

MINUTES OF THE MEETING  
LOCAL GOVERNMENT COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 26, 1985

The meeting of the Local Government Committee was called to order by Chairman Darko on March 26, 1985 at 6:00 p.m. in Room 312-2 of the State Capitol. This meeting was for the purpose of taking executive action on bills already heard.

ROLL CALL: All members were present, with the exception of Rep. Sales, who was excused. Rep. Brown arrived late.

DISPOSITION OF HOUSE BILL NO. 804: Rep. Brandewie moved to reconsider action on HB 804, and bring it back out to add another amendment. Rep. Kitselman seconded the motion. Motion PASSED to open it for reconsideration.

Rep. Kitselman moved to amend by regulating public utilities, that no public utility subject to rate regulation by the Montana Public Service Commission is subject to a tax levied under this act. Rep. Brandewie seconded the motion. He explained the reason for the amendment is that local government taxes are figured through the rate base. This would exempt them from any taxation that the local county would impose on them.

Rep. Kadas wondered how it would work on coops. Chairman Darko said the reason for the amendment is in the cases where the public utility tries to charge an extra charge. This amendment is okayed by the sponsor of the bill.

Rep. Pistoria asked if they were going to be able to tax REA's, and he did not want them taxed. Chairman Darko said it is just for unregulated public utilities, and Rep. Kadas told him he is not sure but suggested that Lee Heiman look into it to make sure REA's don't get taxed.

Question being called for, motion PASSED.

Rep. Brandewie moved that HB 804 DO PASS AS AMENDED, seconded by Rep. Kadas. Question being called for, motion PASSED, with Rep. Wallin voting against it.

Rep. Brandewie moved that the Statement of Intent DO PASS, seconded by Rep. Kitselman. Motion PASSED UNANIMOUSLY. Rep. Pistoria then requested the committee's permission to change his vote to no, as he is not for this. Rep. Wallin said he is having an amendment prepared where the state government has already prepared a tax, the local government can't change it. It would be illegal to tax on top of another tax.

HB 804 went out of the committee as DO PASS AS AMENDED, WITH STATEMENT OF INTENT. Rep. Pistoria was allowed to vote no.

DISPOSITION OF SENATE BILL NO. 183: Rep. Kitselman moved SB 183 BE CONCURRED IN, seconded by Rep. Brandewie. Rep. Kitselman moved the amendment on page 2, line 4, following "vacancy", insert "whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the county central committee. The second list may not contain any of the names submitted on the first list. The remaining commissioners shall then select an appointee from the individuals named on both lists". This was seconded by Rep. Brandewie.

Rep. Hansen felt it would be nice that it be consistent with the way they fill the vacancies of the Legislators with the other types of appointments. Rep. Gilbert asked Lee Heiman if this was the same as done in other places, and of the other entities that use the system, if this is the typical way. Lee Heiman told him it was the same. Rep. Hansen said they have gone through this process of using a second list if the first was rejected, in Missoula.

Rep. Sands said he is opposed to this amendment, because when a commissioner is replaced, too much authority is given to the people who are there. The way it is now, there is some division of authority. If this amendment is adopted, the county commissioners can keep rejecting everyone else as long as they want. Rep. Hansen said that is the reason for the second list. Lee Heiman explained the county commissioners just appoint, there is no list for county offices. That is all it provides. Rep. Pistoria said he is still for the old method.

Rep. Wallin asked Lee Heiman if it says anywhere how long the appointee should serve. Lee Heiman said they serve until the next general election, except if the appointment is at a certain time before the election.

Rep. Switzer asked if the method of three and then three more, and they elect from the six is for all counties. Lee Heiman told him no, that it is for the Legislators.

Question was called for, and motion CARRIED, with five members voting no, and all other members voting yes.

Rep. Kadas moved that SB 183 BE CONCURRED IN AS AMENDED, and this was seconded by Rep. Hansen. Question being called for, motion PASSED, with Rep. Pistoria voting no.

