

HOUSE BILL 549

Introduced by Brown, J.

2/02	Introduced
2/03	Referred to Local Government
2/09	Hearing
2/10	Committee Report--Bill Passed
2/13	Taken From 2nd Reading
2/13	Rereferred to Local Government
2/17	Committee Report--Bill Passed as Amended
2/20	Rereferred to Local Government
	Died in Committee

1 House BILL NO. 549  
2 INTRODUCED BY J. Brown  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A COUNTY TO  
5 CHARGE A FEE FOR SERVICES PERFORMED BY THE COUNTY IF THE FEE  
6 IS NOT OTHERWISE PROVIDED FOR BY STATE LAW; PROVIDING FOR  
7 NOTICE, HEARING, AND PROTEST OF A COUNTY RESOLUTION TO  
8 ESTABLISH A FEE; AMENDING SECTIONS 3-10-702 AND 7-4-2511,  
9 MCA; AND PROVIDING AN EFFECTIVE DATE."  
10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12 **Section 1.** Section 3-10-702, MCA, is amended to read:  
13 "3-10-702. Governed by law prescribing sheriffs'  
14 duties. (1) All the provisions of 3-5-407, 7-32-2101,  
15 7-32-2102, 7-32-2121, except subsections (4), (5), and (6),  
16 7-32-2122, 7-32-2124, 7-32-2127, 7-32-2129 through  
17 7-32-2132, 25-3-101, 25-3-202, 25-3-204 through 25-3-206,  
18 25-3-301, 25-3-302, 25-13-403, 25-31-408(3), 27-18-305, and  
19 27-18-1505 apply to constables and govern their powers,  
20 duties, and liabilities.  
21 (2) The provisions of 7-32-2141(1) apply to  
22 constables. Fees collected by a constable for services as  
23 provided in 7-32-2141(1) must be paid to the county  
24 treasurer as provided in 7-4-2511(2)(4) and credited to the  
25 budget of the justice's court."

1 **Section 2.** Section 7-4-2511, MCA, is amended to read:  
2 "7-4-2511. Collection and disposal of fees. (1) Each  
3 salaried county officer must charge and collect for the use  
4 of his county and pay into the county treasury by the 10th  
5 day in each month all fees now or hereafter allowed by law,  
6 paid or chargeable in all cases, except as provided in  
7 25-10-403. Nothing in this subsection applies to the  
8 compensation received by the sheriff as mileage while in the  
9 performance of official duties or for the board of prisoners  
10 or other persons while in his custody.  
11 (2) The board of county commissioners, upon  
12 determining that a fee for a service rendered or proposed to  
13 be rendered by the county is not otherwise provided for by  
14 law, may pass a resolution of intent to establish fees,  
15 penalties, and emoluments to be assessed for the service.  
16 (3) (a) Upon passing a resolution of intent under  
17 subsection (2), the board shall publish notice of the  
18 passage of the resolution as provided in 7-1-2121.  
19 (b) At any time within 15 days after the date of the  
20 first publication of the notice of passage of the resolution  
21 of intent, any person who would be affected by the proposed  
22 fee, penalty, or emolument may make written protest.  
23 (c) At the next regular meeting of the board after the  
24 expiration of the time within which protest may be made, the  
25 board shall hear and pass upon all protests made, and its

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1 decision is final and conclusive. If the board finds the  
2 protests to be sufficient, no further proceedings may be  
3 taken for a period of 6 months from the date of the meeting  
4 at which the protests were heard. If the board finds the  
5 protests to be insufficient, it may by resolution establish  
6 the fee, penalty, or emolument proposed under subsection  
7 (2).

8       †2†(4) No A salaried county officer may not receive  
9 for his own use any fees, penalties, or emoluments of any  
10 kind, except the salary as provided by law, for any official  
11 service rendered by him. Unless otherwise provided, all  
12 fees, penalties, and emoluments of every kind collected by a  
13 salaried county officer are for the sole use of the county  
14 and must be accounted for and paid to the county treasurer  
15 as provided by subsection (1) and credited to the general  
16 fund of the county."

