

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN WILLIAM BOHARSKI**, on February 28, 1995, at 3:00 P.M.

ROLL CALL

Members Present:

Rep. William E. Boharski, Chairman (R)
Rep. Jack R. Herron, Vice Chairman (Majority) (R)
Rep. David Ewer, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. Matt Brainard (R)
Rep. Matt Denny (R)
Rep. Rose Forbes (R)
Rep. Antoinette R. Hagener (D)
Rep. Bob Keenan (R)
Rep. Linda McCulloch (D)
Rep. Jeanette S. McKee (R)
Rep. Norm Mills (R)
Rep. Joe Tropila (D)

Members Excused: None

Members Absent:

Rep. Shiell Anderson
Rep. John Bohlinger
Rep. Debbie Shea
Rep. Diana Wyatt

Staff Present: Bart Campbell, Legislative Council
Evelyn Burris, Committee Secretary

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

Committee Business Summary:

Hearing: SB 2; SB 8; SB 58; SB 60
Executive Action: None

HEARING ON SB 58

Opening Statement by Sponsor:

SEN. GARY FORRESTER, SD 8, Billings, said this is an act revising reporting requirements for volunteer fire companies. This is a MACO bill. The Yellowstone County emergency services director saw an inconsistency in the law and this bill would allow two

ways for fire companies to be authorized. They would file with the county clerk, the other would allow a copy of a certificate.

Proponents' Testimony:

Sandy Oltzinger, Montana Association of Counties (MACO), distributed copies of Resolution 94-40 which supports SB 58 and she also voiced their support of this bill. **EXHIBIT 1**

Charles Brooks, Yellowstone County Commissioners, Billings, said they are a member of MACO and stated their support of SB 58.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. JOE TROPILA asked **Ms. Oltzinger** if the certificate from the state is a certified copy that is filed with the state. She responded she would get that information from **Gordon Morris**.

REP. BOB KEENAN referred to Line 20, Page 1 and asked what a certificate member is. **Mr. Gordon Morris, Director, (MACO)** responded that it means they have to be a certified member of a company to be in a voluntary company.

REP. DAVID EWER said the company size cannot be more than 28. There is an annual certification under the law as far as who is in it and the hours they work. It does have to relate to the pension benefits under the volunteer firefighters compensation act.

Closing by Sponsor:

The sponsor closed and said Linda King from the Senate committee made the corrections and no one is excluded out of the pension plan.

HEARING ON SB 60

Opening Statement by Sponsor:

SEN. BRUCE CRIPPEN, SD 10, Billings, said this bill is at the request of the Montana Sheriff Peace Officers Association. This is an act providing that certain county improvement districts may declare bankruptcy under federal municipal bankruptcy law; providing that counties may not declare bankruptcy. In the past, Yellowstone County has considered some types of consolidation and parts of it would include consolidation of the law enforcement agency. Under the present law, the job tenure rights of the police officers are protected but not for the deputy sheriff. **SEN. CRIPPEN** explained the bill.

Proponents' Testimony:

Kathy McGowan appeared on behalf of the **Montana Sheriff and Peace Officers Association** and said this bill enables deputy sheriffs to be put on a level playing field with police officers in the event there is a consolidation. **Ms. McGowan** asked for the committee's support.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

CHAIRMAN BOHARSKI noted that by doing this, they could reduce the number of employees, but who is the first to go and who is protected more. **Ms. McGowan** responded if this bill passes, no one will be protected more than anyone else, they will be equal as far as the law enforcement aspect is concerned. The governing body will have the say and seniority will determine. The way the law is now, deputy sheriffs have no standing and they would be out. These specific policies are addressed in the consolidation section of the law as to how they would go about reducing.

CHAIRMAN BOHARSKI asked if by putting the language into this section of the law are we granting some other type of protection to the employees, or some change whereby later other job protection measures kick in. **Mr. Morris** said the bill parallels the statutes that serve the city and police officers on the effect of consolidation and nothing else would transpire.

