

HOUSE BILL NO. 154

INTRODUCED BY D. MOORE

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A BILL FOR AN ACT ENTITLED: "AN ACT ENABLING A COUNTY ATTORNEY TO ACT AS COUNSEL TO A WATER DISTRICT IF REQUESTED; SUPERSEDING THE UNFUNDED MANDATE LAWS; AND AMENDING SECTIONS 7-4-2711 AND 85-7-1902, MCA."

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

Section 1. Section 7-4-2711, MCA, is amended to read:

"7-4-2711. County attorney to be legal adviser of county and other subdivisions. (1) The county attorney is the legal adviser of the board of county commissioners. The county attorney shall attend their meetings when required and shall attend and oppose all claims and accounts against the county that are unjust or illegal. The county attorney shall defend all suits brought against the county.

(2) The county attorney shall:

(a) give, when required and without fee, an opinion in writing to the county, district, and township officers on matters relating to the duties of their respective offices;

(b) act as counsel, without fee, for fire districts and fire service areas in unincorporated territories, towns, or villages within the county;

(c) when requested by a conservation district pursuant to 76-15-319, act as counsel, without fee;

(d) when requested by a weed district pursuant to 7-22-2109, act as counsel, without fee; ~~and~~ AND

(e) when requested by a county hospital board pursuant to 7-34-2115, act as counsel, without fee, unless the legal action requested involves the county commissioners; ~~and~~.

~~_____ (f) when requested by an irrigation district pursuant to 85-7-1902(5), act as counsel, without fee.~~

(3) THE COUNTY ATTORNEY MAY, WHEN REQUESTED BY AN IRRIGATION DISTRICT PURSUANT TO 85-7-1902(5), ACT AS COUNSEL, WITHOUT FEE."

Section 2. Section 85-7-1902, MCA, is amended to read:

"85-7-1902. Management of district by board. (1) The board of commissioners of ~~every~~ each irrigation district established and organized under and by virtue of parts 1 and 15 of this chapter ~~shall constitute~~ constitutes



1 the corporate authority of ~~said the~~ district.

2 (2) The board ~~shall have~~ has the power and it ~~shall be~~ is the duty of ~~the its~~ members ~~thereof~~ to manage
3 and conduct the business and affairs of the district; adopt a corporate seal ~~therefor~~ for the district; make and
4 execute all necessary contracts; and employ and appoint ~~such~~ agents, officers, and employees as ~~may be~~
5 required and prescribe their duties.

6 (3) The board ~~is hereby authorized and empowered to~~ may institute and maintain any and all actions and
7 proceedings, suits at law or in equity, necessary or proper in order to fully carry out the provisions of this chapter;
8 or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this chapter
9 or acquired in pursuance ~~thereof~~ of those rights, privileges, and immunities. In all courts, suits, or proceedings,
10 the board may sue, appear, and defend in person or by attorneys and in the name of ~~such the~~ irrigation district.

11 (4) The board may adopt rules and bylaws governing the calling and holding of meetings of the board;
12 the manner of transacting business ~~thereat~~ at meetings; and the publishing or posting of the orders, resolutions,
13 and proceedings of the board. It ~~shall be~~ is the duty of ~~said the~~ board to pass or adopt bylaws and rules for the
14 apportionment and distribution of water to the lands of the district and for the protection and preservation of the
15 works and other property of the district, and the board may ~~therein~~ require the prompt payment of all current and
16 delinquent taxes and assessments and other financial obligations owing the district as a prerequisite to water
17 service. The bylaws and rules ~~shall~~ must be printed in convenient form for distribution in the district. All orders
18 and resolutions ~~shall~~ must be passed or adopted by a majority of the commissioners by a yea and nay vote, to
19 be entered upon the records of the board.

20 (5) The board may request legal advice and services from the county attorney of the county in which the
21 greatest portion of the district is located for the legal services it may require. The county attorney shall MAY
22 provide legal advice and services to the board unless the county attorney is subject to a conflict of interest by
23 virtue of the county attorney's position as an officer of the state.

24 ~~(5)(6) Said~~ The board ~~shall have~~ has power generally to do and perform all ~~such~~ other acts ~~as shall be~~
25 necessary or appropriate to fully carry out the purposes of this chapter."

26
27 **NEW SECTION. Section 3. Unfunded mandate laws superseded.** The provisions of [this act]
28 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

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