

1 House BILL NO. 80
 2 INTRODUCED BY Nelson Guendler Vincent
 3 Harper Suebeck Kemmie Bradley
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 OWNERSHIP AND OPERATION OF PUBLIC UTILITIES BY UNITS OF
 6 LOCAL GOVERNMENT."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Short title. This act shall be known and
10 cited as the "Public Utilities Act".

11 Section 2. Legislative purpose. The legislature finds
12 that in many areas of the state, citizens and local
13 governments have become concerned at the high and increasing
14 cost of public utility services and desire to provide such
15 services on the local level. The legislature hereby
16 declares that a public purpose will be served by providing a
17 procedure by which public utility services may be provided
18 by units of local government.

19 Section 3. Definitions. As used in this act, the
20 following words and phrases and any variation thereof shall
21 have the following meaning:

22 (1) "unit of local government" means any city, town or
23 county of the state of Montana;

24 (2) "utility" or "public utility" means "public
25 utility" as defined by section 70-103, R.C.M. 1947.

1 Section 4. Authority of units of local government to
2 acquire, own and operate utilities. A unit of local
3 government may build, own, operate, and maintain, within or
4 without its boundaries, works, facilities, or plants for the
5 purpose of furnishing the district and its inhabitants, or
6 any other persons, with gas or electric service. To that end
7 it may:

8 (a) Acquire energy sources, power generating
9 facilities and distribution systems be they gas, electric,
10 or other, and use, sell, and dispose of such power for
11 domestic, recreational, industrial, and public use within
12 and without its boundaries.

13 (b) Acquire right-of-way, easements, or real property,
14 whether by purchase or lease, within and without its
15 boundaries, for any such purpose.

16 (c) Bring actions for the condemnation or taking of
17 private property for public use in the same manner as now
18 prescribed in sections 93-9901 through 93-9926, R.C.M. 1947.

19 Section 5. Authority to purchase gas, electric
20 power. A unit of local government having power under this
21 act may purchase wholesale, gas, electricity, or other power
22 from other producers, public or private, for distribution
23 either within or without the district, for its own use, and
24 for the purpose of selling to its inhabitants and other
25 persons; and regulate the control and use thereof.

1 Section 6. Joint acquisition, ownership, and operation
 2 of utility -- joint financing. Any or all units of local
 3 government may construct, own or operate jointly, in such
 4 proportion as they may agree, the facilities necessary to
 5 provide the services authorized by this act.

6 Section 7. Preexisting distribution systems. Whenever
 7 a unit of local government undertakes pursuant to this act
 8 to provide for the distribution of gas or electricity or
 9 both, it shall acquire either through purchase or
 10 condemnation such distribution system or systems as are
 11 already in existence in the area it proposes to serve.

12 Section 8. Financing of utility undertakings. A unit
 13 of local government may finance, either alone or jointly
 14 with any other unit or units of local government, any
 15 undertaking necessary to accomplish the purposes of this act
 16 in accordance with the provisions of the "Municipal Revenue
 17 Bond Act of 1939". For purposes of financing undertakings
 18 authorized by this act counties shall be considered
 19 municipalities within the meaning of the term as defined in
 20 section 11-2402 (b), R.C.M. 1947.

21 Section 9. Regulation by public service commission. A
 22 unit of local government providing a utility service under
 23 this act shall be subject to regulation by the public
 24 service commission as provided for in sections 70-101
 25 through 70-135, R.C.M. 1947.

1 Section 10. Construction of this act -- act to be
 2 construed liberally and shall control. The rule of strict
 3 construction shall have no application to this act, but the
 4 same shall be liberally construed, in order to carry out the
 5 purposes and objects for which this act is intended. If
 6 this act is held in conflict with any provision, limitation,
 7 or restriction in any other law, this act shall govern and
 8 control.

-End-

Approved by Committee
on Business and Industry

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HARPER, LUEBECK, KEMMIS, BRADLEY

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 10 to provide for the distribution of gas or electricity or
 11 both, it shall acquire either through purchase or
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 13 already in existence in the area it proposes to serve. IF,
 14 AFTER THE FORMATION OF A LOCAL GOVERNMENT PUBLIC UTILITY,
 15 THE REMAINING PROPERTIES OF A PREEXISTING ELECTRIC SUPPLIER
 16 DO NOT HAVE A DENSITY OF OVER THREE (3) CONSUMERS PER MILE
 17 OF LINE AND AN ANNUAL REVENUE OF AT LEAST FIVE HUNDRED
 18 DOLLARS (\$500) PER MILE OF LINE, THEN THE ENTIRE SYSTEM
 19 SHALL BE INCORPORATED IN THE NEW PUBLIC UTILITY SYSTEM OR BE
 20 TOTALLY EXEMPT THEREFROM.

