



Education and Local Government Interim Committee

56th Montana Legislature

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SENATE MEMBERS

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HOUSE MEMBERS

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

COMMITTEE STAFF

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

MINUTES

LOCAL GOVERNMENT SUBCOMMITTEE
CAPITOL BUILDING
HELENA, MONTANA
SEPTEMBER 7, 2000

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
Rep. Jeff Mangan, Vice Presiding Officer

Sen. Jon Tester

Rep. Joe McKenney

STAFF PRESENT

Connie Erickson, Research Analyst
Jo Ann Jones, Secretary

VISITORS

Visitors' list, Attachment #1.

COMMITTEE ACTION

C Approved the minutes of the July 28, 2000, meeting.

- C Recommended that a bill that generally revises the salary structure for juvenile probation officers be presented to the Education and Local Government Committee
- C Voted not to recommend a bill that would generally revise public notification statutes to the Education and Local Government Committee

CALL TO ORDER AND ROLL CALL

Sen. Sprague called the meeting to order at 1:00. Roll call was noted, see Attachment #2. Rep. Mangan moved the adoption of the July 28, 2000, minutes. The motion passed on unanimous voice vote.

HJR 38

Exhibit #1: LC 8500

Exhibit #2: MJPOA Salary Cost Analysis

Exhibit #3: MJPOA Cost Projections (second biennium)

Exhibit #4: MJPOA Costs Projections (third biennium)

Leanne Kurtz, staff, said LC 8500 relieves the counties of paying cost-of-living adjustments (COLAs) and sets up funding for juvenile probation officers' (JPO) salaries through the office of the Supreme Court Administrator. She said that Sandy Oitzinger, Director, Montana Juvenile Probation Officers' Association (MJPOA) had requested that the word "chief" be struck from Section 2, (2) (b) on page 5 of LC 8500. Ms. Kurtz said Section 2, (6) on page 6 of LC 8500, creates a structure for the state and counties' payments of salaries. She said that counties would apply for reimbursement for the amount they paid after the adjustment in salaries, not the base salary.

Ms. Oitzinger said the cost projections were done under the assumption that the state will pick up half of the chief JPO salaries. She used existing payroll plus salary increases if the maximum is received, and then cut that in half. She referred the Subcommittee to page 2 of Exhibit #2. She said it is unlikely that there will not be enough money in the fund, and said that unused funds will revert back if the fund grows too large. Sen. Sprague asked where the funds would revert to. Ms. Kurtz said it would return to the general fund. Ms. Oitzinger said district court reimbursement funds are not involved, but rather general fund appropriations.

Sen. Tester asked Gordon Morris, Director, Montana Association of Counties (MACo), his opinion on the provision that the counties will be reimbursed only to what is available in the fund, and if the counties are comfortable with that provision. Mr. Morris said that as long as the appropriation follows the bill, it is acceptable to him.

Sen. Tester asked if the Supreme Court Administrator's fund is appropriated every session. Ms. Oitzinger said yes. Sen. Tester asked if, for the next session, it will be based on counties' projected needs. Ms. Oitzinger said she believes it will be half of the salaries, so the appropriation needs to track the effective date (July 1, 2001). The funding will include the increases in salary.

Sen. Tester asked if the figures in Exhibit #2 reflect total salary costs, not just half. Ms. Oitzinger said yes and explained that the state will not have to pay half of the total salary for chiefs and deputies, but only half of the chief's salaries, plus any increases.

Sen. Tester said he was trying to focus on what this plan will cost the state. Ms. Oitzinger referred him to Exhibits #3 and #4.

Sen. Tester asked Bob Peak, 12th Judicial District, Havre, who his boss is. Mr. Peak said his boss is the district court judge, but he sometimes has to answer to the Department of Corrections because it is the funding source for out-of-home placements. He said that JPOs are county employees and that won't change with this bill. He added that the Exhibits #2, #3, #4 reflect a worst case scenario.

Sen. Sprague asked how much counties currently pay in JPO salaries. Ms. Oitzinger said that it is approximately \$2.6 million.

Mike McLean, Deputy JPO, Missoula, said the provision for deputy JPO salaries in LC 8500 is a diversion from what has been historically. He said that those salaries were up to 90% of the chief JPO's salary. LC 8500 penalizes the deputy if the maximum is 50% of the judge's salary and it penalizes those who have many years of service.

