

2017 Montana Code Annotated Libraries



Montana State University Extension Local Government Center



Montana Code Annotated 2015

Title 22. LIBRARIES, ARTS, AND ANTIQUITIES

CHAPTER 1. LIBRARIES

Part 3. Free Public Libraries

22-1-301. Definitions. Unless otherwise provided, the following definitions apply in this part:

- (1) "City" means city or town.
- (2) "Commission" means the state library commission.
- (3) "Public library" means a library created under:
 - (a) 22-1-303 through 22-1-317 that provides library services to the public by means of central facilities, branch facilities, or bookmobiles; or
 - (b) Title 7.

History: En. Sec. 11, Ch. 260, L. 1967; R.C.M. 1947, 44-227; amd. Sec. 8, Ch. 670, L. 1989; amd. Sec. 1, Ch. 356, L. 1991; amd. Sec. 1, Ch. 47, L. 2009.

Case Notes:

Authority of Board of Trustees to Determine Compensation of Public Library Employees:

The plain language of 22-1-310 grants a public library board of trustees, not the county, the authority to determine the salaries and compensation of library employees. *Bd. of Trustees, Butte-Silver Bow Public Library v. Butte-Silver Bow County*, 2009 MT 389, 353 M 326, 221 P3d 1175 (2009).

22-1-302. Purpose. It is the purpose of this part to encourage the establishment, adequate financing, and effective administration of free public libraries in this state to give the people of Montana the fullest opportunity to enrich and inform themselves through reading.

History: En. Sec. 1, Ch. 260, L. 1967; R.C.M. 1947, 44-218.

22-1-303. Creation of public library. A public library may be established in any county or city in any of the following ways:

(1) The governing body of any county or city desiring to establish and maintain a public library may pass and enter upon its minutes a resolution to the effect that a free public library is established under the provision of Montana laws relating to public libraries.

(2) A public library may be established by a petition that is signed by not less than 10% of the resident taxpayers whose names appear upon the last-completed assessment roll of the city or county and that is filed with the governing body requesting the establishment of a public library. The governing body of a city or county shall set a time of meeting at which it may by resolution establish a public library. The governing body shall give notice of the contemplated action in a newspaper of general circulation for 2 consecutive weeks giving the date and place of the meeting at which the contemplated action is proposed to be taken.

(3) (a) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election, the governing body shall submit to a vote of the qualified electors at the next general election the question of whether a free public library is to be established.

(b) If a petition is submitted for a city, the petition must be signed by resident taxpayers of the city.

(c) If a petition is submitted to the county commissioners of a county asking for the establishment of a county library, the petition must be signed by resident taxpayers of the county who reside outside the corporate limits of an incorporated city that is located in the county and that may already have established a free public library for the city.

(d) If the petition specifically asks that a special election be called and the petition is signed by 35% of the resident freeholders affected by the petition, then the governing body shall, upon receipt of the petition, immediately set a date for a special election. The special election must be held in conjunction with a regular or primary election.

(e) If at the election a majority of the electors voting on the question vote in favor of the establishment of a library, the governing body shall immediately take the necessary steps to establish and maintain the library or to contract with any city or county for library service to be rendered to the inhabitants of the city or county.

History: En. Sec. 2, Ch. 260, L. 1967; amd. Sec. 1, Ch. 263, L. 1969; R.C.M. 1947, 44-219; amd. Sec. 65, Ch. 387, L. 1995.

Attorney General Opinions:

City Property -- Exemption from County Library Tax Levy: When a city and county have entered into an agreement under which the city provides a building and services for a branch of the county library, the city's withdrawal from the agreement alone does not allow the city to exempt city property from the county library tax levy pursuant to 22-1-313. Instead, the city must create or have its own existing "tax-supported public library" and must notify the county of its desire to not participate in the county library system. 53 A.G. Op. 5 (2010).

Power of County to Contract With Municipal Libraries: A county that has established a county free library pursuant to this section may contract directly with the board of trustees of the free public library of any incorporated city to assume all county library functions and to pay the sum agreed upon out of the county free library fund. 46 A.G. Op. 19 (1996).

Tax Freeze Limitations Applicable to Pre-1986 Library Services: A county that offered library services prior to 1986 may not form a new taxing unit to avoid the limitations on property taxes imposed under Initiative Measure No. 105 by establishing a public library pursuant to this section or by forming a multijurisdictional service district to provide library services pursuant to 7-11-1105 (now repealed). 46 A.G. Op. 19 (1996).

22-1-304. Tax levy -- special library fund -- bonds. (1) Subject to 15-10-420, the governing body of a city or county that has established a public library may levy in the same manner and at the same time as other taxes are levied a tax in the amount necessary to maintain adequate public library service.

(2) (a) The governing body of a city or county may by resolution submit the question of imposing a tax levy to a vote of the qualified electors at an election as provided in 15-10-425. The resolution must be adopted at least 85 days prior to the election at which the question will be voted on, and, pursuant to the deadline in 13-1-504, the election may not be held less than 85 days after the resolution is adopted.

