

1 *House* BILL NO. *176 Williams*
 2 INTRODUCED BY *Deke Mitchell, Donald Meloy, J. A. H. [unclear]*
 3 *Kennell Hockrem, Mark [unclear], [unclear] [unclear]*
 4 *Salmon [unclear]* AN ACT ENTITLED: "AN ACT TO AUTHORIZE *Bradley*
 5 ALTERNATIVE FORMS OF LOCAL GOVERNMENT PARTIALLY IMPLEMENTING *Hager*
 6 ARTICLE XI, SECTIONS 3 AND 5 OF THE 1972 MONTANA *Holmes*
 7 CONSTITUTION AND PROVIDING FOR A DELAYED EFFECTIVE DATE."
 8

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

10 Section 1. There is a new R.C.M. Title 47A, Part 3,
11 Chapter 2 that reads as follows:

12 PART 3, CHAPTER 2, ALTERNATIVE FORMS OF LOCAL GOVERNMENT

13 47A-3-201. Declaration of purpose. (1) The purpose
 14 of this chapter is to comply with Article XI, section 3 (1),
 15 of the Montana constitution, which provides: "The
 16 legislature shall provide such optional or alternative forms
 17 of government that each unit or combination of units may
 18 adopt, amend, or abandon an optional or alternative form by
 19 a majority of those voting on the question."

20 (2) This chapter establishes the alternative forms of
 21 government for cities, towns, counties, and consolidated
 22 governments. This chapter shall be liberally construed to
 23 facilitate the adoption of a form of local government. The
 24 procedure to adopt, amend, or abandon these forms is
 25 provided in sections 16-5101 et. seq.

1 47A-3-202. Adoption of alternative forms. Each local
 2 government in the state shall adopt one of the alternative
 3 forms of government provided for in this chapter including
 4 one of each sub-option authorized: the commission-executive
 5 form (which may also be called the "council-executive", the
 6 "council-mayor", or the "commission-mayor" form), the
 7 commission-manager form (which may also be called the
 8 "council-manager" form), the commission form, the commission
 9 chairman form, the town meeting form, or the charter form.

10 47A-3-203. Commission-executive form. (1) The
 11 commission-executive form (which may be called the "council-
 12 executive", the "council-mayor", or the "commission-mayor"
 13 form) consists of an elected commission (which may be
 14 referred to as the "council" and one elected executive (who
 15 may be referred to as the "mayor") who is elected at large.

- 16 (2) The executive shall:
 17 (a) enforce laws, ordinances, and resolutions;
 18 (b) perform duties required of him by law, ordinance,
 19 or resolution;
 20 (c) administer affairs of the local government;
 21 (d) direct, supervise, and administer all departments,
 22 agencies, and offices of the local government, except as
 23 otherwise provided by law or ordinance;
 24 (e) carry out policies established by the commission;
 25 (f) recommend measures to the commission;

40173

1 (g) report to the commission on the affairs and
2 financial condition of the local government;

3 (h) execute bonds, notes, contracts, and written
4 obligations of the commission, subject to the approval of
5 the commission;

6 (i) report to the commission as the commission may
7 require;

8 (j) attend commission meetings and may take part in
9 discussions;

10 (k) execute the budget adopted by the commission;

11 (l) appoint, with the consent of the commission, all
12 members of boards; except, the executive may appoint without
13 the consent of the commission temporary advisory committees
14 established by the executive.

15 (3) The plan of government submitted to the qualified
16 electors shall further define the structural characteristics
17 of the form by including one item from each of the choices
18 listed below:

19 (a) The executive:

20 (i) shall appoint one or more administrative
21 assistants to assist him in the supervision and operation of
22 the local government. Such administrative assistants shall
23 be answerable solely to the executive; or

24 (ii) may appoint one or more administrative assistants
25 to assist him in the supervision and operation of the local

1 government. Such administrative assistants shall be
2 answerable solely to the executive.

3 (b) The executive may:

4 (i) appoint and remove all employees of the local
5 government; or

6 (ii) appoint and remove, with the consent of a
7 majority of the commission, all employees of the local
8 government; or

9 (iii) appoint, with the consent of a majority of the
10 commission, all department heads. The executive may remove
11 department heads and may appoint and remove all other
12 department employees; or

13 (iv) appoint and remove, with the consent of a
14 majority of the commission, all department heads. The
15 executive may appoint and remove all other employees of the
16 local government.

17 (c) The executive may:

18 (i) veto ordinances and resolutions, subject to
19 override by a majority plus one of the whole number of the
20 commission; or

21 (ii) veto ordinances and resolutions, subject to
22 override by a two-thirds vote of the commission; or

23 (iii) sign all ordinances and resolutions with no veto
24 power.

25 (d) The executive may:

1 (i) prepare the budget and present it to the
2 commission for adoption; or

3 (ii) prepare the budget in consultation with the
4 commission and department heads.

5 (e) The executive may:

6 (i) exercise control and supervision of the
7 administration of all departments and boards; or

8 (ii) exercise control and supervision of all
9 departments and boards to the degree authorized by ordinance
10 of the commission.

11 (f) A financial officer (who may be called the
12 "treasurer"):

13 (i) shall be elected; or

14 (ii) shall be appointed by the executive with the
15 consent of the council; or

16 (iii) shall be selected as provided by ordinance; or

17 (iv) may, at the discretion of the commission, be
18 selected as provided by ordinance.

19 (g) The commission shall be:

20 (i) elected at large; or

21 (ii) elected by districts in which candidates must
22 reside and which are apportioned by population; or

23 (iii) nominated by districts in which candidates must
24 reside and which are apportioned by population, but elected
at large; or

1 (iv) elected by any combination of districts in which
2 candidates must reside and which are apportioned by
3 population, and at large.

4 (h) Local government elections shall be conducted on a:

5 (i) partisan basis as provided in this Title; or

6 (ii) non-partisan basis as provided in this Title.

7 (i) The commission shall have a chairman who shall be:

8 (i) elected by the members of the commission from
9 their own number for a term established by ordinance; or

10 (ii) selected as provided by ordinance.

11 (j) The presiding officer of the commission shall be:

12 (i) the chairman of the commission who may vote as
13 other members of the commission; or

14 (ii) the executive who may vote as the commissioners;

15 or

16 (iii) the executive who shall decide all tie votes of
17 the commission, but shall have no other vote. The chairman
18 of the commission shall preside if the executive is absent;

19 or

20 (iv) the executive, but he may not vote.

21 (k) Commission members shall be elected for:

22 (i) concurrent terms of office; or

23 (ii) overlapping terms of office.

24 (l) The size of the commission, which shall be a
25 number not less than three (3), shall be established when

1 the form is adopted by the voters, and;

2 (i) community councils of at least three (3) members
3 shall be elected within each district to advise the
4 commissioner from that district. Local governments
5 conducting elections at large shall district according to
6 population for the purpose of electing community councils;
7 or

8 (ii) community councils to advise commissioners may be
9 authorized by ordinance.

10 (m) The term of office of elected officials may not
11 exceed four (4) years, and shall be established when the
12 form is adopted by the voters.

13 (4) The plan of government submitted to the qualified
14 electors shall determine the powers of the local government
15 unit by authorizing:

- 16 (a) general government powers; or
- 17 (b) self-government powers.

18 47A-3-204. Commission-manager form. (1) The
19 commission-manager form (which may be called the "council-
20 manager" form) consists of an elected commission (which may
21 be called the "council") and a manager appointed by the
22 commission who shall be the chief administrative officer of
23 the local government. The manager shall be responsible to
24 the commission for the administration of all local
25 government affairs placed in his charge by law, ordinance,

1 or resolution.

2 (2) The manager shall be appointed by the commission
3 for an indefinite term on the basis of merit only, and
4 removed only by a majority vote of the whole number of the
5 commission.

6 (3) The manager shall:

- 7 (a) enforce laws, ordinances, and resolutions;
- 8 (b) perform the duties required of him by law,
9 ordinance, or resolution;
- 10 (c) administer the affairs of the local government;
- 11 (d) direct, supervise, and administer all departments,
12 agencies and offices of the local government unit except as
13 otherwise provided by law or ordinance;
- 14 (e) carry out policies established by the commission;
- 15 (f) prepare the commission agenda;
- 16 (g) recommend measures to the commission;
- 17 (h) report to the commission on the affairs and
18 financial condition of the local government;
- 19 (i) execute bonds, notes, contracts, and written
20 obligations of the commission, subject to the approval of
21 the commission;
- 22 (j) report to the commission as the commission may
23 require;
- 24 (k) attend commission meetings and may take part in
25 the discussion, but he may not vote;

1 (l) prepare and present the budget to the commission
2 for its approval and execute the budget adopted by the
3 commission;

4 (m) appoint, suspend, and remove all employees of the
5 local government except as otherwise provided by law or
6 ordinance. Employees appointed by the manager and his
7 subordinates shall be administratively responsible to the
8 manager;

9 (n) appoint members of temporary advisory committees
10 established by the manager.

11 (4) Neither the commission nor any of its members may
12 dictate the appointment or removal of any employee whom the
13 manager or any of his subordinates are empowered to appoint.

14 (5) Except for the purpose of inquiry or investigation
15 under this title, the commission or its members shall deal
16 with the local government employees who are subject to the
17 direction and supervision of the manager, solely through the
18 manager, and neither the commission nor its members may give
19 orders to any such employee, either publicly or privately.

