

1 H BILL NO. 446  
2 INTRODUCED BY R. Pistoris & Conell  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE PUBLIC  
5 SERVICE COMMISSION TO REGULATE SEWERAGE SERVICES RATES;  
6 DEFINING A PUBLIC UTILITY TO INCLUDE SEWERAGE SERVICES;  
7 AMENDING SECTIONS 11-1001, 11-2216, 11-2217, 11-2403,  
8 16-4416, 16-4525, 16-4526, 70-103, 70-105, AND 84-4726.1,  
9 R.C.M. 1947."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 11-1001, R.C.M. 1947, is amended to  
13 read as follows:

14 "11-1001. Authorization of cities and towns to furnish  
15 water to industries and to persons without city limits —  
16 rates — penalty for violations. (1) The city or town  
17 council of any city or town within the state of Montana,  
18 that owns and operates a municipal water system and/or a  
19 municipal sewage system, to furnish water and/or sewage  
20 services to the inhabitants of such city or town, at  
21 reasonable rates approved by the public service commission,  
22 as a public utility, shall, in addition to all other powers,  
23 have power to furnish water from such water system and  
24 sewage services from such sewage system, to any person,  
25 factory or other industry, located within the corporate

1 limits of such city or town, or to any person, factory or  
2 other industry located outside the corporate limits of such  
3 city or town, at reasonable rates filed by the city or town  
4 council and approved by the public service commission  
5 [provided that delivery of water and delivery of sewage  
6 services by any such city or town] to or for the use of any  
7 person, factory or other industry located outside the  
8 corporate limits of such city or town shall be made within,  
9 or at the boundary line of the corporate limits of such city  
10 or town, or from any existing water line or sewer line of  
11 such city or town located outside of the corporate limits of  
12 such city or town, except as hereinafter provided.

13 (2) The city council of any city within the state of  
14 Montana that owns and operates a municipal water system  
15 and/or a municipal sewer system to furnish water and sewer  
16 services to the inhabitants of such city, at reasonable  
17 rates approved by the public service commission, as a public  
18 utility, shall, in addition to all other powers, have power  
19 to furnish water from such water system and sewage services  
20 from such sewer system to the inhabitants or to any person,  
21 factory, industry or producer of farm or other products  
22 located outside of the corporate limits of such city, at  
23 reasonable rates filed by the city or town council and  
24 approved, when otherwise required by statute, by the public  
25 service commission and such city council is further

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1 empowered to make collections for furnishing water and sewer  
2 services in the same manner as collections are made within  
3 the corporate limits.

4 (3) Any person, firm or corporation residing either  
5 inside or outside of the corporate limits of a city owning a  
6 municipal water system and/or a municipal sewer system which  
7 furnishes water or sewer services as a public utility, who  
8 shall willfully turn on the water or sewer line after the  
9 same shall have been shut off by or under the direction of  
10 the said city for nonpayment of water charges or sewer  
11 charges, or who shall unlawfully take water from such water  
12 system or shall unlawfully make use of such sewer system  
13 shall be guilty of a misdemeanor.

14 (4) Any person, firm or corporation receiving water or  
15 sewer service outside of incorporated city limits may be  
16 required by the city or town as a condition to initiate such  
17 service to consent to annexation of the tract of property  
18 served by the city or town. The consent to annexation is  
19 limited to that tract or parcel or portion of tract or  
20 parcel that is clearly and immediately and not potentially  
21 being serviced by the said water or sewer service."

22 Section 2. Section 11-2216, R.C.M. 1947, is amended to  
23 read as follows:

24 "11-2216. Sewer systems. (1) A sewer system may be  
25 established in a city or town, which system may be divided

1 into public, district and private sewers.

2 Public sewers may be established and constructed along  
3 the principal course of drainage at such times, to such an  
4 extent, of such dimensions and material, and under such  
5 regulations as may be prescribed by the council; and there  
6 may be constructed such branches and extensions of sewers  
7 already constructed, or to be constructed, as may be  
8 considered expedient.

9 (2) To defray the cost of such public sewers, the city  
10 or town council may appropriate moneys therefor from the  
11 general or sewer fund, or by availing itself of moneys  
12 derived from a bond issue authorized by the constitution and  
13 laws of the state. It is further provided that when a public  
14 or main sewer also serves as a district sewer, the city  
15 council may assess the property bordering or abutting upon  
16 such public sewer, either at the time of its construction or  
17 at any future time, for an amount equal to the estimated  
18 cost of such district sewer capable of accommodating such  
19 property.

20 (3) And/or to provide such sewer fund, and/or to  
21 provide for the retirement of such bonds, and/or the payment  
22 of the interest on such bonds, and/or for any purpose herein  
23 mentioned, the city council shall, upon being petitioned by  
24 five (5) per cent of the qualified electors, at the annual  
25 municipal election or at any special election called for

1 that purpose, submit to a vote to the qualified electors,  
 2 the question whether or not the city council may establish  
 3 and collect rentals for the use of such sewer system and may  
 4 fix scale of such rentals and prescribe the manner and time  
 5 at which such rentals shall be paid, and if a majority of  
 6 votes is cast in favor of such proposition then the city or  
 7 town council, with the approval of the public service  
 8 commission, may establish and collect rentals for the use of  
 9 any such sewer system and may fix the scale of such rentals  
 10 and prescribe the manner and time at which such rentals  
 11 should be paid and to change such scale of rentals from time  
 12 to time as may be deemed advisable; providing, that the  
 13 total revenue to be collected from all of the above sources  
 14 in a given year shall be provided for by the council in such  
 15 a manner as to provide funds for the payment of all bond  
 16 issues and interest thereon, as well as for all necessary  
 17 expenses of the operation, maintenance and repair of any  
 18 such sewer system. For the purpose of making such rental  
 19 charges equitable, property benefited thereby may be  
 20 classified, taking into consideration the volume and  
 21 character of sewage or waste and the nature of the use made  
 22 of such sewage facilities. Said rentals shall be collected  
 23 or taxed against the property in like manner as water  
 24 rentals are collected and taxed, or by such procedure as may  
 25 be prescribed by the city or town council, the revenues in

1 this paragraph provided shall be in addition to and not  
 2 exclusive of other revenues which may be now legally  
 3 collected for sewer payment.

