

Resolution #2016-1

GENERAL PRINCIPLES

BACKGROUND

The cities and towns of Montana provide a healthy community with clean water, a sanitary environment, public safety, transportation, and recreational opportunities. These vibrant municipalities provide a safe and inviting environment that fosters the primary basis for the Montana economy. To provide quality municipal services to their residents and visitors, municipalities must wisely and efficiently use their limited financial resources. The League of Cities and Towns is committed to preserving and promoting these municipal qualities.

ACTION

For the 2017 Legislative Session, the League will stand by the following principles of fair, affordable and effective local government:

1. Preservation of an equitable property taxation system and the entitlement share payment to municipalities, while pursuing authority for municipalities to seek and develop new sources of revenue to fund essential local services.
2. Promote diversification of the local government finance structure, particularly to develop supplements and alternatives to property tax revenue.
3. Encourage the maintenance and expansion of state grant, loan and investment programs to fund infrastructure capital improvements to supplement the use of local funds.
4. Advocate that new legal mandates imposed upon municipalities have an identified source of independent funding and are not an unfunded mandate imposed upon municipalities.
5. Effective planning and development policies that encourages managed growth of municipalities for the promotion of the more efficient delivery of clean water, treatment and disposal of wastewater and solid waste, protect municipal water rights, interconnectivity of transportation systems, enhanced fire, police and public safety protection, improved recreation opportunities and other municipal services.
6. Opposition to any measure that limits or diminishes municipal authority as provided by the letter and spirit of the Local Government Article of the 1972 Montana Constitution.
7. Recognition of the contribution of cities and towns to the history and culture of our state and a better understanding of the fact that all public policy should begin and end with those special places a majority of Montanans call home.

Resolution #2016-2

ENTITLEMENT SHARE PROGRAM

BACKGROUND

Section 15-1-121, MCA, contains the formula for calculating the annual growth factor that is applied to Entitlement Share Payments. The Legislative changes in 2011 based the growth factor on the collection of gambling, motor vehicle, beer, liquor and financial institutions tax revenues over the most recent three-year period. It also includes a factor for personal and corporate income tax collections.

During the 2013 Session, the Legislature amended 15-1-121, MCA, to provide that entitlement payments are intended to provide a secure and predictable stream of revenue with a growth adjustment tied to state collections but cannot go below a floor of zero.

Because the entitlement share payment funds have had healthy growth and provide increased payments to the local governments, there is a temptation to use part of these funds for state needs. Any diversion of entitlement share payment funds would diminish the future growth capacity of the fund and deprive local governments of the funds historically promised.

ACTION

The League will oppose legislation to diminish the Entitlement Share Payments program to ensure its continuation and application of growth factor adjustments.

Resolution #2016-3

REMOVING CAP ON INCREASES IN MILL LEVY

BACKGROUND

Cities and towns are only authorized to impose a mill levy that is sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. Cities and towns cannot financially survive with this limitation on the mill levy to one-half of a rolling 3 year average of the rate of inflation. Expenses incurred by cities and towns are not limited to any similar cap.

ACTION

The League will strategically sponsor legislation to remove the restrictions on the cities' and towns' mill levy authority currently imposed under Title 15, chapter 10, part 4, MCA.

Resolution #2014-4

LAND USE AND ENVIRONMENTAL REGULATION

BACKGROUND

Cities and towns have worked many years to protect Montana's land and water resources through wise community development policies that emphasize centralized water and wastewater systems, efficient delivery of services to concentrated populations and compliance with fair and affordable environmental standards. Now, most new development in Montana is sprawling beyond municipal boundaries, threatening our legacy of open space and clean water. Municipalities are dedicated to working with state and federal agencies to establish growth and land use policies that recognize property rights while preserving the natural assets of Montana.

ACTION

MLCT will support bills to:

1. Encourage the use of community water, wastewater and stormwater systems to protect environmental quality and assure that cities and towns are not obligated for a disproportionate share of the cost of complying with Numeric Nutrient Standards, MS4 and other state or federal regulatory standards.
2. Promote environmentally responsible energy development and conservation through grants, loans, and technical assistance and education programs.
3. Allow cities and towns authority under the energy and building codes to promote conservation.
4. Expand authority of cities and towns to use tax increment districts and tax abatements for opportunities as part of an effective economic development strategy.