Mr. Peak said the reasoning behind that provision is in the event of a chief JPO with no work experience assuming a position. The matrix is based on years of experience and a deputy whose salary is tied to the salary of a chief who has no experience would be severely penalized.

Rep. Mangan said he believes a lot of thought went into this bill and the issue has been under consideration for 10-15 years. He said this issue is something that can be resolved internally.

Rep. Mangan asked Ms. Oitzinger what happens to salaries if this bill is not passed. She said that would depend on the jurisdiction and, in all likelihood, some salaries would be capped.

Sen. Sprague asked McLean if he opposed the entire bill, or just parts of it. Mr. McLean said he approves of the bill, but was surprised that the MJPOA did the

calculations on the percentages related to the judge's salaries. He said he will support the bill for the benefit of the association, but believes that it is flawed.

Carol Stratemeyer, Chief JPO, 27th Judicial District, said that she is one of the newest chief JPOs. She started at \$30,000, which was the cap for that position. The first deputy has the same years of service and makes \$3,000 more than she does. She said current law penalizes those who want to move up.

Barbara Monaco, Chief JPO, 22nd Judicial District, said the comment from the judges is that it is important that salaries be tied to those of the district court judges and are related to the amount of work necessary to perform their jobs.

Jani McCall, City of Billings, State Youth Justice Council, spoke in support of the bill and said it is very important.

Sen. Tester asked Mr. McLean if he was one for whom the savings clause prevented from losing money. Mr. McLean said there was no loss of income through the bill, but felt that his salary would probably be frozen.

Sen. Sprague asked Mr. Morris for his comments. Mr. Morris said that since 1986, salary adjustments for all elected officials and county employees have come at the expense of operational costs because of the freeze from I-105, and county commissioners have become ultra-frugal for that reason. County salaries have eroded since 1986 due to inflation, translating to \$6,000 per year for county employees. He said he believes it to be an economic condition of the state, directly tied to economic development. He said there are county employees who are eligible for food stamps, and that is not acceptable. He said this bill will not drive up county costs, and that is a plus.

Connie Erickson, staff, asked for formal action on the bill. Ms. Kurtz suggested that because the bill has not been through the formal editing process and review, it be approved conceptually.

Rep. Mangan moved recommendation of LC 8500 as a committee bill.

Sen. Tester asked what happens if the court funding committee has a bill to replace this one. Ms. Erickson said coordinating clauses can be used, or any part or all of this bill can be voided.

The motion passed unanimously by voice vote.

LOCAL GOVERNMENT FUNDING AND STRUCTURE COMMITTEE REPORT

Exhibit #5: Electronic access to committee reports, from Judy Paynter, Department of Revenue

Exhibit #6: Final Recommendations of the Court Funding and Structure Committee

Exhibit #7: LC 5000 - Creation of a state and local government relationships committee

Rep. Mary Anne Guggenheim said the Local Government Funding and Structure Committee consists of four legislators and six local government representatives. Only one more meeting is scheduled.

Rep. Guggenheim said the Committee's goals were: an examination of the various ways in which revenue is earmarked, unfunded mandates, and the distribution of funds by county treasurers; the simplification of the money flow between state and local governments and the ways that local jurisdictions function; and a search for

ways to better stabilize and help local jurisdictions to not be so constrained and insecure in the functions that they must provide.

The approach that the Committee has been most comfortable with is an entitlement program (used to be called block grants) instead of having inconsistent reimbursements that are put together piecemeal. An entitlement program would create a much healthier relationship between the state and local governments, and local jurisdictions then share in the economic condition of the state. The entitlements would have a growth factor that represents the health of the state's economy, and the fee system would be replaced by an expansion of the tax base.

Sen. Tester asked how many bills might the Committee be issuing. Judy Paynter, Department of Revenue (DOR), said Greg Petesch, Director, Office of Legal Services, Legislative Services Division, is doing the drafting and he hopes that the final number will be ten, or less. Mr. Morris said he counted six bills: local options sales tax, realty transfer tax, budgeting/accounting reform, modification of SB 184, establishment of a State/Local Government Relations Committee, and the elimination of caps on local levies and make them permissive pursuant to SB 184, as modified. Ms. Paynter said there are more bills than those Mr. Morris listed and the final number depends on how Mr. Petesch decides to package them together.

Rep. Guggenheim said legislation creating the entitlement program will eliminate the three separate systems of reimbursement.