4 (4) The funds received from the collection of sewer  
 5 rentals shall be kept as a separate and distinct fund by the  
 6 city treasurer, subject only to disbursement by order of the  
 7 council. This fund shall be used for (1) the payment of the  
 8 cost of management, (2) maintenance, (3) operation and (4)  
 9 repair of the sewage system, including treatment and  
 10 disposal works, (5) for the creation of a sinking fund for  
 11 the retirement of any indebtedness, (6) for the payment of  
 12 interest on any such indebtedness, and any surplus in such  
 13 fund may be used for the enlargement or replacement of the  
 14 same and for the payment of the interest on any debt  
 15 incurred for the construction of such sewage system,  
 16 including sewage pumping, treatment and disposal works, and  
 17 for retiring such debt, but shall not be used for the  
 18 extension of a sewage system to serve unsewered areas or for  
 19 any purpose other than one or more of those above specified.

20 ~~(5) Any twenty-five (25) or more electors of such a~~  
 21 ~~municipality may file complaint with the public service~~  
 22 ~~commission to the effect that the rental charges so fixed~~  
 23 ~~are unreasonable or unjustly discriminatory, and the public~~  
 24 ~~service commission shall, upon public hearing thereon, file~~  
 25 ~~its findings and determination, stating therein in what~~

~~respect, if any, said rental charges are unreasonable or unjustly discriminatory, and the municipality at interest shall forthwith readjust its rental charges so as to remove any unreasonable or unjustly discriminatory features so found by the public service commission.~~

~~(6) (5)~~ It is further provided that all the provisions of this act referring to sewer rentals, shall apply to special improvement districts for the constructing and maintaining and operating of sanitary sewers and storm sewers, as provided for in Chapter 133, Laws of 1929 and the powers herein conferred on councils shall be and are hereby conferred on the several boards of county commissioners for the purposes of said Chapter 133, Laws of 1929—in so far as the same relates to sewers."

Section 3. Section 11-2217, R.C.M. 1947, is amended to read as follows:

"11-2217. Cities and towns may establish sewage treatment and disposal plants and systems and water supply and distribution systems. Any city or town may when authorized so to do by a majority vote of the qualified electors voting on the question establish, build, construct, reconstruct and/or extend a storm and/or sanitary sewerage system and/or a plant or plants for treatment or disposal of sewage therefrom, or a water supply and/or distribution system, or any combinations of such systems, and may operate

and maintain such facilities for public use, and in addition to all other powers granted to it, such municipality shall have authority, by ordinance duly adopted by the governing body to charge just and equitable rates, charges or rentals for the services and benefits directly or indirectly furnished thereby. Such rates, charges or rentals shall be approved by the public service commission and as nearly as possible equitable in proportion to the services and benefits rendered, and sewer charges may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The sewer charges may be fixed on the basis of water consumption or any other equitable basis the governing body and the public service commission may deem appropriate and, if the governing body and public service commission determines that the sewage treatment and/or storm water disposal prevents pollution of sources of water supply, may be established as a surcharge on the water bills of water consumers or on any other equitable basis of measuring the use and benefits of such facilities and services. In the event of nonpayment of charges for either water or sewer service and benefits to any premises, the governing body may direct the supply of water to such premises to be discontinued until such charges are paid.

1 In this act "qualified electors" shall mean registered  
 2 electors of the municipality. The question of building,  
 3 constructing, reconstructing or extending the system, plant  
 4 or plants and the question of issuing and selling revenue  
 5 bonds for such purpose may be submitted as a single  
 6 proposition or as separate propositions. Any election under  
 7 this act may be called by a resolution of the governing body  
 8 which it may adopt without being previously petitioned to do  
 9 so."

10 Section 4. Section 11-2403, R.C.M. 1947, is amended to  
 11 read as follows:

12 "11-2403. Additional powers of municipalities. In  
 13 addition to the powers which it may now have, any  
 14 municipality shall have power under this act: ~~(a)~~ (1) To  
 15 construct, acquire by gift, purchase, or the exercise of the  
 16 right of eminent domain, reconstruct, improve, better or  
 17 extend any undertaking, within or without the municipality,  
 18 or partially within or partially without the municipality,  
 19 and to acquire by gift, purchase, or the exercise of the  
 20 right of eminent domain, lands or rights in land or water  
 21 rights in connection therewith; ~~(b)~~ (2) to operate and  
 22 maintain any undertaking and furnish the service, facilities  
 23 and commodities thereof for its own use and for the use of  
 24 public and private consumers within or without the  
 25 territorial boundaries of such municipality; ~~(c)~~ (3) to

