

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

House BILL NO. 135
Cobb

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO REPRESENT THE STATE IN BANKRUPTCY PROCEEDINGS IN WHICH THE STATE'S INTEREST MAY BE AFFECTED; AMENDING SECTION 2-15-501, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 2-15-501, MCA, is amended to read:

"2-15-501. General duties. It is the duty of the attorney general:

(1) to prosecute or defend all causes in the supreme court in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party or in which the state has an interest;

~~(2)~~ (2) to represent the state in all bankruptcy proceedings in which the state's interest may be affected;

~~(2)(3)~~ after judgment in any of the causes referred to in ~~subsection~~ subsections (1) and (2), to direct the issuing of a process as may be necessary to carry the judgment into execution;

~~(3)(4)~~ to keep a register of all cases prosecuted or defended by ~~him~~ the attorney general, ~~which~~. The register must during business hours be open to the inspection of the public during business hours. The attorney general ~~must~~ shall deliver the register to ~~his~~ the attorney general's successor in office.

~~(4)(5)~~ to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney shall, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

~~(5)(6)~~ when required by the public service or directed by the governor, to assist the county



HB 135
INTRODUCED BILL

1 attorney of any county in the discharge of ~~his~~ the county attorney's duties or to prosecute or defend
2 appropriate cases in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party
3 or in which the state has an interest;

4 ~~(6)(7)~~ to give ~~his~~ an opinion in writing, without fee, to the legislature or either house of the
5 legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any
6 city or town, ~~and~~ or to the board of county commissioners of any county of the state when required upon
7 any question of law relating to their respective offices. ~~He~~ The attorney general shall give ~~any such~~ the
8 opinion within 3 months following the date that it is requested unless ~~he~~ the attorney general certifies in
9 writing to the requesting party that the question is of sufficient complexity to require additional time. If
10 an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county
11 attorney, or an attorney employed or retained by any state officer, board, commission, or department, the
12 attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

13 ~~(7)(8)~~ to discharge the duties of a member of the board of examiners and state board of land
14 commissioners;

15 ~~(8)(9)~~ to perform all other duties as required by law."

16
17 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

18
19 NEW SECTION. Section 3. Coordination instruction. [This act] is void if House Bill No. 2 is not
20 passed and approved with an appropriation to implement [section 1].

21
22 NEW SECTION. Section 4. Termination. [This act] terminates June 30, 1997.

23 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0135, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

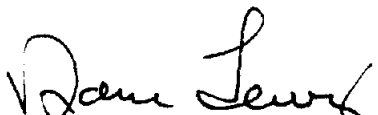
Requires the Attorney General to represent the state in bankruptcy proceedings in which the state's interest may be affected.

ASSUMPTIONS:


1. The Governor's Executive Budget contains a new proposal for the Legal Services Division of the Department of Justice to add a state bankruptcy practice/collection unit. The proposal consists of \$151,728 each year in general fund and 4.00 FTE, including 2.00 FTE attorneys, 1.00 FTE paralegal, and 1.00 FTE legal secretary.
2. This act terminates June 30, 1997. The bankruptcy/collection unit will sunset at the end of the 1997 biennium if revenue collections do not equal or exceed expenditures. If sufficient revenue is collected, the unit will continue in the 1999 biennium funded by an account in the proprietary fund.
3. This bill will be void if HB2 is not passed and approved with an appropriation to implement the bankruptcy/collection unit.

FISCAL IMPACT:

There is no fiscal impact other than that included in the Executive Budget and summarized above.

