

Amendment A to be considered in the 2020 General Election

And explanation by Representative Lloyd Larsen of Lander

This year voters will be considering an amendment to our State's constitution that would remove a required 4% cap on the amount of debt a city, town, or sewer district is allowed to incur for repair, modification, replacement, or construction of new sewer systems. The 4% is based on the assessed value of the taxable property therein.

In 2017 Lander's mayor Del McOmie explained some of the challenges the city faced in its effort to replace outdated sewer systems as a result of restrictions laid out in our constitution. Due to the insufficiencies of the 4% indebtedness cap, cities and towns often face an inability to fully fund efforts to expand, maintain, and upgrade existing sewer systems. In some cases, projects become all the more expensive out of the need for contractors to mobilize and demobilize resources in response to available funds.

When drafting Wyoming's constitution its framers placed limitations on the amount of debt a city or town could incur in Article 16, Section 5, and set that amount at 2% of the assessed value of the city or town's taxable property (this amount was later changed to 4%). In further deliberation, concern was raised that if a city or town was in need of sewer or water supply infrastructure the requirements of such a project could exceed the municipality's previously set limit on debt and obstruct a municipality from providing services to the citizens of the community. An amendment was proposed to allow an additional 4% indebtedness by the city or town for the construction of sewerage, and an additional 4% for supplying water.

After some consideration John K. Jeffrey of Laramie said, ***"I am in favor of the general provisions of this section, but there is one question that I want to get the sense of this convention upon. That is whether it is well to limit the indebtedness that may be incurred for building water works or sewers to four per cent? If a city or town needs water works or sewers and has not a sufficient amount of money to build a proper system, this four per cent indebtedness might be of no more benefit than none at all—."*** Mr. Jeffrey then proposed an amendment to remove the indebtedness limitations for sewerage projects and supplying drinking water.

John A. Riner from Cheyenne, who later served as a Federal Judge, opposed the waiver proposed in the amendment, and suggested that cities and towns have the ability to levy an additional tax above the 4% debt limit for the construction of sewerage, and therefore suggested the 4% cap be left in place.

Charles Burritt, an attorney from Buffalo, vocally supported Mr. Jeffrey's amendment for exempting water supply from the debt cap but felt a cap should stay in place for sewerage. In his comments Mr. Burritt stated, ***"I second the motion of Mr. Jeffrey, but am opposed to so much of that motion as refers to sewerage. The matter of sewerage can be got around, but that rule cannot be made to apply to a system of water works. Suppose a city has to go twenty miles to get a supply of water, how are you going to assess the property then? Take***

the city of Buffalo, the contract for its water supply will run out in three years, and at the end of that time, they may have to go back into the mountains to secure a supply somewhere, and if our city should increase in its assessable property at double the ratio it has for the last four years, we would not be able to raise enough money on a four per cent indebtedness to the water out of the mountains and past Fort McKinney. In the matter of water works I don't think that there should be any limit, but that should be left to the people, when they want water they want it bad, and the tax payers should be able to say whether they are willing to contract a debt to build its water works. Estimates made of bringing water to the city of Buffalo from a suitable place in the mountains fixed the cost at about forty thousand dollars. Under this we wouldn't be able to get that water halfway."

The Jeffrey Amendment failed but Mr. Burritt brought back an amendment keeping the allowance of an additional 4% indebtedness for sewerage projects and exempting projects supplying water from any debt restriction. This amendment passed and established the basis for cities and towns to incur debt for both sewerage and water projects.

Changes were made to this section of the State constitution in 1919, 1953, and 1961. The 1961 constitutional amendment changed the language from ***"for the purpose of building sewerage therein"*** to ***"for sewage disposal systems"***. Sewerage, referring to the infrastructure necessary for the draining of sewers, had evolved to much more complex systems than just the installation of pipe set at a grade allowing for proper drainage to a collection site. The new term allows for the complexity of systems required for use as our population grew and environmental concerns became a critical component of sewer system design.

There have also been some Wyoming Supreme Court decisions on this matter. In the 1950 case *Laverents v Cheyenne*, the Court ruled ***"To constitute a debt within the intentment of Article 16, Section 5 it must be payable in whole or in part, out of the general resources of the municipality. That would include taxes, and revenue derived from sources other than the system for which the bonds in question are issued."*** There is a 1957 decision allowing application of the debt limitation to sanitary districts and sewer districts falling outside the geographic boundary and jurisdiction of a city or town. In the 1966 *Rodin v. State* decision the Supreme Court supported a lower court ruling in 1938 (*Anselmi v. Rock Springs*) to include storm sewer as well as sanitary sewer to the limitation put in place by the constitution.

During the 2018 Legislative Session, and after some examination of the matter, I sponsored a Joint Resolution with Senator Eli Bebout to place a constitutional amendment on the 2020 General Election Ballot which proposed to remove the required indebtedness cap and through the legislative process allow lawmakers to use flexibility to determine adjustments to city's and town's indebtedness cap as circumstances require. This Joint Resolution passed the legislature exceeding the required 2/3 vote, indicating the legislature's support of the change.

Why change the constitution?

Had the framers anticipated the sewerage requirements of 1889 would one day become complex engineering and technological undertakings--guided by modern-day consumer expectation, governed by stringent environmental requirements--that perhaps would benefit from the flexibility of lawmaker response, I have no doubt John. K. Jeffrey's amendment exempting both water and sewer systems from the constitutional debt cap would have passed.

I encourage voters to pass Amendment A.