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SENATE BILL NO. 324

INTRODUCED BY

Bartlett Cook *Emil Watts* *Beck*
Eric Harding *Janeen Hagen* *Ahner*

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING STATE AGENCIES FROM SHIFTING STATE PROGRAM COSTS TO LOCAL GOVERNMENTS WITHOUT AUTHORIZATION IN STATE LAW; AND REQUIRING THE OPPORTUNITY FOR A HEARING PURSUANT TO THE MONTANA ADMINISTRATIVE PROCEDURE ACT."

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

NEW SECTION. Section 1. State agencies not to shift cost to local governments. (1) A state

agency may not take any action prohibited by subsection (2) without authorization in state law.

(2) A state agency may not demand, bill, request, or otherwise require a local government to take any of the following actions or refuse to provide a service to a local government, which is required by state law to be provided to that government, unless the local government takes any of the following actions:

(a) pay for all or part of the administrative costs of a program, activity, or undertaking required by state law to be carried out primarily by a state agency;

(b) pay for costs of computer hardware or software used in the operation of a state program, activity, or undertaking or pay for the application of either hardware or software in a state program;

(c) pay for forms required to be completed either by a local government or by third persons through a local government office and used by or filed with a state agency; or

(d) pay for the filing in a state office of forms required by state law to be completed by a local government.

(3) (a) A local government may refuse to pay for services billed or charged to it by a state agency in violation of this section. Upon refusal by the local government, the state agency may send to the local government a written notice of the program or activity for which the local government is billed, a detailed statement of the amount of the bill or charge, and a citation to the legal authority requiring the local government to pay the bill or charge.

(b) Within 30 days of receipt of the notice required by this subsection (3), the local government shall pay the bill or charge or request a hearing before the state agency. Upon request, the state agency

1 shall provide a hearing. If a local government fails to pay the bill or charge and fails to request a hearing,
2 the state agency may initiate a contested case proceeding. Proceedings authorized by this subsection must
3 be held in accordance with the provisions of the Montana Administrative Procedure Act governing
4 contested cases. A decision of the state agency following opportunity for a hearing may be appealed to
5 the district court as provided in 2-4-702.

6 (4) The remedy provided in subsection (3) is exclusive of any other remedy provided in law for a
7 state agency claiming a right to recover an administrative cost from a local government and is exclusive
8 of any other remedy provided in law for a local government refusing to pay a bill or charge of a state
9 agency.

10 (5) This section does not apply to services provided by a state agency pursuant to a written or oral
11 contract.

12 (6) The following definitions apply to this section:

13 (a) "Administrative cost" means the cost of administering a program, activity, or undertaking,
14 including costs for salaries, wages, rent, heat, electricity, computer hardware, computer software,
15 telephone, travel, equipment, supplies, or postage.

16 (b) "Local government" means a county, city, town, township, school district, or other district or
17 local public entity with the authority to spend or receive public funds.

18 (c) "State agency" means a department, board, commission, office, bureau, or other public
19 authority of state government.

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21 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
22 integral part of Title 1, chapter 2, part 1, and the provisions of Title 1, chapter 2, part 1, apply to [section
23 1].

24

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0324, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting state agencies from shifting state program costs to local governments without authorization in state law; and requiring the opportunity for a hearing pursuant to the Montana Administrative Procedure Act.

ASSUMPTIONS:

1. Most current fiscal arrangements between state and local governments are covered by state law, agreement, or a written or oral contract.
2. Currently the Department of Justice (DOJ) prints vehicle registration renewal notices and makes them available for mailing. The 1993 Legislature removed funding for postage from the DOJ budget. The DOJ formally explained to counties that DOJ would continue to prepare the notices, but counties must pay for the postage. Currently, 19 counties have refused to pay the postage and the notices have not been mailed. The total annual postage cost is \$138,000 (766,000 notices x \$.18).
3. The Department of Family Services (DFS) estimated in SB55 fiscal note increased costs to pay local government \$370,654 each year of the 1997 biennium for administrative costs associated with protective services, such as rent, telephones, postage and equipment. Because this amount is included in the SB55 fiscal note, it is not repeated again in the table for this fiscal note.

FISCAL IMPACT:

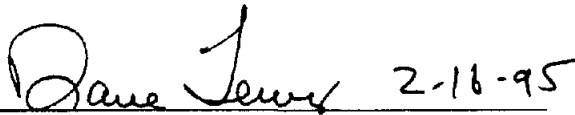
No identifiable fiscal impact on state government at this time. However, see assumption #2 and #3 above and the technical note below.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If state funds were provided for the postage for vehicle renewals, the 37 counties currently paying postage would have a decrease in expenditures. However, some of the 37 counties pass the postage cost to the vehicle owners if they register by mail.

TECHNICAL NOTES:

The Department of Revenue (DOR) believes this bill has the potential for significant administrative impacts because: 1) the bill is confusing in what is interpreted to be costs imposed upon local government agencies. Disputes over the intent of the bill could result in significant legal costs, if local governments view the intent differently from state agencies; and 2) depending on the interpretation of the bill, there could be significant operating expenses shifted to the DOR. For example, the relationship between the DOR and local governments in the area of property assessment and taxation is very interdependent and intertwined. In many instances it is difficult to determine where the state's responsibilities end and the local government's begin.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


SUE BARTLETT, PRIMARY SPONSOR DATE

Fiscal Note for SB0324, as introduced

SB 324

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16 law to be provided to that government, unless the local government takes any of the following actions:

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22 a local government office and used by or filed with a state agency; or

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25 -END-



HOUSE STANDING COMMITTEE REPORT

March 20, 1995

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 324 (third reading copy -- blue) be concurred in as amended.

Signed: *Dick Simpkins*
Dick Simpkins, Chair

Carried by: Rep. Masolo

And, that such amendments read:

1. Page 1, line 15.
Strike: "refuse to provide"
Insert: "make the provision of"
Strike: ", which"
Insert: "that"
2. Page 1, line 16.
Strike: ", unless"
Insert: "contingent on"
Strike: "takes"
Insert: "taking"

-END-

SB 324

Committee Vote:
Yes 18, No 0.

HOUSE

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