

HOUSE BILL 662

Introduced by Peterson

3/05	Fiscal Note Requested
3/06	Introduced
3/06	Referred to Appropriations
3/06	First Reading
3/10	Fiscal Note Received
3/12	Hearing
3/12	Fiscal Note Printed
3/12	Tabled in Committee

1 House BILL NO. 662  
2 INTRODUCED BY Peterson  
3 BY REQUEST OF THE JOINT SUBCOMMITTEE ON  
4 GENERAL GOVERNMENT AND TRANSPORTATION  
5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE  
7 POPULATION FOR COUNTIES REQUIRED TO HAVE A FULL-TIME COUNTY  
8 ATTORNEY; PROVIDING FOR STATE PAYMENT OF A PORTION OF THE  
9 SALARY FOR MANDATORY FULL-TIME COUNTY ATTORNEYS; AMENDING  
10 SECTIONS 7-4-2502, 7-4-2503, AND 7-4-2706, MCA; AND  
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
12 DATE."

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

15      **Section 1.** Section 7-4-2502, MCA, is amended to read:

16 "7-4-2502. Payment of salaries of county officials and  
17 assistants. (1) Except as provided in subsection (2), the  
18 salaries of the county officers and their assistants may be  
19 paid monthly, twice monthly, or every 2 weeks out of the  
20 general fund of the county and upon the order of the board  
21 of county commissioners.

22 (2) (a) The salaries of the county attorney and deputy  
23 county attorneys authorized by 7-4-2703 are payable monthly,  
24 with the salary of the county attorney of a county with a  
25 population in excess of 33,000 payable one-half from the

1    general fund of the county and the other one-half from the  
2    state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of county attorney, certify the election or appointment to the department of justice. The department shall notify the state auditor of the salary of the county attorney in a county with a population in excess of 33,000. The auditor shall draw warrants for the applicable county attorney salaries in the same manner as for state officers. In case of a vacancy, the county commissioners of a county with a population in excess of 33,000 shall immediately notify the department of justice, and the department shall compute the salary due on the basis of the notification.

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

24      **Section 2.** Section 7-4-2503, MCA, is amended to read:

25        "7-4-2503. Salary schedule for certain county officers.

(1) (a) 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 where the office is authorized, ~~for the fiscal year beginning July 1, 1991, and each year thereafter~~ must be established by the county governing body at no less than 80% of the annual base salary of:

(i) \$25,000 for the counties of the first through fifth class added to the population increment of \$10 for each 100 persons or major fraction thereof of 100 persons included in the county's population as determined by the 1990 federal decennial census; or

(ii) \$18,000 for counties of the sixth and seventh class added to the population increment of \$10 per 100 persons or major fraction thereof of 100 persons in the county's population as determined by the 1990 federal decennial census.

(b) The annual base established by the county governing body in subsection (1) must be uniform for all county officers referred to in subsection (1).

(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.

(c) The county sheriff shall receive a longevity payment amounting to 1% of the base salary set forth in subsection (1) for each year of service with the sheriff's department, but years of service 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. The additional salary amount provided for in this subsection may not be included in the base salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(3) (a) In each county with a population in excess of ~~30,000~~ 33,000, the county attorney ~~shall be~~ is a full-time official under 7-4-2704, and ~~his~~ the county attorney's salary for the fiscal year beginning July 1, 1991, ~~shall be~~

1 is \$50,000 per year. In counties with a population of 33,000  
 2 or less than 30,000, the county attorney, who is a part-time  
 3 official for a county of the first, second, or third class,  
 4 is entitled to receive an annual salary equal to 60% of the  
 5 annual salary of a full-time county attorney. A county  
 6 attorney who is a part-time official for a county of the  
 7 fourth, fifth, sixth, or seventh class is entitled to  
 8 receive an annual salary equal to 50% of the annual salary  
 9 of a full-time county attorney.

10 (b) In those counties where the office of the county  
 11 attorney has been established as a full-time position  
 12 pursuant to 7-4-2706, the salary of the county attorney for  
 13 the fiscal year beginning July 1, 1991, ~~shall be~~ is the same  
 14 as that established for full-time county attorneys in  
 15 subsection (3)(a).

