

**BUSINESS REPORT**

**MONTANA HOUSE OF REPRESENTATIVES  
62nd LEGISLATURE - REGULAR SESSION**

**HOUSE LOCAL GOVERNMENT COMMITTEE**

**Date:** Tuesday, April 5, 2011  
**Place:** Capitol

**Time:** 2:45  
**Room:** 172

**BILLS and RESOLUTIONS HEARD:**

SB 417 - Designate military affected areas  
SB 420 - Revise local government audit laws

**EXECUTIVE ACTION TAKEN:**

SB 379  
SB 283  
SB 303  
SB 417

**Comments:**

  
\_\_\_\_\_  
REP. Gary MacLaren, Chair

**HOUSE OF REPRESENTATIVES**  
**Roll Call**  
**LOCAL GOVERNMENT COMMITTEE**

DATE: 4.5.11

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. GARY MACLAREN, CHAIR	✓	
REP. MICHAEL MORE, VICE CHAIR	✓	
REP. MICHELE REINHART, VICE CHAIR	✓	
REP. LIZ BANGERTER	✓	
REP. DICK BARRETT	✓	
REP. BRYCE BENNETT	✓	
REP. TOM BERRY		<i>Excused</i>
REP. EDWARD GREEF	✓	
REP. KRISTIN HANSEN		<i>Excused</i>
REP. PAT INGRAHAM	✓	
REP. JAMES KNOX	✓	
REP. STEVE LAVIN	✓	
REP. SUE MALEK	✓	
REP. MARY MCNALLY	✓	
REP. JERRY O'NEIL	✓	
REP. MATTHEW ROSENDALE	✓	
REP. DEREK SKEES	✓	
REP. WAYNE STAHL	✓	
REP. KATHY SWANSON	✓	
REP. GORDON VANCE	✓	



## HOUSE STANDING COMMITTEE REPORT

April 5, 2011

Page 1 of 4

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 283** (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Gary MacLaren*  
Representative Gary MacLaren, Chair

To be carried by Representative John Esp

### And, that such amendments read:

1. Title, line 16.

**Following:** "7-2-2412,"

**Insert:** "7-4-2631, 7-4-2632, 7-4-2637,"

2. Page 3, line 17.

**Following:** "petition --"

**Insert:** "public hearing --"

3. Page 3, line 19.

**Following:** "shall"

**Insert:** ", after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing in the area proposed to be moved from one county to another. After the public hearing, the boards of county commissioners shall"

4. Page 3, line 21 through line 25.

**Strike:** subsection (2) in its entirety

**Insert:** "(2) An interlocal agreement must be entered into by the adjoining counties and must state:

(a) the proposed boundary change as accepted or amended by the boards, including the legal description of the proposed

### Committee Vote:

Yes 17, No 1

Fiscal Note Required

SB0283001SC02650.hgh

*J 4/6*  
*10:10*

boundary change;

(b) the procedure each board intends to follow in complying with [sections 1 through 9];

(c) subject to subsection (4), the costs to be incurred by each county in complying with [section 7]; and

(d) any other elements to which the boards agree regarding provision of services or county operations upon the relocation of the boundary."

5. Page 3.

**Following:** line 28

**Insert:** "(4) The adjoining counties shall negotiate the fees to be charged for compliance with [section 7], and the provisions of 7-2-2412, 7-4-2631, 7-4-2632, and 7-4-2637 regarding fees charged by county clerks do not apply to the processes required in [section 7]."

6. Page 4, line 2.

**Following:** "shall"

**Insert:** ", after providing public notice pursuant to 7-1-2121 in the county seat of each adjoining county, hold a public hearing in the area proposed to be moved from one county to another in order to accept comment on the proposed cost of compliance with [section 7] as stated in the interlocal agreement pursuant to [section 3(2)]. After the public hearing, the boards of county commissioners shall"

7. Page 8, line 2.

**Strike:** "The"

**Insert:** "Except as provided in [section 3(4)], the"

8. Page 8.

**Following:** line 9

**Insert:** "**Section 15.** Section 7-4-2631, MCA, is amended to read:

"**7-4-2631. Fees of county clerk.** (1) Except as provided in [section 3(4)], 7-4-2632, and 7-4-2637, the county clerks shall charge, for the use of their respective counties:

(a) for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;

(b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed:

(i) for the first mining claim in the affidavit, \$3; and  
(ii) for each additional mining claim included in it, 50 cents;

