MONTANA DEPARTMENT OF ADMINISTRATION

State Financial
Services Division
Cheryl Grey, Administrator

Statewide Accounting & Financial Systems • 406.444.3092
Local Government Services • 406.444.9101
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2025

Compliance Supplement

for

Cities & Towns

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DATE: December 2025

TO: Independent Auditors and Other Users of the Compliance Supplement for Audits of Montana Local Government Entities

RE: COMPLIANCE SUPPLEMENT 2025 UPDATE

The Compliance Supplement for Audits of Montana Local Government Entities (*Supplement)* has been updated for the legislative changes passed in the Montana 2024-2025 session.

The Supplement also contains revisions for legislation passed in the 2023 Montana Legislature.

Some of the revisions reflect recent concerns and questions and do not necessarily result from recent legislation. We have also made changes in style and format that should be fine with your audit programs.

Significant revisions to the *Supplement* are highlighted in grey to assist you in updating your audit compliance programs.

The *Supplement* can be found on our website at
https://sfsd.mt.gov/LGSB/Audit-Financial-Review-Resources/ComplianceSupplement/index1

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

GENERAL TOPICS

REVISED DECEMBER 2025 REF: CT01

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GENERAL/SELF-GOVERNMENT POWERS

Municipal Powers: A city or town is a body politic and corporate with the general powers of a corporation and the powers specified or necessarily implied in Title 7, MCA or in special laws heretofore enacted.
MCA 7-1-4101

A municipality with general powers has the power, subject to the provisions of state law, to (1) enact ordinances and resolutions (see also MCA 7-1-4123 for further discussion on legislative powers); (2) sue and be sued; (3) buy, sell, mortgage, rent, lease, hold, manage, or dispose of any interest in real or personal property; (4) contract with persons, corporations, or any other governmental entity (see also MCA 7-1-4105); (5) borrow money; (6) solicit and accept bequests, donations, or grants of money, property, services, or other advantages and comply with any condition that is not contrary to the public interest; (7) make grants and loans of money, property, and services for public purposes; (8) acquire by eminent domain, any interest in property for a public use authorized by law; (9) initiate a civil action to restrain or enjoin violation of an ordinance; (10) enter private property, obtaining warrants when necessary, for the purpose of enforcing ordinances that affect the general welfare and public safety; (11) exercise powers not inconsistent with law necessary for effective administration of authorized services and functions. *See MCA 7-1-4124 for full listing of powers.*
MCA 7-1-4124

The governing body may by ordinance authorize the chief executive to adopt administrative rules. All administrative rules shall be entered in an administrative code that shall be available in the office of the municipality.
MCA 7-1-4126

General Powers: A local government unit <u>without self-government powers</u> (i.e., a general power government) has powers provided or implied by law. The powers of incorporated cities and towns and counties must be liberally construed.
Article XI, Section 4, of the Montana Constitution

Self-Government Powers: A local government adopting a <u>self-government charter</u> may exercise any power, and may provide any services or perform any functions, not prohibited by the Montana Constitution, law, or charter.
Article XI, Section 6, of the Montana Constitution;
MCA 7-1-101 & 102

Ordinance or Resolution: The powers of a <u>self-government</u> unit, unless otherwise specifically provided, are vested in the local government legislative body and may be exercised only by ordinance or resolution. All state statutes shall be applicable to self-government local units until superseded by ordinance or resolution.
MCA 7-1-104 & 105

Prohibitions: A local government with self-government powers is prohibited from exercising the powers listed at MCA 7-1-111 & 112. Also, a local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or administrative regulation; i.e., if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.

Note: The following prohibitions were added to MCA 7-1-111:

Prohibition	**Effective Date**
(26) any power to control the amount of rent charged for private residential or commercial property. Private residential property does not include property in which the local government unit has a property interest or in which the local government unit has an interest through a housing authority.	October 1, 2023
(27) any power to require additional licensing when the state is the original issuer of the license	October 1, 2023
(28) any power to prohibit or impede the connection or reconnection of an electric, natural gas, propane, or other energy or utility service provided by a public utility, municipal utility, cooperative utility, or other energy or fuel provider	May 4, 2023
(29) any power to prohibit the purchase or use of any fuel derived from petroleum, including but not limited to methane, propane, gasoline, and diesel fuel, or the installation or use of any vehicles, vessels, tools, or commercial and residential appliances that burn or transport petroleum fuels	May 4, 2023
(30) any power to require that buildings be constructed to have solar panels or wiring, batteries, or other equipment for solar panels or electric vehicles	October 1, 2023

MCA 7-1-111 to 113

Effective 5/4/2023: (1) Notwithstanding any other provision of law, a local government may not adopt or enforce an ordinance, resolution, or policy that prohibits or impedes, or has the effect of prohibiting or impeding, the connection or reconnection of an electric, natural gas, propane, or other energy or utility service provided by a public utility, municipal utility, cooperative utility, or other energy or fuel provider.

(2) For the purposes of this section, "local government" includes a county, a consolidated government, an incorporated city or town, or a special district.

MCA 7-1-117

Effective 10/1/2023: (1) (b) A city, town, or county may not impose a legal financial obligation, fee, fine, or cost associated with a juvenile offense unless there is express statutory authority for the legal financial obligation, fee, fine, or cost.

(2) Nothing in this section may be construed to prohibit billing public and private insurance or coverage to provide services under the Montana Youth Court Act.

(3) (a) On October 1, 2023, all outstanding fees or costs owed by a youth, the youth's parents, or the youth's guardian are void and uncollectable, and any order requiring the payment of fees or costs is unenforceable.

MCA 41-5-114

Effective 10/1/2023: **Right to bear arms protected.** The state (or any political subdivision, local government, or municipality) may not burden a person's right to bear arms unless the state proves that burdening the person's right to bear arms furthers a compelling state interest and is the least restrictive means to further that interest.
MCA 49-1-209(5) & 210(1)

Effective 10/1/2023: Public funds may not be directly or indirectly used, granted, paid, or distributed to any individual, entity, or organization for the purposes of providing medical treatments to a female or male minor to address the minor's perception that her or his gender or sex is not female or male, respectively.
MCA 50-4-1004(3)

Effective 5/17/2023: **Limitations on zoning authority**. (1) A local government acting pursuant to this part may not:

(a) treat manufactured housing (effective 10/1/2025) or factory-bulit housing units differently from any other residential units;

(b) include in a zoning regulation any requirement to:

(i) pay a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(ii) dedicate real property for the purpose of providing housing for specified income levels or at specified sale prices, including a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices;

(c) prevent the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(d) establish a maximum height limit for an amateur radio antenna of less than 100 feet above the ground;

(e) subject to subsection (2) and outside of incorporated municipalities, prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources identified in the land use plan, except that the use, development, or recovery may be reasonably conditioned or prohibited within residential zones;

(f) except as provided in subsection (3), treat the following differently from any other residential use of property:

(i) a foster home, kinship foster home, youth shelter care facility, or youth group home operated under the provisions of 52-2-621 through 52-2-623, if the home or facility provides care on a 24-hour-a-day basis;

(ii) a community residential facility serving eight or fewer persons, if the facility provides care on a 24-hour-a-day basis; or

(iii) a family day-care home or a group day-care home registered by the department of public health and human services under Title 52, chapter 2, part 7;

(g) except as provided in subsection (3), apply any safety or sanitary regulation of the department of public health and human services or any other agency of the state or a political subdivision of the state that is not applicable to residential occupancies in general to a

community residential facility serving 8 or fewer persons or to a day-care home serving 12 or fewer children; or

(h) prohibit any existing agricultural activities or force the termination of any existing agricultural activities outside the boundaries of an incorporated city, including agricultural activities that were established outside the corporate limits of a municipality and thereafter annexed into the municipality.

(2) Regulations that condition or prohibit uses pursuant to subsection (1)(e) must be in effect prior to the filing of a permit application or at the time a written request is received for a preapplication meeting pursuant to 82-4-432.

(3) Except for a day-care home registered by the department of public health and human services, a local government may impose zoning standards and conditions on any type of home or facility identified in subsections (1)(f) and (1)(g) if those zoning standards and conditions do not conflict with the requirements of subsections (1)(f) and (1)(g).

MCA 76-25-303

Effective 5/17/2023: **Subdivision Regulations.** (3) (a) A local governing body may not require, as a condition for approval of a subdivision under this part:

(i) the payment of a fee for the purpose of providing housing for specified income levels or at specified sale prices; or

(ii) the dedication of real property for the purpose of providing housing for specified income levels or at specified sale prices.

(b) A dedication of real property prohibited in subsection (3)(a)(ii) includes a payment or other contribution to a local housing authority or the reservation of real property for future development of housing for specified income levels or specified sale prices.

(4) The local governing body may not change, in the subdivision regulations or in the process for subdividing, any timelines or procedural requirements for an application to subdivide other than provided for in this part.

MCA 76-25-401(3) & (4)

Sanctuary jurisdiction prohibited. (1) Except as provided in subsection (2), a state agency or local government may not enact, adopt, implement, enforce, or refer to the electorate a policy that prohibits or restricts a government entity, official, or employee from:

(a) sending to, receiving from, exchanging with, or maintaining for a federal, state, or local government entity information regarding a person's citizenship or immigration status for a lawful purpose;

(b) complying with a notification request concerning the release of an individual if the request is lawfully made by the United States department of homeland security acting pursuant to its authority under 8 U.S.C. 1226 and 1357 as those sections read on March 31, 2021; or

(c) complying with an immigration detainer request if:

(i) the request is lawfully made by the United States department of homeland security acting pursuant to its authority under 8 U.S.C. 1226 and 1357 as those sections read on March 31, 2021; and

(ii) the arrest is authorized under state law.

(2) A state agency or local government may not be considered in violation of this section based solely on a policy otherwise subject to subsection (1) that exclusively concerns an individual who comes forward as a victim of or a witness to a criminal offense.
MCA 2-1-602, MCA 7-5-138

Mandatory Provisions: A listing of mandatory provisions that a local government with self-government powers is subject to is found at MCA 7-1-114. Included in this list is "any law regulating the budget, finance, or borrowing procedures and powers of local governments".

(Effective 5/5/2025): Prohibition Against Enforcement of or Reliance on Requirements or Mandates Issued By Certain Intergovernmental Entities: (1) The world health organization, the United Nations, and the world economic forum have no jurisdiction in this state. The state and its political subdivisions, including but not limited to any county, city, municipal corporation, consolidated city-county, school district, special improvement or taxing district, or other political subdivision or public corporation, or any entity created by agreement between two or more political subdivisions, may not be compelled to engage in the enforcement of, or any collaboration with the enforcement of, any requirements or mandates issued by the world health organization, the united nations, or the world economic forum. (2) The state and its political subdivisions may not expend public funds or allocate public resources for the enforcement of any requirement or mandates issued by the world health organization, the United Nations, or the world economic forum.
MCA 2-1-701

ORDINANCES AND RESOLUTIONS

General Provisions of Ordinances: An ordinance must be in a form prescribed by resolution of the governing body and may not:

(a) contain more than one comprehensive subject, which must be clearly expressed in its title, except ordinances for codification and revision of ordinances;
(b) compel a private business to deny a customer of the private business access to the premises or access to goods or services;
(c) deny a customer of a private business the ability to access goods or services provided by the private business; or
(d) include any of the following actions for noncompliance with a resolution or ordinance that includes actions described in subsections (b) and (c):
  (i) allow for the assessment of a fee or fine;
  (ii) require the revocation of a license required for the operation of a private business;
  (iii) find a private business owner guilty of a misdemeanor; or
  (iv) bring any other retributive action against a private business owner, including but not limited to criminal charges.

The prohibition provided in subsection (c) does not apply to persons confirmed to have a communicable disease and who are currently under a public quarantine order. The prohibitions provided in subsections (b) through (d) do not apply to the adoption of an ordinance allowed in 75-7-411 (regarding the sale and distribution of certain phosphorus compounds used for cleaning purposes), Effective 4/19/2023: the enforcement of zoning provisions as allowed in 76-2-113 and

76-2-210, or the enforcement of an ordinance pursuant to 76-2-308(2) (zoning regulations and ordinances). An ordinance must be read and adopted by a majority vote of members present at two meetings of the governing body not less than 12 days apart. After the first adoption and reading, it must be posted and copies must be made available to the public. After passage and approval, all ordinances must be signed by the presiding officer of the governing body (mayor) and filed with the official or employee designated by ordinance to keep the register of ordinances. No ordinance shall be effective until 30 days after second and final adoption (exceptions: general appropriation ordinances, and emergencies – see below), and may provide for a delayed effective date.
MCA 7-5-103 & 105, MCA 7-5-4201 & 4203

Exception for Emergency: In the event of an emergency, the governing body may waive the second reading. The ordinance shall recite the facts giving rise to the emergency and requires a two-thirds vote of the whole governing body for passage. It shall be effective on passage and approval and shall remain effective for no more than 90 days.
MCA 7-5-104, MCA 7-5-4204

Veto Power: The mayor has power to veto any part of a resolution or ordinance.
MCA 7-5-106, MCA 7-5-4206

Register of Ordinances and Codification: There shall be maintained a register of ordinances (called "The Ordinance Book") in which all ordinances are entered in full after passage and approval. [Note: There is an exception for codes (e.g., building codes, electrical codes, etc.) adopted by reference – see MCA 7-5-108 & MCA 7-5-4202 for discussion.]. Ordinances must be numbered by numerical decimal system in the order passed or codified. At 5-year intervals, appropriate ordinances shall be compiled into a uniform code and published. Recodification is not effective until approved by the governing body.
MCA 7-5-107, MCA 7-5-4201(2)

Penalties for Violation of Ordinances: A local government may fix penalties for the violation of an ordinance that do not exceed a fine of $500 or 6 months' imprisonment or both.
MCA 7-5-109, MCA 7-5-4207

There are two exceptions to this general rule, relating to (1) a violation of an ordinance related to the implementation of the Federal Water Pollution Control Act (see MCA 7-5-109(2)), and (2) a violation of a "social host" ordinance.
MCA 7-5-4209

General Provisions of Resolutions: An ordinance must be in a form prescribed by resolution of the governing body. Resolutions may not:

(a) compel a private business to deny a customer of the private business access to the premises or access to goods or services;
(b) deny a customer of a private business the ability to access goods or services provided by the private business; or
(c) include any of the following actions for noncompliance with a resolution or ordinance that includes actions described in subsections (a) and (b):

(i) allow for the assessment of a fee or fine;
(ii) require the revocation of a license required for the operation of a private business;
(iii) find a private business owner guilty of a misdemeanor; or
(iv) bring any other retributive action against a private business owner, including but not limited to criminal charges.

The prohibition provided for in subsection (b) does not apply to persons confirmed to have a communicable disease and who are currently under a public quarantine order. Effective 4/19/2023: The above prohibitions do not apply to the enforcement of zoning provisions as allowed in 76-2-113 and 76-2-210.

Resolutions may be submitted and adopted at a single meeting of the governing body. After passage and approval, all resolutions shall be entered into the minutes and signed by the chairperson of the governing body. Resolutions are immediately effective unless a delayed effective date is specified.

MCA 7-5-121 & 123, MCA 7-5-4203

MUNICIPAL CLASSIFICATION

Classification: Municipalities are classified as follows:

(a) Every city having a population of 10,000 or more is a city of the first class.
(b) Every city having a population of less than 10,000 and more than 5,000 is a city of the second class.
(c) Every city having a population of less than 5,000 and more than 1,000 is a city of the third class.
(d) Every municipal corporation having a population of less than 1,000 and more than 300 is a town.

MCA 7-1-4111

Exceptions from Classification System: Notwithstanding the provisions above:

(1) every municipal corporation having a population of more than 9,000 and less than 10,000 may, by resolution adopted by the city council pursuant to 7-1-4114 through 7-1-4118, be either a first-class city or a second-class city;
(2) every municipal corporation having a population of more than 5,000 and less than 7,500 may, by resolution adopted by the city council pursuant to 7-1-4114 through 7-1-4118, be either a second-class city or a third-class city; and
(3) every municipal corporation having a population of more than 1,000 and less than 2,500 may, by resolution adopted by the city or town council, pursuant to 7-1-4114 through 7-1-4118, be either a city or town.

MCA 7-1-4112

Advance in Classification: Whenever it appears, from the last federal, state, county, city, or town census, that the city or town has the requisite population to be advanced in classification, the council must thereupon by resolution declare, as the case may be, that the town is advanced to a city of the first, second, or third class; a city of the third class is advanced to a city of the second or first class; or a city of the second class is advanced to a city of the first class. **Note**:

The council must file a certified copy of such resolution in the office of the clerk of the county and in the office of the Secretary of State.
MCA 7-1-4112 to 4115

Reduction in Classification: Whenever it appears from the last federal, state, county, city, or town census that the population of a city of the first or second class has decreased so as to be insufficient in number to entitle it to be a city of that class, the council must thereupon, by resolution declare that such city be reduced to a city of the second class or town as the case may be. **Note**: A certified copy of such resolution must be filed in the office of the county clerk and in the office of the secretary of state.
MCA 7-1-4118

Note to Auditor: The above section seems incomplete, as it refers only to cities of the first or second class and doesn't mention third class cities. It also refers to reducing a first or second-class city to a second-class city or town. To reduce a second-class city to a town, bypassing the third-class city, seems inconsistent with the earlier sections above. It is also silent with regard to reducing a third-class city to a town if the population reduction warrants it. If you discover a situation where the population has decreased sufficiently to require a municipality to be reduced in classification, we suggest that you discuss the situation with the entity's legal counsel to ensure that the municipality is appropriately classified.

PROVIDING NOTICE

Effective 10/1/2023: A municipality shall comply with the notice requirements of 2-3-103, including publication of an agenda prior to a meeting.
MCA 7-1-4127(1)

(Effective 10/1/2025): When a municipality is required to publish notice, publication must be in a newspaper meeting the qualifications in MCA 7-1-4127(3), **except** in a municipality with a population of 500 or less, in a municipality in which a newspaper is not published, or in a municipality within a county where a newspaper does not meet the qualifications in subsection (3), publication must be made by posting in three public places in the municipality that have been designated by ordinance, one of which may be the municipality's website if the municipality has an active website.
MCA 7-1-4127(2)

Qualified Newspaper: The newspaper must be (a) of general circulation; (b) published at least once a week; (c) be published in the county where the municipality is located; and (d) have, prior to July 1 of each year, submitted to the city clerk a sworn statement that includes the detail listed at MCA 7-1-4127(3)(d). **Note**: A newspaper of general circulation does not include a newsletter or other document produced or published by the municipality.
MCA 7-1-4127(3) & (4)

In the case of a contract award, the newspaper must have been published continuously in the county for the 12 months preceding the awarding of the contract.

MCA 7-1-4127(5)

Removed effective 10/1/2023: Also, in a county where a newspaper does not meet the qualifications listed above, publication must be made in a qualified newspaper in an adjacent county. Effective 10/1/2025: If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.
MCA 7-1-4127(6)

Exceptions: (Removed 10/1/2025) Effective 10/1/2023: In a municipality with a population of 500 or less, in a municipality in which a newspaper is not published, or in a municipality within a county where a newspaper does not meet the qualifications in subsection (3), publication must be made by posting in three public places in the municipality that have been designated by ordinance, one of which may be the municipality's website if the municipality has an active website.
Prior to 10/1/2023: In a municipality with a population of 500 or less or in which a newspaper is not published, publication may be made by posting in three public places in the municipality that have been designated by ordinance.
MCA 7-1-4127(2)

Removed effective 10/1/2023: Also, in a county where a newspaper does not meet the qualifications listed above, publication must be made in a qualified newspaper in an adjacent county. Effective 10/1/2025: If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.
MCA 7-1-4127(6)

Time & Contents of Notice: (Effective 10/1/2025) Unless otherwise provided by law, notice must be published twice, with the first notices published at least 5 business days before the hearing or action to be taken (deleted: "at least 6 days separating each publication"). When required by law, notice must be published twice, with the first notice published at least 15 business days before the hearing or action to be taken. The published notice must contain: (a) the date, time, and place of the hearing or other action; (b) a brief statement of the action to be taken; (c) the address and telephone number of the person who may be contacted for further information; and (d) any other information required by the specific section requiring notice by publication.
MCA 7-1-4127(7) & (8)

If the newspaper fails to publish a second notice, the municipality must be considered to have met the requirements of this section as long as the municipality submitted the required information prior to the submission deadline and the notice was posted in three public places in the municipality that were designated by ordinance and, if the municipality has an active website, was posted on the municipality's website at least 6 days prior to the hearing or other action.
MCA 7-1-4127(11)

Notice by Mail: When a municipality is required to give notice of a hearing or other official act by mail, the requirement may be met by US mail: (a) at the first-class rate; (b) by certified mail;

or (c) mailing the notice at the bulk rate instead of first class when notice is to be given by mail to 200 or more electors or residents of a municipality.
MCA 7-1-4129

Posting: The governing body shall specify by resolution a public location for posting information and shall order erected a suitable posting board. When posting is required, a copy of the document must be placed on the posting board, and a copy must be available at the office of the county clerk and recorder.
MCA 7-1-2123

EMPLOYEE BOND COVERAGE

Note: This compliance requirement applies to the bonding of all elected or appointed officers and employees under the commission form of city government and to the commission-manager form of city government.
MCA 2-9-801

All elected or appointed city or town officers and employees must be bonded in the amount that is required by an ordinance. The amount must be based on the amount of money or property handled by the employee and the opportunity for defalcation.
MCA 2-9-802

The bond may cover an individual or be a blanket bond covering all, or any combination of, officers and employees.
MCA 2-9-803

Bonds purchased by the city or town council or commission must be executed by responsible insurance or surety companies authorized and admitted to execute surety bonds in this state, or by a self-insurance pool insuring cities or towns as authorized by 2-9-211.
MCA 2-9-804

The premiums for all surety company bonds shall be a proper charge against the budgets of the city or town general fund or against the budgets of those city or town funds where the officer or employee renders service.
MCA 2-9-805

RECORDS RETENTION & DISPOSITION

Note: For more information on records retention schedules and records disposal procedures, go to: https://sosmt.gov/records/local/

Effective 10/1/2023: (1) Except as provided in subsection (2), on the order of the city or town council or commission and with the written approval of the State local government records destruction subcommittee, provided for in 2-6-1202, a city or town officer may destroy records

that have met the retention period contained in the local government records retention and disposition schedules and that are no longer needed by the office.
Effective 10/1/2023: (2) If the city or town council or commission has adopted a retention schedule that has been approved by the local government records committee, a city or town officer may destroy records that have met the retention period without the written approval of the local government records destruction subcommittee.
MCA 7-5-4124

A local government public record that is more than (effective 10/1/2023) 50(prior to 10/1/2023: 10) years old may not be destroyed without it first being offered to the Montana historical society, the state archives, Montana public and private universities and colleges, local historical museums, local historical societies, Montana genealogical groups, and the general public. Notice must be provided to these entities at least (effective 10/1/2023) 30 (prior to 10/1/2023: 60) days prior to disposal of the public record.
MCA 2-6-1205(1) & (2)

Claimed records must be given to entities in the order of priority as listed above, and all expenses for the removal of claimed records must be paid by the entity claiming the records. In addition, the local government records committee, established in 12-6-1201, shall establish procedures by which public records must be offered and claimed and shall maintain a central registry of the entities described above who are interested in receiving notice of the potential destruction of public records pursuant to this section.
MCA 2-6-1205(3)

Effective 10/1/2023: A local government entity shall ensure that any record that contains confidential information or is otherwise protected from disclosure is not added to the central registry under subsection (3).
MCA 2-6-1205(4)

ACCOUNTING AND FINANCIAL REPORTING

BARS Chart of Accounts: The Department of Administration, Local Government Services (LGS) Bureau, shall prescribe the general methods and details of accounting for the receipt and disbursement of all money belonging to local government entities and shall establish the general methods and details of accounting as provided in 2-7-504. **All counties, cities, and towns shall utilize the chart of accounts prescribed by the Department in the budgetary, accounting, and reporting system (BARS) for Montana cities, towns, and counties**.
ARM 2.4.401; MCA 7-6-611(1), MCA 2-7-504

Annual Financial Report: The governing body or managing or executive officer of a city or town shall ensure that a financial report is made every year.
(i) The financial report must cover the preceding fiscal year (Effective 10/1/2023) and be in a form prescribed by the department or be in an alternative form acceptable to the department as provided in subsection (1)(a)(ii). The completed report must be submitted to the department for review within 6 months of the end of the reporting period. The department may grant a 3-month

extension for the submittal of an audit in lieu of a financial report. (Prior to 10/1/2023: be in a form prescribed by the LGS Bureau, and be completed within 6 months of the end of the reporting period.

(ii) Effective 10/1/2023: An alternative format of a financial report acceptable to the department may be used by local government entities with a population of 10,000 or less as reported in the most recent decennial survey issued by the United States census bureau and that meets the requirements outlined in department rule.
MCA 2-7-503(1)(a), MCA 7-6-611(2)

Penalty and Public Notice: The Local Government Services Bureau has the authority to impose a $75 penalty on local governments, and to provide public notice, if annual financial reports (AFR) or audit reports are delinquent by more than 180 days.
MCA 2-7-517; ARM 2.4.403

10% Penalty for Late AFR or Late Payment of Filing Fee: The Local Government Services Bureau has the authority to impose a late payment penalty on local governments if the annual financial report (AFR) is not filed within 6 months of the end of the fiscal year OR if the annual financial report filing fee is not paid within 60 days of the due date of the AFR. The late penalty will be equal to 10% of the minimum or required filing fee for each month or portion of a month that the AFR or filing fee is delinquent.
MCA 2-7-517; ARM 2.4.404

Notification of Creation of Special Districts: The governing body of each municipality shall notify the LGS Bureau in writing, on a form prescribed by the Bureau, of the creation, dissolution, combination, or other legal alteration of any special purpose district within the municipality.
MCA 7-6-611(3)

Other Reports: The chief executive or governing body of a municipality may require any elected or appointed local government official or employee to: (a) maintain new or additional financial records; (b) perform new or additional financial reconciliations; and (c) submit new or additional financial reports.
MCA 7-6-612(1)

Failure to file reports and audits or resolve findings: If a local government entity fails to file an annual financial report with the department as required by 2-7-503(1), to complete and submit an audit or financial review to the department as required by 2-7-503(3), or to resolve significant audit findings or implement corrective measures as required by 2-7-515(3) within 2 years of the applicable deadlines, a person identified in subsection (2) of this section who has received a written determination from the department under 2-7-524(3)(c) or (4)(b) may bring a cause of action against the local government entity for failure to comply with the local government entity's fiduciary requirements.
MCA 2-7-523(1)

Failure to adopt or submit an annual operation budget: If a local government entity fails to adopt or submit an annual operating budget as required by Title 7, chapter 6, part 40, within 2 years of the applicable deadline, a person identified in subsection (2) of this section who has received a written determination from the department under 7-6-4038(3)(c) or (4)(b) may bring a cause of action against the local government entity for failure to comply with the local government entity's fiduciary requirements.
MCA 7-6-4037(1)

LOCAL GOVERNMENT AS AN INTERNET PROVIDER

A city or town may act as an internet services provider only:

1) if no private internet services provider is available within the city or town's jurisdiction;
2) if the city or town provided services prior to July 1, 2001; or
3) when providing advanced services that are not otherwise available from a private internet services provider within the city or town's jurisdiction.

MCA 2-17-603(2)

If a private internet services provider elects to provide internet services in a jurisdiction where a city or town is providing internet services, the private internet services provider shall inform the city or town in writing at least 30 days in advance of offering internet services. Upon receiving notice, the city or town shall notify its subscribers within 30 days and may choose to discontinue providing internet services within 180 days of the notice.
MCA 2-17-603(2)(c) & (3)

A city or town is encouraged to publish its requirements for internet services and to use, to the maximum extent possible, private internet services providers to deliver internet services to the public.
MCA 2-17-604

ELECTRONIC GOVERNMENT SERVICES

Convenience Fee: A municipality may charge a convenience fee and may allow municipal departments to collect the convenience fee on selected electronic government services in order to recover the costs of providing those services.
MCA 7-5-4125

A person who makes payments to a local government by credit card or similar means, as discussed below, may be required to pay a convenience fee of up to 3% of the amount of the payment. The local government shall deposit the convenience fees collected in the appropriate fund. (Generally, the most appropriate fund would be the city or town General Fund.)
MCA 7-6-617(3)

Payment by Credit Card: A local government may accept payment by credit card, debit card, charge card, or other commercially acceptable means from a person making payment to the

entity of taxes or fees. If payment is made in this manner, the tax or fee liability is not discharged and the person has not paid the tax or fee until the local government receives payment or credit from the institution responsible for making the payment or credit. Upon receipt of the payment or credit, the amount is considered paid on the date on which the charge was made by the person paying the tax or fee.
MCA 7-6-617(1) & (2)(a)

Upon notice of nonpayment, the local government may charge the person who attempted the payment of the tax or fee an amount not to exceed the costs of processing the claim for payment of the tax or fee. The amount that the local government charges must be added to the tax or fee due and collected in the same manner as the tax or fee due.
MCA 7-6-617(2)(b)

The local government may enter into agreements with and pay required fees to financial institutions or credit card companies as necessary to facilitate implementation of the above. Fees paid to a financial institution or credit card company must be paid from an appropriate fund. [Generally, the most appropriate fund would be the General Fund.] A local government may enter into cooperative agreements with state agencies to carry out these provisions.
MCA 7-6-617(4)

RED FLAGS RULE

In order to combat the growing problem of identity theft, the Federal Trade Commission (FTC) issued the "Red Flags" Rule which originally applied to all "creditors" with covered accounts" (such as utility accounts - water, sewer or electricity, and other operations that defer payment for services on a recurring basis). F.A.Q. on the FTC website indicated that cities operating utilities that regularly bill customers after they've received services met the definition of "creditor" under the Rule. The rules required that covered entities have in place written programs to identify, detect and respond to patterns, practices or specific activities - known as "Red Flags" - that could indicate identity theft. **However, the Red Flag Program Clarification Act of 2010 revised the definition of creditor, so that it appears that cities operating utilities may no longer qualify as creditors under the Rule. See the current website:** https://www.ftc.gov/business-guidance/privacy-security/red-flags-rule

UNCLAIMED PROPERTY

Title 70, Chapter 9, Part 8, MCA, pertaining to the Uniform Unclaimed Property Act provides that any property that is presumed abandoned, whether located in this or another state, is subject to the custody of the State of Montana. Property is presumed to be abandoned if it is unclaimed by the apparent owner during the time specified in MCA 70-9-803. **MCA 70-9-802(16)(b) provides that the provisions of the Uniform Unclaimed Property Act are not applicable to property held by a local government entity, Effective 10/1/2023: held in state and local government sponsored retirement plans governed by Title 19, or held in a plan as described in section 529A of the Internal Revenue code, 26 U.S.C. 529A, as amended.**

CITIZENS' RIGHT TO KNOW

Access to public information -- safety and security exceptions – additional exceptions
(1) Except as provided in subsections (2) through (4), every person has a right to examine and obtain a copy of any public information of this state.
(2) A public officer may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.
(4) (Effective 10/1/2025): Except as provided in (1), the department of fish, wildlife, and parks, and any party with whom the department has shared the information under a data-sharing agreement pursuant to (1), may not release wildlife location data or telemetry frequencies of hunted or trapped animals.
(5) (Effective 10/1/2023): A public agency may not refuse to disclose public information because the requested public information is part of litigation or may be part of litigation unless the information is protected from disclosure under another applicable law.
MCA 2-6-1003

Exceptions: The following documents may be withheld from public viewing:

(a) A library record or portion thereof, except in response to a written request of the person identified in that record or in response to an order issued by a court. Library records may be disclosed to the extent necessary to return overdue or stolen materials or collect fines. MCA 22-1-1103
(b) Burial site records are confidential and available only to criminal justice agencies or to federal, state, and tribal personnel or their appointed representatives legally charged with administering laws protecting cultural resources, although statistical information compiled from burial site records must be made available to the general public. MCA 22-3-807
(c) In cases of attachment, the clerk of the court with whom the complaint is filed must not make public the fact of the filing of the complaint or the issuing of such attachment until after the filing of return of service of attachment. MCA 27-18-111
(d) Adoption papers and records. MCA 42-6-101

RULES OF CONDUCT FOR PUBLIC OFFICERS AND EMPLOYEES

A public officer or a public employee may not:

(a) Use public time, facilities, equipment, (effective 10/1/2023) state letterhead, supplies, personnel, or funds for the officer's or employee's private business purposes. A listing by a public officer or employee in the electronic directory for marketing of Montana

businesses is not in violation of this provision, although the officer or employee may not make arrangements for the listing in the electronic directory during work hours.
MCA 2-2-121 (1) and (6)

(b) Engage in a substantial financial transaction for the officer's or employee's private business purposes with a person whom the officer or employee inspects or supervises in the course of official duties (**Note**: This restriction does not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act.);

(c) Assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the officer's or employee's agency;

(d) Assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any agency (**Note**: this provision not applicable to a member of a board, commission, council, or committee unless the member is also a full-time public employee);

(e) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent (unless participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under 2-2-131) (**Note**: This restriction does not prevent a member of the governing body of a local government from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act.);

(f) Solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the officer or employee regulates in the course of official duties without first giving written notification to the officer's or employee's supervisor;
MCA 2-2-121 (1) and (2)

(g) Effective 5/5/2025: Use or permit the use of state funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate's name, picture, or voice except in the case of a state or national emergency and then only if the announcement is reasonably necessary to the candidate's official functions; use or permit the use of public time, facilities, equipment, state letterhead, supplies, personnel, or funds to produce, print, or broadcast any advertisement or public service announcement in a newspaper, on radio, or on television that contains the state officer's name, picture, or voice except in the case of a state or national emergency if the announcement is reasonably necessary to the state officer's official functions or in the

case of an announcement directly related to a program or activity under the jurisdiction of the office or position to which the state officer was elected or appointed.
MCA 2-2-121 (3)

(h) Participate in a proceeding when an organization, other than an organization or association of local government officials, of which the officer or employee is an officer or director is involved in a proceeding before the employing agency that is within the scope of the officer's or employee's job duties; or attempting to influence a local, state, or federal proceeding in which the officer or employee represents the local government;
MCA 2-2-121(4)

(i) Engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization, other than an organization of local government officials of which the officer or employee is a member, while performing the officer's or employee's job duties. This provision does not prohibit a public officer or employee from performing charitable fundraising activities if approved by the officer's or employee's supervisor or authorized by law.
MCA 2-2-121(5)

MCA 2-2-121

Deleted effective 10/1/2023: Use or permit the use of public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is authorized by law or is properly incidental to another activity required or authorized by law, such as the function of an elected public officer or the officer's staff in the normal course of duties (see further discussion of this restriction at MCA 2-2-121(3) & (4));

Use of public resources for political purposes.
Effective 10/1/2023: (1) Except as provided in this section, a judicial officer, public officer, legislator, or public employee may not use or permit the use of public time, facilities, equipment, state letterhead, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:

(a) authorized by law;
(b) properly incidental to another activity required or authorized by law, such as the function of a judicial officer, public officer, legislator, or public employee in the normal course of duties; or
(c) reasonably considered to be also available to the public.

(2) As used in subsection (1), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly incidental activities are restricted to:

(a) the activities of a judicial officer, public officer, legislator, or public employee related to determining the impact of passage or failure of a ballot issue on state or local government operations.

(4) Subsection (1) is not intended to restrict the right of a judicial officer, public officer, legislator, or public employee to express personal political views.

(6) A judicial officer, public officer, legislator, or public employee that violates this section may also be prosecuted by the appropriate county attorney for official misconduct as specified in 45-7-401.

MCA 2-2-122

A public officer or employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

MCA 2-2-105(3)

Disclosure: A public officer or employee shall, prior to acting in a manner that may impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private interest that creates the conflict. The public officer or employee shall make the disclosure in writing to the commissioner of political practices, listing the amount of private interest, if any, the purpose and duration of the person's services rendered, if any, and the compensation received for the services or other information that is necessary to describe the interest. If the public officer or employee then performs the official act involved, the officer or employee shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act.

MCA 2-2-131

See further discussion of rules of conduct and ethical requirements for public officials and employees at MCA 2-2-104 & MCA 2-2-105.

EMPLOYEE INCENTIVE AWARD PROGRAM

A governing body may develop and administer an employee incentive award program to appropriately recognize and monetarily reward local government employees in a timely manner for: (a) suggestions or inventions that contribute to the efficiency, economy, or other improvement of local government by reducing costs of governmental operations; or (b) participation in or successful completion of a program designed to improve employee health or enhance employee safety.

MCA 7-4-501(1) & MCA 7-4-505(1)

Amount of Award: An award to an individual under this part may not exceed $50 in value.

MCA 7-4-501(2)

Exceptions: An employee may not be eligible for an incentive award if the employee's suggestion or invention directly relates to the employee's assigned duties and responsibilities unless the proposal warrants special recognition as determined by the governing body. Also, suggestions or inventions may not be considered for awards if they relate to: (i) personnel grievances; (ii) classification and pay of positions; (iii) matters recommended for study or review; and (iv) proposals resulting from assigned or contracted audits, studies, surveys, reviews, or research.
MCA 7-4-505(2)

ACQUISITION AND SALE OF PERSONAL AND REAL PROPERTY

The reference list below is MCA applicable to the sale of personal and real property:

General
7-8-101 - Authorization to transfer property between certain governmental entities
7-8-102 - Authorization to deed county land to other governmental entities
7-8-105 – Authorization to dispose of certain property in possession of local law enforcement
7-8-2214 - Appraisal required for certain sales
7-8-2215 - Procedure to challenge appraised value
7-8-2218 - Procedure if property not sold at public auction

Personal Property
7-8-2216 - Sale of county property to school district
7-8-2217 - Procedure for sale of property of lesser value

Real Property
7-16-2324 - Sale, lease, or exchange of dedicated park lands
76-3-621 - Park dedication requirement

PROHIBITIONS ON LAWSUITS RELATED TO FIREARMS OR MANUFACTURERS

(Effective 10/1/2023): (1) Except as provided in subsection (2), a government entity may not bring suit against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public.
(2) Nothing in this section prohibits a government entity from bringing an action against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages for:

(a) breach of contract or warranty as to firearms or ammunition purchased by a government entity; or
(b) damage or harm to property owned or leased by the government entity caused by a defective firearm or ammunition.

MCA 2-9-319

DISCLOSURE OF LOCAL GOVERNMENT LOBBYING CONTRACT

Effective 5/8/2023: (1) A local government shall prominently display on the local government's website the following information regarding contracts for services that would require a person to register as a lobbyist under Title 5, chapter 7:

(a) the contract execution date;
(b) the duration of the contract, including any extension options;
(c) the effective date;
(d) the total amount of money the local government paid in the previous fiscal year;
(e) the identity of all parties to the contract;
(f) the identity of any subcontractor to the contract; and
(g) a list of all legislation advocated for or against by all parties and subcontractors to the contract, including the position taken on each piece of legislation in the prior fiscal year.

(2) In lieu of posting the information required under subsections (1)(a) through (1)(g), the local government may post the contract for lobbying services on the local government's website as long as the contract contains the information specified in subsection (1)(g).
(3) The information required under subsections (1) and (2) must be posted and made available within 60 days after the end of the fiscal year in which the contract is signed. The information must remain posted to the website until the information is required to be updated under this section.
(4) If the local government does not maintain a website, the local government shall provide public notice that contract for lobbying services is available for review by the public at the office of the local government.
(5) At least once a month while the legislature is meeting during each regular session, a local government shall provide a report providing the information required under subsection (1)(g) that is included on the agenda of a regularly scheduled meeting of the local government.
(6) (a) Except as provided in subsection (6)(b), a contract between a local government and an organization or association of local government officials of which the local government is a member and to which the local government pays dues for services in addition to lobbying services is not subject to the disclosure requirements under this section.
(b) If a local government pays or donates money in excess of the normal dues for services to the organization or association and the excess money is used to support lobbying services, the excess money is subject to the disclosure requirements under this section.
(7) For the purposes of this section, "local government" has the same meaning as provided in 2-6-1002.
MCA 5-7-106

PROHIBITION ON RANKED-CHOICE VOTING METHODS

Effective 4/26/2023: (1) An election conducted under Title 13 or under Title 20 may not use a ranked-choice voting method to determine the election or nomination of a candidate to a local, state, or federal office.
(2) For the purposes of this section, "ranked-choice voting method" means a voting method that allows voters to rank candidates for an office in order of preference and has ballots cast to be

tabulated in multiple rounds following the elimination of a candidate until one candidate reaches a majority of the votes.
MCA 13-1-125

ACCEPTANCE OF UNITED STATES CURRENCY

Effective 10/1/2023: The state or any political subdivision of the state shall accept United States currency, including federal reserve notes, from any member of the public.
MCA 30-14-228(1)(b)

GENETIC INFORMATION PRIVACY ACT

(Beginning June 1, 2025) Any collection, storage, use, or dissemination of genetic or neurotechnology (effective 10/1/2025) data by a governmental agency must be performed in accordance with a specific state law or executed through a search warrant (effective 10/1/2025) or investigative subpoena issued pursuant to 46-4-301.
MCA 30-23-103(2)

Effective 7/29/2023: FACIAL RECOGNITION FOR GOVERNMENT USE

Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:
(3) "Continuous facial surveillance" means the monitoring of public places or third-party image sets using facial recognition technology for facial identification to match faces with a prepopulated list of face images. The term includes but is not limited to scanning stored video footage to identify faces in the stored data, real-time scanning of video surveillance to identify faces passing by the cameras, and passively monitoring video footage using facial recognition technology for general surveillance purposes without a particularized suspicion of a specific target.
(7) (a) "Facial identification" means a computer system that, for the purpose of attempting to determine the identity of an unknown individual, uses an algorithm to compare the facial biometric data of an unknown individual derived from a photograph, video, or image to a database of photographs or images and associated facial biometric data in order to identify potential matches.
(b) The term does not include:
(i) a system used specifically to protect against unauthorized access to a particular location or an electronic device; or
(ii) a system a consumer uses for the consumer's private purposes.
(8) "Facial recognition service" or "facial recognition technology" means the use of facial identification or facial verification.
(9) "Facial verification" means the automated process of comparing an image or facial biometric data of a known individual to an image database, or to government documentation containing an

image of the known individual, to identify a potential match in pursuit of the individual's identity.
(10) "Law enforcement agency" means:
(a) an agency or officer of the state of Montana or of a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and
(b) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action related to or concerning an arrest.
(18) "State or local government agency" means a state, county, or municipal government, a department, agency, or subdivision of a state, county, or municipal government, or any other entity identified in law as a public instrumentality. The term does not include a school district or law enforcement agency.
MCA 44-15-103

Prohibition of continuous facial surveillance. (1) A state or local government agency, law enforcement agency, public employee, or public official may not obtain, retain, possess, access, request, contract for, or use continuous facial surveillance.
(2) The use of facial recognition technology for facial verification, including any resulting data, may not be used to aid or assist in any type of continuous facial surveillance.
MCA 44-15-104

Prohibition of facial recognition technology. Except as provided in 44-15-106 and 44-15-108, a state or local government agency, law enforcement agency, public employee, or public official may not:
(a) obtain, retain, possess, access, request, or use facial recognition technology or information derived from a search using facial recognition technology;
(b) enter into an agreement with a third-party vendor for any purpose listed in subsection (1)(a); or
(c) install or equip a continuous facial surveillance monitoring camera on public buildings or on public roads and highways of this state, except as provided in 46-5-117.
MCA 44-15-105(1)

Use of facial recognition technology by law enforcement — when permitted — restrictions on use — warrant required. (1) The department of justice and local law enforcement agencies are authorized to use facial recognition technology for criminal investigations.
(2) The department of justice or a local law enforcement agency may perform a search using facial recognition technology and may obtain, retain, possess, access, or use the results of a search using facial recognition technology, as provided in subsection (3), for the purpose of:
(a) investigating a serious crime when there is probable cause to believe that an unidentified individual in an image has committed, is a victim of, or is a witness to a serious crime;
(b) assisting in the location or identification of a missing or endangered person; or
(c) assisting in the identification of a person who is deceased or believed to be deceased.
(3) Except as provided in subsection (5), a law enforcement agency shall obtain a warrant prior to performing a search using facial recognition technology under subsection (2).
(4) A law enforcement agency shall obtain a court order authorizing the use of facial recognition technology for the sole purpose of locating or identifying a missing person or identifying a

deceased person under subsections (2)(b) and (2)(c). A court may issue an ex parte order under this subsection if a law enforcement agency certifies and the court finds that the information to be obtained is likely relevant to locating or identifying a missing person or identifying a deceased person.

(5) (a) A law enforcement agency may perform a search under subsection (2) using facial recognition technology prior to the issuance of a warrant if there is an emergency posing an imminent threat to a person. If an emergency exists under this subsection (5)(a), the law enforcement agency shall obtain a warrant within 24 hours of the search.

(b) The use of facial recognition technology must terminate immediately if the application for a warrant under subsection (5)(a) is denied.

(6) A law enforcement agency may not use the results of facial recognition technology as the sole basis to establish probable cause in a criminal investigation. The results of the use of facial recognition technology may be used in conjunction with other information and evidence lawfully obtained by a law enforcement officer to establish probable cause in a criminal investigation.

(7) A law enforcement agency may not use facial recognition technology to identify an individual based on a sketch or other manually produced image.

(8) A law enforcement agency may not substantively manipulate an image for use with facial recognition technology in a manner not consistent with the facial recognition technology provider's intended use and training.

(9) When using facial recognition for identification of an individual, the department or local law enforcement shall employ meaningful human review prior to making an adverse final decision.

MCA 44-15-106

Use of facial recognition technology by state and local government agencies — when permitted — restrictions on use — exemption. (1) A state or local government agency may use, or contract with a third-party vendor for the use of, facial verification if the state or local government agency first provides a written use and privacy policy regarding facial recognition technology. The written policy must include, at a minimum:

(a) the specific purpose for facial verification by the state or local government agency;

(b) the length of term for which facial biometric data is being collected or stored; and

(c) notice that facial biometric data may not be collected on an individual without prior written consent by the individual.

(2) The state or local government agency must include an option for access to services without the use of facial verification.

(3) A third-party vendor who is contracted with a state or local government agency shall provide a copy of its written policies in accordance with 44-15-109 for use with the notice requirement outlined in subsection (1).

(4) A state or local government agency shall report the use of facial recognition technology pursuant to subsection (1) to the information technology board created in 2-15-1021.

(5) This part does not apply to a state or local government agency that uses facial verification in association with a federal agency to verify the identity of individuals presenting themselves for travel at an airport or other port.

MCA 44-15-108

Notice requirement. On capturing an image of an individual when the individual interacts with a state or local government agency, the state or local government agency shall notify the

individual that the individual's image may be used in conjunction with a facial recognition service.
MCA 44-15-109(1)

Meaningful human review. A state or local government agency using a facial recognition service without a third-party vendor shall establish a policy that:
(1) ensures best quality results by following all guidance provided by the developer of the facial recognition service; and
(2) outlines training protocol for all individuals who operate a facial recognition service or who process personal data obtained from the use of a facial recognition service. The training must include but is not limited to coverage of:
(a) the capabilities and limitations of the facial recognition service;
(b) procedures to interpret and act on the output of the facial recognition service; and
(c) to the extent applicable, the meaningful human review requirement for decisions that produce legal effects concerning individuals.
MCA 44-15-110

Audit — reporting. (2) By June 30 of each year, a local law enforcement agency that utilized facial recognition technology shall submit a report to the criminal intelligence information section established in 44-5-501 containing all of the following information based on data from the previous calendar year:
(a) the number of facial recognition searches run;
(b) the offenses that the searches were used to investigate; and
(c) the number of arrests and convictions that resulted from the searches.
MCA 44-15-111

Effective 5/5/2025:LIMITS ON USE OF ARTIFICIAL INTELLIGENCE SYSTEMS BY LOCAL GOVERNMENTS

Definitions. As used in 2-21-101 to 2-21-104, unless the context clearly indicates otherwise, the following definitions apply:
(1) "Artificial intelligence system" means a machine learning-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including but not limited to content, decisions, predictions, and recommendations that can influence physical or virtual environments.
(2) "Cognitive behavioral manipulation" means the use of artificial intelligence systems to influence or alter an individual's or group's thoughts, emotions, decisions, or actions through deceptive, coercive, or subliminal means, or by exploiting psychological vulnerabilities, without the informed consent of the individual or group being influenced.
(3) "Government entity" has the same meaning as provided in 46-5-110.
(4) "Human in an appropriate responsible position" means a human person who is a state officer or a public employee as those terms are defined in 2-2-102 who has reasonable training in the uses and limitations of artificial intelligence systems and is in a position to modify or reject the particular use of an artificial intelligence system.
(5) "Peace officer" has the same meaning as provided in 45-2-101.

(6) "State officer" has the same meaning as provided in 2-2-102.
MCA 2-21-101

Prohibited use of artificial intelligence by government entity. A government entity or state officer may not use an artificial intelligence system:
(1) for the cognitive behavioral manipulation of a person or group;
(2) to classify a person or group based on behavior, socioeconomic status, or personal characteristics resulting in unlawful discrimination or a disparate impact on a person or group based on an actual or perceived differentiating characteristic;
(3) for a malicious purpose; or
(4) for surveillance of public spaces, except:
(a) to locate a missing, endangered, or wanted person; or
(b) in conformity with Title 44, chapter 15, part 1, regarding continuous facial surveillance.
MCA 2-21-102

Required disclosures by government entities -- exemption.
(1) Except as provided in subsection (2):
(a) if a government entity or state officer publishes material produced by an artificial intelligence system that is not reviewed by a human in an appropriate responsible position, the material must be accompanied by a disclosure that the material was produced by an artificial intelligence system; and
(b) if a government entity or state officer has an interface with the public that uses an artificial intelligence system, the use of the artificial intelligence system in the interface must be disclosed.
(2) A peace officer acting in the peace officer's official capacity to investigate crimes is exempt from a disclosure requirement in subsection (1) when the disclosure may result in:
(a) endangerment of the life or physical safety of an individual;
(b) flight from prosecution;
(c) destruction or tampering with evidence;
(d) intimidation of potential witnesses; or
(e) otherwise seriously jeopardizing an investigation or unduly delaying a trial.
MCA 2-21-103

Required review. If an artificial intelligence system produces a recommendation or decision for a government entity or state officer that could impact the rights, duties, or privileges and immunities of a person, the recommendation or decision must be reviewed and is subject to rejection or modification by a human in an appropriate responsible position.
MCA 2-21-104

IMPERMANENT ENCROACHMENTS ON SIDEWALKS

Effective 10/1/2023: (1) (a) Municipalities incorporated under Title 7, chapter 2, part 41, have the authority to enact ordinances in accordance with state and federal laws governing the placement of impermanent encroachments on sidewalks of a commission-designated highway system or state highway right-of-way without the necessity of permitting by the department of transportation for individual encroachments as described in 60-6-101.

(b) This provision is limited to sidewalks as defined in 61-8-102.

(2) (a) This provision specifically excludes all commission-designated highway systems and state highway rights-of-way outside of incorporated municipality boundaries.

(b) A sidewalk encroachment requiring or resulting in a permanent attachment to or a modification of a commission-designated highway system or state highway right-of-way must abide by the requirements of 60-6-101 through 60-6-105.

(3) (a) An incorporated municipality that has not enacted an ordinance regulating the placement of an impermanent encroachment on a sidewalk shall default to the permitting process as described in 60-6-101 until it enacts a regulating ordinance.

(b) After enacting a regulating ordinance:

(i) the municipality shall indemnify the state, including costs and fees, for all claims for damages caused by the municipality's enactment of an ordinance, approval of the impermanent encroachment on a sidewalk, and placement of the impermanent encroachment on a sidewalk; and

(ii) 60-6-101 through 60-6-105 do not apply to the impermanent encroachment on a sidewalk except as provided by this section.

(4) The department of transportation shall communicate identified violations of state or federal law, including the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., as amended, to the incorporated municipalities for enforcement within their boundaries. This communication must include references to the state or federal law that was violated. If an incorporated municipality has not acted to address the violation within 7 days, the department of transportation is authorized to proceed with removal of the violation as described in 60-6-101 through 60-6-105.

(5) "Impermanent encroachment" means:

(a) an object that is not permanently affixed to the sidewalk of a commission-designated highway system or state highway right-of-way or that does not require the modification of the sidewalk of a commission-designated highway system or state highway right-of-way; or

(b) an occupied encroachment above grade level.

MCA 60-6-106

BUDGETS

REVISED FEBRUARY 2026 REF: CT02

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GENERAL

Local government defined: For purposes of the Local Government Budget Act (Title 7, Chapter 6, Part 40, MCA), a "local government" is defined as a consolidated city-county or a county or an incorporated city or town.
MCA 7-6-4002, MCA 7-6-602

Budget supplied to State: A local government shall submit a complete copy of the final budget together with a statement of tax levies to the Department of Administration by the later of October 1 or 60 days after receipt of taxable values from the Department of Revenue. The local government shall use standard budget forms prescribed by the Department of Administration or may use an alternative budget format acceptable to the Department.
MCA 7-6-4003

Prescribed Fund Structure: Local government budgets must conform to the fund structure prescribed by the Department of Administration; i.e., the county's accounting structure must follow the chart of accounts for the Budgetary, Accounting, and Reporting System (BARS) for Montana Cities, Towns, and Counties.
MCA 7-6-4004

Failure to adopt or submit an annual operation budget: If a local government entity fails to adopt or submit an annual operating budget as required by Title 7, chapter 6, part 40, within 2 years of the applicable deadline, a person identified in subsection (2) of this section who has received a written determination from the department under 7-6-4038(3)(c) or (4)(b) may bring a cause of action against the local government entity for failure to comply with the local government entity's fiduciary requirements.
MCA 7-6-4037(1)

EXPENDITURES LIMITED TO APPROPRIATIONS

Local government officials may not make a disbursement or an expenditure or incur an obligation in excess of the total appropriations for a fund. (MCA 7-6-4005) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.
MCA 7-6-4006(2)

Note: MCA 15-24-3007(4) explicitly indicates that the *electrical generation impact fund* must be financially administered as a nonbudgeted fund under the provisions of Title 7, chapter 6, part 40, MCA (i.e., the Local Government Budget Act) which, as noted above, contains no provision for "nonbudgeted funds".

