

1 H BILL NO. 500  
 2 INTRODUCED BY Dunell (Request, Legislative Affairs  
 3 Committee)

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
 5 82-401, R.C.M. 1947, RELATING TO THE DUTIES OF THE ATTORNEY  
 6 GENERAL BY SPECIFYING THE EFFECT OF AN ATTORNEY GENERAL'S  
 7 OPINION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

12 "82-401. General duties. It is the duty of the  
 13 attorney general:

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

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

24 3. To account for and pay over to the proper officer  
 25 all moneys which may come into his possession belonging to

1 the state or to any county.

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

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

21 6. To give his opinion in writing, without fee, to the  
 22 legislative assembly, or either house thereof and to any  
 23 state officer, board, or commission, any county attorney, to  
 24 the city attorney of any city or town, and to the board of  
 25 county commissioners of any county of the state, when

1 required upon any question of law relating to their  
 2 respective offices. He shall give any such opinion within  
 3 three (3) months following the date it is requested, unless  
 4 he certifies in writing to the requesting party that the  
 5 question is of sufficient complexity to require additional  
 6 time. If an opinion issued by the attorney general conflicts  
 7 with an opinion issued by a city attorney, county attorney,  
 8 or an attorney employed or retained by any state officer,  
 9 board, commission, or department, the attorney general's  
 10 opinion shall be controlling unless overruled by a state  
 11 district court or the supreme court.

12 7. When required by the public service, or directed by  
 13 the governor, to assist the county attorney of any county in  
 14 the discharge of his duties.

15 8. To bid upon and purchase in the name of the state,  
 16 and under the direction of the board of examiners, any  
 17 property offered for sale under execution issued upon  
 18 judgments in favor of or for the use of the state, and to  
 19 enter satisfaction, in whole or in part, of such judgments  
 20 as the consideration for such purchases.

21 9. Whenever the property of a judgment debtor in any  
 22 judgment mentioned in the preceding subdivision has been  
 23 sold under a prior judgment, or is subject to any judgment,  
 24 lien, or encumbrance taking precedence of the judgment in  
 25 favor of the state, under the direction of the board of

1 examiners to redeem such property from such prior judgment,  
 2 lien, or encumbrance; and all sums of money necessary for  
 3 such redemption must, upon the order of the board of  
 4 examiners, be paid out of any money appropriated for such  
 5 purposes.

6 10. When in his opinion it is necessary for the  
 7 collection or enforcement of any judgment hereinbefore  
 8 mentioned, to institute and prosecute, in behalf of the  
 9 state, such suits or other proceedings as are necessary to  
 10 set aside and annul all conveyances fraudulently made by  
 11 such judgment debtors, the cost necessary to the prosecution  
 12 must, when allowed by the board of examiners, be paid out of  
 13 any appropriations for the prosecution of delinquents.

14 11. To discharge the duties of a member of the board of  
 15 examiners, state board of land commissioners, board of state  
 16 prison commissioners, and other duties prescribed by law.

17 12. To report to the governor, at the time prescribed  
 18 by section 59-702 of this code, the condition of the affairs  
 19 of his department, and to accompany the same with a copy of  
 20 his docket and of the reports received by him from county  
 21 attorneys, and to report to the governor as provided in  
 22 section 59-705."

23 Section 2. Effective date. This act is effective on  
 24 its passage and approval.

-End-

Approved by Committee  
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