

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 18, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on February 18, 1987 at 12:30 p.m. in Room 312-F of the State Capitol.

ROLL CALL: Roll call was taken with all members present except for Rep. Pistoria who was excused. Lee Heiman, Committee Counsel for the Legislative Council was also present.

CONSIDERATION OF HOUSE BILL 783: Rep. Ray Brandewie, House District 49 and sponsor of the bill, stated HB 783 was for access and easements to land. He promised the counties if they had a problem applying the legislation passed last session fairly, he would come back and repeal the sections. Rep. Brandewie said the bill has caused great confusion among the 56 counties, county attorneys, the attorney general, the Department of Commerce and others. They did not know what some of the terms meant or how to apply them. Basically, HB 783 repeals all the language put in and now reverts back to laws enacted prior to 1985. He commented that the counties would rejoice if HB 783 were to pass.

PROPONENTS: Robert Holding, MT Association of Realtors, stated they were in support of the bill. He introduced Bill Spilker to speak on the bill.

William Spilker, Licensed Real Estate Broker of Helena, stated he supports the repeal of the legislation which he felt was very well intentioned two years ago. He said in the 90th day there were many amendments added which resulted in the legislation causing a lot of confusion in the counties. He stated it was a burden on county commissioners trying to administer the law and has caused confusion and expense to landowners. It has also caused some overregulation. Mr. Spilker said the main reason for the committee to pass the repeal is from the Attorney General's opinion which in effect states if you do not have "suitability" stamped on your plat, then the county cannot provide the services. Mr. Spilker presented copies of the Attorney General's opinion (Exhibit 1).

Gordon Morris, MACo, stated counties have too few opportunities to rejoice and asked for support on HB 783.

OPPONENTS: None.

The hearing was closed on HB 783.

DISPOSITION OF HOUSE BILL 783: Rep. Gould moved to DO PASS HB 783. The motion carried unanimously.

CONSIDERATION OF HOUSE BILLS 744 AND 745: Rep. Ramirez, House District 87 and sponsor of the bills, stated HB 744 and 745 relate to the same subject. He passed out amendments to the bills. He said the amendments do not change the thrust of the bills but change the procedures slightly (Exhibits 2 and 3).

Rep. Ramirez stated the bills would permit the consolidation of counties. There is already a procedure in the constitution for boundaries of any counties to be changed by the vote of the people in each county. He stated there are no procedures for revising the overall structure of the counties. Today, there is a great cry for property tax relief. Rep. Ramirez stated it has been very difficult trying to come to grips with that issue of finding property tax relief when municipalities, counties, school districts are supported by property taxes. The bills are a way to get to some of the structural, functional or institutional barriers to solve the problems of tax relief.

Rep. Ramirez stated according to the 1980 census, Montana has 800,000 people. There are 56 counties, making the average 14,000 persons per county. There are 20 counties that actually have less than 5,000 residents. Treasure County has 981 people; Petroleum has 655 people.

Rep. Ramirez stated HB 744 and 745 would provide for a plan to be drawn up to revise the county boundaries. HB 744 instructs the boundary commission to be formed to reduce the number of counties to 30. He stated this number could be changed and proposed amendments which would allow for at least 45 or fewer. HB 745, a constitutional amendment, would provide for the boundary commission to be created in the 1989 Legislative Session. Rep. Ramirez' proposed amendment would move that creation to the present session. The commission would consist of nine citizens: two members each selected by the majority and minority leaders of each house. Those eight members would select the ninth member. The Supreme Court would select the ninth member if the eight members could not agree on the selection. This procedure is similar to that of the Reapportionment Commission. Rep. Ramirez stated that a lot of the Boundary Commission's work would be helpful to the Reapportionment Commission.

The commission would then draw up a plan that would be submitted to the 1989 Legislative Session and the legislature would give its recommendations back to the commission. They could reject or accept those recommendations and would then file the final plan.

HB 744, which is the companion bill to HB 745, as written calls for a legislative interim committee. Rep. Ramirez felt this was impractical after the bill was drafted and his amendments substitute the commission for the interim committee referred to in the bill. He stated that the commission after being appointed would hold public hearings and would make its plan based on the criteria shown on page 3, section 3. Hearings would be held in the cities indicated in the bill on page 3 and then the plan would be submitted to the legislature. In the meantime, the constitutional amendment, HB 745, would go on the 1988 ballot. If the constitutional amendment was adopted the commission would do as Rep. Ramirez had described. If the constitutional amendment was not passed, then the commission would take its recommendation back to the affected counties where it would be submitted for a vote by the people in each county. He said the job could still possibly be done under the constitutional provisions but it would be much more difficult.

Rep. Ramirez knew it was a very sensitive issue with smaller local counties but stated it has to be realized that if the governmental structure and expense is ever going to be under control, something meaningful needs to be done.

PROPOSERS: Rep. Harry Fritz, House District 56, presented the committee with the historical background to MT's 56 counties. He said the creation of counties followed population changes and were created by the legislature. The decade of the 19 teen's was the decade of the fastest population growth in MT history. The population increased by almost 250,000. He said that is the most significant decade in MT history because it created the basic political institutions and the population growth base. By 1920, the population was 550,000. That is the modern population base and has only grown incrementally from that time. In 1910, there were 28 counties and in 1920, 54. Only two more counties were created by 1925. There have been significant population changes in MT since the 1920's without any reflecting county alterations. Since 1920, MT's population has grown to over 800,000. More significant are the internal changes.

In the 1970's the population of MT increased for the first time since the 19 teen's faster than the national average, to 13 percent. The national rate was 12 1/2 percent. The internal shifts in the 1960's: 42 counties lost population with the exception of mining counties, Silver Bow and Deer

Lodge. In the 1970's some eastern counties picked up as a result of the energy boom, but 22 counties still lost population in the 1970's. In the 1980's those eastern MT counties probably are continuing to lose population where the western counties are continuing to grow. The county structure has not kept up with those internal population shifts. Today, 29 counties have fewer people than when the county was originally created back in the 1920's. These counties are mainly in eastern MT. There are 3 more counties that have grown by less than 150 people. This is reflected in the 1980 census.

Rep. Fritz stated if the original equation is adhered to between population growth and population centers, political development and county development, there needs to be put into place a process where the people can alter their county boundaries to reflect population changes. He felt it necessary for this legislature to at least give the perception to the people that expensive issues are being tackled. The cost of school governments and the cost of county or local governments are two of the most expensive tabs. Rep. Fritz stated these two bills are a way to do that.

OPPONENTS: None.

DISCUSSION (OR QUESTIONS) ON HOUSE BILLS 744 AND 745: Rep. Grinde thought he had heard about other states doing this in recent history and asked if Rep. Ramirez knew?

Rep. Ramirez replied he did not know of other states that have.

Rep. Wallin commented that there was nothing in the bill that addresses the value of property, the courthouses that would have to be closed, etc. He asked if that would be investigated by the commission?

Rep. Ramirez thought that it should be added to the list of criteria. He said there also should be a provision to plan for an orderly transition from the existing counties to the new counties. The transitional problems could be then taken into account in the plan itself.

Rep. Gould asked if any consideration was given to, as an example, sheriffs' departments? Was there any consideration of cost savings through consolidation of services rather than counties?

Rep. Ramirez responded that is also a possibility. He did not think about that option because of consolidation arguments which they had with the sheriffs' and police departments in Yellowstone county. He commented that could be an intermediate step between full consolidation

and no consolidation at all. He felt the consolidation of counties should be looked at first rather than overlapping of jurisdictions.

Rep. Hoffman commented that under the new constitution it is provided for services to be consolidated.

Rep. Gould stated that was probably true but wondered if there would be some way to make it workable. Past attempts to consolidate services has resulted in such commotion and hard feelings and problems in trying to deal with people.

Rep. Hansen asked regarding the public meeting to be held after the commission is organized if the purpose was so people could talk about how they could consolidate services. There are no guidelines for that public meeting.

Rep. Ramirez stated it simply would be to have different places geographically spread around the state so people could come in and make suggestions as to boundaries and transition. Rep. Ramirez stated he felt the transition is as important as the boundaries.

Rep. Hansen felt the transition should be kept strictly to the local level because every group of counties that want to consolidate will do it differently and they should have that option.

Rep. Ramirez stated the plan could at least set a deadline for completing the transition and then the counties could work it out.

Rep. Grinde asked if the petition form of implementing counties was still in effect?

Rep. Fritz replied it is no longer present law.

The hearing was closed on HB's 744 and 745.

CONSIDERATION OF HOUSE BILL 762: Rep. Jan Brown, House District 46 and sponsor of the bill, stated she is carrying HB 762 at the request of Solid Waste Contractor's Association and has no vested interest in it. The bill addresses a problem which came up in Billings. When an area is annexed, the municipal garbage services are not suppose to come into the area until five years after annexation. Apparently, there was a problem in Billings and this bill is to clarify the law to preclude this from happening again.

PROPONENTS: Sue Winegardner, Executive Director of MT Solid Waste Contractors' Association, presented written

testimony and read from the testimony to the committee (Exhibit 4).

Dennis Johnston, owner Yellowstone Sanitation Service, presented written testimony and read from the testimony to the committee (Exhibit 5).