 1-16-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



JOHN COBB, PRIMARY SPONSOR DATE
Fiscal Note for HB0135, as introduced

HB 135

1 HOUSE BILL NO. 135

2 INTRODUCED BY COBB

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
45 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO REPRESENT THE
6 STATE IN BANKRUPTCY PROCEEDINGS IN WHICH THE STATE'S INTEREST MAY BE AFFECTED;
7 AMENDING SECTION 2-15-501, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
8 DATE."
910 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1112 **Section 1.** Section 2-15-501, MCA, is amended to read:13 **"2-15-501. General duties.** It is the duty of the attorney general:14 (1) to prosecute or defend all causes in the supreme court in which the state or any officer of the
15 state in ~~his~~ the officer's official capacity is a party or in which the state has an interest;16 (2) to represent the state in all bankruptcy proceedings in which the state's interest may be
17 affected;18 ~~(2)(3)~~ after judgment in any of the causes referred to in ~~subsection~~ subsections (1) and (2), to
19 direct the issuing of a process as may be necessary to carry the judgment into execution;20 ~~(3)(4)~~ to keep a register of all cases prosecuted or defended by ~~him~~ the attorney general, ~~which,~~
21 The register must during business hours be open to the inspection of the public during business hours. The
22 attorney general ~~must~~ shall deliver the register to ~~his~~ the attorney general's successor in office.23 ~~(4)(5)~~ to exercise supervisory powers over county attorneys in all matters pertaining to the duties
24 of their offices and from time to time require of them reports as to the condition of public business
25 entrusted to their charge. The supervisory powers granted to the attorney general by this subsection
26 include the power to order and direct county attorneys in all matters pertaining to the duties of their office.
27 The county attorney shall, when ordered or directed by the attorney general, promptly institute and
28 diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action
29 or special proceeding.30 ~~(5)(6)~~ when required by the public service or directed by the governor, to assist the county

1 attorney of any county in the discharge of ~~his~~ the county attorney's duties or to prosecute or defend
2 appropriate cases in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party
3 or in which the state has an interest;

4 ~~(6)(7)~~ to give ~~his~~ an opinion in writing, without fee, to the legislature or either house of the
5 legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any
6 city or town, ~~and or~~ or to the board of county commissioners of any county of the state when required upon
7 any question of law relating to their respective offices. ~~He~~ The attorney general shall give ~~any such the~~
8 opinion within 3 months following the date that it is requested unless ~~he~~ the attorney general certifies in
9 writing to the requesting party that the question is of sufficient complexity to require additional time. If
10 an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county
11 attorney, or an attorney employed or retained by any state officer, board, commission, or department, the
12 attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

13 ~~(7)(8)~~ to discharge the duties of a member of the board of examiners and state board of land
14 commissioners;

15 ~~(8)(9)~~ to perform all other duties as required by law."

16
17 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

18
19 NEW SECTION. Section 3. Coordination instruction. [This act] is void if House Bill No. 2 is not
20 passed and approved with ~~an~~ A LINE ITEM OR OTHER SPECIFIC appropriation to implement [section 1].

21
22 NEW SECTION. Section 4. Termination. [This act] terminates June 30, 1997.

23 -END-

1 HOUSE BILL NO. 135

2 INTRODUCED BY COBB

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO REPRESENT THE
6 STATE IN BANKRUPTCY PROCEEDINGS IN WHICH THE STATE'S INTEREST MAY BE AFFECTED;
7 AMENDING SECTION 2-15-501, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
8 DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11

12 **Section 1.** Section 2-15-501, MCA, is amended to read:

13 **"2-15-501. General duties.** It is the duty of the attorney general:

14 (1) to prosecute or defend all causes in the supreme court in which the state or any officer of the
15 state in ~~his~~ the officer's official capacity is a party or in which the state has an interest;

16 (2) to represent the state in all bankruptcy proceedings in which the state's interest may be
17 affected;

18 ~~(2)(3)~~ after judgment in any of the causes referred to in ~~subsection~~ subsections (1) and (2), to
19 direct the issuing of a process as may be necessary to carry the judgment into execution;

20 ~~(3)(4)~~ to keep a register of all cases prosecuted or defended by ~~him~~ the attorney general, ~~which~~,
21 The register must ~~during business hours~~ be open to the inspection of the public during business hours. The
22 attorney general ~~must~~ shall deliver the register to ~~his~~ the attorney general's successor in office.

23 ~~(4)(5)~~ to exercise supervisory powers over county attorneys in all matters pertaining to the duties
24 of their offices and from time to time require of them reports as to the condition of public business
25 entrusted to their charge. The supervisory powers granted to the attorney general by this subsection
26 include the power to order and direct county attorneys in all matters pertaining to the duties of their office.
27 The county attorney shall, when ordered or directed by the attorney general, promptly institute and
28 diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action
29 or special proceeding.

