

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on March 14, 1991,
at 3:40 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)
Mignon Waterman (D)

Members Excused: Gene Thayer (R)

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-230

Presentation and Opening Statement by Sponsor: Representative Don Larson, District 65, said this bill will allow a fire district to establish capital improvement fund. This allows fire districts to do something they are not specifically authorized to do in the law. County Attorneys are legal counsel for many of these fire districts, and they have said they can not do this without having it specifically stated in the law. So this will clarify the law to allow establishment of a capital improvement fund. As you know, fire trucks are more expensive, and so capital improvements are a major budget item. We ask the committee to consider their ability to generate these capital improvement funds.

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Proponents' Testimony: James Lofftus, President, Montana Fire Districts Association (MFDA) said they have had calls from different fire districts throughout the state saying that the auditors they use are writing them up and telling them they can't do this. Their opinion is that fire districts must have a capital improvement fund to accumulate money to buy fire trucks, fire equipment, hoses, etc. This is a bill that will authorize this. The bill states that the cost of the equipment must exceed \$500,000 and the equipment life expectancy must also exceed 5 years.

Henry Lohrs, Montana State Volunteer Firefighters Association (MSVFA), said their equipment is getting more expensive, and they need another way to have enough money to replace it if an engine blows up or something. These kinds of emergencies can not be anticipated, so if the money was available it would be great. He asked the committee to support HB-602.

Bruce Suenram, Chief Executive Officer, Missoula Rural Fire District, supported this bill.

Lyle Nagel, Montana Fire Chiefs Association, supported this bill.

Gordon Morris, Executive Director, Montana Association of Counties (MACo) endorsed this bill, and testified in favor of it in the House. He asked the committee for favorable consideration.

Roy Cornell, Beaverhead Fire District, supported this bill (Exhibit #1).

Opponents' Testimony: none

Questions From Committee Members:

Senator Bengtson said that this committee has been very generous and allowed bonding, but now you want to have capital improvement funds, too. Where are the checks and balances to protect the fee payers from ever increasing fees? Is this paid by mill levies or fees? Bruce Suenram, MRFD, said that the bonding is checked by the election process. Capital improvements would be subjected to a public hearing process, and then again when the commission sets the levy. Senator Bengtson asked about the apathy of people to run for trustee positions, and what level do you get the voters' attention? Mr. Suenram said that he has wondered how high the levy to vote on would have to be to get the voters to notice. Senator Bengtson asked if there is a limit to the number of mills

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Senator Bengtson asked if there is a limit to the number of mills that can be levied by the fire district? Mr. Suenram said the limit is set by I-105. Senator Bengtson was concerned about the chance of possible abuse. Mr. Suenram said as in all elected offices there is the chance for abuse, but every year there is a trustees election, so they can be replaced.

Senator Eck said that the counties and school districts with elected officials have a lot of caps on how much they can spend. Her concern was where this was going to be codified? Does it apply to all fire districts, volunteer districts. Usually things are codified in several sections of law depending on the type of districts they are? C. Erickson said this is codified in the section on Rural Fire District. It is not codified in the area for Fire Service Areas, this only applies to the rural fire districts. Senator Eck asked if this applied to volunteer districts? C. Erickson said those are volunteers. Senator Eck stated that the others will come in next session.

Senator Vaughn said that Senator Bengtson had asked if there is a limit on the capital improvement fund, and she had not heard a direct answer. Is there a cap on what can be set up for this improvement fund? Representative Larson said that there is not, and Bruce Suenram said the cap is the voter election. He pointed out that water and irrigation districts have the authorization for capital improvement districts. All the other service districts have capital improvement funds.

Senator Hammond stated that voters do not approve an assessment. Representative Larson said that the county commissioners decide. Mr. Suenram said that the fire districts in Montana are so different and this is the complicating factor. We range from large ones like Lockwood with million dollar budgets to small ones like Havre with budgets less than \$10,000. To establish a cap that is equitable is difficult. Our auditor has told us that our capital improvement fund should be about \$250,000, so we can fund the purchases of our apparatus. For a small fire district this would not work.

Senator Bengtson asked what the laws governing capital improvement funds, and what are the restrictions? Can you spend or transfer funds from the capital improvement fund to buy a high priced jeep? Mr. Suenram said the auditor would not allow funds to be transferred somewhere else. Their audit is every year, but it did not think that funds from the capital improvement fund could be transferred to support the regular budget.

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aside funds, aren't they? Isn't this the second bill to legalize what you are already doing? You're a bunch of bandits! Mr. Suenram said MRFD's auditor named a fund "Appreciation and Amortization" and put it in the budget. But other auditors in Ravalli County are raising the red flag, and saying that rural fire districts can't have this money stashed away. We are trying to correct something, and as usual no auditor and county attorney ever agree.

Senator Bengtson suggested that line 11 could be changed to "must" instead of "may", so that it is not permissive. Mr. Morris had found code relating to capital improvement funds. He apologized that the House had not brought this up. He understood this would establish the authority for a capital improvement fund, and that authority would be codified in the rural fire district section of Title 7 as set forth in section 2 of the bill. More importantly, the provisions for regulating the fire district capital improvement funds is in Title 7, Chapter 6, Part 41, part 4134 specifically. "Capital improvement program fund: an amount not to exceed 5% of the money received from, that is part of the a for said all purpose levy may be placed in a separate fund known as the capital improvement fund to be earmarked with the replacement and acquisition of property or equipment costing in excess of \$5,000 with a life expectancy of 5 years or more. Provided that a capital improvement program has been formally adopted by the city, town, or county ordinance." This section of law would govern the rural fire district capital improvement fund just as it would all other county improvement funds. The code goes on to tell how the money in a capital improvement program can be invested. The committee is looking for a limitation, and here is a very clear 5% limitation on how much money can be set aside annually. It is not a significant amount. MACo has considered trying to increase that amount because you do not have an opportunity to build a significant amount of capital.

Senator Bengtson asked 5% of what? Mr. Morris said 5% of their total budget. If you have a \$100,000 budget then 5% could be diverted into a capital improvement fund.

Senator Hammond said this is in the code that controls county funds or agencies, so it is the same across the state? Mr. Morris said yes it is. Senator Hammond clarified that a fire district that crosses two counties would still be the same? Mr. Morris said correct.

Senator Bengtson asked if it would be clearer if "must" was added? Mr. Morris said it was probably unnecessary because the

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fund is and of itself solely used for purposes of purchase acquisition and so on. The "must" would be redundant.

Senator Eck said she would like to see the bill codified in the other section of law. Mr. Lofftus said that the new section 2, line 18 was originally designed to refer to Title 7 and chapter that Mr. Morris cited, and he was not sure why it had been changed to Title 7, Chapter 33, part 21. This could probably be changed back to the what the original section was.

Closing by Sponsor: Representative Larson closed by saying that the codification is pertinent to bring up the limitations on the capital improvement fund. Mr. Morris cited the code on how you develop capital improvement funds. He hoped the committee looked favorably upon the bill. He did not see any difficulty in adding specific instructions in the codification, but it might be redundant.

Senator Bengtson turned the chair over to Vice-Chairman Eleanor Vaughn, so she could go present one of her bills in the House.

