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Economic Affairs Interim Committee
64th Montana Legislature

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January 2, 2016

TO: Economic Affairs Interim Committee (EAIC)
FROM: Jameson Walker, Staff Attorney
RE: Committee powers with respect to MAR Notice 32-15-268: Licensee Assessments

BACKGROUND

In the November 12, 2015, Montana Register Notice, the Department of Livestock (Department) published Montana Administrative Register Notice 32-15-268 pertaining to licensee assessments. The Department proposed to amend fees paid per hundredweight on the volume of all classes of milk produced and sold:

32.2.406 LICENSEE ASSESSMENTS (1) Pursuant to 81-23-202, MCA, the following assessment is levied: a fee of ~~\$0.155~~ \$0.275 per hundredweight per month, ~~with a minimum of \$50.00 per month, whichever is greater, or a maximum of \$1,050.00 per month,~~ on the volume of all classes of milk produced and sold by a person licensed by the Milk and Egg Bureau of the department, to be used for the administration of the milk inspection and milk diagnostic laboratory functions of the department. For a dairy licensed by the department, the minimum assessment is \$225.00 per month and the maximum assessment is \$950.00 per month. For other licensees the minimum assessment is \$725.00 per month and the maximum assessment is \$2,850.00 per month. For a person licensed both as a dairy and as another licensee, only one assessment will be levied, whichever amount is higher.

Initially, the Department did not anticipate a public hearing. However, it subsequently issued a public hearing notice in the January 8, 2016, Administrative Register.

EAIC ACTION/LAST PUBLICATION DATE

On January 15, 2016, the EAIC informed the Department that at least five of the eight members of the committee objected to the rule notice. The objection was made under 2-4-305(9), MCA, which allows the committee to delay the publication of the rule until the last possible publication date:

2-4-305. Requisites for validity -- authority and statement of reasons.

[...]