



## **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 18, 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. Christopher Pope, Vice Chair (D)  
Sen. Kenneth Bogner (R)  
Rep. Larry Brewster (R)  
Rep. Mary Ann Dunwell (D)  
Sen. John Esp (R)  
Rep. Dave Fern (D)  
Rep. Steve Gist (R)  
Rep. Kathy Kelker (D)

#### **MEMBERS PRESENT VIA ZOOM:**

Sen. Ellie Boldman (D)

#### **STAFF PRESENT:**

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

## **AGENDA (Attachment 1)**

### **NO VISITORS' LIST**

### **RECONVENE**

08:31:45 Presiding Officer Geraldine Custer reconvened the meeting at 8:30 a.m. The secretary called roll. Sen. Boldman was excused but joined the meeting later by Zoom. **(Attachment 3)**

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

#### **Review draft legislation, PD7TH and PD12TH**

08:32:09 Ms. Hennenman discussed PD 0007: Revising county and municipal public notice requirements **(Exhibit 12)**

08:33:53 Ms. Hennenman discussed PD 0012. **(Exhibit 13)** She referred the committee to the briefing paper "PD12 - Explanation and Considerations". **(Exhibit 14)**

08:35:58 Rep. Dunwell commented on PD 0012.

08:39:03 Ms. Henneman continued her presentation on PD 0012.

#### **Questions from the Committee**

08:56:03 Rep. Kelker asked Ms. Henneman about publishing a notice advertisement in a newspaper one time: may the local government publish the notice multiple times or just one time.

08:57:58 Rep. Fern said he doesn't have a problem phasing this in over two sessions, and that maybe society should consider changing the definition of newspaper.

08:59:16 Rep. Kelker asked about simplifying the number of times the words "published in a newspaper" occurs in the Montana Code Annotated.

09:01:30 Rep. Custer asked Julie Johnson, Staff Attorney, about posting notices in three public places and whether publishing to a website is considered a public place.

09:12:15 Rep. Gist asked if the bill could be split into two sections.

09:13:28 Sen. Esp asked how PD 0012 can be improved.

09:14:50 Rep. Fern said if the committee does not want to attempt other subject matters, such as public noticing for schools and courts, how would that happen and who should do it.

09:15:34 Ms. Henneman responded.

09:16:18 Rep. Fern said that Sen. Esp suggested that addressing all types of public notice is out of the purview subject matter of Local Government and that another interim committee might be more appropriate to deal with this issue.

09:16:54 Ms. Henneman responded.

#### **Public Comment**

09:18:59 Kelly Lynch, Executive Director, Montana League of Cities and Towns

### **Questions from the Committee**

- 09:21:10 Sen. Pope asked Ms. Lynch if this is a budget issue that warrants a financial discussion with the Montana League of Cities and Towns.
- 09:22:33 Sen. Pope said he wants to make sure that the committee understands the financial considerations of this action.
- 09:24:44 Rep. Fern asked Ms. Hennenman if she had noticed any inconsistencies while reviewing the various categories on notice requirements.
- 09:28:29 Rep. Gist reminded the committee that accountability of recordkeeping is available electronically or on paper.

### **SPECIAL DISTRICT OVERSIGHT**

#### **Review draft legislation, PD9TH**

- 09:29:47 Ms. Henneman reviewed PD 0009: Providing for citizen-initiated claims to be filed against the board of a local special district if the board has been found in noncompliance with statutory requirements. [\(Exhibit 15\)](#)

#### **Review draft legislation, PD8JJ**

- 09:33:55 Julie Johnson, Committee Attorney, reviewed PD 0008: Authorizing county commissioners to initiate civil proceedings, hire outside counsel, and recover costs. [\(Exhibit 16\)](#)
- 09:36:56 Rep. Custer commented that the only power the county commissioners have over the elected officers is through the budget.
- 09:38:08 Rep. Kelker asked if this is an employment issue.
- 09:39:56 Rep. Fern asked Ms. Johnson if what PD 0008 suggests had been done in the past and if so, how the county commissioner handled it.

#### **Public Comment on PD 0009 and PD 0008**

- 09:44:44 Kelly Lynch, Executive Director, Montana League of Cities and Counties
- 09:46:15 Pam Ellis, Billings
- 09:49:49 Dan Clark, Director of Local Government Center, Montana State University

### **Questions from the Committee on Public Commenters**

- 09:52:39 Rep. Dunwell asked Ms. Lynch to address the issues that Ms. Ellis brought up of dealing with malfeasance and Rep. Custer's statement that there may be some political motive to try to get someone out of office.
- 09:55:17 Rep. Dunwell asked Mr. Clark how he deals with an officer's alleged malfeasance who knows the law and just willfully disregards it.
- 09:57:20 Rep. Fern, Rep. Gist, and Sen. Brewster commented on the 5% threshold in PD 0009.
- 10:00:04 Rep. Kelker asked Mr. Clark about helping boards establish bylaws that aid in self-governance.
- 10:06:27 Rep. Fern said he would like to narrow PD 0009 down to special districts and send it forward for further discussion.