CHAIRMAN BOHARSKI gave the scenario that if Flathead County decided to consolidate the city police and the county sheriff departments and the police officers in Kalispell made 50% more in wages, then when the deputy sheriffs and the two local governments combined in an effort to save the most amount of money, and they would have to lay off six from the police department because that is where they will get the most cost savings, he asked if they can they do that or is there a structure they both fall under. **Mr. Morris** responded they have not experienced where they had a city-county full consolidation. In his opinion, no one is going to be viewed as having been given a guaranteed right of tenure in the newly created department. "Last in would be the first out" under any combining of personnel.

Closing by Sponsor:

The sponsor closed and said the union contract will not be changed but in negotiations, in putting a consolidation together without the bill would be the only area they will look at. The deputy sheriffs come in without any protection and that is the problem.

{Tape: 1; Side: A; Approx. Counter: 20.4;}

HEARING ON SB 2

Opening Statement by Sponsor:

SEN. BRUCE CRIPPEN, SD 10, Billings, said he is presenting SB 2 along with a companion bill, SB 8. This is an act generally revising the laws concerning the financing of special improvement district and rural special improvement districts; revising the information that must be included in the notice of intention to create an improvement district; allowing a board of County Commissioners or a municipal governing body to create a special improvement district reserve account; allowing a board of county commissioners or a municipal governing body to impose an additional interest rate on unpaid assessments; requiring that 5 percent of the principal amount of bonds or warrants be deposited in the revolving fund for bonds and warrants secured by the revolving fund; limiting the duration of the revolving fund obligations; establishing factors to be considered before pledging the revolving fund.

SEN. CRIPPEN explained that when a Special Improvement District (SID) is set up they have a district fund that deals with that SID and that is the management fund. The money that comes in from the taxes all flow into that fund and the money is disbursed for the expenses incurred from the SID and for the repayment of principal from the bonds. He explained the setting up of revolving funds and district funds. He told about the problems Carbon County encountered when they had two rural special improvement districts (RSID) that became insolvent in 1984.

He said the unanswered question still lingers of, at what point in time does the obligation of revolving fund cease, there is nothing in the law that deals with this.

A subcommittee was formed with county, city, bonding people, attorneys, and through a process of negotiation, they came up with SB 2. **SEN. CRIPPEN** explained the language in the bill section by section.

Proponents' Testimony:

Alec Hanson, League of Cities and Towns, agreed with **SEN. CRIPPEN** that a lot of time and effort and good thought went into this bill. He reiterated the problems Carbon County had and said as they investigated the SID laws, they found there were some things that needed to be changed to make them more effective which this bill will do. Most importantly, it provides protection for the general taxpayers. The guidelines are intended to assure that cities and counties follow good business practices on the issue of bonds. They will look at the factors before they issue the bonds that will give them relative assurance they will get the

money out that they put in. They will look at the market value of the district compared to the cost of the improvement.

All the changes in this bill will make Montana SID laws among the most effective in the nation. SIDs are a necessity to the development of good, solid communities in Montana. This is the fairest and most effective way of paying for public improvements. **Mr. Hanson** said SB 2 is a very solid bill that he recommends very highly.

Nathan Tubergen, Director of Finance Administrative Services, Billings, said as a bond issuer for SIDs, he has been involved with the information process of this bill. With the new laws they have to abide by in regard to issuing bonds, it should be in the official statement (OS) they put together to give to the prospective bond buyers. It is important to have this in the law and it will give a state statute guide with the qualifications for the governing body to make a decision regarding if it is a viable SID in the first place. **Mr. Tubergen** urged the committee to support this bill.

Gordon Morris, Director, MACO, agreed with previous testimony in support of SB 2. He said this issue was heard in the 1993 Senate Taxation committee and as it went through the Senate, it was an issue that was very divisive in terms of the counties at that time. All the counties are very comfortable with the changes proposed and urge favorable consideration.

Anna Miller, Department of Natural Resources and Conservation, said the state of Montana is a holder of SID bonds with a number of communities in Montana. They have two loan programs, the coal severance tax bond program which holds about \$65 million in loans and also the waste water revolving fund which holds approximately \$21 million in loans. Of those portfolios, there is a certain portion of the two programs and \$20 to \$25 million of those loans are held in SIDs and RSIDs. The department worked with the committee and believed that it makes the state, as a holder of the papers, much more secure and they support this bill.

