

HOUSE BILL NO. 121

INTRODUCED BY WALLIN, PATTERSON, DARKO, HARRINGTON,
HOFMAN, GRADY, KOEHNKE, CAMPBELL, GIACOMETTO, COBB,
MANNING, GILBERT, O'CONNELL, WESTLAKE, CODY

IN THE HOUSE

JANUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
JANUARY 12, 1989	FIRST READING.
JANUARY 20, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 21, 1989	PRINTING REPORT.
JANUARY 23, 1989	SECOND READING, DO PASS.
JANUARY 24, 1989	ENGROSSING REPORT.
JANUARY 25, 1989	THIRD READING, PASSED. AYES, 96; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 26, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 3.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 121 *Hofman*
2 INTRODUCED BY *William P. Parnas, Ralph H. Harris*
3 *Joseph J. Jacobs, Gilbert O'Connor, H. H. H. H.*
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE *Ordinary*
5 OPERATION OF FIRE SERVICE AREAS; PROVIDING THAT THE FIRE
6 CHIEF OF A FIRE SERVICE AREA AND HIS DEPUTY HAVE THE SAME
7 AUTHORITY TO ENTER PROPERTY TO FIGHT FIRES AS COUNTY AND
8 DISTRICT RURAL FIRE CHIEFS; PROVIDING THAT THE CHIEF,
9 DEPUTY, AND FIRE SERVICE AREA HAVE THE SAME IMMUNITY FROM
10 SUIT RESULTING FROM THE SUPPRESSION OF FIRES AS DO COUNTY
11 AND RURAL FIRE DISTRICTS; PROVIDING FOR THE ELECTION OF
12 TRUSTEES OF A FIRE SERVICE AREA IN THE SAME MANNER AS FOR A
13 RURAL FIRE DISTRICT; AMENDING SECTIONS 7-33-2208, 7-33-2403,
14 AND 7-33-2404, MCA."

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

17 **Section 1.** Section 7-33-2208, MCA, is amended to read:

18 "7-33-2208. Fire control powers -- liability. (1) Any
19 county rural fire chief, or district rural fire chief or his
20 deputy, or fire service area fire chief or his deputy may
21 enter private property or direct the entry of fire control
22 crews for the purpose of suppressing fires.

23 (2) A chief or deputy and the county, or rural
24 district, or fire service area are immune from suit for
25 injury to persons or property resulting from actions taken

1 to suppress fires under this section."

2 **Section 2.** Section 7-33-2403, MCA, is amended to read:

3 "7-33-2403. Operation of fire service area. (1)
4 Whenever the board of county commissioners has established a
5 fire service area, the commissioners may:

6 (a) govern and manage the affairs of the area; or

7 (b) appoint five qualified trustees to govern and
8 manage the affairs of the area; or

9 (c) authorize the election of five qualified trustees
10 to govern and manage the affairs of the area. The term of
11 office and procedures for nomination and election are the
12 same as those provided for election of rural fire district
13 trustees in 7-33-2106.

14 (2) If the commissioners appoint trustees under
15 subsection (1), the provisions of 7-33-2105 and 7-33-2106
16 shall apply, except that the trustees shall prepare annual
17 budgets and request a schedule of rates therefor."

18 **Section 3.** Section 7-33-2404, MCA, is amended to read:

19 ***7-33-2404. Financing of fire service area -- fee on**
20 **structures. (1) In the resolution creating the fire service**
21 **area and by resolution as necessary thereafter, the board of**
22 **county commissioners shall establish a schedule of rates to**
23 **be charged owners of structures that are benefited by the**
24 **fire services offered by the fire service area.**

25 (2) The rates must be applied on a fair and equal

1 basis to all classes of structures benefited by the fire
2 service area.

3 (3) The board of county commissioners shall collect
4 the funds necessary to operate the fire service area by
5 charging the area rate as a special assessment on the owners
6 of structures and collect the assessments with the general
7 taxes of the county. The assessments are a lien on the
8 property so assessed.

9 (4) The board of county commissioners or the trustees,
10 if the ~~commissioners--have--appointed~~ fire service area is
11 governed by trustees under 7-33-2403, may pledge the income
12 of the fire service area to secure financing necessary to
13 procure fire equipment and buildings to house fire
14 equipment. The outstanding amount of such indebtedness may
15 not exceed 7% of the taxable valuation of the area."

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 121

INTRODUCED BY WALLIN, PATTERSON, DARKO, HARRINGTON,
HOFMAN, GRADY, KOEHNKE, CAMPBELL, GIACOMETTO, COBB,
MANNING, GILBERT, O'CONNELL, WESTLAKE, CODY

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
OPERATION OF FIRE SERVICE AREAS; PROVIDING THAT THE FIRE
CHIEF OF A FIRE SERVICE AREA OR FIRE COMPANY AND HIS DEPUTY
HAVE THE SAME AUTHORITY TO ENTER PROPERTY TO FIGHT FIRES AS
COUNTY AND DISTRICT RURAL FIRE CHIEFS; PROVIDING THAT THE
CHIEF, DEPUTY, FIRE COMPANY, AND FIRE SERVICE AREA HAVE THE
SAME IMMUNITY FROM SUIT RESULTING FROM THE SUPPRESSION OF
FIRES AS DO COUNTY AND RURAL FIRE DISTRICTS; PROVIDING FOR
THE ELECTION OF TRUSTEES OF A FIRE SERVICE AREA IN THE SAME
MANNER AS FOR A RURAL FIRE DISTRICT; REQUIRING A TWO-THIRDS
VOTE FOR IMPOSITION OF GOVERNMENTAL IMMUNITY FROM SUIT; AND
AMENDING SECTIONS 7-33-2208, 7-33-2403, AND 7-33-2404, MCA."

