

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on January 31, 1991,
at 3:08 p.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: Thomas Beck (R)

Staff Present: Connie Erickson (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: none

HEARING ON SB-160

Presentation and Opening Statement by Sponsor:

Senator John Kennedy, Jr., District 3, introduced this bill as a simple housekeeping bill. There are two changes in this bill to get back to the original intent of the legislation. The first change is to correct the problem in the Department of Administration in recovering their costs of administering the program. Second is language to modify the number of warrants issued by the 911 program.

Proponents' Testimony: Tony Herbert, Assistant Administrator for the Information Services Division, (ISD) Department of Administration. His office is responsible for the management of

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the statewide 911 program and legislation that is currently in place. Senator Kennedy indicated that this bill has two housekeeping changes associated with it, that ISD feels are important to clear up the management of the program. For general information, Mr Herbert described the program and where it is today. A 25 cent fee is assessed to all subscriber lines in the state of Montana, that is paid on a monthly basis to the phone company that serves their area. The phone companies turn those dollars back over to the Department of Revenue on a quarterly basis, who then make them available to the Department of Administration to administer the program. There are three major areas where expenditures are made from those collection prior to them being distributed back to 911 systems. #1. Payments to the phone companies for work they have done in the previous quarter to upgrade their telephone systems to be 911 compatible. #2. The Department of Revenue is paid up to 1% of the amount collected for their actual expenses for the collection effort they had to go through. #3. Department of Administration is paid up to 7% of the amount collected or their actual expenses of the quarterly collection to administer the program. The balance of the 911 program on a quarterly basis is then allocated to all cities and counties on a per capita basis. Any 911 jurisdiction that has a final approved plan with his office will then receive monies from this account on a quarter. Those monies are distributed directly to the cities and county treasurers, who in then turn those dollars back over to the designated 911 jurisdiction accounting entity. That may be the county treasurer in one instance and a city treasurer somewhere else. It varies by 911 system. The two changes in this bill. In the law, the department of Administration can collect on a quarterly basis, 7% of the department's expenses incurred in the previous quarter. The change to bill would modify this to read that Department of Administration may collect 7% of the annual collection, or their actual expenses. The purpose of the change is that the fund produces about \$1.1 million on an annual basis, or slightly over \$250,000/quarter. Those inflows of revenue are fairly even. However, expenses in the department are not even. Sometimes we are above that 7% limit. That limit of \$250,000 is about \$18,600. In one quarter expenses might be \$20,000, but were only allowed to collect \$18,600. Then in the next quarter, they may have only spent \$17,000, and that is all the department could collect. The quarters that expenses go over are never collected by the end of the year. The change then makes it 7% of the annual collection to allow for these quarters with higher expenses. This will make \$3-4,000 more dollars will be recovered by the department of Administration, than is currently being recovered. Those are expenses that are incurred, and are unable to collect the funds to cover them. The second change relates to

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when the money is sent to the cities and counties. Currently the law directs the department to send it to the cities and counties based on per capita. They then turn the funds over to the 911 jurisdiction accounting entity that is serving that city or county. What this bill suggests is to have these monies sent directly to the 911 jurisdiction's accounting entity. They are designated with the department of Administration. They are either a city or county treasurer typically. This change will mean sending 350 fewer state warrants to accomplish the same thing. That also means 350 fewer state warrants have to be received in cities and counties, and then turned back out to the various 911 jurisdictions. This is the magnitude of this housekeeping change, and it is a very positive change for the department, and they have received positive reaction from local governments.

Senator Bob Williams, District #15, had introduced a similar bill sponsored by MACo. After discussion, rather than amending his bill with things the Department of Administration wanted, it seemed easier to table his bill. If this bill does not pass, he will resurrect his bill, but he strongly endorsed this bill.

Gordon Morris, Executive Director, Montana Association of Counties, MACo, said that his group supports this bill, and that their bill had been tabled in lieu of SB-160. He asked for the committee's favorable consideration.

Lyle Naegle, Montana State Volunteer Firefighters Association, MSVFA, and they support this bill. He lives in a multi-agency jurisdiction. There are four cities and one county in one jurisdiction. The money now going to all these different places is not being dispersed to whom it belongs. The county has been sitting on funds for a year that belongs to the 911 jurisdiction. This bill would stop this problem.

Dan Walker, U.S. West Communication, introduced himself and said he was available to answer any questions.

Opponents' Testimony: none

Questions From Committee Members:

Senator Harding asked Tony Herbert to go over the last portion regarding the number of warrants and the savings involved? Mr. Herbert said that checks on a quarterly basis to all the cities and counties who are part of the approved 911 jurisdictions. For example, Lewis and Clark County, you have the county, the city of Helena, Canyon Creek, Augusta, Jefferson County as part of this system. The department of Administration sends out 6 warrants on

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a quarterly basis to each of them. The accounting entity for that is the city of Helena. All of them, with the exception of the city of Helena, have to turn around and send those dollars to the city of Helena. This bill would correct the number of warrants sent out. The current 911 system covers 65% of Montana, and so the number of warrants will only increase.

Senator Eck asked Mr. Herbert what is going as an outreach in this program? Do individual communities get together or does U.S. West to set up the system? Mr. Herbert said that the 911 laws that are in place is considered permissive, not mandatory for the state to go out and put in local 911 system. If local governments choose to put in 911 systems, they have control over it. They submit plans to the department of Administration in a preliminary form, they are reviewed, and work with them to make a final plan and final agreement. The department of Administration has no mechanism, other than the success of the program, to work with other counties to prod them along. There is a good deal of success, and the program has really just begun in 1987, and there is a lot of active planning going on in those areas that do not have 911. The carrot of the dollars sitting in the treasury awaiting those final plans to come forward is a key motivating factor that keeps the program going.

Senator Thayer asked Mr. Herbert about the language on the bottom of Page 1, line 25, said that they can recover their actual costs as long as they do not exceed 7%. He understood the bill to read that up to 7% could be collected regardless of the whether it has anything to do with actual costs. If more people come into the system, shouldn't it be more cost effective? Isn't there some economy of scale? Mr. Herbert said that they can not charge more than the cost of the program, nor would they be able to exceed that 7%. The change would make the 7% based on an annual collection, so it will help with the uneven humps in expenses. Senator Thayer said that he was trying to point out that in the future they may bring in \$2-4 million and their costs would run about 2-4% to administrate. It does not really say that you are entitled to only recover the actual costs. It just says you can recover up to 7%. Mr. Herbert understood Senator Thayer's concern. The intention was to only recover actual costs, but for the next 4 years, the new programs require a great deal of work. Senator Thayer thought the language needed to be changed. Mr. Herbert said if you'd like to amend the bill, to clarify the language, that the department would have no problem with it.

Senator Eck suggested that Page 1, Subsection a, the language adds "actual expenses incurred, whichever is less". Mr. Herbert agreed that it would leave the language flexible, so the big

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expenses in a quarter would be covered. Senator Eck said that the language could read "the departments annual recovery cost may not exceed 7% of the amount collected... in the fiscal year, or actual expenses incurred, whichever is less." Mr. Herbert agreed that this was the full intention of the bill, so language to clarify this would be fine.

Closing by Sponsor: Senator Kennedy closed by saying that he would agree to amending this bill to clarify its intent. He added that he had talked with the City Clerk of Kalispell and the County Treasurer of Flathead County, and they both said they would welcome this change. The city currently deposits checks for 911, and then turns around and writes the check for the same amount to the county. This would lessen the paperwork.

HEARING ON SB-162

Presentation and Opening Statement by Sponsor:

Senator Ethel Harding, District 25, said that the Department of State Lands asked her to sponsor this bill. This bill will cut down on paperwork. Currently the Metal Mine Acclamation Act, or "Hardrock Act" as it is commonly called, the department of state lands regulates mining of gold, silver, copper, and other hardrock minerals. In 1971 when the law was enacted, the requirement that persons who locate mineral claim to the state, must file a copy of the certificate of claim location with the department of state lands, and also the County Clerk had to file the same document to department of state lands. For a number of years, all or many of the county clerks complied with the law. Eventually, the department of state lands told them they could stop sending the information, and they have not done so for at least a decade. The department has advised her that it no longer requires the copies from the claim locators, because the information is not useful. Technically, for both filing requirements, the law is still there, and this bill would remove them from the books. Senator Vaughn did this type of work in her

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county, and she agrees it would remove paperwork.

Proponents' Testimony: John North, Department of State Lands, supported this bill. (Exhibit #1). He added that other filing systems in place, provide the same information and are more efficient.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

Senator Harding closed by saying that this is a good bill, and requested the committee give a Do Pass to SB-162.

EXECUTIVE ACTION ON SB-162

Motion: Senator Harding moved to Do Pass SB-162, and put it on the consent calendar.

Discussion: none

Recommendation and Vote: The vote passed unanimously and will be placed on the consent calendar. The vote was recorded as a roll call vote.

EXECUTIVE ACTION ON SB-160

Motion: Senator Eck moved to amend the language on Page 2, line 3, after year we add "actual expenses incurred, whichever is less". This is the same language that is used in Subsection a. It would still be the departments annual recovery cost.

Discussion: Senator Hammond felt that the annual cost was already stated in the bill. Senator Vaughn said that the 7% was the funds collected. Senator Bengtson asked if Mr. Herbert's suggestion of inserting on line 25, "actual" cost. Senator Eck felt that the amendment was the correct way to word the intent.

Amendments, Discussion, and Votes: Senator Bengtson asked for

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the question on the motion to move the amendment. The amendment based unanimously. Senator Eck then moved that the committee Do Pass as Amended SB-160.

Recommendation and Vote: Senator Waterman asked if this amendment changed the distribution of funds. Page 2 talks about per capita, and on page 3 it talks about the number of phone subscribers. She asked the committee if this is the existing allocation. Per capita basis may be different from the number of subscribers. Senator Eck withdrew her motion, so the committee can get this clarified before they pass this amended bill.

EXECUTIVE ACTION ON SB-107

Discussion: Senator Thayer said that he considered his reservations about the language in this bill. It finally sunk in that it is flexible and will allow allocation of more funds if needed, by the language in Subsection c. Senator Bengtson said that County Commissioner Mathew took it before MACo and they had their executive meeting bounce it around. They decided the bill was o.k.

Motion: Senator Vaughn moved to Do Pass SB-107.

Recommendation and Vote: The vote was unanimous. The secretary will collect Senator Beck's vote.

EXECUTIVE ACTION ON SB-108

Discussion: Senator Thayer asked C. Erickson if the language on Page 2, Subsection 3, line 10, if the words "ballots may not be cast", could be eliminated. C. Erickson said there was no problem, and that the intention was to declare a winner by acclamation. Senator Bengtson suggested that the wording be "written ballots need not be cast".

Amendments, Discussion, and Votes: Senator Thayer moved amend SB-

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108 by putting a period after acclamation on line 10, and delete " and ballots may not be cast".

Motion: The motion to amend SB-108 passed unanimously.