Gene Huntington, representing **Dain Bosworth, Inc.**, said they are underwriters with MAKAMarket in the special improvement district bonds and they were involved in the committee whom they feel did a great job finding compromises that made everybody happy and they support this legislation.

Miral Gamradt, Finance Director, Bozeman, stated they also have been involved at the onset and support this bill.

Mae Nan Ellingson, Attorney, Dorsey & Whitney, Missoula, said she has given the history of special improvement districts in Montana on how they have been used and she traced the notion of the revolving fund, which has been used since 1929. The guiding premise behind the revenue oversight committee was that they concluded that special improvement districts were absolutely

essential for cities and counties. They concluded that the revolving fund was the only viable mechanism to make SID bonds marketable. It was important to preserve the revolving funds which have been in existence since 1929.

The effort that is represented in this bill is trying to balance the competing interest. The significant need of cities and counties is to have this mechanism and be able to finance improvements, yet at the same time, try to minimize the risk to general taxpayers at large. This bill tries to shift more of the security responsibility to the property owners in the various districts that are benefited by the improvement yet at the same time, allow the city and county to expose their taxpayers to some contingent liability through the revolving fund mechanism if property owners and special improvement districts don't pay their assessments on time. One of the key things this bill does is identifies criteria that cities and counties should take into consideration before they commit to back a bond by revolving fund. Since 1983, it's been possible for cities and counties to issue bonds that are not secured by the revolving fund. The fact that not a single bond has ever been sold in Montana without the revolving fund offers why they are essential in order to provide the necessary security. **EXHIBIT 2**

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DAVID EWER said he received word there might be additional clean up desirable on this bill and he asked Ms. Ellingson if there will be any amendments. Ms. Ellingson responded she was not aware of any needed changes at this time.

REP. JOE TROPILA thanked Ms. Ellingson for the invaluable expertise she has given him over the twelve years in county government in modeling SIDs.

CHAIRMAN BOHARSKI said this will be duly noted.

REP. JACK HERRON asked if there are time limits imposed on SIDs. SEN. CRIPPEN said there is a time limit in the SIDs as far as bond concern and he explained the obligation of the issuing jurisdiction.

Closing by Sponsor: The sponsor closed.

HEARING ON SB 8

Opening Statement by Sponsor:

SEN. CRIPPEN, SD 10, Billings, said this is an act providing that certain county improvement districts may declare bankruptcy under federal municipal bankruptcy law; providing that counties may not declare bankruptcy. **SEN. CRIPPEN** reviewed the bankruptcy definitions, the procedure to declare bankruptcy, the power to comply with court decrees related to bankruptcy and the role of state and state agencies in relation to bankruptcy. This is a companion bill to SB 2 that deals specifically with the authority of governing bodies to bring districts, SIDs and RSIDs into bankruptcy to clarify that they have the authority to do so. If this bill passes, the language in SB 2 would be inserted by the coordinating instructions.

Proponents' Testimony:

Mae Ann Ellingson, Dorsey & Whitney, pointed out that no local government entity had the ability to file for bankruptcy under the federal bankruptcy code unless the state, through legislature, had granted them the authority. Years ago, Montana granted cities and towns the ability to file for bankruptcy. There is nothing unique about counties, per se, that keeps them from filing for bankruptcy other than the fact that the legislature never granted them the power to do that. The focus of the revenue oversight committee was not to suggest that counties be given the ability to file bankruptcy, but to try to put county special improvement districts on the same footing as city special improvement districts and that is the purpose of this bill.

Ms. Ellingson said she too has a question on the amendment that was inserted on line 24 of the bill because by implication, it seems to defeat what the intent of the bill is. On line 23, local entity means a district created under Title 7, Chapter 12. That is the title and chapter under which both county RSIDs and city SIDs are created. **Ms. Ellingson** will meet with **SEN. CRIPPEN** to discuss this.

