



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	HB0333
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Title:	Generally revise laws related to publicly operated cameras
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Primary Sponsor:	Schwaderer, Nicholas
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Status:	As Introduced
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| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund	-----	Cannot Be Determined	-----	-----
State Special Revenue	-----	Cannot Be Determined	-----	-----
Federal Special Revenue	-----	Cannot Be Determined	-----	-----
Other	-----	Cannot Be Determined	-----	-----
Revenue:				
General Fund	-----	Cannot Be Determined	-----	-----
State Special Revenue	-----	Cannot Be Determined	-----	-----
Federal Special Revenue	-----	Cannot Be Determined	-----	-----
Other	-----	Cannot Be Determined	-----	-----
Net Impact-General Fund Balance:	=====	=====	=====	=====

Description of fiscal impact: HB 333 would limit the use of images taken with cameras that are operated by or under contract with a state agency. A camera operator may not use any function of a camera to capture a person or activity covered by the First Amendment or a private business or residence. A state agency may not retain an image from a publicly operated camera for more than 30 days. Implementation of the bill would have a significant impact on the operations of state government agencies. While some agencies were able to quantify the impact of the bill, on a statewide basis the total impact cannot be determined but could have a magnitude of hundreds of millions of dollars.

FISCAL ANALYSIS

Assumptions:

1. Neither "camera" nor "image" is defined within HB 333. As a result, it is assumed this bill would apply to any image captured by any type of device that captures live and/or still images. This could include, but is not limited to, traditional cameras, digital cameras, phones, scanners, photocopiers, etc.
2. Section 10 states: "The provisions....apply to cameras installed on after [the effective date of this act]". Since this only references cameras that are fixed or installed, this fiscal note assumes that non-fixed camera images would not be grandfathered in under HB 333 and those would have to be destroyed after 30 days if they did not meet the exceptions in Section 3.
3. Agencies would have fiscal impacts to implement notice requirements of Section 5 of the bill. The statewide fiscal impact of conducting the public notice and comment period cannot be determined.

Department of Commerce (DOC)

4. The Montana Promotion Division markets Montana based upon the brand platform of "Most spectacular unspoiled nature than anywhere else in the lower 48." Based upon research, pictures are the best way to convey this message and attract visitors to Montana.
5. Under HB 333, photographs or videos taken by either state agency personnel or people under contract with the state may not be kept for more than 30 days.
6. The departments' planning and creative cycle for out-of-state media placement occurs at least 90 days prior to placement. Therefore images cannot be used or purchased for use in media placement.
7. In FY 2014, the department spent \$5.850 million in media placement. It is unknown what other marketing methods would be used by the Department of Commerce to meet the mission of promoting Montana as a tourist and travel destination and how that would affect the success of the program.

Department of Natural Resources and Conservation (DNRC)

8. The requirements of HB 333 apply to a wide range of DNRC activities and will impact DNRC operations and its ability to manage its records.
9. Images—both video and still—are taken and used in the daily operations of all DNRC divisions. Those images are a part of the public records maintained by DNRC per Title 2, Chapter 6, MCA. Several key examples that would be impacted by this bill are listed below. The fiscal impact related to these examples cannot be determined.

Water Resources Division (WRD):

10. DNRC is statutorily mandated to keep a centralized record of all Montana water rights which are to be maintained indefinitely as records. The retention period of 30 days defined in this bill would be in direct conflict if there were any images contained within a water right record.
11. The Water Rights Bureau investigates complaints of illegal water uses. The majority of these complaints involve field investigations resulting in a report that contains photos of property similar to the types of images that would be contained in a water right record.
12. The images that would be contained in a water right file would be images of an appropriator's property such as a headgate, a pivot, a reservoir, etc. These photos are used to document aspects of the water right. They are not the product of DNRC having "individualized, reasonable suspicion that an offense has been or is being committed or that a threat exists to public safety." These photos may have been taken by a DNRC employee or provided to DNRC by the appropriator.
13. HB 333 is not clear as to what should be done with images that are currently held by an agency. If images that are currently held are affected by this bill, all water right files and images would have to be reviewed in order to identify any images that may be a part of the water right record. There are 385,513 water right records. Of those, approximately 370,700 have been scanned and contain 10,166,438 images that may contain photos. The fiscal impact of this review would be significant. A similar review and evaluation would have to be done for any complaint files regarding illegal uses of water.

