

1 **State Laws and Public Libraries**

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A quick reminder that I'm not a lawyer, so this shouldn't be considered legal advice. It's always a good idea to consult a lawyer when you have legal questions.

2 **Open Meeting Law**

- Open Meeting Law MCA 2-3-201 through 2-3-203
- What is a meeting?
- A quorum of members whether they meet in person or by electronic equipment

3 **What kind of notice needs to be given?**

- Notice – depends
 - Ask your city/county attorney for guidance, but in general
 - Post at least 48 hours before meeting; 7 days if covering something that the public will be interested in learning

4 **When can you close a meeting?**

- Two reasons
 - Person's right to privacy trumps public's right to know
 - Be sure and talk to person involved first
 - Discussion of Litigation Strategy
 - Only if it involves a private entity; public entities must keep their meetings open

5 **Closing a Meeting**

- Should you keep minutes?
- Maybe. It's good to keep them for your protection and as a record of what occurred in the meeting.
- Should you cast your vote in a closed meeting?
- No. You need to reopen the meeting before making a motion and voting on it.

6 **Ethics Questions**

1. A trustee whose spouse is a contractor is serving on the board. The library will be undergoing a major renovation. What are the potential issues?
2. A local contractor has given the library a substantial donation. The library will be undergoing a major remodel in the next few months. What are the potential issues?
3. The board chair's wife wants to volunteer at the library. What are the potential issues?

7 **Code of Ethics**

- MCA 2-2-101 through 2-2-105
- DO NOT:
 - Use information for personal benefit
 - Accept substantial gifts that would influence a decision
- DO:
 - Disclose conflicts of interest
 - Abstain from voting when conflicts of interest arise

8 **Is a Trustee Liable for Bad Decisions?**

9 **Trustee Liability**

- If a trustee is considered an employee under MCA 2-9-101 and makes a decision in good

faith, they do have some protections. Consult a local attorney or your insurance provider to learn more.

- Exceptions or exclusions to protection
 - If conduct is based on fraud, oppression or malice
 - If conduct is a criminal offense
 - If the employee settles the claim without consent of employer
 - If the employee refuses to cooperate in defense

10 **Can the City/County do that?**

- The city/county has put a freeze on pay raises. The library board wants to give their employees a raise and has the money to do so. The city/county says no.
- The library roof is leaking. The city/county fixes the roof (without talking to the board) and then charges the library for the cost of fixing the roof.
- The library board recommended a particular candidate for a vacant position on the board. The city/county chose someone else.

11 **Powers & Duties of Trustees**

- MCA 22-1-309 (MCA 22-1-707 for library districts)
 - Prepare an annual budget/pay necessary expenses of library staff when on business
 - Adopt bylaws and rules (set policy)
 - Have the power to contract
 - Make an annual report to governing body
 - Power to accept gifts, donations, etc.
 - Power to acquire, lease, and sell property in the name of the city or county
 - Exercise other powers, not inconsistent with the law for the effective use and management of library

12 **Information Access MT Act**

- MCA 22-1-325 through 22-1-331
 - State Aid Per Capita/Per Square Mile
 - State Interlibrary Resource Sharing Program
 - Voluntary Statewide Library Access Program
 - Base Grants

13 **Library Records Confidentiality Act**

- MCA 22-1-1101 through 22-1-1111
- What is a library record?
- Any document, record, etc that identifies what person has requested or read

14 **Confidentiality Act Scenarios**

1. The library wants to start a homebound service. To best serve the patrons, the coordinator needs to keep a record of who is reading what. What should the library do?
2. A mother wants to know what items her child has checked out, so she can find the books and return them to the library. What should the library do?
3. A guy calls the library asking for Joe. He says he's Joe's dad and wants to know if Joe is at the library, so he can pick Joe up. What should the library do?

