

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTY COMMISSIONERS TO INITIATE
6 MANDAMUS PROCEEDINGS; AND AMENDING SECTION 7-4-2110, MCA; AMENDING SECTIONS 7-4-2110
7 AND 27-26-206, MCA."
8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11 **Section 1.** Section 7-4-2110, MCA, is amended to read:

12 **"7-4-2110. Supervision of county and other officers.** The board of county commissioners has
13 jurisdiction and power, under the limitations and restrictions that are prescribed by law, to:

14 (1) supervise the official conduct of all county officers and officers of all districts and other
15 subdivisions of the county charged with assessing, collecting, safekeeping, managing, or disbursing public
16 revenue;

17 (2) see that the officers faithfully perform their duties;

18 (3) direct prosecutions for delinquencies;

19 (4) when necessary, require the officers to renew their official bonds, make reports, and present
20 their books and accounts for inspection; ~~and~~

21 (5) require the officers to supervise staff in a manner that complies with personnel policies and
22 procedures adopted by the county governing body;

23 (6) initiate civil proceedings to seek a writ of mandamus, to compel or enjoin the performance of an
24 act by a local government entity or any member of its governing body; and

25 (7) hire outside counsel to litigate a proceeding seeking a writ of mandamus and recover attorney
26 fees and costs as determined by a court.

27 (8) (a) Except as provided in subsection (8)(b), as used in this section, "local government entity"
28 has the meaning provided in 2-7-501.

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As of: 2024/04/09 09:36:36

Drafter: Julie Johnson, 406-444-4024

68th Legislature 2023

PD 1JJ
(HB33)

1 (b) Local government entity does not include a county, consolidated city-county, incorporated city
2 or town, or school district. "

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4 **Section 2.** Section 27-26-206, MCA, is amended to read:

5 **"27-26-206. Enforcement of writ -- penalty.** (1) When a peremptory mandate has been issued and
6 directed to any lower tribunal, corporation, board, or person, if it ~~appear~~ appears to the court or judge that any
7 member of the tribunal, corporation, board, or person upon whom the writ has been personally served has,
8 without just excuse, refused or neglected to obey the writ, the court may, upon motion, impose a fine not
9 exceeding \$1,000. In case of persistence in a refusal of obedience, the court may order the party to be
10 imprisoned until the writ is obeyed and may make any orders necessary and proper for the complete
11 enforcement of the writ.

12 (2) When a party is an elected or appointed official and is found in contempt pursuant to 3-1-501
13 for not complying with a writ of mandamus, the official may be subject to recall pursuant to the provisions of
14 Title 2, chapter 16, part 6."

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- END -