Montana Association of Counties
2715 Skyway Drive
Helena, MT 59602-1213
(p) 406.449.4360 | (f) 406.442.5238
maco@mtcounties.org | http://www.mtcounties.org

Senate Local Govt. Comm.
Exhibit No. 1
Date 3-9-15
Bill No. HB 334

RESOLUTION 2014-11

GENERALLY REVISE LAWS APPLICABLE TO COUNTY GOVERNMENT

It is the intent of the Montana Association of Counties to seek legislation to clarify, update, and correct statutes applicable to county government.

WHEREAS, over the course of time laws applicable to county governments sometimes become outdated or antiquated; some sections come into conflict with other sections and others are not adequately clear to provide consistent interpretation and understanding; and

WHEREAS, during the normal course of county business there are a number of changes to the MCA that are identified as needed for clarity and updating; and

1. **WHEREAS**, counties may provide public notice by publication or posting, however there is no specific statute providing direction on how notice by posting should be done such as is the case for municipalities, therefore statute mirroring the municipal statue, 7-1-4135 should be enacted to provide such direction; and

2. **WHEREAS**, statute does not provide direction on the storage and retention of board/trustee meeting minutes for special purpose districts. The public has the right to access public records pursuant to Title 2, Chapter 6 MCA but do not know where such records for special purpose districts are stored, therefore statute should be enacted requiring special purpose district meeting minutes be filed or recorded with the county clerk and recorder as a uniform depository of such records; and

3. **WHEREAS**, Section 7-14-2606 related to a county surveyor is antiquated in that it requires a "competent" surveyor to be used which is in conflict with Title 2, Chapter 15, Part 17 which requires surveyors to be registered with the Board of Professional Engineers and Land Surveyors. Section 7-14-2606 also limits the daily rate a surveyor can be paid to $7.00/day, therefore section 7-14-2607 should be amended to change the reference from a "competent" surveyor to a "registered" surveyor and the daily payment rate should be repealed; and

4. **WHEREAS**, section 7-4-2312 and 7-4-2503 related to setting the salary of a county elected officer holding a consolidated office are in conflict, therefore should be amended to clarify that the percentage adjustment for the salary of an officer holding a consolidate county elected office is set for an entire term of office; and

5. **WHEREAS**, section 2-9-211 MCA allows "All political subdivisions" to procure insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan, wholly or in part. Nonprofit entities created by governmental units to carry out governmental purposes are not included in the definition of political subdivisions but participate in joint risk sharing pools created by political subdivisions, therefore 2-9-211 should be amended to include nonprofit entities created by governmental units; and

6. **WHEREAS**, section 7-32-2107 limits the reasons a deputy sheriff may be terminated, which was enacted in 1895 and has not been amended to be compatible with the Wrongful Discharge Act and section 7-32-2108 requires a written notice of termination of a deputy sheriff to be "subscribed and sworn to:, which has been interpreted to mean "notarized, which is not required for terminations of any other employees, therefore 7-32-2107 should be amended to remove antiquated; language and updated to include "Good Cause" as defined in the Wrongful Discharge Act as reason for termination of a sheriff's deputy and 7-32-2108 should be amended to remove the "subscribed and sworn to" language; and

7. **WHEREAS**, the audit threshold under the Single Audit Act is tied to the Federal Audit threshold of $500,000. The federal threshold is scheduled to increase to $750,000 therefore section 2-7-503 should be amended specify the audit threshold in Montana remains at $500,000; and

8. **WHEREAS**, section 15-10-203 was enacted in 1974 and requires a display advertisement be run and a public hearing to be held when a taxing jurisdiction intends to increase property taxes above the prior year, which does not consider subsequent legislation, codified in 15-10-420 that limits property taxes to the prior year levels plus an inflationary growth allowance, voted levies and levies that are exempt from the property tax limitations so it could be construed that 15-10-403 requires a display advertisement be run every year, irrespective of increases allowed in 15-10-420, therefore 15-10-203 should be amended or repealed to conform with 15-10-420; and

9. **WHEREAS**, section 7-7-2101 limits debt being incurred in excess of $500,000 without voter approval and is in conflict with 7-7-2402 that establishes different thresholds depending upon a county's total taxable value, therefore 7-7-2101(2) should be repealed to remove this conflict; and

10. **WHEREAS**, sections 7-4-2104 and 7-4-2106 require a county commissioner to have been a resident of the county and district being represented for two years prior to being elected or appointed. This has always been interpreted to mean two years immediately preceding the date of election or appointment, however this has recently been brought into question, therefore statute should amended to clarify the residency requirement as being two years <u>immediately</u> preceding being elected or appointed; and

11. **WHEREAS**, section 7-6-2106 provides for the process to fill a vacancy on the board of county commissioners and includes the process for an appointment for partisan and independent offices but does not include non-partisan held offices, therefore 7-4-2106 should be amended to include non-partisan offices; and

12. **WHEREAS**, the 2009 legislature created the Uniform Act for Special Purpose Districts which was codified in Title 7, Chapter 11, Part 10 MCA which repealed numerous separate authorizing statutes for various special purpose districts in order to provide more uniformity in the creation, alteration, dissolution, operations and finance of special purpose districts and consolidated the numerous processes. However "household unit" as an allowable assessment methodology for service charges as provided in 7-313-232 MCA (Repealed) was inadvertently omitted as an allowable assessment methodology in the Uniform Act, therefore 7-11-1024 should be amended to restore "household unit as an allowable assessment method; and

13. **WHEREAS**, section 7-6-616 provides for the establishment of a Capital Improvement Fund. Prior to 2003 this section provided for the creation of a capital improvement "program", which would

include a plan for the use of the funds transferred to a capital improvement fund. This has caused confusion and lack of clarity about the allowable uses of money in a capital improvement fund, therefore 7-6-616 should be amended to require a capital improvement plan for the uses of such funds; and

14. **WHEREAS**, section 2-18-201 provides for the reimbursement rate for persons traveling on public business to be at the actual cost of lodging, not to exceed $35/day, then provides an exception to allow the Department of Administration to establish a daily rate for certain public officers and employees at the applicable federal rate for the area, however it is impossible to locate lodging for $35/day, therefore that limitation should be removed to make it clear that the federal daily rate is applicable to all public officers and employees; and

15. **Whereas**, county transactions are electronic and triplicate paper receipts are no longer used in our daily business, remove the requirement for issuing a receipt, in triplicate and delivering a copy to the county clerk in MCA 7-6-2116; and

16. **Whereas**, the report is no longer being created or used, eliminate the need for an annual report, due in September, to the county superintendent of schools referenced in MCA 7-6-2801 (4) ; and

17. **Whereas**, the current date for setting the rate for a lighting district is prior to the first Monday in September which is prior to setting other fees and levies. The date for setting all levies and assessments should be uniform therefore Section 7-12-2202 should be amended to reflect the standard rate and levy setting date.

NOW, THEREFORE BE IT RESOLVED, that the Montana Association of Counties shall seek legislation Montana Association of Counties to seek legislation to clarify, update, and correct statutes applicable to county government.

SPONSOR:	**MACo Staff**
RECOMMENDATION:	**Do Pass as Amended**
REFERRED TO:	**MACo Resolutions & Legislative Committee** **All MACo Committees to Review Applicable Sections**
ADOPTED:	**Annual Conference, Kalispell, MT September 24, 2014**