1 issue its bonds to finance in whole or in part the cost of  
 2 the acquisition, purchase, construction, reconstruction,  
 3 improvement, betterment or extension of any undertaking,  
 4 and/or to refund bonds issued for any of the foregoing  
 5 purposes, whether issued under authority of this chapter or  
 6 of any other applicable law; ~~(d)~~ (4) to prescribe and  
 7 collect rates, fees, and charges for the services,  
 8 facilities and commodities furnished by such undertaking; ~~(e)~~ (5)  
 9 to enter into co-operative agreements with and accept  
 10 contributions from industrial establishments relative to the  
 11 planning, construction, lease or other acquisition,  
 12 maintenance and operation of undertakings, and to apply for  
 13 and accept grants and loans or any other aid which the  
 14 United States of America or any agency thereof may give or  
 15 make to any political subdivision or agency of this state  
 16 for undertakings, including all necessary actions  
 17 preliminary thereto, the purpose of which is to aid in the  
 18 prevention or abatement of water pollution, and to make  
 19 contracts and execute instruments containing such terms,  
 20 provisions and conditions as, in the discretion of the  
 21 governing body of the municipality, may be necessary, proper  
 22 or advisable for the purpose of obtaining such aid; ~~(f)~~ (6)  
 23 to enter into and perform contracts, whether long-term or  
 24 short-term, with any industrial establishment for the  
 25 provisions and operation by the municipality of sewerage

1 facilities when the governing body of such municipality  
 2 determines such action to be in the public interest and  
 3 otherwise essential in order to abate or reduce the  
 4 pollution of waters caused by discharges of industrial waste  
 5 by such industrial establishment, and to provide for the  
 6 periodical payment by said industrial establishment to the  
 7 municipality of an amount at least sufficient, in the  
 8 determination of such governing body, ~~and of the public~~  
 9 ~~service commission,~~ to compensate the municipality for the  
 10 cost of providing (including the payment of principal and  
 11 interest charges, if any) and of operating and maintaining  
 12 the sewerage facilities serving such industrial  
 13 establishment; and ~~to~~ to pledge to the punctual payment  
 14 of said bonds issued under this act and interest thereon an  
 15 amount of the revenues of such undertaking (including  
 16 improvements, betterments, or extensions thereto thereafter  
 17 constructed or acquired) or of any part of such undertaking,  
 18 sufficient to pay said bonds, and interest as the same shall  
 19 become due, and to create and maintain reasonable reserves  
 20 therefor. Such amount may consist of all or any part or  
 21 portion of such revenue. The governing body of the  
 22 municipality in determining such cost, may include all costs  
 23 and estimated costs of the issuance of said bonds, all  
 24 engineering, inspection, fiscal and legal expenses, and  
 25 interest which it is estimated will accrue during the

1 construction period and for ~~six~~(6) months thereafter on  
 2 money borrowed or which it is estimated will be borrowed  
 3 pursuant to this act. Any two or more municipalities through  
 4 their respective governing bodies are hereby authorized and  
 5 empowered to enter into and perform such contracts and  
 6 agreements as they may deem proper for or concerning the  
 7 planning, construction, lease or other acquisition and the  
 8 finance of undertakings, in whole or in part, and the  
 9 maintenance and operation thereof. Any such municipalities  
 10 so contracting with each other may also provide in any  
 11 contract or agreement for a board, commission or such other  
 12 body as their governing bodies may deem proper for the  
 13 supervision and general management of the undertakings and  
 14 for the operation thereof, and may prescribe its powers and  
 15 duties and fix the compensation of the members thereof."

16 Section 5. Section 16-4416, R.C.M. 1947, is amended to  
 17 read as follows:

18 "16-4416. Rates, charges and rentals for services. The  
 19 board of county commissioners shall have ~~full~~ power and  
 20 authority by ordinance or resolution, upon approval by the  
 21 public service commission, to fix and establish just and  
 22 equitable rates, charges and rentals for the services and  
 23 benefits directly or indirectly afforded by any sanitary or  
 24 storm sewer system operated, controlled, and under the  
 25 jurisdiction of a metropolitan sanitary and/or storm sewer

1 district formed under this chapter. Such rates, charges and  
 2 rentals shall be as nearly as possible equitable in  
 3 proportion to the services and benefits rendered, and may  
 4 take into consideration the quantity of sewage produced and  
 5 its concentration and water pollution qualities in general  
 6 and the cost of disposal of sewage and storm waters. The  
 7 board of county commissioners shall have authority, upon  
 8 approval by the public service commission, by resolution and  
 9 after public hearing, to fix and establish the sewer rates,  
 10 charges and rentals at amounts sufficient in each year, not  
 11 to exceed ~~seven dollars (\$7)~~ per unit user per year, to  
 12 provide income and revenues adequate for the payment of the  
 13 reasonable expense of operation and maintenance of the  
 14 system; to fix and establish an additional charge not to  
 15 exceed ~~seven dollars (\$7)~~ per unit user per year for the  
 16 operation and maintenance of a sanitary and storm sewer  
 17 system and of a sewage treatment plant; and to levy and to  
 18 assess a tax upon the taxable valuation of each and every  
 19 lot or parcel of land and improvements thereon in the  
 20 district not in excess of ~~two (2)~~ mills on each dollar of  
 21 taxable valuation to provide sufficient revenues for the  
 22 reserve fund of the amounts necessary to meet the financial  
 23 requirements of such fund as described in section 16-4417."

24 Section 6. Section 16-4525, R.C.M. 1947, is amended to  
 25 read as follows:

1 "16-4525. Rates. The board of directors shall, upon  
 2 approval by the public service commission, fix all water and  
 3 sewer rates, and shall through the general manager collect  
 4 the sewer charges and the charges for the sale and  
 5 distribution of water to all users."

6 Section 7. Section 16-4526, R.C.M. 1947, is amended to  
 7 read as follows:

8 "16-4526. Rate to pay operating expenses. The board of  
 9 directors in the furnishing of water, sewer service, other  
 10 services and facilities, shall fix, with the approval of the  
 11 public service commission, such rate, fee, toll, rent or  
 12 other charge as will pay the operating expenses of the  
 13 district, provide for repairs and depreciation of works  
 14 owned or operated by it, pay the interest on any bonded  
 15 debt, and, so far as possible, provide a sinking or other  
 16 fund for the payment of the principal of such debt as it may  
 17 become due.