(b) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election for the purpose of imposing a mill levy, the governing body shall submit to a vote of the qualified electors at an election conducted as provided in 15-10-425 the question of imposing the mill levy. The petition must be delivered to the governing body at least 85 days prior to the election at which the question will be voted on.

(3) The proceeds of the tax constitute a separate fund called the public library fund and may not be used for any purpose except those of the public library.

(4) Money may not be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.

(5) Bonds may be issued by the governing body in the manner prescribed by law for the following purposes:

(a) building, altering, repairing, furnishing, or equipping a public library or purchasing land for the library;

(b) buying a bookmobile or bookmobiles; and

(c) funding a judgment against the library.

History: En. Sec. 3, Ch. 260, L. 1967; R.C.M. 1947, 44-220; amd. Sec. 1, Ch. 431, L. 1983; amd. Sec. 39, Ch. 250, L. 1985; amd. Sec. 1, Ch. 333, L. 1999; amd. Sec. 123, Ch. 584, L. 1999; amd. Sec. 31, Ch. 495, L. 2001; amd. Sec. 128, Ch. 574, L. 2001; amd. Sec. 16, Ch. 453, L. 2005; amd. Sec. 232, Ch. 49, L. 2015.

Compiler's Comments:

2015 Amendment: Chapter 49 in (2)(a) substituted "at least 85 days" for "at least 75 days" and at end after "voted on" inserted reference to the deadline for election and reference to 13-1-504; in (2)(b) in middle substituted "an election conducted" for "the next election or at a special election" and near end substituted "at least 85 days" for "at least 90 days"; and made minor changes in style. Amendment effective November 4, 2015.

2005 Amendment: Chapter 453 deleted former (3) that read: "(3) The municipal tax authorized in this section is in addition to all other taxes authorized by law and is not within the all-purpose mill levy established by 7-6-4451 and 7-6-4453"; and made minor changes in style. Amendment effective July 1, 2005.

2001 Amendments -- Composite Section: Chapter 495 in (1) in three places substituted "tax" for "special tax" and in second and third sentences substituted "on the taxable valuation of" for "on the dollar on" (amendment in second and third sentences rendered void by Ch. 574 amendment); in (2)(a) in first sentence substituted "imposing a tax levy" for "exceeding the maximum tax levy provided in subsection (1)" and substituted "an election as provided in 15-10-425" for "the next appropriate election or at a special election as provided in Title 13"; in (2)(b) in first sentence after "for the purpose of" substituted "imposing a" for "exceeding the

maximum", substituted "15-10-425" for "Title 13", and substituted "imposing the mill levy" for "exceeding the maximum mill levy"; deleted (2)(c) through (2)(e) that read: "(c) The question must be submitted by ballots upon which the words "FOR exceeding the ... mill maximum levy and authorizing an additional ... mill(s) for the library" and "AGAINST exceeding the ... mill maximum library levy" must appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of the propositions.

(d) The ballots must also specify the amount of time during which the proposed increase exceeding the maximum mill levy is to be in effect.

(e) The votes cast for the adoption or rejection of the question must be canvassed, and:

(i) if a majority of the voters voting on the question vote to exceed the maximum mill levy, the governing body shall levy the additional tax for the time specified on the ballot; or

(ii) if a majority of the voters voting on the question vote to not exceed the maximum mill levy, the maximum mill levy may not be exceeded"; and made minor changes in style.

Amendment effective October 1, 2001.

Chapter 574 in (1) deleted former last two sentences that read: "The special tax levy that may be levied by the governing body of a county may not exceed 5 mills on the dollar on all property in the county. The special tax that may be levied by the governing body of a city may not exceed 7 mills on the dollar on all property in the city"; in (2)(a) at end of first sentence substituted "question of imposing a tax levy to a vote of the qualified electors at an election as provided in 15-10-425" for "question of exceeding the maximum tax levy provided in subsection (1) to a vote of the qualified electors at the next appropriate election or at a special election as provided for in Title 13"; in (2)(b) in first sentence near beginning after "purpose of" substituted "imposing a mill levy" for "exceeding the maximum mill levy" and at end substituted "provided in 15-10-425 the question of imposing the mill levy" for "provided for in Title 13 the question of exceeding the maximum mill levy"; deleted former (2)(c) through (2)(e) that read: "(c) The question must be submitted by ballots upon which the words "FOR exceeding the ... mill maximum levy and authorizing an additional ... mill(s) for the library" and "AGAINST exceeding the ... mill maximum library levy" must appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of the propositions.

Case Notes:

Allocation of Costs -- Permitted: A city has general authority in financing the construction of city vehicle repair shop complex and has implied power to allocate the proportionate share of costs among various city departments using the facility. *Greener v. Great Falls*, 157 M 376, 485 P2d 932 (1971).