- (c) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$5;
- (d) for filing of subdivision and townsite plats, \$5 plus:
  - (i) for each lot up to and including 100, 50 cents;
  - (ii) for each additional lot in excess of 100, 25 cents;
- (e) for filing certificates of surveys and amendments thereto, \$5 plus 50 cents per tract or lot;
- (f) for a copy of a record or paper:
  - (i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and
  - (ii) for each certification with seal affixed, \$2;
- (g) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;
- (h) for administering an oath with certificate and seal, no charge;
- (i) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;
- (j) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees prescribed under those sections;
- (k) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;
- (l) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;
- (m) for each certified copy of a birth certificate, \$5, and for each certified copy of a death certificate, \$3;
- (n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.
- (2) State agencies submitting documents to be put of record shall pay the fees provided for in this section. If a state agency or political subdivision has requested an account with the county clerk, any applicable fees must be paid on a periodic basis."

**Insert: "Section 16.** Section 7-4-2632, MCA, is amended to read:

**"7-4-2632. Fee when recording done by mechanical means.**

~~Whenever~~ Except as provided in [section 3(4)], whenever recording is done by a photographic or similar process, the county clerk and recorder shall charge \$7 for each page or fraction of a page of the instrument for recording."

**Insert: "Section 17.** Section 7-4-2637, MCA, is amended to read:

**"7-4-2637. Fees for recording standard documents. (1)**

Except as provided in [section 3(4)], 7-4-2631, and subsection (2) of this section, the fee for recording a standard document that meets the requirements of 7-4-2636 is \$7 for each page or fraction of a page.

(2) ~~The~~ Except as provided in [section 3(4)], the fee for recording a document that does not meet the requirements of

7-4-2636 is \$11 for each page or fraction of a page for the first five pages or fractions of the pages and \$7 for each subsequent page.

(3) (a) Of the fees collected under subsection (1):

(i) \$1 must be deposited in the records preservation fund, provided for in 7-4-2635;

(ii) 25 cents must be deposited in the county land information account provided for in 7-6-2230;

(iii) 75 cents must be transmitted each month to the department of revenue in the manner prescribed by the department of revenue for deposit in the Montana land information account created in 90-1-409; and

(iv) the remainder must be deposited as provided for in 7-4-2511.

(b) Of the fees collected under subsection (2) for nonstandard documents, each \$7 amount for a page or fraction of a page must be deposited as provided for in subsection (3)(a). The remaining \$4 of each \$11 charge for a page or fraction of a page must be deposited in the records preservation fund, provided for in 7-4-2635, and, notwithstanding 7-4-2635(3), each \$4 amount from an \$11 charge for a page or a fraction of a page may be used only for maintaining, upgrading, or installing systems to digitally record and retrieve documents.""

**Renumber:** subsequent sections

- END -



**HOUSE STANDING COMMITTEE REPORT**

**April 5, 2011**  
**Page 1 of 6**

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 379** (third reading copy -- blue) **be concurred in as amended.**

Signed: *Gary MacLaren*  
*Representative Gary MacLaren, Chair*

To be carried by Representative Steve Lavin

**And, that such amendments read:**

1. Title, line 11.

**Following:** "~~LAWS,~~"

**Strike:** "AND"

**Following:** "MCA"

**Insert:** "; AND PROVIDING A CONTINGENT EFFECTIVE DATE"

2. Page 1, line 21.

**Following:** "property"

**Insert:** "; and

WHEREAS, the government should establish through public record whether there may be a diminution in value of affected property from proposed zoning regulations, districts, and amendments and whether the expected benefits are proportional to the probable impacts; and

WHEREAS, the government should consider alternatives or modifications when alternatives or modifications would mitigate adverse economic impacts and unreasonable limitations on affected property; and

WHEREAS, the government should rely on credible evidence established through the public record to support the proposed zoning regulations, districts, and amendments as a means to protect the public health, safety, morals, and general welfare"

3. Page 1, line 25.

**Committee Vote:**

**Yes 13, No 7**

Fiscal Note Required

SB0379001SC08067.hgh

*4/6*  
*10:10*

**Following:** "2,"  
**Insert:** "and"  
**Following:** "9"  
**Strike:** ", 11, and 12"

4. Page 2, line 6.  
**Following:** "2,"  
**Insert:** "and"  
**Following:** "9"  
**Strike:** ", 11, and 12"

5. Page 2, line 8.  
**Following:** "Affected"  
**Insert:** "real"

6. Page 2, line 11.  
**Following:** "Affected"  
**Insert:** "real"  
**Following:** "affected"  
**Insert:** "real"

7. Page 2.  
**Following:** line 13  
**Insert:** "(3) (a) "Fair market value" means the price that would be agreed to by a willing and informed seller and buyer, taking into consideration the highest and best reasonably available use of the property, the value of that use, and any other relevant factors for which evidence is offered.  
(b) Current use may not be presumed to be the highest and best use."  
**Renumber:** subsequent subsections