HEARING ON HB-791

Presentation and Opening Statement by Sponsor: Representative Steve Benedict, District 64, said this bill accomplishes 2 things. First it will specify the direct supervision by the local sheriff is not necessary over search and rescue operations. The sheriff will be allowed to designate another person to be in charge. An example is when the search and rescue people are conducting a rescue dive to locate the victim of a water accident, the person really in charge is the dive master. Under this bill, the sheriff would be able to designate him as the person in charge on sight. Secondly the language is expanded relative to the sheriff's span of control, so that supervision can be by radio or phone. This language is the same as contained in another section of law, 7-32-216 which deals with reserve deputies. The reason for these changes is to allow coverage of search and rescue people by Workers' Comp while they are engaged in rescue operations for the public authority. The hours these people are actually in service have to be authorized and records kept, which comes under the rules established by the MACo Workers' Comp program.

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Proponents' Testimony: Mike Harrison, Montana Sheriffs' and Peace Officers Association (MSPOA) said the crux of the problem is to allow Workers' Compensation to be put in place for these people, and not to require the direct supervision of the sheriff. This has proven to be totally unworkable in the technical areas like a dive, a mountain climb, some of these types of rescues. Many sheriffs have no expertise in these areas, and they are not the one, in the practical matter, in charge. The thing that is an extension of this is that this does not apply to the necessity. The hours will have to be accounted for, authorized before, so there is knowledge that these people are covered by Workers' Comp while in this search and rescue function. The Workers' Comp people know they are covered. Gordon Morris runs this out of his shop, and a protocol is in place that accounts for the hours, how they are notified, how the hours are kept, and how the premiums are charged. It is the technicalities that #1 the sheriff does not have to be there, and #2. expanding to reasonable span of control which is adopted and approved by Workers' Comp in MACo. We urge the committee's support.

Jay Printz, Sheriff-Coroner, Ravalli County, and also representing the MSPOA, said the whole problem revolves around Workers' Comp issue and their definition of the supervision as it currently is in the statutes. Workers' Comp has ruled that each training mission or actual mission must have the law enforcement in direct supervision of the search and rescue personnel engaged in the operation. That would require placing an officer with each search and rescue team, and expecting him to have direct supervisory control over an area that he may have no expertise in. In addition, most departments do not have the man power to provide an officer for all the required training and team missions. If this supervision question is not modified as purposed here, he feels that search and rescue volunteers will be eliminated because of the inability of the law enforcement agency to meet the current standard of supervision. In addition, counties will be left without the ability to perform this vital function, and the safety of the citizens could be in jeopardy. Law enforcement can not perform the function without search and rescue volunteers. Essentially what we are asking for is for a reasonable standard of supervision, so when we have search and rescue training missions and or actual missions, the sheriff can supervise by a span of control that is reasonable like by radio or telephone. Prior missions must be authorized by the sheriff, and prior training must be authorized and approved by the sheriff. There is no problem of supervisory control. He urged the committee to support this bill.

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Gordon Morris, Executive Director, MACo, and as a Trustee of the MACo Workers' Compensation Joint Powers Insurance Authority that provides coverage for 53 counties, said the previous testimony indicated that this bill is in direct response to the needs of Workers' Comp for search and rescue personnel when they are in fact on a predetermined program under the supervision of the sheriff, or as this bill says, his designee, his span of would be adequate and in reasonable limits. From that perspective, MACo and the Trust would ask for your favorable consideration of HB-791.

Opponents' Testimony: none

Questions From Committee Members:

Senator Kennedy asked Mr. Morris if these volunteers are covered if the sheriff is not there? Mr. Morris said the sheriff has to supervise the mission to be eligible, and they have to be reported as such for payroll purposes. An example of an unfortunate circumstance that arose in Lincoln County was an individual went out on a Saturday afternoon, and engaged in a hiking effort, fell and sustained significant injuries, and this individual tried to claim Workers' Compensation for it. We denied the claim on the basis that we could not ascertain that it was a bonafide search and rescue operation from the stand point that the sheriff knew he was out there. It turned out that the truth was that this person had decided just to go climb rock, and wasn't on a bonafide mission. In order to clarify what has to happen from the sheriff's perspective to guarantee that injuries will be compensated is that they have to be supervised by the sheriff or designee. Like the fire bill heard here before, someone can not just stop at a fire and assume to become a volunteer firefighter or search and rescue person that would be assumed to be covered under Workers' Comp.

Senator Kennedy asked if this is a higher risk for search and rescue versus the sheriff? Mr. Morris said he was not sure. The sheriff rate is \$4.51/\$100 of payroll, so search and rescue would probably be comparable.

Closing by Sponsor: Representative Benedict said he was a faster learner, and he would not try to persuade this committee by telling them how that the House voted overwhelmingly on this bill. He thanked the committee for a favorable hearing, and asked for their concurrence on HB-791.

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HEARING ON HB-706

Presentation and Opening Statement by Sponsor: Representative Ben Cohen, District #3, this bill is an act establishing a licensing process for motor vehicle wrecking facilities and motor vehicle graveyards; requiring the governing body of a county to conduct a hearing; and establish criteria for the decision by the Department of Health and Environmental Sciences to license a facility. At present if a person wants to include a wrecking yard or vehicle graveyard they must be licensed by the DHES. However, that process does not consider the needs, concerns, or desires of the citizens in the county where the vehicle wrecking facility will be located. So the County Commissioners have no opportunity to say anything about it. An example occurred in the area near him, actually in Representative Measure's district. A lovely subdivision was put in with country lake homes, private roads from off a paved county road, a little lake, and these people went through the whole subdivision review. They did everything just right, and put in a really nice subdivision. A fellow got a junk of land real cheap up behind the subdivision, and decided to put in a vehicle wrecking yard. This was an area with master plans, and concern for future development. Everything else around the area is residential. He was able to go through DHES process, and there was nothing that our Commissioners nor the folks living in the neighborhood could do to halt this process. Now we have a very incompatible use. There are regulations about what you can see in a wrecking yard from a county road or state highway, but they do not list a private road or your back or front yard. So now we have a wrecking facility in an inappropriate use and inappropriate spot. This man met the DHES requirements, so he could do it. It is just an incompatible use for the area. This bill basically says that before going through the license process, the people that live in the area should know what is going to be done, and so should the County Commissioners. Let the County Commissioners hold public hearings on it to determine if this is appropriate use in that area. Now in the past people have said if you don't want wrecking yards in then just zone it. Well it is not that easy. Anyone familiar with the zoning process knows this. In our county, we have been trying to do some corridor zoning in hopes that we can prevent inappropriate development with the expansion of Highway 93 through Flathead County. Even this is quite expensive and time consuming. It is very difficult to do county wide zoning, and so what we are looking for is a mechanism to stop this kind of an inappropriate use. We just want to allow public input, commissioners holding hearings, and then the right place can be found. The DHES can then deny the permit for that inappropriate area. Representative Bradley also signed this

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bill. Gallatin County has a terrible problem, worse than the problems in Flathead County.

Proponents' Testimony: Gordon Morris, Executive Director, MACo, said he appeared in support of this bill. Representative Cohen referred to the horrors experienced in Gallatin County. What the bill does simply is to require DHES to notify the property owners, the governing body, the newspapers, and then the county would be required to conduct a public hearing to determine whether or not the proposed facility would significantly affect the life of adjoining landowners, and then adopt a resolution. This is an important step because if the county adopted a resolution opposing the citing of the wrecking facility then the DHES would be barred from proceeding with the issuance of a license. This is very clearly set forth in section 3, Page 2. This is a very sensible solution. Representative Bradley should have been the sponsor because she has been struggling all session to find a bill to put on the consent calendar in the House, and this bill did! This bill got unanimous consent in the House, and he asked the committee to give like consideration in this committee.

