

**PLAN HELENA**

February 13, 2009

Senate Local Government Committee
Montana Legislature

Dear Senators:

Before the Senate Local Government Committee is SB354 which revises the law for Regional Airport Authority's Disposal of Property. Currently the interpretation of Section 67-11-232, MCA, Airport Property-Disposal, is before the First Judicial District Court. The parties to this lawsuit include the Helena Regional Airport Authority, Plan Helena, Inc., Alan Nicholson, Blue Cross Blue Shield of Montana and Lewis and Clark County. It seems premature to change this law before the Court has the opportunity to interpret the law and provide direction to the parties and the legislature on its meaning.

The language proposed to be struck from Section 67-11-232, MCA, regarding complying with county rules for disposal of property was added by the legislature in 1993. At that time the legislative history shows that several regional airport authorities appeared before the legislature and requested that the legislature clarify what laws they must comply with when disposing of airport property as the law at that time only required that they comply with "state law" and it was confusing as to which state laws applied.

SB354 does not even require an Airport Authority to comply with state law in disposing of property; the proposed amendment to Section 67-11-232, MCA allows an Airport Authority to develop its own rules irrespective of state law and as long as the local governing body approves of the rules, they become the "law" of the Airport Authority. This creates a dichotomy in the law as Municipal Airports (city and county operated airports) must comply with state law or their charter in disposing of property pursuant to Section 67-10-222, MCA, (copy attached) but a Regional Airport created by a city and/or county would be able to make up its own rules.

For the reasons set forth above, we ask you to oppose SB354. If you have questions, please free to contact me at 443-3708 or thweatt@q.com.

Sincerely,

Dick Thweatt, president
Plan Helena, Inc.

Montana Code Annotated - 2007

[Previous Section](#) [MCA Contents](#) [Part Contents](#) [Search](#) [Help](#) [Next Section](#)

67-10-222. Airport property – disposal. Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to [67-10-405](#), every municipality may by sale, lease, or otherwise dispose of any airport, air navigation facility, or other property or portion thereof or interest therein acquired pursuant to this chapter. Such disposal by sale, lease, or otherwise shall be in accordance with the laws of this state or provisions of the charter of the municipality governing the disposition of other property of the municipality or agency of the state or federal government for aeronautical purposes incident thereto. The sale, lease, or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may consider in the best interest of the municipality.

History: En. Sec. 4, Ch. 288, L. 1947; R.C.M. 1947, 1-811; amd. Sec. 10, Ch. 140, L. 1979.

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