

VOLUME NO. 37

OPINION NO. 138

PUBLIC OFFICERS - Local government contribution to group health insurance premiums; LOCAL GOVERNMENT - Contribution to group health insurance of officers; INSURANCE - Contribution of local government; REVISED CODES OF MONTANA, 1947 - Section 11-1024.

- HELD: 1. A local government unit is required, upon approval of two-thirds of its officers and employees, to contribute to the group health insurance plan of its officers.
2. A local government is not required to contribute a specific amount to the group insurance program of its officers.

21 April 1978

Theodore P. Cowan, Esq.  
 Lewistown City Attorney  
 208 Bank Electric Building  
 Lewistown, Montana 59457

Dear Mr. Cowan:

You have requested my opinion on the following question:

Was it the intent of the legislature in amending section 11-1024, R.C.M. 1947, to exclude officers of local government units from receiving a local government contribution to their group health insurance plan?

Section 11-1024, R.C.M. 1947, was amended twice during the 1977 session of the Legislature. Prior to amendment, the section read in pertinent part:

Group Insurance for All Departments, Bureaus, Boards, Commissions and Agencies of the State of Montana, County, City and Town Officers and Employees--Authority--Approval of Employees--Limit on Contributions.

(1) All departments, bureaus, boards, commissions and agencies of the State of Montana, and all counties, cities and towns shall...enter into...insurance contracts or plans for the benefit of their officers, employees and their dependents, and the respective administrative and governing bodies shall pay for such insurance ten dollars (\$10.00) per month for each officer, employee, and legislator, and provided that for all employees defined in (2) of this section and for members of the legislature, such payment for insurance may be an amount equal to twelve (12) times the monthly rate, but may not exceed one hundred and twenty dollars (\$120.00) per year.

However, for employees of elementary and high school districts and of local government units, the employer's premium contribution may exceed but shall not be less than the amount specified in this section. (Emphasis added.)

Laws of Montana (1977), ch. 259 rearranged section 11-1024 but did not change the meaning of the prior law. The amendment still required the respective administrative and governing bodies to contribute ten dollars (\$10.00) a month toward the insurance premium of each officer, employee and legislator.

Section 11-1024 was also amended by Laws of Montana (1977), ch. 563. These amendments increased the one hundred and twenty dollar (\$120) limitation for employees in the executive and legislative branches of state government, and eliminated the above quoted language requiring a contribution of ten dollars (\$10.00) per month for each officer, employee and legislator.

Since the amendments do not appear to conflict, the Code Commissioner made a composite section embodying the changes made in both amendments. Section 11-1024 as compiled reads in pertinent part:

Group Insurance for Public Employees and Officers:

(1) All...cities and towns shall, upon approval by two-thirds vote of the officers and employees... enter into group hospitalization, medical, health... insurance contracts or plans for the benefit of their officers, employees and their dependents. (Emphasis added.)

(2) (a) The respective administrative and governing bodies shall contribute the amount specified in this section towards the insurance premium. For employees defined in subsection (5) of this section, other than members of collective bargaining units, and for members of the legislature, the employer contribution for insurance shall be \$240 per year for the fiscal year ending June 30, 1978, and \$360 per year for each fiscal year thereafter. The employer shall prorate this amount for employees who work less than 2,080 hours per year. For employees of elementary and high school and of local government units, the employer's premium contributions may exceed but shall not be less than \$10 per month.

(b) For state employee members of a collective bargaining unit, the employer shall pay the amount negotiated with the collective bargaining unit.

Although the specific language requiring the local government to contribute ten dollars (\$10.00) each month for each officer, employee and legislator was repealed, it is clear the Legislature did not intend to completely eliminate all government assistance. Section 11-1024 specifically requires a local government, upon approval of two-thirds of all its officers and employees, to enter into contracts for the health insurance plan of its officers. On that point the statutory language is plain and unambiguous and there is nothing to construe. State ex rel. Huffman v. District Court, 154 Mont. 201, 461 P.2d 847 (1969).

By requiring the local government to enter into contracts did the Legislature intend to require a contribution to the premium of each officer? It is my opinion that a contribution is required.

Clearly the purpose of the statute, both before and after amendment, is to provide health insurance programs for officers and employees of local government. A statute must not be interpreted to defeat its evident purpose, since objects sought to be legislatively achieved are of prime consideration. Doull v. Wohlschlager, 141 Mont. 354, 377 P.2d 758 (1963). A reasonable interpretation would assume that the Legislature still intended officers to be treated similarly to other employees. The Legislature eliminated the specific amount of the government contribution, however it does not necessarily follow that it intended to change the tenor of the entire act. Statutes must be read and considered in their entirety; legislative intent may not be gained from the wording of any particular section, but only from a consideration of the whole. Teamsters' Local #45 v. Cascade County School District, 162 Mont. 277, 511 P.2d 339 (1973). The health insurance program for officers is referred to in various places throughout the act. The heading refers to group insurance for public employees and officers. Headings can be used in resolving any ambiguity. Senate Bill No. 23 v. Lamoreaux, 168 Mont. 102, 540 P.2d 975 (1975). It is evident from a reading of the entire statute that the Legislature did not intend to eliminate the contribution of the local government.

The Legislature did eliminate the specific dollar amount of the local governments' contribution. It has long been held that the Legislature does not intend useless acts. Any material change in the language of the original act is presumed to indicate a change in legal rights; a change in substance rather than form. Montana Milk Control Board v. Community Creamery, et al., 139 Mont. 523, 366 P.2d 151 (1961). No specific amount is required to be contributed by the local government. A reasonable interpretation would suggest that officers be treated the same as other employees.

THEREFORE, IT IS MY OPINION:

1. A local government unit is required, upon approval of two-thirds of its officers and employees, to contribute to the group health insurance plan of its officers.
2. A local government is not required to contribute a specific amount to the group insurance program of its officers.

Very truly yours,

MIKE GREELY  
Attorney General