

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on February 21, 1991, at 3:30 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: none

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: none

EXECUTIVE ACTION ON SB-437

Discussion: Senator Bengtson introduced Steve Huberly, Planning Director, Flathead County, and allowed him to offer his testimony of support of this bill. This bill was read, scheduled, and heard on the same day, so Senator Brown was unable to get his proponents to Helena. Senator Bengtson had told the committee on February 19, 1991, that this testimony would be allowed.

Steve Huberly, Planning Director, Flathead County, presented his supporting testimony and amendments sponsored by Senator Brown (Exhibit #1, #2)

Amendments, Discussion, and Votes:

The committee asked question of Mr. Huberly. Senator Bengtson asked if a person walks in for a permit will they still pay \$10? Mr. Huberly said all permits are currently \$10.

Senator Hammond asked what work needed to be done for an application? Mr. Huberly said right now, they show a person a dock design, they point at the one that is most like that they want to build, and the application is prepared. But where there has been no dock or building, the procedure involves a site visit, perhaps engineering studies to determine the amount of disruption to the lake, etc. These are the costly applications.

Senator Thayer asked if they control the water? Mr Huberly said that there are Lakeshore Protection to control from the water back 25' which can not be owned by any individual.

Senator Bengtson asked if they have a committee? Mr. Huberly said that there are two, The Lakeshore Committee is an advisory group that works with the city council. Senator Bengtson wanted to know if there was citizen input? Mr. Huberly said yes, and pointed out that Senator Kennedy had worked with this group when he was Mayor of Kalispell, and citizens comprise the committee and hear others.

Senator Hammond asked if the \$10 fee was ever enough? Mr. Huberly said he wasn't sure. Originally the fee was set at \$10 as not to be a deterrent for people to not come get building permits. It got people used to the procedure.

Senator Bengtson asked if the \$250 fee wouldn't be a deterrent? She also wanted to know where the check was so that the \$10 type of permit couldn't be raised year after year until it was \$100? Mr. Huberly said the way they operate it is responsible and fair. Public hearings are held by ordinance of the Lakeshore Protection Act. Local officials are responsible because they do know they hear from the public during these hearings.

Senator Eck asked if the state puts requirements on what can be done on a lakeshore? Mr. Huberly said cities and counties can adopt lakeshore protection policies, and those regulations.

Senator Kennedy moved the amendments to SB-437. The motion was unanimous.

Motion: Senator Kennedy moved to Do Pass SB-437 as Amended. The vote was unanimous and recorded as a roll call vote.

EXECUTIVE ACTION ON SB-305

Discussion: Senator Bengtson said Senator Anderson did not want this bill amended.

Senator Eck suggested that a section g. "or other essential service" would keep this case from coming to the Legislature again.

Motion: Senator Thayer moved to Do Pass SB-305. The vote was unanimous and recorded as a roll call vote.

EXECUTIVE ACTION ON SB-334

Discussion: Senator Harding recapped the testimony about this bill from Betty Lund, Ravalli County Clerk and Recorder. She explained the need for department heads to be responsible for their budgets that they prepare and request, not the county commissioners and the clerk & recorder. She clarified that major expenses like a hike in gasoline would be an item that a department head would bring to the county commissioners to consider an emergency budget for.

Motion: Senator Harding moved to Do Pass SB-334. The vote was unanimous and recorded as a roll call vote.

EXECUTIVE ACTION ON SB-302

Amendments, Discussion, and Votes: C. Erickson explained the amendments requested by Senator Kennedy and Senator Eck (Exhibit #3, #4). Senator Eck's amendments were proposed by MACo, and they change two things: #1 a primitive road is now a county primitive road, #2 it struck all new language defining a county road. The rest of the amendments were technical requirements resulting from the first two amendments. Senator Kennedy's amendments relate to abandonment procedures. These amendments require that a county road to be abandoned, that provides access to state or public lands, must first be offered to the adjacent landowner or the original landowner that donated it. Senator

Kennedy said this would relieve the tension that the ranchers had expressed during the hearing.

Senator Harding said currently the county has to offer that land to the adjacent landowners. Senator Vaughn reiterated that fact, and stated that the petition signed, states that the land will revert back to the landowner if the county abandons it.

Senator Kennedy said that he was trying to make sure that was accomplished with these amendments, so no landowner would be hurt by this legislation.

Senator Eck said that this was not the intent of the bill at all. The bill is talking about county roads. Places where roads use to lead to rivers like the old Gallatin highway. Sure, most of those landowners would just as soon have restricted access or better yet, close it off completely. That would mean the public would be denied access to the river. This is certainly an area where the Forest Service would be involved, and probably want to take over that road.

Senator Beck cited the code from 7-16-202, that the public has a right to privacy. If we pass this bill it will completely conflict with current law. Counties can not arbitrarily pass land from a county road to another state of federal agency.

Senator Eck asked what happens when county roads become state or federal highways? Senator Beck said those were counties roads, but there were not being abandoned.

Senator Hammond said that his county commissioners informed him that the county does not have the right to abandon roads. Only if the public, through the petition system, requests the county commissioners to abandon a road, can they start the process. This bill would create a problem.

Senator Bengtson reiterated the testimony that all taxpayers pay for county roads. Senator Hammond corrected her by saying that Gordon Morris from MACo said that those county road levies are only paid by the residents outside the incorporated limits, so not all taxpayers pay for those roads.

Senator Thayer said the landowners have the right to have the land back.

Motion: Senator Hammond moved to Do Not Pass SB-302. A roll call vote was taken. The motion passed 6 to 3. Senator Hammond will carry the adverse committee report to the floor.