20 (6) The plan of government submitted to the qualified
21 electors shall further define the structural characteristics
22 of the form by including one item from each of the choices
23 listed below:

24 (a) All members of boards, other than temporary
25 advisory committees established by the manager, shall be

1 appointed by:

2 (i) the chairman with the consent of the commission;

3 or

4 (ii) the manager with the consent of the commission;

5 or

6 (iii) the commission.

7 (b) The commission shall be:

8 (i) elected at large; or

9 (ii) elected by districts in which candidates must
10 reside and which are apportioned by population; or

11 (iii) nominated by districts in which candidates must
12 reside and which are apportioned by population, but elected
13 at large; or

14 (iv) elected by any combination of districts in which
15 candidates must reside and which are apportioned by
16 population, and at large.

17 (c) Local government elections shall be conducted on
18 a:

19 (i) partisan basis as provided in this Title; or

20 (ii) non-partisan basis as provided in this Title.

21 (d) The chairman of the commission shall be:

22 (i) elected by the members of the commission from
23 their own number for a term established by ordinance; or

24 (ii) elected by the qualified electors for a term of
25 office; or

1 (iii) selected as provided by ordinance.
 2 (3) Commission members shall be elected for:
 3 (i) concurrent terms of office; or
 4 (ii) overlapping terms of office.
 5 (f) The size of the commission, which shall be a
 6 number of not less than three (3), shall be established when
 7 the form is adopted by the voters, and:
 8 (i) community councils of at least three (3) members
 9 shall be elected within each district to advise the
 10 commissioner from that district. Local governments
 11 conducting elections at-large shall district according to
 12 population for the purpose of electing community councils;
 13 or
 14 (ii) community councils to advise commissioners may be
 15 authorized by ordinance.
 16 (g) The term of office of elected officials may not
 17 exceed four (4) years, and shall be established when the
 18 form is adopted by the voters.
 19 (7) The plan of government submitted to the qualified
 20 electors shall determine the powers of the local government
 21 unit by authorizing:
 22 (a) general government powers; or
 23 (b) self-government powers.
 24 47A-3-205. Commission form. (1) The commission form
 25 consists of an elected commission (which may also be called

1 the "council") and other elected officers as provided in
 2 this section. All legislative, executive, and
 3 administrative powers and duties of the local government not
 4 specifically reserved by law or ordinance to other elected
 5 officers shall reside in the commission. The commission
 6 shall appoint the heads of departments and other employees,
 7 except for those appointed by other elected officials.
 8 Cities and towns which adopt this form may distribute by
 9 ordinance the executive and administrative powers and duties
 10 into departments headed by individual commissioners.
 11 (2) The plan of government submitted to the qualified
 12 electors shall further define the structural characteristics
 13 of the form by including one item from each of the choices
 14 listed below:
 15 (a) The commission shall be:
 16 (i) elected at large; or
 17 (ii) elected by districts in which candidates must
 18 reside and which are apportioned by population; or
 19 (iii) nominated by districts in which candidates must
 20 reside and which are apportioned by population, but elected
 21 at large; or
 22 (iv) elected by any combination of districts in which
 23 candidates must reside and which are apportioned by
 24 population, and at large.
 25 (b) Local government elections shall be conducted on

1 a:

2 (i) partisan basis as provided in this Title; or

3 (ii) non-partisan basis as provided in this Title.

4 (c) The chairman of the commission, who may be

5 referred to as the "mayor", shall be the presiding officer

6 of the commission. All members of boards and committees

7 shall be appointed by the chairman with the consent of the

8 commission. The chairman shall be recognized as the head of

9 the local government unit and may vote as other members of

10 the commission. The chairman shall be:

11 (i) elected by the members of the commission from

12 their own number for a term established by ordinance; or

13 (ii) selected as provided by ordinance; or

14 (iii) elected directly by the voters for a term

15 established by ordinance.

16 (d) The commission:

17 (i) shall appoint one or more administrative

18 assistants to assist them in the supervision and operation

19 of the local government; or

20 (ii) may appoint one or more administrative assistants

21 to assist them in the supervision and operation of the local

22 government.

23 (e) Commission members shall be elected for:

24 (i) concurrent terms of office; or

(ii) overlapping terms of office.

1 (f) The size of the commission, which shall be a

2 number of not less than three (3), shall be established when

3 the form is adopted by the voters, and:

4 (i) community councils of at least three (3) members

5 shall be elected within each district to advise the

6 commissioner from that district. Local governments

7 conducting elections at-large shall district according to

8 population for the purpose of electing community councils;

9 or

10 (ii) community councils to advise commissioners may be

11 authorized by ordinance.

12 (g) The term of office of elected officials may not

13 exceed four (4) years, except the term of office for

14 commissioners in counties adopting the form authorized by

15 Article XI, section 3 (2), of the Montana constitution, may

16 not exceed six (6) years. Terms of office shall be

17 established when the form is adopted by the voters.

18 (3) In county and consolidated local governments, the

19 plan of government submitted to the qualified electors shall

20 further define the structural characteristics of the form by

21 including one item from each of the choices listed below.

22 The officers shall have the powers and duties established by

23 ordinance. After the establishment of any office, the

24 commission may consolidate, as provided by law, two or more

25 of the offices.

1 (a) A legal officer (who may be called the "county
2 attorney"):

3 (i) shall be elected; or

4 (ii) shall be appointed by the local government
5 commission; or

6 (iii) shall be appointed by the chairman of the local
7 government commission; or

8 (iv) shall be selected as provided by ordinance; or

9 (v) may at the discretion of the commission be
10 selected as by ordinance; or

11 (vi) shall not be included in this form as a separate
12 office.

13 (b) A law enforcement officer (who may be called the
14 "sheriff"):

15 (i) shall be elected; or

16 (ii) shall be appointed by the local government
17 commission; or

18 (iii) shall be appointed by the chairman of the local
19 government commission; or

20 (iv) shall be selected as provided by ordinance; or

21 (v) may at the discretion of the commission be
22 selected as provided by ordinance; or

23 (vi) shall not be included in this form as a separate
24 office.

25 (c) A clerk and recorder:

1 (i) shall be elected; or

2 (ii) shall be appointed by the local government
3 commission; or

4 (iii) shall be appointed by the chairman of the local
5 government commission; or

6 (iv) shall be selected as provided by ordinance; or

7 (v) may at the discretion of the commission be
8 selected as provided by ordinance; or

9 (vi) shall not be included in this form as a separate
10 office.

11 (d) A clerk of district court:

12 (i) shall be elected; or

13 (ii) shall be appointed by the local government
14 commission; or

15 (iii) shall be appointed by the chairman of the local
16 government commission; or

17 (iv) shall be selected as provided by ordinance; or

18 (v) may at the discretion of the commission be
19 selected as provided by ordinance; or

20 (vi) shall not be included in this form as a separate
21 office.

22 (e) A treasurer:

23 (i) shall be elected; or

24 (ii) shall be appointed by the local government
25 commission; or

1 (iii) shall be appointed by the chairman of the local
2 government commission; or

3 (iv) shall be selected as provided by ordinance; or

4 (v) may at the discretion of the commission be
5 selected as provided by ordinance; or

6 (vi) shall not be included in this form as a separate
7 office.

8 (f) A surveyor:

9 (i) shall be elected; or

10 (ii) shall be appointed by the local government
11 commission; or

12 (iii) shall be appointed by the chairman of the local
13 government commission; or

14 (iv) shall be selected as provided by ordinance; or

15 (v) may at the discretion of the commission be
16 selected as provided by ordinance; or

17 (vi) shall not be included in this form as a separate
18 office.

19 (g) A superintendent of schools:

20 (i) shall be elected; or

21 (ii) shall be appointed by the local government
22 commission; or

23 (iii) shall be appointed by the chairman of the local
24 government commission; or

25 (iv) shall be selected as provided by ordinance; or

1 (v) may at the discretion of the commission be
2 selected as provided by ordinance; or

3 (vi) shall not be included in this form as a separate
4 office.

5 (h) An assessor:

6 (i) shall be elected; or

7 (ii) shall be appointed by the local government
8 commission; or

9 (iii) shall be appointed by the chairman of the local
10 government commission; or

11 (iv) shall be selected as provided by ordinance; or

12 (v) may at the discretion of the commission be
13 selected as provided by ordinance; or

14 (vi) shall not be included in this form as a separate
15 office.

16 (i) A coroner:

17 (i) shall be elected; or

18 (ii) shall be appointed by the local government
19 commission; or

20 (iii) shall be appointed by the chairman of the local
21 government commission; or

22 (iv) shall be selected as provided by ordinance; or

23 (v) may at the discretion of the commission be
24 selected as provided by ordinance; or

25 (vi) shall not be included in this form as a separate

1 office.

2 (j) A public administrator:

3 (i) shall be elected; or

4 (ii) shall be appointed by the local government

5 commission; or

96 (iii) shall be appointed by the chairman of the local

7 government commission; or

8 (iv) shall be selected as provided by ordinance; or

9 (v) may at the discretion of the commission be

10 selected as provided by ordinance; or

11 (vi) shall not be included in this form as a separate

12 office.

