

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on March 23, 1995, at 3:20 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: none

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:
Executive Action: HB 220, HB 308, HB 197, HB 101, HB 358,
HB 421

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

EXECUTIVE ACTION ON HB 220

Discussion:

CHAIRMAN TOM BECK asked Susan Fox if there were any amendments. Ms. Fox said there were no specific amendments proposed but everyone has had problems whether it was approved or protested for assessment in lighting districts. In the House it was changed to "protested" from "approved".

SEN. DELWYN GAGE said that one takes a positive action while the other does not.

Motion: SEN. GAGE MOVED HB 220 BE CONCURRED IN.

Discussion:

CHAIRMAN BECK said that he had written in his notes, "the method of assessment adopted in the resolution may not be modified if protested in writing by the owners of the majority of the property". He had the word original resolution, and was not sure if there could be more than one resolution to be adopted?

SEN. GAGE said that they could have the original resolution in regard to how they are going to do cost and then they might come in with resolution to change it to another method and then they might come in and want to go to a different method again.

CHAIRMAN BECK asked if the word "original" would be appropriate in the bill?

SEN. GAGE said in the resolution they are talking about they would be referring to a previous resolution of some kind that they would be trying to modify. Whether it would be the original resolution or a subsequent resolution they would still be trying to modify a resolution. HB 220 was saying if you are trying to modify a resolution that has been adopted, one way to do it is by protest and the other is by approval. If the modification is protested it can not be done.

SEN. DON HARGROVE did not understand what an original resolution would be. CHAIRMAN BECK said that it is an act to revise the procedure of assessment. If the original resolution is to be modified, that it must be protested in writing by the owners.

SEN. GAGE asked what happens when the second resolution is to be modified? The second resolution would still be sitting there with nothing done to it. He could not believe that they would not take the last resolution all the time to modify.

SEN. DOROTHY ECK asked if there was a resolution that the commissioners act on and once they acted on it, would it still be a resolution or would it be an ordinance or something else? What was being looked at was the method that has been adopted at some time by resolution and then they have a resolution to modify.

CHAIRMAN BECK said that the bill was trying to assess people on certain basis but if it was done by resolution then a certain method is to be used and they want to use another method, it can not be used unless protested by the owners of the majority of the property. Before it had to be approved by the owners. He asked if the committee wanted to go back to the "approved" language?

SEN. GAGE did not because there may not anyone protesting and if the approved language was used, you would have to go out and get the approval of the majority. This way if they are opposed, they can go out and get the signatures.

SEN. J.D. LYNCH said that the reverse was true because if you had to go out and get the majority of the people to sign and protest in writing, there is a great deal of work. He preferred the method as "approved".

CHAIRMAN BECK presented the scenario of changing from a user fee to ad valorem and one person owned a lot of ground and could not get a majority of the protestors but if they went to the ad valorem he would pay more tax.

Vote: THE MOTION FAILED. (SEE ROLL CALL VOTE NUMBER 1).

Motion/Vote: SEN. LYNCH MOVED HB 220 BE TABLED. THE MOTION CARRIED. (SEE ROLL CALL VOTE NUMBER 2).

EXECUTIVE ACTION ON HB 308

Motion: SEN. JEFF WELDON MOVED HB 308 BE CONCURRED IN.

Discussion:

SEN. WELDON stated that issued raised in the hearing and Mae Nan Ellingson wrote a letter to the committee with amendments that have been prepared for the committee.

Motion: SEN. WELDON MOVED THE AMENDMENTS BE ADOPTED.

Discussion:

SEN. WELDON asked the sponsor REP. DAVID EWER to explain the amendments.

REP. EWER asked for some time to look over the amendments before commenting.

SEN. LYNCH suggested that those opposed to the bill that someone explain to him why the opposition and then if the amendments would take care of the opposition.

CHAIRMAN BECK said that there were three opponents to the bill who gave him information on why they opposed HB 308 (EXHIBIT 1). He also had personal objections about assessing against the trailer homes versus the land owner.

