

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on March 9, 1995, at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: none

Members Absent: Sen. Jeff Weldon

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

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

Committee Business Summary:

Hearing: HB 249, HB 220, HB 197, HB 308
Executive Action:

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

HEARING ON HB 249

Opening Statement by Sponsor:

REP. ROD MARSHALL, HD 28, Bozeman, presented HB 249 which was an act to generally revise the laws related to local government regulation of traffic and allowed the city to regulate skateboarding and rollerblading on city streets. He said they needed to allow local authorities to adopt variable speed limits and adopt traffic conditions. They tried to run this through at the local level but found it needed to be done at the state legislature. This bill gave local governments the chance to regulate some of the speeds in their city.

Proponents' Testimony:

Jim Wysocki, Bozeman City Manager, passed out a letter to the committee (**EXHIBIT 1**). He added that a fourth reason for HB 249 and that was rollerblading and skateboarding. He said that these activities have become startling as they were appearing on the roads and cars were not necessarily expecting to see them. The other three reason he gave were local authorization to do a study that would meet the traffic requirements that the state already conducts would have allowed them to move more quickly. The second was to have a speed limit lower than 25 miles per hour. According to the law, they could not lower the limit below the 25 mph and they wanted to go down to 15 mph in some areas. The third change was to do a time of day speed change. That would have allowed during school hours to have a 15mph limit and after hours the limit could go to 25mph or what ever would be warranted. He asked that they have the ability to do the studies the state conducts under their own authorization.

Robert White, Bozeman Chamber of Commerce, favored HB 249 because Bozeman's high altitude allowed for snow to remain on the streets and during that time it was very dangerous to unload kids at the schools. He said there were people passing the unloading buses at 35mph and they would like to have the ability to reduce those limits for the safety of the kids. He urged the committee's support.

Gary Gilmore, Operations Engineer, Department of Transportation, stated that the Department had worked with **REP. MARSHALL** and the Bozeman delegation along with the federal highway administration to come up with legislation that would benefit all parties and they support HB 249.

Tim Reardon, Chief Legal Counsel, Department of Transportation, stated that this was the third or fourth speed zone bill brought before the legislature and HB 249 accomplished a great deal of what was intended by all of the bills. At **REP. MARSHALL'S** suggestion, before the bill was heard in the House, the Department sat down with the representatives from the City of Bozeman and invited the federal highway administration to participate in the discussions. They wanted to understand the various positions and why the requirements were in the law the way they were and the limitations on local governments. In setting speed limits in the past, the key in terms of the federal highway administration was the traffic and engineering studies had to be the basis on which the speeds were set. The way HB 249 was written, the traffic and engineering investigations were assured and the ability of local governments to reduce limits below 25mph in school zones was allowed. He also pointed out that those speed limits the local studies warrant, use variable speed limits. He said the addition of the rollerblading was added in the House and the Department had no objections to the listings.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. DON HARGROVE asked regarding the bill allowing a 5mph speed limit in a small town around Townsend, if there was a difference between that bill and HB 249 as that bill even though it had passed may not have gone through because of some effect on federal highway funds? Mr. Reardon responded that the amended version of that bill the Department did not object and the Governor had signed that bill. The impact of HB 249 on that would be that if the engineering and traffic studies warrant and it was in compliance with the federal requirements there would be no threat.

CHAIRMAN TOM BECK asked if it gives authority only on local streets and not federal or state highways? Mr. Wysocki said they started out with the intention they would not include state or federal highways but that had been amended out so it would be possible. Mr. Gilmore responded that there was an exception on the last page of the bill which gives the highway commission exclusive jurisdiction.

SEN. DELWYN GAGE asked what kind of enforcement would be given to the speed zones? Mr. Wysocki said that the enforcement would be done initially before the school year would begin to get people in tune to the change. Normal enforcement would be done but it would be watched more carefully during the last month of school.

CHAIRMAN BECK asked if the engineering and traffic investigation would be done by the state or would a private entity be able to do the investigation? Mr. Gilmore said in the past the state had generally done the investigations but they do allow local governments to hire an acceptable outside entity. The Department would present the cities with a list of consultant in the state they know to be qualified. He said that in the past they had also participated and paid for the studies.

SEN. ETHEL HARDING asked if the skateboards and rollerblades needed to be regulated? Mr. White said that they do because problems had increased and there were even problems on state highways.

SEN. HARDING asked how the regulation would be done? REP. MARSHALL said it would need regulation on some streets and some streets would be opened up on some occasions and each city would have to deal with their own problems.

Closing by Sponsor:

REP. MARSHALL closed.