Attorney General Opinions:

Library Board Alone Has Authority to Spend Its Reserve Funds -- Library's Proposed Budget Subject to Approval by Local Governing Body -- Local Governing Body Has Sole Discretion to Levy Mills in Support of Library: Prior to 2001, a library board had complete control over its

budget. While a library board still has the sole discretion to determine how to use the library's unspent funds under 22-1-309, its budget must be approved by the local governing body. Moreover, the local governing body, not the library board, determines the number of mills to levy in support of the library. Finally, the local governing body has no obligation to continue to levy any certain number of mills for the library in perpetuity. 54 A.G. Op. 7 (2012).

Power of County Commissioners to Regulate Library Funded by County General Fund -- Limitations as if Funded by Five-Mill Levy: The fact that Big Horn County funds its library through the county general fund does not allow the County Commissioners to usurp the library trustees' statutory authority for setting the library's budget and compensation for the library staff. If the County Commissioners fund the library's budget through the county general fund, the power to decide the library staff compensation still rests with the library trustees. The Commissioners may limit the overall funding of the library budget to 5 mills, as if the library were being funded pursuant to the 5-mill tax levy authorized by this section (see 2001 amendment). To hold otherwise would allow the library trustees to adopt a budget that could assume the entire county general fund levy. 48 A.G. Op. 3 (1999). See also 54 A.G. Op. 7 (2012).

Joint City-County Library -- County Taxes Levied on City Property: A city and county may join to establish and maintain a joint city-county library. Other than maximum mill levies, no parameters have been set by the Legislature with regard to funding a joint library enterprise. Expenses of the joint city-county library may be apportioned between the city and county pursuant to the contract establishing the joint library, and the entities have broad discretion in negotiating the apportionment of expenses and funding for the provision of library services. Under 22-1-316, both the city and county may levy taxes as provided in this section, and there is no statutory exemption from the county levy for property located in the city. 47 A.G. Op. 6 (1997).

Power of County to Contract With Municipal Libraries: A county that has established a county free library pursuant to 22-1-303 may contract directly with the board of trustees of the free public library of any incorporated city to assume all county library functions and to pay the sum agreed upon out of the county free library fund. 46 A.G. Op. 19 (1996).

Authority of Library Trustees -- Obligation of County Commissioners to Levy Property Taxes: County library trustees have direct responsibility for administering county libraries in a manner largely independent of city or county control. Even though library employees may be considered city or county employees for certain purposes, the library trustees' express authority to fix such employees' compensation prohibits County Commissioners from establishing a different wage level. A Board of County Commissioners may not modify the decision of county library trustees concerning wage and salary amounts for library employees, may not modify an annual library budget adopted by the county library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the county library trustees. 41 A.G. Op. 91 (1986). See also 48 A.G. Op. 3 (1999). However, see 54 A.G. Op. 7 (2012), which concluded that the local governing body alone has the authority to determine the number of mills to levy in support of the library.

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.

History: En. 44-229 by Sec. 1, Ch. 78, L. 1975; R.C.M. 1947, 44-229.

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.

History: En. 44-230 by Sec. 2, Ch. 78, L. 1975; R.C.M. 1947, 44-230.

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.

History: En. 44-231 by Sec. 3, Ch. 78, L. 1975; R.C.M. 1947, 44-231.

22-1-308. Public library -- board of trustees. (1) Upon the establishment of a public library under the provisions of this part, the mayor, with the advice and consent of the city council or city commissioners, shall appoint a board of trustees for the city library and the presiding officer of the board of county commissioners, with the advice and consent of the board, shall appoint a board of trustees for the county library.

(2) The library board must consist of five trustees. Not more than one member of the governing body may be, at any one time, a member of the board.

(3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

(4) Trustees shall hold their office for 5 years from the date of appointment and until their successors are appointed. Initially, appointments must be made for 1-, 2-, 3-, 4-, and 5-year terms. Annually thereafter, there must be appointed before July 1 of each year, in the same manner as the original appointments for a 5-year term, a trustee to take the place of the retiring trustee. Trustees may not serve more than two full terms in succession.

(5) Following the appointments, in July of each year, the trustees shall meet and elect a presiding officer and other officers that they consider necessary, for 1-year terms. Vacancies in the board of trustees must be filled for the unexpired term in the same manner as original appointments.

History: En. Sec. 4, Ch. 260, L. 1967; R.C.M. 1947, 44-221; amd. Sec. 348, Ch. 56, L. 2009.

