

“SPECIFIED REQUIREMENTS” – Financial Reviews for Towns

The “specified requirements” referenced in the Independent Accountant’s Report On Applying Agreed-Upon Procedures represent legal compliance provisions in the Montana Code Annotated (MCA). Following are State laws or partial sections of State laws related to these “specified requirements”, in the order that they appear in the Agreed-Upon Procedures Report:

PROCEDURE “a”

MCA 7-6-611. Role of department of administration.

- (1) The department of administration shall prescribe for all local governments:
 - (a) general methods and details of accounting in accordance with generally accepted accounting principles as provided in 2-7-504;
 - (b) uniform internal and interim reporting systems as part of the uniform reporting systems provided for in 2-7-503;
 - (c) the form of the annual financial report as provided in 2-7-503; and
 - (d) general methods and details of accounting for the annual financial report as provided in 2-7-513.
- (2) Local governments shall file with the department of administration:
 - (a) an annual financial report within 6 months of the fiscal yearend;

PROCEDURE “f”

MCA 7-6-613. Procedure to transfer funds. Money may not be transferred from one fund to another except by resolution of a county or municipal governing body unless the transfer is:

- (1) previously authorized by a budget resolution;
- (2) provided for by 7-6-614;
- (3) made in the usual course of county or municipal business for:
 - (a) school transfers;
 - (b) tax increment finance districts;
 - (c) specialized tax situations;
 - (d) the purpose of distributing refunds, protested taxes, or interest charges for interest in lieu of registered warrants;
 - (e) bond sinking fund transfers;
 - (f) residual equity transfers;
 - (g) transfers of investments; or
 - (h) corrections of errors; or
- (4) otherwise authorized by statute.

Referenced in the statute above:

MCA 7-6-614. Procedure to close inactive funds. A county or municipal governing body may transfer balances from inactive funds and close the inactive funds.

Referenced in statute above: “(4) otherwise authorized by statute”

MCA 7-6-616. Capital improvement funds.

- (1) A county, municipal, or special district governing body may establish a capital improvement fund for the replacement, improvement, and acquisition of property, facilities, or equipment that costs in excess of \$5,000 and that has a life expectancy of 5 years or more. (3) The capital improvement fund may receive money from any source, including funds that have been allocated in any year but have not been expended or encumbered by the end of the fiscal year.

PROCEDURE “g”

MCA 7-6-612.

- (3) The designated county or municipal treasurer shall:
- (a) receive, disburse, and serve as the custodian of all public money;
 - (b) provide for accountability of all local government cash receipts and for deposits and investments of all departments, offices, and boards;
 - (c) pay out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay the warrants; and
 - (d) require periodic departmental reports of money receipts and their disposition on forms that the designated county or municipal treasurer prescribes.

MCA 7-6-4301. Presentation of claims against municipality.

- (1) All accounts and demands against a city or town must be presented to the council in an itemized format. These claims must be presented with all necessary and proper vouchers within 1 year from the date the claims accrued. An action may not be maintained against the city or town for or on account of any demand or claim against the city or town until the demand or claim has first been presented to the council.
- (2) Payment of claims against a city or town may be authorized by the council when:
 - (a) payee-signed claims have been issued to the city or town, and the payee has attested in the claim to its accuracy and that the payee has not received the claimed amount; or
 - (b) the payee has provided the city or town with an invoice or other document identifying the quantity and total cost for each item included on the invoice.
- (3) All bills, claims, accounts, or charges for materials of any kind that are purchased by and on behalf of a city or town by its department heads or officers must be reviewed by the city or town finance director or the city or town clerk before submission to the council.
- (4) A claim or demand not presented within the time provided in subsection (1) is forever barred, and the council has no authority to allow any account or demand not presented as provided in this section.

PROCEDURE “h”

MCA 7-5-4302. Competitive, advertised bidding required for certain purchase and construction contracts.