A local government official who violates the preceding requirement is liable for the amount of the excess disbursement, expenditure, or obligation personally. The subsequent claims approval process may not be considered as the making of a disbursement or an expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability.
MCA 7-6-4005

The governing body and each municipal official are limited to the amount of appropriations and by the classifications in the annual appropriation resolution provided for in 7-6-4030 when making disbursements or expenditures or incurring liabilities. **Exceptions to this limitation** are discussed below: 7-6-4006 (adjustment/amendment of appropriations), 7-6-4011 (appropriation of bond proceeds), 7-6-4012 (fee-based appropriations), 7-6-4015 (payments for judgments), and 7-6-4032 (emergency expenditures).
MCA 7-6-4033

APPROPRIATIONS – ADJUSTMENTS/AMENDMENTS

Appropriations may be adjusted according to procedures authorized by the governing body for:

a. debt service funds for obligations related to debt approved by the governing body;
b. trust funds for obligations authorized by trust covenants;
c. any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;
d. any fund for special assessments approved by the governing body;
e. the proceeds from the sale of land;
f. any fund for gifts or donations; and
g. money borrowed during the fiscal year.

MCA 7-6-4006(3)

The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.
MCA 7-6-4006(4)

APPROPRIATION OF BOND PROCEEDS

The authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.
MCA 7-6-4011

FEE-BASED BUDGETS – ADJUSTABLE APPROPRIATIONS

In its final budget resolution, the governing body may authorize adjustments to appropriations funded by fees throughout the budget period. Adjustable appropriations are:

(a) proprietary fund appropriations; or
(b) other appropriations specifically identified in the local government's final budget resolution as fee-based appropriations.

MCA 7-6-4012(1)

Adjustments of fee-based appropriations must be:

(a) based upon the cost of providing the services supported by the fee; and
(b) fully funded by the related fees for services, fund reserves, or nonfee revenue such as interest.

MCA 7-6-4012(2)

RESTRICTION WHEN LEVY REQUIRES VOTER APPROVAL

If an expenditure is to be financed from a tax levy required to be authorized and approved at an election, the expenditure may not be made, or an obligation may not be incurred against the expenditure until the tax levy is authorized and approved.
MCA 7-6-4014

PRELIMINARY ANNUAL OPERATING BUDGET

A preliminary annual operating budget must be prepared for the local government.
MCA 7-6-4020(1)

Minimum elements of preliminary budget: The preliminary annual operating budget for each fund must include, at a minimum:

(a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;
(b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:
    (1) salaries and wages;
    (2) operations and maintenance;
    (3) capital outlay;
    (4) debt service; or
    (5) transfers out.
(c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.
(d) a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;
(e) financial data on current and future debt obligations;
(f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries, and benefits is <u>not</u> required to be a part of the budget document.
(g) all other estimates that fall under the purview of the budget.

(h) The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax.

MCA 7-6-4020(4) & (5)

(Effective 10/1/2025): The preliminary annual operating budget must include the property taxes levied on $100,000 of residential property value from all mills levied by the government entity in the prior budget year and the estimated property taxes to be levied under the preliminary annual operating budget on $100,000 of residential property value from all mills the government entity will levy in the current budget year."
(Effective for budgets adopted on or after 5/19/2023): If a government entity intends to increase property taxes, including an increase authorized under 15-10-420(1), the preliminary budget must include the amount by which property taxes will increase on homes valued at $100,000, $300,000, and $600,000

MCA 7-6-4020(6)

Notice of preliminary or amended budget: The governing body shall cause a notice of a public hearing on the preliminary or amended budget to be published. The publication requirements for a municipality must conform to the provisions of 7-1-4127 (See CT01-General Topics). The notice must:

a. provide that the governing body has completed its preliminary annual budget for the ensuing fiscal year or intends to amend its annual budget;
b. state that the budget or budget amendment has been placed on file and is open to inspection in the county office designated in the notice;
c. designate the date, time, and place of the meeting at which the governing body will meet for approving a final budget or amended budget and making appropriations; and
d. state that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget or budget amendment.

MCA 7-6-4021

Public hearing on preliminary or amended budget: The governing body shall hold a hearing in accordance with the notice given pursuant to 7-6-4021 (above). Local government officials shall attend the budget hearing to answer questions on their proposed budgets if called upon by the governing body, taxpayer or resident. The hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by resolution by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving certified taxable values from the department of revenue.
MCA 7-6-4024

FINAL BUDGET AND RESOLUTION

The governing body may amend the preliminary budget after the public hearing and after considering any public comment. The amended budget constitutes the final budget and must be

balanced so that appropriations do not exceed the projected beginning balance plus the estimated revenue of each fund for the fiscal year.
MCA 7-6-4030

Final budget resolution: The governing body shall adopt the final budget by resolution. The resolution must:

(a) authorize appropriations to defray the expenses or liabilities for the fiscal year;
(b) establish legal spending limits at the level of detail in the resolution (i.e., fund, function, etc.); and
(c) Effective for budgets adopted on or after 5/19/2023: include any increase in property taxes, including an increase authorized under 15-10-420(1), and the amount by which property taxes will increase on homes valued at $100,000, $300,000, and $600,000.

The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date.
MCA 7-6-4030(3) & (4)

A local government may receive and expend money between July 1 of the fiscal year and the date the final budget resolution is adopted.
MCA 7-6-4025

BUDGET AMENDMENT PROCEDURES

The annual budget appropriations may be amended as provided in 7-6-4006(3) and 7-6-4012.

Transfer of appropriations: The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund.
MCA 7-6-4031

Overall increase in appropriation authority: A public hearing is required for an overall increase in appropriation authority. **Exceptions** to this general rule are:

a. When the governing body authorizes procedures for adjusting appropriations for specific purposes (MCA 7-6-4006(3))
b. Appropriation of bond proceeds (MCA 7-6-4011)
c. Fee-based budgets (MCA 7-6-4012)
d. Payments for judgments (MCA 7-6-4015)
e. Emergency expenditures (MCA 7-6-4032)
f. Emergencies under Title 10, Chapter 3, MCA (Disaster and emergency services)

EMERGENCY EXPENDITURES

Emergency budget appropriations must be adopted by two-thirds of the members of a governing body who are present at the meeting. These expenditures are limited to and must be charged to the adopted emergency budget appropriations.
MCA 7-6-4032

Note: The governing body may submit the question of funding emergency warrants at an election as provided by law.
MCA 7-6-4032(3)

DETERMINATION OF FUND REQUIREMENTS – PROPERTY TAX LEVY

After determining the final budget, the governing body shall determine the property tax levy needed for each fund by:

a. adding the total amount of the appropriations and authorized expenditures for the budget year;
b. adding an additional amount, subject to the limitation noted in the next compliance requirement below (Cash Reserves), as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;
c. subtracting the working capital; and
d. subtracting the total estimated revenue, other than the property tax levy, for the budget year.

MCA 7-6-4034(1)

Note: However, the tax levy is capped by the provisions of MCA 15-10-420 – See below.

It is against the policy of the law to raise taxes faster than the money is likely to be needed. In the absence of statutory authority, a tax cannot be levied for the sole purpose of accumulating funds in the public treasury, such as for remote or future contingencies which may never arise, nor can it be levied in excess of the amount required for the purpose for which it is levied, with the intention of using the excess for another purpose. Rogge v. Petroleum County (1938)

Authorized reserve: After deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants, the amount that may be added as a reserve to any city or town fund may not exceed one-half (1/2) of the total amount appropriated and authorized to be spent from the fund during the current fiscal year.
MCA 7-6-4034(2)

APPROVAL OF & FIXING THE TAX LEVY

Governing body approval and exemptions: The proposed budget and mill levy for each board, commission, or other governing entity are subject to approval by the governing body. However, except for a port authority created under Title 7, chapter 14, part 11 MCA, the taxes, revenue, or fees legally pledged for the payment of debt or for the operations of a regional resource authority) are not subject to approval by the governing body.
MCA 7-6-4035

The governing body shall fix the tax levy for each taxing jurisdiction within the municipality:

a. by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values;
b. after the approval and adoption of the final budget; and
c. at levels that will balance the budgets as provided in 7-6-4034

MCA 7-6-4036

Note: The Department of Revenue is required to submit the certification of taxable values by the first Monday in August. Upon the request of a taxing authority, the DOR shall provide an *estimate* of the total taxable value by the second Monday in July.
MCA 15-10-202

Each levy:

a. must be made in the manner provided by 15-10-201. MCA 15-10-201 provides that the governing body shall make and fix every levy in mills and tenths and hundredths of mills.
b. is subject to 15-10-420 – Procedure for Calculating Levy,

MCA 7-6-4036

Note: Certain levies are identified in 15-10-420 that are exempted from the provisions of 15-10-420. See below for those exempted levies.

PROPERTY TAX LIMITATIONS & PROCEDURE FOR CALCULATING LEVY

Tax Year 1996: Except as provided in 15-10-420 (see following), the amount of taxes levied on property may not, for any taxing jurisdiction, exceed the amount levied for tax year 1996.
MCA 15-10-402

Maximum Mills: A governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus the average rate of inflation for the prior 3 years, not to exceed 4%. The maximum number of mills that may be imposed is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less 75% of the current year's newly taxable value from class four property and the applicable amount pursuant to subsection (1)(b) of newly taxable value from classes other than clasee one, class two, and class four, plus the average rate of inflation for the prior 3 years.
MCA 15-10-420(1)(a)

For the purposes of subsection (1)(a), the governmental entity may include the following percentages of newly taxable value from classes other than class one, class two, and class four:

1. 100% of the taxable value of class eight properties that receives an abatement under 15-6-128(4)(b)

2. 100% of the taxable value of property that receives a new or expanding industry abatement under 15-24-1402 or historical property abatement under 15-24-1603 from the time the abatement is granted through completion of construction
3. 50% if the governmental entity creates a large taxpayer reserve account and meets the deposit requirements of 7-6-620(1)
4. 40% if the governmental entity does not create a large taxpayer reserve account or does not meet the deposit requirement of 7-6-620(1).

MCA 15-10-420(1)(b)

A governmental entity may apply the levy calculated above, plus any additional levies authorized by the voters, as provided in 15-10-425 (see below), to all property in the governmental unit, including newly taxable property.
MCA 15-10-420(2)

Note: See MCA 15-10-420(3) & (4) for a discussion of what is and what is not included in "newly taxable property." The release of taxable value from a tax increment financing (TIF) district is included, as is the increment value of a TIF district in the year in which it terminates.

The Department of Revenue has calculated the inflation factor to be used in the calculation above as follows:

2022: 0.93%
2023: 1.77%
2024: 2.80%
2025: 2.80%
2026: 2.11%

For purposes of the calculation above, taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.
MCA 15-10-420(6)

In determining the maximum number of mills, above, the governmental entity may increase the number of mills to account for a decrease in reimbursements; may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7); (effective 6/19/2025) and may not include revenue distribution to a county to provide state property tax assistance.
MCA 15-10-420(7)

LEVY AUTHORITY CARRIED FORWARD

A governmental entity that does not impose the maximum number of mills, as described above, may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.
MCA 15-10-420(1)(c)

EXCEPTIONS TO THE GENERAL PROPERTY TAX LIMITATIONS

The tax levy limitation discussed in 15-10-420(1)(a) does not apply to the following:

1. mills imposed under 15-10-109, 20-9-331, 20-9-333, 20-9-360, or 20-25-439;
2. school district levies established in Title 20 or any other title of the Montana Code Annotated; or
3. a mill levy imposed for a newly created regional resource authority.

MCA 15-10-420(5)

The tax levy limitation discussed in 15-10-420(1)(a) does not prevent or restrict:

1. a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
2. a levy to repay taxes paid under protest as provided in 15-1-402;
3. an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;
4. a levy for the support of a study commission under 7-3-184;
5. a levy for the support of a newly established regional resource;
6. the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703 **(**i.e. Permissive Medical Levy - See below).
7. a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;
8. a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or
9. a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

MCA 15-10-420(8)(a)

Note: A levy authorized under subsection 15-10-420(8)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.
MCA 15-10-420(8)(b)

See Table for discussions of these levies

A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.
MCA 15-10-420(9)

Note: This exception only applies when the county or municipality has not levied or appropriated any assistance to the airport in the prior two years; providing that when the airport levy is discontinued, that amount is subtracted from the entity's levy authorization amount.

DETERMINATION OF TAX REVENUE AND MILL LEVY LIMITATIONS UNDER MCA 15-10-420

In determining the total number of mills allowed under subsection 15-10-420(1)(a), the governmental entity increases or decreases the number of mills necessary to generate the maximum authorized property tax under this subsection. This has been commonly referred to as the "floating mill." Many local governments use a worksheet to calculate revenue limitations and the maximum allowable mill levy, including the floating mill.

MILL LEVY ELECTION

Repealed - MCA 15-10-425(1)

A mill levy election may be held in accordance with Title 13 part 4 or 5, or Title 20, as appropriate, in conjunction with a regular or primary election, or may be a special election. The governing body (1) shall pass a resolution; (2) shall amend its self-governing charter, or (3) must receive a petition; indicating the intent to impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment or petition must include:

(a) The resolution, charter amendment or petition must include:
    i. the specific purpose for which the additional money will be used;
    ii. the specific amount of money to be raised and the approximate number of mills to be imposed; and
    iii. whether the levy is permanent or the durational limit on the levy.

(b) Except for a school district levy established in Title 20, the resolution, charter amendment, or petition may provide that the mill levy is subject the provisions of 15-10-420(1)(a).

MCA 15-10-425(2) (repealed)

Notice of the election must be prepared by the governing body and given as provided in 13-1-108. The form of the ballot must reflect the content of the resolution or charter amendment and must include:

(a) Effective 7/1/2023: the statement that "an increase in property taxes may lead to an increase in rental costs"; and

(b) a statement of the impact of the election on homes valued at $100,000, (prior to 7/1/2023: and $200,000) (effective 7/1/2023) $300,000, and $600,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.

MCA 15-10-425(3)

(Repealed)

PERMISSIVE MEDICAL LEVY

If a local government makes contributions for group benefits under MCA 2-18-703, the amount in excess of the base contribution as determined under 2-18-703(4)(c) (**see below**) for group benefits (referred to hereafter as the **permissive medical levy**) is not subject to the mill levy calculation limitation provided for in 15-10-420. Permissive medical levies must be calculated separately from the mill levies calculated under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a).
MCA 2-9-212(2)(a), MCA 2-18-703(4)(b)

Note: For the purposes of this section, "group benefits" means group hospitalization, health, medical, surgical, life, and other similar and related group benefits provided to officers and employees of political subdivisions, including flexible spending account benefits and payments in lieu of group benefits. The term does not include casualty insurance, marine insurance, property insurance, surety insurance, and title insurance.

Not Applicable to Proprietary Fund Contributions: Contributions for group benefits paid wholly or in part from user charges generated by proprietary funds, as defined by generally accepted accounting principles, are not included in the amount exempted from the mill levy calculation limitation provided for in 15-10-420.
MCA 2-9-212(2)(a)(i)

If tax-billing software is capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent to each taxpayer under 15-16-101(2). The mill levy must be described as the permissive medical levy.
MCA 2-9-212(2)(a)(ii)

Public Hearing Required: Each year prior to implementing a permissive medical levy, after notice of the hearing given under 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.
MCA 2-9-212(2)(b)

A permissive medical levy in the previous year may not be included in the amount of property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that the governmental entity may assess under the provisions of 15-10-420(1)(a). When a permissive medical levy decreases or is no longer levied, the revenue may not be combined with the revenue determined in 15-10-420(1)(a).
MCA 2-9-212(2)(c)

Calculation of "Base Contribution": Subject to the following, the base contribution is determined by multiplying the average annual contribution for each employee on July 1, 1999, times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.
MCA 2-18-703(4)(c)(i)

If a local government did not make contributions for group benefits on or before July 1, 1999, and subsequently does so, the base contribution is determined by multiplying the average annual

contribution for each employee in the first year the political subdivision provides contributions for group benefits times the number of employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.
MCA 2-18-703(4)(c)(ii)

If a local government has made contributions for group benefits but has not previously levied for contributions in excess of the base contribution, the base is determined by multiplying the average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year in which the levy will first be levied times the number of employees for whom the employer made contributions for group benefits under 2-9-212 in that fiscal year.
MCA 2-18-703(4)(c)(iii)

The Department of Administration has established BARS Fund Number 2372 for the Permissive Medical Levy.

Transition Provision: A local government that levied mills for group contributions pursuant to 2-18-703 in fiscal year 2009 may for the fiscal years 2010 through 2014 levy the greater of:

(a) the dollar amount levied in 2009; or
(b) the amount determined in 2-18-703.

However, the actual dollar amount may not include an amount for group benefits paid from user charges described in 2-9-212(2)(a)(i) (i.e. Proprietary Funds).

INSTALLMENT PURCHASE CONTRACTS

The budget for each year must contain an appropriation for each installment payment that is due on installment purchase contracts.
MCA 7-5-4306

CAPITAL IMPROVEMENT FUND

A county, municipal, or special district governing body may establish a capital improvement fund for the replacement, improvement, and acquisition of property, facilities, or equipment that costs in excess of $5,000 and that has a life expectancy of 5 years or more. A capital improvement plan for the fund must be formally adopted by the county, municipal, or special district governing body.
MCA 7-6-616(1) & (2)

The capital improvement fund may receive money from any source, including funds that have been allocated in any year but have not been expended or encumbered by the end of the fiscal year.
MCA 7-6-616(3)

Other sections of State law that provide specifically for capital improvement funds for specific purposes include MCA 7-14-2506 (road and bridge), MCA 7-33-2111 (rural fire districts), and Effective 5/17/2023: MCA 76-42-413 (subdivision extension of capital facilities).

CITY/TOWN MILL LEVIES	
Note 1: Subject to 15-10-420, the city or town council may levy and collect taxes for general and special public or governmental purposes on all property within the city or town subject to taxation under the laws of the state. (MCA 7-6-4401 & 4421, MCA 7-1-4123(5)) The purposes in the table, below, include the purposes specifically identified in MCA 7-6-2527 that relate to municipalities, as well as additional purposes that have specific statutory levy authority. Public and governmental purposes include but are not limited to those purposes specifically identified in MCA 7-6-2527. **Note 2:** All of the following levies are subject to the budget limitation of MCA 15-10-420 (see above), unless specifically exempted. **Note 3:** It is against the policy of the law to raise taxes faster than the money is likely to be needed. In the absence of statutory authority, a tax cannot be levied for the sole purpose of accumulating funds in the public treasury, such as for remote or future contingencies which may never arise, nor can it be levied in excess of the amount required for the purpose for which it is levied, with the intention of using the excess for another purpose. (Rogge v. Petroleum County, 107 M 36, 80 P2d 380 (1938)) **Note 4:** Subject to 15-10-420, a consolidated local government may levy all taxes that counties, cities, and towns are authorized to levy. (MCA 7-3-1104) **Note 5**: For tax levy information related to special districts, see also CT016 – Special Districts.	
General MCA 7-6-4401	General provision that allows the city or town to levy a tax annually for public or governmental purposes.
All-Purpose MCA 7-6-4451 & 4455	Cities and towns are authorized to make an all-purpose annual mill levy in lieu of the multiple levies authorized by the statutes of Montana. The all-purpose mill levy does not include levies imposed for bonded indebtedness, to pay judgments or tax protest refunds, or for special improvement district revolving funds of municipalities. Subject to 15-10-420, additional levies may be made in addition to the all-purpose mill levy.
Note: All Other Purposes Listed Alphabetically	
Airport/Ports or Joint Airport/Ports MCA 67-10-402 MCA 7-6-2527	For the purpose of establishing, constructing, equipping, maintaining, and operating airports and ports. Note: See above related to the authorization to levy mills for support of airports for which a levy has not been imposed in either of the previous two years.

Airport Authority MCA 67-11-301 & 303(6) MCA 7-6-2527	An airport authority may certify annually the amount of tax requested to be levied by each municipality participating in the creation of the airport authority. The levy may not exceed the maximum levy that may have been established in the resolution creating the authority. If the voters approve a resolution adopted by the governing body, an additional tax may be levied, limited to an amount sufficient to meet the deficiency for payment of revenue bond principal and interest, if such a deficiency exists.
Ambulance MCA 7-34-102 MCA 7-6-2527	To defray the costs incurred in providing ambulance service
Band and Recreation MCA 7-16-4113	For the purpose of providing band concerts
Bond Principal and Interest MCA 7-7-4265 MCA 7-6-4453	Not subject to 15-10-420 if issuance of bonds approved by voters: To be used for the payment of interest and principle of each series or issue of bonds outstanding – a separate tax must be levied for each series or issue. The levy must be high enough to raise an amount sufficient to pay all interest and principal due and payable during the current fiscal year or within 90 days after the fiscal year. If no principal becomes due and payable within that time, then the levy must be high enough to raise an amount sufficient to place in the sinking fund, for the payment of the principal when it becomes due, an amount not less than a sum produced by dividing the whole amount for which the bonds were originally issued by the number of years for which the bonds were originally issued to run. This levy may be in addition to the all-purpose general levy.
Bus Service (City Bus) MCA 7-14-4404	To defray the cost of transportation service pursuant to a contract, lease, or lease and operating agreement with an independent carrier or carriers. Whenever necessary to raise money by taxation for transportation services in excess of the levy allowed by 15-10-420, the question of the additional levy must be submitted to the electors.
Day-Care Centers and Homes (Licensed) MCA 7-16-2108 MCA 7-16-4114 MCA 7-6-2527	To establish and maintain programs for the operation of licensed day-care centers and homes – expenditures must be made solely for the establishment, maintenance, and development of programs for and training of operators and employees of day-care centers and homes.
Developmental Disabilities Facilities MCA 53-20-208 MCA 7-6-2527	Municipalities may contribute to any developmental disabilities facility approved by the State Department of Public Health and Human Services, without regard to whether the facility is within or outside of their jurisdiction. Proceeds from a tax levy for this purpose must be used for the support of developmental disabilities services.

Economic Development MCA 90-5-112 MCA 7-6-2527	For the purpose of economic development – the governing body may submit the question of the mill levy to the qualified voters as provided in 15-10-425 or may approve the mill levy by a vote of the governing body. Funds derived from this levy may be used for purchasing land for industrial parks, constructing buildings to house manufacturing and processing operations, conducting preliminary feasibility studies, promoting economic development opportunities in a particular area, and other activities generally associated with economic development. The funds may be used to contract with local development companies and other associations or organizations capable of implementing the economic development function; but may not be used to directly assist an industry's operations by loan or grant or to pay the salary or salary supplements of government employees.
Emergency/Disaster MCA 10-3-405	Not subject to 15-10-420: The millage levied by the governing body of the county shall not exceed 2 mills on the taxable valuation of the county outside the municipalities. All levies under this section may be passed only by a unanimous vote of the appropriate body. Funds levied for an emergency and remaining when no further expenditures are necessary shall remain in a separate emergency fund (BARS Fund #2260) and shall be used only for expenditures arising from future emergencies.
Fire Department (Volunteer) MCA 7-33-4111	For the purpose of supporting volunteer fire departments in any city or town that does not have a paid fire department and for the purpose of purchasing the necessary equipment for them.
Firefighters' disability income insurance or workers' comp coverage (Volunteer) MCA 7-6-621 MCA 7-33-4111	Voter-approved levy, (i.e., subject to 15-10-425, *not* subject to mill levy limitations of 15-10-420) – for the purpose of purchasing disability income insurance coverage or workers' compensation coverage for volunteer firefighters of volunteer fire departments.
Firemen's Disability and Pension Fund MCA 19-18-503 & 504	The fund must be soundly funded at fiscal year end. The fund is soundly funded if assets in the fund are maintained at a level equal to or at least three times but no more than five times the benefits paid by the fund in the previous or current fiscal year, whichever is greater; **OR** funding is maintained at a level determined by an actuarial valuation to be sufficient to keep the fund actuarially sound. The fund shall be reviewed on an annual basis to determine whether the fund is soundly funded pursuant to 19-18-503. Based on the annual review, if the fund contains an amount that is less than the minimum amount required to keep the fund soundly funded pursuant to 19-18-503, the city or town council shall, subject to 15-10-420, levy an annual tax on the taxable value of all taxable property within the city or town. If the fund contains an amount that is less than the maximum but more than the minimum required to keep the fund soundly funded pursuant to 19-18-503(1), the city or town council may, if authorized by the voters as provided in 15-10-425, levy an annual tax.

Forest or Grassland Hazardous Fuels Reduction Projects MCA 7-6-2527	In areas near homes and communities where wildland fire is a threat.
Insurance - Comprehensive MCA 2-9-212(1)	To fund the contribution for insurance, deductible reserve fund, and self-insurance reserve fund as authorized in this section. Also, to pay the principal and interest on bonds or notes issued for purposes of funding a self-insurance or deductible reserve fund and costs incident to the reserve fund.
Insurance - Group Benefits MCA 2-18-703 MCA 2-9-212	See taxing authority for Comprehensive Insurance, above (2-9-212). Employer's contributions for group benefits may exceed, but may not be less than, $10 a month. (MCA 2-18-703(4)(a)) See "Insurance – Permissive Health Levy", below: The amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits is not subject to the mill levy calculation limitation provided for in 15-10-420. (MCA 2-18-703(4)(b))
Insurance – Group Insurance for Firefighters MCA 7-33-4130 AGO #18, Vol. 41	1st and 2nd class cities are *required* to provide group insurance to their firefighters if they provide such insurance for other employees. 3rd class cities are *not required* to provide group health and life insurance for volunteer firefighters.
Insurance - Group Insurance for Police Officers MCA 7-32-4117	Cities of all classes are required to provide group insurance to their police officers if they provide such insurance for other employees.
Insurance – Permissive Medical Levy MCA 2-18-703(4)(b) MCA 2-9-212	Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits is not subject to the mill levy calculation limitation provided for in 15-10-420. See requirements for determination of levy amount.
Judgments MCA 2-9-316 MCA 7-6-4015	Not subject to 15-10-420: A final judgment or settlement shall be satisfied out of funds that may be available from the following sources: (1) insurance; (2) the general fund or any other funds legally available to the governing body; (3) a special property tax levy, in an amount necessary to pay any unpaid portion of the judgment or settlement; (4) proceeds from the sale of bonds – property taxes may be levied to amortize the bonds. Judgments that are to be paid from the general fund (a) must be paid in the current year if there is sufficient money OR (b) must be paid from additional tax levies made in each of the next 3 years.

Juvenile Detention Programs MCA 7-6-502	For the purpose of financing the establishment and operation of juvenile detention programs. Levy proceeds may be used to contract with other units of local government to purchase services from available juvenile detention programs.
Library MCA 22-1-304 & 316	A local government that has established a public library may levy a tax in the amount necessary to maintain adequate public library service. An additional tax may be levied if approved by the voters. (MCA 22-1-304) Note: A Board of County Commissioners may not modify an annual library budget adopted by the county library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the county library trustees. (AGO #91, Vol. 41) However, the Commissioners may limit the overall funding of the library budget; to hold otherwise would allow the library trustees to adopt a budget that could assume the entire county general fund levy. (AGO #3, Vol. 48) Joint City-County Library: The governing body of any city or county entering into a contract for a joint city-county library may levy a special tax for the establishment and operation of a joint city-county library. (MCA 22-1-316)
Local Government Study Commission MCA 7-3-184	Not subject to 15-10-420 – the governing body shall appropriate an amount necessary to fund the study and may levy mills in excess of all other mill levies authorized by law to fund the appropriation for the support of the study commission. BARS Fund #2350 – Unexpended money of the study commission does not revert to the general fund at the end of the fiscal year but carries over to the study commission's appropriation for the following fiscal year. Upon termination of the study commission, unexpended money reverts to the general fund of the local government.
Multijurisdictional Service Purposes MCA 7-6-2527 MCA 7-11-1022 MCA 7-11-1112	MCA 7-6-2527 provides that a county may impose a property tax levy for multijurisdictional service purposes, as provided in 7-11-1022. 7-11-1022 provides that a special district created by a combination of local governments acting together must be administered according to an interlocal agreement. The local governments shall proportionally share the ownership of real or personal property acquired by the district pursuant to the interlocal agreement. 7-11-1112 provides that local governments organizing a multijurisdictional service district are authorized to levy property taxes in an amount not to exceed that authorized for the district in accordance with 7-11-1007. 7-11-1007 requires that the resolution creating a special district designate the estimated cost and method of financing the proposed program or improvements.
Museums & Civic Centers MCA 7-16-4105	For the purpose of procuring, equipping, and maintaining museums and civic centers, and a combination of purposes and facilities (see also Parks, below).

Open Space Land MCA 76-6-109	To provide and preserve open space land. Property taxes levied to pay the principal and interest on general obligation bonds issued for this purpose may not be levied against the properties described in 76-6-109(3).
Parks, Pools, Skating Rinks, Playgrounds & Youth Centers MCA 7-16-4105	For the purpose of procuring, equipping, and maintaining public parks, swimming pools, skating rinks, playgrounds and youth centers, and a combination of purposes and facilities (see also Museums, above).
Planning Boards MCA 76-1-406 MCA 76-1-111 MCA 76-1-114	The governing body of any city or town represented on a planning board may levy a tax for planning board purposes. Effective 10/1/2023: (1) The governing body of a city, county, or consolidated city-county may consolidate any combination of a planning board or planning boards as authorized in Title 76, chapter 1, a zoning commission as provided in 76-2-220 and 76-2-307, and a board of adjustment as provided in 76-2-221 and 76-2-321 into a consolidated land use board. (2) The requirements regarding the duties and roles of a planning board as provided in Title 76, chapter 1, a zoning commission as provided in Title 76, chapter 2, parts 2 and 3, and a board of adjustment as provided in Title 76, chapter 2, parts 2 and 3, apply to a consolidated land use board.
Planning Commissions MCA 76-25-104 & 76-25-105 MCA 76-1-403 & 76-1-404	Effective 5/17/2023: A municipality with a population at or exceeding 5,000 located within a county with a population at or exceeding 70,000 in the most recent decennial census or any other municipality that so chooses shall establish, by ordinance or resolution, a planning commission. The planning commission may be funded by a tax levy pursuant to 76-1-403, 76-1-404, and 76-1-406.
Port Authorities MCA 7-14-1131 MCA 67-10-402 MCA 7-6-2527	For the purpose of establishing, constructing, equipping, maintaining, and operating ports, each municipality participating in the creation of the port authority may levy a tax. If the levy is insufficient, the city may issue bonds for this purpose, but only after approval of the electorate. Property taxes may also be levied to pay the principal and interest on these bonds.
Prevention Programs MCA 7-6-2527	Including programs that reduce substance abuse

Protested Tax Refund MCA 15-1-402(6)(d) & (7) MCA 15-10-420(8)(a)(ii)	(A) If, after a final determination by the Montana tax appeal board or a court or after settlement of an appeal, the final assessed value of a property that is centrally assessed under MCA 15-23-101 or an industrial property that is annually assessed by the department is less than 75% of the department's original assessed value, the governing body may demand that the state refund from the general fund the protested taxes equivalent to the difference between the final determined assessed value and 75% of the original assessed value. (B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to waive its right to its portion of protested taxes for that specific year, the department shall refund from the school district property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer. Effective through 7/1/2026, then removed from code. (C) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer protests the classification of the property. (MCA 15-1-402(6)(d)(i)) If a tax protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which the local government is responsible, the taxing jurisdiction may satisfy the requirements by imposition of a "special tax protest refund levy". (MCA 15-1-402(6)(d)(ii)) The tax levy limitation discussed in 15-10-420(1)(a) does not prevent or restrict a levy to repay taxes paid under protest as provided in 15-1-402. (MCA 15-10-420(8)(a)(ii))
Public Health MCA 50-2-111 & 112 MCA 7-6-2527	City-County Boards of Health: To finance the county's part of the total expenses, a tax is levied on all taxable property outside the incorporated limits of each participating city. Each participating city's part of the total expenses is financed by a levy on all taxable property within the incorporated limits of the city. Tax proceeds must be deposited with the county treasurer who shall disburse the money as county funds. District Boards of Health: District boards are financed by appropriations from the general funds of each county in the district in proportion to the population in each county. First- and second-class cities which elect to be included in the district contribute to the county in which they are located in the way provided for city-county boards under 50-2-111.
Recreational, educational, and other activities of elderly (Senior Citizens) MCA 7-16-101(1) MCA 7-6-2527	To promote, establish, and maintain recreational, educational, and other activities of the elderly. The governing body may make payment of expenditures to nonprofit corporations or associations engaged in aiding the activities.

Resort community tax MCA 7-6-1502 to 1507	Resort tax must be approved by electors. The rate of the tax must be established by the election petition or resolution, but may not exceed 3% of the retail value of all goods and services sold as provided in 7-6-1503. Effective May 2, 2019: (1)(a) Except as provided in subsection (1)(b), the rate of the resort tax must be established by the election petition or resolution provided for in 7-6-1504, but the rate may not exceed 3%. (b) (i) Subject to subsection (1)(b)(ii), an election petition or resolution provided for in 7-6-1504 may provide for an additional resort tax levy at the rate of up to 1%. The revenue from the additional tax must be used to provide funding for infrastructure (effective 10/1/2025), or workforce housing, (ii) A resort community with a population that exceeds the population limit for a resort community in 7-6-1501 may not levy the additional resort tax provided for in subsection (1)(b)(i) (effective 10/1/2025) unless the resort community was established before January 1, 2025. MCA 7-6-1503 Annually anticipated receipts from the resort tax must be applied to reduce the municipal property tax levy for the fiscal year in an amount equal to at least 5% of the resort tax revenues derived during the preceding fiscal year. A resort community that received more resort tax revenues than had been included in the annual municipal budget shall establish a municipal property tax relief fund. All resort tax revenues received in excess of the budget amount must be placed in the fund. The entire fund must be used to replace municipal property taxes in the ensuing fiscal year. MCA 7-6-1507
Retirement – Firefighters' Unified Retirement (FURS) MCA 19-13-214	For the purpose of making required contributions to FURS.
Retirement – Municipal Police Officers' Retirement (MPORS) MCA 19-9-209	For the purpose of making required contributions to MPORS.
Retirement – Police – Local Funds MCA 19-19-301	Each city, other than one of the first or second class, that has a police retirement fund and that has not elected to participate in the municipal police officers' retirement system (MPORS) shall deposit in its fund monthly an amount equal to 11% of the total salaries for the preceding month paid to active police officers of the city, exclusive of overtime and payments in lieu of sick leave and annual leave. If the demand against a city for deposits in its fund cannot be met, the city may impose an additional levy in an amount that is sufficient to meet the demand.
Retirement - Public Employees' Retirement (PERS) MCA 19-3-204	If the required employer contributions exceed the funds available to a city or town from general revenue sources, a city or town may levy a tax that is sufficient to raise the amount of revenue needed to meet the city's or town's obligation.

Special Improvement District (SID) Revolving Fund MCA 7-12-4222	A tax may not be levied if the revolving fund balance will exceed 10% or, with the amount levied by the tax, will exceed 10% of the then-outstanding SID bonds and warrants secured by the revolving fund after all required transfers have been made to the district funds through fiscal yearend. Transfers may also be made to the revolving fund from the general fund, which shall be considered as loans. Further, to provide funds for the revolving fund, the city or town council can include in the cost of improvements to be paid from the proceeds of the bonds or warrants (if secured by the revolving fund) an amount of at least 5% and not more than 10% of the bonds or warrants to be issued.
Solid Waste Management MCA 75-10-112	To finance a solid waste management system
Transportation – Senior Citizens and Persons with Disabilities MCA 7-14-111 MCA 7-6-2527	The proceeds of the levy may be used to: • contract with public or private transportation providers for services; • augment or subsidize provisions provided by public transportation providers; or • establish and operate an independent transportation system for senior citizens and individuals with disabilities.

REVENUES

REVISED DECEMBER 2025 REF: CT03

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LOCAL CHARGES FOR SERVICES FUND

MCA 17-2-302(3) states that an audit performed by the independent auditor pursuant to Title 2, Chapter 7, Part 5, MCA, (Montana Single Audit Act) shall include a determination of whether money is or has been retained in a local charge for services fund contrary to the requirements of MCA 17-2-302 or 303.

The following statutes, related to local charge for services funds, apply only to counties, cities, consolidated governments, and towns.

Definitions:
"Charge for services" or "charge" as defined by MCA 17-2-301(3)(a), means a fee, charge, levy, or other assessment that is established by local government *ordinance***, and that is:

(a) charged by the local government to a user of a service provided by the local government;
(b) charged by the local government in exchange for a license, permit, or other type of grant of authority by the local government; or
(c) collected exclusively to provide promotional or marketing services to the person on whom the charge is levied and that is not assessed or collected pursuant to MCA Title 15.

**For the purposes of 17-2-302(1) or (3)(a) or 17-2-304, the term includes a fee, charge, levy, or other assessment established as provided above, and also includes a fee, charge, levy, or other assessment established by *statute*.
MCA 17-2-301(3)(b)

"Local charge for services fund" or "local fund" means an accounting fund maintained by a local government for which the exclusive source of revenue is one or more charges for services or interest or other income on the fund.
MCA 17-2-301(6)

Limitation on Balance: A city or town that deposits money into a local charge for services fund may not maintain a cash balance in the fund greater than twice the annual appropriation for that year from the fund.
MCA 17-2-302(1)

Limitation Not Applicable: Except as otherwise provided in 17-2-301(3)(b), this limitation does not apply to: (a) a charge for services made by one local government entity to another local government entity; (b) a local charge for services fund used only for replacement of buildings or to pay the costs of other future capital projects; (c) a fee, charge, tax, levy, or other assessment the amount of which is established by *statute*; or (d) charges for services deposited in accordance with law into a debt service or bond reserve fund or the city/town general fund.
MCA 17-2-302(4)

Exception to Limitation: This restriction may be waived if the manager of the service or function certifies to the governing body:

(a) the date on which the balance exceeded the limitation,
(b) the amount of the excess,

(c) the amount of money usually needed in the local fund for the operation of the service or function for 1 year,
(d) whether the excess is necessary for the operation of the service or function because of:
(i) an emergency;
(ii) a special or unusual circumstance; or
(iii) a fluctuation in the service, function, or charges for services of the entity, and
(e) the facts and circumstances demonstrating the emergency, unusual circumstance or fluctuation.
MCA 17-2-302(2)

Reduction of Charge for Services Required: A city or town that maintains a cash balance in excess of this limitation in 17-2-302(1) for more than 60 days shall, within 120 days after the end of the 60-day period, reduce the charge for services or, in the case of a local fund into which two or more charges for services are deposited, reduce one or more charges for services specified by the city or town until the cash balance in the local fund complies with the limitation.
MCA 17-2-303

REVENUES/RECEIPTS COMMONLY RECEIVED

Repealed: Effective date 5/5/2025
Grant Information:
(1) Each state agency shall provide an annual report pursuant to subsection (2) to the legislative finance committee by October 1 of each year.
(2) The report must be provided electronically as a spreadsheet and must include the following information about each grant awarded by the state agency during the previous fiscal year:
(a) the name of the grantee;
(b) the address of the grantee;
(c) the amount of the grant;
(d) the award date of the grant;
(e) the purpose of the grant; and
(f) the grant period.
(3) The legislative finance committee shall post an internet link to the reports on its website under the meeting materials for the committee meeting that next follows the deadline established in subsection (1). At the end of the interim, a copy of the link or links must be provided to the legislature in accordance with 5-11-210.
MCA 5-12-208

The link to the Legislative Finance Committee is
https://leg.mt.gov/committees/admincom/lfc/

Following is a schedule of revenues/receipts commonly received by cities and towns along with the source and required distribution and/or use of the revenues/receipts.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Revenue Source: State Departments	
Department of Administration	
9-1-1 Emergency Telecommunications Allocation MCA 10-4-304 to 306 MCA 10-4-306	The department shall allocate and distribute the total quarterly balance of the account provided for in 10-4-304(2)(a) to local and tribal government entities that host public safety answering points. Grants must be awarded to private telecommunications providers, local or tribal government entities that host public safety answering points, or both in accordance with this section and with rules adopted by the department in accordance with 10-4-108.
Workers' Compensation Dividends MCA 39-71-2323	Prorated to participating funds
State Contributions to Pension Trust Funds for Members Employed by Local Government Entities and School Districts (**On-Behalf Payments**) PERS – 19-3-319 – .10%* MPORS – 19-9-702 – 29.37%* FURS – 19-13-604 – 32.61%* ***Note:** Percentage noted is of members' compensation.	These payments are not made to local governments but are instead made directly by the State to the listed Statewide pension funds. These payments are considered "on-behalf payments for fringe benefits" under the provisions of GASBS No. 24 and should be recorded as revenues and expenditures/expenses. They should be prorated to participating funds that incur these payroll expenses. (**Note:** Journal entry only – revenues equal expenditures/expenses.)
Geospatial Information Grants MCA 90-1-410, 411, & 412 BARS Fund # 2859, Rev. Code #334065 & Exp. Code #411060	Local governments may apply to the State Library for funds to be used for the purposes of collecting, maintaining, or disseminating geographic information, including purchasing technology to assist in these purposes.
Department of Agriculture	

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Noxious Weed Management Grants MCA 80-7-814 ARM 4.5.101 to .112	Entities apply for funding for noxious weed management projects. Grant proceeds deposited to weed grant fund (BARS Fund #2840). Eligible uses of the funds, required matching, and required reporting are set forth in the grant document.
State Auditor's Office	
Insurance Premium Tax Apportionment – ***(See AUD-1)*** Fire Dept. Relief Association MCA 19-18-501, 512, & 514 Police Retirement MCA 19-19-305 MCA 19-18-512 MCA 7-32-4120	1. Fire department relief association fund: Annual payment equal to 1 ½ mills of the municipality's total taxable value, but no less than $100. (Only to towns and 3rd class cities not participating in the Firefighters Unified Retirement System (19-13-102).) 2. Police retirement fund: Annual payment equal to 1 ½ mills of the municipality's total taxable value, but not less than $100. If a city or town does not have a police retirement fund, the moneys should be used for police department employee training, for equipment & personnel relating to substance abuse enforcement, or to purchase pensions for police department employees. (Only to towns and third-class cities not participating in the Statewide Police Retirement Plan (MPORS).)
Department of Commerce	
Bed Tax Apportionment MCA 15-65-111 & 121~~(2)(g)~~ (2)(f)(i)	To be distributed to the nonprofit convention and visitors bureau recognized by the local government. **Note:** Applies to those cities, consolidated city-county governments, resort areas, and resort area districts which have a recognized nonprofit convention & visitors' bureau and an annual marketing plan approved by the Tourism Advisory Council.
Big Sky Economic Development Grants MCA 90-1-203 & 204 For further information: https://business.mt.gov/Business-Assistance/Big-Sky-Economic-Development-Trust-Fund-Program/	Uses of these funds include but are not limited to (1) a reduction in the interest rate of a commercial loan for the expansion of a basic sector company; (2) a grant or low-interest loan for relocation expenses for a basic sector company; and (3) rental assistance or lease buy-downs for a relocation or expansion project for a basic sector company. Matching grants distributed to local governments based on the number of jobs expected to be created because of the funding. BARS revenue code 334075. **Note:** Effective 7/1/2023, local governments are no longer eligible to receive these grants.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Coal Impact Grants MCA 90-6-201 to 209 MCA 90-6-1001(2) MCA 15-35-108(9) ARM 8.101.301 to .306	Funded by coal severances taxes, which are deposited to a State coal natural resource account. Entities apply for grant funding to provide services that are needed as a direct consequence of an increase or decrease of coal development or in the consumption of coal by a coal-using energy complex. Eligible uses of the funds are set forth in the grant document. Funds are distributed by the Coal Board, which is attached to the Dept. of Commerce for administrative purposes.
Montana Coal Endowment Program (MCEP) Title 90, Chapter 6, Part 7 MCEP Project Administration Manual	Matching grants for construction projects & preliminary engineering studies and non-matching emergency grants. Grant funds disbursed on a reimbursement basis. MCEP contracts will include a detailed project budget and implementation schedule, and the general and special terms associated with the project. For further information: https://comdev.mt.gov/Programs-and-Boards/Montana-Coal-Endowment-Program/
Department of Environmental Quality	
Underground Storage Tank (UST) Program: Reimbursements and Grants MCA 75-11-213	Grants are to be used only for equipment purchases or personnel training related to the UST inspection program. Reimbursements are made on a quarterly basis at a rate of $35/hour. Both grants and reimbursements are deposited to the fund used to pay costs of inspection and enforcement services – usually BARS Fund #2815.
Department of Justice	
Live Card Game Table Permit Fees MCA 23-5-306	No specific fund or use is designated by statute. Statute states deposit to municipal treasury. Usually credited to general fund. May be used for any legitimate governmental purpose as determined by the governing body. Quarterly payment.
Gambling Machine Permit Fees MCA 23-5-612	No specific fund or use is designated by statute. Statute states return to the local government jurisdiction in which the machine is located. Usually credited to general fund. May be used for any legitimate governmental purpose as determined by the governing body. Quarterly payment.
Bingo and Keno Tax Apportionment MCA 23-5-409	No specific fund or use designated by statute. Statute refers to municipal treasury. Therefore, the General Fund would appear most appropriate.
Department of Military Affairs	

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
State Disaster & Emergency Program MCA 10-3-311 MCA 10-3-405 ARM 34.3.101 to .202	City/towns apply to the State for assistance, but only after levying an emergency levy of up to 2 mills. Statutes don't specify fund, but BARS Fund No. 2958 generally used. If federal (FEMA) funding involved, the state/local commitment for reimbursable costs will be set forth in the applicable FEMA/State Agreement.
Department of Natural Resources and Conservation	
Federal Revenue Anticipation Note MCA 75-5-1126 MCA 75-6-236	DNRC may advance money, in the form of a note issued pursuant to 7-7-109, to a municipality in anticipation of a federal grant. The municipality must pay to DNRC the proceeds of the federal grant when received. (See related compliance requirement at CT08 – Long-Term Debt)
Department of Public Health and Human Services	
Montana Early Childhood Account: Grants MCA 52-2-1003	Grants authorized by the Montana Early Childhood Account Board for eligible purposes, including: (a) early care and education provider support and workforce development, (b) quality improvement initiatives, (c) affordability initiatives, (d) innovation initiatives, and (e) emergency assistance and disaster relief programs for impacted child-care facilities – BARS Fund #2877
Newborn Safety Device Grant: Grant MCA40-6-408	The Department of Public Health and Human Services shall award competitive grants to eligible fire departments, hospitals, and law enforcement agencies for the installation and maintenance of newborn safety devices, not to exceed $20,000 per applicant. Effective Date: 7/1/2025 Termination Date: 6/30/2027 BARS Fund #: 2878
Department of Revenue	

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Reimbursement for Loss of Revenue from Certain Fixed Mill Levies **MCA 15-1-124**	The Department of Revenue shall reimburse each taxing entity as provided in this section for the revenue loss resulting from the tax rate reductions in 15-6-134 for the following levies: • levies of a local government with a charter form of government that includes a mill levy limit of a specific number of mills that may be inmposed in the charter; and • levies stated as a specific mill levy authorized by voters. The department shall distribute the reimbursements with the entitlement shar payments under 15-1-121(7).
Entitlement Share Payment MCA 15-1-120 & 121	The county must allocate a portion of this payment to each fund and special district within the local government, in a manner that reasonably reflects each fund's and special district's loss of FY 2002 revenue sources. (MCA 15-1-121) **Note**: The 2011 Legislature clarified that the local government may not use discretion in the allocation to special districts. **Note**: The entitlement share pool must be increased annually by an annual growth rate calculated by the DOR. **Note**: Tax increment financing districts are not considered local governments for this purpose.
Entitlement Funding; applicable only to **Tax Increment Financing Districts** in existence during FY2000. (Prior to July 1, 2011, tax increment districts received block grants.) MCA 15-1-121(8)	Payments for each tax increment financing district are itemized in 15-1-121(8). One-half of the payments are made by November 30 and one-half by May 31 of each year. If a tax increment financing district terminates, then the associated funding terminates.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Oil and Gas Natural Resource Distribution Account MCA 15-36-331 MCA 15-36-332 MCA 90-6-1001(1) MCA 15-36-304(7)	Portions of the tax on oil & gas production are deposited to an "oil and gas natural resource distribution account" at the State. DOR distributes this account based on county oil and gas production on a quarterly basis. One-third must be distributed to the county and two-thirds must be distributed to incorporated cities/towns within the county. If there is more than one incorporated city/town within the county, the city/town allocation must be distributed to the cities and towns based on their relative populations. DOR remits the county and city/town portions directly to the county and city/towns. Quarterly distributions are on or before August 1, November 1, February 1, and May 1 of each year. A payment may be withheld if, for more than 90 days, a local government fails to: (a) file a financial report (b) remit any amounts collected on behalf of the state (c) remit any amounts owed to the state or another taxing jurisdiction. No specific fund distribution – discretionary. BARS Revenue Code #335065
Department of Transportation	
Gas Tax Allocations ***(See TRA1 for further details)*** MCA 15-70-101 AGO #19, Vol. 40	(Deleted "Monthly payment" effective 7/1/2023) May be deposited to a separate Gas Tax special revenue fund (BARS Fund #2820). To be used for construction, reconstruction, maintenance, and repair of roads, streets, alleys, and bridges; or for the matching of federal funds allocated for such purposes. Bidding requirements for contracts in excess of the amount provided in 7-5-4302 (municipal contracts). (**Note**: the bidding requirement for municipal contracts is applicable to contracts in excess of $80,000, with some exceptions.) May not be used for capital expenditures, except that towns and 3rd-class cities may each year expend up to 25% of allocation for purchase of capital equipment and supplies that will be used for maintenance of streets and alleys. Towns or 3rd–class cities may place all or a part of the 25% in a restricted asset account to be carried forward until there is a need for the capital expenditure.
Gas Tax – Local Government Road Construction and Maintenance Program MCA 15-70-128 Effective 7/1/2023	A local government road construction and maintenance program to provide funding to cities, towns, counties, and consolidated city-county governments for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, and bridges as provided in 15-70-128. See TRA1 for more information.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Gas Tax - Road Construction and Maintenance Match Program MCA 15-70-130 **Repealed effective 7/1/2023**	
Local Road and Bridge Program MCA 15-70-132 Effective 7/1/2023	A local road and bridge program to provide a state matching source for discretionary grants for road and bridge repair or reconstruction awarded to local governments. See TRA1 for more information.
State Aeronautics Grants and Loans Title 67, Chapter 1, Part 3 ARM 18.13.401 to .408 (Also applicable to airport authorities)	Cost-sharing grants and low interest loans to be utilized specifically for aviation or aeronautically related projects. Amended amounts and locations for depositing tax proceeds and amended refunding – see MCA 67-1-301(3) to (5) Aeronautics operations account and grant account. MCA 67-1-308 & 309
State Aid to Transportation MCA 7-14-102 (Also applicable to urban transportation districts) **Repealed effective 7/1/2023**	
Transportation Services for Senior Citizens and Persons with Disabilities Grant MCA 7-14-112	For transportation services for persons 60 years of age or older and for persons with disabilities. No specific BARS fund designated. We suggest a separate accounting within Senior Citizens Transportation Fund (Fund # 2281).
Courtesy Car Services Grant MCA 67-10-904	For courtesy cars at certain Montana airports where rental cars or taxicabs are not available. The courtesy car may be used only between the airport and the local trading or recreation area and may not be used across the state line or beyond the local trading or recreation area. The municipality may procure a third party and assign the third party to a qualified airport to manage the municipality's courtesy car program.
Better Local Bridge Grants: Grants 60-2-212	The Department of Transportation uses the Better Local Bridge State Special Revenue Account money for grants to local government for the costs associated with engineering and construction of local off-system bridges. Grants to local governments must include no less than 20% local matching funds. BARS fund #2819
State and Federal Grants and Loans	