22-1-309. Trustees -- powers and duties. The library board of trustees shall have exclusive control of the expenditure of the public library fund, of construction or lease of library

buildings, and of the operation and care of the library. The library board of trustees of every public library shall:

- (1) adopt bylaws and rules for its own transaction of business and for the government of the library, not inconsistent with law;
- (2) establish and locate a central public library and may establish branches thereof at such places as are deemed necessary;
- (3) have the power to contract, including the right to contract with regions, counties, cities, school districts, educational institutions, the state library, and other libraries, to give and receive library service, through the boards of such regions, counties, and cities and the district school boards, and to pay out or receive funds to pay costs of such contracts;
- (4) have the power to acquire, by purchase, devise, lease or otherwise, and to own and hold real and personal property in the name of the city or county or both, as the case may be, for the use and purposes of the library and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the library and to insure the real and personal property of the library;
- (5) pay necessary expenses of members of the library staff when on business of the library;
- (6) prepare an annual budget, indicating what support and maintenance of the public library will be required from public funds, for submission to the appropriate agency of the governing body. A separate budget request shall be submitted for new construction or for capital improvement of existing library property.
- (7) make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement. The trustees shall also provide for the keeping of such records as shall be required by the Montana state library in its request for an annual report from the public libraries and shall submit such an annual report to the state library.
- (8) have the power to accept gifts, grants, donations, devises, or bequests of property, real or personal, from whatever source and to expend or hold, work, and improve the same for the specific purpose of the gift, grant, donation, devise, or bequest. These gifts, grants, donations, devises, and bequests shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.
- (9) exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

History: Ap. p. Sec. 5, Ch. 260, L. 1967; Sec. 44-222, R.C.M. 1947; Ap. p. Sec. 1, Ch. 47, L. 1927; re-en. Sec. 5668.17, R.C.M. 1935; Sec. 11-1006, R.C.M. 1947; R.C.M. 1947, 11-1006(part), 44-222.

Case Notes:

Powers of Board of Trustees -- Limitations: While the Board of Trustees is not a "public employer" for the purposes of the Collective Bargaining for Public Employees Act, there is no inconsistency between the Library Systems Act and the collective bargaining law since the

Board of Trustees is given independent powers to manage and operate the library under the Library Systems Act. Local 2390 v. Billings, 171 M 20, 555 P2d 507 (1976).

Allocation of Costs -- Permitted: A city has general authority in financing the construction of city vehicle repair shop complex and has implied power to allocate the proportionate share of costs among various city departments using the facility. Greener v. Great Falls, 157 M 376, 485 P2d 932 (1971).

Attorney General Opinions:

Library Board Alone Has Authority to Spend Its Reserve Funds -- Library's Proposed Budget Subject to Approval by Local Governing Body -- Local Governing Body Has Sole Discretion to Levy Mills in Support of Library: Prior to 2001, a library board had complete control over its budget. While a library board still has the sole discretion to determine how to use the library's unspent funds under 22-1-309, its budget must be approved by the local governing body. Moreover, the local governing body, not the library board, determines the number of mills to levy in support of the library. Finally, the local governing body has no obligation to continue to levy any certain number of mills for the library in perpetuity. 54 A.G. Op. 7 (2012).

County Commission Generally Obligated to Fund Library Budget -- County Allowed to Bind Itself to Fund Library Budget Through Interlocal Agreement: The Board of County Commissioners is generally obligated to fund the county library budget, as submitted by the library board pursuant to this section, within the limits set in 15-10-420. The 2001 statutory changes did not delete a library board's authority to determine the amount of financial support required by the library, nor did the changes confer on the Board of County Commissioners the authority to modify a library budget submitted by the library board. Further, nothing in the 2001 tax and budget amendments prevents a county from voluntarily entering an interlocal agreement to provide that the county would accept a library board's budget proposal and levy the necessary mills to fund it. 49 A.G. Op. 16 (2002). See also 41 A.G. Op. 91 (1986), and 48 A.G. Op. 3 (1999). However, see 54 A.G. Op. 7 (2012), which concluded that the local governing body alone has the authority to determine the number of mills to levy in support of the library.

Power of County Commissioners to Regulate Library Funded by County General Fund -- Limitations as if Funded by Five-Mill Levy: The fact that Big Horn County funds its library through the county general fund does not allow the County Commissioners to usurp the library trustees' statutory authority for setting the library's budget and compensation for the library staff. If the County Commissioners fund the library's budget through the county general fund, the power to decide the library staff compensation still rests with the library trustees. The Commissioners may limit the overall funding of the library budget to 5 mills, as if the library were being funded pursuant to the 5-mill tax levy authorized by 22-1-304. (See 2001 amendment to 22-1-304.) To hold otherwise would allow the library trustees to adopt a budget that could assume the entire county general fund levy. 48 A.G. Op. 3 (1999). See also 54 A.G. Op. 7 (2012).

City Library Board Decision to Retain Property Not Subject to City Commission Override: A city commission did not have authority to overrule a decision by the city library board of

trustees not to sell or lease a parking lot held in the name of the city and purchased to serve the library's parking needs. 42 A.G. Op. 98 (1988). See also 48 A.G. Op. 3 (1999).

