

DEPARTMENT OF COMMERCE - Responsibility to audit a state grant request for district courts under section 7-6-2352, MCA;  
DISTRICT COURTS - Eligibility for state grants under section 7-6-2352, MCA;  
MONTANA CODE ANNOTATED - Sections 1-2-101, 7-6-2341 to 7-6-2345, 7-6-2352.

HELD: Under section 7-6-2352, MCA, county governments may be eligible to receive state grants to district courts only after the completion of the fiscal year in which the need for assistance arose.

13 March 1984

J. Fred Bourdeau  
Cascade County Attorney  
Cascade County Courthouse  
Great Falls MT 59401

Dear Mr. Bourdeau:

You requested an opinion concerning whether county governments would be eligible to receive state grants to district courts under section 7-6-2352, MCA, before the end of the fiscal year in which the need for assistance arose.

This statute, enacted in 1979, was amended most recently in 1983 to clarify the language and facilitate financial assistance to the district courts. In regard to your question, the statute appears to be clear and unambiguous. I cannot construe the statute to contain matter which the Legislature failed to include. § 1-2-101, MCA. It is my opinion that the statute precludes a county from obtaining financial assistance prior to the close of the fiscal year in which the need for the assistance arose.

The statute in its entirety refers to the year in which the need for assistance arose as a county's previous fiscal year. Subsection (2) requires a county to submit a written request to the Department of Commerce "by July 20 for the previous fiscal year." The manner in which the county must compute the amount of financial

assistance necessitates using figures that represent all district court fund revenues received and expenditures made during the previous fiscal year. § 7-6-2352(3)(a), (b), MCA.

My conclusion is also based on the operative effect of subsection (1), which provides in part: "If the department approves grants in excess of the amount appropriated, each grant shall be reduced an equal percentage so the appropriation will not be exceeded." This pro rata distribution of the available funds necessarily precludes the Department from distributing any of the money until the requests from all counties are in and their proportionate shares can be computed.

My conclusion is based on one further consideration. A county's application for the grant must certify that all expenditures from the district court fund have been lawful and statutorily authorized. § 7-6-2352(2), MCA. The statute provides for an audit by the Department of Commerce of each approved grant request. The purpose of the audit is to determine if the county received a grant in excess of the amount for which it was eligible, and to determine if the county owes the Department a refund for a prior year's overpayment. § 7-6-2352(7), (8), MCA. Through this audit, the Department is able to examine the past year's revenues and expenditures. However, if the grant is awarded in the middle of the fiscal year, the Department has neither the authority nor a means of monitoring expenditures and revenues that have yet to occur in the fiscal year.

In conclusion, it is clear that if the counties were to receive the funds during the fiscal year, the statutory eligibility requirements could not be met by the counties, the fiscal activities occurring in the remainder of the year could not be examined by the Department pursuant to the statute, and proportionate distribution to all applicants of the available funds would not be possible. The Legislature evidently intended the counties to issue registered warrants if necessary during the fiscal year, to be paid later by the grant money. See §§ 7-6-2341 to 2345, MCA.

THEREFORE, IT IS MY OPINION:

Under section 7-6-2352, MCA, county governments may be eligible to receive state grants to district

courts only after the completion of the fiscal year  
in which the need for assistance arose.

Very truly yours,

MIKE GREELY  
Attorney General