

HB 114 – Opposition by MTSBA
 Senate Taxation Committee
 April 8, 2015

List of Sad Facts:

1. The Department of Revenue tried to place the same restriction into a bill during the 2013 Session.
 - a. The language the Department was using applied to “all taxing bodies” covered in 7-15-4291. HB 114 obviously only applies to school districts.
 - b. In 2013, the attempt failed for several reasons, including
 - i. The general language was difficult to understand and apply and had potentially serious, long-term effects on GTB and school budgets
 - ii. There was litigation pending at the time between the Department of Revenue and the Anaconda School District
 - c. The Anaconda School District and MTSBA made the offer to the Department of Revenue during the 2013 Session to work cooperatively on an Interim study bill to address the Department’s concerns over TIF Districts and remittances. The response from the Department was “no thank you”.

From SB 239 (Buttrey) from 2013:

SECTION 14. SECTION 7-15-4291, MCA, IS AMENDED TO READ:

7-15-4291. Agreements to remit unused portion of tax increments. The local government may also enter into agreements with the other affected taxing bodies to remit to those taxing bodies any portion of the annual tax increment not currently required for the payment of the costs listed in [7-15-4288](#) or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred to in [7-15-4289](#).

~~(2) Any portion of the increment remitted to a taxing body must be treated as budgeted ad valorem taxes and used to reduce ad valorem taxes by the taxing body receiving the remittance and may not reduce the future levy authority of the taxing body receiving the remittance. This subsection applies to all tax increment financing districts created after December 31, 1979."~~

2. The Department and NorthWestern Energy are again trying to take two bites out of the apple.
 - a. 2013 – the Department’s suit was dismissed for lack of standing

- b. NorthWestern Energy filed suit and that suit is still pending. In fact, a hearing was held March 19 – where the Judge asked, “Why is the legislature involved if the School District is in violation of an existing statute?”
 - c. HB 114 makes the pending litigation go away – but the costs of the litigation don’t go away.
- 3. The Department wants to step in to local control when it comes to remittances that are well into the process of the formation of a TIF District, but the role of the Department in TIF Districts generally is unclear.
 - a. School districts have little or nothing to do with the formation of a TIF District. When the local tax burden is shifted to other taxpayers in a community, it is the TIF District that creates that shift, not the school district.
 - b. We assume the Department will pursue similar treatment/restrictions for municipalities, counties, and the state at some later date?

There are at least three Interlocal agreements that exist between school districts and TIF Districts – Anaconda, Bozeman, and Whitefish.

- 4. Local Control – Whitefish. Interlocal agreements represent cooperative efforts at the local level that typically benefit the entire community. In fact, the Whitefish Interlocal Agreement cites Title 7, Chapter 11, Part 1, M.C.A., which is apparently known as the “Interlocal Cooperation Act” and it says that it “permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner that will promote maximum utilization of scarce local resources for the benefit of the community”
 - a. Another section of the Whitefish Interlocal Agreement states, “it is the intent of the City to work hand in hand in a complimentary working relationship between the City and the School. A working relationship which allows and encourages mutual growth, sharing of resource revenue, and facilities;”
 - b. And, finally, the Interlocal agreement states, “the City and the School agree that it is the intent of the City to complement the School’s role in building and maintaining a viable, progressive, responsive school

system which also compliments the interests of the City of Whitefish in attracting and maintaining a viable business and residential community.”

5. Local Control – Bozeman. Two quick points on the Bozeman Interlocal agreement:
 - a. Bozeman has an 18-member community committee comprised of the school district, City of Bozeman, Gallatin County, and downtown business owners that dates back to 1995.
 - b. The Interlocal agreement was conceived nearly 20 years ago and now that the school district is seeing some benefits, the bill would change the rules.

6. Local Control – Anaconda. The Anaconda School District has done nothing wrong in either receiving a remittance under their Interlocal agreement or how they have utilized those funds. In fact,
 - a. The Anaconda School District consulted with OPI on how remitted funds should be treated
 - b. Local control gets messy – there may be some who don’t like how dollars are being spent

7. The Department is trying to “fix” a local issue.
 - a. During questioning in the House, a question was asked about whether any of the funds in Anaconda had been spent on the football stadium? Opponents’ reaction to this out-of-the blue question was, “Ah, there’s the rub.” Clearly, part of the reason for the Department of Revenue pursuing legislation and litigation was because someone didn’t like how the remittance was being spent or planned to be spent.

8. So even though these Interlocal agreements have been in place for several years and have several years remaining on them, HB 114, if passed, will blow them out of the water. They will be gone – local cooperation and community spirit trumped by the Legislature and the Department of Revenue.

HB 114 sends a message loud and clear to communities across the state that schools and school facilities are not part of the communities they are located in.

Please don't drive a wedge between communities and their school districts.
Please vote no on HB 114.