13 (k) An auditor:

14 (i) shall be elected; or

15 (ii) shall be appointed by the local government

16 commission; or

17 (iii) shall be appointed by the chairman of the local

18 government commission; or

19 (iv) shall be selected as provided by ordinance; or

20 (v) may at the discretion of the commission be

21 selected as provided by ordinance; or

22 (vi) shall not be included in this form as a separate

23 office.

24 47A-3-206. Commission chairman form. (l) The

25 commission chairman form consists of an elected commission

1 (which may also be referred to as the "council"), and a

2 commission chairman (who may also be referred to as "mayor"

3 or as "president") elected by the members of the commission

4 from their own number.

5 (2) The commission chairman (who may also be referred

6 to as "mayor") shall be elected by the members of the

7 commission from their own number to serve at the pleasure of

8 the commission. He shall: be the presiding officer of the

9 commission, be recognized as the head of the local

10 government unit, have the power to vote as other members of

11 the commission, be the chief executive officer of the local

12 government, and:

13 (a) enforce laws, ordinances, and resolutions;

14 (b) perform duties required of him by law, ordinance,

15 or resolution;

16 (c) administer the affairs of the local government;

17 (d) direct, supervise, and administer all departments,

18 agencies, and offices of the local government, except as

19 otherwise provided by law or ordinance;

20 (e) carry out policies established by the commission;

21 (f) prepare the commission agenda;

22 (g) recommend measures to the commission;

23 (h) report to the commission on the affairs and

24 financial condition of the local government;

25 (i) execute bonds, notes, contracts, and written

1 obligations of the commission, subject to the approval of
2 the commission;

3 (j) report to the commission as the commission may
4 require;

5 (k) attend commission meetings and may take part in
6 discussions;

7 (l) execute the budget adopted by the commission;

8 (m) appoint with the consent of the commission all
9 members of boards and committees; except the chairman may
10 appoint without the consent of the commission temporary
11 advisory committees established by the chairman;

12 (n) appoint with the consent of a majority of the
13 commission all department heads. The chairman may remove
14 department heads and may appoint and remove all other
15 employees;

16 (o) prepare the budget and present it to the
17 commission for adoption;

18 (p) exercise control and supervision over the
19 administration of departments and boards.

20 (3) The plan of government submitted to the qualified
21 electors shall further define the structural characteristics
22 of the form by including one item from each of the choices
23 listed below:

24 (a) The commission shall be:

25 (i) elected at large; or

1 (ii) elected by districts in which candidates must
2 reside and which are apportioned by population; or

3 (iii) nominated by districts in which candidates must
4 reside and which are apportioned by population, but elected
5 at large; or

6 (iv) elected by any combination of districts in which
7 candidates must reside and which are apportioned by
8 population, and at large.

9 (b) Local government elections shall be conducted on
10 a:

11 (i) partisan basis as provided in this Title; or

12 (ii) non-partisan basis as provided in this Title.

13 (c) The commission chairman:

14 (i) shall appoint one or more administrative
15 assistants to assist him in the supervision and operation of
16 the local government. Such administrative assistants shall
17 be answerable solely to the chairman; or

18 (ii) may appoint one or more administrative assistants
19 to assist him in the supervision and operation of the local
20 government. Such administrative assistants shall be
21 answerable solely to the chairman.

22 (d) Commission members shall be elected for:

23 (i) concurrent terms of office; or

24 (ii) overlapping terms of office.

25 (e) The size of the commission, which shall be a

1 number of not less than five (5), shall be established when
2 the form is adopted by the voters, and:

3 (i) community councils of at least three (3) members
4 shall be elected within each district to advise the
5 commissioner from that district. Local governments
6 conducting elections at-large shall district according to
7 population for the purpose of electing community councils;
8 or

9 (ii) community councils to advise commissioners may be
10 authorized by ordinance.

11 (f) The term of office of elected officials may not
12 exceed four (4) years, and shall be established when the
13 form is adopted by the voters.

14 (4) The plan of government submitted to the qualified
15 electors shall determine the powers of the local government
16 unit by authorizing:

17 (a) general government powers; or

18 (b) self-government powers.

19 47A-3-207. Town meeting form. (1) The town meeting
20 form consists of an assembly of the qualified electors of a
21 town (known as a town meeting), an elected town chairman,
22 who shall be a qualified elector, and an optional elected
23 town meeting moderator. The town meeting form may be
24 adopted only by incorporated cities or towns of less than
25 two thousand (2,000) persons as determined by the most

1 recent decennial census as conducted by the United States
2 bureau of the census unless a more recent enumeration of
3 inhabitants be made by the state, in which case such
4 enumeration shall be used for the purposes of this section.
5 Any unit of local government which adopts this form may
6 retain it even though its population increases to more than
7 two thousand (2,000).

8 (2) All legislative powers of the town shall vest in
9 the town meeting. The town meeting may enact rules,
10 resolutions, and ordinances.

11 (3) (a) Towns adopting this form shall convene an
12 annual town meeting on the first Tuesday of March. Special
13 town meetings may be called by the town chairman or upon
14 petition of ten percent (10%) of the qualified electors of
15 the town, but in no case by less than ten (10) qualified
16 electors.

17 (b) All qualified electors of the town may attend the
18 town meeting, take part in the discussion and vote on all
19 matters coming before the town meeting. Others may attend
20 but shall not vote nor take part in the discussion except by
21 a majority vote of the town meeting.

22 (c) A quorum shall consist of at least ten percent
23 (10%) of the qualified electors of the town but a higher
24 quorum requirement may be established by a majority vote of
25 the town meeting.

1 (d) The election of town officials shall be
 2 non-partisan and shall be by a plurality of those qualified
 3 electors present and voting. All other voting in the town
 4 meeting shall be by a simple majority of those qualified
 5 electors present and voting.

6 (e) Election of officials shall be by secret ballot.
 7 Other voting shall be by secret ballot upon the request of
 8 at least five members of the town meeting.

9 (4) An agenda of the town meeting and a list of all
 10 elective and appointive offices to be filled shall be
 11 prepared by the town chairman who shall post notice at least
 12 two (2) weeks prior to the convening of all annual and
 13 special town meetings. Upon written petition of at least
 14 ten percent (10%) of the qualified electors of the town, but
 15 not less than ten (10) qualified electors, the town chairman
 16 shall insert a particular item of items in the agenda for
 17 the next annual or special town meeting. The town meeting
 18 agenda may include an item entitled "other business" under
 19 which any matter may be considered by the town meeting
 20 except no matter dealing with finance or taxation shall be
 21 considered under "other business".

22 (5) The town meeting shall elect a town chairman for a
 23 term of not less than one (1) year or more than two (2)
 24 years. An unexpired term of a town chairman shall be filled
 at the next annual or special town meeting.

1 (6) The town chairman shall be the chief executive
 2 officer of the town and he shall:

3 (a) enforce laws, ordinances, and resolutions;

4 (b) perform duties required of him by law, ordinance,
 5 or resolution;

6 (c) administer the affairs of the town;

7 (d) prepare the town meeting agenda;

8 (e) attend all annual and special town meetings;

9 (f) recommend measures to the town meeting;

10 (g) report to the town on the affairs and financial
 11 condition of the town;

12 (h) execute bonds, notes, contracts, and written
 13 obligations of the town, subject to the approval of the
 14 town;

15 (i) appoint, with the consent of the town meeting,
 16 members of all boards and appoint and remove all employees
 17 of the town;

18 (j) prepare the budget and present it to the town
 19 meeting for adoption;

20 (k) exercise control and supervision of the
 21 administration of all departments and boards;

22 (l) carry out policies established by the town
 23 meeting.

24 (7) Compensation of the town chairman shall be
 25 established by ordinance but shall not be reduced during the

1 current term of the town chairman.

2 (8) Permanent committees to advise the town chairman
3 and/or the town meeting may be established and dissolved by
4 ordinance. The town chairman may establish temporary
5 committees to advise him.

6 (9) The plan of government submitted to the qualified
7 electors shall further define the structural characteristics
8 of the form by including one item from each of the choices
9 listed below:

10 (a) The town meeting shall:

11 (i) elect a town meeting moderator for a term of one
12 (1) year who shall be the presiding officer of all annual
13 and special town meetings but who shall have no other
14 governmental powers; or

15 (ii) designate the town chairman as presiding officer
16 of all annual and special town meetings.

17 (b) The town chairman:

18 (i) shall appoint an administrative assistant to
19 assist him in the supervision and operation of the affairs
20 of the town. The administrative assistant shall be
21 answerable solely to the town chairman and the town chairman
22 may delegate powers to the administrative assistant at his
23 discretion; or

24 (ii) may appoint an administrative assistant to assist
25 him in the supervision and operation of the affairs of the

1 town. The administrative assistant shall be answerable
2 solely to the town chairman and the town chairman may
3 delegate powers to the administrative assistant at his
4 discretion.

5 (10) The first agenda of the first town meeting
6 following the adoption of this form shall be established by
7 the local study commission. At that town meeting the
8 chairman of the local study commission shall preside over
9 the election of the presiding officer of the town after
10 which the presiding officer of the town shall preside.

11 (11) The plan of government submitted to the qualified
12 electors shall determine the powers of the local government
13 unit by authorizing:

14 (a) general government powers; or

15 (b) self-government powers.

16 47A-3-208. Charter form. (1) The purpose of this
17 section is to comply with Article XI, section 5 (1), of the
18 Montana constitution, which provides: "(1) The legislature
19 shall provide procedures permitting a local government unit
20 or combination of units to frame, adopt, amend, revise, or
21 abandon a self-government charter with the approval of a
22 majority of those voting on the question. The procedures
23 shall not require approval of a charter by a legislative
24 body."