8. Page 2, line 15.  
**Following:** "affected"  
**Insert:** "real"

9. Page 2, line 16.  
**Strike:** "25%"  
**Insert:** "40%"  
**Following:** "affected"  
**Insert:** "real"

10. Page 2, line 22.  
**Strike:** "interest or convenience"  
**Insert:** "health, safety, morals, or general welfare"

11. Page 3, line 20.

**Strike:** "once" through "county"  
**Insert:** "in accordance with 7-1-2121"

12. Page 3, line 24.

**Following:** "proper"  
**Insert:** "based upon the public comment and the record"

13. Page 3, line 27.

**Strike:** "once" through "county"  
**Insert:** "in accordance with 7-1-2121"

14. Page 4, line 3.

**Strike:** "60"  
**Insert:** "45"

15. Page 4, line 5.

**Following:** "affected"  
**Insert:** "real"

16. Page 4, line 7.

**Strike:** "60"  
**Insert:** "45"

17. Page 4, line 8.

**Following:** "affected"  
**Insert:** "real"

18. Page 4, line 16.

**Following:** "unanimous"  
**Insert:** "affirmative"  
**Strike:** "whenever a county has"  
**Insert:** "in counties with"

19. Page 4, line 17.

**Following:** "(ii)"  
**Strike:** "a"  
**Insert:** "an affirmative"  
**Following:** "vote of"  
**Insert:** "at least"  
**Strike:** "elected"  
**Insert:** "county"  
**Strike:** "whenever a county has"  
**Insert:** "in counties with"

20. Page 4, line 18.

**Following:** "(iii)"

**Insert:** "an affirmative vote of at least"

**Strike:** "elected"

**Insert:** "county"

**Strike:** "whenever a county has"

**Insert:** "in counties with"

21. Page 4, line 19.

**Following:** "exists"

**Insert:** "as determined by the county attorney"

22. Page 4, line 21.

**Following:** "affected"

**Insert:** "real"

23. Page 4, line 29.

**Following:** "affected"

**Insert:** "real"

24. Page 5, line 3.

**Following:** "submit"

**Insert:** "relevant"

25. Page 5, line 4.

**Strike:** "property"

**Insert:** "fair market"

**Following:** "value of"

**Strike:** "a"

**Insert:** "the property of"

26. Page 5, line 5.

**Strike:** "landowner"

**Insert:** "landowners"

27. Page 5, line 6.

**Following:** "by"

**Strike:** "a"

28. Page 5, line 10.

**Following:** "deprives"

**Strike:** "a"

**Strike:** "landowner"

**Insert:** "landowners"

29. Page 5, line 11.

**Strike:** "landowner's"

**Insert:** "landowners'"

30. Page 5, line 16.

**Following:** "If"

**Strike:** "a"

**Insert:** "the"

**Strike:** "landowner submits"

**Insert:** "landowners submit"

31. Page 5, line 17.

**Following:** "diminution in"

**Insert:** "the aggregate"

**Following:** "value of"

**Insert:** "all of"

**Strike:** "landowner's"

**Insert:** "landowners' affected real"

32. Page 5, lines 21 and 22.

**Following:** "diminution in" on line 21

**Insert:** "the aggregate"

**Strike:** "each" on line 21

**Insert:** "all of the protesting landowners' affected real"

**Strike:** "owned" on line 21 through "landowner" on line 22

33. Page 5, line 23 through line 25.

**Strike:** subsection (4) in its entirety

34. Page 5, line 30 through page 6, line 4.

**Strike:** ", " on page 5, line 30 through "landowner" on page 6,  
line 4

**Insert:** "regarding alternatives to the proposed zoning action or  
mitigating modifications to the proposed zoning action"

35. Page 6, line 7.

**Strike:** "less restrictive mean exists"

**Insert:** "alternatives or mitigating modifications may be  
implemented"

36. Page 6, line 8.

**Strike:** "may not adopt"

**Insert:** "shall modify"

**Following:** "action"

**Insert:** "to incorporate the alternatives or mitigating  
modifications"

37. Page 6, line 26.

**Strike:** "once" through "county"

**Insert:** "in accordance with 7-1-2121"

38. Page 6, line 27.

**Strike:** "delivered via first class mail"

**Insert:** "mailed pursuant to 7-1-2122"  
**Following:** "each"  
**Insert:** "owner of"  
**Following:** "affected"  
**Insert:** "real"  
**Following:** "property"  
**Strike:** "owner"