15 **Disclosure of Records**

- When can a library disclose information?
 - Written request from person

- Retrieving overdue or stolen materials
 - A court order
- 16 **Questions?**
- 17 **Can library boards use proxies?**
- Nothing in the law prohibits boards from using proxies, but...
 - It could encourage members to not attend meetings regularly
 - It doesn't allow the absent member to hear public and/or other board member comments about an issue. It is blind voting to a certain degree.
- 18 **What if you still want to use proxies?**
- Make sure the process is covered in the bylaws
 - Require written documentation about the person's vote and why
 - Develop specific voting instructions
 - Accept and announce the proxy before any votes that occur at the meeting
 - Consider limiting proxies to emergency situations
- 19 **Meeting Room Policy**
- Religious services
 - Political parties
 - Alcoholic beverages in the meeting room
 - Groups that promote hatred
- 20 **Can You Ban Religious Services?**
- The federal court system is divided. One region says "no, you cannot ban religious services" while another says "yes, you can ban formal religious services, but not religious elements."
 - It's up to the board. Probably okay to say "no formal religious services."
- 21 **What about political parties?**
- This one is also tricky, because of free speech issues.
 - Generally the rule of thumb is that it is okay to ban political party meetings.
 - It is NOT okay to ban political groups who might want to discuss or give their views about controversial issues.
- 22 **Can you allow alcoholic beverages?**
- Yes, you can ban alcoholic beverages. If you allow them here are a few pointers.
 - If they are selling or serving alcohol they will need to obtain a special license through the Department of Revenue.
 - You should check local ordinances to make sure that your city or county doesn't have special rules about serving alcohol in public meeting rooms.
- 23 **What about groups that promote hatred?**
- The answer is pretty much "no, you cannot ban them from using the room."
 - Banning groups that promote hatred or discuss controversial topics is generally considered a violation of the First Amendment and the right to Free Speech.
- 24 **Local Government Budget Act and Mill Levies**
- 25 **Local Government Budget Act**
- 7-6-4001. Short title -- applicability. (1) This part may be referred to as the "Local Government Budget Act".
 - (2) This part applies to all local governments.

- Created by Senate Bill 138 (2001)
 - Repealed Municipal Budget Act
 - Repealed County Budget Act
 - Clarified that ALL Local Government Budgets are included

26 **Local Government Budget Act**

- 7-6-4002. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:
 - (1) "Governing body" means the elected body responsible for the administration of a local government.

27 **Local Government Budget Act**

- 7-6-4005. Expenditures limited to appropriations. (1) Local government officials may not make a disbursement or an expenditure or incur an obligation in excess of the total appropriations for a fund.
 - (2) A local government official who violates subsection (1) is liable for the amount of the excess disbursement, expenditure, or obligation personally.

28 **Local Government Budget Act**

- 7-6-4020. Preliminary annual operating budget. (1) A preliminary annual operating budget must be prepared for the local government.
 - Before June 1 of each year, the county clerk and recorder shall notify the county commission and each board, office, or official that they are required to file preliminary budget proposals for their component of the total county budget.

29 **Local Government Budget Act**

- Component budgets must be submitted to the clerk and recorder before June 10th or on a date designated by the county commission and must be submitted on forms provided by the clerk and recorder.

30 **Preliminary Budget**

- The preliminary annual operating budget for each fund must include, at a minimum:
 - (a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;
 - (b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year.

31 **Preliminary Budget**

- All expenditures must be classified under one of the following categories:
 - (i) salaries and wages;
 - (ii) operations and maintenance;
 - (iii) capital outlay;

32 **Preliminary Budget**

- All expenditures must be classified under one of the following categories: (cont)

- (iv) debt service; or
- (v) transfers out.

33 **Preliminary Budget**

○(c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.

34 **Preliminary Budget**

- (d) a detailed list of proposed capital expenditures
- (e) financial data on current and future debt obligations
- (f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year.

35 **Preliminary Budget**

The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax.

36 **Hearing on Preliminary Budget**

7-6-4024 Hearing on Preliminary Budget

- Local government officials shall attend the budget hearing to answer questions on their proposed budgets if called upon:
 - (a) by the governing body; or
 - (b) by a taxpayer or resident.
- (3) The hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by resolution by the later of the second Monday in August or within 45 calendar days of receiving certified taxable values from the department of revenue.

37 **Receipt and Expenditure of Money Prior to adoption of final Budget**

- MCA 7-6-4025.
- A local government may receive and expend money between July 1 of the fiscal year and the date the final budget resolution is adopted.
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38 **Final Budget Resolution**

- MCA 7-6-4030
- (1) The governing body may amend the preliminary budget after the public hearing and after considering any public comment.
- (2) The amended budget constitutes the final budget. The final budget must be balanced so that appropriations do not exceed the projected beginning balance plus the estimated revenue of each fund for the fiscal year.