14. Permanently mounted cameras are necessary for the safe operation of the Toston hydropower plant. Some of these uses may be required as a condition of the Federal Energy Regulatory Commission (FERC) license. The fiscal impacts related to this are unknown.
15. The Water Management Bureau uses digital still and digital video cameras to document: "before and after" conditions related to water use and development; and to document progress and milestones reached on field projects. These photos often contain people working on the project or stakeholders who will benefit from the project.
16. HB 333 would impact the use of digital photos in the many presentations given to inform and educate the public about Montana's water resources. Digital photos are also used in many of the reports prepared in the course of carrying out the DNRC mission, including reports to the Legislature.

Conservation and Resource Development Division (CARDD):

17. The CARDD State Revolving Fund Program provides loans for building infrastructure for water and sewer facilities across Montana. The Renewable Resources Grants and Loans Program provides grant funding for such facilities and to conservation districts that have natural resource projects.
18. As per these grants and loans, local governments and water and sewer districts may find it necessary to use cameras to monitor the facilities from a remote location, such as an off-site administrative office.
19. Cameras are used to provide information to remote administrative offices in case of emergencies such as fire, flooding, or break-ins. This information can help protect the facilities and employees in an emergency.
20. CARDD receives grant and loan applications from a multitude of sources that use cameras and images to indicate the area of the proposed project and these images will normally zoom in on the project area to provide a more thorough understanding of the problem that is being faced. DNRC currently uses these images as part of the application file; and, therefore they are subject to state records management regulations.
21. DNRC provides application files to reviewers who look at all information being provided to allow a thorough review of the proposed project. Renewable Resource Grant and Loan applications are due in mid-May of even numbered years. Since DNRC does not have the applications reviewed until August of the same even numbered years, DNRC would be in violation of the 30-day retention in this bill.
22. DNRC receives applications for private grants and loans for a variety of proposed projects. The applicant often provides pictures of the proposed project area to assist the program manager in recognizing the land that will be affected. Since some of these applicants become grantees or loan customers, they could be considered a "camera operator" under this bill. The pictures also become part of the application file and are subject to record management.
23. Photos are often taken by CARDD or the conservation districts of individuals attending public events sponsored by local governments. Photos are routinely taken of project sites. Web cameras are also used by conservation districts, but in a more limited way.
24. Trail camera type cameras may be used to monitor wildlife usage of certain areas, or to monitor river conditions. Aerial photos are often taken to monitor river and land conditions and changes over time.

Trust Land Management Division (TLMD):

25. All the leasing and land management programs within TLMD contain images within the official record files. The same general issues that apply to WRD would apply to TLMD in that thousands of record files would need to be reviewed and evaluated. The fiscal impact of the review cannot be determined.

Board of Oil and Gas Conservation (BOGC):

26. BOGC uses images and photos to document well evaluations and inspections. The same general issues that apply to WRD would apply to BOGC in that thousands of record files would need to be reviewed and evaluated. The fiscal impact of the review cannot be determined.

Department of Justice (DOJ)

Montana Highway Patrol (MHP)

27. The Montana Highway Patrol assumes that video from 114,809 traffic stops, 10,744 crashes, and 8,685 public assists will need to be reviewed annually. These numbers come from an average of 2012, 2013 and 2014.
28. MHP assumes 20 minutes of video per traffic stop or public assist and 60 minutes per crash. This is 51,909 hours of video to be reviewed.
29. MHP assumes that 25% of the total footage would be reviewed annually. This is 12,977 hours of video.
30. MHP assumes that 1.00 FTE would review 2,080 hours of video. This would require MHP to hire 6.00 FTE to review this video footage.

Division of Criminal Investigation (DCI)

31. Currently, one outside vendor manages 50,000 cameras in the state for private businesses. For purposes of this fiscal note, it is assumed that the number of public cameras would be a similar amount. The Division of Criminal Investigation estimates a biennial audit of 50,000 cameras across the state.
32. DCI would be responsible for the review of camera operators for compliance. This would require DCI to hire 4.00 FTE including an auditor, computer applications engineer, administrative assistant, and a supervisor.
33. It is estimated that 900 program hours will be necessary to establish system requirements, design the public interface, build the interface, test, and deploy the system at estimated cost of \$99,000.
34. The impact to the department for the review of local government footage is unknown.
35. For the impact the department is able to estimate, the impact would be \$816,733 in FY 2016, \$633,040 in FY 2017, \$642,536 in FY 2018, and \$652,174 in FY 2019.