18 Notwithstanding any other section of this chapter, or  
 19 limitation imposed therein, and when the board of directors  
 20 has applied for and received from the federal government any  
 21 moneys for the construction, operation and maintenance of  
 22 treatment services and works, the board of directors may  
 23 adopt a system of charges and rates to require that each  
 24 recipient of treatment works services pays its proportionate  
 25 share of the costs of operation, maintenance and

1 replacement, and to require industrial users of treatment  
2 works to pay the portion of the cost of construction of the  
3 treatment works which is allocable to the treatment of that  
4 industrial users' wastes."

5 Section 8. Section 70-103, R.C.M. 1947, is amended to  
6 read as follows:

7 "70-103. "Public utility" defined. The term "public  
8 utility," within the meaning of this act, shall embrace  
9 every corporation, both public and private, company,  
10 individual, association of individuals, their lessees,  
11 trustees or receivers appointed by any court whatsoever,  
12 that now or hereafter may own, operate, or control any plant  
13 or equipment, or any part of a plant or equipment, within  
14 the state, for the production, delivery, or furnishing for  
15 or to other persons, firms, associations, or corporations,  
16 private or municipal, heat, street-railway service, light,  
17 power in any form or by any agency, sewerage service, water  
18 for business, manufacturing, household use, or sewerage  
19 service, whether within the limits of municipalities, towns  
20 and villages, or elsewhere, telegraph or telephone service;  
21 and the public service commission is hereby invested with  
22 full power of supervision, regulation, and control of such  
23 utilities, subject to the provisions of this act, and to the  
24 exclusion of the jurisdiction, regulation, and control of  
25 such utilities by any municipality, town, or village."

1 Section 9. Section 70-105, R.C.M. 1947, is amended to  
2 read as follows:

3 "70-105. Public utilities to furnish service for  
4 reasonable charges. Every public utility is required to  
5 furnish reasonably adequate service and facilities. The  
6 charge made by any public utility for any heat, light,  
7 power, water, sewerage, telegraph, or telephone service,  
8 produced, transmitted, delivered, or furnished, or for any  
9 service to be rendered as or in connection with any public  
10 utility, shall be reasonable and just, and every unjust and  
11 unreasonable charge is prohibited and declared unlawful."

12 Section 10. Section 84-4726.1, R.C.M. 1947, is amended  
13 to read as follows:

14 "84-4726.1. Municipal sewer rates -- collection --  
15 arrearages. The council of any city or town operating a  
16 municipal sewer system may fix by ordinance, upon the  
17 approval of the public service commission, the rates for  
18 service charges in advance or otherwise. The rates shall be  
19 uniform for like service in all parts of the municipality  
20 and shall be as nearly as possible equitable in proportion  
21 to the services and benefits rendered. An original charge  
22 for the connecting sewer line between the lot line and the  
23 sewer main may be assessed when such connecting sewer line  
24 is installed. The charges shall be collected by the  
25 treasurer."



1        {1} On or before January 15 of each year, notice shall  
 2 be given by the city or town treasurer to the owners of all  
 3 lots or parcels of real estate to which sewer service has  
 4 been furnished prior to January 1, by the city or town, and  
 5 said notice shall specify the assessment owing and in  
 6 arrears at the time of giving such notice. Such notice shall  
 7 be in writing and shall state the amount of such arrearage,  
 8 including any penalty and interest assessed pursuant to the  
 9 provisions of the city or town ordinance; that unless the  
 10 same is paid by July 1 thereafter, the same will be levied  
 11 as a tax against the lot or parcel of real estate to which  
 12 sewer service was furnished and for which payment is  
 13 delinquent as above specified. Such notice may be delivered  
 14 to such owner personally, or by letter addressed to such  
 15 owner at the post office address of such owner as recorded  
 16 in the office of the county assessor.

17        {2} On March 1, the treasurer of the city or town shall  
 18 certify and file with the county assessor a list of all lots  
 19 or parcels of real estate, giving the legal description  
 20 thereof, to the owners of which notices of arrearage in  
 21 payments were given as above specified and which arrearage  
 22 still remain unpaid, and stating the amount of such  
 23 arrearage, including any penalty and interest. The county  
 24 assessor shall insert the same as a tax against such lot or  
 25 parcel of real estate. Provided, that in cities where the

1 council has provided by ordinance for the collection of  
 2 taxes, the city treasurer shall insert such delinquent  
 3 amount, including penalty and interest, as a tax against the  
 4 lot or parcel of real estate to which sewer service was  
 5 furnished and payment for which is delinquent."

-End-

STATE OF MONTANA

REQUEST NO. 203-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 77, there is hereby submitted a Fiscal Note for House Bill 446 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to authorize the Public Service Commission to regulate sewage service rates; defining a public utility to include sewage services; amending various sections.

ASSUMPTIONS:

1. All existing municipal sewage system rates must be filed with the Public Service Commission and the Public Service Commission must verify them.
2. All rates, services and charges must be constantly monitored and audited by the Public Service Commission.

FISCAL IMPACT:

|   | <u>FY 78</u>    | <u>FY 79</u>    |
|---|-----------------|-----------------|
| Personal services (5 FTE)                     | \$67,053        | \$68,361        |
| Operating expenses                            | 9,160           | 9,160           |
| Equipment                                     | <u>6,000</u>    | <u>0</u>        |
| Total additional cost of proposed legislation | <u>\$82,213</u> | <u>\$77,521</u> |

LOCAL IMPACT:

An additional cost to municipalities could occur due to the fact that within the scope of this legislation exists the possibility that the municipality would have to present a complete rate case to the Public Service Commission.