- (1) Except as provided in 7-5-4303, 7-5-4310, or Title 18, chapter 2, part 5 [*alternative project delivery contracts*], a contract for the purchase of any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, or materials or supplies or for construction, repair, or maintenance in excess of \$80,000 must be let to the lowest responsible bidder after advertisement for bids.
- (2) The advertisement must be published as provided in 7-1-4127, and the second publication must be made not less than 5 days or more than 12 days before the consideration of bids. If the advertisement is made by posting, 15 days must elapse, including the day of posting, between the time of the posting of the advertisement and the day set for considering bids.
- (3) The council may:
 - (a) postpone awarding a contract until the next regular meeting after bids are received in response to the advertisement;
 - (b) reject any or all bids; and
 - (c) readvertise as provided in this section.

Referenced in the statute above:

MCA 7-5-4303. Exemptions from bidding or advertising requirements for certain contracts.

- (1) The provisions of 7-5-4302 as to advertisement for bids shall not apply upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot, insurrection, or other similar emergency, but in such case the council may proceed in any manner which, in the judgment of three-fourths of the members of the council present at the meeting, duly recorded in the minutes of the proceedings of the council by aye and nay vote, will best meet the emergency and serve the public interest. Such emergency shall be declared and recorded at length in the minutes of the proceedings of the council at the time the vote thereon is taken and recorded.
- (2) When there are sufficient funds in the budget for supplies or equipment, a city or town may, without bid, purchase such supplies or equipment from government agencies available to cities or towns when the same can be purchased by such city or town at a substantial saving to such city or town.

MCA 7-5-4310. Use of public auction to make purchase. In lieu of soliciting bids, the council may purchase at public auction any vehicle, machinery, appliances, apparatus, building, or materials and supplies for which must be paid a sum of \$50,000 or less.

MCA 7-1-4127. Publication of notice -- content -- proof.

- (1) When a municipality is required to publish notice, publication must be in a newspaper, except that in a municipality with a population of 500 or less or in which a newspaper is not published, publication may be made by posting in three public places in the municipality that have been designated by ordinance.
- (2) The newspaper must:
 - (a) be of general circulation; (b) be published at least once a week; (c) be published in the county where the municipality is located; and (d) have, prior to July 1 of each year, submitted to the city clerk a sworn statement that includes *(see detail in statute)*.
- (5) In a county where a newspaper does not meet the qualifications in subsection (2), publication must be made in a qualified newspaper in an adjacent county.
- (7) The notice must be published twice, with at least 6 days separating each publication.
- (8) The published notice must contain: (a) the date, time, and place of the hearing or other action; (b) a brief statement of the action to be taken; (c) the address and telephone number of the person who may be contacted for further information on the action to be taken; and (d) any other information required by the specific section requiring notice by publication.
- (10) Proof of the publication or posting of any notice may be made by affidavit of the ...newspaper or of the person posting the notice.
- (11) If the newspaper fails to publish a 2nd notice, the municipality must be considered to have met the requirements of this section as long as the municipality submitted the required information prior to the submission deadline and the notice was posted in 3 public places...and, if the municipality has an active website, was posted on the municipality's website at least 6 days prior to the hearing or other action for which notice was required.

PROCEDURE "i"

MCA 7-6-4030. Final budget -- resolution -- appropriations.

- (2) ... 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.

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

MCA 7-6-4034. 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;
 - (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;
 - (c) subtracting the working capital; and
 - (d) subtracting the total estimated revenue, other than the property tax levy, for the budget year.
- (2) After deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants, the amount that may be added as a reserve, as provided in subsection (1)(b), to:
 - (a) a county's fund may not exceed one-third of the total amount appropriated and authorized to be spent from the fund during the current fiscal year; and
 - (b) a city's or town's fund may not exceed one-half of the total amount appropriated and authorized to be spent from the fund during the current fiscal year.

MCA 7-6-4031. Budget amendment procedures.

