



AN ACT ELIMINATING COUNTY CLASSIFICATIONS; REPLACING REFERENCES TO COUNTY CLASSIFICATIONS WITH AMOUNT OF TAXABLE VALUATION OR POPULATION; AMENDING SECTIONS 2-18-641, 2-18-702, 7-2-2213, 7-2-2218, 7-2-2222, 7-2-2225, 7-3-1214, 7-3-1306, 7-3-1341, 7-4-2405, 7-4-2601, 7-4-2602, 7-4-2703, 7-4-2705, 7-4-3006, 7-6-2102, 7-6-2401, 7-6-2413, 7-21-3211, 7-22-2142, 7-32-101, 7-32-2102, 7-32-2111, 13-17-101, 15-23-703, 15-24-3001, 15-36-332, 15-39-110, 30-14-122, 39-4-107, 80-7-814, AND 90-6-1001, MCA; REPEALING SECTIONS 7-1-2111 AND 7-1-2112, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-18-641, MCA, is amended to read:

**"2-18-641. Exemption -- employees of certain county hospitals or rest homes and hospital districts.** (1) An employee of a county hospital or county rest home in a ~~third, fourth, fifth, sixth, or seventh class~~ county having a taxable valuation of less than \$30 million or an employee of a hospital district is exempt from the provisions of this part.

(2) For any reduction in leave benefits for an employee subject to subsection (1), there must be an increase in compensation or benefits."

**Section 2.** Section 2-18-702, MCA, is amended to read:

**"2-18-702. Group insurance for public employees and officers.** (1) (a) Except as provided in subsection (1)(c), all counties, cities, towns, school districts, and the board of regents shall upon approval by two-thirds vote of their respective officers and employees enter into group hospitalization, medical, health, including long-term disability, accident, or group life insurance contracts or plans for the benefit of their officers and employees and their dependents. The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents.

(b) The governing body of a county, city, or town may, at its discretion, consider the employees of private, nonprofit economic development organizations, hospitals, health centers, or nursing homes to be employees of the county, city, or town solely for the purpose of participation in group hospitalization, medical, health, including long-term disability, accident, or group life insurance contracts or plans as provided in subsection (1)(a). The governing body of the county, city, or town may require an employee, organization, hospital, health center, or nursing home to pay the actual cost of coverage required for participation or may, at its discretion and subject to any restriction on who may be a member of a group, pay all or part of the cost of coverage of the employee of the organization.

(c) The governing body of a ~~third, fourth, fifth, sixth, or seventh class~~ county having a taxable valuation of less than \$30 million or the board of trustees of a hospital district may, at its discretion, exempt employees of a county hospital, county rest home or nursing home, or hospital district from participation in group hospitalization, medical, health, including long-term disability, accident, or group life insurance contracts or plans provided pursuant to subsection (1)(a) or (1)(b).

(2) State employees and elected officials, as defined in 2-18-701, may participate in state employee group benefit plans as are provided for under part 8 of this chapter.

(3) For state officers and employees, the premiums required from time to time to maintain the insurance in force must be paid by the insured officers and employees, and the state treasurer shall deduct the premiums from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, and issue a warrant for the premiums to the insurer.

(4) For the purpose of this section, the plans of health service corporations for defraying or assuming the cost of professional services of licensees in the field of health or the services of hospitals, clinics, or sanitariums or both professional and hospital services must be construed as group insurance and the dues payable under the plans must be construed as premiums for group insurance.

(5) If the board of trustees of a school district implements a self-insured group health plan or if the board of regents implements an alternative to conventional insurance to provide group benefits to its employees, the board shall maintain the alternative plan on an actuarially sound basis."

**Section 3.** Section 7-2-2213, MCA, is amended to read:

**"7-2-2213. Resolution of board of county commissioners.** The board of county commissioners, on

the final hearing of the petition or petitions, shall, by a resolution entered on its minutes, determine:

(1) the boundaries of the proposed new county, and the boundaries determined by the board must be the boundaries of the proposed new county if it is created as provided in this part;

(2) whether the petition contains the genuine signatures of at least 50% of the registered electors of the proposed new county as required in this part or, in cases where separate petitions are presented from portions of two or more existing counties as required in this part, whether each petition is signed by at least 50% of the registered electors of that portion of each of the existing counties that is proposed to be taken into the proposed new county;

(3) whether any line of the proposed new county passes within 15 miles of the courthouse situated at the county seat of any county proposed to be divided, except as otherwise provided;

(4) whether the proposed new county and affected existing counties meet the limitations contained in 7-2-2202;

(5) ~~the class to which the proposed new county will belong after its creation~~ and the name of the proposed new county as stated in the petition; and

(6) whether the area embraced within the proposed new county will be reasonably compact."

**Section 4.** Section 7-2-2218, MCA, is amended to read:

**"7-2-2218. Form of ballot.** (1) If the proposed new county is to be formed from one county or from portions of two or more existing counties, the ballot must be in the following form:

(a) notice required by 7-2-2215 must require the electors to cast ballots that contain the words "For the new county of.... (giving the name of the proposed new county) -- Yes" and "For the new county of.... (giving the name of the proposed new county) -- No".