Opponents' Testimony: none

Questions From Committee Members:

Senator Hammond asked how long is a license granted for? Jon Dilliard, Program Officer, Motor Vehicle Recycling and Disposal Program at the DHES, said that licenses are renewable at the beginning of each year, as long as the facility continues to comply with the existing regulations it will be renewed. Senator Hammond said this bill will not remove Representative Cohen's problem from that subdivision? Mr. Dilliard said if it is currently licensed it will not be removed. The bill has a grandfather clause, but if they wanted to expand they would have to go through the process in the bill.

Senator Kennedy said the bill should have included racetracks!

Senator Hammond asked Representative Cohen why they could not handle this at the local level? Representative Cohen said they do not have the authority. The County Commissioners are not even notified. Mr Dilliard said that there is no requirement to

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notify the County Commissioners, but the DHES must go through the Montana Environmental Protection process which entails the preparation of an environmental assessment on each facility. By policy of the DHES, county commissioners, county zoners, county health officials, and those involved in the junk vehicle program in the county, and adjoining landowners of the proposed facility are all given a copy of the environmental assessment when it is prepared.

Senator Harding said she appreciates the neighborhoods problem of having something like this in their backyard and the grandfather clause, but she asked if you have a license and need to renew it could you be forced to move your facility? Mr. Dilliard said he understood that the grandfather clause would prevent an existing facility that is renewing its license yearly from going through the hearing process. So existing facilities would not be affected. Senator Harding said they still have to renew every year.

Senator Kennedy asked if there was a definition of noise pollution? Mr. Dilliard said he was not familiar with one in any state law. Senator Kennedy said it is listed as one of the criteria in the bill. C. Erickson said Title 7 has general laws about noise pollution, but no decibel level is defined. She will look for this section.

Senator Vaughn asked if existing facility wants to expand do they go through this? Mr. Dilliard said when a wrecking facility wants to expand beyond their current licensed limit they have to submit an application just like a new one. This bill would then require them to go through the hearing process. Senator Vaughn said if the expansion was rejected it would not affect the original operation. Mr. Dilliard said that was his understanding.

Senator Hammond said the only time he has heard of noise pollution being a consideration is in regards to extension of airport runways in an area with homes. C. Erickson said the statutes talk about airports, motorboats, motorcycles, motor vehicles, railroads, snowmobiles, and loud and unusual noises. Loud and unusual noises are generally involved in disorderly conduct and public use statutes. There is no real definition as far as decibel level. She said city councils have the authority to regulate or prevent or punish loud noises. C. Erickson cited 7-32-4302 and 7-32-2796.

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Closing by Sponsor: Representative Cohen said the concerns expressed about noise pollution is the not the real concern. He has spent time in wrecking yards, and noise is not the major concern. His concern is water pollution. This subdivision is not on public water they have wells. The wrecking facility is uphill from them. The soils are mixed glacier till which is very porous. There are some clays that conduct water well. So the first time the water is inspected there could be a problem. We are in an area where we do not have county wide zoning in place, and this is not an easy thing to implement. There are lots of places that are appropriate for these types of facilities. You don't have to put it where your uncle left you 10 acres. He said he appreciated the opportunity to present HB-791, and he hoped the committee would carefully consider it. Allow our local governments to have this local control over the things that happen in their own backyards.

EXECUTIVE ACTION ON HB-602

Discussion: C. Erickson said that the libraries offered an amendment to exempt them. She said the Legislative Council also had a problem with an issue in this bill. #1. the original bill applied only to county commissioners, but the House amended it to read "local government" which includes cities and towns. So to do this it needs to be codified in the municipal budget law. Secondly, some of these boards and commissions or governing entities have bonding authority. Port and Airport can issue bonds without election approval. The statute for them indicates that the bonds may be repaid with use of tax levies. Her concern is that if these entities have to have their budgets approved, so their taxes to be levied to pay those bonds, would be subject to local government approval. These bill says that even if bonds are issued with tax levies to repay them, the local government might not approve those levies each year to support those bonds. C. Erickson said she could not imagine a local government would do this because it would affect their bond rating, but the possibility exists the way the bill is written. This could make it hard to sell the bonds if the buyers knew that the taxes to repay the bonds are subject to the approval every year of the local governing body. She suggested adding amendment #5 (Exhibit #2). "Tax levies pledged to the payment of principal and interest on bonds issued by a commission, board, or governing entity must be approved by the local government." She added that Gordon Morris, MACo, did not feel this was a problem.

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Senator Beck said that Representative Driscoll had a problem with the general mill for the operation of the port authority. Is there a separation of the mill levy for the repayment of bonds, and the general mill levy for the operation of the port authority? C. Erickson said the statute says that port authorities that the bonds may be repaid from the revenues from revenue bonds, other sources, or they may be repaid by the tax levies authorized by the city and the county for the support of the port authority. The airport language is the same.

Senator Hammond said that the "local government" refers to the County Commissioners? C. Erickson said county or city commission. Senator Hammond asked if she had suggested taking municipalities out of this? C. Erickson said that the municipalities were amended into the bill in the House, but the codification instruction was not amended, so that the law would be amended in the municipal budget law. If you want to leave municipalities in, and she saw no problem with that, but the codification needs to be corrected.

Senator Hammond said that there is a limit on the mills because of I-105, so could this create problems? C. Erickson said port authorities have a limit of 2 mills. Senator Hammond asked if they can adjust the levy or is it the total levy in the county? C. Erickson said no that port authorities can levy 2 mills. Mr. Morris said that Senator Hammond was referring to I-105 provision that taxpayer liability is frozen at the 1986 liability level. This is applicable to counties and like taxing jurisdictions, if the cap is not reached you could increase a levy and offset it with a decrease somewhere else. This is a very real I-105 provision that would be applicable to airport, port, or any other entities. Libraries are outside of that because they are assumed to be a separate taxing jurisdiction all by themselves.

Senator Waterman asked if port authorities' 2 mills are an exemption to I-105? Mr. Morris said they are not. The port authority legislation was adopted at the same time that I-105 provisions were put in there, and it was not exempted from I-105. The exemption is not to have the vote of the people to authorize the mill levy under the provisions of I-105. There is another bill having to do with economic development that is tied to this to some extent. It has an I-105 sunset in there, but it has been amended out in this session. They are still governed under I-105.

Senator Hammond asked if libraries should be exempted because their tax levy would still be involved in the maximum the county to assess? Mr. Morris said he would argue that the libraries,

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according to the AG's opinion that was referred to the other day, are treated as a separate taxing jurisdiction. Understand that you have to have like units to start with, and then you can reduce in one and raise in another. The likeness must be a uniform and constant taxable value. You can't reduce road mills, and increase general fund mills. That would violate I-105. The same thing is true with libraries. You can't increase county general fund, and reduce libraries because the library levy is a county only levy similar to road levies. He would argue that the commissioners could not stay within the provisions of I-105 by using the library levy because it is a levy set and established by the library trustees, and so not under the governing and budgetary supervision authority of the county commissioners. They would only be talking about those budgets, fair, weed, bridge, etc., that they would be able to adjust up or down in order to meet the guidelines of I-105. Senator Hammond said because they were not under the governing bodies control when I-105 took effect? Mr. Morris said no because libraries are a separate taxing entity in and of themselves, like school districts. They are not subject to supervision and control of the mill levies by county commissioners.

