

HOUSE BILL NO. 33

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 CIVIL PROCEEDINGS, HIRE OUTSIDE COUNSEL, AND RECOVER COSTS; PROVIDING FOR REMOVAL FROM OFFICE FOR VIOLATION OF A WRIT OF MANDAMUS; 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. The board of county commissioners has jurisdiction and power, under the limitations and restrictions that are prescribed by law, to:

(1) 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) see that the officers faithfully perform their duties;

(3) direct prosecutions for delinquencies;

(4) initiate civil proceedings to seek civil remedies, including a writ of mandamus, to compel or enjoin the performance of an act by a board member of a local government entity;

(5) hire outside counsel to litigate civil proceedings and recover reasonable attorney fees and costs as determined by a court;

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

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

(8) (a) Except as provided in subsection (8)(b), as used in this section, "local government entity"

1 has the meaning provided in 2-7-501.

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

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

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

13 (2) When a party is an elected or appointed official and is found in contempt pursuant to 3-1-501
14 for not complying with a writ of mandamus, the court may, on motion, issue an order to remove the party from
15 public office."

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