MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 5, 1987

The thirty-second meeting of the State Administration Committee was called to order by Chairman Jack Haffey on March 5, 1987 at 10:00 a.m. in Room 331 of the State Capitol.

ROLL CALL: All committee members were present.

The hearing was opened on House Joint Resolution 30.

CONSIDERATION OF HOUSE JOINT RESOLUTION 30: Representative Earl Lory, House District 59, Missoula, was sponsor for this resolution entitled, "A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA CONSENTING TO THE CONSTRUCTION OF A WATER SYSTEM AT THE UNIVERSITY OF MONTANA. He stated that projects in excess of $25,000 must first have legislative consent. In cases where a project does not require legislative appropriations, it can be done by a resolution and that is the reason he brought the bill before the committee. The university would like to put in their own water system to enable them to save some money. The entire system would cost about $335,000 which they planned to borrow and this would then be paid off by the difference in savings they would realize by having their own system. It would not cost the state anything and would save the university some money.

PROPONENTS: Glen Williams, Vice-President of Fiscal Affairs for the University of Montana, stated they feel this would save the university some money and urged support.

OPPONENTS: John Alke, a Helena attorney, who does Mountain Water's rate work for the State of Montana, came before the committee to explain what impact this bill would have on its customers. He noted that construction of the well would not affect Mountain Water but that portion of the cost of the system that is currently being picked up by the university would then have to be picked up by other ratepayers in the city. The City of Missoula and the university system are currently the largest volume customers. He noted whenever a large customer drops off the unit cost to all remaining customers will most likely increase. He noted that Mountain Water did not know exactly what was going to be proposed but he thought it was a parallel system and that Mountain Water would still provide peak flows during summer irrigation periods and for fire control. He noted the problem is that the customer would have to bear the full cost of an alternative system plus assume the costs of standby charges that Mountain Water would assess. He felt if the university dropped their basic usage they might well be assessed a new higher rate by the Public Service Commission which would indirectly remove all the benefits they intended to achieve.

QUESTIONS ON HOUSE JOINT RESOLUTION 30: Senator Lynch asked if Mr. Williams felt there would be any savings. Mr. Williams stated he felt the rates they are now being charged are much higher than they should be for a large volume user and that the university was very justified in wanting to drill their own well. They have their own pipelines already he noted. Mr. Alke wondered if the university would be constructing a large enough reservoir to take care of such things as fire control and to meet peak capacity. He noted that peak capacity is met only a few times a year and is the reason the system costs the rates it does so that when the extra capacity is needed it is there. He felt the university still wants the peak capacity from Mountain Water but is substituting daily quantities with their own system to cut costs to a minimum. Mr. Alke felt though that the PSC would not allow the other ratepayers of the City of Missoula to subsidize the expensive cost of providing for peak capacity and fire control usage to the university. When asked why there were no opponents in the House hearing, Mr. Alke stated the bill came up late before transmittal and there was not enough time to notify people of the hearing. Senator Farrell wondered how much the annual usuage was for the city and for the university and was told both bills were well over $100,000 a year. Mr. Alke stated if he had the university study on what they are proposing he could calculate what the impact would be on the other ratepayers. Senator Farrell asked Mr. Williams if there was some data available. Mr. Williams stated part of the costs are for the peak period and indicated that Mountain Waters had not expressed an interest in using their data. He also noted the city had contacted them also and expressed an interest in buying the system but he was unsure just what the impact would be. Mr. John Critisch, Manager of Planning and Construction at the University of Montana, stated they were looking at a project that would be paid back in 4½ years. There are other considerations that might make the project still worth pursuing. The university would continue to pay Mountain Waters for their in-place meters and noted that Mountain Waters has built into their rate structure a charge for providing for fire protection. He noted the university is paying a disportionate amount now for water usage in comparison to others. Senator Hofman asked if rates had gone up in the past ten years and was told they had by about 21%. Senator Haffey asked about the savings that could be expected with a reduced water bill and was told the net savings would be after substracting pumping costs and payments to Mountain Waters. Presently they could expect to pay $163,000 per year and with their own well they thought it would be about $127,000. In total costs Mr. Williams felt there would be about $71,000 savings per year. They would continue to pay a fee for the in-place meters which would include fire protection. Senator Haffey wondered if there would be an actual savings and whether the university had looked at all the possibilities. Mr. Williams stated they would continue to study the feasibility before any further actions were taken. Senator Farrell asked if a variance would have to be obtained before they could drill and Mr. Williams noted this was just the first of many steps that would have to be considered before actual construction could take place. Mr. Alke agreed the university pays a disportionate share now but did not share their optimism that the rates would not increase. It is hard to predict what the PSC might rule he added.

Rep. Lory noted in CLOSING he was certain the university would not build something that was not going to be cost effective but in order to even study the feasibility they would first need the approval of HJR 30. The hearing was closed on HJR 30.

The hearing was opened on HB 692.

CONSIDERATION OF HOUSE BILL 692: Representative Jan Brown, House District 46, Helena, was sponsor for this proposal entitled, "AN ACT TO PERMIT PUBLIC BODIES TO ISSUE CROSSOVER REFUNDING BONDS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." This bill would provide greater flexibility to local governments to restructure their outstanding debts and could result in a savings to the taxpayers.

