

STATUTES RELATED TO PAYMENT OF COUNTY ATTORNEY SALARIES AND COUNTY ATTORNEY DUTIES

7-4-2502. Payment of salaries of county officials and assistants. (1) The salaries of the county officers and their assistants may be paid monthly, twice monthly, or every 2 weeks out of the general fund of the county and upon the order of the board of county commissioners.

(2) (a) **The salary of the county attorney is payable one-half from the general fund of the county and, if the county has supplied the information to the department of justice for inclusion in its budget, the other one-half from the state treasury upon the warrant of the state treasurer.** If the county has not supplied information concerning any scheduled or proposed increase in salary for the county attorney to the department of justice for inclusion in material submitted to the budget director under Title 17, chapter 7, part 1, the county is responsible for any increased salary. The state's share of the county attorney's salary is payable every 2 weeks.

7-6-2426. Enumeration of county charges. (1) The following are county charges:

- (a) charges incurred against the county by virtue of any provision of this title;
- (b) **one-half of the salary of the county attorney and all expenses necessarily incurred by the county attorney in criminal cases arising within the county, except as provided in subsection (2);**
- (c) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons charged with criminal offenses;
- (d) the board of prisoners confined in jail;
- (e) the accounts of the coroner of the county for services that are provided by law;
- (f) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;
- (g) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;
- (h) the contingent expenses necessarily incurred for the use and benefit of the county;
- (i) every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners or declared to be a county charge.

(2) The costs of subsection (1)(b) arising from the criminal prosecution of escape or of an offense committed in the state prison must be paid by the department of corrections as provided in 53-30-110.

17-7-112. Submission deadlines -- budgeting schedule. The following is the schedule for the preparation of a state budget for submission to the legislature convening in the following year:

- (1) By August 1, forms necessary for preparation of budget estimates must be distributed pursuant to 17-7-111(2).
- (2) (a) By September 1, each agency shall submit the information required under 17-7-111 to the budget director. **The department of justice shall submit information received from counties concerning the state's share of county attorney salaries.**
 - (b) As provided in 7-4-2502(2)(a), the department of justice is not obligated to provide more than one-half of the salary of a county attorney based on the amount included in the department's budget and appropriated for that purpose.
 - (3) By September 1, the budget director shall submit each state agency's budget request required under 17-7-111(3) to the legislative fiscal analyst. The transfer of budget information must be done on a schedule mutually agreed to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of budget information that allows each office to maintain a reasonable staff workflow.
 - (4) By October 10, the budget director shall furnish the legislative fiscal analyst with a preliminary budget reflecting the base budget in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.
 - (5) By October 30, a budget request must be prepared by the budget director and submitted to the legislative fiscal analyst on behalf of any agency that did not present the information required by this section. The budget request must be based upon the budget director's studies of the operations, plans, and needs of the institution, university unit, or agency.
 - (6) By November 1, the budget director shall furnish the legislative fiscal analyst with a present law base for each agency and a copy of the documents that reflect the anticipated receipts and other means of financing the base budget and present law base for each fiscal year of the ensuing biennium. The material must be in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst.
 - (7) By November 12, the budget director shall furnish the legislative fiscal analyst with the documents, in a format agreed upon by both the office of budget and program planning and the legislative fiscal analyst, that reflect expenditures to the second level, as provided in 17-1-102(3), by funding source and detailed by accounting entity.
 - (8) By November 15, the proposed pay plan schedule and the information technology summary required by 17-7-111(4), a preliminary budget that meets the statutory requirements for submission to the legislature, and a summary of the preliminary budget designed for distribution to members and members-elect of the legislature must be submitted to the legislative fiscal analyst.
 - (9) By December 15, the budget director shall submit a preliminary budget to the governor and to the governor-elect, if there is one, as provided in 17-7-121, and shall furnish the legislative fiscal analyst with all amendments to the preliminary budget.
 - (10) By January 7, recommended changes proposed by a governor-elect must be transmitted to the legislative fiscal analyst and the legislature as provided in 17-7-121.

7-4-2706. County attorney to be full or part time -- resolution -- salary. (1) In any county with a population of less than 30,000, the county commissioners may, upon the consent of the county attorney, on July 1 of any year by resolution establish the office of county attorney as a full-time position subject to the provisions of 7-4-2701 and 7-4-2704. The salary for this position is the salary established pursuant to 7-4-2503.

(2) In any county in which the office of county attorney has been established as a full-time position under subsection (1), the county commissioners may, by resolution and upon the consent of the county attorney, establish the office as a part-time position on July 1 of any year.

7-4-2711. County attorney to be legal adviser of county and other subdivisions. (1) The county attorney is the legal adviser of the board of county commissioners. He must attend their meetings when required and must attend and oppose all claims and accounts against the county which are unjust or illegal. He must defend all suits brought against his county.