SEN. LYNCH said that did not make sense to him either and he thought the amendments took care of that as that was his objection to the bill.

CHAIRMAN BECK passed around petitions from people who were against HB 308 (EXHIBIT 2).

SEN. WELDON had two points about the opposition. The letter from Mae Nan Ellingson specifically addressed the concerns raised by Barbara Leitz.

SEN. LYNCH wanted to know the rationale why a person in a trailer should be assessed the fee rather than the person who owns the land. The trailers can be very transient.

SEN. HARGROVE said that it was his understanding that the public did not object.

CHAIRMAN BECK said that the sponsor said if that amendment was taken out the bill would be dead in the House.

REP. EWER said that **REP. WAGNER** from Hungry Horse had three objections to the bill but honored only two of the amendments. **REP. EWER** did not like the amendment dealing with mobile homes and encouraged the committee to strip the mobile homes out of the bill but he did not believe the House would accept the amendment.

SEN. WELDON said that the motion on the table is on the amendments dated March 17, 1995 by Mae Nan Ellingson and the sponsor concurs with the amendments.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: **SEN. WELDON** MOVED TO STRIKE THE HOUSE AMENDMENTS ON PAGE 4 SUB B. The MOTION CARRIED UNANIMOUSLY.

Discussion:

CHAIRMAN BECK said the people from Big Arm wanted to look at page 2 line 15 after "of a water sewer system" insert "which will benefit 80% or more of the land located within". **CHAIRMAN BECK** asked **REP. EWER** if unapproved land will be assessed some sewer and water if there are no improvements on the land?

REP. EWER said that it has to be benefitted and the assessment charges have to be voted debt. He continued that the opponents to the bill did not understand the issue well enough because the issue of benefitted property is well established in district and SID laws.

SEN. LYNCH said he did not understand that if the sewer line simply goes through someone's line but does not benefit them would they be assessed?

REP. EWER said that was part of the central philosophical issue of HB 308 and what it means to be benefitted. To be benefitted does not mean you had to be hooked up. There are all kinds of statutes where you pay your charge whether you use it or not. If

the sewer lines goes by your property your property value will increase.

SEN. LYNCH asked if you have a television district and you do not own a television would you have to pay? **REP. EWER** said you would still pay.

SEN. DOROTHY ECK asked about section 5 and if it should be reinserted.

Susan Fox said that the language was reinserted when they adopted the amendments so determination of benefit outlines through court decisions generally what was accepted as how you determine whether property is benefitted or not. In subsection 2 there were a lot of different factors that would help someone determine whether they may be benefitted or not.

REP. EWER said that originally what HB 308 did was put some parameters in for other types of districts.

SEN. ECK asked **REP. EWER** what kind of a group met to put this bill together? **REP. EWER** said that it was an effort from Montana Rural Water, a permanent group of people who are interested in water and sewer infrastructure issues, Water and Sewer Coordinating Task Force and Federal and State local officials.

SEN. GAGE asked the process of forming a water and sewer district? **REP. EWER** said that the process was to ask to form a water and sewer district and 51% have to protest.

SEN. GAGE asked if 51% of the land owners could form a district? **REP. EWER** said that in getting the debt, it would take 60% of a 40% voter turn out to approve the debt.

SEN. GAGE expressed his concern that protest from one area in the state while the rest of the state would benefit from a bill and because of one they would kill the bill.

SEN. WELDON asked if Hungry Horse, Martin City, and Curam were all in the same area? **SEN. GAGE** said they were.

SEN. WELDON agreed with **SEN. GAGE'S** point that the petition showed signatures from the same area and a petition **SEN. WELDON** received dated February 16, 1995 to the Governor showed support from East Helena, Great Falls, Absorkee, Ronan and others who have either been involved in the development of the bill or in the issue in their communities.

SEN. GAGE said that if he was representing those people in Hungry Horse and Curnam he would oppose the bill but they are not his constituents and his number one responsibility was his constituents and number two his state.