Rep. Kadas or Rep. Hansen would carry this bill on the floor.

DISPOSITION OF SENATE BILL NO. 204: Rep. Brandewie moved that SB 204 BE CONCURRED IN, and this was seconded by Rep. Fritz.

Rep. Brandewie then moved to amend line 9, page 2 by striking 5% and inserting 15%. This was seconded by Rep. Kitselman.

Rep. Sands asked why? Rep. Brandewie told him 15% is standard for other petitions. Rep. Kadas said 15% is standard for resident voters, but not for taxpayers.

Question being called for, motion PASSED, with four members voting against the motion.

Rep. Sands then moved to amend to allow the electors of the county to reject the tax levy if it is imposed by the county commissioners, and they don't want it. This bill provides a mechanism whereby the electors of the budgets can force on the ballots. The way the bill is structured now, if the county commissioners have a levy they can impose 2 mills to build a recreation complex. If the county commissioners decide to impose the levy and the voters don't agree, you should be able to do the reciprocal thing. Rep. Switzer seconded the motion. Question being called for, motion PASSED, with Rep. Fritz voting no.

Rep. Brandewie moved that SB 204 BE CONCURRED IN AS AMENDED, seconded by Rep. Kadas.

Rep. Pistoria wondered if the Helena people sponsored this bill, as the Missoula people always got defeated.

Rep. Fritz said he opposes this bill, as he thinks it is going to squeeze cultural facilities like youth centers out of the ball park.

Rep. Brandewie stated this would be handy in Flathead county as they don't get enough fees to pay for parks.

Rep. Pistoria said he had not been lobbied as much as the people of Helena have lobbied, and he is going to vote no on this bill.

Rep. Kadas asked if this was going to require a vote to be able to levy the 2 mills. Rep. Brandewie answered that the county commissioners can levy and the people can petition and vote. It is a two-way street.

Question was called for, and motion FAILED, with Rep. Brown, Rep. Brandewie, Rep. Sales and Chairman Darko voting yes.

Rep. Gilbert moved to reverse the votes to BE NOT CONCURRED IN AS AMENDED.

DISPOSITION OF SENATE BILL NO. 265: Rep. Brandewie moved that SB 265 BE CONCURRED IN, and this was seconded by Rep. Wallin.

Rep. Kitselman moved Rep. Sales' amendment, which is attached. Rep. Sands seconded the motion. Question being called for, motion PASSED UNANIMOUSLY.

Rep. Brandewie made the motion of BE CONCURRED IN AS AMENDED, seconded by Rep. Kadas. Question being called for, motion PASSED, with Rep. Brown voting no.

Rep. Brandewie would carry the bill if Rep. Sales does not want to.

DISPOSITION OF HOUSE BILL NO. 407: Rep. Kadas moved to reconsider action on HB 407, and take it off the table. This was seconded by Rep. Hansen.

Rep. Kadas said he would like to take the \$1.50 fee down to \$1, and require that it finance up to 65% of the local air pollution control programs, and to put a sunset on it. This is so we can see for two years. By then they can get the local option tax through, and if not, they can address it in the Legislature in two years.

Rep. Gilbert said they just passed the local option tax, which will address these things. He felt there was no need for any more taxes on cars.

Rep. Kitselman said with the increases made, they are looking at \$41 in new taxes on automobiles, and he would resist the motion. Rep. Brown asked where he got the figures of \$41, and Rep. Kitselman said that was the figure on increases that Rep. Gould gave him. Rep. Brown then said the only additional one is Senator Halligan's bill which might have an increase of \$3, to a total of \$10. The rest are all dead. All this is doing is allowing local governments the opportunity to address pollution in the local government. This should be floated until local options are adopted. Rep. Kadas said the program they have now for air pollution is good, but he felt they should have the option so that in two years they can go to the voters.

Rep. Kitselman felt that the problem is mostly in the winter and it comes from wood stoves, and that the automobiles are not the main contributors to this problem in Missoula.