25 (2) Charter provisions establishing executive,

1 legislative, and administrative structure and organization
2 are superior to statutory provisions.

3 (3) A charter form of government shall possess
4 self-government powers.

5 (4) Charter form of government shall be established by
6 a charter which is a written document defining the powers,
7 structures, privileges, rights, and duties of the unit of
8 local government and limitations thereon.

9 (5) The charter shall provide for an elected
10 legislative body, called a commission or council, or shall
11 provide for a legislative body comprised of all qualified
12 electors. For elected legislative bodies the charter shall
13 specify the number of members thereof, their term of office,
14 the method of their election, the grounds for their removal,
15 and the method for filling vacancies.

16 (6) The charter shall provide for the election and
17 nomination of commissions at-large, or by districts in which
18 candidates must reside and which are apportioned by
19 population, or by a combination of districts in which
20 candidates must reside and which are apportioned by
21 population and at-large.

22 (7) The charter shall specify which official of the
23 local government will be the chief administrative and
24 executive officer, the method of his selection, his term of
25 office, except that it may be at the pleasure of the

1 selecting authority if such officer is not elected by
2 popular vote, the grounds for his removal, and his powers
3 and duties. Notwithstanding the foregoing, the charter may
4 allocate the chief executive and the chief administrative
5 functions among two or more officials specified as above, or
6 the charter may provide that chief executive and
7 administrative functions of the local government will be
8 performed by one or more members of the legislative body.

9 (8) The charter may establish other legislative,
10 administrative, and organizational structures.

11 (9) A charter form of government shall have such
12 officers, departments, boards, commissions, and agencies as
13 are established in the charter, by local ordinance, or
14 required by state law.

15 (10) Charter provisions may not conflict with the
16 provisions of Title 47-A, part 7 which establish statutory
17 limitations on the powers of self-government units.

18 (11) The enumeration of powers in a charter shall not
19 be construed as a limitation or prohibition on the residual
20 or self-governing powers granted by the constitution.

21 (12) The charter may contain prohibitions on the
22 exercise of power by a unit of local government.

23 (13) The charter may include such provisions as may be
24 necessary to permit an orderly transition to the new form of
25 government.

1 (14) The charter shall specify the date on which the
2 charter will take effect, except that provisions may be made
3 for temporary partial effectiveness consistent with an
4 orderly transition of government.

5 (15) The listing of charter provisions in this section
6 shall not be construed to prevent the inclusion of
7 additional provisions in charters.

8 (16) A charter may be amended only as provided by state
9 law.

10 Section 2. Severability. If a part of this act is
11 invalid, all valid parts that are severable from the invalid
12 part remain in effect. If a part of this act is invalid in
13 one or more of its applications, the part remains in effect
14 in all valid applications that are severable from the
15 invalid applications.

16 Section 3. Effective date. This act is effective May
17 2, 1977.

-End-

Approved by Comm.
on Local Government

HOUSE BILL NO. 176

INTRODUCED BY GERKE, MCKITTRICK, DRISCOLL, MELOY, FAGG,
KIMBLE, LOCKREM, MARKS, SOUTH, GWYNN, BARDANOUE,
O'CONNELL, BRADLEY, HAGER, HOLMES, WILLIAMS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE
ALTERNATIVE FORMS OF LOCAL GOVERNMENT PARTIALLY IMPLEMENTING
ARTICLE XI, SECTIONS 3 AND 5 OF THE 1972 MONTANA
CONSTITUTION AND PROVIDING FOR A DELAYED EFFECTIVE DATE."

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

Section 1. There is a new R.C.M. Title 47A, Part 3,
Chapter 2 that reads as follows:

PART 3, CHAPTER 2, ALTERNATIVE FORMS OF LOCAL GOVERNMENT

47A-3-201. Declaration of purpose. (1) The purpose
of this chapter is to comply with Article XI, section 3 (1),
of the Montana constitution, which provides: "The
legislature shall provide such optional or alternative forms
of government that each unit or combination of units may
adopt, amend, or abandon an optional or alternative form by
a majority of those voting on the question."

(2) This chapter establishes the alternative forms of
government for cities, towns, counties, and consolidated
governments. This chapter shall be liberally construed to
facilitate the adoption of a form of local government. The

procedure to adopt, amend, or abandon these forms is
provided in sections 16-5101 et. seq.

47A-3-202. Adoption of alternative forms. Each local
government in the state shall adopt one of the alternative
forms of government provided for in this chapter including
one of each sub-option authorized: the commission-executive
form (which may also be called the "council-executive", the
"council-mayor", or the "commission-mayor" form), the
commission-manager form (which may also be called the
"council-manager" form), the commission form, the commission
chairman form, the town meeting form, or the charter form.

47A-3-203. Commission-executive form. (1) The
commission-executive form (which may be called the "council-
executive", the "council-mayor", or the "commission-mayor"
form) consists of an elected commission (which may be
referred to as the "council" and one elected executive (who
may be referred to as the "mayor") who is elected at large.

(2) The executive shall:

(a) enforce laws, ordinances, and resolutions;

(b) perform duties required of him by law, ordinance,
or resolution;

(c) administer affairs of the local government;

~~(d) direct, supervise, and administer all departments,
agencies, and offices of the local government, except as
otherwise provided by law or ordinance;~~

1 ~~(e)~~ (D) carry out policies established by the
 2 commission;
 3 ~~(f)~~ (E) recommend measures to the commission;
 4 ~~(g)~~ (F) report to the commission on the affairs and
 5 financial condition of the local government;
 6 ~~(h)~~ (G) execute bonds, notes, contracts, and written
 7 obligations of the commission, subject to the approval of
 8 the commission;
 9 ~~(i)~~ (H) report to the commission as the commission may
 10 require;
 11 ~~(j)~~ (I) attend commission meetings and may take part
 12 in discussions;
 13 ~~(k)~~ (J) execute the budget adopted by the commission;
 14 ~~(l)~~ (K) appoint, with the consent of the commission,
 15 all members of boards; except, the executive may appoint
 16 without the consent of the commission temporary advisory
 17 committees established by the executive.
 18 (3) The plan of government submitted to the qualified
 19 electors shall further define the structural characteristics
 20 of the form by including one item from each of the choices
 21 listed below:
 22 (a) The executive:
 23 (i) shall appoint one or more administrative
 24 assistants to assist him in the supervision and operation of
 25 the local government. Such administrative assistants shall

1 be answerable solely to the executive; or
 2 (ii) may appoint one or more administrative assistants
 3 to assist him in the supervision and operation of the local
 4 government. Such administrative assistants shall be
 5 answerable solely to the executive.
 6 (b) The executive may:
 7 (i) appoint and remove all employees of the local
 8 government; or
 9 (ii) appoint and remove, with the consent of a
 10 majority of the commission, all employees of the local
 11 government; or
 12 (iii) appoint, with the consent of a majority of the
 13 commission, all department heads. The executive may remove
 14 department heads and may appoint and remove all other
 15 department employees; or
 16 (iv) appoint and remove, with the consent of a
 17 majority of the commission, all department heads. The
 18 executive may appoint and remove all other employees of the
 19 local government.
 20 (c) The executive may:
 21 (i) veto ordinances and resolutions, subject to
 22 override by a majority plus one of the whole number of the
 23 commission; or
 24 (ii) veto ordinances and resolutions, subject to
 25 override by a two-thirds vote of the commission; or

1 (iii) sign all ordinances and resolutions with no veto
2 power.

3 (d) The executive may:

4 (i) prepare the budget and present it to the
5 commission for adoption; or

6 (ii) prepare the budget in consultation with the
7 commission and department heads.

8 (e) The executive may:

9 (i) exercise control and supervision of the
10 administration of all departments and boards; or

11 (ii) exercise control and supervision of all
12 departments and boards to the degree authorized by ordinance
13 of the commission.

14 (f) A financial officer (who may be called the
15 "treasurer"):

16 (i) shall be elected; or

17 (ii) shall be appointed by the executive with the
18 consent of the council; or

19 (iii) shall be selected as provided by ordinance; or

20 (iv) may, at the discretion of the commission, be
21 selected as provided by ordinance.

22 (g) The commission shall be:

23 (i) elected at large; or

24 (ii) elected by districts in which candidates must
25 reside and which are apportioned by population; or

1 (iii) nominated by districts in which candidates must
2 reside and which are apportioned by population, but elected
3 at large; or

4 (iv) elected by any combination of districts in which
5 candidates must reside and which are apportioned by
6 population, and at large.

7 (h) Local government elections shall be conducted on
8 a:

9 (i) partisan basis as provided in this Title; or

10 (ii) non-partisan basis as provided in this Title.

11 (i) The commission shall have a chairman who shall be:

12 (i) elected by the members of the commission from
13 their own number for a term established by ordinance; or

14 (ii) selected as provided by ordinance.

15 (j) The presiding officer of the commission shall be:

16 (i) the chairman of the commission who may vote as
17 other members of the commission; or

18 (ii) the executive who may vote as the commissioners;

19 or

20 (iii) the executive who shall decide all tie votes of
21 the commission, but shall have no other vote. The chairman
22 of the commission shall preside if the executive is absent;

23 or

24 (iv) the executive, but he may not vote.

