EXHIBIT 3
DATE 1/12/07
HB 128

DEPARTMENT OF JUSTICE
HB 128: Eliminating Attorney General's Duty to Review and Approve Certain Bond Proceedings, Agreements and Filings

Proposed Changes

HB 128 eliminates the requirement that the Attorney General's Office review or approve:

- the issuance of general obligation or citizen bonds by local governments, including school districts;
- a full service special education cooperative agreement between two or more school districts;
- a surety bond filed by a licensed textbook dealer; and
- a mutual aid agreement between a local law enforcement agency and a law enforcement agency of another state.

The existing review and approval process undervalues the substantial knowledge and expertise of the local government entities and the professionals with whom they regularly consult in undertaking such endeavors. It also fails to recognize the oversight provided by local government officials or, in relation to special education cooperatives or textbook sales, the Superintendent of Public Instruction. The current process also unnecessarily delays implementation and increases administrative costs for local government entities.

Specifics of HB 128

Sections 1 and 10 amend MCA 7-7-101 and 20-9-464 to eliminate reference to the Attorney General's review of preliminary local government and school district bond proceedings in provision that otherwise prevents bond issues from being invalidated for statutory noncompliance if an action challenging bonds isn't brought within 30 days after the local government or school district adopts the resolution calling for the sale of bonds.

Sections 2 and 3 amend MCA 7-7-2213 and 7-7-4212 relating to use of citizens bonds, in lieu of general obligation bonds, to raise local government revenue. The citizen bond statutes were first adopted in 1993. The Attorney General's Office is not aware of any instance where it has been given notice of a local government's intent to issue citizens bonds. The statutes already require that a draft-form legal opinion from a recognized bond counsel be provided to any interested investor.

Section 4 amends MCA 20-7-454 relating to creation of full service special education cooperatives for school districts that otherwise lack the ability to provide the same level of services using only in-district resources. The amendment deletes reference to the Attorney General's review and approval prior to final approval by the Superintendent of Public Instruction. These agreements are approved subject to the policies of the board of public education and filed in the office of the clerk and recorder of each county in which participating school districts are located, as well as with the Secretary of State.

--over--

Section 7 amends MCA 20-7-604 to delete the requirement that the Attorney General approve the form of the surety bond that a textbook company files with the Secretary of State incident to the superintendent issuing the company a license to sell textbooks in Montana. The Superintendent of Public Instruction sets the amount of the bond based on statutory ranges ($2,000-10,000), and the statute specifically provides that the bond runs to the state of Montana to ensure the textbook licensee's faithful performance of all duties imposed upon textbook dealers.

Section 13 amends MCA 44-11-310 to delete reference to Attorney General approval of mutual assistance agreements before the agreements may be filed with the office of clerk and recorder of the county where the law enforcement entity is located and the secretary of state.

Sections 5, 6, 8, 9, 11 and 12 amend internal cross-references.

Section 14 is the repealer. The text of the repealed statutes is shown on the attached handout.

2007 Legislature
January 12, 2007

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