*Richard L. Dunning for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-31-77

Approved by Committee on Business and Industry

1 INTRODUCED BY H. Pistoris Council BILL NO. 446

2 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE PUBLIC  
3 SERVICE COMMISSION TO REGULATE SEWERAGE SERVICES RATES;  
4 DEFINING A PUBLIC UTILITY TO INCLUDE SEWERAGE SERVICES;  
5 AMENDING SECTIONS 11-1001, 11-2216, 11-2217, 11-2403,  
6 16-4416, 16-4525, 16-4526, 70-103, 70-105, AND 84-4726.1,  
7 R.C.M. 1947."

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

9 Section 1. Section 11-1001, R.C.M. 1947, is amended to  
10 read as follows:

11 "11-1001. Authorization of cities and towns to furnish  
12 water to industries and to persons without city limits —  
13 rates — penalty for violations. (1) The city or town  
14 council of any city or town within the state of Montana,  
15 that owns and operates a municipal water system and/or a  
16 municipal sewage system, to furnish water and/or sewage  
17 services to the inhabitants of such city or town, at  
18 reasonable rates approved by the public service commission,  
19 as a public utility, shall, in addition to all other powers,  
20 have power to furnish water from such water system and  
21 sewage services from such sewage system, to any person,  
22 factory or other industry, located within the corporate

1 limits of such city or town, or to any person, factory or  
2 other industry located outside the corporate limits of such  
3 city or town, at reasonable rates filed by the city or town  
4 council and approved by the public service commission  
5 [provided that delivery of water and delivery of sewage  
6 services by any such city or town] to or for the use of any  
7 person, factory or other industry located outside the  
8 corporate limits of such city or town shall be made within,  
9 or at the boundary line of the corporate limits of such city  
10 or town, or from any existing water line or sewer line of  
11 such city or town located outside of the corporate limits of  
12 such city or town, except as hereinafter provided.

13 (2) The city council of any city within the state of  
14 Montana that owns and operates a municipal water system  
15 and/or a municipal sewer system to furnish water and sewer  
16 services to the inhabitants of such city, at reasonable  
17 rates approved by the public service commission, as a public  
18 utility, shall, in addition to all other powers, have power  
19 to furnish water from such water system and sewage services  
20 from such sewer system to the inhabitants or to any person,  
21 factory, industry or producer of farm or other products  
22 located outside of the corporate limits of such city, at  
23 reasonable rates filed by the city or town council and  
24 approved, when otherwise required by statute, by the public  
25 service commission and such city council is further

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1 empowered to make collections for furnishing water and sewer  
2 services in the same manner as collections are made within  
3 the corporate limits.

4 (3) Any person, firm or corporation residing either  
5 inside or outside of the corporate limits of a city owning a  
6 municipal water system and/or a municipal sewer system which  
7 furnishes water or sewer services as a public utility, who  
8 shall willfully turn on the water or sewer line after the  
9 same shall have been shut off by or under the direction of  
10 the said city for nonpayment of water charges or sewer  
11 charges, or who shall unlawfully take water from such water  
12 system or shall unlawfully make use of such sewer system  
13 shall be guilty of a misdemeanor.

14 (4) Any person, firm or corporation receiving water or  
15 sewer service outside of incorporated city limits may be  
16 required by the city or town as a condition to initiate such  
17 service to consent to annexation of the tract of property  
18 served by the city or town. The consent to annexation is  
19 limited to that tract or parcel or portion of tract or  
20 parcel that is clearly and immediately and not potentially  
21 being serviced by the said water or sewer service."

22 Section 2. Section 11-2216, R.C.M. 1947, is amended to  
23 read as follows:

24 "11-2216. Sewer systems. (1) A sewer system may be  
25 established in a city or town, which system may be divided

1 into public, district and private sewers.

2 Public sewers may be established and constructed along  
3 the principal course of drainage at such times, to such an  
4 extent, of such dimensions and material, and under such  
5 regulations as may be prescribed by the council; and there  
6 may be constructed such branches and extensions of sewers  
7 already constructed, or to be constructed, as may be  
8 considered expedient.

9 (2) To defray the cost of such public sewers, the city  
10 or town council may appropriate moneys therefor from the  
11 general or sewer fund, or by availing itself of moneys  
12 derived from a bond issue authorized by the constitution and  
13 laws of the state. It is further provided that when a public  
14 or main sewer also serves as a district sewer, the city  
15 council may assess the property bordering or abutting upon  
16 such public sewer, either at the time of its construction or  
17 at any future time, for an amount equal to the estimated  
18 cost of such district sewer capable of accommodating such  
19 property.

20 (3) And/or to provide such sewer fund, and/or to  
21 provide for the retirement of such bonds, and/or the payment  
22 of the interest on such bonds, and/or for any purpose herein  
23 mentioned, the city council shall, upon being petitioned by  
24 five (5) per cent of the qualified electors, at the annual  
25 municipal election or at any special election called for

1 that purpose, submit to a vote to the qualified electors,  
 2 the question whether or not the city council may establish  
 3 and collect rentals for the use of such sewer system and may  
 4 fix scale of such rentals and prescribe the manner and time  
 5 at which such rentals shall be paid, and if a majority of  
 6 votes is cast in favor of such proposition then the city or  
 7 town council, with the approval of the public service  
 8 commission, may establish and collect rentals for the use of  
 9 any such sewer system and may fix the scale of such rentals  
 10 and prescribe the manner and time at which such rentals  
 11 should be paid and to change such scale of rentals from time  
 12 to time as may be deemed advisable; providing, that the  
 13 total revenue to be collected from all of the above sources  
 14 in a given year shall be provided for by the council in such  
 15 a manner as to provide funds for the payment of all bond  
 16 issues and interest thereon, as well as for all necessary  
 17 expenses of the operation, maintenance and repair of any  
 18 such sewer system. For the purpose of making such rental  
 19 charges equitable, property benefited thereby may be  
 20 classified, taking into consideration the volume and  
 21 character of sewage or waste and the nature of the use made  
 22 of such sewage facilities. Said rentals shall be collected  
 23 or taxed against the property in like manner as water  
 24 rentals are collected and taxed, or by such procedure as may  
 25 be prescribed by the city or town council, the revenues in

1 this paragraph provided shall be in addition to and not  
 2 exclusive of other revenues which may be now legally  
 3 collected for sewer payment.

