

1 2 Clause BILL NO. 192  
2 INTRODUCED BY W. Barth Guyra

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOCAL  
5 GOVERNMENT UNITS TO CHARGE TAX EXEMPT ENTITIES FOR SERVICES  
6 SUPPLIED FOR THE BENEFIT OF SAID ENTITIES."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Legislative findings. It is found and  
10 declared that local governments, both cities and counties,  
11 are providing certain essential governmental services to tax  
12 exempt entities owning property within this state, which  
13 property is exempt from taxation. The provision of such  
14 services is an expense which it is increasingly more  
15 difficult for such local governments to bear without  
16 decreasing both the quantity and quality of essential  
17 services performed on behalf of all citizens. It is further  
18 found and declared that local governments should have a  
19 means of defraying the cost of providing such essential  
20 services to such entities by charging them for actual  
21 services provided.

22 Section 2. Definitions. As used in this act:

23 (a) "Local government unit" means any city, town, or  
24 county within the state of Montana;

(b) "Essential services" means the provision of

1 garbage and refuse collection and disposal, street and road  
2 repair, snow removal, fire protection, police protection,  
3 and street cleaning and improvements made by any duly  
4 authorized special improvement district;

5 (c) "Tax exempt entity" means any city, county, town,  
6 school district, municipal corporation, public library, the  
7 state of Montana, agricultural and horticultural societies  
8 owning property used exclusively for educational purposes,  
9 churches, hospitals, cemeteries not used or held for private  
10 or corporate benefit, institutions of purely public charity,  
11 public art galleries, public observatories not used or held  
12 for private or corporate profit, organizations of honorably  
13 discharged United States soldiers, sailors or marines, and  
14 any other such organization, agency or foundation excluding  
15 agencies of the United States which owns real property in  
16 the state of Montana on which it conducts an operation or  
17 activity of a governmental, religious, educational, medical  
18 or charitable nature.

19 Section 3. Power to charge -- limitations. Any local  
20 government unit may charge any tax exempt entity for  
21 essential services provided by such local government unit to  
22 such entity or for such essential services from which such  
23 tax exempt entity receives a direct benefit; provided that  
24 no such charge may be made for street and road repair,  
25 improvement maintenance, cleaning or snow removal unless

*HB 192*

1 such tax exempt entity owns real property which abuts upon  
 2 or is serviced by the street or road on which such services  
 3 are provided; provided further, that no local government  
 4 unit may charge a tax exempt entity for providing any  
 5 service to a place of actual religious worship.

6 Section 4. Resolution required -- contents -- rates  
 7 established. Any local government unit choosing to exercise  
 8 the powers conferred by this act shall first pass a  
 9 resolution declaring its intent to do so. In said  
 10 resolution the local government unit shall list the real  
 11 property owned by each and every tax exempt entity,  
 12 excluding places of actual religious worship, operating  
 13 within its boundaries and must in addition establish rates  
 14 to be charged for the provision of each essential service to  
 15 each such entity. The rates shall be graduated depending  
 16 upon the demand generated by the tax exempt entity for such  
 17 essential services and shall in no event exceed the  
 18 estimated cost of provision of such essential service as  
 19 assessed against or attributed to taxable property within  
 20 the local government unit boundary of like value and nature.  
 21 If a local government unit operates a police department or  
 22 fire department, it shall be presumed that tax exempt  
 23 entities receive police and fire protection therefrom. The  
 24 rate for essential services shall be uniform for the same or  
 25 similar types of tax exempt property and activities. The

1 resolution shall also establish the date after which such  
 2 charges shall be assessed which must be not less than one  
 3 hundred twenty (120) days following the effective date of  
 4 the resolution.

5 Section 5. Notification of resolution. Within a  
 6 reasonable time following passage of the resolution, the  
 7 local government unit shall cause a certified copy of the  
 8 resolution to be mailed by registered mail to each tax  
 9 exempt entity, or an appropriate agent thereof, at the  
 10 address of the property on which the entity conducts its  
 11 activities and at the address at which the entity has its  
 12 principal office or place of business. The local government  
 13 unit shall also cause a copy of the resolution to be  
 14 published once each week for three (3) successive weeks in a  
 15 newspaper of general circulation within the county, or  
 16 lacking such a newspaper, then in a newspaper in an  
 17 adjoining county.

18 Section 6. Service charge appeals board. The  
 19 governing body of any local government unit exercising the  
 20 powers conferred by this act shall immediately after its  
 21 enactment of the resolution described in section [4 of this  
 22 act] appoint a board of service charge appeals.

23 (1) The board of service charge appeals hereinafter  
 24 referred to as the board, shall consist of five (5) members,  
 25 each to be appointed for a term of three (3) years and

1 removable for cause by the governing body on written charges  
2 after public hearing. Vacancies shall be filled for the  
3 unexpired term of any member whose term becomes vacant by  
4 appointment by the governing body.