Anna Miller, Department of Natural Resources, said they also worked on this bill and in Montana with the growth, RSIDs and SIDs will probably be the newest and one of the major groups of people that come into their program and have loans. They support SB 2 as they do SB 8.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. EWER asked **Ms. Ellingson** if it would work to put a period after Chapter 12 on lines 23 and 24.

{Tape: 1; Side: B;}

Ms. Ellingson said the consequence of the change if they put a period after Chapter 12 is the only local entity is an SID created under Title 7, Chapter 12, and the city or town are no longer there.

REP. EWER asked **Ms. Ellingson's** opinion on if they allow RSID districts to take bankruptcy that would withstand the challenge because they are still creatures of the county and counties don't take bankruptcy. **Ms. Ellingson** responded she didn't think there was anything as a matter of constitutional law that would preclude a county from filing bankruptcy other than the fact that this legislature has never seen fit to grant them that authority. If they can grant the county to file bankruptcy, she did not know any reason why they couldn't specifically grant the authority to file bankruptcy on behalf of the county special improvement district.

REP. EWER said he has some question about putting stock in the county being protected from bankruptcy just for rural special improvement districts. **Ms. Ellingson** said there is no case law in Montana on this point. She explained the analogy in the Columbia Falls bankruptcy proceedings with respect to their SID.

CHAIRMAN BOHARSKI asked if the intent of this bill is to allow counties, cities and towns and any special improvement district created by any of the above to declare bankruptcy. **Ms. Ellingson** responded that counties do not have the authority to file bankruptcy, cities and towns do. The bankruptcy court has concluded that since the city has the authority to file bankruptcy by virtue of the Montana law, it allowed Columbia Falls to take that special improvement district into bankruptcy. She said the only purpose of this bill would be to allow a county to file for bankruptcy on behalf of a special improvement district.

CHAIRMAN BOHARSKI asked what about a county itself if they needed to file bankruptcy, is it the intent of this language to add counties to the list. **Ms. Ellingson** said no, the intent clearly was not to grant the counties, per se, the ability to file for bankruptcy but only special improvement districts created by the county. The county could take that district into bankruptcy.

REP. MATT BRAINARD asked that on the subject of bankruptcy, how does that affect the commercial aspects or appeal of the bonding process for selling the bonds to the districts. **SEN. CRIPPEN** responded that as far as the salability of bonds, the bonding people attending the hearing support this bill because it provides some finality to the problem. He explained that with some of the changes in the federal law they want more specific authorization which is good for the bond holders.

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Ms. Ellingson said currently, whenever the special improvement districts bonds are sold or efficient statements are prepared, they define the bankruptcy risks.

Closing by Sponsor:

The sponsor closed and said he will leave his file for the committee's reference.

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ADJOURNMENT

Adjournment: 4:25 P.M.

Wm S Boharski
WILLIAM BOHARSKI, Chairman

P. Berneman
for EVY BURRIS, Secretary

WB/ev

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 2-28-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson		✓	
Rep. Ellen Bergman	✓		
Rep. John Bohlinger		✓	
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan	✓		
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea		✓	
Rep. Joe Tropila	✓		
Rep. Diana Wyatt		✓	

EXHIBIT 1
DATE 2-28-95
RD. 38 58.

2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

**MONTANA
ASSOCIATION OF
COUNTIES**

RESOLUTION 94-40

**VOLUNTEER FIREFIGHTERS
COMPENSATION**

WHEREAS, the Volunteer Firefighters Compensation Act, 19-17-402, MCA, and the fire protection 7-33-2311 statutes have similar reporting requirements for volunteer fire companies to the State Public Employees Retirement Division (PERD) and the County Clerk; and

WHEREAS, these reporting requirements could be identical to make the reporting and reporting forms easier for the volunteer fire companies; and

WHEREAS, neither the state nor the counties want to create an undue reporting requirement for the volunteers of this state.

NOW, THEREFORE BE IT RESOLVED, that the Montana Association of Counties support legislation to make these two sections of the statutes identical in their reporting requirements.