EXECUTIVE ACTION ON SB-413

Motion: Senator Beck moved to Table SB-413. He said that Senator Franklin had admitted that she was in over her head on this one. The vote was unanimous and recorded as a roll call vote.

EXECUTIVE ACTION ON SB-99

Amendments, Discussion, and Votes: Senator Thayer presented and endorsed amendments to SB-99 proposed by Montana Solid Waste Contractor, Inc. (Exhibit #5). These amendments change the whole intention of the bill. These amendments remove the preference for private industry, and all that is left of the bill is allowing a procedure to be set up so the public is guaranteed a public hearing about solid waste management in new landfills.

Senator Thayer moved the amendments.

Discussion: Senator Hammond asked a member of the audience, Sue Weingartner, Executive Director, Montana Solid Waste Contractors, if there are public hearings now? Ms. Weingartner said that under current law there is no public hearing for solid waste management. Senator Hammond said his county only has one MRC licensed contractor, so this bill would create a monopoly. Ms. Weingartner said that an MRC is a class d motorized carrier license. There was an application for a second one in Senator Hammond's district, but the applicant pulled it before it was granted. She stated that contracts are awarded according to convenience, location and other criteria, so a monopoly would not be created. Senator Hammond said that there had been applications, but because of the small population of the area, no permits had been granted.

Senator Harding asked if this bill would pertain to existing waste disposal. Joyce Inchauspe-Corson read testimony that this bill would only affect new solid waste disposal systems.

Senator Thayer defended the amendments and the bill by stating that this just allows the public to get a hearing. Senator Hammond said he had no problem with the amendments. Senator Bengtson said that this would not mean that the state was dictating to local government, but this would guarantee across the state that people would get a chance to hear the issues in a public hearing.

Senator Vaughn said that this is done in some places.

The vote to pass the amendments as presented by Senator Thayer passed unanimously.

Motion: Senator Thayer moved to Do Pass SB-99 as Amended. The vote passed with Senator Beck voting against by proxy, and recorded as a roll call vote. C. Erickson will send the amendments through the editors. (edited amendments Exhibit #5A).

EXECUTIVE ACTION ON SB-328

Discussion: C. Erickson researched a previous bill that Senator Pipinich had stated this wording in this bill was from. There is not a law that concerns mobile homes. According to 7-13-406 it refers to garbage collection that was enacted in 1974 to add it to the tax bill, but that is for real property owners. There was a bill last session that cited 7-13-232 for a service charge by refuse districts, but nothing about putting the charge on the tax roll. She went and looked back at Senator Pipinich's bill draft request and it called for the sewage fee collection to be placed on the tax bill for real property. If he wanted mobile homes to pay then this bill will not do that. Real property will be affected, but personal property, mobile homes, will not be.

Senator Eck commended Senator Pipinich for the intentions he carried, and thought the idea could work. She did question putting a lien on property because this would require legislation of a process to determine the fairness and a protest period.

Senator Eck moved to Table SB-328. The motion passed unanimously and was recorded as a roll call vote.

EXECUTIVE ACTION ON SB-79

Motion: Senator Vaughn moved to Table SB-79 because SB-440, the committee bill took care of this issue. The vote was unanimous, and recorded as a roll call vote.

EXECUTIVE ACTION ON SB-40

Motion: Senator Eck moved to Table SB-40 which Senator Devlin asked not to hold hearings on. The vote was unanimous and recorded as a roll call vote.

EXECUTIVE ACTION ON HB-64

Motion: Senator Thayer moved to Table HB-64, Representative Peck has signed the committee bill SB-440 which takes care of all county appointed boards. The motion passed unanimously.

EXECUTIVE ACTION ON HB-55

Amendments, Discussion, and Votes: C. Erickson presented the amendment and the letter from Gordon Morris of MACo stating that the \$50,000 was not the intention (Exhibit #5, #5A). This amendment would change the language to the original language of the bill in reference to \$25,000.

Senator Harding moved the amendment. The vote was unanimous.

Motion: Senator Thayer moved to Concur as Amended on HB-55. The vote was unanimous, and recorded as a roll call vote. Senator Harding will carry the bill.

EXECUTIVE ACTION ON SB-407

Amendments, Discussion, and Votes: Senator Waterman requested C. Erickson to draft amendment to SB-407 after the hearing (Exhibit #7). These remove the reference to a special revenue account which the DHES did not intent to put in this bill. Senator Beck had concerns about the lack of a cap or limits, even though this program is based on a fee that is budgeted against. After discussing this with Senator Waterman the amendments were purposed to add the sentence in amendment #2. Then the rest of

SENATE LOCAL GOVERNMENT COMMITTEE

February 21, 1991

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the amendments were technical changes.

Senator Eck asked if Senator Beck was in agreement with the amendments since he had left the room? C. Erickson said that Senator Beck did approve of the amendments.

Senator Eck moved to amend SB-407.

Senator Bengtson offered a letter from Joe Steiner, Plant Superintendent, Public Water Supply Task Force Member, stating that they would like time to work with the DHES to amend this bill so that fee schedule would be more palatable to larger communities like Billings (Exhibit #8). She also added that Bruce McCandles had spoken with Senator Waterman after the hearing. He thought this was a good bill, but the fee schedule was punitive to large areas. Senator Bengtson read the proposed ideas for change from Joe Steiner's letter.

Senator Hammond agreed that these concerns need to be addressed. Senator Thayer said he was serving on an interim study commission with Senator Pinsoneault dealing with local government policy. He stated that there are a lot of small communities that could not afford to comply with these regulations.

Senator Eck asked the committee to look at the penalties. Unless the state does something on this to retain primacy we will leave it to the EPA. When the first drinking water acts were initiated local governments and coordinators talked a lot about this, but at that time the government was offering money to the state to handle it.