HEARING ON HB 220Opening Statement by Sponsor:

REP. JIM ELLIOTT, HD 72, Trout Creek, stated he was asked to carry HB 220 on the behalf of the Thompson Falls City Council. HB 220 gives a town or city another option of assessing the cost of street lighting districts. People who benefitted from a street lighting district could be assessed based on the lot size relative to the total area of the district, on the taxable valuation of their lot, or on the lineal feet of the lot fronting on streets. HB 220 would allow people to be assessed on a per lot basis. The number of lots would be divided into the total cost of the installation of the street lighting district or for the maintenance of the district. The City Council of Thompson Falls was concerned because some lots were larger than others and were being charged more but benefitted equally to a small lot owner.

Proponents' Testimony:

Nathan Dubergan, Billings Director of Finance and Administrative Services, supported HB 220 and stated that it would make their clerical staff's duties much easier.

Jim Wysocki, Bozeman City Manager, stated he thought it was a reasonable request to have another possibility of assessment that would create some equity in a situation where they had not been able to create equity before. He asked concurrence of HB 220.

Blake Wordal, Lewis and Clark County Commissioner, said that adding the possibility of funding any rural improvement district they support as it would be consistent and they endorsed HB 220.

Opponents' Testimony: noneQuestions From Committee Members and Responses:

SEN. J.D. LYNCH said that HB 220 did not talk about rural districts but cities and towns. He asked if they went to this method, someone would pay more? REP. ELLIOTT said that someone would lose and someone would win and for that reason there was a provision on page 2 line 15 that allowed for the method of assessment adopted in the resolution may not be modified if protested in writing by the owners of a majority of the property within the district.

SEN. LYNCH asked if he had a house on one lot and his yard sat on another lot would he be charged for both lots? REP. ELLIOTT replied that he would be charged twice but under the current method of square footage assessed, he would be under the same situation.

CHAIRMAN BECK asked if they were assessing on a different way since the method of the assessment adopted by resolution may not be modified? **REP. ELLIOTT** said that not all street lighting law was included in HB 220. The section modified, 7-12-4328, was the resolution to provide for the assessment of costs of installation. The House Local Government Committee felt that if a taxing jurisdiction had installed the street lights under one of the methods previously allowed, that it was not fair for them to change that method without a type of recourse of the property owners within the district. He said that if a majority of the property owners protest the changing of the assessment method, the original option would be kept.

SEN. ECK thought they wanted to say the method of assessment proposed in the resolution could not be adopted if protested in writing. She continued that the way HB 220 read that once a method was adopted, it could not be changed. **REP. ELLIOTT** said that no street lighting district in the state of Montana had its costs apportioned by law. If a municipality wished to apportion the costs by law or change the apportionment they could do so by written resolution but if a majority of the property owners or the owners of the majority of property within the district protest, the resolution would be voided.

SEN. ECK did not think that was what the bill said. She said it could not be modified even if protested in writing. **REP. ELLIOTT** said that the amendment was put on by **REP. SIMPKINS** and said, "the method of assessment adopted in the resolution may not be modified unless approved by the owners of the majority of the property within a district". This was a positive action of the majority property owners requiring an election. **REP. ELLIOTT** felt it should have been treated as the creation of any special taxing jurisdiction which was by the protest method. **REP. ELLIOTT** gave the committee the option to change the wording to fit their desires.

SEN. HARGROVE asked how HB 220 would simplify things for the administrators? **Mr. Dubergan** said that in Billings, they had 131 lighting districts and were being assessed on a square foot basis and with HB 220 they could consolidate a white lighting and take the number of properties in each of the districts and divide that into the annual charge. He said that even though there could be different size lots, each one receives the same benefit. He continued that the per lot assessment would be easier to explain to the staff and the property owners.

SEN. HARGROVE asked what the difference would be between a small lot and a fairly large lot using the current method? **Mr. Dubergan** said that in a case where you had a 9,500 square foot lot the charge could run \$9.00 compared to a 12,500 lot would run around \$11.00.

SEN. LYNCH said that people with goofy triangle lots that could not even be built on would have to pay as much as a person with

12,500 square feet. Mr. Dubergan said that may be one of the disadvantages. Mr. Wysocki stated that if he had an awkward size lot and there were a series of assessments based on based on lots he would ask the zoning office to remove the lot line.

CHAIRMAN BECK asked if there would be an objection to removing the word "original" from "the original method adopted in the resolution"? REP. ELLIOTT said it would not bother him.

Closing by Sponsor:

REP. ELLIOTT stated that HB 220 would allow another tool for local governments to use as a method of taxation. He had never been in a situation where there was completely fair way to apportion fees for taxes.

