

HOUSE BILL 45

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Local Government.
January 19, 1979	Committee recommend bill, as amended.
January 20, 1979	Printed and placed on members' desks.
January 22, 1979	Second reading, do pass.
January 23, 1979	Considered correctly engrossed.
January 24, 1979	Third reading, passed.

IN THE SENATE

January 25, 1979	Introduced and referred to Committee on Taxation.
April 20, 1979	Died in Committee.

1 HOUSE BILL NO. 45
 2 INTRODUCED BY CONROY
 3 BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING COUNTIES THE
 6 AUTHORITY TO ISSUE REVENUE BONDS FOR FINANCING CONSTRUCTION,
 7 MAINTENANCE, AND OTHER SERVICES AND GRANTING COUNTIES THE
 8 AUTHORITY TO ISSUE REFUNDING REVENUE BONDS."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This [act] may be cited as
 12 "The County Revenue Bond Act of 1979".

13 Section 2. Definitions. Whenever used in this [act],
 14 unless a different meaning clearly appears from the context,
 15 the following definitions apply:

16 (1) "Governing body" includes bodies and boards, by
 17 whatever names they may be known, having charge of finances
 18 and management of a county.

19 (2) "State agency" includes all offices, boards,
 20 bureaus, commissions, or similar instrumentalities of state
 21 government.

22 (3) "Undertaking" means any one or a combination of
 23 the following:

24 (a) water and sewer systems, together with all parts
 25 thereof and appurtenances thereto, including but not limited

1 to supply and distribution systems, reservoirs, dams, and
 2 sewage treatment and disposal works;
 3 (b) public airport construction and public airport
 4 buildings;
 5 (c) convention facilities;
 6 (d) public recreation facilities; and
 7 (e) public parking facilities or other
 8 revenue-producing facilities and services authorized for
 9 counties.

10 Section 3. Interpretation. (1) The powers conferred in
 11 this [act] shall be in addition and supplemental to the
 12 powers conferred by any other general, special, or local
 13 law.

14 (2) The undertaking may be acquired, purchased,
 15 constructed, reconstructed, improved, bettered, and extended
 16 and bonds may be issued under this [act] for these purposes,
 17 notwithstanding any general, special, or local law that may
 18 provide for the acquisition, purchase, construction,
 19 reconstruction, improvement, betterment, or extension of a
 20 like undertaking or the issuance of bonds for like purposes
 21 and without regard to the requirements, restrictions,
 22 limitations, or other provisions contained in any other
 23 general, special, or local law, including but not limited to
 24 any requirement for approval by the voters of any county.

25 Section 4. Authority to acquire, construct, maintain,

1 and operate various undertakings. In addition to the powers
2 which it now has, any county governing body may:

3 (1) construct; acquire by gift, purchase, or the
4 exercise of the right of eminent domain; reconstruct;
5 improve; better; or extend any undertaking within or without
6 the county or partially within or partially without the
7 county and acquire by gift, purchase, or the exercise of the
8 right of eminent domain such land or rights in land or water
9 rights necessary for the undertaking;

10 (2) operate and maintain any undertaking and furnish
11 the services, facilities, and commodities thereof for its
12 own use and for the use of public and private consumers
13 within or without the territorial boundaries of such county;
14 and

15 (3) prescribe and collect rates, fees, and charges for
16 the services, facilities, and commodities furnished by such
17 undertaking.

18 Section 5. Pollution abatement. In addition to the
19 powers which it now has, any county governing body may:

20 (1) enter into cooperative agreements with and accept
21 contributions from industrial establishments relative to the
22 planning, construction, lease or other acquisition,
23 maintenance, or operation of undertakings and apply for and
24 accept grants and loans or any other aid which the United
25 States or any agency thereof may provide to any political

1 subdivisio, or agency of this state for undertakings,
2 including all necessary preliminary actions, the purpose of
3 which is to aid in the prevention or abatement of water
4 pollution;

5 (2) make contracts and execute instruments containing
6 such terms, provisions, and conditions as in the discretion
7 of the governing body of the county may be necessary,
8 proper, or advisable for obtaining such aid;

9 (3) enter into contracts, whether long-term or
10 short-term, with any industrial establishment for the
11 provision and operation by the county of sewer facilities
12 when the governing body of the county determines the action
13 to be in the public interest and essential in order to abate
14 or reduce the pollution of waters caused by discharge of
15 industrial waste by the industrial establishment and to
16 provide for periodical payment by the industrial
17 establishment to the county of an amount at least
18 sufficient, as determined by the governing body, to
19 compensate the county for the cost of providing (including
20 the payment of principal and interest charges, if any),
21 operating, and maintaining the sewer facilities serving such
22 industrial establishment.

23 Section 6. Cooperation among counties. (1) Any two or
24 more counties, through their respective governing bodies,
25 may enter into contracts for the planning, construction,

1 lease or other acquisition, and the financing of an
2 undertaking, in whole or in part, and the maintenance and
3 operation thereof.

4 (2) Any counties contracting with each other may also
5 provide in any contract for a board, commission, or other
6 body, as their governing bodies may determine proper, for
7 the supervision and general management of the undertaking
8 and for its operation and may prescribe its powers and
9 duties and fix the compensation of the members.

10 (3) No county may construct an undertaking wholly or
11 partly within the corporate limits of another county without
12 the consent of the governing body of the other county.

13 Section 7. Authority to issue revenue bonds. In
14 addition to the powers which it now has, any county
15 governing body may:

16 (1) issue bonds to finance, in whole or in part, the
17 cost of the acquisition, purchase, construction,
18 reconstruction, improvement, betterment, or extension of any
19 undertaking;

20 (2) pledge, for the punctual payment of the bonds
21 issued and interest thereon, an amount of the revenues of
22 such undertaking (including improvements, betterments, or
23 extensions thereafter constructed or acquired) or of any
24 part of the undertaking sufficient to pay those bonds and
25 interest as they become due, with the amount consisting of

1 all or any part of the revenue, and to create and maintain
2 reasonable reserves.