5 (2) The board shall adopt rules for the governance of  
6 its proceedings. Meetings of the board shall be held at the  
7 call of the chairman and at such other times as the board  
8 may determine. The chairman, or in his absence, the acting  
9 chairman, may administer oaths and compel the attendance of  
10 witnesses. All meetings of the board shall be open to the  
11 public. The board shall keep minutes of its proceedings  
12 showing the vote of each member upon each question and shall  
13 keep records of its actions, all of which shall be filed in  
14 the office of the board and shall be a public record.

15 (3) Any tax exempt entity aggrieved by the proposed  
16 charge to be made may request a hearing before the board.  
17 The board shall fix a reasonable time for such hearing and  
18 give reasonable notice to the local government unit and to  
19 the tax exempt entity and decide the questions presented to  
20 it within a reasonable time. Upon the hearing any party may  
21 appear in person or by an attorney.

22 (4) The board shall have power to determine the charge  
23 to be assessed for essential services to be provided and for  
24 which essential services an entity may be charged. All  
25 decisions of the board shall be made by a majority vote.

1 (5) Any tax exempt entity or local government unit  
2 aggrieved by any decision of the board may present to a  
3 court of record a petition for a writ of review in  
4 accordance with the provisions of sections 93-9001 through  
5 93-9011 and all proceedings pursuant to said petition shall  
6 be conducted in accordance with said statutes and the rules  
7 of civil procedure. Such petition shall be presented to the  
8 court within thirty (30) days after the filing of the  
9 decision in the office of the board. In said proceedings  
10 costs shall not be allowed against the board unless it shall  
11 appear to the court that the board acted with gross  
12 negligence or in bad faith or with malice in making the  
13 decision appealed from.

14 Section 7. Collection of charges. The charges  
15 authorized by this act shall be certified to and collected  
16 by the county treasurer in the manner of special  
17 assessments. Any city or town which by ordinance collects  
18 its own special assessments, shall collect the charges  
19 itself in the manner of collection of special assessments.  
20 Should any charge assessed under authority of this act  
21 become delinquent, it shall be collected by the county  
22 treasurer or the city treasurer, as may be appropriate, in  
23 the manner of collection of delinquent special assessments  
24 on taxable property and with the same penalties and interest  
25 as are provided by law.

NB192

LC 0763

1           Section 8. Severability. If a part of this act is  
2   invalid, all valid parts that are severable from the invalid  
3   part remain in effect. If a part of this act is invalid in  
4   one or more of its applications, the part remains in effect  
5   in all valid applications that are severable from the  
6   invalid applications.

-End-

Objection Raised to  
Adverse Committee Report

1 House BILL NO. 192  
2 INTRODUCED BY W. Ruth Gwyne

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING LOCAL  
5 GOVERNMENT UNITS TO CHARGE TAX EXEMPT ENTITIES FOR SERVICES  
6 SUPPLIED FOR THE BENEFIT OF SAID ENTITIES."  
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Legislative findings. It is found and  
10 declared that local governments, both cities and counties,  
11 are providing certain essential governmental services to tax  
12 exempt entities owning property within this state, which  
13 property is exempt from taxation. The provision of such  
14 services is an expense which it is increasingly more  
15 difficult for such local governments to bear without  
16 decreasing both the quantity and quality of essential  
17 services performed on behalf of all citizens. It is further  
18 found and declared that local governments should have a  
19 means of defraying the cost of providing such essential  
20 services to such entities by charging them for actual  
21 services provided.

22 Section 2. Definitions. As used in this act:

23 (a) "Local government unit" means any city, town, or  
24 county within the state of Montana;

25 (b) "Essential services" means the provision of

1 garbage and refuse collection and disposal, street and road  
2 repair, snow removal, fire protection, police protection,  
3 and street cleaning and improvements made by any duly  
4 authorized special improvement district;

5 (c) "Tax exempt entity" means any city, county, town,  
6 school district, municipal corporation, public library, the  
7 state of Montana, agricultural and horticultural societies  
8 owning property used exclusively for educational purposes,  
9 churches, hospitals, cemeteries not used or held for private  
10 or corporate benefit, institutions of purely public charity,  
11 public art galleries, public observatories not used or held  
12 for private or corporate profit, organizations of honorably  
13 discharged United States soldiers, sailors or marines, and  
14 any other such organization, agency or foundation excluding  
15 agencies of the United States which owns real property in  
16 the state of Montana on which it conducts an operation or  
17 activity of a governmental, religious, educational, medical  
18 or charitable nature.

19 Section 3. Power to charge -- limitations. Any local  
20 government unit may charge any tax exempt entity for  
21 essential services provided by such local government unit to  
22 such entity or for such essential services from which such  
23 tax exempt entity receives a direct benefit; provided that  
24 no such charge may be made for street and road repair,  
25 improvement maintenance, cleaning or snow removal unless

1 such tax exempt entity owns real property which abuts upon  
2 or is serviced by the street or road on which such services  
3 are provided; provided further, that no local government  
4 unit may charge a tax exempt entity for providing any  
5 service to a place of actual religious worship.