HEARING ON HB 197

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Helena, presented HB 197 which dealt with what local governments could do regarding investing their money. He said there was a bill in the previous session which expanded the power of local government to invest in mutual funds that invest in federal securities. He opposed the bill and feared that local governments would not understand they should not necessarily use those types of investments as a cash equivalent investment and there would be risk involved. Due to that bill unfortunate things happened and local governments lost some money. He said that direct obligation or agency paper had not been defined and consequently, some local governments invested in securities that resulted in significant paper losses. The intention of HB 197 was that definitions needed to be defined better and if agency investments were to be allowed, they needed to have the general obligation of the agency and collateralization would not be allowed. He believed that it was important to make investment parameters simple and flexible enough so the average Montanan who may run for elected office would understand what should be purchased. HB 197 would also stripe out the ability to buy mutual funds that invest in United States Government securities under the old statute. The purchase of money market mutual funds was allowed as long as they met the criteria of HB 197. There was an amendment put on that local governments cannot invest longer than five years. He felt that they should do away with the distinction between school districts and local governments and put them on the same footing as far as how they invest their money. He also proposed some amendments that cleaned up the bill and made clear when bonds are refunded that governments obligations could be used that were not customarily used.

Proponents' Testimony:

Nathan Dubergan, Billings Director of Finance and Administrative Services, supported HB 197 with the amendments proposed.

Jim Wysocki, Bozeman City Manager, supported HB 197 in that it clarified how tax money could be dealt with.

Blake Wordal, Lewis and Clark County Commissioner, supported HB 197 because it clarified and gave direction to counties and local governments in their investments. He said it was a very complicated issue and encouraged the committee's support.

Bruce McKenzie, representing D.A. Davidson & Co., and the Securities Industry Association, supported HB 197 with the amendment proposed. They were particularly interested with the SLUGS and STRIPS amendments. He said that the yields on proceeds needed to be restricted and to do that SLUGS needed to be purchased.

Cort Harrington, Montana County Treasurers Association, stated that they supported the bill in the previous session expanding the investment powers but with the problems that arose, they passed a resolution at their convention to reform the investment rules. They support the bill and the suggested amendments.

Sandy Otzinger, Montana Association of Counties, supported HB 197.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. GAGE asked if general obligation of the agency was involved, why would they care whether the prepayments were based on underlying assets or collateral? REP. EWER said that it could only be a general obligation of the agency and not be dependent. He said the idea was if you were going to buy a security, you could go to the Wall Street Journal and see the agency listed.

CHAIRMAN BECK asked Mae Nan Ellingson, an attorney with Dorsey & Whitney, if she was satisfied with the bill if it was amended? Ms. Ellingson, said that although REP. EWER may have been more restrictive than necessary, she had no problem as long as the amendments were added. She was particularly interested that local government funds be able to be invested in what the state Board of Investments can invest.

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CHAIRMAN BECK asked if there was a cap on the amount of investment in five years? REP. EWER said he had originally considered requiring local governments to adopt a written

investment policy but may not have been appropriate. He attempted to use only objective and discrete language that would not allow for judgement calls. He said that five years was adequate and he wanted to cut some slack to the local governments.

Closing by Sponsor:

REP. EWER closed.

HEARING ON HB 308

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Helena, presented HB 308 which proposed changes to the county and water and sewer districts. He discussed how water and sewer districts were formed and some of the problems with water and sewer districts. He said that one of the major perks of HB 308 was to preserve water and sewer financing on a cost effective basis. HB 308 tried to clarify how water and sewer districts can operate and finance their infrastructure so that they can get into the market of selling bonds. Architecture and engineering services could be retained and paid for through assessments according to HB 308. The board shall review every two years the adequacy of the rates and charges under HB 308 to cover the expenses. The board may also establish charges for properties benefitted by the facilities. Regardless if a bond was voted on by the people to finance infrastructure, people would pay the charges even if they do not use the facility. Charges would not be able to be assessed for ongoing usage but they would have to pay if the facility should be there. The charge had to come from the voted bonds and there was due process available. He said that if people could decide whether they had to pay or not, a swiss cheese effect would result and bonds would not be able to be sold. REP. EWER compared water and sewer bonds to SID's and RSID's. The assessment of charges were created from 7-12-2151. He pointed out that delinquent payments could be taxed against the property but was optional. On page four, the bill was amended so that in regards to mobile homes with delinquent payments, the lien would go against the mobile home owner. He pointed out that criteria for what it meant to be benefitted was stricken from the bill. HB 308 also provided water and sewer districts with the ability to issue general obligation bonds and issue refunding bonds without elections. He stated that managing the growth in Montana, local governments needed tools to provide infrastructure and without these types of tools, there would be haphazard growth.

Proponents' Testimony:

Dick Labbe, Mayor of Deer Lodge, encouraged the committee to pass HB 308. He gave an example of a subdivision just outside of the Deer Lodge city limits and they had been unable to pass laws to

govern the area because it was in the county. The subdivision requested to hook onto the city infrastructure and two of the developers had gone bankrupt. The city had been trying to help them as there had been some growth but no building sites. HB 308 would provide them with a better vehicle to accomplish what they wanted to do.

