

MINUTES

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

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on March 12, 1991,
at 3:16 p.m.

ROLL CALL

Members Present:

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

Members Excused: none

Staff Present: Connie Erickson (Legislative Council).

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

Announcements/Discussion: none

HEARING ON HB-295

Presentation and Opening Statement by Sponsor: Representative Steve Benedict, District 64, said this bill is a response to a simple problem. No county officers, other than the sheriffs, can leave the county for more than 15 days without the permission from the commissioners. It has been this way since 1947. Right now, the Clerk & Recorder in his county has to get permission to take a normal vacation, and this is out-of-date. This could lead to some political playing around, and this bill would take care of this. It would allow county officers to go on vacation without fear of losing their office. He did not say that would happen, but the possibility is there that a county commissioner with differences with an elected officers could make life

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Closing by Sponsor: Representative Benedict by stating that the House passed this bill 94-5, and asked the committee to Concur in HB-295.

HEARING ON HB-296

Presentation and Opening Statement by Sponsor: Representative Steve Benedict, District 64, said that this bill would give the option to counties under the I-105 freeze to purchase heavy equipment on a 10 year installment contract. Current law allows for a 5 year term. This bill does not change the counties maximum allowable debt ceiling that they can contract for, but it does give them more flexibility in the term of the contracts. An example is the Intercap Loan program from the board of investments which will give 90% matching Federal funds for airport runway repairs with a \$650,000 price tag. Intercap Board of Investment loan would be a nice vehicle to complete this project. County Commissioners are uncomfortable with the 5 year payback. If they could pay for these repairs over 10 years they could afford that. Another example is that Ravalli County needs to buy two road graders. The budget will only handle payments for one over 5 years, but they could handle payments for 2 graders over 10 years very nicely. If they buy one, the maintenance and repairs in those 5 years from over use could be very high. With the ten year term they could afford the repair bill and purchase both graders now. Again this does not allow them to contract for any more than their allowable debt ceiling it just allows them to spread it out a little more. This is just a tool in flexibility.

Proponents' Testimony: Gordon Morris, Executive Director, MACo, said that Representative Benedict clearly stated the case for this bill. He added that the current debt ceiling is \$500,000 without vote of the people. This \$500,000 over a 5 year retirement schedule of the debt really is onerous in terms of trying to spread that over a longer period of time that is allowed in this bill. We think this is very appropriate to increase this to 10 years in conjunction with that debt limitation of \$500,000. This would make it more practical in terms of being able to utilize that option in installment purchasing.

James Lofftus, Montana Fire Districts Association support this bill.

Opponents' Testimony: none

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Questions From Committee Members:

Senator Thayer asked if the House considered leasing and lease purchases in this bill? Mr. Morris said the \$500,000 debt limit allows lease purchase arrangement. This bill clearly talks about the purchase, and does not limit it to non-lease purchase arrangements. Turnkey operations could be afforded under this bill under a 10 year installment purchase plan. So he did not see anything left out in terms of this particular option.

Senator Beck asked if there is any company that will give 10 year installment plans? Mr. Morris said yes when the amount is \$500,000 for the purchase price. An installment plan could be negotiated for that amount. Now you can buy a automobile with a 5 year contract, and that amount is \$25,000. So an amount of \$500,000 would warrant a 10 year installment plan.

Senator Thayer asked Gordon Morris if he was sure that leasing and lease purchases would be allowed under this? There is a real legal distinction between installments and lease classifications. Mr. Morris said there is some gray area. He assured the committee that counties are using the leasing provisions for such things as purchasing heavy equipment. Caterpillar has a lease plan where the county leases for a specified number of years, and then Cat takes it back and the county gets a new one. We're doing lease purchases on what he would call "turn-key operations". Missoula did this on a couple of purchases of buildings. We would have them constructed for the county, and we purchased them on a lease purchase arrangement spread over 5 years. Senator Thayer said he suspect that the lease where the vehicle was turned back and another vehicle was received was because they were getting around the same problem that he saw here. Mr. Morris did not see the problem. The guiding factor is the debt limitation of \$500,000 without vote of the people that is currently tied to 5 year payment. This bill would give it a 10 year payback.

Closing by Sponsor: Representative Benedict responded to Senator Beck's concern about who would offer a 10 year installment. He can remember when he bought a nice new Chevy truck for \$5000 and the maximum contract was 36 or 48 months. Now he can buy a nice new Chevy for \$18,000 and get up to 7 years to finance it. Installment terms have changed because the price of equipment has gone up quite a bit. When you talk road graders the ticket price is a lot of money. There are a lot of companies that are willing to finance for up to 10 years. The House passed this bill 96-3, and he asked the committee to concur in HB-296.

Senator Hammond asked Representative Benedict if he was

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suggesting that the committee to as the House does? Senator Beck added that a depreciation schedule on any vehicle would be considered by any going institution. If the vehicle depreciates faster than 10 years then they would not allow those payments.

HEARING ON HB-602

Presentation and Opening Statement by Sponsor: Representative Jerry Driscoll, District 92, said this bill allows local governing bodies to oversee mill levies that are assessed by appointed boards. He did not know this wasn't the case, and last session he packed a bill that expanded the ability of trade ports to allow them to put 2 mills on the people. He thought this was with the oversight of the County Commissioners, but it turned out that it was not. The bill is about a policy decision of the Legislature as to whether appointed boards be able to tax people, or should that power be only invested in elected officials. He understood that the information that the libraries have an amendment, and the Missoula parking commission sent a letter that they did not like this bill either.

Proponents' Testimony: Gordon Morris, Executive Director, MACo, said this is not as straight forward as Representative Driscoll would have the committee believe. This bill is good, sound government legislation. Appointed boards and commissions by virtue of their appointments have no accountability to the electorate, and they must be accountable to someone. If they are appointed by the County Commissioners, then it is logical from a good government perspective, that they be accountable to the County Commissioners who are in turn accountable to the electorate. There are many instances that fall through the cracks, but there are a couple that the committee not consider this a red flag for attention. This is nothing other than logical and consistent with sound principles of government from the standpoint that you have to be accountable to the people that appoint you, especially if you are not accountable to the electorate. These people are appointed and have no accountability to the voting public that pays the tax bill, and therefore we are insuring that the appointees are in fact accountable to someone who is accountable to the electorate.

Dave Anderson, Jefferson County Commissioner, and MACo, said as an elected official supported this bill (Exhibit #1).

Opponents' Testimony: Gloria Hermanson, Montana Cultural

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Advocacy, said they are concerned that this bill includes libraries. If county commissioners have control over the library budget, the county commissioners can control what is bought with these funds. This leaves an opening for possible future censorship of information which the Advocacy is very concerned about. She proposed 2 amendments (Exhibit #2). If libraries are amended out of the bill we have no problem, and can support the bill.