SEN. WELDON asked to what extent the amendments offset the concerns of the people in Hungry Horse? REP. EWER said that they offset some of the concerns partially in that the amendments provided for stricter language for notice of open meetings to be given. He did not understand some of the opposition to the bill so much as their own frustration with their situation in Hungry Horse.

SEN. WELDON said absence this bill which Mae Nan Ellingson described as a two or three year effort to update law, find solutions to problems faced under existing statutes and clean up troublesome and arcaic provisions. Absence this bill and the people he referenced earlier would have difficulties.

REP. EWER said that if the bill would not pass, the status quo would remain. The status quo being even though you benefitted you do not have to pay that stopped the process of being able to sell water and sewer district bonds which were much more cost effective than special improvement districts.

SEN. WELDON asked REP. EWER if his bill would erode the due process protection? REP. EWER said absolutely not and expands the notification process and water and sewer districts have to justify their rates and charges every two years.

Motion/Vote: SEN. WELDON MOVED HB 308 BE CONCURRED AS AMENDED. THE MOTION CARRIED WITH CHAIRMAN BECK VOTING NO.

EXECUTIVE ACTION ON HB 197

Motion: SEN. WELDON MOVED THE AMENDMENTS TO HB 197 BY REP. EWER.

Discussion:

SEN. GAGE asked REP. EWER to explain his amendments.

REP. EWER said the amendments make sure when refunding bonds, they are allowed to use the treasury obligations known as state local government securities that can only be subscribed to when doing advanced refunding. They had the same quality as direct obligations bills and agencies.

SEN. GAGE stated that there was a bill that referred to eligible securities. REP. EWER said that was this bill.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: REP. WELDON MOVED HB 197 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 101

Motion/Vote: SEN. ESTRADA MOVED HB 101 BE TABLED. THE MOTION CARRIED WITH SEN. ECK VOTING NO.

EXECUTIVE ACTION ON HB 358

Motion: SEN. GAGE MOVED HB 358 BE CONCURRED IN.

Discussion:

CHAIRMAN BECK asked if there were any amendments offered to the bill.

Susan Fox said there were many suggestions during the hearing but no offered amendments.

SEN. WELDON said that the bill adds the ability of 50% of the title property owners to protest. The most compelling argument is the cost in attempting to maintain records to judge 50% of the property owners. The bill says, "freeholders representing property ownership" and he was not sure what that meant. He said it was a problematic bill and he understood the frustration sparking this bill but it would make it difficult for local governments to maintain some sort of control and he opposed the motion.

SEN. HARGROVE said that the opponents were all wishy washy about the bill and overall there is a unfairness and this bill protects the people who have been there the longest. He said it may not have been perfect but it should be given a shot.

SEN. ETHEL HARDING said without the bill it would put farm and ranch people in a position where they were concerned they would not be able to do anything with their land. If they are going to be so restricted by people who decide they should just have an open space, they should just subdivide and get out and that was not the message she wanted to send. She said that the people on farm and ranch operations should stay there as long as they want.

SEN. LYNCH said that he did not understand the bill and if this law was in effect when he was growing up in the 1950's and 40's there would be no zoning because the Anaconda Company could have stopped anything. He stated that moving to 60% protesting was not a bad idea. He wanted to protect the land owners too, but he was not sure about the bill in it's current state.

SEN. SHARON ESTRADA said she had concerns also as you should be able to do what you want with your property but she had some problems with the bill and was not sure what to do.

SEN. HARGROVE said it depended on where you live. In his area of Belgrade, there is rapid growth and the person who has been there for many years winds up not having any say over what is his home.

CHAIRMAN BECK agreed with SEN. HARGROVE and said that if zoning regulations are put into affect and just because a person owns a fairly large track of land and only has one voice, it will affect the equity of the land. This was getting at the position of takings in that if a person with 2 acres voted to zone another persons 2,000 acres is not fair and that is the point the bill is trying to make..

SEN. LYNCH pointed out Ted Turner who owns a huge piece of property and has 300 people around him, then he would have control.