Department of Labor and Industry (DoLI)

36. The Safety and Health Bureau of the Employment Relations Division of the department owns 20 cameras and uses the cameras to take photographs during investigations in the MINE, Consultation, and Compliance programs. Each employee also possesses a cell phone capable of taking photographs during these investigations. These investigations are not investigations into criminal activity. As such, the department is assuming that these records would need to be destroyed after 30 days under the bill.
37. Photographs taken during investigations are kept in paper and electronic files and submitted with reports as required.
38. The department would require 0.50 FTE to comply with Section 3 in order to redact all electronic and hard copy photographs from all MINE, Consultation, and Compliance files after 30 days. Personal services expenses are estimated to be \$19,064 each year of the 2017 biennium plus \$2,875 for operating expenses in FY 2016.
39. The Uninsured Employers Fund (UEF) and Independent Contractors/Contractors Registration Unit (ICCR) in the Workers' compensation Regulation Bureau of the Employment Relations Division of the department routinely take photographs during investigations. In order to comply with Section 3, all photographs taken on a state owned camera would have to be destroyed after 30 days. If an employer or individual is found to be out of compliance with UEF or ICCR laws, these photographs may be used in mediation and court proceedings. If these photographs are required to be destroyed after 30 days, they would not be available for legal proceedings and could bar the UEF and ICCR programs from being able to proceed with cases against non-compliant employers and individuals. Portions of revenue for the UEF program are realized from fines and penalties assessed against non-compliant employers. If photographs are not allowed to be retained for legal proceedings, revenue for the UEF program may be reduced due to non-favorable judgments. The amount of this potential revenue reduction cannot be quantified at this time.
40. The Building Codes Bureau within the Business Standards Division also utilizes camera devices (tablets, smartphones) to take still photographs to document inspection processes. Currently, these photos are maintained as a part of the permit record for seven years, after which time a request is submitted to the Secretary of State to destroy the records. While some photos included in the permit record are taken by

department employees, many are taken and submitted by citizens or contractors. It is unclear if destruction of these records would be required under this bill. If destruction were required, costs would be incurred; however, the department cannot quantify those costs at this time. Business processes regarding inspection documentation would need to be modified. The cost of any such changes is unknown at this time.

Department of Administration (DofA)

Montana Lottery

- 41. The Lottery would need to update the security system including cameras at its current facility to accommodate the requirements of the bill. The estimate for this work is \$15,000.
- 42. Due to the security requirements mandated for participation in the Multi State Lottery Association, the Montana Lottery would no longer be eligible to participate in multi-state games such as Powerball, Mega Millions, etc.
- 43. Currently, approximately \$13 million of net proceeds are transferred each year to the state general fund. If the Lottery no longer participated in multi-state games, this transferred would not occur.

General Services Division

- 44. The division would need to replace 32 existing pan, tilt, zoom cameras in the Capitol and on the Capitol Complex with fixed cameras to maintain the equivalent security level and allow for forensic analysis after an incident. The estimated costs for the cameras and related equipment would be \$209,300 in FY 2016.

Department of Corrections (DOC)

- 45. There are a large number of cameras located both in the facilities operated by the department and in facilities under contract with the department. The impact of compliance with HB 333 for these facilities is unknown.
- 46. The department also operates a website, known as CON (Correctional Offender Network), which provides information about and photo images of offenders managed by or in the custody of the Department of Corrections. It appears the images displayed on the website could not be retained or displayed by the department for more than 30 days. The impact of removing the pictures from the website is unknown.

Department of Environmental Quality (DEQ)

- 47. The bill applies to all cameras used by DEQ or a DEQ contractor, including portable cameras taken on inspections and trips to the field. HB 333 prohibits DEQ and DEQ contractors from taking a picture of a person or something in the person's possession using the zoom feature of the camera. This bill prohibits DEQ and its contractors from taking a picture at a business or a private residence.
- 48. HB 333 requires DEQ and its contractors to destroy all pictures it takes within 30 days.
- 49. Many large federal grants DEQ receives have requirements for photographic documentation of project completion. In addition, before and after pictures are used in the Superfund and other programs. This bill could place these federal grants in jeopardy.
- 50. The potential loss of federal grants to the department is approximately \$32 million per year.

Office of State Public Defender (OPD)

- 51. The Office of the State Public Defender (OPD) has the statutory obligation to represent individuals charged with a crime who cannot afford to hire counsel, represent individuals on direct appeal and also to provide counsel if there is a conflict of interest.
- 52. OPD investigators, staff, and attorneys use cameras to assist in conducting investigations and providing legal representation on criminal and civil cases. The fiscal impact of HB 333 if the OPD were not able to capture or retain such videos or images for use in legal defense is unknown.