Recommendation and Vote: Senator Thayer then moved that SB-108 Do Pass as Amended. The vote was unanimous. Senator Beck's vote will be added.

Discussion: SB-102 is awaiting amendments. C. Erickson asked the committee not to take action on this bill until she can prepare the amendments. She also asked that the committee members not send interested parties to her with amendments. The procedure of having amendments go through the bill sponsor and the committee needs to be followed.

EXECUTIVE ACTION ON SB-126

Discussion: Senator Bengtson said that Senator Aklestad had whispered in her ear before the committee meeting started, that he would agree to have the bill amended with a grandfather clause for those entities that already have chosen the nonpartisan method for local elections. Senator Bengtson was not sure if the committee would draft this amendment or not.

Motion: Senator Eck said that before work on amendments was done, she would like to move to Table SB-126.

Discussion, and Votes: Senator Hammond asked if it took a majority to take this bill off the table? The answer was yes. Senator Thayer felt that there is some merit in nonpartisan elections at the local level. Great Falls has nonpartisan elections while the County has partisan elections. He felt there was room for both, and that it should be up to the local community to decide.

Senator Eck said that the local residents can decide in a local review in 1994. She felt that there is an advantage to partisan involvement. Many places find it difficult to find candidates. Frequently, people that run are not qualified for the job, but see it as a source of extra income. Then, when they are elected

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because they had no competition, the county or city still has to hire someone qualified to do the job, like surveyors for the Assessor's office. With the partisan system, some counties have become more important than the Legislature.

Senator Harding said that she sees room for both, and possibly not enough voters know and understand the review system. This bill would provide the option without the problem of going through the review. Senator Eck's statement about rural areas being less political and the people want to be non-political, so this bill would make that step easier.

Senator Waterman stated that the vast majority may want to change to nonpartisan. The reason she would vote to leave the system partisan is because she finds that local partisan elections to be a moderating force to the parties. People at the local level do vote for the person not the party. That sends a message to the parties to be very responsive to the local level. Some of the most moderate party people are at the local level. Without those people at the local level, then the moderating force is not there at the state wide level. Senator Waterman said that she thought we would see Legislative races become more partisan without the moderating force in local elections. People know there county officials as people, not a party person.

Senator Vaughn agreed with Senator Waterman. She felt small areas have less political experience, and so the support from the party on how to run a campaign, how to canvass, etc. helps a newcomer. The party does seek out people that they feel are qualified for the job.

Senator Hammond said all areas are different. His county had 11 candidates for county commissioner. None were partisan, but they each selected a party to represent, and that selection was probably based on which party they thought had the most influence. But the voters choose the candidate for what he stands for not the political party. Senator Hammond said discussions at the Chamber of Commerce and Rotary Clubs shows people continue to say that local government should not be political. Senator Eck stated that those groups are all Republicans! Senator Hammond disagreed by saying the president of the Chamber is complete Democrat.

Senator Thayer felt that more people would run for election if the race were nonpartisan. They do not want to be involved in party politics, and they want to be judged by their qualifications. Great Falls city council almost ran the city into bankruptcy, and then the people revolted and went to the

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city manager system and nonpartisan elections. Senator Thayer said he was not saying that the county system wasn't working, but there are people that would run in county if it weren't partisan.

Senator Bengtson said that there is also voter apathy in the local government review system. If it weren't for the political parties stimulating people to become candidates where would we be.

Senator Hammond said that party activity varies. He has had no help from the local party.

Senator Eck said that local elections might get quite a few candidates for county commissioner, but when you get to some of the other positions like treasurer, recruitment brings in qualified candidates that can handle those positions.

Senator Waterman felt that if good people don't run because they don't to choose a party, then you would see a lot more people file as Independents and get elected because people did not want to choose. Senator Hammond questioned the effectiveness of the parties, by saying that in the past one party helped someone get elected that was using an alias.

Recommendation and Vote: Senator Bengtson called for the question. A roll call vote was taken on the motion to Table SB-126. The motion carried by a vote of 5 to 4.

EXECUTIVE ACTION ON Possible Committee Bill

Discussion: Linda Stoll-Anderson was directed by this committee to research and prepare local boards and commissions that need Legislation to perform. These boards and commission are at the local level and could be deemed "trivial" and costly bills for the Legislature to continue to control. Ms. Anderson submitted several of these recommendations. (Exhibits 2,3,4,5,6,7,8,9) She briefly explained the ideas and possible problems. The committee was concerned about dealing with changing fees that vary from county to county. Also the problems that arise from computer automation need to be addressed. Senator Thayer felt that the committee needed to read the information presented by Ms. Anderson, consult their local governments that deal with these

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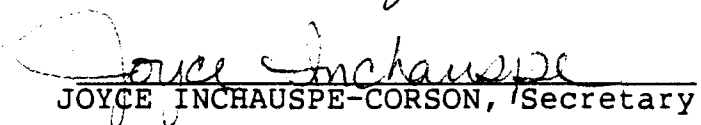
issues, and conduct their own opinion poll of these changes. Then when the committee discusses this again, they will have some feedback about these issues.

Senator Bengtson thanked Ms. Anderson for the hard work preparing the information. A committee bill would have to be drafted by the 36th Legislative day, and there is time for that if the committee feels that need to do that. Senator Bengtson assigned the committee to read and do any leg work on this information before February 12, 1991. On that Tuesday, the committee will again discuss the possibilities of drafting a bill.

ADJOURNMENT

Adjournment At: 4:35 p.m.


ESTHER BENGTSON, Chairman


JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

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ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 1-31-91 Bill No. SB-162 Time 3:35P.m

NAME	YES	NO
Senator Beck	X	
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond	X	
Senator Harding	X	
Senator Kennedy	X	
Senator Thayer	X	
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: Due Pass 162 and put it on
the consent calendar

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 1-31-91 Bill No. SB-79 Time _____

NAME	YES	NO
Senator Beck		
Senator Bengtson		
Senator Eck		
Senator Hammond		
Senator Harding		
Senator Kennedy		
Senator Thayer		
Senator Vaughn		
Senator Waterman		

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: _____

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 1-31-91 Bill No. SB-107 Time 3:45 P.m.

NAME	YES	NO
Senator Beck	X	
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond	X	
Senator Harding	X	
Senator Kennedy	X	
Senator Thayer	X	
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: Due Pass

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 1-31-91 Bill No. SB-108 Time 3:46

NAME	YES	NO
Senator Beck	X	
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond	X	
Senator Harding	X	
Senator Kennedy	X	
Senator Thayer	X	
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: Due Pass as Amended SB-108

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 31 day of January, 1991.

Committee: Senate Local Government

Bill: SB-126

Action: Has been Tabled

Signature Joyce Schauspe Olson
Secretary

SB 126
2-1-91
8:05

ROLL CALL VOTE

SENATE COMMITTEE LOCAL GOVERNMENT

Date 1-31-91 Bill No. SB-126 Time 4:07 P.M.

NAME	YES	NO
Senator Beck		X
Senator Bengtson	X	
Senator Eck	X	
Senator Hammond		X
Senator Harding		X
Senator Kennedy	X	
Senator Thayer		X
Senator Vaughn	X	
Senator Waterman	X	

Joyce Inchauspe-Corson
Secretary

Senator Esther Bengtson
Chairman

Motion: to table SB-126

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 1-31-91

52 LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck			X
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 1, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 107 (first reading copy - white), respectfully report that Senate Bill No. 107 do pass.

Signed: Esther C. Bengtson
Esther C. Bengtson, Chairman

2-1-91
And. Coord.

1-2-91
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 1, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 162 (first reading copy -- white), respectfully report that Senate Bill No. 162 do pass and unanimously recommend that it be placed on the Consent Calendar.

Signed: Esther G. Bengtson
Esther G. Bengtson, Chairman

2-1-91
Ind. Coord.

2-1-91
Sec. of Senate

Amendments to Senate Bill No. 108
First Reading Copy

For the Committee on Local Government

Prepared by Connie Erickson
January 31, 1991

1. Page 2, line 10.

Strike: "and ballots may not be cast"

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 1, 1991

HR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 108 (first reading copy -- white), respectfully report that Senate Bill No. 108 be amended and as so amended do pass:

1. Page 2, line 10.

Strike: "and ballots may not be cast"

Signed: *Esther G. Bengtson*
Esther G. Bengtson, Chairman

JPL 2/1/91
And. Coord.

2/1/91
Sec. of Senate

DATE January 31, 1991

COMMITTEE ON Senate Local Government

VISITORS' REGISTER

[illegible]

TESTIMONY OF JOHN F. NORTH ON SENATE BILL 162
Department of State Lands
Senate Local Government Committee
January 31, 1991

Under the Montana Metal Mine Reclamation Act or "Hard Rock Act," as it is commonly called, persons who wish to explore for hard rock minerals, such as gold, silver, or copper, on federal, state, or private land must obtain an exploration license from the Department of State Lands. The Department through this license then requires that exploration disturbances are reclaimed.

When the Hard Rock Act was passed in 1971, it contained a requirement that all persons who file claim locations in Montana send a copy of the claim locations to the Department. Also, the claim location statute was amended to impose the same requirement on the county clerks. I assume that the purpose was to give the Department notification of all claim locations so that it could inspect the area to determine if unlicensed exploration was occurring.

This information was never used for three reasons:

1. No substantial activity occurs on the vast majority of claims. Checking each site would be inefficient.
2. Claim locations are filed only on federal minerals. The Forest Service and BLM district offices are familiar with exploration and small miner activities within their areas and advise the Department of State Lands of those activities.
3. The Department knows which areas are "hot" areas and inspects those periodically.

Because there are more efficient ways to inspect for violations of the Hard Rock Act, the Department never really used copies of claim location certificates and no longer requires them. Senate Bill 162 should remove from the law the requirement to file these copies with the Department. The Department respectfully requests the Committee to approve this bill.

PROPOSED REVISIONS TO TITLE SEVEN OF THE MONTANA CODES

In response to a request by the Senate Local Government Committee, what follows is proposed language to revise Title VII to reflect the Committee's desire to avoid legislation dealing with "local government trivia" relative to county commissions' authorities regarding the number of members and terms of specific county boards.

Because there seems to be a lot of trivia and minutia that necessarily must be considered by this body, and because one person's idea of trivia may be of great importance to somebody else, we have divided our proposal into a series of "tiers", each tier being a bit more controversial, perhaps, than the last.

Tier I will address specific county boards listed in Title VII. Tier II will address fee authorities of local elected officials and Tier III seeks to change old (very old) language that governs county accounting and budgeting law. The prime motivator of Tier III proposed revision is that of automation. We offer this language to aid counties in attempting to computerize their operations while still conforming to the basic principals of accountability and maintenance of checks and balances.