39. Page 6, line 29 through page 7, line 12.

**Strike:** "The" on page 6, line 29 through "welfare." on page 7,  
line 12

40. Page 7, lines 14 and 15.

**Following:** "76-2-110" on line 14

**Insert:** "or in 76-2-227"

**Following:** "date the" on line 14

**Strike:** "real" on line 14 through "property" on line 15

**Following:** "findings" on line 15

**Insert:** "mailed pursuant to 7-1-2122"

41. Page 8, line 27 through page 9, line 24.

**Strike:** sections 11 through 13 in their entirety

**Insert:** "NEW SECTION. Section 11. Codification instruction.  
[Sections 1, 2, and 4 through 9] are intended to be codified as  
an integral part of:

(1) Title 76, chapter 2, part 1, and the provisions of Title  
76, chapter 2, part 1, apply to [sections 1, 2, and 4 through 9];  
and

(2) Title 76, chapter 2, part 2, and the provisions of Title  
76, chapter 2, part 2, apply to [sections 1, 2, and 4 through  
9]."

**Insert:** "NEW SECTION. Section 12. Contingent effective date.

[This act] becomes effective on the date that the clerk of the  
Montana supreme court notifies the code commissioner that the  
Montana supreme court has declared the protest provisions of 76-  
2-101 or 76-2-205 to be unconstitutional."

- END -



**HOUSE STANDING COMMITTEE REPORT**

**April 5, 2011**

**Page 1 of 1**

Mr. Speaker:

We, your committee on **Local Government** recommend that **Senate Bill 303** (third reading copy -- blue) **be concurred in.**

Signed: \_\_\_\_\_

*Gary MacLaren*  
**Representative Gary MacLaren, Chair**

To be carried by Representative Wayne Stahl

- END -

**Committee Vote:**

**Yes 11, No 9**

Fiscal Note Required

SB0303001SC03846.hgh

4/6  
Wito

**HOUSE OF REPRESENTATIVES**  
**Roll Call Vote**  
**LOCAL GOVERNMENT COMMITTEE**

DATE: 4-5-11 BILL NO SB 379 MOTION NO. 3

MOTION: Be Concurred in As Amended

NAME	13 AYE	7 NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. GARY MACLAREN, CHAIR	✓		
REP. MICHAEL MORE, VICE CHAIR	✓		
REP. MICHELE REINHART, VICE CHAIR		✓	
REP. LIZ BANGERTER		✓	
REP. DICK BARRETT		✓	
REP. BRYCE BENNETT		✓	
REP. TOM BERRY	✓		
REP. EDWARD GREEF	✓		
REP. KRISTIN HANSEN	✓		✓
REP. PAT INGRAHAM	✓		
REP. JAMES KNOX	✓		
REP. STEVE LAVIN	✓		
REP. SUE MALEK		✓	
REP. MARY MCNALLY		✓	
REP. JERRY O'NEIL	✓		
REP. MATTHEW ROSENDALE	✓		
REP. DEREK SKEES	✓		
REP. WAYNE STAHL	✓		
REP. KATHY SWANSON		✓	
REP. GORDON VANCE	✓		

**HOUSE OF REPRESENTATIVES**  
**Roll Call Vote**  
**LOCAL GOVERNMENT COMMITTEE**

DATE: 4-5-11 BILL NO SB 303 MOTION NO. 1

MOTION: Be Concurred In

<u>NAME</u>	11 AYE	9 NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. GARY MACLAREN, CHAIR		✓	
REP. MICHAEL MORE, VICE CHAIR	✓		
REP. MICHELE REINHART, VICE CHAIR		✓	
REP. LIZ BANGERTER		✓	
REP. DICK BARRETT		✓	
REP. BRYCE BENNETT		✓	
REP. TOM BERRY	✓		
REP. EDWARD GREEF	✓		
REP. KRISTIN HANSEN	✓		
REP. PAT INGRAHAM	✓		
REP. JAMES KNOX	✓		
REP. STEVE LAVIN		✓	
REP. SUE MALEK		✓	
REP. MARY MCNALLY		✓	
REP. JERRY O'NEIL	✓		
REP. MATTHEW ROSENDALE	✓		
REP. DEREK SKEES	✓		
REP. WAYNE STAHL	✓		
REP. KATHY SWANSON		✓	
REP. GORDON VANCE	✓		