Rep. Pistoria said he does not know of any other place other than Missoula that has that problem and he wondered why it couldn't be put in for Missoula only. Chairman Darko told him the air in Helena is pretty bad now.

Rep. Gilbert said he voted for Rep. Brown's block grant bill this afternoon because it is statewide. This is only a local problem, and they should not be asked to pass it. Chairman Darko said this is for those who have air pollution control programs for local options. Rep. Gilbert then said they are blaming the automobiles and they are not the only problem. Here we are going to punish people who may or may not be the contributors. In order to make this a fair and equitable tax, a tax should be imposed on each and every wood stove. It is unfair this way.

Rep. Brandewie said he is going to have to support the local ability to handle this. A lot of it is automobiles that probably contribute 65%. It is just like HB 711. They have a problem with Flathead Lake, and the rest of the state has got to allow them the option to do this. It is letting the area that has the problem tax themselves to take care of the problem. Vehicles are probably as fair as anything because if a person owns a house, he probably has a vehicle also. The enabling legislation has to come from the state. They have to allow the local areas to do this.

Rep. Hansen asked Rep. Kadas what four cities have pollution control programs, and Rep. Kadas said Missoula county, Yellowstone county, Cascade county, and Helena is in the process of making one. Those are the only places that can do it. One other area that contributes to this problem is a stand-pipe that comes out of people's houses.

Question being called for on the motion to reconsider from the table, and motion PASSED on a Roll Call Vote of 7 to 4.

Rep. Brown moved that HB 407 DO PASS, seconded by Rep. Kadas.

Rep. Kadas then moved to amend by adding a two year sunset, seconded by Rep. Fritz. Rep. Pistoria asked if the "may" is still in there.

Question being called for, motion PASSED UNANIMOUSLY.

Rep. Sands then moved to amend by putting in a coordination structure, that if HB 804, authorizing local option taxes, is passed and approved, this act is void. This was seconded by Rep. Kitselman.

Rep. Kadas said he has a problem with this as it is needed to be able to use this for the next fiscal year, and if they have to rely on the local option tax, they will have to be satisfied with it as it is.

Question was called for on the coordination clause, and motion to amend PASSED, with Rep. Fritz, Rep. Kadas, Rep. Hansen, Rep. Brown and Chairman Darko voting no.

Rep. Kitselman made the motion to insert a voter approval clause and have a 40% voter approval. Rep. Brown said that in order to do that, you multiply the effects of the bill. There is no way to have an election before the local option is voted on. Rep. Kitselman said there are plenty of elections before the local option. Since this is an additional fee on every vehicle in the county, it should have voter approval.

Rep. Hansen felt there can't be a vote on every single dollar. Somewhere it has to be left up to the county commissioners to raise the dollar, and that everything can't be taken to the voters.

Rep. Fritz stated he believes in giving the people they elect the power to vote. The \$1 is ridiculous. A dollar here and a dollar there is a lot of money, especially in some counties where there are many vehicles.

Question being called for, motion for voter approval DIED on a Roll Call Vote tie vote of 6 to 6.

Rep. Kadas moved that HB 407 DO PASS AS AMENDED, seconded by Rep. Brown. Motion PASSED on a Roll Call Vote of 7 to 5.

Chairman Darko told the committee that she has been talking with the lobbyists, and they have some entertainment planned for a fun function, which may be in the evening. If anyone wanted to serve on the entertainment committee, they were encouraged to volunteer.

There being no further business before the committee, the meeting was adjourned at 7:06 p.m.