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS

Source and Statute, Rule or Regulation	Distribution/Use
State grants and loans and selected Federal grants and loans that are passed through State agencies are included above. More detailed information for selected State programs or Federal programs passed through the State can be found indexed under the following specific State Agency tabs: Building Code Enforcement Program: **L&I1** Gasoline Tax Apportionment: **TRA1** Insurance Premium Tax Apportionment: **AUD1** Federal grants and loans that are made directly to the local governments are not included in this *Compliance Supplement*. Please refer to the *OMB Circular A-133/UGG Compliance Supplement* for compliance requirements and suggested audit procedures for Federal grants and loans. https://www.whitehouse.gov/omb/information-for-agencies/circulars/	
County-Collected Revenues	
Local Option Vehicle Tax/Flat Fee MCA 61-3-537 & 570	The county remits 50% of the local option MV tax or fee to cities/towns based on population. The statute is silent as to the distribution of this tax/fee by a city or town. It appears that a city/town governing body may determine the distribution. BARS Revenue Code #314140
Impact Fees – Wind Generation Facilities – Interlocal Agreement See "Local and Other Collections", below, for Impact Fees assessed directly by city/town Title 15, Chapter 24, Part 30	A local government unit may assess an impact fee against a wind energy generation facility. If the facility is located within the jurisdictional areas of multiple local governments, the local governments may enter into an interlocal agreement. The county in which the facility is located assesses the fee, and then distributes these fees to the local governments and school districts impacted by the facility, according to the terms of the interlocal agreement. The city/town's portion of the fees should be deposited to and held in an Electrical Generation Impact Fund (BARS Fund No. 2898) for any time period considered appropriate by the governing body. Money retained in the fund may not be considered as fund balance for the purpose of reducing mill levies and may be expended from the fund for any purpose allowed by law. Money in the fund must be invested, and interest earned must be credited to the fund. The fund must be financially administered as a nonbudgeted fund.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Local-option Marijuana Excise Tax MCA 16-12-309 to 312 & 317	Only after a successful county election to impose the tax per MCA 16-12-311. Rate may not exceed 3% of the retail value of all marijuana and marijuana products sold. 45% apportioned to the municipalities on the basis of the ratio of the population of (effective 10/1/2023) each city or town to the population of municipalities within the county. (Prior to 10/1/2023: the city or town to the total county population). Unless otherwise restricted, a municipality may appropriate and expend revenue derived from a local-option marijuana excise tax for any activity, undertaking, or administrative service that the municipality is authorized by law to perform, including costs resulting from the imposition of the tax or due to administrative burdens imposed on the municipality as a result of licensing or regulatory requirements. These revenues should be receipted in as BARS revenue source #314150.
Local and Other Collections	
A city or town with general powers has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions to impose a special assessment reasonably related to the cost of any special service or special benefit provided by the city or town or impose a fee for the provision of a service. MCA 7-1-4123	
Airport fees, rentals, etc. MCA 67-10-404	Airport Fund
Accessory Dwelling Unit Application Review Fee MCA 76-2-345(4)	Effective 1/1/2024: A municipality may require a fee for reviewing applications to create accessory dwelling units. The one-time application fee may be up to $250 for each accessory dwelling unit. No specific fund or distribution is designated by statute.
Ambulance Charges MCA 7-34-103	The statute authorizes the establishment of fees or charges. No specific fund is designated by statute. Normally deposited to Ambulance Fund if established. If not, to general fund or other fund which is used to pay ambulance related expenditures.
Animal Licenses MCA 7-23-4102	No specific fund designated by statute. Normally deposited to the general fund or other fund which is used to pay related costs.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Bonds – Sale of:	
Proceeds - SID Bonds MCA 7-12-4205	Construction Fund
Proceeds - General Obligation Bonds MCA 7-7-4260	Construction Fund (Statute says bonds are to be used for the purpose for which the bonds were issued.)
Proceeds - Refunding General Obligation Bonds MCA 7-7-4312	Deposit to fund used to pay the refunded bonds
Accrued Interest/Premium MCA 7-7-4102 MCA 7-12-4205	Sinking (debt service) Fund
Building Code Permit Fees (for those cities and towns having a state-certified building code program) ***(See L&I1 for further detail)*** MCA 50-60-106 MCA 50-60-302 ARM 24.301.201 to .231	No specific fund designated by statute. (May use BARS Fund No. 2394 or General Fund) May only be used for those costs related to building code enforcement activities as defined in the statutes and ARMs. The city/town must maintain adequate records to document that permit fees are used only for those costs related to (effective 10/1/2023) activities in support of reviewing and issuing a building permit and for building code enforcement activities. If the amount of fees accumulates above the amount needed to enforce building codes for (effective 10/1/2023) 36 months (prior to 10/1/2023: 12), the fees must be reduced, and the excess must be placed in a reserve account to be used only for building code enforcement. If the building code enforcement program is subject to an agreed-upon procedures engagement, there is a mandatory format to be followed.
Business Licenses Title 7, Chapter 21, Parts 41 & 42	No specific distribution required by statutes. Normally deposited to the general fund. **Note:** Each city and town may adopt an ordinance stating (1) the industry, pursuit, profession and occupation to be licensed; (2) the penalty for failure to comply with any licensing requirement; and (3) the amount, terms and manner of issuing and revoking licenses.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Cemeteries MCA 7-35-4102 Statutes related to perpetual care for cemetery *districts* can be found at Title 7, Chapter 35, Part 21.	**Sale of Plots & Headstone Erections**: No specific fund designated by statute. Most cities & towns deposit such cemetery collections to a separate cemetery fund if one has been established. (See User Charges) **Perpetual Care**: No specific fund designated by statute. Most cities & towns deposit such cemetery collections to a separate cemetery perpetual care fund. (BARS Fund #8010)
Charges for Services deposited to a "Local Charge for Services Fund"	**See requirements above**
Convenience Fee for selected electronic services MCA 7-5-4125	Although not specified in Statute, the fee collected may be deposited to the fund used to pay for costs related to the provision of the electronic services.
Courts – City or Municipal - Fines & Forfeitures City Court – MCA 46-17-303 Municipal Court – MCA 46-17-402	Generally, all fines and forfeitures collected by city and municipal courts are deposited with the city/town finance officer or treasurer, to be credited to the general fund. ***See CT14 – Offices/Boards* for exceptions and additional information.**
CREB Project revenues MCA 90-4-1203 & 1209 **Clean Renewable Energy Bonds (CREBs)** may be issued by local governments for various projects that are intended to produce sufficient energy to provide for the local government's needs, allowing excess energy to be sold through the grid. See ***CT08*** for additional information.	If energy produced through a CREB project is in excess of the local government's own needs, energy may be sold through the grid. Revenues from energy sales may be used for purposes set out at 90-4-1209 including: (a) debt service of any bond issues related to the project, (b) maintenance of the reserves required by bond covenants, (c) payment of expenses of operation and maintenance of the project, and (d) to provide a reserve for improvements to the project. The local government may, after these requirements have been fulfilled, transfer remaining project revenues to its general fund.
Driver's License Reinstatement – Administrative Fee - $25 MCA 61-5-214(2)(b) & (4)	Collected by courts and deposited in City General Fund
Fines	**See "Courts" above**

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Gifts, Donations, Devises, Bequests, etc. MCA 7-8-103 MCA 13-35-238 MCA 22-1-309 (library)	Separate trust fund or fund designated by donor. Must be used for the particular purpose specified. Effective 10/1/2023: That purpose may not include conducting an election pursuant to the provisions of Title 13. If no particular purpose is mentioned, it shall be used for the general support, maintenance, or improvement of the city or town (general fund).
Impact Fees – Public Facility Capital Improvements Title 7, Chapter 6, Part 16	Impact fees must be in compliance with the provisions of 7-6-1602 and may not include operation or maintenance costs or costs of correcting existing deficiencies. The impact fees should be deposited in BARS Fund No. 2399, and should be invested, with all interest accruing to the fund. Fees should be spent in accordance with the impact fee ordinance or resolution.
Impact Fees - Wind Generation Facility Title 15, Chapter 24, Part 30	A wind generation facility is subject to an impact fee, not to exceed 0.5% of the cost of construction, for the first 3 years after construction begins. Fees should be deposited in the Electrical Generation Impact Fund (BARS Fund No. 2898). Money must be invested as provided by law, and the interest must be credited to the fund. Money may be expended from the fund for any purpose allowed by law. The fund must be financially administered as a nonbudgeted fund.
Interest Income: Interest on Surplus Deposits or Investments - If not otherwise provided by law or by the terms of a gift, grant, or donation. MCA 7-6-204 **Note:** Specific provisions for other situations listed below.	General Fund, except that interest earned on the deposits or investments of any fund separately created and accounted for by a city or town **may** be credited to the separately created fund proportionately to each fund's participation in the deposit or investment.
Interest on Airport Reserve Fund MCA 67-10-402(4) & (5)	Airport Fund, to be used for the operations and maintenance budget of the airport.
Interest on Bond Proceeds MCA 7-7-4102	Sinking (debt service) fund
Interest on Capital Improvement Fund MCA 7-6-616	Capital Improvement Fund
Interest on Fire Department Relief Association Fund MCA 19-18-501	Fire department relief association fund

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Interest on Impact Fees – Public Facility Capital Improvements MCA 7-6-1603	City Impact Fees Fund BARS Fund No. 2399
Interest on Impact Fees – Wind Generation Facility MCA 15-24-3007	City Electrical Generation Impact Fund BARS Fund No. 2898
Interest on Library Depreciation Reserve MCA 22-1-307	Library Depreciation Reserve Fund (capital projects fund)
Interest on Registered Warrants MCA 7-6-4603	City/Town Funds making investment
Interest on S.I.D. Revolving Fund MCA 7-12-4226	Revolving Fund
Interest on S.I.D. Bond Proceeds Construction Fund. MCA 7-12-4205	Construction account of the improvement district fund from which the proceeds were withdrawn. After construction costs have been paid, remaining proceeds & interest to the Sinking (debt service).
Interest on S.I.D. Sinking (Debt Service) Fund MCA 7-12-4207	S.I.D. Sinking (Debt Service) Fund
Interest on Sinking (Debt Service) Funds MCA 7-7-123	Sinking (debt service) fund
Interest on Volunteer Firefighter's Disability Insurance Fund MCA 7-6-621	Volunteer Firefighter's Disability Insurance Fund BARS Fund No. 2373
Interlocal Agreements (Receipts) MCA 7-11-108	Determined by the terms of the interlocal agreement
Land Use Application Fees MCA 76-25-501	Effective 5/17/2023: The governing body may establish reasonable fees to be paid by an applicant for a zoning permit, subdivision application, appeals, or any other review performed by the local government pursuant to this chapter to defray the expense of performing the review.
Lease of City Property – Proceeds (not acquired by tax deed) MCA 7-8-4201	No specific fund designated by statute – we recommend the general fund.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Library Fines and Charges (***See CT14)*** Title 22, Chapter 1, Part 3	No specific fund designated by statute. Normally deposited to library fund if library operated through a separate library special revenue fund, or to general fund if library operated through the city or town general fund.
Library Gifts, Donations, Grants, Devises, Bequests, etc. MCA 22-1-309	Must be used for specific purpose designated. They shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.
Liquor License Fees MCA 16-4-503 Repealed: ~~MCA 16-4-113~~	City or Town general fund. ~~**Note:** Effective 1/1/2024: A license fee may not be imposed on combined beer wholesaler and table wine distributor licenses by a municipality or any other political subdivision of the state.~~
Park Dedication (Subdivision) MCA 76-3-621	No specific fund designated by statute. Funds must be used for the development, acquisition or maintenance of parks to serve the subdivision. No more than 50% of the dedicated money may be used for park maintenance. Since use is restricted, it is preferred that the moneys be deposited to a separate Park Fund.
Parking Meter and Parking Area Receipts MCA 7-14-4501 & 4511 MCA 7-12-4241	No specific fund designated by statute. Normally deposited to the general fund. If applicable, may deposit to supplemental revolving fund established to secure payment of SID bonds issued for street and/or alley improvements.
Refunds	To the fund from which the original payment was made
Rentals, Sale of Maps, etc.	Deposit to fund that accounts for expenses of the service provided

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Resort Tax MCA 7-6-1501 to 1507	Petition or resolution required by 7-6-1504, must state the tax rate (up to 3%) & purposes that may be funded by resort tax revenues. Voter approval is required. Unless otherwise restricted by the resolution, revenue may be expended for any activity, undertaking or administrative service that the municipality is authorized by law to perform, including costs resulting from imposition of the tax. A portion of the resort tax receipts must be applied to reduce the municipal property tax levy for the year, as specified in 7-6-1507. An election petition may provide for an additional resort tax at a rate up to 1% in resort communities with population less than 5,500. (Effective 10/1/2025) A resort community with a population that exceeds the population limit for a resort community of 5,500 may not levy the additional resort tax provided for in (1)(b)(i) unless the resort community was established before January 1, 2025. MCA 7-6-1503(1)(b)(i) If the petition or resolution includes the additional tax provided for in 7-6-1503(1)(b) the revenue from the additional tax must be designated for infrastructure (effective 10/1/2025) or workforce housing and the specific uses must be identified in the petition or resolution. The additional levy for infrastructure authorized under this subsection (4)(d) terminates when the specified infrastructure debts and project costs are paid unless the board submits and the qualified electors approve another levy for infrastructure. MCA 7-6-1504(4)(d) Note: applies only to those communities which have been designated as resort communities by the Dept. of Commerce (effective 5/2/2023) not more than 2 years before the petition of the electors or resolution of the governing body.
Sale of City Property - Proceeds MCA 7-8-101(2) MCA 7-8-4201	No specific fund designated by statute. We recommend that proceeds be deposited to the fund that originally paid for the purchase of the property. **Note:** AGO #96, Vol. 25, did not designate any specific fund for the deposit of proceeds from the sale of property, but did hold money realized must be used in the municipality in the next budget.

SOURCE, DISTRIBUTION & USE OF COMMON REVENUES/RECEIPTS	
Source and Statute, Rule or Regulation	**Distribution/Use**
Sale of Supplies/Equipment MCA 7-5-4307	No specific fund designated by statute. We recommend that proceeds be deposited to the fund that originally paid for the purchase of the supplies or equipment.
User Charges: **Water & Sewer Utility** Title 7, Chapter 13, Part 43 **Transportation System** (Bus System) MCA 7-14-4401 & 4403 **General Fees for Services** MCA 7-6-4013 **See also Charges for Services Deposited to a Local Charge for Services Fund**	To water or sewer fund, as applicable. Specific fund not designated by statute. Charges should be deposited to fund that pays expenses of system operation. No specific fund designated by statute. Such charges should be deposited to the fund that makes the expenditures related to the services provided.

CASH & INVESTMENTS

REVISED DECEMBER 2025 REF: CT04

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MUNICIPAL TREASURER AS CUSTODIAN OF PUBLIC MONEY

The municipal treasurer shall receive, disburse, and serve as the custodian of all public money; provide for accountability of all local government cash receipts and for deposits and investments of all departments, offices, and boards; pay out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay the warrants; and require periodic departmental reports of money receipts and their disposition on forms that the municipal treasurer prescribes.
MCA 7-6-612

Special District Money: All money received by a special district, including interest and earnings accrued, must be deposited in an account held only for the special district by the office of the county treasurer, city treasurer, or town clerk. See CT16, Special Districts, for listing of special districts for which this provision is or is not applicable.
MCA 7-11-1026(2)

DEPOSIT OF PUBLIC FUNDS IN FINANCIAL INSTITUTIONS

Except as provided in the following 3 MCA sections, it is the duty of all city treasurers and town clerks to deposit all public money in their possession and under their control only in solvent banks, building and loan associations, savings and loan associations, or credit unions. The city/town council may deposit public money not necessary for immediate use in a savings or time deposit with any of these authorized financial institutions or in a repurchase agreement as authorized in 7-6-213.
MCA 7-6-201(1) & (2), MCA 7-6-4601

MCA 7-6-202 – obligations of the United States
MCA 7-6-206 – time & savings deposits or repurchase agreements
MCA 7-6-2701 – registered warrants of entities (county, municipal, hospital district, or school district) located in the same county

INVESTMENT IN OBLIGATIONS/AGENCIES OF THE UNITED STATES

(1) Effective 10/1/2023: A municipal group self-insurance program that may include consolidated governments established pursuant to an interlocal agreement may follow the investment standards provided in Title 33, chapter 12, parts 1 through 3, to invest public money that is not required for immediate use by the municipal group self-insurance program.
(2) A city or town may invest public money not necessary for immediate use in the following eligible securities:
    (a) United States government treasury bills, notes, and bonds, and United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations;

(b) United States treasury receipts in a form evidencing the holder's ownership of future interest or principal payments on specific United States treasury obligations that, in the absence of payment default by the United States, are held in a special custody account by an independent trust company in a certificate or book-entry form with the Federal Reserve Bank of New York; or

(c) obligations of the following agencies of the United States, subject to the limitations of subsection 7-6-202(3)

i. Federal Home Loan Bank;

ii. Federal National Mortgage Association;

iii. Federal Home Mortgage Corporation; and

iv. Federal Farm Credit Bank.

(3) An investment in an agency of the United States is authorized under this section if the investment is a general obligation of the agency and has a fixed or zero-coupon rate and does not have prepayments that are based on underlying assets or collateral, including but not limited to residential or commercial mortgages, farm loans, multifamily housing loans, or student loans.

(4) The local governing body may invest in a United States government security money market fund if:

(a) the fund is sold and managed by a management-type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be amended;

(b) the fund consists only of eligible securities as described above;

(c) the use of repurchase agreements is limited to agreements that are fully collateralized by the eligible securities, as described in this section, and the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;

(d) the fund is listed in a national financial publication under the category of "money market mutual funds", showing the fund's average maturity, yield, and asset size; and

(e) the fund's average maturity does not exceed 397 days.

MCA 7-6-202

Revisions made to MCA 7-6-202 (above) by the 1995 Legislature were effective April 13, 1995. An applicability clause in the legislation specified that these revisions do not apply to and do not require the sale of securities that were legal investments before this effective date. However, upon liquidation of such investments, the proceeds must be invested pursuant to the revised MCA 7-6-202. This applicability clause has been interpreted to mean that mutual fund dividends may not be reinvested after the effective date unless the mutual fund is a United States government security money market fund meeting the criteria specified in the MCA 7-6-202(4), as revised.

Maturity Date Limitation: An investment authorized in this part may not have a maturity date exceeding 5 years, except when the investment is used in an escrow account to refund an outstanding bond issue in advance.
MCA 7-6-202(5)

Note: Please see subsections for exceptions to this limitation related to (Deleted effective 10/1/2023: (1) investment of assets of a local government group self-insurance program and (2)) sinking fund investments for balloon payments on qualified construction bonds.
MCA 7-6-202(6)

SHORT-TERM INVESTMENT POOL (STIP)

Provisions of 7-6-202 may not be construed to prevent the investment of public funds under the state unified investment program established in Title 17, chapter 6, part 2.
MCA 7-6-202(7)

The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the Board of Investments (BOI). Included in the separate investment funds that must be maintained in the unified investment program is a pooled investment fund.
MCA 17-6-201(1) & 203(3)

The governing body of any city, county, school district, or other local government unit or political subdivision that has funds that are available for investment and are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit the funds to the state treasurer for investment under the direction of the BOI as part of the short-term pooled investment fund.
MCA 17-6-204

STIP is no longer managed as a 2a7-like portfolio. The investment portfolio consists of securities with maximum maturity of 2 years or less. The BOI utilizes Net Asset Value (NAV) to report its investments at fair value in its own financial statements. Local government monthly statements provide amortized cost values. For year-end reporting, BOI provides a "NAV factor" to be applied to the amortized cost amount, to arrive at the fair value of the local government's investment.

a. Share prices are fixed at $1 per share.
b. To initiate a buy or sell of STIP shares, one business day's notice is required.
c. STIP income is distributed on the first calendar day of each month. Shareholders have the option to automatically reinvest their distribution income in additional shares.

For additional information, see http://www.investmentmt.com/STIP/

LONG-TERM INVESTMENT OF LOCAL GOVERNMENT FUNDS

(1) The governing body of any city, county, school district, or other local government unit or political subdivision may participate in the various investment pools or other investments offered by the board of investments not otherwise prohibited by law.
(2) A local government may invest with the board of investments under this section if:

(a) the source of the original principal for investment with the board is from an identifiable action or event such as a legal settlement, judgment, bequest, insurance settlement, trust fund, or other one-time source of funds;
(b) the local government does not anticipate the need to expend 50% or more of the original principal for investment within 5 years from the initial investment with the board;
(c) the initial investment is at least $10 million; and
(d) the local government agrees to the board's investment policies, including those addressing liquidity needs, risk and return considerations, asset allocation, permissible investments, and any other necessary investment considerations or limits.

(3) The board of investments is not obligated to accept any funds for investment under this section. No local government is obligated to invest with the board under this section.

MCA 17-6-205

DEMAND DEPOSITS

Demand deposits may be placed only in banks.
MCA 7-6-205

TIME & SAVINGS DEPOSITS & REPURCHASE AGREEMENTS

Public money not necessary for immediate use by a city or town that is not invested as authorized in 7-6-202 may be placed in time or savings deposits with a bank, savings and loan association, or credit union in the state or placed in repurchase agreements as authorized in 7-6-213 (see below).
MCA 7-6-206(1)

Bidding Provisions: The local governing body may solicit bids for time or savings deposits from a bank, savings and loan association, or credit union in the state. The local governing body may deposit public money in the institutions unless a local financial institution agrees to pay the same rate of interest bid by a financial institution not located in the county, city, or town. The governing body may solicit bids by notice sent by mail to the investment institutions that have requested that their names be listed for bid notice with the department of administration. Money placed in repurchase agreements is also subject to these provisions.
MCA 7-6-206(1) & (2)

Out-of-State Certificates of Deposit - In addition to other investments authorized above, public money not necessary for immediate use by a city or town may be invested in accordance with the following conditions:

(a) the money is initially invested through a federally insured financial institution in the state selected by the governing body;
(b) the selected in-state financial institution arranges for the deposit of the funds of the city or town in one or more federally insured financial institutions, regardless of location;

(c) the full amount of principal and accrued interest on each deposit is covered by federal deposit insurance; and
(d) the selected in-state financial institution acts as the custodian for the city or town with respect to the deposit issued for its account.

MCA 7-6-206(3)

Repurchase Agreements: A financial institution may contract with a local governing body to establish one or more repurchase agreements, including daily repurchase agreements.
MCA 7-6-213

A repurchase agreement is a contract that specifies the minimum and maximum of public money that the local governing body will invest under the contract in securities that the financial institution will sell to the local governing body and that the financial institution will repurchase on mutually agreeable terms. A repurchase agreement is not a demand account.

The local governing body may maintain in the same financial institution contracting for the repurchase agreement a demand account into which each business day shall be deposited a sum equal to the day's disbursements, and that deposit will be the proceeds of the redemption by the financial institution of securities previously purchased by the local governing body under the provisions of the repurchase agreement, so that the balance of the demand account at the close of each day's business will be zero.

Bidding Provisions: The local governing body shall call for bids as provided in 7-6-206 (see above) to contract for a repurchase agreement from all financial institutions chartered to do business in the state of Montana which are authorized to accept demand deposits and to buy and sell securities. The call for bids shall specify the minimum acceptable rate of interest, effective date of the repurchase agreement and the period of duration and range of funds to be invested.

There is no express or implied limitation on a county treasurer's ability to use the services of an investment or brokerage firm to purchase approved securities; however, an investment company may not be used in making demand or time deposits because that form of transaction is restricted to banks, savings and loan associations, and credit unions.
AGO #25, Vol. 42.

Although, this AGO is specific to a county treasurer the same holding would also apply to a municipality.

INTEREST RATES ON DEPOSITS OF PUBLIC MONEY

Public money deposited pursuant to 7-6-4601 shall bear interest at a rate no less than the rate of interest paid on money from private sources on the same terms. Refusal of any bank, building and loan association, savings and loan association, or credit union to pay that same interest rate shall constitute a waiver of that institution's right to participate in the deposit of public funds.
MCA 7-6-203, MCA 7-6-4602

DEPOSIT INSURANCE COVERAGE

Federal Deposit Insurance (FDIC): FDIC insurance covers all deposit accounts placed in banks and savings associations, including checking and savings accounts, money market deposit accounts and certificates of deposit. For detailed information on deposit insurance for accounts held by government depositors, see: https://www.fdic.gov/resources/deposit-insurance/understanding-deposit-insurance/

Official Custodian: A public unit (including a political subdivision) is insured through its official custodian. If the same individual is an official custodian for more than one public unit, he or she is separately insured for the deposits belonging to each public unit. Deposit insurance coverage cannot be increased by dividing funds among several putative official custodians who lack plenary authority over such funds. Likewise, coverage cannot be increased by dividing funds among several accounts controlled by the same official custodian for the same public unit.

All **time and savings deposits** (including NOW accounts and money market deposit accounts but not interest-bearing demand deposit accounts, which were permitted after July 21, 2011) owned by a public unit and held by the public unit's official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to $250,000.

Separately, all **demand deposits** (including both interest-bearing and noninterest-bearing deposits that are payable on demand and for which the depository institution does not reserve the right to require advance notice of an intended withdrawal) owned by a public unit and held by the public unit's official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to $250,000.

The standard insurance amount is $250,000 per depositor.
Dodd-Frank Wall Street Reform and Consumer Protection Act

For more information about FDIC coverage, go to https://www.fdic.gov/index.html

National Credit Union Administration (NCUA): NCUA insurance covers members' accounts (savings accounts, share draft accounts, money market accounts and share certificates) in all federally-chartered credit unions and in most state-chartered credit unions. All accounts held by a member will be added together and insured up to the basic insurance amount.

The basic insurance amount is $250,000 per individual account holder, per federally insured credit union. (Dodd-Frank Wall Street Reform and Consumer Protection Act)

For more information about NCUA coverage, or an electronic share insurance calculator, go to https://ncua.gov/support-services/share-insurance-fund

PLEDGED SECURITIES

The treasurer or town clerk shall take from the bank, building and loan association, savings and loan association, or credit union security that the local governing body may prescribe, approve, and consider fully sufficient and necessary to ensure the safety and prompt payment of all deposits, together with the interest on any time or savings deposits.
MCA 7-6-201(3)

All deposits must be subject to withdrawal by the treasurer or town clerk in amounts that may be necessary. A deposit of funds may not be made or permitted to remain in any financial institution until the security for the deposit has been first approved by the local governing body and delivered to the treasurer or town clerk.
MCA 7-6-201(4)

Level of Security: The local governing body may require security only for that portion of the deposits that is not guaranteed or insured according to law and, as to the unguaranteed or uninsured portion, to the extent of:

(a) 50% of the deposits if the institution in which the deposit is made has a net worth to total assets ratio of 6% or more; or
(b) 100% if the institution in which the deposit is made has a net worth to total assets ratio of less than 6%.

MCA 7-6-207(1)

Allowable Securities: The security must consist of those enumerated in 17-6-103 or cashier's checks issued to the depository institution by any federal reserve bank.
MCA 7-6-207(1)

See MCA 17-6-103 for listing of the types of securities that may be pledged or the guarantees that may be issued to secure deposits of public funds.

When negotiable securities are furnished, the securities may be placed in trust. The trustee's receipt may be accepted in lieu of the actual securities when the receipt is in favor of the treasurer or town clerk and the treasurer's or clerk's successors. All warrants or other negotiable securities must be properly assigned or endorsed in blank.
MCA 7-6-207(2)

Acceptance & Approval of Securities: The appropriate governing body shall, upon the acceptance and approval of any of the bonds or securities, make a complete minute entry of the acceptance and approval upon the record of its proceedings, and the bonds and securities must be reapproved at least quarterly.
MCA 7-6-207(2)

Substitution of deposit security: Any bank, building and loan association, savings and loan association, or credit union pledging securities as provided in 7-6-207, at any time it deems advisable or desirable, may substitute like securities for all or any part of the securities pledged. The collateral so substituted shall be approved by the governing body of the county, city, or town at its next official meeting.

MCA 7-6-208(1)

Such securities so substituted shall at the time of substitution be at least equal in principal amount to the securities for which substitution is made. In the event that the securities so substituted are held in trust, the trustee shall, on the same day the substitution is made, forward a receipt by registered or certified mail to the county, city, or town and to the financial institution. The receipt shall specifically describe and identify both the securities so substituted and those released and returned to the financial institution.

INVESTMENT IN REGISTERED WARRANTS

When the city or town has money for which there is no immediate demand (excluding money realized from the proceeds of bonds), the city or town may invest in city or town warrants. The city/town council may direct the treasurer or clerk to purchase legally issued general obligation warrants that were issued against funds in which there are not sufficient funds to pay such warrants at the time of issuance. The city/town council shall designate the fund or funds to be invested and designate the warrants to be purchased. The warrants will be registered and bear interest.
MCA 7-6-4603

INVESTMENT OF BOND PROCEEDS

Whenever the city or town has under its control any money realized from the sale of bonds, for which there is no immediate demand and which in the judgment of the city or town council it would be advantageous to invest in any time or savings deposits, United States certificates of indebtedness, United States treasury notes, or United States treasury bonds having a maturity date of 1 year or less, the city or town council is authorized in their discretion to direct the city treasurer or town clerk to make such investments.
MCA 7-7-4102

PETTY CASH FUND

A municipal governing body may set aside a sum out of the general fund, which must be known as a petty cash fund. The petty cash fund must be used for the purpose of paying incidental expenses, such as freight charges, express charges, postage, and other similar expenses that must be immediately paid in cash.
MCA 7-6-615(1)

CASH TRANSFERRED BETWEEN FUNDS

Money may not be transferred from one fund to another except by resolution of a municipal governing body unless the transfer is:

1. previously authorized by a budget resolution;
2. to close inactive funds, as provided by MCA 7-6-614;
3. made in the usual course of county business for:
    a. school transfers;
    b. tax increment finance districts;
    c. specialized tax situations;
    d. the purpose of distributing refunds, protested taxes, or interest charges for interest in lieu of registered warrants;
    e. bond sinking fund transfers;
    f. residual equity transfers;
    g. transfers of investments;
    h. corrections of errors; or
4. otherwise authorized by statute.

MCA 7-6-613

INVESTMENT OF FIRE DEPARTMENT RELIEF ASSOCIATION MONEYS

Applicable when the City/Town Treasurer Has Been Elected Ex Officio Treasurer of the Association per MCA 19-18-103

The board of trustees of a fire department relief association may invest the surplus money in the fund or any part of the surplus money in:

(a) time or saving deposits in a solvent bank, building and loan association, savings and loan association, or credit union operating in the county where the city or town is located;
(b) bonds or other securities of the United States government; or
(c) general obligation bonds or warrants of any state, county, or city.

MCA 19-18-402

Whenever the average yield on investments of public retirement funds under the board of investments exceeds by 1% in any fiscal year the average yield on investments of the fund made pursuant to 19-18-402 (above), the surplus money in the fund must be remitted to the state treasurer for investment under the direction of the board of investments as is provided in 17-6-204 (STIP). The board of investments shall advise the association of the current yield on investments of public retirement funds.
MCA 19-18-403(1)

As used here, "surplus money" means the excess over the greater of the following 1 1/2 times the monthly benefit paid in the preceding month or $5,000.
MCA 19-18-403(2)

CLAIMS, WARRANTS, & EXPENDITURES

REVISED DECEMBER 2025 REF: CT05

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CLAIMS APPROVAL PROCESS

All bills, claims, accounts, or charges for materials of any kind that are purchased by and on behalf of a city or town by its department heads or officers must be reviewed by the city or town finance director or the city or town clerk before submission to the council.
MCA 7-6-4301(3)

All accounts and demands against a city or town must be presented to the council in an itemized format. Payment of claims against a city or town may be authorized by the council when:

(a) payee-signed claims have been issued to the city or town and the payee has attested in the claim to its accuracy and that the payee has not received the claimed amount; or
(b) the payee has provided the city or town with an invoice or other document identifying the quantity and total cost for each item included on the invoice.

MCA 7-6-4301(1) & (2)

Claims Not Required for Salaries: The provision of this section, requiring claims against a city to be verified and filed with the municipality, has no application to a claim for salary fixed by ordinance.
Wynne v. Butte, 45 M 417, 123 P 531 (1912)

Claim Presented Within 1 Year: Claims must be presented with all necessary and proper vouchers within 1 year from the date the claims accrued. A claim or demand not presented within 1 year is forever barred, and the council has no authority to allow any account or demand not presented as provided in this section.
MCA 7-6-4301(1) & (4)

PAYMENT OF CLAIMS BY WARRANT OR CHECK

If the city or town council approves a claim and orders it paid, it must be paid in accordance with one of the following options:

(1) The mayor may draw a **warrant** upon the treasury in favor of the owner, specifying for what purpose and out of what funds it is to be paid. The city treasurer or town clerk shall pay the warrant out of the proper fund.
(2) The city treasurer or town clerk may pay the demand by **check** when there are sufficient city funds on deposit to cover the check.

MCA 7-6-4302

Interest-Bearing Checking Account: If claims against the city or town are paid by check, rather than warrant, the checking account must be interest-bearing and must be held by a bank within the city or town.
MCA 7-6-4302(2)

Order Paid: The municipal treasurer shall pay out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay the warrants.
MCA 7-6-612(3)(c)

Warrants Signed by Mayor: All city or town warrants issued are to be signed by the mayor.
MCA 7-5-4102(2)

Electronic Funds Transfer: All payments to the state treasurer or a state agency must be made by electronic funds transfer if requested by the state treasurer or the state agency and if the city or town has the technology to conduct electronic funds transfers.
MCA 7-6-4501(3)

REGISTERED WARRANTS

Warrant Not Paid for Want of Funds: When any warrant drawn upon the treasury of a city or town and pursuant to any ordinance or resolution or direction of the council of the city or town is presented to the city treasurer or town clerk for payment and the warrant is not paid for want of funds, the city treasurer or town clerk shall endorse thereon "Not paid for want of funds", annexing the date of presentation, and signing the treasurer's or clerk's name to the warrant.
MCA 7-6-4501(1)

Interest Rate: From the time of the endorsement until the warrant is called for payment, the warrant bears interest at a rate fixed by ordinance, or if the warrant is subject to purchase for investment by a county as provided in 7-6-2701 and is held by a county, the warrant bears interest at a rate fixed by the board of county commissioners under 7-6-2701.
MCA 7-6-4501(2)

As used in this part, "warrant" includes a check and an electronic funds transfer.
MCA 7-6-4501(4)

Notification of Redemption of Warrants: When there is money in the city or town treasury applicable to the payment of any warrants drawing interest and sufficient to pay the warrants, the city treasurer or town clerk shall give notice as required by MCA 7-6-4502. Warrants cease to draw interest from the first publication or posting of this notice.
MCA 7-6-4502

Registration: Upon the presentation of any warrant endorsed as specified above, it shall be the duty of the city treasurer or town clerk to record, in a book to be provided for that purpose, the warrant, the date of such presentation, the number and date of the warrant, to whom payable, the fund on which drawn, and the amount thereof.
MCA 7-6-4503

Order of redemption of warrants: All warrants to be redeemed shall be redeemed in the order of their registration, beginning with the date of the warrant first so registered.
MCA 7-6-4504

CANCELLATION OF WARRANTS

The city or town council may cancel municipal warrants and checks that have remained outstanding and unpaid for a period of 1 year or longer. The city or town clerk shall:

(a) enter on the record of warrants or checks, opposite the entry of each instrument, the date when it was canceled;
(b) make a list of the canceled instruments, specifying the number, date, and amount and the person to whom it was payable; and
(c) enter the list in the minutes of the city or town council proceedings.

MCA 7-6-4303

Although the warrant may be canceled after one year, it appears the city or town obligation is not terminated until after 8 years, the time specified by MCA 27-2-202(1); i.e., the statute of limitations for a liability founded upon an instrument in writing.
AGO #1, Vol. 21

The requirements of the Uniform Unclaimed Property Act are not applicable to (i) property that is held, issued, or owed by a local government entity; Effective 10/1/2023: (ii) property held in state and local government sponsored retirement plans governed by Title 19; (iii) property held in a plan as described in section 529A of the Internal Revenue Code, 26 U.S.C. 529A, as amended. Accordingly, cancelled warrants or checks are not considered to be abandoned property for this purpose.
MCA 70-9-802(16)(b)

REPLACEMENT OF LOST WARRANT OR CHECK

A duplicate warrant or check may be issued by the appropriate municipal officer whenever an instrument drawn by the officer upon the municipality is lost or destroyed. The duplicate warrant or check must be in the same form as the original except that it must have plainly printed across its face the word "duplicate". A duplicate warrant or check may not be issued or delivered unless the person entitled to receive it deposits with the issuing municipal officer a bond in double the amount for which the duplicate warrant or check is issued, conditioned to hold the municipality and its officers harmless on account of the issuance of the duplicate warrant or check.
MCA 7-6-4304(1)

Exceptions to Indemnity Bond Requirement: An indemnity bond is not required when:

(a) the payee is the U.S. government, a state of the United States, an agency, instrumentality, or officer of the U.S. government or of a state, county, city, city and county, town, district, or other political subdivision of a state, or an officer of an enumerated entity;
(b) the owner or custodian is the State of Montana or an agency or officer of the state;
(c) the owner or custodian is a bank, savings and loan association, admitted insurer, or trust company whose financial condition is regulated by the U.S. government or by the State of Montana;
(d) the amount of the lost or destroyed warrant or check is less than $100;
(e) it can be established that a crime has been committed and as a result of such crime the warrant or check was stolen or destroyed;

(f) it can be established that the warrant or check was mailed to an incorrect payee; or
(g) the payee is a vendor or contractor doing business with the municipality.
MCA 7-6-4304(2)
Whenever the owner or custodian applies under the provisions of subsection (e), (f), or (g), above, a stop-payment order must be placed on the original warrant or check by the municipality.
MCA 7-6-4304(3)

Whenever the owner or custodian applies under the provisions of subsection (c), (d), (e), (f), or (g), above, the application must include an agreement to indemnify and hold harmless the municipality or its officers and employees from any loss resulting from the issuance of a duplicate warrant or check. Any loss incurred in connection with the issuance of a duplicate warrant or check must be charged against the account from which the payment was derived.
MCA 7-6-4304(4)

TRAVEL EXPENSES AND MEMBERSHIP DUES

Mileage Reimbursement: All persons entitled to mileage paid from public funds when using their own motor vehicles in the performance of official duties are entitled to collect mileage for the distance actually traveled by motor vehicle and no more unless otherwise specifically provided by law.
MCA 2-18-503

When a privately-owned vehicle is used on county business because a county-owned or leased vehicle is not available or because such use is in the best interest of the county, a mileage rate equal to the mileage allotment allowed by the IRS for the current year** must be paid for the first 1,000 miles traveled in a given calendar month. Any miles traveled thereafter within the same month are reimbursed at 3 cents per mile less.
MCA 2-18-503

The standard mileage allotment allowed by the IRS:

Effective January 1, 2020 – 57.5 cents per mile
Effective January 1, 2021 – 56 cents per mile
Effective January 1, 2022 – 62.5 cents per mile
Effective January 1, 2023 – 65.5 cents per mile
Effective January 1, 2024 – 67 cents per mile
Effective January 1, 2025 - 70 cents per mile

If a privately-owned airplane is used in the performance of official duties, reimbursement is allowed for nautical air miles actually traveled at a rate of twice the automobile mileage allotment.
MCA 2-18-503

Shortest Traveled Route: Wherever mileage is allowed to any sheriff or other officer, juror, witness, or other person under any law of Montana, the same shall be computed according to the shortest traveled route, when such shortest route is passable.
MCA 2-18-504
Travel Policy for Meals & Lodging: MCA 2-18-501 relates to travel, meals and lodging for *state* employees/officials and does not, by its own terms, govern meal and lodging expense payments to city or town officers or employees. AGO #77, Vol. 40, holds that county commissioners may adopt a travel policy providing for the payment/reimbursement of reasonable meal and lodging expenses incurred by county officers or employees in the performance of official duties. It appears that the same would also apply to a municipality. The city or town governing body should establish a policy governing the reimbursement rates for meal and lodging expenses or the payment of per diem by the city or town, and this policy may reflect the terms of MCA 2-18-501.

Claim for Travel Expenses: Every person engaged in travel shall periodically submit a claim containing a schedule of expenses and amounts claimed for said period. Said schedule shall show in what capacity such person was engaged each day while away from the department in which said daily duties arose and shall show expense items of each day in detail, such as the amount of per diem allowance claimed, transportation fare, mileage, and other such items.
MCA 2-18-511

Membership Dues: The governing body of a city or town may pay:

(a) the membership fees and dues in any organization of city and town officials when the purpose of the organization is improvement of laws relating to city and town government and their better and more economical administration; and
(b) the necessary expenses of any regular officer or employee of the city or town in attending any convention or meeting of such organization upon the direction of the governing body by order upon its minutes, stating that the public interest requires such attendance, or that the attendance by the officer or employee is necessary by virtue of his office.

MCA 7-5-4141(1) & 4142

RESTRICTIONS ON DONATIONS

There is no State law that specifically allows or prohibits a city or town from making a donation to an individual association or corporation. However, AGO #12, Vol. 48, held that a city may appropriate funds to a private, non-profit corporation for operation of a private museum, if it is determined that the operation of the museum is for a public purpose and if the city enters into a contract with the corporation guaranteeing the public purpose of the enterprise.

FULL DISCLOSURE OF PUBLIC EXPENDITURES ON FEDERAL LOBBYING

Each quarter of a fiscal year that a local government (i.e., county, a consolidated government, an incorporated city or town, a school district, or a special district), makes an expenditure for the

services of a lobbyist to lobby an elected federal official or an appointee of an elected federal official, the local government shall make readily available for public inspection upon request a summary report itemizing each lobbying service provided and how much money was spent for each service.
MCA 5-7-120(1)

Each local government subject to the above shall:

(a) designate an office from which a copy of the report may be obtained; and
(b) post a copy of the report to the local government's website on the internet, if the local government has a website.

MCA 5-7-120(2)

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

PROCUREMENT, BID LETTING, & CONTRACTS

REVISED DECEMBER 2025 REF: CT06

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GENERAL BIDDING REQUIREMENTS

A contract for the purchase of any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of $80,000 must be let to the lowest responsible bidder after advertisement for bids. (See exceptions to this bidding requirement, below)
MCA 7-5-4302(1)

Public Auction: In lieu of soliciting bids, the council may purchase at public auction any vehicle, machinery, appliances, apparatus, building, or materials or supplies for which must be paid a sum of $50,000 or less.
MCA 7-5-4310

Self-Government Powers: A local government unit with self-government powers cannot supersede by the passage of a resolution or ordinance the competitive bidding requirements set forth in MCA 7-5-4302.
AGO #175, Vol. 37

Publication Requirements: The advertisement for bids must be published as provided in 7-1-4127 (See CT01 – "General Topics" for discussion of these publication requirements), and the second publication must be made not less than 5 days or more than 12 days before the consideration of bids. If the advertisement is made by posting, 15 days must elapse, including the day of posting, between the time of the posting of the advertisement and the day set for considering bids.
MCA 7-5-4302(2)

Exceptions to Bidding Requirements: The following are the exceptions to the bidding requirements of MCA 7-5-4302:

1. Purchases necessitated by emergencies, as defined in MCA 7-5-4303(1);
2. Purchases of supplies or equipment from government agencies when the purchase can result in a substantial savings to the city or town, and when there is sufficient budget for the purchase (MCA 7-5-4303(2));
3. Alternative project delivery contracts, as provided in Title 18, chapter 2, part 5 (MCA 7-5-4302) (See discussion below)
4. Solicitation and award of an investment grade energy audit or energy performance contract pursuant to Title 90, Chapter 4, Part 11, or to the construction or installation of conservation measures pursuant to the energy performance contract. (MCA 7-5-4315) (See discussion below)
5. Contracts for professional, technical, engineering, or legal services (MCA 7-5-4301(2)(a));

However, contracts in which the value of the <u>majority</u> of the services to be rendered constitute services other than professional, technical, engineering, or legal services must be awarded under the bidding procedures.
MCA 7-5-4301(2)(a)

A contract for the employment of a construction manager that calls only for the application of the contractor's technical expertise and experience in a supervisory capacity and does not involve the procurement of supplies or actual construction is a contract for professional and technical services.
AGO #175, Vol. 37

A municipality may extend, renew, or amend a contract or series of contracts for the supervision or operation of a physical plant that provides water, sewer, or power services without proceeding under the bidding procedure if:

a. one or more of the contracts were awarded to the entity in accordance with the competitive bidding procedures, and
b. the entity has provided the services to the municipality for the immediately preceding 5-year period. **Note**: Other than these situations, supervision over or operation of a physical plant that provides water, sewer, or power services to a municipality does not constitute a service excluded under the provisions of 7-5-4301(2)(a) (above).

MCA 7-5-4301(2)(b)

CERTAIN CONTRACTS TO BE SUBMITTED TO VOTERS

No contract may be let pursuant to MCA 7-5-4302, pertaining to competitive bidding requirements, (see above) that extends over a period of 5 years or more without first submitting the question to a vote of the electors of the city or town.
MCA 7-5-4304

Exceptions: The following are the exceptions to the requirement that the contract be submitted to the voters:

1. A contract for solid waste management system as defined in 75-10-103, which may not exceed 10 years; or
2. Obligations issued pursuant to 7-7-4104, which may include bonded indebtedness, note indebtedness, a lease, a lease-purchase agreement, an installment purchase contract, or other legal forms. These obligations are general obligations of the municipality but are not secured by a pledge of the taxing power of the municipality. See 7-7-4104 for the specific terms and restrictions of this type of obligation.

MCA 7-5-4304

BIDDING - GAS TAX FUNDS

See TRA1 “Gasoline Tax Apportionment” for additional information.

If a city or town contracts for construction, reconstruction, maintenance, and repair of city or town streets or alleys costing in excess of the amounts provided in 7-5-4302 (i.e., $80,000) to be paid with gasoline tax funds, the funds must be disbursed to the lowest responsible bidder according to applicable bidding procedures.
MCA 15-70-101(5)

Except as follows, the gas tax apportionment funds may not be used for the purchase of capital equipment. The governing body of a town or third-class city may each year expend no more than 25% of the funds allocated for the purchase of capital equipment and supplies to be used for the maintenance and repair of streets and alleys. The governing body of a town or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax apportionment fund that is carried forward until there is a need for the expenditure.
MCA 15-70-101(4)

DIVISION OF CONTRACTS PROHIBITED

Public work or construction projects for which competitive bidding is required may not be divided into several contracts to circumvent the competitive bidding requirements.
MCA 7-5-4305

INSTALLMENT PURCHASE CONTRACTS – LENGTH OF TERM

When the amount to be paid under an installment purchase contract **exceeds $4,000**, the council may provide for the payment of the amount in installments extending over a period of **not more than 10 years** if at the time of entering into the contract, there is an unexpended balance of appropriation in the budget for the then-current fiscal year available and sufficient to pay for the portion of the contract price payable during the then-current fiscal year. The budget for each following year in which any portion of the purchase price is to be paid must contain an appropriation for the purpose of paying that portion. The limitations contained in this section do not apply to installment purchase contracts entered into pursuant to 7-7-4104.
MCA 7-5-4306

LEASE/PURCHASE AGREEMENTS SUBJECT TO BIDDING REQUIREMENTS

A lease with an option to purchase is subject to the competitive bidding requirement of MCA 7-5-4302
AGO #78, Vol. 41

The above Attorney General Opinion makes reference to AGO #101, Vol. 38, relating to ***county*** lease/purchase contracts. That Opinion held that the total amount of the lease payments, together with the purchase option price, should be considered when determining whether the agreement is subject to the bidding provision of MCA 7-5-4302.

CONFLICT OF INTEREST

The mayor, any member of the council, any city or town officer, or any relative or employee of an enumerated officer may not be directly or indirectly interested in the profits of any contract entered into by the council while the officer is or was in office.
MCA 7-5-4109(1)

The governing body of a city or town may waive the application of the above prohibition if in an official capacity the officer or employee does not influence the decision-making process or supervise a function regarding the contract in question. A governing body may grant a waiver under this subsection only after publicly disclosing the nature of the conflict at an advertised public hearing held for that purpose. In determining whether to grant a waiver, the governing body shall consider the following factors, where applicable:

(a) whether the waiver would provide to a program or project a significant benefit or an essential skill or expertise that would otherwise not be available;
(b) whether an opportunity was provided for open competitive bidding or negotiation;
(c) whether the person affected is a member of a clearly identified group of persons that is the intended beneficiary of the program or project involved in the contract; and
(d) whether the hardship imposed on the affected person or the governmental entity by prohibiting the conflict will outweigh the public interest served by avoiding the conflict.

MCA 7-5-4109(2)

City or town officers; or any deputies or employees of a city or town may not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees if they are directly involved with the contract. A former employee may not, within 6 months following the termination of employment, contract or be employed by an employer who contracts with the city or town involving matters with which the former employee was directly involved during employment.
MCA 2-2-201(1)

As used above:

1. The term “be interested in” does not include a minority interest in a corporation.
2. The term “contract” does not include:
    a. contracts awarded based on competitive procurement procedures conducted after the date of employment termination;
    b. merchandise sold to the highest bidder at public auctions;
    c. investments or deposits in financial institutions that are in the business of loaning or receiving money;
    d. a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It is presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than 10% of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.
3. The term "directly involved" means the person directly monitors a contract, extends or amends a contract, audits a contractor, is responsible for conducting the procurement or for

evaluating proposals or vendor responsibility, or renders legal advice concerning the contract.
MCA 2-2-201(2)

The definitions of "be interested in" and "contract" contained in MCA 2-2-201 are incorporated into MCA 7-5-4109.
AGO #28, Vol. 40

A public officer or employee shall, prior to acting in a manner that may impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private interest that creates the conflict. The public officer or employee shall make the disclosure in writing to the commissioner of political practices, listing the amount of private interest, if any, the purpose and duration of the person's services rendered, if any, and the compensation received for the services or other information that is necessary to describe the interest. If the public officer or employee then performs the official act involved, the officer or employee shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act.
MCA 2-2-131

Even though an interest may be permissible under the exceptions listed in MCA 2-2-201 (above), an official who has a substantial interest in the affected business must comply with MCA 2-2-131.
AGO #28, Vol. 40

AWARDING PUBLIC CONTRACTS - PREFERENCES

Public contracts for construction, repair, or public works must be awarded to the lowest responsible bidder without regard to residency. However, a resident bidder must be allowed a preference on a contract against the bid of any nonresident bidder from any state or country that enforces a preference for resident bidders. The preference given to resident bidders of this state must be equal to the preference given in the other state or country. These preferences apply whether the law requires, or does not require, advertisement for bids, and they apply to contracts involving federal funds unless expressly prohibited by the laws of the United States or regulations adopted pursuant to federal laws.
MCA 18-1-102(1)(a) & (2)

Note: Subsection (1)(b), related to public contracts for the purchase of goods, is not applicable to local governments.

Preferences for Federally funded contracts:
The Common Rule (2CFR. §200.319(b): The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves

an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Note: Government-wide guidance for administering grants and cooperative agreements with States and local governments is contained in the OMB Circular A-102 *Common Rule* (a.k.a. *Grants Management Common Rule*), which was codified by each Federal funding agency in its title of the *Code of Federal Regulations*. The *Common Rule* section numbers are referred to without the Federal agency's part number (e.g., §200.319) would refer to the same Procurement/Competition section in all agency regulations. This allows auditors to refer to the same section numbers when discussing administrative issues with different Federal funding agencies. The Codification of Government-wide Grants Requirements by Department can be accessed via this web site: https://www.whitehouse.gov/omb/information-for-agencies/circulars/

BID SECURITY

The advertisement, request, or solicitation for bids must specify that all bidders shall expressly covenant in any bid that if the bidder is awarded the contract, the bidder will, within the time required as stated in the advertisement or solicitation, enter into a formal contract and give a good and sufficient bond to secure the performance of the terms and conditions of the contract. The advertisement or solicitation shall specify the amount of the bond, whether the amount is set by statute or set by the public authority (not less than 10% of the bid price), and shall specify that a bid bond or other form of security specified in 18-1-203 (see below) constitutes compliance with this requirement.
MCA 18-1-202

Note: For a bid for the purchase of indebtedness, the bond many not be less than 2% of the principal amount of the indebtedness.

Bids for public contracts must be accompanied by bid security in the form of cash; cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally or state-chartered bank insured by the federal deposit insurance corporation; or a bid bond, guaranty bond, or surety bond executed by a surety corporation authorized to do business in Montana.
MCA 18-1-203

CONTRACT PERFORMANCE SECURITY

Note: These contract performance security requirements may be waived for building or construction projects (defined in 18-2-101) that cost less than Effective 4/18/2023: $150,000.
MCA 18-2-201(4)

Whenever a municipality contracts with a person or corporation to do work, the city/town council shall require that the person or corporation deliver a good and sufficient bond with a surety company, licensed in the state, conditioned that the person or corporation shall (1) faithfully perform all provisions of the contract; (2) pay all laborers, mechanics, subcontractors,

and material suppliers; and (3) pay all persons who supply the person, corporation, or subcontractors with provisions, provender, material or supplies for performing the work.
MCA 18-2-201

The municipality may, in lieu of a surety bond, permit the deposit with the municipality of the following securities in an amount at least equal to the contract sum to guarantee the contract performance: cash; cashier's check, certified check, bank money order, certificate of deposit, money market certificate, or bank draft or irrevocable letter of credit drawn and issued by a federally or state-chartered bank or S&L association insured by the FDIC or an insured credit union.
MCA 18-2-201

ACCEPTANCE AND FINAL PAYMENT ON CONSTRUCTION CONTRACTS

A government entity that enters into a contract for the construction of a building shall, unless otherwise provided by law or the contract and within 10 days after a request by the construction contractor for final acceptance, decide whether or not to make final acceptance. Within 30 days after final acceptance by the government entity, the government entity shall make the final payment of the contract price specified in the contract to the other party to the contract.
MCA 18-2-306

RETAINAGE FOR PUBLIC CONTRACTS

The maximum retainage applied to construction contracts may not exceed 5% if the contractor is performing by the terms of the contract. (Retainage means the ratio, in percent, of funds retained to the total amount to be paid to the contractor by the government entity)
MCA 18-2-316

Note: In all public works contracts entered into under the provisions of Title 18, Chapter 2, Part 4, MCA, (i.e., Standard Prevailing Rate of Wages – see below) at least $1,000 of the contract price must be withheld at all times until the termination of the public works contract.
MCA 18-2-404(2)

STATE PREVAILING WAGE RATES (MONTANA'S "LITTLE DAVIS BACON ACT"

Current State prevailing wage rates established by the Montana Department of Labor and Industry can be found at http://erd.dli.mt.gov/labor-standards/state-prevailing-wage-rates.

The *State* prevailing wage rates do not apply in those instances in which the standard prevailing rate of wages is determined by *federal* law.

MCA 18-2-402(2)

"Public works contract" is defined as a contract for construction services let by the state, county, municipality, school district, or political subdivision or for nonconstruction services let by the state, county, municipality, or political subdivision in which the total cost of the contract is in excess of $25,000.
MCA 18-2-401(11)(a)

"Construction services" means work performed by an individual in building construction, heavy construction, highway construction, and remodeling work. The term does not include engineering, superintendence, management, office, or clerical work on a public works contract; or consulting contracts, contracts with commercial suppliers for goods and supplies, or contracts with professionals licensed under state law.
MCA 18-2-401(3)

Services that qualify as "nonconstruction services" are listed at MCA 18-2-401(9) and include a wide range of activities, but do not include management, office, or clerical work.

A public contracting agency must include in the bid specifications and contracts for any public works the following:

(a) an unequivocal agreement by the contractor or employer to give preference to employment of bona fide Montana residents (MCA 18-2-403);
(b) a statement that any construction project, excluding projects involving the expenditure of federal aid funds or where residency preference laws are specifically prohibited by federal law, the bid specifications and the contract shall provide that at least 50% of the workers of each contractor working on the project will be bona fide Montana residents (MCA 18-2-409);
(c) an unequivocal agreement by the contractor or employer that a worker performing labor on the project will be paid the applicable standard prevailing rate of wages;
(d) a listing of standard prevailing wage rates including fringe benefits applicable to the public works contract; (MCA 18-2-422) and
(e) the contract provisions must clearly show that the contractor or employer is bound to pay wages at rates determined by the Department of Labor and Industry, and to give required preferences.