Debbie Schlesinger, Legislative Chair, Montana Library Association, opposed this bill if it includes libraries. She said they would not oppose it if libraries are exempted. She said Library Board of Trustees under the statutes have authority over the budget of the library, and she read from the Attorney General's opinion #91, which spoke to this very question, and withheld that "a board of county commissioners does not have the authority to modify the decision of county library trustees concerning wage and salary..." (Exhibit #3). This is traditional in this state, and is the way libraries have been set up. It is the way libraries are set up in many states, and there are very good reasons that statutes go into detail about the powers of the library trustees will be, and why they are called library trustees. The library trustees are the stewards of the public the library and its resources. We think this would be a very bad precedent to take traditional powers away from boards of library trustees. To her knowledge, these boards have never abused these powers, and who work very closely with counties and cities in setting their budgets. Nevertheless, they have the ultimate authority over their budget for the library. We urge the committee to not pass this bill unless libraries are exempted.

Richard Miller, Montana State Librarian, MTSLC, opposed this bill (Exhibit #4). Mr. Miller wanted to address Mr. Morris' comment about good government. There is a tradition of public libraries in our country, not just in Montana. Benjamin Franklin established the first public library in the 1780's in Philadelphia, and it stated that these libraries are to present points of view that take everyone's point of view into account. They can not afford to be controlled by political interests, no matter what stripe those political interests are. The autonomy of public library boards, once appointed, those must be independent and make decisions on their own. They must be apart from that political process to a certain degree. The whole tradition and idea of public libraries in this country of libraries providing a place for people to educate themselves has contributed more to good government than standing on a steaming train that says "Good Government" and eliminates a process that has been successful for hundreds of years. He urged the

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committee to either amend this bill or give it a do not pass.

Senator Waterman said that Bob James from Great Falls Library Board called her to register his opposition to HB-602.

Questions From Committee Members:

Senator Hammond asked how many boards are like this that can put mills on the tax roll? Mr. Morris said there are only the library board and the port authority boards that can levy a mill. Senator Hammond asked if they can levy up to a certain mill? Mr. Morris said yes that is true if not for I-105. The AG opinion states that libraries, under I-105, are a different taxing entity, and so they are totally outside the context of county levies when calculating I-105. Senator Hammond said before I-105 they could levy a certain mill? Mr. Morris said that was correct, but it is a case like school districts, under the AG ruling, libraries adopt a budget. Then they present it to the commissioners who in the same fashion as with school districts, they would attach the mill and put in on the tax levy requirement schedule for library purchases. The AG opinion said that the commissioners had no authority to question, challenge, or revise the budget, hence the mills to be levied, for a library purposes. Senator Hammond said someone set a limit? Ms. Schlesinger said the limit is in state statute.

Senator Beck asked if they are limited by 2 mills? Mr. Morris said the limit is 5 mills. Senator Beck said what is the goal of this bill? Mr. Morris said the glaring example of problems related to libraries is if commissioners set a salary policy for county employees on a county wide basis of 3% raise, this has no bearing on what the Library Trustees can and do offer for salary. He has seen this in city and county government from a person perspective where the city adopts a salary position that is totally ignored by an autonomous taxing entity. In fact the board is appointed, and we are just trying to correct that. This is probably the number one problem.

Senator Waterman asked Representative Driscoll what brought this bill about? Representative Driscoll said the port authority levied 2 mills, and gave \$22,000 to the Billings Chamber of Commerce of his tax money, and he doesn't like it. That's why the bill is here. He said this bill had nothing to do with libraries.

Senator Beck asked Representative Driscoll if he would agree with the amendment presented by the libraries? Representative Driscoll said he had no problem with libraries, and this was inadvertent. Senator Beck asked if he was after the port

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authorities? Representative Driscoll said he understands the library issue. Taxing authority needs to be accountable to someone. He said he knew of only three boards with this authority: parking commissions, library and port authorities. Senator Beck said that Representative Driscoll was after port authorities? Representative Driscoll said he really thought that taxing authority should be invested in elected officials. He did see the libraries point with censorship and county commissioners. There needs to be some protection of minority interests. With the parking commission he was not sure what needed to be protected. The right to park anywhere, but the port authority it is simply a policy decision of who gets to tax who? He carried the bill, and he thought they would assess 1 mill the first year until they got on their feet. After that they put out bonds, and put the full 2 mills on. After they put the full 2 mills on, the first order of business was to give \$22,000 to the Billings Chamber of Commerce and secondly they hired a guy for \$58,000. They haven't done a damn thing, but they've spent all our 2 mills. So this is the point of the bill. This isn't vindictive, just even!

Senator Waterman asked Mr. Morris why Yellowstone County Commissioners are not here, and how do they feel about this bill? Mr. Morris said that as Executive Director of MACo he could say comfortably that he was speaking for Yellowstone County today. They are very interested in this, but one county commissioner had to fly back, another is on his way to Washington D.C.. They would have been here. Do not think this is only a concern of Yellowstone county. Jefferson, Choteau, Blaine and other counties are also interested.

Senator Thayer asked Mr. Miller if this bill would hold up under the Supreme Court ruling? Mr. Miller said libraries try to stay out of court, but he felt that yes, this legislation would be invalidated under the Supreme Court ruling.

Senator Vaughn said she had two calls from Lincoln County Library, and a State Library member from her area are in strong support of this amendment to the bill.

Senator Hammond said that Representative Driscoll answered his question on how many boards can do this? He gave two examples of abuse, and the one he is after. This would have been helpful right away he would have been sold.

Closing by Sponsor: Representative Driscoll said he had no obligation to the library amendment. They are afraid of censorship, and he is certainly not for that. But he felt this

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is a policy decision: should trade ports and parking authorities have the power to tax or should elected officials have the power to tax? This is the decision. The libraries made a strong case that maybe they should not be included because they are limited by the number of mills. The rest certainly should have budget oversight by the elected officials that appoint them.

HEARING ON HB-625

Presentation and Opening Statement by Sponsor: Representative Linda Nelson, District 19, said this bill would expand somewhat the borrowing powers of a hospital district. As you are aware, both the state and federal government reimbursement to health care facilities has not kept pace with the actual cost of providing services. Insufficient funding from the state and federal government has increased the need for funding at the local level, especially in the rural areas. Although a hospital district provides an avenue to produce funding, its borrowing powers are limited. This bill will untie a hospital's hands, and grant borrowing powers in a simplified manner when a transaction is secured. Passage of this bill will expedite the borrowing process. The trustees of a hospital district have a fiduciary responsibility to the residents in a district, and they must insure that the transactions are secured. This bill will help to insure that availability of an adequate vehicle to provide funding for health services at the local level. She proposed amendments that are rather extensive, and the proponents will address them (Exhibit #5).

