VOLUME NO. 39 OPINION NO. 20

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES - State grant-in-aid to local governments;
LOCAL GOVERNMENT - Eligibility for state grant-in-aid;
LOCAL GOVERNMENT - Mill levy limitations;
LOCAL GOVERNMENT - Self-government powers;
PUBLIC ASSISTANCE - State grant-in-aid program;
LAWS OF MONTANA 1977 - Section 31, chapter 37;
MONTANA CODE ANNOTATED - Sections 7-1-114, 53-2-321, 53-2-322, 53-2-323.

HELD: For purposes of the state grant-in-aid program, counties with self-government powers are eligible for a grant if they have exhausted all of the 13.5 mill levy authorized

by section 53-2-321, MCA, assuming the county has satisfied all other requirements specified in section 53-2-323, MCA.

9 June 1981

John LaFaver, Director
Department of Social and
Rehabilitation Services
111 Sanders
Helena, Montana 59601

Dear Mr. LaFaver:

You have asked my opinion regarding the eligibility of counties with self-government powers for the state public assistance grant-in-aid program.

In Montana county governments are required to provide for the care and maintenance of the indigent sick and dependent poor, and to levy taxes not exceeding 13.5 mills annually to maintain the county poor fund. §§ 53-2-321, 53-2-322, MCA. In the event the county poor fund is exhausted and the county is unable to meet its obligations to provide assistance to the needy, the county may apply to the Department of Social and Rehabilitation Services for an emergency grant-in-aid, which is a grant of state-appropriated general fund dollars, to enable the county to meet its public assistance obligations. § 53-2-323, MCA.

Section 53-2-323, MCA, provides in pertinent part:

> A county may apply to the department for an emergency grant-in-aid, and the grant shall be made to the county upon the following conditions:
>
> 1. The board of county commissioners or a duly elected or appointed executive officer shall make written application to the department for emergency assistance and shall show by written report and sworn affidavit of the county clerk and recorder and chairman of the board of county commissioners or other duly elected or appointed executive officer of the county the following:

> (a) that the county will not be able to meet its proportionate share of any public assistance activity carried on jointly with the department;
> (b) that all lawful sources of revenue and other income to the county poor fund will be exhausted;
> (c) that all expenditures from the county poor fund have been lawfully made; and
> (d) any other information required by the department.

Section 53-2-321, MCA, specifically authorizes the counties "to levy and collect annually a tax on property not exceeding 13½ mills...." This is the only mill levy authorized for public assistance. Thus, referring to county mill levies, as opposed to other unrelated sources of revenue, once a county has levied and collected 13 1/2 mills for purposes of the county poor fund it has exhausted "all lawful sources of revenue" and thus met the requirement of section 53-2-323(1)(b), MCA.

However, those counties which have adopted self-government powers are specifically excluded from the mill levy limitations imposed by law. Section 7-1-114, MCA, provides in part:

> 1. A local government with self-government powers is subject to the following provisions:
>
> ....
>
> (g) any law regulating the budget, finance, or borrowing procedures and powers of local governments, except that the mill levy limits established by state law shall not apply. [Emphasis added.]

Your question is whether a county with self-government powers is eligible for a grant-in-aid after it has levied and collected 13½ mills.

The cardinal principle of statutory construction is that the intent of the Legislature is controlling. Baker National Insurance Agency v. Montana Department of Revenue, 175 Mont. 9, 571 P.2d 1156 (1977). Where there is no language in a statute specifically expressing legislative intent, that intent may be determined through resort to the legislative history. Department

of Revenue v. Puget Sound Power and Light, ___ Mont. ___, 587 P.2d 1282 (1978). Prior to amendment in 1977, the pertinent provision of section 53-2-323, MCA (then codified at section 71-311, R.C.M. 1947), provided:

> If the whole six mill levy together with the whole of the per capita tax authorized by said section 71-106, and the income to the county poor fund from all other sources shall prove inadequate to pay for the general relief in the county...the State Department of Public Welfare shall, insofar as it has funds available, come to the assistance of such county....

The section was amended twice in 1977. The first amendment was made in Laws of Montana 1977, chapter 37, section 31. The second amendment to the section was adopted in Laws of Montana 1977, chapter 168, section 1. Chapter 168 rewrote the section in its present form.

The code commissioner did not codify the amendments contained in chapter 37. In the 1977 cumulative supplement to the Revised Codes of Montana, Volume 4, part 2, following section 71-311, R.C.M. 1947, the compilers note provides: "This section was amended twice in 1977, once by Ch. 37 and once by Ch. 168. The code commissioner has directed that the section be set forth as amended by Ch. 168." Thus, section 53-2-323, MCA, as it is presently codified, contains no reference to the amendments made by chapter 37, Laws of Montana 1977. However, chapter 37, was a legally enacted statute and it is crucial in determining the legislative intent on the question you have asked. Chapter 37 substituted "if the whole of the 13.5 mill levy authorized by 71-106" at the beginning of the section for "if the whole six mill levy together with the whole of the per-capita tax authorized by said section 71-106." Section 71-106, R.C.M. 1947, was the 13.5 mill levy limit now codified in section 53-2-321, MCA.

By enacting chapter 37, the Legislature specifically limited the scope of the application for a grant-in-aid to whether the county had levied and collected the "whole of the 13.5 mill levy" authorized by the referenced section. The statutes must be read and considered in their entirety. Legislative intent may not be gained from the wording of any particular

sentence or section but only from a consideration of the whole. Teamsters Local #45 v. Cascade City School District, 162 Mont. 277, 511 P.2d 339 (1973).

The reference in chapter 37 to the specific mill levy limit authorized now in section 53-2-321, MCA, read together with language requiring exhaustion of all sources of revenue makes it clear that in reviewing an application to the department for a state grant-in-aid, the Legislature intended that the review be limited to the mill levy authorized in section 53-2-321, MCA. That is the only interpretation that endows the chapter 37 amendment with substance. Each component of a statute must be construed in such a way that each has some meaning, vitality and effect, Burritt v. City of Butte, 161 Mont. 530, 534, 508 P.2d 563 (1973), and each must be given a reasonable construction which will provide harmony with its other provisions. State Board of Equalization v. Cole, 121 Mont. 9, 20, 195 P.2d 989 (1948).

While counties with self-government powers are not subject to statutory mill levy limits it does not necessarily follow that such counties must levy more than 13.5 mills to be eligible for a grant-in-aid. All that is required is that the county exhaust "the whole of the 13.5 mill levy" authorized in section 53-2-321, MCA. To hold otherwise would mean that the taxpayers of those counties having adopted self-government powers would be subject to unlimited mill levies for the support of the county poor fund and never be eligible for the state grant-in-aid program. Residents of local governments with general government powers would be subject only to the 13.5 mill levy under section 53-2-321, MCA. Clearly this is not the intended result. Legislation enacted to promote the public health, safety and general welfare is entitled to broad construction with the view toward the accomplishment of the highly beneficial objectives, and exceptions should be given a narrow interpretation. State ex rel. Florence Carlton School District v. Ravalli County, 35 St. Rptr. 1836, ___ P.2d ___ (1978).

THEREFORE, IT IS MY OPINION:

For purposes of the state grant-in-aid program, counties with self-government powers are eligible for a grant if they have exhausted all of the 13.5

mill levy authorized by section 53-2-321, MCA, assuming the county has satisfied all other requirements specified in section 53-2-323, MCA.

Very truly yours,

MIKE GREELY
Attorney General