

MINUTES OF LOCAL GOVERNMENT COMMITTEE MEETING HELD THURSDAY,
JANUARY 13, 1981, 12:30 P.M., ROOM 103.

Vice Chairman Orren Vinger called the meeting to order as Chairman Bertelsen was excused to attend another committee meeting.

All committee members were present, with the exception of Chairman Bertelsen and Rep. Hurwitz who were excused.

Lee Heiman, staff attorney, also attended.

VICE CHAIRMAN VINGER stated the meeting would begin as a quorum was present. Two bills are on the agenda, namely HB 111 and HB 112, and they will be discussed today. Rep. Vinger introduced Art Lund, sponsor, and asked him to open the meeting.

HB 112: Provides greater latitude for methods of assessing taxes for payment of bonds used to finance water conservation and flood control projects. Section 76-5-1114 (1) provides for assessments on each lot or parcel in the benefitted area in relation to the total area assessed, or based upon the taxable valuation of each lot, minus improvements, in relation to such total taxable value within the benefitted area.

REP. LUND introduced Walter Ulmer as he asked to give testimony since he has a very select problem at Miles City.

PROPOSERS: WALTER ULMER, County Commissioner from Miles City stated HB 112 basically allows local government governing bodies to use any of several different methods of funding bond issues for special improvement districts. This problem does address a problem existing in Custer County. The bill can also be used to assist any special improvement district, rural or urban, and particularly in the case of a district that is partly rural and partly urban, which is the problem in Miles City.

The background is that Miles City is located on the banks of the Yellowstone River, bounded on the north and northeast side, on the west by the Tongue, so we do have a flood problem. In 1979 we experienced an ice jam which flooded a large area in the community causing \$5 million to \$6 million of damage. We had discussed with the Army Corps of Engineers for a number of years the possibility of having a dike built. Part of the requirement when they build a dike with the Corps of Engineers is they will build the dike, but the local community must provide the right of way and the barrow. This would be very costly to the land owners. After talking with the Assessor, we were told that we could assess the land on the basis of its improved value, but not the improvements thereon. Doing it that way, we can hold the assessments down to a reasonable level, so we would use that method. But, it is also possible we could use assessed valuation of the property, because as the dike is built, the land would improve in value. This would permit owners who want to raise horses and grow alfalfa

to continue to do so and not be driven off the land. If you want to subdivide the land, this can still be done. If this bill is passed, we will then try to set up the district. We do not levy the assessments or sell the bonds until we make final arrangements with the Corps of Engineers, who have the money that is supposed to be in the budget to build the dike. If we don't get the Corps' appropriation, we won't build the dike, but the machinery will be there for a flood control project, including a district which has both city and rural land.

MIKE STEPHEN, Executive Director of the Montana Association of Counties, stated that Mr. Ulmer vividly explained the situation, so he wouldn't go into that. He said they do support the legislation and feel there is adequate county and local controls as far as other equitable methods for selecting the bonds. His Association favors H.B. 112.

There being no further proponents, opponents will be heard.

OPPONENTS: There were none.

Rep. Vinger announced a question and answer period.

REP. ANDREASON asked if under line 24, page 1, the wording "with any other equitable method selected by the governing body authorizing the issuance of the bonds," could cause any problems. Would it be possible that there could be some abuses having such a broad wording? REP. LUND said that ordinarily the local governing bodies are quite responsive to the people who have to pay the bills. What is usually done when there is a special improvement district, either rural or city, is to get together and discuss how it will be taken care of. The only methods I know of are either taxable evaluation or square footage, and then the taxable evaluation would be either with or without improvements. As the load is spread over a larger area, the cost is smaller. One disadvantage is that by the square foot method you can prepay your assessment and save interest. The taxable valuation, either taxable valuation on the land, or on the land with improvements, you can't prepay. You have a fixed payment every year, but the valuation paying for that fixed payment might vary from year to year.

REP. PISTORIA asked if the bonds that will be sold will be voted on by the people involved. MR. ULMAN said they would insist that this be done.

