

1 H BILL NO. 285  
 2 INTRODUCED BY *Harper*  
 3 BY REQUEST OF

4 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 7 CLEAN AIR ACT OF MONTANA; AMENDING THE PROCEDURES FOR REVIEW  
 8 AND APPROVAL OF LOCAL AIR POLLUTION CONTROL PROGRAMS;  
 9 AMENDING THE PROCEDURES FOR THE DETERMINATION OF WHICH  
 10 EQUIPMENT OR MACHINERY IS ENTITLED TO CLASS SEVEN TAX  
 11 TREATMENT AS POLLUTION CONTROL EQUIPMENT; AND AMENDING  
 12 SECTIONS 69-3919 AND 69-3923, R.C.M. 1947."  
 13

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

15 Section 1. Section 69-3919, R.C.M. 1947, is amended to  
 16 read as follows:

17 "69-3919. Local air pollution control programs. (1) \*  
 18 ~~On being petitioned by 15% of the qualified electors in its~~  
 19 ~~jurisdiction, a municipality or county may establish a local~~  
 20 ~~air pollution control program on-being-petitioned-by-fifteen~~  
 21 ~~per-cent---(15%)---of---the---qualified---electors---in---its~~  
 22 ~~jurisdiction, and may thereafter administer in its~~  
 23 ~~jurisdiction the its air pollution control program which if:~~

24 (a) Provides it provides by ordinance or local law for  
 25 requirements compatible with, more stringent, or more

1 extensive than those imposed by sections 69-3913, 69-3915,  
 2 and 69-3916 and rules issued under these sections;

3 (b) Provides it provides for the enforcement of these  
 4 requirements by appropriate administrative and judicial  
 5 process;

6 (c) Provides it provides for administrative  
 7 organization, staff, financial, and other resources  
 8 necessary to effectively and efficiently carry out its  
 9 program; and

10 (d) ~~if the program is consistent with this act and--is~~  
 11 ~~approved-by-the-board-after-a-public-hearing-conducted-under~~  
 12 ~~section-69-3909 as determined by the department.~~

13 (2) The department's approval of a local air pollution  
 14 control program shall be followed by a public hearing  
 15 conducted by the municipality or county where the local air  
 16 pollution control program is to be established.

17 ~~(2)(3)~~ If the ~~board~~ department finds that the  
 18 location, character, or extent of particular concentrations  
 19 of population, air contaminant sources, or geographic,  
 20 topographic, or meteorological considerations, or any  
 21 combination of these are such as to make impracticable the  
 22 maintenance of appropriate levels of air quality without an  
 23 areawide air pollution control program, the ~~board~~ department  
 24 may determine the boundaries within which the program is  
 25 necessary and require it as the only acceptable alternative

1 to direct state administration. The decision of the  
 2 department concerning the need for an areawide air pollution  
 3 control program may be appealed to the board.

4 ~~{3}{4}~~ If the ~~board department~~ has reason to believe  
 5 that an air pollution control program in force under this  
 6 section is inadequate to prevent and control air pollution  
 7 in the jurisdiction to in which the program relates, or that  
 8 the program is being administered in a manner inconsistent  
 9 with this act, the ~~board department~~ shall, on after  
 10 reasonable notice, conduct request a hearing before the  
 11 board on the matter. The board shall determine if the local  
 12 air pollution control program satisfies the requirements of  
 13 this chapter or whether the local program is being  
 14 administered in compliance with the requirements of this  
 15 chapter. If the board finds deficiencies in the local  
 16 program or determines that a local program is not being  
 17 administered properly, the board shall revoke approval of  
 18 the local program.

19 ~~{4}{5}~~ If, after the hearing, the board determines  
 20 that the program is inadequate to prevent and control air  
 21 pollution in the jurisdiction to in which it relates, or  
 22 that it is not accomplishing the purposes of this act  
 23 chapter, it shall require that necessary corrective measures  
 24 be taken within a reasonable time, not to exceed ~~sixty~~~~{60}~~  
 25 days.

1 ~~{5}{6}~~ If the jurisdiction fails to take these  
 2 measures within the time required, the department shall  
 3 administer within such the jurisdiction all of the  
 4 provisions of this act chapter. The department's control  
 5 program supersedes all municipal or county air pollution  
 6 laws, rules, ordinances, and requirements in the affected  
 7 jurisdiction. The cost of the program shall be a charge on  
 8 the municipality or county.