**BREAK** (reconvened at 10:23 a.m.)

**MONTANA STATE UNIVERSITY LOCAL GOVERNMENT CENTER FUNDING**

**Explanation of current funding and budget process**

10:23:34 Katie Guenther, Legislative Fiscal Analyst ([Exhibit 17](#))

**Questions from the Committee**

10:29:17 Rep. Fern asked if it would be wise to contemplate going with the approaches that Ms. Guenther had suggested.

**Review of draft legislation, PD10TH**

10:30:06 Ms. Henneman discussed PD 0010: Appropriating funds to the Montana University System for the Local Government Center. ([Exhibit 18](#))

**Public Comment**

10:34:41 Kelly Lynch, Montana League of Cities and Towns

10:36:00 Dan Clark, Local Government Center

**Questions from the Committee**

10:36:26 Sen. Esp asked Sen. Bogner if the Education Budget Interim Committee is making any recommendations regarding appropriating funds to the Center and if there will be a recommendation before the first of September.

10:37:27 Rep. Kelker asked Mr. Clark if there has been an inflationary increase in the budget.

10:40:35 Rep. Gist asked Mr. Clark about the number of FTEs he might need, what those positions are, and if qualified people are available.

10:48:16 Rep. Fern said that the committee should look at the numbers in PD 0010 and either revise or amend it so that Mr. Clark can make a recommendation.

10:49:20 Rep. Gist asked Mr. Clark about a dollar amount or the number of FTEs it would take to accomplish the job.

10:57:45 Sen. Pope asked Mr. Clark to comment on the strategic strengths and weaknesses of the Center.

**GENERAL PUBLIC COMMENT**

None.

11:02:11 *Sen. Boldman joined the meeting via Zoom at 11:02 a.m.*

**COMMITTEE WORK SESSION**

**SJ 23 Study: PD 0007**

11:03:07 Ms. Henneman summarized what she heard regarding PD 0007 and said that without any objection, the committee will keep working on it.

### **SJ 23 Study: PD 0012**

- 11:04:01 Ms. Henneman summarized what she heard regarding PD 0012.
- 11:13:16 The committee discussed publication of notices in online newspapers.
- 11:25:58 Rep. Fern asked Ms. Johnson to review the text and advise the committee of strict state constitutional requirements regarding participation in meetings and public notice.
- 11:26:59 Sen. Brewster said he would support the two bills in the SJ 30 Study.
- 11:28:31 Ms. Henneman summarized that the committee wanted to keep PD 0009 and PD 0008 with some revisions.
- 11:30:25 The committee discussed asking the Montana Department of Labor and Industry to provide prevailing wage compliance forms, similar to Washington's compliance forms, and researching prevailing wage compliance software systems.

### **Motion**

- 11:50:31 Sen. Esp moved that staff write a letter to the Economic Affairs Interim Committee requesting that the Department of Labor and Industry look at fee-based compliance forms and prevailing wage compliance software systems.

### **Discussion on the Motion**

- 11:50:53 Sen. Bogner asked that the letter from the Local Government Interim Committee include specific requests.
- 11:51:30 Rep. Kelker asked about the compliance forms that Washington uses.
- 11:54:21 Ms. Henneman commented.

### **Vote**

- 11:54:33 The motion passed unanimously on a voice vote of those present in person and on Zoom.

### **Montana State University Local Government Center**

#### **PD 0010: Appropriate funds to the MUS Local Government Center**

- 11:56:01 Ms. Henneman discussed PD 0010.
- 11:57:27 Sen. Pope liked the PD 0010 for its purposes.
- 11:57:50 Rep. Gist said the Center needs more funding.
- 11:58:32 Rep. Custer discussed sending a letter to the Education Budget Interim Committee regarding appropriating funds to the Center and have a statutory appropriation ready to go with support.
- 11:59:54 Rep. Fern said Rep. Custer and a member of the Local Government Committee should work with Ms. Henneman on this letter.

**Motion/Vote**

12:05:07 Sen. Fern moved that a letter be written to the Education Interim Budget Committee to statutorily appropriate funds to the MSU LG Center. The motion passed unanimously on a voice vote with Sen. Boldman voting yes on Zoom.

**ADJOURNMENT**

12:08:37 Rep. Custer adjourned the meeting at 12:08 p.m.