  
PAULA DARKO, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 26, 1985

NAME	PRESENT	ABSENT	EXCUSED
<u>Paula Darko, Chairman</u>	✓		
<u>Norm Wallin, Vice Chairman</u>	✓		
<u>Ray Brandewie</u>	✓		
<u>Dave Brown</u>	✓ late		
<u>Harry Fritz</u>	✓		
<u>Stella Jean Hansen</u>	✓		
<u>Bob Gilbert</u>	✓		
<u>Mike Kadas</u>	✓		
<u>Les Kitselman</u>	✓		
<u>Paul Pistoria</u>	✓		
<u>Bing Poff</u>	✓		
<u>Walter Sales</u>			✓
<u>Jack Sands</u>	✓		
<u>Dean Switzer</u>	✓		

# STANDING COMMITTEE REPORT

Page 1 of 2

March 26, 19 85

MR. **SPEAKER:**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **407**

**FIRST** reading copy ( **WHITE** )  
color

**AIR POLLUTION CONTROL FEE TO BE ASSESSED CERTAIN VEHICLES.**

Respectfully report as follows: That **HOUSE** Bill No. **407**

**BE AMENDED AS FOLLOWS:**

1. Title, line 5.

Strike: "\$1.50"

Insert: "\$1"

2. Title, line 7.

Following: "MCA;"

Insert: "PROVIDING A COORDINATION PROVISION;"

Following: "DATE"

Insert: "AND A TERMINATION DATE"

3. Page 1, line 13.

Strike: "\$1.50"

Insert: "\$1"

~~XXXX~~  
DO-PASS

CONTINUED



March 26, 1985

4. Page 1, line 14.

Strike: "passenger car or truck under 8,001 pounds GVW"

Insert: "motor vehicle as defined in 61-1-102,"

5. Page 4, line 25.

Strike: "for the purposes provided"

Insert: "to finance not more than 65% of the local air pollution control program as set forth"

6. Page 5.

Following: line 4.

Insert: "NEW SECTION. Section 4. Coordination. If House Bill 804, authorizing local option taxes, is passed and approved, this act is void."

Renumber: subsequent section

7. Page 5, line 5.

Following: "Applicability"

Strike: "."

Insert: "-- termination. (1)"

3. Page 5.

Following: line 7.

Insert: "(2) This act terminates December 31, 1987."

AND AS AMENDED,  
DO PASS

(Type in committee name, committee members' names, and names of secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

HOUSE COMMITTEE LOCAL GOVERNMENT

DATE Mar. 26, 1985 House Bill No. 2407 Time \_\_\_\_\_

NAME	YES	NO
Darko, Paula - Chairman	✓	
Wallin, Norm - Vice Chairman		never
Brandewie, Ray	✓	
Brown, Dave	✓	
Fritz, Harry	✓	
Hansen, Stella Jean	✓	
Gilbert, Bob		✓
Kadas, Mike	✓	
Kitselman, Les		✓
Pistoria, Paul		✓
Poff, Bing		✓
Sales, Walter		
Sands, Jack	✓	
Switzer, Dean		✓
	7	5

Marianne Bagley  
Secretary

Paula Darko  
Chairman

Motion: 169  
Kadas - 2 year sunset  
or  
DO PASS AS AMENDED - motion made by  
Rep. Kadas, and also 2-year sunset.

(Include enough information on motion -- put with yellow copy of committee report.)





# STANDING COMMITTEE REPORT

Page 1 of 2

March 26, 19 85

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 204

THIRD reading copy ( BLUE )  
color

**COUNTY PARKS - FUNDING WITH OTHER COUNTY RECREATIONAL  
FACILITIES.**

Respectfully report as follows: That SENATE Bill No. 204

**BE AMENDED AS FOLLOWS:**

Title, line 8.

Following: "BE"

Insert: "IMPOSED OR REJECTED IF"

2. Page 2, line 6.

Following: "imposing"

Insert: "or the continued imposition of"

3. Page 2, line 9.

Strike: "5"

Insert: "15"

4. Page 2, line 15.

Following: "imposition"

Insert: "(or continued imposition)"

XXXXX  
DO PASS

CONTINUED

March 26, 19 85

5. Page 2, line 23.

Following: "question"

Insert: "for the imposition of the tax"

AND, AS SO AMENDED,  
BE NOT CONCURRED IN

# STANDING COMMITTEE REPORT

Page 1 of 2

March 26, 19 85

MR. **SPEAKER:**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE** Bill No. **265**