REP. DUSSAULT commented that the Committee Council said the bill is for the purpose of payment of bonds to control water projects. She thought she heard Mr. Ulmer say it would apply to all projects. MR. ULMER said he felt it would apply to all projects.

Lee Heiman, staff attorney, was asked to clarify the point. He said he feels this does not control any other bonding issues as far as the local government.

REP. SALES asked Mr. Ulmer to clarify his understanding of Section 76-5-1117. He understand that said section refers only to water conservation and flood control projects. MR. ULMER said that is his understanding, because it says cost of improvements contemplated by this part, no other costs are included.

REP. DUSSAULT asked Mr. Ulmer the following question: What do you think the language on lines 24 and 25 mean? What does any other equitable method mean? MR. ULMER replied that as nearly as he can tell, he assumes that would mean because title 76-5-1114 addresses itself only to assessing land without improvements, but at the assessed valuation. If we did decide it would be better to assess land with improvements, we would be able to do so. That is the only other method I know of.

REP. VINGER asked if there were any further questions. Since there were none, the hearing on HB 112 was closed.

HOUSE BILL 111: Acting Chairman Vinger announced that HB 111 would now be heard. He called on Rep. Lund to discuss it briefly.

REP. LUND said the only change in HB 111 is changing the amount to be used for county fire protection to \$40,000 from \$15,000. It is very difficult for rural fire districts to buy anything today for \$15,000.

PROPONENTS TO HB 111 were asked to give their testimony.

ART KORM, Secretary-Treasurer of the Montana State Volunteer Firemen's Association, stated his organization goes along with HB 111 for the simple fact that 11 or 12 years ago in Butte there was a fire on the east ridge. We had appropriated \$15,000 for fire suppression in that area. The fire got out of control of the rural fire departments so they called in county equipment and manpower. They couldn't put it out. It went into State land so the County Commissioners authorized the Missoula flight service to bring in some retard. They shot about 15 plane loads of retard on it. It then started to go into BLM land, so the Bureau of Reclamation brought in equipment. The bill to the county that time came to \$18,000, and that was 11 or 12 years ago. The county paid the \$15,000 they had in the fund, but had a very hard time getting the other \$3,000 out of the general fund. You can see what the cost of a fire of that denomination would be if that happened today.

In Wolf Point or Cascade County, where they may have 20 fire departments in one rural area, if they are all called out to fight a fire on state land or farm land, by the time they call out additional trucks, men, etc., additional funds are needed. By the time they split \$15,000 between 20 departments and the county rural fire department for hours of work, you can see that \$15,000 is out of line. We support House Bill 111.

Another proponent, R. A. ELLIS, a Montana State Volunteer Fireman, living in Helena, said he supports HB 111. Under line 17 it says the county governing body "may", not "shall" levy a tax at such rate as in their judgment will be necessary to raise such needed sum. This suggests they won't have to do so if they don't want to. In Lewis and Clark County the money is used to buy suppression equipment for unprotected areas, that is, areas not within the city limits of any corporate city, the county or within fire districts in the county. Outlying areas not within the district, do not have a tax base to cover this. Consequently, the county keeps this type of equipment. Broadwater County is a total county fire district, so the County Commissioners levy this mill and give it to their fire district to fight their fires.

Proponent DAVE FISHER representing the Montana Volunteer Firemen's Association and also the Montana Fire Chief's Association, testified next. He mentioned that fire departments have been hit as bad or worse than anybody thru inflation. If we don't have legislation of this type, we will have one of two things happen. We will either lose fire departments and, if we do, we will lose ground. When we lose ground, we lose tax base. His organizations support HB 111.

Proponent MIKE STEPHENS, Executive Director of the Association of Counties, said we support this bill. He said he feels certainly the \$15,000 figure needs to be updated due to the present day inflationary interest rates and cost of everything. Also, in our feeling of local control, this is more of a permissive thing and we approve of that.