Tier I

County Boards and Commissions [County Museums, Facilities for the Arts, Parks, Fair, Weed District, Rodent Control and Mosquito Control]

County Musuems and Facilities for the Arts

The statutory language for appointing the board of trustees for County Museums and Facilities for the Arts is found in 7-16-2203. This section also speaks to the terms of the trustees. MACO proposes to strike 7-16-2203(2) and to add the following language after the word "part." (the last word of the first paragraph of 7-16-2203): "The board shall consist of as many members as the board of county commissioners shall determine are necessary to administer the museum, facility, or collection. The board of county commissioners shall, at a public meeting, pass a resolution detailing the number of members and the terms of the appointments."

County Board of Park Commissioners

The authorization for creating the county board of park commissioners is found in 7-16-2301. MACO proposes to strike the present language contained in 7-16-2303 and 7-16-2304 and instead insert The board of county park commissioners shall be composed of the county commissioners and as many other persons as the county commissioners shall deem necessary for the purpose of discharging the duties as described in 7-16-2321. The board of county commissioners shall, at a public meeting, pass a resolution detailing the number of members of the park commission and the terms of the appointments.

County Fair Commission

The statute authorizing the creation of the county fair commission is 7-21-3401. This language presently calls for the appointment of five "responsible" persons to constitute the county fair commission. We propose that the existing language be stricken beginning with five responsible persons to constitute a county fair commission, three of the members to be appointed for a term of 2 years and two for a term of 1 year and until their successors are appointed. The following language would be substituted (following the word

county) any number of persons the board deems necessary for the purpose of discharging the duties as described in 7-21-3407. The board of county commissioners shall, at a public meeting, pass a resolution detailing the number of members of the fair commission and the terms of the appointments.

District Weed Board

Authorization language for the weed board is found in 7-22-2103. We propose to strike the language following the word of through 7-22-2103(b), and inserting any number of persons the board of county commissioners deem necessary for the purpose of administering the district's noxious weed program. The board of county commissioners shall, at a public meeting, pass a resolution detailing the number of members of the district weed board and the terms of the appointments.

Rodent Control Board

County rodent control boards are established in 7-22-2215. The statute presently envisions a board of not less than three nor more than five members. We propose to strike the language following composed of and insert any number of persons the governing body deem necessary for the purpose of administering the district rodent control program. The governing body shall, at a public meeting, pass a resolution detailing the number of members of the rodent control district board and the terms of the appointments.

Mosquito Control Board

Mosquito control boards are established in 7-22-2411. Again, we would propose to strike the words not less than three or more than five members. in 7-22-2411(1) and insert any number of persons the commissioners deem necessary for the purpose of administering the district's mosquito control program. The board of county commissioners shall, at a public meeting, pass a resolution detailing the number of members of the mosquito control board and the terms of the appointments.

Tier II

Fees [County Clerk, County Treasurer and County Sheriff]

Fees of County Clerk

Currently, all fees of the county clerk are set by the legislature. There are over twenty different types of services for which fees must be charged. These fees are described in 7-4-2631. In order to eliminate the necessity of the legislature having to set these fees, we propose to insert the following language in 7-4-2631: The Board of County Commissioners shall establish fees for the county clerk based upon the recommendation of the county clerk. The fees shall be established in a resolution passed by the board at a public meeting following a public hearing on the proposed fees.

Fees of County Treasurer

Statutory language establishing fees for the county treasurer is found in 7-6-2131. This language speaks specifically to fees related to tax deeds. We will need some assistance from the

Proposed Revisions to Title VII (Cont.)
Page Three

Treasurers Association, as there may be other fees in other titles. Generally, however, we propose using the same language that we used for the fees of the county clerk.

Fees of County Sheriff

Section 7-32-2141 outlines the fees of the sheriff. These fees are outlined similar to those of the county clerk. We propose eliminating the present dollar and cent references and insert: **The Board of County Commissioners shall establish fees for the county sheriff based upon the recommendation of the county sheriff. The fees shall be established in a resolution passed by the board at a public meeting following a public hearing on the proposed fees.** There is also fee language contained in 7-32-2142 but I need to talk to the Sheriff's and Peace Officer's Association to get more information on these fees.

Part Cross-References

Definition of single purpose, 7-14-2531.

Acquisition of land by **BILL NO. 16-2105**

7-16-2201. Definition of museums. For the purposes of this part, the word "museums" means buildings or parts of buildings of which a principal purpose is the exhibition, display, or performance of matters of historical, artistic, cultural, or scientific interest.

History: En. Sec. 1, Ch. 17, L. 1945; amd. Sec. 1, Ch. 173, L. 1975; R.C.M. 1947, 16-1163(part); amd. Sec. 1, Ch. 313, L. 1989.

Compiler's Comments

1989 Amendment: Substituted "exhibition, display, or performance of matters of historical, artistic, cultural, or scientific interest" for

"exhibition of objects of historical interest or of interest in one or more of the arts and sciences", and made minor change in grammar.

7-16-2202. Establishment and acquisition of museums and facilities for the arts. The board of county commissioners of each county of the state, in addition to all other powers conferred upon them, have the authority to:

- (1) establish or acquire museums, collections of exhibits, and articles, matters, and things to be included in or added to such museums and collections;
- (2) contribute to publicly owned museums not owned by the county; and
- (3) provide facilities for the presentation of visual and performing arts and similar cultural activities.

History: En. Sec. 1, Ch. 17, L. 1945; amd. Sec. 1, Ch. 173, L. 1975; R.C.M. 1947, 16-1163(part); amd. Sec. 1, Ch. 455, L. 1985; amd. Sec. 2, Ch. 313, L. 1989.

Compiler's Comments

1989 Amendment: Inserted (3) relating to facilities for visual and performing arts; and made minor changes in grammar.

7-16-2203. Board of trustees — appointment and term. (1) The board of county commissioners of each county owning or acquiring a museum, facility for the arts, or collection of exhibits may, at the first regular meeting of the board after acquiring a museum, facility, or collection, appoint a board of trustees for the administration of the county museum fund as provided in this part.

(2) The board consists of three responsible persons, electors and residents of the county. The initial terms of members must be staggered, with the term of one of the members expiring on June 30 of the next year, the term of the second member expiring on June 30 of the second year, and the term of the third member expiring on June 30 of the third year. The board shall, at its regular meeting in July of each year, appoint a member to the board of trustees to take the place of the member whose term expired on June 30 immediately preceding.

History: En. Sec. 3, Ch. 17, L. 1945; R.C.M. 1947, 16-1165(part); amd. Sec. 3, Ch. 313, L. 1989.

Compiler's Comments

1989 Amendment: In (1), after first occurrence of "museum", inserted "facility", and at end substituted "for the

arts", after second occurrence of "museum" inserted "facility", and at end substituted "for

the administration of the county museum fund as provided in this part" for "for such museum

or collection"; and made minor changes in grammar and phraseology.

7-16-2204. Role of board of trustees. It is the duty of the board:

- (1) to have the immediate custody, charge, and control of the museum facility for the arts, or collection;
- (2) to make rules as may be necessary and reasonable for the preservation, upkeep, care, maintenance, operation, support, and display of the museum facility, or collection; and
- (3) to make to the board of county commissioners, not later than July of each year:

(a) a report in writing, detailing all gifts and donations made to the museum, facility for the arts, or collection and the receipts and expenditures during the immediately preceding fiscal year; and

(b) an estimate of the amount to be budgeted for the museum, facility for the arts, or collection in the budget of the county for the then current fiscal year.

History: En. Sec. 3, Ch. 17, L. 1945; R.C.M. 1947, 16-1165(part); amd. Sec. 4, Ch. 313, 1989.

Compiler's Comments

1989 Amendment: In (1), (3)(a), and (3)(b) inserted "facility for the arts"; in (2) substituted and phraseology.

"of the museum, facility, or collection" for "thereof"; and made minor changes in grammar and phraseology.

7-16-2205. Authorization for mill levy. (1) The board of county commissioners of any county owning, acquiring, or contributing to any museum facility for the arts, or collection of exhibits as set forth in 7-16-2202:

(a) may make an appropriation in its annual budget for the upkeep, care, maintenance, operation, and support of the museum, facility, or collection and

(b) to meet and take care of the appropriation, may annually levy a tax not to exceed 2 mills on each dollar of the taxable valuation of the property subject to taxation in the county.

(2) The levy shall be made at the same time as other levies are made for county and school purposes.

(3) The proceeds from the collection of the levy shall be kept in a special fund by the county treasurer and used, at the discretion of the board of county commissioners, solely for the purpose for which the levy was made.

History: En. Sec. 2, Ch. 17, L. 1945; amd. Sec. 2, Ch. 173, L. 1975; R.C.M. 1947, 16-1164 amd. Sec. 1, Ch. 294, L. 1983; amd. Sec. 2, Ch. 455, L. 1985; amd. Sec. 5, Ch. 313, L. 1989.

Compiler's Comments

1989 Amendment: In (1) inserted "facility for the arts"; in (1)(a) substituted "of the museum, facility, or collection" for "thereof"; and made minor changes in grammar and phraseology.

Part 23

County Board of Park Commissioners

7-16-2301. Authorization for county board of park commissioners. (1) There may be created in all counties a board of park commissioners

7-16-2308. Organization of park board. On the first Monday of May in each year, said board of park commissioners shall meet and organize by electing one of their number president and one of their number vice-president, who shall hold their offices, respectively, for the term of 1 year.
History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

7-16-2309. Duties of board officers. The president and, in his absence, the vice-president shall preside at all meetings of the board and shall countersign all warrants issued by the board.
History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

7-16-2310. Clerk of board of park commissioners. (1) The board of park commissioners shall have the power to employ a secretary, not a member of the board, who shall be the clerk of the board of park commissioners and attend all meetings of said board and keep correct minutes of all proceedings of said board in a book to be provided by it for that purpose, to be called proceedings of the board of park commissioners of (entitled) county.

(2) It shall be the duty of the secretary to keep an accurate account of all transactions of said board and to make and submit in writing to said board at its first meeting in May in each year a report under oath showing in detail all the receipts and disbursements made by the board during the previous calendar year. The report shall be in duplicate, and after being approved by said board, one of said duplicates shall be filed in the office of the county clerk and recorder and one in the office of the county treasurer. The secretary shall perform such other services as the board from time to time shall require.

(3) In the absence of the secretary at any meeting held by the board, it shall designate one of its members as clerk pro tem to keep the minutes of said meeting, which minutes shall be delivered to the secretary to be transcribed into the record book of said board.

History: En. Sec. 5, Ch. 290, L. 1971; R.C.M. 1947, 16-4801.1(part).

7-16-2311. Evidentiary effect of park board minutes. The minutes of said meeting in said record book, when approved by the board, shall be prima facie evidence of the matters and things there recited in any court in this state.

History: En. Sec. 5, Ch. 290, L. 1971; R.C.M. 1947, 16-4801.1(part).

7-16-2312. County park superintendent. The board of park commissioners shall have the power to employ a park superintendent, who may also be the secretary of the park board and who shall attend each regular meeting of the said board and report, either in writing or orally as the board may require, as to the activities, functions, and progress of whatever nature pertaining to the park lands and facilities over which he has supervision. The duties of the park superintendent shall be of a managerial capacity.