17       NEW SECTION. Section 3. Effective date. [This act] is  
18 effective July 1, 1989.

-End-

APPROVED BY COMM.  
ON LOCAL GOVERNMENT

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9 performance of official duties or for the board of prisoners  
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12 determining that a fee for a service rendered or proposed to  
13 be rendered by the county is not otherwise provided for by  
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17 subsection (2), the board shall publish notice of the  
18 passage of the resolution as provided in 7-1-2121.

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20 first publication of the notice of passage of the resolution  
21 of intent, any person who would be affected by the proposed  
22 fee, penalty, or emolument may make written protest.

23 (c) At the next regular meeting of the board after the  
24 expiration of the time within which protest may be made, the  
25 board shall hear and pass upon all protests made, and its

1 decision is final and conclusive. If the board finds the  
2 protests to be sufficient, no further proceedings may be  
3 taken for a period of 6 months from the date of the meeting  
4 at which the protests were heard. If the board finds the  
5 protests to be insufficient, it may by resolution establish  
6 the fee, penalty, or emolument proposed under subsection  
7 (2).

8 {2}(4) No A salaried county officer may not receive  
9 for his own use any fees, penalties, or emoluments of any  
10 kind, except the salary as provided by law, for any official  
11 service rendered by him. Unless otherwise provided, all  
12 fees, penalties, and emoluments of every kind collected by a  
13 salaried county officer are for the sole use of the county  
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16 fund of the county."

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-End-

APPROVED BY COMM.  
ON LOCAL GOVERNMENT

AS AMENDED

HOUSE BILL NO. 549

INTRODUCED BY J. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A COUNTY TO CHARGE A FEE FOR NONGENERAL GOVERNMENTAL SERVICES PERFORMED BY THE COUNTY IF THE FEE IS NOT OTHERWISE PROVIDED FOR BY STATE LAW; PROVIDING FOR NOTICE, HEARING, AND PROTEST OF A COUNTY RESOLUTION TO ESTABLISH A FEE; AMENDING SECTIONS 3-10-702 AND 7-4-2511, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 3-10-702, MCA, is amended to read:

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(2) The provisions of 7-32-2141(1) apply to constables. Fees collected by a constable for services as provided in 7-32-2141(1) must be paid to the county treasurer as provided in 7-4-2511(2)(4) and credited to the

budget of the justice's court."

**Section 2.** Section 7-4-2511, MCA, is amended to read:

"7-4-2511. Collection and disposal of fees. (1) Each salaried county officer must charge and collect for the use of his county and pay into the county treasury by the 10th day in each month all fees now or hereafter allowed by law, paid or chargeable in all cases, except as provided in 25-10-403. Nothing in this subsection applies to the compensation received by the sheriff as mileage while in the performance of official duties or for the board of prisoners or other persons while in his custody.

(2) The board of county commissioners, upon determining that a fee for a NONGENERAL GOVERNMENTAL service rendered or proposed to be rendered by the county is not otherwise provided for by law, may pass a resolution of intent to establish fees, penalties, and emoluments to be assessed for the service. FOR THE PURPOSES OF THIS SECTION, A NONGENERAL GOVERNMENTAL SERVICE IS A SERVICE IDENTIFIED BY THE BOARD OF COUNTY COMMISSIONERS AS ONE THAT BENEFITS PARTICULAR INDIVIDUALS RATHER THAN THE PUBLIC AS A WHOLE.

(3) (a) Upon passing a resolution of intent under subsection (2), the board shall publish notice of the passage of the resolution as provided in 7-1-2121.

(b) At any time within 15 days after the date of the first publication of the notice of passage of the resolution

of intent, any person who would be affected by the proposed fee, penalty, or emolument may make written protest.

(c) At the next regular meeting of the board after the expiration of the time within which protest may be made, the board shall hear and pass upon all protests made, and its decision is final and conclusive. If the board finds the protests to be sufficient, no further proceedings may be taken for a period of 6 months from the date of the meeting at which the protests were heard. If the board finds the protests to be insufficient, it may by resolution establish the fee, penalty, or emolument proposed under subsection (2).

(2)(4) No A salaried county officer may not receive for his own use any fees, penalties, or emoluments of any kind, except the salary as provided by law, for any official service rendered by him. Unless otherwise provided, all fees, penalties, and emoluments of every kind collected by a salaried county officer are for the sole use of the county and must be accounted for and paid to the county treasurer as provided by subsection (1) and credited to the general fund of the county."

NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 1989.

-End-