

HOUSE BILL 315

Introduced by Simon, et al.

1/20	Introduced
1/21	Referred to Local Government
1/23	Fiscal Note Requested
1/27	Fiscal Note Received
1/28	Fiscal Note Printed
1/31	Hearing
1/31	Tabled in Committee

1 HOUSE BILL NO. 315
 2 INTRODUCED BY Simon Buck Hardy
 3 Dave Brown

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE METHOD OF
 5 ESTABLISHING SALARIES FOR ELECTED COUNTY OFFICIALS BY
 6 PROVIDING THAT THE SALARIES BE UNIFORMLY DETERMINED BY THE
 7 COUNTY GOVERNING BODY; TO PROVIDE FOR A COUNTY SALARY
 8 COMMISSION TO PROPOSE NONUNIFORM SALARY CHANGES WHEN
 9 REQUESTED BY THE BOARD OF COUNTY COMMISSIONERS; AMENDING
 10 SECTIONS 3-10-207, 7-4-2108, 7-4-2502, 7-4-2503, 7-4-2505,
 11 7-4-2706, 7-14-2126, 7-14-2610, AND 7-32-104, MCA; REPEALING
 12 SECTIONS 7-4-2107, 7-4-2504, 7-4-2507, AND 7-4-2510, MCA;
 13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

17 "3-10-207. Salaries. (1) The board of county
 18 commissioners shall set salaries for justices of the peace
 19 by resolution ~~and may, for all or the remainder of each~~
 20 ~~fiscal year, in conjunction with setting salaries for other~~
 21 ~~officers as provided in 7-4-2504(1), set their salaries at~~
 22 ~~the prior fiscal year level if that does not result in a~~
 23 reduction in salary as provided in 7-4-2503. Salaries must
 24 meet the minimum requirements established by this section.

25 (2) If the salary of the justice of the peace was

1 determined on a fee basis for the years 1971 and 1972, he
 2 shall receive a monthly salary of not less than
 3 one-eighteenth of the total fees, civil and criminal,
 4 collected by the justice or his predecessor in office during
 5 the 2 years 1971 and 1972.

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

11 (4) The salary of the justice of the peace may not be
 12 diminished during his term of office and may not be less
 13 than the salary for the district clerk of the court in that
 14 county, except as provided for in ~~subsections--(1) and~~
 15 subsection (5).

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

19 **Section 2.** Section 7-4-2108, MCA, is amended to read:

20 "7-4-2108. Mileage allowance for county commissioners
 21 -- expenses. (1) In addition to the salary provided by
 22 ~~7-4-2107(1)~~ 7-4-2503, each member of the board of county
 23 commissioners in counties of the first, second, third, and
 24 fourth class shall receive a mileage allowance as provided
 25 in 2-18-503 for the distance necessarily traveled in going

1 to and returning from the county seat and his place of
2 residence, each day that such the trip is actually made and
3 while engaged in the performance of his official duties.

4 (2) Each member of the board in all other counties is
5 entitled to a mileage allowance as provided in 2-18-503 for
6 the distance necessarily traveled in going to and returning
7 from the county seat and his place of residence each day
8 that such the trip is actually made to perform official
9 duties. Any county commissioner whose place of residence is
10 50 miles or more from the county seat, as measured by the
11 usual route of travel, and who elects to remain more than
12 one day in the county seat to attend sessions of the board
13 or perform his official duties is entitled to receive, in
14 addition to mileage for one round trip between his place of
15 residence and the county seat, \$18 per day as expenses for
16 each day's attendance on sessions of the board while engaged
17 in the performance of his official duties.

18 (3) All claims for lodging expense reimbursement
19 allowed under this section must be documented by an
20 appropriate receipt.

21 (4) When other than commercial, nonreceiptable lodging
22 facilities are utilized by a county commissioner, the amount
23 of \$7 will be authorized for lodging expenses for each day
24 in which travel involves an overnight stay in lieu of the
25 amount authorized in this section. However, when overnight

1 accommodations are provided at the expense of any government
2 entity, no reimbursement may be claimed for lodging.

3 (5) This section does not apply to counties that have
4 adopted charter form of government."

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

6 **"7-4-2502. Payment of salaries of county officials and**
7 **assistants.** (1) Except as provided in subsection (2), the
8 salaries of the county officers and their assistants may be
9 paid monthly, twice monthly, or every 2 weeks out of the
10 general fund of the county and upon the order of the board
11 of county commissioners.

12 (2) (a) The salaries of the county attorney and deputy
13 county attorneys authorized by 7-4-2703 are payable monthly,
14 with the salary of the county attorney payable one-half from
15 the general fund of the county and the other one-half from
16 the state treasury upon the warrant of the state auditor.
17 The annualized portion payable from the state treasury may
18 not exceed one-half the annual salary of the attorney
19 general in the case of full-time county attorneys or
20 one-quarter the annual salary of the attorney general in the
21 case of part-time county attorneys.