3 Section 8. Determination of cost. The governing body
4 of the county in determining cost may include all costs and
5 estimated costs of the issuance of the bonds; all
6 engineering, inspection, fiscal, and legal expenses; and
7 estimated interest accruing during the construction period
8 and for 6 months thereafter on money borrowed or estimated
9 to be borrowed for the undertaking.

10 Section 9. Nature of revenue bonds. (1) No holder of
11 any bonds issued under this [act] may compel any exercise of
12 taxing power of the county to pay those bonds or the
13 interest thereon.

14 (2) Each bond issued under this [act] shall state in
15 substance that:

16 (a) the bond, including interest thereon, is payable
17 from the revenue pledged to the payment thereof; and

18 (b) the bond does not constitute a debt of the county
19 within the meaning of any constitutional or statutory
20 limitation or provision.

21 Section 10. Undertakings to be self-supporting. (1)
22 The governing body issuing bonds pursuant to this [act]
23 shall prescribe and collect reasonable rates, fees, or
24 charges for the services, facilities, and commodities of
25 such undertaking and shall revise the rates, fees, or

1 charges whenever necessary so that the undertaking will
2 always be self-supporting.

3 (2) The rates, fees, or charges prescribed shall
4 produce revenue at least sufficient to:

5 (a) pay when due all bonds and interest thereon for
6 the payment of which the revenue is pledged, charged, or
7 otherwise encumbered, including reserves therefor; and

8 (b) provide for all expenses of operation and
9 maintenance of such undertaking, including reserves
10 therefor.

11 Section 11. Use of revenue from undertaking. (1) Any
12 governing body issuing bonds pursuant to this [act] for the
13 acquisition, purchase, construction, reconstruction,
14 improvement, betterment, or extension of any undertaking may
15 appropriate, apply, or extend the revenue of such
16 undertaking to:

17 (a) pay when due all bonds and interest thereon for
18 the payment of which the revenue is pledged, charged, or
19 otherwise encumbered, including reserves therefor;

20 (b) provide for all expenses of operation and
21 maintenance of the undertaking, including reserves therefor;

22 (c) pay and discharge notes, bonds, or other
23 obligations and interest thereon not issued under this
24 [act], for the payment of which the revenue of the
25 undertaking is pledged, charged, or encumbered;

1 (d) pay and discharge notes, bonds, or other
2 obligations and interest thereon that do not constitute a
3 lien, charge, or encumbrance on the revenue of such
4 undertaking and were issued for the purpose of financing the
5 acquisition, purchase, construction, reconstruction,
6 improvement, betterment, or extension of the undertaking;
7 and

8 (e) provide a reserve for betterments to the
9 undertaking.

10 (2) Unless adequate provision has been made for the
11 foregoing purposes, no county may transfer the revenue of
12 such undertaking to its general fund.

13 Section 12. Authorization for undertaking and issuance
14 of bonds. (1) The acquisition, purchase, construction,
15 reconstruction, improvement, betterment, or extension of any
16 undertaking may be authorized under this [act].

17 (2) Bonds may be issued under this [act] by resolution
18 or resolutions of the governing body of the county:

19 (a) without an election; or

20 (b) when authorized by a majority of the qualified
21 electors voting upon the question at a special election,
22 after the governing body in its sole discretion has
23 submitted the question to the electorate.

24 Section 13. Special election on question of issuing
25 bonds. When the governing body has chosen to submit the

1 question of issuing bonds to the electorate, the special
 2 election shall be noticed and conducted as provided in
 3 7-7-2229 through 7-7-2235. The special election shall be
 4 held not later than the next county election held after the
 5 governing body of the county has by resolution or
 6 resolutions approved the acquisition, purchase,
 7 construction, reconstruction, improvement, betterment, or
 8 extension of an undertaking and ordered a special election.

9 Section 14. Covenants in resolution authorizing
 10 issuance of bonds. A resolution authorizing the issuance of
 11 bonds under this [act] may contain covenants concerning:

12 (1) the purpose to which the proceeds of sale of the
 13 bonds may be applied and the use and disposition thereof;

14 (2) the use and disposition of the revenue of the
 15 undertaking for which the bonds are to be issued, including
 16 the creation and maintenance of reserves;

17 (3) the transfer from the general fund of the county
 18 to the account or accounts of the undertaking of an amount
 19 equal to the cost of furnishing the county or any of its
 20 agencies with the services, facilities, or commodities of
 21 the undertaking;

22 (4) the issuance of other bonds payable from the
 23 revenue of the undertaking;

24 (5) the operation and maintenance of such undertaking;

25 (6) the insurance to be carried thereon and the use

1 and disposition of insurance money;

2 (7) the books of account and the inspection and audit
 3 of those books; and

4 (8) the terms and conditions upon which the holders of
 5 the bonds or any of them or any trustee therefor is entitled
 6 to:

7 (a) the appointment of a receiver by the district
 8 court, which court has jurisdiction in such proceedings and
 9 which receiver may enter and take possession of the
 10 undertaking;

11 (b) operate and maintain the undertaking;

12 (c) prescribe rates, fees, or charges, subject to the
 13 approval of the public service commission; and

14 (d) collect, receive, and apply all revenue thereafter
 15 arising from the undertaking in the same manner as the
 16 county itself might do.

17 Section 15. Remedies. The provisions of this [act] and
 18 any such resolution are enforceable by any bondholder in any
 19 court of competent jurisdiction by mandamus or other
 20 appropriate proceeding.

