

Senate Bill 375

In The Senate

February 5, 1981

Introduced and referred
to Committee on Local
Government.

April 23, 1981

Died in Committee.

1 *Amended* BILL NO. 375
 2 INTRODUCED BY J. O'Hara
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW
 5 RELATING TO THE COMPENSATION OF UNDERSHERIFFS AND DEPUTY
 6 SHERIFFS; PROVIDING A PERCENTAGE RANGE FOR THE COMPENSATION
 7 OF DEPUTIES BASED ON THE POPULATION OF THE COUNTY IN WHICH A
 8 DEPUTY IS EMPLOYED; ALLOWING THE SHERIFF'S DEPARTMENT TO
 9 ESTABLISH WORKPERIODS OTHER THAN 40 HOURS A WEEK; PROVIDING
 10 FOR OVERTIME PAYMENT FOR HOURS WORKED IN EXCESS OF THE
 11 WORKPERIOD; PROVIDING UNDERSHERIFFS AND DEPUTY SHERIFFS WITH
 12 LONGEVITY PAYMENTS; EXCLUDING OVERTIME AND LONGEVITY
 13 PAYMENTS FROM THE DEFINITION OF COMPENSATION; AMENDING
 14 SECTIONS 7-4-2505 AND 39-3-406, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 7-4-2505, MCA, is amended to read:
 18 "7-4-2505. Amount of compensation for deputies and
 19 assistants. (1) ~~Except as provided in~~ Subject to subsection
 20 (2), the boards of county commissioners in the several
 21 counties in the state shall have the power to fix the
 22 compensation allowed any deputy or assistant of the
 23 following officers:

- 24 (a) ~~sheriff;~~
- 25 (b)(a) clerk and recorder;

- 1 (e)(b) clerk of the district court;
- 2 (d)(c) treasurer;
- 3 (e)(d) assessor;
- 4 (f)(a) county attorney;
- 5 (g)(f) auditor.

6 (2) (a) ~~Except as provided in subsection (2)(b) the~~
 7 ~~The~~ salary of no deputy or assistant shall listed in
 8 subsection (1) may be more than 90% of the salary of the
 9 officer under whom such deputy or assistant is serving.

10 (b) ~~In fixing the compensation allowed the~~
 11 ~~undersheriff, the board must fix the same at 95% of the~~
 12 ~~salary of the officers under whom such undersheriff is~~
 13 ~~serving in fixing the compensation allowed the deputy~~
 14 ~~sheriffs, the board must fix the same at 90% of the salary~~
 15 ~~of the officer under whom such deputy sheriff is serving,~~
 16 ~~except in counties of the first, second, or third class, in~~
 17 ~~which the board must fix the same at not less than 75% or~~
 18 ~~more than 90% of the salary of the officer under whom such~~
 19 ~~deputy sheriff is serving.~~

20 (e)(b) Where any deputy or assistant is employed for a
 21 period of less than 1 year, the compensation of such deputy
 22 or assistant shall be for the time so employed, provided the
 23 rate of such compensation shall not be in excess of the
 24 rates now provided by law for similar deputies and
 25 assistants except as provided herein.

1 (d)(1) Deputy assessors' salaries shall be the same as
2 paid the deputy clerk and recorder."

3 NEW SECTION. Section 2. Compensation of undersheriff
4 and deputy sheriff. (1) The sheriff shall fix the
5 compensation of the undersheriff at 95% of the salary of
6 that sheriff.

7 (2) (a) The sheriff shall fix the compensation of the
8 deputy sheriff based upon a percentage of the salary of that
9 sheriff according to the following schedule:

10 In counties with populations of:

11 Below 15,000	75% to 90%
12 15,000 to 29,999	70% to 90%
13 30,000 to 65,999	65% to 90%
14 66,000 to 99,999	60% to 90%
15 100,000 and over	55% to 90%

16 (b) The sheriff shall adjust the compensation of the
17 deputy sheriff within the range prescribed in subsection (a)
18 according to a rank structure in the department.

19 (3) For purposes of this section, the term
20 "compensation" means the base rate of pay and does not mean
21 longevity payments or payments for hours worked overtime.

22 NEW SECTION. Section 3. Option to establish
23 workperiod in lieu of workweek. (1) A sheriff's department
24 may establish a workperiod other than the workweek provided
25 in 39-3-405 for determining when an employee must be paid

1 overtime.

2 (2) The aggregate of all workperiods in a year, when
3 expressed in hours, may not exceed 2,080 hours.

4 NEW SECTION. Section 4. Compensation for hours worked
5 overtime. Any undersheriff or deputy sheriff who works in
6 excess of his regularly scheduled workperiod must be
7 compensated for the hours worked in excess of the workperiod
8 at a rate of not less than 1 1/2 times the hourly rate at
9 which he is employed.

10 NEW SECTION. Section 5. Longevity payments. Beginning
11 on the date of his first anniversary of employment with the
12 department and adjusted annually, a deputy sheriff or
13 undersheriff is entitled to receive a longevity payment on a
14 monthly basis amounting to 1% of his annual salary for each
15 year of service with the department.