ARM 24.17.144

All public works contracts and the bid specifications for those contracts must contain:

(1) a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, that the contractors and employers shall pay during construction of the project; (See also MCA 18-2-403)
(2) a provision requiring each contractor and employer to maintain payroll records in a manner readily capable of being certified for submission to the Department of Labor & Industry for not less than 3 years after the contractor's or employer's completion of work on the project; and
(3) a provision requiring each contractor to post a statement of all wages and fringe benefits.

MCA 18-2-422

Note: Failure to include these provisions in a public works contract relieves the contractor from the obligation to pay the standard prevailing wage rate and places the obligation on the public contracting agency.
MCA 18-2-403(9); ARM 24.17.144

Transportation of goods, supplies, materials, and manufactured or fabricated items to or from the project location is not subject to payment of the standard prevailing rate of wages.
MCA 18-2-403(6)

All public works contracts under this part must be approved in writing by the legal adviser of the contracting government prior to execution.
MCA 18-2-404(1)

At least $1,000 of the contract price must be withheld at all times until the termination of the public works contract.
MCA 18-2-404(2)

Any public works contract that calls for more than 30 months to fully perform must include a provision to adjust the standard prevailing rate of wages to be paid. The standard prevailing rate of wages must be adjusted 12 months after the date of the award of the contract, and the amount of the adjustment must be a 3% increase. The adjustment must be made and applied every 12 months for the term of the contract.
MCA 18-2-417

Note: Any increase in the standard rate of prevailing wages for workers under this section is the sole responsibility of the contractor and any subcontractors and not the contracting agency.

When a public works project costing more than $50,000 is accepted by the public contracting agency, a notice of acceptance and the completion date of the project must be sent to the Department of Labor & Industry. The Department may *request* this information for projects costing less than this amount.
MCA 18-2-421; ARM 24.17.144

ALTERNATIVE PROJECT DELIVERY CONTRACTS

Alternative project delivery contract means a construction management contract, a general contractor construction management contract, a design-build contract, or Effective 5/3/2023 through 7/1/2033: a comprehensive agreement. The term does not include a design-build contract awarded by the transportation commission under 60-2-111(3).
MCA 18-2-501(1)

A governing body that uses an alternative project delivery contract shall demonstrate that the governing body has or will have knowledgeable staff or consultants who have the capacity to manage an alternative project delivery contract.

MCA 18-2-502(1)

Prior to awarding an alternative project delivery contract, the governing body shall make a determination, in writing, that the proposal meets at least two of the sets of criteria described in (a) through (c) below, and that the proposal meets the provisions of (d).

a. The project has significant schedule ramifications and using the alternative project delivery contract is necessary to meet critical deadlines by shortening the duration of construction.
b. By using an alternative project delivery contract, the design process will contribute to significant cost savings.
c. The project presents significant technical complexities that necessitate the use of an alternative delivery project contract
d. Using an alternative project delivery contract will not encourage favoritism or bias in awarding the contract or substantially diminish competition for the contract.

MCA 18-2-502(2) & (3)

Effective 5/3/2023 and terminates 7/1/2033: In addition to meeting the criteria set forth in subsections (1) through (3), a state agency or governing body that utilizes a comprehensive agreement must, for each project:

(a) demonstrate a public purpose; and

(b) demonstrate that the innovative financing delivery favors the innovative financing contract method over other available procurement and alternative project delivery methods.

MCA 18-2-502(4)

The governing body's decision to award an alternative project delivery contract must be based, at a minimum, on:

a. the applicant's history and experience with projects similar to the project under consideration; financial health; staff or workforce that is proposed to be committed to the project; approach to the project; and project costs, and
b. any additional criteria or factors that reflect the project's characteristics, complexities, or goals.

MCA 18-2-503(2)

At the conclusion of the selection process, the governing body shall state and document in writing the reasons for selecting the contractor that was awarded the contract. The documentation must be provided to all applicants and to anyone else, upon request. The governing body may compensate (effective 5/3/2023 and terminates 7/1/2033) qualified unsuccessful respondents to the request for proposal with a designated stipend for the ownership of the work product in the unsuccessful proposal and partial reimbursement for costs incurred in developing and submitting a proposal, provided that all unsuccessful applicants are treated equitably.

MCA 18-2-503(4) & (5)

Effective 5/3/2023 and terminates 7/1/2033: When utilizing an innovative financing delivery option under this part, a governing body shall follow the applicable procurement guidelines, including all applicable rules and law regarding competitive public procurement required under Montana law.

When utilizing an innovative financing delivery option under this part, a governing body shall, prior to issuing a request for proposals, establish an evaluation and selection process, including identifying the individuals who will perform the evaluation and selection. The governing body shall endeavor to utilize individuals in the evaluation and selection process who have expertise in the subject matter.
Awarding of a comprehensive agreement must be based on a best value analysis.
At a minimum, a solicited proposal under an innovative financing delivery option must include the following:

(a) an analysis of the costs, benefits, and risk transfers resulting from the innovative financing delivery;
(b) a fixed fee price for the entirety of the comprehensive agreement, inclusive of design, construction, financing, operation, or maintenance, as applicable, and reflecting all risk transfer set forth in the terms of the final request for proposals;
(c) a detailed schedule and construction plans;
(d) a detailed financing plan and financial model for the lifetime of the comprehensive agreement, including any public funding or milestone payments during construction;
(e) a list of known utilities and rights-of-way that will be impacted by the project;
(f) a list of permits and governmental approvals required for the project; and
(g) a plan for utility relocation and right-of-way acquisition to the extent required by the final request for proposals.

In addition to the provisions set forth in this part, comprehensive agreements may not:

(a) violate public construction contract provisions provided for in Title 18, chapter 2, part 4; or
(b) transfer ownership of a public asset to a private party.

If operation and maintenance of an existing facility subject to an innovative financing delivery contract under this section is performed by employees covered by a collective bargaining agreement prior to becoming an eligible project for innovative financing delivery, the employees performing operation and maintenance of the completed facility must also be covered by a collective bargaining agreement.
MCA 18-2-503(6) through (11)

OPTIONAL ADOPTION OF MONTANA PROCUREMENT ACT

A city or town may adopt any or all parts of the Montana Procurement Act (Title 18, Chapter 4, MCA) and the accompanying rules promulgated by the Montana Department of Administration (ARM Chapter 2.5).
MCA 18-4-124

STATE PROCUREMENT CARD PROGRAM

The State of Montana amended its Procurement Card contract with US Bank to allow approved local public procurement units to participate in the Program. Financial controls in place include daily and monthly spending limits. The Program gives local governments the ability to purchase items from the State's Cooperative Purchasing program: https://doa.mt.gov/lg-services

The State of Montana uses the Montana Acquisition & Contracting System (eMACS) for electronic procurement. For more information, click here: https://spb.mt.gov/eMACS-Resources

A participating entity must follow the same terms, conditions and payment terms as outlined in the State's contract with US Bank. A copy of the State contract will be provided to the participating entity upon request. Mandatory requirements for an entity to participate in the Program include blocked merchant codes, including pawn shops, liquor stores, and jewelry stores.

Optional recommendations to set individualized parameters on procurement cards include:

a. $5,000 per month spending limit per cardholder (may be changed as needed);
b. Limitations on the days of the week the card can be used (Monday through Friday);
c. Limiting the number of transactions per day; and
d. Limiting the dollar amount per transaction.

Questions? Contact State Procurement Bureau of the Department of Administration: (406)-444-2575.

PRINTING CONTRACTS

The city or town council has power to provide for the city or town printing. The contract for city or town printing must be let annually to the lowest bidder.
MCA 7-5-4108

ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING SERVICES

Governmental agencies, including cities and towns, must publicly announce requirements for architectural, engineering, and land surveying services and negotiate contracts for such professional services on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices.
MCA 18-8-201

Each government shall publish in advance its requirement for professional services. The announcement must state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the government who can provide further details. A government may comply with this section by:

(1) publishing an announcement on each occasion when professional services provided by a licensed professional are required by the government; or
(2) announcing generally to the public its projected requirement for any category or type of professional services.

MCA 18-8-203

Procedures for selection: (1) In the procurement of the above professional services, the government may encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The government shall evaluate current statements of qualifications and performance data on file with the government, together with those that may be submitted by other firms regarding the proposed project, and conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.
(2) The government shall then select, based on criteria established under government procedures and guidelines and the law, the firm considered most qualified to provide the services required for the proposed project. The government procedures and guidelines must be available to the public and include at a minimum the criteria specified in 18-8-204(2)(b) as they relate to each firm.
(3) After conducting an evaluation of firms pursuant to subsections (1) and (2)(b), a local government may enter into a contract with one or more of those firms to provide architectural, engineering, or land surveying services on an as-needed basis for one or more projects and for a term to be mutually agreed to by the parties. Nothing in this subsection prevents a local government from following the procurement procedures in this part for professional services for a particular project, unless a contract made pursuant to this subsection provides otherwise.
MCA 18-8-204

The government shall negotiate a contract with the most qualified firm for the above professional services at a price which the government determines to be fair and reasonable. In making its determination, the government shall take into account the estimated value of the services to be rendered, as well as the scope, complexity, and professional nature thereof. If the government is unable to negotiate a satisfactory contract with the firm selected at a price the government determines to be fair and reasonable, negotiations with that firm must be formally terminated and the government shall select other firms in accordance with 18-8-204 and continue as directed in this section until an agreement is reached or the process is terminated.
MCA 18-8-205

This part need not be complied with by a government when the contracting authority makes a finding in accordance with this or any other applicable law that an emergency requires the immediate execution of the work involved. This part does not relieve the contracting authority from complying with applicable law limiting emergency expenditures.
MCA 18-8-211

Cities and towns securing architectural, engineering, and land surveying services for projects for which the fees are estimated not to exceed $50,000 may contract for those professional services by direct negotiation.
MCA 18-8-212

Except as provided in 18-8-204(3), an agency may not separate service contracts or split or break projects for the purpose of circumventing the provisions of this part.
MCA 18-8-212

LOCAL GOVERNMENT ENERGY PERFORMANCE CONTRACTS

Energy performance contracts are a means by which local government units can achieve energy and water conservation economically and expeditiously. "Energy performance contract" means a cost-effective contract between a governmental entity and a qualified energy service provider for implementation of one or more cost-saving measures and guaranteed cost savings.
MCA 90-4-1101 & 1102(4)

The Department of Environmental Quality shall assist governmental entities interested in pursuing energy performance contracts and shall enter into agreements with qualified energy service providers.
MCA 90-4-1110(f) & (c)

Payment obligations pursuant to an energy performance contract aren't general obligations of the local government and are collectible only from conservation-related costs savings provided in the energy performance contract and other revenue, if any, pledged in the energy performance contract.
MCA 90-4-1109

FEDERAL INFORMATION RETURNS

The entity must report on a Federal Information Return, Form 1099-MISC, all payments of $600 or more which the entity makes during a calendar year to anyone, other than a corporation or tax-exempt organization, who is not an employee. (U.S. Internal Revenue Service Codes)
https://www.irs.gov/forms-pubs/about-form-1099-misc

Note: The following are some examples of payments to be reported on Form 1099-MISC. For a complete list, contact the IRS:

(1) Professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, subcontractors, etc.
(2) Payments by attorneys to witnesses or experts in legal adjudication.

FINANCIAL INDUSTRY NONDISCRIMINATION

Effective 10/1/2023: (1) The provisions of this section apply only to a contract that:

(a) Is between a governmental entity and a company with at least 10 full-time employees; and
(b) has a value of at least $100,000 that is paid wholly or partly from public funds of the governmental entity.

(2) Except as provided in subsection (3), a governmental entity may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it:

(a) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(b) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

(3) The provisions of subsection (2) do not apply to a governmental entity that:

(a) contracts with a sole-source provider; or

(b) does not receive a bid from a company that is able to provide the written verification required by subsection (2).

MCA 30-20-301

PROCUREMENT OF FOOD PRODUCTS

Effective 7/1/2025:

(1) Food products produced in the state may be procured either by standard procedures or by direct purchase. Montana-produced food products may be procured by direct purchase when:

(a) the quality of available Montana-produced food products is substantially equivalent to the quality of similar food products produced outside the state;

(b) a vender is able to supply Montana-produced food products in sufficient quantity; and a

(c) bid for Montana-produced food products either does not exceed or reasonably exceeds the lowest bid or price quoted for similar products produced outside the state. A bid reasonably exceeds the lowest bid or price quoted when, in the discretion of the person charged by law with the duty to purchase food products for a governmental body, the higher bid is reasonable and capable of being paid out of that governmental body's existing budget without any further supplemental or additional appropriation.

(2) The department shall adopt any rules necessary to administer the optional procurement exception and reporting requirement established in this section.

(3) Except as provided in subsection (5), all contracts for the procurement of food products by a governmental body with a total contract value of $100,000 or more that are entered into or renewed after June 30, 2025, must include a provision that requires the vendor to provide the report described in subsection

(6) (a) As used in this section, the following definitions apply: "Food" means articles normally used by humans as food or drink, including alcoholic and nonalcoholic beverages and articles used for components of articles normally used by humans as food or drink.

(b) "Produced" means planted, cultivated, grown, harvested, raised, collected, processed, or manufactured.

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

PAYROLL & EMPLOYEE BENEFITS

REVISED DECEMBER 2025 REF: CT07

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HOLIDAY BENEFITS

The following holiday benefits provisions are not applicable to persons not qualifying as "employees" - elected officials, schoolteachers, independent contractors, persons hired under personal services contracts, and student interns.
MCA 2-18-601(6)

Paid Legal Holidays: Paid holidays must be restricted to the following: New Year's Day, January 1; Martin Luther King Day, the third Monday in January; President's Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples' Day and Columbus Day, the second Monday in October; Veteran's Day, November 11; Thanksgiving, the fourth Thursday in November; Christmas, December 25; and State general election day.
MCA 1-1-216, MCA 2-18-601(9)(b)

A public employee may be required to work on a holiday but must be either compensated for the lost holiday or given an opportunity to take a paid day off at a later time.
AGO #16, Vol. 38

Collective Bargaining Provision: County commissioners may enter into a collective bargaining agreement with county employees which grants a day of paid leave in addition to State legal holidays. This collective bargaining provision is merely an additional paid day off and does not constitute a "legal holiday" or an accumulated vacation benefit. This opinion would also appear to apply to city and town employees.
AGO #116, Vol. 38

Holiday Falling on Employee's Day Off: A full-time employee who is scheduled for a day off on a day that is observed as a paid, legal holiday is entitled to receive a day off with pay either on the day preceding the holiday or on another day following the holiday. Part-time employees receive pay for the holiday on a prorated basis. A short-term worker Effective 7/1/2023: or student intern, as defined by MCA 2-18-101, may not receive holiday pay.
MCA 2-18-603(1); AGO #16, Vol. 38

The holiday provisions of 2-18-603 apply to full-time, salaried public employees. They do not apply to part-time, temporary, or seasonal employees who are paid on an hourly or per diem basis for work actually performed.
AGO #16, Vol. 38

Four 10-Hour Day Work Week: County road and bridge department employees regularly working four 10-hour days per week are entitled to eight hours' pay for all nonworked holidays. Although this opinion refers to a county road and bridge employee, it appears that the intent of the opinion would also apply to any city or town employee regularly working four 10-hour days per week.
AGO # 14, Vol. 43

ANNUAL VACATION LEAVE

The following vacation leave benefits provisions are not applicable to persons not qualifying as "employees" - elected officials, schoolteachers, independent contractors, persons hired under personal services contracts, and student interns.
MCA 2-18-601(6)

Permanent full-time employees earn annual vacation leave credits from the first day of employment, but are not entitled to any vacation leave with pay until they have been continuously employed for 6 calendar months.
MCA 2-18-611(1)

Seasonal employees earn vacation credits, but must be employed for 6 qualifying months before they may use the vacation credits. In order to qualify, seasonal employees shall immediately report back for work when operations resume in order to avoid a break in service.
MCA 2-18-611(2)

Permanent part-time employees receive prorated annual vacation leave credits if they have worked for the qualifying period.
MCA 2-18-611(3)

An employee may not accrue annual vacation leave credits while in a leave-without-pay status.
MCA 2-18-611(4)

Temporary employees earn vacation leave credits but may not use the credits until after working for 6 qualifying months.
MCA 2-18-611(5)

Short-term workers or student interns may not earn vacation leave credits, and time worked as either does not apply toward the person's rate of earning vacation leave credits.
MCA 2-18-611(6)

Rate Earned: Vacation leave credits are earned at a yearly rate as follows:

a. less than 10 years of service - 15 working days per year
b. 10 through 15 years of service - 18 working days per year
c. 15 through 20 years of service - 21 working days per year
d. 20 years or more of service - 24 working days per year

This schedule applies to the total years of an employee's employment, whether the employment is continuous or not. An employee must be credited with 1 year of employment for each period of:

a. 2,080 hours of service following the date of employment. An employee must be credited with 80 hours of service for each biweekly pay period in which the employee is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period.
b. 12 calendar months in which the employee was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any 1 month.

MCA 2-18-612

Military leave: A period of absence from employment occurring during a war or other national emergency, and for 90 days thereafter, for active duty with the US armed forces is considered as service for the purpose of determining the number of years of employment used in calculating vacation leave credits.
MCA 2-18-614

Maximum Vacation Leave Accumulation: Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.
MCA 2-18-617(1)(a)

If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited and the city or town denies the request, the excess vacation leave is not forfeited and the city or town shall ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited.
MCA 2-18-617(1)(b)

Termination of Employment: An employee who terminates employment for a reason not reflecting discredit on the employee and who has worked the 6-month qualifying period is entitled upon the date of termination to either:

(i) cash compensation for unused vacation leave, or
(ii) conversion of the employee's unused vacation leave balance to an employer contribution to an employee welfare benefit plan health care expense trust account, i.e., voluntary employees' beneficiary association (VEBA).

MCA 2-18-617(2)

Employees are not allowed to receive pay in lieu of vacation days not used, except upon termination.
MCA 2-18-617(2); AGO #25, Vol. 46

A county employee who is elected or appointed to public office thereby terminates his employment and is entitled to receive vacation and sick leave benefits accumulated during his employment. It appears that the intent of this opinion would also apply to any city or town employee.
AGO #12, Vol. 38

Contribution of Accumulated Vacation Leave to Sick Leave Fund: A local government may establish and administer through local rule a sick leave fund into which its employees may contribute a portion of their accumulated sick leave or vacation leave. An employee may contribute accumulated vacation leave to this sick leave fund, but the contributions are nonrefundable and are not eligible for cash compensation upon termination.
MCA 2-18-618(10) & 617(2)(b) & (4)

If an employee has earned vacation leave but dies from an accident while on the job, the accumulated vacation leave available for cash compensation under subsection (2)(a)(i) must be paid out as a death benefit to the employee's beneficiary or estate. This benefit is in addition to workers' compensation benefits, if those are applicable.
MCA 2-18-617(2)(c)

(Terminated effective 7/1/2023): For the purpose of this part, the following definitions apply: (a) "Accident" means an unexpected traumatic incident or unusual strain that is identifiable by time and place of occurrence and caused by a specific event on a single day or during a single work shift. (b) The term does not include an employee's suicide.

For the purpose of this part, the following definitions apply: (a)"Agency" means any legally constituted department, board, or commission of state, county, or city government or any political subdivision of the state. (b) The term does not mean the state compensation insurance fund.

MCA 2-18-601(1)

SICK LEAVE

The following sick leave benefits provisions are not applicable to persons not qualifying as "employees" - elected officials, schoolteachers, independent contractors, persons hired under personal services contracts, and student interns.
MCA 2-18-601(6)

A permanent full-time employee earns sick leave credits from the first day of employment but is not entitled to be paid sick leave until continuously employed for 90 days.
MCA 2-18-618(1)

An employee may not accrue sick leave credits while in a leave- without-pay status.
MCA 2-18-618(2)

Permanent part-time employees are entitled to prorated leave benefits if they have worked the qualifying 90-day period.
MCA 2-18-618(3)

Full-time temporary and seasonal employees are entitled to sick leave benefits provided they have worked the qualifying 90-day period.
MCA 2-18-618(4))

Short-term workers, as defined by MCA 2-18-101, may not earn sick leave credits.
MCA 2-18-618(5)

Rate Earned: Sick leave credits are earned at the rate of 12 working days for each year of service without restriction as to the number of working days that may be accumulated. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals 1 year.
MCA 2-18-618(1)

Termination of Employment: Except for VEBA contributions, an employee who terminates employment is entitled to a lump-sum payment equal to one-fourth of accumulated sick leave, computed on the basis of the salary or wage at the time the employee terminates employment.
MCA 2-18-618(6)(a)

An employee may not be paid upon termination for any remaining sick leave credits that were accrued prior to July 1, 1971. However, an employee does not forfeit sick leave benefits accrued prior to that date.
MCA 2-18-618(6)(a)

For an employee who dies from an accident while on the job, any sick leave benefits must be paid out as a death benefit at 100% of the accumulated value of the sick leave to the employee's beneficiary or estate.
MCA 2-18-618(6)(c)

A county employee who is elected or appointed to public office thereby terminates his employment and is entitled to receive vacation and sick leave benefits that accumulated during the course of the employee's employment with the county. It appears that the intent of this opinion would also apply to any city or town employee.
AGO #12, Vol. 38

Contribution of Accumulated Sick Leave to Sick Leave Fund: A local government may establish and administer through local rule a sick leave fund into which its employees may contribute a portion of their accumulated sick leave or vacation leave.
MCA 2-18-618(10)

JURY/WITNESS DUTY AND MILITARY LEAVE

A city or town employee who serves on jury duty or serves as a witness has the following two options:

a. The employee shall collect all fees and allowances payable as a result of the service and forward the fees to the city or town accounting office. Juror and witness fees must be applied against amounts due the employee from the city or town.
b. The employee may elect to use annual leave to serve on a jury or as a witness. In this case, he is not required to remit his juror or witness fees to the city or town.

In either case, the employee is not required to remit to the city or town any expense or mileage allowance paid by the court.
MCA 2-18-619

A city or town employee who is a member of the national guard of Montana or any other state or of the reserve corps or military forces of the United States, and who has been an employee for a period of at least 6 months, must be given leave of absence with pay at a rate of 120 hours in a calendar year for performing military service. The full 120 hours of leave must be credited in full to an employee after 6 months of employment and in each successive calendar year. Military leave may not be charged against the employee's annual vacation time. Unused military leave must be carried over to the next calendar year but may not exceed a total of 240 hours in any calendar year.
MCA 10-1-1009

RETIREMENT – PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)

Contracting Employers: Any municipal corporation, county, or public agency in the state may become a contracting employer through a contract entered into between the board and the legislative body of the contracting employer. The contract must provide that all employees eligible under this chapter must become members. Contracts executed prior to July 1, 2009, that limit membership to a specific group or groups of employees, remain valid.
MCA 19-3-201(1)

Approval of Contract: The governing body shall adopt a resolution of intention to approve the contract, and may approve the contract only after a majority affirmative vote of the employees, and affirmative vote of two-thirds of the governing body. If approved, the provisions of the retirement system will apply to all employees on the effective date of the contract and to all employees hired after the effective date of the contract. An employee's membership in either the defined benefit plan or the defined contribution plan is determined on an individual basis.
MCA 19-3-201(2)

Request by individual employee: Any employee who has, for a continuous period of at least 2 years, been an employee of a municipal corporation, county, or other public agency that is not a contracting employer may advise the governing body, in writing, that the employee wishes to participate in the retirement system. Within 30 days after receipt of the written request, the governing body shall adopt the resolution of intention and take action as provided for in 19-3-201.
MCA 19-3-202

To obtain a current fiscal year listing of cities and towns that are participating members of PERS (both Defined Benefit and Defined Contribution plans), go to the fiscal year's annual report at the MPERA website: https://mpera.mt.gov/about/annualreports1/annualreports. In Annual Comprehensive Financial Reports, select the fiscal year. In the report, scroll down to the "Statistical Section". The "Schedule of Participating Employers" is near the end of the Statistical Section.

Termination of Contract: Provisions for termination of a contract are similar to those for approval of a contract.
MCA 19-3-201(3)

Membership: Except as discussed below, all employees of a local government participating in PERS (i.e., contracting employer) shall become members of the defined benefit plan on the first day of service.
MCA 19-3-401(1)

An employee may become a member of the defined contribution plan only as provided in Title 19, chapter 3, part 21.

Exclusions from Membership: The following persons may not become members of the retirement system and may not later purchase previous service under 19-3-505:

a. independent contractors;
b. persons who are members of any other retirement or pension system supported wholly or in part by public funds, except when the service qualifies and is applied for and the service credit is purchased pursuant to 19-3-503. (Note: See exceptions to this at MCA 19-3-403(4)(a) & (b)):
c. court commissioners, elected officials, or appointive members of any board or commission who serve the state or any contracting employer intermittently and who are paid on a per diem basis.

MCA 19-3-403

Optional membership -- employees not in elected office.

(1) Except as provided in subsection (2), the following employees in covered positions that are not elected offices shall elect either to become active members of the retirement system or to decline this optional membership by filing an irrevocable, written application with the board in the manner prescribed in subsection (3):
(a) employees serving in employment that does not cumulatively exceed a total of 960 hours of covered employment with all employers under this chapter in any fiscal year;
(b) employees directly appointed by the governor;
(c) employees working 10 months or less for the legislative branch to perform work related to the legislative session;
(d) the chief administrative officer of any city or county; and
(e) employees of county hospitals or rest homes.

(2) (a) An employee who is an active or inactive member at the time of employment is not eligible to make an election under subsection (1). Upon employment in the position, an employee who was an active member remains an active member for all covered employment and an employee who was an inactive member shall become an active member.
(b) A person who was a retired member before employment in a position for which membership is optional under subsection (1) is not eligible to make an election under subsection (1) and is subject to the provisions of Title 19, chapter 3, part 11.

(3) (a) The board shall prescribe the form of the written application required pursuant to subsection (1) and provide written application forms to each employer.
(b) Each employee in a position covered under subsection (1) shall obtain the written application form from the employer and complete and return it to the board.

(c) The written application must be filed with the board within 90 days after the commencement of the employee's employment.
(d) The employer shall inform the employee of the option to elect membership and retain a copy of the employee's written application.

(4) Failure to inform an employee in a position covered under subsection (1) of the employee's option to elect membership must be treated as a correction of a reporting error under 19-2-506(4). An employee who elects membership in the defined benefit plan following discovery of an omission to be informed of the optional election may choose to purchase retroactive service under 19-3-505, and the employer is obligated to pay the employer contributions as well as accrued interest in both the employer and employee contributions
(5) If the employee fails to file with the board the written application required under subsection (1) within the time allowed in subsection (3), the failure must be considered an election to decline membership.
(6) Except as provided in subsection (7), an employee who declines optional membership may not receive membership service or service credit for the employment for which membership was declined.
(7) An employee who declined optional membership but later becomes a member may purchase service credit for the period of time beginning with the date of employment in which membership was declined to the commencement of membership. Purchase of service credit pursuant to this subsection must comply with 19-3-505.
(8) An employee who has made an election under this section may not make a new or different election under this section in any circumstance unless the employee has been terminated from employment in all optional membership positions for at least 30 days.
(9) An employee accepting a position that requires membership shall become a member even if the employee previously declined membership.

MCA 19-3-412

RETIREMENT – MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM (MPORS)

Membership A police officer becomes an active member of the retirement system:

1. on the date the police officer's service with an employer commences;
2. on July 1, 1977, if the police officer is employed by an employer on that date; or
3. in the case of an employer that elects to join the retirement system, as provided in 19-9-207, on the effective date of the election if the police officer is employed by the employer on that date.

MCA 19-9-301(1)

PERS Option: A person who is a member of the PERS on the date of the employer's election may remain in the PERS or may elect to become a member of the MPORS by filing an irrevocable written election with the board no later than 90 days after the date of the employer's election.
MCA 19-9-301(1)

RETIREMENT – FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM (FURS)

Membership A full-paid firefighter becomes an active member of the retirement system:

1. on the first day of the firefighter's service with an employer;
2. on July 1, 1981, if the firefighter is employed by an employer on that date; or
3. in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the effective date of the election if the firefighter is employed by the employer on that date.

MCA 19-13-301(1)

Part-Paid Firefighter: A part-paid firefighter may elect to become a member of the retirement system by filing an irrevocable written election with the board within 90 days of becoming a part-paid firefighter.
MCA 19-13-301(3)

CONTRIBUTIONS TO RETIREMENT SYSTEMS - ALL SYSTEMS			
EFFECTIVE DATE	**EMPLOYEE CONTRIBUTION****	**EMPLOYER (CITY/TOWN) CONTRIBUTION**	**STATE CONTRIBUTION**
PERS			
	MCA 19-3-315	MCA 19-3-316 & 319	MCA 19-3-319
7/1/25	7.9%	FY2025: 9.17% (6.9% + 2.27%) Additional employer contribution rate increases 0.1% every year for fiscal years 2028 through FY2047. For fiscal years beginning after June 30, 2047, the % of compensation is 4.27%.	.10%
7/1/17	7.9%	8.47% Additional employer contribution rate increases 0.1% every year through FY2024.	.10%
7/1/13	All members - 7.9%*	FY2014: 6.8% +1.27%* add'l contrib.= **8.07%**; Additional contribution increases by 0.1% each fiscal year through FY2024.	.10%
	*On January 1 following an actuarial valuation, the employee contribution rate will be reduced to 6.9%, and the *additional* contributions of employer & State will terminate, if the actuarial valuation determines that these terminations and reductions would not cause the amortization period to exceed 25 years.		
	Retired members who return to active service are subject to the above employee, employer, and state contributions. For retired members who return to work in a covered position but who have ***not*** become active members, the employer and state shall contribute the amounts specified in 19-3-316 & 319. (MCA 19-3-1113)		
MPORS			
	MCA 19-9-710	MCA 19-9-703	MCA 19-9-702

7/1/13	If first employed: after 6/30/75 but before 7/1/79 – 7% after 6/30/79 - 8.5% on & after 7/1/97 - 9% w/ GABA - 9%	14.41%	29.37%
FURS			
	MCA 19-13-601	MCA 19-13-605	MCA 19-13-604
7/1/97	9.5% w/o GABA 10.7% w/GABA Also – 1% withheld & paid to Montana State Firemen's Association	14.36%	32.61%
NOTES: Contributions are expressed as a percentage of the employee's gross pay **Employee contribution must be payable from the same source as is used to pay the compensation. "GABA" refers to "guaranteed annual benefit adjustment"			

RETIREMENT SYSTEMS – "COMPENSATION" DEFINED

Applicable to PERS, MPORS, and FURS

For purposes of retirement systems, "compensation" means remuneration paid … **before any pretax deductions allowed by state or federal law are made**.
MCA 19-3-108(1) (PERS), MCA 19-9-104(1) (MPORS), MCA 19-13-104(2) (FURS)

The above statutes list items that are **not** included in compensation. Compensation does not include contributions to group insurance, such as that provided under 2-18-701 through 2-18-704. All the above statutes indicate that bonuses that are one-time, temporary payments in addition to and not considered part of base pay are **not** considered compensation.
MCA 19-3-108(1)

Pre-tax deductions, including elective contributions under an IRC section 125 (Section 125) cafeteria plan, may be considered compensation for purposes of these retirement systems, but only if the following conditions are met:

1. If an employer increases a member's compensation to account for health, dental, vision, life or disability costs, the amount of the increase can be included in compensation for retirement system purposes only if the employer includes that amount, to the extent required by applicable federal and state law, in its calculation of the member's compensation for all purposes, including but not limited to federal and state income taxes, FICA, unemployment insurance, overtime, shift differentials, workers' compensation, and benefits based on compensation, such as life or disability benefits based on a multiple or percentage of annual pay.

2. The cafeteria plan must be a bona fide cafeteria plan that is operated in compliance with requirements of Section 125. See details at https://mpera.mt.gov/_docs/BoardPolicies/BdPolicyAdmin05.pdf

SALARIES/COMPENSATION OF OFFICIALS & EMPLOYEES - GENERAL

The council will determine by ordinance or resolution the salaries and compensation of elected and appointed city or town officers and all city or town employees.
MCA 7-4-4201

The preliminary annual operating budget for each fund must include schedule or summary table of personnel or position counts for the prior, current, and proposed budget years. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the municipality. The listings are not required to be part of the budget document.
MCA 7-6-4020(4)

SALARIES OF POLICE DEPARTMENT

The minimum wage for a member of a police department of first and second-class cities for a daily service of 8 hours' work is $750/month for the first year of service. Thereafter, this minimum salary shall increase by 1% of the minimum base monthly salary for each additional year of service up to and including the 20th year. Added salary for years of service will be based on the base monthly salary and not on the actual current salary.
MCA 7-32-4116

Injured in the Performance of Duties: A member of a municipal law enforcement agency of a municipality contracting for retirement coverage pursuant to MCA 19-9-207, (Municipal Police Officers' Retirement Act) who is injured in the performance of the member's duties and who requires medical or other remedial treatment for injuries that render the member unable to perform the member's duties must be paid by the municipality, from the initial date of the injury, the difference between the member's net salary, following adjustments for income taxes and pension contributions, and the amount received from workers' compensation until the disability has ceased, as determined by workers' compensation, or for a period not to exceed 1 year, whichever occurs first.
MCA 7-32-4132

Police officers and firefighters injured in the line of duty and receiving salary benefits under MCA 7-32-4132 and MCA 7-33-4133 through the usual payroll system in the same manner as if still on their regular duties accrue vacation and sick leave credit under MCA 2-18-611, MCA 2-18-618.
AGO #7, Vol. 52 (2008)

Whenever, in the opinion of the municipality, supported by a physician's opinion, the officer is able to perform specified types of light police duty, payment of his partial salary amount under 7-32-4132 shall be discontinued if he refuses to perform such light police duty when it is available and offered to him. Such light duty shall be consistent with the officer's status as a law enforcement officer. With his consent, the officer may be transferred to another department or agency within the municipality.
MCA 7-32-4136

When a member of the Municipal Police Officers' Retirement System receives compensation from both the member's employer and as benefits from the workers' compensation program under the provisions of 7-32-4132, the member's compensation reported by the employer is the same as if the member was in active service, and the member, employer, and state retirement contributions required by this chapter must be calculated and paid on that total compensation.
MCA 19-9-706

OVERTIME

General Rule: Generally, an employer may not employ any employee for a workweek longer than 40 hours unless the employee receives compensation for employment in excess of 40 hours in a workweek at a rate of not less than 1 ½ times the hourly wage rate at which the employee is employed.
MCA 39-3-405

This provision generally agrees to the overtime provisions of the **Federal Fair Labor Standards Act (FLSA)**, which covers virtually all local government employees.
29 CFR §553.3

Elected officials and their appointees are exempt from the FLSA.
29 CFR §553.10 & .11

In addition, there are partial exemptions from overtime requirements of the FLSA for fire protection, law enforcement, and hospital employees (see discussions below)
29 CFR §553.32(b)

Currently under federal injunction, the DOL amended the FLSA in 2016 by increasing its salary threshold from $455 a week ($23,660 for a full-year worker) to $913 a week ($47,476 for a full-year worker). Under this final rule, most employees not passing the duties test (bona fide executive, administrative, or professional (EAP) employees) who also make less than $47,476 a year will be entitled to overtime pay or comp time. The other exemptions noted above also apply. Click here for more information: https://www.federalregister.gov/documents/2016/05/23/2016-11754/defining-and-delimiting-the-exemptions-for-executive-administrative-professional-outside-sales-and or here for application to local governments: https://www.dol.gov/agencies/whd/flsa

Exclusions from General Overtime Provisions: The overtime provisions of MCA 39-3-405 do

not apply to the following:

1. An individual employed in a bona fide executive, administrative, or professional capacity, a computer systems analyst, computer programmer, software engineer, network administrator or other similarly skilled computer employee who earns not less than $27.63 an hour.
   MCA 39-3-406(1)(j)

2. A city/town employee who is working under a work period not exceeding 40 hours in a 7-day period established either through a collective bargaining agreement when a collective bargaining unit represents the employee or by mutual agreement of the employer and employee when a bargaining unit is not recognized. Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 ½ time the hourly wage rate for the employee.
   MCA 39-3-406(2)(o)

3. A firefighter who is working under a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative.
   MCA 39-3-406(2)(q)
   a. However, the FLSA requires that fire protection employees must be paid overtime for work in excess of 212 hours in a 28-day work period. In the case of such employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 212 hours to 28 days (i.e., 212 hours ÷ 28 days = 7.6). A city/town employee engaged in fire protection activities, if the city or town employs less than five employees in fire protection activities, is completely exempt from the overtime provisions of the FLSA.
      29 CFR §553.201

      Note: "employee in fire protection activities" is defined in detail in 29 CFR §553.210 & .211

4. An officer or other employee of a police department in a first or second-class city who is working under a work period established under 7-32-4118. (MCA 39-3-406(2)(r))
   a. MCA 7-32-4118 provides that the chief of police may establish the work period for officers and other personnel in the department and may establish a work period other than that provided in 39-3-405 for determining payment of overtime compensation. The total hours in all work periods in a calendar year may not exceed 2,080. Each officer or other employee of the police force in every city of the first and second class shall, in each calendar year, be given a minimum of 104 days off duty without loss of compensation, not including holidays, sick or vacation leave, or other types of compensated time off duty.
   b. Further, MCA 7-32-4119 provides that members of police departments of first or second-class cities, except those officers holding the rank of captain or above, are entitled to overtime compensation for hours worked in excess of the work period established by the chief of police under 7-32-4118.

c. The FLSA requires that law enforcement employees must be paid overtime for work in excess of 171 hours in a 28-day work period. For employees who have a work period of at least 7 but less than 28 consecutive days, overtime compensation is required when the ratio of the number of hours worked to the number of days in the work period exceeds the ratio of 171 hours to 28 days (i.e., 171 hours ÷ 28 days = 6.1). A city/town employee engaged in law enforcement activities, if the city or town employs less than five employees in law enforcement activities, is completely exempt from the overtime provisions of the FLSA.
29 CFR §553.200

Note: "employee in law enforcement activities" is defined in detail in 29 CFR §553.211 & .212

5. A city/town employee employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation. Only the hours that the employee was employed in a capacity other than the employee's regular occupation may be excluded from the calculation of hours to determine overtime compensation.
MCA 39-3-406(2)(x)

Compensatory Time in Lieu of Overtime: Local government employees who are covered by the FLSA may reach agreement with their employers to receive compensatory time in lieu of cash overtime. Compensatory time in lieu of cash must be at the rate of not less than 1 ½ hours of compensatory time for each hour of overtime worked.
29 CFR §553.20; AGO #58, Vol. 41

State and federal law do not require the local government to make the accrual or use of compensatory time available to "exempt" employees (i.e., individuals employed in a bona fide executive, administrative, or professional capacity as discussed above). However, the local government may establish a policy of permitting compensatory time to be earned by "exempt employees" on an "hour-for-hour" basis for time in a pay status in excess of 40 hours in a workweek. Accrued time may be taken as approved time off at a later date.

As a condition for use of compensatory time in lieu of overtime payment in cash, an agreement or understanding must be reached prior to the performance of work. A copy of this agreement or understanding should be kept on file, or if not in writing, a record of its existence should be kept.
29 CFR §553.23(a) & .50

Generally, no more than 240 hours of compensatory time may be accrued. This 240-hour limit is based on 160 hours actual overtime worked. Any additional overtime hours worked over this limit must be paid in cash overtime.
29 CFR §553.21 & .22

However, for those employees engaged in public safety activities (i.e., law enforcement and firefighting), emergency response activities or seasonal activities, no more than 480 hours of compensatory time may be accrued. The 480-hour limit is based on 320 hours actual overtime worked. Any additional overtime hours worked over this limit must be paid in cash overtime.

29 CFR §553.24

Any employee who has accrued compensatory time and requested use of it must be permitted to use such time off within a reasonable period after making the request, if such use does not unduly disrupt city/town operations. An employee must not be coerced to accept more compensatory time than an employer can realistically expect to be able to grant.
29 CRF §553.25

Upon termination of employment, an employee must be paid for unused compensatory time at a rate not less than the average regular rate received by the employee during the last 3 years of employment, or the final regular rate received by the employee, whichever is higher.
29 CFR §553.21 & .27

The city/town should keep a record of compensatory time earned each workweek, compensatory time used each workweek, and the number of hours of compensatory time compensated in cash and the total amount and date paid, for each employee subject to compensatory time provisions.
29 CFR §553.50

For additional information:

a. State overtime laws, see the website for the Department of Labor & Industry, Employment Relations Division at https://erd.dli.mt.gov/
b. FLSA see the website for the U.S. Department of Labor, Wage and Hour Division at https://www.dol.gov/agencies/whd/flsa
c. Regarding definitions of "bona fide executive, administrative, or professional capacity," see the Secretary of State's website at https://sosmt.gov/

Compensatory time accumulated by an employee of a state agency as defined in 2-2-102 who dies in an accident while on the job and before being able to use the compensatory time must be converted at 100% of its value to a death benefit to be paid to the employee's beneficiary or estate.
MCA 2-18-623

GROUP INSURANCE

Upon approval by two-thirds vote of officers and employees, the city/town shall enter into group hospitalization, medical, health, including long-term disability, accident or group life insurance contracts or plans for the benefit of the officers and employees and their dependents.
MCA 2-18-702(1)(a)

Note: For this purpose, an employee is defined as including a permanent, seasonal, or temporary, full-time or part-time employee, or an elected official.
MCA 2-18-701

The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance

benefits to employees with dependents than to employees without dependents or with fewer dependents.
MCA 2-18-702(1)(a) & 703(7)

The city/town governing body may, at its discretion, consider the employees of a private, nonprofit economic development organization to be employees of the city/town solely for the purpose of participation in these group insurance contracts or plans.

The governing body may require such an employee or entity to pay the actual cost of coverage required for participation or may, at its discretion and subject to any restriction on who may be a member of a group, pay all or part of the cost of coverage of the employee of the organization.
MCA 2-18-702(1)(b)

The city/town's premium contributions may exceed but may not be less than $10 a month.
MCA 2-18-703(4)(a)

Permissive Medical Levy: Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base contribution of a local government's property tax levy for contributions for group benefits as determined in subsection 2-18-703(4)(c) is not subject to the mill levy calculation limitation provided for in 15-10-420.
MCA 2-18-703(4)(b), MCA 2-9-212

Note: See CT02-Budgets for calculation of the permissive medical levy.

Unused employer contributions for any employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible or to increase the reserves of the group.
MCA 2-18-703(6)

Payment in Lieu of Participation in Group Plan: AGO #11, Vol. 51, held that a board of county commissioners, in the exercise of its general authority to manage the business of the county and to set compensation for its employees, may offer payment to county employees in lieu of an employee's participation in a group health insurance plan. Although this AGO is specific to counties, it appears that it would also be applicable to cities and towns.

Note: Although MCA 2-18-703(2)(e) prohibits a *state* employee from receiving payment in lieu of participation in a state-sponsored group benefit plan, there is no similar prohibition for local government employees. Although an employee could not compel a local government to offer this benefit, it appears that the local government could offer this benefit and not be in conflict with State law.

Insurance Provided to Police Officers: If cities provide insurance for other city employees under Title 2, Chapter 18, Part 7, MCA (discussed above), they must also provide the same insurance to their police officers. Notwithstanding the provisions of Title 2, Chapter 18, Part 7, MCA, the city shall pay no less than the premium rate in effect as of 7/1/80, for insurance coverage for police officers and their dependents. The city shall also provide for collective

bargaining or other agreement processes to negotiate additional premium payments beyond this amount.
MCA 7-32-4117

AFFORDABLE CARE ACT (ACA)

Provisions of ACA are being continually amended. Please go to https://www.healthcare.gov/small-businesses/ for updated and additional information.

VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION (VEBA)

The VEBA, which is centrally administered by the Montana Department of Administration, provides members with individual health care expense trust accounts to pay qualified health care expenses of members, their dependents, and their beneficiaries. Under the plan, employer contributions, investment earnings, and payments for qualified health care expenses are tax-exempt. A local government, however, is not prohibited from establishing a similar program as an alternative or in addition to participation in the State VEBA plan discussed here. For more information on VEBA see https://montanaveba.mt.gov/.

As either initiated by the local government (the contracting employer), or at the request of at least 25% of its employees, the local government may hold an election to determine whether all the employees, or a specified group of employees, will form an association for the purpose of participating in the plan. If a majority of employees vote to form an association, all current and subsequently-hired employees must become plan members. The local government shall enter into a contract with the Department of Administration, and shall operate the association in a manner prescribed by that Department.
MCA 2-18-1310

When the member's employment is terminated, the member's unused sick leave balance may be converted to a tax-free employer contribution to the participant account. At termination of employment, the member's unused vacation leave balance may be converted to a tax-free employer contribution to the participant account as provided for in 2-18-617.
MCA 2-18-1311(1) & (3)

The amount of the employer contribution to a participant's account for hours converted must be equal to ¼ of the accumulated sick leave and must be computed on the basis of the employee's salary or wage at the time of the conversion. A participant may not later receive, as sick leave credit or as a lump-sum payment, amounts contributed to the participant account pursuant to this section. This section does not prohibit an employer from making other contributions permitted by statute and federal law or from entering into an agreement with a participant for employer contributions to a participant account in addition to the contributions provided for under this section.
MCA 2-18-1311(2) & (4)

STATE & FEDERAL TAX WITHHOLDINGS

For additional information:

a. State tax withholding laws, see the website for the State Department of Revenue Withholding Tax Guide at https://mtrevenue.gov/publications/montana-employer-and-information-agent-guide/
b. Federal tax withholding laws, see the website for the IRS at http://www.irs.gov/publications/p15/index.html

The amount of state and federal taxes withheld from an employee's wages is based on the marital status and withholding allowances indicated on the employee's federal Form W-4. An employee can have a separate W-4 for state purposes, and may elect to have a different number of allowances for federal and state purposes. If line 5 of the Form W-4 is left blank, the employee is deemed to be claiming zero withholding allowances. Withholdings may not be based on a fixed dollar amount or percentage, although the employee may specify an additional dollar amount to be withheld.

Although an employee may claim exemption from federal income tax withholding, there is no such provision for exemption from Montana state income tax withholding. If a federal exemption is claimed, wages for that employee are still subject to Social Security and Medicare taxes.

Salaries and wages of elected city/town officials are subject to State income tax withholding.

Payments to employees that are not subject to State income tax withholding include:

a. Employee business expense reimbursements, as long as each reimbursement is entered separately in the city's or town's records and there is documentation that the expenses were incurred while conducting business. Reimbursements must be based upon actual, receipted expenses, or on meal, lodging and mileage amounts allowed to State employees.
b. Employer payments or contributions for employee benefit group plans, such as retirement, sickness or accident disability, medical, hospitalization or death.
c. Employee contributions to qualifying annuity contracts, such as annuity plans or deferred compensation plans.
d. Employee contributions to flexible spending accounts for medical and/or dependent care and health, dental and/or vision insurance premiums that exceed the employer's contribution.

Technically, these employee "contributions" are actually payments deducted from an employee's gross pay for cafeteria (aka Section 125) plans. Typically, the payroll records will show "gross wages", "Medicare wages", "Social Security wages", etc. to show the amount of applicable wages to which the tax rate is applied.

STATE UNEMPLOYMENT INSURANCE

Note: Local governments are exempt from Federal unemployment insurance.

The following is summarized from the "Employer Handbook", which can be found at the website for the State Department of Labor & Industry: http://uid.dli.mt.gov/

See also state law related to Unemployment Insurance at MCA Title 39, Chapter 51.

All state and local governmental entities must be covered by Unemployment Insurance. Governmental entities may be assigned a governmental experience rate or may elect to become a reimbursable employer.

Tax on Total Wages: Governmental and reimbursable accounts do not have a taxable wage base and must pay tax on total wages.

Administrative Fund Tax - is an assessment paid by all employers subject to Montana Unemployment Insurance and is due and payable with the quarterly wage reports. Governmental rated employers are assessed at 0.09% and reimbursable employers are assessed at 0.08% on total wages.

The following are considered to be taxable for purposes of unemployment insurance (please see Handbook for additional payments):

a. Bonuses
b. Cafeteria plan deductions under IRC Section 125
c. Deferred compensation
d. Dependent care assistance programs under IRC Section 129
e. Holiday, Sick and Vacation Pay
f. Income tax withholding
g. Retirement and Pension Plans: Elective *employee* contributions, salary reductions or deferrals to a 401(k) or any other type of retirement plan.
h. Vehicles – personal use of a company vehicle.

The following are not considered to be taxable for purposes of unemployment insurance: (please see Handbook for additional payments)

a. Employee business expense reimbursement: actual expenses, if documented and entered separately in business records, and non-receipted travel expenses at the rate allowed for state employees.
b. Insurance: Accident, health & life insurance premiums paid by the employer for the employee or the employee's immediate family.
c. Mileage reimbursement (at IRS mileage rate).
d. Retirement and pension plans – *employer* contributions to a qualified pension or retirement plan.
e. Salaries and payments to elected officials and election judges
f. Payments into a VEBA.

Quarterly reporting: Wage reports and payments must be made quarterly and must be postmarked by April 30, July 31, October 31, and January 31 for the 1st, 2nd, 3rd, and 4th Quarters, respectively.

Failure to file the quarterly report by the due date results in a late filing penalty of $25. In addition, interest is assessed monthly at 1.5% on tax not paid when due (18% interest rate per annum).

WORKERS' COMPENSATION

For Workers' Compensation Regulations: http://erd.dli.mt.gov/work-comp-regulations

The Workers' Compensation Act of Montana, with limited exceptions, requires all employers to cover their full-time, part-time, seasonal, or occasional employees with workers' compensation insurance.

All workers' compensation insurance premiums are to be paid by the employer. Employers may not deduct any part of the premiums from employees' pay.
MCA 39-71-406

A local government employer may elect coverage under compensation plans Nos. 1, 2, or 3.
Plan 1 - self-insured,
Plan 2 – private insurance companies
Plan 3 – Montana State Fund
MCA 39-71-403

The premium that an employer pays is based on a percentage of the employees' payroll, which is in turn based on a class code rate and an experience modification factor. The payment schedule is spelled out in the individual employer's insurance policy.
Title 39, Chapter 71, Parts 21, 22 & 23

"Employee" or "Worker", for purposes of workers' compensation coverage, is defined at MCA 39-71-118, and includes:

a. All elected and appointed paid public officers.
   MCA 39-71-118(1)(a)
b. A volunteer firefighter as described in 7-33-4109 (i.e., with a 2nd-class city), or a person who provides ambulance services under Title 7, chapter 34, part 1; i.e., for a county, city or town ambulance service.
   MCA 39-71-118(1)(g)

Generally, a volunteer is not considered to be an employee for purposes of workers' compensation coverage (unless otherwise entitled to coverage under Montana law). For this purpose, a volunteer is defined as a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.
MCA 39-71-118(2)(b)

An employer *may elect* to include as an employee for these purposes a volunteer as defined in subsection (2)(b) (see above), a volunteer emergency care provider as defined in subsection (10),

or a volunteer firefighter as defined in 7-33-4510. An ambulance service not otherwise covered by subsection (1)(g) (see above) or a paid or volunteer nontransporting medical unit as defined in MCA 50-6-302 in service to a town, city, or county may elect to include a volunteer emergency care provider.
MCA 39-71-118(3) & (10)

An employer (defined as a rural fire district, fire service area, volunteer fire department, volunteer fire company or a volunteer rural fire control crew, but not the governing body of a first or second-class city that provides workers' compensation coverage to employees) ***may*** provide workers' compensation coverage to any volunteer firefighter (including a volunteer EMT) who is listed on a roster of service. If an employer does not provide workers' compensation coverage, the employer shall annually notify the employer's volunteer firefighters that coverage is not provided.
MCA 7-33-4510

A firefighter for whom coverage is required under the Workers' Compensation Act is presumed to have a claim for a presumptive occupational disease under the Workers' Compensation Act if the firefighter meets the requirements of 39-71-1402 and is diagnosed with one or more of the diseases listed in subsection (2) within the period listed.
MCA 39-71-1401

Each law enforcement agency that utilizes reserve, auxiliary or special services officers shall provide full workers' compensation coverage while the officers are providing actual service for a law enforcement agency. "Auxiliary officers" include members of a recognized search and rescue unit.
MCA 7-32-203; AGO #97, Vol. 42

SOCIAL SECURITY & MEDICARE

More detailed information on Social Security and Medicare coverage for local government employees can be obtained from the following:

State Social Security Administrator
Department of Administration
State Financial Services Division
125 No. Roberts St., Rm. 255
PO Box 200102
Helena, MT 59620-0102
(406) 444-0081
mtsssa@mt.gov

Social Security Administration
10 West 15th Street, Suite 1600
Helena, MT 59626

Internal Revenue Service
10 West 15th Street, Suite 2300
Helena, MT 59626

The State and Local Coverage Handbook can be found at: http://www.ssa.gov/slge/slch.htm
FAQ can be found at: https://www.ssa.gov/slge/faqs.htm

Section 218 Agreements for a local government should be on file with the local government entity. In addition, a copy should be available from the State Social Security Administrator (SSSA): call 444-0081 to determine if a Section 218 Agreement (a.k.a. Modification) is on file.

Local government employees may be covered by Social Security and must be covered for Medicare in one of three ways.

1. Voluntary Coverage through a federal-state agreement called a Section 218 Agreement (authorized under Section 218 of the Social Security Act) - These agreements should specify the Social Security and Medicare coverage for local government employees as a coverage group. Employees covered for social security under a Section 218 Agreement are automatically covered for Medicare.

   If the employees participate in a retirement system, concurrent Social Security coverage is allowed, provided a Section 218 Agreement is in place to permit it. If the employees are in a retirement system, paying the Social Security portion of FICA tax, and do not have a Section 218 Agreement in place, the local government is likely making erroneous payments for employees.

   There may be exclusions for certain groups of employees. See the following for services that are mandatorily excluded from Section 218 coverage at https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001356

   See the following for certain services and positions within a coverage group that may be excluded from Section 218 coverage at https://secure.ssa.gov/apps10/poms.nsf/lnx/1930001357

2. Mandatory Social Security Coverage – Local Government employees, who are not covered under a retirement system or a Section 218 Agreement, must participate in the Social Security Insurance program through Section 210 mandatory coverage provisions of the Social Security Act. Per item three below, this provides Medicare coverage as well.

