

HB 27 INTRODUCED BY REHBERG, KEATING, ET AL.
FREEZE LEGISLATORS' AND ELECTED COUNTY OFFICIALS'
SALARIES

6/19 INTRODUCED
6/19 REFERRED TO STATE ADMINISTRATION
6/20 HEARING
6/20 TABLED IN COMMITTEE
6/25 SECOND HEARING
6/25 TABLED AS AMENDED IN COMMITTEE

1 *Naull* *House* BILL NO. *27* *Offen*
2 INTRODUCED BY *Redding Keating* *NATH* *Miller*
3 *Spaeth* *Wingler* *Edgett* *Egna* *Beck*
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO FREEZE AT THE JUNE
5 30, 1986, LEVEL THE SALARIES OF ELECTED COUNTY OFFICIALS,
6 INCLUDING JUSTICES OF THE PEACE, AND THE SALARIES OF
7 APPOINTED STATE OFFICIALS WHOSE SALARIES ARE NOT PROVIDED
8 FOR IN THE MCA; TO RETURN THE SALARY OF LEGISLATORS TO THE
9 LEVEL IN EFFECT PRIOR TO THE JANUARY 1, 1987, EFFECTIVE DATE
10 OF THE SALARY RAISE BY SECTION 3, CHAPTER 693, LAWS OF 1985;
11 AMENDING SECTIONS 3-10-207, 5-2-301, 7-4-2107, AND 7-4-2502
12 THROUGH 7-4-2505, MCA; AND PROVIDING EFFECTIVE DATES."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 3-10-207, MCA, is amended to read:

16 "3-10-207. Salaries. (1) The board of county
17 commissioners shall set salaries for justices of the peace
18 by resolution. Salaries must meet the minimum requirements
19 established by this section, except that after June 30,
20 1986, the salary for a justice of the peace may not be
21 higher than it was on June 30, 1986.

22 (2) If the salary of the justice of the peace was
23 determined on a fee basis for the years 1971 and 1972, he
24 shall receive a monthly salary of not less than
25 one-eighteenth of the total fees, civil and criminal,

1 collected by the justice or his predecessor in office during
2 the 2 years 1971 and 1972.

3 (3) If the salary of the justice of the peace was
4 determined on a nonfee basis for the years 1971 and 1972,
5 the justice shall be paid not less than the highest salary
6 earned by the justice or his predecessor for the years 1971
7 and 1972.

8 (4) The salary of the justice of the peace may not be
9 less than the salary for the district clerk of the court in
10 that county, except as provided for in subsection
11 subsections (1) and (5).

12 (5) In the event his court is not open for business
13 full time, the justice's salary shall be commensurate to the
14 workload and office hours of the court."

15 Section 2. Section 7-4-2107, MCA, is amended to read:

16 "7-4-2107. Compensation of county commissioners. (1)
17 Each member of the board of county commissioners in counties
18 of the first, second, third, and fourth class shall receive
19 an annual salary equal to the annual salary established in
20 7-4-2503-for-the-clerk-and-recorder-plus-\$2,000 in effect on
21 June 30, 1986.

22 (2) Each member of the board in all other counties is
23 entitled to a salary for each day in which he is actually
24 and necessarily engaged in the performance of board duties.
25 as-set-by-resolution-of-the-board-for-the-fiscal-year

1 ~~beginning July 1, 1985, the~~ The salary is \$60 a day.
 2 ~~Thereafter, on or before July 1 of each year, the county~~
 3 ~~commission shall fix a cost of living adjusted daily salary~~
 4 ~~by adding to the amount of \$60 an increment calculated as~~
 5 ~~provided in 7-4-2504.~~

6 (3) This section does not apply to counties that have
 7 adopted a charter form of government."

8 Section 3. Section 7-4-2502, MCA, is amended to read:

9 "7-4-2502. Payment of salaries of county officials and
 10 assistants. (1) Except as provided in subsection (2), the
 11 salaries of the county officers and their assistants may be
 12 paid monthly, twice monthly, or every 2 weeks out of the
 13 general fund of the county and upon the order of the board
 14 of county commissioners.

15 (2) (a) The salaries of the county attorney and deputy
 16 county attorneys authorized by 7-4-2703 are payable monthly,
 17 with the salaries of the county attorney and no more than
 18 two deputies payable one-half from the general fund of the
 19 county and the other one-half from the state treasury upon
 20 the warrant of the state auditor. Such salaries for the
 21 deputy county attorneys include the longevity increases
 22 provided by 7-4-2503(3)(4)(d).