21 Section 16. Presumptions of validity of bonds. (1) The
 22 bonds bearing the signatures of officers in office on the
 23 date of the signing are valid and binding obligations
 24 notwithstanding that before delivery and payment any of the
 25 persons whose signatures appear thereon may have ceased to

1 be officers of the county issuing the bonds.

2 (2) The validity of the bonds is not dependent on or
3 affected by the validity or regularity of any proceedings
4 relating to the acquisition, purchase, construction,
5 reconstruction, improvement, betterment, or extension of the
6 undertaking for which the bonds are issued.

7 (3) The resolution authorizing the bonds may provide
8 that the bonds contain a statement that they are issued
9 pursuant to this [act], which statement is conclusive
10 evidence of their validity and of the regularity of their
11 issuance.

12 Section 17. Liens arising from bonds. The resolution
13 or resolutions shall specify and define the revenues or
14 portion thereof which are appropriated and pledged for the
15 security and payment of the bond principal and interest and
16 the relative security of liens on the revenues in favor of
17 bonds of one or more series or issues, whether issued
18 concurrently or at different times.

19 Section 18. Details relating to revenue bonds. (1)
20 Bonds authorized to be issued under this [act] must bear
21 interest at an annual rate not exceeding 9%, payable
22 semiannually.

23 (2) The resolution may provide that the bonds:

- 24 (a) be in one or more series;
25 (b) bear certain dates;

1 (c) mature at a certain time, not exceeding 40 years
2 from their respective dates;

3 (d) be payable in a certain place;

4 (e) carry certain registration privileges;

5 (f) be subject to terms of redemption;

6 (g) be executed in a specified manner;

7 (h) contain specified terms, covenants, and
8 conditions; and

9 (i) be in coupon registered form.

10 Section 19. Sale of bonds. (1) Bonds authorized to be
11 issued under this [act] may not be sold at less than par.

12 (2) (a) The bonds may be sold at private sale to the
13 United States or any agency, instrumentality, or corporation
14 thereof.

15 (b) Unless sold to the United States or any agency,
16 instrumentality, or corporation thereof, the bonds shall be
17 sold at public sale after notice of the sale.

18 Section 20. Notice of sale of bonds. (1) Except as
19 provided in subsection (2), the notice of sale of bonds
20 required by subsection (2)(b) of [section 19] shall be
21 published once at least 5 days prior to such sale:

22 (a) in a newspaper circulating in the county; and

23 (b) in a financial newspaper published in the city of
24 New York, New York, or the city of Chicago, Illinois, or the
25 city of San Francisco, California.

1 (2) If the bond issue is in an amount of less than
2 \$150,000, the bond issue must be advertised at least 5 days
3 prior to such sale:

4 (a) in daily newspapers circulating in Montana cities
5 of 10,000 population or over, in lieu of advertising in a
6 financial newspaper in New York, Chicago, or San Francisco;
7 and

8 (b) in a newspaper as specified in part 24, chapter 5,
9 Title 7, if that newspaper is different from the daily
10 newspapers circulating in Montana cities of 10,000
11 population or over.

12 Section 21. Interim receipts or certificates. Pending
13 the preparation of the definitive bonds, interim receipts or
14 certificates in such form and with such provisions as
15 determined by the governing body may be issued to the
16 purchaser of bonds sold pursuant to this [act]. The bonds
17 and interim receipts or certificates shall be fully
18 negotiable, as provided by the Uniform Commercial
19 Code--Investment Securities.

20 Section 22. Authority to issue refunding revenue
21 bonds. (1) In addition to the powers which it now has, any
22 county governing body may refund bonds issued for any of the
23 purposes listed in subsection (1) of [section 8], whether
24 issued under authority of this [act] or of any other
25 applicable law.

1 (2) Refunding revenue bonds issued as authorized in
2 this section shall be governed by all of the provisions of
3 [sections 1 through 22] as fully as bonds issued for the
4 initial financing of any undertaking and by the further
5 provisions of this [act].

6 (3) Bonds may be issued to refund interest as well as
7 principal actually due and payable if the revenues pledged
8 therefor are not sufficient, but not to refund any bonds or
9 interest due which can be paid from revenues then on hand.

10 Section 23. Interest rates on refunding revenue bonds.
11 (1) Except as provided in subsection (2), refunding bonds
12 may not be issued unless their average annual interest rate,
13 computed to their stated maturity dates and excluding any
14 premium from such computation, is at least 3/8 of 1% less
15 than the average annual interest rate on the bonds refunded
16 thereby, computed to their respective stated maturity dates.

17 (2) Refunding bonds may bear interest at a rate lower
18 or higher than the bonds refunded thereby if:

19 (a) they are issued to refund matured principal or
20 interest for the payment of which revenues on hand are not
21 sufficient; or

22 (b) the refunding bonds are combined with an issue of
23 new bonds for reconstruction, improvement, betterment, or
24 extension. The lien of such new bonds upon the revenues of
25 the undertaking must be junior and subordinate to the lien

1 of the outstanding bonds refunded, under the terms of the
2 resolutions authorizing the outstanding bonds as applied to
3 circumstances existing on the date of refunding.

4 Section 24. Exchange or sale of refunding revenue
5 bonds. (1) Refunding revenue bonds may, with the consent of
6 the holders of the bonds to be refunded thereby, be
7 exchanged at par plus accrued interest for all or part of
8 such bonds or may be sold at a price not less than par plus
9 accrued interest.

10 (2) Nothing in this section requires the holder of any
11 outstanding bond to accept payment thereof or the delivery
12 of a refunding bond in exchange therefor except in
13 accordance with the terms of the outstanding bond.