39 **Final Budget Resolution**

- (3) The governing body shall adopt the final budget by resolution. The resolution must:

- (a) authorize appropriations to defray the expenses or liabilities for the fiscal year; and
- (b) establish legal spending limits at the level of detail in the resolution.

40 **Final Budget Resolution**

- (4) The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date.

41 **Amending the Budget**

- MCA 7-6-4031
- (1) The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund.
- (2) The annual budget appropriations may be amended as provided in 7-6-4006(3) and 7-6-4012.
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42 **Fixing the tax levy**

- MCA 7-6-4036
- (1) The governing body shall fix the tax levy for each taxing jurisdiction within the county or municipality:
 - (a) by the later of the second Monday in August or within 45 calendar days after receiving certified taxable values;
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43 **Fixing the tax levy**

- (b) after the approval and adoption of the final budget; and
- (c) at levels that will balance the budgets as provided in 7-6-4034.
- (2) Each levy:
 - (a) must be made in the _____ manner provided by 15-10-201; and
 - (b) except for a judgment levy under 2-9-316 or 7-6-4015, is subject to 15-10-420
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44 **Determination of fund requirements – property tax levy**

- (1) After determining the final budget, the governing body shall determine the property tax levy needed for each fund by:
 - (a) adding the total amount of the appropriations and authorized expenditures for the budget year;
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45 **Tax Levy Requirements Schedule**

46 **Determination of fund requirements**

- (b) adding an additional amount, subject to the provisions of subsection (2), as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;
 - County cannot exceed 1/3 of appropriations
 - City cannot exceed 1/2 of appropriations

47 **Tax Levy Requirements Schedule**

- 48 **Determining fund requirements –property tax levy**
- (c) subtracting the working capital; and
 - (d) subtracting the total estimated revenue, other than the property tax levy, for the budget year.

So how much is the property tax levy? And how many mills does the county need to levy?

49 **Tax Levy Requirements Schedule**

50 **How the law has changed**

- I-105 Established Tax Limitations
 - 15-10-412
 - Now we have to do it all backwards
- Senate Bill 184 (1999)
 - Re-codified 15-10-412 as 15-10-420
 - Established concept of FLOATING MILL

51 **Procedures for calculating the levy**

- MCA 15-10-420
- Govt. entity may impose a mill levy that will generate the amount of funds received in the prior year plus one-half the average rate of inflation for prior 3 years.
- Inflation is based on CPI
- Govt. entity may apply the levy to newly taxable property (law goes on to spell out definition of newly taxable property)
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52 **Mill Levy Election**

- MCA 15-10-425
- 2007 MCA (last changes on books)
 - County, city, or other authorized taxing entity may impose a new mill levy, increase a levy, or ask to exceed limit
 - Resolution must include:
 - Specific purpose for which money will be used
 - Specific amount of money to be raised and approximate number of mills to be imposed
 - OR
 - Specific number of mills to be raised and the approximate amount of money to be raised; and
 - Whether the levy is permanent or the durational limit
 - Governing body has authority if majority vote in favor
 - Governing body may reduce an approved levy in any fiscal year

53 **Library Depreciation Reserve Fund**

- 22-1-305. Library depreciation reserve fund authorized. The governing body of any city or county or a combination of city and county in Montana may establish a library depreciation reserve fund for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve city, county, or city-county library services.

54 **Library Depreciation Fund**

- 22-1-306. Moneys for library depreciation reserve fund. Moneys for the library depreciation

reserve fund are those funds which have been allocated to the library in any year but which have not been expended by the end of the year. Such moneys include but are not limited to city or county or city-county appropriations, federal revenue sharing funds, and public and private grants.

55 **Library Depreciation Fund**

●MCA 22-1-307 Investment of fund. The moneys held in the library depreciation reserve fund may be invested as provided by law. All interest earned on the fund must be credited to the library depreciation reserve fund.

56 **Differences & Similarities**

¹ Library

- Established by Governing Body
- Source: Unspent Funds Allocated to Library
- Interest Must Be Credited to Fund

² County

- Established by Governing Body
- Source: Any Source

●Interest Must Be Credited to Fund

57 **Differences & Similarities**

¹ Library

- Purpose
 - Replacement and Acquisition of Property, Capital Improvements and Equipment
 - No Restriction on Cost or Useful Life

² County

- Purpose
 - Replacement, Improvement and Acquisition of Property or Equipment
 - Must Cost over \$5,000 and have Life of over 5 Years

58 **Questions?**