OPPONENTS: John Loughton, representing the City of Billings, stated the bill provides that all annexed properties be serviced by a private garbage hauler for five years after annexation. Present law provides that only existing customers be serviced by private haulers for five years after annexation. This interpretation was confirmed by the Supreme Court and the City of Billings feels that the law is clear and adequate protection for the private haulers. He said there is no public purpose served by the proposed law. It would allow private haulers to expand their operations inside annexed areas for the five-year period.

Shawn Egan, MT League of Cities and Towns, stated they were in opposition to the bill.

Dick Nisbet, Director of Public Works in Helena, stated he did not have problems with the original way the bill was written, protecting the private hauler when he annexes partially built property. HB 762 could apply to raw ground with a single farmer who wants to develop his property. He would have to be served by a private hauler and not the city. Even though he would want to come in to the city for water or sewer, they could not provide services under the amendments in the bill. Mr. Nisbet did not feel that was the intent of the bill to start with.

DISCUSSION (OR QUESTIONS) ON HOUSE BILL 762: Rep. Sales asked when the existing five years would be up?

Mr. Johnstone replied in Billings there are 3 1/2 years left.

Rep. Hoffman asked Ms. Winegardner as representative of the garbage carriers who are members of the organization in the state, what the average length of lease is that the carriers have with the community they serve?

Ms. Winegardner responded not all private carriers contract with the city. She said she is not aware that most companies operate on a contract basis particularly with their residential customers.

Rep. Hoffman stated in Madison County one of the members of the MT Solid Waste Association has contracted with the community. He asked the length of the contracts in order to bring into focus the significance of the five-year

period. He thought most of the contracts are for less than five years.

Ms. Winegardner thought there was confusion between landfill contracts and the ability for the collector to take garbage to the landfill with the ability of the collection services.

Rep. Brown in closing stated that Rep. Donaldson carried the original piece of legislation and since the question of legislative intent was brought up, it might be wise to check with him before taking action on the bill.

CONSIDERATION OF HOUSE BILL 692: Rep. Jan Brown, House District 46 and sponsor of the bill stated HB 692 was requested by the City of Helena and is an act that would allow public bodies to issue crossover refunding bonds.

PROPONENTS: Janet Jessup, Director Administrative Services for the City of Helena was present but unable to testify because of laryngitis. She passed out a letter of support of HB 692 to the committee (Exhibit 6).

Creg Jones, D. A. Davidson, presented written testimony to the committee (Exhibit 7). He urged the committee to pass HB 692 allowing local government greater flexibility in restructuring their outstanding debt to the benefit of the individuals of the state.

John Loughton, City of Billings, stated the city supports the concept of changing the law to allow crossover refundings. He said they have planned crossover refundings in the tax bonding area and it is a useful tool.

Rep. Brown closed on HB 692.

CONSIDERATION OF HOUSE BILL 734: Rep. Bulger, stated HB 734 was a committee bill that arose from discussion when Mr. Jones, D. A. Davidson, appeared previously before the Local Government Committee. The publication notice in advance of public bond sales is different in all sections of the law. The bill is an attempt to standardize this.

PROPONENTS: Creg Jones, DAD, stated the bill directs municipalities to standardize the advertising features for all types of bonds. He said it does exclude SID bonds which may want to be considered at the same time. Mr. Jones stated it is advisable to sell the bonds following the letting of construction bids. If the bonds are sold prior to the construction they may either be too high or too low. This is extremely important because local governments do not have the ability to call bonds if the bonds have been sold and the construction bid comes in low. There is

usually a ten-year default feature and local government would be stuck with the debt until that time. All letting of construction bids are usually one to two weeks before the first advertisement can appear. There is a four-week advertising period, a one week delay for the bond to be issued and there is a 30 to 45 day period before the bonds are delivered. At this time, the contractor wants to be paid and the city wants to move on to construction. Mr. Jones commented this has a negative affect on the cost of construction. If there will be a long delay before the contractor can be paid, they will build that into the bid. Also the four-week advertising does nothing to facilitate the marketing of the obligation. Mr. Jones stated two weeks would be sufficient for notice.

John Loughton, representing City of Billings, stated the four-week advertising period has continued to cause problems. It is expensive to advertise and it really does nothing for the sale of the bonds. He felt it an unnecessary expense and an unnecessary time period. He suggested that the committee extend the provision to Special Improvement District (SID) bonds by way of amendment because the same problem is experienced with SID bonds and the process for selling is very similar.

OPPONENTS: None.

Rep. Bulger in closing stated a member from the Board of Investments was present and notified him that on page 3, subsection b, a notice is required to be sent to the Board. The notice serves no function and he suggested it be amended out of the bill.

DISPOSITION OF HOUSE BILL 734: Rep. Bulger moved to DO PASS HB 734.

Rep. Sales moved to DO PASS the amendments to add SID bonds and to delete the requirement to notice the Board of Investments. The motion passed unanimously.

Rep. Kitselman moved to DO PASS HB 734 AS AMENDED. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 692: Rep. Kitselman moved to DO PASS HB 692. The question was called and the motion carried unanimously.

CONSIDERATION OF HOUSE BILL 773: Rep. Kadas, House District 55 and sponsor of the bill, stated the bill was to provide funding for the air pollution programs in the counties. It does this by allowing the counties that have programs to assess up to \$1.50 on vehicle registrations. Rep. Kadas

stated he had an amendment which would require the fee to be assessed countywide for jurisdictions that have air pollution control. He said this has to be done because of the computer work in the Department of Justice when sending out the vehicle fees. The bill allows for the money collected to go to the air pollution control programs and it can only be up to 65 percent of the total bill for the program.

Rep. Kadas commented that vehicles are a large contributor of air pollution especially in Missoula County, Cascade, Lewis and Clark and Yellowstone County. Because of the cost of the programs, the health departments are having a real difficult time funding the program. He felt the fee a fair way to pay for the program.

PROPOSERS: Scott Church, Environmental Health Specialist for Missoula County Health Department, stated in MT there are four air quality districts located in Cascade, Yellowstone, Lewis and Clark, and Missoula Counties. The districts primarily rely on property tax through the five mill health levies that fund their respective air quality programs. The programs are very costly and place an increasingly heavy demand on health departments in these counties. Mr. Church stated the fee placed on motor vehicles is the most appropriate way to fund. In each of the counties automobile exhaust and dust stirred up by vehicles is the major contributor to violations of the federal carbon monoxide standard. He felt the jurisdiction-wide approach is fair and will allow them to address problems in rural areas and also fairly place the percentage of responsibility on vehicles in those areas.

Rep. Dave Brown joined the meeting at this time.

Bob Johnson, Director of Lewis and Clark County Health Department, stated the health department is the administrator of the air quality program in Lewis and Clark County which has been in effect for two years. The income sources for funding the program are in increasing trouble and Mr. Johnson stated they needed to find an alternative and fair mechanism to help fund the local air quality programs.

Jim Campbell, Lewis and Clark County Commissioner and member of the city/county health board, stated he felt good about air quality and commented that there were 20 days of the year that were poor air quality days before the program. Since the ordinances and hearings, the first year starting January, there were only 2 poor air days. This year there has been about 6 and he hoped there will be only 2 more. He asked the committee to give them the way of continuing the funding now that they have the confidence of the people and have a good record.

Hal Robbins, MT Department of Health and Environmental Sciences, stated in reviewing the bill that there are no conflicts with the MT Clean Air Act or the Federal Clean Air Act. The department has no reason to object the bill and he asked for support.

Bruce Treis, Cascade County Air Pollution Control Program, stood in support of the bill and felt it appropriate the fee on vehicles would help fund the program.

OPPONENTS: Jim Manion, MT Automobile Association (AAA), stated he opposed the bill because this session a great deal of time has been spent dealing with many measures that have increased fees on vehicles. He said the increases are all basically good causes but when combined represent millions of dollars in increases on the vehicle owner. Secondly, the vehicles are a questionable contributor to the air pollution. Wood stoves are the primary cause and are not addressed in the bill at all. The reason vehicles are used is it is the most convenient way to collect the money. Mr. Manion stated essentially the same bill came before the legislature in 1985 and was rejected for very sound reasons. He asked that those same reasons be used to defeat HB 773.

DISCUSSION (OR QUESTIONS) ON HOUSE BILL 773: Rep. Gould asked Mr. Church what the budget in Missoula County was for air pollution control?

Mr. Church responded between \$100,000 to \$140,000.

Rep. Sales asked where the other 35 percent of the funding would go?

Rep. Kadas replied the air pollution program would only be able to be funded 65 percent by the vehicle fees. The other 35 percent would have to be funded by property taxes.

Rep. Whalen asked Mr. Manion if the auto association had taken a position on the sales tax?

Mr. Manion responded that they haven't taken a position at this point.

Rep. Kitselman asked what the percentage of pollution is that is contributed by automobiles?

Mr. Church responded for Missoula, it is 70 to 75 percent for particulates and 80 percent for carbon monoxide on an annual basis. He said that does not address the winter time problem that they have.

Rep. Kitselman commented that Missoula is a large university town and asked how the student's would pay for contributing

to the pollution is their vehicles were registered in another county?

Mr. Church responded he did not have any figures as to how many students drive vehicles there or have them registered in other counties.

Rep. Kitselman commented that Billings is a shopping area and has people coming from other jurisdictional areas that would contribute to the air quality problems and asked if they would be assessed?

Mr. Church replied that since the fee assessment in the bill is set up on a countywide basis everyone in the county would be assessed the fee. Those out of state or from counties not having the air quality programs would not be assessed the fee.