CHAIRMAN BECK said the answer to SEN. LYNCH'S comment is to zone the people who want the zoning and not Ted Turner.

SEN. HARDING said why should people with 10% or less of the land be able to have a protest and those with a majority of the land have no say at all. They should be able to have a say and 160 acres are still under the requirements of the environmental standards.

SEN. LYNCH said there are three strong for the bill and three are luke warm against the bill and it was time to vote.

SEN. HARGROVE said that this did not eliminate one in favor of another, it was a matter of percentages.

SEN. WELDON said it is 40% of the freeholders and they do not necessarily have to be a resident freeholder so there was still a mechanism to protest.

CHAIRMAN BECK said the point is that when zoning if one person who owns a large piece of land objects, you've stopped the zoning for a year and then you can come back in and do a zoning with out that land. It is not worth getting into a takings position.

Vote: THE MOTION CARRIED. (SEE ROLL CALL VOTE NUMBER 3).

EXECUTIVE ACTION ON HB 421

Motion/Vote: SEN. LYNCH MOVED HB 421 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 3:40 p.m.


SEN. TOM BECK, Chairman


ELAINE JOHNSTON, Secretary

TB/ej

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE _____

3-23-94

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SEN:1995

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SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 24, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 308 (third reading copy -- blue), respectfully report that HB 308 be amended as follows and as so amended be concurred in.

Signed: 
Senator Tom Beck, Chair

That such amendments read:

1. Title, line 5.

Following: "FACILITIES;"

Insert: "CLARIFYING THAT WATER AND SEWER DISTRICTS ARE SUBJECT TO OPEN MEETING REQUIREMENTS; PROVIDING FOR NOTICE AND FOR PUBLIC HEARINGS;"

2. Title, line 7.

Following: "JURISDICTION;"

Insert: "PROVIDING FACTORS FOR DETERMINING IF PROPERTY IS BENEFITED;"

3. Title, line 9.

Following: "7-13-2218,"

Insert: "7-13-2274, 7-13-2275,"

4. Title, line 10.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

5. Page 2, line 21.

Insert: "

Section 2. Section 7-13-2274, MCA, is amended to read:


"7-13-2274. **Conduct of business.** (1) All legislative sessions of the board of directors, whether regular or special, ~~shall~~ must be open to the public. Notice of the sessions must be given and the sessions must be held in compliance with the requirements of Title 2, chapter 3, parts 1 and 2.

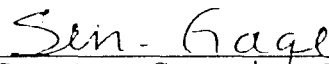
(2) A majority of the board ~~shall constitute~~ constitutes a quorum for the transaction of business.

(3) The board ~~shall~~ may act only by ordinance or resolution."

Section 3. Section 7-13-2275, MCA, is amended to read:

"7-13-2275. **Procedure relating to ordinances and resolutions -- rates, fees, and charges established.** (1) The ayes and noes ~~shall~~ must be taken upon the passage of all ordinances


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

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or resolutions and entered upon the journal of the proceedings of the board of directors. ~~No~~ An ordinance or resolution ~~shall~~ may not be passed or become effective without the affirmative votes of at least a majority of the total members of the board.

(2) The enacting clause of all ordinances passed by the board ~~shall~~ must be in these words: "Be it ordained by the board of directors of district as follows:"

(3) All resolutions and ordinances ~~shall~~ must be signed by the president of the board and attested by the secretary.

(4) Prior to the passage or enactment of an ordinance or resolution imposing, establishing, changing, or increasing rates, fees, or charges for services or facilities, the board shall order a public hearing.

(a) Notice of the public hearing must be published as provided in 7-1-2121. The published notice must contain:

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

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

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

(b) The notice must also be mailed to all persons who own property in the district and to all customers of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must contain an estimate of the amount that the property owner or customer will be charged under the proposed ordinance or resolution.

(c) Any interested person, corporation, or company may be present, represented by counsel, and testify at the hearing.

