

HOUSE BILL NO. 905

2/20 Introduced
2/20 Referred to State Administration
2/22 Hearing
2/23 Fiscal Note Requested
3/04 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 905
 2 INTRODUCED BY ~~Bernice Mahler - Ed Hammond~~
 3 ~~Bygh Manuel Miller~~

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AND FUNDING A
 5 JAIL STANDARDS COMMISSION ATTACHED TO THE DEPARTMENT OF
 6 ADMINISTRATION; AND PROVIDING AN EFFECTIVE DATE."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Jail standards commission -- allocation --
 10 composition -- terms. (1) There is a jail standards
 11 commission.

12 (2) The commission is allocated to the department of
 13 administration for administrative purposes only as
 14 prescribed in 2-15-121, except that 2-15-121(2)(d) does not
 15 apply.

16 (3) The commission is composed of nine members
 17 appointed by the governor as follows:

18 (a) five persons who are peace officers appointed in
 19 consultation with the Montana sheriffs and peace officers'
 20 association;

21 (b) two persons who are county attorneys appointed in
 22 consultation with the Montana county attorneys' association;
 23 and

24 (c) two persons who are involved in county government
 25 appointed in consultation with the Montana association of

1 counties.

2 (4) Members shall serve staggered terms of 4 years. A
 3 member may serve on the commission during his appointed term
 4 as long as he remains a member of the association from which
 5 he was selected. A vacancy occurring on the commission must
 6 be filled for the unexpired term by appointment by the
 7 governor as provided in this section.

8 Section 2. Officers of commission -- compensation. (1)
 9 The members of the jail standards commission shall elect a
 10 chairman and other necessary officers at the initial meeting
 11 and annually thereafter.

12 (2) Commission members are not entitled to receive
 13 compensation while attending meetings or conducting official
 14 commission duties. However, members are entitled to be
 15 reimbursed for actual and necessary expenses as provided in
 16 2-18-501 through 2-18-503.

17 Section 3. Meetings -- quorum. (1) The commission
 18 shall meet at least twice a year and may hold additional
 19 meetings on the call of the chairman or at the request of
 20 any five commission members.

21 (2) Five members constitute a quorum for the
 22 transaction of business.

23 Section 4. Powers and duties of commission. Subject to
 24 [section 5], the powers and duties of the jail standards
 25 commission include but are not limited to:

1 (1) establishing minimum standards for the care and
 2 treatment of prisoners, correctional officer training,
 3 design and construction of new jails, and the general
 4 operation of jail facilities, including minimum standards
 5 concerning:

- 6 (a) space requirements;
 - 7 (b) health and sanitation facilities;
 - 8 (c) nutritional requirements;
 - 9 (d) exercise requirements;
 - 10 (e) visitation privileges; and
 - 11 (f) conduct of peace officers;
- 12 (2) conducting jail inspections to assist local
 13 governments in assessing their existing jail facilities in
 14 comparison with commission standards;
- 15 (3) hiring staff or contracting for services to assist
 16 the commission in performing its duties;
- 17 (4) assisting local governments with advisory legal
 18 expertise; and
- 19 (5) adopting rules to implement [sections 1 through
 20 7].

21 Section 5. Nature of standards. Standards established
 22 by the jail standards commission as provided in [section 4]
 23 are nonmandatory guidelines for any county or municipal jail
 24 operated in the state.

25 Section 6. Funding -- source and allocation. (1) Each

1 court must, upon a conviction or forfeiture of bond or bail,
 2 impose a surcharge in addition to any fine or costs imposed.
 3 The surcharge is \$10 for a misdemeanor and the greater of
 4 \$20 or 10% of a fine imposed for a felony. This surcharge is
 5 not a fine and may not be considered in determining the
 6 jurisdiction of the court.

7 (2) The collected surcharges must be deposited with
 8 the county treasurer, who must retain 50% for the purposes
 9 set out in subsection (4) and at the end of each calendar
 10 quarter deposit in the state treasury 50% of the surcharges
 11 he received during the quarter.

12 (3) The money deposited in the state treasury under
 13 subsection (2) is allocated to the jail standards
 14 commission, which must use the money for the following
 15 purposes:

- 16 (a) administrative costs;
- 17 (b) grants to local governments to assist them in
 18 conforming their jails to commission standards; and
- 19 (c) grants to state agencies that have the expertise
 20 or authority to assist the commission in carrying out the
 21 commission's duties.

22 (4) The money retained by the county treasurer under
 23 subsection (2) is allocated as follows:

- 24 (a) 50% to the sheriff's department for use in
 25 training law enforcement and correctional personnel in the

1 department; and

2 (b) 50% to the county commissioners to be used to
3 build, renovate, and equip jails.

4 Section 7. Annual audit. The commission's finances
5 must be audited each year by a person generally recognized
6 as competent to conduct the audit. The commission shall pay
7 the cost of the audit.

8 Section 8. Appointment of initial commission -- terms.

9 (1) Within 30 days after the effective date of this act, the
10 governor shall appoint members to the commission in
11 compliance with section 1.

12 (2) The governor shall appoint three persons who are
13 peace officers, one person who is a county attorney, and one
14 person who is involved in county government to serve 4-year
15 terms. The governor shall appoint all remaining persons to
16 serve 2-year terms.

17 Section 9. Codification instruction. Section 1 is
18 intended to be codified as an integral part of Title 2,
19 chapter 15, part 10, and the provisions of Title 2, chapter
20 15, apply to section 1.

21 Section 10. Effective date. This act is effective July
22 1, 1985.

-End-

STATE OF MONTANA

FISCAL NOTE

REQUEST NO. FNN 507-85

Form BD-15

In compliance with a written request received February 23, 19 85, there is hereby submitted a Fiscal Note for House Bill 905 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

To create and fund a Jail Standards Commission attached to the Department of Administration.

ASSUMPTIONS:

1. Administrative costs would include one F.T.E. (Grade 14) and operating costs to staff the Commission.
2. Nine Commission members would meet six times per year in Helena.
3. Since fiscal data is not readily available on felony cases, it is assumed that \$20/case is a proper amount.
4. The number of cases in the courts will continue at the FY1982 rate.
5. State agencies using grant monies will be able to obtain spending authority by budget amendments.
6. Grants to local governments will not be made until the FY1987.
7. The amount of grants to state agencies and local governments cannot be determined at this time.

FISCAL IMPACT:

<u>Revenue:</u>	<u>FY 1986</u>	<u>FY 1987</u>
Current Law	\$ -0-	\$ -0-
Proposed Law	\$1,150,000	\$1,150,000
Amount Available to Commission (50%)	\$ 575,000	\$ 575,000
<u>Expenditures:</u>		
Commission Expenses Including staff & Operating Costs	\$ 42,889	\$ 43,992
Grants	\$ 532,111	\$ 531,008

Funding would be from a State Special Revenue account.

David L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: March 4, 1985

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TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Under Assumption #5, the proposed legislation needs language authorizing budget amendments to state agencies. The budget amendment law prohibits budget amendments for State Special Revenue Funds unless there is an "emergency." This language would make budget amendments possible.