

Law Questions

1. Amending the budget – board of trustees must have a meeting, but does council need to have a hearing?

Answer: Most likely yes, but it is not the same in every city or county. You need to contact the city or county clerk to find out what process s/he uses. You may simply have to send a letter to the clerk or you may have to be a part of a formal hearing process.

2. Library depreciation definition? Is there a state statute or law that dictates what is considered a capital outlay for libraries.

Answer: There is not a state law that dictates what is considered a capital outlay for libraries. MCA 22-1-305 thru 22-1-307 do not stipulate a dollar amount.

3. Does a resolution to pass a library mill require a majority or a unanimous decision by the governing body?

Answer: According to MCA 15-10-425(4), a majority vote is required to place a mill levy vote on the ballot not a unanimous vote. You may wish to look at your municipal or county code to see if there have been any restrictions placed locally that might require a unanimous vote.

4. Can you close a meeting for a negotiation strategy? (buying property example)

Answer: an open meeting can only be closed if it deals with a person's individual right to privacy or litigation (and only if the litigation is not a litigation in which the only parties are public bodies or associations). A negotiation strategy regarding purchasing property would not qualify. The "public" has a right to know what kind of offer the board will be making for said property. A meeting to discuss negotiation strategy regarding a lawsuit that has been filed regarding property could be closed unless the lawsuit was filed by another public entity.

5. How long do emails need to be kept after the vote on a subject?

Answer: That depends upon the nature of the email. According to the Secretary of State's office, correspondence (including email) that has to deal with policy and/or the policy process should be kept permanently. Correspondence that is routine and pertain to normal administrative functions should be kept for 3 years. Correspondence that is transitory and only has general information can be kept for 30 days. The complete schedule for this information can be found at

6. Can minors legally check out R rated videos?

Answer: There does not appear to be anything in the Montana Code Annotated denying minors' access to R rated videos. In fact in MCA 45-8-205(2), the definition specifically excludes videos rated by the Motion Picture Association of America. Information from PUBLIB, a public library listserv, indicates that libraries probably should not try to keep minors from checking out R rated videos. To read that discussion, please see

The discussion is dated 1999, but a search of the American Library Association website does not reveal any newer data that changes the answer.