14 Section 25. Deposit of proceeds of refunding revenue
15 bonds in escrow. (1) If refunding bonds are issued and sold
16 6 months or more before the earliest date on which all bonds
17 refunded thereby mature or are prepayable in accordance with
18 their terms, the proceeds of the refunding bonds, including
19 any premium and accrued interest, shall be deposited in
20 escrow with a suitable bank or trust company. The bank or
21 trust company may have its principal place of business
22 within or without the state and shall:

- 23 (a) be a member of the federal reserve system; and
24 (b) have combined capital and surplus not less than \$1
25 million.

1 (2) The proceeds deposited in escrow shall be invested
2 in such amount and in securities maturing on such dates and
3 bearing interest at such rates as are required to provide
4 funds sufficient to pay, when due, the interest to accrue on
5 each bond refunded to its maturity or, if it is prepayable,
6 to the earliest prior date upon which the bond may be called
7 for redemption and to pay and redeem the principal amount of
8 each bond at maturity or, if prepayable, at its earliest
9 redemption date and any premium required for redemption on
10 such date. The resolution authorizing the refunding bonds
11 shall irrevocably appropriate for these purposes the escrow
12 fund and all income therefrom and shall provide for the call
13 of all prepayable bonds in accordance with their terms. The
14 securities which may be purchased with the escrow fund are
15 limited to general obligations of the United States,
16 securities whose principal and interest payments are
17 guaranteed by the United States, and securities issued by
18 the following United States government agencies: banks for
19 cooperatives, federal home loan banks, federal intermediate
20 credit banks, federal land banks, and the federal national
21 mortgage association. Such securities shall be purchased
22 simultaneously with the delivery of the refunding bonds.

23 Section 26. Use of excess revenues and pledged
24 reserves. (1) Revenues and other funds on hand in excess of
25 amounts pledged by resolutions authorizing outstanding bonds

1 for the payment of principal and interest currently due
2 thereon and reserves securing payment may be used to pay the
3 expenses incurred by the county for the purpose of the
4 refunding, including without limitation the cost of
5 advertising and printing refunding bonds, legal and
6 financial advice and assistance in connection therewith, and
7 the reasonable and customary charges of escrow agents and
8 paying agents.

9 (2) Revenues and other funds on hand, including
10 reserves pledged for the payment and security of outstanding
11 revenue bonds, may be deposited in an escrow fund created
12 for the retirement of such bonds and may be invested and
13 disbursed as provided in [section 26], to the extent
14 consistent with the resolutions authorizing the outstanding
15 bonds.

-End-

Approved by Comm.
on Local Government

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 2 INTRODUCED BY CONROY
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 5 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING COUNTIES THE
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18 and management of a county.

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 13 MUNICIPALITY without the consent of the governing body of
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15 ~~(4) NO COUNTY MAY CONSTRUCT AN UNDERTAKING WHOLLY OR~~
 16 ~~PARTLY WITHIN THE JURISDICTION OF A CITY-COUNTY PLANNING~~
 17 ~~BOARD WITHOUT FIRST GRANTING AN OPPORTUNITY TO THE~~
 18 ~~CITY-COUNTY PLANNING BOARD TO ISSUE COMMENTS ON THE~~
 19 ~~PROPOSAL.~~

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 4 such undertaking (including improvements, betterments, or
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11 produce revenue at least sufficient to:

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1 otherwise encumbered, including reserves therefor;

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3 maintenance of the undertaking, including reserves therefor;

4 (c) pay and discharge notes, bonds, or other
5 obligations and interest thereon not issued under this
6 [act], for the payment of which the revenue of the
7 undertaking is pledged, charged, or encumbered;

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9 obligations and interest thereon that do not constitute a
10 lien, charge, or encumbrance on the revenue of such
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1 ~~(a) without an election or~~
 2 ~~(b) when authorized by a majority of the qualified~~
 3 ~~electors voting upon the question at a special election,~~
 4 ~~after the governing body in its sole discretion has~~
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6 (2) THE GOVERNING BODY OF THE COUNTY MAY ISSUE BONDS
 7 AUTHORIZED UNDER THIS [ACT] WITH OR WITHOUT AN ELECTION. THE
 8 GOVERNING BODY SHALL ADOPT A RESOLUTION STATING ITS INTENT
 9 TO ISSUE REVENUE BONDS UNDER THIS [ACT].

10 (3) IF THE GOVERNING BODY CHOOSES TO SUBMIT THE
 11 QUESTION TO THE ELECTORATE, IT SHALL ADOPT A RESOLUTION
 12 CONTAINING:

13 (A) A LEGAL DESCRIPTION OF THE AREA OR DISTRICT IN
 14 WHICH THE ELECTION WILL BE HELD;

15 (B) THE DATE OF THE ELECTION; AND

16 (C) THOSE ELECTORS ELIGIBLE TO VOTE IN THE ELECTION.

17 (4) IF THE ISSUING OF BONDS IS SUBJECT TO AN ELECTION,
 18 A MAJORITY OF THE QUALIFIED ELECTORS DESCRIBED IN THE
 19 RESOLUTION AND VOTING IN THE ELECTION MAY APPROVE THE
 20 ISSUING OF THE BONDS.

21 Section 13. Special election on question of issuing
 22 bonds. When the governing body has chosen to submit the
 23 question of issuing bonds to the electorate, the special
 24 election shall be noticed and conducted as provided in
 25 7-7-2229 through 7-7-2235. The special election shall be

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 2 governing body of the county has by resolution or
 3 resolutions approved the acquisition, purchase,
 4 construction, reconstruction, improvement, betterment, or
 5 extension of an undertaking and ordered a special election.