Rep. Wallin commented that the new cars have emission control devises that take care of the pollution problem and asked how it would be adjusted between new cars and late model cars?

Mr. Church stated that was correct in theory for the new cars but their information shows that a lot of cars are missing the catalytic combustors. There is no inspection and maintenance program to insure that they are functioning properly.

Rep. Kadas in closing stated concerning the questions about students, that in Missoula over 25 percent are over 25 years of age and in most cases live in the community and so are paying. He stated the people in the community want the program. He said to try and devise a system so the people who are given the benefit of the program pay equal and proportionate share of their benefit is very difficult. On the question of people who have cars and who pay property taxes paying twice, Rep. Kadas said there is a certain number of dollars that is needed to fund the program. The only other option is to raise property taxes. Automobiles clearly represent a large part of the pollution just in the dust they kick up regardless of the type of air pollution control they have on the automobile. He said it is an important problem for some communities. He said he knew there was concern about the amount of fees going on vehicles but did not feel this an unjust way of funding the program.

EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 492: Chairman Wallin explained that HB 492, Rep. Miles' bill, had been held at the request of Larry Majerus from the Motor Vehicle Division in the Department of Justice pending action on their budget in

the Appropriations Subcommittee. Larry Majerus, Administrator of the Division was present at the request of the Chairman to give the information in regards to questions raised by the committee at the time of hearing and to explain an amendment to HB 492.

Mr. Majerus stated the subcommittee has not concluded their work but the information sheet (Exhibit 8) showed the programs presently funded by the subcommittee. He said the programs that have been funded are programs that have been funded since 1979. There are no new programs. Page 2 shows how much money could be raised by the increase in the fees proposed in HB 492. Mr. Majerus stated their recommendation based on the work to date is the title, duplicate title, and lien fees be raised to \$5 and the registration fee be raised to \$3. He stated that Gary Carrell was present from the department to answer any questions concerning the criminal investigation bureau.

Mr. Majerus stated the amendment (Exhibit 9) is simple and implements their recommendation for the bill to become effective January 1, 1988. The reason is because of the cost to make a special adjustment on the computer system. January 1, counties will need to make an adjustment and this would be the best time to make the fee adjustment at the same time.

Rep. Brandewie moved to DO PASS HB 492. He moved to DO PASS the AMENDMENTS. The question was called. The amendments were adopted unanimously.

Rep. Darko moved to DO PASS HB 492 AS AMENDED.

Rep. Ramirez commented the certificate fee is being raised from \$3 to \$5 and none of the increase is going to the county. Rep. Ramirez stated he wanted to see some of the programs continue but the increases are hard to justify. He was concerned the increases being put more and more on the vehicle and gas fees.

Rep. Gilbert agreed with Rep. Ramirez. He stated looking down the information sheet that all those programs are being funded and are not the function of the registrar of motor vehicles. There is in excess of \$1 1/2 million of outside spending over the biennium on the information sheet.

Rep. Kitselman commented he is still very aware of I27 and I105. He has spoken with the people at home and they question what is being done to reduce spending. He felt it time to reduce some areas and fund

essential services and give relief to the taxpayers at home.

Rep. Whalen stated that AAA has taken a position with use of small licensing fees but has not taken a position on the sales tax which could potentially hurt motorists the most. He commented that whether referred to as taxes or fees, the increases are revenue raising measures.

Rep. Ramirez felt the public is not fully aware of all the increases that are being put on. He thought a reasonable increase warranted but not 100 to 150 percent increases in these fees.

Rep. Ramirez moved to AMEND HB 492 to increase each of the fees \$1. The question was called and a roll call vote was taken. The motion passed by a vote of 10 to 6.

Rep. Gould moved to AMEND HB 492 to change the effective date to January 1, 1988. The question was called and the motion carried unanimously.

Rep. Brandewie moved to DO PASS HB 492 AS AMENDED. The question was called and the motion carried with Reps. Grinde, Kitselman and Sales voting no.

DISPOSITION OF HOUSE BILL 773: Rep. Gould moved DO NOT PASS on HB 773.

Rep. Whalen as a substitute motion moved to DO PASS HB 773.

Rep. Gould stated he opposed the bill that was heard two years ago. He said the \$100,000 to \$140,000 it will cost Missoula County is not that well spent. He did not feel the \$1.50 was needed to be put on the vehicles.

Rep. Kitselman moved to TABLE HB 773. The motion carried with Reps. Dave Brown, Darko, Bulger, Hansen, Squires, and Whalen voting no.

DISPOSITION OF HOUSE BILL 762: Rep. Jan Brown asked for action to be held until Friday on HB 762 to check with Rep. Donaldson on the original intent of the bill which was a concern with the committee.

DISPOSITION OF HOUSE BILL 380: HB 380 was returned to the committee from Second Reading on the House Floor. Rep. Dave Brown moved to TABLE HB 380. The motion carried with Rep. Sales voting no.

DISPOSITION OF HOUSE BILL 745: Rep. Hansen moved to DO PASS HB 745.

Rep. Ramirez moved to AMEND HB 745 to create the commission right away instead of waiting two years.

Rep. Whalen said the bill states it be amended every 20 years and asked if it would be in sink with the 1992 constitutional convention?

Rep. Ramirez replied it would be out of sink with the convention but in sink with the census and reapportionment which is the purpose.

Rep. Squires asked if there was another way to do this other than a new constitutional amendment?

Rep. Ramirez replied if the people want to amend the constitution they can and the commission would function as provided in the new amendment. If the people do not want to amend the constitution then the commission would still file its report but it would then go to the respective counties for approval. It would be up to the people which method to adopt.

The question was called on the amendment. The motion carried unanimously.

Rep. Brandewie moved to DO PASS AS AMENDED. The question was called and all were in favor except Reps. Dave Brown, Grinde and Squires.

DISPOSITION OF HOUSE BILL 744: Rep. Brandewie moved DO PASS on HB 744.

Rep. Ramirez moved to AMEND HB 744 to change the legislative study committee to a commission. The question was called and the motion carried unanimously.

Rep. Ramirez moved to AMEND HB 744, page 2, following line 16, insert: The plan shall provide a schedule for the orderly transition from existing counties to the proposed counties. The question was called and the motion carried unanimously.

Rep. Ramirez moved to AMEND HB 744, page 3, following line 20, add subsection (i) taxable valuation. The question was called and the motion carried unanimously.

Rep. Whalen asked if information generated by the commission in HB 744 would be available to the voters prior to voting on the constitutional amendment in HB 745?

Rep. Ramirez replied it would take a 2/3 vote for HB 745 to pass but only a majority for HB 744. If there is enough people to put the constitutional amendment on the ballot, he felt confident the enabling legislation would pass as well.

If it did not pass, there would be a wait of two years for the commission to be formed because the constitutional amendment requires a procedure and enabling legislation would have to be passed then.

Rep. Gould thought the best thing would be to mandate that the initial plan be completed by September 1 of 1988. He said if there is not something to show the people the public will be frightened and the constitutional amendment would not pass.

Rep. Hoffman commented that the bill had no effective date and asked when it would become effective?

Rep. Ramirez moved to amend the bill to include the effective date, effective upon passage and approval. The motion carried unanimously.

Rep. Brandewie moved to DO PASS HB 744 AS AMENDED. The question was called with all in favor with the exception of Reps. Dave Brown, Grinde, Gould and Squires.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 3:00 p.m.



Rep. Norm Wallin, Chairman

DAILY ROLL CALL
 LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/18/87

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. BUDD GOULD	✓		
REP. REP. TIMOTHY WHALEN	✓		
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT	✓		✓
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA			✓
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓		
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES	✓		

STANDING COMMITTEE REPORT

February 13

19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 744

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

1. Title, lines 4 through 8.

Following: "MONEY"

Rep. Norm Wallin

Chairman

Strike: remainder of line 4 through "REORGANIZATION" on line 6

Insert: "FOR A COUNTY BOUNDARY COMMISSION"

Following: "AUTHORIZING" on line 6

Strike: "AN INTERIM SUBCOMMITTEE"

Insert: "THE COMMISSION"

Following: "PLAN FOR" on line 7

Strike: "REDUCING THE NUMBER OF COUNTIES TO 30 OR FEWER"

Insert: "CONSOLIDATING AND REORGANIZING COUNTIES"

2. Title, line 9.

Strike: "AND"

3. Title, lines 10 AND 11.

Following: "OF THE"

Strike: "SUBCOMMITTEE'S RECOMMENDATIONS"

Insert: "COMMISSION'S PLAN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 2, line 4.

Following: "that a"

Strike: "study of"

Insert: "plan for"

5. Page 2, line 10.

Following: "Section 1."

Strike: "Subcommittee to study"

Insert: "County boundary commission to prepare a plan for"

6. Page 2, lines 11 through 13.

Following: "(1)"

Strike: remainder of line 11 through line 13 in its entirety

Insert: "A commission of nine citizens of the state, none of whom may be public officials, shall be appointed by the 1987 legislature to prepare a plan for consolidating and reorganizing existing counties. The majority and minority leaders of each house shall each designate two commissioners. Within 20 days after their appointment, the

FIRST

reading copy (WHITE)
color

eight commissioners shall select the ninth member, who shall serve as chairman of the commission. If the eight members fail to select the ninth member within the time prescribed, a majority of the supreme court shall select him.