9 ~~{6}{7}~~ If the board finds that the control of a  
 10 particular class of air contaminant source because of its  
 11 complexity or magnitude is beyond the reasonable capability  
 12 of the local jurisdiction or may be more efficiently and  
 13 economically performed at the state level, it may direct the  
 14 department to assume and retain control over that class of  
 15 air contaminant source. No charge may be assessed against  
 16 the jurisdiction therefor. Findings made under this  
 17 subsection may be either on the basis of the nature of the  
 18 sources involved or on the basis of their relationship to  
 19 the size of the communities in which they are located.

20 ~~{7}{8}~~ A jurisdiction in which the department  
 21 administers its air pollution control program under  
 22 subsection (5) of this section may with the approval of the  
 23 board establish or resume an air pollution control program  
 24 which meets the requirements of subsection (1) of this  
 25 section.

1       ~~(8)(9)~~ A municipality or county may administer all or  
2 part of its air pollution control program in cooperation  
3 with one ~~(1)~~ or more municipalities or counties of this  
4 state or of other states."

5       Section 2. Section 69-3923, R.C.M. 1947, is amended to  
6 read as follows:

7       "69-3923. Classification of property for taxation.

8       (1) The following classes of Facilities facilities,  
9 machinery, or equipment, ~~whether~~ attached or unattached to  
10 real property, ~~and~~ utilized primarily to reduce, eliminate,  
11 control, or prevent air pollution, shall be classified as  
12 ~~Class--Seven--(7)~~ class seven for the purpose of taxation  
13 under section 84-301: electrostatic precipitators, baghouses  
14 or fabric filters, cyclones, scrubbers (wet or dry), fume or  
15 odor incinerators, and chemical plants.

16       (2) In addition to the requirements of subsection (1),  
17 if a chemical plant is designed and operated in excess of  
18 plant production or market needs primarily for air pollution  
19 control purposes, that portion in percentage terms which is  
20 operated in excess of production or market needs shall be  
21 allocated a class seven designation for tax purposes.

22       (3) Auxiliary equipment or facilities, including but  
23 not limited to transformers, wiring, and control panels,  
24 used primarily for the operation of the classes of air  
25 pollution control facilities indicated in subsection (1) of

1 this section shall receive class seven designation for tax  
2 purposes.

3       (4) No class seven designation for facilities,  
4 machinery, equipment, hoods, or ductwork used for in-plant  
5 pollution control or industrial hygiene may be granted  
6 unless the collected pollutant is conveyed to a class of air  
7 pollution control facility, machinery, or equipment  
8 indicated in subsection (1) of this section.

9       ~~(2)(5)~~ The decision as to whether the facilities,  
10 machinery, or equipment are primarily utilized to reduce,  
11 eliminate, control, or prevent air pollution, shall be made  
12 by the department and ~~approved by the state board of~~  
13 equalization is appealable to the board. The final order of  
14 the board is appealable to the district court as provided by  
15 the Montana Administrative Procedure Act.

16       (6) All decisions made by the department or by the  
17 board on appeal regarding the classification of facilities,  
18 machinery, or equipment as class seven for the purpose of  
19 taxation under 84-301 shall be certified by the department  
20 of revenue. The state tax appeals board may consider only  
21 appeals concerning the valuation of facilities, machinery,  
22 or equipment which has been determined to be entitled to  
23 class seven tax treatment by the department or the board on  
24 appeal. The department of revenue and the state tax appeals  
25 board may not consider, review, modify, or change a decision

LC 0592/01

1 by the department or the board concerning which facilities,  
2 machinery, or equipment is entitled to class seven tax  
3 treatment under 84-301."

-End-

Comm. on Pub. Health & Welfare recommend HB 285  
do not Pass as amended. Objection Raised To Adverse  
Comm. Report.