- (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.
- (3) Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032 or in the case of an emergency under Title 10, chapter 3 [*disaster and emergency services*], a public hearing is required for an overall increase in appropriation authority.

Referenced in the statute above:

MCA 7-6-4006. Appropriation power -- requirements.

- (2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.
- (3) Appropriations may be adjusted according to procedures authorized by the governing body for:
 - (a) debt service funds for obligations related to debt approved by the governing body;
 - (b) trust funds for obligations authorized by trust covenants;
 - (c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;
 - (d) any fund for special assessments approved by the governing body;
 - (e) the proceeds from the sale of land;
 - (f) any fund for gifts or donations; and
 - (g) money borrowed during the fiscal year.

MCA 7-6-4011. Use of bond proceeds and borrowed money.

- (1) Except as otherwise provided by law, money borrowed by a local government may be used only for the purpose for which the money was borrowed. Unless restricted by law, surplus borrowed money may be used to redeem the debt for which the money was borrowed.
- (2) The authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.

MCA 7-6-4012. Fee-based budgets -- adjustable appropriation.

- (1) In its final budget resolution, the governing body may authorize adjustments to appropriations funded by fees throughout the budget period. Adjustable appropriations are:
 - (a) proprietary fund appropriations; or
 - (b) other appropriations specifically identified in the local government's final budget resolution as fee-based appropriations.
- (2) Adjustments of fee-based appropriations must be:
 - (a) based upon the cost of providing the services supported by the fee; and
 - (b) fully funded by the related fees for services, fund reserves, or nonfee revenue such as interest.

MCA 7-6-4015. Payments for judgments.

- (1) Judgments against a local government that are not covered by insurance may be paid:
 - (a) from the general fund; or (b) from the fund or funds supporting the local government operation that incurred the judgment.
- (2) Judgments that are to be paid from the general fund:
 - (a) must be paid in the current fiscal year if there is sufficient money in the general fund to pay both the judgment and the general fund appropriations for the current fiscal year; or
 - (b) must be paid from additional tax levies made in each of the next 3 years if general fund money is insufficient to pay the judgment in the current fiscal year.

MCA 7-6-4032. Emergency expenditures.

- (1) Emergency budget appropriations must be adopted by two-thirds of the members of a governing body who are present at a meeting.
- (2) Emergency expenditures are limited to and must be charged to the adopted emergency budget appropriations.
- (3) The governing body may submit the question of funding emergency warrants at an election as provided by law.

MCA 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.
- (3) The subsequent claims approval process may not be considered as the making of a disbursement or an expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability.

MCA 7-6-4033. Expenditure limitation. Except as provided in 7-6-4006, 7-6-4011, 7-6-4012, 7-6-4015, and 7-6-4032, the governing body, each county or municipal official, and the district courts

are limited to the amount of appropriations and by the classifications in the annual appropriation resolution provided for in 7-6-4030 when making disbursements or expenditures or incurring liabilities.

PROCEDURE “j”

MCA 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 value of newly taxable property, 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.
- (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 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).
- (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.
 - (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.

MCA 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. (*Effective November 4, 2015. Previously: may be held in conjunction with a regular or primary election or may be a special election.*) 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.

PROCEDURE “k”

If the single source of revenue is gas tax allocation

MCA 15-70-101.

- (4) All funds allocated by this section [*gasoline and fuel taxes*] to counties, cities, towns, and consolidated city-county governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, county, or consolidated city-county government might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the primary or secondary highway system or urban extensions to those systems. The governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the

purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys. The governing body of a town or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax apportionment fund that is carried forward until there is a need for the expenditure.

- (5) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of the amounts provided in 7-5-2301 and 7-5-4302.
- (8) Except by a town or third-class city, as provided in subsection (4), the funds authorized by this section may not be used for the purchase of capital equipment.
- (9) Funds authorized by this section must be used for construction and maintenance programs.