MLCT will oppose bills to:

1. Restrict the annexation, zoning, planning and subdivision review authority of cities and towns or in any other way interfere with established community development practices.
2. Restrict the use of Special Districts but will consider measures to simplify protest procedures for property owners.
3. Limit the effectiveness of the options under the tax increment district statutes but will consider measures that refines definition of "public purpose" for expenditure limitation purposes.

Resolution #2016-5

LOCAL GOVERNMENT INFRASTRUCTURE GRANT PROGRAM

BACKGROUND

Montana has experienced significant growth impacts related to infrastructure and public safety as a result of rapid population growth in some part of the state. Most Montanans welcome the economic opportunities connected to development, but some Montana municipalities that have had no or slow growth in the past do not have the resources and support necessary to proactively plan for and address the infrastructure and public safety needs of the growing population. Also, the infrastructure belonging to Montana municipalities, water and wastewater systems, streets and public facilities, is aging and in many cases has outlived its useful and functional life. For Montana cities and towns to attract healthy, responsible economic growth, the ability to provide quality essential services means the infrastructure should be in good condition and using modern technology.

The MLCT has joined the Montana Infrastructure Coalition ("MIC") and will work with the MIC to establish infrastructure priorities on a multi-session approach. We need to work to change the structure of the way infrastructure financing occurs in Montana on into the future.

In 2015, a bipartisan bill to provide funding for state-wide infrastructure, including municipalities, narrowly failed passage by one vote. The infrastructure bill would have funded local projects through grants and loans as well as university buildings and other state projects. Much of the public infrastructure, whether owned by the state or local governments, suffers from deferred maintenance and every year worsens the deterioration of the infrastructure. An infrastructure grant or loan program will provide Montana communities with additional resources and support to help plan and address needed infrastructure expansion and replacement and the public safety needs of municipalities.

ACTION

MLCT will support and promote a local governmental infrastructure grant and loan program, including public safety infrastructure.

Resolution #2016-6

GASOLINE AND SPECIAL FUEL TAX AND LOCAL OPTION MOTOR FUEL EXCISE TAX

BACKGROUND

The gasoline and special fuel tax is a state tax of 27 cents per gallon of gasoline distributed within the state and 27 $\frac{3}{4}$ cents per gallon of special fuel. (15-70-403, MCA) Of the total amount collected from these and other gas taxes, \$16,766,000 is statutorily appropriated to counties, incorporated municipalities and consolidated city-county governments for construction, maintenance and reconstruction of roads and streets in each entity. (15-70-101, MCA) The amount of these taxes that are retained by the State can be used for the State's match for federal highway funding. The vast majority of highways, streets and roads in Montana are suffering from decay and in need of major maintenance, reconstruction or replacement. Increasing the Gasoline and Special Fuel Tax would generate additional money for the State to use as match for federal highway funding and provide additional money to municipalities, consolidated city-county governments and counties.

In addition to the allocation of gasoline and special fuel tax money to counties, municipalities and consolidated city-county governments, a county through the vote of electorate may impose a local option motor fuel excise tax. (7-14-301, MCA) This additional tax may not exceed 2 cents per gallon. The revenue from this local option motor fuel tax is allocated between the county and all municipalities within the county according to a distribution formula. This local option fuel tax can only be initiated by the county. Municipalities cannot independently impose any local option motor fuel excise tax. The revenue from the local option motor fuel tax can only be used construction, reconstruction, maintenance, and repair of public streets and roads. (7-14-302, MCA)

ACTION

MLCT will support:

1. Increasing the gasoline and special fuel tax to provide additional revenue for match with the federal highway funding and for additional revenue for municipalities, consolidated city-county entities and counties.
2. Allowing municipalities the independent authority to impose a local option motor fuel excise tax within their respective jurisdictions.

Resolution #2016-7

MS4 AND STORMWATER QUALITY

BACKGROUND

More cities in Montana are being classified as Municipal Separate Storm Sewer ("MS4") cities for purposes of storm water regulations under EPA and MTDEQ. Under the federal law, MS4 cities are required to use best management practices to reduce pollution from storm water runoff. MTDEQ is responsible for issuing general permits to the MS4 cities. In past years MTDEQ was more aggressive than the EPA BMP standards and required additional burdens such as monitoring and sampling of water quality in storm water runoff. Though this initially only affected the larger Montana cities, the history of the MS4 designation has been to reach down into lower populated cities. Originally in 1990, only cities with populations over 100,000 were affected. By 1999, it potentially affected municipalities with 1,000 people or more. The MLCT and affected cities agree with protecting water quality and using BMPs for storm water management. What we do not agree with is having to do sampling and monitoring that is of no benefit. Sampling for the sake of sampling is an idle act.

The concern is that MTDEQ may interpret "state waters" (75-5-104(34), MCA) to include storm water retention and detention ponds, which are the BMP's means for trapping pollutants before reaching bona fide state waters. This interpretation would require retention and detention ponds, constructed as BMPs for storm water, to have water quality compliance similar to lakes and rivers.

Such an interpretation has resulted in difficulties conducting water main flushing, fire hydrant testing, water main repair and maintenance (non-storm water discharges). That interpretation combined with the first 1/2" treatment requirement in the current discharge permit has also raised questions about whether it is permissible for storm water leaving a site to enter the MS4 at all, and thus detention or retention ponds and basins, before the first 1/2" of water is treated.

MTDEQ has established working groups with the MS4 cities to reach a mutually satisfactory resolution on these issues. This process is still on-going and will take more time and work to resolve the differences.

ACTION

MLCT extends its appreciation to MTDEQ for its efforts having a working group to work toward resolution of BMP requirements for mitigation for storm water quality. The MLCT will consult with and work with DEQ if legislative changes may be needed for effective implementation of BMPs in a cost-effective and reasonable manner. The MLCT will monitor legislation and regulatory action dealing with storm water quality and MS4 regulations.

Resolution #2016-8

FUNDING FIREFIGHTERS' PENSION FUND

BACKGROUND

Under 19-18-503, MCA, cities and towns are required to soundly fund disability and pension funds for firefighters. The fund is deemed soundly funded if either the assets in the fund are at least 0.21% but not more than 0.52% of total assessed value of taxable property, or at a value determined by an actuarial valuation. The cities and towns are allowed to levy an annual tax to keep the fund soundly funded under 19-18-504, MCA; however, that special tax levy is restricted by the mill caps in 15-10-420, MCA, of ½ of the average rate of inflation for the prior 3 years. The current funding requirement based upon a percentage of total assessed value of taxable property can result in requiring a municipality to have to increase taxes to an unrealistic, unnecessary and expensive amount in order to adequately fund a reserve for disability and pensions for firefighters. This was especially exacerbated by major changes during the 2015 Session in the property tax assessment laws that reduced taxable valuation but did not affect the total assessed value. These changes made the percentages of total assessed value arbitrary with no precise nexus to the actual liability exposure. In some cases municipalities were legally unable to levy an amount equal to 0.21% of total assessed value and to do so would unnecessarily overfund the disability and pension reserve. The Montana Department of Revenue is drafting legislation that would make the funding requirement for a disability and pension fund reserve be 3 to 5 times the actual liability. Using this formula would set the reserve fund at a realistic amount based upon liability of the fund.

ACTION

MLCT will support legislation that changes the funding requirement for disability and pension fund reserves to be a realistic multiplier of actual liability exposure.

Resolution #2016-9

COMPENSATION FOR RETIREMENT

BACKGROUND

The public employee retirement system has suffered in the past from not being actuarially sound. Some public employee bargaining groups want to include factors such as overtime, insurance premium payments and other special benefits as part of the "total compensation" used in determining retirement benefits upon retirement. Adding these other types of economic benefits as compensation for retirement purposes increases the cost to the public employer for paying the employer portion of the retirement withholding.

Additionally, adding new peripheral benefit amounts to total compensation puts a strain on the public retirement system since the more recent retirees will not have contributed toward the higher benefit for most of their careers.

ACTION

The League will oppose legislation adding employee benefits and overtime as part of the compensation for purposes of determining retirement benefits.

Resolution #2016-12

LOCAL LODGING FEE

BACKGROUND

Some cities and towns experience unexpected demands for increased municipal services. Especially when these impacts are unpredicted, the impacted municipality cannot immediately afford the increased costs to enlarge their infrastructure and provide for expanding municipal services. New growth eventually generates increased property tax revenue but it is not immediate and impacted municipalities need a quicker means for new revenue. A local lodging fee based upon overnight lodging facilities, temporary housing and campgrounds would fill that need for more readily available extra revenue.

ACTION

MLCT will support a locally created and imposed lodging fee on consumers for overnight lodging, temporary housing and campgrounds.

Resolution #2016-15

LOCAL GOVERNMENT STANDING COMMITTEE

BACKGROUND

With the passage of SB 11 in 2009, the Legislature created six permanent interim committees, each responsible for the administrative rule review, program review, and monitoring for specific executive branch agencies. (Section 5-5-202(2), MCA.) Although local government was not specifically identified as a subject matter for any of the six new interim committees, two interim studies dealt specifically with local government issues: HJR 29 (a review of state laws pertaining to local governments and officials); and HJR 38 (a study of salary and employment issues of juvenile probation officers. The Legislative Services Division assigned these interim studies to the Education Interim Committee, and in the 2001 session, the Legislature amended the statutes to reflect the dual education and local government role of the committee. (Chapter 210, Laws 2001; Section 5-5-224(2). The two divergent subject matters covered by the Education and Local Government Interim Committee has made it difficult to create long-term collaborative relationships between the state and local governments envisioned by the originating statute. The breadth and complexity of local government issues warrants the creation of a separate and permanent interim committee dedicated solely to discussing and coordinating local government issues.

ACTION

MLCT will sponsor legislation creating a separate and permanent local government interim committee to study local government issues.

Resolution #2016-16

RECOUP LAW ENFORCEMENT TRAINING-RELATED EXPENSES

BACKGROUND

In 1999, the Legislature passed HB 192, codified at Section 7-32-4139, MCA, which authorized prorated reimbursement of training costs if minimum 3 year service agreement not fulfilled. The statute defined “training costs” as including the “cost of the officer’s basic course training, salary, mileage, and expenses paid to the officer while the officer is in training.”

In 2005, in response to a bill request to provide similar language for counties, the Legislature repealed Section 7-32-4139, MCA (Chapter 198, Laws 2005 (HB 743)) and replaced it with new language in Section 7-1-4105, MCA that acknowledged local governments’ constitutional contract authority to enter into any contract necessary for the exercise of its power, “including but not limited to a contract for reimbursement that may require that the local government be reimbursed for the cost of basic course training if an employee leaves employment before completing a reasonable period of service. While HB 743 specifically identified the cost of basic course training, that cost is illustrative and the preamble and other language of the bill supports the broad constitutional authority of cities to include other costs in an agreement for reimbursement.

The constitutional contract authority granted to cities is not absolute. A municipality must comply with state and federal employment and wages laws, which include the requirement to pay the applicable minimum hourly wage, overtime compensation, and withhold applicable taxes, as well as employer contributions to unemployment insurance and worker’s compensation coverage. Subject to the requirement of collective bargaining (*City of Lewistown v. Lloyd*, 2006 MT 168), a municipality may be able to recoup actual academy training expenses, wages in excess of the applicable minimum wage, taxes paid on those excess wages, health insurance premiums, retirement benefits, and travel expenses when a police officer fails to complete an agreed upon length of employment with the municipality.

ACTION

MLCT will create a template reimbursement document for municipalities to use in collective bargaining in order to recoup the maximum lawful amount possible of training-related expenses when an officer does not complete minimum employment periods.

Resolution #2016-17

LOCAL OPTION TAX

BACKGROUND

Municipal fiscal authority in Montana is limited to property taxes, with a small exception for certain smaller communities with a population of less than 5,500 where the majority of local employment is related to businesses catering to the recreational and personal needs of tourist visitors. The existing state resort tax statute imposes strict limitations on local resort taxes: the tax must be approved by the qualified electors of the municipality; the tax rate ceiling is 3%; the tax may only be imposed on lodging facilities, restaurants, and bars; and no less than 5% of the revenues received from the tax must be used to reduce property taxes within the municipality. Currently, only four municipalities in Montana qualify under the statutory definition of "resort community" and have enacted a resort tax approved by their voters (Whitefish, Red Lodge, Virginia City, and West Yellowstone). These communities have access to an additional source of funding for "any activity, undertaking, or administrative service that the municipality is authorized by law to perform," including infrastructure, public services, and the like. The resort tax provides an additional flexible source of revenue that allows local residents to decide locally whether to impose additional taxes on luxury items and local business services that serve primarily visiting tourists.

ACTION

The League will support legislation to allow all Montana municipalities and their voters the authority to enact a local option tax to help fund local infrastructure projects and other local services.

Resolution #2016-18

CLOSURE OF COLSTRIP UNITS 1 AND 2

BACKGROUND

With the pending closure of Colstrip Units 1 and 2, the City of Colstrip is facing an abrupt loss in local jobs and property taxes. The closure of Colstrip Units 1 and 2 requires planning and funding to safely decommission the units, address the needs of Montana and out-of-state energy consumers, and help displaced workers and the communities directly impacted by the closure of the units. The MLCT recognizes the important role the City of Colstrip has historically played in providing energy and revenue to the entire state.

ACTION

The MLCT supports efforts to provide financial support and economic diversification to the City of Colstrip to help create sustainable employment opportunities and protect local tax revenues as a result of the closure of Colstrip Units 1 and 2.

Resolution #2016-20

SUPPORT FOR PUBLIC SAFETY EMPLOYEES AND RESOURCES

BACKGROUND

Montana cities and towns provide critical public safety services to the majority of Montana residents. Emergency response, law enforcement, and fire protection are an important component to creating and maintaining thriving, prosperous communities. The Montana League of Cities and Towns (MLCT) supports efforts to ensure public safety personnel, services, equipment, and programs are adequately funded and the work of these local government employees is acknowledged and respected by their elected officials and citizens.

ACTION

The MLCT acknowledges the need for adequate equipment, training, and funding for municipal emergency response, law enforcement, and fire protection services, and expresses its appreciation for the work of our local police officers, firefighters, emergency responders, and other public safety employees.

Resolution #2016-21

SUPPORT FOR MILITARY OPERATIONS IN MONTANA

BACKGROUND

Federal military operations in Montana are a critical source of economic health in our communities. The Montana National Guard provides more than \$182 million in economic impetus to the State of Montana, and the total federal economic impetus of the Montana Department of Military Affairs and the National Guard to the State of Montana is over \$196 million. Malmstrom Air Force Base provides more than \$610 million in economic impetus to the State of Montana, airmen stationed at Malmstrom own an estimated 1,116 homes in Montana, military construction and service contracts provide more than \$34 million to local contractors, the base spends more than \$10.4 million for utilities, and Malmstrom services more than 7,000 miles of roads in Montana, which benefits Montana's commerce. Some other military assets in Montana include Fort Harrison, Limestone Training Range, Hayes Military Operations Area, Malmstrom Air Force Base, Powder River Training Range and various Montana Army and Air National Guard units. From defense contracts, mutual aid agreements, to the revenue generated by servicing military personnel, Montana's military has tremendous statewide impact.

Federal base realignment and closure activities and other cost-cutting measures put current military missions and assets in Montana and Montana's economic well-being at risk. In addition, Montana communities are missing strategic opportunities for defense industry growth statewide.

ACTION

The MLCT will support efforts to help protect existing military assets in Montana, collaboratively address national cuts to any military assets in Montana, and develop opportunities for defense industry growth.