23 (b) The county commissioners of each county shall,
 24 within 30 days after the election or appointment to fill a
 25 vacancy for any cause in the office of county attorney or

1 within 30 days after the appointment of a deputy county
 2 attorney authorized by 7-4-2703, certify the election or
 3 appointment to the state auditor, who shall thereafter draw
 4 warrants for such salary in the same manner as for state
 5 officers. In case of a vacancy, the county commissioners
 6 shall immediately notify the state auditor, and the auditor
 7 shall compute the salary due on the basis of the
 8 notification.

9 (3) The board has jurisdiction and power, under such
 10 limitations and restrictions as are prescribed by law, to
 11 fix the compensation of all county officers not otherwise
 12 fixed by law and to provide for the payment of the same.

13 (4) After June 30, 1986, the compensation of an
 14 elected officer may not be more than it was on June 30,
 15 1986."

16 Section 4. Section 7-4-2503, MCA, is amended to read:

17 "7-4-2503. Salary schedule for certain county
 18 officers. (1) The salary paid to the county treasurer,
 19 county clerk and recorder, clerk of the district court,
 20 county assessor, county superintendent of schools, and
 21 county sheriff; the county surveyor in counties where county
 22 surveyors receive salaries as provided in 7-4-2812; and the
 23 county auditor in all counties wherein such office is
 24 authorized, for the fiscal year beginning July 1, 1981, is
 25 computed by adding the annual base salary of:

(a) \$14,000 for the counties of the first through fifth class to the population increment of \$10 for each 100 persons or major fraction thereof included in the county's population as determined by the 1980 federal decennial census; or

(b) \$12,000 for counties of the sixth and seventh class to the population increment of \$20 per 100 persons or major fraction thereof in the county's population as determined by the 1980 federal decennial census.

(2) The salary computed under subsection (1) for an elected official referred to in subsection (1) may not be higher than it was on June 30, 1986.

(2)(3) (a) An elected county superintendent of schools shall receive, in addition to the salary based upon subsection subsections (1) and (2), the sum of \$400 per year, except that an elected county superintendent of schools who holds a master of arts degree or a master's degree in education, with an endorsement in school administration, from a unit of the Montana university system or an equivalent institution may, at the discretion of the county commissioners, receive, in addition to the salary based upon subsection subsections (1) and (2), up to \$2,000 per year.

(b) The county sheriff shall receive, in addition to the salary based upon subsection subsections (1) and (2),

the sum of \$2,000 per year.

(3)(4) (a) In each county with a population in excess of 30,000, the county attorney shall be a full-time official under 7-4-2704, and his salary for the fiscal year beginning July 1, 1981, shall be \$36,500. In counties with a population less than 30,000, the county attorney who is a part-time official for a county of the first, second, or third class is entitled to receive an annual salary equal to 60% of the annual salary of a full-time county attorney. A county attorney who is a part-time official for a county of the fourth, fifth, sixth, or seventh class is entitled to receive an annual salary equal to 50% of the annual salary of a full-time county attorney.

(b) In those counties where the office of the county attorney has been established as a full-time position pursuant to 7-4-2706, the salary of the county attorney for the fiscal year beginning July 1, 1981, shall be \$36,500.

(c) Beginning on July 1, 1982, and on July 1 of each succeeding year, each appointed county attorney shall be entitled to an increase in salary calculated by adding to his annual salary on July 1, 1981, an increment of 70% of the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in

the future recognize as the successor to that index. The cost-of-living increment for the fiscal year beginning July 1, 1983, and for each subsequent fiscal year shall be added to all cost-of-living increments granted for previous years.

(d) (i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of \$1,000 on the anniversary date of his employment as deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of his employment. After completing 6 years of service as deputy county attorney and for each year of service thereafter up to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual increase in salary of \$500.

(ii) The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase.

(4)(5) For each 10th year after the fiscal year beginning July 1, 1981, the latest federal decennial census statistics shall be the basis for computation of population increments under this section. During the intervening 9 years, the computation of population increments applicable on July 1 of each year shall be based on the last calendar

year's annual estimates of counties' populations compiled by the federal-state cooperative program for estimates of the university of Montana bureau of business and economic research and the U.S. bureau of the census or other estimate that the bureau of business and economic research may certify."

