

HOUSE BILL NO. 68

INTRODUCED BY S. GIST

BY REQUEST OF THE LOCAL GOVERNMENT INTERIM COMMITTEE

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

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

Section 1. Section 7-4-2110, MCA, is amended to read:

"7-4-2110. Supervision of county and other officers. (1) The board of county commissioners has jurisdiction and power, under the limitations and restrictions that are prescribed by law, to:

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

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

(3)(c) direct prosecutions for delinquencies;

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

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

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

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

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

(b) The term does not include a county, consolidated city-county, incorporated city or town, or

1 school district."

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

4 **"27-26-206. Enforcement of writ -- penalty.** (1) When a peremptory mandate has been issued and
5 directed to any lower tribunal, corporation, board, or person, if it appear to the court or judge that any member
6 of the tribunal, corporation, board, or person upon whom the writ has been personally served has, without just
7 excuse, refused or neglected to obey the writ, the court may, upon motion, impose a fine not exceeding \$1,000.
8 In case of persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is
9 obeyed and may make any orders necessary and proper for the complete enforcement of the writ.

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

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