25 (k) Commission members shall be elected for:

1 (i) concurrent terms of office; or
 2 (ii) overlapping terms of office.
 3 (1) The size of the commission, which shall be a
 4 number not less than three (3), shall be established when
 5 the form is adopted by the voters, and;
 6 (i) community councils of at least three (3) members
 7 shall be elected within each district to advise the
 8 commissioner from that district. Local governments
 9 conducting elections at large shall district according to
 10 population for the purpose of electing community councils;
 11 or
 12 (ii) community councils to advise commissioners may be
 13 authorized by ordinance.
 14 (m) The term of office of elected officials may not
 15 exceed four (4) years, and shall be established when the
 16 form is adopted by the voters.
 17 (4) The plan of government submitted to the qualified
 18 electors shall determine the powers of the local government
 19 unit by authorizing:
 20 (a) general government powers; or
 21 (b) self-government powers.
 22 47A-3-204. Commission-manager form. (1) The
 23 commission-manager form (which may be called the "council-
 24 manager" form) consists of an elected commission (which may
 25 be called the "council") and a manager appointed by the

1 commission who shall be the chief administrative officer of
 2 the local government. The manager shall be responsible to
 3 the commission for the administration of all local
 4 government affairs placed in his charge by law, ordinance,
 5 or resolution.
 6 (2) The manager shall be appointed by the commission
 7 for an indefinite term on the basis of merit only, and
 8 removed only by a majority vote of the whole number of the
 9 commission.
 10 (3) The manager shall:
 11 (a) enforce laws, ordinances, and resolutions;
 12 (b) perform the duties required of him by law,
 13 ordinance, or resolution;
 14 (c) administer the affairs of the local government;
 15 (d) direct, supervise, and administer all departments,
 16 agencies and offices of the local government unit except as
 17 otherwise provided by law or ordinance;
 18 (e) carry out policies established by the commission;
 19 (f) prepare the commission agenda;
 20 (g) recommend measures to the commission;
 21 (h) report to the commission on the affairs and
 22 financial condition of the local government;
 23 (i) execute bonds, notes, contracts, and written
 24 obligations of the commission, subject to the approval of
 25 the commission;

1 (j) report to the commission as the commission may
2 require;

3 (k) attend commission meetings and may take part in
4 the discussion, but he may not vote;

5 (l) prepare and present the budget to the commission
6 for its approval and execute the budget adopted by the
7 commission;

8 (m) appoint, suspend, and remove all employees of the
9 local government except as otherwise provided by law or
10 ordinance. Employees appointed by the manager and his
11 subordinates shall be administratively responsible to the
12 manager;

13 (n) appoint members of temporary advisory committees
14 established by the manager.

15 (4) Neither the commission nor any of its members may
16 dictate the appointment or removal of any employee whom the
17 manager or any of his subordinates are empowered to appoint.

18 (5) Except for the purpose of inquiry or investigation
19 under this title, the commission or its members shall deal
20 with the local government employees who are subject to the
21 direction and supervision of the manager, solely through the
22 manager, and neither the commission nor its members may give
23 orders to any such employee, either publicly or privately.

24 (6) The plan of government submitted to the qualified
25 electors shall further define the structural characteristics

1 of the form by including one item from each of the choices
2 listed below:

3 (a) All members of boards, other than temporary
4 advisory committees established by the manager, shall be
5 appointed by:

6 (i) the chairman with the consent of the commission;

7 or

8 (ii) the manager with the consent of the commission;

9 or

10 (iii) the commission.

11 (b) The commission shall be:

12 (i) elected at large; or

13 (ii) elected by districts in which candidates must
14 reside and which are apportioned by population; or

15 (iii) nominated by districts in which candidates must
16 reside and which are apportioned by population, but elected
17 at large; or

18 (iv) elected by any combination of districts in which
19 candidates must reside and which are apportioned by
20 population, and at large.

21 (c) Local government elections shall be conducted on
22 a:

23 (i) partisan basis as provided in this Title; or

24 (ii) non-partisan basis as provided in this Title.

25 (d) The chairman of the commission shall be:

1 (i) elected by the members of the commission from
2 their own number for a term established by ordinance; or

3 (ii) elected by the qualified electors for a term of
4 office; or

5 (iii) selected as provided by ordinance.

6 (3) Commission members shall be elected for:

7 (i) concurrent terms of office; or

8 (ii) overlapping terms of office.

9 (f) The size of the commission, which shall be a
10 number of not less than three (3), shall be established when
11 the form is adopted by the voters, and:

12 (i) community councils of at least three (3) members
13 shall be elected within each district to advise the
14 commissioner from that district. Local governments
15 conducting elections at-large shall district according to
16 population for the purpose of electing community councils;
17 or

18 (ii) community councils to advise commissioners may be
19 authorized by ordinance.

20 (g) The term of office of elected officials may not
21 exceed four (4) years, and shall be established when the
22 form is adopted by the voters.

23 (7) The plan of government submitted to the qualified
24 electors shall determine the powers of the local government
25 unit by authorizing:

1 (a) general government powers; or

2 (b) self-government powers.

3 47A-3-205. Commission form. (1) The commission form
4 consists of an elected commission (which may also be called
5 the "council") and other elected officers as provided in
6 this section. All legislative, executive, and
7 administrative powers and duties of the local government not
8 specifically reserved by law or ordinance to other elected
9 officers shall reside in the commission. The commission
10 shall appoint the heads of departments and other employees,
11 except for those appointed by other elected officials.
12 Cities and towns which adopt this form may distribute by
13 ordinance the executive and administrative powers and duties
14 into departments headed by individual commissioners.

15 (2) The plan of government submitted to the qualified
16 electors shall further define the structural characteristics
17 of the form by including one item from each of the choices
18 listed below:

19 (a) The commission shall be:

20 (i) elected at large; or

21 (ii) elected by districts in which candidates must
22 reside and which are apportioned by population; or

23 (iii) nominated by districts in which candidates must
24 reside and which are apportioned by population, but elected
25 at large; or

1 (iv) elected by any combination of districts in which
 2 candidates must reside and which are apportioned by
 3 population, and at large.

4 (b) Local government elections shall be conducted on
 5 a:

- 6 (i) partisan basis as provided in this Title; or
- 7 (ii) non-partisan basis as provided in this Title.

8 (c) The chairman of the commission, who may be
 9 referred to as the "mayor", shall be the presiding officer
 10 of the commission. All members of boards and committees
 11 shall be appointed by the chairman with the consent of the
 12 commission. The chairman shall be recognized as the head of
 13 the local government unit and may vote as other members of
 14 the commission. The chairman shall be:

- 15 (i) elected by the members of the commission from
 16 their own number for a term established by ordinance; or
- 17 (ii) selected as provided by ordinance; or
- 18 (iii) elected directly by the voters for a term
 19 established by ordinance.

20 (d) The commission:

21 (i) shall appoint one or more administrative
 22 assistants to assist them in the supervision and operation
 23 of the local government; or

24 (ii) may appoint one or more administrative assistants
 25 to assist them in the supervision and operation of the local

1 government.

2 (e) Commission members shall be elected for:

- 3 (i) concurrent terms of office; or
- 4 (ii) overlapping terms of office.

5 (f) The size of the commission, which shall be a
 6 number of not less than three (3), shall be established when
 7 the form is adopted by the voters, and:

8 (i) community councils of at least three (3) members
 9 shall be elected within each district to advise the
 10 commissioner from that district. Local governments
 11 conducting elections at-large shall district according to
 12 population for the purpose of electing community councils;
 13 or

14 (ii) community councils to advise commissioners may be
 15 authorized by ordinance.

16 (g) The term of office of elected officials may not
 17 exceed four (4) years, except the term of office for
 18 commissioners in counties adopting the form authorized by
 19 Article XI, section 3 (2), of the Montana constitution, may
 20 not exceed six (6) years. Terms of office shall be
 21 established when the form is adopted by the voters.

22 (3) In county and consolidated local governments, the
 23 plan of government submitted to the qualified electors shall
 24 further define the structural characteristics of the form by
 25 including one item from each of the choices listed below.

1 The officers shall have the powers and duties established by
2 ordinance. After the establishment of any office, the
3 commission may consolidate, as provided by law, two or more
4 of the offices.

5 (a) A legal officer (who may be called the "county
6 attorney"):

7 (i) shall be elected; or
8 (ii) shall be appointed by the local government
9 commission; or

10 (iii) shall be appointed by the chairman of the local
11 government commission; or

12 (iv) shall be selected as provided by ordinance; or

13 (v) may at the discretion of the commission be
14 selected as PROVIDED by ordinance; or

15 (vi) shall not be included in this form as a separate
16 office.

17 (b) A law enforcement officer (who may be called the
18 "sheriff"):

19 (i) shall be elected; or

20 (ii) shall be appointed by the local government
21 commission; or

22 (iii) shall be appointed by the chairman of the local
23 government commission; or

24 (iv) shall be selected as provided by ordinance; or

25 (v) may at the discretion of the commission be

1 selected as provided by ordinance; or
2 (vi) shall not be included in this form as a separate
3 office.

4 (c) A clerk and recorder:

5 (i) shall be elected; or

6 (ii) shall be appointed by the local government
7 commission; or

8 (iii) shall be appointed by the chairman of the local
9 government commission; or

10 (iv) shall be selected as provided by ordinance; or

11 (v) may at the discretion of the commission be
12 selected as provided by ordinance; or

13 (vi) shall not be included in this form as a separate
14 office.