6 Section 14. Covenants in resolution authorizing
 7 issuance of bonds. A resolution authorizing the issuance of
 8 bonds under this [act] may contain covenants concerning:

9 (1) the purpose to which the proceeds of sale of the
 10 bonds may be applied and the use and disposition thereof;

11 (2) the use and disposition of the revenue of the
 12 undertaking for which the bonds are to be issued, including
 13 the creation and maintenance of reserves;

14 (3) the transfer from the general fund of the county
 15 to the account or accounts of the undertaking of an amount
 16 equal to the cost of furnishing the county or any of its
 17 agencies with the services, facilities, or commodities of
 18 the undertaking;

19 (4) the issuance of other bonds payable from the
 20 revenue of the undertaking;

21 (5) the operation and maintenance of such undertaking;

22 (6) the insurance to be carried thereon and the use
 23 and disposition of insurance money;

24 (7) the books of account and the inspection and audit
 25 of those books; and

1 (8) the terms and conditions upon which the holders of
 2 the bonds or any of them or any trustee therefor is entitled
 3 to:

4 (a) the appointment of a receiver by the district
 5 court, which court has jurisdiction in such proceedings and
 6 which receiver may enter and take possession of the
 7 undertaking;

8 (b) operate and maintain the undertaking;

9 (c) prescribe rates, fees, or charges, subject to the
 10 approval of the public service commission; and

11 (d) collect, receive, and apply all revenue thereafter
 12 arising from the undertaking in the same manner as the
 13 county itself might do.

14 Section 15. Remedies. The provisions of this [act] and
 15 any such resolution are enforceable by any bondholder in any
 16 court of competent jurisdiction by mandamus or other
 17 appropriate proceeding.

18 Section 16. Presumptions of validity of bonds. (1) The
 19 bonds bearing the signatures of officers in office on the
 20 date of the signing are valid and binding obligations
 21 notwithstanding that before delivery and payment any of the
 22 persons whose signatures appear thereon may have ceased to
 23 be officers of the county issuing the bonds.

24 (2) The validity of the bonds is not dependent on or
 25 affected by the validity or regularity of any proceedings

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 2 reconstruction, improvement, betterment, or extension of the
 3 undertaking for which the bonds are issued.

4 (3) The resolution authorizing the bonds may provide
 5 that the bonds contain a statement that they are issued
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 12 security and payment of the bond principal and interest and
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 15 concurrently or at different times.

16 Section 18. Details relating to revenue bonds. (1)
 17 Bonds authorized to be issued under this [act] must bear
 18 interest at an annual rate not exceeding 9%, payable
 19 semiannually.

20 (2) The resolution may provide that the bonds:

21 (a) be in one or more series;

22 (b) bear certain dates;

23 (c) mature at a certain time, not exceeding 40 years
 24 from their respective dates;

25 (d) be payable in a certain place;

- 1 (e) carry certain registration privileges;
- 2 (f) be subject to terms of redemption;
- 3 (g) be executed in a specified manner;
- 4 (h) contain specified terms, covenants, and
- 5 conditions; and
- 6 (i) be in coupon registered form.

7 Section 19. Sale of bonds. (1) Bonds authorized to be
 8 issued under this [act] may not be sold at less than par.

9 (2) (a) The bonds may be sold at private sale to the
 10 United States or any agency, instrumentality, or corporation
 11 thereof.

12 (b) Unless sold to the United States or any agency,
 13 instrumentality, or corporation thereof, the bonds shall be
 14 sold at public sale after notice of the sale.

15 Section 20. Notice of sale of bonds. (1) Except as
 16 provided in subsection (2), the notice of sale of bonds
 17 required by subsection (2)(b) of [section 19] shall be
 18 published once at least 5 days prior to such sale:

- 19 (a) in a newspaper circulating in the county; and
- 20 (b) in a financial newspaper published in the city of
 21 New York, New York, or the city of Chicago, Illinois, or the
 22 city of San Francisco, California.

23 (2) If the bond issue is in an amount of less than
 24 \$150,000, the bond issue must be advertised at least 5 days
 25 prior to such sale:

- 1 (a) in daily newspapers circulating in Montana cities
 2 of 10,000 population or over, in lieu of advertising in a
 3 financial newspaper in New York, Chicago, or San Francisco;
 4 and

- 5 (b) in a newspaper as specified in part 24, chapter 5,
 6 Title 7, if that newspaper is different from the daily
 7 newspapers circulating in Montana cities of 10,000
 8 population or over.

9 Section 21. Interim receipts or certificates. Pending
 10 the preparation of the definitive bonds, interim receipts or
 11 certificates in such form and with such provisions as
 12 determined by the governing body may be issued to the
 13 purchaser of bonds sold pursuant to this [act]. The bonds
 14 and interim receipts or certificates shall be fully
 15 negotiable, as provided by the Uniform Commercial
 16 Code--Investment Securities.

17 Section 22. Authority to issue refunding revenue
 18 bonds. (1) In addition to the powers which it now has, any
 19 county governing body may refund bonds issued for any of the
 20 purposes listed in subsection (1) of [section 8], whether
 21 issued under authority of this [act] or of any other
 22 applicable law.

23 (2) Refunding revenue bonds issued as authorized in
 24 this section shall be governed by all of the provisions of
 25 [sections 1 through 22] as fully as bonds issued for the

1 initial financing of any undertaking and by the further
2 provisions of this [act].

3 (3) Bonds may be issued to refund interest as well as
4 principal actually due and payable if the revenues pledged
5 therefor are not sufficient, but not to refund any bonds or
6 interest due which can be paid from revenues then on hand.

7 Section 23. Interest rates on refunding revenue bonds.

8 (1) Except as provided in subsection (2), refunding bonds
9 may not be issued unless their average annual interest rate,
10 computed to their stated maturity dates and excluding any
11 premium from such computation, is at least 3/8 of 1% less
12 than the average annual interest rate on the bonds refunded
13 thereby, computed to their respective stated maturity dates.