Bobby Broadway, Sun Prairie Village County Water and Sewer District Manager, presented his written testimony (EXHIBIT 2).

Dan Keil, a farmer from North Central Montana, stated that he was a member of the Taver County Water District which included five counties. He noted they had various problems collecting bills. He also served on the Montana Rural Water Systems and HB 308 was a bill like that of previous bills they tried to get passed. He said they would like to see the water district laws expanded to be treated equally with other financing. He presented the committee with a letter and petition from the Montana Rural Water Users (EXHIBIT 3).

Arnold Peterson, representing the North Havre County Water District and the Montana Association of Rural Water Districts, stated that HB 308 fairly addressed the concerns they had for rural water districts and urged the passage of the bill as amended.

Anna Miller, Department of Natural Resources, testified that the Department had two lending programs for communities, the coal severance tax bond program, and the state waste water revolving fund program. The Department felt this was good legislation and gave flexibility and direction and asked the committee's support.

John Shontz, representing the Montana Association of Realtors, strongly urged the committee's support of HB 308. Their reasons were to get away from using SID's and RSID's and that if your property was benefitted even though it may not be hooked up, the value of the property would go up. He stated this was fair legislation and he urged a do pass recommendation.

Mae Nan Ellingson, an attorney with Dorsey & Whitney, stated she acted as the scribe for the people who worked on the bill. She prepared a summary for the committee of HB 308's provisions (EXHIBIT 4).

Opponents' Testimony:

Barbara Lietz, Martin City, presented her written testimony opposing HB 308 (EXHIBIT 5). She also read a letter from a gentleman from Hungry Horse and submitted a petition against HB 308 (EXHIBIT 6 & 7).

Donna Meskimen, Martin City, opposed HB 308 and if it was to be amended it would strengthen the rights of the people served.

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Questions From Committee Members and Responses:

SEN. HARGROVE asked REP. EWER to respond to Ms. Lietz concerns. REP. EWER said he tried to list the nine points the opponents mentioned. The first being who would hire the engineers or architects and he responded that the trustees should be able to hire them. The inability to protest he felt was unfounded because there were many areas that give the due process to protest. If a person does not like the way the trustees run the district, they could be voted out. He did not share the opposition expressed and he felt AB 308 was very fair. The problem of being able to charge people on an AD HOC basis was not true and there was a misunderstanding. The charges would be assessed against benefitted property like and other district. He felt it was fair that if you could have access to a facility 10 months down the road you should be charged because there was plenty of ability to protest.

SEN. HARGROVE mentioned the mobile home section and asked REP. EWER to comment as the committee had a bill earlier with similar wording that was amended out. REP. EWER said that he reluctantly agreed with the amendment put into the bill on mobile homes.

CHAIRMAN BECK expressed concern about the mobile home amendment along with the concerns of Ms. Lietz. He said that he did not know of any mobile home court where the home owns the sewer and water units under the ground. He felt the charges would have to be passed on to the mobile home owner from the property owner. REP. EWER agreed but in order to save his bill he had to agree to the amendment in the House.

CHAIRMAN BECK asked if the amendment was taken out if REP. EWER would have trouble getting his bill passed. REP. EWER said he would lose the bill if the amendment was taken out.

CHAIRMAN BECK said he did not want to put him in that position but did have some concerns in that area. He did say he like the bonding procedure in the bill. REP. EWER said that if the bill would get amended and ended up in conference committee, he felt the essence of the bill would be lost.

Closing by Sponsor:

REP. EWER closed.

ADJOURNMENT

Adjournment: 5:10 p.m.


SEN. TOM BECK, Chairman


ELAINE JOHNSTON, Secretary

TB/ej

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THE CITY OF BOZEMAN

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BOZEMAN, MONTANA 59771-0640

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1

DATE

3-9-95

BILL NO.

HB 249

March 8, 1995

Senator Tom Beck, Chair
Local Government Committee
Montana State Legislature
Capitol Station
Helena, Montana 59624

Dear Committee Members,

H.B. 249 gives Local Governments the authorization to conduct traffic studies in compliance with the State's requirements. This is important because currently the Department cannot always respond in a timely manner to these request for review. The City of Bozeman has waited as much as 6 to 12 months for such a survey.

If warranted, the bill would allow a local authority (Commission, etc) to place a speed at 15 miles per hour (currently minimum is 25mph), near schools and senior citizen centers. Further, H.B. 249 will allow for "TIME OF DAY SPEED CHANGES" around schools and senior centers. So, when children are crossing to and from school, for example, the signs would read 15mph and in off school hours it could be increased to the current level, to adapt to conditions.

Thank you in advance for your concurrence in H.B. 249!