Senator Thayer said it is actually so costly with these regulations, that it would be cheaper to move whole communities to other locations that rebuild their systems. Senator Eck added that this was done in Anaconda.

Recommendation and Vote: The committee decided to declare SB-407 a revenue bill and list it on the letter to the President of the House, Hal Harper. This will give more time for consideration on this very important bill.

EXECUTIVE ACTION ON SB-221

Motion: Senator Harding moved to take SB-221 off the table.

Discussion: The committee secretary explained how the motion to table had failed, but then Senator Eck cast her vote that tied the motion. This meant that the motion to Do Pass was voided. Senator Hammond had not voted on this bill.

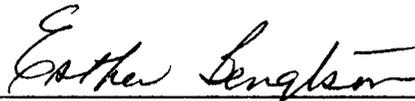
Senator Thayer said he would vote to send this to the floor because it was an important issue for a lot of people. He did not know if he would support it on the floor. Senator Beck agreed. The motion to bring SB-221 off the table passed 8 to 1. Senator Waterman voted against.

Senator Bengtson presented a letter from Joe Tropila, Clerk & Recorder, Legislative Committee, Montana Association of Clerks & Recorders supporting citizens' right to vote on consolidation (Exhibit #9).

Motion: Senator Harding moved to Do Pass SB-221. A roll call vote was taken, the motion passed 6 to 3. Senators Eck, Kennedy, and Waterman voted against.

ADJOURNMENT

Adjournment At: 5:10 p.m.



ESTHER BENGTSON, Chairman



JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 2-21-91

52 LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck	X		
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91

Bill No. SB-99 Time 4:22

NAME	YES	NO
SENATOR BECK		X
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: SB-99 as Amended

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-302 Time 4:08

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK		X
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY		X
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN		X

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Do No Pass SB-302

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-413 Time 4:10

<u>NAME</u>	<u>YES</u>	<u>NO</u>
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to table SB-413

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-328 Time 4:28

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to table SB-328

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-40 Time 4:29

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to table SB-40

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-79 Time 4:30

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to table SB-79

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. HB-64 Time 4:31

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to table HB-64

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. HB-55 Time 4:34

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur as amended HB-55

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-437 Time 4:44p.m.

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: DO PASS AS AMENDED

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91

Bill No. SB-305 Time 4:48

<u>NAME</u>	<u>YES</u>	<u>NO</u>
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: DO PASS SB-305

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-19-91 Bill No. SB-334 Time 4:50

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: Do Pass SB-334

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-21-91 Bill No. SB-221 Time 4:50

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK		X
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY		X
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN		X

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to do pass SB-221

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 21, 1991

HR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 305 (first reading copy -- white), respectfully report that Senate Bill No. 305 do pass.

Signed: _____
Esther G. Bengtson, Chairman

2-21-91

And. Coord.

Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 21, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 334 (first reading copy -- white), respectfully report that Senate Bill No. 334 do pass.

Signed: *Esther G. Bengtson*
Esther G. Bengtson, Chairman

MA 2-21-91
Amd. Coord.

SP 2 22
Sec. of Senate

12:10

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 21, 1991

HR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 221 (first reading copy -- white), respectfully report that Senate Bill No. 221 do pass.

Signed: _____
Esther G. Bengtson, Chairman

191 2-21-91
Amd. Coord.

SP 2-22 - 13:10
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 21, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 437 (first reading copy -- white), respectfully report that Senate Bill No. 437 be amended and as so amended do pass:

1. Page 1, line 12.

Following: "fee"

Insert: "-- limitations"

2. Page 1, line 17.

Following: "(2)"

Insert: "(a)"

3. Page 1, line 22.

Strike: "(a)"

Insert: "(1)"

4. Page 1, line 24.

Strike: "(b)"

Insert: "(ii)"

5. Page 1, line 25.

Strike: "(c)"

Insert: "(iii)"

6. Page 2, line 2.

Strike: "(d)"

Insert: "(iv)"

7. Page 2.

Following: line 2

Insert: "(b) A permit fee provided for in subsection (2)(a) may not exceed \$250, except that a permit fee for a project involving a major variance to adopted regulations may not exceed \$500."

Signed: _____
Esther G. Bengtson, Chairman

1912-217
Amd. Coord.

5B 222 12:10
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 22, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 99 (first reading copy -- white), respectfully report that Senate Bill No. 99 be amended and as so amended do pass:

1. Title, lines 5 through 7.
Strike: "A" on line 5 through "PROVIDING" on line 7
2. Title, line 8.
Strike: "TO ENABLE"
Insert: "FOR PUBLIC INPUT TO"
3. Title, line 9.
Strike: "TO DETERMINE"
Insert: "ON"
4. Statement of intent, page 1, line 23.
Following: ";"
Insert: "and"
5. Statement of intent, page 1, lines 24 and 25.
Strike: "required assumptions and calculations of costs and benefits"
Insert: "standards"
6. Statement of intent, page 2, line 1.
Strike: "; and"
Insert: "."
7. Statement of intent, page 2, lines 2 through 4.
Strike: subsection (3) in its entirety
8. Page 2, line 25 through page 3, line 6.
Following: "." on line 25
Strike: remainder of line 25 through "." on page 3, line 6
9. Page 3.
Following: line 6
Insert: "(e) Public input must be sought on the question of private or public management of proposed solid waste management systems."
Renumber: subsequent subsections
10. Page 4, line 16.
Strike: "and"

11. Page 4, line 19.

Following: ";"

Insert: "and

(g) outlining the procedures to be followed by local governments in soliciting public input, including rules requiring public hearings and notice of the hearings on the question of cost and service alternatives;"

12. Page 5, line 8.

Following: "and"

Insert: "and"

13. Page 5, line 10.

Strike: "; and"

Insert: "."