(b) The ballots must also contain the names of individuals to be voted for to fill the various elective offices designated in the notice ~~for counties of the class to which the proposed county will belong, as determined by the board of county commissioners, as provided in this part.~~

(c) There must also be printed upon the ballot the words "For the county seat" and the names of all cities or towns that may have filed with the election administrator a petition, signed by at least 25 registered electors, nominating any city or town within the proposed new county for the county seat. The elector shall designate the elector's choice for county seat by marking a cross (X) opposite the name of the city or town for which the elector

desires to cast a vote.

(2) If the proposed new county is to be an existing county enlarged by territory taken from one or more other counties, the notice required by 7-2-2215(1) must require the electors to cast ballots that must contain the legal description of the territory to be taken from the county in which the election is held, together with any name or names for the territory that may be in common use, and the words "For the territory described (or commonly known as....) to be detached from.... County and added to.... County -- Yes" and "For the territory described (or commonly known as....) to be detached from.... County and added to.... County -- No".

**Section 5.** Section 7-2-2222, MCA, is amended to read:

**"7-2-2222. Effect of election -- resolution by county commissioners.** (1) If, upon the canvass of the votes cast at the election, it appears that more than 50% of the votes cast by those voting in an election under 7-2-2215(1) in the county, by those voting in the same election in the territory proposed to be taken from the county, and by those voting in an election held under 7-2-2215(4) are affirmative, the board of county commissioners shall, by a resolution entered upon its minutes;

(a) declare the new or enlarged county duly formed and created as a county of this state, ~~of the class to which the same belongs and~~ under the name of .... County; ~~and, if~~

(b) ~~if appropriate, declare~~ that the city or town receiving the highest number of votes cast at the election for county seat ~~shall be~~ is the county seat of the county until removed in the manner provided by law; and

(c) ~~designate and~~ declare the individuals receiving, respectively, the highest number of votes for the ~~several~~ offices to be filled at the election to be duly elected to the offices.

(2) ~~However, if~~ If upon ~~such the~~ canvass it appears that more than 50% of the votes cast on the issue by those voting in the county, ~~or~~ by those voting in the territory proposed to be taken from the county, or by those voting in an election held under 7-2-2215(4) are negative, the board canvassing the vote ~~as provided herein~~ shall pass a resolution in accordance ~~therewith, and thereupon~~ with the vote and the proceedings relating to division of ~~such the~~ county or counties ~~shall must~~ cease. No other proceedings in relation to any other division of the old county or counties ~~shall may~~ be instituted for at least 4 years after ~~such the~~ determination."

**Section 6.** Section 7-2-2225, MCA, is amended to read:

**"7-2-2225. Officers of new county.** (1) Except as provided in subsections (2) through (4), at the election

provided for in 7-2-2215, there must be chosen a board of county commissioners and other county and district officers as are provided by law ~~for counties of the class to which the new county belongs.~~

(2) All elected, qualified, and acting officers of the county or counties who reside within the proposed new county are considered to be officers of the new county if they file, within 5 days after the final hearing and determination of the petition for the proposed new county, with the board of county commissioners whose duty it is to call the election. Filing with the board is the officers' declaration of intent to become officers of the proposed new county. The board issuing the proclamation of the election ~~shall omit providing~~ may not provide for the election of any officers who have filed their declaration to continue in office.

(3) All elected, qualified, and acting justices of the peace residing within the proposed new county shall hold office as justices of the peace in the new county for the remainder of the term for which they were elected.

(4) All elected, qualified, and acting school trustees residing within the proposed new county at the time of the division of the county into school districts, as provided in Title 20, chapter 6, shall hold office as school trustees in the new county for the remainder of the term for which they were elected on qualifying as school trustees for the respective districts in which they reside, as these districts are organized.

(5) The officers elected or appointed under the provisions of this part shall perform the duties and receive the compensation provided by general law for the office to which they have been appointed or elected in the counties of the class to which the new county belongs."

**Section 7.** Section 7-3-1214, MCA, is amended to read:

**"7-3-1214. Consolidated municipality commission.** (1) Except as otherwise provided in this part or part 13, all powers of the consolidated municipality are vested in a commission. ~~For the purpose of determining the number of members composing the commission, consolidated municipalities organized under the provisions of this part and part 13 shall be classified and all of the provisions of 7-1-2111 and 7-1-2112 govern and control the classification of the consolidated municipalities.~~

(2) (a) In consolidated municipalities ~~of the first class~~ having a taxable valuation of \$50 million or more, the commission ~~shall~~ must consist of seven members.

(b) In consolidated municipalities ~~of the second class, third class, or fourth class~~ having a taxable valuation of \$12.5 million or more and less than \$50 million, the commission ~~shall~~ must consist of five members.

(c) In consolidated municipalities ~~of the fifth class, sixth class, or seventh class~~ having a taxable valuation

of less than \$12.5 million, the commission shall must consist of three members."

**Section 8.** Section 7-3-1306, MCA, is amended to read:

**"7-3-1306. Division of treasury.** (1) There ~~shall~~ must be in the department of finance a division of the treasury, the head of which ~~shall~~ must be treasurer of the municipality; ~~shall have the~~ The treasurer has the powers and ~~shall~~ perform the duties prescribed for city treasurers and county treasurers by general law; and ~~shall be required to qualify by giving a bond in the same amount required of county treasurers of counties of the same class~~ must be bonded for the faithful performance of official duties pursuant to Title 2, chapter 9, part 7.