(2) The county attorney must:

(a) give, when required and without fee, his opinion in writing to the county, district, and township officers on matters relating to the duties of their respective offices;

(b) act as counsel, without fee, for fire districts and fire service areas in unincorporated territories, towns, or villages within his county;

(c) when requested by a conservation district pursuant to 76-15-319, act as counsel, without fee;

(d) when requested by a weed district pursuant to 7-22-2103, act as counsel, without fee; and

(e) when requested by a county hospital board pursuant to 7-34-2115, act as counsel, without fee, unless the legal action requested involves the county commissioners.

7-4-2712. Prosecutorial duties. The county attorney is the public prosecutor and must:

(1) **institute proceedings before magistrates** for the arrest of persons charged with or reasonably suspected of public offenses when he has information that such offenses have been committed and for that purpose, whenever not otherwise officially engaged, **must attend upon the magistrate** in cases of arrest and attend before and **give advice to the grand jury** whenever cases are presented to them for their consideration;

(2) **draw all indictments and informations.**

7-4-2713. Actions to recover money. The county attorney must prosecute all recognizances forfeited in the courts of record and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county.

7-4-2715. Records and reports. The county attorney must:

(1) keep a register of all official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially and of the proceedings therein;

(2) deliver receipts for money or property received in his official capacity and file duplicates thereof with the county treasurer;

(3) on the first Monday of January, April, July, and October in each year file with the county clerk an account, verified by his oath, of all money received by him in his official capacity during the preceding 3 months and at the same time pay it over to the county treasurer.

7-4-2716. Duties related to state matters. The county attorney must:

(1) **attend the district court and conduct, on behalf of the state, all prosecutions for public offenses and represent the state in all matters and proceedings to which it is a party or in which it may be beneficially interested, at all times and in all places within the limits of his county;**

(2) **when ordered or directed by the attorney general to do so, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding;**