Proponent WALTER ULMER, Custer County Commissioner, stated their first grass fire was on February 18, 1980. This was a very rare situation because normally we don't start fighting fires until July. We budgeted for 35 fires and fought 90 odd fires. We have a working agreement with the Miles City Fire Department wherein we put money into the fund and pay the firemen and then pay firemen on a standby basis, getting first call response from the local fire department. Just a week ago we passed an emergency budget of some \$9,000 because our fire fund of \$15,000 was short. \$15,000 is not a realistic figure. In a normal year we wouldn't use that much, but this year we'll probably use that or more if it doesn't rain.

The VICE CHAIRMAN asked if there were any other proponents to HB 111. There being none, he called for opponents.

OPPONENTS: As there were no opponents, the hearing on HB 111 was closed.

QUESTION AND ANSWER PERIOD followed: Acting Chairman Vinger said that when a committee member is recognized, he/she will be given the floor and can ask any questions they wish without having to be recognized for each question.

REP. AZZARA wondered if in the case where an interlocal agreement exists between service districts such as an RFD and the county to provide fire protection, would this allow fire districts to raise their levy over the land they are in charge of. ANSWER: That is within the district itself. Each fire district has its own set mill levy to operate within that particular district. This supercedes in another way the fact that this goes out of our primary district.

REP. AZZARA said he is talking about the case where the county has contracted with a Volunteer Fire Association as a Special Service District. MR. ULMER said they can contract.

REP. AZZARA: In that case would the increased levy allowable be applicable to that service district contract? MR. ULMER said that would be determined as to how you determined the law.

REP. ANDREASON: Why do we have ceiling at all on the amount of money the county can put in? REP. LUND said he suspects it has to do with the philosophy that the Legislature has always felt that local government needs guidance in running their local government. MR. KORM explained that when we mention rural, rural is the district in addition to. I have a volunteer fire district. I also have a rural fire district. The rural fire district does not pay taxes into my fire district, which answers your question. Therefore, this does not raise the taxes. How this came to be is a little mumbo jumbo, but prior to this time of our great inflation, we went along with the \$15,000. We did come before the Legislature once before and cited our needs, but at that time they were confused. We believe at this time we have it straightened out that they may, if the people in the rural fire districts do not want to be annexed into a volunteer fire district, this changes the picture again. When we are speaking rural, we mean outside of the organized tax paying audit fire district. In counties such as outside of Silver Bow, we have three rurals in eight other districts plus our paid taxing district, which is under unified government.

REP. NEUMAN asked Mr. Stephens if he looked at any other source of funding other than the tax levy here such as a fee like we do for garbage or that type of thing. ANSWER: No. Rep. Neuman said that in Cascade County, where he lives, a trailer house community moved into the area. About 240 trailers were involved. We tried to get money for the fire department and we got \$150 and one man volunteered to join the fire department. Now these people want to create a special district and put the tax on the property to pay for the district. There are approximately 240 trailers and 50 or 60 farmers and ranchers paying the whole bill. Is there any other system which might be more equitable? ANSWER: There probably is, but we were trying to use the existing system.

REP. WALDRON: I'm surprised there is a dollar limit. Is there a mill that the county can assess for fire protection? ANSWER: Yes. The maximum millage is 25 mills. But, you must set up a budget for lighting, one for fire hydrants, a budget for capital outlay of equipment, a budget for insurance for liability and life and injuries to firemen, etc. When you do that, the taxable mill levy for valuation of that particular district is determined at that time by the local county assessor. He'll say, for instance, that the total valuation of your district is \$500,000, so it will require x number of mills to raise that much money. Therefore, we have some districts that will pay eight mills, some pay 14, some pay as many as the maximum of 25. REP. WALDRON then commented the question is to levy enough to pay for whatever it is you have to pay, whether it is a half mill or 10 or 25 mills.

MR. KORM added he thinks we are confused. The Volunteer Firemen's Act has been divided into two or three categories and has never been explained. The volunteer fire district is a set of rules that meets and bounds within a district where they set a mill levy. They elect their own trustees, their own chief and their own officers. The rural fire area is countywide. They have no mill levy to support so this is what the \$15,000 is for. The rural county area is established as a rural fire district. The county commissioners appoint a fire warden who is usually the sheriff, county surveyor or anybody else they want, but they get no extra pay. He in turn is in charge of the entire county. That is the difference between rural and volunteer. A volunteer department is within a boundary. They have their own budget, they assess their own mill levy, but the rural does not have it, and this is what we're talking about. The rural has a different set of by-laws than the volunteers. There is also a third organization, being fire departments in third class cities under the Police Association.

