

July 26, 2006

Mr. Jeffrey Noble
Miles City Prosecutor
P.O. Box 910
Miles City, MT 59301-0910

Dear Mr. Noble:

You have requested an opinion on the following question:

Does the Mayor of the City of Miles City possess the power to veto an objectionable part of a resolution containing the city's annual budget, while approving other parts of said resolution and budget?

Your request specifically inquired as to the possibility of a conflict between Mont. Code Ann. §§ 7-3-214(2) and 7-5-4205(3).

Because of the unique factual basis for your request we have determined that a letter of advice rather than a formal Attorney General's Opinion is the appropriate disposition.

Miles City adopted its current council- mayor form of government in 1991. As required by Mont. Code Ann. § 7-3-211, the electors chose certain structural characteristics of this form of government, including the type of veto power that the executive may exercise. Mont. Code Ann. § 7-3-214 lists three options. The voters decided to allow the mayor to "veto ordinances and resolutions, subject to override by a two-thirds vote of the commission." I assume that Miles City is a general power local government, such that no provisions of a self-governing charter will override the general provisions of state law.

Mont. Code Ann. § 7-5-4205(3) states that a mayor "has the power to . . . (3) veto any objectionable part of a resolution or ordinance and approve the other parts." The Local Government Budget Act specifies that a final budget shall be adopted by resolution. Mont. Code Ann. 7-6-4030.

Where several provisions of a statutory plan address a particular matter, "such a construction is, if possible, to be adopted as will give effect to all." Mont. Code Ann. § 1-2-101. When "several statutes apply to a situation, the statutes should be construed,

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if possible, in a manner which will give effect to each of them.” Merlin Myers Revocable Trust v. Yellowstone Co., 2002 MT. 201, ¶ 19, 311 Mont. 194, 53 P.3d 1268.

When read together, I find no conflict among Mont. Code Ann. §§ 7-6-4205(3), 7-3-214(2), and 7-6-4030. Each of the statutes may be given effect without conflicting with the others.

The electors of Miles City chose a mayor- council form of government, giving the mayor the right to veto ordinances and resolutions subject to an override by 2/3 vote of the council. A final budget is passed by resolution. Montana statute expressly grants to a mayor the power to veto any objectionable part of the budget resolution and approve other parts of the budget.

Accordingly, the Mayor of the City of Miles City possesses the power to veto an objectionable part of a resolution containing the city’s annual budget, while approving other parts of said resolution and budget.

This letter is a letter of advice and not a formal opinion of the Attorney General.

Very truly yours,

JON ELLINGSON
Assistant Attorney General

je/jym