Proponents' Testimony: Katherine Donnelley, Montana Hospital Administration, said the reason for hospital district funding bill is that some districts have expressed concern that their methods by which they can borrow money are very limited under current law. Several AG opinions hold that the only way hospital districts may borrow money is under the bond procedure prescribed by statute. Hospital districts however, are different from many other government entities in that the tax revenue provides very little of their operating budget. The tax revenue is not really what hospital districts are about. The original bill stated that the hospital district borrowing power should be expanded to allow hospitals to borrow money by the issuance of its mortgage or other fully secured transaction. Recently, Mae Nan Ellingson, consul for the Hospital Board of Investments, pointed out her concerns that this bill when passed in the House was not sufficiently clear, and it did not have all the requirements that she would like to see to work with the Hospital Board of

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Investment loans. One problem with the current statute is that there is a question on whether the Board of Investments can loan hospital districts money? They used to loan money, but then they got an unfavorable rating, and so now they are afraid to. This language is almost word for word from Mae Nan Ellingson. This spells out the specific requirements that are read in or assumed from other parts of the code. Notes can't exceed 15 years, what principle % are payable from tax receipts and other revenues. It provides that the note "may" be secured by a mortgage or security interest. The original bill said the transaction had to be fully secured. The second major change came about when someone pointed out that it would be hard to borrow money from a bank that would have a security interest in a hospital they might have to foreclose on. The bank would feel like they were foreclosing on a orphanage. It would be true on hospital equipment too. On the other hand, it is necessary that there be a limit on the amount of borrowing, so sub b of the amendment states that the notes + the hospital expenses can't exceed the sum of the projected revenues. Basically you can't borrow or take more on debt than you project you can pay for. The original bill left allows hospital districts to register their warrants with counties like school districts can. This may not have a big application, but there is a specific AG opinion that says hospital districts can't do this. We are trying to provide more flexibility without compromising the system or putting the taxpayers out on a limb.

Jay Pottenger, Administrator, Teton Medical Center, a 14 bed hospital and 32 bed nursing home. He asked the committee to support HB-625 with the proposed amendments. Teton Medical was leased by Magnum Firm in May 1990, and we have been battling with the problem of the inability to get a working capital and borrow funds to get the working capital. With the AG opinion and the current statute, hospital districts can not currently borrow money, and the AG opinion is very clear that they can't borrow money. We have been working with the Board of Investments in order to borrow working capital to run and operate our hospital. They proposed the amendments, and we support this amendment to HB-625.

Gordon Morris, Executive Director, MACo, said he had the opportunity to work with the Hospital Association on the campaign in terms of the consideration that went into the drafting of this legislation. There is concern, and he pointed out that this is about county hospital districts. These are elected trustees. This past year in Choteau County had problems. The county was in fact registering the hospital warrants. County Attorney Sheehy asked me if they were legal, and I said probably not because it

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is not specified in law. He asked if he should get the AG's opinion and I said no because you'll get just exactly the opinion you don't want. Just do it if the county and county treasurer will accept the hospital warrants. He didn't listen to me, and as a result we have the AG opinion. We are looking to give hospital districts the option whereby a county would register their warrants. This is again, a form of tax. Likewise, this gives hospital districts additional opportunity to borrow money by issuance of bonds. The amendment is supported, and he asked the committee for their favorable support of the amended version of HB-625.

Senator Bengtson presented a set of amendments proposed by Senator Del Gage, District 5, and said he was in another hearing (Exhibit #6).

Opponents' Testimony: none

Questions From Committee Members:

Senator Beck requested that Senator Gage be summoned to explain his proposed amendments. A page was sent to find Senator Gage.

Senator Hammond asked what was in 7-34-2134 because Gage's amends all of these, but they make no reference to income of a hospital district. They only talk about other revenue.

Senator Bengtson said that Senator Gage's amendments deal with levying more mills, and Representative Nelson's is about bonding. Ms. Donnelley, MTHA, said that Senator Hammond's question about the amendments to 7-34-2134 are #1 to #3 and are the bonding limits.

Senator Beck said it appears that Gage's seem to be a supplemental to go for 20 mills. Ms. Donnelley said that was correct.

Gordon Morris, MACo asked permission to address the committee about the Gage amendments. He stated that MACo is opposed to all circuit breakers to I-105 as provided for in this amendment. It is the consensus that there are no more property taxes available because I-105 is still imposed by County Commissioners, and MACo opposes all bills introduced that proposes an exemption to I-105. Therefore he would oppose this amendment.

Senator Beck asked Mr. Morris what his logic for that was? Do you want the complete I-105 exempted, and you don't want piece meal approach? Mr. Morris that is exactly what MACo wants. The

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residents of Montana want the Legislators to do what the Legislature was charged to do, and that was to address the provisions of property and taxation reform as set forth in I-105. Do not continue the process of driving holes through I-105 by providing exemptions for this group, that group, etc. We want repeal in response to tax reform.

Senator Bengtson asked Mr. Morris if there is a bill that repeals I-105? Mr. Morris said that SB-463, yet to be introduced, proposes to repeal I-105.

Senator Gage joined the committee and Senator Bengtson asked him to explain his amendments (Exhibit #6). Senator Gage said these are calls from rural hospitals trying to survive. He has told some of them that they might have to be happy just to have an aid station. If they want a hospital then it should get on the tax roll, and be supported by taxes. Some have realized that this is the only way to survive is to put it on the tax roll. Currently there are only provisions for 3 mills to support a hospital district. They wanted to draft a bill, but it was too late. I told them that we might be able to amend one, and after talking with Greg Petesch he said that HB-625 could carry the amendments. If Senator Blaylock's local option tax passes these amendments would probably not be needed. But who knows what will happen to that bill.

Senator Beck asked Senator Gage if this was just another option? Senator Gage said that it was just adding to the flexibility of funding hospital districts.

Closing by Sponsor: Representative Nelson briefly stated that the first amendment that she proposed is necessary because it really does lay down the ground rules, but she is uncertain about Senator Gage's amendments. She will return when the committee takes Executive Action to answer any further questions.

EXECUTIVE ACTION ON SB-407

Discussion: Senator Waterman said this bill was amended on February 21, 1991 to take out subdivision business. We had other amendments proposed and they are included in today's amendments. (Exhibit #7). Senator Waterman explained her additional handout that lists the DHES proposed fee system and the Billings proposed cap on fees, and how both would affect the bottom line of paying

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for the program. The graph demonstrates that information (Exhibit #8).

Amendments, Discussion, and Votes: C. Erickson explained the list of amendments. These are from the number of suggestions and proposals at the last committee meeting. They are combined and can be voted on separately, but the text editor would combine them later.

