



# Education and Local Government Interim Committee

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## 56th Montana Legislature

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### SENATE MEMBERS

GREG JERGSON, VICE PRESIDING OFFICER  
ALVIN A. ELLIS JR.  
BEA McCARTHY  
MIKE SPRAGUE  
JON TESTER  
DARYL TOEWS

### HOUSE MEMBERS

GAY ANN MASOLO, PRESIDING OFFICER  
JOAN ANDERSEN  
TOM FACEY  
JEFF MANGAN  
LINDA McCULLOCH  
JOE McKENNEY

### COMMITTEE STAFF

CONNIE ERICKSON  
RESEARCH ANALYST  
EDDYE McCLURE  
STAFF ATTORNEY  
JOANN JONES  
SECRETARY  
SANDY WHITNEY  
FISCAL ANALYST

## MINUTES

LOCAL GOVERNMENT SUBCOMMITTEE  
JUNE 22, 2000  
CAPITOL BUILDING  
HELENA, MONTANA

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### COMMITTEE MEMBERS PRESENT

Sen. Mike Sprague, Presiding Officer  
Sen. Jon Tester

Rep. Jeff Mangan

### COMMITTEE MEMBERS EXCUSED

Rep. Joe McKenney

### STAFF PRESENT

Connie Erickson, Research Analyst  
Jo Ann Jones, Secretary

### VISITORS

Visitors' list, Attachment #1.

## **COMMITTEE ACTION**

- C Approved to draft legislation in accordance with the recommendation made by the Montana Juvenile Probation Officers' Association in regard to salaries

## **CALL TO ORDER AND ROLL CALL**

Sen. Sprague called the meeting to order at 2:00 p.m. Roll call was noted. See Attachment #2. Sen. Tester moved to adopt the minutes of the last meeting. The motion passed on voice vote.

## **STANDARDIZATION OF PUBLIC NOTICE PROVISIONS**

### **Exhibit #1: LC 000A**

Connie Erickson, staff, presented Exhibit #1.

Sen. Sprague asked Ms. Erickson whom she had worked with on the bill draft. Ms. Erickson said she has worked with Gordon Morris, Montana Association of Counties (MACo); Alec Hansen, League of Cities & Towns; Ken Weaver, Local Government Center; Montana State University; and Rep. Hagener, Havre.

Sen. Sprague asked for clarification on page 9, line 2, section 9, where it reduces the period of notice to protest from 20 to 15 days. Ms. Erickson said that change was requested by a local government clerk from Bozeman who stated that 15 days would be more workable than 20 days. Current law provides for 20 days notice.

Sen. Tester said that if a newspaper does not meet the listed requirement for a municipality, notice may be published in a nearby county, but said that he did not see a similar provision for counties. Ms. Erickson directed him to page 2 and said that it is all contained within current law. She said the language regarding municipalities

was in two statutes, but language regarding counties appeared in only one statute, so she thought it would be more efficient to combine the two municipality statutes.

Sen. Tester asked if the protest provision is uniform throughout law as 15 days. Ms. Erickson said that in only a couple of instances does the law state 20 days.

Information indicates that the 20-day notice does not work well under current law.

Sen. Tester asked why 15 days would be better than 20 days. Ms. Erickson said that it has to do with other deadlines and mailings.

Sen. Sprague asked that the individual who recommended this change write a letter to the Subcommittee explaining why this change is desirable.

Ms. Erickson said the new section (section 1) was a suggestion from Dr. Ken Weaver. The new section provides for when hearings have to be adjourned for some reason. It requires local government to republish notice if a hearing is canceled or adjourned to another time and place. This prevents that body from meeting, then adjourning for a short period of time, and then meeting without notice to conduct business.

Mike McLean, Missoula, commented that segments of an agenda that are postponed until the next meeting cannot then be legally heard without 21 days notice, although participants would be given verbal notice of postponement. He wondered if this was practical.

### **HJR 38 JUVENILE PROBATION OFFICERS' SALARIES**

**Exhibit #2: House Joint Resolution No. 138**

**Exhibit #3: District Court FTE and Salaries for FY 1999**

**Exhibit #4: Statement of MT JPO Association**

**Exhibit #5: Testimony presented by Clark Kelly**

Leanne Kurtz, staff, discussed Exhibit #2, saying that HJR 38 called for a study of the funding and employment mechanisms for juvenile probation officers (JPO). She said that District Court judges set the JPO salaries but the JPOs are paid by the counties, so there is great disparity in salaries across the state.