REP. VINGER asked a question for the Legal Department. My county commissioners thought possibly the dollar limitation should be mentioned in the first paragraph as well as the second. Do you see any need for that? STAFF ATTORNEY LEE HEIMAN said he didn't think there was any need as it has been going on that way for many years. He thought it might be cleared by deleting both subsections and have only one section.

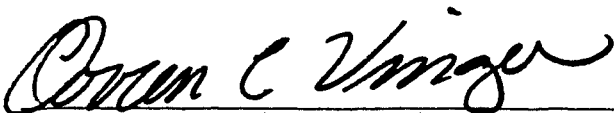
REP. AZZARA: Question - Based on the explanation you've given, it seems to me that is a low figure. Who determined it? What were the factors determining \$40,000. MR. KORM said he thinks it came from past experience of what they've had and what their deficit has been, realizing that this comes out of their pockets. It doesn't come out of the general fund, so they aren't going to ask for any more than they need. REP. AZZARA said it does seem that in an urban county that has urban problems and is surrounded by a lot of grass or trees and has fire problems other than man made, the figure may be too low. MR. KORM said his determination is the way it was handed to us. It has been discussed at conventions and this is the figure they determined in a general area. Perhaps later on it might be \$5,000 or \$10,000 higher. But this figure in a general area seemed to be adequate.

REP. HANNAH wondered if you live in a small community like Scobey, the people living inside that rural fire district would end up paying an increased millage as they'd be paying in effect for two fire districts. The people outside of the rural fire district around Scobey would be paying for one fire district. Is that correct? ANSWER: Yes.

REP. ANDREASON mentioned he feels we're addressing a lot of questions about inequities that this bill doesn't deal with and perhaps other legislation might take care of them. Mainly this is a question of whether or not we raise the amount to \$40,000.

Acting Chairman Vinger asked for further questions. There being none, he said we'd close the hearing on HB 111.

There being no further business, Rep. Vinger adjourned the meeting at 1:20 p.m.



Rep. Orren Vinger, Vice Chairman

TO: The Chairman and Members of the House Local Government Committee.

FROM: Lee Heiman, Committee Counsel

DATE: January 13, 1981

RE: Summaries of HB 111 and HB 112

HB 111: Provides that the maximum amount that may be levied for county fire control activities be raised from \$15,000 to \$40,000. County fire control is an independent county function not necessarily associated with other fire services such as rural fire districts.

HB 112: Provides greater latitude for methods of assessing taxes for payment of bonds used to finance water conservation and flood control projects. Section 76-5-1114(1) provides for assessments on each lot or parcel in the benefited area in relation to the total area assessed, or based upon the taxable valuation of each lot, minus improvements, in the relation to such total taxable value within the benefited area.

Localities

COMMITTEE

H-B-111 and 112

Date June 13 1961

Rep. Fund

ART KORM	HB 112	1916 S. WASH. BT. MT	MT ST VOL FIRE ASSOC	✓
	HB 111	1927 S. WASH. BT. MT	MT ST VOL FIRE ASSOC	✓
	HB 111	1935 S. WASH. BT. MT	MT ST VOL FIRE ASSOC	✓
Walter J. Miller		121 S. WASH. BT. MT	CLUSTER COUNTY	✓
Walt Kuroda	HB 112	H. L. U. A.	myself	✓
Beverly Gibson		Helen	Int. Assn. of Co.'s	✓
Miss Stella	HB 112	Helen	MT Assoc of Co.	✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

INTRODUCED BY HOUSE BILL NO. 112

Spent

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND 76-5-1117 PROVIDING FOR BROADENED STATUTORY METHODS BY WHICH CITIES, TOWNS, AND COUNTIES CAN ASSESS TAX FOR PAYMENT OF BONDS."