- #1. is to correct an oversight. The original bill request was from the DHES and was not put on the bill.
- #2-#5 amends the title.
- #6. was requested by Senator Thayer and addresses arbitrary assessing of penalties. This provides that the DHES must adopt a progressive procedure for a water system with problems. DHES would set up a procedure and penalties would be the last resort. DHES had no problem with that, but they wanted a caveat put in. In a case that an immediate assessment be warranted where deliberate actions or contamination has occurred.
- #7 amends the catch line on fees.
- #8 is where specific language on the maximum and minimum fees would be addressed. DHES will address this today.
- #9 was requested by Senator Kennedy from the Billings' proposal that the water systems not have to go through the public hearing process to pass the cost of recovering the fees to their customers.
- #10. talks about the appeal process. Public water systems can appeal. This requires that the DHES notify them in writing. Erroneous and excessive fees can be appealed, but if no part is appealed then the fees must be paid.
- #11. is from the meeting of the DHES and the mining industry. This drops the administrative penalty from \$1000 to \$500.
- #12. is the same as #11 in contested cases the provisions of the Montana Administrative Procedure Act will be applied.
- #13. is a new section that relates to #9 that exempted the fee raise from the need for a public hearing, this put in a this fee into the exemption clause.
- #14. strikes effective date at the request of the DHES because they felt they would not have the program up and ready to go by July 1.

Senator Waterman said she had understood that Joe Steiner of Billings had wanted amendment #9 to exempt the need for a hearing in front of the PSC, does this exempt them from that? C. Erickson said this was the wording of the amendment from Billings. The discussion this morning agreed with this.

Joe Steiner from Billings mentioned that in the meetings they

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wanted the amendment to read "public water supplies including privately owned", so that Mountain Water and Butte Water would be specifically included. They think in the PSC has looked at these two systems somewhat differently than municipalities when applying their rules and regulations.

Senator Vaughn asked if that would include trailer courts? C. Erickson said that 69-7-111 relates only to municipalities, but not to anyone else.

Senator Beck asked C. Erickson if there is a separate section of code that addresses private water systems? C. Erickson said she was not aware of one. Senator Waterman asked how trailer courts raise their rates? Ray Wadsworth, Montana Rural Water, said that incorporated municipalities and private water systems, which includes trailer courts, do go to the PSC for approval. Water user associations and water districts however do not have to go to the PSC for approval of a rate change.

Senator Hammond asked for clarification of a non-community and a non-transient public water system that is referred to on the chart? Dan Frazer, Chief of the Water Quality Bureau answered Senator Hammond's question. A non-community system serves a transient population like a bar. A non-transient is where people do not live but frequent like schools and daycare centers.

Senator Waterman clarified to the committee that the fees listed in column 4, \$/SC/YR Range, were figures for a year, so monthly fees on a bill would be 25 cents to 25 cents. Senator Harding pointed out that the small communities would have to pay the 75 cents.

Senator Waterman reiterated that the Governor's task force proposed this fee system. No one is in love with a fee system, but they all concluded a fee system is needed. A compromise would be a minimum fee of \$150/public water system and a maximum of \$25,000/public water system with a \$1 to \$19 charge for hookups.

Senator Beck asked what the logic is for the difference on the fee for hookup from large to small systems? Senator Waterman said she would not defend the fee system. If it were up to her, the monies would come from the General Fund. She said if the system was paid by fee for service then small systems could not afford it. It has been testified to and shown that large urban systems will always have to subsidize small rural systems.

Senator Hammond said he spoke for small systems, and they don't

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want any regulation. Senator Harding added that Senator Nathe had mentioned that we can retain primacy without all this regulation. Senator Waterman said the DHES through the task force, outlined 6 options. They felt this bill was the best of the options. She agreed that Senator Harding was correct that the state can retain primacy, and do it in a variety of steps. She was made to understand that the strength of primacy and a state run program is that the state is helpful and the system is viable. We know the horror stories of subdivisions faced with rebuilding systems that were not in compliance when first put in. She believed large and small systems agreed at the hearing that they want the state to retain primacy and run a state program.

Senator Vaughn asked if these fees go for guidance and supervision, but no funds for upgrading? Senator Waterman said there will be a program of inspection, training, special studies, emergency response, etc. None of these things will be available if the EPA has primacy. They will track and enforce the EPA rules, period.

Senator Harding said everyone wants to retain primacy, but do we need all the regulations? Senator Waterman said in 1989 the EPA threatened the state of Montana's primacy because we were not doing a good job with the program we have. We are not funding it adequately, we're not doing the appropriate testing, and they plan to take primacy away from the state, and they will come in and enforce the regulations themselves. Because of these discussions, Governor Stephens appointed the task force to address this legislation. The six options were formed. Two options retain primacy, the one in this bill, and another with a minimum state program that would cost about \$400,000 less.

Senator Thayer asked if DHES couldn't study this for 2 more years to deal with all the questions and problems presented with this bill? Dan Frazer said the Federal Government would take about 1 year to move to take primacy from the state, but it is hard to predict what the Feds will do. The Federal Government was involved in the Task Force and they agreed with us funding only 80%, and still be able to keep the federal grant monies. Right now, 75-80% of the federal dollars are spent mostly on the state laws and program rather than on the EPA regulations.

Senator Beck asked if they take primacy away can we take it back? Mr. Frazer said if you lose primacy then you lose the expertise and knowledge of the program. It would take ten years to redevelop a good system after taking back primacy.

Senator Waterman said the Appropriations Subcommittee heard this

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bill. We put money in it, and unless you want General Fund dollars we can leave the fee system to the Rule Making. They will have public hearings to set those fees. They can only set fees that will raise enough money to cover the cost of the program. We can vote on the amendments and leave those that deal with fees out.

Senator Waterman moved all the amendments except #8.

Senator Beck said he was concerned about the fees. If we can save primacy for everyone in the state, then everyone in the state should pay the same amount. The money is going to the DHES, so the fees should be equal for everyone.

The vote on the motion to pass the amendments except #8 passed 8 to 1. Senator Hammond voted against, and the vote was recorded as a roll call vote.

Senator Bengtson still felt a minimum and maximum fee needed to be addressed in the bill.

Senator Hammond said no matter what the fees the bill does not put a limit on the cost of the program. There is no public hearing to set the DHES budget for these costs. He can not support any part of this bill.

Senator Waterman pointed out that small systems customers pay 75 cents/month/hookup and larger system customers pay 25 cents/month/hookup. Senator Beck said that 33 cents/month/hookup for people in Billings is not fair.

Senator Beck asked if anyone knew what the program would cost if the EPA took over? Can they bill the state back? Senator Eck said it will certainly cost the state because the federal grant money currently received is being spent on the state program, and that would be lost.

Senator Waterman said the state would have to pick up added costs for services that would be assumed by other state agencies, so there would be additional costs.

Senator Beck said he knew the committee wanted to act on this bill, but he could not pass it before discussing it with the EQC and others. Senator Beck moved to amend the bill to a \$3/hookup maximum and \$100/system minimum fee as the DHES had first proposed. The motion carried. C. Erickson asked for clarification of the requested amendments.

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Senator Beck asked the committee to defer any other vote on SB-407 until he could investigate further. Senator Bengtson felt the committee was ready to move on this bill.

