

# Ravalli County Attorney


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## MEMORANDUM

**RECEIVED**

**TO:** Board of Health; Board of County Commissioners  
**FROM:** Daniel Browder, Deputy County Attorney   
**DATE:** August 10, 2017  
**RE:** Use of Fines

**AUG 10 2017**  
Ravalli County Commissioners

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The Board of Health (BOH) asked about dedicating fines collected for septic enforcement to specific uses, perhaps to include a fund to assist low-income residents in fixing failed septic systems.

Montana Code Annotated Section 50-2-124 (located in the part of the Code concerned with local boards of health) states: "Fines, except justice's court fines, must be paid to the county treasurer of the county in which the violation occurs." In my view, that requires only that the fines must be routed through the Treasurer. The Board of County Commissioners (BCC) has full authority to allocate those funds however it chooses (within the law). So if the BCC wishes to allocate BOH fines to a particular account dedicated to the BOH or to Environmental Health, then the BCC may do so, and EHD or BOH may allocate such funds appropriately.

There are practical and legal issues that arise if the County disbursed its funds directly to private individuals to assist failing septic systems. That may be a lawful use of public money (a question that would need to be answered definitively if the BOH wanted to go that route), but even if the County had a comprehensive screening and awarding policy, there would likely be charges of favoritism or conflict of interest in disbursements of County funds in that manner. A legally cleaner means of allocating funds to alleviate failing septic systems in the County would be through an intermediary



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non-profit organization, with appropriate BOH input and oversight on how that non-profit administers the funds. That third-party organization might require some remuneration to administer funds, so it would be critical to agree on such details -- in writing -- before entering such an arrangement.

I understand this is a very preliminary discussion, so I will be available to answer any other legal questions that arise if this idea is pursued further.