Montana State Fund (MSF)

- 53. Montana State Fund uses cameras, directly or through private camera operators, for building security, fraud investigation, promotional videos, and safety management. MSF will discontinue the use of cameras for all purposes except workers' compensation fraud investigations and security as provided in the bill.
- 54. MSF would lose the ability to create safety and promotional videos of uniquely Montana-based images for the needs of MSF and all of its stakeholders. This would have an impact on safety efforts and employee recruitment though this cannot be quantified.

55. MSF will compile a list of the locations of all MSF cameras and provide the list to the Department of Justice (DoJ).
56. MSF will establish and maintain policy and procedures for compliance with sections 1-8 of the bill to include:
 - a. ensuring no dissemination of “an image from a publicly operated camera” occurs;
 - b. training MSF and private camera operators on policy;
 - c. monitoring MSF and private camera operators for compliance with established policy;
 - d. investigating camera operators who allegedly violate provisions of the bill;
 - e. recommending disciplinary action on camera operators who have violated provisions of the bill;
 - f. monitoring image retention and dissemination;
 - g. enhancing documentation for determination of 'individualized, reasonable suspicion' for workers' compensation fraud investigations; and,
 - h. coordinating public notice requirements associated with new locations for cameras.
57. MSF will inactivate camera functions on cell phones, tablets, and other owned devices not used for fraud investigation or security. The cost to research and determine a solution for disabling cameras on cell phones and mobile devices and establish policy is estimated to be \$15,945 for 300 hours of staff time.

Department of Revenue (DOR)

58. Department of Revenue, Property Assessment Division has appraisers who take photo images as a part of property appraisals. These photo images may be taken using the zoom feature of a camera. These photos may be taken inside a home or business. HB 333 affects the department's ability to take and use these photos for property appraisal purposes.
59. Proper documentation of a property appraisal would include such photo images, which under the bill could not be retained for more than 30 days. Records retention laws would also conflict.
60. If property appraisal case were to proceed to litigation, the department would not have necessary evidence in the form of such photos to defend the state's market value determination.
61. The fiscal impact of HB 333 to the Department of Revenue is unknown.

Montana Historical Society (MHS)

62. The Montana Historical Society is currently updating security cameras with the pan, tilt, and zoom functions for the protection of items in the museum collections as well as provide security in the museum store. The MHS would need to replace cameras that currently have this functionality with additional cameras to gain the same amount of coverage of galleries and exterior doors and other secured areas. The MHS would need to replace newly purchased cameras with a fixed lens. The estimate to replace these cameras is \$30,000.
63. It is unclear if the state's archival photographer would be precluded from capturing images for the collections, events, and programming that is currently retained as a part of the MHS permanent collection.

Judicial Branch

64. It is unclear if the Judicial Branch video conferencing systems are considered publicly operated cameras. If so, the legislation would restrict current operational uses of these systems and impact productivity.

Department of Public Health and Human Services (DPHHS)

65. There are a large number of cameras located both in the facilities operated by the department and in facilities under contract with the department. The impact of compliance with HB 333 for these facilities is unknown.
66. Section 3 prohibits maintaining an image for more than 30 days, or disseminating an image, unless it is evidence of criminal activity.
 - a. Montana Veterans' Home, Montana State Hospital, and Montana Developmental Center cameras hold an image for more than 30 days, and specific images may be downloaded for clinical review and/or maintained as part of a clinical record of diagnostic behavior, a treatment intervention, or an investigation of an allegation or grievance, for long periods of time. This bill may diminish the quality of care. 53-20-144 and 53-21-144, MCA, describe permissible use of “photographs” at MDC and a mental health facility respectively.

- b. “Publicly operated cameras” used by the Child & Family Services Division (to include video, digital, and camera-equipped mobile technology) hold an image for more than 30 days, and specific images may be used as evidence in civil abuse and neglect cases and are required to be maintained and provided as part of discovery upon request. These images are downloaded for review and/or maintained as part of a record of parent-child interaction during supervised visitation or as a critical and essential part of an investigation of reported child abuse or neglect.
- c. The fiscal impact related to HB 333 and these types of uses of photo images is unknown.

Department of Transportation (MDT)

67. Without a definition of camera, the Department of Transportation assumes this bill impacts use of all cameras. Section 3 of the bill does not limit the definition of an image (e.g., to people or activities); therefore, it’s assumed this section pertains to all images.