14 (2) Refunding bonds may bear interest at a rate lower
15 or higher than the bonds refunded thereby if:

16 (a) they are issued to refund matured principal or
17 interest for the payment of which revenues on hand are not
18 sufficient; or

19 (b) the refunding bonds are combined with an issue of
20 new bonds for reconstruction, improvement, betterment, or
21 extension. The lien of such new bonds upon the revenues of
22 the undertaking must be junior and subordinate to the lien
23 of the outstanding bonds refunded, under the terms of the
24 resolutions authorizing the outstanding bonds as applied to
25 circumstances existing on the date of refunding.

1 Section 24. Exchange or sale of refunding revenue
2 bonds. (1) Refunding revenue bonds may, with the consent of
3 the holders of the bonds to be refunded thereby, be
4 exchanged at par plus accrued interest for all or part of
5 such bonds or may be sold at a price not less than par plus
6 accrued interest.

7 (2) Nothing in this section requires the holder of any
8 outstanding bond to accept payment thereof or the delivery
9 of a refunding bond in exchange therefor except in
10 accordance with the terms of the outstanding bond.

11 Section 25. Deposit of proceeds of refunding revenue
12 bonds in escrow. (1) If refunding bonds are issued and sold
13 6 months or more before the earliest date on which all bonds
14 refunded thereby mature or are prepayable in accordance with
15 their terms, the proceeds of the refunding bonds, including
16 any premium and accrued interest, shall be deposited in
17 escrow with a suitable bank or trust company. The bank or
18 trust company may have its principal place of business
19 within or without the state and shall:

20 (a) be a member of the federal reserve system; and
21 (b) have combined capital and surplus not less than \$1
22 million.

23 (2) The proceeds deposited in escrow shall be invested
24 in such amount and in securities maturing on such dates and
25 bearing interest at such rates as are required to provide

1 funds sufficient to pay, when due, the interest to accrue on
 2 each bond refunded to its maturity or, if it is prepayable,
 3 to the earliest prior date upon which the bond may be called
 4 for redemption and to pay and redeem the principal amount of
 5 each bond at maturity or, if prepayable, at its earliest
 6 redemption date and any premium required for redemption on
 7 such date. The resolution authorizing the refunding bonds
 8 shall irrevocably appropriate for these purposes the escrow
 9 fund and all income therefrom and shall provide for the call
 10 of all prepayable bonds in accordance with their terms. The
 11 securities which may be purchased with the escrow fund are
 12 limited to general obligations of the United States,
 13 securities whose principal and interest payments are
 14 guaranteed by the United States, and securities issued by
 15 the following United States government agencies: banks for
 16 cooperatives, federal home loan banks, federal intermediate
 17 credit banks, federal land banks, and the federal national
 18 mortgage association. Such securities shall be purchased
 19 simultaneously with the delivery of the refunding bonds.

20 Section 26. Use of excess revenues and pledged
 21 reserves. (1) Revenues and other funds on hand in excess of
 22 amounts pledged by resolutions authorizing outstanding bonds
 23 for the payment of principal and interest currently due
 24 thereon and reserves securing payment may be used to pay the
 25 expenses incurred by the county for the purpose of the

1 refunding, including without limitation the cost of
 2 advertising and printing refunding bonds, legal and
 3 financial advice and assistance in connection therewith, and
 4 the reasonable and customary charges of escrow agents and
 5 paying agents.

6 (2) Revenues and other funds on hand, including
 7 reserves pledged for the payment and security of outstanding
 8 revenue bonds, may be deposited in an escrow fund created
 9 for the retirement of such bonds and may be invested and
 10 disbursed as provided in [section 26], to the extent
 11 consistent with the resolutions authorizing the outstanding
 12 bonds.

-End-

1 HOUSE BILL NO. 45
 2 INTRODUCED BY CONROY
 3 BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING COUNTIES THE
 6 AUTHORITY TO ISSUE REVENUE BONDS FOR FINANCING CONSTRUCTION,
 7 MAINTENANCE, AND OTHER SERVICES AND GRANTING COUNTIES THE
 8 AUTHORITY TO ISSUE REFUNDING REVENUE BONDS."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This [act] may be cited as
12 "The County Revenue Bond Act of 1979".

13 Section 2. Definitions. Whenever used in this [act],
14 unless a different meaning clearly appears from the context,
15 the following definitions apply:

16 (1) "Governing body" includes bodies and boards, by
17 whatever names they may be known, having charge of finances
18 and management of a county.

19 (2) "State agency" includes all offices, boards,
20 bureaus, commissions, or similar instrumentalities of state
21 government.

22 (3) "Undertaking" means any one or a combination of
23 the following:

24 (a) water and sewer systems, together with all parts
25 thereof and appurtenances thereto, including but not limited

1 to supply and distribution systems, reservoirs, dams, and
 2 sewage treatment and disposal works;
 3 (b) public airport construction and public airport
 4 buildings;
 5 (c) convention facilities;
 6 (d) public recreation facilities; and
 7 (e) public parking facilities or other
 8 revenue-producing facilities and services OTHERWISE
 9 authorized BY STATUTE for counties.

10 Section 3. Interpretation. (1) The powers conferred in
11 this [act] shall be in addition and supplemental to the
12 powers conferred by any other general, special, or local
13 law.

14 (2) The undertaking may be acquired, purchased,
15 constructed, reconstructed, improved, bettered, and extended
16 and bonds may be issued under this [act] for these purposes,
17 notwithstanding any general, special, or local law that may
18 provide for the acquisition, purchase, construction,
19 reconstruction, improvement, betterment, or extension of a
20 like undertaking or the issuance of bonds for like purposes
21 and without regard to the requirements, restrictions,
22 limitations, or other provisions contained in any other
23 general, special, or local law, including but not limited to
24 any requirement for approval by the voters of any county.

