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2013 Legislative Session: Final Report

During the 2013 Montana Legislative Session, the City of Missoula testified and/or lobbied on 55 pieces of legislation, tracked pension legislation, and “watched” more than an additional 100 bills. Legislation seeking to restrict local government’s capacity to create and utilize special districts and legislation seeking to restrict the authority of local government in regards to subdivisions and land use comprised the greatest expenditure of the City’s lobbying effort.

This report includes the most significant efforts undertaken by the City during the 2013 session and legislation of the greatest consequence in moving forward.

Special districts

As a result of controversy over a park district created in Billings, there was considerable energy and effort during the 2013 session to curtail local government’s capacity to utilize this tool. Legislation resulting from tensions in Billings would have had its most deleterious impacts on Billings and Missoula. There were six pieces of legislation aimed at curtailing the use of special districts and the City of Missoula opposed them all, although did become neutral on one of those bills as it moved through the process.

HB 314, one of the most detrimental bills to the City in its original form, was the only one of the six bills to succeed, although it did so in a considerably diluted form. In the end, Missoula was neutral on the legislation. The City was successful in amending out language that would have set the stage for expensive legal fights as to what constitutes circumventing the levy cap. The language would have impacted only Missoula. Missoula also worked to eliminate a section that made the law retroactive and would have required special districts already in operation to go through the approval process again.

In its final form, on which the City was neutral, HB 314 allowed the governing body to create a special district by resolution or by ordering a referendum on the creation of a special district; extended the protest period from 30 to 60 days; and limited the governing

body to 15% of the assessments collected to cover the costs of administering the special district.

HB 443, which also would have been highly detrimental to Missoula, would have required bonds on special districts to mature in 15 years rather than 40 years. The legislation was amended to a 30-year limit rather than 15. (In Montana, no special district, thus far, has exceeded 32 years). This amended version died in the Senate.

It is likely the effort to curtail the capacity of local government to utilize special districts will be a concern in 2015.

In addition to the six bills regarding special districts that the City opposed, there was also a largely technical bill on special districts that the city supported with amendments. SB 239 created “targeted economic districts” in the place of technology, aerospace and transportation and technology districts, and industrial districts. The City was successful in getting its primary concerns addressed and the legislation passed.

Land Use/Subdivisions

The City lobbied on nine separate bills concerning land use and subdivisions. The “bad” bills included disallowing the inclusion of the consideration of the pool of agricultural land in making decisions regarding subdivisions (SB 147) and disallowing consideration of future subdivision impacts when considering approval of a subdivision (SB 41). Both of these bills died, SB 147 by Governor’s veto. Several bills related to subdivisions had minor problems that the City was able to amend to their satisfaction.

A key piece of legislation, SB 324, addressed many issues related to rent/lease subdivision review. This bill was particularly critical in the wake of a sweeping Attorney General’s decision in 2012 which determined that Montana’s subdivision law applies to all potential uses, not just residential development and that the exemption from subdivision review for the sale, rent or lease of multiple parts of a building applies only to a single building, not to multiple buildings.

The City supported this bill with amendments and the legislation passed. The bill provides for new definitions and thresholds and processes for the review of multiple buildings on a single tract of land. It includes a provision that exempts subdivisions for lease or rent if the property is zoned, which was important to the City. It also exempts building projects for lease or rent subdivision review if the building projects were already rented or leased or under construction before the effective date of the bill.

Importantly, this legislation creates a separate statute for subdivision review in regards to rent/lease properties.

An additional bill, HB 499 carried by Missoula legislator Ellie Hill, sought to address the issue of exemptions of for rent or lease subdivision review if the project were already

rented or leased before the effective date of the bill. Missoula supported this bill. However, as SB 324 moved through the process, it was amended to cover this concern. HB 499 passed and was vetoed by the Governor. But because the bill passed both chambers with over 2/3 of the vote, it will automatically be included in the override packet. However, both Republicans and Democrats will encourage their parties not to vote to override the veto as the concern is addressed in SB 324.

Fiscal Issues

Efforts to curtail local government's capacity to raise funds through the use of special districts were discussed above. Other fiscal issues include two pieces of legislation that raised the allowable dollar amount of a contract before the purchase was required to go to bid. These two bills were HB 194 and SB 77. HB 194 raised the dollar amount of purchases being funded with gasoline tax from \$25,000 to \$50,000 before being required to go to bid. SB 77 raised from \$50,000 to \$80,000 the contract amount on certain local government and school purchase construction contracts before being required to go to bid.

A piece of legislation that reduced resources to the City was SB 111 which re-appropriated highway funds by redefining the terms of eligibility. Missoula loses \$80,000 in the new formula. Though concerned about this legislation, after consultation with the League of City and Towns, Missoula remained neutral.