15 (d) A clerk of district court:

16 (i) shall be elected; or

17 (ii) shall be appointed by the local government
18 commission; or

19 (iii) shall be appointed by the chairman of the local
20 government commission; or

21 (iv) shall be selected as provided by ordinance; or

22 (v) may at the discretion of the commission be
23 selected as provided by ordinance; or

24 (vi) shall not be included in this form as a separate
25 office.

1 (e) A treasurer:
 2 (i) shall be elected; or
 3 (ii) shall be appointed by the local government
 4 commission; or
 5 (iii) shall be appointed by the chairman of the local
 6 government commission; or
 7 (iv) shall be selected as provided by ordinance; or
 8 (v) may at the discretion of the commission be
 9 selected as provided by ordinance; or
 10 (vi) shall not be included in this form as a separate
 11 office.
 12 (f) A surveyor:
 13 (i) shall be elected; or
 14 (ii) shall be appointed by the local government
 15 commission; or
 16 (iii) shall be appointed by the chairman of the local
 17 government commission; or
 18 (iv) shall be selected as provided by ordinance; or
 19 (v) may at the discretion of the commission be
 20 selected as provided by ordinance; or
 21 (vi) shall not be included in this form as a separate
 22 office.
 23 (g) A superintendent of schools:
 24 (i) shall be elected; or
 25 (ii) shall be appointed by the local government

1 commission; or
 2 (iii) shall be appointed by the chairman of the local
 3 government commission; or
 4 (iv) shall be selected as provided by ordinance; or
 5 (v) may at the discretion of the commission be
 6 selected as provided by ordinance; or
 7 (vi) shall not be included in this form as a separate
 8 office.
 9 (h) An assessor:
 10 (i) shall be elected; or
 11 (ii) shall be appointed by the local government
 12 commission; or
 13 (iii) shall be appointed by the chairman of the local
 14 government commission; or
 15 (iv) shall be selected as provided by ordinance; or
 16 (v) may at the discretion of the commission be
 17 selected as provided by ordinance; or
 18 (vi) shall not be included in this form as a separate
 19 office.
 20 (i) A coroner:
 21 (i) shall be elected; or
 22 (ii) shall be appointed by the local government
 23 commission; or
 24 (iii) shall be appointed by the chairman of the local
 25 government commission; or

1 (iv) shall be selected as provided by ordinance; or
 2 (v) may at the discretion of the commission be
 3 selected as provided by ordinance; or
 4 (vi) shall not be included in this form as a separate
 5 office.
 6 (j) A public administrator:
 7 (i) shall be elected; or
 8 (ii) shall be appointed by the local government
 9 commission; or
 10 (iii) shall be appointed by the chairman of the local
 11 government commission; or
 12 (iv) shall be selected as provided by ordinance; or
 13 (v) may at the discretion of the commission be
 14 selected as provided by ordinance; or
 15 (vi) shall not be included in this form as a separate
 16 office.
 17 (k) An auditor:
 18 (i) shall be elected; or
 19 (ii) shall be appointed by the local government
 20 commission; or
 21 (iii) shall be appointed by the chairman of the local
 22 government commission; or
 23 (iv) shall be selected as provided by ordinance; or
 24 (v) may at the discretion of the commission be
 25 selected as provided by ordinance; or

1 (vi) shall not be included in this form as a separate
 2 office.
 3 47A-3-206. Commission chairman form. (1) The
 4 commission chairman form consists of an elected commission
 5 (which may also be referred to as the "council"), and a
 6 commission chairman (who may also be referred to as "mayor"
 7 or as "president") elected by the members of the commission
 8 from their own number.
 9 (2) The commission chairman (who may also be referred
 10 to as "mayor") shall be elected by the members of the
 11 commission from their own number to serve at the pleasure of
 12 the commission. He shall: be the presiding officer of the
 13 commission, be recognized as the head of the local
 14 government unit, have the power to vote as other members of
 15 the commission, be the chief executive officer of the local
 16 government, and:
 17 (a) enforce laws, ordinances, and resolutions;
 18 (b) perform duties required of him by law, ordinance,
 19 or resolution;
 20 (c) administer the affairs of the local government;
 21 (d) direct, supervise, and administer all departments,
 22 agencies, and offices of the local government, except as
 23 otherwise provided by law or ordinance;
 24 (e) carry out policies established by the commission;
 25 (f) prepare the commission agenda;

1 (g) recommend measures to the commission;
 2 (h) report to the commission on the affairs and
 3 financial condition of the local government;
 4 (i) execute bonds, notes, contracts, and written
 5 obligations of the commission, subject to the approval of
 6 the commission;
 7 (j) report to the commission as the commission may
 8 require;
 9 (k) attend commission meetings and may take part in
 10 discussions;
 11 (l) execute the budget adopted by the commission;
 12 (m) appoint with the consent of the commission all
 13 members of boards and committees; except the chairman may
 14 appoint without the consent of the commission temporary
 15 advisory committees established by the chairman;
 16 (n) appoint with the consent of a majority of the
 17 commission all department heads. The chairman may remove
 18 department heads and may appoint and remove all other
 19 employees;
 20 (o) prepare the budget and present it to the
 21 commission for adoption;
 22 (p) exercise control and supervision over the
 23 administration of departments and boards.
 24 (3) The plan of government submitted to the qualified
 25 electors shall further define the structural characteristics

1 of the form by including one item from each of the choices
 2 listed below:
 3 (a) The commission shall be:
 4 (i) elected at large; or
 5 (ii) elected by districts in which candidates must
 6 reside and which are apportioned by population; or
 7 (iii) nominated by districts in which candidates must
 8 reside and which are apportioned by population, but elected
 9 at large; or
 10 (iv) elected by any combination of districts in which
 11 candidates must reside and which are apportioned by
 12 population, and at large.
 13 (b) Local government elections shall be conducted on
 14 a:
 15 (i) partisan basis as provided in this Title; or
 16 (ii) non-partisan basis as provided in this Title.
 17 (c) The commission chairman:
 18 (i) shall appoint one or more administrative
 19 assistants to assist him in the supervision and operation of
 20 the local government. Such administrative assistants shall
 21 be answerable solely to the chairman; or
 22 (ii) may appoint one or more administrative assistants
 23 to assist him in the supervision and operation of the local
 24 government. Such administrative assistants shall be
 25 answerable solely to the chairman.

1 (d) Commission members shall be elected for:
 2 (i) concurrent terms of office; or
 3 (ii) overlapping terms of office.
 4 (e) The size of the commission, which shall be a
 5 number of not less than five (5), shall be established when
 6 the form is adopted by the voters, and:
 7 (i) community councils of at least three (3) members
 8 shall be elected within each district to advise the
 9 commissioner from that district. Local governments
 10 conducting elections at-large shall district according to
 11 population for the purpose of electing community councils;
 12 or
 13 (ii) community councils to advise commissioners may be
 14 authorized by ordinance.
 15 (f) The term of office of elected officials may not
 16 exceed four (4) years, and shall be established when the
 17 form is adopted by the voters.
 18 (4) The plan of government submitted to the qualified
 19 electors shall determine the powers of the local government
 20 unit by authorizing:
 21 (a) general government powers; or
 22 (b) self-government powers.
 23 47A-3-207. Town meeting form. (1) The town meeting
 24 form consists of an assembly of the qualified electors of a
 25 town (known as a town meeting), an elected town chairman,

1 who shall be a qualified elector, and an optional elected
 2 town meeting moderator. The town meeting form may be
 3 adopted only by incorporated cities or towns of less than
 4 two thousand (2,000) persons as determined by the most
 5 recent decennial census as conducted by the United States
 6 bureau of the census unless a more recent enumeration of
 7 inhabitants be made by the state, in which case such
 8 enumeration shall be used for the purposes of this section.
 9 Any unit of local government which adopts this form may
 10 retain it even though its population increases to more than
 11 two thousand (2,000).
 12 (2) All legislative powers of the town shall vest in
 13 the town meeting. The town meeting may enact rules,
 14 resolutions, and ordinances.
 15 (3) (a) Towns adopting this form shall convene an
 16 annual town meeting on the first Tuesday of March. Special
 17 town meetings may be called by the town chairman or upon
 18 petition of ten percent (10%) of the qualified electors of
 19 the town, but in no case by less than ten (10) qualified
 20 electors.
 21 (b) All qualified electors of the town may attend the
 22 town meeting, take part in the discussion and vote on all
 23 matters coming before the town meeting. Others may attend
 24 but shall not vote nor take part in the discussion except by
 25 a majority vote of the town meeting.

1 (c) A quorum shall consist of at least ten percent
 2 (10%) of the qualified electors of the town but a higher
 3 quorum requirement may be established by a majority vote of
 4 the town meeting.

5 (d) The election of town officials shall be
 6 non-partisan and shall be by a plurality of those qualified
 7 electors present and voting. All other voting in the town
 8 meeting shall be by a simple majority of those qualified
 9 electors present and voting.

10 (e) Election of officials shall be by secret ballot.
 11 Other voting shall be by secret ballot upon the request of
 12 at least five members of the town meeting.