1                   HOUSE BILL NO. 285  
2                   INTRODUCED BY HARPER  
3                   BY REQUEST OF  
4                   THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES  
5  
6                   A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
7                   CLEAN AIR ACT OF MONTANA; AMENDING THE PROCEDURES FOR REVIEW  
8                   AND APPROVAL OF LOCAL AIR POLLUTION CONTROL PROGRAMS;  
9                   AMENDING THE PROCEDURES FOR THE DETERMINATION OF WHICH  
10                   EQUIPMENT OR MACHINERY IS ENTITLED TO CLASS SEVEN TAX  
11                   TREATMENT AS POLLUTION CONTROL EQUIPMENT; AND AMENDING  
12                   SECTIONS 69-3919 AND 69-3923, R.C.M. 1947."  
13  
14                   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
15                   Section 1. Section 69-3919, R.C.M. 1947, is amended to  
16                   read as follows:  
17                   "69-3919. Local air pollution control programs. (1) A  
18                   ~~On being petitioned by 15% of the qualified electors in its~~  
19                   ~~jurisdiction, a~~ municipality or county may establish a local  
20                   air pollution control program ~~on being petitioned by fifteen~~  
21                   ~~per cent (15%) of the qualified electors in its~~  
22                   ~~jurisdiction, and may thereafter administer in its~~  
23                   ~~jurisdiction the its~~ air pollution control program which if:  
24                   (a) Provides it provides by ordinance or local law for  
25                   requirements compatible with, more stringent, or more

1                   extensive than those imposed by sections 69-3913, 69-3915,  
2                   and 69-3916 and rules issued under these sections;  
3                   (b) Provides it provides for the enforcement of these  
4                   requirements by appropriate administrative and judicial  
5                   process;  
6                   (c) Provides it provides for administrative  
7                   organization, staff, financial, and other resources  
8                   necessary to effectively and efficiently carry out its  
9                   program; and  
10                   (d) If the program is consistent with this act ~~and is~~  
11                   ~~approved by the board after a public hearing conducted under~~  
12                   ~~section 69-3909 as determined by the department.~~  
13                   ~~(2) The department's approval of a local air pollution~~  
14                   ~~control program shall be followed by a public hearing~~  
15                   ~~conducted by the municipality or county where the local air~~  
16                   ~~pollution control program is to be established.~~  
17                   ~~(2)(3) If the board department~~ finds that the  
18                   location, character, or extent of particular concentrations  
19                   of population, air contaminant sources, or geographic,  
20                   topographic, or meteorological considerations, or any  
21                   combination of these are such as to make impracticable the  
22                   maintenance of appropriate levels of air quality without an  
23                   areawide air pollution control program, the ~~board department~~  
24                   may determine the boundaries within which the program is  
25                   necessary and require it as the only acceptable alternative

1 to direct state administration. The decision of the  
 2 department concerning the need for an areawide air pollution  
 3 control program may be appealed to the board.

4 ~~(3)(4)~~ If the ~~board~~ department has reason to believe  
 5 that an air pollution control program in force under this  
 6 section is inadequate to prevent and control air pollution  
 7 in the jurisdiction to ~~in~~ which the program relates, or that  
 8 the program is being administered in a manner inconsistent  
 9 with this act, the ~~board~~ department shall, on ~~after~~  
 10 ~~reasonable~~ notice, ~~conduct~~ request a hearing ~~before the~~  
 11 ~~board~~ on the matter. ~~The board shall determine if the local~~  
 12 ~~air pollution control program satisfies the requirements of~~  
 13 ~~this chapter or whether the local program is being~~  
 14 ~~administered in compliance with the requirements of this~~  
 15 ~~chapter. If the board finds deficiencies in the local~~  
 16 ~~program or determines that a local program is not being~~  
 17 ~~administered properly, the board shall revoke approval of~~  
 18 ~~the local program.~~

19 ~~(4)(5)~~ If, after the hearing, the board determines  
 20 that the program is inadequate to prevent and control air  
 21 pollution in the jurisdiction to ~~in~~ which it relates, or  
 22 that it is not accomplishing the purposes of this act  
 23 ~~chapter~~, it shall require that necessary corrective measures  
 24 be taken within a reasonable time, not to exceed ~~sixty~~ ~~(60)~~  
 25 days.

1 ~~(5)(6)~~ If the jurisdiction fails to take these  
 2 measures within the time required, the department shall  
 3 administer within ~~such~~ the jurisdiction all of the  
 4 provisions of this act ~~chapter~~. The department's control  
 5 program supersedes all municipal or county air pollution  
 6 laws, rules, ordinances, and requirements in the affected  
 7 jurisdiction. The cost of the program shall be a charge on  
 8 the municipality or county.