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

Section 1. Section 7-33-2208, MCA, is amended to read:

"7-33-2208. Fire control powers -- liability. (1) Any
county rural fire chief, or district rural fire chief or his
deputy, or fire service area OR FIRE COMPANY fire chief or
his deputy may enter private property or direct the entry of
fire control crews for the purpose of suppressing fires.

(2) A chief or deputy and the county, or rural
district, FIRE COMPANY, or fire service area are immune from
suit for injury to persons or property resulting from
actions taken to suppress fires under this section."

Section 2. Section 7-33-2403, MCA, is amended to read:

"7-33-2403. Operation of fire service area. (1)
Whenever the board of county commissioners has established a
fire service area, the commissioners may:

(a) govern and manage the affairs of the area; or

(b) appoint five qualified trustees to govern and
manage the affairs of the area; or

(c) authorize the election of five qualified trustees
to govern and manage the affairs of the area. The term of
office and procedures for nomination and election are the
same as those provided for election of rural fire district
trustees in 7-33-2106.

(2) If the commissioners appoint trustees under
subsection (1), the provisions of 7-33-2105 and 7-33-2106
shall apply, except that the trustees shall prepare annual
budgets and request a schedule of rates therefor."

Section 3. Section 7-33-2404, MCA, is amended to read:

"7-33-2404. Financing of fire service area -- fee on
structures. (1) In the resolution creating the fire service
area and by resolution as necessary thereafter, the board of
county commissioners shall establish a schedule of rates to

1 be charged owners of structures that are benefited by the
2 fire services offered by the fire service area.

3 (2) The rates must be applied on a fair and equal
4 basis to all classes of structures benefited by the fire
5 service area.

6 (3) The board of county commissioners shall collect
7 the funds necessary to operate the fire service area by
8 charging the area rate as a special assessment on the owners
9 of structures and collect the assessments with the general
10 taxes of the county. The assessments are a lien on the
11 property so assessed.

12 (4) The board of county commissioners or the trustees,
13 if the ~~commissioners--have--appointed~~ fire service area is
14 governed by trustees under 7-33-2403, may pledge the income
15 of the fire service area to secure financing necessary to
16 procure fire equipment and buildings to house fire
17 equipment. The outstanding amount of such indebtedness may
18 not exceed 7% of the taxable valuation of the area."

19 NEW SECTION. SECTION 4. REQUIREMENTS FOR APPROVAL OF
20 GOVERNMENTAL IMMUNITY FROM SUIT -- SEVERABILITY. BECAUSE THE
21 AMENDMENT TO 7-33-2208(2) PROVIDES GOVERNMENTAL IMMUNITY
22 FROM SUIT FOR INJURY TO A PERSON OR PROPERTY, ARTICLE II,
23 SECTION 18, OF THE MONTANA CONSTITUTION REQUIRES A VOTE OF
24 TWO-THIRDS OF THE MEMBERS OF EACH HOUSE FOR THE ENACTMENT OF
25 THE AMENDMENT TO 7-33-2208(2). IF [THIS ACT] IS NOT APPROVED

1 BY THE REQUIRED VOTE, THE AMENDMENT TO 7-33-2208(2) IS VOID.
2 THE REMAINING SECTIONS AND AMENDMENTS TO 7-33-2208 ARE VALID
3 AND REMAIN IN EFFECT IN ALL VALID APPLICATIONS UPON
4 ENACTMENT.

-End-

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HAVE THE SAME AUTHORITY TO ENTER PROPERTY TO FIGHT FIRES AS
COUNTY AND DISTRICT RURAL FIRE CHIEFS; PROVIDING THAT THE
CHIEF, DEPUTY, FIRE COMPANY, AND FIRE SERVICE AREA HAVE THE
SAME IMMUNITY FROM SUIT RESULTING FROM THE SUPPRESSION OF
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"7-33-2404. Financing of fire service area -- fee on
structures. (1) In the resolution creating the fire service
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county commissioners shall establish a schedule of rates to

1 be charged owners of structures that are benefited by the
2 fire services offered by the fire service area.

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4 basis to all classes of structures benefited by the fire
5 service area.

6 (3) The board of county commissioners shall collect
7 the funds necessary to operate the fire service area by
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9 of structures and collect the assessments with the general
10 taxes of the county. The assessments are a lien on the
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12 (4) The board of county commissioners or the trustees,
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