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| Department of Public Health and Human Services | <b>SECTION:</b><br>LEGISLATION                 |
| COMMUNITY SERVICES BLOCK GRANT                 | <b>SUBJECT:</b><br>MONTANA CODE ANNOTATED 2011 |

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### TITLE 53, CHAPTER 10, Part 5. Community Services Block Grant Program

**53-10-501. Definitions.** As used in this part, the following definitions apply:

- (1) "Block grant" means the federal community services block grant established under 42 U.S.C. 9901, et seq.
- (2) "Department" means the department of public health and human services provided for in [2-15-2201](#).
- (3) "Human resource development council" means a nonprofit public or private community organization serving low-income persons in a multicounty area that has the same boundaries as one or more substate planning districts established by executive order of the governor.

History: En. Sec. 1, Ch. 237, L. 1983; amd. Sec. 463, Ch. 546, L. 1995.

**53-10-502. Allocation of federal community services block grant funds.** The department shall allocate the state's share of the block grant funds as follows:

- (1) The department may retain 5% for administrative costs and 5% for special projects.
- (2) The balance of the block grant funds after any retention pursuant to subsection (1) must be distributed to human resource development councils that are eligible to receive such funding under [53-10-503](#) as follows:
  - (a) \$500,000, or if the balance of the block grant funds is less than \$500,000, then the entire balance of the block grant funds, must be equally divided among the eligible human resource development councils; and
  - (b) except as provided under [53-10-504](#)(2), the balance of the block grant funds after distribution under subsections (1) and (2)(a) must be divided among eligible human resource development councils as follows:
    - (i) one-half based upon the population residing within the areas of human resource development councils; and
    - (ii) one-half based upon the low-income population, as that population may be determined under the provisions of the block grant, residing within the areas of the human resource development councils.

History: En. Sec. 2, Ch. 237, L. 1983.

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**53-10-503. Eligible human resource development councils.** The department may not distribute block grant funds unless the human resource development council:

- (1) meets the eligibility requirements set forth in 42 U.S.C. 9904, including composition of the board; and
- (2) has complied with federal and state fiscal control requirements and agrees to comply with all fiscal and program requirements of federal law.

History: En. Sec. 3, Ch. 237, L. 1983.

**53-10-504. Block grant plan -- county and state approval.** (1) A human resource development council shall prepare a plan for use of block grant funds. The planned use must be in compliance with block grant requirements, and the plan must be made to further the goals stated in the block grant.

(2) The human resource development council shall submit the plan to the county governing bodies within its multicounty area. A county governing body may approve, disapprove, or offer amendments to the plan. If the county governing body and the human resources development council cannot agree as to the plan's components, the department shall prepare and approve a plan for such county. The department shall then allocate block grant funds to the appropriate human resource development council to administer according to the plan approved for such county by the department.

(3) The plan must be submitted to the department for approval prior to distribution by the department of block grant funds allocated to the human resource development council. The department may disapprove a plan, in whole or in part, only if the plan conflicts with a federal law or regulation. A disapproved plan may be amended and resubmitted to the department.

History: En. Sec. 4, Ch. 237, L. 1983.

**53-10-505. Fiscal and program responsibility.** The department shall ensure state compliance in fiscal accountability and program integrity relating to block grant funds and services. The department shall audit the human resource development councils as may be required by state and federal law.

History: En. Sec. 5, Ch. 237, L. 1983.

### **TITLE 2, CHAPTER 3, Part 1. Notice and Opportunity to Be Heard**

**2-3-101. Legislative intent.** The legislature finds and declares pursuant to the mandate of Article II, section 8, of the 1972 Montana constitution that legislative guidelines should be established to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency.

**History:** En. 82-4226 by Sec. 1, Ch. 491, L. 1975; R.C.M. 1947, 82-4226.

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**2-3-102. Definitions.** As used in this part, the following definitions apply:

(1) "Agency" means any board, bureau, commission, department, authority, or officer of the state or local government authorized by law to make rules, determine contested cases, or enter into contracts except:

- (a) the legislature and any branch, committee, or officer thereof;
- (b) the judicial branches and any committee or officer thereof;
- (c) the governor, except that an agency is not exempt because the governor has been designated as a member thereof; or
- (d) the state military establishment and agencies concerned with civil defense and recovery from hostile attack.

(2) "Agency action" means the whole or a part of the adoption of an agency rule, the issuance of a license or order, the award of a contract, or the equivalent or denial thereof.

(3) "Rule" means any agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule but does not include:

- (a) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public; or
- (b) declaratory rulings as to the applicability of any statutory provision or of any rule.

**History:** En. 82-4227 by Sec. 2, Ch. 491, L. 1975; amd. Sec. 23, Ch. 285, L. 1977; amd. Sec. 1, Ch. 452, L. 1977; R.C.M. 1947, 82-4227(part); amd. Sec. 1, Ch. 243, L. 1979.

**2-3-103. Public participation -- governor to ensure guidelines adopted.** (1) (a) Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures must ensure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public. The agenda for a meeting, as defined in [2-3-202](#), must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of the agency conducting the meeting. However, the agency may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter. Public comment received at a meeting must be incorporated into the official minutes of the meeting, as provided in [2-3-212](#).