4 (4) The funds received from the collection of sewer  
 5 rentals shall be kept as a separate and distinct fund by the  
 6 city treasurer, subject only to disbursement by order of the  
 7 council. This fund shall be used for (1) the payment of the  
 8 cost of management, (2) maintenance, (3) operation and (4)  
 9 repair of the sewage system, including treatment and  
 10 disposal works, (5) for the creation of a sinking fund for  
 11 the retirement of any indebtedness, (6) for the payment of  
 12 interest on any such indebtedness, and any surplus in such  
 13 fund may be used for the enlargement or replacement of the  
 14 same and for the payment of the interest on any debt  
 15 incurred for the construction of such sewage system,  
 16 including sewage pumping, treatment and disposal works, and  
 17 for retiring such debt, but shall not be used for the  
 18 extension of a sewage system to serve unsewered areas or for  
 19 any purpose other than one or more of those above specified.

20 ~~(5) Any twenty-five (25) or more electors of such a~~  
 21 ~~municipality may file complaint with the public service~~  
 22 ~~commission to the effect that the rental charges so fixed~~  
 23 ~~are unreasonable or unjustly discriminatory, and the public~~  
 24 ~~service commission shall, upon public hearing thereon, file~~  
 25 ~~its findings and determination, stating therein in what~~

1 ~~respect, if any, said rental charges are unreasonable or~~  
 2 ~~unjustly discriminatory, and the municipality at interest~~  
 3 ~~shall forthwith readjust its rental charges so as to remove~~  
 4 ~~any unreasonable or unjustly discriminatory features so~~  
 5 ~~found by the public service commission.~~

6 ~~(4)-(5)~~ It is further provided that all the provisions  
 7 of this act referring to sewer rentals, shall apply to  
 8 special improvement districts for the constructing and  
 9 maintaining and operating of sanitary sewers and storm  
 10 sewers, as provided for in chapter 133, Laws of 1929 and the  
 11 powers herein conferred on councils shall be and are hereby  
 12 conferred on the several boards of county commissioners for  
 13 the purposes of said chapter 133, Laws of 1929--in so far as  
 14 the same relates to sewers."

15 Section 3. Section 11-2217, R.C.M. 1947, is amended to  
 16 read as follows:

17 "11-2217. Cities and towns may establish sewage  
 18 treatment and disposal plants and systems and water supply  
 19 and distribution systems. Any city or town may when  
 20 authorized so to do by a majority vote of the qualified  
 21 electors voting on the question establish, build, construct,  
 22 reconstruct and/or extend a storm and/or sanitary sewerage  
 23 system and/or a plant or plants for treatment or disposal of  
 24 sewage therefrom, or a water supply and/or distribution  
 25 system, or any combinations of such systems, and may operate

1 and maintain such facilities for public use, and in addition  
 2 to all other powers granted to it, such municipality shall  
 3 have authority, by ordinance duly adopted by the governing  
 4 body to charge just and equitable rates, charges or rentals  
 5 for the services and benefits directly or indirectly  
 6 furnished thereby. Such rates, charges or rentals shall be  
 7 approved by the public service commission and as nearly as  
 8 possible equitable in proportion to the services and  
 9 benefits rendered, and sewer charges may take into  
 10 consideration the quantity of sewage produced and its  
 11 concentration and water pollution qualities in general and  
 12 the cost of disposal of sewage and storm waters. The sewer  
 13 charges may be fixed on the basis of water consumption or  
 14 any other equitable basis the governing body and the public  
 15 service commission may deem appropriate and, if the  
 16 governing body and public service commission determines that  
 17 the sewage treatment and/or storm water disposal prevents  
 18 pollution of sources of water supply, may be established as  
 19 a surcharge on the water bills of water consumers or on any  
 20 other equitable basis of measuring the use and benefits of  
 21 such facilities and services. In the event of nonpayment of  
 22 charges for either water or sewer service and benefits to  
 23 any premises, the governing body may direct the supply of  
 24 water to such premises to be discontinued until such charges  
 25 are paid.

1 In this act "qualified electors" shall mean registered  
 2 electors of the municipality. The question of building,  
 3 constructing, reconstructing or extending the system, plant  
 4 or plants and the question of issuing and selling revenue  
 5 bonds for such purpose may be submitted as a single  
 6 proposition or as separate propositions. Any election under  
 7 this act may be called by a resolution of the governing body  
 8 which it may adopt without being previously petitioned to do  
 9 so."

