

VOLUME NO. 38

OPINION NO. 84

COUNTY ASSESSOR - Office space;  
COUNTY GOVERNMENT - Provision of office space for county  
assessor and staff;  
DEPARTMENT OF REVENUE - Provision of office space for county  
assessor and staff;  
MONTANA CODE ANNOTATED - Section 15-8-102(2);  
1979 MONTANA LAWS - House Bill 493.

HELD: The county commissioners are required to pay for office space for the Department of Revenue if space is reasonably available in the county courthouse or other government buildings. If such space is not reasonably available and must be contracted for, then the Department of Revenue must pay the cost.

27 June 1980

Thomas C. Honzel, Esq.  
Deputy County Attorney  
Lewis & Clark County Courthouse  
Helena, Montana 59601

Dear Mr. Honzel:

You have requested an opinion whether county commissioners are required to provide office space in a non-county building to the Department of Revenue, at no cost to the State, when such space is not reasonably available in the courthouse.

Your question involves the interaction of apparently conflicting statutory provisions. Section 15-8-102(2), MCA, provides:

COUNTY ASSESSOR AS AGENT OF THE DEPARTMENT -  
COUNTIES TO FURNISH OFFICE SPACE.

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(2) The county commissioners of the various counties shall provide existing office space in the county courthouse for use by the county assessor, his deputies and staff, and the state appraiser and staff, if such space is reasonably available. If such space is not reasonably available in the courthouse and the same must be contracted for, the department shall pay the cost

thereof. Additional personal property required by the department for the assessor to perform his duties as agent of the department shall be provided by the department.

(Emphasis added.) During the 1979 legislative session, House Bill 914 was introduced which would have amended section 15-8-102, MCA, to require counties to provide office space whether in the courthouse or not. That bill was defeated. However, House Bill 493, the Department's appropriation bill, provides:

The county commissioners of the various counties and the governing bodies of local government units shall provide office space in county courthouses or government office buildings to the department of revenue of the state for its use at no cost to the state. The department is not liable for any expenses in connection with the use of such space, including but not limited to rent, utilities, or janitorial services. The department shall use such space as offices for its agents: the county assessor, appraiser, and their respective staffs.

(Emphasis added.)

A general appropriation bill, although not codified, is treated the same as any other statute for purposes of resolving statutory conflict. See, e.g., Teamsters Local No. 45 v. Liquor Control Board, 155 Mont. 300, 471 P.2d 541 (1970). Your question therefore requires application of principles of statutory construction to understand the legislative intent of the two statutes.

Before a subsequent enactment can repeal an earlier provision by implication, the two statutes must be wholly inconsistent, incompatible and not capable of being reconciled. State ex rel. Jenkins, v. Carish Theatres, Inc., 172 Mont. 453, 564 P.2d 1316 (1977); Fletcher v. Paige, 124 Mont. 114, 119, 220 P.2d 484; 19 A.L.R.2d 1108 (1950). Both statutes must be given effect if possible. State ex rel. Ronish v. School District No. 1, 136 Mont. 453, 348 P.2d 797, 78 A.L.R.2d 1012 (1960).

The two statutes quoted above can be read together. Section 15-8-102(2), MCA, requires the county commissioners to provide office space in the courthouse if space is reason-

ably available. House Bill 483 requires the counties to provide office space in the courthouse but allows for office space in other government buildings, such as the Helena city-county building, to be provided at county expense. The Department is not liable for expenses for use of such space, i.e., office space in a government building. House Bill 483 does not address the situation where office space is not reasonably available in a government building. By reading the statutes together I conclude that the Department of Revenue must contract and pay for office space if space is not reasonably available in the courthouse or other government buildings.

THEREFORE, IT IS MY OPINION:

The county commissioners are required to pay for office space for the Department of Revenue if space is reasonably available in the county courthouse or other government buildings. If such space is not reasonably available and must be contracted for, then the Department of Revenue must pay the cost.

Very truly yours,

MIKE GREELY  
Attorney General