History: En. Sec. 5, Ch. 290, L. 1971; R.C.M. 1947, 16-4801.1(2).

7-16-2313. Conduct of park board business. The board of park commissioners shall meet on the first Monday of May and

shall constitute a department of the county government the powers provided in this part.
History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

16-2302. Composition of park board. The board of park commissioners shall be composed of the county commissioners and six other persons appointed by the county commissioners.
History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

16-2303. Qualifications of park commissioners. The six persons so appointed shall have the same qualifications for the office of park commissioner as are required by 7-4-2201, for the office of county commissioner.

History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

16-2304. Term of office. (1) Except as provided in subsection (2), the term of office of each park commissioner shall be 3 years with and after the first Monday of May of the year in which he is appointed and until his successor is appointed and qualified.

Two of the commissioners first appointed shall hold office for the first 1 year, two for 2 years, and two for 3 years with and after the first day of May and until their successors are appointed and qualified.

History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

16-2305. Automatic vacation of office. Any park commissioner shall refuse or neglect for a period of 3 consecutive months to attend the meetings of said board without leave of absence from said board or who shall be absent for a period of 20 days from and after his appointment to qualify as provided in this part shall be deemed to have vacated his office, and thereupon, his successor may be appointed.

History: En. Sec. 4, Ch. 306, L. 1967; amd. Sec. 3, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

16-2306. Compensation of park commissioners. No park commissioner shall receive compensation for his services rendered under the provisions of this part, but the actual and necessary expense incurred by any member of the board while acting under the orders of the board in the transaction of any business in its behalf may be paid upon being allowed and approved by the board.

History: En. Sec. 4, Ch. 306, L. 1967; amd. Sec. 3, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

16-2307. Oath of office. Before entering upon the discharge of his duties as park commissioner shall take and subscribe to the oath provided in 11-1-11. The oath shall be filed in the office of the county clerk and

History: En. Sec. 1, Ch. 306, L. 1967; amd. Sec. 1, Ch. 290, L. 1971; R.C.M. 1947, 16-4801(part).

2-2504 through 7-22-2310 reserved.
2-2511. County vertebrate pest management fund.
2-2512. Financing of vertebrate pest management program — tax.
2-2513. Expenditures for supplies and services authorized.

SENATE LOCAL GOVT. COMM.
#4
EXHIBIT NO. 1-31-91
DATE
Part 41 — Municipal Weed Control
BILL NO.

Parts 26 through 40 reserved
Part 41 — Municipal Weed Control
Control of nuisance weeds within municipality.

After Cross-References
agriculture — disease, pest, and weed control.
80, ch. 7.

Part 1
Control of Dutch Elm Disease
(Repeated. Sec. 1, Ch. 18, L. 1987)

Compiler's Comments
Series of Repeated Sections:
2-101 through 7-22-103. En. Secs. 1
7-22-104 through 7-22-110 reserved.
7-22-111 through 7-22-118. En. Secs. 4
through 10, Ch. 535, L. 1979.

Parts 2 through 20 reserved

Part 21
County Weed Control

Cross-References
Municipal weed control, 7-22-4101.
control — Department of Agriculture,
ch. 7, part 7.
Noxious weed management funding, Title 80,
ch. 7, part 8.

2-2101. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:
"Board" means a district weed board created under 7-22-2103.
"Commissioners" means the board of county commissioners.
"Department" means the department of agriculture provided for in 7-22-2101.

"District" means a weed management district organized under 7-22-2102.
(a) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses and which is prohibited:
as a statewide noxious weed by rule of the department; or

as a statewide noxious weed by a board, following public notice of intent and a public hearing.

(b) A weed designated by rule of the department as a statewide noxious weed must be considered noxious in every district of the state.

(6) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, or right-of-way for a canal or lateral.

(7) "Supervisor" means the person employed by the board to conduct the district noxious weed management program and supervise other district employees.

(8) "Weed management" or "control" means the planning and implementation of a coordinated program for the containment, suppression, and, where possible, eradication of noxious weeds.

History: (1), (2), (4), (5) En. Sec. 1, Ch. 195, L. 1939; Secs. 16-1702, 16-1703, 16-1704, 16-1705, R.C.M. 1947; (3) En. Sec. 1, Ch. 195, L. 1939; amd. Sec. 1, Ch. 360, L. 1974; Sec. 16-1701, R.C.M. 1947; R.C.M. 1947, 16-1701(part), 16-1702(part), 16-1703, 16-1704, 16-1705; amd. Sec. 13, Ch. 249, L. 1979; amd. Sec. 1, Ch. 607, L. 1985.

7-22-2102. Weed management districts established. A weed management district shall be formed in every county of this state and shall include all the land within the boundaries of the county, except that a weed management district may include more than one county through agreement of the commissioners of the affected counties.

History: En. 16-1709.1 by Sec. 1, Ch. 185, L. 1969; amd. Sec. 2, Ch. 360, L. 1974; R.C.M. 1947, 16-1709.1; amd. Sec. 2, Ch. 607, L. 1985.

Cross-References
Embargo against introduction of noxious weed seed from other states, 80-7-701.

7-22-2103. District weed board. (1) The commissioners shall appoint a district weed board consisting of three or five members, and:

(a) if a three-member board, two members shall be rural agricultural landowners within the district and one shall be a member-at-large; or

(b) if a five-member board, three members shall be rural agricultural landowners within the district, one member shall be a resident of a city or town within the district, and one shall be a member-at-large.

(2) The county extension agent in each county and other interested individuals may be appointed to serve as nonvoting members of that district's weed board.

(3) The board members are public officers.

(4) The board may call upon the county attorney for legal advice and services as it may require.

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part); amd. Sec. 14, Ch. 249, L. 1979; amd. Sec. 3, Ch. 607, L. 1985; amd. Sec. 2, Ch. 52, L. 1989.

Compiler's Comments
1969 Amendment: Inserted (4) allowing the district weed board to call upon the County Attorney for legal services if required.
Cross-References
General authority of County Commissioners, 7-5-2101.
Weed control — technical assistance, 80-7-711.

uation of his successor. The term of office begins January 1.

(2) When a three-member weed board is established, the initial board members serve terms of 1, 2, and 3 years, respectively, as designated by the commissioners. When a five-member weed board is established, two of the initial members serve terms of 1 year, two serve terms of 2 years, and one serves a term of 3 years. After expiration of an initial term of office, the successor serves a 3-year term as provided in subsection (1).

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part); amd. Sec. 15, Ch. 249, L. 1979; amd. Sec. 4, Ch. 607, L. 1985.

Cross-References

County officers — term of office, 7-4-2205.

7-22-2105. Organization of district weed board and compensation.

(1) The board shall organize by choosing a chairman and a secretary. The secretary may or may not be a member of the board.

(2) Salary, per diem, and mileage of such board members shall be set by resolution of the commissioners.

(3) A majority of the board constitutes a quorum for the conduct of business.

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part); amd. Sec. 5, Ch. 607, L. 1985.

Cross-References

Mileage allowance for County Commissioners — General authority of County Commissioners, 7-5-2101.
— expenses, 7-4-2108.

7-22-2106. Renumbered 7-22-2115 by Code Commissioner, 1985.

7-22-2107. Renumbered 7-22-2116 by Code Commissioner, 1985.

7-22-2108. Renumbered 7-22-2117 by Code Commissioner, 1985.

7-22-2109. Powers and duties of board. (1) The board may:

(a) employ a supervisor and other employees as necessary and provide for their compensation;

(b) purchase such chemicals, materials, and equipment and pay other operational costs as it determines necessary for implementing an effective weed management program. Such costs must be paid from the noxious weed fund.

(c) determine what chemicals, materials, or equipment may be made available to persons controlling weeds on their own land. The cost for such chemicals, materials, or equipment must be paid by such person and collected as provided in this part.

(d) enter into agreements with the department for the control and eradication of any new exotic plant species not previously established in the state which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if such plant species spreads or threatens to spread into the state; and

(2) The board shall:

(a) administer the district;

(b) establish management district;

(c) make all reasonable program covering all land agency.

History: En. Sec. 6, Ch. 607.

7-22-2110. Adminis
adversely affected by any
an administrative hearing
within 30 days of the requi
sel. The board shall make
findings within 7 days afte

(2) An order of the bo
30 days from the time th
such appeal within 30 day
order and findings within
represented by legal counse

(3) Within 30 days afte
ings, the person adversel
requesting that the order a
modified. The court may af
in whole or in part.

History: En. Sec. 15, Ch. 607, L.

7-22-2111. (Temporary
7-22-2101, is liable for dama
or omission that constitutes
to board members, superviso
1, 1991—sec. 7, Ch. 516, L.

History: En. Sec. 1, Ch. 516, L.

7-22-2112. (Temporary)
must provide information on
application techniques to mi
make the information availab
(Terminates July 1, 1991—sec
History: En. Sec. 2, Ch. 516, L.

7-22-2113 and 7-22-2111.

7-22-2115. Noxious we
weeds and the seed of any no
source.

History: Ap. p. Sec. 1, Ch. 195, L.
1, 1939; amd. Sec. 1, Ch. 360, L. 197
to 1702(part); Sec. 7-22-2106, MCA 19

Cross-References

County officers, Title 27, Ch. 30.

rein set forth, they shall, by an order duly made and entered on their minutes, declare the district created, setting forth the name and boundaries of the district and the description of land contained therein.

History: En. Sec. 5, Ch. 183, L. 1953; amd. Sec. 4, Ch. 337, L. 1973; amd. Sec. 3, Ch. 399, 1975; R.C.M. 1947, 16-4205(part).

Cross-References

Opportunity to submit views, 2-3-111.
Open meetings, Title 2, ch. 3, part 2.

General authority of County Commissioners, 7-5-2101.

SENATE LOCAL GOVT. COMMISSIONERS, EXHIBIT NO. #5

DATE 1-31-91
7-22-2409. Adjournment of hearing. (1) Said hearing may be adjourned from time to time for determination of facts, but no adjournment shall exceed 2 weeks in all from and after the date originally noticed and published for the hearing.

(2) (a) Where at the time of the hearing the commissioners find that a geographical area desires exclusion from the area contained within the boundaries of the proposed district, the hearing may be adjourned to permit the commissioners to consult the department of health and environmental sciences to determine if it would be advisable to exclude the geographical area from the district.

(b) Upon reconvening, the commissioners shall define and establish such boundaries as are advisable.

History: En. Sec. 5, Ch. 183, L. 1953; amd. Sec. 4, Ch. 337, L. 1973; amd. Sec. 3, Ch. 399, 1975; R.C.M. 1947, 16-4205(part).

Cross-References

General powers and duties — Department of Health and Environmental Sciences, 50-1-202.

7-22-2410. Protest to creation of district. (1) At the hearing provided for in 7-22-2403 or at any time following the first publication of notice of such hearing until the time of said hearing, any qualified elector or owner of property within the proposed district may file his written objections to the creation of the district. Such objections shall be delivered to the county clerk, who shall endorse thereon the date of its receipt by him.