(d) The hearing may be continued by the board as necessary. After the public hearing, the board may, by resolution, impose, establish, change, or increase rates, fees, or charges."

Renumber: subsequent sections

6. Page 4, lines 4 and 5.

Following: "The" on line 4

Strike: the remainder of line 4 through "THE" on line 5

Insert: "The"

7. Page 4, lines 6 and 7.

Following: "arrearage." on line 6

Strike: the remainder of line 6 through "HOME." on line 7

8. Page 6, line 2.

Insert: "

NEW SECTION. Section 7. Determination of benefit. (1)

Under part 22 or this part, the county commissioners or board of directors of a district may, on the basis of whether the property is benefited by the facilities, determine whether or not to

include property in a district, to charge property for the use or availability of services, or to charge property for a particular bonded indebtedness.

(2) In determining if a property is benefited, the county commissioners or board of directors shall consider the following factors:

(a) whether the property is currently served by the facilities;

(b) whether the property would be served by the facilities if the owner elected to connect to the facilities;

(c) whether additional facilities are required to allow the property to connect to the facilities;

(d) whether additional facilities have been authorized or plans to authorize the additional facilities have been made and whether the additional facilities would be available within the next 3 years;

(e) the current use of the property;

(f) the permitted uses of the property under applicable zoning and land use regulations;

(g) any estimated increase in the market value of the property as a result of the facilities;

(h) the character and location of the district;

(i) the character and location of the property;

(j) whether the property is served by other facilities of the district or other public improvements; and

(k) any other relevant factors."

Renumber: subsequent sections

9. Page 6, lines 17 through 20.

Following: "district."

Strike: the remainder of line 17 through line 20

10. Page 7, lines 16 and 18.

Strike: "5 AND 6"

Insert: "7 through 9"

11. Page 7, line 20.

Following: "date"

Insert: "-- applicability"

Following: "."

Insert: "(1)"

12. Page 7, line 21.

Insert: "(2) Section 7-13-2301(2)(b) applies to bonds issued prior to, on, or after [the effective date of this act]."


-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 197 (third reading copy -- blue), respectfully report that HB 197 be amended as follows and as so amended be concurred in.

Signed: 

Senator Tom Beck, Chair

That such amendments read:

1. Page 1, line 13.

Following: "in"

Insert: "the following eligible securities"

2. Page 1, line 14.

Following: "bonds"

Insert: "and in United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations"

3. Page 1, line 16.

Strike: "and"

Insert: "or"

4. Page 2, line 22.

Strike: "United States obligations"

Insert: "eligible securities, as described in this section,"

5. Page 2.

Following: line 30

Insert: "(5) This section may not be construed to prevent the investment of public funds under the state unified investment program established in Title 17, chapter 6, part 2."

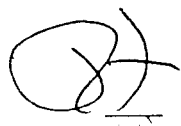
6. Page 3, line 29.

Following: "~~direct~~"

Strike: "obligations" through "agencies"

Insert: "eligible securities"

-END-

 Amd. Coord.

51 Sec. of Senate

Sen. Gage
Senator Carrying Bill

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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 24, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 358 (third reading copy -- blue), respectfully report that HB 358 be concurred in.

Signed: Sen Tom Beck
Senator Tom Beck, Chair

51 Amd. Coord.
Sec. of Senate

Sen. Beck
Senator Carrying Bill

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SENATE STANDING COMMITTEE REPORT

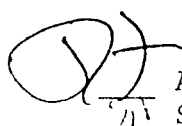
Page 1 of 1
March 24, 1995


MR. PRESIDENT:

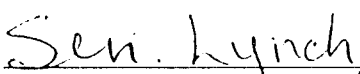
We, your committee on Local Government having had under consideration HB 421 (third reading copy -- blue), respectfully report that HB 421 be concurred in.

Signed: _____


Senator Tom Beck, Chair

 Amd. Coord.

