

Multijurisdictional Libraries

Initial question: Now that most of the multijurisdictional law has been repealed what is the difference between a library formed by an interlocal agreement (7-11-101, etc.) and one that is “multijurisdictional” (7-11-1102)? Does the repeal of major pieces of this law impact any current multijurisdictional libraries?

Response from Jim Scheier, February 9, 2012: A library may be formed pursuant to an interlocal agreement between “public agencies,” including political subdivisions, municipalities, and counties, as provided in Montana Code Annotated §§ 7-11-101 through 7-11-108. The agreement, or contract, must include provisions specifying details such as its duration; the organization, composition, and nature of any separate legal entity created by the contract; the manner of financing the undertaking and other budgetary matters; the means by which the undertaking will be administered; etc. Mont. Code Ann. § 7-11-105. An interlocal agreement must be filed with the county clerk and recorder and the secretary of state. Mont. Code Ann. § 7-11-108.

Under the law as it existed prior to 2009, a multijurisdictional service district could be created to provide various services, including libraries. A district was created by interlocal agreement among the participating jurisdictions, as authorized by an ordinance of each jurisdiction to form the district. An ordinance could be passed by the governing body of the jurisdiction, or it could be initiated by a petition signed by at least 15% of the resident property owners in the area proposed for the district. Mont. Code Ann. § 7-11-1105 (2007) (repealed by Senate Bill 57 – see below).

Senate Bill 57 (SB 57), passed by the 2009 Montana legislature, substantially revised laws relating to special districts, enacting Montana Code Annotated §§ 7-11-1001 through 7-11-1029 providing for the creation and governance of special districts. The bill also repealed several (but not all) of the statutes directly pertaining to multijurisdictional service districts in Montana Code Annotated §§ 7-11-1101 to 7-11-1112.

Despite the enactment of SB 57, a multijurisdictional service district may still be formed as a type of “special district” pursuant to Montana Code Annotated §§ 7-11-1001 through 7-11-1029. A “special district” is a “unit of local government that is authorized by law to perform a single function or a limited number of functions.” Mont. Code Ann. § 7-11-1002(3)(a). The term includes “multijurisdictional districts.” Mont. Code Ann. § 7-11-1002(3)(b). And, Montana Code Annotated § 7-11-1102(2)(c), which was not repealed by SB 57, specifically provides that a multijurisdictional service district may provide library services.

SB 57 established procedures for creating a special district (including a multijurisdictional district). The governing body may pass a resolution to establish a special district after holding at least one public hearing, or a special district may be created by a petition signed by at least 40% of the registered voters or property owners

in the proposed district. Mont. Code Ann. §§ 7-11-1003, 7-11-1007. A resolution of intention to create a district based upon the decision of a governing body or upon a petition must designate a description of the territory within the district; the general character of proposed improvements associated with the district; and the estimated cost and method of financing the proposed program or improvements. Mont. Code Ann. § 7-11-1007. Property owners within a proposed district may protest the creation of the district, which must be heard by the governing body. Mont. Code Ann. § 7-11-1008.

Alternatively, the governing body may order a referendum on the creation of a special district, to be submitted to the registered voters who reside in the proposed district. Mont. Code Ann. § 7-11-1011.

A special district created by a combination of local governments acting together must be administered according to an interlocal agreement, which specifies whether the administrative body of the district consists of the entire membership of all governing bodies of the participating jurisdictions, or representatives of each governing body within the jurisdiction. Mont. Code Ann. § 7-11-1022. The title of this statute is “multiple jurisdictions,” therefore I believe it refers to special districts created as multijurisdictional service districts. I find support for this conclusion in the language of Montana Code Annotated § 7-11-1112 (which also survived SB 57), which states that local governments organizing a multijurisdictional service district may levy property taxes in an amount not to exceed that authorized for the district in accordance with Montana Code Annotated § 7-11-1007, which is referenced above.

Now, to your questions. The difference between a library formed pursuant to an interlocal agreement and one formed pursuant to a multijurisdictional service district is primarily the manner in which each is created. As noted, a library may be formed (or library services provided) when public agencies enter into an interlocal agreement, as authorized by Montana Code Annotated §§ 7-11-101 through 7-11-108. The interlocal agreement must provide for “an administrator or a joint board responsible for administering” the library, including “representation of the contracting parties on the joint board.” Mont. Code Ann. § 7-11-105(6). In the case of a library formed pursuant to a multijurisdictional service district, the creation of the district must be accomplished as specified in Montana Code Annotated §§ 7-11-1001 through 7-11-1029. However, the district must be *administered* according to the terms of an interlocal agreement, which may determine whether the administrative body consists of the entire membership of all governing bodies from participating jurisdictions or representatives of each governing body or jurisdiction. Mont. Code Ann. § 7-11-1022(1).

Your final question is whether the repeal of some of the multijurisdictional service district statutes by SB 57 impacts any existing multijurisdictional libraries. I don’t believe it does. Montana Code Annotated § 7-11-1022(2) provides:

A special district created by a combination of local governments acting together may enlarge an existing service district, but may not supersede or void an existing contract, district, or interlocal agreement under which the same service is currently provided to residents of one or more of the participating jurisdictions. The local governments acting together may agree to alter an existing contract, district, or interlocal agreement as necessary. (Emphasis added).

I read this provision to mean that existing multijurisdictional service district libraries would be unaffected by the provisions of SB 57, unless the local governments that are parties to the interlocal agreement that created the district agree to alter the existing agreement.

I hope this answers your questions. If not, or if you need additional information or have more questions, feel free to contact me.

Jim