**THIRD** reading copy (**BLUE** color)

**REVISES LAW RELATING TO LEASING OF CERTAIN STATE-OWNED LAND.**

Respectfully report as follows: That **SENATE** Bill No. **265**

**BE AMENDED AS FOLLOWS:**

1. Title, line 8.

Strike: "CITY AND TOWN LOTS AND COMMERCIAL LANDS BE"

Insert: "STATE LEASES OF LAND ARE"

2. Title, line 12.

Strike: "77-6-106,"

3. Title, line 13.

Following: "MCA"

Insert: "; REPEALING SECTION 77-6-106, MCA"

XXXXX  
DO PASS

CONTINUED

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4. Page 2, line 14 through 21.  
Strike: section 3 in its entirety  
Renumber: subsequent sections

5. Page 3.

Following: line 1

Insert: "NEW SECTION. Section 6. Repealer. Section  
77-6-106, MCA, is repealed."

AND, AS SO AMENDED,  
BE CONCURRED IN



# STANDING COMMITTEE REPORT

March 26, 1985

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 163

THIRD reading copy ( BLUE )  
color

VACANCIES ON COUNTY COMMISSION TO BE FILLED BY  
COMMISSIONERS.

Respectfully report as follows: That SENATE Bill No. 133

BE AMENDED AS FOLLOWS:

1. Page 2, line 4.

Following: "VACANCY."

Insert: "Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the county central committee. The second list may not contain any of the names submitted on the first list. The remaining commissioners shall then select an appointee from the individuals named on both lists."

AND, AS SO AMENDED,

BE CONCURRED IN

XXXXXX  
DO PASS

March 26, 19 95

MR. Speaker:

We, your committee on Local Government

having had under consideration House Bill No. 804

first white  
reading copy ( color )

AUTHORIZE ALL TYPES OF LOCAL OPTION TAXES  
WITH VOTER APPROVAL

Respectfully report as follows: That House Bill No. 804

BE AMENDED AS FOLLOWS:

1. Title, lines 5 and 6.

Strike: "ANY TYPE OF TAX NOT OTHERWISE AUTHORIZED OR  
PROHIBITED"

Insert: "CERTAIN LOCAL OPTION TAXES"

2. Title, line 6.

Strike: "SUCH TAX IS"

3. Page 1, line 13.

Strike: "(1)"

4. Page 1, line 14.

Following: "impover"

Insert: "one or more of the"

DO PASS

CONTINUED

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5. Page 1, lines 14 through 16.

Strike: "on income" on line 14 through "law" on line 16

Insert: "set forth in [section 2]"

6. Page 1, line 20.

Strike: "this section"

Insert: "[section 3]"

7. Page 1.

Following: line 20

Insert: "Section 2. Types of taxes that may be imposed. As provided in [this act], a local government may impose one or more of the following taxes:

(1) a local payroll tax, which may be a flat rate or a schedule of flat rates levied for specific time periods on employees of licensed businesses or public employers operating within the jurisdiction who are covered under the workers' compensation laws of the state or for whom there must be withholdings for state or federal taxes;

(2) a fee on light motor vehicles which is in addition to the fees required under Title 61, chapter 3, part 5. A local government may impose a fee on light vehicles, as defined in 61-3-531, in an amount not to exceed \$10 per vehicle. Such fees are payable at the same time on the same vehicles as the fees provided for in 61-3-532 and 61-3-533. For the purposes of [this act], the fee provided in this subsection is considered a tax. The distribution of such fees, if not provided for by agreement, will be based upon the registration address of the owner of the motor vehicle.

(3) a tax on the retail sale of goods and services within the jurisdiction, to be a percentage of the retail sales price of the goods or services sold within the jurisdiction. The rate of such a sales tax may not exceed 1% of the sales price. In enacting the authorization for the imposition of a sales tax, the electorate may establish categories of goods and services that are not subject to a sales tax.