(2) All money received by an officer or employee of the municipality for or in connection with the business of the municipality ~~shall~~ must be paid promptly into the treasury. The commission shall by ordinance provide for the prompt and regular payment of ~~such the~~ money into the treasury and shall also, in the manner ~~hereinafter~~ provided in this part, designate the banking institutions with which it ~~shall~~ must be deposited."

**Section 9.** Section 7-3-1341, MCA, is amended to read:

**"7-3-1341. Department of law.** (1) The department of law is in the charge of a director appointed by the commission without definite term who must be a resident and elector of the municipality and who must possess all of the qualifications required of county attorneys.

(2) The director has all the powers and, either personally or through designated assistants, shall perform all the duties that are prescribed for county attorneys, city attorneys, and public administrators, and in addition, the director is chief legal adviser of and attorney for the municipality and of all departments and offices of the municipality. The director shall perform other duties that may be required by the commission.

(3) The director shall qualify by taking the oath of office prescribed by the constitution and by giving a bond in the amount required of a county public administrator ~~in a county of the same class. The director must receive from the state as part of the director's salary the same amount that is paid by the state to county attorneys in counties of the same class, and the remainder of the salary must be paid by the municipality.~~ For all purposes in connection with criminal prosecutions, the director must be known and designated as "county attorney of the city and county of ....."."

**Section 10.** Section 7-4-2405, MCA, is amended to read:

**"7-4-2405. Appointment of deputies in certain counties of seventh class.** (1) ~~In any county of the seventh class having less than 2,000 population, there shall not be appointed any A deputy county officer or deputy designated by any a county officer of such county unless the appointment of such deputy, designating the term of service and compensation thereof, shall be first authorized by the board of county commissioners of such county~~ may not be appointed in a county having a taxable valuation of less than \$5 million and a population of less than 2,000 unless the appointment, term of service, and compensation is authorized by the board of county commissioners.

(2) The board ~~shall~~ may not approve any compensation in payment for services of ~~any~~ a person appointed by or acting under ~~any~~ an elected or appointed officer of ~~said~~ the county ~~whose~~ if the person's appointment, ~~as herein provided, shall not have been authorized and approved by the board of such county~~ has not been authorized by the board as provided in this section."

**Section 11.** Section 7-4-2601, MCA, is amended to read:

**"7-4-2601. Limitation on number of deputy county clerks.** The ~~whole~~ number of deputies allowed the county clerk ~~must~~ may not exceed:

- (1) six in counties ~~of the first and second classes~~ having a taxable valuation of \$30 million or more;
- (2) three in counties ~~of the third class~~ having a taxable valuation of \$20 million or more and less than \$30 million;
- (3) two in counties ~~of the fourth and fifth classes~~ having a taxable valuation of \$10 million or more and less than \$20 million;
- (4) one in counties ~~of the sixth and seventh classes~~ having a taxable valuation of less than \$10 million."

**Section 12.** Section 7-4-2602, MCA, is amended to read:

**"7-4-2602. Designation of chief deputy by county clerk.** The county clerk ~~in counties of the first class~~ may designate ~~one of the~~ a deputy clerks clerk as chief deputy clerk."

**Section 13.** Section 7-4-2703, MCA, is amended to read:

**"7-4-2703. Limitation on number of deputies.** In counties ~~of the first and second class~~ having a taxable valuation of \$30 million or more, the county attorney may appoint one chief deputy and one deputy. In all other

counties, the county attorney may appoint a chief deputy or a deputy only with the approval of the board of county commissioners."

**Section 14.** Section 7-4-2705, MCA, is amended to read:

**"7-4-2705. Employment of special counsel in certain counties.** Except in counties ~~of the first class~~ having a taxable valuation of \$50 million or more, the board of county commissioners ~~has the power, whenever in its judgment the ends of justice or the interest of the county require it, to~~ may employ or authorize the county attorney to employ special counsel to assist in the prosecution of any criminal case pending in ~~such~~ the county or to represent ~~said~~ the county in any civil action in which ~~such~~ the county is a party."

**Section 15.** Section 7-4-3006, MCA, is amended to read:

**"7-4-3006. Limitation on number of deputy district court clerks.** The ~~whole~~ number of deputies allowed the clerk of the district court may not exceed one chief deputy and up to:

- (1) six deputies in counties ~~of the first or second class~~ having a taxable valuation of \$30 million or more;
- (2) four deputies in counties ~~of the third or fourth class~~ having a taxable valuation of \$15 million or more and less than \$30 million and having more than one district judge;
- (3) two deputies in counties ~~of the third or fourth class~~ having a taxable valuation of \$15 million or more and less than \$30 million and having one district judge;
- (4) one deputy in counties ~~of the fifth, sixth, or seventh class~~ having a taxable valuation of less than \$15 million."