Senator Waterman moved Do Pass SB-407 as amended. The roll call vote was read. Senator Eck passed on the first round, and then voted against. The motion failed 3 to 6. Senators Harding, Kennedy and Vaughn voted for the Do Pass as amended.

Senator Thayer moved to table SB-407 as amended. The motion carried unanimously, and was recorded as a roll call vote.

EXECUTIVE ACTION ON HB-295

Motion: Senator Thayer moved to Concur in HB-295. The motion passed unanimously and was recorded as a roll call vote. Senator Bengtson will carry HB-295.

EXECUTIVE ACTION ON HB-296

Motion: Senator Thayer moved to Concur in HB-296. The motion passed unanimously, and was recorded as a roll call vote. Senator Bengtson will carry HB-296.

ADJOURNMENT

Adjournment At: 5:10 p.m.


ESTHER BENGTON, Chairman


JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

LG031291.SM1

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-12-91 Bill No. SB-407 Time 5:02

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

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: motion to amend DHE5
\$100 min/public system 6-3
#3/hookup

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-12-91 Bill No. SB-407 Time 5:03

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

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to do Pass as Amended

Failed 3-6

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-12-91 Bill No. SB-407 Time 5:06

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

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: moved to table SB-407

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-12-91 Bill No. HB-295 Time 5:06

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

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-295
Senator Bengton will carry

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-12-91

Bill No. HB-296 Time 5:07

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

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-296
Senator Bengton will carry

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 1, 1991

RE: CONFIDENTIAL

When your committee was notified of the proposed legislation, it was held in confidence. House Bill No. 1000, which was introduced on February 1, 1991, respectfully reports that the proposed legislation is as follows:

Section 1. The title of this Act shall be "An Act to amend the Constitution of the State of Tennessee to provide for the creation of a new judicial branch of government."

1
J. S. 1000
Confidential
J. S. 1000
Sec. of Senate

STUDENT STANDINGS CONFERENCE REPORT

Page 1 of 1
March 10, 1971

RE: PRESIDENT

At a joint meeting of the Student Body and the Faculty held under consideration of the Board of Trustees, the following report was prepared by representatives of the Student Body:

Presented by: [Signature]
Chairman of the Student Body

3-13-71
[Signature]
Sec. of Senate

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 3-12-91

52 LEGISLATIVE SESSION _____

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

Each day attach to minutes.

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, P.O. Box H
BOULDER, MT. 59632
(406) 225-4251

COMMENTS IN SUPPORT OF
HOUSE BILL 602
12 MARCH 91

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1

DATE 3-14-91

BILL NO. HB-602

SENATE LOCAL GOVERNMENT COMMITTEE
THE HONORABLE ESTHER BENGSTON, CHAIR

As elected officials, with absolute liability and responsibility for the taxpayers' dollar, it is only reasonable that we must have absolute authority in the levying of money to fund all taxpayer-supported functions of local government.

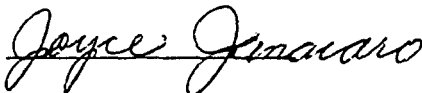
To allow appointed boards the latitude of dictating at what level they ARE GOING TO BE FUNDED is simply not good government. When any appointed board has the authority to demand and receive funding, some other program or service is usually going to suffer the consequences, because of 105 limitations. Those of us who have to face the voters should be making the decisions of where their money is going to be spent and in what amount.

H. B. 602 begins to address this problem and we respectfully urge your unanimous "DO PASS" recommendation.

Respectfully yours,



Dave Anderson, Chair
Jefferson County Commission



Joyce Janacaro
Commissioner

*NOT AVAILABLE
FOR SIGNATURE*

Jim Stout
Commissioner

Amendments to House Bill No. 602

1. Title, line 7.

Following: "ENTITY"

Insert: "EXCEPT BOARDS OF TRUSTEES OF PUBLIC LIBRARIES"

2. Page 1, line 16.

Following: "entity"

Insert: "with the exception of Boards of Trustees of public libraries,"

NOV 17 1986

ATTORNEY GENERAL
MIKE GREELY

JUSTICE BUILDING, 215 N. SANDERS, HELENA, MONTANA
TELEPHONE (406) 444-2026

SENATE LOCAL GOVT. COMM. ATTORNEY,

EXHIBIT NO. 3

DATE 3-12-91

BILL NO. 91 HB-602

VOLUME NO. 41

COUNTIES - Authority of county library trustees;

COUNTY COMMISSIONERS - Authority over county library matters;

LIBRARIES - Authority of library trustees;

TAXATION AND REVENUE - Obligation of county commissioners to levy property taxes for county library expenses;

MONTANA CODE ANNOTATED - Sections 22-1-304, 22-1-309(6), 22-1-310, 39-31-103(1), 39-31-208;

OPINIONS OF THE ATTORNEY GENERAL - 35 Op. Att'y Gen. No. 71 (1974), 39 Op. Att'y Gen. No. 5 (1981), 39 Op. Att'y Gen. No. 38 (1981), 41 Op. Att'y Gen. No. 45 (1986).

- HELD: 1. A board of county commissioners does not have the authority to modify the decision of county library trustees concerning wage and salary amounts for library employees.
2. A board of county commissioners does not have the authority to modify an annual library budget adopted by county library trustees.
3. A board of county commissioners does not have the authority to refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by county library trustees.

John P. Connor, Jr.
Jefferson County Attorney
Jefferson County Courthouse
Boulder MT 59632

Dear Mr. Connor:

You have requested my opinion concerning the following questions:

1. Does the Jefferson Board of County Commissioners have the authority to override a determination by the trustees of the Jefferson County Library to grant pay increases to library personnel?
2. Does the Jefferson Board of County Commissioners have the authority to modify the annual budget submitted by the trustees of the Jefferson County Library even though the amount of property taxes necessary to satisfy such budget falls within the statutory limit of five mills under section 22-1-304(1), MCA?
3. Does the Jefferson Board of County Commissioners have the discretion to levy no millage for funding of the Jefferson County Library?

I conclude that each of these questions must be answered negatively.

The Jefferson County Library was established under sections 22-1-301 to 22-1-317, MCA. In summary those provisions authorize the formation of a city, county, or consolidated city-county free public library. Once created the library is governed by a board of trustees with broad powers and duties, including the obligation to prepare an annual budget "indicating what support and maintenance of the public library will be required from public funds" and to employ a chief librarian and such other employees as are deemed necessary to administer the library. §§ 22-1-309(6), 22-1-310, MCA. The latter responsibility further expressly extends to fixing and paying library employees' salaries and compensation. § 22-1-310, MCA. The annual budget must be submitted by the trustees to the governing body of the city or county which, in turn, may impose a property tax levy not to exceed five mills for the purpose of raising the funds required to maintain the library. § 22-1-304(1), MCA.

13 November 1986

All monies deriving from such levy must be placed into the public library fund, may not be used for any purpose other than operation of the library, and cannot be distributed from the fund without order or warrant of the trustees. § 22-1-304(4) and (5), MCA.