10 Section 4. Section 11-2403, R.C.M. 1947, is amended to  
 11 read as follows:

12 "11-2403. Additional powers of municipalities. In  
 13 addition to the powers which it may now have, any  
 14 municipality shall have power under this act: ~~(a)~~ (1) To  
 15 construct, acquire by gift, purchase, or the exercise of the  
 16 right of eminent domain, reconstruct, improve, better or  
 17 extend any undertaking, within or without the municipality,  
 18 or partially within or partially without the municipality,  
 19 and to acquire by gift, purchase, or the exercise of the  
 20 right of eminent domain, lands or rights in land or water  
 21 rights in connection therewith; ~~(b)~~ (2) to operate and  
 22 maintain any undertaking and furnish the service, facilities  
 23 and commodities thereof for its own use and for the use of  
 24 public and private consumers within or without the  
 25 territorial boundaries of such municipality; ~~(c)~~ (3) to

1 issue its bonds to finance in whole or in part the cost of  
 2 the acquisition, purchase, construction, reconstruction,  
 3 improvement, betterment or extension of any undertaking,  
 4 and/or to refund bonds issued for any of the foregoing  
 5 purposes, whether issued under authority of this chapter or  
 6 of any other applicable law; ~~(d)~~ (4) to prescribe and  
 7 collect rates, fees, and charges for the services,  
 8 facilities and commodities furnished by such undertaking; ~~(e)~~ (5) to enter into co-operative agreements with and accept  
 9 contributions from industrial establishments relative to the  
 10 planning, construction, lease or other acquisition,  
 11 maintenance and operation of undertakings, and to apply for  
 12 and accept grants and loans or any other aid which the  
 13 United States of America or any agency thereof may give or  
 14 make to any political subdivision or agency of this state  
 15 for undertakings, including all necessary actions  
 16 preliminary thereto, the purpose of which is to aid in the  
 17 prevention or abatement of water pollution, and to make  
 18 contracts and execute instruments containing such terms,  
 19 provisions and conditions as, in the discretion of the  
 20 governing body of the municipality, may be necessary, proper  
 21 or advisable for the purpose of obtaining such aid; ~~(f)~~ (6)  
 22 to enter into and perform contracts, whether long-term or  
 23 short-term, with any industrial establishment for the  
 24 provisions and operation by the municipality of sewerage

1 facilities when the governing body of such municipality  
 2 determines such action to be in the public interest and  
 3 otherwise essential in order to abate or reduce the  
 4 pollution of waters caused by discharges of industrial waste  
 5 by such industrial establishment, and to provide for the  
 6 periodical payment by said industrial establishment to the  
 7 municipality of an amount at least sufficient, in the  
 8 determination of such governing body ~~and of the public~~  
 9 ~~service commission~~ to compensate the municipality for the  
 10 cost of providing (including the payment of principal and  
 11 interest charges, if any) and of operating and maintaining  
 12 the sewerage facilities serving such industrial  
 13 establishments; and ~~(g)(1)~~ to pledge to the punctual payment  
 14 of said bonds issued under this act and interest thereon an  
 15 amount of the revenues of such undertaking (including  
 16 improvements, betterments, or extensions thereto thereafter  
 17 constructed or acquired) or of any part of such undertaking,  
 18 sufficient to pay said bonds, and interest as the same shall  
 19 become due, and to create and maintain reasonable reserves  
 20 therefor. Such amount may consist of all or any part or  
 21 portion of such revenue. The governing body of the  
 22 municipality in determining such cost, may include all costs  
 23 and estimated costs of the issuance of said bonds, all  
 24 engineering, inspection, fiscal and legal expenses, and  
 25 interest which it is estimated will accrue during the

1 construction period and for ~~six~~(6) months thereafter on  
 2 money borrowed or which it is estimated will be borrowed  
 3 pursuant to this act. Any two or more municipalities through  
 4 their respective governing bodies are hereby authorized and  
 5 empowered to enter into and perform such contracts and  
 6 agreements as they may deem proper for or concerning the  
 7 planning, construction, lease or other acquisition and the  
 8 finance of undertakings, in whole or in part, and the  
 9 maintenance and operation thereof. Any such municipalities  
 10 so contracting with each other may also provide in any  
 11 contract or agreement for a board, commission or such other  
 12 body as their governing bodies may deem proper for the  
 13 supervision and general management of the undertakings and  
 14 for the operation thereof, and may prescribe its powers and  
 15 duties and fix the compensation of the members thereof."

16 Section 5. Section 16-4416, R.C.M. 1947, is amended to  
 17 read as follows:

18 "16-4416. Rates, charges and rentals for services. The  
 19 board of county commissioners shall have ~~full~~ power and  
 20 authority by ordinance or resolution, upon approval by the  
 21 public service commission, to fix and establish just and  
 22 equitable rates, charges and rentals for the services and  
 23 benefits directly or indirectly afforded by any sanitary or  
 24 storm sewer system operated, controlled, and under the  
 25 jurisdiction of a metropolitan sanitary and/or storm sewer



1 district formed under this chapter. Such rates, charges and  
 2 rentals shall be as nearly as possible equitable in  
 3 proportion to the services and benefits rendered, and may  
 4 take into consideration the quantity of sewage produced and  
 5 its concentration and water pollution qualities in general  
 6 and the cost of disposal of sewage and storm waters. The  
 7 board of county commissioners shall have authority, upon  
 8 approval by the public service commission, by resolution and  
 9 after public hearing, to fix and establish the sewer rates,  
 10 charges and rentals at amounts sufficient in each year, not  
 11 to exceed ~~seven dollars (\$7)~~ per unit user per year, to  
 12 provide income and revenues adequate for the payment of the  
 13 reasonable expense of operation and maintenance of the  
 14 system; to fix and establish an additional charge not to  
 15 exceed ~~seven dollars (\$7)~~ per unit user per year for the  
 16 operation and maintenance of a sanitary and storm sewer  
 17 system and of a sewage treatment plant; and to levy and to  
 18 assess a tax upon the taxable valuation of each and every  
 19 lot or parcel of land and improvements thereon in the  
 20 district not in excess of ~~two (2)~~ mills on each dollar of  
 21 taxable valuation to provide sufficient revenues for the  
 22 reserve fund of the amounts necessary to meet the financial  
 23 requirements of such fund as described in section 16-4417."