   As political subdivisions are required to have a Section 218 Agreement in place to allow participation in the Social Security Insurance program, it is advised that the entity contact the State Social Security Administrator for assistance in correcting the administrative error.

3. Mandatory Medicare Coverage - Local government employees hired (or rehired) after March 31, 1986, are subject to mandatory Medicare coverage. Public employees covered for Social Security under a Section 218 Agreement are already covered for Medicare. Employees whose services are not covered for Social Security but who are required to pay the Medicare-only portion of FICA are referred to as Medicare Qualified Government Employees (MQGE). Employees who have been in continuous employment with the employer since March 31, 1986, who are not covered under a Section 218 Agreement nor subject to the mandatory Social Security and Medicare provisions, remain

exempt from both Social Security and Medicare taxes, provided they are members of a public retirement system.

For more information: https://www.ssa.gov/slge/mand_med_cov.htm

The employer and employee tax rates for Social Security are both 6.2% (12.4% total). The employer and employee tax rates for Medicare are both 1.45% (2.9% total).

The wage base limit (i.e., the maximum wage that is subject to tax) for Social Security changes periodically.

2020, $137,700
2021, $142,800
2022, $147,000
2023, $160,200
2024, $168,600
2025, $176,200

There is no wage base limit for Medicare.

Payments deducted from an employee's gross pay for cafeteria plans (aka, Section 125 plans) are not subject to social security and Medicare withholdings.

Suggested Audit Procedure:
Is the local government entity covered by a Section 218 Agreement?

If YES - Obtain and review a copy of the Section 218 Agreement to verify that employee coverage for Social Security and Medicare is in accordance with the entity's Section 218 Agreement.

If NO – Determine whether the entity pays its taxes through another entity's Federal Employer Identification Number (FEIN). If so, determine whether the entity whose FEIN is used in employer tax filings has a Section 218 Agreement in place.

If YES – Ensure the paying entity has a Section 218 Agreement in place.
If NO – Move to next step.

If NO – Is the entity a participant in a public retirement system?

If YES – Please Notify the SSSA. An entity in a public retirement system may also voluntarily provide Social Security and Medicare coverage, but it requires a Section 218 agreement to properly effectuate the concurrent coverage.
If NO – Verify that the entity is providing mandatory Social Security and Medicare coverage under Section 210. Please Notify the SSSA as a Section 218 Agreement should be put into effect to allow coverage in the proper administrative manner.

If YES – Verify that the entity is providing Medicare coverage to its employees.
If YES and if the entity has employees hired prior to 4/1/86 – Are employees hired prior to 4/1/86 covered by a Section 218 Agreement that provides Medicare-only coverage?

If YES – Verify that the entity is providing Medicare-only coverage for those employees.

If NO – Determine whether the Medicare Continuing Employment Exception applies.
If this exception doesn't apply, verify that the entity is providing Medicare-only coverage for those employees.
If the Exception does apply – there is no requirement that the entity provide Social Security or Medicare coverage for employees, who are retirement system participants hired prior to 4/1/86.

For employees covered by social security and/or Medicare under either a Section 218 Agreement or mandatory federal laws and regulations, test to determine that employee withholdings and employer contributions are in accordance with applicable federal laws and regulations. For selected individuals whose wages exceed the social security wage base limit, verify that no social security tax was withheld for the portion of the wages that exceeded the wage base limit. Also, verify that Medicare tax was withheld on the portion of the wages that exceeded the social security wage base limit.

If a local government has recently consolidated, verify that a new Section 218 Agreement has been obtained, if necessary. **The State Social Security Administrator should be contacted for this information**. Section 218 Agreements of the two "pre-consolidation" entities may no longer be applicable to the consolidated government.

Historical Background and Additional Information
See also: https://www.ssa.gov/pubs/. Type in publication number 05-10051.

When the Social Security Act was enacted in 1935, public employees were not eligible for social security coverage. In 1950 Congress created Section 218 of the Social Security Act, which allows states to enter into voluntary agreements for social security coverage with the Social Security Administration. After a state has a Modification in place, it can then enter into voluntary agreements with political subdivisions within their state.

A Section 218 Agreement is a written agreement voluntarily entered into between a state and the Social Security Administration, to provide Social Security and Medicare or Medicare-only coverage to employees of state and/or local governments. Local government employees covered under the Agreement have the same coverage and benefit rights as employees in the private sector. All states have a Section 218 Agreement, but the extent of coverage varies.

Section 218 Agreements are permanent and cannot be terminated.

For governments that only provide coverage under Section 210, when a Section 218 Agreement is sought, the employees are afforded coverage as an Absolute Coverage Group (ACG). Once this is in effect, even if the government were to later join a retirement system, the ACG modification remains and no other Section 218 Agreements are necessary.

For governments that cover employees within a retirement system and Social Security in Montana, a referendum must be held and the majority (over 50%) of all eligible employees within the local government retirement system must vote to approve the Agreement. If an eligible employee chooses not to vote for the Agreement, it is considered a 'no' vote. Once

referendum is held with the requesting group, the SSSA coordinates paperwork and relays to the federal partners (SSA and IRS).

If the government has a Section 218 Agreement that covers a specific retirement system (referred to as a Section 218 (d)(4) coverage group) and the entity joins another system, a new modification will likely need created. Please contact the SSSA for guidance.

If a local government consolidates (i.e., a city with a county or an elementary school with a high school) the entity may need to obtain a new Section 218 Agreement. Prior to any consolidation, entities should contact the SSSA for guidance.

FORM 1099-MISC

For instructions to Form 1099-MISC, go to
https://www.irs.gov/forms-pubs/about-form-1099-misc

The entity must report on a Federal Information Return, Form 1099-MISC, all "nonemployee compensation" that meets the following four conditions:

You made the payment to someone who is not your employee;

You made the payment for services in the course of your trade or business (including government agencies and nonprofit organizations);

You made the payment to an individual, partnership, estate, or, in some cases, a corporation; and

You made payments to the payee of at least $600 during the year.
(U.S. Internal Revenue Service Codes)

The following are some examples of payments to be reported on Form 1099-MISC: (For a complete list, contact the IRS):

a. Professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, subcontractors, engineers, etc.
b. Payments by attorneys to witnesses or experts in legal adjudication.)

IMMIGRATION & NATURALIZATION SERVICE (INS) FORM I-9

All employers must complete and retain a Form I-9 for each individual they hire for employment – both citizens and non-citizens. Both employees and employers must complete the form.

The employer must examine the employment eligibility and identity document(s) an employee presents to determine whether the document(s) reasonably appear to be genuine and relate to the individual and record the document information on the Form I-9.

Employers must retain an employee's complete Form I-9 for as long as the individual works for the employer. Once the individual's employment has terminated, the employer must retain the Form I-9 for either three years after the date of hire or for one year after employment is terminated, whichever is later. The form must be available for inspection by authorized U.S. Government officials.

For further information, go to https://www.uscis.gov/i-9. A Handbook for Employers can be found at this link.

NEW HIRE REPORTING

For more information regarding this Federal law, see
https://www.acf.hhs.gov/css/employers/employer-responsibilities/new-hire-reporting

For a copy of the Montana Employer Guide to New Hire Reporting, see
https://dphhs.mt.gov/assets/cssd/Newhireemployerreportingguide.pdf

An employer doing business in the state shall report to the Department of Public Health and Human Services (DPHHS) the hiring or rehiring of an employee to whom the employer anticipates paying income, either by submitting a copy of the employee's completed W-4 form or, at the option of the employer, its informational equivalent or any other format agreed to by DPHHS. The report must include the employee's name, date of hire, social security number, and residential and mailing addresses, and the name, address, and federal identification number of the employer. The report may include the employee's date of birth. Written reports must be submitted within 20 days of the employee's date of hire or rehire. Reports transmitted electronically or magnetically may be made by two transmissions monthly, if necessary, not less than 12 or more than 16 days apart.
MCA 40-5-922

PROHIBITION ON DIVERSITY STATEMENT OR PREFERENTIAL TREATMENT

Effective 10/1/2025: (1) A state or local government agency may not require, request, solicit, or compel a person to provide a diversity statement. (2) A state or local government agency may not grant any form of preferential consideration or treatment to a person who, with or without solicitation from the state or local government agency, provides a diversity statement. (3) If federal law requires a state or local government agency to accept or require a diversity statement, then the state or local government agency: (a) (b) may accept the diversity statement only to the extent required under federal law; and shall limit consideration of the information contained in the diversity statement to the extent necessary to satisfy the requirement under federal law. (4) Nothing in this section limits or prohibits a state or local government agency from establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination and harassment.

"Diversity statement" means a submission, statement, or document that promotes or is intended to promote differential treatment based on an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.
MCA 49-5-101 and 102

RECORDKEEPING

Repealed effective 3/9/2024: OMB Circular A-87/UGG and ARM 24.16.6102 require employers to keep payroll (time and effort) records. These records are required to be preserved for three years. For a listing of items required to be included in payroll records, see the Secretary of State's Administrative Rules at
https://rules.mt.gov/gateway/RuleNo.asp?RN=24%2E16%2E6102

Employee Pay Stub: All employers in this state when making payment to employees for salaries or wages shall, upon making such payment, give to the employee an itemized statement setting forth moneys deducted because of state and federal income taxes, social security, or any other deductions together with the amount of each deduction. Where no deduction is made, the employer shall give to the employee a statement that the payment does not include any such deductions.
MCA 39-3-101

EMPLOYMENT LEAVE OF ABSENCE GRANTED - ELECTED OFFICIAL

Employers of employees elected or appointed to a public office in the city, county, or state shall grant the employees leaves of absence, not to exceed 180 days per year, while they are performing public service. Employees of an employer who employs 10 or more persons must, upon complying with the requirements of subsection (2), be restored to their positions, with the same seniority, status, compensation, hours, locality, and benefits as existed immediately prior to their leaves of absence for public service under this section.
MCA 39-2-104(1)

An employee granted a leave of absence shall make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless the employee is unable to do so because of illness or disabling injury certified to by a licensed physician.
MCA 39-2-104(2)

Unemployment benefits paid to a person by application of this section may not be charged against an employer under the unemployment insurance law.
MCA 39-2-104(3)

Effective 5/5/2025 – applied retroactively to all occurrences on or after January 1, 2025): In addition to the requirements in 39-2-104, an employer may not prohibit or restrict an employee from seeking election or appointment to a city, county, or state public office or retaliate or

discriminate against an employee for seeking election or appointment to a city, county, or state public office.

During an employee's leave of absence while serving as an elected officer or while appointed to a public office under 39-2-104, the employer may not require an employee: (a) to use leave or benefits during the mandatory leave of absence without the consent of employee: or (b) to perform work during the mandatory leave of absence.

If the employer provides a company phone, computer, or phone number and the employer allows the employee's personal use of the company phone, computer, or phone number, the employer may not prohibit the employee's use of the phone, computer, or phone number during the leave of absence provided in 39-2-104.

If the employer provides health care benefits to the employee, the employer shall continue offering the employee health care benefits with the same covered benefits and covered persons, as those terms are defined in 33-32-102, during the leave of absence provided for in 39-2-104. MCA 39-2-105

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

LONG-TERM DEBT

REVISED DECEMBER 2025 REF: CT08

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USE OF BOND PROCEEDS AND BORROWED MONEY

Except as otherwise provided by law, money borrowed by a local government may be used only for the purpose for which the money was borrowed. Unless restricted by law, surplus borrowed money may be used to redeem the debt for which the money was borrowed.
MCA 7-6-4011(1), MCA 7-6-1102

APPROPRIATION OF BOND PROCEEDS

The authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.
MCA 7-6-4011(2)

PURPOSES FOR WHICH INDEBTEDNESS MAY BE INCURRED

The city or town council has power to contract an indebtedness on behalf of a city or town, upon the credit of the city or town, by (1) borrowing money, (2) issuing bonds, (3) issuing notes, (4) entering into leases, (5) entering into lease-purchase agreements, or (6) entering into installment purchase contracts for the following purposes:

a. acquiring land for and designing and erecting public buildings;
b. acquiring land for and designing and constructing sewers, sewage treatment and disposal plants, waterworks, reservoirs, reservoir sites, and lighting plants;
c. supplying the city or town with water by contract and the construction or purchase of canals or ditches and water rights for supplying the city or town with water;
d. designing and constructing bridges, docks, wharves, breakwaters, piers, jetties, and moles;
e. acquiring, opening, or widening any street and improving the street by constructing, reconstructing, and repairing pavement, gutters, curbs, and vehicle parking strips and to pay all or any portion of the cost relating to the project;
f. purchasing or leasing fire apparatus, street and other equipment, and personal property, including without limitation, vehicles, telephone systems, and photocopy and office equipment, including computer hardware and software;
g. building, purchasing, designing, constructing, and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;
h. funding outstanding warrants and maturing bonds; and
i. repaying tax protests lost by the city, town, or other municipal corporation.

MCA 7-7-4101

LIMITATION ON AMOUNT OF CITY/TOWN INDEBTEDNESS

Usually the determination of whether or not a city or town is in compliance with the debt limitations should be made prior to the time the new indebtedness is incurred. When a city or town has not incurred new debt, the debt limitation determination would be based on the laws that were in effect when the city or town last incurred new bonded debt. Prior to 7/1/2007, the limitation was 1.51% of total assessed value, and prior to 7/1/2001, the limitation was 28% of taxable value, plus additional specific limitations (see history of MCA 7-7-4201).

General Debt Limitation: Except as follows, a city or town may not issue bonds or incur other indebtedness for any purpose in an amount that with all outstanding and unpaid indebtedness exceeds 2.5% of the total assessed value of taxable property, determined as provided in MCA 15-8-111, within the city or town, as ascertained by the last assessment for state and county taxes.
MCA 7-7-4201(1)

City-County Consolidated Governments: This same limitation is applicable to city-county consolidated governments, i.e., 2.5% of total assessed value of taxable property within the consolidated government.
MCA 7-7-107

Exceptions to the General Debt Limitation:

Repayment of Protests: The limitation of 7-7-4201 does not apply to bonds issued for the repayment of tax protests lost by the city or town.
MCA 7-7-4201(3)

Short Term Obligations: The debt limitations for local governments in Title 7, Chapter 7, do not apply to gross proceeds obligations or short term obligations (tax or revenue anticipation notes).
MCA 7-6-1115

Sewer/Water Systems: A city or town may incur an additional indebtedness by borrowing money or issuing bonds beyond the amount authorized in 7-7-4201 (above) for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town that owns and controls the water supply and water system and devotes the revenue from the water supply and water system to the payment of the debt.
MCA 7-7-4202(1)

The additional indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for procurement of a water supply, or for both purposes, including all indebtedness that is contracted and unpaid or outstanding, may not in the aggregate exceed 55% over the debt limitation referred to in 7-7-4201.
MCA 7-7-4202(2)

City-County Consolidated Governments: An additional indebtedness for these purposes incurred by a city-county consolidated government may not in the aggregate exceed **10%** over and above the debt limitation referred to above in MCA 7-7-107.
MCA 7-7-108

Gas Tax Contracts: If a city contracts for street construction work to be paid exclusively from gasoline tax revenue received from the state, the indebtedness is considered part of the city's general debt limitation under MCA 7-7-4201 unless the conditions of some specific exception are otherwise met.
AGO #120, Vol. 42

Not Considered Indebtedness: The following do not constitute indebtedness for the purpose of statutory debt limitations:

The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness.
MCA 7-7-4201(2), MCA 7-7-107

General obligations not secured by a pledge of the taxing power of the municipality.
MCA 7-7-4104

Advance refunding bonds.
MCA 7-7-4316

Revenue bonds.
MCA 7-7-4423

Bonds issued for funding a self-insurance or deductible reserve fund.
MCA 2-9-211(5)

Clean Renewable Energy Bonds (CREBs).
MCA 90-4-1205(2)

Bonds issued for funding a tax increment financing district (TIF).
MCA 7-15-4321

GENERAL OBLIGATION (G.O.) BONDS – TERMS

General obligation bonds for any purpose may not be issued for a longer term than 20 years. The term of a bond issue commences on July 1 of the fiscal year in which the city first levies taxes to pay principal and interest on the bonds.
MCA 7-7-4205

Redemption: Other than refunding bonds, all bonds issued for a longer term than 5 years must be redeemable at the option of the city or town on any interest payment date after one-half of the term for which they were issued has expired.
MCA 7-7-4206

TYPES OF G.O. BONDS ALLOWED

Amortization or Serial: Except for citizen bonds discussed below, bonds issued by any city or town must be either amortization bonds (as defined in 7-7-4209) or serial bonds (as defined in 7-7-4210).
MCA 7-7-4208(1)

Citizen Bonds: A city or town authorized to sell general obligation bonds under MCA Title 7, Chapter 7 may issue and sell any portion of the bonds (known as "citizen bonds") in denominations of less than $5,000, either by competitive public sale directly to members of the public, at pre-established interest rates, or private sale.
MCA 7-7-4211(1) & (3)

Citizen bonds may be issued for any purpose for which a city or town may issue general obligation bonds.
MCA 7-7-4211(2)

Citizen bonds may be amortization bonds, serial bonds, term bonds, capital appreciation bonds, or zero-coupon bonds, without preference for amortization bonds.
MCA 7-7-4208(2)

See MCA 7-7-4214 for definition of capital appreciation and zero-coupon bonds.

G.O. BONDS – ISSUANCE WITHOUT ELECTION

A city or town may issue general obligation bonds by an adopted resolution of the governing body without an election for the following purposes:

a. Refunding bonds to refund bonds issued and outstanding.
   MCA 7-7-4221(2)
b. Issuing revenue bonds not pledging the general credit of the municipality under any laws of this state.
   MCA 7-7-4221(2)
c. Issuing amortization bonds for the purpose of refunding any outstanding bonds of the city or town held by the state and which were not issued either as amortization or serial bonds and to exchange the same for such outstanding bonds.
   MCA 7-7-4275
d. Bonds issued by a city for the purpose of deriving revenue for the repayment of tax protests lost by the city.

MCA 15-1-402(7)(c)

e. General obligations not secured by a pledge of the taxing power of the municipality. MCA 7-7-4104(2)

Swimming Pool: An election is required pursuant to 7-7-4221 to issue general obligation bonds for the purpose of furnishing a municipal swimming pool; however, there is no statutory requirement for an election to borrow money for that purpose by means other than issuing general obligation bonds.
AGO #73, Vol. 41

Procedure to Issue Refunding G.O. Bonds: In order to issue bonds to refund bonds theretofore issued and outstanding, it shall only be necessary for the council, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts with regard to the indebtedness to be refunded, showing the reason for issuing such refunding bonds and fixing and determining the details thereof, including whether the bonds will be sold at a private negotiated sale or public sale.
MCA 7-7-4311

G.O. BONDS – VOTER APPROVAL REQUIRED

Except as noted above, whenever the governing body of any municipality considers it necessary to issue bonds pledging the general credit of the municipality for any purpose authorized by law, the question of issuing the bonds shall first be submitted to the registered electors of the city or town.
MCA 7-7-4221(1)

The question may be submitted at an election conducted in accordance with Title 13, chapter 1, part 4.
MCA 7-7-4226(2)(d)

Bonds backed by the full faith and credit of the city or town and issued for the construction, purchase, or securing of a water plant, water system, water supply, sewage treatment and disposal plant, or sewer system may not be issued until the proposition has been submitted to a vote and the majority vote cast in favor thereof.
MCA 7-7-4222

Procedure to Call Election: An election on the question of issuing bonds may be called by the city or town council or commission on its passage of the necessary resolution, in accordance with the provisions of MCA 7-7-4226; OR after there has been presented to the council or commission a petition asking that such election be held and question submitted. The petition must be signed by at least 20% of the qualified electors of the city or town. **Note**: Provisions related to the petition can be found at MCA 7-7-4224 & 4225; a resolution must also be passed by the governing body, per MCA 7-7-4226.
MCA 7-7-4223

Notice of Election & Voter Approval/Rejection: Notice of the election must be given as required in MCA 7-7-4227. The determination of the approval or rejection of the bond proposition is made by a majority of the votes cast on the issue.
MCA 7-7-4235

Effective 10/1/2023: **Impact on Value**: (1) Except as provided in subsection (2), the form of the ballot for a bond election must include:

(a) the statement that "an increase in property taxes may lead to an increase in rental costs"; and

(b) an estimate of the impact of the election on homes valued at $100,000, $300,000, and $600,000 in terms of actual dollars in additional property taxes that would be imposed in the first year on residences with those values if the bond were to pass. The ballot may also include an estimate of the impact of the election on homes of any other value in the district, if appropriate.

(2) The taxing jurisdiction conducting the bond election may replace the estimate of the impact of the election on a home valued at $600,000 with an estimate of the impact of the election on a home of a different value.
MCA7-7-111

G.O. BONDS – SALE AND ISSUANCE

Resolution Calling for Sale of Bonds: If the voters approve the issuance of the general obligation bonds, and the city or town conducts a public sale, a resolution must be passed by the governing body of the city or town calling for the sale of the bonds. The resolution must state the purpose, amount, and specific terms of the bonds, including the minimum purchase price. The city or town council may fix the minimum price for the bonds in an amount not less than 97% of the face value if the city or town council determines that the sale is in the best interests of the city or town.
MCA 7-7-4236

Publication of Notice of Sale: If the city or town conducts a public sale, the governing body shall publish notice of the bond sale once a week for 2 consecutive weeks preceding the sale, in a newspaper of general circulation, as provided in MCA 7-7-4252. The notice must be in the form provided at MCA 7-7-4251.

Sale of Bonds: Any bonds issued under MCA Title 7, Chapter 7, Part 42 may be sold at public or private sale, as determined by the city or town council or commission pursuant to 17-5-107. The bonds may not be sold at less than the minimum bid specified for their sale with accrued interest to date of delivery, and each bidder shall specify the rate of interest and the purchase price at which the bidder will purchase the bonds. The council shall accept the bid that it judges most advantageous to the city or town, and may reject any bids and sell the bonds at private sale if the council considers it in the best interests of the city or town.
MCA 7-7-4254(2)

Consultant fees and attorney fees may be paid to any person or corporation for assisting in the proceedings, in the preparation of the bonds, or in negotiating the sale of the bonds.
MCA 7-7-4254(3)

Resolution Providing for Issuance of Bonds: At the time of the sale of the bonds or at a meeting held after the sale, the city or town council shall adopt a resolution providing for the issuance of the bonds, prescribing the form of the bonds, whether amortization or serial bonds, providing the manner of execution of the bonds and if applicable, specifying whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141.
MCA 7-7-4255

G.O. BONDS – BOND SINKING FUNDS

The city treasurer or town clerk shall keep a special and separate sinking fund account for each issue or series of outstanding bonds issued by the city or town.
MCA 7-7-4261(1)

All taxes collected for interest and principal must be placed to the credit of the sinking fund for which the taxes were levied.
MCA 7-7-4261(2)

Administration of Sinking Fund: The sinking fund must be administered as provided in 7-7-123, 7-7-124, and 7-7-4270 (see following).
MCA 7-7-4261(3)

Investment of Sinking Fund: Except as provided in 7-7-124 (below) and whenever outstanding bonds cannot be purchased pursuant to 7-7-4270 (below), the council or commission of a city or town shall invest so much of the bond sinking funds of the city or town as are not needed for the payment of bonds or interest. The investments made must be due and payable at least 60 days before the obligations for the payment of which the sinking fund was established are due and payable. All interest income must be credited to the sinking fund for which the investment was made.
MCA 7-7-123

If any of the bonds for which the sinking fund was established are not yet due but are then redeemable under optional provisions, the money in the sinking fund is not subject to investment but shall be used and applied in payment and redemption of the bonds.
MCA 7-7-124, MCA 7-7-4268

Purchase of Bonds: Whenever there is money in any sinking fund over and above the amount required for payment of the principal and interest due on the next interest payment date and sufficient to pay and redeem one or more outstanding bonds of the issue or series, the city or town shall purchase such bonds if this can be done at not more than par and accrued interest or at

such reasonable premium as the council may feel justified in paying, not in any case exceeding 5%.
MCA 7-7-4270

Interest on Late Payments of Principal and Interest: Any and all installments of interest or principal of bonds issued under the provisions of this part not promptly paid when due shall draw interest at the rate of 6% per annum from the date due until actually paid, irrespective of the rate of interest on the bonds themselves.
MCA 7-7-4263

G.O. BONDS – TAX LEVY FOR BOND PAYMENTS

A separate tax must be levied for the payment of interest and principal of each series or issue of bonds outstanding. The levy must be high enough to raise an amount sufficient to pay all interest and principal as will become due and payable during the then-current fiscal year or within 90 days after the fiscal year. If no principal becomes due within that time, then the tax levy must be high enough to place in the sinking fund an amount no less than the total bond issue or series divided by the number of years of the issue or series.
MCA 7-7-4265

Excess bond proceeds may not be retained in a separate fund and invested without first using the proceeds to calculate the amount of annual tax levy for a sinking fund.
AGO #18, Vol. 44

G.O. BONDS – WHEN BONDS FULLY PAID

When all bonds of any series or issue, with the interest thereon, have been fully paid and there is money remaining in the bond sinking fund, the excess (and all amounts subsequently collected for such fund) shall be transferred to the general fund of the city or town or to the sinking and interest fund of any other series or issue of bonds outstanding designated by the city or town council.
MCA 7-7-4274

REFUNDING G.O. BONDS

The city or town council may issue bonds (without an election) for the funding of outstanding warrants and maturing bonds when: (a) there are not sufficient funds available to pay the outstanding warrants or maturing bonds; or (b) there is a reduction in debt service as a result of issuing refunding.
MCA 7-7-4301(1)

Term of Bonds: Bonds issued for the purpose of refunding bonds theretofore issued and outstanding shall not be issued for a longer term than 10 years. However, if the unexpired term

of the bonds to be refunded is more than 10 years, the refunding bonds may be issued for the unexpired term.
MCA 7-7-4303

Resolution: It shall only be necessary for the council, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts with regard to the indebtedness to be refunded, showing the reason for issuing such refunding bonds and fixing and determining the details thereof, including whether the bonds will be sold at a private negotiated sale or public sale.
MCA 7-7-4311

Applicability of Other Bond Provisions: The provisions of 7-7-4201 through 7-7-4206, 7-7-4208 through 7-7-4210, 7-7-4255 through 7-7-4266, 7-7-4268 through 7-7-4270, and 7-7-4272 through 7-7-4274 apply to refunding bonds issued under this part; however, the city or town council may at its option sell bonds issued under this part at a private negotiated sale or at a public sale conducted pursuant to the provisions of 7-7-4251, 7-7-4252, and 7-7-4254.
MCA 7-7-4302

Interest Rate on Refunding G.O. Bonds: Except as provided below, refunding bonds may not be issued unless they bear interest at a rate of at least 1/2 of 1% less than the outstanding bonds to be refunded. Refunding bonds may be issued in a principal amount greater than the principal amount of the outstanding bonds if there is a reduction of total debt service cost to the city or town. See MCA for details related to bonds refunded that bear interest at a variable rate.
MCA 7-7-4304(1) & (3)

Refunding bonds may bear interest in excess of the rate on the bonds being refunded if the issuance of the refunding bonds, including the total costs of refunding the bonds, results in a reduction of total debt service cost to the city or town. Variable rate refunding bonds may also be issued if the governing body determines that the issuance of variable rate refunding bonds is reasonably expected to result in less interest payable on the refunding bonds than the interest payable on the refunded bonds.
MCA 7-7-4304(2)

Advance Refunding Bonds: A city or town may issue refunding bonds to refund outstanding bonds in advance of the date on which the bonds mature or are subject to redemption, provided that the proceeds of the refunding bonds, less any accrued interest or premium received upon the sale of the refunding bonds, are deposited with other funds appropriated to the payment of the outstanding bonds in escrow with a suitable banking institution in or outside of the state.
MCA 7-7-4316(1)

Except as provided below, the funds deposited must be invested in securities that are general obligations of the United States or which are guaranteed by the United States and that mature or are callable at the option of the holder on those dates and bear interest at those rates and are payable on the dates that are required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each bond being refunded to its

maturity or redemption date, if called for redemption, to pay the principal of the bond at maturity or upon the redemption date, and to pay any redemption premium.
MCA 7-7-4316(2)

If the funds initially deposited in escrow are sufficient, without investment income, to redeem in full the bonds being refunded as of their redemption date and to pay the principal, interest and premium on the refunded bonds at their stated maturities, the funds may be invested in the securities described above or in a money market fund that is composed exclusively of eligible securities described in 7-6-202 and that otherwise satisfies the requirements of 7-6-202(4). (See CT04-Cash and Investments)
MCA 7-7-4316(3)

The escrow account is irrevocably appropriated to the payment of the principal of and interest and redemption premium on the bonds being refunded. Funds in the sinking fund account not required for the payment of principal of or interest on the bonds being refunded due prior to issuance of the refunding bonds may be appropriated by the city or town to the escrow account. The city or town may pay the reasonable costs and expenses of printing the refunding bonds and of establishing and maintaining the escrow account. Bonds that are refunded pursuant to this part are not to be considered outstanding for purposes of 7-7-4201 or any other debt limitation.
MCA 7-7-4316(4)

BONDS FOR PAYMENT OF JUDGMENTS

Cities or towns may issue bonds for the purpose of deriving revenue for the payment of a judgment or settlement liability. Property taxes may be levied to amortize the bonds.
MCA 2-9-316

BONDS/NOTES FOR SELF-INSURANCE OR DEDUCTIBLE RESERVE FUND

A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance or deductible reserve fund and costs incident to the reserve fund in an amount not exceeding 0.18% of the total assessed value of taxable property, determined as provided in 15-8-111, within the political subdivision as of the date of issuance. The bonds or notes must be authorized by resolution of the governing body, are payable from the taxes authorized by 2-9-212, and do not constitute debt within the meaning of any statutory debt limitation.
MCA 2-9-211(5)

OTHER GENERAL OBLIGATION INDEBTEDNESS OF A MUNICIPALITY UNDER MCA 7-7-4104

A municipality may enter into or incur an obligation for any public or governmental purpose, including the purposes set forth in MCA 7-7-4101. An obligation may be in the form of bonded indebtedness, note indebtedness, a lease, a lease-purchase agreement, an installment purchase contract, or other legal form. An obligation constitutes a general obligation of the municipality but is not secured by a pledge of the taxing power of the municipality.
MCA 7-7-4104(1)

The obligation may be authorized by a resolution adopted by the governing body of the municipality. The resolution must establish the terms, covenants, and conditions of the obligation. It is not necessary to submit the question of incurring the obligation to the electors of the municipality. The obligation does not constitute indebtedness of the municipality for the purpose of statutory debt limitations.
MCA 7-7-4104(2)

An obligation may be issued only if: (a) the principal amount of the obligation does not exceed 10% of the general fund budget of the municipality in each of the 2 immediately preceding fiscal years; (b) at the time the obligation is to be incurred, the debt services in the current or in any future fiscal year on the obligation and any other outstanding obligation issued pursuant to this section do not exceed 2% of the revenue deposited in the general fund of the municipality in each of the 2 immediately preceding fiscal years; and (c) the term of the obligation does not exceed 20 years.
MCA 7-7-4104(3)

The obligation must clearly state that it is not secured by a pledge of the municipality's taxing power but that it is payable solely from revenue in the general fund in any fiscal year that is pledged to the payment of the obligation.
MCA 7-7-4104(4)

In order to secure the payment of principal of or interest on an obligation and related charges, the municipality may grant a first lien on all revenue collected and deposited in the general fund subject to or on a parity with any prior pledges. The municipality may establish other funds and accounts for obligations issued under this section that may be necessary to provide for the priority and segregation of revenue deposited in the general fund and pledged to the payment of obligations.
MCA 7-7-4104(5)

All obligations incurred under this section are legal and valid obligations of the municipality issuing the obligations, and the general credit of the municipality is irrevocably pledged for the prompt payment of both the principal of and interest on the obligations as they become due. However, the municipality may not be obligated to levy taxes for the payment of any obligation or interest on the obligation.
MCA 7-7-4104(6)

REVENUE BONDS

Revenue bonds may be issued to finance in whole or in part the cost of acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking. An undertaking is defined as one or a combination of the following: water and/or sewer systems, public airports, convention facilities, public recreation facilities, streets and roads, public parking facilities, solid waste management systems, or other revenue producing facilities, and public transportation systems.
MCA 7-7-4402 & 4421(1)(a)

A municipality has the power to pledge to the punctual payment of these revenue bonds, and interest on the bonds, an amount of the revenue of the undertaking sufficient to pay the bonds and interest as they become due, and create and maintain reasonable reserves for the bonds.
MCA 7-7-4421(1)(b)

If applicable, the municipality shall specify whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141.
MCA 7-7-4421(2)

A city may issue revenue bonds to finance the construction and construction engineering phases of projects on the urban highway system within its jurisdiction.
MCA 7-7-110

Nature of Revenue Bonds: No holder of any revenue bonds issued shall have the right to compel any exercise of taxing power of the municipality to pay said bonds or the interest thereon. Each bond issued under this part shall recite in substance that (a) said bond, including interest thereon, is payable from the revenue pledged to the payment thereof; and (b) said bond does not constitute a debt of the municipality within the meaning of any constitutional or statutory limitation or provision.
MCA 7-7-4423

The municipality issuing revenue bonds shall prescribe and collect reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking. The rates, fees, or charges prescribed, along with any other authorized revenues, must produce revenue at least sufficient to (a) pay when due all bonds and interest on the bonds for the payment of which the revenue has been pledged, charged, or otherwise encumbered, including reserves for the bonds; and (b) provide for all expenses of operation and maintenance of the undertaking, including reserves.
MCA 7-7-4424

Resolution: Revenue bonds may be authorized to be issued by resolution of the governing body (a) without an election; or (b) when authorized by a majority of the qualified electors voting upon the question at an election conducted in accordance with Title 13, chapter 1, part 4.
MCA 7-7-4426

The resolution shall specify and define the revenues or portion thereof which are appropriated and pledged for the security and payment of the bond principal and interest and the relative security of liens on the revenues in favor of bonds of one or more series or issues, whether issued concurrently or at different times.
MCA 7-7-4431

Term of Bonds: Revenue bonds may mature at a time or times not exceeding 40 years from the date of issue.
MCA 7-7-4432

Compliance with Resolution & Covenants: The resolution authorizing the issuance of bonds may contain various covenants. The city or town must comply with the bond resolution and covenants contained therein.
MCA 7-7-4428 & 4429

REFUNDING REVENUE BONDS

Refunding revenue bonds can either be refunded in accordance with the provisions of Part 45 "Municipal Refunding Revenue Bonds Option 1" or Part 46 "Municipal Refunding Revenue Bonds Option 2".

Option 1 Authorization: Refunding revenue bonds issued as authorized in this section are governed by all of the provisions of Part 44, except 7-7-4433 and 7-7-4434. Bonds may be issued to refund interest as well as principal actually due and payable if the revenue pledged is not sufficient, but not to refund any bonds or interest due that may be paid from revenue then on hand.
MCA 7-7-4501

Option 2 Authorization: Any county is authorized to refinance or to refinance and improve any enterprise and for such purpose or purposes, to borrow money and issue refunding bonds from time to time.
MCA 7-7-4605

Interest Rate: Refunding bonds may not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from the computation, is at least 3/8 of 1% less than the average annual interest rate on the bonds being refunded, computed to their respective stated maturity dates. See MCA 7-7-4502 for details related to variable rate bonds.
MCA 7-7-4502(1)

Exceptions to Interest Rate Requirement: Refunding bonds may bear interest at a rate lower or higher than the bonds being refunded if:

(a) they are issued to refund matured principal or interest for the payment of which revenue on hand is not sufficient;

(b) the refunding bonds are combined with an issue of new bonds for reconstruction, improvement, betterment, or extension and the lien of the new bonds upon the revenue of the undertaking must be junior and subordinate to the lien of the outstanding bonds being refunded, under the terms of the ordinances or resolutions authorizing the outstanding bonds as applied to circumstances existing on the date of refunding;
(c) the issuance of the refunding bonds, including the total costs of refunding the bonds, results in a reduction of total debt service cost to the municipality; or
(d) the governing body determines that the issuance of variable rate refunding bonds is reasonably expected to result in less interest payable on the refunding bonds than the interest payable on the refunded bonds.

MCA 7-7-4502(2)

Escrow: In any case where refunding bonds are issued and sold 6 months or more before the earliest date on which all bonds refunded thereby mature or are prepayable in accordance with their terms, the proceeds of the refunding bonds, including any premium and accrued interest, shall be deposited in escrow with a suitable bank or trust company that has the qualifications listed at MCA 7-7-4504(1)(a) to (c).
MCA 7-7-4504(1)

The proceeds deposited in escrow shall be invested to provide funds sufficient to pay interest and principal, when due or when pre-payable. The resolution or ordinance authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom and shall provide for the call of all pre-payable bonds in accordance with their terms. Allowable securities to be purchased with the escrow fund shall be limited to those listed at MCA 7-7-4504(2), and shall be purchased simultaneously with the delivery of the refunding bonds.
MCA 7-7-4504(2)

URBAN HIGWAY SYSTEM REVENUE BONDS

Upon approval by the Montana Transportation Commission, a city, county, or consolidated city-county government may issue revenue bonds to finance the construction of projects on the urban highway system within its jurisdiction. The bonds may be authorized by a resolution adopted by the governing body without need for authorization by the electors.
MCA 7-7-110(1) & (2)

The bonds do not constitute and may not be included as an indebtedness or liability of the issuer for purposes of any statutory debt limitation, do not constitute general obligations, and may not be secured by the taxing power of the issuer.
MCA 7-7-110(2)

The bonds are payable from and secured by grants or other funds received by the Montana Department of Transportation (MDOT) and apportioned by MDOT to the issuer of the bonds for urban highway system improvements or for improvements conducted as provided in 15-70-101(2) (i.e., gas tax apportionment). In the resolution providing for the issuance of the bonds, the governing body shall irrevocably pledge and appropriate to the debt service fund from which the

bonds are payable the funds apportioned or to be apportioned to the issuer by MDOT in an amount sufficient to pay the principal of and the interest on the bonds as due.
MCA 7-7-110(3)

Bonds may be issued only if the final maturity of the bonds is not more than 20 years after the date of issuance of the bonds.
MCA 7-7-110(4)(b)

Proceeds from the sale of the bonds to be used for construction must be deposited with MDOT.
MCA 7-7-110(5)

TAX, REVENUE AND BOND ANTICIPATION NOTES

A local government may issue and sell gross proceeds obligations or short-term obligations in anticipation of taxes or revenues budgeted to be received and appropriated for expenditure during the fiscal year in which the obligations are issued. Gross proceeds obligations are not general obligations of the local government and are collectible only from the collection of coal gross proceeds taxes, interest, and penalties pursuant to 15-23-708. Short-term obligations are general obligations of the local government and must be secured by the taxes and revenues in anticipation of which the short-term obligations were issued and in such other manner as set forth in the ordinance authorizing their issuance.
MCA 7-6-1102 & 1111

The issuance of gross proceeds obligations or short-term obligations must be authorized by an ordinance or resolution of the governing body that fixes the terms, conditions and rates of the obligations to be issued.
MCA 7-6-1103

Gross proceeds obligations may be renewed or refunded by the issuance of gross proceeds obligations. Gross proceeds obligations may not be renewed or refunded to a date later than 5 years from the end of the fiscal year in which the original short-term obligation was issued. Short-term obligations may be renewed or refunded by the issuance of short-term obligations. Short-term obligations may not be renewed or refunded to a date later than 6 months from the end of the fiscal year in which the original short-term obligation was issued.
MCA 7-6-1105

The debt limitations for local governments in Title 7, chapter 7, and Title 20, chapter 9, do not apply to gross proceeds obligations or short-term obligations issued in accordance with this part.
MCA 7-6-1115

When all conditions exist precedent to the offering for sale of bonds of a political subdivision or the political subdivision has applied for and received a commitment for a grant or loan of state or federal funds, its governing body may by resolution issue and sell, in anticipation of the receipt of the grant, loan, or bonds in an amount not exceeding the total amount of bonds authorized or

the total amount of the loan or grant that is committed, notes maturing within not more than 3 years from the date on which the notes are issued.
MCA 7-7-109(2)(a)

INSTALLMENT PURCHASE CONTRACTS

When the amount to be paid under an installment purchase contract exceeds $4,000, the council may provide for the payment of the amount in installments extending over a period of not more than 10 years if at the time of entering into the contract, there is an unexpended balance of appropriation in the budget for the then-current fiscal year available and sufficient to pay for the portion of the contract price payable during the then-current fiscal year. The budget for each following year in which any portion of the purchase price is to be paid must contain an appropriation for the purpose of paying that portion. The limitations described here do not apply to installment purchase contracts entered pursuant to MCA 7-7-4104 ("Other G.O. Indebtedness")
MCA 7-5-4306

LONG-TERM LEASE FOR DETENTION FACILITY OPERATION

A local government may enter into a long-term lease or agreement, not to exceed a term of 30 years, with a corporation proposing to operate a regional detention facility. The local governmental entity may agree in the long-term lease or agreement to acquire the facility from the corporation through a lease or a lease option to purchase, subject to the limitations of Title 7, Chapter 7, Part 21.
MCA 53-30-511

TAX CREDIT BONDS

The following three types of bonds – Recovery Zone Bonds, Clean Renewable Energy Bonds, and Qualified Energy Conservation Bonds – are tax credit or direct subsidy bonds created under the Internal Revenue Code. Tax credit bonds provide the authority to issue bonds and sell tax credits to investors – they are not direct funding programs. With direct subsidy bonds, however, the issuer pays the investor a taxable interest coupon and receives a rebate from the U.S. Treasury. Please see the following links for information related to these bonds:

https://www.irs.gov/statistics/soi-tax-stats-tax-exempt-bonds-studies-terms-and-concepts (2009 ARRA Provisions for tax credit bonds)
https://www.energy.gov/scep/slsc/qualified-energy-conservation-bonds (QECBs)
https://www.energy.gov/eere/slsc/new-clean-renewable-energy-bonds (CREBs)
https://www.treasurydirect.gov/government/interest-rates-and-prices/irs-tax-credit-bond-rates/ (IRS tax credit bond rates)

The U.S. Department of Energy website (above) indicates that CREBs & QECBs were originally structured as tax credit bonds. However, the March 2010 HIRE ACT (H.R. 2847 (Sec. 301))

changed some CREBs & QECBs from tax credit bonds to direct subsidy bonds *similar to Build America Bonds*** (BABs).

**Appendix 7 of the OMB Circular A-133 includes a listing of *ARRA-funded* programs that are *not* covered by the single audit requirements and are *not* required to be included in the Schedule of Expenditures of Federal Awards or in the determination of major programs. This list includes Build America Bonds. As such, it *appears* that other tax credit and direct subsidy bonds *may* similarly be excluded from single audit requirements.

RECOVERY ZONE ECONOMIC DEVELOPMENT & FACILITY BONDS

See http://www.irs.gov/pub/irs-tege/rzblocalreallocations.pdf for an allocation of the authorized Recovery Zone bonds to Montana local governments.

Cities and counties are authorized to designate economic recovery zones and issue recovery zone economic development bonds and recovery zone facility bonds to finance the costs of recovery zone projects and facilities eligible under the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA).
MCA 7-7-140(1)

The Montana Department of Administration ((Director's Office, Office of Finance and Budget) is responsible, in consultation with the Department of Commerce (Business Resource Division), for allocating the state's share of recovery zone economic development bonds and recovery zone facility bonds.
MCA 17-5-116, MCA 7-7-140(1)

The bonds must be authorized by the governing body of the city or county in accordance with the applicable provisions of Montana law

(a) if the bonds pledge the city's or county's credit or taxing power, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 22 or 42, as appropriate;
(b) if the bonds are payable from and secured solely by the revenue from a governmentally owned and operated facility or undertaking, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 44;
(c) if the bonds are payable from special assessments levied against benefited property, the project must be eligible for special assessment financing and must be authorized in accordance with the provisions of Title 7, chapter 12, part 21 or parts 41 and 42, as appropriate;
(d) if the bonds are payable from tax increment revenue, the project to be financed must be eligible for tax increment financing and the project must be approved and the bonds must be authorized in accordance with the provisions of Title 7, chapter 15, parts 42 and 43;
(e) if the bonds are industrial development revenue bonds of the issuer, the bonds must be authorized in accordance with provisions of Title 90, chapter 5, part 1.

MCA 7-7-140(2)

CLEAN RENEWABLE ENERGY BONDS ("CREBs")

For additional information, see:
http://www.cdfa.net/cdfa/cdfaweb.nsf/0/07C139CF31F69946882579360063E011

Clean Renewable Energy Bonds ("CREBs") are tax credit bonds to finance certain renewable energy projects. Projects eligible for CREBs are identified in Section 45 of the IRC and include wind facilities, closed and open-loop biomass facilities, solar energy facilities, qualified hydro facilities, small irrigation facilities, geothermal energy facilities, landfill gas facilities, trash combustion facilities and refined coal production facilities. These projects are intended to produce sufficient energy to provide for the local government's needs, allowing excess energy to be sold through the grid. The CREBs that local governments issue are payable from the revenues generated by the sale of the excess power and general fund revenue that would otherwise go to the purchase of electrical energy. "New CREBs" replaced "CREBS" in 2008.

Except as provided in MCA 90-4-1221, a governmental body may (a) issue revenue bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, or extension of any project; (b) pledge to the punctual payment of its revenue bonds issued under this section and interest on the bonds all or a portion of the gross or net revenue of the project; and (c) create and maintain reasonable reserves.
MCA 90-4-1205

If the principal amount of clean renewable energy bonds, as limited by the Internal Revenue Code, is insufficient to finance all costs of a project as determined pursuant to MCA 90-4-1206, the governmental body may issue bonds to finance those costs and the costs of issuance of those bonds as (1) additional revenue bonds pursuant to 90-4-1205; (2) obligations under 7-7-4104; or (3) general obligations of a governmental body, provided that the issuance of the bonds are submitted to the electors of the governmental body as required by law.
MCA 90-4-1208

The Board of Investments (BOI) through its Clean Renewable Energy Bond Pooled Loan Program (CREBPLP) may issue CREBs on behalf of the local governments, under the Municipal Finance Consolidation Act.

QUALIFIED ENERGY CONSERVATION BONDS

Cities and counties are authorized (subject to availability of an allocation) to issue qualified energy conservation bonds to finance projects for qualified energy conservation purposes and are authorized to undertake the qualified energy conservation purposes and programs within the meaning of the section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as amended by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.
MCA 7-7-141

The Montana Department of Administration (Director's Office, Office of Finance and Budget) is responsible for allocating the state's share of qualified energy conservation bonds as authorized in section 54D of the Internal Revenue Code, 26 U.S.C. 54D, as amended by ARRA.

MCA 17-5-116

Qualified energy conservation bonds meet the definition of "tax credit bonds" in 17-5-117. Any bond issued as a tax credit bond may be issued and sold at public or private sale, may be payable and mature as to principal and interest, if any, on any date or dates, may be subject to redemption in whole or in part as determined by the governing body of the issuer, and may have other terms and conditions that the issuer considers to be necessary and appropriate. The governing body of the issuer of any tax credit bond is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bond, including investment of funds and accounts to repay the bond.

MCA 17-5-117

The bonds must be authorized by the governing body of the city or county in accordance with the provisions of applicable Montana law, except as otherwise provided in 17-5-117 (see above). The governing body is authorized to enter into agreements and make covenants that may be necessary to provide for the sale and security of the bonds, subject to the following limitations:

(a) if the bonds pledge the city's or county's credit or taxing power, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 22 or 42, as appropriate;
(b) if the bonds are payable from and secured solely by the revenue derived or generated from a qualified energy conservation program or project, they must be authorized in accordance with the provisions of Title 7, chapter 7, part 44;
(c) if the bonds are payable from special assessments levied against benefited property, the project must be eligible for special assessment financing and must be authorized in accordance with the provisions of Title 7, chapter 12, part 21 or parts 41 and 42, as appropriate;
(d) if the bonds are payable from tax increment revenue, the project to be financed must be eligible for tax increment financing and the project must be approved and the bonds must be authorized in accordance with the provisions of Title 7, chapter 15, parts 42 and 43;
(e) if the bonds are industrial development revenue bonds of the issuer, the bonds must be authorized in accordance with provisions of Title 90, chapter 5, part 1.

MCA 7-7-141(2)

MEETINGS OF GOVERNING BODY

REVISED DECEMBER 2025 REF: CT09

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REGULAR MEETING DATES

Commission Form of Government: Regular meetings of the council must be held on the first Monday after the election of council members and after that meeting at least once each month. The council shall provide by ordinance for the time for holding regular meetings, and special meetings may be called from time to time by the mayor or two council members.
MCA 7-3-4220(1)

Town Meeting Form of Government: Towns adopting this form shall convene an annual town meeting on the first Tuesday of March. Special town meetings may be called by the town presiding officer or upon petition of 10% of the qualified electors of the town, but not by less than 10 qualified electors.
MCA 7-3-603(1)

City-County Consolidation: The commission shall meet at such times as may be prescribed by ordinance or resolution, but not less frequently than once in each month. Special meetings shall be called by the clerk of the commission upon written request of the president, the manager, or a majority of the members of the commission.
MCA 7-3-1218(2)

Commission-Manager Form of Government: The commissioners shall meet at times that may be prescribed by ordinance or resolution, except that in municipalities having less than 5,000 inhabitants, they shall meet regularly at least once and not more than four times per month and in municipalities having more than 5,000 inhabitants, they shall meet not less than once every 2 weeks. The commissioner acting as mayor, any two members of the commission, or the city manager may call special meetings of the commission with written notice.
MCA 7-3-4322(1) & (3)

MEETINGS OPEN TO PUBLIC

All meetings of governmental bodies, boards, bureaus, commissions or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds must be open to the public.
MCA 2-3-203

All meetings of the council, whether regular or special, at which any person not a city officer is admitted shall be open to the public.
MCA 7-3-4220

Meetings may be closed for the following reasons:

1. to discuss a matter of individual privacy, if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure; **Note:** The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

2. to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency. A meeting may not be closed if the only parties are public bodies or associations.

MCA 2-3-203(3) & (4)

Attorney General Opinions and Supreme Court Cases related to open meeting laws:

A regularly scheduled meeting between the board of county commissioners and its staff is a meeting within the terms of the open meetings law.
AGO #38, Vol. 41

"Agencies" are required to have open meetings, and the definition of "agencies" does not include individual employees. As such, a meeting between the city engineer, the public works director, and representatives of a private construction company is not considered to be an agency meeting subject to the open meeting laws.
Supreme Court case SJL of Mont. Associates Ltd. Partnership v. Billings, (1993)

QUORUM

"Meeting" means the convening of a quorum of the constituent membership of a public agency or association described in 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.
MCA 2-3-202

General: A majority of the members of the council constitute a quorum for the transaction of business.
MCA 7-5-4121

Commission Form of Government: In cities having a mayor and two council members, the mayor and one council member or two council members constitute a quorum and the affirmative vote of the mayor and one council member or the affirmative vote of two council members is necessary to adopt or reject any motion, resolution, or ordinance or pass any measure. In cities having a mayor and four council members, the mayor and two council members or three council members constitute a quorum and the affirmative vote of the mayor and two council members or the affirmative vote of three council members is necessary to adopt or reject any motion, resolution, or ordinance or pass any measure.
MCA 7-3-4221(1)

Weak-Mayor Form of Government: A town with a weak-mayor form of municipal government does not have authority to adopt by ordinance the quorum provisions of MCA 7-3-4221. Those provisions would conflict with MCA 7-5-4121, which states that a majority of the members of the town council constitute a quorum and does not include the mayor as a member of the town council for the determination.
AGO #20, Vol. 47

Town Meeting Form of Government: A quorum consists of at least 10% of the qualified electors of the town, but a higher quorum requirement may be established by a majority vote of the town meeting.
MCA 7-3-603(3)

Where two of three County Commissioners discussed by telephone the approval of a preliminary plat of a subdivision, a "meeting" as defined in 2-3-202 took place, and the Commissioners were subject to the requirement that notice of the meeting be given in accordance with statute.
Supreme Court Bd. of Trustees v. County Comm'rs, (1980)

PUBLIC PARTICIPATION

Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures must ensure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public.
MCA 2-3-103

Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.
MCA 2-3-111

The provisions of 2-3-103 and 2-3-111 (above) do not apply to:

(1) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety;
(2) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or
(3) a decision involving no more than a ministerial act.

MCA 2-3-112

A County Commission that established the hours of 9:30 a.m. to 5 p.m., Monday through Friday, as its regular meeting time for public notice purposes, did not comply with Montana's constitutional and statutory public participation provisions.
AGO #13, Vol. 47 & AGO #51, Vol. 42

An agency shall be considered to have complied with the notice provisions of 2-3-103 (above) if:

(1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;
(2) a proceeding is held as required by the Montana Administrative Procedure Act;
(3) an agency adopts and implements the public participation plan required in 76-25-106 for the purposes of agency actions taken in accordance with Title 76, chapter 25;

(4) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or
(5) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.

MCA 2-3-104

Agenda:
Effective 10/1/2023: The agency shall publish an agenda for a meeting, as defined in 2-3-202, as follows:

(i) if a newspaper of general circulation in the county where the agency is located publishes electronic notices and links to meeting agendas free of charge to the agency on the newspaper's website, the agency shall provide the notice and agenda to the newspaper to post on the newspaper's website;
(ii) if the agency does not have an option to post notices and links to meeting agendas free of charge, the agency shall provide adequate notice of a meeting by doing at least one of the following:
(A) posting a link to the meeting agenda on the agency's primary website; or
(B) posting the agenda on the social media site of the agency.