 Sec. of Senate


Senator Carrying Bill

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MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE
ROLL CALL VOTE

DATE 3-23-95 BILL NO. HB 220 NUMBER 1

MOTION: Concur In

NAME	AYE	NO
DOROTHY ECK	✓	
SHARON ESTRADA		✓
DELWYN GAGE	✓	
DON HARGROVE		✓
J. D. LYNCH		✓
JEFF WELDON	✓	
ETHEL HARDING, VICE CHAIRMAN		✓
TOM BECK, CHAIRMAN		✓

DATE 3-23-95 BILL NO. HB 220 NUMBER 2

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MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE
ROLL CALL VOTE

DATE 3-23-95 BILL NO. HB 358 NUMBER 3

MOTION: Concur

[illegible]

HB308

Last time I was here, I heard several comments about this bill and would offer the following comments in response. I do not pretend that I fully understood what was meant and still may be misunderstanding a couple of items:

- 1) Comparison of a Water/Sewer Districts to a TV or lighting District
 - Apples and oranges
 - TV & Lighting District are uncontrollable
 - Water is controllable-goes where directed with main lines, service taps, fire hydrants
- 2) When a District is formed, everyone petitions to be
 - Formed in Rural areas, generally in areas where a private system is or has failed or is no longer cost effective for owners to continue to maintain
 - 10% of registered voters** in the boundaries of the proposed district puts the issue before the County Commissioners
 - Notice is published and a public hearing is scheduled
 - Protests can be forwarded, **BUT**, IT IS UP TO THE **DISCRETION** OF THE GROUP FORMING THE DISTRICT, wether to leave the boundaries as petitioned or to allow anyone out.
 - Election is held

***MCA 7-13-2204 to 2215
- 3) Municipalities and County Water/Sewer Districts are the same
 - Municipality is an incorporated town or city (MCA 7-1-4121(9))
 - County unincorporated town or city, District is a separate and distinct from a municipality (MCA 7-13-2201(3))
 - If a Municipality changes rates, charges ect to raise more than a 12% increase in total annual revenues, must make application to the PSC (MCA 69-7-101 & 102)
 - District is not answerable to the PSC (MCA 69-3-102(2B) & attached letter
- 4) Neighbor, who is paying, servicing neighbor who is shut off for non-payment, with a hose.
 - District policy generally states must be registered with the District to receive the services.
 - Rules and Regulations should have something to effect that it is prohibited to service a separate unit via a hose.
 - Neighbor shut off for non payment should be notified that if hose is not disconnected immediately, he will be charged with Theft of services: Neighbor who is supplying neighbor should be notified that the Rules prohibit the hose connection and to disconnect it or services to him will be discontinued.
- 5) If feel not benefiting--can petition to be excluded
 - Have the right to petition to request exclusion **BUT**, it is a decision that is up to the Board of Directors.
 - Majority of Board's deny the request on the grounds that to approve one, must approve all and that would come down to exculding all that is vacant or unimproved

***MCA 7-13-2343 to 2345



PUBLIC SERVICE COMMISSION

1227 11th Avenue • Helena, Montana 59620

Telephone: (406) 449-3007 or 449-3008

Mr. Schneider, Chairman
Mr. O'Spall
Mr. Ward Ellis
Mr. De Jarvis
Mr. Oberg

September 23, 1983

Ms. Deborah Sisteck
Martin City Water District
Martin City
Montana 59926

Dear Ms. Sisteck:

I have been informed that this Commission has sent your firm an annual report form and that as of this date this report has not been completed and filed with this Commission. It is my understanding that the Martin City Water Co., which was a privately owned public utility, was converted to a county water district in 1981, if this is true, then this Commission has no jurisdiction over the Martin City water utility.

During the 1983 legislative session the 48th Montana Legislature, passed amendments to Title 69, Chapter 7, MCA, that exempts County water and sewer districts from regulation by this Commission. With the passage of these amendments all county water and sewer districts have been exempted from compliance with any and all rules this Commission may have had relating to county districts, therefore, it is not necessary for your firm to file an annual report with this Commission.

If you have any questions relating to this matter please contact me at 449-3456.