(4) A local income tax as a percentage of the state income tax liability on its residents and all other persons earning or receiving income from activities carried out in the municipality or county. The rate of the tax may not exceed 10% of the person's state income tax liability. In addition to other provisions relating to the imposition of a local option tax pursuant to [this act], the following provisions apply to the imposition of a local income tax:

(a) The governing body of a municipality or county imposing an income tax may suspend the collection of the tax for any calendar year only after giving 120 days' notice to the department of revenue. The suspension takes effect the first day of the next calendar year. Suspension of the tax does not impair the authority of the governing body to impose the tax in subsequent calendar years without elector approval.

CONTINUED

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(b) The local option income tax must be administered by the department of revenue. The department shall adopt rules for the administration of the tax.

(c) Money collected by the department must be accounted for separately and must be credited to a local income tax account in the fiduciary fund of the state treasury.

(d) For the purpose of administration, the department may deduct an amount not to exceed 1% of the amount collected in each jurisdiction.

(e) The department must return the proceeds from the tax to the jurisdiction in which they were collected, except:

(i) the amount for refunds;

(ii) a reserve for anticipated refunds; and

(iii) the costs of administering the tax.

(f) If a county levies a local income tax, the distribution of the proceeds must be made on the basis of income tax collections in each jurisdiction. For this purpose, the county jurisdiction does not include taxpayers residing in municipalities.

(g) Only municipalities in counties that do not impose an income tax may impose a local option income tax. The tax is applicable to residents and other people earning an income within the municipal boundaries.

(h) A taxpayer whose principal place of business or employment is in a jurisdiction with an income tax but who lives outside the boundaries of that jurisdiction is liable for one-half the rate of the income tax."

3. Page 1, line 21.

Following: line 20

Insert: "Section 3. Enabling authority for imposition of tax."

Strike: "(2)"

Insert: "(1)"

Reamend: subsequent subsections

9. Page 1, line 22.

Strike: "such"

Following: "taxes"

Insert: "authorized by [this act]"

10. Page 2, line 2.

Strike: "may"

Insert: "must"

11. Page 2, line 12.

Following: "(3)"

Insert: "(a)"

CONTINUED

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12. Page 2, line 13.

Following: "provisions of"

Insert: "subsection (2)(b) and"

13. Page 2.

Following: line 16

Insert: "(b) Approval of the proposal by the electorate is not valid unless at least 40% of the registered voters of the local government vote at the election in which the question on the proposition is presented as determined by the number of electors signing precinct registers and the number of delivered absentee ballots."

14. Page 2.

Following: line 19

Insert: "Section 4. Prohibition against double taxation -- allocations of collections. A local option tax may not be levied on the same persons or transactions by more than one local government. If a county imposes a local option tax, the tax must be levied county-wide and, unless otherwise provided by agreement with municipalities within the county, the proceeds of the tax will be distributed by the county based upon the point of origin of the revenue of the tax. After a pro rata deduction for its administrative expenses, a county shall distribute taxes collected within each municipality to the municipality and shall retain collections not collected within any municipality."

15. Page 2, line 20.

Following: line 19

Insert: "Section 5. Administration of tax -- penalty."

Strike: "(5)"

Insert: "(1)"

Renumber: subsequent subsections

16. Page 3.

Following: line 13.

Insert: "Section 6. Exemption for regulated public utilities. No public utility subject to rate regulation by the Montana public service commission is subject to a tax levied under [this act]."

HB904.62

205

AND AS AMENDED,

20 2155  
STATEMENT OF INTENT ATTACHED

March 26,

1985

49th Legislature

## STATEMENT OF INTENT

## HOUSE BILL NO. 804

A statement of intent is required on this bill because rulemaking authority is granted the department of revenue in section 2.

It is intended that the rules promulgated by the department of revenue would provide maximum compatibility with rules adopted by the department for administering state income taxes. In achieving this goal the department should strive for simplicity for taxpayers, and if burdens are necessary, the department should bear them. In administering the program, the primary objective should be efficiency for both the state and the concerned local governments. It is contemplated that the rules will address reporting forms, payments to local governments, and other procedures necessary for the proper administration of the local income tax.