(3) **defend all suits brought against the state.**

PROJECTED STATE SHARE OF COUNTY ATTORNEY SALARY FY-06 AND FY-07

Assuming 2.5% C.O.L.A. beginning 7/1/05 & 7/01/06

COUNTY	FY-05 State Cost With benefits	FY-05 County Cost With Benefits	FY-05 Total Cost Salary W/Benefits	Fy-06 Cost Assuming 2.5% C.O.L.A.	FY-06 TRUE 50%	FY-07 Cost Assuming 2.5% COLA	FY-07 TRUE 50%
BEAVERHEAD	\$23,163.39	\$39,939	\$63,102	\$64,680	\$32,340	\$66,297	\$33,148
BIG HORN	\$37,727.57	\$47,189	\$84,917	\$87,040	\$43,520	\$89,216	\$44,608
BLAINE	\$37,342.32	\$39,387	\$76,729	\$78,729	\$39,324	\$80,614	\$40,307
BROADWATER	\$21,200.14	\$22,661	\$43,861	\$44,957	\$22,479	\$46,081	\$23,041
CARBON	\$40,502.09	\$40,408	\$80,910	\$82,932	\$41,466	\$85,006	\$42,503
CARTER	\$20,752.42	\$20,017	\$40,769	\$41,788	\$20,894	\$42,833	\$21,417
CASCADE	\$42,178.27	\$44,021	\$86,199	\$88,354	\$44,177	\$90,563	\$45,282
CHOUTEAU	\$23,850.59	\$25,986	\$49,837	\$51,083	\$25,541	\$52,360	\$26,180
CUSTER	\$39,494.15	\$42,215	\$81,710	\$83,752	\$41,876	\$85,846	\$42,923
DANIELS	\$22,226.30	\$25,512	\$47,738	\$48,932	\$24,466	\$50,155	\$25,078
DAWSON	\$23,287.19	\$26,112	\$49,400	\$50,635	\$25,317	\$51,901	\$26,650
DEER LODGE	\$36,333.51	\$38,004	\$74,337	\$76,196	\$38,098	\$78,101	\$39,050
FALLON	\$25,590.56	\$35,216	\$60,806	\$62,326	\$31,163	\$63,885	\$31,942
FERGUS	\$39,658.43	\$41,287	\$80,946	\$82,969	\$41,485	\$85,044	\$42,522
FLATHEAD	\$43,237.87	\$52,061	\$95,299	\$97,681	\$48,841	\$100,123	\$50,062
GALLATIN	\$44,546.33	\$53,366	\$97,912	\$100,360	\$50,180	\$102,869	\$51,434
GARFIELD	\$19,004.35	\$21,702	\$40,707	\$41,724	\$20,862	\$42,767	\$21,384
GLACIER	\$22,344.31	\$22,980	\$45,325	\$46,458	\$23,229	\$47,619	\$23,810
GOLDEN VALLEY	\$20,004.35	\$19,961	\$39,966	\$40,965	\$20,482	\$41,989	\$20,994
GRANITE	\$20,206.36	\$21,348	\$41,554	\$42,593	\$21,297	\$43,658	\$21,829
HILL	\$36,341.84	\$42,847	\$81,189	\$83,219	\$41,609	\$85,289	\$42,848
JEFFERSON	\$34,369.10	\$37,868	\$72,237	\$74,043	\$37,021	\$75,894	\$37,947
JUDITH BASIN	\$18,781.06	\$19,850	\$38,632	\$39,597	\$19,799	\$40,587	\$20,294
LAKE	\$41,045.54	\$43,660	\$86,705	\$88,823	\$43,411	\$88,993	\$44,497
LEWIS & CLARK	\$42,900.06	\$55,238	\$98,138	\$100,592	\$50,296	\$103,107	\$51,553
LIBERTY	\$18,296.33	\$20,264	\$38,560	\$39,524	\$19,762	\$40,512	\$20,256
LINCOLN	\$38,265.53	\$39,407	\$77,672	\$79,614	\$39,807	\$81,604	\$40,802
MADISON	\$38,797.69	\$43,189	\$81,986	\$84,036	\$42,018	\$86,137	\$43,068
McCONE	\$20,807.95	\$24,958	\$45,766	\$46,910	\$23,455	\$48,083	\$24,041
MEAGHER	\$19,464.80	\$20,248	\$39,712	\$40,705	\$20,353	\$41,723	\$20,861
MINERAL	\$41,471.28	\$46,470	\$87,941	\$90,140	\$45,070	\$92,393	\$46,197
MISSOULA	\$49,036.08	\$55,747	\$104,782	\$107,402	\$53,701	\$110,087	\$55,044
MUSSELSHELL	\$20,504.85	\$21,971	\$42,476	\$43,538	\$21,769	\$44,626	\$22,313
PARK	\$45,924.19	\$50,158	\$96,082	\$98,484	\$49,242	\$100,946	\$50,473
PETROLEUM	\$7,231.77	\$7,546	\$14,777	\$15,147	\$7,573	\$15,525	\$7,763
PHILLIPS	\$23,327.67	\$25,049	\$48,377	\$49,586	\$24,793	\$50,826	\$25,413
PONDERA	\$21,809.82	\$24,363	\$46,173	\$47,328	\$23,664	\$48,511	\$24,255
POWDER RIVER	\$22,331.00	\$22,346	\$44,682	\$45,799	\$22,900	\$46,944	\$23,472
POWELL	\$39,980.05	\$41,630	\$81,610	\$83,650	\$41,825	\$85,742	\$42,871
PRAIRIE	\$20,217.94	\$21,461	\$41,679	\$42,721	\$21,360	\$43,789	\$21,894
RAVALLI	\$40,988.86	\$45,569	\$86,558	\$88,722	\$44,361	\$90,940	\$45,470
RICHLAND	\$23,887.61	\$43,832	\$67,719	\$69,412	\$34,706	\$71,148	\$35,574
ROOSEVELT*	\$25,629.90	\$54,026	\$79,656	\$81,647	\$40,824	\$83,688	\$41,844
ROSEBUD	\$38,909.66	\$39,722	\$78,631	\$80,597	\$40,299	\$82,612	\$41,306
SANDERS	\$40,022.85	\$41,877	\$81,900	\$83,948	\$41,974	\$86,046	\$43,023
SHERIDAN	\$22,684.44	\$24,063	\$46,748	\$47,916	\$23,958	\$49,114	\$24,557
SILVER BOW	\$45,040.31	\$49,929	\$94,969	\$97,343	\$48,672	\$99,777	\$49,888
STILLWATER	\$38,815.05	\$47,761	\$86,576	\$88,740	\$44,370	\$90,958	\$45,479
SWEET GRASS	\$38,649.80	\$39,459	\$78,108	\$80,061	\$40,031	\$82,063	\$41,031
TETON	\$33,809.16	\$36,912	\$70,721	\$72,489	\$36,244	\$74,301	\$37,151
TOOLE	\$40,093.42	\$44,093	\$84,186	\$86,291	\$43,145	\$88,448	\$44,224
TREASURE	\$19,824.59	\$21,745	\$41,569	\$42,609	\$21,304	\$43,674	\$21,837
VALLEY	\$37,508.91	\$40,051	\$77,560	\$79,499	\$39,749	\$81,486	\$40,743
WHEATLAND	\$25,411.25	\$31,768	\$57,180	\$58,609	\$29,305	\$60,074	\$30,037
WIBAUX	\$20,760.51	\$27,611	\$48,372	\$49,581	\$24,790	\$50,820	\$25,410
YELLOWSTONE	\$45,735.61	\$50,573	\$96,308	\$98,716	\$49,358	\$101,184	\$50,592
TOTAL	\$1,743,325.98	\$1,980,300	\$3,723,626	\$3,816,717	\$1,909,655	\$3,914,587	\$1,957,294