14. Page 5, lines 11 through 13.

Strike: subsection (9) in its entirety

15. Page 5, line 24 through page 6, line 1.

Strike: subsection (b) in its entirety

Insert: "(b) the procedures to be followed in conducting public hearings and providing notice of the hearings on the question of private or public management of proposed solid waste management systems;"

Signed: *Esther G. Bengtson*

Esther G. Bengtson, Chairman

1417-22-91
Amd. Coord.

SP 2-22 2:50
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 22, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 55 (Third reading copy -- blue), respectfully report that House Bill No. 55 be amended and as so amended be concurred in:

1. Page 1, line 23.
Strike: "\$50,000"
Insert: "\$25,000"

Signed: Esther G. Bengtson
Esther G. Bengtson, Chairman

146 2-22-91
Amd. Coord.

SR 2-22 2:35
Sec. of Senate

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 21 day of February, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: SB-40

Action: MOVE TO TABLE

Signature

Senator Bengtson

SB 2/22 12:05

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 21 day of FEBRUARY, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: HB-64

Action: MOVE TO TABLE

Signature

Erskine & Bengtson

SRB 2/22 11:40

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 21 day of FEBRUARY, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: SB-79

Action: MOVE TO TABLE

Signature

Senators Bengtson

SRB 2/22 11:40

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 21 day of FEBRUARY, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: SB-328

Action: MOVE TO TABLE

Signature

Senator Bengtson

SB 2/22 11:40

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 21 day of FEBRUARY, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: SB-413

Action: MOVE TO TABLE

Signature

Esther Bengtson

SB 2/22
11:40

- 7

Cascade County

State of Montana

TELEPHONE: (406) 761-6700



Great Falls, Montana 59401

February 21, 1991

The Honorable Esther Bengtson
Chairperson, Senate Local Government
Capital Station
Helena MT 59620

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 9

Re: SB221

DATE 2-21-9

BILL NO. SB-221

Dear Chairperson Bengtson:

SB 221 is a fair and equitable way to involve the electorate in local government processes. Constitutionally the voters are given a chance to change their form of government every ten years through a study commission process by vote. By denying them the right to do the same during the interim period would be an infringement on their rights.

I wholeheartedly support the concept of SB 221 and ask for your concurrence in allowing it to proceed to debate stage in the illustrious Senate.

Thank you for your time and consideration.

Sincerely,

Joe Tropila, Clerk and Recorder
Legislative Committee, Montana Association of Clerks
and Recorders.

Could you please enter this into the records of your committee?



NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 21 day of FEBRUARY, 1991.

Committee: SENATE LOCAL GOVERNMENT

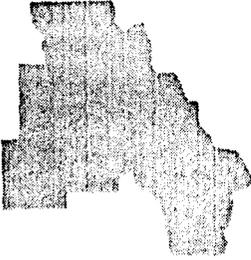
Bill: SB-221

Action: MOVED TO TAKE SB-221 OFF THE TABLE

Signature

Senator Bengtson

SB 2-2291 1:30



Flathead Regional Development Office

723 5th Avenue East - Room 414
Kalispell, Montana 59901

Phone: (406) 752-5300 Ext. 279

TO: Whitefish Lakeshore Protection Committee
FROM: Tom Jentz, Senior Planner *Tom*
DATE: November 27, 1990
RE: Amendments to Lakeshore State Enabling Act

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1

DATE 2-21-91

BILL NO. SB-437

I am writing you on behalf of the Flathead County Board of Commissioners who are requesting an amendment to Chapter 7, Section 75-7-210, of the Montana Code Annotated. This section deals with Lakeshore Protection Regulations and, in particular, the paying of fees for a Lakeshore Construction Permit. The section currently reads as follows:

"75-7-210. APPLICATION FOR PERMIT - FEE: A person seeking a permit for work in a lake shall apply to the local governing body and shall pay an application fee of \$10 to the governing body."

The Commissioners have just recently completed an audit on the County's Lakeshore Protection Program and have determined that the fixed \$10 fee as set in 1975 is, in many cases, inadequate and does not, in some cases, come close to addressing the public costs associated with the issuance of lakeshore permits. The Commissioners dutifully request the following amendment to the above stated section.

"75-7-210. APPLICATION FOR PERMIT - FEE: A person seeking a permit for work in a lake or lakeshore shall apply to the local governing body and shall pay an application fee of ~~\$10~~ as deemed appropriate by the governing body to reasonably address the cost. Said fee shall be paid to the governing body.

The Commissioners list three (3) factors that necessitate such an action:

First:

The original fee of \$10 was established almost 14 years ago. Inflationary factors have dramatically reduced its ability to cover today's costs.

Second:

Section 75-7-217 Funding states that a city or county may fund the administration of this part by permit application fees collected and by federal revenue monies. The current \$10 fee, in most cases, does not cover administration costs and federal revenue sharing monies have disappeared.