(2) If 51% or more of the qualified electors or of the owners of property within the boundaries of the proposed district file their written objections to the creation of such district, the commissioners shall not proceed with the creation of such district.

(3) If as the result of objections filed the commissioners in their discretion determine the question in doubt whether or not the creation of a district is the best interest of an area and the residents therein, the commissioners may cause the issue to be determined by referendum at the next regular election.

History: En. Sec. 5, Ch. 183, L. 1953; amd. Sec. 4, Ch. 337, L. 1973; amd. Sec. 3, Ch. 399, 1975; R.C.M. 1947, 16-4205(part).

Cross-References

Opportunity to submit views, 2-3-111.

Role and duties of County Clerk, 7-4-2611.

7-22-2411. District to be governed by appointed mosquito control board. (1) Upon the creation of any mosquito control district, the commissioners shall appoint a mosquito control board composed of not less than five or more than five members.

(2) Each member of the boundaries of the district.

(3) The board is a body corporate and shall act as such, and the members are public officers.

(4) The health officer having jurisdiction in the proposed district, the sanitarian or a member of his staff, and the county extension agent, if the county has any or all such officers, are ex officio members of the board without vote.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, 1975; R.C.M. 1947, 16-4207(part); amd. Sec. 20, Ch. 249, L. 1979.

Cross-References

County officers in general, Title 7, ch. 4, part 7-5-2101.

Employment of personnel by County Commissioners, 7-5-2107.

7-22-2412. Term of office. (1) The terms of office for the first appointed members shall be so arranged that they do not all expire at the same time and for that purpose may be set for any length of time not more than 3 years.

(2) Thereafter the terms of all members shall be 3 years, the term of one member expiring on January 1 in each year.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, 1975; R.C.M. 1947, 16-4207(part).

Cross-References

County officers — term of office, 7-4-2205.

7-22-2413. Compensation. All such board members shall serve without pay. The appointed members shall receive per diem as allowed by state law for each day when the board is actually in session and their necessary mileage as provided by law.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, 1975; R.C.M. 1947, 16-4207(part).

Cross-References

Compensation of county officers, 7-4-2501.

7-22-2414. Organization of mosquito control board. The members of the mosquito control board shall organize each year by choosing a chairman, who shall be from among the appointed members, and a secretary.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, 1975; R.C.M. 1947, 16-4207(part).

Cross-References

Duty of officers to complete official business.

7-4-2207.

7-22-2415. Powers of mosquito control board. The mosquito control board shall have power to:

- (1) develop and administer a program for the abatement and alleviation of mosquito pest conditions within the district;
- (2) employ such suitable and competent assistants and employees as may be necessary and provide for their compensation;
- (3) purchase, rent, or execute leasing agreements for such equipment and material as they may determine to be necessary for carrying on an effective control program;

(4) cooperate with any corporation, association, individual, or group of individuals, including any agency of the federal or state governments, in a mosquito abatement program;

(5) receive gifts, grants, or donations for the purpose of advancing its program;

(6) take such action as may be necessary or advisable to survey, control, modify, or abate any condition which may or does contribute to the existence of the mosquito pest and for this purpose enter upon any premises located within the said district, through its members, employees, or agents.

History: En. Sec. 8, Ch. 183, L. 1953; R.C.M. 1947, 16-4208.

Cross-References

Employment of personnel by County Commissioners, 7-5-2107.
Written agreements for loan or lease of county tools and equipment, 7-5-2112.

7-22-2416. Implementation of mosquito control program. (1) Whenever there exists within the district any condition which unnecessarily contributes to the production of mosquitoes and in the judgment of the board it is reasonably feasible for the owner of the land on which such condition exists to remove, correct, or prevent the same, the board shall have the power to notify such landowner in writing to remove, correct, or destroy such condition within a reasonable time, to be specified in such notice, and to prevent the recurrence thereof.

(2) The board shall provide for a hearing whenever there is a condition upon the land in need of attention as provided for and in keeping with the provisions of this part. The board shall determine from the evidence presented at the hearing whether the above-mentioned condition does exist and shall order compliance in keeping with the provisions of this part. The landowner shall have the right of appeal, which appeal shall be conducted in the same manner as appeals in civil action.

History: En. Sec. 12, Ch. 183, L. 1953; R.C.M. 1947, 16-4212(a).

7-22-2417. Unlawful to interfere with mosquito control personnel. Any person who in any manner willfully interferes with the mosquito control board or its officers, agents, or employees in carrying out the provisions of this part shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed the sum of \$100. If the court should so determine, such person shall also be subject to the requirement of giving a bond to keep the peace to prevent further interference with the work of said officials or their agents and employees.

History: En. Sec. 12, Ch. 183, L. 1953; R.C.M. 1947, 16-4212(b).

Cross-References

Classification of offenses, 45-1-201.
Misdemeanor defined, 45-2-101.

7-22-2418. Relationship of mosquito control districts and boards with department of health and environmental sciences and department of agriculture. (1) It shall be the duty of the department of health and environmental sciences to advise the commissioners of any county relative to the creation of mosquito control districts within such county and upon

(2) Annually on or before February 1, the board of each district submit to the department of health and environmental sciences an department of agriculture, for their review and advice, a written report operations for the preceding year and a written plan covering its control gram for the ensuing year.

History: En. Sec. 9, Ch. 183, L. 1953; amd. Sec. 1, Ch. 2, L. 1969; amd. Sec. 7, Ch. 1973; R.C.M. 1947, 16-4209.

Cross-References

General powers and duties — Department of Health and Environmental Sciences, 50-1-202.

7-22-2419. Establishment and operation of joint mosquito control districts. (1) Joint mosquito control districts (that is, districts which partly in one county and partly in another) may be created or dissolved the same manner as provided in this part for other districts, except that such cases all petitions must be directed to the commissioners of each county affected and must be acted upon by them concurrently.

(2) In the case of such districts, the mosquito control board shall be constituted in the same manner and shall have the same powers as are provided for other boards in this part, except that appointments shall be made by action of the commissioners in all counties affected and each county shall be represented among the appointed members of the board. The county health officer, county sanitarian, and county extension agent of each county shall ex officio members of the board without vote.

History: En. Sec. 13, Ch. 183, L. 1953; R.C.M. 1947, 16-4213(part).

Cross-References

Interlocal agreements, Title 7, ch. 11, part 1.

7-22-2420. Scope of part. Insofar as the provisions of this part inconsistent with the provisions of any other law, the provisions of this shall be controlling.

History: En. Sec. 14, Ch. 183, L. 1953; R.C.M. 1947, 16-4214.

7-22-2421 through 7-22-2430 reserved.

7-22-2431. Mosquito control fund. (1) The board of county commissioners of any county within which a mosquito control board has been created shall establish a mosquito control fund.

(2) Warrants upon such fund shall be drawn by the board of county commissioners upon the presentation of claims approved by the mosquito control board.

History: En. Sec. 10, Ch. 183, L. 1953; amd. Sec. 1, Ch. 22, L. 1969; R.C.M. 16-4210(part).

Cross-References

General authority of County Commissioners, 7-5-2101.

Deposit of public funds, 7-6-201.

Authorization for county mill levy, 7-6-202.

7-22-2432. Levy of district taxes — limit on mill levy. (1) At the time fixed by law for levy and assessment of taxes, the board of county commissioners of a county shall submit a report to the county auditor showing the amount of taxes levied by the board of county commissioners for the preceding year and a written plan covering its control gram for the ensuing year.

rein set forth, they shall, by an order duly made and entered on their minutes, declare the district created, setting forth the name and boundaries of the district and the description of land contained therein.

History: En. Sec. 5, Ch. 183, L. 1953; amd. Sec. 4, Ch. 337, L. 1973; amd. Sec. 3, Ch. 399, 1975; R.C.M. 1947, 16-4205(part).

Cross-References

Opportunity to submit views, 2-3-111.
Open meetings, Title 2, ch. 3, part 2.

General authority of County Commissioners, 7-5-2101.

7-22-2409. Adjournment of hearing. (1) Said hearing may be adjourned from time to time for determination of facts, but no adjournment shall exceed 2 weeks in all from and after the date originally noticed and published for the hearing.

(2) (a) Where at the time of the hearing the commissioners find that a geographical area desires exclusion from the area contained within the boundaries of the proposed district, the hearing may be adjourned to permit the commissioners to consult the department of health and environmental sciences to determine if it would be advisable to exclude the geographical area from the district.

(b) Upon reconvening, the commissioners shall define and establish such boundaries as are advisable.

History: En. Sec. 5, Ch. 183, L. 1953; amd. Sec. 4, Ch. 337, L. 1973; amd. Sec. 3, Ch. 399, 1975; R.C.M. 1947, 16-4205(part).

Cross-References

General powers and duties — Department of Health and Environmental Sciences, 50-1-202.

7-22-2410. Protest to creation of district. (1) At the hearing provided for in 7-22-2403 or at any time following the first publication of notice of such hearing until the time of said hearing, any qualified elector or owner of property within the proposed district may file his written objections to the creation of the district. Such objections shall be delivered to the county clerk, who shall endorse thereon the date of its receipt by him.

(2) If 51% or more of the qualified electors or of the owners of property within the boundaries of the proposed district file their written objections to the creation of such district, the commissioners shall not proceed with the creation of such district.

(3) If as the result of objections filed the commissioners in their discretion determine the question in doubt whether or not the creation of a district is the best interest of an area and the residents therein, the commissioners may cause the issue to be determined by referendum at the next regular election.

History: En. Sec. 5, Ch. 183, L. 1953; amd. Sec. 4, Ch. 337, L. 1973; amd. Sec. 3, Ch. 399, 1975; R.C.M. 1947, 16-4205(part).

Cross-References

Opportunity to submit views, 2-3-111.

Role and duties of County Clerk, 7-4-2611.

7-22-2411. District to be governed by appointed mosquito control board. (1) Upon the creation of any mosquito control district, the commissioners shall appoint a mosquito control board composed of not less than five members.

(2) Each member of the mosquito control board shall be an elector within the boundaries of the district.

(3) The board is a body corporate ~~LOCAL GOVT~~ ^{as council}, and the members are public officers.

(4) The health officer having ~~EXHAUST NO~~ ^{EXHAUST NO} ~~jurisdiction in the proposed district, the~~ ^{jurisdiction in the proposed district, the} ~~sanitarian or a member of his staff and the county extension agent, if the~~ ^{sanitarian or a member of his staff and the county extension agent, if the} county has any or all such officers, are ex officio members of the board without vote.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, L. 1975; R.C.M. 1947, 16-4207(part); amd. Sec. 20, Ch. 249, L. 1979.

Cross-References

County officers in general, Title 7, ch. 4, part 7-5-2101.

General authority of County Commissioners

Employment of personnel by County Commissioners, 7-5-2107.

7-22-2412. Term of office. (1) The terms of office for the first appointed members shall be so arranged that they do not all expire at the same time and for that purpose may be set for any length of time not more than 3 years.