Section 5. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution -- cost-of-living increments. (1) The county governing body shall by resolution, on or before July 1, 1982, and on or before July 1 of each year thereafter adjust and uniformly fix the salaries of the an appointed county treasurer, county clerk, county assessor, county school superintendent, county sheriff, ~~and--the~~ clerk of the district court⁷, ~~the~~ county auditor (if there is one)⁷, and ~~the~~ county surveyor (if he receives a salary) for cost-of-living increase by adding to the annual salary computed under 7-4-2503 an increment calculated by applying to the annual salary established by 7-4-2503(1) plus previous cost-of-living increments, 70% of the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The cost-of-living increment for

the fiscal year beginning July 1, 1983, and for each subsequent fiscal year shall be added to all cost-of-living increments granted for previous years.

(2) If the application of 7-4-2503 does not qualify a an appointed county official for a salary increase of at least 7% on July 1, 1981, his salary on that date shall be increased by an amount sufficient to provide him total salary equal to 7% more than during the previous year.

(3) The county governing body shall by resolution, prior to July 1 of each year, establish the salary of the coroner. After June 30, 1986, the salary of an elected coroner may not be higher than it was on June 30, 1986. The salary must be in effect upon the first day of each ensuing fiscal year."

Section 6. Section 7-4-2505, MCA, is amended to read:

"7-4-2505. Amount of compensation for deputies and assistants. (1) Subject to subsection (2), the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant of the following officers:

- (a) clerk and recorder;
- (b) clerk of the district court;
- (c) treasurer;
- (d) assessor;
- (e) county attorney;

(f) auditor.

(2) (a) The salary of a deputy or an assistant listed in subsection (1), other than a deputy county attorney, may not be more than 90% of the salary of the officer under whom such deputy or assistant is serving. The salary of a deputy county attorney, including longevity payments provided in 7-4-2503~~(3)~~(4)(d), may not exceed the salary of the county attorney under whom he is serving.

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

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

Section 7. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate of a grade ~~10~~ 8, step 2, classified state employee, which rate is in effect when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The president of the senate and the speaker of the house shall receive an additional \$5 a

1 day in salary for those days during which the legislature is
2 in session.

3 (2) Legislators may serve for no salary.

4 (3) Legislators are entitled to \$50 a day, 7 days a
5 week, during a legislative session, as reimbursement for
6 expenses incurred in attending a session. Expense payments
7 shall stop when the legislature recesses for more than 3
8 days and shall resume when the legislature reconvenes.

9 (4) Legislators are entitled to a mileage allowance as
10 provided in 2-18-503 for each mile of travel to the place of
11 the holding of the session and to return to their place of
12 residence at the conclusion of the session.

13 (5) In addition to the mileage allowance provided for
14 in subsection (4), legislators, upon submittal of an
15 appropriate claim for such mileage reimbursement to the
16 office of the legislative council, are entitled to:

17 (a) three additional round trips to their place of
18 residence during each regular session; and

19 (b) such additional round trips as are authorized by
20 the legislature during special session.

21 (6) Legislators are not entitled to any additional
22 mileage allowance under subsection (4) for a special session
23 if it is convened within 7 days of a regular session."

24 NEW SECTION. Section 8. Salaries of appointed
25 executive branch officials and employees not provided for in

1 other MCA sections. For fiscal year 1987 and following
2 years, the salaries of the following executive branch
3 appointed officials and employees is the salary in effect on
4 June 30, 1986:

5 (1) department heads appointed under 2-15-111;

6 (2) the administrator of the division of workers'
7 compensation appointed under 2-15-1702; and

8 (3) any other full-time employee or official who is
9 appointed by any other official or employee and whose salary
10 is not provided for in another provision of the MCA.

11 NEW SECTION. Section 9. Applicability. The amendment
12 to 3-10-207(1), MCA, by section 1 of this act does not apply
13 to or void a salary increase granted after June 30, 1986, if
14 section 1 of this act takes effect after June 30, 1986, and
15 after the salary increase. Article VII, section 7(1), of
16 the Montana constitution provides that the salaries of
17 justices and judges "shall not be diminished during terms of
18 office".

19 NEW SECTION. Section 10. Effective dates. (1) Section
20 7 of this act is effective January 2, 1987.

21 (2) All other sections of this act are effective on
22 passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB027, as introduced.