(2) The commission shall prepare a plan"

7. Page 2, line 15.

Following: "counties to"

Strike: "30"

Insert: "45"

8. Page 2, line 16.

Following: "3."

Insert: "The plan shall provide a schedule for an orderly transition from the existing to the proposed counties."

9. Page 2, line 17.

Strike: "(2) The subcommittee"

Insert: "(3) The commission"

Following: "its"

Strike: "recommendations"

Insert: "plan"

10. Page 2, line 20.

Following: "for"

Strike: "interim study of"

11. Page 2, line 21.

Following: "reorganization"

Insert: "plan"

12. Page 2, line 22.

Strike: "\$7,500"

Insert: "\$30,000"

13. Page 2, line 24.

Following: "reorganization"

Strike: "study"

Insert: "plan"

14. Page 3, line 1.

Following: "expenses of"

Strike: "interim subcommittee"

Insert: "commission"

Rep. Norm Wallin
Chairman

B

15. Page 3, line 6.
Following: "preparing its"
Strike: "recommendations"
Insert: "plan"
16. Page 3, line 7.
Following: "the"
Strike: "subcommittee"
Insert: "county boundary commission"
17. Page 3, line 18.
Strike: "and"
18. Page 3, line 20.
Following: "resources"
strike: "."
Insert: "; and"
19. Page 3.
Following: line 20
Insert: "(i) taxable valuation."
20. Page 3, line 22.
Following: "the"
Strike: "subcommittee"
Insert: "commission"
21. Page 4, line 12.
Strike: "subcommittee"
Insert: "county boundary commission"
22. Page 4, line 14.
Following: "Effect of"
Strike: "study"
Insert: "plan"
23. Page 4, lines 18 through 21.
Following: "1988,"
Insert: "the county boundary commission shall submit its
plan for county consolidation and reorganization to"
Following: "legislature"
Strike: remainder of line 18 through "reorganization." on
line 21.

Rep. Norm Wallin
Chairman

B

Insert: "The legislature shall return the plan with its recommendations within 30 days of submission. Within 30 days thereafter, the commission shall file its final plan for county consolidation and reorganization with the secretary of state, and it shall become law."

24. Page 4, line 25.

Following: "the"

Strike: "subcommittee's"

Insert: "commission's"

25. Page 5.

Following: line B

Insert: "Section 6. Effective date. This act is effective on passage and approval."

Rep. Norm Wallin
Chairman

B

STANDING COMMITTEE REPORT

February 18, 19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 734

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in | <input checked="" type="checkbox"/> as amended |
| <input type="checkbox"/> do not pass | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

Rep. Norm Wallin

Chairman

1. Page 2, line 20.
Strike: ":"

2. Page 2, line 21.
Strike: "(a)"

3. Page 2, line 23.
Strike: ";"

4. Page 3, lines 2 and 3.
Strike: "and" on line 2 through "investments" on line 3

HW
FIRST

B

WHITE

reading copy (_____)
color

STANDING COMMITTEE REPORT

February 18

19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report HB 745

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in | <input checked="" type="checkbox"/> as amended |
| <input type="checkbox"/> do not pass | <input type="checkbox"/> be not concurred in | <input type="checkbox"/> statement of intent attached |

Rep. Norm Wallin

Chairman

1. Title, line 6.
Following: "PROVIDE"
Strike: "FOR"
Insert: "THAT"

2. Title, line 7.
Following: "COMMISSION"
Strike: "EVERY TWENTIETH YEAR TO"
Insert: "SHALL"

3. Page 1, line 20 through line 5 on page 2.
Following: (2)
Strike: the remainder of subsection (2) in its entirety
Insert: "A county boundary commission appointed by the legislature shall prepare a plan for consolidating and reorganizing existing counties."

FIRST

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STANDING COMMITTEE REPORT

February 18

19 87

Mr. Speaker: We, the committee on LOCAL GOVERNMENT

report SB 492

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Rep. Nora Mallia

Chairman

1. Title, line 9.
Strike: "AND"

2. Title, line 10.
Following: "MCA"
Insert: "AND PROVIDING AN EFFECTIVE DATE"

3. Page 1, line 16.
Strike: "\$5"
Insert: "\$4"

4. Page 1, line 20.
Strike: "Four"
Insert: "Three"

5. Page 2, line 13.
Strike: "\$5"
Insert: "\$3"

6. Page 5, line 24.
Strike: "\$5"
Insert: "\$4"

7. Page 6, line 1.
Strike: "\$5"
Insert: "\$4"

8. Page 6, line 6.
Strike: "\$5"
Insert: "\$4"

9. Page 8, line 5.
Strike: "\$5"
Insert: "\$4"

9. Page 8.
Following: line 19
Insert: "NEW SECTION. Section 5. Effective date. This act is effective January 1, 1988."

FIRST reading copy (WHITE color)

CLERICAL

Date: 2/18
Time: 10:00

House Bill 492

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

House Local Government 2/18/87

2. Insert: "; AND PROVIDING AN ⁸ DELAYED ... " ₁ A ₁

Don Wallin

2-19-87

[Signature]

17:10

Sponsor

Secretary of Senate
or
Chief Clerk

[Signature]

Legislative Council

amendment served to emphasize the bill's principal concern: the ability of counties and other political subdivisions to provide vehicular-related services when an access road was, for one or more reasons, inadequate. See Mar. 21, 1985 Minutes of Senate Local Government Committee. The Act, as amended, thus encourages any division of land consisting of parcels 20 acres or larger to be associated with access roads and other easements which permit safe and expeditious provision of important governmental services.

First, the unquestionable intent of the Legislature was to allow local-review governing bodies under the Act to make determinations as to access suitability which, if negative, prohibit the provision of those public services substantially dependent upon adequate roadways. Once such determination is made, the affected services may not be offered. Any other result effectively negates the governing body's decision and vitiates the underlying purpose of the review process. Consequently, upon issuance of a nonsuitability determination, none of the involved local political subdivisions may extend those services described in the determination.

Second, because the focus of a suitability determination is on the need for adequate access in order that public vehicles can be safely utilized, sheriff's or police department protection may be added by the governing body under section 76-3-609(2)(a)(ii)(E), MCA, when warranted. Careful consideration must, of course, be given to whether an access road is unsuitable for this or any other type of governmental service, and a determination of nonsuitability must be made with particularized reference to the nature of the access road and the demands of the involved service. I note, however, that HB 791 is generally concerned with provision of governmental services which, by their nature, bestow a focused benefit on the landowner. Consequently, even if police or sheriff's department services of this kind are proscribed under a nonsuitability determination, the involved department retains jurisdiction to discharge those functions which relate to general law enforcement; such functions extend beyond the mere provision of benefit to a particular landowner and directly relate to maintenance of overall societal order. A nonsuitability determination including police or sheriff's department services should

therefore carefully specify those found inappropriate so as to preserve this distinction.

Third, the mere payment of required taxes does not, in itself, mandate the provision of all governmental services. See generally 71 Am. Jur. 2d State & Local Taxation § 6 (1973) ("even though the duty or obligation to pay taxes by the individual is founded in his participation in the benefits arising from their expenditure, this does not mean that a man's property cannot be taxed unless some benefit to him personally can be pointed out"). The Montana Supreme Court accordingly rejected the contention in *State ex rel. Woodahl v. Straub*, 164 Mont. 141, 149-51, 520 P.2d 776, 781, cert. denied, 419 U.S. 845 (1974), that one county's taxpayers were impermissibly discriminated against because their school system received less direct financial benefit from a statewide tax than the amount of those taxpayers' payments. Similarly here, the mere fact that an owner of a real property parcel subject to a nonsuitability determination under section 76-3-609(2)(a), MCA, is prohibited from receiving certain public services does not relieve him of the duty to tender those taxes uniformly imposed on other property owners since such obligation is not grounded on a *quid pro quo* relationship between payments made and benefits received. That owner, moreover, is not improperly discriminated against in connection with prohibition of the affected services, if the nonsuitability determination complies with section 76-3-609(2)(a), MCA, in view of the rational basis for such action; i.e., the absence of an access road suitable for the provision of the involved services. See, e.g., *White v. State*, 40 St. Rptr. 507, 511, 661 P.2d 1272, 1275-76 (1983); *Linder v. Smith*, 38 St. Rptr. 912, 919, 629 P.2d 1187, 1193 (1981); *State v. Jack*, 167 Mont. 456, 461, 539 P.2d 726, 729 (1975). Simply stated, by choosing to reside on land subject to a nonsuitability determination under section 76-3-609(2)(a), MCA, the owner has voluntarily forfeited any claim of entitlement to the proscribed public services.

Your final question involves substantial factual issues and is an inappropriate matter for my opinion. As stated above, the determination of whether access is suitable for the provision of various governmental services must be made after consideration of all

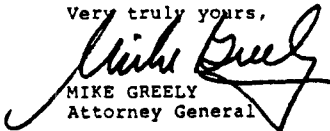
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783

relevant circumstances. The Legislature, by leaving undefined the term "unsuitable access and easements," clearly intended that each governing body exercise its informed discretion as to what access should be deemed unsatisfactory. See 41 Op. Att'y Gen. No. 43. The model procedure adopted by the Department of Commerce for review under section 76-3-609(2)(a), MCA, thus defers to county standards for deciding whether suitable access exists. Nonetheless, while individual governing body discretion is presumably broad in establishing and applying suitability standards, it must be exercised with an objective of ensuring a safe environment for the operation of public vehicles and not solely to discourage divisions of land. In the absence of a fully-developed factual record, therefore, I decline to issue an opinion on whether Teton County's proposed definition of suitability--which requires parcels to be adjacent to or contiguous with a road "maintained" on a year-around basis by a public entity--is a proper standard under section 76-3-609(2)(a), MCA.