Providing Community Planning Assistance To:

• Flathead County • City of Columbia Falls • City of Kalispell • City of Whitefish •

To: Whitefish Lakeshore Protection Committee
Re: Amendments to Lakeshore State Enabling Act
November 27, 1990
Page 2

Third:

Flathead County is blessed with at least 39 lakes over 20 acres in size year round, which are partly or entirely ringed by private lands within its 5,000 square mile borders. Premier among these lakes are the pristine Whitefish and Flathead lakes. Flathead County issued 111 permits for lakeshore construction activity in 1989 on nine (9) of these lakes. Construction activities included boat houses, decks, docks, boat ramps, water lines, wells, retaining walls, and major dredging and filling activities, all of which occurred in a lake or within 20 feet of the average high water line. All 111 permits were reviewed by this office and acted on individually by the County Commissioners. While some permits for simple projects can be speedily administered, other projects can be time consuming and involved. Usually a site visit or inspection is involved and a brief report to the Commissioners is written after visiting with the applicant. On more complex projects, several site visits may be necessitated as well as holding one or more public hearings. Two such activities this past summer took one full week of staff time apiece to mediate and resolve. In both cases, the projects would actually lower the level of the existing lakes. In the case of Little Bitterroot Lake, a permit was requested to dredge or deepen the outlet of the lake. Two public hearings, each hosting over 100 concerned property owners, were held. The Commissioners made one official trip to the site (50 mile round trip) and staff made three (3) trips. One staff member then stayed on the site for one-half day while the actual modified dredging program was undertaken.

The Commissioners and the citizenry of Flathead County genuinely support the Lakeshore Protection Program. The Commissioners are requesting a vehicle to more equitably assess some of the costs of administering this program.

This office has requested Senator Bob Brown to have a bill created and to sponsor such legislation. Senator Brown requested that he meet with the Whitefish Lakeshore Protection Committee first to obtain your views. This meeting has been tentatively scheduled on the agenda of the December 14, 1990, Lakeshore Committee meeting.

For your general information, I have also attached a list of the Lakeshore Construction Permit activity for Flathead County and for Whitefish Lake for years 1986-1990.

FLATHEAD COUNTY
LAKESHORE PERMIT ACTIVITY
PERMITS ISSUED
1986 - 1990

	1986	1987	1988	1989	1990	TOTAL
Flathead County (excluding Whitefish Lake)	71	62	86	101	110	430
Rural Whitefish Lake	1	3	9	10	16	39
City Whitefish Lake	2	5	6	15	14	32
TOTAL	74	70	101	126	140	501

Source: F.R.D.O. Records

FLATHEAD COUNTY
LAKESHORE VIOLATIONS
1988 - 1990

	1988	1989	1990
Flathead County	9	10	14

Source: F.R.D.O. Records

WHITEFISH LAKESHORE PROTECTION COMMITTEE

Edwin Fields, Chairman
447 Somers Avenue
Whitefish, MT 59937
(406) 862-7269

January 11, 1991

The Honorable Bob Brown
Montana Senate
Capitol Station
Helena, MT 59620

RE: Amendments to State Lakeshore Regulation Enabling Law

Dear Senator Brown:

This letter serves as a follow-up to our conversation in late December concerning amendments to the fee schedule as found in the State enabling legislation of the Lakeshore Protection Act. The Whitefish Lakeshore Protection Committee, along with the Flathead County Board of Commissioners, had proposed an amendment to Section 75-2-210 M.C.A. which presently sets the maximum fee for all lakeshore construction permits at \$10. We had proposed an amendment which would have eliminated the \$10 permit fee limit and read instead "an application fee as deemed appropriate by the governing body to reasonably address the cost of administering the permit application". You indicated a concern that this type of amendment may be perceived as being very open ended and subject to potential abuse at the local level.

With that concern in mind, I contacted members of the County planning staff who talked to the Flathead County and Lake County Commissioners. (Please note that only Whitefish Lake and these two counties, to my knowledge, have adopted lakeshore protection regulations.) Based on that discussion, I am proposing a modification to our original amendment. This change would set a cap at \$250 for a lakeshore permit and \$500 cap for any activity requiring a major variance.

I feel that setting a cap and then allowing the local jurisdiction to develop their own fee schedule for the various types of permits that they would process would be sound for three reasons. First, it does set an upper limit thereby eliminating the potential for abuse. Secondly, it allows the local jurisdiction some flexibility in setting its own fee schedule based on actual costs and complexity. For example, some permits are simple and handled administratively in-house while at the other end of the spectrum some permits are complex and require multiple site visits, public hearings before the planning board and governing body and construction monitoring. Thirdly, it provides a fee system that will not quickly be outdated by time or inflation. As you are aware, it is cumbersome to amend state law and a system that offers flexibility, simplicity, and room to grow is a plus.

Amendments to Senate Bill No. 437
First Reading Copy

EXHIBIT NO. 2
DATE 2-21-91
BILL NO. SB-437

Requested by Senator Brown
For the Committee on Local Government

Prepared by Connie Erickson
February 21, 1991

1. Page 1, line 12.
Following: "fee"
Insert: "-- limitations"

2. Page 1, line 17.
Following: "(2)"
Insert: "(a)"

3. Page 1, line 22.
Strike: "(a)"
Insert: "(i)"

4. Page 1, line 24.
Strike: "(b)"
Insert: "(ii)"

5. Page 1, line 25.
Strike: "(c)"
Insert: "(iii)"

6. Page 2, line 2.
Strike: "(d)"
Insert: "(iv)"

7. Page 2.
Following: line 2
Insert: "(b) A permit fee provided for in subsection (2)(a) may not exceed \$250, except that a permit fee for a project involving a major variance to adopted regulations may not exceed \$500."