**Section 16.** Section 7-6-2102, MCA, is amended to read:

**"7-6-2102. Limitation on number of deputy county treasurers.** (1) Except as provided in subsection (2), the ~~whole~~ number of deputies allowed the county treasurer ~~must~~ may not exceed:

- (a) two in counties ~~of the first class~~ having a taxable valuation of \$50 million or more;
  - (b) one in counties ~~of all other classes~~ having a taxable valuation of less than \$50 million.
- (2) The board of county commissioners may allow ~~such~~ additional deputies as may be necessary during the months of November and December of each year."



**Section 17.** Section 7-6-2401, MCA, is amended to read:

**"7-6-2401. Creation of office of county auditor.** (1) The office of county auditor exists in all counties ~~of the first, second, third, or fourth class that have~~ having a population in excess of 15,000.

(2) County commissioners in counties to which subsection (1) does not apply may create a county auditor's position, either as a full-time or a part-time position or in combination with another position pursuant to 7-4-2301.

(3) The provisions of 7-6-2403 through 7-6-2412 do not apply to counties that do not have county auditors."

**Section 18.** Section 7-6-2413, MCA, is amended to read:

**"7-6-2413. Limitation on number of deputy county auditors.** ~~The whole number of deputies allowed to county auditors must not exceed one in counties of the first, second, and third classes~~ A county auditor may not have more than one deputy."

**Section 19.** Section 7-21-3211, MCA, is amended to read:

**"7-21-3211. Employment of stock inspector.** (1) ~~Whenever the board of county commissioners is satisfied, from its own knowledge or from facts and circumstances submitted to it by the county attorney or sheriff, that livestock is being stolen, slaughtered, or otherwise disposed of contrary to law in the county and in a manner that the public officers of the county are not in a position to apprehend the criminals or obtain the necessary evidence upon which to base a prosecution, the board of each county, except in counties of the first class, has the power to employ a stock inspector~~ A board of county commissioners may employ a stock inspector if:

(a) the board has found, based on information that the board has gathered or that has been provided to it by the county attorney or sheriff, that livestock is being stolen, slaughtered, or otherwise illegally disposed of; and

(b) the county officers are unable to apprehend the individuals suspected of the offense or obtain the necessary evidence on which to base a prosecution.

(2) ~~Whenever~~ When a stock inspector is employed, the employment is only for the case or cases then under investigation. During the ~~existence of the appointment~~ inspector's employment, the inspector is vested with the same police power and authority as the sheriff, within the limitation of the purposes for which the inspector

is appointed employed."

**Section 20.** Section 7-22-2142, MCA, is amended to read:

**"7-22-2142. Sources of money for noxious weed fund.** (1) The commissioners may provide sufficient money in the noxious weed fund for the board to fulfill its duties, as specified in 7-22-2109, by:

(a) appropriating money from ~~the general fund of the county~~ any source in an amount not less than \$100,000 or an amount equivalent to 1.6 mills levied upon the taxable value of all property; and

(b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying a tax of not less than 1.6 mills on the taxable value of all taxable property in the county ~~or by contributing an equivalent amount from another source of not less than the amount received from all county sources in fiscal year 2000 or, for first class counties, as defined in 7-1-2111, the greater of the amount received from all county sources in fiscal year 2000 or \$100,000.~~ The tax levied under this subsection must be identified on the assessment as the tax that will be used for noxious weed control.

(2) The proceeds of the noxious weed control tax or other contribution must be used solely for the purpose of managing noxious weeds in the county and must be deposited in the noxious weed fund.

(3) Any proceeds from work or chemical sales must revert to the noxious weed fund and must be available for reuse within that fiscal year or any subsequent year.

(4) The commissioners may accept any private, state, or federal gifts, grants, contracts, or other funds to aid in the management of noxious weeds within the district. These funds must be placed in the noxious weed fund.

(5) ~~The~~ Subject to 15-10-420, commissioners may impose a tax for weed control within a special management zone as provided in 7-22-2121(4). For the purposes of imposing the tax, the special management zone boundaries must be established by the board and approved by a majority of the voters within the special management zone. ~~The~~ Pursuant to an election held in accordance with 15-10-425, the amount of the tax must be approved by a majority of the voters within the special management zone, and approval of the zone and the tax may occur simultaneously. Revenue received from a special management zone tax must be spent on weed management projects within the boundaries of the special management zone."

**Section 21.** Section 7-32-101, MCA, is amended to read:

**"7-32-101. Department of public safety authorized.** In counties ~~other than first- and second-class counties~~ having a taxable valuation of less than \$30 million, on agreement of the legislative body of a city or town with the county commissioners of the county in which it is located, there may be established a department of public safety in lieu of a police department and a sheriff's office."

**Section 22.** Section 7-32-2102, MCA, is amended to read:

**"7-32-2102. Undersheriff to be appointed -- return to other duties.** (1) The sheriff, as soon as possible after taking office, shall, except in counties ~~of the seventh class~~ with a population of less than 750, appoint an undersheriff to serve at the pleasure of the sheriff. The undersheriff has the same powers and duties as a deputy sheriff.

(2) A deputy sheriff appointed undersheriff as provided in subsection (1) shall resume other duties within the sheriff's office, while maintaining tenure and seniority, if the sheriff appoints another to succeed the deputy sheriff as undersheriff. Upon the return to the position of deputy sheriff, the person must be paid the same salary the person would have received had the person not taken the undersheriff position."