MCA 2-3-103(1)(b)

The agenda for a meeting must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter.
MCA 2-3-103(1)(c)

Special Meeting: When a special meeting of the council is called under 7-5-4102(1)(c), the mayor must state by message the object of the meeting, and the business of the meeting must be restricted to the object stated.
MCA 7-5-4122, MCA 7-3-1218(2)

Addition to Agenda: Only an item that is not of significant public interest or that is otherwise exempt from public participation requirements may be added to a City Council agenda and acted upon at the same City Council meeting.
AGO #12, Vol. 51

Town Meeting Form of Government: The town meeting agenda may include an item entitled "other business" under which any matter may be considered by the town meeting, except any matter dealing with finance or taxation may not be considered under "other business".
MCA 7-3-604

MINUTES OF MEETINGS

The council must cause a journal of the proceedings to be kept, which must be open to inspection. (MCA 7-5-4123) The minutes of all meetings of the city or town council or commission must be signed by the mayor and the city or town clerk.
MCA 7-5-4102(2), MCA 7-4-4501(1) & 4511

Access to public information -- safety and security exceptions.
(1) Except as provided in subsections (2), every person has a right to examine and obtain a copy of any public information of this state.
(2) A public officer may withhold from public scrutiny information relating to individual or public safety or the security of public facilities, including public schools, jails, correctional facilities, private correctional facilities, and prisons, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school, or inmates of a facility. A public officer may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.
(4) Effective 10/1/2023: A public agency may not refuse to disclose public information because the requested public information is part of litigation or may be part of litigation unless the information is protected from disclosure under another applicable law.
MCA 2-6-1003

Minutes of meetings -- public inspection.

(1) Appropriate minutes of all meetings required by 2-3-203 to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).
(2) Minutes must include without limitation:
    (a) the date, time, and place of the meeting;
    (b) a list of the individual members of the public body, agency, or organization who were in attendance;
    (c) the substance of all matters proposed, discussed, or decided; and
    (d) at the request of any member, a record of votes by individual members for any votes taken.
(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.
(4) Any time a presiding officer closes a public meeting pursuant to 2-3-203, the presiding officer shall ensure that minutes taken in compliance with subsection (2) are kept of the closed portion of the meeting. The minutes from the closed portion of the meeting may not be made available for inspection except pursuant to a court order.

MCA 2-3-212

Public Comment: Public comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in 2-3-212.
MCA 2-3-103(1)(d)

Resolutions: After passage and approval, all resolutions shall be entered into the minutes and signed by the chairperson of the governing body.
MCA 7-5-121(6)

Members' Votes: The minutes shall include, at the request of any member, a record by individual members of any votes taken.
MCA 2-3-212(2)(d)

The votes of council members must be called and recorded on the final passage of any ordinance, bylaw, or resolution or the making of any contract. The voting on the election or appointment of any officer must be viva voce (i.e., orally). A majority of the whole number of the members elected is requisite to appoint or elect an officer, and such vote must be recorded.
MCA 7-5-4121(2)

Information to be Included: In addition to the above requirements, the minutes should include the following types of information:

Note: The following list is not all-inclusive. We have attempted to identify items that reference minute entry in State law. The main compliance requirement, as noted above, is that the minutes must contain the substance of all matters proposed, discussed, or decided, without limitation. Various items listed below must be approved by resolution, and all resolutions must be entered in the minutes, as noted above.

a. date, time, and place of meeting; (MCA 2-3-212)
b. a list of the individual members of the public body, agency, or organization in attendance; (MCA 2-3-212)
c. calls for bid, advertisements and accepting bids; (MCA 7-5-4302, MCA 15-70-101(5))
d. contracts or loans approved; (MCA 2-3-212)
e. setting of salaries; (MCA 7-4-4201)
f. reports to the council; (MCA 2-3-212)
g. cancellation of warrants and checks; (MCA 7-6-4303(2))
h. approval of investments; (MCA 2-3-212)
i. acceptance and approval of pledged securities; (MCA 7-6-207(2))
j. cash or budget transfers; (MCA 7-6-4006 & 4031)
k. appropriation of state and federal money; (MCA 7-6-4006)
l. sales of real or personal property; (MCA 7-8-4201)
m. transferring property between governmental entities; (MCA 7-8-101)
n. adoption of budget and setting of tax levies; (MCA 7-6-4030 & 4035)
o. emergency budget appropriations; (MCA 7-6-4032)
p. setting rates of interest on registered warrants; (MCA 7-6-4501)
q. claim and warrant approval; (MCA 7-6-4301 & 4302)
r. close inactive accounts; (MCA 7-6-614)
s. interlocal agreements between public agencies; (MCA 7-11-104)
t. order for consolidation of offices; (MCA 7-4-4106)
u. roads/alleys opened or closed, established, constructed and changed; (MCA 7-14-4101 & 4114)

v. leases entered into to operate regional detention facilities. (MCA 53-30-511)
w. resolution of annexation; (MCA 7-2-4606)
x. exemptions from bidding or advertising requirements for certain contracts when an emergency caused by fire, flood, explosion, storm, earthquake, riot, insurrection, or other similar emergency has occurred. (MCA 7-5-4303)
y. the creation of a public library (MCA 22-1-303)
z. the creation and dissolution of special districts (MCA 7-11-1013 & 1029)
aa. sale and issuance of bonds or other long-term indebtedness (MCA Title 7, Chapter 7)

PROPERTY TAXES

REVISED DECEMBER 2025 REF: CT10

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See Also:

CT02 – Budgets for compliance requirements relating to property tax levy limitations and procedures for calculating levies, as well as the fixing of tax levies for budgetary purposes.

CT11 – Special Improvement Districts for compliance requirements relating to special improvement districts.

CT15 – Tax Sales, Redemptions, and Tax Deed for compliance requirements relating to tax sales, redemptions, and tax deed.

GENERAL - TAXES COLLECTED BY COUNTY

County to Collect Taxes: Except in first, second, and third-class cities that provide by ordinance for the city treasurer to collect the taxes, the county treasurer of each county shall collect the taxes levied by all cities and towns in the respective county.
MCA 7-6-4413(1)

The county treasurer shall collect the city or town taxes at the same time as the state and county taxes and with the same penalties and interest in case of delinquency.
MCA 7-6-4413(2)

ORDINANCE PROVIDING FOR COLLECTION OF TAXES BY MUNICIPALITY

The council may, by ordinance, provide for the levy and collection of the taxes. Until the passage of the ordinance, the levy and collection of municipal taxes are and the proceedings for those purposes must be as provided in Title 7, Chapter 6, Part 44.
MCA 7-6-4421

Copy of Property Tax Record from County Clerk: The county clerk, on or before the first Monday in October in each year, shall provide a copy of the property tax record to each city in the county if the city treasurer is required by an ordinance of the city to collect its taxes. The record must be a copy of the corrected property tax record of the county, as far as it refers to city property. The copy must be in a form that itemizes the different funds so that the city treasurer may extend the funds and collect the taxes.
MCA 7-6-4412

TAX NOTICES

The municipality shall, upon request of the county treasurer, provide an itemized listing of all city services and special improvement district assessments collected by the county. The information on the list is included in the county treasurer's mailing to the last-known address of each taxpayer.
MCA 15-16-101(2)(a) & (3)

The tax notice mailed to each taxpayer by the *county treasurer* should include the following:

a. the amount of taxes and assessments owed for the current year,
b. the amount of taxes and assessments due and delinquent for other years,
c. the taxable value of the property,
d. the total mill levy applied to that taxable property,
e. itemized city services and special improvement district assessments collected by the county,
f. the number of the school district in which the property is located,
g. the amount of the total tax due itemized by mill levy that is levied as city tax, county tax,

state tax, school district tax, and other tax, and, (effective 6/19/2025) for a primary residence, the total amount of state property tax assistance received under 15-6-702,

h. an indication of which mill levies are voted levies, including voted levies to impose a new mill levy, to increase a mill levy that is required to be submitted to the electors, or to exceed the mill levy limit provided for in 15-10-420,
i. Effective 10/1/2023: an itemization of the taxes due for each mill levy and a comparison to the amount due for each mill levy in the prior year. (Note: This information may be posted on the county treasurer's website instead of being included on the written notice.)
j. a notice of the availability of all the property tax assistance programs available to property taxpayers, including (effective 6/19/2025) the state property tax assistance provided in 15-6-702, the property tax assistance program under property tax assistance programs under Title 15, chapter 6, part 3, the homestead reduced tax rate provided for in 15-6-405, the rental property tax rate provided for in 15-6-411, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341.
k. If a tax lien is attached to the property, the notice must also include, in a manner calculated to draw attention, a statement that a tax lien is attached to the, that failure to respond will result in loss of property, and that the taxpayer may contact the county treasurer for complete information.

MCA 15-16-101(2)

TAX PAYMENT DUE DATES

All taxes levied and assessed (except assessments made for special improvements in cities and towns) are payable as follows: (a) one-half payable on or before November 30 or within 30 days after the tax notice is postmarked, whichever is later; and (b) one-half payable on or before May 31.
MCA 15-16-102(1) & (2)(a)

Exceptions
Effective 10/1/2023: For a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, one-seventh of the taxes must be paid on or before 5 p.m. on the last day of each month beginning on November 30 and ending on May 31 provided that the full amount of the taxes payable is made by 5 p.m. on May 31 of each year. The seven monthly payments must be as nearly equal as possible and are due on November 30, December 31, January 31, February 28, March 31, April 30, and May 31.
MCA 15-16-102(2)(b)

If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day. Note: Per MCA 1-1-216, the definition of "holiday" includes each Sunday. Effective 10/1/2023: Except for a taxpayer enrolled in the alternative payment schedule for primary residences provided for in 15-16-122, if taxes on property qualifying under the property tax assistance program provided for in 15-6-305 are paid within 20 calendar days of the due date, the taxes may be paid without penalty or interest.
MCA 15-16-102(4)

Effective 10/1/2023: **Alternative payment schedule for primary residences.** (1) At the request of the owner of a primary residence, a county treasurer shall enter into a written agreement with the owner for the payment of current property taxes on an alternative payment schedule of seven payments as provided in 15-16-102(2)(b) and this section.
(2) To pay property taxes on the alternative payment schedule, the owner of a primary residence shall apply on forms provided by the county treasurer. The application must include a sworn statement, under penalty of false swearing provided for in 45-7-202, that the property is a primary residence.
(3) Application must be made by September 30 for enrollment in the current year. When enrolled in the alternative payment schedule, the owner remains enrolled until the owner provides a written request to terminate the alternative payment schedule. Requests to terminate the alternative payment schedule must be made before September 30 to apply to the current year. Termination requests made after September 30 will apply to payments for the next tax year.
(4) A county treasurer may require enrollment in an automated payment program as a condition of enrollment in the alternative payment schedule.
(5) A property owner enrolled in the alternative payment schedule may pay taxes before the due dates provided for in 15-16-102(2)(b). The county treasurer may not accept a payment under the alternative payment schedule from a third-party escrow service, lender, or mortgage company.
(6) As provided in this section, the following definition applies:

(a) "Primary residence" means a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and the surrounding land classified as class four residential property that was owned and occupied by the taxpayer for at least 7 months of the year.

(b) The term does not include a dwelling that is not on a permanent foundation and that is classified by the department of revenue as personal property.

MCA 15-16-122

Postmark Date of Payment: Tax payments deposited in the U S mail on or before the payment deadlines above, as shown by the postmark on the envelope received by the Treasurer's office, are considered timely paid irrespective of the date upon which such payment is actually received by the County Treasurer. Although this AGO is related to tax collections received by a county treasurer, it appears that the same would apply to a city or town that is collecting its own taxes and assessments or assessments.
AGO #12, Vol. 40

Suspension of Property Taxes for Persons in Military Service: All taxes due on property owned by a resident of Montana in the military service, while serving outside of Montana must be suspended. Proceedings may not be taken for the collection of the taxes, and penalties or interest may not accrue, until 1 year after the cessation of hostilities or 1 year after the taxpayer is released from active duty. If the taxpayer was wounded, injured, or suffered a disease while serving in a combat zone or participating in a contingency operation that is serious enough to require hospitalization, proceedings may not be taken and penalties or interest may not accrue until 1 year after the taxpayer's release from the hospitalization.
MCA 10-1-606(1)

To obtain these benefits the qualified taxpayer shall file with the county treasurer an affidavit stating that the person against whom the taxes are imposed is in military service. The affidavit must be filed on or before the time that taxes would become delinquent.
MCA 10-1-606(2)

MOBILE HOMES, MANUFACTURED HOMES, & HOUSETRAILERS

Taxes on mobile homes, manufactured homes, and housetrailers not taxed as an improvement (taxed as personal property) are due as follows: (a) the first payment is due on or before May 31 or within 30 days from the date of the tax notice, whichever is later, and (b) the second payment is due no later than November 30 of the year in which the property is assessed.
MCA 15-24-202(1)

If not paid on or before the date due, the tax is considered delinquent and subject to the penalty and interest provisions in 15-16-102 applicable to other delinquent property taxes. The penalty must be assessed and interest begins to accrue on the first day of delinquency.
MCA 15-24-202(1)(d)

There is an exemption from taxation for a mobile home, manufactured home, or housetrailer:

(a) that was manufactured 28 or more years prior to the current date;
(b) for which the most recent assessed value is $10,000 or less; and
(c) that is not determined to be an improvement to real property, as provided in 15-1-101.

An owner of three or more mobile homes, manufactured homes, or housetrailers may receive an exemption under this section for the two units with the lowest appraised values.
MCA 15-6-241(1)(3)

There is a property tax exemption for movable housing that is uninhabitated because it is no longer fit for human habitation. To be eligible for the exemption, an applicant must meet the requirements of this section. This section does not apply to movable housing that receives an abatement for a natural disaster as provided in 15-16-611.
MCA 15-6-242

TEMPORARY EXEMPTION FOR SENIOR CARE AND HOUSING DEVELOPMENT PROJECT – (Effective 10/1/2025)

If the governing body approves a petition for a senior care and housing development project, the board of the tax-exempt senior care and housing sponsor may submit a property tax exemption application to the Department of Revenue. If the exception is granted, the project is temporarily exempt from all property taxation at the start of the property tax year beginning January 1 after the approval. The temporary exemption applies to all real property owned by a property owner-operator or a tax-exempt senior care and housing sponsor within the senior care and housing development project, including new construction, for a period equal to the lesser of 5 years or until the development is final and operational, with an option to submit a renewal for an additional 5-year exemption.
MCA 15-6-506

MINIMUM TAX

If the taxes and special assessments due for the current year are less than $5, the county treasurer shall notify the taxpayer that a minimum tax of $5 is imposed and due. The $5 tax is imposed for purposes of defraying administrative expenses incurred in administering the tax, and the difference between the taxes and special assessments and the minimum tax of $5 is to be deposited in the county general fund.
MCA 15-16-118(1)

Note: This minimum tax is applicable to both real and personal property taxes.

RECEIPT OF PAYMENT

The county treasurer must note the date and the amount of the payment of any tax in the property tax record and issue a receipt to the person paying the tax. If, however, the payment is received through the mail or by any electronic means, the treasurer shall issue a receipt only on request of the person paying the tax. Although this refers to the duties of the county treasurer as it relates to the collection of any tax, it would be appropriate for a municipality that has provided by ordinance for the collection of its taxes or assessments by its treasurer to follow the same procedures.
MCA 15-16-104

Effective 5/2/2023: **Digital assets taxation.** (1) Digital assets used as a method of payment may not be subject to any additional tax, withholding, assessment, or charge by the state or a local government that is based solely on the use of the digital asset as the method of payment.
(2) Nothing in this section prohibits the state or a local government from imposing or collecting a tax, withholding, assessment, or charge otherwise authorized by Titles 15 or 16.
MCA 15-1-150

COLLECTION OF DELINQUENT TAXES BY MUNICIPALITIES

All cities in Montana which by ordinance provide for the collection of city taxes and assessments are hereby authorized and empowered to solicit payment, ask for, receive, and receipt for delinquent taxes and assessments due any such city. Upon receipt of payment for delinquent taxes and assessments by the city treasurer of such city, it shall be the duty of such city treasurer to immediately certify to the county treasurer of the county in which such city is situated: (a) the fact of such payment with the amount thereof; (b) a description of the property charged with such delinquent taxes or assessments so paid; and (c) the name of the person to whom the same were assessed. Nothing in this section is intended to or shall prevent the county treasurer of the county in which such city is situated from collecting such delinquent taxes or assessments, but this section is intended as an aid to the collector of such delinquent taxes and assessments.
MCA 7-6-4422

INTEREST & PENALTY FOR DELINQUENCIES

Interest on delinquent real and personal property taxes must be charged at the rate of 5/6 of 1% a month from and after the delinquency until paid. A 2% penalty must also be added to the delinquent taxes.
MCA 15-16-102(3)(a)(i) & (b)

Exceptions
Persons in Military Service: See above regarding exceptions for property owners in military service who are serving outside of Montana or who are hospitalized.
MCA 10-1-606(1)

PARTIAL PAYMENT OF DELINQUENT TAXES

A taxpayer may pay current year taxes without paying delinquent taxes. (Prior to 5/19/2023: The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full taxable years, if taxes currently due for the current tax year have been paid). **Effective 5/19/2023:** The county treasurer shall accept a payment equal to the delinquent taxes, including penalty and interest for one-half of a delinquent tax year, if taxes currently due for the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.
MCA 15-16-102(5)(a)

SALES FOR DELINQUENT TAXES

In a city or town that collects its own taxes or special assessments when any taxes or assessments become delinquent, a tax lien sale may not be held by the city or town unless the city treasurer or town clerk, within 10 working days after the date on which the taxes or assessments become delinquent, certifies the delinquent taxes and assessments to the county treasurer of the county. Upon receipt of the certificate, the county treasurer shall enter the delinquent taxes and assessments in the delinquent tax list of the county, and the county treasurer in selling property for delinquent taxes shall include all city and town delinquent taxes and assessments. There may be only one sale for each piece of property.
MCA 7-6-4423

Sales for delinquent taxes when county collects municipal tax: All publications of sales for delinquent taxes shall include city or town taxes. There is only one sale for each piece of property. The sale shall cover the aggregate of city or town, county, and state taxes, with the penalties, interest, and cost of advertising provided by law.
MCA 7-6-4414

COUNTY TREASURER'S REMITTANCE TO MUNICIPALITIES

The county treasurer must, within a reasonable time after collection, compute the amount of taxes due the city or town, and pay it to the proper custodian. The lapse of one month after collection of the bulk of the city or town taxes is not a reasonable time within which to perform that duty.
MCA 7-6-4413; Cut Bank v. McNamer, (1922)

When remitting taxes to a city or town, the county treasurer must break out the amount received from taxpayers as payment for the city's special improvement district assessments.
AGO #48, Vol. 43

Unless a statute provides otherwise, interest, penalties, and costs collected on delinquent taxes follow the tax. Therefore, local government entities authorized to levy taxes are entitled to a pro rata share of the penalties collected on delinquent property taxes by the county treasurer.
AGO #25, Vol. 41

PROTESTED TAXES

The person upon whom a property tax or fee is being imposed under Title 15 may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested. The protested payment must: (a) be made to the officer designated and authorized to collect it; (b) specify the grounds of protest; and (c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under MCA 15-7-111.
MCA 15-1-402(1)

All property taxes and fees paid under protest must be deposited to a special protested tax fund (BARS custodial fund #7130) and must be retained in the protested tax fund until final determination of any action or suit to recover the taxes and fees, unless they are released at the request of the city or town pursuant to the provisions of MCA 15-1-402(5) (see below).
MCA 15-1-402(4)

The governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except for the first-year protest amount.
MCA 15-1-402(5)(a)

Action Determined in Favor of Government: If the protested action is not commenced within the time specified or if the action is commenced and finally determined in favor of the department of revenue, county, municipality, or treasurer of the county or the municipality, the

amount of the protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged to the local government units.
MCA 15-1-402(6)(a)

Action Determined in Favor of Protestor: If the action is finally determined adversely to the governmental entity levying the tax, then the treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or fee that the person holding the judgment is entitled to recover, together with interest from the date of payment under protest. The taxing jurisdiction shall pay interest at the rate of interest earned by STIP for the applicable period.
MCA 15-1-402(6)(b)

If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.
MCA 15-1-402(6)(c)

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

SPECIAL IMPROVEMENT DISTRICTS (SID)

REVISED DECEMBER 2025 REF: CT11

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CREATION OF SPECIAL IMPROVEMENT DISTRICTS (SIDs)

The city or town council may create special improvement districts, for the purposes specified in MCA 7-12-4102(2) & 4103.

Petition: The city governing body may order and create a SID upon the receipt of a petition to create a SID that contains the consent of all of the owners of property to be included in the district.
MCA 7-12-4102(3)

Properties Outside the City: The city governing body may order and create SIDs covering projects abutting the city limits and include properties outside the city when the SID abuts and benefits that property. Properties within the proposed district boundaries outside the city may not be included in the SID if, under the assessment methodology provided in the resolution of intention, the owners of lots, tracts, or parcels outside the city representing not less than 40% of the total projected assessments against properties outside the city protest the creation of the special improvement district. A joint resolution of the city and county must be passed agreeing to the terms of the SID prior to passing the resolution of intention or the resolution creating the SID. A copy of the resolution of intention and the resolution creating the SID must be provided to the county commissioners upon the passage of the respective resolutions.
MCA 7-12-4102(4)

Resolution of Intention: Before creating any SID, the city council shall pass a resolution of intention. The resolution shall (a) designate the number of such district; (b) describe the boundaries; (c) state the general character of the improvements to be made and an approximate estimate of the cost; (d) specify the method or methods by which the costs will be assessed against property in the district; and (e) if the method of assessment is that described in 7-12-4162(3)(a) (i.e. Equal Amount option), specify that if an increase occurs in the number of benefited lots, tracts or parcels within the district during the term of the bonded indebtedness, the assessment will be recalculated as provided in 7-12-4162(3)(b).
MCA 7-12-4104

The resolution of intention is the primary step to be taken in every instance and is the basis of the whole proceeding, the omission of which is fatal and renders all the subsequent proceedings nugatory.
Shapard v. Missoula, (1914)

Notice of Resolution: Upon passage of a resolution of intention, the council shall give notice of the passage, as provided in 7-1-2121 (See CT01 – General Topics), and a copy of the notice must be mailed to each landowner within the proposed district. The notice must contain the information in 7-12-4106(3). <u>If the revolving fund is to be pledged to secure the payment of bonds and warrants</u>, the notice must include a statement that (i) the general fund of the city/town may be used to provide loans to the revolving fund; or (ii) a general tax levy may be imposed on all taxable property in the city/town to meet the financial requirements of the revolving fund.
MCA 7-12-4106

Exception: These notice requirements do not apply to a district that is created following receipt of a petition as provided in 7-12-4102(3) (see above).
MCA 7-12-4106(4)

Resolution Creating District: The council shall pass a resolution creating the SID when (a) no protests have been delivered to the clerk of the city council within the time prescribed in 7-12-4110 after the date of the first publication of the notice of the resolution of intention; (b) a protest has been found to be insufficient or has been overruled; (c) a protest against the extent of the proposed district has been heard and denied; or (d) a resolution creating the district following receipt of a petition as provided in 7-12-4102(3) (see above) has been passed.
MCA 7-12-4114

Note: Protest provisions can be found at MCA 7-12-4110 – 7-12-4113

Allocation Between Construction, Repair and/or Maintenance Purposes: In connection with any SID, if it is necessary to provide for repairs and/or maintenance, in addition to the construction of the proposed improvements, the resolution should include a statement showing the allocation of the total amounts (in dollars or percentages) to be assessed for said different purposes. The council shall designate the district as a special improvement and repair district and/or a special improvement and maintenance district.
MCA 7-12-4115 & 4116

COSTS/EXPENSES

The city engineer (or person appointed in that capacity) shall keep an account of all costs and expenses incurred in the engineer's office in connection with each SID and certify the costs and expenses to the city clerk.
MCA 7-12-4119 & 4121

Incidental Expenses: All demands for incidental expenses, except the administrative fee of the city or town and interest payable on warrants or bonds of the district, shall be presented to the city or town clerk by itemized bill. (MCA 7-12-4123) Incidental expenses are considered a part of the cost of making improvements within the SID and include:

(a) compensation of the city engineer for work done;
(b) the cost of printing and advertising;
(c) the compensation of persons appointed by the city engineer to take charge of and superintend any of the work related to the district;
(d) the expenses of making the assessment for any work authorized by this part;
(e) interest on warrants issued to pay costs of improvements;
(f) costs of issuance of bonds or warrants of the SID;
(g) interest to accrue on bonds or warrants of the SID before assessments levied in the district are collected in amounts and at times sufficient to pay the interest;
(h) a reasonable administrative fee payable to the city or town for the creation and administration of the district by the city or town and its officers and employees;
(i) costs of preparation of plans, specifications, maps, and plats;

(j) costs of engineering, superintendence, and inspection; and
(k) costs of preparation of assessment rolls.
MCA 7-12-4123, 4101(7), & 4169(1)

Items to be Included in the Original Costs:

Revolving Fund: If the bonds or warrants are secured by the revolving fund, the costs of any improvement must include an amount of at least 5% and not more than 10% of the principal amount of any bonds or warrants to be issued, which must be deposited in the revolving fund created in 7-12-4221.
MCA 7-12-4169(2)

District Reserve Account: As part of the original costs of the improvements, the city or town council may include an amount not to exceed 5% of the principal amount of any SID bonds or warrants issued. This amount is in addition to the amount, if any, specified above when bonds or warrants are secured by a revolving fund.) The amount must be deposited in a district reserve account created and maintained in the district fund.
MCA 7-12-4169(3)(b)

BIDDING FOR IMPROVEMENTS

The city council may call for bids or proposals for several kinds and types of materials for the improvements proposed, reserving the right to select the kind or type of material to be used in making the improvements after the bids or proposals have been opened, examined, and declared. Notice inviting proposals and referring to the specifications on file must be published as provided in 7-1-4127 (See CT01-General Topics).
MCA 7-12-4141(1) & (2)

Decision to Award: The city council may award the contract for the work or improvement to the lowest responsible bidder and shall reject all proposals or bids other than the lowest regular proposal or bid of a responsible bidder. The council may reject any proposals or bids if it considers this for the public good and may also reject the bid of a party who has been delinquent or unfaithful in a former contract with the municipality.
MCA 7-12-4143

Bid Security: All proposals or bids offered must be accompanied by bid security. Bid securities accompanying rejected bids shall be returned to the proper parties. The bid securities accompanying the accepted proposals must be held by the city clerk until the contract for doing the work has been entered into, either by the lowest bidder or by the owners of over 75% of the frontage, at which time the bid security must be returned to the bidder. If the bidder fails, neglects, or refuses to enter into the contract to perform the work or improvements, then the bid securities accompanying the bid must be declared to be forfeited to the city and must be collected by the city and paid into the general fund.
MCA 7-12-4141(3) & 4145

Owners to Contract: The owners of three-fourths of the frontage of lots and lands liable to be assessed shall not be required to present sealed proposals or bids but may, within 3 days after the award pursuant to 7-12-4143 (see above), elect to take such work and enter into a written contract to do the whole work at a price at least 5% less than the price at which the same has been awarded. All work done under such contract shall be subject to the same plans and specifications governing the lowest responsible bidder.
MCA 7-12-4147

Contract Performance Security: All contractors, contracting owners included, shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the city council in the form and manner provided for in Title 18, chapter 2, part 2.
MCA 7-12-4151

ASSESSMENT OF COSTS

To defray the cost of a SID, including incidental expenses, the city council or commission shall adopt one or any combination of the following methods of assessments:

a. Area option - The entire cost of an improvement may be assessed against benefited property in the district, each lot or parcel of land within such district to be assessed for that part of the whole cost which its assessable area bears to the assessable area of all benefited lots or parcels in the district, exclusive of streets, avenues, alleys, and public places. The assessable area may be less than but may not exceed the actual area of the lot or parcel.
MCA 7-12-4162(1)

b. Assessed Valuation option - The cost may be assessed against each lot or parcel of land within the district based on the assessed value of the benefited lots or parcels of land within the district if the council or commission determines such assessment is equitable and in proportion to and not exceeding the benefits derived from the improvements by the lot or parcel.
MCA 7-12-4162(2)

c. Equal Amount option - Each lot or parcel of land in the district may be assessed an equal amount based on the total cost of the improvement.
MCA 7-12-4162(3)(a)

d. If the method specified for assessment is that described in subsection (3)(a) (i.e., Equal Amount option, see above), and an increase occurs in the number of benefited lots, tracts, or parcels within the district during the term of bonded indebtedness, the city council or commission shall recalculate the amount assessable to each lot, tract, or parcel.
MCA 7-12-4162(3)(b)

e. Frontage option - Each lot or parcel of land within the district bordering or abutting upon a street or streets whereon or wherein the improvement has been made shall be assessed in proportion to the lineal feet abutting or bordering the street or streets.
MCA 7-12-4163

f. Utility Service Connections option - Utility services connections may be assessed upon a lump sum based on the bid price in the improvement district contract, and only the lots, tracts, or parcels of land served by the utility connection or connections within the SID are assessed, so long as such assessment is equitable.
MCA 7-12-4164

g. Off-street Parking option - When the purpose of the assessment is for off-street parking, the assessment shall be against the real property specifically benefited by the off-street parking facilities. The costs will be assessed in proportion to the benefits received by the benefited tract of land within the district. In determining the benefit to be received by each parcel of land, the council or commission shall consider the elements listed at 7-12-4165(2).
MCA 7-12-4165

1. **Formula for Off-street Parking Option**: Before any improvement district for off-street parking can be created or financed, the city council or commission must first pass a city ordinance setting forth the formula to be used in determining the assessment of each lot or parcel within the district. Prior to the adoption of any such ordinance, the council or commission shall make a determination of the formula for the method of assessment, and a public hearing shall be held. After the council has heard all objections and suggestions, it shall correct any errors and shall finally establish and settle the formula for assessment in the same manner as any other city ordinance.
MCA 7-12-4175

2. The council or commission, in its discretion, shall have the power to pay the whole or any part of the cost of any street, avenue, or alley intersection out of any funds in its hands available for that purpose or to include the whole or any part of such costs within the amount of the assessment to be paid by the benefited property in the district.
MCA 7-12-4162(1)(b) & 4163(2)

Resolution for Assessment: The city council shall by resolution levy and assess a tax upon all benefited property in any district created for such purpose, using for a basis for assessment the method or methods set forth in 7-12-4161 through 7-12-4165 (see above) and described in the resolution of intention. A notice of this resolution shall be published as provided in 7-1-4127 (See CT01-General Topics) and mailed to each property owner in the district, and shall state the time and place at which objections to the final adoption of the resolution will be heard.
MCA 7-12-4176 & 4177

School District Property Not Exempt: The property of a school district is, in the absence of express constitutional or statutory exemption, liable for the payment of assessments made for special municipal improvements.
Kalispell v. School District, (1912).

MAINTENANCE OF IMPROVEMENTS

NOTE: See below for specific provisions related to Lighting, Street, Fire Hydrant, and Park Maintenance Districts.

The cost of maintaining each improvement shall be paid by assessing the benefited properties under one of the options provided in 7-12-4162 through 7-12-4165. The council shall estimate, as nearly as practicable, the cost of maintaining the improvements in each district for the season. Before the first Monday in (effective 10/1/2025) October of each year, the council shall pass and finally adopt a resolution levying and assessing all the property within the several districts with an amount equal to the whole cost of maintaining the improvements within the several districts. The resolution levying assessments to defray the cost of maintenance of the improvement shall be prepared and certified in the same manner as a resolution levying assessments for making improvements in the special improvement district.
MCA 7-12-4179(2) & (3)

Boundary Changes: The council may change by resolution, not more than once a year, the boundaries of any maintenance district, but the change of boundaries may not affect indebtedness existing at the time of the change.
MCA 7-12-4179(4)

Improvement District Maintenance Fund: The money collected from the maintenance assessment (above) shall be paid into a fund known as special improvement district No. .... maintenance fund, the number of which shall correspond with the number of the special improvement district in which the improvements so maintained are situated.
MCA 7-12-4180

COLLECTION OF ASSESSMENTS

SID Assessments Certified to Department of Revenue: Except as provided in MCA 7-12-4183 (below), in each city or town where taxes for general, municipal, and administrative purposes are certified to and collected by the county treasurer immediately after the second Monday of August of each year, it is the duty of the city treasurer or town clerk to certify to the Department of Revenue, at the same time that the copy of the resolution determining the annual levy for general taxes is certified by the city or town clerk to the county clerk, all special assessments and taxes levied and assessed for special improvement districts. The Department of Revenue shall enter the special assessments and taxes upon the property tax record for the county. The county treasurer shall collect all taxes and assessments in the same manner and at the same time as taxes for general, municipal, and administrative purposes are collected.

MCA 7-12-4181

Collections for SID Assessments by City Where City Collects Taxes: In each city or town that provides by ordinance for the collection of its taxes for general, municipal, and administrative purposes by its city treasurer or town clerk, the city treasurer or town clerk shall collect all special assessments and taxes levied and assessed for special improvement districts.
MCA 7-12-4182(1)

When the payment of an installment of a special assessment becomes delinquent, all payments of subsequent installments may, at the option of the city or town council and upon adoption of the appropriate resolutions, become delinquent. The city or town may, pursuant to 7-12-4184 (below), order that all assessments that are delinquent for specific parcels of land as a result of acceleration be withdrawn. Upon delinquency in one or all installments, the whole property must be sold the same as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.
MCA 7-12-4182(2)

Collection of SID Assessments by City Where County Collects Taxes: In any city or town where taxes are certified to and collected by the county treasurer, the city or town may provide by ordinance for the collection by its city treasurer or town clerk of all special assessments and taxes levied for special improvement districts.
MCA 7-12-4183(1)

When the payment of any one installment of any special assessment becomes delinquent, all payments of subsequent installments must, at the option of the city or town council and by appropriate resolution duly adopted, become delinquent. The city or town council may order that all assessments that are delinquent as a result of acceleration be withdrawn. Delinquent special assessments must be certified to the county clerk of the county in which the city or town is situated. The county treasurer shall collect the delinquent special assessments and taxes in the same manner and at the same time that taxes for general, municipal, and administrative purposes are collected. In case the delinquent assessments and taxes are not paid, the whole property must be sold in the same manner that other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.
MCA 7-12-4183(2)

Reinstatement of delinquent assessment Whenever any special assessment or installment is delinquent, is declared to be delinquent by appropriate resolution of the city or town council, and is certified to the county clerk and county treasurer for collection as provided in this part, the city or town council may, nevertheless, at its option, by appropriate resolution, order the delinquent assessment to be withdrawn from the county treasurer, canceled from the county treasurer's records and proceedings, and reinstated in the office of the city treasurer and on the property tax record upon the payment to the city treasurer of the assessment or the installment and interest up to date.
MCA 7-12-4184(1)

The certified copy of the resolution of the council with reference to the payment, withdrawal, and reinstatement, filed with the county treasurer, is authority for the county treasurer to cancel and withdraw the delinquent special assessment or installment. The withdrawal and reinstatement may be made at any time before or after sale of the property for delinquent taxes and before a tax deed is executed.
MCA 7-12-4184(2) & (3)

Due Dates: All special assessments or installments of special assessments in cities and towns shall be payable in installments as follows: (a) one-half of the payment on or before 5 p.m. on November 30 of each year; and (b) one-half of the payment on or before 5 p.m. on May 31 of the following year.
MCA 7-12-4188

Interest & Penalty for Delinquent Assessments: In the event that assessments are not paid on or before the due dates (above), they shall be subject to the same interest and penalties for nonpayment as delinquent property taxes under 15-16-102. I.e., Interest on delinquent real and personal property taxes must be charged at a rate of 5/6 of 1% per month. A 2% penalty will also be added to the delinquent taxes.
MCA 7-12-4188(2), MCA 15-16-102

Exception: The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.
MCA 15-16-102(6)

Payment of Assessment Under Protest: When a tax levied and assessed for an SID is considered unlawful by the taxpayer, the taxpayer may pay the tax or any part of the tax considered unlawful under protest to the city or county treasurer. An action instituted to recover the tax paid under protest must be commenced within 60 days after the date of payment. The tax paid under protest must be held by the city or county treasurer until the determination of an action brought for the recovery of the tax.
MCA 7-12-4185

Assessments as Liens: Any special assessment made and levied to defray the cost and expense of any SID, together with any percentages imposed for delinquency and for cost of collection, shall constitute a lien upon and against the property upon which such assessment is made and levied from and after the date of the passage of the resolution levying such assessment. The lien can only be extinguished by payment of such assessment with all penalties, costs, and interest.
MCA 7-12-4191

PAYMENT OF ASSESSMENTS

Term: The payment of assessments to defray the cost of any improvements in SIDs may be spread over a term of not to exceed 20 years.
MCA 7-12-4190(1)

Semiannual Installments: The assessments are payable in equal semiannual installments of principal, with interest on the unpaid installments, or if the city council or commission so prescribes in the resolution authorizing the issuance of special improvement district bonds, in equal semiannual installments of principal and interest, each in the amount required to pay the principal over the term of payment, with interest at the rate then borne by the assessment.
MCA 7-12-4190(2)

Prepayment: Any assessment that is not delinquent may be prepaid, in whole but not in part, at any time after the assessment is levied, by the payment of the assessment, with interest accrued and to accrue thereon through the next date on which interest on bonds of the special improvement district is payable.
MCA 7-12-4190(3)

Interest Rate on Unpaid Assessments: Except as provided below, simple interest must be charged on all special assessments at an annual rate equal to the sum of (a) 1/2 of 1% a year; plus (b) the average interest rate payable on the outstanding bonds or warrants of the SID at the time the assessment is levied each fiscal year; plus (c) at the option of the city or town council, up to an additional 1/2 of 1% a year. The city or town council may subsequently reduce or eliminate this additional interest rate. If it is reduced or eliminated, it may not be subsequently increased or reimposed.
MCA 7-12-4189(1) & (2)

Interest on Unpaid Assessments When Secured Bonds Have Variable Rate: If and so long as the bonds or warrants secured by the assessments bear interest at a variable rate, the installments of assessments remaining unpaid must bear simple interest at an annual rate equal to the sum of (a) 1% a year; plus (b) the interest rate payable on the outstanding bonds or warrants of the SID at the time the assessment is levied each fiscal year; plus (c) to the extent that the interest rate on the bonds or warrants is then less than the maximum rate prescribed for the bonds or warrants or if there is no prescribed maximum rate, up to an additional 1% a year, as may be prescribed by the city or town council in the resolution authorizing the issuance or sale of the bonds or warrants.
MCA 7-12-4189(3)

SID BONDS & WARRANTS

All costs and expenses incurred in the acquisition or construction of any improvements in any SID or incurred in the issuance of the bonds or warrants of the district, including incidental expenses, shall be paid for by SID bonds or warrants.
MCA 7-12-4201

The bonds and warrants must be drawn against the special improvement district fund created for the district and must bear interest from the date of registration until called for redemption or paid in full. Interest must be payable annually or semiannually, at the discretion of the city or town council. The bonds must be in denominations of $100 or fractions or multiples of $100, may be issued in installments, and may extend over a period not to exceed 20 years or, if refunding

bonds are issued over a period ending not later than 30 years after the date that the bonds to be refunded were issued. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the city first levies assessments to pay principal and interest on the bonds.
MCA 7-12-4203

Issuance and Sale: The city or town council shall sell bonds or warrants to the highest and best bidder at a price, including interest to date of delivery, not less than that prescribed by the city council in the resolution calling for the sale of the bonds or warrants. Except as noted below, the provisions of 7-7-4251, 7-7-4252, and 7-7-4254 (i.e., sale of general obligation bonds – See CT08-Long-Term Debt) apply to, govern, and control the form of notice of sale, publication of notice, and manner and method of selling the bonds or warrants.
MCA 7-12-4204(1) & (3)

The bonds or warrants may be sold at a private negotiated sale as determined by the city or town council pursuant to 17-5-107 ("Public or private sale – procedure for public sale") and subject to the requirements of 7-12-4203.
MCA 7-12-4204(2)

Proceeds of Bonds or Warrants: The city or town council shall use the proceeds of such sale in making payment for the cost of the improvements. Payments to contractors may be made either from time to time, on estimates made by the engineer in charge of such improvements for the city or town, or upon the entire completion of the improvements and the acceptance thereof by the city or town council.
MCA 7-12-4205(1)

All interest earned on the investment of bond or warrant proceeds during the construction of improvements must be credited to the construction account of the improvement district fund from which the proceeds were withdrawn.
MCA 7-12-4205(2)

Any proceeds of the bonds or warrants, including investment income thereon, remaining after payment of all costs of the improvements must be transferred to the sinking fund in the improvement district fund and applied, to the extent possible, to the prepayment and redemption of bonds or warrants on the next succeeding redemption date for which notice of redemption may properly be given.
MCA 7-12-4205(3)

Redemption of Bonds and Warrants: SID warrants or bonds must be redeemed on any interest payment date from the proceeds of the bonds or warrants remaining after payment of all costs of the improvements, as provided in MCA 7-12-4205 (see above), or from the prepayment of assessments levied in the district.
MCA 7-12-4206(1)

SID bonds or warrants may be otherwise subject to redemption and prepayment at the option of the city, as provided in the resolution authorizing the issuance of the bonds. The date of

redemption must be fixed by the treasurer and may not be less than 30 days after the date of the notice, and on the date fixed, interest ceases. The treasurer shall give written notice to the holders of the warrants or bonds to be redeemed of the number of warrants or bonds to be redeemed and the date on which payment will be made. If the addresses of the holders are not known, the treasurer shall publish notice of redemption once in a newspaper published in the city.
MCA 7-12-4206(1) & (2)

Investment Earnings: The governing body may invest SID interest and sinking fund money in time deposits of a bank, savings and loan association, or credit union insured by the FDIC or NCUA or invested in direct obligations of the United States government payable within 180 days from the time of investment. All interest collected must be credited to the sinking fund from which the money was withdrawn.
MCA 7-12-4207

SID REVOLVING FUND

The council or commission of a city or town that has a SID may create, establish, and maintain by ordinance a SID revolving fund in order to secure prompt payment of any SID bonds and warrants and the interest thereon as it becomes due. Once established, the SID revolving fund may not be eliminated until all bonds and warrants secured thereby and interest thereon have been fully paid and discharged.
MCA 7-12-4221

Covenants to Use Revolving Fund: In connection with the issuance of special improvement district bonds or warrants, the council may undertake and agree

a. to make loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts, to the extent that funds are available;
b. to provide funds for the revolving fund pursuant to the provisions of MCA 7-12-4222(1), by annually making a tax levy or, in lieu of the tax levy, a loan from the city or town general fund, subject to the maximum limitations imposed by MCA 7-12-4222(1); and
c. to retain in the revolving fund a balance of up to 10% of the then-outstanding special improvement district bonds and warrants secured by the revolving fund.

MCA 7-12-4225(1)

The above undertakings are binding upon the city or town with respect to the special improvement district bonds or warrants until the earlier of (a) the date on which all bonds or warrants of the issue and interest on the bonds or warrants have been fully paid or discharged in a bankruptcy case in which the special improvement district is the debtor; or (b) the date that is the later of the final stated maturity date of the bonds or warrants; OR the date on which all special assessments levied in the district have been either paid or discharged.
MCA 7-12-4225(2)

Covenant to Not Use Revolving Fund: In lieu of the above undertakings, the council may determine in the resolution authorizing the issuance of the SID bonds or warrants that the

revolving fund does not secure the bonds or warrants and that the SID bonds or warrants are payable solely from the district fund created for the SID bonds or warrants and do not have a claim against the revolving fund.
MCA 7-12-4225(6)

Sources of Money for Revolving Fund: For the purpose of providing funds for the revolving fund, the city or town council

(a) may, from time to time, transfer to the revolving fund from the general fund of the city or town an amount as may be necessary. The amount transferred is a loan from the general fund to the revolving fund.
(b) shall, if the bonds or warrants are secured by the revolving fund pursuant to 7-12-4225, include in the cost of the improvement to be paid from the proceeds of the bonds or warrants an amount of at least 5% and not more than 10%) of the principal amount of the bonds or warrants as provided in 7-12-4169; and
(c) shall, in addition to a transfer or transfers from the general fund or in lieu of a transfer, levy for the revolving fund a tax as is necessary to meet the financial requirements of the revolving fund. A tax may not be levied if the balance in the revolving fund will exceed 10% or, with the amount levied by the tax, will exceed 10% of the principal amount of the then-outstanding special improvement district bonds and warrants secured by the revolving fund after all required transfers have been made to the district funds through fiscal yearend

MCA 7-12-4222(1)

Excess Money in District Fund Transferred to Revolving Fund: Whenever there is money in the district fund that is not required for payment of any bond or warrant of the district secured by the revolving fund or of interest on the bond or warrant, as much of the money as may be necessary to pay the loan provided for in 7-12-4223 (see below) must, by order of the council, be transferred to the revolving fund. After all the bonds and warrants issued on any SID secured by the revolving fund have been fully paid, all money remaining in the district fund must, by order of the council, be transferred to and become part of the revolving fund.
MCA 7-12-4222(2)

Loans from Revolving Fund to Pay Bonds: During the period described in 7-12-4225(2) (see below), when any SID bond or warrants that are secured by the revolving fund or any interest on the bond or warrants becomes due and payable and there is either no money or insufficient money in the appropriate district fund after a transfer from the appropriate district reserve account, if established, with which to pay the bond, warrant, or interest, an amount sufficient to make up the deficiency must be loaned by the revolving fund to the district fund. The bond, warrant, or interest must be paid from the money loaned or from the money loaned and money available in the district fund. The loan must be made even if, in the case of bonds or warrants bearing interest at a variable rate, the interest rate on the special assessments at the time the loan is made is less than or later becomes less than the interest rate on the bonds or warrants.
MCA 7-12-4223

Lien Arising from Loan: Whenever any loan is made to any SID fund from the revolving fund, the revolving fund has a lien for the amount of the loan on all unpaid assessments and

installments of assessments on the district, whether delinquent or not. The lien also applies to all money coming into the district fund up to the amount of the loan, together with interest on the loan from the time it was made, at the interest rate that is borne by the bond or warrant for which the loan was made and that was determined at the time the loan was made, even if the interest rate on the bond or warrant subsequently changes.
MCA 7-12-4224

Investment of Surplus Reserves: Surplus reserves not needed for immediate use may from time to time be invested in securities of the United States or certificates of deposit approved by the city council. The interest earned from such investments shall be placed to the credit of the revolving fund.
MCA 7-12-4226

Utilization of Excess in Revolving Fund: Whenever there is an amount in the revolving fund in excess of the amount deposited in the revolving fund under 7-12-4169(2) and in excess of 10% of the outstanding SID bonds and warrants secured by the revolving fund and the council considers any part of the excess to be greater than the amount necessary for payment or redemption of maturing bonds or warrants or interest, the council may order that any part of the excess to be

(1) transferred to the general fund of the city or town;
(2) used for the purchase of property at sales for delinquent taxes, assessments, or both; or
(3) used for the purchase of property that may have been struck off or sold to the county for delinquent taxes, assessments, or both and against which there is an unpaid assessment for special improvements and there are outstanding special improvement district bonds or warrants of the city or town.

MCA 7-12-4227

Disposal of Funds Deposited in Revolving Fund: Any funds without interest deposited in the revolving fund under 7-12-4169(2) less the amount of any loan to the district fund not repaid may be returned to the owners of record of the property of the district in direct proportion of the original assessment on each piece of property, or as an alternative a municipality may transfer the funds placed in the revolving fund as a result of 7-12-4169(2) to the general fund after the final payment of the district's bonds or warrants is paid.
MCA 7-12-4229

DISTRICT RESERVE ACCOUNT

See above for creation and funding of District Reserve Account

If there are insufficient funds in the district bond and interest accounts to pay when due the principal of and interest on bonds or warrants, the district reserve account, if established, must be used to pay the principal of and interest on the bonds or warrants issued against the district fund. Money in the district reserve account may be used to pay the final principal and interest payment on bonds or warrants.
MCA 7-12-4169(3)(c) & (e)

If bonds or warrants are secured by the revolving fund, the district reserve account, if established, must be exhausted before a loan may be made from the revolving fund pursuant to MCA 7-12-4223, MCA 7-12-4169(3)(d)

RELEVY OF ASSESSMENTS

Whenever any assessment is invalid or its validity is questioned, by reason of any omission or irregularity, the council may take all necessary steps to correct the same and to reassess and relevy the same. Whenever any property is assessed too little or too much, the assessment may be corrected and reassessed for such additional amount, or the assessment may be reduced even to the extent of refunding the tax collected.
MCA 7-12-4186

This section does not authorize reassessments to make up for delinquent assessments.
State ex rel Truax v. Lima (1948)

If proceeds of the bonds or warrants of the SID, including investment income, are applied to the redemption and prepayment of the bonds or warrants, as provided in 7-12-4205 and 7-12-4206, or if refunding bonds are issued pursuant to 7-12-4194, and the principal amount of outstanding bonds is decreased or increased, the assessments levied in the district and then outstanding must be reduced or increased, respectively, pro rata by the principal amount of the prepayment or the increment above or below the outstanding principal amount of bonds represented by the refunding bonds. If refunding bonds are issued, the assessments may be relevied over a term ending not later than either the final maturity date of the refunding bonds or 30 years after the date the bonds to be refunded were issued. The city council shall reassess and relevy the assessments, with the same effect as an original levy, in reduced or increased amounts in accordance with the provisions of 7-12-4176 & 7-12-4178.
MCA 7-12-4192

REFUNDING BONDS

A city may issue SID bonds for the purpose of providing the money needed to pay principal of and interest on outstanding SID bonds. To issue bonds for that purpose, the city council, at a regular meeting or a duly called special meeting, shall adopt a resolution.
MCA 7-12-4194(1)

When Public Hearing & Notice Required: If the refunding bonds are proposed to be issued in an amount greater than the amount of outstanding bonds to be refunded, the city council may not authorize the issuance of the bonds until it has conducted a public hearing on the desirability of issuing the bonds, after published and mailed notice as provided in 7-12-4106(2), and found by resolution that the issuance of refunding bonds is in the best interest of the SID.
MCA 7-12-4194(2)

Bonds may not be refunded by the issuance of refunding bonds unless:

(a) (i) the bonds to be refunded bear interest at a fixed rate or rates and the rate of interest offered on the refunding bonds is at least 1/2 of 1% a year less than the rate of interest on the bonds to be refunded;

(ii) the refunding bonds are to bear interest at a variable rate, which is reasonably expected to result in less interest payable on the refunding bonds than the interest payable on the refunded bonds; or

(iii) the bonds to be refunded bear interest at a variable rate and the council determines that the issuance of fixed rate refunding bonds is in the best interest of the district and the city or the council determines that the issuance of variable rate refunding bonds based on a different index or formula than that of the refunded bonds is reasonably expected to result over the remaining term of the bonds to be refunded in an interest rate at least 1/2 of 1% a year less than the rate of interest on the refunded bonds;

(b) there is or will be on the next payment date default in the payment of bond principal or interest; or

(c) 50% or more of the installments of special assessments levied in the SID and payable in a single fiscal year have been delinquent for at least 1 year.

MCA 7-12-4194(4)

Escrow: Refunding bonds issued pursuant to this section may be issued to refund outstanding bonds in advance of the date on which the bonds mature or are subject to redemption, but the proceeds of the refunding bonds must be deposited with other funds appropriated for the payment of the outstanding bonds in escrow with a suitable banking institution or trust company, which may be located either in or out of the state. Deposited funds must be invested per requirements of 7-12-4194(5)(b). The escrow account must be irrevocably appropriated to the payment of the principal of an interest and redemption premium, if any, on the refunded bonds. The city may pay the reasonable costs and expenses of printing the refunding bonds and of establishing and maintaining the escrow account.
MCA 7-12-4194(5)

POOLING OF BONDS

Pooling of Bonds of More Than One SID: If the city council determines by resolution that the pooling of bonds of more than one SID of the city is in the best interest of the city and the respective districts and will facilitate the sale of the bonds under more advantageous terms or with lower interest rates, the city may issue bonds of the districts combined in a single offering. Such bonds must be secured by the SID revolving fund of the city.
MCA 7-12-4193(1)

The bonds must be drawn against a sinking fund that has separate accounts for each SID combined for financing purposes, into which accounts must be payable the assessments levied in each of the districts.
MCA 7-12-4193(2)

Pooling of SID Bonds With Sidewalk, Curb, Gutter or Alley Approach Bonds: If the city council determines by resolution that the pooling of bonds of one or more SIDs of the city with bonds issued to finance sidewalks, curbs, gutters, or alley approaches under 7-14-4109 (i.e., construction allowed without creation of an SID) will facilitate the sale of the bonds under more advantageous terms or with lower interest rates, the city may issue bonds of the district or districts and those sidewalk, curb, gutter, or alley approach bonds combined in a single offering. These bonds must be secured by the special improvement district revolving fund of the city.
MCA 7-12-4195(1)

The bonds must be drawn against a sinking fund that has separate accounts for each SID and a separate account for those additional improvements combined for financing purposes, into which accounts must be payable the assessments levied in each of the districts or in respect of those improvements.
MCA 7-12-4195(2)

SUPPLEMENTAL REVOLVING FUND FOR PARKING METER REVENUE

A city or town may create, establish and maintain a supplemental revolving fund out of the net revenues of parking meters to secure prompt payment of principal of and interest on SID bonds for improvements undertaken for the following purposes: for paving, macadamizing, surfacing, oiling, graveling, piling, capping, or grading (see full listing of purposes at statute) one or more streets, alleys, avenues, or other public places or ways in said city or town and/or constructing therein curbs or gutters or for the opening or widening of any street, avenue, alley, or other public way.
MCA 7-12-4241

The supplemental revolving fund (above) shall not be applicable to any improvement unless the council shall find that 80% or more in area of the total parcels to be assessed for such improvement have been improved by the erection of permanent buildings or structures thereon having a value greater than the value of such parcels without such improvements according to the last assessment roll.
MCA 7-12-4242

Creation by Ordinance & Voter Approval: A supplemental revolving fund may be created by ordinance, subject to the approval of a majority of the qualified electors at an election held in accordance with Title 13, chapter 1, part 5. The supplemental revolving fund must be created and maintained solely from the net revenue of parking meters. The ordinance may pledge to the revolving fund all or any part of the net revenue of parking meters owned, leased, rented, or acquired by the city or town.
MCA 7-12-4243

Issuance of Bonds: If issuance of bonds is considered, the council may submit the question of the issuance of bonds to the voters. This question may be presented to the voters at the same election which authorizes the creation of a supplemental revolving fund. The council may by

resolution determine to issue such bonds and provide for the guaranty thereof by the supplemental revolving fund.
MCA 7-12-4244 & 4245

Cost of Improvements: The governing body of the municipality in determining the cost of said improvement may include estimated costs of the issuance of bonds; all engineering, inspection, fiscal, and legal expenses; cost of the parking meters; and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed for the special improvements for which bonds are issued.
MCA 7-12-4246

Bond Term: The bonds may mature at one time, not exceeding the maximum maturity of the assessments to be levied for the improvement, or may mature in installments at various times during the term of the assessments, but the bonds may not mature later than 10 years from the date of issuance. The bonds, as the council shall determine, are subject to redemption prior to maturity.
MCA 7-12-4247

Use of Supplemental Revolving Fund: Money in the supplemental revolving fund shall first be loaned to the various district funds whose bonds are guaranteed under 7-12-4241 through 7-12-4258 to make up any deficiency in such funds (as discussed above). In event of any further deficiency in such funds, the money in the SID revolving fund may be loaned. Both revolving funds shall thereafter have concurrent liens on the unpaid assessments and the moneys in the improvement district fund for all such advances, provided that such advances shall not be returned so long as any principal or interest on bonds remains unpaid.
MCA 7-12-4248

SPECIAL IMPROVEMENT LIGHTING DISTRICTS

Resolution of Intention: Before creating a special improvement lighting district for the purpose of lighting any streets or public highway or section thereof, the city council shall pass a resolution of intention to do so.
MCA 7-12-4302

Notice of Resolution of Intent: The council shall give notice of the passage of the resolution of intention, as provided in 7-1-4127 (see CT01-General Topics). The notice must describe the general character of the proposed improvement proposed, state the estimated cost of the improvement and the estimated cost of maintaining the lights and supplying the electrical current for the first year, and designate the time when and the place where the council will hear and pass upon all protests that may be made against the making of the improvement or the creation of the district.
MCA 7-12-4303

Note: See MCA 7-12-4304 & 4305 for provisions related to protest.

