

**2013 Library District Task Force
Draft Recommendations
December 9, 2013**

Background:

Through the work of the Montana State Library (MSL) the 2001 Legislature passed legislation that allowed for the creation of Public Library Districts codified as [Montana Code Annotated 22-1-7](#). Public library districts are established through the electoral process and include dedicated mill levies to provide funding to support the operation of the districts. It is because library districts have the ability to generate dedicated funding that can be more secure and, can therefore offer more services to their patrons, that they are strongly encouraged by MSL.

In 2005, Stevensville created the first public library district known as the North Valley Library District. Since then several public library districts and one multi-jurisdictional library district have been formed, all in Western Montana.

While Montana has had its share of successful public library district campaigns (most recently in May with the creation of the Ronan District Library), over the past 12 years, the library community and MSL staff have identified problematic sections of Montana Code that make the creation and/or administration of public library districts challenging. With the aid of those most experienced with library districts, the Montana State Library seeks to evaluate potential improvements to the code that may be presented to the 2015 Legislature.

Appointees:

- Harold Blattie – Montana Association of Counties Executive Director
- John Conlan - former trustee with the North Valley Public Library District
- Kim Crowley – Flathead County Library System Director
- Susan Gregory – Bozeman Public Library Director
- Jane Hamman - North Jefferson County Public Library
- Judy Hart – Montana Library Association Government Affairs
- Representative Ed Lieser – House District 4
- Marilyn Trosper, North Lake County Library District Director
- Mary Vail – Whitefish Community Library trustee

MSL Staff:

- Jennie Stapp – State Librarian
- Sarah McHugh – Statewide Library Resources Director

Discussion:

Over a period of a couple of months, the library district task force discussed a wide variety of issues that libraries have faced when forming and/or administering districts. Those issues are organized and summarized below. Recommendations follow. In forming its recommendations the task force adheres to the following guiding principles:

- The task force must reach consensus on any recommended legislative changes;
- MSL will not carry legislation, or ask MLA to carry legislation, for any proposals that do not have the full support of the library community;
- Proposed changes must benefit or be neutral to all MT libraries;
- Given the potentially significant consequences of opening statute, only those recommendations that address significant identified problems of statewide concern should be carried forward.

Creation of Library Districts:

1) Legal boundaries

- [22-1-702](#): Should statute require district boundaries be co-terminus with existing tax districts such as counties or school district boundaries? Note: Though not currently required by statute, all current districts are based on school district boundaries.
- **Task force recommendation: take no action as there does not seem to be a statutory problem that doing so would address and doing so could inhibit the creation of districts based on certain boundaries like reservations.**

2) Petition process

- [22-1-702](#): Statute states that 15% of the qualified electors who reside in the proposed district must sign a petition to initiate the creation of a library district. Should these percentages be further defined?
- **Task force recommendation: take no action as doing so could make the petition process more difficult and thereby discourage district formation.**

3) Voted levies

- [22-1-703](#): Is it necessary to improve this statute to further clarify that library districts are funded through voted levies? Note: 22-1-702 and 22-1-708 require that levies be subject to MCA 15-10-420.
- **Update 11/12/13**: Per phone conversation with Attorney Hannah Stone, we agree that the ballot does create a voted levy. Ms. Stone is writing an opinion to that affect.
- **Task force recommendation: take no action as there does not seem to be a statutory problem that doing so would address.**

4) Eligible voters

- [22-1-703](#): Current statute states that only qualified electors who reside in the proposed district may vote on the question of whether or not to create a district. Should the legislation be amended to allow electors outside the boundary of a proposed district to vote if their taxes and or library services may be impacted by the creation of the district?
- The primary concern with the current manner in which some districts may presently be formed is that the door is open for library resources to be centralized within the area

served by the district, leaving other areas underserved. The example used is the city of Helena. If Helena was to form a district based on school district boundaries, the tax base needed to support library services to the surrounding areas currently served in Lewis and Clark County would be eroded, greatly diminishing the library services available for communities like East Helena, Augusta and Lincoln.

- Task force member Judy Hart brought to the attention of the committee current statute from the State of Colorado ([Colorado Revised Statute 24-90-106.5](#)) that, in part, is intended to maintain existing library services when new library services are formed.
- This statute was reviewed by the task force and it was agreed that such statute may alleviate current concerns. This statute was shared with Harold Blattie of MACo who could not attend the task force meeting. He stated that he could support similar language.
- **Task force recommendation: Draft language similar to that of CRS. 24-90-106.5 for review by the State Library Commission and the Montana library community.**