Authority of Library Trustees -- Obligation of County Commissioners to Levy Property Taxes: County library trustees have direct responsibility for administering county libraries in a manner largely independent of city or county control. Even though library employees may be considered city or county employees for certain purposes, the library trustees' express authority to fix such employees' compensation prohibits County Commissioners from establishing a different wage level. A Board of County Commissioners may not modify the decision of county library trustees concerning wage and salary amounts for library employees, may not modify an annual library budget adopted by the county library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the county library trustees. 41 A.G. Op. 91 (1986). See also 48 A.G. Op. 3 (1999). However, see 54 A.G. Op. 7 (2012), which concluded that the local governing body alone has the authority to determine the number of mills to levy in support of the library.

22-1-310. Chief librarian -- personnel -- compensation. The board of trustees of each library shall appoint and set the compensation of the chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. With the recommendation of the chief librarian, the board shall employ and discharge such other persons as may be necessary in the administration of the affairs of the library, fix and pay their salaries and compensation, and prescribe their duties.

History: En. Sec. 6, Ch. 260, L. 1967; R.C.M. 1947, 44-223.

Case Notes:

Authority of Board of Trustees to Determine Compensation of Public Library Employees:

The plain language of 22-1-310 grants a public library board of trustees, not the county, the authority to determine the salaries and compensation of library employees. Bd. of Trustees, Butte-Silver Bow Public Library v. Butte-Silver Bow County, 2009 MT 389, 353 M 326, 221 P3d 1175 (2009).

Trustees as "Public Employer" of Library Employees -- Discharge of Employee: The local governing body and not the Board of Trustees is the "public employer" for the purposes of the Collective Bargaining for Public Employees Act, and the trustees may not discharge an employee because that Act is subject to the agreement. Local 2390 v. Billings, 171 M 20, 555 P2d 507 (1976).

Attorney General Opinions:

Power of County Commissioners to Regulate Library Funded by County General Fund -- Limitations as if Funded by Five-Mill Levy: The fact that Big Horn County funds its library through the county general fund does not allow the County Commissioners to usurp the library trustees' statutory authority for setting the library's budget and compensation for the library

staff. If the County Commissioners fund the library's budget through the county general fund, the power to decide the library staff compensation still rests with the library trustees. The Commissioners may limit the overall funding of the library budget to 5 mills, as if the library were being funded pursuant to the 5-mill tax levy authorized by 22-1-304. (See 2001 amendment to 22-1-304.) To hold otherwise would allow the library trustees to adopt a budget that could assume the entire county general fund levy. 48 A.G. Op. 3 (1999). See also 54 A.G. Op. 7 (2012).

Authority of Library Trustees -- Obligation of County Commissioners to Levy Property Taxes: County library trustees have direct responsibility for administering county libraries in a manner largely independent of city or county control. Even though library employees may be considered city or county employees for certain purposes, the library trustees' express authority to fix such employees' compensation prohibits County Commissioners from establishing a different wage level. A Board of County Commissioners may not modify the decision of county library trustees concerning wage and salary amounts for library employees, may not modify an annual library budget adopted by the county library trustees, and may not refuse, within statutory millage limits, to levy some or all of the property taxes necessary to satisfy an annual budget adopted by the county library trustees. 41 A.G. Op. 91 (1986). See also 48 A.G. Op. 3 (1999). However, see 54 A.G. Op. 7 (2012), which concluded that the local governing body alone has the authority to determine the number of mills to levy in support of the library.

22-1-311. Use of library -- privileges. Every library established under the provisions of this part shall be free to the use of the inhabitants of the city or the county supporting such library. The board may exclude from the use of the library any and all persons who shall willfully violate the rules of the library. The board may extend the privileges and use of the library to persons residing outside of the city or county upon such terms and conditions as it may prescribe by its regulations.

History: En. Sec. 7, Ch. 260, L. 1967; R.C.M. 1947, 44-224.

22-1-312. Cooperation and merger. Library boards of trustees, boards of other educational institutions, library agencies, and local political subdivisions are hereby empowered to cooperate, merge, or combine in providing library service.

History: En. Sec. 8, Ch. 260, L. 1967; R.C.M. 1947, 44-225.

22-1-313. Existing tax-supported libraries -- notification -- exemption from county taxes. After the establishment of a county free library as provided in this part, the governing body of any city which has an existing tax-supported public library may notify the board of county commissioners that such city does not desire to be a part of the county library system. Such notification shall exempt the property in such city from liability for taxes for county library purposes.

History: En. Sec. 9, Ch. 260, L. 1967; R.C.M. 1947, 44-226.

Attorney General Opinions:

City Property -- Exemption from County Library Tax Levy: When a city and county have entered into an agreement under which the city provides a building and services for a branch of the county library, the city's withdrawal from the agreement alone does not allow the city to exempt city property from the county library tax levy pursuant to 22-1-313. Instead, the city must create or have its own existing "tax-supported public library" and must notify the county of its desire to not participate in the county library system. 53 A.G. Op. 5 (2010).