Resolution to Create Lighting District: If there are no protests or if any protests have been found to be insufficient or have been overruled or denied, and before ordering any of said proposed improvements, the city council shall pass a resolution creating the special improvement lighting district in accordance with the resolution of intention theretofore introduced and passed by the city council.
MCA 7-12-4306

Operation of District: The city or town council may provide for the installation of the lighting system for the special improvement lighting district; and provide for the maintenance and operation of the lighting system after the lighting system has been installed. The lights in each district must be maintained for the period of time and in the manner the city or town council elects. If a public utility, as defined in 69-3-101, provides for the installation, maintenance, or operation of the lighting system, the installation, maintenance, or operation must be performed in accordance with the public utility's applicable tariff schedule.
MCA 7-12-4308

Termination of District: If at any time after the creation of a special improvement lighting district a petition is presented to the city or town council, signed by the owners or agents of more than three-fourths of the total amount of property within the district, asking that the maintenance and operation of the special lighting system and the furnishing of electrical current in the district be discontinued, or if a majority of the city or town council votes to discontinue a special improvement lighting district, the city or town council shall, by resolution, provide for discontinuing the maintenance and operation of the lighting system. If the council has, prior to the presentation of a petition or by a majority vote of the council to discontinue the district, entered into any contract for the maintenance and operation of the lighting system, the maintenance and operation may not be discontinued until after the expiration of the contract. If the lighting system is maintained and operated by a public utility, the maintenance and operation must be discontinued in accordance with the public utility's applicable tariff schedule.
MCA 7-12-4311

Apportionment of Costs: All or any portion of the entire cost of erecting and maintaining the equipment and supplying electricity for the lighting district shall be assessed to the property within the district. The council may pay the whole or any part of the cost of any street, avenue, or alley intersection out of any funds available for that purpose or include the whole or any part of such costs within the amount of the assessment to be paid by the property in the district.
MCA 7-12-4321

The cost may be assessed under one of the following methods:

a. Area option – Each lot or parcel within the district may be assessed for that part of the whole cost that its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places.
b. Taxable Valuation option - Each lot or parcel within the district may be assessed for that part of the whole cost that its taxable valuation, including improvements, bears to the taxable valuation of the entire district.
c. Equal Assessment option: The city council may assess the cost equally against each of the lots or parcels located within the district.

d. Frontage option: Each lot or parcel within the district bordering or abutting upon the streets wherein or whereon the improvement has been made will be assessed costs in proportion to the lineal feet abutting or bordering the streets.

MCA 7-12-4322 to 4324

Incidental Expenses: The cost and expense connected with the formation of the district, including the cost of preparation of plans, specifications, maps, and plats; engineering, superintendence, and inspection, including the compensation of the city engineer; the cost of printing and advertising; and the preparation of assessment rolls must be considered a part of the cost and expenses of making the improvements within the SID.
MCA 7-12-4325

Resolution to Provide for Assessment of Costs: The city or town council must ascertain the cost of installing the lighting system and, on or before the first Monday in October, to adopt a resolution levying and assessing the property within the district.
MCA 7-12-4328

Notice of Resolution: Notice of availability of the resolution must be published as provided in 7-1-4127 (See CT01-General Topics).
MCA 7-12-4329

Resolution to Provide for Assessment of Maintenance Costs: The council must estimate the cost of maintaining the lights and furnishing electricity for each year and, before the first Monday in October, to adopt a resolution levying and assessing the property within the district.
MCA 7-12-4332

Separate Funds Established for Installation and Maintenance: All money derived from the collection of the assessments for installation costs shall constitute a fund to be known as the "special improvement lighting district No. …fund". All money derived from the collection of the assessments for maintenance costs shall constitute a fund to be known as the "special improvement lighting district No. … maintenance fund", the number of which shall correspond with the number of the lighting district.
MCA 7-12-4331 & 4334

Financing – Bonds or Warrants: All costs and expenses incurred in the construction of lighting district improvements shall be paid for by district bonds or warrants. Warrants or bonds must be issued in the denomination of $100 or fractions or multiples of $100; may be issued in installments; and may extend over a period not to exceed 20 years. Interest is to be payable annually on January 1 of each year.
MCA 7-12-4341 & 4342

STREET MAINTENANCE DISTRICTS

Creation: A resolution shall be adopted dividing the whole or any part of the city or town into street maintenance districts.

MCA 7-12-4402

Ordinance to Provide Method of Maintenance: The council shall provide by ordinance a method or methods of doing the work and improvements. Maintenance in districts may be done by contract or by the city or town employee workforce.
MCA 7-12-4401, 4404, & 4405

Note: "Maintenance" includes but is not limited to the activities listed in 7-12-4401(2). "Improvements" includes but is not limited to the activities listed in 7-12-4405(1)(b).

Note: Notice of the proposed ordinance must be published in accordance with the provisions of MCA 7-1-4127 (See CT01-General Topics).

Assessment of Costs: The cost of the maintenance shall be assessed against the entire district by one of the methods described below. **Note**: Assessable area means the portion of a lot or parcel of land that is benefited by the maintenance district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.

a. Are Option: Each lot or parcel of land within the district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire district, exclusive of streets, avenues, alleys, and public places.
b. Frontage Option: Each lot or parcel of land within the district abutting upon a street upon which maintenance is done may be assessed for that part of the cost that its street frontage bears to the street frontage of the entire district.
c. Lot Option: If the city or town council determines that the benefits derived from the maintenance by each lot or parcel of land are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the assessable area of the lot or parcel.
d. Taxable Value Option: Each lot or parcel of land, including the improvements thereon, may be assessed for that part of the cost of the district that its taxable valuation bears to the total taxable valuation of the property of the district.
e. Vehicle Trips Option: Each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification;
f. Any other assessment method provided in 7-11-1024 may be used; or
g. Any combination of the assessment options provided above may be used for the district as a whole or for any lot or parcel within the district.

MCA 7-12-4421 & 4422

Resolution: The council shall estimate the cost of maintenance in each established district annually, not later than the second (effective 10/1/2025) first Thursday after the first Tuesday in September. The council shall adopt a resolution specifying the district assessment option and levying and assessing all the property within the district with an amount equal to not less than 75% of the entire cost of the maintenance work. Notice of the resolution must be published in accordance with the provisions of MCA 7-1-4127 (See CT01-General Topics).
MCA 7-12-4425 & MCA 7-12-4426

Loans: Cities and towns are authorized to enter into suitable agreements with the United States of America, the state of Montana, or a building and loan association, savings and loan association, bank, or credit union that is a regulated lender as defined in 31-1-111 for loans of money and for receiving financial assistance to do the work and improvements contemplated by 7-12-4405; and provide for the repayment of the loans by yearly payments from funds derived from districts created under 7-12-4402, apportioned over a period of time not exceeding 20 years.
MCA 7-12-4429

STREET PARKING DISTRICTS

Note: Street Parking Districts are one type of SID provided for at MCA 7-12-4102(2)(d)

Abandonment of District: The mayor and council are authorized to abandon the maintenance of any street parking improvement district established in a city or town by the passage of a resolution of intention. The city or town clerk shall publish a notice of the intention to abandon, as provided in 7-1-4127 (See CT01-General Topics).
MCA 7-12-4501 & 4502

Duty of Property Owners: Following passage of the resolution of abandonment, it shall be the duty of all property owners owning property abutting said district to maintain such portion thereof abutting their property. Such abandonment, however, shall not relieve the property owners from the assessment and payment of a sufficient amount to liquidate all charges existing against said district prior to the date of abandonment.
MCA 7-12-4504

FIRE HYDRANT MAINTENANCE DISTRICTS

Creation: The city or town council shall pass a resolution of its intention to create a fire hydrant maintenance district, publish notice in a newspaper as specified in 7-1-4127, consider any protests, and finally adopt a resolution creating the district.
MCA 7-12-4602 to 4606

Assessment: The council shall estimate the cost of installing and maintaining fire hydrants each year, and before the first Monday in October must adopt a resolution levying and assessing the property within the district. For the purpose of making the assessment, the council shall adopt one of the following methods:

a. Area Option: Each lot or parcel of land within the district may be assessed for that part of the whole cost which its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places.
b. Frontage Option: Each lot or parcel of land within the district bordering or abutting the streets on which fire hydrants are located may be assessed in its lineal proportion to the total lineal feet bordering or abutting on such streets.

c. If the council determines that the area, frontage, or combination options are inequitable, it may assess the cost of fire hydrant installation and maintenance as follows
    a. Taxable Valuation Option: Each lot or parcel of land within the district may be assessed for that part of the whole cost that its taxable valuation, including improvements, bears to the taxable valuation of the entire district, or
    b. Water Meter Option: Each lot or parcel of land receiving service within the district may be assessed by apportioning the whole cost according to a ratio between the water meter size servicing each lot or parcel and the whole cost.

MCA 7-12-4611

The city council may assess the costs of fire hydrant maintenance through a resolution of assessment or it may collect the costs by assessing them along with water and sewer fees.
MCA 7-12-4612

EXEMPTIONS FROM SPECIAL ASSESSMENTS

Federal Property Exempt: Federal government property is exempt from special assessments. The cost related to the federal property shall be paid by the city or town from its general fund.
MCA 7-12-4173, MCA 7-12-4326

Water User Entities Exempt: Rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, equipment, machinery, motor vehicles, and other personal property owned by a nonprofit water company, water users' association, irrigation company, canal company, ditch company, reservoir company, or similar nonprofit water user entity are exempt from every special assessment imposed by any improvement or maintenance district created under Title 7, chapter 12.
MCA 7-12-4124, MCA 7-12-4345, MCA 7-12-4436, MCA 7-12-4511, MCA 7-12-4621

TAX DEED - ASSIGNMENT OF DELINQUENT ASSESSMENTS

Municipality as Assignee:
(1) At the request of a municipality and if the tax lien has not been assigned pursuant to 15-17-323, the county treasurer shall assign the tax lien on a property with delinquent special assessments to the municipality upon payment of costs and delinquent taxes, excluding delinquent assessments. The municipality is not required to pay penalties or interest.
(2) The county treasurer:
    (a) shall deliver to the treasurer of the municipality a copy of the tax lien certificate, which must be filed by the treasurer of the municipality;
    (b) may not charge a fee for an assignment certificate when a tax lien is assigned to a municipality; and
    (c) shall make an entry "sold to the municipality" on the property tax record and be credited with the delinquent taxes.
(3) Property sold to the municipality must be held in trust by the municipality for the improvement fund into which the delinquent special assessments are payable.

MCA 15-17-317

Assignment of Municipality's Interest: At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317 (see above), and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays (a) the purchase price paid by the municipality, (b) the delinquent assessments, (c) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month, and (d) penalties and costs as provided by law.
MCA 15-17-318(1)

This assignment by the municipality discharges the trust created under 15-17-317 (see above). The municipality may also discharge the trust by paying into the improvement fund the amount of the delinquent assessments and accrued interest.
MCA 15-17-318(3)

Sale or Lease & Disposition of Proceeds: A municipality may sell, donate, or lease property it acquires under 15-17-317 (see above). All money received by the municipality from the sale or lease of the land, after payment of the cost of sale, not to exceed $25, must be paid into the improvement fund to the extent of the delinquent assessments, interest, and penalties. The surplus, if any, must be paid to any revolving fund that secures the payment of special assessments or, if there are none, to the general fund of the city or town.
MCA 15-17-319

TRANSFER OF SID FACILITIES TO A UTILITY

Whenever a SID has been created for the purpose of providing the facilities through which a regulated utility is to provide utility services to the district, the commissioners may, upon such terms and conditions as may be agreed to, transfer the operation, control, and ownership of the facilities to the regulated utility for use by the utility to provide utility services.
MCA 7-12-4130

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

BUSINESS IMPROVEMENT DISTRICTS (BIDs)

REVISED DECEMBER 2025 REF: CT12

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ESTABLISHMENT OR EXPANSION OF A BUSINESS IMPROVEMENT DISTRICT (BID)

Upon receipt of a petition signed by the owners of more than 60% of the area of the property proposed in the petition, the governing body shall establish or expand a BID.
MCA 7-12-1111(1)

Resolution of Intention: The governing body shall pass a resolution of intention, designating the boundaries of the district. The district may not include areas that are zoned primarily as residential areas.
MCA 7-12-1111(3) & 1112(1)

Noncontiguous Areas: A district may be composed of noncontiguous areas if the properties in a district have a common purpose of providing overnight stays at lodging facilities. The boundaries of such a district must encompass all properties in the district with the same identified purpose.
MCA 7-12-1111(4)

Public Notice: Notice of passage of the resolution must be published as provided in 7-1-4127 (See CT01-General Topics). A copy of the notice must be mailed to every owner of real property within the proposed district or area of expansion.
MCA 7-12-1112(2)

Resolution of Creation or Expansion: If there are no or insufficient protests, or if any protests have been denied, the governing body shall pass a resolution creating or expanding the district in accordance with the resolution of intention.
MCA 7-12-1115

Duration of District: The period of duration of a BID is for the period specified in the resolution creating the district but shall not be for a period longer than 10 years unless the duration of the district is extended in compliance with the provisions of this part for the creation of a district.
MCA 7-12-1141

BOARD OF TRUSTEES

The city or town council shall appoint not less than five or more than seven owners of property within the district to compose the board of trustees of the district. The number of members of the board, once established, may be changed within these limits from time to time by subsequent resolutions of the city or town council.
MCA 7-12-1121(1) & (2)

Members of the board may not receive compensation.
MCA 7-12-1122(2)

Tourism BID: A BID may be created to aid in tourism, promotion, and marketing within the district. The director for a BID created for this purpose must be the executive director of a

nonprofit convention and visitors bureau, as defined in 15-65-101, if a nonprofit convention and visitors bureau is operating within the city or town council's jurisdiction.
MCA 7-12-1102(4) & 1121(1)

BUDGET AND WORK PLAN

At a time determined by the city council, the board of trustees shall submit to the municipality for approval a work plan and budget for the ensuing fiscal year. Following public notice that a work plan and budget have been submitted and that the municipality will levy an assessment to defray the cost of the work plan and budget, the city council shall hold a public hearing on objections to the work plan and budget, and after the hearing may modify the work plan and budget as it considers necessary and appropriate.
MCA 7-12-1132(1) & (3)

Liability Insurance Required: The city council may not approve the budget or the work plan unless the budget and the work plan provide for liability insurance coverage insuring the district, the board of trustees, and the municipality against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the council.
MCA 7-12-1143

Resolution for Levy of Assessment: After approval of the work plan and budget and to defray the cost of the work plan and budget for the next fiscal year, the city council shall by resolution levy an assessment upon all of the property in the district using as a basis one of the methods prescribed in 7-12-1133. A copy of the resolution must be delivered to the treasurer of the municipality to be placed on the tax roll and collected in the same manner as other taxes.
MCA 7-12-1132(4) & (5)

Tourism BID: A board created for the purpose of 7-12-1102(4) (i.e., to aid in tourism, promotion, and marketing within the district) in a municipality or county where a nonprofit convention and visitors bureau, as defined in 15-65-101, is operating shall consult with the nonprofit convention and visitors bureau in developing a work plan and budget for the ensuing fiscal year.
MCA 7-12-1132(2)

ASSESSMENT OF COSTS

At the same time that the board submits the annual budget and work plan to the city council the board shall also recommend to the city council a method of levying an assessment on the property within the district. In determining the method of assessment to be used, the city council shall consider the recommendations of the board. The municipality shall levy the assessment using one of the following methods:

(a) Area Option: each lot or parcel of land within the district may be assessed for that part of the whole cost that its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places;

(b) Lot Option: if the city council determines that the benefits derived by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the area of the lot or parcel;
(c) Flat Fee Option: if the city council determines that benefits derived by each lot or parcel are proportional, the city council may use standard criteria, such as individual occupancy or daily use, and make the assessment on a flat-fee basis based on the criteria;
(d) Taxable Valuation Option: each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the whole cost of the district that its taxable valuation bears to the total taxable valuation of the property of the district;
(e) Square Footage Option: each building may be assessed for that part of the whole cost of the district that the occupied or income-producing area of the building above the first floor bears to the area of the entire district;
(f) if the city council determines that benefits derived by each lot or parcel are disproportional, the city council may use classification criteria, such as location within the district, economic impact, or any other measurable criteria, in conjunction with methods of assessing fees outlined in (a) through (e). Each classification must have its own rate. There may not be more than six classifications upon which a charge is imposed;
(g) by using any combination of the assessment options provided in subsections (a) through (f).

MCA 7-12-1133(1) & (2)

NO DECREASE OF PUBLIC SERVICES

The city council may not decrease the level of public services in the district existing prior to the creation of the district unless the services at the same time are decreased throughout the jurisdictional area of the city council, nor may it transfer the financial burden of providing those services to the district. The city council may not discriminate in the provision of publicly funded services between areas included in such district and areas not so included.
MCA 7-12-1142

DEBT OF DISTRICT SOLELY THE RESPONSIBILITY OF DISTRICT

Obligations or debt of a BID are not obligations or debt of the municipality, and in no event is a debt or obligation of a BID payable out of any funds or properties of the municipality. Debts and obligations of a district are payable solely from the funds and properties of the district.
MCA 7-12-1144

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

MULTIJURISDICTIONAL SERVICE DISTRICTS

REVISED DECEMBER 2025 REF: CT13

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2009 LEGISLATURE – SB 57

Effective July 1, 2009, the 2009 Legislature enacted SB 57 revising laws relating to special districts. It established uniform standards for the creation, administration, and operation of special districts and repealed many prior provisions relating to special districts.

Multijurisdictional Service Districts: SB 57 specifically repealed the former statutory provisions relating to multijurisdictional service districts in Title 7, Chapter 11, Part 11, MCA. If a multijurisdictional service district was in existence on July 1, 2009, and if its boundaries are altered or if there is a change in its amounts or methods of assessment, the district will be subject to the provisions of the new legislation codified in Title 7, Chapter 11, Part 10, MCA – "Special Districts – Creation and Governance". Until that time, all existing districts will continue to be subject to the repealed provisions of Title 7, Chapter 11, Part 11, MCA – "Multijurisdictional Service Districts".

The Savings clause of the bill provides that the new legislation does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before July 1, 2009.

The Transition clause of the bill provides that a special district in existence on July 1, 2009, must comply with the new provisions upon (1) alteration of its boundaries or (2) a change in its amount or method of assessment. If dissolution is proposed for a special district in existence on July 1, 2009, the proposal is subject to the dissolution provisions of the new law (MCA 7-11-1029). A special district in existence on July 1, 2009, is required to comply with the additional reporting provisions of the new law (MCA 7-11-1014) only upon alteration of its boundaries.

SERVICES THAT MAY BE PROVIDED

Note: This section not repealed by L2009 SB57

A multijurisdictional service district may provide only those services that are authorized to be provided by local governments. The services that a multijurisdictional service district may provide are:

a. recreational programs other than park and recreation programs in a county park district established under Title 7, Chapter 11, Part 10;
b. road, street, and highway maintenance;
c. libraries;
d. jails;
e. dog control programs;
f. ambulance service;
g. dispatch service;
h. protection of human health and the environment, including scenic concerns and recreational activities for areas requiring or involving environmental reclamation;
i. health services and health department functions; and
j. maintenance or provision of any public infrastructure facility, project, or service.

MCA 7-11-1102

ADMINISTRATION OF DISTRICT

Note: This section was repealed by L2009 SB57 but is maintained in this compliance supplement for the purpose of auditing multijurisdictional service districts established prior to 7/1/2009.

A multijurisdictional service district must be administered according to an interlocal agreement among the participating jurisdictions within the district.
MCA 7-11-1111(1)

The governing body of a multijurisdictional service district may consist of the entire membership of all governing bodies of the participating jurisdictions, or it may be a joint board with representation as set forth in the interlocal agreement forming the district.
MCA 7-11-1111(2)

An interlocal agreement under this part may enlarge an existing service district or city or county library, but it may not supersede or void an existing contract or interlocal agreement under which the same service is currently provided to residents of one or more of the participating jurisdictions.
MCA 7-11-1111(3)

A library established under this part as a multijurisdictional service must be administered according to the provisions of 22-1-305 through 22-1-317 (Free Public Libraries).
MCA 7-11-1111(4)

FINANCING

Note: This section not repealed by L2009 SB57

Subject to MCA 15-10-420, local governments organizing a multijurisdictional service district are authorized to levy property taxes in an amount not to exceed that authorized for the district in accordance with 7-11-1007, and to appropriate funds derived from other than general tax revenue for the operation of the district.
MCA 7-11-1112(1)

Subject to 15-10-420, property taxes levied for a library established under this part as a multijurisdictional service must be added to taxes levied under 22-1-304 (Free Public Libraries).
MCA 7-11-1112(1)

A property tax levied for the purpose of financing the district may, for all agricultural property having an area greater than 10 acres, be levied only on the principal residential dwelling, if any, on the property.
MCA 7-11-1112(2)

OFFICES & BOARDS

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OFFICE HOURS

Unless otherwise provided by law, each officer shall keep the officer's office open for the transaction of business during the office hours determined by the governing body by resolution after a public hearing.
MCA 7-4-102(1)

City treasurers may, in the interest of the safekeeping of funds, securities, and records under their control, close their offices during the period from noon to 1 p.m. every day.
MCA 7-4-102(2)

The governing body of a third-class city or town may establish days and times when municipal offices are open to conduct business.
MCA 7-4-102(3)

MUNICIPAL OFFICERS IN GENERAL

Elected Officers: The officers of a city or town consist of one mayor, two council members from each ward, and one city judge. Except as noted below, and except as provided by 7-5-4410, these officers must be elected by the qualified electors of the city.
MCA 7-4-4101(1) & (2), 4102(1) & (2), 4103(1) & (2)

Exception - City Judge for a Third-Class City or Town: The governing body of a third-class city or town may be ordinance determine whether the office of city judge must be filled by appointment by the governing body or by election, or may appoint a justice of the peace or the city judge of another city as provided in 3-11-205.
MCA 7-4-4102(3) & 4103(3)

Appointees: The mayor, with the advice and consent of the council, may appoint the following officers:

a. In a first-class city, one city attorney, one city clerk, one city treasurer (or finance officer or clerk-treasurer), one chief of police, one assessor, one street commissioner, one city jailer, and one city surveyor. (MCA 7-4-4101(3))
b. In a second or third-class city, one city attorney, one city clerk (who is ex officio city assessor), one city treasurer (or clerk-treasurer), and one chief of police. (MCA 7-4-4102(4))
c. In a town, one clerk (who may be ex officio assessor and tax collector and a member of the council) and one marshal (who may be ex officio street commissioner). (MCA 7-4-4103(4))
d. In any city or town, any other officers necessary to carry out the provisions of MCA Title 7. (MCA 7-4-4101(3), 4102(4), & 4103(4))

OFFICE OF MAYOR

Presiding Officer of the Council: The mayor is the presiding officer of the council and shall sign the journals of the council and all warrants on the city treasury and decide all ties by vote. The mayor has no other vote.
MCA 7-5-4102(2)

Powers: The mayor may

a. with the consent of council, appoint and/or remove any nonelective officer;
b. supervise the discharge of official duty by all subordinate officers;
c. require of any of the officers of a city or town an exhibit of the officer's books and papers;
d. request that the governor call out the militia;
e. communicate to the council a statement of the affairs of the city or town, with recommendations that the mayor considers proper;
f. recommend to the council measures connected with the public health, cleanliness, and ornament of the city or town and the improvement of the government and finances that the mayor considers expedient;
g. call special meetings of the council;
h. cause to be presented, once in 3 months, a full statement of the financial condition of the city or town;
i. bid for the city or town on any property sold at a tax or judicial sale whenever the city or town is an interested party;
j. procure and have in the mayor's custody the seal of the city or town;
k. take and administer oaths;
l. perform other duties that may be prescribed by law or by resolution or ordinance of the council;
m. cause the ordinances of the city or town to be executed, may approve all ordinances and resolution of the council, and veto any objectionable part of a resolution or ordinance and approve the other parts.

MCA 7-4-4303, MCA 7-5-4102, MCA 7-5-4205

Appointment of Administrative Assistant: Although the City Council's contract and budget approval powers may affect the mayor's practical ability to provide a particular compensation amount to an administrative assistant or establish other employment conditions, they do not obviate his authority to fill that position without Council approval. Under 7-3-212, a mayor may appoint an administrative assistant without the approval of the City Council.
AGO#45, Vol. 41

CITY OR TOWN COUNCIL

Abolish Office: The city or town council may abolish, by a majority vote of the council, any office (except that of city judge), the appointment to which is made by the mayor with the advice and consent of the council and may discharge any officer so appointed.
MCA 7-4-4105

Consolidation of Offices: The city or town council may by ordinance consolidate any of the offices (except that of city judge), the appointment to which is made by the mayor with the advice and consent of the council and may require any of the elected officers to perform any of the duties of an appointed officer whose office has been abolished.
MCA 7-4-4106

Salaries: The council shall determine by ordinance or resolution the salaries and compensation of elected and appointed city officers and all city employees.
MCA 7-4-4201, MCA 7-5-4110

Bylaws, Ordinances, Orders & Resolutions: The city or town council has power to make and pass all bylaws, ordinances, orders, and resolutions not repugnant to the constitution of the United States or of the state of Montana or to the provisions of this title, necessary for the government or management of the affairs of a city or town, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of this title.
MCA 7-5-4101

The city council may also

a. condemn private property for any public use listed in 70-3-102; (MCA 7-5-4106)
b. take a census of the inhabitants of a city or town at any time; (MCA 7-5-4107)
c. provide for the city or town printing, through a contract let annually to the lowest bidder; (MCA 7-5-4108)
d. require from an officer at any time a report in detail of the transactions in that office or any matter connected with that office (MCA 7-5-4112)

Employee Holding Office of Councilman: A municipality may not enact an ordinance prohibiting city employees from holding the office of councilman.
AGO #81, Vol. 41

OFFICE OF MUNICIPAL CLERK

Duties of City or Town Clerk: The city or town clerk shall:

a. attend all meetings of the council and record and sign the proceedings thereof and all ordinances, bylaws, resolutions, and contracts passed, adopted, or entered into;
b. enter into the Ordinance Book all ordinances, resolutions, and bylaws passed and adopted by the council;
c. countersign and cause to be published or posted, as provided by law, all ordinances, bylaws, or resolutions passed and adopted by the council;
d. sign, number, and keep a record of all licenses, commissions, or permits granted or authorized by the council.
e. file and keep all records, books, papers, or property belonging to the city or town and deliver the documents or property to the clerk's successor when qualified.

MCA 7-4-4501, 4502, 4511, & 4512

Additional Duties of City Clerk: In addition, a **city** clerk shall:

a. take and administer oaths, but must not charge or receive any fees therefor;
b. make and certify copies of all records, books, and papers in the clerk's possession on the payment of fees that are allowed county clerks, which must be paid into the city treasury;
c. make and keep a complete index of the journal, ordinance book, finance book, and all other books and papers on file in the clerk's office.

MCA 7-4-4501 & 4502

OFFICE OF CITY ATTORNEY

The city attorney shall

a. appear before the city court and other courts and prosecute on behalf of the city;
b. serve upon the attorney general within 10 days of the filing or receipt a copy of any notice of appeal that the city attorney files or receives in a criminal proceeding;
c. when required, draft for the city council contracts and ordinances for the government of the city;
d. when required, give to the mayor or city council written opinions on questions pertaining to the duties and the rights, liabilities, and powers of the city; and
e. perform other duties that pertain to the functions of the city council or that the city council prescribes by resolution.

MCA 7-4-4604

Employment of Additional Counsel: The above does not prevent the city council from employing in special cases on a contract basis (1) the city attorney to perform services not specifically provided for under 7-4-4604; or (2) additional or other counsel.
MCA 7-4-4605

A third-class city may retain the county attorney to provide legal services for the city in cases not involving a conflict between the interests of the city and the county, either by an interlocal cooperation agreement or by mutual consent by the governing bodies of the city and county.
MCA 7-4-4606

CITY AND MUNICIPAL COURTS

A **city court** is established in each city or town, with jurisdiction as described in Title 3, Chapter 11, Part 1. A city judge must meet the qualifications of a justice of the peace (JP). A **municipal court** may be established in a city with a population of 4,000 or more if the governing body elects to do so by two-thirds majority vote. The jurisdiction of municipal courts is described in Title 3, Chapter 6, Part 1. A municipal judge must meet qualifications similar to those of a judge of a district court.

Judges: The governing body of a city may determine by ordinance the number of judges required to operate a city or municipal court. The governing body must also set the salary of city or municipal court judges by ordinance or resolution. Each city and municipal court judge shall

receive actual and necessary travel expenses, as provided in 2-18-501 through 2-18-503, incurred in the performance of official duties.
MCA 3-6-201 & 203, MCA 3-11-201 & 202

In a town or third-class city, the council may designate a JP or the city judge of another city or town to act as **city** judge. The city or town may by ordinance fix the funding for the judge and enter into an agreement with the county, the other city or town, or the JP or judge for payment of salaries and training expenses. If the JP or city judge of another city or town is required to travel from his/her place of residence to hold court, the JP or judge must be paid the actual and necessary travel expenses, as provided in 2-18-501 through 2-18-503, by the town or city in which the court is held.
MCA 3-11-205

Legal Education/Training:
A **municipal** court judge must meet continuing judicial education requirements (a minimum of 15 hours) each year and is entitled to reimbursement for all actual and necessary expenses and costs incurred in attending continuing judicial or legal education courses.
MCA 3-6-202

A **city** court judge must attend two mandatory annual training sessions and is entitled to reimbursement for all actual and necessary travel expenses, as provided in 2-18-501 through 2-18-503, and the costs of registration, books and other materials related to the sessions.
MCA 3-11-204

Records: City or municipal courts must maintain at least the minimum records required by State statutes. The records in civil causes must conform as nearly as possible to the records of district courts. In criminal cases, in cases arising under city ordinances, and in cases mentioned in MCA 3-11-103, the records must be similar to the records now kept in JP courts.
MCA 3-11-206, MCA 3-6-302

At a minimum, the court shall maintain a docket that details each proceeding or action, as specified in MCA 3-5-508, for civil causes, and as specified in MCA 3-10-501, for cases required to adhere to the standards for JP courts. (See CO14 for a list of records to be maintained for JP courts.)

The records of the court must be kept by the clerk, if there is one for that court.

Municipal courts must have a clerk of the court, while in city courts the governing body may provide a clerk of city court.
MCA 3-6-301, MCA 3-11-206(1)(b)

FullCourt System: FullCourt is a court case management system that has been deployed by the State Office of the Court Administrator in all but a handful of Limited Courts (where the Judge opted out of the program). The system allows the court to record all case specific information in a central database, e.g., parties, attorneys, actions, hearings, judgments, dispositions, etc. It also includes a financial component that supports the entry and distribution of all filing fees, fines and

court ordered costs. Reports have been developed to comply with the statutorily referenced judgment book reports and case indexes.

Fees: Fees assessed in municipal court may not exceed the fees authorized to be paid to a justice's court in 25-31-112. (See CO14 for fees collected in justice courts.)
MCA 25-30-102(1)(b)

Fees and Fines: All fees and fines collected by a city or municipal court must be paid into the city treasury.
MCA 25-30-102(1)(a), MCA 46-17-402(1) – municipal court
MCA 46-17-303(1) – city court

Although not designated in the statutes, these collections are generally deposited in the city/town general fund.

Collection Agency: The court may contract with a private person or entity for the collection of any final judgment that requires a payment to the court. In such an event, the court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit or other lawful collection procedure and other post-judgment remedies in its own name. The court, after deducting the charges provided for in 46-18-236 (See below – Surcharge Upon Conviction or Forfeiture), may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the court must be added to the judgment amount.
MCA 25-30-102(2), MCA 46-17-303(2), MCA 46-17-402(2)

Surcharge Upon Conviction or Forfeiture: In all courts of original jurisdiction, upon an individual's criminal conviction or forfeiture of bond or bail, there must be imposed a charge that is in addition to any other costs, fees or fines. These amounts are as follows: (a) 15 for each misdemeanor charge, (b) the greater of $20 or 10% of the fine levied for each felony charge and (c) an additional $50 for each misdemeanor and felony charge under Title 45 or MCA 61-8-1002.
MCA 46-18-236(1)

The charges described above under (a) and (b) above are to be deposited with the city/town finance officer or treasurer and may be used to pay the salaries of the city or town attorney and deputies.
MCA 46-18-236(5) & (6)

The charge described above under (c) is to be distributed as follows:

<u>If the city/town operates or uses a victim and witness advocate program</u> that provides the services specified in MCA Title 40, Chapter 15, and Title 46, Chapter 24, $49 of the $50 shall be used for payment of the expenses of that program. (BARS Fund #2917) The other $1 shall be deposited in the fund that pays the collecting court's administrative costs incurred in the collection of the charge (usually the city/town general fund). **<u>Note</u>:** This $1 is not subject to allocation under 46-18-251, as discussed below.

If the city/town does not operate or use a victim and witness advocate program, $49 of the $50 collected under (c) above must be paid to the crime victims compensation and assistance program in the department of justice***. The other $1 is distributed as described above.
MCA 46-18-236(7)

***The city remits this money to the county treasurer. The county treasurer then includes this collection in the county's monthly collection report to the Department of Revenue.

Court Information Technology Surcharge: In courts of original jurisdiction, a $10 surcharge (that is not a fee or fine and is in addition to other court cost, fees, or fines) is imposed: (a) on a defendant in criminal cases upon conviction or upon forfeiture of bond or bail; (b) on the initiating party in civil and probate cases, at the commencement of each action, proceeding, or filing; and (c) on each defendant or respondent in civil cases upon appearance. This surcharge is to be forwarded to the State*** (BARS Fund No. 7458) for deposit in the State general fund, for state funding of court information technology.
MCA 3-1-317

***The city remits this money to the county treasurer. The county treasurer then includes this collection in the county's monthly collection report to the Department of Revenue.

Montana Law Enforcement Academy Surcharge: In courts of limited jurisdiction, a $10 surcharge that is in addition to any fine, court costs, or fees is imposed on a defendant who is convicted of criminal conduct or who forfeits bond. This surcharge is to be deposited in the court-appointed special advocate account established in 3-1-707.
MCA 3-1-318

Allocation of Payments: If a misdemeanor offender is subject to any combination of fines, costs, restitution, charges, Effective 10/1/2023: interest, or other payments arising out of the same criminal proceeding, 50% of all money collected from the defendant must be first applied to payment of restitution and the balance must be applied to these other payments, in the order listed in MCA 46-18-251(2). I.e., surcharges imposed pursuant to 46-18-236** first, then supervisory fees imposed pursuant to 46-23-1031, then costs imposed pursuant to 46-18-232 or 46-18-233, then fines imposed pursuant to 46-18-231 or 46-18-233, and then any other payments ordered by the court.
MCA 46-18-251(1) & (2)

Note: A felony offender shall pay restitution Effective 10/1/2023: and interest on restitution to the department of corrections, and other fines and costs must be paid to the court and allocated as provided here.)

**The funds deposited under MCA 46-18-236(7)(b) are not subject to this allocation. I.e., the $1 deposited to the fund that pays the collecting court's administrative costs incurred in the collection of the surcharge.

The money applied to the payment of restitution must be paid in the following order: (a) to the victim; (b) to the State crime victims compensation and assistance program; (c) to any other

government agency that has compensated the victim; and (d) to any insurance company that has compensated the victim.
MCA 46-18-251(3)

BOARDS IN GENERAL

If a municipality creates a special district in accordance with Title 7, chapter 11, part 10 (Special Districts – Creation and Governance)***, the governing body of the municipality shall comply with this section (i.e., 7-1-201) if the governing body chooses to have the special district governed by a separate board.
MCA 7-1-201(15)

***A special district must be administered and operated either by the governing body or by a separate elected or appointed board as determined by the governing body. If the special district is governed by a separate board, the board must be established in accordance with Title 7, chapter 1, part 2, except as provided in 7-11-1010, and specific powers and duties granted to the board and those specifically withheld must be stated. The governing body may grant additional powers to the board. The governing body has ultimate authority under this subsection.
MCA 7-11-1021

A city or town council may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law.
MCA 7-1-201(1)

Resolution: The resolution creating an administrative board, district, or commission must: (a) specify the number of board, district, or commission members; (b) specify the terms of the members; (c) specify whether members are entitled to mileage, per diem, expenses, and salary; (d) specify any special qualifications for membership in addition to those established by law; (e) grant the board, district, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district; and (f) contain, if applicable, budgeting and accounting requirements for which the board, district, or commission is accountable to the county commissioners. If authorized by resolution, an administrative board, district, or commission may employ personnel.
MCA 7-1-201(1) & (2)(c)

An administrative board, district, or commission may not: (a) pledge the credit of the municipality or impose a tax unless specifically authorized by state law, and (b) sue or be sued independently of the local government unless authorized by state law.
MCA 7-1-201(2) & (4)

Members of Boards: Members must be appointed by the city or town council, and the council shall maintain a register of appointments (see detail to be included in register at MCA 7-1-201(5)). **Note**: Subsection 3 also provides that members may be made elective.) There must be a minimum of 3 members, and there must be an odd number of members. Terms of all members, except elected members, may not exceed 4 years. Unless otherwise provided by resolution, or as

provided in 7-11-1010, members shall serve terms beginning on July 1 and shall serve at the pleasure of the city or town council. A person may be removed from an administrative board, district, or commission for cause by the city or town council or as provided by resolution.
MCA 7-1-201(5) to (8) & (13)

An administrative board, district, or commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member, and shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the city or town council.
MCA 7-1-201(10) & (11)

Service on more than one special purpose district board authorized in small communities — definitions. (1) In a small community a person may serve on more than one special purpose district board, regardless of whether the person is appointed or elected as provided by law.
(2) (a) A person seeking election to more than one special purpose district board may run for more than one position only if the person runs unopposed for all potential positions. (b) If a position was unopposed at the time the person filed for the position and later becomes opposed during the course of an election campaign, the person running for more than one special purpose district board shall choose to run for one preferred special purpose district board and withdraw candidacy from all other special purpose district board positions.
(3) For the purposes of this section, the following definitions apply: (a) "Small community" means an area that fully encompasses more than one special purpose district and includes fewer than 500 electors, as defined in 13-1-101. (b) "Special purpose district" has the meaning provided in 13-1-101. (c) "Unopposed" means the number of candidates at the time of the election for each special purpose district board position is equal to or less than the number of positions available on each respective board.
MCA 7-1-205

AIRPORT BOARDS

Acquisition and Establishment of Airports: Counties, cities, and towns may, either individually or by the joint action of a county and one or more of the cities and towns within the county, acquire land for airport purposes. The local governments may, either individually or jointly, use the land to establish, construct, own, control, lease, equip, improve, operate, and regulate airports for the use of airplanes and other aircraft. A multijurisdictional airport is not required to be located, in whole or in part, within the limits of each subdivision participating in the joint venture.
MCA 67-10-102

Creation of Board: The county, city, or town may create a board or body from the residents of the county, city, town, or joint subdivision of the state and may confer upon the board or body the jurisdiction for the improvement, equipment, maintenance, and operation of the airport. The board of county commissioners, the city or town council, or the board of county commissioners and the council or councils under a joint venture may adopt rules and establish fees or charges for the use of the airport or may authorize the board or body to do so, subject to the approval of

the appointing power before the fees or charges may take effect. All expenses are a charge against the county, city, or town, or when acting jointly, against the joint subdivision of the state and must be apportioned according to benefits to accrue, the proportion to be paid by each to be fixed in advance by joint resolution of the governing bodies.
MCA 67-10-202, 204, 205, & 206

Joint Fund: For the purpose of providing a joint board with moneys for necessary expenditures, a joint fund shall be created and maintained into which shall be deposited the share of each of the constituent public agencies as provided by the joint agreement. Each of the constituent public agencies shall provide its share of the fund from sources available to each. Any federal, state, or other contributions or loans and the revenues obtained from the joint ownership, control, and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund. Disbursements from such fund shall be made by order of the board, subject to the limitations prescribed in 67-10-205(2).
MCA 67-10-206

The total expenditures to be made by the joint board for any purpose in any calendar year must be determined by a budget approved by the governing bodies of its constituent public agencies. Property, the cost of which is in excess of sums fixed by the joint agreement or allotted in the annual budget, may not be acquired by the joint board without the approval of the governing bodies of its constituent public agencies. Eminent domain proceedings and disposal of property may be instituted only by authority of the governing bodies of the constituent public agencies of the joint board.
MCA 67-10-205(2)

Tax levy and Indebtedness: Subject to 15-10-420, the county commissioners or the city or town council may each year assess and levy a tax on the taxable value of all taxable property in the county, city, or town for airports and ports. In the event of a jointly established airport or port, the county commissioners and the city or town council or councils involved shall determine in advance the levy necessary for those purposes and the proportion that each political subdivision joining in the venture is required to pay. If the levy is insufficient, the commissioners and councils are authorized and empowered to contract an indebtedness on behalf of the county, city, or town by borrowing money or issuing bonds for those purposes. However, bonds may not be issued until the proposition has been submitted to the qualified electors and approved by a majority vote.
MCA 67-10-402(1) to (3)

Reserve Fund: For the purpose of establishing a reserve fund to resurface, overlay, or improve existing runways, taxiways, and ramps, the governing bodies may set up annual reserve funds in their annual budget if: (a) the reserve is approved by the governing bodies during the normal budgeting procedure; (b) the necessity to resurface or improve runways by overlays or similar methods periodically is based upon competent engineering estimates; and (c) the funds are expended at least within each 10-year period.
MCA 67-10-402(4) & (5)

LIBRARY BOARDS

This section of the Compliance Supplement relates to public libraries established by counties or cities and does not relate to Library Districts. State law related to Library Districts is found at Title 22, Chapter 1, Part 7.

Creation of Public Library: A public library may be established in any county or city in any of the following ways: (1) The governing body of any county or city may pass and enter upon its minutes a resolution to the effect that a free public library is established. (2) A public library may be established by a petition that is signed by not less than 10% of the resident taxpayers and that is filed with the governing body requesting the establishment of a public library. The governing body of a city or county shall set a time of meeting at which it may by resolution establish a public library. (3) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election, the governing body shall submit to a vote of the qualified electors at the next general election the question of whether a free public library is to be established. If the petition specifically asks that a special election be called and the petition is signed by 35% of the resident freeholders, then the governing body shall immediately set a date for a special election. The special election must be held in conjunction with a regular or primary election.
MCA 22-1-303

Board of Trustees – Appointment, Term & Compensation: Upon the establishment of a public library under the provisions of this part, the mayor, with the advice and consent of the city council or commission, shall appoint a board of trustees for the city library. The library board must consist of five trustees. Not more than one member of the governing body may be, at any one time, a member of the board. Trustees shall serve for 5-year terms and may not serve more than two full terms in succession.
MCA 22-1-308

Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.
MCA 22-1-308(3) & 317(3)

Board of Trustees – Powers & Duties: The library board of trustees shall have exclusive control of the expenditure of the public library fund, of construction or lease of library buildings, and of the operation and care of the library. The library board of trustees of every public library shall:

(1) adopt bylaws and rules;
(2) establish and locate a library and may establish branches as deemed necessary;
(3) have the power to contract, and to pay out or receive funds to pay costs of such contracts;
(4) have the power to acquire, to own and hold, and to sell, exchange or otherwise disposal of real and personal property;
(5) pay necessary expenses of members of the library staff when on business of the library;
(6) prepare an annual budget, for submission to the appropriate agency of the governing body. A separate budget request shall be submitted for new construction or for capital improvement of existing library property.

(7) make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement, and shall also submit an annual report to the state library.
(8) have the power to accept gifts, grants, donations, devises, or bequests of property, real or personal, from whatever source and to expend or hold, work, and improve the same for the specific purpose of the gift, grant, donation, devise, or bequest. These gifts, grants, donations, devises, and bequests shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.
(9) exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

MCA 22-1-309

Chief Librarian & Other Personnel: The board of trustees of each library shall appoint and set the compensation of the chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. With the recommendation of the chief librarian, the board shall employ and discharge such other persons as may be necessary in the administration of the affairs of the library, fix and pay their salaries and compensation, and prescribe their duties.
MCA 22-1-310

Library Trustees Independent of County Control**: County library trustees have direct responsibility for administering county libraries in a manner largely independent of city or county control. Even though library employees may be considered city or county employees for certain purposes, the library trustees' express authority to fix such employees' compensation prohibits County Commissioners from establishing a different wage level. A Board of County Commissioners may not modify the decision of county library trustees concerning wage and salary amounts for library employees, may not modify an annual library budget adopted by the county library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the county library trustees.
AGO #19, Vol. 41; See also AGO #3, Vol. 48

****Note**: Although the opinion related to a county, the same statutes apply to cities and towns, and it appears that the holding would also apply to those types of entities.

Financing - Tax Levy or Bonds: Subject to 15-10-420, the governing body of a city or county that has established a public library may levy a tax in the amount necessary to maintain adequate public library service. The governing body of a city or county may by resolution submit the question of imposing a tax levy to a vote of the qualified electors as provided in 15-10-425 OR upon a petition signed by not less than 5% of the resident taxpayers requesting an election for the purpose of imposing a mill levy, the governing body shall submit to a vote of the qualified electors, as provided in 15-10-425, the question of imposing the mill levy.
MCA 22-1-304(1) & (2)

Bonds may be issued by the governing body for the following purposes: (a) building, altering, repairing, furnishing, or equipping a public library or purchasing land for the library; (b) buying a bookmobile or bookmobiles; and (c) funding a judgment against the library.
MCA 22-1-304(5)

Public Library Fund: The proceeds of the tax constitute a separate fund called the public library fund (BARS Fund #2220) and may not be used for any purpose except those of the public library. Money may not be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.
MCA 22-1-304(3) & (4)

Library Depreciation Reserve Fund: The governing body of any city or county may establish a library depreciation reserve fund for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve city, county, or city-county library services. Moneys for the library depreciation reserve fund are those funds which have been allocated to the library in any year but which have not been expended by the end of the year.
MCA 22-1-305 & 306

Joint City-County Library: A county and any cities within the county, by action of their respective governing bodies, may join in establishing and maintaining a joint city-county library under the terms of a contract agreed upon by all parties. Expenses of a joint library must be apportioned between or among the county and cities on the basis agreed upon in the contract. The treasurer of the county or of a participating city, as provided in the contract, has custody of the funds of the joint library, and the other treasurers of the county or cities shall transfer quarterly to the designated treasurer all money collected for the joint library. The contract must provide for the disposition of property upon dissolution of the joint library.
MCA 22-1-316

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

TAX LIEN SALES, REDEMPTIONS, AND TAX DEEDS

REVISED DECEMBER 2025 REF: CT15

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TAX LIEN SALES

When City/Town Collects Taxes and Special Assessments: When any taxes or assessments become delinquent, a tax lien sale may not be held by the city or town unless the city treasurer or town clerk, within 10 working days after the date on which the taxes or assessments become delinquent, certifies the delinquent taxes and assessments to the county treasurer of the county. Upon receipt of the certificate, the county treasurer shall enter the delinquent taxes and assessments in the delinquent tax list of the county, and the county treasurer in selling property for delinquent taxes shall include all city and town delinquent taxes and assessments. There may be only one sale for each piece of property. The sale must cover the aggregate of the city, town, county, and state taxes and special assessments, including penalties, interest, and costs provided by law.
MCA 7-6-4423

When the payment of an installment of a special assessment becomes delinquent, all payments of subsequent installments may, at the option of the city or town council and upon adoption of the appropriate resolutions, become delinquent. The city or town may, pursuant to 7-12-4184, order that all assessments that are delinquent for specific parcels of land as a result of acceleration be withdrawn. Upon delinquency in one or all installments, the whole property must be sold the same as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.
MCA 7-12-4182(2)

When County Collects Municipal Tax: All publications of sales for delinquent taxes shall include city or town taxes. There is only one sale for each piece of property. The sale shall cover the aggregate of city or town, county, and state taxes, with the penalties, interest, and cost of advertising provided by law.
MCA 7-6-4414

When County Collects Municipal Tax but City/Town Collects Special Assessments: When the payment of any one installment of any special assessment becomes delinquent, all payments of subsequent installments must, at the option of the city or town council and by appropriate resolution duly adopted, become delinquent. The city or town council may order that all assessments that are delinquent as a result of acceleration be withdrawn. Delinquent special assessments must be certified to the county clerk of the county in which the city or town is situated. The county treasurer shall collect the delinquent special assessments and taxes in the same manner and at the same time that taxes for general, municipal, and administrative purposes are collected. In case the delinquent assessments and taxes are not paid, the whole property must be sold in the same manner that other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.
MCA 7-12-4183(2)

ASSIGNMENT TO MUNICIPALITY

(1) At the request of a municipality and if the tax lien has not been assigned pursuant to 15-17-323, the county treasurer shall assign the tax lien on a property with delinquent special assessments to the municipality upon payment of costs and delinquent taxes, excluding delinquent assessments. The municipality is not required to pay penalties or interest.
(2) The county treasurer:

(a) shall deliver to the treasurer of the municipality a copy of the tax lien certificate, which must be filed by the treasurer of the municipality;
(b) may not charge a fee for an assignment certificate when a tax lien is assigned to a municipality; and
(c) shall make an entry "sold to the municipality" on the property tax record and be credited with the delinquent taxes.

(3) Property sold to the municipality must be held in trust by the municipality for the improvement fund into which the delinquent special assessments are payable.
MCA 15-17-317

Special Assessment Liens Extinguished:
If a county assigns its interest as purchaser of a tax sale certificate, it must collect from the assignee all delinquent taxes, including penalties, interest, and costs, accruing from the date of delinquency. The only exception is if the county assigns its interest to a municipality under this section, in which case a municipality is excused from paying delinquent assessments.
AGO #38, Vol. 43

If either a county or a municipality takes a tax deed to property pursuant to 15-18-211, the granting of the tax deed extinguishes the lien created by any special assessment against the property that becomes payable ***prior*** to the issuance of the deed but leaves unaffected any lien created by a special assessment that first becomes payable ***after*** issuance of the deed.
AGO #38, Vol. 43

A county treasurer may not require delinquent special improvement district assessments to be paid in addition to the sale price of tax deed land because when a tax deed is issued, special assessment liens that were due and payable at that time are extinguished. However, the county treasurer must apply the sale proceeds of the land to delinquent assessments, as provided in 7-8-2306.
AGO #24, Vol. 45

SALE OF TAX DEED LAND

Assignment of Municipality's Interest: At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317 (see above), and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays (a) the purchase price paid by the municipality, (b) the delinquent assessments, (c) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month, and (d) penalties and costs as provided by law. (**Note:** The amount of the penalty to be charged is 2% and "costs" are defined at MCA 15-17-121.)

MCA 15-17-318(1)

This assignment by the municipality discharges the trust created under 15-17-317 (see above). The municipality may also discharge the trust by paying into the improvement fund the amount of the delinquent assessments and accrued interest.
MCA 15-17-318(3)

Sale or Lease & Disposition of Proceeds: A municipality may sell, donate, or lease property it acquires under 15-17-317 (see above). All money received by the municipality from the sale or lease of the land, after payment of the cost of sale, not to exceed $25, must be paid into the improvement fund to the extent of the delinquent assessments, interest, and penalties. The surplus, if any, must be paid to any revolving fund that secures the payment of special assessments or, if there are none, to the general fund of the city or town.
MCA 15-17-319

Subsequent Assessments: For property that is acquired by a municipality as provided in 15-17-317, subsequent installments of the special assessment or assessments, if any, and other special assessments not then delinquent must be levied, and taxes for the following years must be assessed in the same manner as if the property had not been so acquired. If the special assessments or installments thereof or taxes are not paid when due, the property is again subject to the attachment of a tax lien in the manner provided by law and the levies of special assessments, assessments of taxes, and the attachment of a tax lien for delinquent special assessments and taxes must continue until the time when the property has been redeemed.
MCA 15-17-320

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

SPECIAL DISTRICTS

REVISED DECEMBER 2025 REF: CT16

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INTRODUCTION

The 2009 Legislature enacted legislation (SB 57) that revised the laws relating to special districts. SB 57 established uniform standards for the creation, administration, and operation of special districts, and repealed specific provisions relating to many special districts.

SB 57 Effective date: July 1, 2009.

The Savings clause of the bill provides that the new legislation does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before July 1, 2009.

The Transition clause of the bill provides that a special district in existence on July 1, 2009, must comply with the new provisions upon (1) alteration of its boundaries or (2) a change in its amount or method of assessment. If dissolution is proposed for a special district in existence on July 1, 2009, the proposal is subject to the dissolution provisions of the new law (MCA 7-11-1029). A special district in existence on July 1, 2009, is required to comply with the additional reporting provisions of the new law (MCA 7-11-1014) only upon alteration of its boundaries.