Sen. Sprague asked for an explanation of the misunderstanding by MACo of the JPO proposal. Sandy Oitzinger, Executive Director, Montana JPO Association, said that they want the JPOs to be paid from general fund money, like county attorneys are paid. She said MACo had thought the JPOs wanted to tap into the District Court Reimbursement funding.

Dave Woodgerd, chief legal counsel, Department of Revenue (DOR), said the District Court Funding and Structure Committee has decided to examine financial issues instead of structural issues. They have agreed that the state should fund all of the district courts, including JPO salaries. The Clerk of Court would remain an elected position. He said legislation is being drafted that would provide a protective process for any employee who choose to transfer to state employment. The Committee has not yet examined salary issues in regard to what level they should be at, but have gathered information on salaries. He said the next meeting is July 13 and the committee hopes to conclude its work at that time.

Sen. Tester asked what the total cost would be if the state decided to fund everything. Mr. Woodgerd said there would be about \$20 million in additional cost, and said that the state pays about \$6 million now. Sen. Tester said the transitional costs was either \$600,000 or \$800,000, and commented that transitional costs are the rub.

Rep. Mangan asked what the source was for the \$20 million estimate. Mr. Woodgerd said it was the result of a survey of counties, see Exhibit #3.

Sen. Sprague asked how many district courts there are in Montana. Ms. Kurtz said there are 22 judicial districts. Sen. Sprague asked how the costs are allocated. Ms. Kurtz said the costs are always paid after the fact and allocation is set out in statute. The Chief JPO salary is paid on actual costs incurred on behalf of the county. If actual costs cannot be determined, each county pays on actual youth court workload, as determined by the judge.

Bob Peake, Chief JPO, Havre, said there are three counties within his district and the costs are based upon the previous year's workload, e.g., Hill County pays 80%, Choteau County pays 18%, and Liberty County pays about 2%. If a bill is incurred in another county, that county is billed. Sen. Sprague asked about reservations. Mr. Peake said they have no jurisdiction unless the youth is arrested off the reservation. If the youth returns to the reservation, then extradition is attempted. Home visits cannot be made on the reservations as well.

Sen. Sprague asked if counties that have reservations have county taxes that are paid by reservation residents. Ms. Erickson said it depends on whether the land is trust land or privately owned. Sen. Sprague asked if there is reimbursement from reservations for JPO costs. Mr. Peake said there is no reimbursement from the federal government. Some reimbursement can be made from Indian Health Services if there is an agreement ahead of time, but that's mostly for therapy or treatment. The tribal councils are very reluctant to spend any money for incarceration or any costs associated with crime off the reservation.

Sen. Sprague asked if there was 100% compliance on the survey. Mr. Woodgerd said that all counties, except for a few very small ones, had complied.

Mr. Peake presented Exhibit #4.

Sen. Sprague asked if JPO salaries are being considered by the Court Funding Committee, and said that if the Local Government Subcommittee doesn't carry the ball, it may be dropped. Sen. Tester said more information would be forthcoming after the July meeting. He said the biggest issue before the Committee is funding.

Rep. Mangan said he believes this Subcommittee has a duty to examine the issue and, if there is agreement, draft potential legislation, especially if the other Committee chooses not to act. He said that it may be prudent to examine the JPO Association's recommendations.

Sen. Sprague said he has no problem with moving ahead on the issue. He asked Sen. Tester if it would help if the Subcommittee developed a bill. Sen. Tester said it would be fine and suggested taking the JPO Association's recommendation and putting it in bill form.

Clark Kelly, Malta, offered testimony in support of the JPO recommendation. See **Exhibit #5**.

Rep. Mangan moved to instruct staff to draft legislation to reflect Option #1 contained within Exhibit #4, subject to review at the next meeting. The motion passed by unanimous voice vote.

Joe Connell, JPO from the 5th Judicial District, expressed appreciation for the Subcommittee's interest and commitment.

#### **SUBCOMMITTEE DISCUSSION**

Sen. Sprague asked if there was any interest for the Subcommittee to examine the feasibility of consolidating counties, if there would be a public request to do so. He

said the question should probably consist of what would be the optimal size of a county.

Sen. Tester said if local people wish to consolidate, they should be allowed to do so.

Ms. Oitzinger said she was formerly employed by MACo and suggested asking its executive board to provide testimony.

### **ADJOURNMENT**

There being no further business to come before the Subcommittee, the meeting was adjourned at 4:00 p.m.

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