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

Section 1. Section 76-5-1117, MCA, is amended to read:

"76-5-1117. Bonds authorized -- procedure. Cities, towns, and counties are authorized to contract indebtedness and to issue special improvement district or rural improvement district bonds to provide funds for the payment of the cost of improvements contemplated by this part by following the procedures established for the issuance of such bonds under the provisions of Title 7, chapter 12, part 42, as to cities and towns and Title 7, chapter 12, part 21, as to counties. Payment and security for the bonds shall be provided by following the following procedures:

(1) Tax assessments for the payment of the bonds shall be levied in accordance with Title 7, chapter 12, parts 41 and 42, and or Title 7, chapter 12, part 21, as to cities and counties, respectively, or 76-5-1114(1) or in accordance with any other equitable method selected by the governing body authorizing the issuance of the bonds.

(2) A revolving fund, to be pledged for the security of the bonds, must be established pursuant to the provisions of Title 7, chapter 12, part 42, as to cities and towns, and Title 7, chapter 12, part 21, as to counties, by the governing body authorizing the issuance of the bonds."

-END-

NAME Walter J. Ulmer BILL No. HB 112
ADDRESS Miles City DATE 1/13/81
WHOM DO YOU REPRESENT Custer County Comm.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

m CS-14

NAME Art Lund BILL No. 112
ADDRESS _____ DATE _____
WHOM DO YOU REPRESENT St. Louis
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Form CS-34
79

NAME Mike Styer BILL NO. 112
ADDRESS Helena DATE 13 Jan 81
WHOM DO YOU REPRESENT MT Assoc. of Counties
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

HOUSE BILL NO. 111

INTRODUCED BY

Shelton

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE PERMISSIBLE LEVIED AMOUNT AVAILABLE FOR COUNTY FIRE PROTECTION TO \$40,000 FROM \$15,000; AMENDING SECTION 7-33-2209, MCA."

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

Section 1. Section 7-33-2209, MCA, is amended to read:

"7-33-2209. Finance of fire control activities. (1) The county governing body is authorized to appropriate funds for the purchase, care, and maintenance of firefighting equipment or for the payment of wages in prevention, detection, and suppression of fires.

(2) If the general fund is budgeted to the full limit, the county governing body may, at any time fixed by law for levy and assessment of taxes, levy a tax at such rate as in their judgment will be necessary to raise such needed sum, not to exceed \$15,000 \$40,000."

-End-

Shelton
Deering, Dec. 13

NAME Joe Smith BILL No. HP 111
ADDRESS 1901 S Washington St. Suite 210 DATE 1-13-81
WHOM DO YOU REPRESENT Mountain View Farmers Case
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME ART KORN BILL No. H.B. 111
ADDRESS 1916 So Washington DATE JAN. 13-1981
WHOM DO YOU REPRESENT MONT STATE VOL. FIREMEN'S ASSOC
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME T. H. E. M. BILL No. 1112
ADDRESS 1135 Sierra Rd. Helena, MT DATE 1/13/81 ✓
WHOM DO YOU REPRESENT Mont. State Sen. Eugene H. E. M.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STANDING COMMITTEE REPORT

January 15, 1931

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 111

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE PERMISSIBLE LEVIED AMOUNT AVAILABLE FOR COUNTY FIRE PROTECTION TO \$40,000 FROM \$15,000; AMENDING SECTION 7-33-2209, MCA."

Respectfully report as follows: That HOUSE Bill No. 111

DO PASS

STANDING COMMITTEE REPORT

.....JANUARY 23,.....19 21.....

MR. SPEAKER.....

We, your committee on LOCAL GOVERNMENT.....

having had under consideration HOUSE..... Bill No. 112.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND 76-5-1117
PROVIDING FOR BROADENED STATUTORY METHODS BY WHICH CITIES,
TOWNS, AND COUNTIES CAN ASSESS TAX FOR PAYMENT OF BONDS."

Respectfully report as follows: That HOUSE..... Bill No. 112.....

