kelker asked Ms. Rickard if she thinks that because of inflation there won't be as many opportunities for smaller projects between \$25,000 and \$80,000.

- 14:52:56 Sen. Esp asked Ms. Frickle what the prevailing wage was at the time the \$25,000, project contract threshold was adopted.
- 14:56:16 Rep. Gist asked Mr. Smith about raising the threshold alongside the rising price of lumber.
- 14:57:57 Sen. Pope asked Ms. Henneman if the Department of Labor and Industry (DLI) was asked to weigh in on this issue.
- 14:59:47 Eric Strauss, Administrator, Employment Relations Division, Department of Labor and Industry, introduced himself and said he was available for questions.
- 15:00:04 Sen. Pope asked Mr. Strauss if DLI keeps track of data related to prevailing wage.
- 15:01:03 Sen. Pope asked Mr. Strauss if a change in the provision in Section 6 of the existing statute would impact Montana workers if the threshold of \$25,000 was changed to \$80,000.
- 15:02:23 Sen. Boldman asked about the timeline of the agenda item regarding SJ 13.
- 15:03:21 Ms. Henneman responded.

Motion

- 15:03:35 Sen. Boldman moved to table the vote on PD 0004.

Roll Call Vote

- 15:07:26 The motion failed on a roll call vote, 6-4, with Sens. Bogner and Esp and Reps. Brewster, Fern, Gist, and Custer voting no. Sens. Boldman and Pope and Reps. Dunwell and Kelker voting yes.

Discussion

- 15:09:42 Sen. Esp asked Ms. Henneman if she could draft a bill so that the worker residency requirement moves with the threshold change.
- 15:10:52 Rep. Dunwell asked for more information on the residency requirement.
- 15:11:10 Julie Johnson, staff attorney, responded.
- 15:11:20 The committee discussed the residency requirement.
- 15:16:41 Rep. Dunwell asked Ms. Rickard to comment on the workforce shortage and the impact of paying employees less at a time when agencies, organizations, and businesses can't find workers.

Legislative history of project labor agreements

- 15:18:32 Ms. Henneman discussed the briefing paper, "Project Labor Agreements in Montana." ([Exhibit 7](#))

Discussion of other software options

- 15:25:38 Ms. Henneman discussed options regarding the prevailing wage compliance software systems. ([Exhibit 8](#))

Department of Labor and Industry Comments

15:32:45 Eric Strauss, Administrator, Employment Relations Division, Department of Labor and Industry

Questions from the Committee

- 15:33:13 Rep. Kelker asked if Mr. Strauss was aware of the compliance forms from the state of Washington. She also asked Mr. Strauss about creating similar forms for Montana and recommending DLI charge a fee per form to help with costs.
- 15:39:32 Rep. Fern asked Mr. Strauss how many complaints are investigated for potential fraud and what is his criteria in choosing a contractor to audit.
- 15:41:40 Sen. Esp asked if Mr. Strauss has audited a project between \$25,000 and \$80,000. If the threshold is raised to \$80,000, would that eliminate those projects from his workload.
- 15:42:30 Sen. Pope asked Mr. Strauss who conducts the audits, how many requests for services are received from outside agencies, and if there are adequate resources to understand what is going on inside the prevailing wage market.
- 15:45:50 Rep. Dunwell asked Mr. Strauss if increasing the threshold to \$80,000 would result in less work for the compliance team, risking some employees their jobs, and possibly resulting in a hiring freeze.
- 15:47:49 Rep. Custer asked Mr. Strauss if the influx of money into the economy and raising the threshold create a problem for the compliance team.

LAND USE WORKING GROUP UPDATE

Review of draft legislation

15:50:31 Kelly Lynch, Director, Montana League of Cities and Towns, reviewed the Land Use Working Group Draft Legislation. ([Exhibit 9](#))

Public Comment

None.

Questions from the Committee of Ms. Lynch

- 15:59:17 Rep. Dunwell asked how many counties have planning commissions.
- 16:00:54 Rep. Kelker asked about the relationship between a private landowner and the community.
- 16:03:32 Sen. Pope asked about potential state programs and financing to help a county or a municipality embrace the idea of implementing growth plans.
- 16:08:46 Rep. Gist asked for the members of the Working Group.
- 16:09:16 Sen. Boldman and Ms. Lynch responded.

COMMITTEE WORK SESSION

Review and Next Steps for HJ 30 and SJ 13 Studies

16:11:43 Ms. Henneman discussed the Local Government Interim Committee Bill Draft Table ([Exhibit 10](#)), and the LGIC Proposed Work Plan Timeline ([Exhibit 11](#)).

Discussion on House Joint 30 Study, PD 0001 and PD 0002

- 16:12:51 Rep. Brewster commented on both PD 0001 and PD 0002 and recommended adding language that the municipalities provide compensation for their appointees to the board. He would like to move PD 0002 forward and let the districts negotiate with other entities by interlocal agreements.
- 16:18:47 Rep. Fern asked Ms. Lynch to comment on Rep. Brewster's recommendations.
- 16:21:28 Rep. Dunwell asked Ms. Spencer to comment on PD 0002.
- 16:24:59 Rep. Custer commented on putting a grandfather clause in PD 0002.
- 16:28:43 Rep. Custer said that there is consensus that the PD 0001 and PD 0002 be put out for public comment before the July meeting.

Discussion on Senate Joint 13 Study

- 16:29:02 Ms. Henneman asked if there are amendments to PD 0004.
- 16:29:25 Rep. Kelker expressed an interest in trying to create prevailing wage forms similar to the forms used in Washington.
- 16:31:16 Rep. Fern discussed dealing with prevailing wage and the contract threshold of projects \$25,000 to \$80,000.
- 16:33:22 Sen. Pope suggested looking at inflation rates on wage earners in the past 30 or 40 years.
- 16:35:58 Sen. Boldman discussed moving this topic for the July meeting.
- 16:36:58 Rep. Dunwell agreed with Sen. Boldman and Sen. Pope. She would like more information on the effects of the ARPA funds coming in.
- 16:38:26 Rep. Brewster supported moving PD 0004 forward.
- 16:39:05 Sen. Esp said that he will provide an analysis of the data that was provided by Ms. Rickard.
- 16:40:04 Rep. Dunwell and Rep. Custer discussed the residency requirement.
- 16:43:26 Rep. Dunwell suggested eliminating the threshold altogether.
- 16:44:50 Sen. Esp suggested that the committee further review this issue at tomorrow's meeting.
- 16:45:04 Rep. Fern suggested that stakeholders give their opinions at the next meeting.

Motion/Vote

- 16:46:22 Sen. Boldman withdrew her original motion and then moved that this issue be an agenda item for the July meeting. The motion passed on a voice vote with Rep. Dunwell voting no.

RECESS

- 16:47:54 Rep. Custer recessed the meeting at 4:48 p.m.