9 ~~(6)(7)~~ If the board finds that the control of a  
 10 particular class of air contaminant source because of its  
 11 complexity or magnitude is beyond the reasonable capability  
 12 of the local jurisdiction or may be more efficiently and  
 13 economically performed at the state level, it may direct the  
 14 department to assume and retain control over that class of  
 15 air contaminant source. No charge may be assessed against  
 16 the jurisdiction therefor. Findings made under this  
 17 subsection may be either on the basis of the nature of the  
 18 sources involved or on the basis of their relationship to  
 19 the size of the communities in which they are located.

20 ~~(7)(8)~~ A jurisdiction in which the department  
 21 administers its air pollution control program under  
 22 subsection (5) of this section may with the approval of the  
 23 board establish or resume an air pollution control program  
 24 which meets the requirements of subsection (1) of this  
 25 section.

1       ~~(8)(9)~~ A municipality or county may administer all or  
2 part of its air pollution control program in cooperation  
3 with one ~~(1)~~ or more municipalities or counties of this  
4 state or of other states."

5       Section 2. Section 59-3923, R.C.M. 1947, is amended to  
6 read as follows:

7       "69-3923. Classification of property for taxation.

8       (1) ~~The following classes of Facilities~~ facilities,  
9 machinery, or equipment, ~~whether~~ attached or unattached to  
10 real property, ~~and~~ utilized ~~primarily~~ to reduce~~-eliminate~~  
11 control~~y~~ or prevent air pollution, shall be classified as  
12 ~~Class--Seven--(7)~~ class seven for the purpose of taxation  
13 under section 84-301: ~~electrostatic precipitators, baghouses~~  
14 ~~or fabric filters, cyclones, scrubbers (wet or dry), fume or~~  
15 ~~odor incinerators, and chemical plants, AND ANY OTHER~~  
16 ~~FACILITIES THAT THE BOARD SHALL BY RULE OR ORDER DESIGNATE.~~

17       (2) ~~In addition to the requirements of subsection (1),~~  
18 ~~if a chemical plant is designed and operated in excess of~~  
19 ~~plant production or market needs primarily for air pollution~~  
20 ~~control purposes, that portion in percentage terms which is~~  
21 ~~operated in excess of production or market needs shall be~~  
22 ~~allocated a class seven designation for tax purposes.~~

23       (3) ~~Auxiliary equipment or facilities, including but~~  
24 ~~not limited to transformers, wiring, and control panels,~~  
25 ~~used primarily for the operation of the classes of air~~

1       ~~pollution control facilities indicated in subsection (1) of~~  
2 ~~this section shall receive class seven designation for tax~~  
3 ~~purposes.~~

4       (4) ~~No class seven designation for facilities,~~  
5 ~~machinery, equipment, hoods, or ductwork used for in-plant~~  
6 ~~pollution control or industrial hygiene may be granted~~  
7 ~~unless the collected pollutant is conveyed to a class of air~~  
8 ~~pollution control facility, machinery, or equipment~~  
9 ~~indicated in subsection (1) of this section.~~

10       ~~(2)(5)~~ The decision ~~as to~~ whether the facilities,  
11 machinery, or equipment are ~~primarily~~ utilized to reduce~~y~~  
12 ~~eliminate~~ control~~y~~ or prevent air pollution, shall be made  
13 by the department and approved ~~by the state board of~~  
14 ~~equalization is appealable to the board. The final order of~~  
15 ~~the board is appealable to the district court as provided by~~  
16 ~~the Montana Administrative Procedure Act.~~

17       (6) All decisions made by the department or by the  
18 board on appeal regarding the classification of facilities,  
19 machinery, or equipment as class seven for the purpose of  
20 taxation under 84-301 shall be certified by the department  
21 of revenue. The state tax appeals board may consider only  
22 appeals concerning the valuation of facilities, machinery,  
23 or equipment which has been determined to be entitled to  
24 class seven tax treatment by the department or the board on  
25 appeal. ~~The department of revenue and the state tax appeals~~

1 ~~board may not consider, review, modify, or change a decision~~  
2 ~~by the department or the board concerning which facilities,~~  
3 ~~machinery, or equipment is entitled to class seven tax~~  
4 ~~treatment under 85-301.~~

5 SECTION 3. THERE IS A NEW R.C.M. SECTION THAT READS AS  
6 FOLLOWS:

7 No effect on existing classifications. This act does  
8 not in any way modify, change, or affect the tax status of  
9 any equipment, machinery, or facilities granted class seven  
10 tax status as a pollution control facility prior to July 1,  
11 1977.

-End-