(2) Thereafter the terms of all members shall be 3 years, the term of one member expiring on January 1 in each year.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, L. 1975; R.C.M. 1947, 16-4207(part).

Cross-References

County officers — term of office, 7-4-2205.

7-22-2413. Compensation. All such board members shall serve without pay. The appointed members shall receive per diem as allowed by state law for each day when the board is actually in session and their necessary mileage as provided by law.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, L. 1975; R.C.M. 1947, 16-4207(part).

Cross-References

Compensation of county officers, 7-4-2501.

7-22-2414. Organization of mosquito control board. The members of the mosquito control board shall organize each year by choosing a chairman, who shall be from among the appointed members, and a secretary.

History: En. Sec. 7, Ch. 183, L. 1953; amd. Sec. 6, Ch. 337, L. 1973; amd. Sec. 5, Ch. 399, L. 1975; R.C.M. 1947, 16-4207(part).

Cross-References

Duty of officers to complete official business, 7-4-2207.

7-22-2415. Powers of mosquito control board. The mosquito control board shall have power to:

- (1) develop and administer a program for the abatement and alleviation of mosquito pest conditions within the district;
- (2) employ such suitable and competent assistants and employees as may be necessary and provide for their compensation;
- (3) purchase, rent, or execute leasing agreements for such equipment and material as they may determine to be necessary for carrying on an effective control program;

(4) cooperate with any corporation, association, individual, or group of individuals, including any agency of the federal or state governments, in a mosquito abatement program;

(5) receive gifts, grants, or donations for the purpose of advancing its program;

(6) take such action as may be necessary or advisable to survey, control, modify, or abate any condition which may or does contribute to the existence of the mosquito pest and for this purpose enter upon any premises located within the said district, through its members, employees, or agents.

History: En. Sec. 8, Ch. 183, L. 1953; R.C.M. 1947, 16-4208.

Cross-References

Employment of personnel by County Com- Written agreements for loan or lease of county mis- tools and equipment. 7-8-2112.

7-22-2416. Implementation of mosquito control program. (1) Whenever there exists within the district any condition which unnecessarily contributes to the production of mosquitoes and in the judgment of the board it is reasonably feasible for the owner of the land on which such condition exists to remove, correct, or prevent the same, the board shall have the power to notify such landowner in writing to remove, correct, or destroy such condition within a reasonable time, to be specified in such notice, and to prevent the recurrence thereof.

(2) The board shall provide for a hearing whenever there is a condition upon the land in need of attention as provided for and in keeping with the provisions of this part. The board shall determine from the evidence presented at the hearing whether the above-mentioned condition does exist and shall order compliance in keeping with the provisions of this part. The landowner shall have the right of appeal, which appeal shall be conducted in the same manner as appeals in civil action.

History: En. Sec. 12, Ch. 183, L. 1953; R.C.M. 1947, 16-4212(a).

7-22-2417. Unlawful to interfere with mosquito control personnel. Any person who in any manner willfully interferes with the mosquito control board or its officers, agents, or employees in carrying out the provisions of this part shall be guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed the sum of \$100. If the court should so determine, such person shall also be subject to the requirement of giving a bond to keep the peace to prevent further interference with the work of said officials or their agents and employees.

History: En. Sec. 12, Ch. 183, L. 1953; R.C.M. 1947, 16-4212(b).

Cross-References

Classification of offenses, 45-1-201. Misdemeanor defined, 45-2-101.

7-22-2418. Relationship of mosquito control districts and boards with department of health and environmental sciences and department of agriculture. (1) It shall be the duty of the department of health and environmental sciences to advise the commissioners of any county relative to the creation of mosquito control districts within such county.

(2) Annually on or before February 1, the board of each district shall submit to the department of health and environmental sciences and department of agriculture, for their review and advice, a written report of operations for the preceding year and a written plan covering its control program for the ensuing year.

History: En. Sec. 9, Ch. 183, L. 1953; amd. Sec. 1, Ch. 2, L. 1969; amd. Sec. 7, Ch. 33 1973; R.C.M. 1947, 16-4209.

Cross-References

General powers and duties — Department of Health and Environmental Sciences, 50-1-202.

7-22-2419. Establishment and operation of joint mosquito control districts. (1) Joint mosquito control districts (that is, districts which partly in one county and partly in another) may be created or dissolve the same manner as provided in this part for other districts, except that such cases all petitions must be directed to the commissioners of each county affected and must be acted upon by them concurrently.

(2) In the case of such districts, the mosquito control board shall be constituted in the same manner and shall have the same powers as are provided for other boards in this part, except that appointments shall be made by joint action of the commissioners in all counties affected and each county shall be represented among the appointed members of the board. The county health officer, county sanitarian, and county extension agent of each county shall ex officio members of the board without vote.

History: En. Sec. 13, Ch. 183, L. 1953; R.C.M. 1947, 16-4213(part).

Cross-References

Interlocal agreements, Title 7, ch. 11, part 1.

7-22-2420. Scope of part. Insofar as the provisions of this part inconsistent with the provisions of any other law, the provisions of this shall be controlling.

History: En. Sec. 14, Ch. 183, L. 1953; R.C.M. 1947, 16-4214.

7-22-2421 through 7-22-2430 reserved.

7-22-2431. Mosquito control fund. (1) The board of county commissioners of any county within which a mosquito control board has been created shall establish a mosquito control fund.

(2) Warrants upon such fund shall be drawn by the board of county commissioners upon the presentation of claims approved by the mosquito control board.

History: En. Sec. 10, Ch. 183, L. 1953; amd. Sec. 1, Ch. 22, L. 1969; R.C.M. 16-4210(part).

Cross-References

General authority of County Commissioners, 7-5-2101.

Deposit of public funds, 7-6-201.

Authorization for county mill levy, 7-6-25

7-22-2432. Levy of district taxes — limit on mill levy. (1) At the time fixed by law for levy and assessment of taxes, the board of county commissioners of a county shall have the authority to levy a millage rate on the taxable property in the county not in excess of the millage rate levied by the board of county commissioners of the county in the preceding year.

as distinctly marked and kept therein.

The names of the parties in the first column of the index must be arranged in alphabetical order. When a conveyance is executed by a party, the name of the sheriff and the party charged in the execution must be inserted in the index. When an instrument is recorded to which an administrator, or trustee is a party, the name of such executor, administrator, or trustee, together with the name of the testator or intestate party for whom the trust is held, must be inserted in the index.

History: En. Sec. 4417, Pol. C. 1895; re-en. Sec. 3038, Rev. C. 1907; re-en. Sec. 4804, R.C.M. 1; Cal. Pol. C. Sec. 4240; re-en. Sec. 4804, R.C.M. 1935; R.C.M. 1947, 16-2910.

7-4-2621. Search of records. Upon the application of any person and on the payment or tender of the fees therefor, the county clerk may:

(1) make searches for conveyances, mortgages, and all other instruments, papers, or notices recorded or filed in his office; and

(2) furnish a certificate thereof, stating the names of the parties to such instruments, papers, and notices; the dates thereof; the year, month, day, hour, and minute they were recorded or filed; the extent to which they purport to affect the property to which they relate; and the book and pages where they are recorded.

History: En. Sec. 4420, Pol. C. 1895; re-en. Sec. 3041, Rev. C. 1907; re-en. Sec. 4807, R.C.M. 1921; Cal. Pol. C. Sec. 4243; re-en. Sec. 4807, R.C.M. 1935; R.C.M. 1947, 16-2913.

7-4-2622. Availability of records. All books or records, maps, charts, surveys, and other papers on file in the county clerk's office must be open during office hours for the inspection of any person who may desire to inspect them and may be inspected without charge. The county clerk must arrange the books of record and indexes in his office in such suitable places as to facilitate their inspection.

History: En. Sec. 4423, Pol. C. 1895; re-en. Sec. 3044, Rev. C. 1907; re-en. Sec. 4810, R.C.M. 1921; Cal. Pol. C. Sec. 4246; re-en. Sec. 4810, R.C.M. 1935; R.C.M. 1947, 16-2916.

Cross-References

Public documents open to inspection, Art. II, sec. 9, Mont. Const., 2-6-102.

7-4-2623. Liability of clerk relating to duties as recorder. A county clerk is liable to the party aggrieved for three times the amount of the damages which may be occasioned thereby and is punishable as provided in this code if the county clerk, as ex officio recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may be recorded by law is delivered for record:

- (1) neglects or refuses to record such instrument, paper, or notice within a reasonable time after receiving the same;
- (2) records any instruments, papers, or notices untruly or in any other manner than as hereinbefore directed;
- (3) neglects or refuses to keep in his office such indexes as are required by this part or to make the proper entries therein;
- (4) neglects or refuses to make the searches and to give the certificates required by this part or if such searches or certificates are incomplete or ineffective when such incompleteness or defect is due to his direct responsibility particularly affecting the property in respect to which it is requested;

Cross-Reference Liability exposure of Recorder, 2, ch. 9.

7-4-2624 through 7-4-2630 reserved.

BILL NO. 100 provided

7-4-2631. Fees of county clerk. (1) Except as provided in

the county clerks must charge, for the use of their respective counties:

(a) for recording and indexing each certificate of location of a quartz or placer mining claim or millsite claim, including a certificate that the instrument has been recorded with seal affixed, \$6;

(b) for recording and indexing each affidavit of annual labor on a mining claim, including certificate that the instrument has been recorded with seal affixed;

(i) for the first mining claim in the affidavit, \$3; and

(ii) for each additional mining claim included in it, 50 cents;

(c) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other instrument required by law to be filed and indexed, \$2;

(d) for filing of subdivision and townsite plats, \$5 plus:

(i) for each lot up to and including 100, 50 cents;

(ii) for each additional lot in excess of 100, 25 cents;

(e) for filing certificates of surveys and amendments thereto, \$5 plus 50 cents per tract or lot;

(f) for a copy of a record or paper:

(i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and

(ii) for each certification with seal affixed, \$2;

(g) for searching an index record of files of the office for each year when required in abstracting or otherwise, 50 cents;

(h) for administering an oath with certificate and seal, no charge;

(i) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;

(j) for filing, indexing, or other services provided for by 30-9-401 through 30-9-407, the fees prescribed under those sections;

(k) for recording each stock subscription and contract, stock certificate, and articles of incorporation for water users' associations, \$3;

(l) for filing a copy of notarial commission and issuing a certificate of official character of such notary public, \$2;

(m) for each certified copy of a birth certificate or a death certificate, \$3;

(n) for filing, recording, or indexing any other instrument not expressly provided for in this section or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.

(2) State agencies submitting documents to be put of record shall pay fees provided for in this section. If a state agency or political subdivision requested an account with the county clerk, any applicable fees must be on a periodic basis.

History: App. Sec. 4635, Pol. C. 1895; re-en. Sec. 3168, Rev. C. 1907; and. Sec. 1, C. 1911; re-en. Sec. 4917, R.C.M. 1921; re-en. Sec. 4917, R.C.M. 1935; and. Sec. 1, C.