Sincerely,

James E. Wysocki
City Manager

TESTIMONY
Before
SENATE STANDING COMMITTEE ON LOCAL GOVERNMENT

Reference: House Bill 308

"AN ACT REVISING LAWS RELATING TO COUNTY WATER AND SEWER DISTRICTS;..."

March 9, 1995

Mr. Chairman,

Members of the Committee

For the record, my name is Bobby Broadway. I am the manager of the Sun Prairie Village County Water and Sewer District. I am also on the Board of Directors of the Montana Association of Water and Sewer Systems, representing 38 water and sewer systems, 10 of which are water and sewer districts.

my Board of Directors

I and my Association, fully support HB 308 and urge this committee's approval and support.

House Bill 308 is an effort to clarify existing statute. More specifically the clarifying a district's responsibilities and powers and so that they are clear and understandable.

Under current statutes, districts have no means of collecting user fees which are delinquent, other than termination of services. Shutting off water is usually an effective means, however, there are those instances where individuals will haul water and continue to use sewer services which are not easily shut off. In my district we have had individuals who ran water hoses from neighbors homes rather than pay the water bill after being shut off. Filing charges of theft of services did no good as the sheriff's department said there was nothing they could do. We have had such situations last for more than a year before a resolution was reached. The lien proposed in this bill will give district's a means of collecting from property owners who evade normal collection procedures or vacate their properties owing outstanding charges. The bill very adequately addresses concerns regarding due process by giving property owners every opportunity to protest should they feel that a lien is unjust.

A district has an obligation to pursue all delinquent charges vigorously to provide equity to those users who pay regularly and consistently for the services they receive. It becomes an issue of fairness as well as economics.

My own district has written off thousands of dollars in bad debts over the years because we have not had a workable and distinctly clear method to ensure collections, other than shutting off water.

The new section on issuance of general obligation bonds is needed to provide an additional means for financing capital improvements to water or wastewater systems. Currently the only methods available to a district is to collect for replacement and depreciation, sell revenue bonds, or secure grants from outside sources. We are not asking, in this bill, anything which is not approved by the vote of the electorate.

Thank you for your time and I again urge your support for this bill.

DATE: February 16, 1995

TO: Governor Marc Racicot

FROM: Montana Rural Water Users

Dear Sir,

For many years County Water Districts in Montana have had a problem. When a Water District is formed, the people within the bounds of the District petition to be included. Once the District is formed and the system is constructed, the debt obligation must be repaid. Under present statutes, unless an owner of a piece of property within the District actually hooks onto the system, there is no way to charge this individual his proportional share of the construction costs. Also, if a user does not pay his water or sewer bill, the District has no way to put a lien on the property to recoup construction fees.

Montana Rural Water Users has initiated a Bill to correct this situation. It is HB308 and sponsored by David Ewer. This Bill seems to be hung up in Committee and we ask that you do what you might be able to help us get this bill up and going. There are 65 County water and sewer Districts in Montana. Sixty one of these Districts are members of Montana Rural Water Systems and request that you support us in this effort.

Exhibit 3 includes 6 pages of signatures. The original is stored at the Historical Society at 225 N. Roberts St., Helena, MT 59620-1201. The phone number is 444-2694.

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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MAE NAN ELLINGSON

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

MEMORANDUM

TO: Members of Senate Local Government Committee

FROM: Dorsey & Whitney
Mae Nan Ellingson *Mae Nan Ellingson*

DATE: March 9, 1995

RE: House Bill 308

House Bill 308 is the result of an effort over the last biennium by many individuals and groups in the state involved with public water and sewer systems and their financing, including among others the Water and Sewer Agencies Coordination Team (WASACT), to identify and propose solutions to some of the problems faced by county water and sewer districts under existing state statutes. The purpose of HB 308 is to systematically clean up troublesome and archaic provisions in the county water and sewer district law and to provide districts with greater flexibility in providing the services that they have been created to provide. A brief discussion of each section follows.

SECTION 1. SECTION 1 amends Section 7-13-2218 to clarify two important issues:

(1) To make it clear that once the voters in a proposed district have voted to create a district, the board of directors of that district is authorized to contract for engineering services for the preliminary design of a system and assess those costs against properties in the district; and

(2) To more clearly state the ordinance making power of a district. Section 7-13-2275 M.C.A. currently contemplates the enactment of ordinances and resolutions by spelling out how ordinances and resolutions are to be enacted, but doesn't specifically grant the power to enact ordinance nor specify the subject matter for

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Senate Local Government Committee

Re: House Bill 308

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such ordinances and resolutions. Section 7-13-2301 M.C.A. currently specifies that the board of directors shall fix all water and sewer rates, and shall, through the general manager, collect the sewer charges and the charges for the sale and distribution of water to all users. The general grant of powers section (Sections 7-13-2218 and 7-13-2221 M.C.A.) does not clearly state that the board has the power to establish and prescribe the rules and regulations with respect to the use and operation of a system, i.e., prescribe procedure for termination or service, payment of hook-up fees and the like. This section makes it clear that ordinances and resolutions are the proper manner by which the district establish the rules, regulations, rates and charges.