1. Page 1, lines 23-25.
Following: "76-5-1114(1)"
Insert: "."
Strike: remainder of subsection

AS AMENDED
DO PASS

Approved by Comm.
on Local Government

1 HOUSE BILL NO. 28

2 INTRODUCED BY KEYSER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY AND EXPAND
5 THE AUTHORITY OF MUNICIPALITIES AND COUNTIES IN ADOPTING AND
6 ENFORCING LOCAL BUILDING CODES AND ELIMINATING THE
7 CERTIFICATION REQUIREMENT FOR THE ADOPTION OF LOCAL CODES;
8 AMENDING SECTIONS 50-60-101, 50-60-104, 50-60-106,
9 50-60-107, 50-60-109, 50-60-110, 50-60-301, 50-60-302,
10 50-60-303, AND 50-60-404, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 50-60-101, MCA, is amended to read:
14 "50-60-101. Definitions. As used in parts 1 through 4
15 and part 7 of this chapter, unless the context requires
16 otherwise, the following definitions apply:

17 (1) "Building" means a combination of any materials,
18 whether mobile, portable, or fixed, to form a structure and
19 the related facilities for the use or occupancy by persons
20 or property. The word "building" shall be construed as
21 though followed by the words "or part or parts thereof".

22 (2) "Building regulations" means any law, rule,
23 resolution, regulation, ordinance, or code, general or
24 special, or compilation thereof enacted or adopted by the
25 state or any municipality of ~~of~~ the ~~the~~ department, including departments,

1 boards, bureaus, commissions, or other agencies of the
2 state, or a municipality, of ~~of~~ a ~~the~~ county relating to the
3 design, construction, reconstruction, alteration,
4 conversion, repair, inspection, or use of buildings and
5 installation of equipment in buildings. The term does not
6 include zoning ordinances.

7 (3) "Construction" means the original construction and
8 equipment of buildings and requirements or standards
9 relating to or affecting materials used, including
10 provisions for safety and sanitary conditions.

11 (4) "Department" means the department of
12 administration provided for in Title 2, chapter 15, part 10.

13 (5) "Equipment" means plumbing, heating, electrical,
14 ventilating, air conditioning, and refrigerating equipment,
15 elevators, dumbwaiters, escalators, and other mechanical
16 additions or installations.

17 (6) "Local building department" means the agency or
18 agencies of any municipality of ~~of~~ the ~~the~~ county charged with the
19 administration, supervision, or enforcement of building
20 regulations, approval of plans, inspection of buildings, or
21 the issuance of permits, licenses, certificates, and similar
22 documents prescribed or required by state or local building
23 regulations.

24 (7) "Local legislative body" means the council or
25 commission charged with governing the municipality or

1 **county.**
2 (8) "Municipality" means any incorporated city or town
3 and its jurisdictional area as defined by subsection (9) of
4 this section.
5 (9) (a) "Municipal jurisdictional area" means the area
6 within the limits of an incorporated municipality unless the
7 area is extended at the written request of a municipality.
8 (b) Upon request, the council may approve extension of
9 the jurisdictional area to include:
10 (i) all or part of the area within 4 1/2 miles of the
11 corporate limits of a municipality;
12 (ii) all of any platted subdivision which is partially
13 within 4 1/2 miles of the corporate limits of a
14 municipality; and
15 (iii) all of any zoning district adopted pursuant to
16 Title 76, chapter 2, part 1 or 2, which is partially within
17 4 1/2 miles of the corporate limits of a municipality.
18 (c) Distances shall be measured in a straight line in
19 a horizontal plane.
20 (10) "Owner" means the owner or owners of the premises
21 or lesser estate, a mortgagee or vendee in possession,
22 assignee of rents, receiver, executor, trustee, lessee, or
23 other person, firm, or corporation in control of a building.
24 (11) "Public place" means any place which a
25 municipality, a county, or the state maintains for the use