Maintenance Division

- 68. It is assumed that the MDT Maintenance would install 5 cameras per year at an annual cost of \$7,500 per year.
- 69. MDT maintenance uses cameras for documentation of projects, accidents involving state vehicles, and state infrastructure. According to the bill, MDT maintenance would have to dispose of pictures on cell phone cameras after 30 days substantially impacting the ability to document projects, accidents and infrastructure. Maintenance would have to dispose of documentation well before a project is completed, or dispose of documentation of infrastructure condition.
- 70. MDT Maintenance currently uses cameras to photograph infrastructure condition such as bridges, signs, guardrail and culverts over multiple years to document infrastructure needs. Operators of the camera (hand-held) will have to pan tilt and zoom for these images and at times there may be traffic photographed in the background. These pictures would have to be deleted within 30 days not allowing MDT to access condition changes over time potentially creating safety issues.
- 71. MDT Maintenance publishes pictures on the internet of road conditions for the traveling public. This bill would require MDT maintenance to delete these pictures every 30 days.
- 72. MDT Maintenance documents encroachments on state owned right of way for the purpose of planning future projects, project documentation and for potential legal concerns. The operators of the camera (hand-held) would have to pan, tilt and zoom to capture the image. Additionally, deleting the images would cause documentation issues.
- 73. MDT Maintenance installs cameras at RWIS sites, Rest Areas and Maintenance facilities. This bill would impact the ability to complete new installations in a timely manner and may complicate security and safety.
- 74. The images captured from MDT Maintenance RWIS cameras, Liveview cameras, construction cameras, adjacent state RWIS cameras, traffic signal detection cameras, any image from our rest area cameras, MCS scale cameras, MCS in-vehicle cameras, headquarters/district/area office cameras could not be disseminated unless there was criminal activity that was being investigated. These images are disseminated both internally and externally on a daily basis.
- 75. MDT Maintenance uses cameras to record damage to infrastructure for billing purposes. Insurance companies request those images for determining whether to pay the costs of those damages. Without the images of the damage insurance companies may refuse to reimburse MDT for the full amount of the damages. This bill would prohibit retaining and disseminating those images and restrict MDT’s ability to recover reimbursement for damages to infrastructure. MDT collects an average of \$1,081,460 per year in reimbursement for infrastructure damage.

Rail, Transit & Planning Division

- 76. The traffic program will be unable to access and use some new and existing technologies for program efficiencies, data quality, or cost savings, especially in its current use within urban areas.
- 77. Traffic data is required per CFR Title 23 and is used by FHWA to apportion funds back to the states. This may be impacted if accurate or sufficient traffic data in high volume urban areas is not collected.

78. The risk of not having data available as required by FHWA Title 23 and potential funding implications were not quantified.

Construction Division

79. To meet federal requirements, the Construction Division of the MDT takes photos from the air and land of various transportation features and activities (e.g., motion-triggered wildlife monitoring cameras and contractor activities). The photos are used in-884.72Cai preconstruction, construction, and research activities. People and/or unintended activities may be included in these photos due to proximity to the specific transportation feature and/or activity. While the focus is not on an individual or unintended activity, it may be on a specific class of individual (e.g., school age vs. adult pedestrian, contractors) and staff may need to “use a pan, tilt, or zoom function of a camera to magnify an image” with a “person or anything in the person’s possession” and/or “at an activity” (Section 2).

80. Photos are a key design tool, and are used to record existing conditions (preconstruction), construction conditions and activities, and post-construction conditions.

81. Photos are a key tool for tort issues to record conditions of a facility at the time of or after a legal claim or incident occurs. Without these photos, MDT could experience increased costs due to more claims and litigation.

82. Video traffic data collection technology is used to gather vehicle counts, pedestrian counts and the types of vehicles (including bicycles, trucks, recreational, etc.) using various transportation facilities. The cameras are installed temporarily (24 hours to one week) on a fixture. This bill doesn’t define “installation” as either permanent or temporary. The cameras are considered low resolution which is required to reduce electronic file size for the long recording duration. The images recorded are grainy and do not provide details such as license plates, facial features and other details. Typically daylight reflecting off the wind shield completely blocks direct observation of vehicle occupants rendering even occupancy counts, seatbelt use etc. completely ineffective.

83. In the right-of-way appraisal process, photos are taken to document land, buildings, features, etc. that affect the value of the property being inspected. In addition, photos are taken before and after renting MDT owned properties to document the condition of the property and of outdoor advertising that we are charged with monitoring for compliance.