(b) For purposes of this section, "public matter" does not include contested case and other adjudicative proceedings.

(2) The governor shall ensure that each board, bureau, commission, department, authority, agency, or officer of the executive branch of the state adopts coordinated rules for its programs. The guidelines must provide policies and procedures to facilitate public participation in those programs, consistent with subsection (1). These guidelines must be adopted as rules and published in a manner so that the rules may be provided to a member of the public upon request.

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**History:** En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(1), (5); amd. Sec. 1, Ch. 425, L. 2003.

**2-3-104. Requirements for compliance with notice provisions.** An agency shall be considered to have complied with the notice provisions of [2-3-103](#) if:

- (1) an environmental impact statement is prepared and distributed as required by the Montana Environmental Policy Act, Title 75, chapter 1;
- (2) a proceeding is held as required by the Montana Administrative Procedure Act;
- (3) a public hearing, after appropriate notice is given, is held pursuant to any other provision of state law or a local ordinance or resolution; or
- (4) a newspaper of general circulation within the area to be affected by a decision of significant interest to the public has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter.

**History:** En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(2).

**2-3-105. Supplemental notice by radio or television.** (1) An official of the state or any of its political subdivisions who is required by law to publish a notice required by law may supplement the publication by a radio or television broadcast of a summary of the notice or by both when in the official's judgment the public interest will be served.

- (2) The summary of the notice must be read without a reference to any person by name who is then a candidate for political office.
- (3) The announcements may be made only by duly employed personnel of the station from which the broadcast emanates.
- (4) Announcements by political subdivisions may be made only by stations situated within the county of origin of the legal notice unless a broadcast station does not exist in that county, in which case announcements may be made by a station or stations situated in any county other than the county of origin of the legal notice.

**History:** En. Sec. 1, Ch. 149, L. 1963; R.C.M. 1947, 19-201; amd. Sec. 38, Ch. 61, L. 2007.

**2-3-106. Period for which copy retained.** Each radio or television station broadcasting any summary of a legal notice shall for a period of 6 months subsequent to such broadcast retain at its office a copy or transcription of the text of the summary as actually broadcast, which shall be available for public inspection.

**History:** En. Sec. 2, Ch. 149, L. 1963; R.C.M. 1947, 19-202.

**2-3-107. Proof of publication by broadcast.** Proof of publication of a summary of any notice by radio or television broadcast shall be by affidavit of the manager, an assistant manager, or a program director of the radio or television station broadcasting the same.

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**History:** En. Sec. 3, Ch. 149, L. 1963; R.C.M. 1947, 19-203.

**2-3-108 through 2-3-110 reserved.**

**2-3-111. Opportunity to submit views -- public hearings.** (1) Procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

(2) When a state agency other than the board of regents proposes to take an action that directly impacts a specific community or area and a public hearing is held, the hearing must be held in an accessible facility in the impacted community or area or in the nearest community or area with an accessible facility.

**History:** En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(3); amd. Sec. 1, Ch. 487, L. 1997.

**2-3-112. Exceptions.** The provisions of [2-3-103](#) and [2-3-111](#) do not apply to:

- (1) an agency decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety;
- (2) an agency decision that must be made to maintain or protect the interests of the agency, including but not limited to the filing of a lawsuit in a court of law or becoming a party to an administrative proceeding; or
- (3) a decision involving no more than a ministerial act.

**History:** En. 82-4228 by Sec. 3, Ch. 491, L. 1975; amd. Sec. 24, Ch. 285, L. 1977; amd. Sec. 2, Ch. 452, L. 1977; R.C.M. 1947, 82-4228(4).

**2-3-113. Declaratory rulings to be published.** The declaratory rulings of any board, bureau, commission, department, authority, agency, or officer of the state which is not subject to the Montana Administrative Procedure Act shall be published and be subject to judicial review as provided under [2-4-623](#)(6) and [2-4-501](#), respectively.

**History:** En. 82-4227 by Sec. 2, Ch. 491, L. 1975; amd. Sec. 23, Ch. 285, L. 1977; amd. Sec. 1, Ch. 452, L. 1977; R.C.M. 1947, 82-4227(part); amd. Sec. 3, Ch. 184, L. 1979.

**2-3-114. Enforcement.** The district courts of the state have jurisdiction to set aside an agency decision under this part upon petition of any person whose rights have been prejudiced. A petition pursuant to this section must be filed within 30 days of the date on which the petitioner learns, or reasonably should have learned, of the agency's decision.

**History:** En. 82-4229 by Sec. 4, Ch. 491, L. 1975; amd. Sec. 25, Ch. 285, L. 1977; R.C.M. 1947, 82-4229; amd. Sec. 1, Ch. 211, L. 2007.

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**TITLE 2, CHAPTER 3, Part 2. Open Meetings**

**2-3-201. Legislative intent -- liberal construction.** The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

**History:** En. Sec. 1, Ch. 159, L. 1963; R.C.M. 1947, 82-3401.

**2-3-202. Meeting defined.** As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in [2-3-203](#), whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

**History:** En. 82-3404 by Sec. 2, Ch. 567, L. 1977; R.C.M. 1947, 82-3404; amd. Sec. 2, Ch. 183, L. 1987.

**2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions.** (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

(5) The supreme court may close a meeting that involves judicial deliberations in an adversarial proceeding.