**Section 23.** Section 7-32-2111, MCA, is amended to read:

**"7-32-2111. Hours of work for deputy sheriff of county of first or second class.** ~~Any A~~ A person employed as a deputy sheriff of a ~~first- or second-class~~ county ~~shall not be forced~~ having a taxable valuation of \$30 million or more may not be required to work in excess of 40 hours ~~per a~~ per a week except in case of an emergency and ~~shall be~~ is entitled to 2 days off in each 7-day period."

**Section 24.** Section 13-17-101, MCA, is amended to read:

**"13-17-101. Secretary of state to approve voting systems.** (1) A voting system may not be used for any election in this state unless the system is approved by the secretary of state as provided in this section.

(2) The secretary of state shall:

(a) examine a voting system proposed for use to determine if it complies with the requirements of 13-17-103;

(b) within 30 days after examining the voting system, file a report of the examination in the secretary of state's office;

(c) include in the report the reasons for the voting system's approval or disapproval and the secretary of state's opinion about the economic and procedural impact that the voting system's use or nonuse may have on the various ~~classes~~ of counties of this state; and

(d) within 5 days after filing the report, transmit to each election administrator, including school election administrators for elections under Title 20, chapter 20, a copy of the report.

(3) Voting systems may not be used in an election unless approved by the secretary of state 60 days or more prior to the election at which they will be used."

**Section 25.** Section 15-23-703, MCA, is amended to read:

**"15-23-703. Taxation of gross proceeds -- taxable value for ~~county classification and nontax purposes.~~** (1) (a) The department shall compute from the reported value of coal gross proceeds a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against coal gross proceeds but shall, subject to subsection (1)(b), levy a tax of 5% against the value of coal as provided in 15-23-701(4). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) If the county grants a tax abatement for production from a new or expanding underground mine as provided in 15-23-715, the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by 50%.

(2) For ~~county classification and~~ all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as the taxes were distributed in fiscal year 1990.

(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Those amounts must be distributed as follows:

(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;

(ii) except as provided in subsection (5), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection (6), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(4) If there is a distribution of coal gross proceeds from a new or expanding underground mine with a tax abatement as provided under 15-23-715, the county treasurer shall distribute:

(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and

(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.

(5) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (3)(b)(i), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year.

(b) If the allocation in subsection (5)(a) exceeds the total budget of a taxing unit, the commissioners may direct the county treasurer to reallocate the excess to any taxing unit within the county.

(6) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year.

(b) If the allocation under subsection (6)(a) exceeds the total budget for a fund, the trustees may reallocate the excess to any budgeted fund of the school district.

(7) Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions

required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(8) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).

(9) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in subsection (6)."

**Section 26.** Section 15-24-3001, MCA, is amended to read:

**"15-24-3001. Electrical generation and transmission facility exemption -- definitions.** (1) (a) Except as provided in subsections (1)(b) and (3), an electrical generation facility and related delivery facilities constructed in the state of Montana after May 5, 2001, and before January 1, 2006, may be exempt from property taxation for a 10-year period beginning on the date that an owner or operator of an electrical generation facility and related delivery facilities commences to construct the facility as defined in 75-20-104(6)(a) and (6)(b). In order to be exempt from property taxation, an owner and operator of an electrical generation facility and related delivery facilities shall offer contracts to sell 50% of that facility's net generating output at a cost-based rate, which includes a rate of return not to exceed 12%, to customers for a 20-year period from the date of the facility's completion.

(b) The property tax exemption allowed under subsection (1)(a) is limited to a 5-year period for generation facilities powered by oil or gas turbines.

(2) To the extent that 50% of the net generating output of the facility is not contracted for delivery to consumers for a contract term extending 5 years to 20 years from the completion of the facility, as determined by the owner, surplus capacity must be offered on a declining contract term basis for the remainder of the contract period at a cost-based rate that includes a rate of return not to exceed 12%. Surplus capacity that is not contracted for in this fashion may be sold at market rates.

(3) (a) Except as provided in subsection (3)(c), if an owner or operator of property exempt from taxation under subsection (1)(a) signs a contract to sell power as required in subsection (1) and then fails to perform the contract during the first 10-year period, the 10-year property tax exemption in subsection (1) is void and the property is subject to a rollback tax as provided in 15-24-3002.

(b) Except as provided in subsection (3)(c), if an owner or operator of property exempt from taxation

under subsection (1)(b) signs a contract to sell power as required in subsection (1) and then fails to perform the contract during the first 5-year period, the 5-year property tax exemption in subsection (1) is void and the property is subject to a rollback tax as provided in 15-24-3002.

(c) If an owner or operator fails to perform the contract due to earthquakes or other acts of God, theft, sabotage, acts of war, other social instabilities, or equipment failure, the property tax exemption in subsection (1)(a) or (1)(b) is not void and the owner or operator is not subject to the rollback tax as provided in 15-24-3002.

(4) For the purposes of this section, the following definitions apply:

(a) (i) "Electrical generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce 20 average megawatts or more of electric power. The term is limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(ii) The term does not include:

(A) electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes; or

(B) a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and that is classified under 15-6-134 and 15-6-138.

(b) "Related delivery facilities" means transmission facilities necessary to deliver the energy from the electrical generation facility to the existing network transmission system.