SUBMITTED BY: Yellowstone County

PRIORITY: MEDIUM

ADOPTED: ANNUAL CONVENTION
SEPTEMBER 21, 1994

EXHIBIT 2
DATE 2-28-95
AB 2

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

MINNEAPOLIS
ROCHESTER, MN
BILLINGS
GREAT FALLS
DES MOINES
DENVER

127 EAST FRONT STREET
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MAE NAN ELLINGSON

NEW YORK
WASHINGTON, D. C.
ORANGE COUNTY, CA
FARGO
LONDON
BRUSSELS

TO: House Local Government Committee

FROM: Dorsey & Whitney
Mae Nan Ellingson

DATE: February 28, 1995

RE: Special Improvement District Financing in Montana - Senate Bill 2

Since 1913, Montana counties, cities and towns (municipalities) have been authorized to create special improvement districts and issue special assessment bonds for the purpose of financing the costs of certain public improvements within such districts. The laws governing rural special improvement districts created by counties and special improvement districts created by counties are essentially the same.

Under Montana law, a municipality may finance the cost of local improvements, such as street and utility improvements, and assess the costs thereof against benefitted property only by the creation of special improvement districts. Such districts are created following adoption by the governing body of the municipality of a resolution of intention that specifies the boundaries of the district, the general character of the improvements, an approximate estimate of the cost thereof and, under current law, the method or methods by which the cost of the improvements will be assessed against property in the district. Notice of the passage of the resolution of intention must be published in a newspaper published in the municipality and must be mailed to the owners of real property within the proposed district. The governing body of the municipality is empowered to include lots not fronting on the proposed improvements within the district if it finds that such lots or improvements are benefitted thereby.

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on the unpaid installments of the assessment equal to the average annual rate of interest on the outstanding bonds. (Changes made by the Legislature in 1987 authorize the levy of assessments in amortized amounts and bearing interest at a rate up to 1/2% above the average rate of interest on the outstanding bonds.)

Special assessments do not represent a personal obligation of the property owner, but instead "constitute a lien upon and against the property upon which such assessment is made and levied from and after the date of the passage of the resolution levying such assessment. The lien can only be extinguished by payment of such assessment with all penalties, costs, and interest." Section 7-12-4190. The lien of a special assessment may be enforced only by the sale of the property at a tax sale conducted pursuant to Title 15, Chapter 17. Montana law grants the delinquent taxpayer or other interested parties the right to redeem property sold at a tax sale.

Since 1929, municipalities creating special improvement districts have been authorized to create and maintain special improvement district revolving funds to secure the prompt payment of the principal and interest on special improvement district bonds. The provisions relating to the revolving fund are found at Sections 7-12-2181 through 7-12-2186 for counties and Sections 7-12-4221 through 7-12-4229 for cities and towns (the Revolving Fund Law).

Prior to 1929, special assessments were the only source of payment for special improvement district bonds. Up to that time, Montana law provided that a tax deed conveyed absolute title free from all encumbrances, except the lien for taxes which may attach subsequent to the sale. In State ex rel. City of Great Falls v. Jeffries, 83 Mont. 111, 270 P. 638 (1928), the Montana Supreme Court construed this provision of Montana law to hold that a tax deed extinguished the lien of all special assessments levied against the property, not only those installments payable before issuance of the deed but subsequent installments as well. The discharge of future installments upon issuance of a tax deed virtually assured that special improvement district bonds secured by such assessments would not be paid in full.

In construing the Revolving Fund Law, the Montana Supreme Court noted in 1929:

"As the cost of an improvement is ordinarily apportioned to the several lots according to area or front footage on the improvement, it will be seen that, by reason of delinquency of property owners in paying assessments, a certain percentage of the principal and interest on

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secured thereby and authorizing the levy of a tax for a private purpose, and the other challenging the pledge of the Revolving Fund to special improvement district bonds that were issued before the enactment of the Revolving Fund law. With respect to the first action, the court stated:

Here, it is true, the holders of bonds and warrants of any city in this state, issued for the payment of special improvements made under the special improvement district law will profit by the provisions of [the Revolving Fund law], as compliance by the city with its provisions will, in part at least, do away with losses by reason of the failure of a certain per cent of the property owners to pay the special assessments, and consequent loss of liens on property, as above pointed out, for which, without this act, there was no method of recoupment. But the work to be done within such improvement districts as are hereafter created in cities is essentially public work, and the purpose of providing for such work necessarily a public purpose.