Pensions

The efforts to fix Montana's pension system were also a fiscal concern for the City of Missoula. The legislation that passed, HB 454, was the Governor's legislation and supported by the League of Cities and Towns. HB 454 utilizes funds from the coal severance tax that flowed into the Treasure State Endowment Fund to cover a portion of the increased employer contribution to the pension fund. These diverted funds would have gone to building the Treasure State Endowment Fund whose interest funds local government projects. Funds were scheduled to flow into the Trust (thus building the principal) until 2020. As a result of the legislation, the principal will stop growing (receiving dollars) three years earlier in 2016. Thus, there will be a decrease in the *anticipated* available funds for local government projects, but a not a "cut" to these funds. The diverted dollars cover only a portion of the increased employer contribution. In addition, the City will have an increase of 1% starting July 2013 and that will increase by 1/10 of 1% per year through 2024, topping at 2%. There is a mechanism in the bill to decrease these increased contributions if an actuarial determination is made that the fund will amortize in less than 25 years.

Energy

Missoula opposed five bills related to energy and the Renewable Energy Portfolio Standard. Two of these bills passed, HJ9 and SB 45. However, HJ 9 doesn't actually do anything. It's a declaration on behalf of development of coal-powered energy. SB 45 expands the definition of "Eligible Renewable Resource" to include hydroelectric expansion projects. The City's objection was that it weakens the intent of the original Renewable Energy Portfolio Standard to spur the development of renewable energy and lowers the bar for reaching the standard.

Elections

In the effort to support participation in, and accessibility to, the electoral process, the City testified on five elections-related bills. The City supported one bill that allows a jurisdiction to not print and mail ballots in primaries for offices where all the candidates will advance to the general election. This will reduce costs to the jurisdiction holding the election. Missoula legislator Tom Facey carried the bill.

The City opposed four bills that created obstacles to electoral participation. Two of the bills opposed by Missoula, one from the House and one from the Senate, sought to allow a vote in municipal elections to businesses in that municipality. In other words, a person who operated a business in the municipality would have a vote in that municipality as well as a vote in the municipality in which the person resided. In effect, this legislation would allow every Town Pump a vote in municipal elections. Both bills died. The only "bad" election bill to pass was SB 405 that places on the ballot the elimination of same-day voter registration.

Transportation

The City supported two bills enhancing public transportation carried by Missoula legislator Nancy Wilson. Though the hearings were seemingly educational for the committee, the bills did not move forward.

Housing

A Missoula priority bill on housing was to address situations where commercial tax lien businesses were able to claim homes over relatively small tax debts that could have been managed by the homeowner had the homeowner understood the situation. The issue has directly impacted senior citizen residents in Missoula, one losing a home over a small tax bill and ending up in a publicly funded nursing home as a result. HB 526 carried by Missoula legislator Ellie Hill required the county treasurer to issue a final notice that a tax deed may be issued for an owner-occupied residential property and required the

sheriff to deliver the notice and provide a written summary to the county treasurer regarding the sheriff's observations. A second bill (HB 618) also attempted to address the problem with confusion over tax liens on a smaller scale. County Treasurers lobbied aggressively against both pieces of legislation and the concept itself. Both bills died.

SB 109 represented a significant drop in rental housing standards. At first, Missoula was the only opponent. But the University student groups quickly got on board and carried it forward as a priority bill to oppose. The bill died. Missoula was also the sole opponent to a bill to eliminate the requirement that a landlord install a carbon monoxide detector in a dwelling without a combustible energy source. The firefighters joined the opposition for 2nd reading. Amendments were drafted addressing concerns of Missoula and the firefighters and accepted by the Senate. The amendments rendered the bill "livable".

An additional miscellaneous bill where Missoula came in as the sole opponent was against a bill to reduce the number of days before a car could be called "abandoned", and thereby towed, from five days to two. The bill was carried by the owner of a tow truck company and supported by several tow truck companies, the tow truck association, and one representative from the Department of Justice providing vague support. The House local government committee amended it to three days. Missoula continued to be the only opponent and the work had a decisive impact on killing the bill in the Senate.

It was a bad bill for several reasons and Missoula filled a hole in working against it.

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If success is emerging unscathed, Missoula had a successful session. While not all "good" bills supported by the City moved forward, nor did Missoula fail to pass any legislation critical to its interests. In regards to bills opposed by the City, only two, one in the area of energy and one elections bill, succeeded.

The 2015 session will likely hold new battles in regards to special districts and require continued monitoring for support for local governments in regards to stabilizing the pension system.

The presence of Missoula in the legislative environment had a discernible impact on legislative outcomes in 2013 and proved important to addressing issues in that environment that impacted Missoula alone. The City's lobbying effort also augmented the efforts of the League of Cities and Towns and other coalitions that built up around specific pieces of legislation. It was a pleasure to serve and work with the City of Missoula and their outstanding team who provided timely information that was both sufficient and thorough and demonstrated an understanding of what being effective in the legislative environment entails.

Sincerely,
Kate Cholewa