It should be noted that before a district board can enact an ordinance, resolution or regulation all provisions of the open meeting law, i.e., notice, opportunity to comment, public meetings must be observed, and that ordinances are subject to initiative and referendum.

SECTION 2. Section 2 amends Section 7-13-2301 and contains the most significant changes in the legislation: greater flexibility in assessing costs for improvements and how delinquent charges are collected.

Costs of Improvements. The purpose of the changes in subsections (1) through (3) is to give greater flexibility to water and sewer district boards in structuring how the property owners in a district will pay for the costs of capital improvements constructed within that district. Under current law, as it is most frequently interpreted, costs of capital improvements, as well as costs of operation and maintenance, can only be paid for from "user fees" and then to the extent that those are inadequate, a deficiency tax levy on all property in the district. This has created difficulties in many districts, particularly those where there is undeveloped land and where it was either required or prudent to design the capital improvements to provide service and capacity for those properties once developed. Not being able to assess a portion of the costs of capital improvements against benefitted property has resulted in extremely high monthly charges for the initial users.

Section 7-13-2301, as amended, would allow a district to impose a facilities charge (not an operations and maintenance charge) against all property in the district which is benefitted by the improvements, whether connected to the system or not, if the voters of the district have authorized the construction of the improvements. The lack of this option has resulted in extremely high costs to

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Senate Local Government Committee
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users, as mentioned before, or in an effort to avoid that result, water and sewer districts requesting that the county create a special improvement district within or over the boundaries of the water and sewer district since under a special improvement district all benefitted property can be assessed for its share of the cost. Having multiple jurisdictions like this significantly complicates matters and significantly increases the costs of providing the improvements.

It should be noted that under this provision there would have to be an election within the district in order to charge benefitted property, whereas under the special improvement district route, an election is not required (although a majority can protest the creation of the district).

Collection of Delinquent Charges. Subsection (4) of Section 2 would enable a district, if it elects to do so, to place delinquent water or sewer charges as a lien against the property and have those collected as a tax.

The ability to disconnect service for nonpayment is not an adequate tool for a district to ensure the prompt payment of utility bills, particularly charges for sewer where disconnection is difficult, if not impossible, and disconnection might result in unsanitary conditions. Being able to place delinquent utility charges as a lien is common practice in other states. Currently in Montana, cities and towns are authorized by law to do so for delinquent sewer charges and county solid waste district districts are authorized by law to do so for delinquent solid waste charges.

Several points need to be made about this. This ability to collect delinquent charges in this manner becomes especially important if benefitted land which may be undeveloped is charged a facilities charge since the threat of disconnection is no threat at all. Second, if a special improvement district were used to pay for the capital costs, each benefitted property's share of the total capital costs, not one years assessment, becomes a lien against the property at the time of creation. Here we are only proposing that the annual delinquency become a lien. And finally, currently if the district revenues are inadequate in any year as a result of certain property owners not paying their charges, a deficiency tax levy has to be imposed on all property in the district to make up the deficiency. Those property owners who have paid their fees and charges have to pay again a pro rata share of the deficiency levy. Giving a district some additional tools to collect delinquent charges helps keep the costs down for those people who pay their bills when due.

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SECTION 3. Section 3 which amends Section 7-13-2321 attempts to clear up an ambiguity and make it clear that an election is not required for a district to issue refunding bonds. This would make the authority of water and sewer districts to issue refunding bonds more consistent with that currently of cities and counties and school districts which do not have to have an election to refund the outstanding debt.

SECTION 4. The primary purpose of Section 4 which amends Section 7-13-2324 is to reduce the costs that a district incurs in publishing the notice of the election. Currently, the law requires that the entire resolution calling for the election be published in the newspaper. That resolution must contain many things including the entire legal description of the property in the district. Often these resolutions are 10 pages long, resulting in exorbitant publication costs, since the notice of election has to be published three separate times. This section as amended will still provide adequate notice of the election to the district electors in that it requires that the notice set forth the essential elements of the election, i.e., when, where, purpose, dollar amount, term over which the debt is to be paid, and other matters the district deems relevant. This is consistent with bond issuing procedures for cities, counties and school districts.