22-1-314. Continued existence of all public libraries. All public libraries heretofore established shall continue in existence, subject to the changes in administration provided herein.

History: En. Sec. 12, Ch. 260, L. 1967; R.C.M. 1947, 44-228.

22-1-315. City library may assume functions of county library. (1) Instead of establishing a separate county free library, the board of county commissioners may enter into a contract with the board of library trustees or other authority in charge of the free public library of any incorporated city, and the board of library trustees or other authority in charge of such free public library is hereby authorized to make such a contract.

(2) Such contract may provide that the free public library of such incorporated city shall assume the functions of a county free library within the county with which such contract is made, and the board of county commissioners may agree to pay out of the county free library fund into the library fund of such incorporated city such sum as may be agreed upon.

(3) Either party to such contract may terminate the same by giving 6 months' notice of intention to do so.

History: En. Sec. 11, Ch. 45, L. 1915; re-en. Sec. 4573, R.C.M. 1921; re-en. Sec. 4573, R.C.M. 1935; R.C.M. 1947, 44-211.

Attorney General Opinions:

Formation of Multijurisdictional Library Service Districts -- Statutory Requirements -- Equalization of Tax Burden Among Users: A city and a county may form a multijurisdictional library service district if they meet the statutory requirements of Title 7, ch. 11, part 11, and Title 15, ch. 10, part 4, and if any existing contract for providing library services involving residents of one or more of the participating jurisdictions has expired. A multijurisdictional service district may not be formed for the sole purpose of equalizing the tax burden among those currently using the service; however, one increased service of the district may be to equalize the tax burden among users as long as the district provides services in the manner required by 7-11-1101 (now repealed). 46 A.G. Op. 23 (1996), distinguishing 44 A.G. Op. 11 (1991).

Power of County to Contract With Municipal Libraries: A county that has established a county free library pursuant to 22-1-303 may contract directly with the board of trustees of the

free public library of any incorporated city to assume all county library functions and to pay the sum agreed upon out of the county free library fund. 46 A.G. Op. 19 (1996).

22-1-316. Joint city-county library. (1) A county and any city or cities within the county, by action of their respective governing bodies, may join in establishing and maintaining a joint city-county library under the terms of a contract agreed upon by all parties.

(2) The expenses of a joint city-county library must be apportioned between or among the county and cities on the basis agreed upon in the contract.

(3) Subject to 15-10-420, the governing body of any city or county entering into a contract may levy a special tax as provided in 22-1-304 for the establishment and operation of a joint city-county library.

(4) The treasurer of the county or of a participating city within the county, as provided in the contract, has custody of the funds of the joint city-county library, and the other treasurers of the county or cities joining in the contract shall transfer quarterly to the designated treasurer all money collected for the joint city-county library.

(5) The contract must provide for the disposition of property upon dissolution of the joint city-county library.

History: En. Sec. 1, Ch. 273, L. 1973; R.C.M. 1947, 44-219.1; amd. Sec. 124, Ch. 584, L. 1999.

Attorney General Opinions:

Joint City-County Library -- County Taxes Levied on City Property: A city and county may join to establish and maintain a joint city-county library. Other than maximum mill levies, no parameters have been set by the Legislature with regard to funding a joint library enterprise. Expenses of the joint city-county library may be apportioned between the city and county pursuant to the contract establishing the joint library, and the entities have broad discretion in negotiating the apportionment of expenses and funding for the provision of library services. Under this section, both the city and county may levy taxes as provided in 22-1-304, and there is no statutory exemption from the county levy for property located in the city. 47 A.G. Op. 6 (1997). However, see 53 A.G. Op. 5 (2010), which held that when a city and county have entered into an agreement under which the city provides a building and services for a branch of the county library, the city's withdrawal from the agreement alone does not allow the city to exempt city property from the county library tax levy pursuant to 22-1-313. Instead, the city must create or have its own existing "tax-supported public library" and must notify the county of its desire to not participate in the county library system.

Creation of Multijurisdictional Service District Within Existing Library District to Increase Allowable Mill Levy Improper: A multijurisdictional service district within an existing service district may not be created for the purpose of increasing the total mill levy within the existing district when the proposed service district would not increase the existing service area, serve people not currently receiving the service, or equalize the tax burden among those who would use the service. 44 A.G. Op. 11 (1991).

22-1-317. City-county library -- board of trustees. (1) A joint city-county library must be governed by a board of trustees composed of five members chosen as specified in the contract, with terms not to exceed 5 years.

(2) Trustees may not serve more than two full terms in succession.

(3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

(4) Trustees shall meet and elect a presiding officer and other officers that they consider necessary, for 1-year terms.

(5) The board of trustees has the same powers and duties as the board of trustees of a city library or a county library.

History: En. Sec. 2, Ch. 273, L. 1973; amd. Sec. 3, Ch. 3, L. 1977; R.C.M. 1947, 44-219.2; amd. Sec. 349, Ch. 56, L. 2009.