30 ~~(5)(6)~~ when required by the public service or directed by the governor, to assist the county

1 attorney of any county in the discharge of ~~his~~ the county attorney's duties or to prosecute or defend
 2 appropriate cases in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party
 3 or in which the state has an interest;

4 ~~(6)(7)~~ to give ~~his~~ an opinion in writing, without fee, to the legislature or either house of the
 5 legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any
 6 city or town, ~~and or~~ or to the board of county commissioners of any county of the state when required upon
 7 any question of law relating to their respective offices. ~~He~~ The attorney general shall give ~~any such~~ the
 8 opinion within 3 months following the date that it is requested unless ~~he~~ the attorney general certifies in
 9 writing to the requesting party that the question is of sufficient complexity to require additional time. If
 10 an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county
 11 attorney, or an attorney employed or retained by any state officer, board, commission, or department, the
 12 attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

13 ~~(7)(8)~~ to discharge the duties of a member of the board of examiners and state board of land
 14 commissioners;

15 ~~(8)(9)~~ to perform all other duties as required by law."

16
 17 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1995.

18
 19 **NEW SECTION. Section 3. Coordination instruction.** [This act] is void if House Bill No. 2 is not
 20 passed and approved with ~~an~~ A LINE ITEM OR OTHER SPECIFIC appropriation to implement [section 1].

21
 22 **NEW SECTION. Section 4. Termination.** [This act] terminates June 30, 1997.

23 -END-

1 HOUSE BILL NO. 135

2 INTRODUCED BY COBB

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE ATTORNEY GENERAL TO REPRESENT THE
6 STATE IN BANKRUPTCY PROCEEDINGS IN WHICH THE STATE'S INTEREST MAY BE AFFECTED;
7 AMENDING SECTION 2-15-501, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION
8 DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 2-15-501, MCA, is amended to read:

13 **"2-15-501. General duties.** It is the duty of the attorney general:

14 (1) to prosecute or defend all causes in the supreme court in which the state or any officer of the
15 state in ~~his~~ the officer's official capacity is a party or in which the state has an interest;

16 (2) to represent the state in all bankruptcy proceedings in which the state's interest may be
17 affected;

18 ~~(2)(3)~~ after judgment in any of the causes referred to in ~~subsection~~ subsections (1) and (2), to
19 direct the issuing of a process as may be necessary to carry the judgment into execution;

20 ~~(3)(4)~~ to keep a register of all cases prosecuted or defended by ~~him~~ the attorney general, ~~which~~,
21 The register must ~~during business hours~~ be open to the inspection of the public during business hours. The
22 attorney general ~~must~~ shall deliver the register to ~~his~~ the attorney general's successor in office.

23 ~~(4)(5)~~ to exercise supervisory powers over county attorneys in all matters pertaining to the duties
24 of their offices and from time to time require of them reports as to the condition of public business
25 entrusted to their charge. The supervisory powers granted to the attorney general by this subsection
26 include the power to order and direct county attorneys in all matters pertaining to the duties of their office.
27 The county attorney shall, when ordered or directed by the attorney general, promptly institute and
28 diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action
29 or special proceeding.

30 ~~(5)(6)~~ when required by the public service or directed by the governor, to assist the county

1 attorney of any county in the discharge of ~~his~~ the county attorney's duties or to prosecute or defend
 2 appropriate cases in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party
 3 or in which the state has an interest;

4 ~~(6)(7)~~ to give ~~his~~ an opinion in writing, without fee, to the legislature or either house of the
 5 legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any
 6 city or town, ~~and or~~ to the board of county commissioners of any county of the state when required upon
 7 any question of law relating to their respective offices. ~~He~~ The attorney general shall give ~~any such~~ the
 8 opinion within 3 months following the date that it is requested unless ~~he~~ the attorney general certifies in
 9 writing to the requesting party that the question is of sufficient complexity to require additional time. If
 10 an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county
 11 attorney, or an attorney employed or retained by any state officer, board, commission, or department, the
 12 attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

13 ~~(7)(8)~~ to discharge the duties of a member of the board of examiners and state board of land
 14 commissioners;

15 ~~(8)(9)~~ to perform all other duties as required by law."

16

17 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

18

19 NEW SECTION. Section 3. Coordination instruction. [This act] is void if House Bill No. 2 is not
 20 passed and approved with ~~an~~ A LINE ITEM OR OTHER SPECIFIC appropriation to implement [section 1].

21

22 NEW SECTION. Section 4. Termination. [This act] terminates June 30, 1997.

23

-END-