25 Section 4. Authority to acquire, construct, maintain,

1 and operate various undertakings. In addition to the powers
2 which it now has, any county governing body may:

3 (1) construct; acquire by gift, purchase, or the
4 exercise of the right of eminent domain; reconstruct;
5 improve; better; or extend any undertaking within or without
6 the county or partially within or partially without the
7 county and acquire by gift, purchase, or the exercise of the
8 right of eminent domain such land or rights in land or water
9 rights necessary for the undertaking;

10 (2) operate and maintain any undertaking and furnish
11 the services, facilities, and commodities thereof for its
12 own use and for the use of public and private consumers
13 within or without the territorial boundaries of such county;
14 and

15 (3) prescribe and collect rates, fees, and charges for
16 the services, facilities, and commodities furnished by such
17 undertaking.

18 Section 5. Pollution abatement. In addition to the
19 powers which it now has, any county governing body may:

20 (1) enter into cooperative agreements with and accept
21 contributions from industrial establishments relative to the
22 planning, construction, lease or other acquisition,
23 maintenance, or operation of undertakings and apply for and
24 accept grants and loans or any other aid which the United
25 States or any agency thereof may provide to any political

1 subdivision or agency of this state for undertakings,
2 including all necessary preliminary actions, the purpose of
3 which is to aid in the prevention or abatement of water
4 pollution;

5 (2) make contracts and execute instruments containing
6 such terms, provisions, and conditions as in the discretion
7 of the governing body of the county may be necessary,
8 proper, or advisable for obtaining such aid;

9 (3) enter into contracts, whether long-term or
10 short-term, with any industrial establishment for the
11 provision and operation by the county of sewer facilities
12 when the governing body of the county determines the action
13 to be in the public interest and essential in order to abate
14 or reduce the pollution of waters caused by discharge of
15 industrial waste by the industrial establishment and to
16 provide for periodical payment by the industrial
17 establishment to the county of an amount at least
18 sufficient, as determined by the governing body, to
19 compensate the county for the cost of providing (including
20 the payment of principal and interest charges, if any),
21 operating, and maintaining the sewer facilities serving such
22 industrial establishment.

23 Section 6. Cooperation among counties. (1) Any two or
24 more counties, through their respective governing bodies,
25 may enter into contracts for the planning, construction,

1 lease or other acquisition, and the financing of an
 2 undertaking, in whole or in part, and the maintenance and
 3 operation thereof.

4 (2) Any counties ~~OR MUNICIPALITIES~~ contracting with
 5 each other may also provide in any contract for a board,
 6 commission, or other body, as their governing bodies may
 7 determine proper, for the supervision and general management
 8 of the undertaking and for its operation and may prescribe
 9 its powers and duties and fix the compensation of the
 10 members.

11 (3) No county may construct an undertaking wholly or
 12 partly within the corporate limits of another county ~~OR~~
 13 ~~MUNICIPALITY~~ without the consent of the governing body of
 14 the other county ~~OR MUNICIPALITY~~.

15 ~~(4) NO COUNTY MAY CONSTRUCT AN UNDERTAKING WHOLLY OR~~
 16 ~~PARTLY WITHIN THE JURISDICTION OF A CITY-COUNTY PLANNING~~
 17 ~~BOARD WITHOUT FIRST GRANTING AN OPPORTUNITY TO THE~~
 18 ~~CITY-COUNTY PLANNING BOARD TO ISSUE COMMENTS ON THE~~
 19 ~~PROPOSAL.~~

20 Section 7. Authority to issue revenue bonds. In
 21 addition to the powers which it now has, any county
 22 governing body may:

23 (1) issue bonds to finance, in whole or in part, the
 24 cost of the acquisition, purchase, construction,
 25 reconstruction, improvement, betterment, or extension of any

1 undertaking;

2 (2) pledge, for the punctual payment of the bonds
 3 issued and interest thereon, an amount of the revenues of
 4 such undertaking (including improvements, betterments, or
 5 extensions thereafter constructed or acquired) or of any
 6 part of the undertaking sufficient to pay those bonds and
 7 interest as they become due, with the amount consisting of
 8 all or any part of the revenue, and to create and maintain
 9 reasonable reserves.

10 Section 8. Determination of cost. The governing body
 11 of the county in determining cost may include all costs and
 12 estimated costs of the issuance of the bonds; all
 13 engineering, inspection, fiscal, and legal expenses; and
 14 estimated interest accruing during the construction period
 15 and for 6 months thereafter on money borrowed or estimated
 16 to be borrowed for the undertaking.

17 Section 9. Nature of revenue bonds. (1) No holder of
 18 any bonds issued under this [act] may compel any exercise of
 19 taxing power of the county to pay those bonds or the
 20 interest thereon.

21 (2) Each bond issued under this [act] shall state in
 22 substance that:

23 (a) the bond, including interest thereon, is payable
 24 from the revenue pledged to the payment thereof; and

25 (b) the bond does not constitute a debt of the county

1 within the meaning of any constitutional or statutory
2 limitation or provision.

3 Section 10. Undertakings to be self-supporting. (1)
4 The governing body issuing bonds pursuant to this [act]
5 shall prescribe and collect reasonable rates, fees, or
6 charges for the services, facilities, and commodities of
7 such undertaking and shall revise the rates, fees, or
8 charges whenever necessary so that the undertaking will
9 always be self-supporting.

10 (2) The rates, fees, or charges prescribed shall
11 produce revenue at least sufficient to:

12 (a) pay when due all bonds and interest thereon for
13 the payment of which the revenue is pledged, charged, or
14 otherwise encumbered, including reserves therefor; and

15 (b) provide for all expenses of operation and
16 maintenance of such undertaking, including reserves
17 therefor.