Senator Beck asked if under this bill they would be under the scrutiny because school boards are elected officials, but libraries are not? Mr. Morris said that is why the libraries want to be amended out. Senator Beck asked Mr. Morris what he thought of C. Erickson's concern about the bonding? Mr. Morris said he talked to many people including county attorneys, and they did not feel that HB-602 jeopardized the bonding for port or airport authorities. They did not see a problem because bonding is sold on the ability and willingness, of the person presenting the bond, to repay. They did not see the reviewing of the budget to be a problem. If the committee has a problem he would support the amendment.

Amendments, Discussion, and Votes: Senator Beck moved to adopt the libraries amendments. The motion passed. Senator Beck moved to adopt the amendments proposed by Legislative Council Connie Erickson, (Exhibit #2). The motion passed.

Motion: Senator Beck moved to Concur in HB-602 as Amended. The motion carried, and was recorded as a roll call vote. Senator Beck will carry HB-602.

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EXECUTIVE ACTION ON HB-625

Discussion: Katherine Donnelley, Montana Hospital Association explained the amendments that Mae Nan Ellingson had proposed. These amendments were recommendations that the Board of Investments felt they needed in the law to allow them to loan funds to hospital districts. Most of the amendments specify procedures to do this, and one says that loans do not have to be fully secured.

Amendments, Discussion, and Votes: Senator Waterman moved the amendments proposed by the hospital. The vote was unanimous.

Senator Bengtson reported that Senator Gage pulled his requested amendments. He realized that small rural hospitals are facing a crisis, but amending this bill was an attempt to side step I-105. Senator Waterman agreed, and said that Senator Gage had extensive amendments to Representative Nelson's bill.

Senator Harding asked if Senator Gage's amendments would fit into this bill? C. Erickson said yes, they were simply another option of financing for hospital districts by allowing an increase in the mills they can levy. Senator Beck said he had understood it that way, and he said rural hospitals do need some help.

Senator Bengtson said Senator Gage had agreed that if the hospitals get an exemption from I-105 that it would start the ball rolling for all the others wanting to be exempt. The best way to approach this is to repeal I-105. She saw Gary Buchanan, who was one of the big instigators, and he said the message is out there, and possibly the time has come for tax reform. I-105 has made it clear.

Senator Beck asked if anyone thought I-105 would be taken off? No one knew. He added that he had no doubt that every Legislator has priorities on what he would exempt from I-105. He would have a priority list that would include a hospital that would shut down in a particular area. He agreed to leave the bill.

Senator Vaughn added that changes like this could be challenged by the proponents of I-105 when they figured out what we were trying to do.

Motion: Senator Bengtson moved to Concur in HB-625 as Amended. The motion carried, and was recorded as a roll call vote. Senator Bengtson will carry HB-625 as Amended.

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EXECUTIVE ACTION ON HB-230

Motion: Senator Kennedy moved to Concur in HB-230.

Discussion: C. Erickson explained that Senator Eck had requested that codification occur in the county budget law. She defended the Legislative Council because she wrote this bill, and the bill request did not have codification in this second area. She had recommended a limitation, but the bill requester said they did not want any limitations on the bill, so none was put in. The comment that the bill was supposed to have been codified somewhere else is not correct. The request did not have any kind of codification request. She chose where to codify it, and she chose rural fire district law which is the most logical place to put it. She did not want the committee to think that the requester's wishes, and that the Legislative Council arbitrarily chose to codify it somewhere else.

Senator Beck stated that he has never seen a capital improvement funds that didn't have some type of a cap on it. The way this bill reads they could save \$2 million dollars in the fund. Senator Bengtson said this was discussed when Senator Beck had left for a hearing, and it was determined that 5% of the budget can be put into the fund each year. Senator Beck still questioned how high the fund can grow at 5%/year, but it does not say when the funds need to be spent.

C. Erickson said the general county budget law reads "authorization to establish a capital improvement fund; levy for capital improvement fund; money for the capital improvement fund is to be derived from the multiple levies authorized by a statute and appropriated in the capital improvement fund. However, no more than 10% of the money derived from any one levy may be appropriated to the capital improvement fund." So she felt that in case of a rural fire district, the county commissioners levy the taxes not the fire district. Also the rural fire district law concerned with budgeting says that the budget laws of the county apply to the budgets of the rural fire districts.

Senator Vaughn stated no more than 5% of the budget of 10% of the levy. C. Erickson said that was in municipal law. Senator Beck said county law says that the capital improvement can not exceed 10% of the levy? C. Erickson said that only 10% of the levy can be appropriated to the capital improvement fund. Senator Beck asked if she knew of any cap on the fund? Could we put it in the

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bill that it is the authority of the county commissioners to put a cap on it in their area?

Gordon Morris, MACo, said he scrambled at the hearing of this bill to find the capital improvement fund, and since he has found the county section. It is 10%. He wanted to explain how this works. In a county context, and this would be the same for a fire district, they can accumulate 10% of each and every levy for the county into a capital improvement fund. So you take 10% of the general fund, 10% of the fair fund, etc. and put it into a capital improvement fund. This can be done, and the concerns of a cap are addressed by the fact that the capital improvement fund has to repay the general fund, the weed fund, the fair fund, etc. by way of monies to be used for capital improvements for that specific fund within a ten year period. The fund is intended to accumulate over the course of 10 years, and every fund that has put money in has to get its money back within that 10 years for some available project. Looking at the fire district, the maximum amount they could accumulate would be 10%/year for a total of 10 years. At that point they would have to put this money into a major capital improvement.

C. Erickson said the code is 7-6-2221, which is the limitations on capital improvement funds, and 7-33-2105 which is powers and duties of rural fire district trustees says "the budget laws relating to county budgets shall as far as applicable apply to fire districts."

Senator Beck asked Mr. Morris if this would be 10%/year for 10 years, or 100% of what you actually levy? This would be the cap. Mr. Morris said this would be the cap in that fund over 10 year time span. He said you would assume that you might accumulate money sufficient to make a purchase or do a project before the 10 year time period. You would draw the fund down, and so you would then continue to build it. Senator Beck asked if this was levied for ten years, and 1/4 of it was spent, can only the 1/4 be replaced or could the fund start the 10 year cycle again? Mr. Morris thought you would start the 10 year cycle again. If you let the fund grow for 10 years, spent down the equivalent of 4 years, then you could only grow it back the same years to get it to the maximum allowed. Senator Beck stated that the actual maximum is 10 x 10, or 10% for 10 years. Mr. Morris said it is 10 x 10% of the adopted budget is the maximum, and it is just about 100%.

Senator Hammond said Mr. Morris said the "budget", but C. Erickson referred to the levy? Mr. Morris said it is the levy, but understand how that works in terms of the budget. He added

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SENATE LOCAL GOVERNMENT COMMITTEE

March 14, 1991

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that from the county perspective, this would be a very useful section of law, but counties do not have the luxury of setting aside 10% of the budget by virtue of the number of mills that you will assess, to put it into a capital improvement fund. What they do when they do the budget, it go across the tax levy requirement schedule; appropriations, cash, non-tax revenue; then you calculate the number of mills. The equivalent of 10% needed for a capital improvement is added, but counties at a 25 mill levy do not have the additional 10% that could be levied for capital improvement. This has been a county predicament for several years.