13 (4) An agenda of the town meeting and a list of all
 14 elective and appointive offices to be filled shall be
 15 prepared by the town chairman who shall post notice at least
 16 two (2) weeks prior to the convening of all annual and
 17 special town meetings. Upon written petition of at least
 18 ten percent (10%) of the qualified electors of the town, but
 19 not less than ten (10) qualified electors, the town chairman
 20 shall insert a particular item or items in the agenda for
 21 the next annual or special town meeting. The town meeting
 22 agenda may include an item entitled "other business" under
 23 which any matter may be considered by the town meeting
 24 except no matter dealing with finance or taxation shall be
 25 considered under "other business".

1 (5) The town meeting shall elect a town chairman for a
 2 term of not less than one (1) year or more than two (2)
 3 years. An unexpired term of a town chairman shall be filled
 4 at the next annual or special town meeting.

5 (6) The town chairman shall be the chief executive
 6 officer of the town and he shall:

- 7 (a) enforce laws, ordinances, and resolutions;
- 8 (b) perform duties required of him by law, ordinance,
 9 or resolution;
- 10 (c) administer the affairs of the town;
- 11 (d) prepare the town meeting agenda;
- 12 (e) attend all annual and special town meetings;
- 13 (f) recommend measures to the town meeting;
- 14 (g) report to the town on the affairs and financial
 15 condition of the town;
- 16 (h) execute bonds, notes, contracts, and written
 17 obligations of the town, subject to the approval of the
 18 town;
- 19 (i) appoint, with the consent of the town meeting,
 20 members of all boards and appoint and remove all employees
 21 of the town;
- 22 (j) prepare the budget and present it to the town
 23 meeting for adoption;
- 24 (k) exercise control and supervision of the
 25 administration of all departments and boards;

1 (1) carry out policies established by the town
2 meeting.

3 (7) Compensation of the town chairman shall be
4 established by ordinance but shall not be reduced during the
5 current term of the town chairman.

6 (8) Permanent committees to advise the town chairman
7 and/or the town meeting may be established and dissolved by
8 ordinance. The town chairman may establish temporary
9 committees to advise him.

10 (9) The plan of government submitted to the qualified
11 electors shall further define the structural characteristics
12 of the form by including one item from each of the choices
13 listed below:

14 (a) The town meeting shall:

15 (i) elect a town meeting moderator for a term of one
16 (1) year who shall be the presiding officer of all annual
17 and special town meetings but who shall have no other
18 governmental powers; or

19 (ii) designate the town chairman as presiding officer
20 of all annual and special town meetings.

21 (b) The town chairman:

22 (i) shall appoint an administrative assistant to
23 assist him in the supervision and operation of the affairs
24 of the town. The administrative assistant shall be
25 answerable solely to the town chairman and the town chairman

1 may delegate powers to the administrative assistant at his
2 discretion; or

3 (ii) may appoint an administrative assistant to assist
4 him in the supervision and operation of the affairs of the
5 town. The administrative assistant shall be answerable
6 solely to the town chairman and the town chairman may
7 delegate powers to the administrative assistant at his
8 discretion.

9 (10) The first agenda of the first town meeting
10 following the adoption of this form shall be established by
11 the local study commission. At that town meeting the
12 chairman of the local study commission shall preside over
13 the election of the presiding officer of the town after
14 which the presiding officer of the town shall preside.

15 (11) The plan of government submitted to the qualified
16 electors shall determine the powers of the local government
17 unit by authorizing:

18 (a) general government powers; or

19 (b) self-government powers.

20 47A-3-208. Charter form. (1) The purpose of this
21 section is to comply with Article XI, section 5 (1), of the
22 Montana constitution, which provides: "(1) The legislature
23 shall provide procedures permitting a local government unit
24 or combination of units to frame, adopt, amend, revise, or
25 abandon a self-government charter with the approval of a

1 majority of those voting on the question. The procedures
2 shall not require approval of a charter by a legislative
3 body."

4 (2) Charter provisions establishing executive,
5 legislative, and administrative structure and organization
6 are superior to statutory provisions.

7 (3) A charter form of government shall possess
8 self-government powers.

9 (4) Charter form of government shall be established by
10 a charter which is a written document defining the powers,
11 structures, privileges, rights, and duties of the unit of
12 local government and limitations thereon.

13 (5) The charter shall provide for an elected
14 legislative body, called a commission or council, or shall
15 provide for a legislative body comprised of all qualified
16 electors. For elected legislative bodies the charter shall
17 specify the number of members thereof, their term of office,
18 ~~the--method--of--their--election~~ ELECTION ON A PARTISAN OR
19 NON-PARTISAN BASIS, the grounds for their removal, and the
20 method for filling vacancies.

21 (6) The charter shall provide for the ~~election-and~~
22 ~~nomination~~ NOMINATION AND ELECTION of commissions at-large,
23 or by districts in which candidates must reside and which
24 are apportioned by population, or by a combination of
25 districts in which candidates must reside and which are

1 apportioned by population and at-large.

2 (7) The charter shall specify which official of the
3 local government will be the chief administrative and
4 executive officer, the method of his selection, his term of
5 office, except that it may be at the pleasure of the
6 selecting authority if such officer is not elected by
7 popular vote, the grounds for his removal, and his powers
8 and duties. Notwithstanding the foregoing, the charter may
9 allocate the chief executive and the chief administrative
10 functions among two or more officials specified as above, or
11 the charter may provide that chief executive and
12 administrative functions of the local government will be
13 performed by one or more members of the legislative body.

14 (8) The charter may establish other legislative,
15 administrative, and organizational structures.

16 (9) A charter form of government shall have such
17 officers, departments, boards, commissions, and agencies as
18 are established in the charter, by local ordinance, or
19 required by state law.

20 (10) Charter provisions may not conflict with the
21 provisions of Title 47-A, ~~part~~ PART 7 which establish
22 statutory limitations on the powers of self-government
23 units.

24 (11) The enumeration of powers in a charter shall not
25 be construed as a limitation or prohibition on the residual

1 or self-governing powers granted by the constitution.

2 (12) The charter may contain prohibitions on the
3 exercise of power by a unit of local government.

4 (13) The charter may include such provisions as may be
5 necessary to permit an orderly transition to the new form of
6 government.

7 (14) The charter shall specify the date on which the
8 charter will take effect, except that provisions may be made
9 for temporary partial effectiveness consistent with an
10 orderly transition of government.

11 (15) The listing of charter provisions in this section
12 shall not be construed to prevent the inclusion of
13 additional provisions in charters.

14 (16) A charter may be amended only as provided by state
15 law.

16 Section 2. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

22 Section 3. Effective date. This act is effective May
23 2, 1977.

-End-

1 HOUSE BILL NO. 176

2 INTRODUCED BY GERKE, MCKITTRICK, DRISCOLL, MELOY, FAGG,
3 KIMBLE, LOCKREM, MARKS, SOUTH, GWYNN, BARDANOUVE,
4 O'CONNELL, BRADLEY, HAGER, HOLMES, WILLIAMS

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE
7 ALTERNATIVE FORMS OF LOCAL GOVERNMENT PARTIALLY IMPLEMENTING
8 ARTICLE XI, SECTIONS 3 AND 5 OF THE 1972 MONTANA
9 CONSTITUTION AND PROVIDING FOR A DELAYED EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. There is a new R.C.M. Title 47A, Part 3,
13 Chapter 2 that reads as follows:

14 PART 3, CHAPTER 2, ALTERNATIVE FORMS OF LOCAL GOVERNMENT

15 47A-3-201. Declaration of purpose. (1) The purpose
16 of this chapter is to comply with Article XI, section 3 (1),
17 of the Montana constitution, which provides: "The
18 legislature shall provide such optional or alternative forms
19 of government that each unit or combination of units may
20 adopt, amend, or abandon an optional or alternative form by
21 a majority of those voting on the question."

22 (2) This chapter establishes the alternative forms of
23 government for cities, towns, counties, and consolidated
24 governments. This chapter shall be liberally construed to
25 facilitate the adoption of a form of local government. The

1 procedure to adopt, amend, or abandon these forms is
2 provided in sections 16-5101 et. seq.

3 47A-3-202. Adoption of alternative forms. Each local
4 government in the state shall adopt one of the alternative
5 forms of government provided for in this chapter including
6 one of each sub-option authorized: the commission-executive
7 form (which may also be called the "council-executive", the
8 "council-mayor", or the "commission-mayor" form), the
9 commission-manager form (which may also be called the
10 "council-manager" form), the commission form, the commission
11 chairman form, the town meeting form, or the charter form.

12 47A-3-203. Commission-executive form. (1) The
13 commission-executive form (which may be called the "council-
14 executive", the "council-mayor", or the "commission-mayor"
15 form) consists of an elected commission (which may be
16 referred to as the "council" and one elected executive (who
17 may be referred to as the "mayor") who is elected at large.