. . . .

[T]he laying out and improvement of streets, alleys, sewers, and the like is essentially a public purpose benefiting the entire community, although the work is done in but a portion of the city, and, in the absence of any legislative restriction, each portion of the city might be thus improved at the general public expense, and no taxpayer could be heard to complain thereof. In other words, in order to erect any public improvement by the creation of special improvement districts, both general benefits to the municipality and special benefits to particular property must be conferred--the special benefit to adjacent property is but incidental to the general benefit to the city; it could not otherwise lawfully be created.

When, therefore, the Legislature provided that, as to special improvement districts created in the future, a fund shall be created to insure the prompt payment of bonds and warrants issued in payment of such improvements, it but modified the special improvement district law to impose upon the general public, within the municipality, a conditional obligation to pay a small portion of the cost of erecting the public improvement, whereas it might have, lawfully, imposed a much greater burden upon the municipality.

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debt but is merely an arrangement whereby the city, through the revolving fund, loans money to the district, and for which it holds security in the form of a lien.

Id. at 1057. The Court also held in that case that a municipality must loan money from the Revolving Fund to a district fund even though the provision in question (now Section 7-12-4223) provides that such money "may," by order of the city council, be loaned:

The Legislature has made it mandatory for the city council to levy taxes for the purpose of raising sufficient money in the revolving fund to meet the financial requirements of such fund, thereby recognizing that the revolving fund must meet certain requirements. In order to carry out the obvious legislative plan with respect to the revolving fund, we hold that it is mandatory that the city council use that fund for the purpose intended, and that it must make orders directing loans from the revolving fund to the district funds when funds are needed to make up any deficiency. This being so, the contract to do so does not bind successive officers to perform a discretionary act. The law makes the act mandatory irrespective of the contract.

Id. at 1059.

In the mid-to-late 1970's and early 1980's, special improvement districts were widely used to finance the required public improvements for newly platted subdivisions. Montana law required cities and counties to adopt subdivision regulations by July 1, 1974, which had to address the improvement of roads, provision of adequate water, drainage and sanitary facilities" As a condition to final approval of a subdivision plat, a city or county had to make sure the public improvements would be constructed. Special improvement districts provided a mechanism for doing so, since the city or county could control the creation of the district, the issuance of the bonds and the construction of the improvements. When lots in some of the subdivisions throughout the State did not sell as anticipated and developers did not pay their assessments, taxes had to be levied in several jurisdictions to fund the Revolving Fund in order to make Revolving Fund loans to the various district funds. I personally recall some debate and discussions in various legislative sessions throughout the late 1970's and early 1980's as to the fairness or propriety of the Revolving Fund mechanism, but no changes were made until 1983.

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developers. They would not be backed by the taxing authority of the city. Some cities don't want their taxing authority tied to the bonds.

Thus, in 1983 the Legislature gave cities and counties an option of issuing bonds "that are not secured by the revolving fund" so that taxpayers would not be "liable for any default." These minutes clearly reflect that it was understood that if the Revolving Fund was pledged, the issuer was obligated to levy either a county-wide or city-wide tax, subject to the 5% limitation to fund the Revolving Fund.

In upholding the validity of the Revolving Fund pledge, the Montana Supreme Court in Carbon County v. Dain Bosworth, et al. held that:

"The County's agreement to make loans from the revolving fund is mandatory and not discretionary. The County must continue to make loans to the revolving fund and must continue to levy taxes to replenish the revolving fund until the obligations not extinguished by the bankruptcy proceedings are paid in compliance with § 7-12-2181, MCA."

During the course of the deliberations of the Revenue Oversight Committee, a consensus developed that special improvement district financing was a much needed and much utilized method by which local governments can and do upgrade and extend their public infrastructure.