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

who shall thereafter draw warrants for such salary in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the state auditor, and the auditor shall compute the salary due on the basis of the notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed by law and to provide for the payment of the same and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set their salaries at the prior fiscal year level."

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

"7-4-2503. Salary--schedule County governing board to set salaries for certain elected county officers -- changes to be uniform. (1) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, and county sheriff, the county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812, and the county auditor in all counties wherein such office is authorized, for the fiscal year beginning July 1, 1981, is 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) (a) An elected county superintendent of schools shall receive, in addition to the salary based upon subsection (1), 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 (1), up to \$2,000 per year.

(b) The county sheriff shall receive, in addition to the salary based upon subsection (1), the sum of \$2,000 per year.

(3) (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

1 population less than 30,000, the county attorney who is a
 2 part-time official for a county of the first, second, or
 3 third class is entitled to receive an annual salary equal to
 4 60% of the annual salary of a full-time county attorney. A
 5 county attorney who is a part-time official for a county of
 6 the fourth, fifth, sixth, or seventh class is entitled to
 7 receive an annual salary equal to 50% of the annual salary
 8 of a full-time county attorney.

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

13 (c) Beginning on July 1, 1982, and on July 1 of each
 14 succeeding year, each county attorney shall be entitled to
 15 an increase in salary calculated by adding to his annual
 16 salary on July 1, 1981, an increment of 70% of the last
 17 previous calendar year's consumer price index for all urban
 18 consumers, U.S. department of labor, bureau of labor
 19 statistics, or other index that the bureau of business and
 20 economic research of the university of Montana may in the
 21 future recognize as the successor to that index. However,
 22 the county commissioners may, for all or the remainder of
 23 each fiscal year, in conjunction with setting salaries for
 24 other officers as provided in 7-4-2504(1), set the salary at
 25 the prior fiscal year level if that level is lower than the

1 level required by this subsection (3)(c). The
 2 cost-of-living increment for the fiscal year beginning July
 3 1, 1983, and for each subsequent fiscal year shall be added
 4 to all cost-of-living increments granted for previous years
 5 unless salaries were set for the fiscal year at the level of
 6 salaries received in the prior fiscal year. In such case the
 7 cost-of-living increment that would have been received for
 8 such fiscal year, computed on the prior fiscal year, may not
 9 be added to previous increments.

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

22 (ii) The years of service as a deputy county attorney
 23 accumulated prior to July 1, 1985, must be included in the
 24 calculation of the longevity increase, but years of service
 25 during any year in which the salary was set at the level of

the salary of the prior fiscal year may not be included in any calculation of longevity increases:

(4) 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. The governing body of a county shall annually establish by resolution the salary of each elected county official. Before adopting the resolution, the governing body shall hold a public hearing. Notice of the proposed hearing must be published as provided in 7-1-2121. The resolution must be adopted no later than May 31 and is effective July 1.

(2) In changing the salaries of elected county officials, the governing body shall set the salaries of all county officers by using the same factor for all such salaries in a uniform manner that will ensure that the relationship between and among the salaries remains the same

as the level of compensation:

(a) authorized on June 30, 1989; or

(b) set pursuant to the recommendations of a county salary commission in [section 5]."

NEW SECTION. Section 5. County salary commission -- formation -- adoption or rejection of proposals. (1) The board of county commissioners may change salaries of elected county officials in a nonuniform manner by adopting a salary schedule proposed by a county salary commission. The board may provide for the establishment of a salary commission no later than February 1 to propose salaries for the fiscal year beginning July 1.

(2) The county salary commission consists of the following five members, selected in the following manner:

(a) one county commissioner who is selected by the board;

(b) two elected county officials other than county commissioners who are selected by all elected county officials other than county commissioners; and

(c) two county residents who are not elected county officials and are appointed by the district judge, or the chief judge in a multijudge district, from a list of six or more county residents submitted by a majority vote of the three commission members selected pursuant to subsections (2)(a) and (2)(b). The list of six must be compiled after

1 advertising the vacancies and considering all applicants.

2 (3) The commission shall determine the appropriate
3 compensation for each of the elected county officials.

4 (a) The commission shall designate one of its members
5 as chairman at its initial meeting.

6 (b) Meetings of the commission may be held upon the
7 call of the chairman. However, at least two meetings
8 attended by a majority of the members must be held before
9 the commission may issue the report prescribed in subsection
10 (4). All members must be present for the final vote that
11 proposes compensation. All meetings of the commission are
12 open to the public as provided in Title 2, chapter 3, part
13 2.