This brief description of the library trustees' powers and duties reflects substantial autonomy from the governing body of the local governmental unit within which the library has been established. See Municipal Employees Local 2390 v. City of Billings, 171 Mont. 20, 24, 555 P.2d 507, 509 (1976) ("[u]nder the Library Systems Act, as a whole, the board of trustees is given independent powers to manage and operate the library"). The trustees are thus quite clearly granted direct responsibility for administering the library in a manner largely independent of city or county control. That the fiscal operation of the library is heavily interrelated with that of the local government does not, at least insofar as the trustees have been accorded explicit authority, mean their determinations are subject to plenary review and possible modification by, in this instance, a board of county commissioners. Any different conclusion would eviscerate the trustees' authority and render them little more than the county's agents--a conclusion which is simply unsupported by a fair reading of the involved statute.

I recognize that library employees may well be considered city or county employees for certain purposes. See Municipal Employees Local 2390 v. City of Billings, *supra*; see 39 Op. Att'y Gen. No. 38 (1981) (soil conservation district and district court employees considered county employees); 35 Op. Att'y Gen. No. 71 (1974) (fire district employees considered county employees). However, such status does not subordinate the trustees' express grant of authority to fix compensation levels to county commissioner control. Cf. 41 Op. Att'y Gen. No. 45 (1986) (mayoral appointment of administrative assistant not subject to city council approval). Municipal Employees Local 2390, in particular, does not militate against the trustees' authority in such matters as to library employees; there the Court merely concluded that a library employee, who had participated in union representation election under section 39-31-208, MCA, and became part of a diverse city employee bargaining unit, was subject to the terms and conditions of the collective bargaining agreement covering such unit and to which the City of Billings was signatory. Under those circumstances the city was held to be the employee's "public employer" as that term is

defined in section 39-31-103(1), MCA, and used throughout the public employee collective bargaining law. The unique facts and statutory considerations underlying Municipal Employees Local 2390 clearly do not stand for the proposition that the trustees here are subject to the control of the county commissioners concerning questions of library employee compensation. The trustees' express authority under section 22-7-310, MCA, to fix such employees' compensation accordingly prohibits the commissioners from establishing a different wage level.

The trustees' power under section 22-1-309(6), MCA, to adopt an annual budget forecloses the board of county commissioners from effecting changes in such budget. The obvious purpose of the trustees' authority in library budget matters is to allow application of their informed judgment to fiscal issues. Such authority is, moreover, an integral aspect of the trustees' independence without which many of their other express powers would be rendered meaningless. The board of county commissioners' only role in library budget matters is to assign a property tax levy amount, which presently cannot exceed five mills, sufficient to satisfy the budgetary needs. The commissioners' function is thus purely ministerial with respect to the imposition of the levy.

Finally, use of the permissive "may" in section 22-1-304(1), MCA, does not, in view of the trustees' independent budgetary authority, grant the county commissioners discretion not to levy any millage, since the existence of such discretion would effectively supersede the trustees' express powers. Section 22-1-304(1), MCA, must instead be read together with the trustees' broad control over library operations and, if so construed, does not permit an interpretation which leaves within the county commissioners' determination whether some or none of the millage necessary to meet library budget demands should be assessed. See 39 Op. Att'y Gen. No. 5 (1981).

THEREFORE, IT IS MY OPINION:

1. A board of county commissioners does not have the authority to modify the decision of county library trustees concerning wage and salary amounts for library employees.

2. A board of county commissioners does not have the authority to modify an annual library budget adopted by county library trustees.
3. A board of county commissioners does not have the authority to refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by county library trustees.

Very truly yours,


MIKE GREELY
Attorney General

like to stand up and speak but wants their testimony entered into the record.

SENATE LOCAL GOVT. COMM.

WITNESS STATEMENT

EXHIBIT NO. 4

DATE 3-12-91

NAME Richard Miller

BUDGET BILL NO. HB-602

ADDRESS 201 S. Hannaford / Helena, MT

WHOM DO YOU REPRESENT? MT State Library Commission

SUPPORT _____ OPPOSE AMEND

COMMENTS: H.B. 602 inadvertently jeopardizes the traditional independence and autonomy of public library boards of trustees in Montana. Members of these boards are appointed by local governments, but once appointed, are empowered to act quite autonomously, within the framework of state statutes. I urge the acceptance of two amendments to H.B. 602 to exclude public library boards from this legislation. Please vote to retain the autonomy of our public library boards.

Richard T. Miller

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Proposed Amendments to HB 625 BILL NO. HB-625
Prepared for Montana Hospital Association

1. Page 4, line 9,

Following: "of"

Strike: "mortgage and note or by another fully secured transaction"

Insert: "notes as hereinafter prescribed."

2. (NEW) Page 5, line 1,

Insert: "7-34-2131. (5) (a) a hospital district may borrow money by the issuance of a note or notes to provide funds to finance or refinance the costs described in paragraph (1) and to finance or refinance the working capital requirements of the district. Each note shall be authorized and its form and terms shall be prescribed by resolution adopted by the board of hospital trustees. The note must mature over term not to exceed 15 years. The principal and interest on the note shall be payable from the receipts of property taxes levied pursuant to 7-34-2133 and 7-34-2134 (exclusive of the receipts of property taxes levied to pay bonds issued pursuant to paragraphs (1) through (3) of this section) and all other revenues of the district. The annual amount of principal and interest payable on the note in any fiscal year shall be included in the district's budget for such year. The note may be secured by a mortgage of or a security interest in all or part of the district's assets and by a pledge of the tax receipts and revenues of the district or either of them.

(b) A note or notes may not be issued under this section unless the projected annual revenues of the district, including the receipts of property taxes levied pursuant to 7-34-2133 and 7-34-2134 (exclusive of the receipts of property taxes levied to pay bonds issued pursuant to paragraph (1) through (3) of this section) are at least equal to the sum of cost of operating and maintaining the hospital district plus the maximum amount of principal and interest due in any future fiscal year on the notes proposed to be issued and all notes outstanding upon the issuance of the proposed notes.

Amendments to House Bill No. 625
Third Reading Copy

Requested by Senator Gage
For the Committee on Local Government

Prepared by Greg Petesch
March 12, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 6

DATE 3-12-91

BILL NO. HB-625

1. Title, line 7.

Following: ";"

Insert: "PROVIDING FOR AN ELECTION TO AUTHORIZE THE LEVY OF UP TO
20 MILLS FOR THE OPERATION OF A HOSPITAL DISTRICT FOR AS
LONG AS THE COUNTY COMMISSIONERS DETERMINE THAT THE LEVY IS
NECESSARY; EXEMPTING THE LEVY FROM PROPERTY TAX
LIMITATIONS;"

2. Title, line 8.

Following: "7-6-2701"

Insert: ", "

Strike: "AND"

Following: "7-34-2122,"

Insert: "7-34-2134, 7-34-2135, AND 15-10-412,"

3. Page 4.

Following: line 25

Insert: "Section 3. Section 7-34-2134, MCA, is amended to read:

"7-34-2134. **Special additional mill levy authorized.** If the maximum levy of 3 mills on each dollar of taxable valuation of property within the hospital district is inadequate to raise the amount of money certified as necessary and proper by the board of hospital trustees as provided in 7-34-2132, the board of county commissioners may make an additional levy for ~~2 years~~ as long as the commissioners determine necessary upon the taxable property within said hospital district sufficient to raise the amount certified by the board of hospital trustees. The additional levy may not exceed 17 mills."