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 3

Amendments to Senate Bill No. 302
First Reading Copy

DATE 2-21-91

BILL NO. SB-302

Requested by Senator Kennedy
For the Committee on Local Government

Prepared by Connie Erickson
February 20, 1991

1. Title, line 7.

Following: "TO"

Insert: "LANDOWNERS OR"

2. Page 3, line 19.

Following: "road"

Insert: "first to the adjacent landowner or to the person who
originally owned the land or the road and then, if the offer
is refused,"

Amendments to Senate Bill No. 302
First Reading CopyEXHIBIT NO. 4DATE 2-21-91BILL NO. SB-302Requested by Senator Eck
For the Committee on Local GovernmentPrepared by Connie Erickson
February 20, 1991

1. Title, line 6.

Strike: "PUBLIC"

Insert: "COUNTY"

2. Title, line 8.

Strike: ", "

Insert: "AND"

3. Title, line 9.

Strike: "AND 60-1-201,"

4. Page 2, lines 11 through 16.

Strike: "and" on line 11 through "repealed" on line 16

5. Page 2, line 17.

Strike: "public"

Insert: "county"

6. Page 2, line 24.

Following: "a"

Insert: "county"

7. Page 2, line 25.

Following: first "a"

Insert: "county"

Strike: "public"

Insert: "county"

8. Page 3, line 4.

Strike: "public"

Insert: "county"

9. Page 4, lines 2 through 21.

Strike: section 4 in its entirety

Renumber: subsequent section

AMENDMENTS TO SENATE BILL 99

Proposed by: Montana Solid Waste Contractors, Inc.

1. Page 1, amend the title as follows:

Line 5: Delete "A PREFERENCE FOR PRIVATELY OPERATED SOLID WASTE MANAGEMENT SYSTEMS; PROVIDING"

Line 8: following "PROCEDURES"
delete: "TO ENABLE"
insert: "FOR PUBLIC INPUT TO"

Line 9: following "GOVERNMENTS"
delete: "TO DETERMINE"
insert: "ON"

2. Page 1, amend the statement of intent:

Line 23, following ";", insert the word "and"

Line 24, following "(2)":
delete: "required assumptions and calculations of costs and benefits"
insert: "standards"

3. Page 2, lines 1 through 4, following ";":

Delete: "and (3) justification of the decision of an applicant to use private or public management of the proposed solid waste management system."

4. Amend page 2, line 25, following "state."

Delete: the balance of line 25

5. Amend page 3, lines 1 through 6, by deleting lines 1 through 6 in their entirety.

6. Amend: Page 3, line 7:

Insert: (e) Public input will be sought on the question of private or public management of proposed solid waste management systems.

Re-letter subsequent paragraphs.

7. Amend page 4, line 20:

Add: (g) outlining the procedures to be followed by local governments in soliciting public input, including rules requiring notice and public hearings on the question of cost and service alternatives.

8. Amend page 5, lines 11 through 13, by deleting lines 11 through 13 in their entirety.

9. Amend page 5, line 24, subsection (b):

Delete: all language following "(b)";

Insert: (b) the procedures to be followed in giving notice and conducting public hearings on the question of private or public management of proposed solid waste management systems.

RATIONALE:

These amendments simply require that there be opportunity of public input--including notice and hearing--with respect to proposed solid waste management systems. This allows the public to be informed of cost and service alternatives and to give local governments input from the public with respect to those alternatives. It does not require the local government to give a preference to private industry, nor does it require local governments to take any particular action after they receive public input. It does give private industry an opportunity to inform both the local government and the public of the services and costs they can offer.

1 *SENATE* BILL NO. 99
 2 INTRODUCED BY *HARVEY HILL* ~~of the~~ *Senate*
 3 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

4 *Harvey Hill* ~~of the~~ *Senate*

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PREFERENCE
 6 FOR PRIVATELY OPERATED SOLID WASTE MANAGEMENT SYSTEMS;
 7 PROVIDING AUTHORITY TO THE DEPARTMENT OF HEALTH AND
 8 ENVIRONMENTAL SCIENCES TO DEVELOP PROCEDURES ^{FOR PUBLIC INPUT TO} ~~TO~~ ^{ON} ~~ENABLE~~ LOCAL
 9 GOVERNMENTS TO DETERMINE WHETHER SOLID WASTE MANAGEMENT
 10 SYSTEMS SHOULD BE PRIVATELY OR PUBLICLY OPERATED; AND
 11 AMENDING SECTIONS 75-10-102, 75-10-104, AND 75-10-106, MCA."

12 STATEMENT OF INTENT

13 A statement of intent is required for this bill in order
 14 to provide guidance to the department of health and
 15 environmental sciences on the procedure to be required of
 16 applicants for a license under 75-10-221. The department
 17 shall develop rules relating to information required for a
 18 complete application for a license for a new solid waste
 19 management system that include the following:

- 20 (1) documentation of a public hearing and notice of the
- 21 hearing on the question of private or public management of
- 22 the proposed solid waste management system; *and*
- 23 *(2) required assumptions and calculations of costs and*
- 24 *benefits for evaluating alternative proposals for management*

1 of the proposed solid waste management system, ~~and,~~
 2 ~~(3) justification of the decision of an applicant to~~
 3 ~~use private or public management of the proposed solid waste~~
 4 ~~management system.~~

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6 **Section 1.** Section 75-10-102, MCA, is amended to read:
 7 "75-10-102. Public policies. (1) To implement this
 8 part, the following are declared to be public policies of
 9 this state:

10 (a) Maximum recycling from solid waste is necessary to
 11 protect the public health, welfare, and quality of the
 12 natural environment.

13 (b) Solid waste management systems shall be developed,
 14 financed, planned, designed, constructed, and operated for
 15 the benefit of the people of this state.

16 (c) Private industry is to be utilized to the maximum
 17 extent possible in planning, designing, managing,
 18 constructing, operating, manufacturing, and marketing
 19 functions related to solid waste management systems.