(c) "Surplus capacity" means that portion of the 50% of net generating output not contracted for use.

(5) The department shall appraise exempt electrical generation facilities for each year that the property is exempt and determine the taxable value of the property as if it were subject to property taxation. ~~The taxable value determined by the department must be included as taxable valuation for the purposes of county classification under 7-1-2111.~~

**Section 27.** Section 15-36-332, MCA, is amended to read:

**"15-36-332. Distribution of taxes to taxing units -- appropriation.** (1) (a) By the dates referred to in subsection (6), the department shall distribute oil and natural gas production taxes allocated under 15-36-331(3)

to each eligible county.

(b) By the dates referred to in subsection (6), the department shall distribute the amount deposited in the oil and gas natural resource distribution account under 15-36-331(2)(b) as provided in subsection ~~(6)~~ (7) of this section.

(2) (a) Each county treasurer shall distribute the amount of oil and natural gas production taxes designated under subsection (1)(a), including the amounts referred to in subsection (2)(b), to the countywide elementary and high school retirement funds, countywide transportation funds, and eligible school districts according to the following schedule:

	Elementary Retirement	High School Retirement	Countywide Transportation	School Districts
Big Horn	14.81%	10.36%	2.99%	26.99%
Blaine	5.86%	2.31%	2.71%	24.73%
Carbon	3.6%	6.62%	1.31%	49.18%
Chouteau	8.1%	4.32%	3.11%	23.79%
Custer	6.9%	3.4%	1.19%	31.25%
Daniels	0	7.77%	3.92%	48.48%
Dawson	5.53%	2.5%	1.11%	35.6%
Fallon	0	7.63%	1.24%	42.58%
Fergus	7.88%	4.84%	2.08%	53.25%
Garfield	4.04%	3.13%	5.29%	26.19%
Glacier	11.2%	4.87%	3.01%	46.11%
Golden Valley	0	11.52%	2.77%	54.65%
Hill	6.7%	4.07%	1.59%	49.87%
Liberty	4.9%	4.56%	1.15%	35.22%
McCone	4.18%	3.19%	2.58%	43.21%
Musselshell	5.98%	4.07%	3.53%	32.17%
Petroleum	0	11.92%	4.59%	55.48%
Phillips	0.43%	6.6%	1.08%	41.29%
Pondera	6.96%	5.06%	1.94%	45.17%



Powder River	3.96%	2.97%	4.57%	22.25%
Prairie	0	8.88%	1.63%	36.9%
Richland	4.1%	3.92%	2.26%	43.77%
Roosevelt	9.93%	7.37%	2.74%	40.94%
Rosebud	3.87%	2.24%	1.05%	72.97%
Sheridan	0	3.39%	2.22%	47.63%
Stillwater	6.87%	4.86%	1.63%	41.16%
Sweet Grass	6.12%	6.5%	2.4%	37.22%
Teton	6.88%	8.19%	3.8%	29.43%
Toole	2.78%	4.78%	1.3%	43.56%
Valley	2.26%	12.61%	4.63%	41.11%
Wibaux	0	4.1%	0.77%	31.46%
Yellowstone	7.98%	4.56%	1.07%	52.77%
All other counties	3.81%	7.84%	1.81%	41.04%

(b) (i) The county treasurer shall distribute 9.8% of the Custer County share to the countywide community college district in Custer County.

(ii) The county treasurer shall distribute 14.5% of the Dawson County share to the countywide community college district in Dawson County.

(3) The remaining oil and natural gas production taxes for each county must be used for the exclusive use and benefit of the county, including districts within the county established by the county.

(4) (a) The county treasurer shall distribute oil and natural gas production taxes to school districts in each county referred to in subsection (2) as provided in subsections (4)(b) through (4)(d).

(b) The amount distributed to each K-12 district within the county is equal to oil and natural gas production taxes in the county multiplied by the ratio that oil and natural gas production taxes attributable to oil and natural gas production in the K-12 school district bear to total oil and natural gas production taxes attributable to total oil and natural gas production in the county and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(c) For the amount to be distributed to each elementary school district and to each high school district under subsection (4)(d), the department shall first determine the amount of oil and natural gas taxes in the high

school district that is attributable to oil and natural gas production in each elementary school district that is located in whole or in part within the exterior boundaries of a high school district and multiply that amount by the school district percentage figure for the county referred to in subsection (2)(a).

(d) (i) The amount distributed to each elementary school district that is located in whole or in part within the exterior boundaries of a high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the elementary school district bear to the sum of the total mills of the elementary school district and the total mills of the high school district.

(ii) The amount distributed to the high school district is equal to the amount determined in subsection (4)(c) multiplied by the ratio that the total mills of the high school district bear to the sum of the total mills of each elementary school district referred to in subsection (4)(c) and the total mills of the high school district.

(5) (a) Oil and natural gas production taxes calculated for each school district under subsections (4)(b) through (4)(d) must be distributed to each school district in the relative proportion of the mill levy for each fund.

(b) If a distribution under subsection (5)(a) exceeds the total budget for a school district fund, the board of trustees of an elementary or high school district may reallocate the excess to any budgeted fund of the school district.

(6) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous year.