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(6) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section.

**History:** En. Sec. 2, Ch. 159, L. 1963; amd. Sec. 1, Ch. 474, L. 1975; amd. Sec. 1, Ch. 567, L. 1977; R.C.M. 1947, 82-3402; amd. Sec. 1, Ch. 380, L. 1979; amd. Sec. 1, Ch. 183, L. 1987; amd. Sec. 1, Ch. 123, L. 1993; amd. Sec. 1, Ch. 218, L. 2005.

**2-3-204 through 2-3-210 reserved.**

**2-3-211. Recording.** Accredited press representatives may not be excluded from any open meeting under this part and may not be prohibited from taking photographs, televising, or recording such meetings. The presiding officer may assure that such activities do not interfere with the conduct of the meeting.

**History:** En. 82-3405 by Sec. 4, Ch. 567, L. 1977; R.C.M. 1947, 82-3405.

**2-3-212. Minutes of meetings -- public inspection.** (1) Appropriate minutes of all meetings required by [2-3-203](#) to be open must be kept and must be available for inspection by the public. If an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting. If an official recording is made, a written record of the meeting must also be made and must include the information specified in subsection (2).

(2) Minutes must include without limitation:

- (a) the date, time, and place of the meeting;
- (b) a list of the individual members of the public body, agency, or organization who were in attendance;
- (c) the substance of all matters proposed, discussed, or decided; and
- (d) at the request of any member, a record of votes by individual members for any votes taken.

(3) If the minutes are recorded and designated as the official record, a log or time stamp for each main agenda item is required for the purpose of providing assistance to the public in accessing that portion of the meeting.

**History:** En. Sec. 3, Ch. 159, L. 1963; amd. Sec. 3, Ch. 567, L. 1977; R.C.M. 1947, 82-3403; amd. Sec. 1, Ch. 65, L. 2011.

**2-3-213. Voidability.** Any decision made in violation of [2-3-203](#) may be declared void by a district court having jurisdiction. A suit to void a decision must be commenced within 30 days of the date on which the plaintiff or petitioner learns, or reasonably should have learned, of the agency's decision.

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**History:** En. 82-3406 by Sec. 5, Ch. 567, L. 1977; R.C.M. 1947, 82-3406; amd. Sec. 2, Ch. 211, L. 2007.

**2-3-214 through 2-3-220 reserved.**

**2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know.**

A plaintiff who prevails in an action brought in district court to enforce the plaintiff's rights under Article II, section 9, of the Montana constitution may be awarded costs and reasonable attorney fees.

**History:** En. 93-8632 by Sec. 1, Ch. 493, L. 1975; R.C.M. 1947, 93-8632; amd. Sec. 39, Ch. 61, L. 2007.

**TITLE 2, CHAPTER 3, Part 3. Use of Electronic Mail Systems**

**2-3-301. Agency to accept public comment electronically -- dissemination of electronic mail address and documents required -- prohibiting fees.** (1) An agency that accepts public comment pursuant to a statute, administrative rule, or policy, including an agency adopting rules pursuant to the Montana Administrative Procedure Act or an agency to which [2-3-111](#) applies, shall provide for the receipt of public comment by the agency by use of an electronic mail system.

(2) As part of the agency action required by subsection (1), an agency shall disseminate by appropriate media its electronic mail address to which public comment may be made, including dissemination in:

(a) rulemaking notices published pursuant to the Montana Administrative Procedure Act;

(b) the telephone directory of state agencies published by the department of administration;

(c) any notice of agency existence, purpose, and operations published on the internet world wide web, popularly known as a "website", used by the agency; or

(d) any combination of the methods of dissemination provided in subsections (2)(a) through (2)(c).

(3) An agency shall, at the request of another agency or person and subject to [2-6-102](#), disseminate the electronic documents to that agency or person by electronic mail in place of surface mail. Notification of the availability of an electronic notice of proposed rulemaking may be sent to an interested person as provided in [2-4-302\(2\)\(a\)\(ii\)](#). An agency may not charge a fee for providing documents by electronic mail in accordance with this subsection.

(4) An agency that receives electronic mail pursuant to subsection (1) shall retain the electronic mail as either an electronic or a paper copy to the same extent that other comments are retained.

(5) As used in this section, "agency" means a department, division, bureau, office,

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board, commission, authority, or other agency of the executive branch of state government.

**History:** En. Sec. 1, Ch. 484, L. 1999; amd. Sec. 1, Ch. 77, L. 2001; amd. Sec. 19, Ch. 313, L. 2001; amd. Sec. 1, Ch. 41, L. 2011.

Title 35, Chapter 2 contains applicable statutes associated with nonprofit corporations. They are available online at [http://data.opi.mt.gov/bills/mca\\_toc/35.htm](http://data.opi.mt.gov/bills/mca_toc/35.htm).

This list of laws may not be all-inclusive.

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