5) Transition plan

- [22-1-702](#): Should statute require a transition plan be included with a library district petition that outlines the transfer of assets including property, staff, materials, and funds in library reserves and/or depreciation funds? [7-3-157](#) offers guidance when transferring to alternative forms of local governance. Similar requirements could be included in [22-1-705](#) to inform how to combine assets when existing library services from separate jurisdictions are combined into a single district.
- **Task force recommendation: Statute should include the requirement that new library districts draft a transition plan. This plan should address the status of personnel, property, financial administration including the disposition of library depreciation reserve funds, insurance, and legal services and should be submitted to the County Commission along with the petition to form a district and proposed boundaries. Statute should further require that, upon a successful election to form a district, the governing bodies impacted by the creation of the district must enter into written agreement to execute the plan.**
- **Further task force recommendation: This recommendation should only be acted upon if the more substantives changes included in recommendation 4) are acted upon.**

Administration of Library Districts:

1) Personnel

- [22-1-707](#): Statute gives library district boards the authority to administer or contract personnel for the operation of the library district. Should statute provide additional personnel policy requirements? Note: email discussion seemed to indicate agreement that personnel policies are generally local issues. This could be an area where the State Library could provide better guidance to districts.
- **Task force recommendation: take no action except as described in recommendation 5.**

2) Financial administration

- Statute is currently silent regarding the financial administration of library district funds. Should legislation require library districts to deposit funds with the county treasurer as is the case with fire districts? See: [MCA 7-33-2105](#).
- Further clarification regarding local government fiscal management can be found in MCA [7-6-2](#), [7-6-2527](#), [7-7-1](#), and [7-8-101](#).
- **Task force recommendation: take no action except as described in recommendation 5.**

3) Additional powers of the board:

- [22-1-707](#): Statute defines the duties of library district boards. Is there benefit from better aligning this statute with the duties prescribed to library boards in [22-1-309](#)?
- **Task force recommendation: take no action as there does not seem to be a statutory problem that doing so would address.**

4) Election of Boards of Trustees

- [22-1-706](#): It can be inferred that statute requires the election of library district board members be administered by the election administrator (typically a county clerk and recorder). Would the election process be improved if the statute stated this requirement explicitly?
- **Task force recommendation: take no action as there does not seem to be a statutory problem that doing so would address.**

5) Insurance

- Where and how might statute make it easier for library districts to obtain affordable insurance?
- **Update 11/19/13:** MACo confirmed that library districts are eligible for insurance coverage through MACo.
- **Task force recommendation: take no action except as described in recommendation 5.**

6) Library Depreciation Reserve Fund

- [22-7-716](#): Statute gives library districts the authority to establish library depreciation funds. Would libraries benefit by including language from [7-6-616](#) requiring the creation of a capital improvement plan. Note: certain counties already require such plans.
- Upon the creation of a library district, when a district is being formed from already existing library services, should the statute prescribe allocation of funds from the library depreciation fund?
- **Task force recommendation: take no action except as described in recommendation 5.**

Additional Considerations:

- 1) The issue of double taxation
 - [22-1-313](#): Statute deems that residents served by tax-supported city libraries may be exempted from taxes for county library systems. Would it benefit libraries to enact similar legislation for library districts? Note: double taxation does not seem to be occurring in current practice.
 - **Task force recommendation: take no action as there does not seem to be a statutory problem that doing so would address.**

- 2) Current language in 22-1-703 and 22-1-709 can be improved to be more consistent with uniform tax law
 - There is an inherent conflict in the levy election sections. 708 makes the levy subject to 15-10-420, which is fine, however 709 sets forth a levy election process that is in conflict with 15-10-420 because 15-10-420 requires a levy election be held pursuant to 15-10-425 to exceed the 15-10-420 limit.
 - **Task force recommendation: insert language in 22-1-709 that is consistent with 15-10-425 and remove language that is not consistent with tax law. Similar language can also be added to 22-1-703.**

Recommended statutory language changes:

22-1-702. Creation or enlargement of public library district. (1) Proceedings for the creation or enlargement of a public library district or the conversion of a public library to a public library district may be initiated by:

- (a) a petition signed by not less than 15% of the qualified electors who reside within the proposed district or the area to be added to an existing district; or
 - (b) a resolution of intent adopted by the county governing body, calling for the creation of a district.
- (2) The petition must contain:
- (a) the boundaries of the proposed public library district;
 - (b) a map showing the boundaries;
 - (c) subject to 15-10-420, the proposed maximum property tax mill levy that could be levied on property owners within the district for the operation of the district; and
 - (d) the proposed number of members on the board of trustees. The number of members must be five or seven.

(e) a written transition plan, adopted by the governing body of each city or county with territory included in the district. The plan shall include, but is not limited to, the disposition of existing assets, including property, staff, materials, and funds in library reserves or depreciation funds; proposed financial administration of the district; insurance coverage for the district; and provision of legal services for the district.

(3) When the territory to be included in the proposed public library district lies in more than one county, a petition must be presented to the governing body of each county in which the territory lies. Each petition must be signed by not less than 15% of the qualified electors of the territory within the county proposed for inclusion in the district.

