

FISCAL NOTE

Bill #: HB 0372

Title: Remove exemption from MAPA for certain agencies

Primary

Sponsor: Joan Hurdle

Status: As introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
Expenditures:		
Montana University System		
General Fund	\$359,651	\$357,151
Net Impact on General Fund Balance:	(\$359,651)	(\$357,151)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached	X		Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Montana University System

1. This legislation would remove the exemption of the Montana University System (MUS) from the Montana Administrative Procedures Act. An interpretation of "rule" as defined in the statute would cover a multitude of day-to day actions undertaken by the MUS in establishing policies and processes. For example: Regent's policies, policies and requirements found in undergraduate, graduate and continuing education catalogs, and various academic requirements used by the various campuses and the departments and division within the campuses.
2. "Contested case" is also defined broadly and would cover any act of the Regents or a campus that if challenged, could end up in a formal MAPA contested case hearing. This might involve such things as denial of admission or denial of a benefit to an employee not covered by the collective bargaining agreement. Currently, most of these disputes are handled, often informally, by campus procedures. It is estimated that 60 disputes would required a formal MAPA hearing (10 within the OCHE, 10 at each of the 4-year universities, 5 at the 4 -year campuses, and 2 at each of the 5 colleges of technology.

3. It is estimated that one FTE (paralegal grade 14) would be required to oversee the entire rule making process and to hold the rule making hearings for the entire system with passage of this bill. The estimated cost of this position is \$34,349.04 annually. An additional employee half time employee (grade 10) would be needed to prepare the System rules for submission and monitor and prepare notices. This position is estimated to cost \$12,076.91 per year.
4. Each of the two Universities (acting on behalf for all the units making up the system) would have to hire one full time employee (grade 10 to do the same). Each position is estimated to cost \$24,153.81 annually.
5. It is estimated this legislation would require one full time attorney (grade 17) to be assigned to represent the MUS at MAPA contested case hearings. The annual cost of this position is estimated at \$45,310.93. This attorney would require support of an additional half-time legal secretary (grade 10). The annual cost for this position is estimated at \$12,076.91
6. In addition, the MUS would have to contract with private attorneys to serve as hearings examiners. The estimated 60 MAPA hearings, held throughout the state, would each entail on the average, one day of preparation, one day of preparation, an average of one day of travel, one half day of hearing and one and one-half days of research and writing up the findings for a total of 240 days or 1920 hours. Figures from the office of the Attorney General indicate a cost of \$70/hour for hearing examiner services resulting in a total cost, for 1920 hours, of \$134,400
7. There would be also be additional operating costs associated with the University participating in MAPA. This include \$10,000 per year postage/copying/advertising, \$5,000 per year other operating expenses, \$15,000 travel and telecommunications including long distance and faxing expenses.

Department of Corrections

8. The Department of Corrections (DOC), as well as the Board of Pardons and Parole, are currently exempt from the requirements of MAPA with respect to rules adopted which affect inmates. The DOC has rule-making authority involving inmates, currently we implement the rules by simply adopting a policy. This bill will require the department to utilize a formal rule making process, which will increase the costs of implementing these rules.
9. One FTE (paralegal grade 14) would be required to comply with HB 372, as well as operating costs. (\$5,000/yr postage/copying/advertising, \$2,000/yr other operating expenses, \$1,000 per year for rent of rooms to hold the necessary hearings. FY 2002 also includes \$2,500 for computer and office equipment).
10. HB 372 will also impact the workload of the Executive Director for the Board of Pardons and Parole, therefore reducing time available for other duties.
11. There is no fiscal impact to the Public Service Commission.

FISCAL IMPACT:

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
Montana University System		
FTE	5.00	5.00
<u>Expenditures:</u>		
Personal Services	152,121	152,121
Contracting Legal Services	134,400	134,400
Operating Expenses	<u>30,000</u>	<u>30,000</u>
TOTAL	316,521	316,521
<u>Funding:</u>		
General Fund (01)	316,521	316,521

Department of Corrections

FTE	1.00	1.00
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Expenditures:

Personal Services	32,630	32,630
Operating Expenses	<u>10,500</u>	<u>8,000</u>
TOTAL	43,130	40,630

Funding:

General Fund (01)	43,130	40,630
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Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	(359,651)	(357,151)
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LONG-RANGE IMPACTS:

HB 372 would require the additional FTE and operating expenses indicated in this fiscal note in future biennia.