~~\_\_\_\_\_ (7) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes under 7-1-2111.~~

~~\_\_\_\_\_ (8)(7) The department shall distribute the funds received under 15-36-331(2)(b) to counties based on~~

county oil and gas production. Of the distribution to a county, one-third must be distributed to the county government and two-thirds must be distributed to incorporated cities and towns within the county. If there is more than one incorporated city or town within the county, the city and town allocation must be distributed to the cities and towns based on their relative populations.

~~(9)~~(8) The distributions to taxing units and to counties and incorporated cities and towns under this section are statutorily appropriated, as provided in 17-7-502, from the state special revenue fund."

**Section 28.** Section 15-39-110, MCA, is amended to read:

**"15-39-110. Distribution of taxes.** (1) (a) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that produced bentonite before January 1, 2005. The tax is distributed as provided in subsections (2) through (9).

(b) For each semiannual period, the department shall determine the amount of tax, late payment interest, and penalties collected under this part from bentonite mines that first began producing bentonite after December 31, 2004. The tax is distributed as provided in subsection (10).

(2) The percentage of the tax determined under subsection (1)(a) and specified in subsections (3) through (9) is allocated according to the following schedule:

(a) 2.33% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108;

(b) 18.14% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 3.35% to Carbon County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-108, 20-9-331, 20-9-333, and 20-9-360; and

(d) 76.18% to Carter County to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-108, 20-9-331, 20-9-333, and 20-9-360.

(3) For the production of bentonite occurring after December 31, 2008, and before January 1, 2010, 60% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 40% must be distributed as provided in subsection (10).

(4) For the production of bentonite occurring after December 31, 2009, and before January 1, 2011, 50% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 50% must be distributed as provided in subsection (10).

(5) For the production of bentonite occurring after December 31, 2010, and before January 1, 2012, 40% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 60% must be distributed as provided in subsection (10).

(6) For the production of bentonite occurring after December 31, 2011, and before January 1, 2013, 30% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 70% must be distributed as provided in subsection (10).

(7) For the production of bentonite occurring after December 31, 2012, and before January 1, 2014, 20% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 80% must be distributed as provided in subsection (10).

(8) For the production of bentonite occurring after December 31, 2013, and before January 1, 2015, 10% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (2) and 90% must be distributed as provided in subsection (10).

(9) For the production of bentonite occurring in tax years beginning after December 31, 2014, 100% of the tax determined under subsection (1)(a) must be distributed as provided in subsection (10).

(10) For the production of bentonite, 100% of the tax determined under subsection (1)(b) and the distribution percentages determined under subsections (3) through (9) are allocated according to the following schedule:

(a) 1.30% to the state special revenue fund to be appropriated to the Montana university system for the purposes of the state tax levy as provided in 15-10-108;

(b) 20.75% to the state general fund to be appropriated for the purposes of the tax levies as provided in 20-9-331, 20-9-333, and 20-9-360;

(c) 77.95% to the county in which production occurred to be distributed in proportion to current fiscal year mill levies in the taxing jurisdictions in which production occurs, except a distribution may not be made for county and state levies under 15-10-108, 20-9-331, 20-9-333, and 20-9-360.

(11) The department shall remit the amounts to be distributed in this section to the county treasurer by the following dates:

(a) On or before October 1 of each year, the department shall remit the county's share of bentonite production tax payments received for the semiannual period ending June 30 of the current year to the county treasurer.

(b) On or before April 1 of each year, the department shall remit the county's share of bentonite production tax payments received to the county treasurer for the semiannual period ending December 31 of the previous year.

(12) (a) The department shall also provide to each county the amount of gross yield of value from bentonite, including royalties, for the previous calendar year. Thirty-three and one-third percent of the gross yield of value must be treated as taxable value for county classification purposes under 7-1-2111 and for determining school district debt limits under 20-9-406.

(b) The percentage amount of the gross yield of value determined under subsection (12)(a) must be treated as assessed value under 15-8-111 for the purposes of local government debt limits and other bonding provisions as provided by law.

(13) The bentonite tax proceeds are statutorily appropriated, as provided in 17-7-502, to the department for distribution as provided in this section."

**Section 29.** Section 30-14-122, MCA, is amended to read:

**"30-14-122. Employment of investigator by county attorney.** The county attorney in ~~first- and second-class~~ counties having a taxable valuation of \$30 million or more may designate an employee to act as a full-time investigator."

**Section 30.** Section 39-4-107, MCA, is amended to read:

**"39-4-107. State and municipal governments, school districts, mines, mills, and smelters.** (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, the state government, or a first-class school district, on all contracts let by them, and for all janitors (except in courthouses of ~~sixth- and seventh-class~~ counties having a taxable valuation of less than \$10 million), engineers, firefighters, caretakers, custodians, and laborers employed in or about any buildings, works, or grounds used or occupied for any purpose by a municipal, county, or state government or first-class school district. A period of 8 hours constitutes a day's work in mills and smelters for the treatment of ores, in underground

mines, and in the washing, reducing, and treatment of coal. This subsection does not apply in the event of an emergency when life or property is in imminent danger or to the situations specified in subsections (3) and (4).

(2) The provisions of subsection (1) do not apply to firefighters who are working a work period established in a collective bargaining agreement entered into between a public employer and a firefighters' organization or its exclusive representative.

