

1 _____ BILL NO. _____
2 INTRODUCED BY _____
3 (Primary Sponsor)
4 BY REQUEST OF THE LOCAL GOVERNMENT INTERIM COMMITTEE

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING COUNTY COMMISSIONERS TO INITIATE
6 MANDAMUS PROCEEDINGS; AND AMENDING SECTIONS 7-4-2110 AND 27-26-206, MCA."

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

9
10 **Section 1.** Section 7-4-2110, MCA, is amended to read:

11 **"7-4-2110. Supervision of county and other officers.** (1) The board of county commissioners has
12 jurisdiction and power, under the limitations and restrictions that are prescribed by law, to:

13 (a) supervise the official conduct of all county officers and officers of all districts and other
14 subdivisions of the county charged with assessing, collecting, safekeeping, managing, or disbursing public
15 revenue;

16 (b) see that the officers faithfully perform their duties;

17 (c) direct prosecutions for delinquencies;

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

20 (e) require the officers to supervise staff in a manner that complies with personnel policies and
21 procedures adopted by the county governing body; ;

22 (f) initiate civil proceedings to seek a writ of mandamus to compel or enjoin the performance of an
23 act by a local government entity within the county or any member of its governing body; and

24 (g) hire outside counsel to litigate a proceeding seeking a writ of mandamus and recover attorney
25 fees and costs as determined by a court.

26 (2) (a) Except as provided in subsection (2)(b), as used in this section, "local government entity"
27 has the meaning provided in 2-7-501.

28 (b) The term does not include a county, consolidated city-county, incorporated city or town, or

1 school district."

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

4 **"27-26-206. Enforcement of writ -- penalty.** (1) When a peremptory mandate has been issued and
5 directed to any lower tribunal, corporation, board, or person, if it appear to the court or judge that any member
6 of the tribunal, corporation, board, or person upon whom the writ has been personally served has, without just
7 excuse, refused or neglected to obey the writ, the court may, upon motion, impose a fine not exceeding \$1,000.
8 In case of persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is
9 obeyed and may make any orders necessary and proper for the complete enforcement of the writ.

10 (2) When a party is an elected or appointed official and is found in contempt pursuant to 3-1-501
11 for not complying with a writ of mandamus, the official may be subject to recall pursuant to the provisions of
12 Title 2, chapter 16, part 6."

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