Senator Beck said the bill says "the capital must exceed \$500,000 over 5 years", and he thought there would be purchases in a fire district that would be less than that amount that would still be classified as a capital outlay. Mr. Morris said the distinction needs to be made between a capital improvement and a capital outlay. Typically, in a capital improvement program there are things like vehicle replacements schedule, a long range building program. What Senator Beck talked about equipment would be purchases defined in terms of fixed dollar amounts that would not exceed this amount. Otherwise they would be capital equipment. A cat tractor is a capital equipment. Senator Beck said he understood the definition.

C. Erickson said the \$500,000 language comes right from the general county statute.

Recommendation and Vote: The motion was made earlier by Senator Kennedy to Concur in HB-230. The motion carried, and was recorded as a roll call vote. Senator Kennedy will carry HB-230.

Senator Bengtson took over the chair from Vice-Chairman Eleanor Vaughn.

SENATE LOCAL GOVERNMENT COMMITTEE

March 14, 1991

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EXECUTIVE ACTION ON SB-407

Senator Harding moved to take SB-407 off the table. A roll call vote was taken, and the motion passed 8 to 1. Senator Hammond voted against the motion.

Amendments, Discussion, and Votes: Senator Harding said she whole-heartedly felt that we need state primacy, and Senator Waterman worked very hard on this and knew what she was talking about. Senator Harding she has not been against the bill, but the amount of money is the problem that troubled everyone. She is not in favor of regulations, but it is so much better to have it at the state level instead of the federal level. She offered an amendment to the amendment #8 to change the fees to \$2/hookup instead of \$3/hookup (Exhibit #4). 4). She said the amount of money is more than is actually needed, and this amendment cuts that amount.

C. Erickson went over the previously adopted amendments to SB-407 (Exhibit #5). She then explained where Senator Harding's amendment would apply. There is no upper level cap.

Senator Harding said if there are just 6 or 7 water users they have to pay \$100? C. Erickson said if the system meets the criteria of a public water system, but this amount is too small.

Senator Beck asked if the adopted amendments were all the ones proposed? He thought he didn't move the fees? C. Erickson said the "adopted" amendments sheet is a merged copy of all amendments to date on SB-407. The fees were adopted the day the bill was tabled, and so she put them into #8 were previous amendments simply stated "language about fees".

Senator Bengtson asked what Senator Harding's amendment would generate in fees? Senator Beck said it would be about 1/3 less. Senator Waterman asked if Senator Harding had a proposal to make up the 1/3 loss? Senator Harding said since she has been on Long Range Building with all these people wanting help with their water quality that this needs to come from the R.I.T. funds. That is what they are there for. The only bad thing, the R.I.T. funds have been approved for this year, so the funds would not be available this biennium. Senator Waterman said the Task Force considered all sorts of funding including the R.I.T. funds. They knew they could not use the R.I.T. funds this biennium. So this amendment would reduce the program by 1/3 or making up the 1/3 from the General fund. Senator Harding said she did not understand why the R.I.T. funds were not considered? Senator

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SENATE LOCAL GOVERNMENT COMMITTEE

March 14, 1991

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Waterman said they did, but they chose fees instead.

Dan Frazer, DHES, said the task force felt that all available funding including R.I.T. and General Fund, but they felt they were spoken for. They felt this was a public health program that has been around since 1907, and needed to be kept. Nobody liked the idea of funding with fees. They felt this was the only option.

Senator Hammond said that the R.I.T. funds are the ones that are helping improve water systems now, and they shouldn't be used for a regulation program. Senator Bengtson said the program should be downscaled.

Senator Beck asked what the DHES could do with \$2/hookup? Dan Frazer said they could live with it. They do not know how collectible these fees will be. The \$3/hookup was the maximum, and he felt that the program would cost over \$2 based on 1989 dollars, so that is why they set the maximum at \$3. The bigger systems will still pay the biggest portion of the funding. If you limit it to \$2 we will still retain primacy, but they will probably not be able to implement the same kind of program that the task force recommended. We would be within the ball park.

Senator Bengtson asked Joe Steiner from Billings to respond to this change in fees? Mr. Steiner said their position on the bill was in the absence of a fee to present "a reasonable fee based on actual services provided". The \$2/hookup is not what we consider a reasonable amount. This will be up to the DHES to set the actual fee after the bill has passed. Senator Bengtson asked if opponents still had room to negotiate? Mr. Steiner said in the public hearing process they could.

Senator Waterman said she appreciated the work the committee has done on this, and the DHES willingness to compromise on the fees. She is concerned that the DHES has said that they will try to hold the fee down, and may not use the whole \$3. The hearing process will allow changes in the structure of the fee if it is brought out to be appropriate. She is concerned that the ultimate effect could be that we would be back to option #2, and what the cutbacks are on are the very things that she likes about the state program like operator certification, assessments, training, and working with small systems to provide expertise. Quite frankly, it is great for Helena or Billings because we do not have to worry because our systems have the expertise. They have a staff in Billings that can handle this, but she is concerned about the small rural communities that don't have staff on board. They rely on the DHES, and this staff that helps the

LG031491.SM1

small rurals will be cut. So selfishly she could do this and save her taxpayers some money, but she is concerned about the small areas, and so she will oppose this amendment to the amendment.

Senator Bengtson said that there is a lot of expertise in these small rural systems. They know how to do it, they just need the money to do it. She called on Ray Wadsworth, Montana Rural Water Users Association, to expand on this. Mr. Wadsworth said the expertise provided by the DHES is different than the expertise in the field. DHES handles new development, and all the planning involved in those. We support primacy. Our people did not have time to vote on the fees, but we do not want to lose primacy, so we will go along with the fees. The DHES needs additional money to monitor what the EPA has said they need to monitor.

Senator Beck said the DHES said the \$3/hookup was a maximum, and he suggested to Senator Waterman that the \$2/hookup will make the bill fly, and so she should support it.

The question on the motion to amend the amendment from \$3/hookup down to \$2/hookup was called for. The motion was recorded as a roll call vote. It passed 6 to 3. Senators Eck, Thayer, and Waterman voted against.

Motion: Senator Harding moved to Do Pass SB-407 as amended. The motion carried 7 to 2, and was recorded as a roll call vote. Senators Thayer and Hammond voted against.

ADJOURNMENT

Adjournment At: 5:30 p.m.