Sen. Sprague asked Rep. Guggenheim if that Committee is essentially a House and Senate taxation committee. She replied that the legislative members are, besides herself, Rep. Story, and both are from the House Taxation Committee. Sens. Grosfield and Nelson are also members. There are also two county commissioners, one city manager and one city commissioner, one from DOR, and a county treasurer.

Sen. Tester said that a county commissioner, a county treasurer, and a school superintendent recently expressed fears that the state will take over, dole out money as it sees fit, and local governments would have to request funding. Rep. Guggenheim said the revenue that is collected by a county treasurer will remain the same. The bulk of the change is that motor vehicle registrations and associated fees, with the exception of the local option aspect, will go to the state as a lump sum instead of being distributed to various funds. Ms. Paynter said the philosophy of "whoever collects it, keeps it" would put the state in a hole of about \$40 million to \$50 million. The vehicle registration money would be returned through the Entitlement Share Program from the general fund. Counties would get back enough money to keep them whole starting from the base year of 2001 and would experience a growth rate thereafter. The growth rate is assumed to be higher than the revenues the counties would have retained. She said this is a flexible method of funding instead of a static system.

Sen. Sprague asked about the effect on school districts because they receive the greatest share of property tax revenue. Rep. Guggenheim said the underlying assumption is that the amount will remain the same as before, but will be disbursed in a different way.

Mr. Morris said the fears that local governmental duties are being taken over has arisen since the last legislative session. He said the Committee is not doing anything that is directly usurping the duties of local governments. The POINTS II issue has complicated the view of the state's activities for local governments, and other things are being fused together in an inappropriate manner. He said he does not predict a massive takeover of county treasurer duties. He said the DOR needs a better public relations job, and said the Committee's work should be applauded.

Rep. Guggenheim said the intention has not been to disenfranchise or constrain local governments but rather to give them stability, potential for growth, and independence.

Jani McCall, City of Billings, said the Committee's work has been one of the most collaborative processes that she has seen and said that it has raised a different level of awareness.

Ms. Paynter distributed Exhibits #5, #6, and #7.

HJR 29

Exhibit #8: Memo re: public notice provisions for local government units bill draft

Exhibit #9: LC 000A

Ms. Erickson said that in the section of Exhibit #9 in regard to the adjournment or continuation of a meeting, the recommendation is to leave the statutes as they are, pending further consideration by another body. The Subcommittee agreed with the recommendation.

In regard to internet posting, Ms. Erickson said the main concern is the cost associated with increasing the number of required publications. The recommendation from the city of Billings is to require two publications, one of which may be on the city's website. See Exhibit #8.

Sen. Tester said another problem involves website access. He said that the web is fine as an additional method, but should not be the only method.

Ms. McCall said web posting would be a valuable option.

Mr. Morris said the Internet needs to be legally recognized, just like facsimile machines did at one time.

Ms. McCall requested that Exhibit #9 be changed to indicate that the Internet is an acceptable option.

Ms. Erickson said a recommendation for two publications of notice with no less than six days between publication is recommended to address the 20-day protest notice provision in annexation statutes.

Sen. Sprague asked if this bill isn't a duplication of effort for the Local Government Funding and Structure Committee. Mr. Morris said no.

Rep. Mangan said the Subcommittee is practically at the point at which it started. He asked if the three areas of change couldn't be done through three simple bills, with the city and county organizations finding a legislator to carry a bill for them. Sen. Sprague said the same issues keep arising in standing committees and he does not feel comfortable with a bill of this scope. Rep. McKenney said he agrees that it seems to be a Pandora's Box. After 18 months work, the process should stop if the Subcommittee does not feel comfortable.

Rep. Mangan moved no recommendation to the full Committee; Rep. McKenney seconded. The motion passed on a unanimous voice vote.

OTHER BUSINESS

Sen. Tester said a conscious effort should be made to have representation from this Subcommittee on the Local Government Funding and Structure Committee.

Ms. Erickson said when the idea of a State/Local Government Relations Committee was first suggested, she discussed the idea with Greg Petesch. He said that the new committee would take away the local government functions of the Education and Local Government Interim Committee, and that it was requested that Legislative Services Division staff the new committee. She said the issue is scheduled to be discussed at the September meeting of the Legislative Council.

ADJOURNMENT

There being no further business to come before the Subcommittee, the meeting was adjourned at 3:30 p.m.

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