16 (c) Beginning on July 1, 1991, and on July 1 of each  
 17 succeeding year, each county attorney ~~shall be~~ is entitled  
 18 to an increase in salary calculated by adding to his the  
 19 annual salary on July 1, 1991, an increment of 100% of the  
 20 last previous calendar year's consumer price index for all  
 21 urban consumers, U.S. department of labor, bureau of labor  
 22 statistics, or other index that the bureau of business and  
 23 economic research of the university of Montana may in the  
 24 future recognize as the successor to that index. However,  
 25 the county commissioners may, for all or the remainder of

1 each fiscal year, in conjunction with setting salaries for  
 2 other officers as provided in 7-4-2504(1), set the salary at  
 3 the prior fiscal year level if that level is lower than the  
 4 level required by this subsection (3)(c). The cost-of-living  
 5 increment for the fiscal year beginning July 1, 1983, and  
 6 for each subsequent fiscal year ~~shall~~ must be added to all  
 7 cost-of-living increments granted for previous years unless  
 8 salaries were set for the fiscal year at the level of  
 9 salaries received in the prior fiscal year. Unless restored  
 10 pursuant to 7-4-2504(2), any cost-of-living increment that  
 11 would have been received for such fiscal year, computed on  
 12 the prior fiscal year, may not be added to previous  
 13 increments.

14 (d) (i) After completing 4 years of service as deputy  
 15 county attorney, each deputy county attorney is entitled to  
 16 an increase in salary of \$1,000 on the anniversary date of  
 17 his employment as deputy county attorney. After completing 5  
 18 years of service as deputy county attorney, each deputy  
 19 county attorney is entitled to an additional increase in  
 20 salary of \$1,500 on the anniversary date of his employment.  
 21 After completing 6 years of service as deputy county  
 22 attorney and for each year of service thereafter after 6  
 23 years up to completion of the 11th year of service, each  
 24 deputy county attorney is entitled to an additional annual  
 25 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, but, unless longevity increases are restored pursuant to 7-4-2504(2), the years of service 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~~ are 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 must~~ 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 3.** 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 33,000 or 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 33,000.

(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."

NEW SECTION. **Section 4.** Effective date -- applicability. [This act] is effective on passage and approval and applies to county attorney positions beginning July 1, 1993.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0662, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:** An act increasing the population for counties required to have a full-time county attorney; providing for state payment of a portion of the salary for mandatory full-time county attorneys.

**ASSUMPTIONS:**

1. It is assumed that the state general fund will pay only one-half (50%) of the salaries and benefits for full-time county attorneys in the seven counties with a current population in excess of 33,000. The bill does not provide for state payment of any portion of the compensation for county attorneys in counties with less than 33,000 population.
2. For calculation purposes, it is assumed that benefits for county attorneys will average 16% and the consumer price index (CPI) will increase 4% in FY94 and 4% in FY95.

**FISCAL IMPACT:**

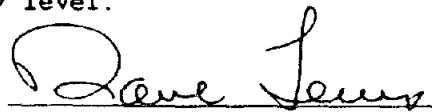
Department of Justice - County Attorney Payroll:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<b>Expenditures:</b>						
FTE	20.40	16.70	(3.70)	20.40	16.70	(3.70)
Personal Services	<u>1,314,500</u>	<u>231,800</u>	<u>(1,082,700)</u>	<u>1,350,500</u>	<u>241,100</u>	<u>(1,109,400)</u>
Total	1,314,500	231,800	(1,082,700)	1,350,500	241,100	(1,109,400)
<b>Funding:</b>						
General Fund	1,314,500	231,800	(1,082,700)	1,350,500	241,100	(1,109,400)

**EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:** If all counties maintained current county attorney levels, the above savings in state general fund expenditures would shift to county governments.

**LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:** Permanent reductions in relative general fund support and increases in county expenditures to the extent that county populations remain consistent with current levels.

**TECHNICAL NOTES:** The Department of Justice intent for the bill, as presented to the Joint Appropriations Subcommittee on General Government and Transportation, is to limit the general fund payments for one-half of salaries and benefits for those counties (17) that currently have full-time county attorneys but have a population of less than 30,000. The county attorneys in smaller counties were to be defined as part-time for state-share payment purposes. The introduced bill eliminates, rather than limits, the state share of payments for full-time and part-time county attorneys in counties with less than 33,000 population. The general fund savings under the plan presented by the department would reduce general fund by just over \$235,000 per year. As noted above, general fund reductions at the state level may increase expenditures at the county level.

 3-10-93  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

 3-12-93  
 MARY LOU PETERSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0662, as introduced

HB662