SECTION 5. Section 5 of the bill as currently amended would authorize the district, upon approval of the voters of the district, to issue general obligation bonds to pay for the costs of capital improvements. The current bonding provisions of the county water and sewer district law allow the issuance of what are referred to as tax backed revenue bonds. The use of a general obligation mechanism can be of value to certain districts that simply want to spread the costs of the improvements on an ad valorem property tax basis and collect these amounts twice a year. This seems particularly important to smaller districts with minimal staffs for whom monthly, quarterly bills are difficult to send and collect, and the calculation of charges based on benefit may appear too onerous. It should be noted that general obligation bonds can only be issued if approved by the voters in the same manner as school district bonds, and it would be clear in the election proceedings that the bonds would be general obligations payable from a tax levy, rather than revenues of the system.

SECTION 6. Section 6 establishes the procedure for issuing refunding bonds.

TO: Senate Comm. on Local Government

RE: HB308 Opposition of

I am here representing myself as a consumer and as a bookkeeper for a District for 12 years. I am also representing the Board of Directors of Montanans for Property Rights.

Water is a necessity of life. Districts already have a monopoly in controlling this very important commodity. Water should be provided at an affordable rate, to the community it serves. If this Bill is to pass, it will be a flagrant abuse of the consumers rights and private property rights.

It gives the Board of Directors the power to:

- * Hire ~~personnel~~ ^{personnel} to study and engineer a system, with the cost charged to the property owner.
 - * It does not require notification to the property owners, who would be expected to pay the bill
 - * No provisions to protest this action
 - * No cap on amount that can be spent

Districts currently have the authority to work through the County to achieve this, with the protections built in for the property owners by utilizing MCA 7-12-21

- * Charge for the AVAILABILITY OF FACILITIES AND BENEFITS DIRECTLY OR INDIRECTLY AFFORDED, because expenses may be more than the revenues
 - * Board of Directors determines who meets this criteria-leaves it open to "pick & choose"
 - * No requirement for public hearing before setting charges, or notification to the property owners
 - * Property owner could be charged for INDIRECT BENEFITS, meaning there would not even have to be a main line accessible

District have the authority to place any shortfall as a Tax Levy on ALL PROPERTY WITHIN THE DISTRICT MCA 7-13-2221 & 7-13-2302 By using this existing laws, while unpopular, is fair and equitable.

- * Collection of delinquent charges as a TAX LIEN
 - * No provisions for property owner to protest or dispute the charges
 - * If the bill was for a renter or a previous owner, it falls to the owner or current owner to pay the bill
 - * Only recourse for the property owner is to pursue this as a civil matter, after the damage is done by the filing of a Tax Lien

Services of the Credit Br. and small claims courts are available to pursue collection of unpaid bills. There is also the option of requiring a deposit at the time of registration. Again, if charges are for availability or preceived benefits, the District has the right to levy a tax. It should be noted that security deposits held by a landlord cannot be used to pay an unpaid water/sewer bill MCA 7-25-101 to 103.

As for Sections 4 through 6, dealing with Bonded Indebtedness and refunding bonds, I would like to withhold comment at this time, I have not been able to study the issue close enough to fully understand the implications it may have.

Respectfully submitted,

Barbara Lietz
Barbara Lietz
Martin City, Montana

March 7, 1995
SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 6
DATE 3-9-95
BILL NO. HB 308

Having been a board member of a small water district I was made aware of some disturbing facts. One being the fact that the consumer is at the mercy of the Board and has no recourse but to bow to the demands of the Board. Rules can be made to fit nearly any circumstance.

I feel that HB 308 only increases the power of the water board over its ~~members~~ consumers.

I also feel there should be some firm rules for all water districts in the state to abide by. Making

EXHIBIT NO. 7DATE 3-9-95BILL NO. HB 308

We, the undersigned citizens of the State of Montana, strongly oppose HB308, which would allow County Water &/or Sewer Districts to Charge for the AVAILABILITY OF FACILITIES; Hire architects or engineers to design, do a study, plans, and specs for a system with the cost put against the property in the District or the area BENEFITED; Set rates, fees, tolls, rents, and other charges for services, FACILITIES AND BENEFITS DIRECTLY OR INDIRECTLY AFFORDED BY THE FACILITIES; Collection of delinquent charges as a TAX LIEN upon the property or mobile home; Would not require a vote of the people in the District to incur a Bonded indebtedness under certain circumstances.