18 Section 11. Use of revenue from undertaking. (1) Any
19 governing body issuing bonds pursuant to this [act] for the
20 acquisition, purchase, construction, reconstruction,
21 improvement, betterment, or extension of any undertaking may
22 appropriate, apply, or extend the revenue of such
23 undertaking to:

24 (a) pay when due all bonds and interest thereon for
25 the payment of which the revenue is pledged, charged, or

1 otherwise encumbered, including reserves therefor;

2 (b) provide for all expenses of operation and
3 maintenance of the undertaking, including reserves therefor;

4 (c) pay and discharge notes, bonds, or other
5 obligations and interest thereon not issued under this
6 [act], for the payment of which the revenue of the
7 undertaking is pledged, charged, or encumbered;

8 (d) pay and discharge notes, bonds, or other
9 obligations and interest thereon that do not constitute a
10 lien, charge, or encumbrance on the revenue of such
11 undertaking and were issued for the purpose of financing the
12 acquisition, purchase, construction, reconstruction,
13 improvement, betterment, or extension of the undertaking;
14 and

15 (e) provide a reserve for betterments to the
16 undertaking.

17 (2) Unless adequate provision has been made for the
18 foregoing purposes, no county may transfer the revenue of
19 such undertaking to its general fund.

20 Section 12. Authorization for undertaking and issuance
21 of bonds. (1) The acquisition, purchase, construction,
22 reconstruction, improvement, betterment, or extension of any
23 undertaking may be authorized under this [act].

24 ~~{2}--Bonds-may-be-issued-under-this-[act]-by-resolution~~
25 ~~or-resolutions-of-the-governing-body-of-the-county*~~

1 ~~(a) without an election; or~~
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 17 agencies with the services, facilities, or commodities of
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 20 revenue of the undertaking;

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24 (7) the books of account and the inspection and audit
 25 of those books; and

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2 the bonds or any of them or any trustee therefor is entitled
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10 approval of the public service commission; and

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23 be officers of the county issuing the bonds.

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23 (c) mature at a certain time, not exceeding 40 years
24 from their respective dates;

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 24 \$150,000, the bond issue must be advertised at least 5 days
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 2 of 10,000 population or over, in lieu of advertising in a
 3 financial newspaper in New York, Chicago, or San Francisco;
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 6 Title 7, if that newspaper is different from the daily
 7 newspapers circulating in Montana cities of 10,000
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13 thereby, computed to their respective stated maturity dates.

14 (2) Refunding bonds may bear interest at a rate lower
15 or higher than the bonds refunded thereby if:

16 (a) they are issued to refund matured principal or
17 interest for the payment of which revenues on hand are not
18 sufficient; or

19 (b) the refunding bonds are combined with an issue of
20 new bonds for reconstruction, improvement, betterment, or
21 extension. The lien of such new bonds upon the revenues of
22 the undertaking must be junior and subordinate to the lien
23 of the outstanding bonds refunded, under the terms of the
24 resolutions authorizing the outstanding bonds as applied to
25 circumstances existing on the date of refunding.

1 Section 24. Exchange or sale of refunding revenue
2 bonds. (1) Refunding revenue bonds may, with the consent of
3 the holders of the bonds to be refunded thereby, be
4 exchanged at par plus accrued interest for all or part of
5 such bonds or may be sold at a price not less than par plus
6 accrued interest.

7 (2) Nothing in this section requires the holder of any
8 outstanding bond to accept payment thereof or the delivery
9 of a refunding bond in exchange therefor except in
10 accordance with the terms of the outstanding bond.

11 Section 25. Deposit of proceeds of refunding revenue
12 bonds in escrow. (1) If refunding bonds are issued and sold
13 6 months or more before the earliest date on which all bonds
14 refunded thereby mature or are prepayable in accordance with
15 their terms, the proceeds of the refunding bonds, including
16 any premium and accrued interest, shall be deposited in
17 escrow with a suitable bank or trust company. The bank or
18 trust company may have its principal place of business
19 within or without the state and shall:

20 (a) be a member of the federal reserve system; and
21 (b) have combined capital and surplus not less than \$1
22 million.

23 (2) The proceeds deposited in escrow shall be invested
24 in such amount and in securities maturing on such dates and
25 bearing interest at such rates as are required to provide

1 funds sufficient to pay, when due, the interest to accrue on
 2 each bond refunded to its maturity or, if it is prepayable,
 3 to the earliest prior date upon which the bond may be called
 4 for redemption and to pay and redeem the principal amount of
 5 each bond at maturity or, if prepayable, at its earliest
 6 redemption date and any premium required for redemption on
 7 such date. The resolution authorizing the refunding bonds
 8 shall irrevocably appropriate for these purposes the escrow
 9 fund and all income therefrom and shall provide for the call
 10 of all prepayable bonds in accordance with their terms. The
 11 securities which may be purchased with the escrow fund are
 12 limited to general obligations of the United States,
 13 securities whose principal and interest payments are
 14 guaranteed by the United States, and securities issued by
 15 the following United States government agencies: banks for
 16 cooperatives, federal home loan banks, federal intermediate
 17 credit banks, federal land banks, and the federal national
 18 mortgage association. Such securities shall be purchased
 19 simultaneously with the delivery of the refunding bonds.

20 Section 26. Use of excess revenues and pledged
 21 reserves. (1) Revenues and other funds on hand in excess of
 22 amounts pledged by resolutions authorizing outstanding bonds
 23 for the payment of principal and interest currently due
 24 thereon and reserves securing payment may be used to pay the
 25 expenses incurred by the county for the purpose of the

1 refunding, including without limitation the cost of
 2 advertising and printing refunding bonds, legal and
 3 financial advice and assistance in connection therewith, and
 4 the reasonable and customary charges of escrow agents and
 5 paying agents.

6 (2) Revenues and other funds on hand, including
 7 reserves pledged for the payment and security of outstanding
 8 revenue bonds, may be deposited in an escrow fund created
 9 for the retirement of such bonds and may be invested and
 10 disbursed as provided in [section 26], to the extent
 11 consistent with the resolutions authorizing the outstanding
 12 bonds.

-End-