1 of the public or a place where the public has the right to
2 go and be.
3 (12) "Recreational vehicle" means anything defined as a
4 recreational vehicle in the edition of NFPA No. 501C or ANSI
5 A119.2 most recently adopted by the state in accordance with
6 50-60-401.
7 (13) "State agency" means any state officer,
8 department, board, bureau, commission, or other agency of
9 this state.
10 (14) "State building code" means the state building
11 code provided for in 50-60-203 or any portion of the code of
12 limited application and any of its modifications or
13 amendments."
14 Section 2. Section 50-60-104, MCA, is amended to read:
15 "50-60-104. Inspection fees. ~~Whenever the state~~
16 ~~building code applies, the~~ department shall establish a
17 schedule of fees and may collect fees for the inspection of
18 plans and specifications and for the inspection of
19 buildings, factory-built buildings, recreational vehicles,
20 tramways, or any other facility or structure. ~~Whenever a~~
21 ~~city or county building code applies, the city or county~~
22 ~~shall establish a schedule of fees and may collect fees for~~
23 ~~the inspection of plans and specifications and for the~~
24 ~~inspection of buildings and factory-built buildings."~~
25 Section 3. Section 50-60-106, MCA, is amended to read:

1 "50-60-106. Powers and duties of municipalities and
 2 counties. (1) If a municipality or county adopts a building
 3 code as provided in 50-60-301, the examination,
 4 approval, or disapproval of plans and specifications, the
 5 issuance and revocation of building permits, licenses,
 6 certificates, and similar documents, the inspection of
 7 buildings, and the administration and enforcement of
 8 building regulations within the municipal or county
 9 jurisdictional area shall be the responsibility of the
 10 municipality or county.

(2) Each municipality or county may:

(a) examine, approve, or disapprove plans and
 specifications for the construction of any building, the
 construction of which is pursuant or purports to be pursuant
 to the provisions of the state or municipal or county
 building code, and direct the inspection of the buildings
 during and in the course of construction;

(b) require that construction of buildings be in
 accordance with the applicable provisions of the state or
 municipal or county building code subject to the powers of
 variance or modification granted to the department;

(c) order in writing the remedying of any condition
 found to exist in, on, or about any building in violation of
 the state or municipal or county building code; orders may
 be served upon the owner or his authorized agent personally

or by sending by registered or certified mail a copy of the
 order to the owner or his authorized agent at the address
 set forth in the application for permission for the
 construction of the building; any local building department,
 by action of an authorized officer, may grant in writing
 such time as may be reasonably necessary for achieving
 compliance with the order;

(d) issue certificates of occupancy, permits,
 licenses, and such other documents in connection with the
 construction of the buildings as required;

(e) make, amend, and repeal rules for the
 administration and enforcement of the provisions of this
 section and for the collection of reasonable fees, which
 shall be comparable to fees imposed or prescribed by
 existing local building regulations;

(f) prohibit the commencement of construction until a
 permit has been issued by the local building department
 after a showing of compliance with the requirements of the
 applicable provisions of the state or municipal or county
 building code;

(g) request assistance from the department to execute
 the provisions of this section.

Section 4. Section 50-60-107, MCA, is amended to read:
 "50-60-107. Certificate of occupancy. (1) A
 certificate of occupancy for a building constructed in

1 accordance with the provisions of the state~~s~~ or municipal~~s~~
 2 ~~or county~~ building code shall certify that the building
 3 conforms to the requirements of the building regulations
 4 applicable to it.

5 (2) Every certificate of occupancy, unless and until
 6 set aside or vacated by a court of competent jurisdiction,
 7 is binding and conclusive upon all municipal ~~or county~~
 8 agencies as to all matters set forth, and no order,
 9 directive, or requirement at variance therewith may be made
 10 or issued by any other state~~s~~ or municipal~~s~~ ~~or county~~
 11 agency."

12 Section 5. Section 50-60-109, MCA, is amended to read:
 13 "50-60-109. Injunctions authorized. (1) The
 14 construction or use of the building in violation of any
 15 provision of the state~~s~~ or municipal~~s~~ ~~or county~~ building
 16 code or any lawful order of a state building official or a
 17 local building department may be enjoined by a judge of the
 18 district court in the judicial district in which the
 19 building is located.