Sincerely,

MONTANA PUBLIC SERVICE COMMISSION

Ronald R. Woods

Ronald R. Woods
Rate Analyst
Utility Division

rrw/jb

HB308

HIRING ENGINEERING SERVICES

Page 2 (8)

Big misunderstanding between what "intent" is and how it can be interpreted

Ms. Ellingson indicates this is to allow the District to pay for the study of a new system and to have a mechanism to pay for it.

It can also be interpreted to include main line extensions or major improvements, with the cost assigned against properties in the district, in accordance to 7-13-2301.

If this were amended to be clearer and the mechanism to pay for it were to be distributed evenly, it would be easier to "swallow".

Perhaps something like:

insert page 2 line 13, after "of a water or sewer system " insert "which will benefit 80% or more of the land located within "
insert page 2 line 14, after "in accordance with" insert "7-13-2302"

Add to 7-13-2302 to include:

7-13-2302 (1) (D) to read:

(d) of the amount of money required by the district for the purpose of retaining the services of architects and engineers for feasibility study of a new system,

Page 2, line 12 to 14 would now read:

(8) retain the services of architects and engineers for designing, preparing a feasibility study for and drawing plans and specifications of a water or sewer system which will benefit 80% or more of the land located within the district, with the cost of these services apportioned and assigned against properties in the district in accordance with 7-13-2302; and

and with 7-13-2302 (1d) added, it gives the district the mechanism to pay for it.

This would also leave the District in main line extensions of going to the property owners for approval of extending the line, such as utilizing the RSID law?

CHARGES FOR AVAILABILITY OF FACILITIES:

Ms. Ellingson's response to my comments states

- enables district to spread costs of capital improvements as a facilities charge against properties that are benefitted by improvements
- authority to levy taxes if expenses exceed revenues is already in the law
- gives authority to assess a capital costs against benefitted property
- matter of due process and equal protection, must apply the criteria equitably and uniformly
- recommends reinserting NEW SECTION 5

Montana Rural Water Users letter to the Governor states: (copy of letter attached)

- 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

To both, I can only comment:

It does give the authority to the Board to "pick and choose".

New Section 5 states:

- shall consider the following
- is it currently served, whether the property would be served IF the owner elected to do so, whether additional facilities have been authorized or if plans will authorize additional facilities within THE NEXT THREE YEARS, permitted uses, estimated increase in market value , character and location , served by other public improvements, any other relevant factors.

Districts may be bound by due process and equal protection and are suppose to apply the criteria equitably and uniformly, but if you feel you were not treated as such--your only recourse is by hiring an attorney and going to court, which will cost approximately 10,000 to 20,000 dollars. Which would be the lesser of two evils, going to court or just paying the bill???

If both are referring to bonded indebtedness, which was voted on, to allow the District to sell bonds to raise the money for a new system, and if the District is unable to met that obligation because they don't have the money to make the payments, then the law already allows the funds required to be levied as a tax. (MCA 7-13-2302 (a)) By using the laws already in place, it does not allow for "pick & choose", but would be spread among ALL who have property in the district, and it is already based on the TAXABLE MARKET VALUE.

I am totally against the Board of Directors having the authority to charge for Availability or benefits. I strongly recommend it be struck from the bill wherever it appears.

EXHIBIT 1

DATE 3-23-95

HB 308

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.

DELINQUENT CHARGES AS TAX LIEN

Ms. Ellingson's comments:

- did not elaborate on the policy issues behind allowing this.
- Precedent for including are 7-13-3042, 7-13-4309, and 7-13-234

While I admit I am working with the 1991 set of MCA's, I offer the following, with assurances, I will look it up when I arrive and advise you of any difference:

- 7-13-3042 is reserved
- 7-13-4309 basically says what has been added to HB308, with changes to include water on pages 3 and 4, lines 15 p3 to line4 p4
- 7-13-234 says fees collected, deposited with County Treasurer, in separate account. I suspect she meant to reference 7-13-233 (5), or my book is very outdated.

