

Senate BILL NO. 30
 INTRODUCED BY *Frank Messer, Hainel, Seuble, Koskie*

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO GIVE WRITTEN OPINIONS TO THE GOVERNING BODY OF ANY CITY OR TOWN UPON ANY QUESTION OF LAW RELATING TO THE OFFICES OF THE GOVERNING BODY; AMENDING SECTION 82-401, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-401, R.C.M. 1947, is amended to read as follows:

"82-401. General duties. It is the duty of the attorney general:

1. To attend the supreme court and prosecute or defend all causes to which the state, or any officer thereof, in his official capacity, is a party; and all causes to which any county may be a party, unless the interest of the county is adverse to the state, or some officer thereof acting in his official capacity.

2. After judgment in any of the causes referred to in the preceding subdivision, to direct the issuing of such process as may be necessary to carry the same into execution.

3. To account for and pay over to the proper officer

INTRODUCED BILL

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all moneys which may come into his possession belonging to the state or to any county.

4. To keep a register of all cases in which he is required to appear, which must, during business hours, be open to the inspection of the public, and must show the county, district, and court in which the cases have been instituted and tried, and whether they are civil or criminal; if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not; if not satisfied, the return of the sheriff; and if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention; and must deliver the same to his successor in office.

5. To exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices, and from time to time require of them reports as to the condition of public business entrusted to their charge.

6. To give his opinion in writing, without fee, to the ~~legislative-assembly~~ legislature, or either house thereof and to any state officer, board, or commission, any county attorney, to the governing body of any city or town, and to

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1 the board of county commissioners of any county of the
2 state, when required upon any question of law relating to
3 their respective offices.

4 7. When required by the public service, or directed by
5 the governor, to assist the county attorney of any county in
6 the discharge of his duties.

7 8. To bid upon and purchase in the name of the state,
8 and under the direction of the board of examiners, any
9 property offered for sale under execution issued upon
10 judgments in favor of or for the use of the state, and to
11 enter satisfaction, in whole or in part, of such judgments
12 as the consideration for such purchases.

13 9. Whenever the property of a judgment debtor in any
14 judgment mentioned in the preceding subdivision has been
15 sold under a prior judgment, or is subject to any judgment,
16 lien, or encumbrance taking precedence of the judgment in
17 favor of the state, under the direction of the board of
18 examiners to redeem such property from such prior judgment,
19 lien, or encumbrance; and all sums of money necessary for
20 such redemption must, upon the order of the board of
21 examiners, be paid out of any money appropriated for such
22 purposes.

23 10. When in his opinion it is necessary for the
24 collection or enforcement of any judgment hereinbefore
25 mentioned, to institute and prosecute, in behalf of the

1 state, such suits or other proceedings as are necessary to
2 set aside and annul all conveyances fraudulently made by
3 such judgment debtors, the cost necessary to the prosecution
4 must, when allowed by the board of examiners, be paid out of
5 any appropriations for the prosecution of delinquents.

6 11. To discharge the duties of a member of the board
7 of examiners, state board of land commissioners, board of
8 state prison commissioners, and other duties prescribed by
9 law.

10 12. To report to the governor, at the time prescribed
11 by section 59-702 of this code, the condition of the affairs
12 of his department, and to accompany the same with a copy of
13 his docket and of the reports received by him from county
14 attorneys, and to report to the governor as provided in
15 section 59-705."

-End-

STATE OF MONTANA

REQUEST NO. 18-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 9, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 30 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require the Attorney General to give written opinions without fee to the governing body of any city or town upon any question of law relating to the offices of the governing body.

ASSUMPTIONS:

1. Governing body of any city or town means incorporated city or town of which there are presently 126.
2. There are presently 386 sources of opinion requests (56 county attorneys, 19 state agencies, 150 legislators, and 161 boards and commissions). Adding 126 cities and towns would be an increase in workload of 32%.
3. The increase in workload would require two additional attorneys at a salary of \$15,000 and one additional secretary at a salary of \$6,000 plus benefits at 13%.
4. The increase in staff would require office space outside the Capitol Complex as no space is available at present.
5. Additional equipment will be needed and additional operating expenses will be incurred.

