

VOLUME NO. 50

OPINION NO. 3

COUNTY WATER DISTRICTS - local government entities subject to Montana Single Audit Act;

LOCAL GOVERNMENT - entities subject to Montana Single Audit Act;

WATER DISTRICTS - local government entities subject to Montana Single Audit Act;

MONTANA CODE ANNOTATED - Title 2, chapter 7, part 5; sections 2-7-501, -501(7)(a), (7)(b), (7)(b)(vii), -502, (2)(b), (d), -503, -503(3)(a), -503(2);

OPINIONS OF THE ATTORNEY GENERAL - 44 Op. Att'y Gen. No. 5 (1991).

HELD: A county water district, as a defined local government entity, is subject to the requirements of the State of Montana Single Audit Act, whether or not it has accepted local, state or federal funds during the year.

November 5, 2003

Mr. Scott Darkenwald
Director
Department of Administration
PO Box 200101
Helena, MT 59620-0101

Dear Mr. Darkenwald:

You have requested my opinion on the following question:

Is a county water district subject to the State of Montana Single Audit Act whether or not it has accepted local, state or federal funds?

Based on the following analysis, it is my opinion that a county water district is subject to all requirements imposed on local government entities by the provisions of the State of Montana Single Audit Act under Mont. Code Ann. Title 2, chapter 7 (hereinafter referred to as the Act).

The Act specifies that the governing body of each local government entity shall ensure that a financial report is made each year and submitted to the Department of

Administration. Montana Code Annotated § 2-7-501(7)(b)(vii) explicitly states that local government entities include county water districts. As a local government entity, the district is subject to the provisions of the Act.

The Act was adopted for the following specific goals:

- (2) The purposes of this part are to:
 - (a) improve the financial management of local government entities with respect to federal, state, and local financial assistance;
 - (b) establish uniform requirements for financial reports and audits of local government entities;
 - (c) ensure constituent interests by determining that compliance with all appropriate statutes and regulations is accomplished;
 - (d) ensure that the financial condition and operations of the local government entities are reasonably conducted and reported;
 - (e) ensure that the stewardship of local government entities is conducted in a manner to preserve and protect the public trust;
 - (f) ensure that local government entities accomplish, with economy and efficiency, the duties and responsibilities of the entities in accordance with the legal requirements imposed and the desires of the public; and
 - (g) promote the efficient and effective use of audit resources.

Mont. Code Ann. § 2-7-502(2).

I note that the legislative intent as stated in Mont Code Ann § 2-7-502(2)(b) and (d) is “to establish uniform requirements for financial reports and audits of local government entities,” and further “to ensure that the financial condition and operations of the local government entities are reasonably conducted and reported.” Clearly, the legislature took it upon itself to identify as many local governmental entities as possible to satisfy these purposes. See Mont. Code Ann. § 2-7-501(7)(b).

The Act requires that each local government entity shall make a financial report every year. Mont. Code Ann. § 2-7-503 states:

The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year.

The statute also provides that the department shall prescribe a uniform reporting system for all local government entities subject to the reporting requirements and identifies criteria to determine when local government entities are subject to audit. Mont. Code Ann. § 2-7-503(3)(a) provides that:

The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of \$200,000 shall cause an audit to be made at least every 2 years.

Entities not meeting the requirements of part (3)(a) above may be subject to a financial review at the request of the Department of Administration.

In addition to the reporting and audit provisions required, the statute further provides that the “department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part.” Mont. Code Ann. § 2-7-503(5).

In order to determine whether the county water district is subject to the State of Montana Single Audit Act your question requires interpretation of the Act itself. Mont. Code Ann. § 2-7-501(7)(a) and (b) provide the following definition of local governmental entity:

(a) “Local government entity” means a county, city, district, or public corporation that:

(i) has the power to raise revenue or receive, disburse, or expend local, state, or federal government revenue for the purpose of serving the general public;

(ii) is governed by a board, commission, or individual elected or appointed by the public or representatives of the public; and

(iii) receives local, state, or federal financial assistance.

(b) Local government entities include but are not limited to:

....

(vii) county water districts;

In addressing your question, I must follow the well-established principle of statutory construction that “statutory language must be construed according to its plain meaning

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and, if the language is clear and unambiguous, no further interpretation is required.” Dahl v. Uninsured Employers’ Fund, 1999 MT 168, ¶ 16, 295 Mont. 173, 983 P.2d 363.

The meaning of this statute is quite clear: “county water districts” are enumerated and expressly included within the definition of a “local government entity.” The definition also provides criteria by which a non-enumerated entity may be evaluated for inclusion as the express list is not limited solely to those on the list.

As the language is clear and unambiguous, no further interpretation is required; the county water districts, as expressly defined local governmental entities, must comply with the requirements under the Act.

A prior Montana case addressed this statute, Reep v. Board of County Commissioners of Missoula County, State of Montana, 191 Mont. 162, 622 P.2d 685 (1981) but did not address the specific issue presented by your question. In addition a prior opinion of this office has addressed this statute without addressing the specific issue presented by your question, see 44 Op. Att’y Gen. No. 5 (1991).

It is my opinion that county water districts, whether or not they receive local, state or federal assistance, are subject to the requirements for reporting and audits under the State of Montana Single Audit Act, Mont. Code Ann. § 2-7-501, et seq.

THEREFORE, IT IS MY OPINION:

A county water district, as a defined local government entity, is subject to the requirements of the State of Montana Single Audit Act, whether or not it has accepted local, state or federal funds during the year.

Very truly yours,

MIKE MCGRATH
Attorney General

mm/cfw/jym