(3) In counties where regular road and bridge departments are maintained, the county commissioners may, with the approval of the employees or their constituted representative, establish a 40-hour workweek consisting of 4 consecutive 10-hour days. An employee may not be required to work in excess of 8 hours in any one workday if the employee prefers not to.

(4) In municipal and county governments, the employer and employee may agree to a workday of more than 8 hours and to a 7-day, 40-hour work period:

(a) through a collective bargaining agreement when a collective bargaining unit represents the employee;

or

(b) by the mutual agreement of the employer and employee when a bargaining unit is not recognized."

**Section 31.** Section 80-7-814, MCA, is amended to read:

**"80-7-814. Administration and expenditure of funds.** (1) The provisions of this section constitute the noxious weed management program.

(2) (a) Except as provided in subsection (2)(b), money deposited in the noxious weed management trust fund may not be committed or expended until the principal reaches \$10 million.

(b) In the case of a noxious weed emergency, as provided in 80-7-815, a vote of three-fourths of the members of each house of the legislature may appropriate principal from the trust fund.

(c) Interest or revenue generated by the trust fund, excluding unrealized gains and losses, must be deposited in the noxious weed management special revenue fund and may be expended for noxious weed management projects before the principal of the noxious weed management trust reaches \$10 million with a majority vote of each house of the legislature.

(d) Any grant funds, regardless of the time at which the grant was awarded, that are not fully expended upon termination of the contract or an extension of the contract, not to exceed 1 year, must revert to the department. The department shall deposit any reverted funds into the noxious weed management trust fund as

principal.

(3) The principal of the noxious weed management trust fund in excess of \$10 million may be appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of \$10 million may be used only to fund the noxious weed management program.

(4) The department may expend funds under this section through grants or contracts to communities, weed management districts, or other entities that it considers appropriate for noxious weed management projects. A project is eligible to receive funds only if the county in which the project occurs has funded its own weed management program with the lesser of:

(a) a levy in an amount not less than 1.6 mills or an equivalent amount from another source; or

(b) by appropriating an amount of not less than \$100,000 ~~for first-class counties, as defined in 7-1-2114~~ from any source.

(5) The department may expend funds without the restrictions specified in subsection (4) for the following:

(a) employment of a new and innovative noxious weed management project or the development, implementation, or demonstration of any noxious weed management project that may be proposed, implemented, or established by local, state, or national organizations, whether public or private. The expenditures must be on a cost-share basis with the organizations.

(b) cost-share noxious weed management programs with local weed management districts;

(c) special grants to local weed management districts to eradicate or contain significant noxious weeds newly introduced into the county. These grants may be issued without matching funds from the district.

(d) administrative expenses of the department for managing the noxious weed management program and other provisions of this part. The cost of administering the program may not exceed 12% of the total program expenses.

(e) administrative expenses incurred by the noxious weed management advisory council;

(f) a project recommended by the noxious weed management advisory council, if the department determines that the project will significantly contribute to the management of noxious weeds within the state; and

(g) grants to the agricultural experiment station and the cooperative extension service for crop weed management research, evaluation, and education.

(6) The agricultural experiment station and cooperative extension service shall submit annual reports

on current projects and future plans to the noxious weed management advisory council.

(7) In making expenditures under subsections (3) through (5), the department shall give preference to weed management districts and community groups.

(8) If the noxious weed management trust fund is terminated by constitutional amendment, the money in the fund must be divided between all counties according to rules adopted by the department for that purpose."

**Section 32.** Section 90-6-1001, MCA, is amended to read:

**"90-6-1001. Oil, gas, and coal natural resource accounts.** (1) There is an oil and gas natural resource distribution account in the state special revenue fund. The collections allocated to the account from 15-36-304(7)(b) must be deposited in the account to be used as provided in ~~15-36-332(8) and (9)~~ 15-36-332(7) and (8).

(2) There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from 15-35-108(7) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards."

**Section 33. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 7-1-2111. Classification of counties.
- 7-1-2112. Designation of county classification by county commissioners.

**Section 34. Effective date.** [This act] is effective July 1, 2011.

- END -



I hereby certify that the within bill,  
HB 0212, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 212

INTRODUCED BY P. INGRAHAM

AN ACT ELIMINATING COUNTY CLASSIFICATIONS; REPLACING REFERENCES TO COUNTY CLASSIFICATIONS WITH AMOUNT OF TAXABLE VALUATION OR POPULATION; AMENDING SECTIONS 2-18-641, 2-18-702, 7-2-2213, 7-2-2218, 7-2-2222, 7-2-2225, 7-3-1214, 7-3-1306, 7-3-1341, 7-4-2405, 7-4-2601, 7-4-2602, 7-4-2703, 7-4-2705, 7-4-3006, 7-6-2102, 7-6-2401, 7-6-2413, 7-21-3211, 7-22-2142, 7-32-101, 7-32-2102, 7-32-2111, 13-17-101, 15-23-703, 15-24-3001, 15-36-332, 15-39-110, 30-14-122, 39-4-107, 80-7-814, AND 90-6-1001, MCA; REPEALING SECTIONS 7-1-2111 AND 7-1-2112, MCA; AND PROVIDING AN EFFECTIVE DATE.