FISCAL IMPACT:

	FY 76			FY 77		
	Current Law	Proposed Law	Increase	Current Law	Proposed Law	Increase
Personal Services	\$242,369	\$283,049	\$40,680	\$258,832	\$302,767	\$43,935
Operating Expenses	50,858	55,113	4,255	54,522	59,287	4,765
Capital Outlay	4,000	5,875	1,875	4,000	4,000	0
Total Expenditures	<u>\$297,227</u>	<u>\$344,037</u>	<u>\$46,810</u>	<u>\$317,354</u>	<u>\$366,054</u>	<u>\$48,700</u>

CONCLUSION:

Enactment of Senate Bill 30 would result in an increase in expenditures from the General Fund of approximately \$95,500 during the Biennium.

Michael Bellings

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 13, 1975

Approved by Comm.
on Local Government

1 SENATE BILL NO. 30
 2 INTRODUCED BY DRAKE, THIESSEN, HIMSL,
 3 DUNKLE, ROSKIE, TOWE
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 6 GENERAL TO GIVE WRITTEN OPINIONS TO THE ~~GOVERNING-BODY~~ CITY
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 20 is adverse to the state, or some officer thereof acting in
 21 his official capacity.

22 2. After judgment in any of the causes referred to in
 23 the preceding subdivision, to direct the issuing of such
 24 process as may be necessary to carry the same into
 25 execution.

1 3. To account for and pay over to the proper officer
 2 all moneys which may come into his possession belonging to
 3 the state or to any county.

4 4. To keep a register of all cases in which he is
 5 required to appear, which must, during business hours, be
 6 open to the inspection of the public, and must show the
 7 county, district, and court in which the cases have been
 8 instituted and tried, and whether they are civil or
 9 criminal; if civil, the nature of the demand, the stage of
 10 proceedings, and, when prosecuted to judgment, a memorandum
 11 of the judgment, of any process issued thereon, and whether
 12 satisfied or not; if not satisfied, the return of the
 13 sheriff; and if criminal, the nature of the crime, the mode
 14 of prosecution, the stage of proceedings, and, when
 15 prosecuted to sentence, a memorandum of the sentence and of
 16 the execution thereof, if the same has been executed, and if
 17 not executed, of the reason of the delay or prevention; and
 18 must deliver the same to his successor in office.

19 5. To exercise supervisory powers over county
 20 attorneys in all matters pertaining to the duties of their
 21 offices, and from time to time require of them reports as to
 22 the condition of public business entrusted to their charge.

23 6. To give his opinion in writing, without fee, to the
 24 ~~legislative-assembly~~ legislature, or either house thereof
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1 attorney, to the governing-body CITY ATTORNEY of any city or
2 town, and to the board of county commissioners of any county
3 of the state, when required upon any question of law
4 relating to their respective offices.

5 7. When required by the public service, or directed by
6 the governor, to assist the county attorney of any county in
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10 property offered for sale under execution issued upon
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14 9. Whenever the property of a judgment debtor in any
15 judgment mentioned in the preceding subdivision has been
16 sold under a prior judgment, or is subject to any judgment,
17 lien, or encumbrance taking precedence of the judgment in
18 favor of the state, under the direction of the board of
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7 11. To discharge the duties of a member of the board
8 of examiners, state board of land commissioners, board of
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10 law.

11 12. To report to the governor, at the time prescribed
12 by section 59-702 of this code, the condition of the affairs
13 of his department, and to accompany the same with a copy of
14 his docket and of the reports received by him from county
15 attorneys, and to report to the governor as provided in
16 section 59-705."

-End-

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 8 of examiners, state board of land commissioners, board of
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11 12. To report to the governor, at the time prescribed
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 13 of his department, and to accompany the same with a copy of
 14 his docket and of the reports received by him from county
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-End-