

Nowakowski, Sonja

From: Harold Blattie <hblattie@mtcounties.org>
Sent: Tuesday, August 16, 2016 7:36 AM
To: Nowakowski, Sonja
Subject: FW: LC COL5 bill draft

ENERGY &
TELECOMMUNICATIONS
INTERIM COMMITTEE 2015-2016

September 9, 2016 Exhibit 12

Sonja,

I was asked to review LC Col5 and having done so, have some questions and comments.

Is there a specific reason all special districts, i.e. fire, park, are not included in the definition of Local Government? Also I have to wonder if "Tribal Government" really belongs in this definition because it has it's own definition in subsection (7).

NEW SECTION 3

(3) "Local government" means an incorporated city or town, a county, a consolidated local government, a tribal government, or a county or multicounty water, sewer, or solid waste district.

NEW SECTION 5

In subsection (2) the bill establishes that an impact fee be paid the first five years. Subsection (i), (ii) and (iii) are separated by semi-colons. Am I correctly reading that to mean it is (i) or (ii) or (iii), rather than "and"?

In subsection (3), subsections (a) and (b) are separated by a semi-colon but also includes the word "and" so I assume it means that both (a) and (b) will be paid. Likewise for subsections (4) through (7) for years six through ten?

Subsection (9) allows the impact fee to be mitigated by providing financial assistance to a "community". "Community" is not defined, which I believe could create problems and issues. It will the units of local government that will be financially impacted but it appears the financial assistance could be provided to non-governmental organizations or entities, thus the local government units would not receive impact fees to help mitigate financial impacts to the governmental units. If the suggestion box is open, I would recommend changing the word "affected communities" to units of local government" and also that language be added to provide proportionality because the financial assistance could be provided to a single unit of local government, leaving the others high and dry.

NEW SECTION 7

Does subsection (2)(a) mean to mitigate property TAX losses, rather than property losses?

Here again, do the semi-colon separators mean "or"? If so, it would appear that they would have to pick one of the allowable uses. It would seem to be better policy to allow a mix of the uses to be used.

Subsection (5)(a)(iii) is not inclusive of all special districts, which goes back to my earlier comment. Seems that others should be included.

NEW SECTIONS 7 and 8

These sections direct the treasurer to keep the impact fees in a separate "account" the correct term for county accounting is "fund". The state's accounting uses account where local governments accounting uses "fund" in accordance with the BARS Chart of Accounts.

In Section 7,

For Section 8 this would fall into the 7000 Fund classification as an "agency fund". DOA would need to establish a specific fund number.

The word "account" should be changed throughout both subsection 7 and 8 to "fund".

NEW SECTION 9

This where things get a bit sticky. Going back to Section 7, subsection 3, it states:

(3) Except as provided in subsection (2)(c) and subject to 15-10-420(7)(b), money held in the coal county account may not be considered as cash balance for the purpose of reducing mill levies.

First cash balances have no bearing or affect on mill levies like they do in school budgeting law so this language is actually meaningless.

Section 9 amends section 15-10-420 which provides for the property tax limitation. It provides the formula for calculating the maximum allowable levy as well as setting forth specific exemptions. This is commonly referred to as the "floating mill". The overall concept behind floating mill is to allow a local government to levy the same dollar amount as the previous year plus a modest amount of growth, irrespective of the changes in taxable values. In principle if taxable values go down levies go up and if taxable values increase (exclusive of newly taxable property) mill levies go down.

The new language in subsection (7)(b)(ii) would preclude a local government from increasing levies due to a loss of taxable value if that loss is reimbursed. That means if the impact Committee distributed any impact money to any of the units of local government, that unit would not be able to "float" mills up to recover the lost property tax revenue due to a decrease in the taxable value of the closed plant. This subsection is fine and precludes "double-dipping" by the unit of local government receiving the allocation. We can work with DOA to amend the floating mill calculation spreadsheet to incorporate this offset.

However, subsection (7)(b)(iii) is problematic. It runs contrary to the underlying principle of floating mills. This language would preclude a local government from "floating" mills up to recover the revue lost due to the decreased tax base. The result will be a true loss of revenue to all units of local government, without any corresponding reduction in demands for services, or needs of the local

government.

For arguments sake and to demonstrate the effects of subsection (7)(b)(iii) using completely hypothetical numbers because I do not know what portion of the tax base the coal fired generators are in Rosebud County, otherwise would use real numbers.

Let us assume that two of the four coal fired generators are retired and DOR values them at zero. Prior to the closure, they represented 25% of the total taxable value of \$90 million. Rosebud county levies 50 mills so prior to retirement would levy a total of \$4.5 million in property taxes. With the loss of \$22.5 million in taxable value, the county would lose 25% of it's property tax revenue, in this example, the county would lose \$1.125 million in real revenue. Under the floating mill concept, the county should be able to increase the number of mills levied to recover that loss. In this hypothetical example mills should be allowed to float up to 66.67 mills which would then generate the same property tax revenue of \$4,5 million, rather than the \$3,375 million that the language in subsection (7)(b)(iii) would allow.

One additional comment about the distribution from the county coal impact fund is related to timing. while the distribution from the state account will take place on August 15th, this leaves VERY little time for counties to modify budgets and calculate levies prior to final budget adoption and fixing levies on the first Thursday after the first Tuesday in September as required by 7-6-4036. I would request the August 15th date be moved back to July 15th. And even that will be a problem because after the county receives the money, the impact committee would have to make its decisions and determine the amount (if any) that would be used to lower mill levies.

Thanks,

Harold

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