It also was clear that given the nature of the special improvement district mechanism bonds could not be readily marketed at a cost effective rate without some type of additional security. There has been, we believe, a general consensus among the Subcommittee members, as well as the participants, that the revolving fund law has worked relatively well over the 50 years that it has been in place and has achieved its stated purpose, making special improvement bonds marketable at reasonable rates. The only real problem identified to date has been the use of special improvement districts secured by the revolving fund to finance improvements in raw land subdivisions where all improvements are financed and the property is owned by developers. Because of that, it was determined that an effort should be made to address the troublesome issues presented by the Revolving Fund, rather than throw it out and start over with a new mechanism.

Thus, the recommendations for change in Senate Bill 2 arose in an effort to preserve the option of special assessment financing in Montana and, if necessary, in

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A brief summary of the changes of Senate Bill No. 2, section by section, is set forth below:

Section 1. Amendment of Section 7-12-2015.

Section 1 eliminates the requirement that notice of intention to create a rural special improvement district be posted in three places. It requires that if the revolving fund is to be pledged, the notice that is to be published and mailed include a statement that "the general fund may be used to make loans to the revolving fund or a tax levy may be imposed to meet the needs of the revolving fund."

Section 2. Amendment of Section 7-12-2153.

Section 2 requires that if special improvement bonds are secured by the revolving fund, 5% of the principal amount of the bonds must be deposited in the revolving fund. This deposit is currently optional.

In addition, Section 2 authorizes the county commissioners to require an additional 5%, which is to be deposited into a district reserve account created within the district fund. The district reserve account will be used to make payments on the bonds prior to using the revolving fund.

Section 3. Amendment to Section 7-12-2176.

Section 3 authorizes the county to assess an additional 1/2 of 1% a year, over and above the interest borne by the bonds and the 1/2 of 1% that is currently required to be assessed.

Section 4. Amendment to Section 7-12-2182.

Section 4 makes a corresponding amending to reflect that the 5% contribution required by the Section 2 change is a source of revenue for the revolving fund. This change is to obtain consistency between city and county statutes.

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Section 6. Amendment of Section 7-12-2185.

Section 6 contains the actual amendments to the limitation on the duration of the obligation to make loans described under Section 5. Those are contained in 7-12-2185(2).

In addition, Section 6 provides that a county may not pledge its revolving fund to the payment of bonds, unless it has considered a number of factors specified in subsection (3). The purpose of requiring the consideration of these various factors is to get the county to assess and determine that the value of the land against which the assessments are to be placed will exceed the amount of assessments levied against the property, so as to minimize any risk to the revolving fund.

Section 7. Amendment of Section 7-12-4106.

Section 7 makes the same changes in the special improvement district law that Section 1 does to rural special improvement district law.

Section 8. Amendment of Section 7-12-4169.

Section 8 makes the same changes in special improvement district law that Section 2 does to rural special improvement district law.

Section 9. Amendment of 7-12-4189.

Section 9 makes the same changes to special improvement district law that Section 3 does to rural special improvement district law.

Section 10. Amendment of Section 7-12-4222.

Section 10 makes the same changes in the special improvement district law that Section 4 makes in the rural special improvement district law.

Section 11. Amendment of Section 7-12-4223.

Section 11 makes the same changes in the special improvement district law that Section 5 makes in the rural special improvement district law.

Section 12. Amendment of Section 7-12-4225.

Local Government COMMITTEE

Please Print

NAME Sandy Oetgen BILL NO. SB2, SB 58
ADDRESS _____ DATE 2-28-75
WHOM DO YOU REPRESENT? Mr. Asen of Connecticut
SUPPORT ☒ OPPOSE ☐ AMEND ☐

[illegible]

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Government

COMMITTEE

BILL NO. _____

DATE 2-28-75

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
MAE NAN ELLINGSON	Dorsey & Whitney	SB 2 AB 8		✓
NATHAN Tubertson	Belling	SB 2 SB 8		✓
Charles R. Brooks	Yellowstone County	SB SB 8		✓
KATHY McGOWAN	MS POA	SB 60		✓
Gene Huntington	Dain Basworth	SB 2		✓
Alec Hansen	MLCT	SB 2		✓
Miral Gamradt	City of Bozeman	SB 2		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.