1921; re-en. Sec. 4920, R.C.M. 1935; R.C.M. 1947, 25-234; amd. Sec. 1, Ch. 100, L. 1989.

Compiler's Comments

1989 Amendment: Increased fee from \$3 to \$25 plus actual costs incurred. Amendment effective July 1, 1989.

CRIMINAL JUSTICE LEGAL GOVT. COMM.

Collection and disposal of fees, 7-4-2511

EXHIBIT NO. 1

DATE 1-31-91

BILL NO.

7-6-2132 through 7-6-2140 reserved.

7-6-2141. Coordination of state revenue collected by counties duties of department of commerce. (1) The department of commerce advise the counties concerning any questions involving collection of revenue on behalf of the state. The department shall prepare and distribute a collections manual to county treasurers, setting forth the procedures forms to be used by the counties in collecting revenue for the state. The manual must be revised at least biennially, with the manual and revisions be sent to each county treasurer.

(2) State agencies receiving revenue collected by the counties shall coordinate the collection of revenue with the department. Necessary instructions procedures must be submitted to the counties by state agencies through the department to provide coordination and ensure placement in the county collections manual.

History: En. Sec. 1, Ch. 369, L. 1987.

Part 22

General Provisions Related to Counties

7-6-2201. Fiscal year for counties. The fiscal year for county purposes commences on July 1 of each year and ends on June 30 of the following year.

History: En. Sec. 3821, Pol. C. 1895; re-en. Sec. 2594, Rev. C. 1907; amd. Sec. 1, Ch. 73, L. 1921; re-en. Sec. 518, R.C.M. 1921; re-en. Sec. 518, R.C.M. 1935; amd. Sec. 1, Ch. 121, L. 1953; amd. Sec. 1, Ch. 84, L. 1955; amd. Sec. 2, Ch. 127, L. 1961; amd. Sec. 1, Ch. 175, L. 1969; amd. Sec. 98, Ch. 326, L. 1974; R.C.M. 1947, 59-701(part); amd. Sec. 4, Ch. 252, L. 1979.

7-6-2202. Duties of county clerk related to finance. (1) The county clerk must draw warrants on the county treasury in favor of all persons entitled thereto in payment:

(a) of all claims and demands chargeable against the county which have been legally examined, allowed, and ordered paid by the board of county commissioners;

(b) for all debts and demands against the county when the amounts are fixed by law and are not directed to be audited by some other person or tribunal.

(2) The county clerk must keep accounts current with the treasurer. When any person deposits with the county treasurer any money paid into the treasury, the county clerk shall be furnished by the treasurer with a duplicate of

and redeemed by him and take the county clerk's receipt therefor.

(2) He must make a full settlement of all accounts with the county clerk, annually on the first Monday of January and in the presence of the county commissioners, who have control thereof.

History: En. Sec. 4360, Pol. C. 1895; re-en. Sec. 2996, Rev. C. 1907; re-en. Sec. 4760, R.C.M. 1921; Cal. Pol. C. Sec. 4154; re-en. Sec. 4760, R.C.M. 1935; R.C.M. 1947, 16-2611.

7-6-2116. Receipt for money paid to county treasurer. (1) Except as provided in subsection (2), when any money is paid to the county treasurer, he must issue a receipt, in triplicate, for such money, the original of which shall be delivered to the person paying the same, the duplicate of which shall be delivered to the county clerk, and the triplicate shall be retained in his office.

(2) When any money is paid to the county treasurer through the mail or by any electronic means, he must issue receipts for the money. The original receipt shall be retained in his office and a duplicate shall be delivered to the county clerk. Upon request the county treasurer must issue a receipt to the person paying the money.

History: En. Sec. 4351, Pol. C. 1895; re-en. Sec. 2987, Rev. C. 1907; re-en. Sec. 4751, R.C.M. 1921; Cal. Pol. C. Sec. 4146; amd. Sec. 1, Ch. 92, L. 1923; re-en. Sec. 4751, R.C.M. 1935; R.C.M. 1947, 16-2602; amd. Sec. 1, Ch. 599, L. 1987.

7-6-2117. Receipt of money from county attorney. (1) The county attorney must, on the first Monday of January, April, July, and October in each year file with the county clerk an account, verified by his oath, of all money received by him in his official capacity during the preceding 3 months and at the same time pay it over to the county treasurer.

(2) If the county attorney refuses or neglects to account for and pay over money received by him as required by subsection (1), the county treasurer must bring an action against him for the recovery thereof in the name of the county and may recover in such action, in addition to the amount so received, 50% thereon by way of damages.

History: (1) En. Sec. 4450, Pol. C. 1895; amd. Sec. 1, p. 76, L. 1899; re-en. Sec. 3052, Rev. C. 1907; re-en. Sec. 4819, R.C.M. 1921; Cal. Pol. C. Sec. 4256; amd. Sec. 1, Ch. 187, L. 1935; re-en. Sec. 4819, R.C.M. 1935; amd. Sec. 1, Ch. 17, L. 1965; Sec. 16-3101, R.C.M. 1947; (2) En. Sec. 4363, Pol. C. 1895; re-en. Sec. 2999, Rev. C. 1907; re-en. Sec. 4763, R.C.M. 1921; Cal. Pol. C. Sec. 4157; re-en. Sec. 4763, R.C.M. 1935; Sec. 16-2614, R.C.M. 1947; R.C.M. 1947, 16-2614, 16-3101(5).

7-6-2118. Receipt of money from predecessor county treasurer. No percentage must be allowed to the treasurer on any money received by him from his predecessor in office.

History: En. Sec. 4369, Pol. C. 1895; re-en. Sec. 3005, Rev. C. 1907; re-en. Sec. 4769, R.C.M. 1921; Cal. Pol. C. Sec. 4163; re-en. Sec. 4769, R.C.M. 1935; R.C.M. 1947, 16-2623(part).

7-6-2119 through 7-6-2130 reserved.

(e) for the service of affidavit, order, and undertaking in claim and delivery;
(f) for serving a subpoena, \$2.50 for each witness summoned;
(g) for serving writ of possession or restitution, \$5;
(h) for trial of the right of property or damages, including all services except mileage, \$7;

(i) for taking bond or undertaking in any case authorized by law, \$5;
(j) for serving every notice, rule, or order, \$5 for each person served;
(k) for copy of any writ, process, or other paper when demanded or required by law, 25 cents for each page;

(l) for posting notices and advertising any property for sale on execution or under any judgment or order of sale, exclusive of cost of publication, \$5;
(m) for holding any sheriff's sale for personal or real property on execution or under any judgment or order of sale, \$7.50;

(n) for cancellation or postponement of sheriff's sale, \$5.

(2) All fees collected by the sheriff for the services provided in subsection (1) must be paid to the county treasurer as provided in subsection (1) of 7-4-2511 and the fees must be credited by the county treasurer to the sheriff's budget.

History: En. Sec. 4634, Pol. C. 1895; re-en. Sec. 3167, Rev. C. 1907; amd. Sec. 1, Ch. 111, L. 1919; re-en. Sec. 4916, R.C.M. 1921; amd. Sec. 1, Ch. 111, L. 1927; amd. Sec. 1, Ch. 89, L. 1929; amd. Sec. 1, Ch. 121, L. 1933; re-en. Sec. 4916, R.C.M. 1935; amd. Sec. 1, Ch. 139, L. 1937; amd. Sec. 4, Ch. 121, L. 1941; amd. Sec. 2, Ch. 59, L. 1949; amd. Sec. 2, Ch. 82, L. 1957; amd. Sec. 1, Ch. 343, L. 1975; amd. Sec. 8, Ch. 439, L. 1975; R.C.M. 1947, 25-226(1); amd. Sec. 1, Ch. 174, L. 1981; amd. Sec. 2, Ch. 372, L. 1989.

Compiler's Comments
1989 Amendment: In (1), in first sentence, inserted introductory clause, at end of first sentence substituted "the fees, if any, set by the county governing body" for "the following fees", and inserted introductory clause in second sentence. Amendment effective March 29, 1989.

Cross-References

When Sheriff's execution of process justified and required, 25-3-202.
Execution of judgment, Title 25, ch. 13.
Service, Rule 4D, M.R.Civ.P. (see Title 25, ch. 20).
Subpoena service, Rule 45(c), M.R.Civ.P. (see Title 25, ch. 20).

7-32-2142. Fees of the sheriff for holding property. For the expense in taking and keeping possession of and preserving property under attachment, execution, or other process, the sheriff shall receive such sum as the court or judge may order, not to exceed the actual expense incurred. No keeper must receive to exceed \$10 per day, and no keeper must be employed without an order of court or be so employed unless the property is of such character as to need the personal attention and supervision of a keeper. No property shall be placed in charge of a keeper if it can be safely and securely stored or where there is no reasonable danger of loss.

History: En. Sec. 4634, Pol. C. 1895; re-en. Sec. 3167, Rev. C. 1907; amd. Sec. 1, Ch. 111, L. 1919; re-en. Sec. 4916, R.C.M. 1921; amd. Sec. 1, Ch. 111, L. 1927; amd. Sec. 1, Ch. 89, L. 1929; amd. Sec. 1, Ch. 121, L. 1933; re-en. Sec. 4916, R.C.M. 1935; amd. Sec. 1, Ch. 139, L.

7-32-2131. Liability in civil actions. (1) If the sheriff does not return notice or process in his possession with the necessary endorsement thereon without delay, he is liable to the party aggrieved for \$200 and for all damages sustained by him.

(2) If the sheriff to whom a writ of execution or attachment is delivered neglects or refuses, after being required by the creditor or his attorney, to levy on or sell any property of the party charged in the writ which is liable to be levied upon or sold, he is liable to the creditor for the value of such property.

(3) No direction or authority by a party or his attorney to a sheriff in respect to the execution of process or return thereof or any act or omission relating thereto is available to discharge or excuse the sheriff from a liability neglect or misconduct unless it is contained in a writing signed by the attorney of the party or by the party.

(4) "Process", as used in this part, includes all writs, warrants, summonses, orders of courts of justice or judicial officers. "Notice" includes all papers and orders (except process) required to be served in any proceeding before a court, board, or officer or required by law to be served independently of a proceeding.

History: (1) En. Sec. 4387, Pol. C. 1895; re-en. Sec. 3016, Rev. C. 1907; re-en. Sec. 4780, M. 1921; Cal. Pol. C. Sec. 4179; re-en. Sec. 4780, R.C.M. 1935; Sec. 16-2708, R.C.M. 1947; n. Sec. 4388, Pol. C. 1895; re-en. Sec. 3017, Rev. C. 1907; re-en. Sec. 4781, R.C.M. 1921; Pol. C. Sec. 4180; re-en. Sec. 4781, R.C.M. 1935; Sec. 16-2709, R.C.M. 1947; (3) En. Sec. 4185; re-en. Sec. 3022, Rev. C. 1907; re-en. Sec. 4786, R.C.M. 1921; Cal. Pol. C. 4185; re-en. Sec. 4786, R.C.M. 1935; amd. Sec. 1, Ch. 426, L. 1977; Sec. 16-2714, R.C.M. ; (4) En. Sec. 4380, Pol. C. 1895; re-en. Sec. 3009, Rev. C. 1907; re-en. Sec. 4773, R.C.M. ; Cal. Pol. C. Sec. 4175; re-en. Sec. 4773, R.C.M. 1935; Sec. 16-2701, R.C.M. 1947; R.C.M. 16-2701, 16-2708, 16-2709, 16-2714(part).