PROPONENTS: Craig Jones, from D. A. Davidson, noted this was a mechanism whereby local governments might affect debt service savings or obtain a restructuring of outstanding obligations when necessary through advance refunding. He noted advanced refunding indicates that the financing is taking place prior to the ability of the issuer to prepay an outstanding debt. This can result in savings which are a benefit to local governments and their constituents. He noted crossover refunding is a very common financing tool which is being utilized throughout the United States. (EXHIBIT 1)

Janet Jessup, Finance Director for the City of Helena, supported the bill because it would provide the city with another tool that might help them save on the costs of debt service. She noted there are few methods of savings and they would like to have this available in case it could save them money.

Alan Tandy, City Administrator of Billings, supported the proposal also. He would like to do whatever is possible to maximize in the future any savings they might be able to incur.

OPPONENTS: There were none.

QUESTIONS ON HOUSE BILL 692: Senator Hofman asked if there might be some adverse consequences that might occur if this bill were to pass and Mr. Jones stated there would not. You are just replacing one series of debts with another and the bonds are all paid off eventually. Senator Rasmussen asked Ms. Jessup how it would save the City of Helena money. She noted there is a certain limit on the amount you can call on the bonds and with interest rates constantly changing they would like to be able to have this flexibility. Senator Lynch wondered if the school districts would be able to do crossover refunding. Mr. Jones responded that certain bonds in local governments can be done now in this manner and this bill would just standardize the procedure. Senator Hirsch wondered if the state would also be able to benefit and was told they would.

Rep. Brown then CLOSED on House Bill 692.

EXECUTIVE ACTION ON HOUSE BILL 692: Senator Lynch MOVED THAT HOUSE BILL 692 BE CONCURRED IN. Senator Harding seconded the motion. The motion carried unanimously. Senator Harding will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 30: Senator Haffey noted there are a number of unknown factors in this proposal. He felt perhaps Finance and Claims might want to look at the costs of the bill more closely if it goes to the Senate floor. If the measure were to pass the university would still have to demonstrate that it would actually be a cost effective situation. He noted this was only the first step and was not actual permission to construct the system. Senator Hofman felt more research needed to be done. Senator Anderson felt the same as Senator Hofman. Mr. Alke noted they are asking for potable water not just irrigation water. Senator Anderson wondered how it might affect the aquidifer in the City of Missoula. Senator Abrams felt it was just a tool to be able to look into the situation. Senator Lynch MADE A MOTION THAT HOUSE JOINT RESOLUTION 30 BE CONCURRED IN because he felt the committee should not be afraid of unknown factors. Senator Farrell wondered about the costs to the other ratepayers if the university had its own system. Senator Haffey noted one cannot guess what the PSC might determine for rates but felt certain the university would not go ahead with something that was not cost effective. Senator Hofman felt there is a dissatisfaction on the part of the university because they are paying for residential rates which they consider unfair. Senator Haffey noted that Mountain Water did state they also agreed the university pays an unfair rate. Senator Abrams then seconded the motion by Senator Lynch. On a roll call vote, the motion failed 5-5.

The meeting was adjourned at 10:50 a.m.

Jack Haffey

SENATOR JACK HAFFEY, Chairman

cd

ROLL CALL

SENATE STATE ADMINISTRATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3-5-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR JACK HAFFEY	X		
SENATOR WILLIAM FARRELL	X		
SENATOR LES HIRSCH	✓		
SENATOR JOHN ANDERSON	X		
SENATOR J. D. LYNCH	X		
SENATOR ETHEL HARDING	X		
SENATOR ELEANOR VAUGHN	X		
SENATOR SAM HOFMAN	X		
SENATOR HUBERT ABRAMS	X		
SENATOR TOM RASMUSSEN	X		

Each day attach to minutes.

DATE MARCH 5, 1987

COMMITTEE ON SENATE STATE ADMINISTRATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Oppo
Earl Lory	Dist 59	HJR30	X	
Janet Jessup	City of Helena	HB692	V	

(Please leave prepared statement with Secretary)

SENATE STATE ADMIN.
EXHIBIT NO. 1
DATE 3-5-87
BILL NO. HB 692

DAD

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March 5, 1987

Senate State Administration
Committee

RE: House Bill No. 692

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 placed 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 are 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)

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 was 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. Indicitative of the potential benefit inherein 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%). A 1983 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 Housing Bill No. 692 allowing local government greater flexibility in restructuring their outstanding debt to the benefit of individuals in this State.

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

Date 3/5/87 HOUSE JR Bill No. 30 Time 10:40 a.m.

NAME	YES	NO
SENATOR JACK HAFFEY	X	
SENATOR WILLIAM FARRELL		X
SENATOR LES HIRSCH		X
SENATOR JOHN ANDERSON	X	
SENATOR ETHEL HARDING		X
SENATOR ELEANOR VAUGHN	X	
SENATOR SAM HOFMAN		X
SENATOR HUBERT ABRAMS	X	
SENATOR TOM RASMUSSEN		X
SENATOR J. D. LYNCH	X	

Carol Duval
Secretary

Senator Jack Haffey
Chairman

Motion: MOTION BY SENATOR LYNCH THAT HOUSE JOINT RESOLUTION 30 BE CONCURRED IN. FAILED ON A 5-5 Vote.

STANDING COMMITTEE REPORT

MARCH 5 19 87

MR. PRESIDENT

We, your committee on SENATE STATE ADMINISTRATION

having had under consideration HOUSE BILL No. 692

third reading copy (blue)
color

AUTHORIZE STATE AND LOCAL GOVERNMENTS TO USE CROSSOVER REFUNDING BONDS J. Brown (Harding)

Respectfully report as follows: That HOUSE BILL No. 692

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR JACK HAFFEY Chairman.