THEREFORE, IT IS MY OPINION:

1. A nonsuitability determination under section 76-3-609(2)(a), MCA, with respect to an access or easement prohibits any political subdivision from providing those services specified by the governing body as inappropriate.
2. The term "similar services" in section 76-3-609(2)(a)(ii)(E), MCA, may include, under appropriate circumstances, certain of those services provided by sheriff's or police departments.
3. An owner of real property affected by a nonsuitability determination under section 76-3-609(2)(a), MCA, is not relieved of his obligation to tender all taxes otherwise required of property owners--including those taxes which support governmental services prohibited by the determination.

Very truly yours,



MIKE GREELY
Attorney General

House Committee on Local Government February 18, 1987

AMENDMENTS TO HOUSE BILL 744
(requested by sponsor)

1. Title, lines 4 through 8.
Following: "MONEY"
Strike: remainder of line 4 through "REORGANIZATION" on line 6
Insert: "FOR A COUNTY BOUNDARY COMMISSION"
Following: "AUTHORIZING" on line 6
Strike: "AN INTERIM SUBCOMMITTEE"
Insert: "THE COMMISSION"
Following: "PLAN FOR" on line 7
Strike: "REDUCING THE NUMBER OF COUNTIES TO 30 OR FEWER"
Insert: "CONSOLIDATING AND REORGANIZING COUNTIES"

2. Title, lines 10 AND 11.
Following: "OF THE"
Strike: "SUBCOMMITTEE'S RECOMMENDATIONS"
Insert: "COMMISSION'S PLAN"

3. Page 2, line 4.
Following: "that a"
Strike: "study of"
Insert: "plan for"

4. Page 2, line 10.
Following: "Section 1."
Strike: "Subcommittee to study"
Insert: "County boundary commission to prepare a plan for"

5. Page 2, lines 11 through 13.
Following: "(1)"
Strike: remainder of line 11 through line 13 in its entirety
Insert: "A commission of nine citizens of the state, none of whom may be public officials, shall be appointed by the 1987 legislature to prepare a plan for consolidating and reorganizing existing counties. The majority and minority leaders of each house shall each designate two commissioners. Within 20 days after their appointment, the eight commissioners shall select the ninth member, who shall serve as chairman of the commission. If the eight members fail to select the ninth member within the time prescribed, a majority of the supreme court shall select him."

(2) The commission shall prepare a plan"

6. Page 2, line 15.
Following: "counties to"
Strike: "30"
Insert: "45"
7. Page 2, line 17.
Strike: "(2) The subcommittee"
Insert: "(3) The commission"
Following: "its"
Strike: "recommendations"
Insert: "plan"
8. Page 2, line 20.
Following: "for"
Strike: "interim study of"
9. Page 2, line 21.
Following: "reorganization"
Insert: "plan"
10. Page 2, line 22.
Strike: "\$7,500"
Insert: "\$30,000"
11. Page 2, line 24.
Following: "reorganization"
Strike: "study"
Insert: "plan"
12. Page 3, line 1.
Following: "expenses of"
Strike: "interim subcommittee"
Insert: "commission"
13. Page 3, line 6.
Following: "preparing its"
Strike: "recommendations"
Insert: "plan"
14. Page 3, line 7.
Following: "the"
Strike: "subcommittee"
Insert: "county boundary commission"
15. Page 3, line 22.
Following: "the"
Strike: "subcommittee"
Insert: "commission"
16. Page 4, line 12.
Strike: "subcommittee"
Insert: "commission"

17. Page 4, line 12.
Strike: "subcommittee"
Insert: "county boundary commission"

18. Page 4, line 14.
Following: "Effect of"
Strike: "study"
Insert: "plan"

19. Page 4, lines 18 through 21.
Following: "1988,"
Insert: "the county boundary commission shall submit its
plan for county consolidation and reorganization to"
Following: "legislature"
Strike: remainder of line 18 through "reorganization." on
line 21.
Insert: "The legislature shall return the plan with its
recommendations within 30 days of submission. Within
30 days thereafter, the commission shall file its final
plan for county consolidation and reorganization with
the secretary of state, and it shall become law."

20. Page 4, line 25.
Following: "the"
Strike: "subcommittee's"
Insert: "commission's"

House Committee on Local Government

February 18, 1987

AMENDMENTS TO HOUSE BILL 745
(requested by sponsor)

1. Title, line 6.
Following: "PROVIDE"
Strike: "FOR"
Insert: "THAT"

2. Title, line 7.
Following: "COMMISSION"
Strike: "EVERY TWENTIETH YEAR TO"
Insert: "SHALL"

3. Page 1, line 20 through line 5 on page 2.
Following: (2)
Strike: the remainder of subsection (2) in its entirety
Insert: "A county boundary commission appointed by the legislature shall prepare a plan for consolidating and reorganizing existing counties."



4
DATE 2-18-87
HB 762

Montana Solid Waste Contractors, Inc.

36 South Last Chance Mall, Suite A • Helena, Montana 59601 • 406-443-1160

HOUSE BILL 762

February 18, 1987

Testimony of Sue A. Weingartner, Executive Director

Our purpose in requesting HB 762 is to clarify the Legislative intent fo Section 7-2-4736, MCA. This section of the law says that when a municipality annexes additional areas, the hauler that serves that area may continue serving that "area" for the next five years--free from competition from the municipality. However, if at any time during that 5-year period the hauler doesn't provide adequate service, there is a remedy available: Because all private haulers are regulated by the Public Service Commission, upon proper showing to the PSC that adequate service isn't being provided, the City can then step in and take over the collection and disposal.

In addition, at the end of the 5-year period, an additional option is available to the residents of the area: If a majority of those residents within the area request municipal services, the municipality is free to step in and take over the services.

Because garbage collection is very capital intensive, a 5-year period gives the hauler time and notice to make necessary adjustment in his business. To suddenly lose a portion of customers through overnight annexation can deal a severe blow to a small business. Most Montana haulers are small businesses - many are "mom and pop" operations.

In most instances, this law has worked well. :The obvious exception is in Billings, the case mentioned in the preamble language to HB 762, in which the Montana Supreme Court interpreted the Legislative "area" language to mean "customers residing in the area" at the time of annexation.

Two additional items in the bill:

- (1) We feel that the "petition" method on p. 2 line 12, of requesting city services is a more organized and accountable way of determining the "majority of residents"; and
- (2) We request the "adequate service" be defined in subsection (3) beginning on page 2, line 21.

We would be happy to provide any additional information or answer any questions the Committee might have. We urge your support of HB 762.

RECEIVED
JAN 17 1986
ALEXANDER & BAUCUS

No. 85-274

IN THE SUPREME COURT OF THE STATE OF MONTANA

1986

D & F SANITATION SERVICE, BIG SKY
HAUL AWAY and YELLOWSTONE SANITATION
SERVICE,

Plaintiffs and Appellants,

-vs-

CITY OF BILLINGS,

Defendant and Respondent.

APPEAL FROM: District Court of the Thirteenth Judicial District,
In and for the County of Yellowstone,
The Honorable Diane G. Barz, Judge presiding.

COUNSEL OF RECORD:

For Appellant:

Alexander & Baucus; Gary M. Zadick argued, Great
Falls, Montana

For Respondent:

Peterson, Schofield & Leckie; Kenneth Peterson argued,
Billings, Montana

Submitted: October 25, 1985

Decided: January 16, 1986

Filed: JAN 16 1986

Ethel M. Harrison
Clerk

Mr. Justice John C. Sheehy delivered the Opinion of the Court.

Plaintiff garbage haulers brought this action for damages and injunctive relief against defendant City of Billings in the District Court of the Thirteenth Judicial District, Yellowstone County. The District Court denied the injunction. The parties stipulated to the facts and submitted the issues to the District Court. The District Court ruled for the City. Both parties stipulated to entry of judgment in the City's favor. The District Court dismissed the complaint with prejudice in accordance with the stipulation. Plaintiffs appeal and defendant cross-appeals from the judgment. We affirm.

There are two issues on cross-appeal and three issues on appeal. We begin with the two issues on cross-appeal since they are logically prior. Is section 7-2-4736, MCA, constitutional? And how should it be interpreted? There are three issues raised by appellants on appeal. What is the plain meaning of section 7-2-4736, MCA? Did the District Court erroneously assume the residents who receive service from private garbage haulers had to pay twice for garbage service? Has the legislature by enacting section 7-2-4736, MCA pre-empted the field of garbage regulation?

The parties stipulated to the facts in this case.

(1) X Plaintiffs are Montana corporations authorized by the Public Service Commission to collect garbage (in and outside the Billings city limits.) They brought this action for damages and an injunction against the City of Billings for violating section 7-2-4736, MCA. Section 7-2-4736, MCA, states:

PRESERVATION OF EXISTING GARBAGE OR SOLID WASTE SERVICE IN THE EVENT OF ANNEXATION. A municipality

that annexes or incorporates additional area receiving garbage and solid waste disposal service by a motor carrier authorized by the public service commission to conduct such service may not provide competitive or similar garbage and solid waste disposal service to the area for 5 years following annexation except upon a proper showing to the public service commission that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area, and after the expiration of 5 years, the municipality may provide such service only if a majority of the residents of the annexed or incorporated area request in writing to the municipality that such service be provided by the municipality. If a proper showing is made that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area or if a majority of the residents request service from the municipality, the municipality may assume sole jurisdiction for the garbage and solid waste disposal service to the entire annexed or incorporated area.

The City of Billings has provided garbage service to annexed areas on the following basis:

- a) when totally undeveloped, vacant lands are annexed, the City provides all subsequent garbage services;
- b) when developed lands are annexed that are receiving no garbage services, the City provides all subsequent garbage services;
- (2) ~~X~~ c) when developed lands are annexed on which some persons are receiving private garbage services, those persons cannot receive City garbage service for 5 years, (but the City provides garbage collection services to all subsequent residents in the area.)

The garbage collected by the plaintiffs, is taken to the city landfill. City customers of the plaintiffs are assessed a disposal fee by the City. County customers are assessed a fee by the county, which is remitted to the City.

The first issue raised on cross-appeal is the constitutionality of section 7-2-4736, MCA. Respondent contends section 7-2-4736, MCA is unconstitutional because it violates 1972 Mont. Const., Art. II, § 31, which prohibits laws making irrevocable grants of franchises; the equal protection clause of 1972 Mont. Const., Art. II, § 4; and

1972 Mont. Const., Art. V, § 12 which prohibits the legislature from passing special or local laws.

We begin with respondent's first contention that section 7-2-4736, MCA violates 1972 Mont. Const., Art. II, § 31. That section states: "No ex post facto law nor any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislature." Respondent contends a franchise is granted where a special privilege is conferred by government upon an individual or association which does not belong to citizens generally. Respondent contends that a grant of an exclusive right for a definite period of time falls within the commonly established definition of a franchise, and that section 7-2-4736, MCA grants a franchise and special privilege to the appellants to collect garbage within a portion of the City.

Appellants contend the statute does not grant an irrevocable privilege or franchise but that the privilege created in the appellants can be terminated.

We defined a franchise as a "special privilege conferred by the government on an individual which does not belong to the citizens generally." *Glodt v. City of Missoula* (1948), 121 Mont. 178, 183, 190 P.2d 545, 548. Section 7-2-4736, MCA confers a special privilege or franchise upon the private garbage haulers. However, we agree with the District Court that the franchise granted is not irrevocable. The privilege can be terminated by either a showing that the private carrier is unable or refused to provide adequate service; or by written request of a majority of residents after a set period of time. Thus even if section 7-2-4736, MCA does grant a franchise, it is not an irrevocable one within the

meaning of 1972 Mont. Const., Art. II, § 31. We hold section 7-2-4736 is constitutional under 1972 Mont. Const., Art. II, § 31.

Respondent next contends section 7-2-4736, MCA violates the equal protection clause of the Montana Constitution which states: "No person shall be denied the equal protection of the laws." 1972 Mont. Const., Art. II, § 4. Respondent makes an allegation that the law places a greater tax on annexed taxpayers as opposed to unannexed taxpayers." A privilege conferred upon one class is a discrimination in favor of that class and against all others." Hill v. Rae (1916), 52 Mont. 378, 382, 158 P. 826, 828. But the mere fact it is discriminatory is not necessarily unlawful. The greater part of all legislation is discriminatory in some manner. Id. An analysis of whether a privilege violates equal protection requires a determination as to whether the classification is legally permissible and if the classification is reasonable. Id.

This statute is not subject to strict scrutiny because it does not burden a fundamental right or constitute invidious discrimination against a suspect classification. The test here is whether the classification is rationally related to a legitimate governmental interest. Tipco Corp., Inc. v. City of Billings (1982), 197 Mont. 339, 345, 642 P.2d 1074, 1078.

The legislature sought to protect the investments of motor carriers in enacting section 7-2-4736, MCA. Generally, prior to annexation, land areas are sparsely populated. They do not represent the most attractive business to private carriers. Yet the need for garbage disposal services is not met by the City. Therefore the legislature sought to make

unannexed areas a more attractive business proposal by allowing the private carriers time to recoup their investments after annexation. This is a legitimate governmental objective. The classification of people in annexed areas using private garbage services prior to annexation bears a rational relation to the governmental purpose of encouraging private garbage service in unannexed areas. We hold this statute does not violate equal protection.

Finally, respondent contends section 7-2-4736, MCA violates 1972 Mont. Const., Art. V, § 12 which states: "The legislature shall not pass a special or local act when a general act is, or can be made, applicable." A general law need not be a law which operates on all persons. "The word 'general' comes from the Latin 'genus' and relates to the whole kind, class or order; hence a law which affects a class of persons less than all may be a general law." *Lauthold v. Brandjord* (1935), 100 Mont. 96, 105, 47 P.2d 41, 45. Special laws are laws made for individual cases, or for less than a class; local laws are special as to place. Such laws are prohibited in order to prevent a diversity of laws on the same subject. *Id.* The test for a special law is: "Does it operate equally upon all of a group of objects which, having regard to the purpose of the legislature, are distinguished by characteristics sufficiently marked and important to make them a class by themselves?" *State ex rel. Redman v. Meyers* (1922), 65 Mont. 124, 128, 210 P. 1064, 1066. We have already determined the legislative purpose to encourage private garbage service to unannexed areas is a sufficiently important governmental interest to justify the classification. Section 7-2-4736, MCA is not a special or

local law. This statute is a general law which does not violate 1972 Mont. Const., Art. V, § 12. We find section 7-2-4736, MCA to be constitutional.

The next issue raised on cross-appeal and on appeal is the interpretation of section 7-2-4736, MCA. Appellants contend the plain meaning of section 7-2-4736, MCA is to prohibit all competitive garbage service by a city in an annexed area for a period of five years after annexation. They argue the statute refers to "annexed area" but does not differentiate between old and new customers as the City does. Therefore they argue all new residents of an annexed area must use private garbage services for a period of five years after annexation.

Respondent contends the language of the statute and the intent of the legislature is to preserve existing garbage services, but not to force subsequent residents in annexed areas to use private garbage services. Therefore, the City has been providing garbage services to subsequent residents in annexed areas.. Respondent also contends that where a statute grants a franchise to a corporation the words of grant must be construed against the grantee.

We hold the District Court was correct in interpreting the statute to mean that the private garbage carriers may continue to provide services to those customers it had prior to annexation only. We hold the City is correct in its interpretation for three reasons. First, the purpose of the statute is to allow the private garbage haulers to recoup their investment for providing an essential service. The investment in providing services prior to annexation is only as great as the need for services at that time and therefore section 7-2-4736, MCA should be limited to existing customers

at the time of annexation. Second, section 7-2-4736, MCA grants a franchise to the private garbage haulers. In the grant of a franchise by the government the grantee takes only what is clearly given by the grant, and nothing by implication. *Sheridan County Elec. Co-op v. Montana-Dakota Utilities Co.* (1954), 128 Mont. 84, 87, 270 P.2d 742, 743. Thus the statute must be interpreted to refer only to customers existing at the time of annexation. Third, if a governmental grant of a franchise is susceptible to two meanings, the meaning which works the least harm to the public must be adopted. *City of Helena v. Helena Light and Ry. Co.* (1922), 63 Mont. 108, 115, 207 P. 337, 339. The interpretation restricting the scope of the statute to existing services works the least harm to the public and must be adopted.

The second issue on appeal is whether the District Court erred in assuming the residents who receive private garbage service had to pay twice for garbage services? As part of its "least harm to the public" analysis, the District Court found that if the statute were limited to existing residents at the time of annexation, only they would have to pay twice (once as a taxpayer, and once to the private carrier).

The stipulation of fact entered by the parties states,

"That the waste collected by the Plaintiffs is taken to the City operated landfill where it is disposed of by the City. City customers of the Plaintiff's are assessed a disposal fee by the City. County area customers of the Plaintiffs pay a solid waste fee which is assessed by the County and then the County remits to the City. Roll-off boxes containing construction or demolition material taken by the Plaintiffs to the City landfill are assessed a fee based upon cubic yardage and the fee is collected from the carrier."

From this stipulation of fact it is unclear whether or not the City taxpayers pay twice for garbage service. Thus it is

impossible for us to determine if the District Court was in error, but even if in error, it was harmless. An error in the court's findings of fact will not lead to reversal unless a correction of the error might lead to a different judgment. *Grogan v. Valley Trading Co.* (1904), 30 Mont. 229, 237, 76 P. 211, 214. In this case, the finding of fact of the District Court is harmless error. *Stanford v. Coram* (1902), 26 Mont. 285, 67 P. 1005.

The third issue on appeal is whether the legislature by enacting section 7-2-4736, MCA has pre-empted the field of garbage regulation. The appellants contend the legislature has evidenced its intent to pre-empt municipalities from collecting garbage by authorizing the PSC to grant certificates of operating authority to garbage carriers. Appellant argues municipalities have only such power as is granted by the legislature, and if the legislature chooses to pre-empt a field, the city is powerless to act. Appellants contend that local regulation was not intended by the legislature since no statutory authority exists for the regulation of garbage as Billings does.

Prior to the 1972 Montana Constitution, it was fundamental that cities were subordinate political subdivisions of the State. *State ex rel. Great Falls Housing Authority v. Great Falls* (1940), 110 Mont. 318, 100 P.2d 915. Cities had only those powers expressly given to them by the legislature. *State ex rel. City of Libby v. Haswell* (1966), 147 Mont. 492, 494-95, 414 P.2d 652, 653; *City of Bozeman v. Ramsey* (1961), 139 Mont. 148, 156, 362 P.2d 206, 210; *City of Billings v. Herold* (1956), 130 Mont. 138, 140-41, 296 P.2d 263, 264; *State ex rel. Wiley v. District Court* (1945), 118 Mont. 50, 54, 164 P.2d 358, 360. Thus if the state

legislature deemed a subject to be a matter of statewide concern, it could enact laws on the subject and pre-empt local governments from the field. Haswell, 147 Mont. at 496, 414 P.2d at 654; Ramsey, 139 Mont. at 163, 362 P.2d at 214; Herold, 130 Mont. at 141, 296 P.2d at 269-70; Wiley, 118 Mont. at 54, 164 P.2d at 361.

However, the 1972 Montana Constitution changed the role and power of local governments in Montana. The new Constitution provides local governments with the option of adopting a self-government charter or retaining general government powers. If a local government adopts a charter, the local government may exercise any power not prohibited by the Constitution, law or the charter. 1972 Mont. Const., Art. XI, § 6. This section grants local governments, which formerly had only such powers granted to them, the authority to share powers with the state government. "[T]he 'shared powers' concept does not leave the local unit free from state control; it does, however, change the basic assumption concerning the power of local government. At present, that [sic] assumption is that local government lacks power unless it has been specifically granted. Under the shared powers concept, the assumption is that local government possesses the power, unless it has been specifically denied." 1972 Mont. Const., Con. Committee Notes (1972), Vol. II, pp. 796-97. (Emphasis in original.) Hence, if a local government did adopt self-government powers under the 1972 Constitution, then Haswell, Ramsey, Herold, and Wiley would no longer apply. If a local government choose to retain general government powers, the local government would have only the powers given to it by the legislature and those cases would still be applicable.

We take judicial notice under Rule 202(b)(2), M.R.Evid., that Billings voters adopted a self-government charter on November 14, 1976. With the adoption of the charter, the City of Billings assumed self-government powers. The City may exercise any power or provide any service except those specifically prohibited by the constitution, law, or the charter. Section 7-1-102, MCA. Because of this we expressly overrule statements in City of Billings v. Weatherwax (Mont. 1981), 630 P.2d 1216, 38 St.Rep. 1034, that municipalities have only such power as is granted them by the legislature. This was the law under the 1889 Constitution. It is not the law under the 1972 Constitution. Under the new Constitution, the City of Billings has all powers save those expressly prohibited.

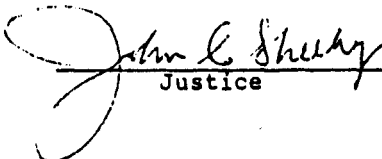
The only way the doctrine of pre-emption by the state can co-exist with self-government powers of a municipality is if there is an express prohibition by statute which forbids local governments with self-government powers from acting in a certain area. The doctrine of implied pre-emption, by definition, cannot apply to local governments with self-government powers. Tipco Corp. Inc. v. City of Billings (1982), 197 Mont. 339, 642 P.2d 1074. We look then to the statutes to determine if there has been an express prohibition against local governments regulating garbage.

* The powers specifically denied to local governments are * enumerated in section 7-1-111, MCA. Billings Firefighters Local 521 v. Billings (Mont. 1985), 694 P.2d 1335, 42 St.Rep. 112. "A local government unit with self-government powers is prohibited the exercise of the following: . . . (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity." Garbage disposal service

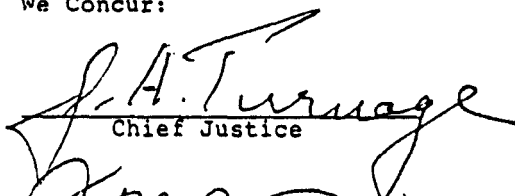
operators are required to get a certificate of public convenience and necessity issued by the PSC prior to doing business. Section 69-12-314, MCA. The certificate grants the carriers the right to operate their business upon the public streets. *Barney v. Board of Railroad Comm'rs* (1932), 93 Mont. 115, 138, 17 P.2d 82, 88.

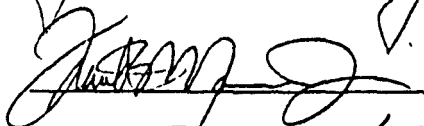
The decision of the voter of the City of Billings, that the City should provide garbage pick-up services for its residents in no way prohibits the grant or denial of a certificate of public necessity. The City has not refused to allow garbage service companies to operate despite their certificate, nor has the City allowed garbage service companies to operate without a certificate. The City is simply exercising its self-government powers to provide a service for its residents and taxing them for that service. This is clearly within the self-government powers of Billings and does not conflict with state law.

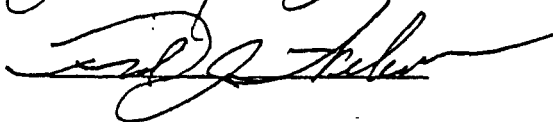
We affirm the judgment of the District Court.

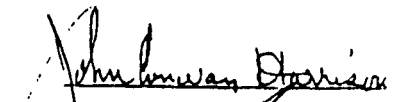
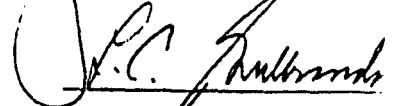


Justice

We Concur:


Chief Justice








Justices

PERSONAL TESTIMONIAL FOR
HOUSE BILL 762

EXHIBIT
DATE 2-18-87
HB 762

I would like to introduce myself. My name is Dennis Johnston, I have been in business for 9 years and I am the owner of Yellowstone Sanitation Service, and Big Sky Haul-Away. I employ approximately 20 employees and service a 4 county area. I would like to list the effects this Statute will have on my existing companies.

We have lost approximately 575 previous customers from the time of annexation to September, 1986.

We purchase equipment to service our projected growth. More homes serviced per truck will utilize equipment and manpower more efficiently, therefore, competition increases operating costs which must be passed onto the customer.

Presently we have 3 carriers, 2 private and the City of Billings, in the newly annexed areas. This is extremely inefficient from a production standpoint. 3 different companies on the same street on 3 different days.

We have customer confusion concerning annexation and the assumption that they are charged twice for service is erroneous. Customers are charged for collection by the private carrier and is charged for use of the landfill on their personal property taxes by the City of Billings.

The intent of the Legislature, in passing the original Statute, appeared to prohibit all or similar service by a municipality in an annexed area for a period of years, and to preserve existing garbage and solid waste services in the event of annexation.

We question the City of Billings and State of Montana Supreme Court's interpretation to allow a municipality access into an annexed area before obtaining the written request of 51% of the residents in the newly annexed area. Because of the decision by the Supreme Court, the City of Billings is using the original Statute to begin collecting the necessary customers to total the 51% so that they may service the total area. The City has, in the past, accused the original Statute of creating a monopoly in the newly annexed areas in favor of the private carrier. The City of Billings forgets it has created a monopoly by allowing the City exclusive rights within the City of Billings. We have attempted in the past to service certain trailer courts within the City, at a lower rate than the City rate, and were refused permission because of the City ordinance.

Handwritten signature: J. D. Smith

and Big Sky Haul-Away. I employ approximately 20 employees and service a 4 county area. I would like to list the effects this Statute will have on my existing companies.

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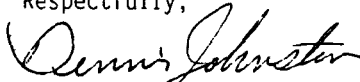
PERSONAL TESTIMONIAL FOR HOUSE BILL 762 continued-page 2

Dennis Johnston-Yellowstone Sanitation Service & Big Sky Haul-Away

We would urge this committee to pass the revised Statute now presented before you. In closing, we have over the last 9 years been in a constant struggle with the City of Billings. We hope the revised Statute would allow us at least 5 years to prepare for restructure of the company.

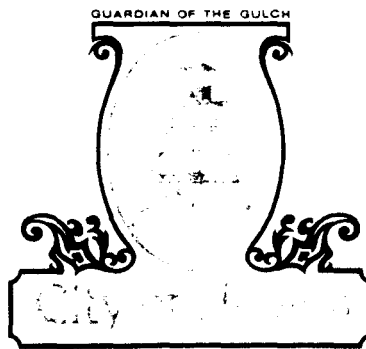
We feel the passing of this House Bill 762 will give us the necessary time to recoup our investments.

Respectfully,

A handwritten signature in cursive script that reads "Dennis Johnston".

Dennis Johnston

DJ:bk



DATE #6 2-18-87
HB 692

City-County Admin. Bldg.
316 North Park
Helena, MT 59623
Phone 406/442-9920

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Michael J. DaSilva
Rose Leavitt
Blake J. Wordal

William J. Verwolf
City Manager

February 18, 1987

House Committee on Local Government
50th Legislature

Dear Mr. Chairman and Members of the Committee:

The City of Helena supports House Bill No. 692, which would permit the issuance of Crossover Refunding Bonds. The City recently refunded over \$4 million in Special Improvement District bonds to take advantage of lower interest rates. Had State law permitted the issuance of crossover refunding bonds, we would have been able to save additional interest costs and would have further lowered assessments to property owners.

We urge your support of this bill.

Sincerely,

Janet Jessup
Director, Administrative Services

DATE 2-18-87
HB 692



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Exchange Inc.
Pacific Stock
Exchange Inc.
Securities Investor
Protection Corp.