Cross-References
Sheriff's return prima facie evidence, Damages, Title 27, ch. 1, part 2.
Liability, Title 27, ch. 1, part 7.

32-2132. Renumbered 7-32-2250 by Code Commissioner, 1989.

32-2133 through 7-32-2140 reserved.

32-2141. Fees of the sheriff. (1) For the services provided in subsection (1)(a) through (1)(n), the sheriff shall receive the fees, if any, set by the county governing body. If no fees have been set by the county governing body, the sheriff shall receive the following:

for the service of summons and complaint on each defendant, \$5;

General Description:

WHEREAS, The existing state statutes governing county budgeting, finance and accounting are confused, contradictory, scattered, and repetitive resulting in delay or inaction in response to pressing local problems; and

WHEREAS, the current state statutes require constant and piecemeal revision by the legislature; and

WHEREAS, the revisions do not incorporate the changes by advances in technology and office procedures, and

WHEREAS, bills for the amendment, modification, or clarification constitute a considerable portion of the number of bills considered by the legislature, and

WHEREAS, a revision of the laws relating to accounting budgeting and finance in line with existing computer technology will reduce the need for revisions on a piecemeal basis, and

WHEREAS, the general revision of the laws relating to accounting, budgeting and finance will assist the public and legislature in identifying responsibilities of each office.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA

GENERAL PROVISIONS:

Counties affected: Counties with general governing powers, centralized computer using a general ledger for the accounting of activity in the general fund, special revenue funds, service funds, trust and agency funds and all other funds.

Short title: County Government Accounting, Budgeting and Finance Code:

Liberal construction: As provided in Article XI, section 4, Montana, constitution of 1972, the provisions of this title shall be liberally construed to effect its purpose.

Powers vested in governing body. Unless otherwise provided in the context of this title otherwise requires, all powers granted to local governments relative to the maintaining of centralized computer records relative to accounting and budgeting shall be vested in the governing body of the local government.

General definitions: In this title, unless otherwise provided, the context requires a technical or other interpretation. The following definitions apply:

- (1) "Appointment Authority" means the county commission.
 - (2) "Finance and or Budget Administrator" means the person or persons designated by the county commission to perform duties prescribed in this title.
 - (3) "County" means an entity recognized as such by Article VII, section 1, of the Montana constitution.
 - (4) "Employee" means a person other than an elected official who is employed by the county.
 - (5) "Computer System Administrator" means the person or persons designated by the county commission to maintain the county's accounting and budgetary records through the general ledger on a centralized computer system in the manner directed by the county commission.
 - (6) "General Ledger" means the listing of assets and liabilities in a format prescribed by generally accepted accounting procedures.
-

PROCESS:

Whenever a county has a centralized computer maintaining the county's financial and budgetary records, and general ledger on computer and the records on the computer shall be under the control and the responsibility of the county commission. All records maintained by offices of the county may be maintained as a part of this system, or may be kept on subsidiary systems based upon the needs of the county as determined by the county commission.

The commission may appoint a Finance and or Budget Administrator who may replace the Clerk referenced in Title 7 Chapter 6 Part 23 of MCA. If the commission fails to appoint a Budgetary Administrator then the Clerk & Recorder shall continue to do the duties listed.

The commission may appoint a Computer System Administrator upon the needs of the county. The computer system administrator shall control the county's accounting, budgetary and finance centralized computer software. The computer system administrator may be responsible for the General Ledger. The computer system administrator shall provide those elected officials and department heads with reports necessary for the completion of their duties. The elected officials or department heads records may be maintained as a part of the general ledger or on separate systems based upon the decisions of the county commission.

The official records of the county, relative to accounting, budgeting and finance, shall be the General Ledger maintained in the centralized computer system. All reports required by statute shall be prepared from this information by the appropriate elected officer or department head.

7-5-2101. General authority of county commissioners. The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to represent the county, maintain the centralized county computer system, maintain the counties computerized accounting, budgetary and finance software for use of all county offices and the general public, have the care of the county property, and the management of the business and concerns of the county in all cases where no other provision is made by law. If other statutes conflict with this section within TITLE 7 or TITLE 15 this statute shall supersede all others.

7-5-2102. Promulgation and enforcement of rules. The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to promulgate and enforce rules for its government, the preservation of records and the transaction of business as may be necessary.

(a) Rules approved shall be used by all elected officials and department heads within the county. Rules may include, but not limited to policies and procedures relative to computer access, software utilization, hiring requirements, claims processing and personnel administration. If other statutes conflict with this section within TITLE 7 or TITLE 15 this statute shall supersede all others.

7-5-2107. Employment of personnel by county commissioners. The board of county commissioners may employ such persons as it may deem necessary to assist the board in the performance of its duties. Each board may adopt a resolution defining the qualifications, duties, salary, and responsibility of such persons. The commission has specific authority to employ a computer system administrator who's duties are to maintain, control and record the purchase, implementation and utilization of computers and software relative to the county's accounting, budgeting and reporting system and a finance and or budget administrator. persons may be paid monthly, twice monthly, or every 2 weeks. If other statutes conflict with this section within TITLE 7 or TITLE 15 this statute shall supersede all others.

7-6-2111. **Duties of county treasurer.** The county treasurer must
(1) receive all money belonging to the county and all other money
directed to be paid to him by law, safely keep the same, and
apply and pay them out, rendering account thereof as required by
law;
(2) keep an account of the receipt and expenditures of all
money in books or computer software provided and specified
commission for this purpose, in which must be entered or i
...

7-6-2112. **Treasurer's reports to county commissioners.** (1)
county treasurer must make a detailed monthly report to the
board of county commissioners of his county, of all money received
by him and the disbursement thereof and of all debts due to and
from the county and of all other proceedings in his office, so
that the receipts into the treasury and the amount of disbursement
together with the debts due to and from the county appear
clearly and distinctly. In counties having a centralized computer
these reports may be generated from the computerized accounting
budgetary and financial system, if the commission approves.
(2) On the first Monday of January, April, July and October
each year the county treasurer must settle with the board of
county commissioners for all money collected. This settlement
must agree with the general ledger maintained by the commissioner
or their designee, and on those days the treasurer must deposit
to the board affidavits verifying ...

7-6-2202. **Duties of county clerk related to finance.** (1) ...
(2) The county clerk must keep accounts current with the
treasurer. These accounts may be maintained on the county
accounting, budgetary and finance system by the computer system
administrator, at the discretion of the county commission.
...

Part 22

General Provisions Related to Counties

7-6-220 . Appointment of Finance and or Budget Administrator
in counties having a computerized accounting system the county
commission may appoint a Finance and or Budget Administrator
whose duties shall include those set forth in this part as
of the County Clerk, as directed by the commission. If other
statutes conflict with this section within TITLE 7 this statute
shall supersede all others.

BOCC - statutes relative to finance, accounting or
budgeting.

STATUTE:

DESCRIPTION:

7-5-2101	General Authority of County Commission
7-5-2102	Fromulgation & enforcement of rules
7-5-2107	Employment of Personnel by commission
7-5-2123	Publication of Board proceedings & annual financial report.
7-5-2129	Records, Minute Book, Road Book, Franchise Book and Warrant Book.
7-6- 201	Deposit of Public Funds
7-6- 202	Investment of public money
7-6- 204	Crediting of Interest
7-6- 206	Time deposits
7-6- 207	Deposit Security
7-6- 213	Repurchase Agreement - bidding
7-6-1112	Funds for payment of principal and interest
7-6-2113	Examination of Treas. report
7-6-2114	Inspection of treasurer's books and records
7-6-2212	Authority to maintain petty cash fund
7-6-2213	Report of fees received and money distributed
7-6-2214	Examination of report
7-6-2218	Appropriation of state and federal money
7-6-2315	Consideration of budget tabulation by commission
7-6-2316	Notice of hearing
7-6-2317	Hearing on proposed budget
7-6-2318	Determination of Projected fund cash flow
7-6-2319	Determination of monies required to be met by tax
7-6-2320	Final budget - approval, adoption & amendment.
7-6-2321	Fixing of Tax Levy
7-6-2323	Effects of exceeding budget
7-6-2324	Limitations on appropriations
7-6-2325	Transfer of appropriations
7-6-2326	Transfer of cash balance at close of FY
7-6-2329	Unpaid / Outstanding warrants
7-6-2341	Procedure to make expenditures, incur liability in of serious emergency.
7-6-2342	In case of other emergency
7-6-2421	Presentation of claims against county
7-6-2425	Auditing of county charges
7-6-2429	Examination and allowance of officer's accounts
7-6-2430	Accounts to be examined, settled and allowed
7-6-2501	Authority of County Mill levy
7-6-2502	Responsibility of commission to fix tax rate, & lev
7-6-2605	Call for payment of warrant drawing interest
7-6-2607	Examination processing of warrants
7-6-2701	Investing of certain money in county, municipal and school warrants
7-6-2702	Investment of money held in capital improvement fur

TREASURER, CLERK AND RECORDER - statutes relative
finance, accounting or budgeting.

STATUTE:

DESCRIPTION:

7-6-2111	Duties of County Treasurer
7-6-2112	Treasurer's Report to Commission
7-6-2114	Inspection of Treas. Books and records
7-6-2115	Manner of settling accounts
7-6-2202	Duties of Clerk related to finance
7-6-2203	Annual financial statment
7-6-2204	Cash verification by county clerk
7-6-2211	Authority to conduct business on cash basis
7-6-2212	Authority to maintain petty cash fund
7-6-2311	Filing of estimates of revenue and expenses with c.
7-6-2312	Penalty
7-6-2313	Preparation tabulation
7-6-2315	Submit tabulation to commission
7-6-2322	Budget and tax levies to D.O.C.
7-6-2323	Effect of exceeding budget
7-6-2331	Clerk's report concerning expenses, liabilities & :
7-6-2411	List of claims allowed or rejected
7-6-2503	Duties of Treas. related to taxes - TITLE 15
7-6-2504	Duties of clerk related to taxation
7-6-2601	Duties related to county warrants
7-6-2602	Payment of warrants
7-6-2603	Registration of warrants
7-6-2604	Interest of unpaid warrants
7-6-2605	Call for payment of warrants drawing interest
7-6-2701	Investment of county money in county, municipal and school warrants.

AUDITOR

- 7-6-2212 Authority to Maintain petty cash fund
- 7-6-2407 Auditing & investigating claims
- 7-6-2408 Powers related to investigation
- 7-6-2409 Examination of county books and accounts