14 (c) Members of the commission may receive no
15 compensation other than for actual and necessary expenses
16 incurred in their official capacity.

17 (4) The level of compensation proposed by the
18 commission must be submitted to the board in the form of a
19 report on or before May 1. The board may adopt the proposal
20 of the commission or may reject the proposal.

21 (a) If the board adopts the compensation proposal, the
22 board has set the compensation exactly as proposed for all
23 elected county officials. The board may not adopt or reject
24 a part of the proposal. The compensation set by the adopted
25 proposal becomes the level of compensation that may be

1 changed in a uniform manner by the board under 7-4-2503(2)
2 and supersedes the June 30, 1989, level or any level from a
3 compensation proposal that had been previously adopted.

4 (b) If the compensation proposal is rejected, the
5 board must set the compensation for elected county officials
6 under the provisions of 7-4-2503 for the following fiscal
7 year.

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

9 "7-4-2505. Amount of compensation for deputies and
10 assistants. (1) Subject to subsection (2), the boards of
11 county commissioners in the several counties in the state
12 shall have the power to fix the compensation allowed any
13 deputy or assistant of the following officers:

- 14 (a) clerk and recorder;
- 15 (b) clerk of the district court;
- 16 (c) treasurer;
- 17 (d) assessor;
- 18 (e) county attorney;
- 19 (f) auditor.

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

county attorney under whom he is serving.

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

(c) Deputy assessors' salaries shall be ~~the--same--as paid-the-deputy-clerk-and-recorder~~ as provided in 7-4-2503."

Section 7. Section 7-4-2706, MCA, is amended to read:

"7-4-2706. County attorney to be full or part time -- resolution ---salary. (1) In any county with a population of less than 30,000, the county commissioners may, upon the consent of the county attorney, on July 1 of any year by resolution establish the office of county attorney as a full-time position subject to the provisions of 7-4-2701 and 7-4-2704. ~~The--salary--for--this--position--is--the--salary provided--by--7-4-2503--for--the--office--of--county--attorney--in--a county--with--a--population--in--excess--of--30,000--~~

(2) In any county in which the office of county attorney has been established as a full-time position under subsection (1), the county commissioners may, by resolution and upon the consent of the county attorney, establish the office as a part-time position on July 1 of any year."

Section 8. Section 7-14-2126, MCA, is amended to read:

"7-14-2126. Compensation for making inspections. The person or persons making the inspections authorized by 7-14-2125 shall receive a daily salary ~~equal--to--that established---in--7-4-2107(2)~~ and actual expenses if he receives no other compensation for that day and is not on an annual salary. The claims shall be audited and allowed in the same manner as other claims against the county."

Section 9. Section 7-14-2610, MCA, is amended to read:

"7-14-2610. Payment of damages and expenses. All awards of damages estimated by the board or made by the proper court and all expenses, including those of the members of the board and their per diem ~~authorized--by 7-4-2107--and--7-4-2108~~, shall be paid out of the county road fund on the order of the board."

Section 10. Section 7-32-104, MCA, is amended to read:

"7-32-104. Salaries. The provisions of 7-4-2503 notwithstanding, the salaries of the director and employees of the department of public safety shall be established by the public safety commission and shall be paid by the city or town with the board of county commissioners. The salary of the director may not be less than that ~~specified--for of the sheriff in--7-4-2503~~. The salaries of employees may not be less than the salaries specified in 7-4-2508 and ~~7-4-2510~~; however, employees are not required to be paid any fixed percentage of the director's or sheriff's salary."

LC 1018/01

1 NEW SECTION. **Section 11.** Repealer. Sections 7-4-2107,
2 7-4-2504, 7-4-2507, and 7-4-2510, MCA, are repealed.
3 NEW SECTION. **Section 12.** Effective date. [This act]
4 is effective on 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 HB315, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to change the method of establishing salaries for elected county officials by providing that the salaries be uniformly determined by the county governing body; to provide for a county salary commission to propose nonuniform salary changes when requested by the Board of County Commissioners; and providing an immediate effective date.

FISCAL IMPACT:


Expenditure Impact:

The impact cannot be determined, as salary adjustments are discretionary on the part of local governing bodies.

Under current law, the Department of Revenue pays a portion of county assessor's and deputy assessor's salaries. Also, the Department of Justice pays one-half of county attorney's salaries. Thus, there would be an impact on the state General Fund if the local salary commissions were to adjust their salaries.

Local Impact:

In addition to any salary increase, there could be additional expense for mileage and per diem allowance for the proposed salary commissions.


RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/27/89
DATE


BRUCE T. SIMON, PRIMARY SPONSOR

1/27/89
DATE

Fiscal Note for HB315, as introduced

HB 315