PRINTED NAME	ADDRESS	SIGNATURE
Sandra L. Pieterick	Box 73 Hungry Horse mt	Sandra L. Pieterick
Lenna Larsen	#6 South 1st Ave H.H.	Lenna Larsen
Carolyn Alvarez	P.O. BOX 253 H.H. MT 59919	Carolyn Alvarez
Chuck Bailey	P.O. 458 H.H. MT	Chuck Bailey
Travis Helton	Box 253 H.H. MT	Travis Helton
Connie Hoffman	Box 1785 COLUMBIA FALLS	Connie Hoffman
Gertrude Seliger	Box 190094 H.H.	Gertrude Seliger
Laurel Tallman	P.O. Box 190562 H.H.	Laurel Tallman
JEFF JOHNSON	PO Box 190202 HH	Jeff Johnson
Julia Schooker	210 3rd Ave. W. C.F.	Julia D. Schooker
Greene M. White	Hungry Horse, P.O. Box 217 MT 59919	Greene M. White
Hope J. Rowe	P.O. BOX 1154 COL. FALL	Hope J. Rowe
THOMAS, D. CLAY	Box 260389 Martin City MT 59720	Thomas D. Thomas
E. J. WEILAND	BOX 260384 MARTIN CITY	E. J. Weiland
Mary M. Whitaker	Box 190205 Hungry Horse, MT	Mary M. Whitaker
Joe Rudy	Box 438 MARTIN CITY	Joe Rudy
NANCY LANDELL	Box 343 CORAM	Nancy Landell
Sandy Hendrickson	P.O. BOX 581	Sandy Hendrickson
Don Price	1146 Echo Lake Rd Bigfork	Don Price
Kelli Elliott	P.O. BOX 190693 Hungry Horse	Kelli Elliott

We, the undersigned citizens of the State of Montana, strongly oppose HB308, which would allow County Water &/or Sewer Districts to Charge for the AVAILABILITY OF FACILITIES; Hire architects or engineers to design, do a study, plans, and specs for a system with the cost put against the property in the District or the area BENEFITED; Set rates, fees, tolls, rents, and other charges for services, FACILITIES AND BENEFITS DIRECTLY OR INDIRECTLY AFFORDED BY THE FACILITIES; Collection of delinquent charges as a TAX LIEN upon the property or mobile home; Would not require a vote of the people in the District to incur a Bonded indebtedness under certain circumstances.

PRINTED NAME	ADDRESS	SIGNATURE
Lietz	415 Central Ave. Martin City	David E. Lietz
MYERS	EVERGREEN WATER BX 2955 CALSPELL MT	Robert C. Myers
Lietz, Barb	59913-0248	Barbara Lietz
MESKIMEN, DONNA	59919 BX 190554 Hungry Horse MT	Donna Meskimen
Meskimen	PO BOX 190554 HUNGRY HORSE, MT.	Thomas A. Meskimen
SERBA	PO BOX 130025, CORAM, MT. 59913	Raymond P. Serba Sr.
Hilde	59924 P.O. BOX 260415 MARTIN CITY	James S. Hilde
BEACH	Box 260135 Thartincity	Bibbi Kay Beach
Broers	Box 406 Hungry Horse 59919	Henry Broers
Art Phelps	59919 BOX 190457 HUNGRY HORSE	Arthur F. Phelps
Lee	Bx 190391 Hungry Horse MT	Dolma A. Lee
Lee	Bx 190391 Hungry Horse MT	Cameron E. Lee
Torpen	Bx 260326 Martin City MT	2 F.
Torpen	Bx 260326 Martin City	
CHARLES TUSTIN	BOX 130112 CORAM MT	Charles Tustin
Jim Dowling	P.O. BOX 190520 Hungry Horse	Jim Dowling

DATE 3-9-95

SENATE COMMITTEE ON LOCAL GOVERNMENT

BILLS BEING HEARD TODAY: HB 197 HB 220

HB 249 HB 308

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
BARBARA LIETZ	SELF MT FOR Property Rts.	HB 308		✓
DEBORAH MYERS	SELF	HB 308		✓
DONNA MESKIMEN	MARTIN CITY WATER DIST	HB 308		✓
TOM MESKIMEN	MARTIN CITY	HB 308		✓
JIM WYSOCKI	CITY OF BOZEMAN	HB 249	✓	
BLAKE WORDAL	LEWIS & CLARK CO	HB 197	✓	
SANDRA OTZINGER	MT ASSN of Counties	HB 197	✓	
TRIM REARDON	MT DEPT OF TRANS	HB 249	✓	
CARL HARRINGTON	MT County Treasurer	HB 197	✓	
R. F. LABBE	CITY OF DEER LODGE	HB 308	✓	
GINNIE PETERSON	North Home County North Rural Water	HB 308	✓	
BRENE MACKENZIE	D.A. Dawson / SIA	HB 197	✓ w/amend	
NATHAN TUBERGEN	CITY OF BILLINGS	HB 220	✓	
GARY GILMORE	MONT DEPT TRANS	HB 249	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Robert White	Bozeman Chamber	HB 249	✓	
Lanil Kiel	Montana Land Water Syst	HB 308	✓	
Bobby Broadwater	Sun Prairie Village Co Water & Sewer	HB 308	✓	
J. Shontz	MT Assoc. REALTORS	308	✗	
Mae Rae Ellersie	Dorsey & Whitey	HB 308		
Mae Rae Ellersie	Moses E. Whitey	HB 197		
Anne Miller	DNR	HB 208	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY