SB 169

RESOLUTION 2008 - 13

SENATE JUDICIARY
EXHIBIT NO. 1
DATE 1/14/09
BILL NO. SB 169

DRUG TESTING

It is the intent of the Montana Association of Counties to seek amendments to the Montana Workforce Drug and Alcohol Testing Act that will allow counties to perform drug and alcohol testing on county employees.

WHEREAS, One of the main difficulties in attempting to utilize the Act for County government is that Section 39-2-206, MCA specifically includes elected officials in the definition of "employee". This creates a real problem because the Act imposes many duties and responsibilities for employers such as:

a. imposing sanctions upon and employee for violating the employer's standards of conduct

b. requiring an employee who tests positive to participate in an approved drug or alcohol testing program as a condition of continued employment

c. requiring employees to do follow-up testing

d. determining whether to perform reasonable suspicion testing on employees

e. determining whether employees have presented a reasonable explanation or medical opinion indicating that t he original tests were not caused by illegal use of controlled substances or alcohol consumption; and

WHEREAS, officials are defined in the Act as "employees," there is no employer in County government to perform these functions. Additionally, it would not be feasible to expect an elected official to impose sanctions or make other "employer" determinations upon himself or herself.; and

NOW, THEREFORE, BE IT RESOLVED, that the Montana Association of Counties will seek legislation to allow counties to conduct random testing of county employees in hazardous work environment or safety-sensitive positions in addition to those employees covered by federal laws and regulations.

SPONSOR:	**MACo Joint Powers Insurance Authority**
RECOMMENDATION:	**Do Pass**
PRIORITY:	**High**
REFERRED TO:	**MACo JPIA Personnel Services Admin Resolutions Committee**
ADOPTED:	**Annual Conference, Hamilton, MT September 24, 2008**