1/28/2005



County Class	COUNTY	2003 - 2004 COLA 1.6%	2002 - 2003 COLA 2.8%	2001 - 2002 COLA 3.4%
CLASS ONE				
1A	Cascade	0.1%	1.8%	3.4% +\$5,000
1A	Flathead	4.8%	2.8%	3.4%
1A	Gallatin	2%	4%	20.58%
1A	Lewis & Clark	5%	5%	6%
1A	Missoula	3% + 1% long.	4%	8%
1A	Ravalli	2%	0	4.5%
1A	Yellowstone	1.6% +1% long.	2.8%	4% +1% long.
1B	Big Horn	10.28%	3.4%	3.4%
1B	Blaine	3.85%	5.7%	14.6%
1B	Butte-Silver Bow	3%	3%	
1B	Fallon	4.3%	2.8%	10.15%
1B	Hill	1.6%	2.8%	3.4%
1B	Lake	3%	2.8%	12.39%
1B	Richland	4.1%	7.8%	10%
1B	Rosebud	2.5%	2.8%	4.4%
CLASS TWO				
2	Carbon	2%	4%	6.4%
2	Lincoln	1.6%	3.8%	3.34%
2	Madison	4%	2.8%	8.18%
2	Park	2.2%	2.4%	\$5,000
2	Phillips	1.9%	2%	4%
2	Roosevelt	1.465%	4%	4.33%
2	Sanders	1.6%	2.8%	3.4%
2	Sheridan	1.6%	2%	2.67%
2	Stillwater	1.6% +1% long.	2.8%	10.4\$
2	Valley	7%	3.25%	7.54%
CLASS THREE				
3	Chouteau	2.8%	2.8%	
3	Dawson	5.1%	2.8%	
3	Fergus	1.6%	3%	
3	Glacier	1.6%	4%	4%
3	Jefferson	1% + 1% long.	2.8%	\$3,000
3	Toole	3%	2.6%	14.9%
CLASS FOUR				
4	Beaverhead	3.96%	2.6%	11.8%
4	Custer	1.6%	2.8%	
4	Pondera	3%	6.7%	9.65%
4	Teton	5%	2%	9%
CLASS FIVE				
5	Anaconda.-Deer Lodge	3% tentative	4%	9%
5	Broadwater	1.6%	3%	5%
5	Carter	3.2%	5.9%	8.7%
5	Judith Basin	2% +longevity	0	3.4%
5	Liberty	4.4%	3%	6%
5	Musselshell	1.6%	2.8%	3.4%
5	Powell	2%	5%	4%
5	Sweet Grass	1.6%	2.8%	5%
5	Wheatland	2%	3.3%	3.4%
5	Wibaux	1.6%	2.8%	13%
CLASS SIX				
6	Daniels	2.5%	10%	15.5%
6	Garfield	1.6%	5.2%	5.1
6	Golden Valley	0	4.6%	6.04%
6	Granite	1.6%	2.8%	3.4%
6	McCone	1.6%	8%	5%
6	Meagher	1.6%	2.8%	3.4%
6	Mineral	1.6%	2.8%	3.4%
6	Powder River	0	5.5%	18.4%
CLASS SEVEN				
7	Petroleum	0	30¢ / hr.	10%
7	Prairie	1.6%	2.8%	3.4%
7	Treasure	2.6%	3.6%	3.4%

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Amendments to Senate Joint Resolution No. 40
1st Reading Copy

For the Senate Judiciary Committee

Prepared by Valencia Lane
April 12, 2005 (10:57am)

1. Title, line 6.
Following: "SERVICES"
Insert: "AND COUNTY CIVIL LEGAL SERVICES BY COUNTY ATTORNEYS"
2. Page 1, line 11.
Following: "level"
Insert: "and county civil legal services"
3. Page 1, line 27.
Following: "career"
Strike: "prosecutors"
Insert: "County Attorneys"
Following: "services"
Insert: "and county civil legal services"
4. Page 2, line 2.
Following: "services"
Insert: "and county civil legal services by County Attorneys"
5. Page 2, line 5.
Following: "services"
Insert: "and county civil legal services"
Following: "provided"
Insert: "by County Attorneys"
6. Page 2, line 7.
Following: "services"
Insert: "and county civil legal services by County Attorneys"
7. Page 2, line 8.
Following: "services"
Insert: "and county civil legal services by County Attorneys"
8. Page 2, line 10.
Following: "needs"
Insert: "and county civil legal services needs"
9. Page 2, line 12.
Following: "system"
Insert: "and civil legal advice to elected county officials"
10. Page 2, line 13.

Following: "services"

Insert: "and county civil legal services by County Attorneys"

- END -