24 Section 6. Section 16-4525, R.C.M. 1947, is amended to  
 25 read as follows:

1 "16-4525. Rates. The board of directors shall, upon  
 2 approval by the public service commission, fix all water and  
 3 sewer rates, and shall through the general manager collect  
 4 the sewer charges and the charges for the sale and  
 5 distribution of water to all users."

6 Section 7. Section 16-4526, R.C.M. 1947, is amended to  
 7 read as follows:

8 "16-4526. Rate to pay operating expenses. The board of  
 9 directors in the furnishing of water, sewer service, other  
 10 services and facilities, shall fix, with the approval of the  
 11 public service commission, such rate, fee, toll, rent or  
 12 other charge as will pay the operating expenses of the  
 13 district, provide for repairs and depreciation of works  
 14 owned or operated by it, pay the interest on any bonded  
 15 debt, and, so far as possible, provide a sinking or other  
 16 fund for the payment of the principal of such debt as it may  
 17 become due.

18 Notwithstanding any other section of this chapter, or  
 19 limitation imposed therein, and when the board of directors  
 20 has applied for and received from the federal government any  
 21 moneys for the construction, operation and maintenance of  
 22 treatment services and works, the board of directors may  
 23 adopt a system of charges and rates to require that each  
 24 recipient of treatment works services pays its proportionate  
 25 share of the costs of operation, maintenance and

1 replacement, and to require industrial users of treatment  
2 works to pay the portion of the cost of construction of the  
3 treatment works which is allocable to the treatment of that  
4 industrial users' wastes."

5 Section 8. Section 70-103, R.C.M. 1947, is amended to  
6 read as follows:

7 "70-103. "Public utility" defined. The term "public  
8 utility," within the meaning of this act, shall embrace  
9 every corporation, both public and private, company,  
10 individual, association of individuals, their lessees,  
11 trustees or receivers appointed by any court whatsoever,  
12 that now or hereafter may own, operate, or control any plant  
13 or equipment, or any part of a plant or equipment, within  
14 the state, for the production, delivery, or furnishing for  
15 or to other persons, firms, associations, or corporations,  
16 private or municipal, heat, street-railway service, light,  
17 power in any form or by any agency, sewerage service, water  
18 for business, manufacturing, household use, or sewerage  
19 service, whether within the limits of municipalities, towns  
20 and villages, or elsewhere, telegraph or telephone service;  
21 and the public service commission is hereby invested with  
22 full power of supervision, regulation, and control of such  
23 utilities, subject to the provisions of this act, and to the  
24 exclusion of the jurisdiction, regulation, and control of  
25 such utilities by any municipality, town, or village."

1 Section 9. Section 70-105, R.C.M. 1947, is amended to  
2 read as follows:

3 "70-105. Public utilities to furnish service for  
4 reasonable charges. Every public utility is required to  
5 furnish reasonably adequate service and facilities. The  
6 charge made by any public utility for any heat, light,  
7 power, water, sewerage, telegraph, or telephone service,  
8 produced, transmitted, delivered, or furnished, or for any  
9 service to be rendered as or in connection with any public  
10 utility, shall be reasonable and just, and every unjust and  
11 unreasonable charge is prohibited and declared unlawful."

12 Section 10. Section 84-4726.1, R.C.M. 1947, is amended  
13 to read as follows:

14 "84-4726.1. Municipal sewer rates — collection —  
15 arrearages. The council of any city or town operating a  
16 municipal sewer system may fix by ordinance, upon the  
17 approval of the public service commission, the rates for  
18 service charges in advance or otherwise. The rates shall be  
19 uniform for like service in all parts of the municipality  
20 and shall be as nearly as possible equitable in proportion  
21 to the services and benefits rendered. An original charge  
22 for the connecting sewer line between the lot line and the  
23 sewer main may be assessed when such connecting sewer line  
24 is installed. The charges shall be collected by the  
25 treasurer."

1        [1] On or before January 15 of each year, notice shall  
 2 be given by the city or town treasurer to the owners of all  
 3 lots or parcels of real estate to which sewer service has  
 4 been furnished prior to January 1, by the city or town, and  
 5 said notice shall specify the assessment owing and in  
 6 arrears at the time of giving such notice. Such notice shall  
 7 be in writing and shall state the amount of such arrearage,  
 8 including any penalty and interest assessed pursuant to the  
 9 provisions of the city or town ordinance; that unless the  
 10 same is paid by July 1 thereafter, the same will be levied  
 11 as a tax against the lot or parcel of real estate to which  
 12 sewer service was furnished and for which payment is  
 13 delinquent as above specified. Such notice may be delivered  
 14 to such owner personally, or by letter addressed to such  
 15 owner at the post office address of such owner as recorded  
 16 in the office of the county assessor.

17        [2] On March 1, the treasurer of the city or town shall  
 18 certify and file with the county assessor a list of all lots  
 19 or parcels of real estate, giving the legal description  
 20 thereof, to the owners of which notices of arrearage in  
 21 payments were given as above specified and which arrearage  
 22 still remain unpaid, and stating the amount of such  
 23 arrearage, including any penalty and interest. The county  
 24 assessor shall insert the same as a tax against such lot or  
 25 parcel of real estate. Provided, that in cities where the

1 council has provided by ordinance for the collection of  
 2 taxes, the city treasurer shall insert such delinquent  
 3 amount, including penalty and interest, as a tax against the  
 4 lot or parcel of real estate to which sewer service was  
 5 furnished and payment for which is delinquent."

-End-