6 Section 4. Resolution required -- contents -- rates  
7 established. Any local government unit choosing to exercise  
8 the powers conferred by this act shall first pass a  
9 resolution declaring its intent to do so. In said  
10 resolution the local government unit shall list the real  
11 property owned by each and every tax exempt entity,  
12 excluding places of actual religious worship, operating  
13 within its boundaries and must in addition establish rates  
14 to be charged for the provision of each essential service to  
15 each such entity. The rates shall be graduated depending  
16 upon the demand generated by the tax exempt entity for such  
17 essential services and shall in no event exceed the  
18 estimated cost of provision of such essential service as  
19 assessed against or attributed to taxable property within  
20 the local government unit boundary of like value and nature.  
21 If a local government unit operates a police department or  
22 fire department, it shall be presumed that tax exempt  
23 entities receive police and fire protection therefrom. The  
24 rate for essential services shall be uniform for the same or  
25 similar types of tax exempt property and activities. The

1 resolution shall also establish the date after which such  
2 charges shall be assessed which must be not less than one  
3 hundred twenty (120) days following the effective date of  
4 the resolution.

5 Section 5. Notification of resolution. Within a  
6 reasonable time following passage of the resolution, the  
7 local government unit shall cause a certified copy of the  
8 resolution to be mailed by registered mail to each tax  
9 exempt entity, or an appropriate agent thereof, at the  
10 address of the property on which the entity conducts its  
11 activities and at the address at which the entity has its  
12 principal office or place of business. The local government  
13 unit shall also cause a copy of the resolution to be  
14 published once each week for three (3) successive weeks in a  
15 newspaper of general circulation within the county, or  
16 lacking such a newspaper, then in a newspaper in an  
17 adjoining county.

18 Section 6. Service charge appeals board. The  
19 governing body of any local government unit exercising the  
20 powers conferred by this act shall immediately after its  
21 enactment of the resolution described in section [4 of this  
22 act] appoint a board of service charge appeals.

23 (1) The board of service charge appeals hereinafter  
24 referred to as the board, shall consist of five (5) members,  
25 each to be appointed for a term of three (3) years and

1 removable for cause by the governing body on written charges  
 2 after public hearing. Vacancies shall be filled for the  
 3 unexpired term of any member whose term becomes vacant by  
 4 appointment by the governing body.

5 (2) The board shall adopt rules for the governance of  
 6 its proceedings. Meetings of the board shall be held at the  
 7 call of the chairman and at such other times as the board  
 8 may determine. The chairman, or in his absence, the acting  
 9 chairman, may administer oaths and compel the attendance of  
 10 witnesses. All meetings of the board shall be open to the  
 11 public. The board shall keep minutes of its proceedings  
 12 showing the vote of each member upon each question and shall  
 13 keep records of its actions, all of which shall be filed in  
 14 the office of the board and shall be a public record.

15 (3) Any tax exempt entity aggrieved by the proposed  
 16 charge to be made may request a hearing before the board.  
 17 The board shall fix a reasonable time for such hearing and  
 18 give reasonable notice to the local government unit and to  
 19 the tax exempt entity and decide the questions presented to  
 20 it within a reasonable time. Upon the hearing any party may  
 21 appear in person or by an attorney.

22 (4) The board shall have power to determine the charge  
 23 to be assessed for essential services to be provided and for  
 24 which essential services an entity may be charged. All  
 25 decisions of the board shall be made by a majority vote.

1 (5) Any tax exempt entity or local government unit  
 2 aggrieved by any decision of the board may present to a  
 3 court of record a petition for a writ of review in  
 4 accordance with the provisions of sections 93-9001 through  
 5 93-9011 and all proceedings pursuant to said petition shall  
 6 be conducted in accordance with said statutes and the rules  
 7 of civil procedure. Such petition shall be presented to the  
 8 court within thirty (30) days after the filing of the  
 9 decision in the office of the board. In said proceedings  
 10 costs shall not be allowed against the board unless it shall  
 11 appear to the court that the board acted with gross  
 12 negligence or in bad faith or with malice in making the  
 13 decision appealed from.

14 Section 7. Collection of charges. The charges  
 15 authorized by this act shall be certified to and collected  
 16 by the county treasurer in the manner of special  
 17 assessments. Any city or town which by ordinance collects  
 18 its own special assessments, shall collect the charges  
 19 itself in the manner of collection of special assessments.  
 20 Should any charge assessed under authority of this act  
 21 become delinquent, it shall be collected by the county  
 22 treasurer or the city treasurer, as may be appropriate, in  
 23 the manner of collection of delinquent special assessments  
 24 on taxable property and with the same penalties and interest  
 25 as are provided by law.

1           Section 8. Severability. If a part of this act is  
2   invalid, all valid parts that are severable from the invalid  
3   part remain in effect. If a part of this act is invalid in  
4   one or more of its applications, the part remains in effect  
5   in all valid applications that are severable from the  
6   invalid applications.

-End-