(4) Upon receipt of a petition to create a public library district, the county clerk shall examine the petition and within 15 days either reject the petition if it is insufficient under the provisions of subsection (1), (2), or (3) or certify that the petition is sufficient and present it to the county governing body at its next meeting.

(5) The text of the petition must be published as provided in 7-1-2121 in each county in which territory of the proposed public library district lies.

(6) At a hearing on the proposed public library district, the county governing body shall hear testimony:

- (a) of all interested persons on whether a district should be created;
- (b) regarding the proposed boundary, the property tax mill levy, and the number of members of the board of trustees; and
- (c) on any other matter relating to the petition.

(7) After the hearing, if the county governing body determines that the proposed public library district should be created, it shall by resolution:

- (a) set the boundaries of the proposed district;
- (b) set the maximum mill levy for the proposed district;
- (c) set the number of members to be on the board of trustees; and
- (d) call for an election on the question of whether to create the district. The election may be:

- (i) held in conjunction with a regular or primary election; or
- (ii) conducted by mail ballot in accordance with the provisions of Title 13, chapter 19.

22-1-703. Election on creation of district. (1) The election on the question of whether to create a public library district must be conducted as provided in Title 13 and pursuant to 15-10-425.

(2) Only qualified electors residing within the proposed public library district may vote on the question of whether to create the district.

(3) The question of creating a public library district must be submitted to the electors in substantially the following form:

FOR the creation of a public library district that may levy not more than ... mills of property tax for the operation of the district.

AGAINST the creation of a public library district.

22-1-704. Formation of public library district -- appointment of initial board of trustees. (1) If a majority of the votes cast at the election in the territory of each county included in the proposed public library district approve the formation of the district, the governing body of each county shall, within 10 days of the receipt of the official canvass of the result, certify that the district is formed.

(2) Within 30 days after the certification of the formation of the public library district, the governing body of each county with territory included in the district shall jointly appoint the initial members of the district's board of trustees. The members shall serve until their successors are elected and qualified.

(3) Within 60 days after the certification of the formation of the public library district, and after appointment of the board of trustees, the governing body of each city or county with territory included in the district and the district board of trustees shall enter into a written agreement to execute the adopted transition plan as set forth in 22-1-702. The agreement shall set forth fully the rights, obligations, and responsibilities of all parties to the agreement.

22-1-705. Consolidation of existing public libraries and public library districts. (1) (a) If all or part of the territory served by an existing public library, as defined in 22-1-326, is included within the boundaries of a public library district, the governing body of each county with territory included in the district shall notify the governing body of the city or county that established the public library that the territory served by the library is included in the district boundaries. The governing body of the city or county that established the public library shall hold a public hearing on the question of whether the territory served by the library should be included in the district. If the governing body determines that the territory served by the public library should be consolidated into the district, it shall adopt a resolution, following the public hearing, to that effect. If the governing body of the city or county that established the public library determines that the territory served by the library should not be included in the district, it shall adopt a resolution to that effect and the boundaries of the district must be

adjusted to exclude the territory served by the public library.

(b) Any existing bonded indebtedness against the territory served by the public library or the library district remains the indebtedness of the original territory and must be paid by levies on the original territory.

(2) The territory of an existing public library district may be consolidated into a contiguous district upon the adoption of a resolution, following a public hearing, by the board of trustees of each district. The governing board of the county containing the largest percentage of territory in the district shall appoint the board of trustees for the consolidated district. The appointed trustees shall serve until their successors are elected, in accordance with the provisions of 22-1-706.

(3) If all or part of the territory served by an existing public library becomes part of a library district, the governing body of the city or county that established the public library shall ensure that the level of services provided by the public library throughout the library's service area is not reduced as a result of inclusion of all or part of the public library's territory within the library district.

22-1-709. Election to change maximum property tax mill levy. (1) The maximum property tax mill levy authorized for the operation of a public library district may be changed by an election on the question of changing the maximum mill levy.

(2) A vote on the question of raising or lowering the maximum property tax mill levy in the public library district may be initiated by:

- (a) a petition signed by not less than 15% of the electorate of the district; or
- (b) a resolution of the board of trustees.

(3) The petition must set forth the proposed new maximum mill levy for the operation of the district.

(4) Upon receipt of a petition for a change in the maximum mill levy, certified by the county clerk as sufficient under this section, or upon receipt of a resolution for a change adopted by the board of trustees, pursuant to 15-10-425 the county governing body shall submit to the electorate of the public library district, at the next regular or primary election, a ballot question on changing the maximum mill levy. The election must be held as provided in Title 13. The question must be submitted to the electors of the district in substantially the following form:

FOR changing the authorized maximum property tax mill levy for the operation of the public library district from to

AGAINST changing the authorized maximum property tax mill levy for the operation of the public library district.