.....PAUL CARNO.....

Chairman.

HOUSE BILL NO. 407

A BILL FOR AN ACT ENTITLED: "an act allowing a local air pollution control program license registration fee of ~~\$1.50~~ up to \$1.00 to be assessed against certain motor vehicles; amending Section 75-2-301, MCA; and providing an applicability date."

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

NEW SECTION. Section 1. Local air pollution control program license registration fee. A municipality or county which has a local air pollution control program established under 75-2-301 may assess a fee of up to ~~\$1.50~~ \$1.00 on each ~~passenger car or truck under 8,000 pounds GVW~~ MOTOR VEHICLE AS DEFINED IN 61-1-102 MCA, registered for licensing within the jurisdiction of the local air pollution control program. The county treasurer shall collect the fee, which may be used only to fund the local air pollution control program. The following are exempt from the payment of the fee:

(1) a vehicle leased or owned by the state or by a county or municipality;

(2) a vehicle used for transportation by a nonresident, migratory worker temporarily employed in agricultural work in this state;

(3) a vehicle displaying dealer's license plates, as provided in 61-4-103, while owned by a dealer; and

(4) a housetrailer or equipment which is not self-propelled

or which requires towing upon a highway of this state.

Section 2. Section 75-2-301, MCA, is amended to read:

"75-2-301. Local air pollution control programs. (1) A municipality or county may establish a local air pollution control program on being petitioned by 15% of the qualified electors in its jurisdiction and, if the program is consistent with this chapter and is approved by the board after a public hearing conducted under 75-2-111, may thereafter administer in its jurisdiction the air pollution control program which:

(a) provides by ordinance or local law for requirements compatible with, more stringent, or more extensive than those imposed by 75-2-203, 75-2-212, and 75-2-402 and rules issued under these sections;

(b) provides for the enforcement of these requirements by appropriate administrative and judicial process; and

(c) provides for administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program.

(2) If the board finds that the location, character, or extent of particular concentrations of population, air contaminant sources, or geographic, topographic, or meteorological considerations or any combination of these are such as to make impracticable the maintenance of appropriate levels of air quality without an areawide air pollution control program, the board may determine the boundaries within which the program is necessary and require it as the only acceptable alternative to



direct state administration.

(3) If the board has reason to believe that an air pollution control program in force under this section is inadequate to prevent and control air pollution in the jurisdiction to which the program relates or that the program is being administered in a manner inconsistent with this chapter, the board shall, on notice, conduct a hearing on the matter.

(4) If, after the hearing, the board determines that the program is inadequate to prevent and control air pollution in the jurisdiction to which it relates or that it is not accomplishing the purposes of this chapter, it shall require that necessary corrective measures be taken within a reasonable time, not to exceed 60 days.

(5) If the jurisdiction fails to take these measures within the time required, the department shall administer within such jurisdiction all of the provisions of this chapter. The department's control program supersedes all municipal or country air pollution laws, rules, ordinances, and requirements in the affected jurisdiction. The cost of the program shall be a charge on the municipality or county.

(6) If the board finds that the control of a particular air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local jurisdiction or may be more efficiently and economically performed at the state level, it may direct the department to assume and retain control over that air contaminant source. No charge may be assessed

against the jurisdiction therefor. Findings made under this subsection may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

(7) A jurisdiction in which the department administers its air pollution control program under subsection (5) of this section may, with the approval of the board, establish or resume an air pollution control program which meets the requirements of subsection (1) of this section.

(8) A municipality or county may administer all or part of its air pollution control program in cooperation with one or more municipalities or counties of this state or of other states.

(9) A municipality or county may assess a fee as provided in (section 1) and may expend the proceeds of the fee for the purposes provided in subsection (1)." TO FINANCE UP TO 65% OF THE LOCAL AIR POLLUTION CONTROL PROGRAM AS SETFORTH IN SUBSECTION (1).