

OPINIONS OF THE ATTORNEY GENERAL

VOLUME NO. 42

OPINION NO. 52

COUNTIES - Operation of county assessor's office;  
COUNTY COMMISSIONERS - Operation of county assessor's  
office;  
COUNTY OFFICERS AND EMPLOYEES - Operation of county  
assessor's office;  
REVENUE, DEPARTMENT OF - Operation of county assessor's  
office;  
TAXATION AND REVENUE - Operation of county assessor's  
office;  
MONTANA CODE ANNOTATED - Sections 2-18-103, 7-4-2110,  
7-4-2203, 7-4-2401, 7-4-2503, 7-4-2505, 15-8-102;  
OPINIONS OF THE ATTORNEY GENERAL - 42 Op. Att'y Gen. No.  
23 (1987), 36 Op. Att'y Gen. No. 68 (1976).

HELD: The Department of Revenue is responsible for  
the internal operation of a county assessor's  
office, including employment practices, except  
with regard to county assessors and their  
deputies, whose employment is controlled by  
statute.

8 January 1988

Patrick L. Paul  
Cascade County Attorney  
Cascade County Courthouse  
Great Falls MT 59401

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Dear Mr. Paul:

You requested my opinion concerning the following issue:

Is the county assessor or the Department of Revenue responsible for setting the policies and internal operating procedures of the office of a county assessor?

The county assessor is listed in section 7-4-2203, MCA, as one of the county officials who may be elected or appointed in each county, and section 7-4-2110, MCA, provides that the county commissioners have the power to supervise the official conduct of all county officers. However, section 15-8-102, MCA, states that county assessors are agents of the Department of Revenue (DOR) "for the purpose of locating and providing the department a description of all taxable property within the county, together with other pertinent information, and for the purpose of performing such other administrative duties as are required for placing taxable property on the assessment rolls." Thus, the question is whether the State Department of Revenue or the county is responsible for the assessor's office.

The argument was recently made in the Montana Supreme Court that county commissioners, pursuant to section 7-4-2110, MCA, are responsible for the actions of a county assessor. The Court responded as follows:

Section 7-4-2110, MCA, gives the county commissioners supervisory power over the county assessors "under such limitations and restrictions as are prescribed by law . . ." Section 15-8-102, MCA, is such a limitation prescribed by law. This much newer statute makes the county assessor an agent of DOR. . . The changes made in 1973 removed supervision of all internal operations of the assessor's office from the County Commissioners and placed it with DOR.

Cantwell v. Geiger, 44 St. Rptr. 1574, 1577, \_\_\_ P.2d \_\_\_ (1987). Thus, generally speaking, the internal operations of a county assessor's office are the responsibility of the DOR.

More specifically, you asked which entity is responsible for the hiring, firing, and assignment of duties of employees in a county assessor's office. The county assessors are elected or appointed and therefore serve at the instance of the electorate or appointing power. § 7-4-2203, MCA. Any deputy assessors serve at the

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instance of the county assessor. § 7-4-2401, MCA. County assessors and their deputies are paid by the county. §§ 7-4-2503, 7-4-2505, MCA. See also § 2-18-103, MCA; 42 Op. Att'y Gen. No. 23 (1987). On the other hand, the other people in the county assessor's office are state employees, who are hired by the DOR. 36 Op. Att'y Gen. No. 68 at 453 (1976). Thus, the DOR has the power and responsibility for the hiring, firing, and assignment of duties of employees in a county assessor's office, with the exception of the county assessors and their deputies.

THEREFORE, IT IS MY OPINION:

The Department of Revenue is responsible for the internal operation of a county assessor's office, including employment practices, except with regard to county assessors and their deputies, whose employment is controlled by statute.

Very truly yours,

MIKE GREELY  
Attorney General