20 (d) Local governments shall retain primary
 21 responsibility for adequate solid waste management with the
 22 state preserving those functions necessary to assure
 23 effective solid waste management systems throughout the
 24 state. ~~Local governments have primary responsibility for~~



1 operating a solid waste management system in order to insure
 2 that the system conforms to the state plan;
 3 (5) provide front-end organizational loans for the
 4 implementation of an approved solid waste management system
 5 whenever funds for loans are available;
 6 (6) enforce and administer the provisions of this part;
 7 (7) administer loans made by the state under the
 8 provisions of this part; and
 9 (8) approve plans for a proposed solid waste management
 10 system submitted by a local government; and

~~11 (9) provide a procedure for local governments to
 12 determine if solid waste management systems should be
 13 operated by local government or private industry."~~

14 **Section 3.** Section 75-10-106, MCA, is amended to read:
 15 "75-10-106. Duties of board. The board shall:
 16 (1) adopt a state solid waste management and resource
 17 recovery plan after complying with the procedures outlined
 18 in 75-10-111; and
 19 (2) adopt rules necessary for the implementation of
 20 this part, including but not limited to rules governing the
 21 following:

- 22 (a) submission of plans for a solid waste management
- 23 system;
- 24 (b) ~~the procedures for determining if a solid waste~~

25 ~~management system should be managed by a local government or
 in giving notice and conducting public
 hearings on the question of private
 or public management of proposed~~

1 ~~private industry;~~
 2 ~~(b)(c)~~ the procedures to be followed in applying for
 3 and making loans and grants;
 4 ~~(c)(d)~~ the requirements for eligibility for grants; and
 5 ~~(d)(e)~~ the agreements between the local government and
 6 the department for grants and loans under this part."
 7 **NEW SECTION. Section 4.** Saving clause. [This act] does
 8 not affect rights and duties that matured, penalties that
 9 were incurred, or proceedings that were begun before [the
 10 effective date of this act].

-End-

the procedures to be followed
 the procedures for determining if a solid waste
 management system should be managed by a local government or
 in giving notice and conducting public
 hearings on the question of private
 or public management of proposed solid waste management systems.

Amendments to Senate Bill No. 99
First Reading Copy

Requested by Senator Thayer
For the Committee on Local Government

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 5A

Prepared by Connie Erickson
February 21, 1991

DATE 2-22-91

BILL NO. SB-99

1. Title, lines 5 through 7.
Strike: "A" on line 5 through "PROVIDING" on line 7

2. Title, line 8.
Strike: "TO ENABLE"
Insert: "FOR PUBLIC INPUT TO"

3. Title, line 9.
Strike: "TO DETERMINE"
Insert: "ON"

4. Statement of intent, page 1, line 23.
Following: ";"
Insert: "and"

5. Statement of intent, page 1, lines 24 and 25.
Strike: "required assumptions and calculations of costs and benefits"
Insert: "standards"

6. Statement of intent, page 2, line 1.
Strike: "; and"
Insert: "."

7. Statement of intent, page 2, lines 2 through 4.
Strike: subsection (3) in its entirety

8. Page 2, line 25 through page 3, line 6.
Following: "." on line 25
Strike: remainder of line 25 through "." on page 3, line 6

9. Page 3.
Following: line 6
Insert: "(e) Public input must be sought on the question of private or public management of proposed solid waste

management systems."

Renumber: subsequent subsections

10. Page 4, line 16.

Strike: "and"

11. Page 4, line 19.

Following: ";"

Insert: "and

(g) outlining the procedures to be followed by local governments in soliciting public input, including rules requiring public hearings and notice of the hearings on the question of cost and service alternatives;"

12. Page 5, line 8.

Following: "and"

Insert: "and"

13. Page 5, line 10.

Strike: "; and"

Insert: "."

14. Page 5, lines 11 through 13.

Strike: subsection (9) in its entirety

15. Page 5, line 24 through page 6, line 1.

Strike: subsection (b) in its entirety

Insert: "(b) the procedures to be followed in conducting public hearings and providing notice of the hearings on the question of private or public management of proposed solid waste management systems;"

**MONTANA
ASSOCIATION OF
COUNTIES**

2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 6

DATE 2-21-91

BILL NO. HB-55

TO: Chair Esther Bengtson
Senate Local Government Committee

FROM: *Gordon*
Gordon Morris, Executive Director

DATE: February 6, 1991

RE: House Bill 55

After checking with House Local Government Committee Members, I can assure you it was the intent to increase the amount on line 22, page 1 to \$50,000. One committee member commented, "we recognized that you cannot even build a chicken coop for \$25,000. However, after conferring with Representative Sonny Hansen and Ken Dunham of the Contractors Association, I would recommend going back to the original \$25,000 as in the introduced bill. This would remove any doubt as to support for the bill from Hansen and Dunham.

Please consider an amendment to that effect. On behalf of County Government, I thank the committee members.

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 6A

DATE 2-21-91

Amendments to House Bill No. 55
Third Reading Copy

BILL NO. AB-55

Requested by Senator Bengtson
For the Committee on Local Government

Prepared by Connie Erickson
February 21, 1991

1. Page 1, line 23.
Strike: "\$50,000"
Insert: "\$25,000"

Amendments to Senate Bill No. 407 EXHIBIT NO. 7
First Reading Copy

DATE 2-21-91

Requested by Senator Waterman BILL NO. SB-407
For the Committee on Local Government

Prepared by Connie Erickson
February 20, 1991

1. Title, lines 21 through 23.

Strike: "ESTABLISHING" on line 21 through ";" on line 23

2. Statement of intent, page 2, line 14.

Following: "."

Insert: "It is the intent of the legislature that the rules
establish a reasonable fee schedule that approximates the
department's actual and necessary costs."