16 Section 6. Section 39-3-406, MCA, is amended to read:
17 "39-3-406. Exclusions. (1) The provisions of 39-3-404
18 and 39-3-405 shall not apply with respect to:

19 (a) students participating in a distributive education
20 program established under the auspices of an accredited
21 educational agency;

22 (b) persons employed in private homes whose duties
23 consist of menial chores such as baby sitting, mowing lawns,
24 cleaning sidewalks;

25 (c) persons employed directly by the head of a

1 household to care for children dependent upon the head of
2 the household;

3 (d) immediate members of the family of an employer or
4 persons dependent upon an employer for half or more of their
5 support in the customary sense of being a dependent;

6 (e) any persons not regular employees thereof who
7 voluntarily offer their services to a nonprofit organization
8 on a fully or partially reimbursed basis;

9 (f) handicapped workers engaged in work which is
10 incidental to training or evaluation programs or whose
11 earning capacity is so severely impaired that they are
12 unable to engage in competitive employment;

13 (g) apprentices or learners, who may be exempted by
14 the commissioner for a period not to exceed 30 days of their
15 employment;

16 (h) learners under the age of 18 who are employed as
17 farm workers, provided that such exclusion shall not exceed
18 a period of 180 days from their initial date of employment
19 and further provided that during this exclusion period wages
20 paid such learners may not be less than 50% of the minimum
21 wage rate established in this part;

22 (i) retired or semiretired persons performing
23 part-time incidental work as a condition of their residence
24 on a farm or ranch;

25 (j) any individual employed in a bona fide executive,

1 administrative, or professional capacity as these terms are
2 defined and delimited by regulations of the commissioner;

3 (k) any individual employed by the United States of
4 America.

5 (2) The provisions of 39-3-405 do not apply to:

6 (a) an employee with respect to whom the United States
7 Secretary of Transportation has power to establish
8 qualifications and maximum hours of service pursuant to the
9 provisions of 49 U.S.C. 304;

10 (b) an employee of an employer subject to the
11 provisions of part I of the Interstate Commerce Act;

12 (c) an individual employed as an outside buyer of
13 poultry, eggs, cream, or milk, in their raw or natural
14 state;

15 (d) a salesman, partsman, or mechanic paid on a
16 commission or contract basis and primarily engaged in
17 selling or servicing automobiles, trucks, mobile homes,
18 recreational vehicles, or farm implements if he is employed
19 by a nonmanufacturing establishment primarily engaged in the
20 business of selling such vehicles or implements to ultimate
21 purchasers;

22 (e) a salesman primarily engaged in selling trailers,
23 boats, or aircraft if he is employed by a nonmanufacturing
24 establishment primarily engaged in the business of selling
25 trailers, boats, or aircraft to ultimate purchasers;

1 (f) an employee employed as a driver or driver's
2 helper making local deliveries who is compensated for such
3 employment on the basis of trip rates, or other delivery
4 payment plan, if the commissioner finds that such plan has
5 the general purpose and effect of reducing hours worked by
6 such employees to or below the maximum workweek applicable
7 to them under 39-3-405;

8 (g) an employee employed in agriculture or in
9 connection with the operation or maintenance of ditches,
10 canals, reservoirs, or waterways not owned or operated for
11 profit and not operated on a sharecrop basis and which are
12 used exclusively for supply and storing of water for
13 agricultural purposes;

14 (h) an employee with respect to his employment in
15 agriculture by a farmer, notwithstanding other employment of
16 such employee in connection with livestock auction
17 operations in which such farmer is engaged as an adjunct to
18 the raising of livestock, either on his own account or in
19 conjunction with other farmers, if such employee is:

20 (i) primarily employed during his workweek in
21 agriculture by such farmer; and

22 (ii) paid for his employment in connection with such
23 livestock auction operations at a wage rate not less than
24 that prescribed by 39-3-404;

25 (i) an employee of an establishment commonly

1 recognized as a country elevator, including an establishment
2 which sells products and services used in the operation of a
3 farm, if no more than five employees are employed by the
4 establishment;

5 (j) a driver employed by an employer engaged in the
6 business of operating taxicabs;

7 (k) an employee who is employed with his spouse by a
8 nonprofit educational institution to serve as the parents of
9 children who are orphans or one of whose natural parents is
10 deceased or who are enrolled in such institution and reside
11 in residential facilities of the institution so long as the
12 children are in residence at the institution and so long as
13 such employee and his spouse reside in such facilities and
14 receive, without cost, board and lodging from the
15 institution and are together compensated, on a cash basis,
16 at an annual rate of not less than \$10,000; or

17 (l) an employee employed in planting or tending trees;
18 cruising, surveying, or felling timber; or transporting logs
19 or other forestry products to a mill, processing plant,
20 railroad, or other transportation terminal if the number of
21 employees employed by his employer in such forestry or
22 lumbering operations does not exceed eight;

23 (m) an undersheriff or a deputy sheriff who is
24 employed by a department that has established a workperiod
25 in lieu of a workweek pursuant to [section 3]."

LC 2040/01

1 Section 7. Construction in event of conflict. If there
2 is a conflict between sections 2 through 5 and any other
3 law, sections 2 through 5 govern with respect to
4 undersheriffs and deputy sheriffs.

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