Section 4. Section 7-34-2135, MCA, is amended to read:

"7-34-2135. **Election required to impose special additional mill levy.** (1) Before each additional levy provided for in 7-34-2134 may be made, the question shall be submitted to a vote of the people at the next primary election held in an even-numbered year or on the next regular school election day held in accordance with 20-3-304 or by mail ballot election as provided by Title 13, chapter 19, in the following form:

"Shall there be an additional levy of (specify number) mills upon the taxable property of the (specify hospital district) ~~for 2 years necessary to raise the sum of (specify the approximate amount to be raised by the additional tax levy)~~ for the purpose of (specify purpose for which the additional levy is made)?

[] FOR an additional levy to raise the sum of (state the approximate amount to be raised by the additional tax levy), and

being (give number) mills.

[] AGAINST an additional tax levy to raise the sum of (state the approximate amount to be raised by the additional tax levy), and being (give number) mills."

(2) Notice of the election, clearly stating the amount and the purpose of the additional levy, must be given and the election held and conducted and the returns made in all respects in the manner prescribed by law with regard to the submission of questions to the electors under the general election laws."

Section 5. Section 15-10-412, MCA, is amended to read:

"15-10-412. Property tax limited to 1986 levels -- clarification -- extension to all property classes. Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not mean that no further increase may be made in the total taxable valuation of a taxing unit as a result of:

- (a) annexation of real property and improvements into a taxing unit;
- (b) construction, expansion, or remodeling of improvements;
- (c) transfer of property into a taxing unit;
- (d) subdivision of real property;
- (e) reclassification of property;
- (f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;
- (g) transfer of property from tax-exempt to taxable status;
- (h) revaluations caused by:
- (i) cyclical reappraisal; or
- (ii) expansion, addition, replacement, or remodeling of improvements; or
- (i) increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values annually.

(4) The limitation on the amount of taxes levied does not mean that no further increase may be made in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

- (a) a revaluation caused by:
- (i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or
- (ii) cyclical reappraisal;
- (b) transfer of property into a taxing unit;
- (c) reclassification of property;

(d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(e) annexation of the individual property into a new taxing unit;

(f) conversion of the individual property from tax-exempt to taxable status; or

(g) increases in property valuation pursuant to 15-7-111(4) through (8) in order to equalize property values annually.

(5) Property in classes four, twelve, and fourteen is valued according to the procedures used in 1986, including the designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

(a) new construction;

(b) expanded, deleted, replaced, or remodeled improvements;

(c) annexed property; or

(d) property converted from tax-exempt to taxable status.

(6) Property described in subsections (5)(a) through (5)(d) that is not class four, class twelve, or class fourteen property is valued according to the procedures used in 1986 but is also subject to the dollar cap in each taxing unit based on 1986 mills levied.

(7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and

1986.

(8) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

- (a) rural improvement districts;
- (b) special improvement districts;
- (c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;
- (d) city street maintenance districts;
- (e) tax increment financing districts;
- (f) satisfaction of judgments against a taxing unit;
- (g) street lighting assessments;
- (h) revolving funds to support any categories specified in this subsection (8);
- (i) levies for economic development authorized pursuant to 90-5-112(4); and
- (j) elementary and high school districts; and
- (k) levies for hospital districts authorized pursuant to 7-34-2134 through 7-34-2136.

(9) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

- (a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;
- (b) an explanation of the nature of the financial emergency;
- (c) an estimate of the amount of funding shortfall expected by the taxing unit;
- (d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;
- (e) a finding that there are no alternative sources of revenue;
- (f) a summary of the alternatives that the governing body of the taxing unit has considered; and
- (g) a statement of the need for the increased revenue and how it will be used.

(10) (a) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to ensure the public health. A levy for the support of a local board of health may not exceed the 5-mill limit established in 50-2-111.

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue

equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402."

Amendments to Senate Bill No. 407
First Reading Copy

For the Committee on Local Government

Prepared by Connie Erickson
March 8, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 7

DATE 3-12-91

BILL NO. SB-407

1. Page 1.

Following: line 2

Insert: "by request of the department of health and environmental sciences"

2. Title, line 18.

Following: ";"

Insert: "providing an opportunity for the appeal of the fee assessment; allowing a municipality to raise water rates to cover costs associated with fees without a public hearing;"

3. Title, line 23.

Following: ";"

Insert: "and"

4. Title, line 24.

Following: "SECTIONS"

Insert: "69-7-111"

5. Title, line 25.

Strike: "; AND PROVIDING AN EFFECTIVE DATE"

6. Page 3, line 3.

Following: "."

Insert: "The legislature recognizes that an economic hardship may be imposed on a public water supply system in order for that system to be in compliance with state and federal public water supply laws and that this hardship may be further increased by the levying of administrative and civil penalties for noncompliance. It is the intention of the legislature that the department adopt rules that establish a procedure for the progressive enforcement of this act in which the levying of administrative and civil penalties is a final action. The department may adopt rules that allow for the bypass of the enforcement procedures and the immediate assessment of penalties if specific circumstances warrant this action."

7. Page 9, line 19.
Following: "fees"
Insert: "-- limitations -- opportunity for appeal"

8. Page 10, line 1.
Insert: LANGUAGE ON MINIMUM AND MAXIMUM FEES

9. Page 10.
Following: line 1
Insert: "(2) Public water supply systems may raise the rates to recover costs associated with the fees prescribed in this section without the public hearing required in 69-7-111."
Renumber: subsequent subsections

10. Page 10.
Following: line 10
Insert: "(5)(a) The department shall notify the owner of a public water supply system in writing of the amount of the fee to be assessed and the basis for the assessment. The owner may appeal the fee assessment in writing to the board within 20 days after receipt of the written notice.
(b) An appeal must be based on the belief that the fee is erroneous or excessive. An appeal may not be based only on the fee schedule adopted by the board.
(c) If any part of the fee assessment is not appealed, it must be paid to the department upon receipt of the notice in subsection (5)(a).

11. Page 12, line 13.
Strike: "\$1,000"
Insert: "\$500"

12. Page 12.
Following: line 16
Insert: "(7) The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, apply to any hearing before the board under this section or [section 4]."