Description of Proposed Legislation:

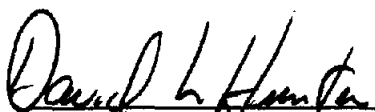
An act to freeze at the June 30, 1986, level the salaries of elected county officials, including justices-of-the-peace, and the salaries of appointed state officials whose salaries are not provided for in the MCA; to return the salary of legislators to the level in effect prior to January 1, 1987, effective date of the salary raise by section 3, chapter 693, laws of 1985; amending sections 3-10-207, 5-2-301, 7-4-2107, and 7-4-2502 through 7-4-2505, MCA; and providing effective dates.

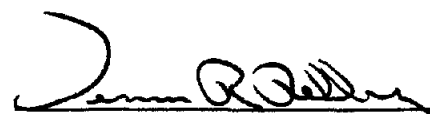
Assumptions:

1. For salaries of state officials the current law estimate was derived by multiplying the hourly rate by 2,088 hours for FY87 from position budget by information on personal services turn-around documents for FY87. The effect of the proposed law was estimated by multiplying the hourly rate by 2,088 hours; the hourly rate was taken from the position control report of 5/23/86. Actual benefit levels for FY87 were used.
2. The estimated salaries of county attorneys, county assessors, and deputy county assessors was taken from the payroll report of 5/23/86. Actual benefit levels for FY87 were used. Deputy county assessors were included because their salaries are set at 90% of the respective county assessor's salary; therefore, a "freeze" in the assessor's salary would impact the deputy assessors' salaries.
3. Legislators' salaries were calculated from the FY87 pay matrix excluding insurance. Benefits were assumed to be 8 percent of salaries. Although the amount paid to legislators participating on interim committees would be affected, the amount would be small in FY87 and is unpredictable.
4. County elected officials' salaries were estimated from a survey of 30 counties with a cross-section of 1st, 2nd, 3rd, 4th, 5th, 6th and 7th class counties. An average benefit rate of 8 percent was used. The total amount from the 30 surveyed counties was increased by a factor of 1.45 to reflect the total impact to all 56 counties.

Fiscal Impact:

	FY87 Current Law	FY87 Proposed Law	Difference
<u>Expenditures</u>			
General Fund	\$ 7,313,530	\$ 7,024,548	(\$ 288,982)
Earmarked Special			
Revenue Fund	881,692	858,401	(23,291)
Federal Private and Special	572,768	563,217	(9,551)
Proprietary Fund	372,627	356,515	(16,112)
Expendable Trust	4,020	4,020	-0-
Current Unrestricted	450,688	433,167	(17,521)
TOTAL	\$ 9,595,325	\$ 9,239,868	(\$ 355,457)

 6/20/86
 BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 6/20/86
 PRIMARY SPONSOR DATE

Fiscal Note for HB027 as introduced.

Fiscal Note Request HB027, as introduced.
Form BD-15, page 2
(continued)

Affect on County or Other Local Revenue or Expenditures:

	FY87 <u>Current Law</u>	FY87 <u>Proposed Law</u>	<u>Difference</u>
Expenditures from County General Fund	\$ 6,206,513	\$ 6,003,656	(\$ 202,857)

*Includes some impact on the road fund as well because portions of county commissioners' salaries are paid from the road funds in some counties.

Long-Range Effects:

The long-range effects of HB027 will depend on the actions of future legislatures in establishing pay schedules.

Technical or Mechanical Defects in Proposed Legislation or Conflicts with Existing Legislation:

It is unclear as to which positions are to be included in section 8 of HB27. No administrative positions under the Board of Regents, except for the university presidents and central office of the Commissioner of Higher Education were included. Administrative positions under the Board of Public Education were not included except for the administrative secretary of the board and the superintendent and business manager at the School for the Deaf and Blind.

The bill could be interpreted to apply to all faculty members of the University System. Section 8(3) states that salary is to be as of the June 30, 1986 salary for "any other full-time employee or official who is appointed by any other official or employee and whose salary is not provided for in another provision of the MCA." Since all faculty are "appointed" and their salaries are not provided for in the MCA, HB027 may apply. If that interpretation is correct, the fiscal impact would be substantially larger. There would be a conflict with contractual obligations of the state with faculty positions and with some other positions clearly covered by the bill.