21 SECTION 8. PREEXISTING GENERATION SYSTEMS. WHENEVER A
 22 UNIT OF LOCAL GOVERNMENT UNDERTAKES PURSUANT TO THIS ACT TO
 23 PROVIDE FOR THE GENERATION OF ELECTRICITY THROUGH
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1 OUTSIDE ITS JURISDICTIONAL AREA WHICH ARE WITHIN THE AREA
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 7 of local government may finance, either alone or jointly
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 10 in accordance with the provisions of the "Municipal Revenue
 11 Bond Act of 1939". For purposes of financing undertakings
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 14 section 11-2402 (b), R.C.M. 1947.

15 Section 10. Regulation by public service commission.
 16 A unit of local government providing a utility service under
 17 this act shall be subject to regulation by the public
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 19 through 70-135, R.C.M. 1947.

20 SECTION 11. PRIOR TO ANY UNDERTAKING UNDER THIS ACT, A
 21 UNIT OF LOCAL GOVERNMENT MUST CONSIDER ALL POSSIBLE
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 23 CONVENTIONAL ENERGY PRODUCTION FACILITIES ARE PERMITTED ONLY
 24 IF AN ALTERNATIVE FORM IS EITHER UNAVAILABLE OR NOT FEASIBLE
 25 WITHIN THE FUNDING CAPABILITIES OF THE UNIT.

1 SECTION 12. BEFORE EXERCISING AUTHORITY UNDER SECTIONS
2 4 AND 5 OF THIS ACT, A UNIT OF LOCAL GOVERNMENT MUST SUBMIT
3 TO ITS QUALIFIED ELECTORS THE QUESTION OF WHETHER TO BUILD,
4 OWN, OPERATE, OR MAINTAIN FACILITIES FOR THE PURPOSE OF
5 FURNISHING GAS OR ELECTRIC SERVICES. A THREE-FIFTHS (3/5)
6 MAJORITY OF THE VOTES ON THE ISSUE AT THAT ELECTION SHALL
7 OPERATE TO PERMIT THE UNIT TO PROCEED UNDER THE OPERATIVE
8 PROVISIONS OF THIS ACT.

9 SECTION 13. ANY UTILITY PROPERTY ACQUIRED BY A UNIT OF
10 LOCAL GOVERNMENT UNDER THIS ACT REMAINS ON THE TAX ROLLS AND
11 IS TREATED FOR TAX PURPOSES AS THE SAME PROPERTY WAS TREATED
12 PRIOR TO ACQUISITION.

13 SECTION 14. AFTER FIVE (5) YEARS FROM THE DATE OF
14 COMMENCEMENT OF OPERATION OF THE FACILITY BY A UNIT OF LOCAL
15 GOVERNMENT, THE PEOPLE MAY VOTE TO DISPOSE OF THE UTILITY AS
16 FOLLOWS:

17 (1) TEN PERCENT (10%) OF THE QUALIFIED ELECTORS WITHIN
18 A UNIT OF LOCAL GOVERNMENT WHICH HAS ELECTED TO EXERCISE ITS
19 RIGHTS UNDER THIS ACT MAY, BY PETITION ADDRESSED TO THE
20 GOVERNING BODY OF SUCH UNIT OF LOCAL GOVERNMENT AND FILED
21 WITH THE CLERK THEREOF, DEMAND THAT THE QUESTION OF
22 OWNERSHIP AND OPERATION OF PUBLIC UTILITIES BE SUBMITTED TO
23 THE ELECTORS.

24 (2) THE PETITION SHALL BE FILED AT LEAST THIRTY (30)
25 DAYS BEFORE THE NEXT REGULAR ELECTION.

1 (3) WHEN THE QUESTION IS SUBMITTED TO THE ELECTORS
2 WITHIN THE UNIT OF LOCAL GOVERNMENT THE BALLOT SHALL READ:

3 FOR OWNERSHIP AND OPERATION OF (GAS
4 OR ELECTRIC) SERVICES BY (CITY, TOWN
5 OR COUNTY)

6 AGAINST OWNERSHIP AND OPERATION OF
7 (GAS OR ELECTRIC) SERVICES BY (CITY,
8 TOWN OR COUNTY).

9 (4) IF THREE-FIFTHS (3/5) OF THE QUALIFIED VOTERS,
10 VOTING IN THE ELECTION, VOTE AGAINST THE QUESTION, THE UNIT
11 OF LOCAL GOVERNMENT SHALL DISCONTINUE ANY ACTIVITY
12 CONCERNING ACQUIRING, OWNING OR OPERATING UTILITIES AND
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14 PURPOSE OF FURNISHING SUCH UTILITIES.

15 SECTION 15. WHENEVER A UNIT OF LOCAL GOVERNMENT
16 EXERCISES ITS RIGHTS UNDER THIS ACT IT SHALL GIVE FIRST AND
17 PREFERRED CONSIDERATION FOR EMPLOYMENT TO THE EMPLOYEES OF
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20 TO PENSIONS AND OTHER FRINGE BENEFITS.

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