13. Page 16.
Following: line 3
Insert: "Section 11. Section 69-7-111, MCA, is amended to read:
"69-7-111. Municipal rate hearing required -- notice. (1) ~~If~~ Except as provided in [section 4], if the governing body of a municipality considers it advisable to regulate, establish, or change rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before it at a time and place specified.
(2) Notice of the hearing shall be published in a newspaper

as provided in 7-1-4127.

(3) (a) The notice shall be published three times with at least 6 days separating each publication. The first publication may be no more than 28 days prior to the hearing, and the last publication may be no less than 3 days prior to the hearing.

(b) The notice must also be mailed at least 7 days and not more than 30 days prior to the hearing to persons served by the utility. The notice must be mailed within the prescribed time period. This notice must contain an estimate of the amount the customer's average bill will increase.

(4) The published notice must contain:

(a) the date, time, and place of the hearing;

(b) a brief statement of the proposed action; and

(c) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(5) Notice of all hearings shall be mailed first class, postage prepaid, to the Montana consumer counsel."

Renumber: subsequent section

14. Page 16.

Following: line 11

Strike: section 12 in its entirety

TASK FORCE PROPOSAL

MINIMUM FEE SYSTEMS (\$100/PWS)

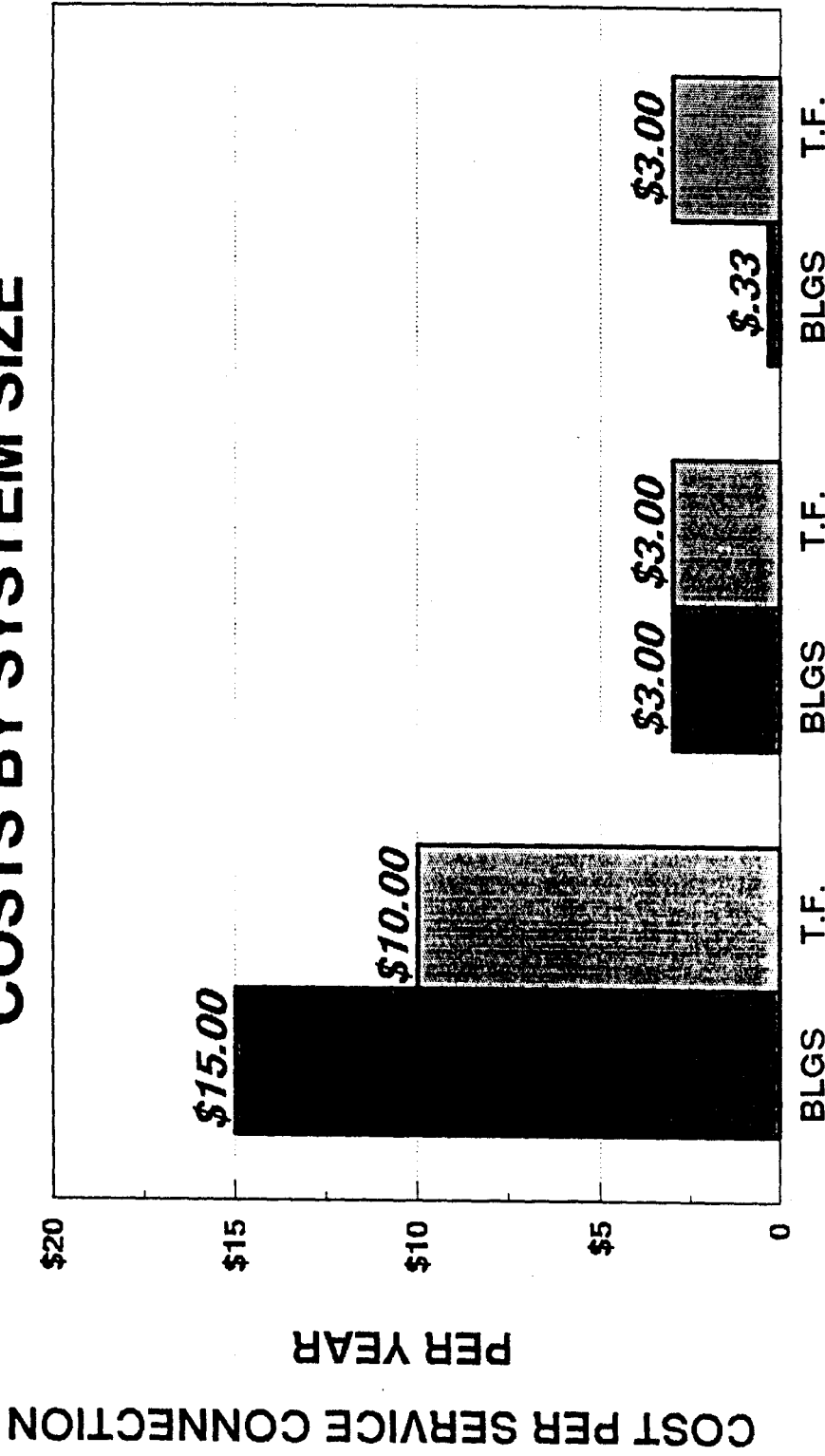
Population	NO. PWS	No. S.C.	\$/S.C./Yr Range	Total
< 50	205	3,376	\$ ^{15¢/mon} 6.00 - 10.00	\$ 20,500
50 - 99	176	4,479	\$ ^{50¢/mon} 3.00/yr ^{6.00/yr}	17,600
Non-Community	1,165			116,500
Non-Transient	212			21,200
SYSTEMS CHARGED AT \$3.00/S.C./YR				\$175,800
100 - 7499	324	69,726	3.00/yr ^{25¢/month}	209,178
7500 - 90000	11	96,175	3.00/yr	288,525
Total				\$673,503

BILLINGS' PROPOSAL

MINIMUM FEE SYSTEMS (\$150/PWS)

Population	NO.		No. S.C.	\$/S.C./Yr Range	Total
	PWS	S.C.			
< 50	205	3,376		\$ 9.00 - 15.00	\$ 30,750
50 - 99	176	4,479		4.54 - 9.00	26,400
100 - 149	77			3.00 - 4.54	11,550
Non-Community	1,165				174,750
Non-Transient	212				31,800
SYSTEMS CHARGED AT \$3.00/S.C./YR					
150 - 7499	247	66,848		3.00	200,544
SYSTEMS CHARGED AT \$7,500					
> 7500	11			.33 - 3.00	82,500
Total					\$558,294

COSTS BY SYSTEM SIZE



BLGS	Population	Total Fee	System Size
25 - 149	> 7,500	\$82,500	LARGE
150 - 7,499	> 7,500	\$288,525	LARGE
25 - 99	150 - 7,499	\$200,544	MEDIUM
100 - 7,499	100 - 7,499	\$209,178	MEDIUM
25 - 149	25 - 149	\$275,250	SMALL
25 - 99	25 - 99	\$175,800	SMALL