22-1-318 through 22-1-324 reserved.

22-1-325. Short title. Sections 22-1-325 through 22-1-331 may be cited as the "Information Access Montana Act".

History: En. Sec. 1, Ch. 670, L. 1989.

Compiler's Comments:

1989 Statement of Intent: The statement of intent attached to Ch. 670, L. 1989, provided: "This bill requires a statement of intent because [section 6] [22-1-330] provides for rulemaking by the state library commission. The legislature intends that the rules should include criteria and procedures for:

- (1) granting or withholding funds to individual libraries;
- (2) developing a state multilibrary card program;
- (3) approving or denying requests for state multilibrary cards;
- (4) governing the usage of multilibrary cards;
- (5) reimbursing individual libraries for participation in interlibrary loan programs; and
- (6) generally administering the funds appropriated for this program.

It is the legislature's intent that the rules permit local libraries to broaden their services to meet the needs of their communities, allow greater access to libraries by Montana's citizens, and encourage libraries to use the interlibrary loan program.

It is not the intent of the legislature that this bill allow local governments to decrease their support for public libraries in anticipation of state funding."

Effective Date: Section 11, Ch. 670, L. 1989, provided that this section is effective July 1, 1989.

22-1-326. State aid to public libraries. (1) As used in 22-1-326 through 22-1-331, "public library" means a library created under Title 7 or under 22-1-301 through 22-1-317.

(2) As provided in 22-1-325 through 22-1-329, the commission shall administer state aid to public libraries and public library districts created and operated under part 7 of this chapter. The purposes of state aid are to:

- (a) broaden access to existing information by strengthening public libraries and public library districts;
 - (b) augment and extend services provided by public libraries and public library districts;
- and
- (c) permit new types of library services based on local need.

(3) Money appropriated for the purposes of this section may not be used to supplant general operating funds of recipient public libraries or public library districts. The commission may withhold a distribution to a library or district that receives less support from a mill levy or local government appropriation than its average for the preceding 3 fiscal years if the decrease may reasonably be linked to money received or expected to be received under 22-1-325 through 22-1-329.

History: En. Sec. 2, Ch. 670, L. 1989; amd. Sec. 2, Ch. 356, L. 1991; amd. Sec. 1, Ch. 203, L. 2005.

22-1-327. (Temporary) State aid -- per capita -- per square mile. (1) The commission shall distribute grants to public libraries and public library districts on a per capita and per square mile basis.

(2) The total amount of annual per capita and per square mile funding to public libraries for each fiscal year is the base amount of 40 cents multiplied by the total number of residents of the state as determined by the most recent decennial census of the population produced by the U.S. bureau of the census.

(3) The amount determined under subsection (2) is statutorily appropriated, as provided in 17-7-502, from the general fund to the commission for distribution as state aid to public libraries. (Terminates July 1, 2017--sec. 5, Ch. 244, L. 2013.)

22-1-327. (Effective July 2, 2017) State aid -- per capita -- per square mile. The commission shall distribute grants to public libraries and public library districts on a per capita and per square mile basis.

History: En. Sec. 3, Ch. 670, L. 1989; amd. Sec. 2, Ch. 203, L. 2005; amd. Sec. 2, Ch. 244, L. 2013.

Administrative Rules:

ARM 10.102.1150A Public library standards -- general.

ARM 10.102.4003 Direct state aid to public libraries for per capita and per square mile served.

22-1-328. Statewide interlibrary resource-sharing program. The commission shall establish a statewide interlibrary resource-sharing program. The purpose of the program is to administer funds appropriated by the legislature to support and facilitate resource-sharing among libraries in Montana, including but not limited to public libraries, public library districts,

libraries operated by public schools or school districts, libraries operated by public colleges or universities, tribal libraries, libraries operated by public agencies for institutionalized persons, and libraries operated by nonprofit, private medical, educational, or research institutions.

History: En. Sec. 4, Ch. 670, L. 1989; amd. Sec. 1, Ch. 183, L. 1999; amd. Sec. 2, Ch. 47, L. 2009.

Administrative Rules:

ARM 10.102.4001 Resource sharing.

22-1-329. Statewide library access program. The commission shall develop a voluntary statewide library access program whereby a participating library may allow access to the library's materials and services by patrons registered and in good standing with another library.

History: En. Sec. 5, Ch. 670, L. 1989; amd. Sec. 3, Ch. 47, L. 2009.

22-1-330. Commission rulemaking authority. The commission may adopt rules and procedures for:

- (1) the distribution of state aid to public libraries and public library districts on a per capita and per square mile basis, as provided in 22-1-327;
- (2) the statewide library access program provided for in 22-1-329;
- (3) the statewide interlibrary resource-sharing program provided for in 22-1-328;
- (4) distribution of base grants provided for in 22-1-331; and
- (5) the composition of the library federation board of trustees, as provided in 22-1-404.

