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Service district
STATE LAW LIBRARY *Polson*
JUN 27 1991
OF MONTANA

VOLUME NO. 44

OPINION NO. 11

CONSOLIDATION - Creation of multijurisdictional service district within existing district to increase mill levy;
INTERGOVERNMENTAL COOPERATION - Creation of multijurisdictional service district within existing district to increase mill levy;
LIBRARIES - Creation of multijurisdictional service district within existing district to increase mill levy;
LOCAL GOVERNMENT - Creation of multijurisdictional service district within existing district to increase mill levy;
TAXATION AND REVENUE - Creation of multijurisdictional service district within existing district to increase mill levy;
MONTANA CODE ANNOTATED - Sections 7-11-1101 to 7-11-1112, 22-1-316.

HELD: A multijurisdictional service district within an existing service district may not be created for the purpose of increasing the total mill levy within the existing district where the proposed multijurisdictional service district will not increase the existing service area, will not serve people who are not currently receiving the service, and will not equalize the tax burden among those who will be using the service.

June 11, 1991

Larry J. Nistler
Lake County Attorney
106 Fourth Avenue East
Polson MT 59860

Dear Mr. Nistler:

You have requested an opinion on the creation of a multijurisdictional library service district within an existing library district. In particular, you ask:

May a multijurisdictional library service district be created within an existing library district, in order to increase the total mill levy within the new district? If so, will the mill levy violate the restrictions imposed by Initiative 105 (I-105), §§ 15-10-401 to 412, MCA?

services. Under the plain language of section 7-11-1101, MCA, such a purpose is not permissible absent provision of a higher level of service.

You acknowledge that you do not necessarily anticipate that services will be provided at a higher level, but rather hope to shift some of the tax burden from city property owners. You suggest that additional employees and perhaps a computer system may be added to the Polson Library with the additional revenue, but that the services are already being provided on a county-wide basis. It is doubtful that a "higher level of service" will be provided when the proposed district will neither increase the service areas nor serve people who are not currently receiving services. Accordingly, the purpose of the proposed multijurisdictional service district is to generate more revenue.

The legislative history of the multijurisdictional statutes indicates that multijurisdictional service districts were intended to perform two main functions: (1) allow cities and counties to enter into interlocal agreements to provide services to suburban areas without the necessity of taxing the entire county for provision of those services; and (2) make only those people within the multijurisdictional district responsible for the services that they use. See Exhibit A submitted by the Montana League of Cities and Towns as testimony at the Hearing on House Bill 239, Minutes of Senate Local Government Committee, March 7, 1985. Many examples are cited in the legislative history of the types of problems that the statutes on multijurisdictional districts were intended to address. Alec Hansen of the Montana League of Cities and Towns stated that the provisions were intended to provide "more equal financing for services in Montana" and gave the following example:

The city of Bozeman is particularly interested in this bill as a fair way of financing its recreation programs. Under the existing law they do not have an effective way of financing these recreation programs. In Bozeman, outsiders use the facilities but the people in the city have to pay for it. With this bill, both the people in the city and those outside the city would be sharing in the cost of the recreational services.

February 2, 1985, Minutes of House Local Government Committee on House Bill 239, at 5.

Mr. Hansen further noted in response to a question from Representative Sands that if the recreation district was created, then the cost previously incurred by the city or county should be assumed by the district. He suggested that the costs for services provided by the district would no longer be the responsibility of those taxpayers in other jurisdictions who would not be using the services. Id. at 7. Your proposal is therefore proper to the

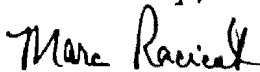
June 11, 1991

the total mill levy within the district, I need not address your question concerning application of I-105.

THEREFORE, IT IS MY OPINION:

A multijurisdictional service district within an existing service district may not be created for the purpose of increasing the total mill levy within the existing district where the proposed multijurisdictional service district will not increase the existing service area, will not serve people who are not currently receiving the service, and will not equalize the tax burden among those who will be using the service.

Sincerely,



MARC RACICOT
Attorney General

MR/ELG/bh