ESTHER BENGTSON, Chairman


JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

LG031491.SM1

DATE MARCH 14, 1991

COMMITTEE ON SENATE LOCAL GOVERNMENT

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
JAY PRITZ	MT. Sheriffs & Peace Officers Assoc.	HB 711	X	
Henry E. Lohr.	MT. St. Vol Firefighters Assn	HB 230	X	
Roy Cornell	Beaverhead Fire Dist.	HB 230	X	
Weldine Schleisinger	MT. LIBRARIAN ASSOC.	HB 602		
Donna Jensen	DHE S	SB 407	X	
Richard Miller	MT State Library Comm.	HB 602		
Donna Jensen	MT Water Quality Cn.	SB 407	X	
Lyle Nagel	MT. St. Vol Firefighter Assn	HB 230	X	
JAMES A. LOFTUS	MT. St. Fire Chiefs Assn	HB 230	X	
Bruce Sueman	NIT FIRE DIST ASSC	HB 230	X	
Gordon Morris	MT. RURAL FIRE DIST	HB 230		
Howard W. Lee	MTA	230, 706 791	✓	
Tom Harnish	Electric & Comm.	230, 706 791	✓	
Ray Wadsworth	MT. Sheriffs & Peace Officers	791	✓	
JOE STEINER	MT Rural Water	407	L	
	CITY OF BILLINGS	407		—

(Please leave prepared statement with Secretary)

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

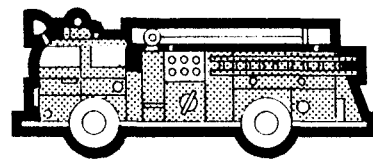
DATE 3-14-91

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.

**DILLON
VOLUNTEER
FIRE
DEPARTMENT**



P.O. Box 702
DILLON, MONTANA 59725

March 6, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1

DATE 3-14-91

BILL NO. HB-230

Esther Bengtson, Chairman
Local Government Committee
Montana Senate
Helena, MT 59620

RE: House Bill 230 Enabling Fire Districts to Maintain
Capital Reserves.

Dear Senator

Since I am unable to attend hearings Friday to support House Bill 230 I offer this written support of the bill. Fire Districts need capital reserves both to replace equipment that costs upward of \$200,000 (for an engine) or for emergency repairs to existing apparatus they probably cannot afford to replace on frozen mill levies set by I-105. No private sector business can operate efficiently without a fund to deal with contingencies not foreseen in the budget like equipment breakdown or major loss. Also, replacement of very expensive apparatus requires long term funding and planning or even a bond issue which Fire Districts are also not permitted to use. Certainly emergency response outfits should be given this capability that is already provided to other special districts and to other governmental entities!

A state auditor told me recently that districts faced this limitation and that although most of those he audited did so any way he was forced to write up the act as a violation. He also said his office realized it was a necessary part of doing business and that enforcement was not taken very seriously. He suggested that it was a problem that need legislative attention. In short, this is one of those situations that forces honest people to break the law!

My district managed to save money on a very meager mill levy for several years with the hope of replacing its aging fire truck someday. Instead it spent about half of its \$20,000 to repair a major engine failure and relined the rusted tank since there was no hope of replacing the unit at today's prices. If the "illegal" fund had not existed we would have been out of the firefighting business until some other means of funding could have been found.

You have the chance to correct a long-standing problem for fire districts with the passage of this bill. I ask that your committee give this bill a "Do Pass" recommendation and support the bill in the Senate. I thank you for your time and attention and your service to the State Of Montana!

Sincerely,

A handwritten signature in cursive script that reads "Roy Cornell".

Roy Cornell, Fire Chief and
Secretary of Beav'd Fire District #2

ROY CORNELL, FIRE CHIEF

JIM WATKINS, SECRETARY

MIKE SHAFER, ASSISTANT FIRE CHIEF

JIM ANDERSON, TREASURER

Amendments to House Bill No. 602
Third Reading Copy

Requested by Senator Bengtson
For the Committee on Local Government

Prepared by Connie Erickson SENATE LOCAL GOVT. COMM.
March 14, 1991

EXHIBIT NO. 2
DATE 3-14-91
BILL NO. HB-602

1. Title, line 7.

Following: "ENTITY"

Insert: ", EXCEPT A BOARD OF TRUSTEES OF A PUBLIC LIBRARY,"

2. Title, line 9.

Following: ";

Insert: "PROVIDING AN EXEMPTION FOR TAXES LEVIED FOR BOND
PAYMENTS;"

3. Page 1, line 14.

Following: "commissions"

Insert: "-- exemption for bonds"

Following: "."

Insert: "(1)"

4. Page 1, line 16.

Following: "entity"

Insert: ", except a board of trustees of a public library,"

5. Page 1.

Following: line 19

Insert: "(2) Tax levies pledged to the payment of principal and
interest on bonds issued by a commission, board, or
governing entity must be approved by the local government."

6. Page 1, line 20.

Following: "."

Insert: "(1)"

7. Page 1.

Following: line 23

Insert: "(2) [Section 1] is intended to be codified as an
integral part of Title 7, chapter 6, part 42, and the
provisions of Title 7, chapter 6, part 42, apply to [section
1]."

Amendments to House Bill No. 625
Third Reading Copy

Requested by Senator Bengtson
For the Committee on Local Government

Prepared by Connie Erickson
March 15, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 3

DATE 3-14-91

BILL NO. HB-625

1. Title, line 7.

Strike: "MEANS OF FULLY SECURED TRANSACTIONS"

Insert: "ISSUING NOTES"

2. Title, line 8.

Strike: "AND"

Insert: ", "

Following: "7-34-2122, "

Insert: "AND 7-34-2131, "

3. Page 4, lines 14 and 15.

Strike: "its" on line 14 through "transaction" on line 15

Insert: "notes"

4. Page 4.

Following: line 25

Insert: "Section 3. Section 7-34-2131, MCA, is amended to read:

"7-34-2131. Hospital district bonds and notes authorized.

(1)(a) A hospital district may borrow money by the issuance of its bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

~~(2)(b)~~ The amount of bonds issued for such purpose and outstanding at any time may not exceed 22.5% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds.

~~(3)(c)~~ Such bonds shall be authorized, sold, and issued and provisions made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of school districts by Title 20, chapter 9, part 4.

(2)(a) A hospital district may borrow money by the issuance of notes to provide funds to finance the costs described in subsection (1) and to finance the working capital requirements of the district. The notes must be authorized and in a form and terms prescribed by a resolution adopted by the board of trustees. The notes must mature over a term not to exceed 15 years.

(b) The principal and interest on the notes must be paid from the taxes levied pursuant to 7-34-2133 and 7-34-2134, exclusive of the taxes levied to pay bonds issued in accordance

with subsection (1), and all other revenue of the district. The annual amount of principal and interest payable on notes in any fiscal year must be included in the district's budget for that year.

(c) The notes 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 taxes and revenue of the district, or either of them.

(d) Notes may not be issued unless the projected annual revenue of the district, including the taxes levied pursuant to 7-34-2133 and 7-34-2134 but exclusive of the taxes levied to pay bonds, is at least equal to the sum of the 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.

(4)(3) Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Amend Senate Committee on Local Government amendment dated March 8, 1991, as follows:

Amendment No. 8

In Insert, following: "is"

Strike: "\$3"

Insert: "no more than \$2"

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 4

DATE 3-14-91

BILL NO. SB-407

Adopted

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.

5

DATE

3-14-91

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 FOR 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.

Following: line 3

Insert: "The legislature recognizes that an economic hardship may be imposed on a public water supply system in order for that system to be brought into 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: "-- opportunity for appeal"

8. Page 9, line 24.

Strike: "must be based on the number of connections"

Insert: "is \$3 for each service connection"

9. Page 10.

Following: line 1

Insert: "(2) Public or private water supply systems in a municipality 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 allegation 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 provided for 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, part 6, apply to a hearing under [section 4] or this section."