History: En. Sec. 6, Ch. 670, L. 1989; amd. Sec. 2, Ch. 183, L. 1999; amd. Sec. 3, Ch. 203, L. 2005; amd. Sec. 4, Ch. 47, L. 2009.

Administrative Rules:

ARM 10.102.4001 Resource sharing.

ARM 10.102.4003 Direct state aid to public libraries for per capita and per square mile served.

22-1-331. Base grants. The commission shall provide a base grant for each public library to support the cooperative activities and services of the six library federations in the state.

History: En. Sec. 7, Ch. 670, L. 1989.

Administrative Rules:

ARM 10.102.1150D Public library standards -- finance.

Title 15. TAXATION

CHAPTER 10. PROPERTY TAX LEVIES

Part 4. Limitation on Property Taxes

15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary; or

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b).

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit.

History: En. Sec. 1, Ch. 584, L. 1999; amd. Secs. 6, 16(1), Ch. 11, Sp. L. May 2000; amd. Sec. 1, Ch. 191, L. 2001; amd. Sec. 1, Ch. 220, L. 2001; amd. Sec. 3, Ch. 361, L. 2001; amd. Sec. 3, Ch. 511, L. 2001; amd. Sec. 7, Ch. 571, L. 2001; amd. Sec. 94, Ch. 574, L. 2001; amd. Sec. 1, Ch. 115, L. 2003; amd. Sec. 1, Ch. 476, L. 2003; amd. Sec. 3, Ch. 376, L. 2005; amd. Sec. 3, Ch. 545, L. 2005; amd. Sec. 20, Ch. 521, L. 2007; amd. Sec. 26, Ch. 2, L. 2009; amd. Sec. 3, Ch. 57, L. 2009; amd. Sec. 27, Ch. 351, L. 2009; amd. Sec. 3, Ch. 412, L. 2009; amd. Sec. 9, Ch. 483, L. 2009; amd. Sec. 18, Ch. 347, L. 2011; amd. Sec. 2, Ch. 393, L. 2011; amd. Sec. 5, Ch. 411, L. 2011; amd. Sec. 22, Ch. 361, L. 2015; amd. Sec. 1, Ch. 328, L. 2017.

Attorney General Opinions:

Library Board Alone Has Authority to Spend Its Reserve Funds -- Library's Proposed Budget Subject to Approval by Local Governing Body -- Local Governing Body Has Sole Discretion to Levy Mills in Support of Library: Prior to 2001, a library board had complete control over its budget. While a library board still has the sole discretion to determine how to use the library's unspent funds under 22-1-309, its budget must be approved by the local governing body. Moreover, the local governing body, not the library board, determines the number of mills to levy in support of the library. Finally, the local governing body has no obligation to continue to levy any certain number of mills for the library in perpetuity. 54 A.G. Op. 7 (2012).

County Commission Generally Obligated to Fund Library Budget -- County Allowed to Bind Itself to Fund Library Budget Through Interlocal Agreement: The Board of County Commissioners is generally obligated to fund the county library budget, as submitted by the library board pursuant to 22-1-309, within the limits set in this section. The 2001 statutory changes did not delete a library board's authority to determine the amount of financial support required by the library, nor did the changes confer on the Board of County Commissioners the authority to modify a library budget submitted by the library board. Further, nothing in the 2001 tax and budget amendments prevents a county from voluntarily entering an interlocal agreement to provide that the county would accept a library board's budget proposal and levy the necessary mills to fund it. 49 A.G. Op. 16 (2002). See also 41 A.G. Op. 91 (1986), and 48 A.G. Op. 3 (1999). However, see 54 A.G. Op. 7 (2012), which concluded that the local governing body alone has the authority to determine the number of mills to levy in support of the library.

15-10-425. Mill levy election. (1) A county, consolidated government, incorporated city, incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an election as provided in this section.

(2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4 or 5, or Title 20 for school elections, whichever is appropriate to the taxing entity. The governing body shall pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or petition must include:

(a) the specific purpose for which the additional money will be used;

(b) either:

(i) the specific amount of money to be raised and the approximate number of mills to be imposed; or

(ii) the specific number of mills to be imposed and the approximate amount of money to be raised; and

(c) whether the levy is permanent or the durational limit on the levy.

(3) Notice of the election must be prepared by the governing body and given as provided in 13-1-108. The form of the ballot must reflect the content of the resolution or charter amendment and must include a statement of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.

(4) If the majority voting on the question are in favor of the additional levy, the governing body is authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter amendment.

(5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills approved in the election. However, nothing in this subsection authorizes a governing body to impose more than the approved levy in any fiscal year or to extend the duration of the approved levy.

History: En. Sec. 1, Ch. 495, L. 2001; en. Sec. 2, Ch. 574, L. 2001; amd. Sec. 1, Ch. 170, L. 2007; amd. Sec. 194, Ch. 49, L. 2015.