GENERAL – DEFINITIONS

"Special district" is defined as a unit of local government that is authorized by law to perform a single function or a limited number of functions.

The term **includes but is not limited to** cemetery districts, museum districts, park districts, fair districts, solid waste districts, local improvement districts, mosquito control districts, multijurisdictional districts, road districts, rodent control districts, television districts, and districts created for any public or governmental purpose not specifically prohibited by law. The term also includes any district or other entity formed to perform a single or limited number of functions by interlocal agreement.

A special district in existence on July 1, 2009, continues in existence and remains subject to the provisions of the statutes under which it was created or established, as those statutes existed on June 30, 2009.
MCA 7-11-1004

NOTE: Specific statutes related to these special districts have been repealed, although any of these special district types in existence prior to July 1, 2009, may continue to apply provisions of the repealed sections until district boundaries are altered or there is a change in amount or method of assessment for the district, as discussed in the Introduction, above. See Table below for specific statutory authority for these districts that can be found in MCA prior to the 2009 Legislative Session.

The term **does not include** business improvement districts, cattle protective districts, conservancy districts, conservation districts, water and sewer districts, planning and zoning districts, drainage districts, grazing districts, hospital districts, irrigation districts, library districts, livestock protective committees, parking districts, resort area districts, rural improvement

districts, special improvement districts, lighting districts, rural fire districts, street maintenance districts, tax increment financing districts, urban transportation districts, water conservation and flood control projects, and weed management districts.

NOTE: Specific statutes related to these special districts are still applicable – these types of districts do NOT fall under this Part. See Table below.

"Governing body" is defined as the legislative authority of a local government – i.e., county commissioners or the city or town council or commission.

"Local government" is defined as a city, town, county, or consolidated city-county government or any combination of these acting jointly.
MCA 7-11-1002

CREATION OF SPECIAL DISTRICT

Authorization to create special districts:

The **governing body** may (1) create a special district by resolution pursuant to 7-11-1007, 7-11-1008, and the provisions of 7-11-1009, if applicable; or (2) order a referendum on the creation of a special district as provided in 7-11-1011 and the provisions of 7-11-1009, if applicable.
MCA 7-11-1003(1)(a)

Petitioners may initiate the creation of a special district, as provided in MCA 7-11-1003(2).
MCA 7-11-1003(1)(b)

CREATION OF DISTRICT - PETITION

Upon receipt of a petition to institute the creation of a special district that is signed by at least 40% of the registered voters or by the owners of at least 40% of the real property within the boundary of the proposed special district and that is submitted to the clerk of the governing body, the governing body shall commence proceedings to create a special district as provided in subsection (1)(a).
MCA 7-11-1003(2)(a)

Form of Petition: The form of the petition may be prescribed by the governing body, and the clerk of the governing body shall verify the signatures on the petition, but the petition must:

a. require the printed name of each signatory;
b. specify whether the signatory is a property taxpayer or owner of real property within the proposed special district and either the street address or the legal description, whichever the signatory prefers, of that property;
c. describe the type of special district being proposed and the general character of any proposed improvements and program to be administered within the special district;

d. designate the method of financing any proposed improvements or maintenance program within the special district;
e. include a general description of the areas to be included in the proposed special district; and
f. specify whether the proposed special district would be administered by the governing body or an appointed or elected board.

MCA 7-11-1003(2)(b) & (c)

Petition Accepted or Rejected: Within 60 days of receipt of a petition to create a special district, the clerk of the governing body shall (a) certify that the petition is sufficient under the above provisions and present it to the governing body at its next meeting; or (b) reject the petition if it is insufficient under the above provisions. A defect in the contents of the petition or in its title, form of notice, or signatures may not invalidate the petition and subsequent proceedings as long as the petition has a sufficient number of qualified signatures attached.
MCA 7-11-1003(3) & (4)

CREATION OF DISTRICT - DISTRICT BOUNDARIES

The boundaries of the proposed special district must be mapped, clearly described, and made available to the public at the time of the publication of the notice of public hearing pursuant to 7-11-1007 before the district may be approved. The governing body or petitioners shall consult with a professional land surveyor, as defined in 37-67-101, to prepare a legal description of the boundaries for the proposed special district. The boundaries must follow property ownership, precinct, school district, municipal, and county lines as far as practical.
MCA 7-11-1006

CREATION OF DISTRICT - RESOLUTION AND PUBLIC HEARING

The governing body shall hold at least one public hearing concerning the creation of a proposed special district prior to the passage of a resolution of intention to create the special district. A resolution of intention may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-1003(1)(b).
MCA 7-11-1007(1)

The resolution must designate, consistent with the requirements of 7-11-1009 and 7-11-1024:

a. the proposed name of the special district;
b. the necessity for the proposed special district;
c. a general description of the territory or lands to be included within the proposed special district, giving the boundaries of the proposed special district;
d. the general character of any proposed improvements and the proposed location for the proposed program or improvements;
e. the maximum rate or amount of the initial proposed assessments or fees that would be imposed;

f. the method of financing the proposed program or improvements;
g. any requirements specifically applicable to the type of special district;
h. whether the proposed special district would be administered by the governing body or an appointed or elected board; and
i. the duration of the proposed special district.

MCA 7-11-1007(2)

Public Notice: The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 (Counties - See CO01-General Topics) or 7-1-4127 and 7-1-4129 (Cities & Towns - See CT01-General Topics), as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.
MCA 7-11-1007(3)(a)

At the same time that notice is published, the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district.
MCA 7-11-1007(3)(b)

A copy of the notice must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to above, as shown by the current property tax record maintained by the department of revenue for the county.
MCA 7-11-1007(3)(c)

CREATION OF DISTRICT - PROTEST PROCEDURES

An owner of property that is liable to be assessed for the program or improvements in the proposed special district has 60 days from either the date of the first publication of the notice of passage of the resolution of intention or the date the protest form provided in subsection (2)(c) (see below) was sent to property owners, whichever is later, to make a written protest against the proposed program or improvements.
MCA 7-11-1008(1)

A property owner may register a written protest under either subsection (2)(b) or (2)(c).
A property owner may register a written protest in any format in conformity with this section. The protest must identify the property in the district owned by the protestor by either its street address or its legal description, whichever the property owner prefers, be signed by a majority of the owners of that property, and be delivered to the clerk of the governing body, who shall endorse on the protest the date of receipt.
MCA 7-11-1008(2)(a) & (b)

The governing body shall send each person referred to in 7-11-1007(3)(c) a protest form with space for any information required under subsection (2)(b) of this section, mailing instructions, and the date the form must be returned to the governing body. The form must allow a property owner to select either support for or opposition against the creation of the district. The forms

returned with an indication of either support for or opposition against the creation of the district may be used, along with written protests submitted under subsection (2)(b), in determining whether sufficient protest has been filed to prevent further proceedings.
MCA **7**-11-1008(2)(c)

For purposes of this section, "owner" means, as of the date a protest is filed, a record owner of fee simple title to the property or a contract buyer on file with the county clerk and recorder. The term does not include a tenant of or other holder of a leasehold interest in the property. An owner of property created as a condominium may protest pursuant to the provisions in 7-11-1027.
MCA 7-11-1008(3) & (4)

At the hearing provided for in 7-11-1007, the governing body shall consider all protests.
MCA 7-11-1008(5)(a)

If the protest is made by the owners of property in the proposed district to be assessed for:

(i) 50% or more of the cost of the proposed program or improvements, in accordance with the method or methods of assessment, further proceedings may not be taken by the governing body for at least 12 months; or

(ii) more than 10% but less than 50% of the cost of the proposed program or improvements, in accordance with the method or methods of assessment, and if the governing body decides to proceed with proposing the district, the governing body shall order a referendum in accordance with 7-11-101.

MCA 7-11-1008(5)(b)

In determining whether or not sufficient protests have been filed in the proposed special district to prevent further proceedings, property owned by a governmental entity must be considered the same as any other property in the district.
MCA 7-11-1008(5)(c)

The decision of the governing body is final and conclusive.
MCA 7-11-1008(5)(d)

JURISDICTIONWIDE SPECIAL DISTRICTS

(1) This section applies to a special district created under this part by resolution as allowed in 7-11-1007 and 7-11-1008 or by referendum as allowed in 7-11-1011 that encompasses the entire jurisdictional area of a local government as defined in 7-11-1002(2).

(2) (a) If the governing body seeks to create a special district by resolution pursuant to 7-11-1007 and 7-11-1008, the governing body may not increase the total amount assessed by the district above the amount set forth in the resolution as required by 7-11-1007(2)(e) in a subsequent year by more than the lesser of the following calculated values:

(i) the average of the total amount assessed by the district in each of the previous 5 years multiplied by the average rate of inflation since the inception of the district; or

(ii) the total amount assessed by the governing body in the year the district was created multiplied by the average rate of inflation since the inception of the district.

(b) The rate of inflation referenced in subsections (2)(a)(i) and (2)(a)(ii) must be calculated using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(3) (a) If the governing body seeks to create a special district by resolution and referendum pursuant to 7-11-1011, the resolution ordering the referendum must include, in addition to the items included in 7-11-1011, a detailed description of:

(i) the estimated total cost of the programs, services, or improvements to be funded over the duration of the district;

(ii) whether the governing body anticipates bonding for improvements and the estimated principal amount of the bonds;

(iii) the estimated annual rate or amount of the proposed assessments or fees that would be imposed over the duration of the district; and

(iv) an estimate of the impact of the creation of the district on a property in the district, according to the method of assessment identified as required by 7-11-1011(2)(e).

(b) The governing body may not exceed the amounts provided in subsection (3)(a) over the duration of the district without subsequent approval of the voters.

(4) (a) Unless otherwise dissolved pursuant to this part or by the terms of the resolution creating the special district, a special district created by resolution pursuant to 7-11-1007 and 7-11-1008 and subject to the provisions of this section must dissolve 13 years after the date of the order creating the district as provided in 7-11-1013 or when any bonded indebtedness has been paid in full, whichever is later. The provisions of 7-11-1029(5) through (8) apply to the dissolution of a special district as provided in this subsection (4)(a).

(b) Prior to the dissolution of a special district, the governing body may extend the duration of the district by following the same procedures set forth in this section and the applicable provisions of 7-11-1003, 7-11-1007, 7-11-1008, and 7-11-1011.

MCA 7-11-1009

CREATION OF DISTRICT - REFERENDUM/ELECTION

The governing body may order a referendum on the creation of the proposed special district. The resolution ordering the referendum must state, consistent with the requirements of 7-11-1007, 7-11-1009, and 7-11-1024:

a. the maximum rate or amount of the initial proposed assessments or fees that would be imposed;
b. the type of activities proposed to be financed, including a general description of the program or improvements;
c. a description of the areas included in the proposed special district;
d. whether the proposed special district would be administered by the governing body or an appointed or elected board;
e. the method of financing the proposed program or improvements; and
f. the duration of the proposed special district.

MCA 7-11-1011(1) & (2)

The referendum must be held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19. The proposition to be submitted to the electorate must read: "Shall the proposition to organize (name of proposed special district) be adopted?"
MCA 7-11-1011(3) & (4)

Individuals Qualified to Vote: An individual is entitled to vote on the proposition if the individual

a. is a registered elector of the state; and
b. is a resident of or owner of taxable real property in the area subject to the proposed special district.

MCA 7-11-1011(5)

If the proposition is approved, the election administrator of each county shall:

(a) immediately file with the secretary of state a certificate stating that the proposition was adopted;
(b) record the certificate in the office of the clerk and recorder of the county or counties in which the special district is situated; and
(c) notify any municipalities lying within the boundaries of the special district.

MCA 7-11-1011(6)

CREATION OF DISTRICT – CERTIFICATE OF ESTABLISHMENT

Upon receipt of the certificate referred to in 7-11-1011(6), the secretary of state shall, within 10 days, issue a certificate reciting that the specified district has been established according to the laws of the state of Montana. A copy of the certificate must be transmitted to and filed with the clerk and recorder of the county or counties in which the district is situated. When the certificate is issued, the district named in the certificate is established with all the rights, privileges, and powers set forth in 7-11-1021.
MCA 7-11-1012

ORDER CREATING DISTRICT

The governing body shall create a special district and establish assessments or fees if the governing body finds that insufficient protests have been made in accordance with 7-11-1008 or if the eligible registered voters have approved a referendum as provided in 7-11-1011. To create a special district, the governing body shall issue an order or pass an ordinance or resolution in accordance with the resolution of intention introduced and passed by the governing body or in accordance with the terms of the referendum required under 7-11-1011. This must be done within 30 days of the end of the protest period or approval of the referendum.
MCA 7-11-1013(1) & (2)

If the governing body creates the special district of its own accord and without a referendum being held, a copy of the order, ordinance, or resolution creating the district, certified by the

clerk of the governing body, must be delivered to the clerk and recorder of the county or counties in which the special district is situated and to the secretary of state, who shall issue a certificate of establishment in accordance with 7-11-1012.
MCA 7-11-1013(3)

REPORTING TO STATE DEPARTMENT OF REVENUE

Within 60 days after the creation of a special district or by January 1 of the effective tax year, whichever occurs first, the governing body shall provide to the State Department of Revenue a:

(a) legal description of the special district;
(b) map of its boundaries;
(c) list of the property taxpayers or owners of real property within the special district's boundaries; and
(d) copy of the resolution establishing the special district, including any adopted method of assessment.

MCA 7-11-1014(1)

Digital Information: The State Library, in coordination with the Department of Revenue, governing bodies, and other appropriate entities, may develop standards, best practices, and procedures for creating digital information to map special districts for land information purposes authorized in Title 90, chapter 1, part 4. If the governing body intends to submit any digital information to the Department of Revenue for this purpose, the governing body shall notify the Department as to the expected date of submission and submit the digital information in a manner prescribed by the State.
MCA 7-11-1014(3) & (4)

REPORTING TO LOCAL GOVERNMENT SERVICES (LGSB)

The governing body of each county or municipality shall notify the department of administration (LGSB) in writing, on a form prescribed by LGSB, of the creation, dissolution, combination, or other legal alteration of any special purpose district within the county or municipality.
MCA 7-6-611(3)

Each special purpose district shall obtain a permanent mailing address and notify LGSB of the address and of any subsequent changes of the district's address.
MCA 7-6-611(4)

GOVERNANCE

A special district must be administered and operated either by the governing body or by a separate elected or appointed board as determined by the governing body.
MCA 7-11-1021(1)

Governance by Board: If the special district is governed by a separate board, the board must be established in accordance with Title 7, chapter 1, part 2 (See CT14, "Boards in General"), except as provided in 7-11-1010, and specific powers and duties granted to the board and those specifically withheld must be stated. The governing body may grant additional powers to the board. This includes the authorization to use privately contracted legal counsel or the attorney of the governing body. If privately contracted counsel is used, notice must be provided to the attorney of the governing body. The governing body has ultimate authority under this subsection (2).
MCA 7-11-1021(2)

The entity chosen to administer the special district may:

(a) implement a program and order improvements for the special district designed to fulfill the purposes of the special district;
(b) employ personnel directly related to the specific improvement or program;
(c) purchase, rent, or lease equipment, personal property, and material necessary to develop and implement an effective program;
(d) cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of federal, state, or local government, in order to develop and implement an effective program;
(e) receive gifts, grants, or donations for the purpose of advancing the program and, by gift, deed, devise, or purchase, acquire land, facilities, buildings, and material necessary to implement the purposes of the special district;
(f) construct, improve, and maintain new or existing facilities and buildings necessary to accomplish the purposes of the special district;
(g) provide grants to private, nonprofit entities as part of implementing an effective program;
(h) adopt a seal and alter it at the entity's pleasure;
(i) administer local ordinances as appropriate;
(j) establish district capital improvement funds pursuant to 7-6-616, maintenance funds, and debt service funds; and
(k) borrow money by the issuance of:
    (i) general obligation bonds as authorized by the governing body pursuant to Title 7, chapter 6, part 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or
    (ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the funding of projects in the manner and subject to the appropriate provisions of Title 7, chapter 7, part 25 or 44.

MCA 7-11-1021(3)

Budget Review & Approval: If the special district is administered by a separate board, the board shall submit annual budget and work plans to the governing body for review and approval.
MCA 7-11-1021(4)

Minutes: The board or governing body administering and operating the special district as provided by 7-11-1021 shall submit the minutes of its proceedings for electronic storage as provided in 7-1-204 unless: (1) the special district is operated by the governing body of a municipality; and (2) the governing body has designated an alternative place for the minutes to

be recorded or maintained.
MCA 7-11-1030

Eminent Domain: The right to exercise eminent domain pursuant to 70-30-102 is limited to cemetery districts.
MCA 7-11-1021(5)

Local district board oversight: Effective 7/1/2023: (1) (a) If at least 5% of the qualified electors that are served by a local government entity file a petition against the board of the local government entity for allegations that the board has not complied with statutes applicable to the governance, operation, and function of the board, including but not limited to a violation of public meeting law, the board member appointment or election process, or the actions and duties required of a board member, the petition must be filed with the governing body under whose authority the local government entity was created.
(b) The governing body under whose authority the local government entity was created shall remit petitions received under subsection (1)(a) to the county attorney. The county attorney shall evaluate the petition and shall provide a written notice of determination to the governing body, the board of the local government entity that is subject to the petition, and any petitioner who requests a copy. If the county attorney has a conflict of interest, the county attorney shall seek review by a prosecutor in another jurisdiction. If the county attorney or prosecutor who conducts a review as required in this subsection (1) determines the petition has merit, the local government entity shall participate in training provided by the local government center as provided in subsection (2).
(2) (a) The local government center shall develop a training curriculum appropriate to address the issues detailed in a petition referred by the county attorney to the local government center as provided in subsection (1)(b).
(b) The board of the local government entity shall participate in all relevant training provided by the local government center.
(3) The board of the local government entity shall remit all fees necessary for the training required in subsection (2) to the local government center.
(4) The local government center shall report to the local government interim committee, in accordance with 5-11-210, all petitions received that resulted in the development and delivery of training required under subsection (2).
(5) As used in this section, the following definitions apply:
(a) "Local government center" means the local government center provided for in 20-25-237.
(b) (i) "Local government entity" has the meaning provided in 2-7-501, except as provided in subsection (5)(b)(ii) of this section.
(ii) Local government entity does not include a county, consolidated city-county, incorporated city or town, or school district.
MCA 7-1-206

MULTIPLE JURISDICTIONS – INTERLOCAL AGREEMENT

A special district created by a combination of local governments acting together must be administered according to an interlocal agreement. The interlocal agreement may determine

whether the administrative body of the special district consists of the entire membership of all governing bodies from the participating jurisdictions or representatives of each governing body or jurisdiction.
MCA 7-11-1022(1)

A special district created by a combination of local governments acting together may enlarge an existing service district, but may not supersede or void an existing contract, district, or interlocal agreement under which the same service is currently provided to residents of one or more of the participating jurisdictions. The local governments acting together may agree to alter an existing contract, district, or interlocal agreement as necessary.
MCA 7-11-1022(2)

The local governments shall proportionally share the ownership of real or personal property acquired by the district pursuant to their interlocal agreement.
MCA 7-11-1022(3)

ALTERATION OF BOUNDARIES

Subject to subsections (2) and (3), the governing body may change the boundaries of any special district by resolution.
MCA 7-11-1023(1)

Subsection (2): The boundaries may be altered by petition after complying with the requirements for petitions as provided in 7-11-1003.
MCA 7-11-1023 (2)

Subsection (3): Alteration of special district boundaries is also subject to procedures for public notice, protest, referendum, certification, reporting, and establishment of assessment as provided in 7-11-1006 through 7-11-1008; 7-11-1011 through 7-11-1015 and 7-11-1024.
MCA 7-11-1023(3)

Changes made to the boundaries may not:

(a) occur more than once each year unless the governing body makes a special finding that an alteration is necessary;
(b) delete any portion of the area if the deletion will create an island of included or excluded lands;
(c) delete any portion of the area that is negatively contributing or may reasonably be expected to negatively contribute to environmental impacts that fall within the scope of the special district's program; and
(d) affect indebtedness existing at the time of the change.

MCA 7-11-1023(4)

FINANCING

The governing body shall make assessments or impose fees for the costs and expenses of the special district based upon a budget proposed by the governing body or separate board administering the district pursuant to 7-11-1021. **Note:** For this purpose, "assessable area" means the portion of a lot or parcel of land that is benefited by the special district, which may be less than but may not exceed the actual area of the lot or parcel.
MCA 7-11-1024(1) & (2)

Assessment Options: The governing body shall assess the percentage of the cost of the program or improvements:

1. against the entire district as follows:
   (a) each lot or parcel of land within the special district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire special district, exclusive of roads, streets, avenues, alleys, and public places;
   (b) if the governing body determines that the benefits derived from the program or improvements by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the special district without regard to the assessable area of the lot or parcel;
   (c) each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the special district that its taxable valuation bears to the total taxable valuation of the property of the district;
   (d) each lot or parcel of land may be assessed based on the lineal front footage of any part of the lot or parcel that is in the district and abuts the area to be improved or maintained;
   (e) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification; or
   (f) each lot or parcel of land within the district may be assessed based on each family residential unit or one or more business units; or
   (g) any combination of the assessment options above may be used for the special district as a whole; OR
2. based upon the character, kind, and quality of service for a residential or commercial unit, taking into consideration:
   (a) the nature of the property or entity assessed;
   (b) a calculated basis for the program or service, including volume or weight;
   (c) the cost, incentives, or penalties applicable to the program or service practices; or
   (d) any combination of these factors.

MCA 7-11-1024(3)

Condominiums: If property created as a condominium is subject to assessment, each unit within the condominium is considered a separate parcel of real property subject to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of the undivided ownership interest must be as set forth in the condominium declaration.
MCA 7-11-1024(4)

A governing body may, by resolution, instruct the state or any applicable federal agency to designate a special district as the recipient of federal funds to be used for the costs and expenses of the special district.
MCA 7-11-1024(5)

NOTICE OF RESOLUTION FOR ASSESSMENT

The governing body shall estimate, as near as practicable, the cost of each established special district annually by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values from the department of revenue.
MCA 7-11-1025(1)

The governing body shall pass and finally adopt a resolution specifying the special district assessment option and levying and assessing all the property within the special district with an amount equal to the annual cost of the program and improvements as provided in 7-6-4012 and 7-6-4013 (i.e., fee-based budgets and fees for services in the Local Government Budget Act).

If the entity chosen to administer the special district is the governing body, the governing body may not charge more than 15% of the annual fees or assessments collected to administer the special district.

The resolution levying the assessment must contain or refer to a list that describes the lot or parcel of land assessed with the name of the owner of the lot or parcel, if known, and the amount assessed.
MCA 7-11-1025(2) & (3)

The resolution must be kept on file in the office of the clerk of the governing body. A notice, signed by the clerk of the governing body, stating that the resolution levying a special assessment or changing the method of assessment is on file in the clerk's office and subject to inspection, must be published as provided in 7-1-2121 (county) or 7-1-4127 (city/town). The notice must state the time and place at which objections to the final adoption of the resolution will be heard by the governing body and must contain a statement setting out the method of assessment being proposed for adoption or the change in assessment being proposed for adoption. The time for the hearing must be at least 5 days after the final publication of the notice.
MCA 7-11-1025(4) & (5)

The notice and hearing process may be included in the local government's general budgeting process as provided in Title 7, chapter 6, part 40 (Local Government Budget Act).
MCA 7-11-1025(6)

At the time set, the governing body shall meet and hear all objections that may be made to the assessment or any part of the assessment, may adjourn from time to time for that purpose, and may by resolution modify the assessment.
MCA 7-11-1025(7)

A copy of the resolution, certified by the clerk of the governing body, must be delivered to the State Department of Revenue by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values from the department of revenue.
MCA 7-11-1025(8)

When a resolution of assessment has been certified by the clerk of the local government, the county treasurer, the city treasurer, or the town clerk, as provided in 7-12-4182, shall collect the assessment in the same manner and at the same time as property taxes for general purposes are collected.
MCA 7-11-1026(1)

ALL MONEY HELD BY COUNTY/CITY TREASURER

All money received by the special district, including interest and earnings accrued, must be deposited in an account held only for the special district by the office of the county treasurer, city treasurer, or town clerk.
MCA 7-11-1026(2)

PAYMENT OF ASSESSMENT UNDER PROTEST

When an assessment made under this part is considered erroneous by the party whose property is charged or from whom the payment is demanded the person may, prior to the assessment becoming delinquent, file an appeal to the administrative board of the district; or pay the assessment or any part of the assessment considered to be erroneous under protest to the county treasurer, city treasurer, or town clerk, whoever is charged with collection of the assessment, and either file an appeal to the administrative board of the district or initiate action in court.
MCA 7-11-1027(1)

The party paying under protest or the party's legal representative may bring an action in any court of competent jurisdiction against the officer to whom the assessment was paid or against the local government on whose behalf the assessment was collected to recover the assessment or any portion of the assessment paid under protest. An action instituted to recover the assessment paid under protest must be commenced within 90 days after the date of payment.
MCA 7-11-1027(2)

The assessment paid under protest must be held by the county treasurer, city treasurer, or town clerk until the determination of an action brought for the recovery of the assessment.
MCA 7-11-1027(3)

If the assessment considered to be unlawful pertains to property created as a condominium and the property is not solely a certain unit in the condominium, then the owner of the property

created as a condominium that is entitled to protest is considered to be the collective owners of all units having an undivided ownership interest in the common elements of the condominium.
MCA 7-11-1027(4)

An owner of property created as a condominium may protest against the method of assessment or vote at an election of the special district only through a president, vice president, secretary, or treasurer of the condominium owners' association who timely presents to the secretary of the special district the following:

(a) a writing identifying the condominium property;
(b) the condominium declaration or other condominium document that shows how votes of unit owners in the condominium are calculated;
(c) original signatures of owners of units in the condominium having an undivided ownership interest in the common elements of the condominium sufficient to constitute an affirmative vote for an undertaking relating to the common elements under the condominium declaration; and
(d) a certificate signed by the president, vice president, secretary, or treasurer of the condominium owners' association certifying that the votes of the unit owners, as evidenced by the signatures of the owners, are sufficient to constitute an affirmative vote of the condominium owners' association to protest against the method of assessment.

MCA 7-11-1027(5)

ASSESSMENTS AS LIENS

An assessment made and levied to defray the cost and expenses of the program or improvements, together with any percentages imposed for delinquency and for cost of collection, constitutes a lien upon the property on which the assessment is made and levied from the date of the passage of the resolution levying the assessment. This lien may be extinguished only by payment of the assessment, with all penalties, costs, and interest, or by sale of the property as provided in subsection (2).
MCA 7-11-1028(1)

When the payment of an installment of an assessment becomes delinquent, all payments of subsequent installments of the assessment may, at the option of the governing body and upon adoption of the appropriate resolutions, become delinquent. Upon delinquency in one or all installments, the whole property must be sold in the same manner as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.
MCA 7-11-1028(2)

DISSOLUTION OF DISTRICT

Resolution of Intention: A special district may be dissolved if it is considered to be in the best interest of a local government or the inhabitants of the local government or if the purpose for

creating the special district has been fulfilled and the special district is not needed in perpetuity. The governing body may pass a resolution of intention to dissolve a special district upon its own request or upon request of the separate board administering the special district.
MCA 7-11-1029(1) & (2)

Notice Publication: After the passage of the resolution (above), the clerk of the local government that established the special district shall publish a notice, as provided in 7-1-2121 (county) or 7-1-4127 (city/town), of the intention to dissolve the district.

(4) The notice must specify the boundaries of the special district to be dissolved, the date of the passage of the resolution of intention to dissolve, the date set for the passage of the resolution of dissolution, and that the resolution will be passed unless the clerk of the local government receives written protest in advance from the owners of property in the district who are assessed for:

(a) (i) 50% or more of the cost of the program or improvements; or
(ii) more than 10% but less than 50% of the cost of the program or improvements.
(b) If the governing body receives the protest as provided in subsection (4)(a)(i), further dissolution proceedings may not be taken by the governing body for at least 12 months.
(c) If the governing body receives the protest as provided in subsection (4)(a)(ii), the governing body shall order a referendum on the dissolution in accordance with 7-11-1011.
(d) In determining whether or not sufficient protests have been filed, property owned by a governmental entity must be considered the same as any other property in the district.
(e) The decision of the governing body is final and conclusive.

MCA 7-11-1029(3) & (4)

Notice to State: If the special district is dissolved, the clerk of the local government shall immediately send written notice to:

(a) the secretary of state; and
(b) the State Department of Revenue, providing the same information required in 7-11-1014 when a district is created. The Department of Revenue and the State Library shall respond to the dissolution in the same manner as they respond to the creation of a district, as described in 7-11-1014.

MCA 7-11-1029(5)

Satisfaction of Debts & Obligations: The dissolution of a special district may not relieve the property owners from the assessment and payment of a sufficient amount to liquidate all charges existing against the special district prior to the date of dissolution.
MCA 7-11-1029(6)

Allocation of Assets Remaining: Any assets remaining after all debts and obligations of the special district have been paid, discharged, or irrevocably settled must be:

(a) deposited in the general fund of the local government;
(b) in the case of multiple local governments, divided in accordance with their interlocal agreement and deposited in the general fund of each local government; or
(c) transferred to a new special district that has been created to provide substantially the same service as provided by the dissolved special district.

If the remaining assets are derived from private grants or gifts that restrict the use of those funds, the funds must be returned to the grantor or donor.

MCA 7-11-1029(7) & (8)

TABLE OF SPECIAL PURPOSE DISTRICTS SPECIFICALLY INCLUDED

The following table includes a listing of all special districts that no longer have separate statutory authority, and that are **specifically included** in Title 7, Chapter 11, Part 10 – Special Districts – Creation and Governance. As discussed in the Introduction, above, these provisions are applicable to special districts that were in existence on July 1, 2009, until district boundaries or methods/amounts of financing are changed.

Cemetery Districts **Note**: Sections 7-35-2131 to 2150, related to a cemetery district permanent care & improvement trust fund, were retained in MCA	MCA 7-35-2101 to 2125 Special Provisions for: Cemeteries – Local Government Generally: MCA 7-35-101 & 102 Cemeteries – County: MCA 7-35-2201 & 2202 **Note**: MCA 7-35-2205, related to veterans' cemeteries, was retained in the MCA Cemeteries – Cities: MCA 7-35-4101 to 4109 **Note**: MCA 7-35-4102, related to vesting of title to cemetery grounds and restrictions on use, was retained in the MCA
County Park Districts	MCA 7-16-2401 to 2443
Park Maintenance Districts	MCA 7-12-4001
County Fairs (Commissions & Districts)	MCA 7-21-3401 to 3458 **Note**: MCA 7-21-3411, related to the prohibition on use of appropriation or tax money on horseracing, was retained in the MCA
Solid Waste Management Districts	MCA 7-13-201 to 237
Joint Solid Waste Management Districts	MCA 7-13-301 to 311
Local Improvement Districts	MCA 7-14-2701 to 2763
Mosquito Control Districts	MCA 7-22-2401 to 2448
Multijurisdictional Service Districts	MCA 7-11-1101 to 1112 (**See CO13**) **Note**: MCA 7-11-1102 [services that may be provided] & MCA 7-11-1112 [financing] were retained in the MCA

Road Improvement Districts	MCA 7-14-2901 to 2908
Rodent Control Districts	MCA 7-22-2207 to 2233
Television Districts	MCA 7-13-2501 to 2542 **Note**: MCA 7-13-2511 [prohibition on operation of cable TV systems] & MCA 7-13-2512 [authorization for FM translator] were retained in the MCA

TABLE OF SPECIAL PURPOSE DISTRICTS SPECIFICALLY EXCLUDED

The following table includes a listing of all special districts that have separate statutory authority, and that are **specifically excluded** from Title 7, Chapter 11, Part 10 – Special Districts – Creation and Governance. The provisions for creation, operation and administration, and dissolution of these districts may not be consistent with the provisions in Title 7, Chapter 11, Part 10.

Business Improvement Districts	Title 7, Chapter 12, Part 11 **(See CO12)**
Cattle Protective Districts	Title 81, Chapter 6, Part 2
Conservancy Districts	Title 85, Chapter 9
Conservation Districts	Title 76, Chapter 15
Water & Sewer Districts	Title 7, Chapter 13, Parts 22, 23, & 30 (Consolidated Local Government Water Supply & Sewer Districts)
Planning and Zoning Districts	Title 76, Chapter 2, Part 1 Planning Districts: MCA 76-1-403 & 404
Planning Commissions	Effective 5/17/2023: Title 76, Chapter 25
Drainage Districts	Title 85, Chapter 8
Grazing Districts	Title 76, Chapter 16
Hospital Districts	Title 7, Chapter 34, Part 21
Irrigation Districts	Title 85, Chapter 7
Library Districts	Title 22, Chapter 1, Part 7
Livestock Protective Committees	Title 81, Chapter 6, Part 1
Parking Districts	Title 7, Chapter 14, Part 47 – for pedestrian malls, offstreet parking facilities, and parkings and parkways See also "Street Parking Districts" in Special Improvement Districts, below
Resort Area Districts	MCA 7-6-1532 to 1551

Rural Improvement Districts (RID's)	Title 7, Chapter 12, Part 21 Special Provisions for: Lighting Districts: Title 7, Chapter 12, Part 22 Sanitary & Storm Sewer Districts: Title 7, Chapter 12, Part 23
Special Improvement Districts (SID's)	Title 7, Chapter 12, Parts 41 & 42 Special Provisions for: Lighting Districts: Title 7, Chapter 12, Part 43 Street Maintenance Districts: Title 7, Chapter 12, Part 44 Street Parking Districts: Title 7, Chapter 12, Part 45 Fire Hydrant Maintenance Districts: Title 7, Chapter 12, Part 46
Lighting Districts	See Rural Improvement Districts and Special Improvement Districts, above
Rural Fire Districts	Title 7, Chapter 33, Part 21
Street Maintenance Districts	See Special Improvement Districts, above
Tax Increment Financing Districts	MCA 7-15-4282 to 4294 Special Provisions for: Urban Renewal: MCA 7-15-4201 to 4267 Targeted Economic Development District: MCA 7-15-4277 to 4280
Urban Transportation Districts	Title 7, Chapter 14, Part 2
Water Conservation & Flood Control Projects	Title 76, Chapter 5, Part 11
Weed Management Districts	Title 7, Chapter 22, Part 21

TABLE OF SPECIAL PURPOSE DISTRICTS NOT INCLUDED OR EXCLUDED

The following table includes a listing of other districts, authorities, etc. that are **NOT specifically included in or excluded from** Title 7, Chapter 11, Part 10 – Special Districts – Creation and Governance.

Airport Authorities	Title 67, Chapter 11
Commercial Property-Assessed Capital Enhancements Districts	MCA 90-4-1304 to 1308
Fire Department Relief Associations (retirement)	Title 19, Chapter 18

Fire Service Areas	Title 7, Chapter 33, Part 24
Housing Authorities	Title 7, Chapter 15, Parts 44 & 45
Local Water Quality Districts	Title 7, Chapter 13, Part 45
Metropolitan Sanitary and/or Storm Sewer Districts	Title 7, Chapter 13, Part 1
Municipal Cultural, Social, and Recreational Facilities	Title 7, Chapter 16, Part 41
Parking Commissions	Title 7, Chapter 14, Part 46
Port Authorities	Title 7, Chapter 14, Part 11
Railway Authorities	Title 7, Chapter 14, Part 16
Regional Resource Authorities	Title 7, Chapter 10
Regional Water & Wastewater Authorities	Title 75, Chapter 6, Part 3
Transportation Improvement Authorities	Title 7, Chapter 14, Part 10

COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES

TAX INCREMENT FINANCING (TIF)

REVISED DECEMBER 2025 REF: CT17

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TYPES OF NEW TIF DISTRICTS ALLOWED

(1) Urban Renewal – MCA 7-15-4201 et seq.
(2) Targeted Economic Development District (TEDD) – MCA 7-15-4277 et seq.

TIF districts allowable prior to July 1, 2013, that may continue in existence:
(1) Industrial Districts
(2) Technology Districts
(3) Aerospace Transportation and Technology Districts

LEGISLATIVE PURPOSE OF TAX INCREMENT FINANCING (TIF)—URBAN RENEWAL (Effective 4/3/2025)

(1) The legislature finds and declares blighted areas exist within municipalities of the state that:
    (a) are injurious to the public health, safety, and welfare of the residents of the state;
    (b) contribute to the spread of disease and crime and depreciation of property values;
    (c) constitute an economic and social liability;
    (d) substantially impair the sound growth of communities;
    (e) constitute an impediment to developing and maintaining adequate housing; and
    (f) aggravate traffic problems and hazards;
(2) Elimination of blighted areas is a matter of state policy and state concern so that the state and its municipalities do not continue to be endangered by areas that are focal centers of disease, and crime, are conducive to fires, are difficult to police and to provide police protection for, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, sanitation, and other forms of public protection, services, and facilities.
(3) The state's tax increment financing laws must be used to encourage the development or redevelopment of blighted areas.

MCA 7-15-4202

It is further found and declared:
(1) that certain of such blighted areas or portions thereof may require acquisition, clearance, and disposition subject to use restrictions as provided in this part, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation;
(2) that other areas or portions thereof may, through the means provided in this part, be susceptible of rehabilitation in such a manner that the conditions and evils enumerated in 7-15-4202 may be eliminated, remedied, or prevented; and
(3) that to the extent feasible salvable blighted areas should be rehabilitated through voluntary action and the regulatory process.

MCA 7-15-4203

Interpretation.
(1) The powers conferred by part 43 and this part are for public uses for which public money may be expended and the power of eminent domain may be exercised as provided in Title

70, chapter 30. The legislature finds and declares that necessity in the public interest exists for the provisions enacted in part 43 and this part concerning urban renewal.

(2) A city or town may not serve as a pass-through entity by using its power of eminent domain, as provided in Title 70, chapter 30, to obtain property with the intent to sell, lease, or provide the property to a private entity.

MCA 7-15-4204

LEGISLATIVE PURPOSE OF TAX INCREMENT FINANCING (TIF)—TARGETED ECONOMIC DEVELOPMENT DISTRICT

The legislature finds and declares that:

(1) infrastructure-deficient areas exist in the local governments of the state and constitute a serious impediment to the development of infrastructure-intensive, value-adding economic development in Montana;

(2) local governments lack sufficient capital to rectify the infrastructure shortage in infrastructure-deficient areas, thus impeding their ability to achieve economic growth through the development of value-adding industries;

(3) the creation of infrastructure in support of value-adding economic development is a matter of state policy and state concern because the state and its local governments will continue to suffer economic dislocation due to the lack of value-adding industries; and

(4) the state's tax increment financing laws should be used to encourage the creation of areas in which needed infrastructure for value-adding industries could be developed.

MCA 7-15-4278

FINANCIAL AUTHORITY IN CONNECTION WITH URBAN RENEWAL

(1) A municipality shall have power to:

(a) borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance for the purposes of this part and enter into and carry out contracts in connection with the financial assistance from:

(i) the federal government;

(ii) the state, a county, or any other public body; or

(iii) any sources, public or private;

(b) (i) appropriate funds and make expenditures as may be necessary to carry out the purposes of this part; and

(ii) subject to 15-10-420 and in accordance with state law, levy taxes and assessments for the purposes of this part;

(c) invest any urban renewal project funds held in reserves or sinking funds or any funds that are not required for immediate disbursement in property or securities in which mutual savings banks may legally invest funds subject to their control;

(d) adopt, in accordance with state law, annual budgets for the operation of an urban renewal agency, department, or office vested with urban renewal project powers under 7-15-4231;

(e) enter, in accordance with state law, into agreements, which may extend over any period, with agencies or departments vested with urban renewal project powers under 7-15-4231 respecting action to be taken by the municipality pursuant to any of the powers granted by part 43 or this part;
(f) close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places and plan or replan, zone or rezone any part of the municipality in accordance with state law.

(2) A municipality may include in any application or contract for financial assistance with the federal government for an urban renewal project the conditions imposed pursuant to federal laws that the municipality may consider reasonable and appropriate and that are not inconsistent with the purposes of part 43 and this part.

MCA 7-15-4281

TARGETED ECONOMIC DEVELOPMENT DISTRICTS

(1) A local government may, by ordinance and following a public hearing, authorize the creation of a targeted economic development district in support of value-adding economic development projects. The purpose of the district is the development of infrastructure to encourage the location and retention of value-adding projects in the state.

(2) A targeted economic development district:
(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;
(b) must be zoned to permit the supported value-adding economic development uses for which the district is intended or unzoned, provided development of the district is:
(i) for uses by a local government under Title 76, chapter 2, part 2 or 3, in accordance with the area growth policy, as defined in 76-1-103; or
(ii) if a county has not adopted a growth policy, then for uses in accordance with the development pattern and zoning regulations or the development district adopted under Title 76, chapter 2, part 1;
(c) may not comprise any property included within an existing tax increment financing district;
(d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under 7-15-4280;
(e) must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base of multiple independent tenants; and
(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

(3) The local government may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4294 for the targeted economic development district. If the local government uses tax increment financing, the use of and purpose for tax increment financing must be specified in the comprehensive development plan required in subsection (2)(e). The plan must also describe how the expenditure of tax increment will promote the development of infrastructure to encourage the location and retention of value-adding projects in the targeted economic development district.

MCA-7-15-4279

AUTHORIZATION FOR TAX INCREMENT FINANCING

(1) An urban renewal plan as defined in 7-15-4206 or a targeted economic development district comprehensive development plan created as provided in 7-15-4279 may contain a provision or be amended to contain a tax increment provision as provided in 7-15-4282 through 7-15-4294. The local governing body shall approve the adoption of a tax increment provision included in an urban renewal plan. The legislative body of a local government shall approve the adoption of a tax increment provision included in a targeted economic development district comprehensive development plan.

(2) (a) Before adopting a tax increment financing provision as part of an urban renewal plan or a comprehensive development plan, a municipality shall provide notice to the county and the school district in which the urban renewal district or targeted economic development district is located and provide the county and school district with the opportunity to meet and consult in a public meeting with the opportunity for public comment regarding the proposed tax increment financing provision and its effect on the county or school district.

(b) Before adopting a tax increment financing provision as part of a comprehensive development plan, a county shall provide notice to the school district in which the targeted economic development district is located and provide the school district with the opportunity to meet and consult in a public meeting with the opportunity for public comment regarding the proposed tax increment financing provision and its effect on the school district.

(3) The tax increment financing provision must take into account the effect on the county and school districts that include local government territory.

MCA 7-15-4282

FILINGS WITH OTHER JURISDICTIONS

(1) The clerk of the local government shall provide a certified copy of the ordinance creating each urban renewal plan or targeted economic development district comprehensive development plan and an amendment to either of the plans containing a tax increment provision to the department of revenue.

(2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies.

MCA 7-15-4284

The department of revenue shall, upon receipt of a qualified tax increment provision and each succeeding year, calculate and report to the local government and to any other affected taxing body in accordance with Title 15, chapter 10, part 2, the base, actual, and incremental taxable values of the property.

MCA 7-15-4285

See also ARM 42.19.1401, .1403, .1404, .1407, & .1412 for Dept. of Revenue rules.

ANNUAL REPORTING REQUIREMENT

The financial report of a local government that has authorized the use of tax increment financing pursuant to 7-15-4282 must include a report of the financial activities related to the tax increment financing provision.
MCA 2-7-503(1)(b)

(1) An agency authorized to transact business and exercise powers under part 43 and this part shall file with the local governing body, on or before September 30 of each year, a report of its activities for the preceding fiscal year. A copy of the annual report must be made available upon request to the county and school districts that include municipal territory.
(2) The report must include a complete financial statement setting forth its assets, liabilities, income, and operating expenses and the amount of the tax increment as of the end of the fiscal year. The report must describe the expenditures of tax increment in the preceding fiscal year and how the expenditures comply with the approved urban renewal plan or comprehensive development plan for the district.
(3) At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that the report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency.
MCA 7-15-4237

DETERMINING AND DISBURSING THE TAX INCREMENTS

(1) (a) Effective 5/19/2023: Except as provided in subsection (1)(b), mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or targeted economic development district and the base taxable value of all taxable property located within the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the area or district.
(b) Effective 5/19/2023: If a mill levy is excluded from the tax increment calculation pursuant to subsections (2)(b) through (2)(d), the calculation pursuant to subsection (1)(a) must use the total taxable value of all property located within the area or district.

(2) (a) Except as provided in (effective 5-12-2025) 15-6-162 and subsections (2)(b) through (2)(d), and (3) of this section, the tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the area or district, must be paid into a special fund held by the treasurer of the local government and used as provided in 7-15-4282 through 7-15-4294.
(b) Effective 5/19/2023: For targeted economic development districts and urban renewal areas created before April 6, 2017, the combined mill rates used to calculate the tax

increment may not include the mill rates for the university system mills levied pursuant to 15-10-109 and 20-25-439.

(c) For targeted economic development districts in Prior to 5/19/2023: existence prior to Effective 5/19/2023: created on or after April 6, 2017, and before July 1, 2022, and urban renewal areas Effective 5/19/2023: created on or after April 6, 2017, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439; and

(ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision.

(d) For targeted economic development districts created after June 30, 2022, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439;

(ii) one-half of the elementary, high school, and state equalization mills levied pursuant to 20-9-331, 20-9-333, and 20-9-360;

(iii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision; and

(iv) any portion of an existing mill levy designated by the local government as excluded from the tax increment.

(5) The balance of the taxes collected in each year must be paid to each of the taxing bodies as otherwise provided by law.

MCA 7-15-4286(1), (2), & (5)

PROVISION TO RELEASE A PORTION OF THE TIF

(1) At the time of adoption of a tax increment provision or at any time subsequent thereto, the governing body of the local government may provide that a portion of the tax increment from the incremental taxable value be released from segregation by an adjustment of the base taxable value, provided that:

(a) all principal and interest then due on bonds for which the tax increment has been pledged have been fully paid; and

(b) the tax increment resulting from the smaller incremental value is determined by the governing body to be sufficient to pay all principal and interest due later on the bonds.

(2) The adjusted base value determined under subsection (1) must be reported by the clerk to the officers and taxing bodies to which the increment provision is reported.

(3) Thereafter, the adjusted base value is used in determining the mill rates of affected taxing bodies unless the tax increment resulting from the adjustment is determined to be insufficient for this purpose. In this case, the governing body shall reduce the base value to the amount originally determined or to a higher amount necessary to provide tax increments sufficient to pay all principal and interest due on the bonds.

MCA 7-15-4287

ALLOWABLE COSTS

The tax increments may be used by the local government to pay the following costs of or incurred in connection with an urban renewal area or targeted economic development district as identified in the urban renewal plan or targeted economic development district comprehensive development plan:

(1) land acquisition;
(2) demolition and removal of structures;
(3) relocation of occupants;
(4) the acquisition, construction, and improvement of public improvements or infrastructure, publicly owned buildings, and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;
(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
(6) acquisition of infrastructure-deficient areas or portions of areas;
(7) administrative costs associated with the management of the urban renewal area or targeted economic development district;
(8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the local government itself at its fair value;
(9) the compilation and analysis of pertinent information required to adequately determine the needs of the urban renewal area or targeted economic development district;
(10) the connection of the urban renewal area or targeted economic development district to existing infrastructure outside the area or district;
(11) the provision of direct assistance to secondary value-adding industries to assist in meeting their infrastructure and land needs within the area or district; and
(12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution.

MCA 7-15-4288

TERMINATION OF A TIF

(1) The tax increment provision contained in an urban renewal plan or a targeted economic development district comprehensive development plan terminates upon the later of:
    (a) the 15th year following its adoption; or
    (b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds. For targeted economic development districts created after June 30, 2022, the combined term of the original bonds or any refunding bonds may not extend the life of the tax increment provision longer than the 30th year following the original adoption of the tax increment provision.

(2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the area or district.

(b) Upon termination of the tax increment provision, a local government may retain and use in accordance with the provisions of the urban renewal plan:
  (i) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project or targeted economic development district project that a local government entered into before the termination of a tax increment provision;
  (ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or
  (iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan or targeted economic development district comprehensive development plan.

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area or targeted economic development district and must be paid to each of the taxing bodies as provided by law.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.

MCA 7-15-4292

AGREEMENTS TO REMIT UNUSED INCREMENTS

(1) Subject to subsections (2) through (5), a local government with an urban renewal district containing a tax increment provision may enter into an agreement to remit any portion of the annual tax increment not currently required for the payment of the costs listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred to in 7-15-4289. The remittance agreement must:
  (a) provide for remittance to each taxing jurisdiction for which the mill rates are included in the calculation of the tax increment as provided in 7-15-4286(1) and (2); and
  (b) require that the remittance be proportional to the taxing jurisdiction's share of the total mills levied.

(2) Any portion of the increment remitted to a school district pursuant to 7-15-4286(3) or this section:
  (a) must be used to reduce property taxes or designated as operating reserve pursuant to 20-9-104 for the fiscal year following the fiscal year in which the remittance was received;
  (b) must be deposited in one or more of the following funds that has a mill levy for the current school year, subject to the provisions of Title 20 and this section:
    (i) general fund;
    (ii) bus depreciation reserve fund;

(iii) debt service fund;
(iv) building reserve fund;
(v) technology acquisition and depreciation fund; and
(c) may not be transferred to any fund.

(3) The remittance will not reduce the levy authority of the school district receiving the remittance in years subsequent to the time period established by subsection (2)(a).
(4) Any portion of the increment remitted to a school district and deposited into the general fund must be designated as operating reserve pursuant to 20-9-104 or used to reduce Prior to 7/1/2026: the BASE budget levy or the over-BASE budget levy in the following fiscal year.
(5) If a school district does not utilize the remitted portion to reduce property taxes or designate the remittance as operating reserve within the time period established by subsection (2)(a), the unused portion must be remitted as follows:
(a) if the area or district is in existence at the time of the remittance, the portion is distributed to the special fund in 7-15-4286(2)(a) and used as provided in 7-15-4282 through 7-15-4294; or
(b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant to 7-15-4292(2)(a).

MCA 7-15-4291

INCREMENT SECURED TO DEBT

(1) Bonds issued under this part for which a tax increment is pledged pursuant to 7-15-4282 through 7-15-4294 must be designed to mature not later than 25 years from their date of issue and must mature in years and amounts so that the principal and interest due on the bonds in each year may not exceed the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in a district, and other estimated revenue, including proceeds of the bonds available for payment of interest on the bonds, pledged to their payment to be received in that year.
(2) The governing body, in the resolution or ordinance authorizing the bonds, shall determine the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in an area or district, and other revenue, if any, for each year the bonds are to be outstanding. In calculating the costs under 7-15-4288 for which the bonds are issued, the local government or municipality may include an amount sufficient to pay interest on the bonds prior to receipt of tax increments pledged and sufficient for the payment of the bonds and to fund any reserve fund in respect of the bonds.

MCA 7-15-4324

AUTHORIZATION TO ISSUE URBAN RENEWAL BONDS, TARGETED ECONOMIC DEVELOPMENT BONDS, AND REFUNDING BONDS.

(1) A local government or municipality may:
(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project or targeted economic development district project under

Title 7, chapter 15, part 42, and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) Except as provided in 7-15-4302, bonds may not pledge the general credit of the local government or municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the local government or municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects or targeted economic development district projects under Title 7, chapter 15, part 42, and this part, including the tax increment received and pledged by the local government or municipality pursuant to 7-15-4282 through 7-15-4294, and, if the income, proceeds, revenue, and funds of the local government or municipality are insufficient for the payment, from other revenue of the local government or municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects or targeted economic development district projects of the local government or municipality under Title 7, chapter 15, part 42, and this part or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body.

(4) If applicable, the governing body of the local government or municipality shall specify whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141.

MCA 7-15-4301

AUTHORIZATION TO ISSUE GENERAL OBLIGATION BONDS.

(1) For the purpose of 7-15-4267 or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project or targeted economic development district project, the local government or municipality, in addition to any authority to issue bonds pursuant to 7-15-4301, may issue and sell its general obligation bonds.

(2) Any bonds issued pursuant to this section must be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by the local government or municipality for public purposes generally.

(3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project or targeted economic development district project is considered a single purpose for the issuance of general obligation bonds, and the proceeds of the bonds authorized for a project may be used to finance the exercise of the powers conferred upon the local government or municipality by Title 7, chapter 15, part 42, and this part that are necessary or proper to complete the project in accordance with the approved plan or ordinance and any modification to the ordinance that is duly adopted by the local governing body.

(4) If applicable, the local government or municipality shall specify whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141.

MCA 7-15-4302

AUTHORIZATION TO USE TAX INCREMENTS FOR BOND PAYMENTS—PUBLIC HEARING REQUIREMENT (effective 10/1/2025)

(1) The tax increment may be pledged to the payment of the principal of premiums, if any, and interest on bonds that the local government may issue for the purpose of providing funds to pay those costs.

(2) (Effective 10/1/2025) Prior to pledging tax increment to the payment of bonds that will extend the termination of the tax increment financing provision beyond the 15th year as provided in 7-15-4292, the legislative body of the local government that approved adoption of the tax increment provision shall hold a public hearing on whether fulfillment of the urban renewal plan or targeted economic development district comprehensive development plan requires pledging tax increment to the payment of bonds. The local government shall provide notice of the public hearing to the county and school district in which the urban renewal area or targeted economic development district is located.

MCA 7-15-4289

USE OF PROPERTY TAXES AND OTHER REVENUE FOR PAYMENT OF BONDS.

(1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

(b) The tax increment derived from a targeted economic development district may be pledged for the payment of revenue bonds issued for targeted economic development district projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay targeted economic development district costs described in 7-15-4288 and 7-15-4289.

(2) A local government issuing bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other revenue of the local government, except property taxes prohibited by subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.

(3) Property taxes, except the tax increment derived from property within the area or district and tax collections used to pay for services provided to the local government by a project, may not be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged.

(4) If applicable, the local government shall specify whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141.

MCA 7-15-4290

BONDS NOT SUBJECT TO DEBT LIMITATIONS.

Bonds issued under 7-15-4301 shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall be subject only to the provisions of the Uniform Commercial Code and the limitations of this part and part 42.

MCA 7-15-4321