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

Amendments to Senate Bill No. 407
First Reading Copy

For the Committee on Local Government

Prepared by Connie Erickson
March 18, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 5a

DATE 3-14-91

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 FOR APPEAL OF THE FEE ASSESSMENT; ALLOWING A MUNICIPALITY TO RAISE WATER RATES TO COVER COSTS ASSOCIATED WITH FEES WITHOUT A PUBLIC HEARING;"

3. Title, lines 21 through 23.

Strike: "ESTABLISHING" on line 21 through ";" on line 23

Insert: "AND"

4. Title, line 24.

Following: "SECTIONS"

Insert: "69-7-111,"

5. Title, line 25.

Strike: "; AND PROVIDING AN EFFECTIVE DATE"

6. Statement of intent, page 2, line 14.

Following: "."

Insert: "It is the intent of the legislature that the rules establish a reasonable fee schedule that approximates the department's actual and necessary costs."

7. Page 3.

Following: line 3

Insert: "The legislature recognizes that an economic hardship may be imposed on a public water supply system in order for that system to be brought into 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."

8. Page 9, line 19.

Following: "fees"

Insert: "-- opportunity for appeal"

9. Page 9, line 24.

Strike: "must be based on the number of connections"

Insert: "is no more than \$2 for each service connection"

10. Page 10.

Following: line 1

Insert: "(2) Public or private water supply systems in a municipality may raise the rates to recover costs associated with the fees prescribed in this section without the public hearing required in 69-7-111."

Re-number: subsequent subsections

11. 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 allegation 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 provided for in subsection (5)(a)."

12. Page 12, line 13.

Strike: "\$1,000"

Insert: "\$500"

13. Page 12.

Following: line 16

Insert: "(7) The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part 6, apply to a hearing under [section 4] or this section."

14. Page 14, lines 7 and 8.
Strike: "sanitation" on line 7 through "[section 10]" on line 8
Insert: "state general fund"

15. Page 14, lines 21 and 22.
Strike: "sanitation" on line 21 through "[section 10]" on line 22
Insert: "state general fund"

16. Page 15, lines 17 and 18.
Strike: "and" on line 17 through "[section 10]" on line 18

17. Page 15, line 19 through page 16, line 3.
Strike: section 10 in its entirety
Renumber: subsequent sections

18. 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 sections

19. Page 16, line 4.
Strike: "(1)"

20. Page 16, line 9.
Strike: subsection (2) in its entirety

21. Page 16.

Following: line 11

Strike: section 12 in its entirety

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-14-91 Bill No. HB-230 Time 5:09

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER		didn't hear Bill
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concur in HB-230
Senator Kennedy will carry

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-4-91 Bill No. SB-407 Time 5:10

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 take SB-407 as amended
off the table

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date _____

Bill No. SB-407 Time 5:29

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 amend
#8 to read "not more than #2"

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-14-91 Bill No. SB-407 Time 5:30

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 Do Pass on SB-407 as
amended.

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 14 day of MARCH, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: SB-407

Action: MOTION TO TAKE SB-407 OFF THE TABLE

Signature

Esther G. Bengtson

SB 3/15
11:15

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 15, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 605 (third reading copy - blue) respectfully report that

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 15, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 602 (third reading copy - blue), respectfully report that House Bill No. 602 be amended and as so amended be concurred in:

1. Title, line 7.

Following: "ENTITY"

Insert: ", EXCEPT A BOARD OF TRUSTEES OF A PUBLIC LIBRARY,"

2. Title, line 9.

Following: ";

Insert: "PROVIDING AN EXEMPTION FOR TAXES LEVIED FOR BOND PAYMENTS;"

3. Page 1, line 14.

Following: "commissions"

Insert: "- exemption for bonds"

Following: ".

Insert: "(1)"

4. Page 1, line 16.

Following: "entity"

Insert: ", except a board of trustees of a public library,"

5. Page 1.

Following: line 19

Insert: "(2) Tax levies pledged to the payment of principal and interest on bonds issued by a commission, board, or governing entity must be approved by the local government."

6. Page 1, line 20.

Following: ".

Insert: "(1)"

7. Page 1.

Following: line 23

Insert: "(2) [Section 11 is intended to be codified as an integral part of Title 7, chapter 6, part 42, and the provisions of Title 7, chapter 6, part 42, apply to [section 11.]"

(b) The principal and interest on the notes must be paid from the taxes levied pursuant to 7-34-2133 and 7-34-2134, exclusive of the taxes levied to pay bonds issued in accordance with subsection (1), and all other revenue of the district. The annual amount of principal and interest payable on notes in any fiscal year must be included in the district's budget for that year.

(c) The notes 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 taxes and revenue of the district, or either of them.

(d) Notes may not be issued unless the projected annual revenue of the district, including the taxes levied pursuant to 7-34-2133 and 7-34-2134 but exclusive of the taxes levied to pay bonds, is at least equal to the sum of the 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.

(4)(3). Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Signed: _____
Esther G. Bengtson, Chairman

3-15-91
AmJ. Coord.

Sec. of Senate

SENATE STAFFING COMMITTEE REPORT

Page 1 of 1
March 19, 1991

MR. FREESTON:

We, your committee on behalf of the Senate, having had under consideration House Bill No. 239 (third reading copy) (H.R. 239), respectfully report that House Bill No. 239 be approved so

Page 1
Eleanor Dumbin, Vice Chairman

App. Coord.

Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-14-91 Bill No. HB-602 Time 4:45

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON		
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 Concur in HB-602 as
Amended.

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 3-14-91 Bill No. HB-625 Time 4:55

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 Concure in HB-625 as
Amended.
Bengton will carry

TASK FORCE PROPOSAL

MINIMUM FEE SYSTEMS (\$100/PWS)