She goes on to say:

- If the PROPERTY OWNER CAN SHOW THAT THE SERVICES WERE NOT PROVIDED TO THE PROPERTY or the bill has been paid, district would not have authority to place on the tax roll.

I stand by my statement that if the bill was for a renter or a previous owner, it falls to the owner or current owner to pay the bill.

HB308 says:

- by July 15 of the fiscal year, give notice to THE OWNERS OF THE PROPERTY
- must be paid by August 15
- September 1, certifies to county assessor a list of property

If the bill was from a renter who has moved out or a prior owner, you must pay, because obviously, you can't prove **THAT THE SERVICES WERE NOT PROVIDED TO THE PROPERTY**. You may not have used the services or been aware the renter left without paying until you are served with a letter by July 15th.

I agree if the deficiency is caused by certain people not paying their charges, to **levy** a tax would not be fair to those who are paying. But if there is a problem or collection is so poor that the district^llacking funds or if this is to force collection of all the people who are leaving unpaid bills, I would suspect that this comes down to mismanagement. Have policy in place to collect Deposits at the time services are requested and a policy of turning off for non payment before the bill exceeds the deposit.

I also foresee the word "**SERVICES**" being redefined to include availability and benefit charges. Two reasons:

- Users is already being redefined to include any service, whether being used or not
- no provisions anywhere else to force collection of availability or benefits charges

I am against this portion of the bill, as it opens the door for abuse.

BONDS:

I still don't know any more about Bonds than I did the last time I was here.

But, I do have some questions:

Page 4, line 27-28 in reference to Notice of election on incurring bonded indebtedness:

States: may include only the lands to be benefited

- does this mean, for example a main line extension as an improvement?
- would only those who would be affected vote, or would everyone in the district be able to vote?
- why was location of polling places knocked out?

Page 5 New Section 5: Issuance of general obligation bonds:

- term 30 years, according to HB308
- current law allows 40 years MCA 7-13-2322
- Why the difference??
- definition of improvements? Could this be main line extensions or or upgrading a part of the system?
- for manner and conditions, referenced to MCA 20-9-4. I don't understand why it is referenced to school districts? What was the prior standards, before this change? What are the advantages or disadvantages of this?

Page 6 New Section 6: Issuance of refunding bonds without election

- It sounds like you would issue refunding bonds to pay general obligation bonds, but rather than paying off the general obligation bonds, that the money from the refunding bonds would be deposited to an escrow account and used to pay the payments on the general obligation bonds?

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
Dan Rose	Hungry Horse	Dan Rose
Ed Walker	Hungry Horse	Ed Walker
June V. Moser	Box 260118	June V. Moser
June V. Moser	Box 260118 MARTIN CITY	June V. Moser
Vicki Hyton	Box 190083 HH	Vicki Hyton
Sonny Salois	3311 ST AVE MARTIN CITY	Sonny Salois
Karl Downing	Box 378 Coram	Karl Downing
Stella Huber	P.O. Box 304 Coram	Stella Huber
Sharon Talbot	Martin City	Sharon Talbot
Wendy Beyer	Hungry Horse	Wendy Beyer
Sonja GREEN	Hungry Horse	Sonja Green
Clyde Walling	Hungry Horse	Clyde Walling
LORIS TURNER	Hungry Horse	Loris Turner
Robert Wagner	Hungry Horse	Robert Wagner
Douglas Miller	1165 S. MILE LAKE RD. HALESPER, MT.	Douglas Miller
Jinda Owens	Martin City mt.	Jinda Owens
Jim Owens	Martin City MT.	Jim Owens
Al Snyder	Hungry Horse MT	Al Snyder
Tracy Owens	HH	Tracy Owens
Bruce & Mary Whitaker	" " "	Bruce & Mary Whitaker
Jamie Apple	" " "	Jamie Apple

Exhibit 2 is a petition which consists of 8 pages of signatures. The original is stored at the Historical Society at 225 N. Roberts St., Helena, MT 59620-1201. Phone # - 444-2694.