20 (2) This section will be governed by the Montana Rules
 21 of Civil Procedure."

22 Section 6. Section 50-60-110, MCA, is amended to read:
 23 "50-60-110. Violation a misdemeanor. Any person served
 24 with an order pursuant to the provisions of parts 1 through
 25 4 who fails to comply with the order not later than 30 days

1 after service or within the time fixed by the department or
 2 a local building department for compliance, whichever is the
 3 greater, or any owner, builder, architect, tenant,
 4 contractor, subcontractor, construction superintendent,
 5 their agents, or any person taking part or assisting in the
 6 construction or use of any building who knowingly violates
 7 any of the applicable provisions of the state~~s~~ ~~building-code~~
 8 or a municipal~~s~~ ~~or county~~ building code is guilty of a
 9 misdemeanor."

10 Section 7. Section 50-60-301, MCA, is amended to read:
 11 "50-60-301. Municipal and county building codes and
 12 enforcement authorized. (1) The local legislative body of a
 13 municipality or county may adopt a building code by
 14 ordinance to apply to the municipal or county jurisdictional
 15 area.

16 (2) As ~~a minimum standard~~ ~~a~~ municipal or county
 17 building code may ~~must~~ include ~~only~~ codes adopted by the
 18 department. A ~~municipality or county may, however, adopt~~
 19 ~~building regulations more stringent than those of the state~~
 20 ~~building code~~

21 (3) ~~If a building code is adopted, the municipality or~~
 22 ~~county shall enforce the code within the municipal or county~~
 23 ~~jurisdictional area.~~

24 Section 8. Section 50-60-302, MCA, is amended to read:
 25 "50-60-302. Certification ~~of~~ ~~Eiling~~ municipal and

1 county building codes with department. (1) A county or
 2 municipality may not enforce a shall file any building code
 3 unless the code adopted that it adopts and a plan for
 4 enforcement of the code have been filed with the department.
 5 IF THE ADOPTED BUILDING CODE AND PLAN FOR ENFORCEMENT ARE
 6 NOT FILED WITH THE DEPARTMENT BY THE MUNICIPALITY OR COUNTY,
 7 THE DEPARTMENT SHALL ENFORCE THE STATE BUILDING CODE WITHIN
 8 THE MUNICIPALITY'S OR COUNTY'S JURISDICTIONAL AREA AS
 9 PROVIDED IN 50-60-202.

10 (2) The department shall set forth rules and standards
 11 governing the certification of municipal and county building
 12 code programs as required in subsection (1).

13 Section 9. Section 50-60-303, MCA, is amended to read:

14 "50-60-303. Municipal and county appeal procedure. (1)
 15 If a municipality or county adopts a municipal or county
 16 building code, it shall also establish an appeal procedure
 17 by ordinance which is acceptable to the department.

18 (2) If a municipality or county does not adopt a code,
 19 appeals on the application of the state building code within
 20 the municipal or county jurisdictional area shall be made to
 21 the department."

22 Section 10. Section 50-60-404, MCA, is amended to
 23 read:

24 "50-60-404. Enforcement of building construction
 25 standards for modular homes. (1) The provisions of this

1 chapter apply to factory-built modular or prebuilt homes or
 2 buildings.

3 (2) A municipality or county may regulate the
 4 construction of factory-built modular or prebuilt homes or
 5 buildings as provided in 50-60-106 if:

6 (a) the homes or buildings are constructed inside the
 7 jurisdiction of the municipality or county;

8 (b) the homes or buildings are sold primarily to
 9 persons in the county in which the factory is located;

10 (c) the factory does not manufacture more than 100
 11 homes or buildings a year; and

12 (d) the municipality or county has an agency or
 13 officer assigned to inspect and enforce building
 14 construction standards.

15 (3) Inspection and enforcement approval given by a
 16 municipality or county under this section may be recognized
 17 and accepted by any other municipality or county of the
 18 state to which the factory-built home or building is
 19 transported for final installation. Additional inspections
 20 need not be conducted."

-End-