February 18, 1987

Local Government Committee &
House of Representatives

RE: House Bill No. 692

Gentlemen:

House Bill No. 692 is a mechanism by which local government issuers may affectuate debt service savings or a restructuring of currently outstanding obligations, when necessary through an advance refunding. The process of advance refunding outstanding obligations is utilized when the outstanding bonds are not yet redeemable yet the Issuer can demonstrate that refunding the outstanding obligations will provide benefit to the issuer and the taxpayers or rate payers. Because the outstanding obligations are not redeemable at the time of the financing, the proceeds of the refunding issue are used to acquire direct obligations of the U.S. Government or securities which are guaranteed by the U.S. Government to be place in an irrevocable escrow account to make the payments on the refunded bonds until such time as they may be called. The term advance refunding indicates that the financing is taking place prior to ability of the issuer to prepay their outstanding debt.

An advance refunding is usually done for one of the following reasons: 1) debt service savings due to lower interest rates, 2) restructure existing debt, 3) alleviate the impact of a negative covenant contained in the original bond issue. Most advance refundings are done to affectuate debt service savings to the benefit of both local government and therefore, its constituents. Many times the rates on the outstanding obligations is very high in relation to the interest rate which can be received on available U.S. Government obligations. The desparity in the interest rates can be made up through the acquisition of a greater number of government securities. Local governments ability to acquire these securities in a greater amount can be limited by a number of factors which include: 1) statutory limitations on the amount of bonds which can be issued, 2) other available funds of the issuer committed to the financing, and 3) the expense of the acquisition may make the financing prohibitive. Crossover refunding, which is a very common financing tool utilized throughout the United States, attempts to alleviate the expense of the interest rate desparity between the obligations to be refunded and the U.S. Government securities to be acquired for payment of the outstanding obligations. This is done very simply by appropriating the escrow account to the payment of the newly issued obligations rather than the outstanding obligations until such time as the outstanding bonds are redeemable, i.e. the first call date of which the bonds can be called at a premium of 103% or less. The escrow is structured in a manner such that the debt service payments on the newly issued obligations are paid from the escrow during the period in which the outstanding obligations are non-callable and then reverts to the payment and complete redemption of the outstanding obligations on their first call date. This mechanism, as previously mentioned, is allowable pursuant to the appropriate federal statutes and IRS regulations and is common practice throughout the Country.

(Over, please)

Page Two
Local Government Committee &
House of Representatives
February 18, 1987

The Tax Reform Act of 1986 greatly affected the ability of local government to benefit from the issuance of advance refunding bonds. Those most greatly affected by Tax Reform Act of 1986 are the small issuers such as those found in Montana. This is a classic case where a small issuer has been affected by provisions which are created to prohibit large issuers from abusing available financing techniques to their benefit. Prior to the Tax Reform Act of 1986 the issuer was allowed an increase in the yield in the escrow account to provide sufficient funds to cover the cost of issuing the new obligations. Pursuant to the Act, the costs of issuance of advance refunding outstanding obligations is now an out-of-pocket expense to be borne by the issuer. Many of the costs inherent in a financing of this type are fixed in nature and no affect is given to the size of the issue when determining whether the costs should be allowed. The ability to issue crossover refunding bonds can potentially allow a small local government issuer to pass on the benefits conferred through the issuance of these obligations. Indicative of the potential benefit inherent in this type of financing is the case of Havre School District No. 16. The District issued approximately \$6,000,000 in general obligation bonds during 1981 at which time interest rates were extremely high (13.50%). In 1983 an advance refunding bond was issued providing debt service savings of approximately \$1,000,000 to the taxpayers of School District No. 16. I believe that these savings are very significant to the taxpayers and ratepayers of Montana and I can tell you that that financing would be extremely difficult given the current market environment and the new provisions of the Tax Reform Act of 1986.

I urge you to consider passing House Bill No. 692 allowing local government greater flexibility in restructuring their outstanding debt to the benefit of individuals in this State.

INFORMATION SHEET

HB 492

The Department of Justice submits the following information on programs funded out of the Motor Vehicle Recording Account.

The following programs were funded in total or in part out of the Motor Vehicle Recording Account by the General Government Appropriations Subcommittee for the 1989 biennium.

	FY 88	FY 89
Motor Vehicle Division		
Registrar's Bureau	\$1,993,923	\$1,981,572
Audit Fee	5,205	
Driver Services (partial)	304,341	300,986
*License Plate Factory	485,000	496,000
Data Processing Division (partial)		
Crim.Just.Info.Network (LENS)	387,391	384,443
Law Enforcement Academy (partial)	516,403	511,920
Forensic Science Div. (partial)	440,502	-0-
**Criminal Investigation Bureau	145,864	129,136
Matching funds for anti-drug enforcement program		
	\$4,278,629	\$3,804,057

* This funding level does not include a reissue of license plates

**The appropriation of matching funds for the federal anti-drug enforcement money was made contingent upon the passage of HB 492 in a form which provides increased revenue to the motor vehicle recording account.

The appropriation of state matching funds for the federal anti-drug enforcement program is critical. Montana has a severe illegal drug problem. Enforcement agencies in the surrounding states, the drug enforcement administration, Customs and the F.B.I. have told the Department of Justice repeatedly that Montana's lack of a statewide enforcement program has a negative effect on the ability of law enforcement to fight crime in Montana. Local law enforcement agencies simply cannot afford to

maintain ongoing undercover criminal investigations. The State needs a statewide investigative team to carry out ongoing undercover investigations against traffickers in illegal drugs and stolen property at the request of local agencies.

The federal Anti-Drug Enforcement Act of 1986 established a program to provide grant funds to state and local agencies for the purpose of enforcing laws relating to illegal drugs and stolen property. Under the federal program funds will be available to the states on a 75% - 25% cash match basis. The Department of Justice developed a proposal based on information provided by the Montana Board of Crime Control as to the amount of money that will be available to Montana for state law enforcement purposes. Should the State not appropriate the matching funds, Montana will not be eligible for the \$732,000 in federal money available for the 1989 biennium to combat the trafficking of illegal drugs.

Under House Bill 492, revenue projection is as follows:

	Current Fee	Per \$1 Increase	All to \$5 Increase
Title	\$3 *	225,000	450,000
Duplicate	\$2	19,000	57,000
Lien	\$3	125,000	250,000
Registration	\$2	<u>865,000</u>	<u>2,595,000</u>
		\$1,234,000	\$3,352,000

*County keeps \$1

The Department of Justice suggests that the Committee consider raising the title, duplicate title, and lien fees to \$5 and the registration fee to \$3 effective January 1, 1988. The title, duplicate title, and lien fees have not been raised since 1965 and the registration fee was last raised in 1979. Increased revenue from enacting this proposal would be:

	FY 88	FY 89
Title, Duplicate & Lien	\$375,000	\$757,000
Registration Fee	<u>519,000</u>	<u>865,000</u>
	\$894,000	\$1,622,000

Increasing the fees at this rate would provide sufficient funds to meet existing demands on the Motor Vehicle Recording Account and would provide matching funds for the federal anti-drug enforcement grant money. Designating January 1, 1988 as the effective date does not increase the burden on the counties for changing the fees on their computers since other adjustments must also be made January 1, 1988.

Under current law, revenue deposited in the Motor Vehicle Recording Account from fees addressed by HB 492 are as follows:

	<u>FY 87</u> <u>Current Revenue</u>
Title	\$ 497,000
Duplicate Title	38,000
Lien	375,000
Registration	1,730,000
Miscellaneous (information requests, personalized plates, etc.)	<u>694,000</u> <u>\$3,334,000</u>

Should the Committee recommend a registration fee increase to \$4 or \$5 for the registration fee, the projected revenue increase would allow the Appropriations Committee to fund a greater proportion of those programs eligible for motor vehicle funding off that account thereby reducing demand on the general fund. All of the programs funded out of the Motor Vehicle Recording Account are related to law enforcement and involve to a great extent the use of motor vehicles.

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE _____ BILL NO. _____ NUMBER _____

NAME	AYE	NAY
REP. NORM WALLIN, CHAIRMAN	✓	
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. DAVE BROWN	✓	✓
REP. JAN BROWN	✓	
REP. TOM BULGER		✓
REP. PAULA DARKO		✓
REP. BOB GILBERT	✓	
REP. BUDD GOULD	✓	
REP. LARRY GRINDE	✓	
REP. STELLA JEAN HANSEN		✓
REP. ROBERT HOFFMAN	✓	
REP. LES KITSELMAN	✓	
REP. PAUL PISTORIA		
REP. JACK RAMIREZ	✓	
REP. WALTER SALES	✓	
REP. CAROLYN SQUIRES		✓
REP. TIMOTHY WHALEN		✓

TALLY

11 6

Vonnie Evans

Secretary

Chairman

MOTION:

During the meeting

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. HB 762

DATE February 18, 1987

SPONSOR Rep. J. Brown

NAME (please print)	REPRESENTING AND/OR RESIDENCE	SUPPORT	OPPOSE
Richard Visbet	City Helena		X
John Lawton	24 E. 1st St.		X
Ray Foster	"		X
Alie Thurner	City Secret Waste Committee	X	
Denni Lakusta	Montana Fuel - oil	X	
Jim McPherson	City of Bozeman		X
Alice Hansen	MLCT		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