3. Page 14, lines 7 and 8.

Strike: "sanitation" on line 7 through "[section 10]" on line 8

Insert: "state general fund"

4. Page 14, lines 21 and 22.

Strike: "sanitation" on line 21 through "[section 10]" on line 22

Insert: "state general fund"

5. Page 15, lines 17 and 18.

Strike: "and" on line 17 through "[section 10]" on line 18

6. Page 15, line 19 through page 16, line 3.

Strike: section 10 in its entirety

Renumber: subsequent sections

7. Page 16, line 4.

Strike: "(1)"

8. Page 16, line 9.

Strike: subsection (2) in its entirety



CITY OF BILLINGS
PUBLIC UTILITIES DEPARTMENT SENATE GOVT. COMM.

P.O. BOX 30958 EXHIBIT NO. 8
 BILLINGS, MT 59111
 PHONE (406) 657-8300 DATE 2-21-91
 February 21, 1991 BILL NO. SB-407

To: Bruce McCandless, Assistant City Manager
 From: Joe Steiner, Plants Superintendent
 Public Water Supply Task Force Member
 SUBJECT: SB 407

After many and lengthy communications with Jim Molstad, DHEB, we have sorted out some of the confusion about this bill. However, there are still many unanswered questions. The Executive Summary - Report to DHEB, Governor Stephens, and the 1991 Legislature prepared by the Montana Public Water Supply Task Force (Report) outlines a proposed staffing plan for Montana's water supply program. This plan does not match a proposed staffing plan approved by the appropriation subcommittee. No fiscal note for this bill was available to know for sure what staffing plan or fee schedule was used to justify the bill. Assessment of the staffing plan in the bill is therefore, impossible.

The interim program funding needs and sources (Figure 2 of the Report) shows a funding split of federal money - 50% to state money - 50%. Sixty (60) percent of the state money is generated by the proposed service connection fee. This fee will be charged against all public water supply systems including Billings, Lockwood, Yellowstone County Water District, Cedar Park, etc. The national average for state water supply programs has the states funding 68% of their programs. Now Montana funds 36% of the water supply program. This shows that Montana is too dependent upon federal money to fund the water supply program. The general public should support more of the program. A disproportionate amount of the program funding is placed on the public water suppliers. The state needs to become a full partner in this program.

The shortfall in funding shown in Figure 2 of the Report is overstated. SB 407 requires the DHEB to recoup all costs associated with engineering and plan reviews, as well as plat and subdivision reviews. The staffing required for these programs is more than 9 FTE's. Using DHEB estimates of \$50,000/FTE, the revenue generated from these activities should be \$450,000 plus. The shortfall is not reduced by this revenue. This revenue should substantially reduce the need for any proposed service connection fee against public water suppliers.

The proposed service fee is not equitable. Small systems, who benefit the most from the state programs, will not pay for all the services required. Large systems will subsidize

SB 407

February 21, 1991

Page 2

the smaller systems. The American Water Works Association suggests that state general fund revenue finance broad based drinking water functions. Fees are only to be used to pay for functions directly tied to specific water suppliers. EPA has stated: "a well structured fee ... is the most equitable means of matching program costs with those responsible for or benefiting from program activities." They also state that such "fees provide a direct relationship between the demand for a service and the costs of providing it."

We see three options acceptable to Billings:

Option 1: Have the bill designated as a revenue bill. This allows additional time for us to negotiate our differences with the DHES. The DHES agrees with this option. We could come back to the committee with a proposal that may be more acceptable.

Option 2: Amend the bill to include. 1. A maximum fee of \$7500 and a minimum fee of \$150 assessed per public water supply (community and non-community). This fee schedule more equitably charges fees in comparison to the services provided. The service connection fee for medium sized public water suppliers will be less than the \$3 proposed; 2. Mandate the engineering and plan review and the plat and subdivision review programs be self supporting. The bill as written accomplishes this. However, the DHES indicated this was not their intent. This revenue must be put in the public drinking water special revenue fund.

Option 3: Amend now section 4 requiring that all fees assessed each public water supply shall be reasonably commensurate with the cost of providing the DHES service.

Note: Public water suppliers must be allowed to pass on a mandated fees to their consumers without meeting the statutory requirements for rate increase public hearings with either option 2 or 3.

The bill's intent, providing a comprehensive public water supply program, is supported. However, there is too much uncertainty to support the bill as written. We recognize that fee equity is debated during the administrative rule making process, but some degree of equity needs to be established in the statute.

See proposed amendments attached herewith to implement Options 2 and 3.

February 21, 1991

PROPOSED AMENDMENT TO SR 407

OPTION 2:

Amend New Section 4(1) to read as follows:

NEW SECTION. Section 4. Board to prescribe fees. (1)
The Board shall by rule prescribe fees to be assessed annually
by the department on owners of public water supply systems to
recover department costs in providing services under this part.
The annual fee for a public water supply system must be based
on the number of connections to the public water supply system,
although the minimum fee for any system is ~~five~~ \$120 and the
maximum fee is \$7,500. The annual fee shall not recover any
costs associated with departmental plan and specification
reviews, plat and subdivision reviews, and/or operator
training/certification programs. Public water supply systems
may, without the need for the public hearing required under
Section 69-7-111, automatically raise their rates to recover
their costs of paying all fees prescribed under this chapter.

February 21, 1991

PROPOSED AMENDMENT TO SB 407

OPTION 3:

Amend New Section 4(1) to read as follows.

NEW SECTION Section 4. Board to prescribe fees. (1)

The board shall by rule prescribe fees to be assessed annually by the department on owners of public water supply systems to recover department costs in providing services under this part.

The annual fee for a public water supply system ~~must be based on the number of connections to the public water supply system.~~

shall bear a direct and proportional relationship between the demand for a service by a public water supply system and the department's cost of providing it. Public water supply systems may, without the need for the public hearing required under Section 69-7-111, automatically raise their rates to recover their costs of paying all fees prescribed under this chapter.