84. To meet federal requirements and records retention policy, images are retained longer “than 30 days” (Section 3). Design files and key information are retained for the life of the facility that is to be built; therefore, photos may be retained as part of a report or recommendation for 100 years.

85. To meet federal requirements, images are disseminated in reports through various venues and through other materials and methods. Photos are a key tool for disseminating information to the public and to solicit input from the public related to a proposed project (Section 3).

86. There are instances when public notice may be detrimental to camera use. For example, there are motion-triggered cameras placed at wildlife crossings on US 93 to determine their effectiveness in increasing public safety by determining wildlife use of these crossing structures. There is at least one instance of a camera being stolen for this particular project. In the past, cameras have been stolen, and damaged or destroyed by the public.

87. A lack of photos required by federal agencies could jeopardize federal funding and, therefore, transportation in Montana.

88. Without definitions, clarifications, or limitations, it is assumed that HB 333 would cease the operations of the Construction Division of the Montana Department of Transportation; impacting the entire budget for the division.

89. The fiscal impact to ceasing the operations of the Construction Division would be a reduction of \$473 million annually funded approximately 17% from state special revenue and 83% from federal special revenue.

Motor Carrier Services Division (MCS)

90. MCS uses cameras as part of a system for screening commercial vehicles at weigh stations, Virtual Ports of Entry, and Virtual Weigh Stations. These cameras take pictures of US DOT numbers and license plates. Since Commercial Motor Vehicles are a regulated industry and the department screens for safety and credentials at these locations, it is not clear whether these systems would be impacted by this bill.
91. If MCS is not able to use the automated weigh station cameras, there is a potential it will have to pay back \$900,000 to Federal Motor Carrier Safety Administration for federal funds expended to install cameras on 5 weigh station ramps and 2 virtual weigh station systems used for safety and credentials screening.
92. MCS uses cameras at the weigh stations and in patrol vehicles, as well as hand held cameras for documenting motor vehicle crashes, resolving incidents with Motor Carriers, publications, etc. Again it is not clear whether operations associated with these cameras would be impacted by this bill
93. MCS assumes it will need 1.00 FTE administrative assistant to review and maintain compliance with the division's digital images or pictures. The estimated personal services costs are approximately \$56,000 annually with one-time operating expenses of \$3,375 in FY 2016.

Effect on County or Other Local Revenues or Expenditures:

1. Local government agencies or programs that conduct business or provide services similar to those provided by state agencies would encounter similar situations and incur similar fiscal impact as state agencies. However, the fiscal impact to local governments cannot be determined.

Technical Notes:

1. Neither "camera" nor "image" is defined within HB 333. As a result, it is assumed this bill would apply to any image captured by any type of device that captures live and/or still images. This could include, but is not limited to, traditional cameras, digital cameras, phones, scanners, photocopiers, etc.
2. Section 2 (4) indicates that a camera operator may not use a camera to record an activity in a private residence or business. "Activity" is not defined. It is unclear what would be consider an activity under this section.
3. Section 10 states: "The provisions....apply to cameras installed on after [the effective date of this act]". Since this only references cameras that are fixed or installed, this fiscal note assumes that non-fixed camera images would not be grandfathered in under HB 333 and those would have to be destroyed after 30 days if they did not meet the exceptions in Section 3.
4. Images captured by state agencies factor into many of public records maintained by these agencies under current law for periods that exceed 30 days. The retention period of "no more than 30 days" in Section 3 conflicts with current state records retention requirements (Title 2, Chapter 6, MCA).
5. HB 333 states: "A camera operator may not use a pan, tilt, or zoom function or any other function of a camera to magnify an image of a particular person or anything in the person's possession...". It is unclear if "possession" also includes property.
6. Section 2-3-212(3), MCA, allows for video recordings of meetings to act as the official meeting minutes. Agencies who had adopted video recordings as meeting minutes would be unable to meet the requirements of current public inspection statute.
7. The federal Internal Revenue Service requires the state data center to keep video for 6 years. The requirements of this bill conflict with the requirements of the IRS.
8. Requiring destruction of photographs relevant to future or existing litigation may cause agencies to incur court sanctions.

9. Section 5 of the bill requires public notification and comment be given prior to the installation of cameras. The bill does not specify the form in which the public notices are to be made, whether they be made in the form of a legal classified ad or other format. There is no guidance to the form and content of the notice, nor are the specifics as to the duration and frequency of publication.
10. It is unclear how to identify the “location” of a portable video or still camera used to travel around the state.

Sponsor's Initials

Date

Budget Director's Initials

Date