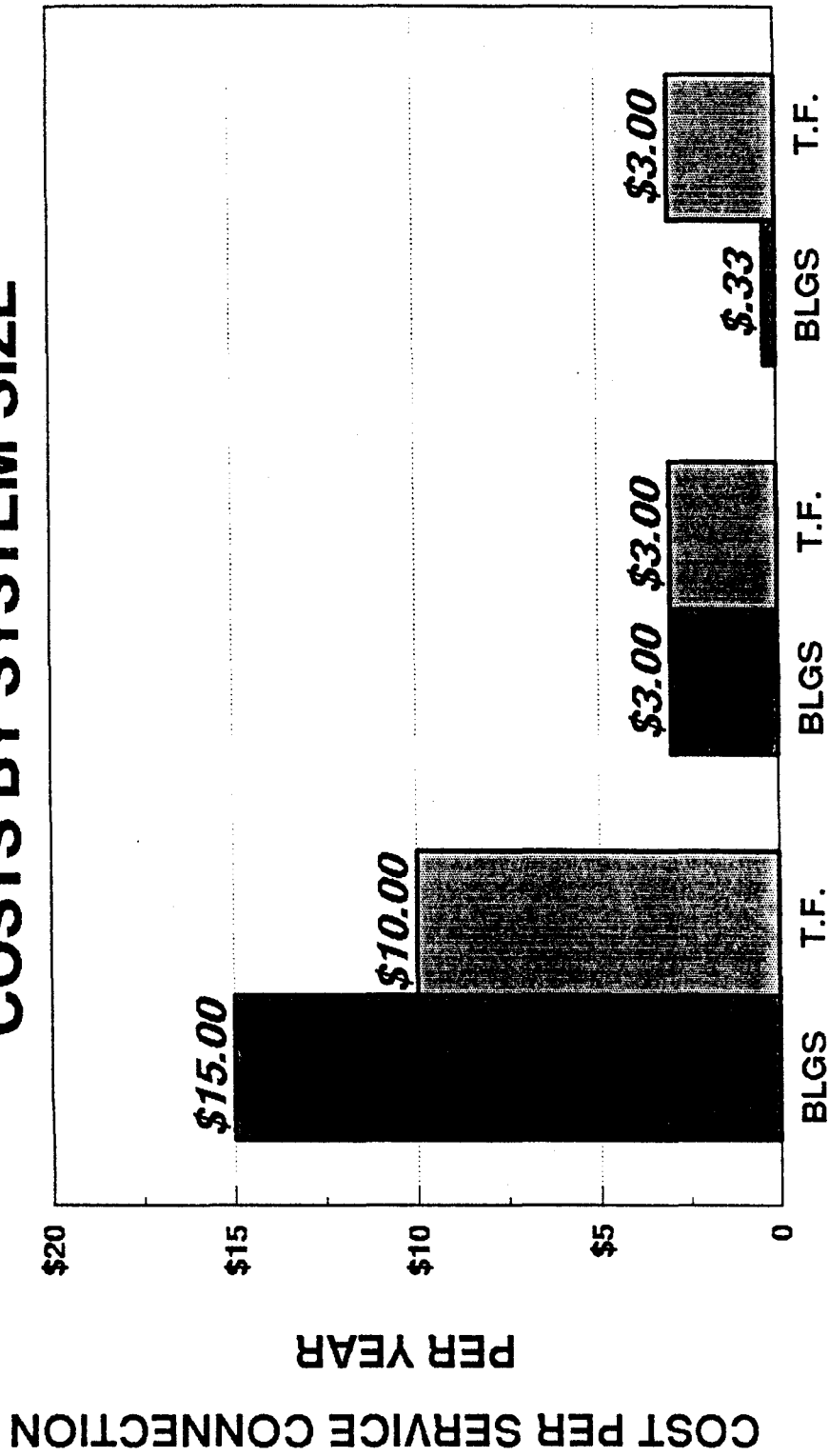
Population	NO. PWS	No. S.C.	\$/S.C./Yr Range		Total
< 50	205	3,376	\$ 6.00 -	10.00	\$ 20,500
50 - 99	176	4,479	3.00 -	6.00	17,600
Non-Community	1,165				116,500
Non-Transient	212				<u>21,200</u>
SYSTEMS CHARGED AT \$3.00/S.C./YR					\$175,800
100 - 7499	324	69,726	3.00		209,178
7500 - 90000	11	96,175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

BILLINGS' PROPOSAL

MINIMUM FEE SYSTEMS (\$150/PWS)

Population		NO. PWS	No. S.C.	\$/S.C./Yr Range	Total
< 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
					<u>\$275,250</u>
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



LARGE

> 7,500
\$82,500
> 7,500
\$288,525

MEDIUM

150 - 7,499
\$200,544
100 - 7,499
\$209,178

SMALL

25 - 149
\$275,250
25 - 99
\$175,800

BLGS

T.F.

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 18, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 407 (first reading copy - white), respectfully report that Senate Bill No. 407 be amended and as so amended do pass:

1. Page 1.

Following: line 2

Insert: "BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES"

2. Title, line 18.

Following: ";

Insert: "PROVIDING FOR APPEAL OF THE FEE ASSESSMENT, ALLOWING A MUNICIPALITY TO RAISE WATER RATES TO COVER COSTS ASSOCIATED WITH FEES WITHOUT A PUBLIC HEARING;"

3. Title, lines 21 through 23.

Strike: "ESTABLISHING" on line 21 through ";" on line 23

Insert: "AND"

4. Title, line 24.

Following: "SECTIONS"

Insert: "69-7-111,"

5. Title, line 25.

Strike: "; AND PROVIDING AN EFFECTIVE DATE"

6. Statement of Intent, page 2, line 14.

Following: ".

Insert: "It is the intent of the legislature that the rules establish a reasonable fee schedule that approximates the department's actual and necessary costs."

7. Page 3.

Following: line 3

Insert: "The legislature recognizes that an economic hardship may be imposed on a public water supply system in order for that system to be brought into compliance with state and federal public water supply laws and that this hardship may be further increased by the levy 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."

8. Page 9, line 19.

Following: "fees"

Insert: "... opportunity for appeal"

9. Page 9, line 24.

Strike: "must be based on the number of connections"

Insert: "is no more than \$2 for each service connection"

10. Page 10.

Following: line 1

Insert: "(2) Public or private water supply systems in a municipality 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

11. 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 allegation 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 provided for in subsection (5)(a)."

12. Page 12, line 13.

Strike: "\$1,000"

Insert: "\$500"

- (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 sections

19. Page 16, line 4.
Strike: "(1)"

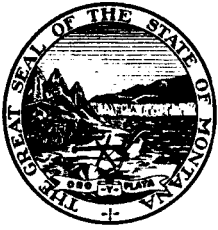
20. Page 16, line 9.
Strike: subsection (2) in its entirety

21. Page 16.
Following: line 11
Strike: section 12 in its entirety

Signed: 
Esther G. Bengtson, Chairman

191 3-18-91
And. Coord.

SB 3-18-91 2 500
Sec. of Senate



The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE STEVE BENEDICT

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
P.O. BOX 668
HAMILTON, MONTANA 59840

COMMITTEES:
BUSINESS & ECONOMIC DEVELOPMENT
EDUCATION
LABOR

HOUSE BILL 791

THIS BILL IS TO ACCOMPLISH TWO THINGS:

FIRST, IT WOULD SPECIFY THAT DIRECT SUPERVISION BY THE LOCAL SHERIFF IS NOT NECESSARY OVER SEARCH AND RESCUE OPERATIONS. THE SHERIFF WILL BE ALLOWED TO DESIGNATE ANOTHER PERSON TO BE IN CHARGE. AN EXAMPLE OF THIS IS WHEN THE SEARCH & RESCUE PEOPLE ARE CONDUCTING A RESCUE DIVE TO LOCATE THE VICTIM OF A WATER ACCIDENT. THE PERSON WHO IS REALLY IN CHARGE IS THE DIVE MASTER, AND THE SHERIFF WOULD BE ABLE TO DESIGNATE HIM AS THE PERSON IN CHARGE.

SECOND, THE LANGUAGE IS EXPANDED RELATIVE TO THE SHERIFF'S SPAN OF CONTROL, SO THAT SUPERVISION CAN BE BY RADIO OR PHONE. THIS LANGUAGE IS EXACTLY THE SAME AS IN ANOTHER SECTION OF LAW, AND I REFER YOU TO 7-32-216 WHICH DEALS WITH RESERVE DEPUTIES.

THE REASONS FOR THESE CHANGES ARE TO ALLOW COVERAGE OF SEARCH AND RESCUE PEOPLE BY WORKERS COMP INSURANCE, WHILE THEY ARE ENGAGED IN RESCUE OPERATIONS FOR THE PUBLIC AUTHORITY. THE HOURS THESE PEOPLE ARE ACTUALLY IN SERVICE HAVE TO BE AUTHORIZED AND RECORDS KEPT, WHICH COME UNDER THE RULES ESTABLISHED BY THE MACO WORKERS COMP PROGRAM.