

VOLUME NO. 40

OPINION NO. 14

ELECTIONS - Staggering of terms of office of directors
of county water and sewer districts;
WATER AND SEWER DISTRICTS - Staggering of terms of
office of directors;
MONTANA CODE ANNOTATED - Section 7-13-2234.

HELD: The provisions of section 7-13-2234(3), MCA,
which provide for staggered terms of office
for elected water and sewer district directors
apply to all counties in which water and sewer
directors are elected.

5 July 1983

James C. Nelson
Glacier County Attorney
Glacier County Courthouse
Cut Bank MT 59427

Dear Mr. Nelson:

You have asked my opinion on the following question:

Does section 7-13-2234(3), MCA, apply to
boards of directors of county water and sewer

districts whose original boards were elected before July 1, 1979?

Section 7-13-2234(3), MCA, provides that directors elected "at the first regular election" after July 1, 1979, shall serve staggered terms, and at their first meeting they shall determine by lot which of them shall serve for a term of two years rather than for a regular term of four years. Your question concerns whether the use of the phrase "at the first regular election ... after July 1, 1979" in the statute means that the staggering provision applies only to a county whose first board of directors is elected after July 1, 1979. I conclude that it does not.

Section 7-13-2234, MCA, was amended in 1979 to provide staggered terms of office for elected directors of county water and sewer districts. The relevant portions of the amendments were contained in chapter 538, Senate Bill No. 462 (1979). Chapter 538 was entitled "An Act to Stagger Elections and Terms of Office of Directors of County Water and Sewer Districts." The title of an act may be looked to in order to determine legislative intent. In re Coleman's Estate, 132 Mont. 339, 343, 317 P.2d 880, 882 (1957). During discussions before the House Local Government Committee on March 8, 1979, Senator Manley referred to the bill as a means of correcting an oversight in the then-existing law which contained no provision for staggered terms of directors. The discussion does not make a distinction between counties whose boards were first elected before July 1, 1979, and those whose boards were first elected after July 1, 1979. The intention of the Legislature is controlling in construing a statute. State Bar of Montana v. Krivec, 38 St. Rptr. 1322, 1324, 632 P.2d 707, 710 (1981). Both the title of the act that amended the statute and the committee discussions suggest that the Legislature intended staggered terms for all elected directors.

The specific terms used in section 7-13-2234(3), MCA, also support my conclusion. The statute simply speaks of "directors" elected after July 1, 1979, rather than directors in counties whose original boards were elected after July 1, 1979. I cannot impute a legislative intent to restrict the application of section 7-13-2234(3), MCA, by statutory construction.

THEREFORE, IT IS MY OPINION:

The provisions of section 7-13-2234(3), MCA, which provide for staggered terms of office for elected water and sewer district directors apply to all counties in which water and sewer directors are elected.

Very truly yours,

MIKE GREELY
Attorney General