18 (2) The executive shall:

19 (a) enforce laws, ordinances, and resolutions;

20 (b) perform duties required of him by law, ordinance,
21 or resolution;

22 (c) administer affairs of the local government;

23 ~~(d) direct, supervise, and administer all departments,~~
24 ~~agencies, and offices of the local government, except as~~
25 ~~otherwise provided by law or ordinance;~~

1 ~~(d)~~ (D) carry out policies established by the
 2 commission;
 3 ~~(e)~~ (E) recommend measures to the commission;
 4 ~~(f)~~ (F) report to the commission on the affairs and
 5 financial condition of the local government;
 6 ~~(h)~~ (G) execute bonds, notes, contracts, and written
 7 obligations of the commission, subject to the approval of
 8 the commission;
 9 ~~(i)~~ (H) report to the commission as the commission may
 10 require;
 11 ~~(j)~~ (I) attend commission meetings and may take part
 12 in discussions;
 13 ~~(k)~~ (J) execute the budget adopted by the commission;
 14 ~~(l)~~ (K) appoint, with the consent of the commission,
 15 all members of boards; except, the executive may appoint
 16 without the consent of the commission temporary advisory
 17 committees established by the executive.
 18 (3) The plan of government submitted to the qualified
 19 electors shall further define the structural characteristics
 20 of the form by including one item from each of the choices
 21 listed below:
 22 (a) The executive:
 23 (i) shall appoint one or more administrative
 24 assistants to assist him in the supervision and operation of
 25 the local government. Such administrative assistants shall

1 be answerable solely to the executive; or
 2 (ii) may appoint one or more administrative assistants
 3 to assist him in the supervision and operation of the local
 4 government. Such administrative assistants shall be
 5 answerable solely to the executive.
 6 (b) The executive may:
 7 (i) appoint and remove all employees of the local
 8 government; or
 9 (ii) appoint and remove, with the consent of a
 10 majority of the commission, all employees of the local
 11 government; or
 12 (iii) appoint, with the consent of a majority of the
 13 commission, all department heads. The executive may remove
 14 department heads and may appoint and remove all other
 15 department employees; or
 16 (iv) appoint and remove, with the consent of a
 17 majority of the commission, all department heads. The
 18 executive may appoint and remove all other employees of the
 19 local government.
 20 (c) The executive may:
 21 (i) veto ordinances and resolutions, subject to
 22 override by a majority plus one of the whole number of the
 23 commission; or
 24 (ii) veto ordinances and resolutions, subject to
 25 override by a two-thirds vote of the commission; or

1 (iii) sign all ordinances and resolutions with no veto
2 power.

3 (d) The executive may:

4 (i) prepare the budget and present it to the
5 commission for adoption; or

6 (ii) prepare the budget in consultation with the
7 commission and department heads.

8 (e) The executive may:

9 (i) exercise control and supervision of the
10 administration of all departments and boards; or

11 (ii) exercise control and supervision of all
12 departments and boards to the degree authorized by ordinance
13 of the commission.

14 (f) A financial officer (who may be called the
15 "treasurer"):

16 (i) shall be elected; or

17 (ii) shall be appointed by the executive with the
18 consent of the council; or

19 (iii) shall be selected as provided by ordinance; or

20 (iv) may, at the discretion of the commission, be
21 selected as provided by ordinance.

22 (g) The commission shall be:

23 (i) elected at large; or

24 (ii) elected by districts in which candidates must
25 reside and which are apportioned by population; or

1 (iii) nominated by districts in which candidates must
2 reside and which are apportioned by population, but elected
3 at large; or

4 (iv) elected by any combination of districts in which
5 candidates must reside and which are apportioned by
6 population, and at large.

7 (h) Local government elections shall be conducted on
8 a:

9 (i) partisan basis as provided in this Title; or

10 (ii) non-partisan basis as provided in this Title.

11 (i) The commission shall have a chairman who shall be:

12 (i) elected by the members of the commission from
13 their own number for a term established by ordinance; or

14 (ii) selected as provided by ordinance.

15 (j) The presiding officer of the commission shall be:

16 (i) the chairman of the commission who may vote as
17 other members of the commission; or

18 (ii) the executive who may vote as the commissioners;
19 or

20 (iii) the executive who shall decide all tie votes of
21 the commission, but shall have no other vote. The chairman
22 of the commission shall preside if the executive is absent;

23 or

24 (iv) the executive, but he may not vote.

25 (k) Commission members shall be elected for:

- 1 (i) concurrent terms of office; or
2 (ii) overlapping terms of office.

3 (1) The size of the commission, which shall be a
4 number not less than three (3), shall be established when
5 the form is adopted by the voters, and;

6 (i) community councils of at least three (3) members
7 shall be elected within each district to advise the
8 commissioner from that district. Local governments
9 conducting elections at large shall district according to
10 population for the purpose of electing community councils;
11 or

12 (ii) community councils to advise commissioners may be
13 authorized by ordinance.

14 (m) The term of office of elected officials may not
15 exceed four (4) years, and shall be established when the
16 form is adopted by the voters.

17 (4) The plan of government submitted to the qualified
18 electors shall determine the powers of the local government
19 unit by authorizing:

- 20 (a) general government powers; or
21 (b) self-government powers.

22 47A-3-204. Commission-manager form. (1) The
23 commission-manager form (which may be called the "council-
24 manager" form) consists of an elected commission (which may
25 be called the "council") and a manager appointed by the

1 commission who shall be the chief administrative officer of
2 the local government. The manager shall be responsible to
3 the commission for the administration of all local
4 government affairs placed in his charge by law, ordinance,
5 or resolution.

6 (2) The manager shall be appointed by the commission
7 for an indefinite term on the basis of merit only, and
8 removed only by a majority vote of the whole number of the
9 commission.

10 (3) The manager shall:

- 11 (a) enforce laws, ordinances, and resolutions;
12 (b) perform the duties required of him by law,
13 ordinance, or resolution;
14 (c) administer the affairs of the local government;
15 (d) direct, supervise, and administer all departments,
16 agencies and offices of the local government unit except as
17 otherwise provided by law or ordinance;
18 (e) carry out policies established by the commission;
19 (f) prepare the commission agenda;
20 (g) recommend measures to the commission;
21 (h) report to the commission on the affairs and
22 financial condition of the local government;

23 (i) execute bonds, notes, contracts, and written
24 obligations of the commission, subject to the approval of
25 the commission;

1 (j) report to the commission as the commission may
2 require;

3 (k) attend commission meetings and may take part in
4 the discussion, but he may not vote;

5 (l) prepare and present the budget to the commission
6 for its approval and execute the budget adopted by the
7 commission;

8 (m) appoint, suspend, and remove all employees of the
9 local government except as otherwise provided by law or
10 ordinance. Employees appointed by the manager and his
11 subordinates shall be administratively responsible to the
12 manager;

13 (n) appoint members of temporary advisory committees
14 established by the manager.

15 (4) Neither the commission nor any of its members may
16 dictate the appointment or removal of any employee whom the
17 manager or any of his subordinates are empowered to appoint.

18 (5) Except for the purpose of inquiry or investigation
19 under this title, the commission or its members shall deal
20 with the local government employees who are subject to the
21 direction and supervision of the manager, solely through the
22 manager, and neither the commission nor its members may give
23 orders to any such employee, either publicly or privately.

24 (6) The plan of government submitted to the qualified
25 electors shall further define the structural characteristics

1 of the form by including one item from each of the choices
2 listed below:

3 (a) All members of boards, other than temporary
4 advisory committees established by the manager, shall be
5 appointed by:

6 (i) the chairman with the consent of the commission;
7 or

8 (ii) the manager with the consent of the commission;
9 or

10 (iii) the commission.

11 (b) The commission shall be:

12 (i) elected at large; or

13 (ii) elected by districts in which candidates must
14 reside and which are apportioned by population; or

15 (iii) nominated by districts in which candidates must
16 reside and which are apportioned by population, but elected
17 at large; or

18 (iv) elected by any combination of districts in which
19 candidates must reside and which are apportioned by
20 population, and at large.

21 (c) Local government elections shall be conducted on
22 a:

23 (i) partisan basis as provided in this Title; or

24 (ii) non-partisan basis as provided in this Title.

25 (d) The chairman of the commission shall be:

1 (i) elected by the members of the commission from
 2 their own number for a term established by ordinance; or
 3 (ii) elected by the qualified electors for a term of
 4 office; or
 5 (iii) selected as provided by ordinance.
 6 (3) Commission members shall be elected for:
 7 (i) concurrent terms of office; or
 8 (ii) overlapping terms of office.
 9 (f) The size of the commission, which shall be a
 10 number of not less than three (3), shall be established when
 11 the form is adopted by the voters, and:
 12 (i) community councils of at least three (3) members
 13 shall be elected within each district to advise the
 14 commissioner from that district. Local governments
 15 conducting elections at-large shall district according to
 16 population for the purpose of electing community councils;
 17 or
 18 (ii) community councils to advise commissioners may be
 19 authorized by ordinance.
 20 (g) The term of office of elected officials may not
 21 exceed four (4) years, and shall be established when the
 22 form is adopted by the voters.
 23 (7) The plan of government submitted to the qualified
 24 electors shall determine the powers of the local government
 25 unit by authorizing:

1 (a) general government powers; or
 2 (b) self-government powers.
 3 47A-3-205. Commission form. (1) The commission form
 4 consists of an elected commission (which may also be called
 5 the "council") and other elected officers as provided in
 6 this section. All legislative, executive, and
 7 administrative powers and duties of the local government not
 8 specifically reserved by law or ordinance to other elected
 9 officers shall reside in the commission. The commission
 10 shall appoint the heads of departments and other employees,
 11 except for those appointed by other elected officials.
 12 Cities and towns which adopt this form may distribute by
 13 ordinance the executive and administrative powers and duties
 14 into departments headed by individual commissioners.
 15 (2) The plan of government submitted to the qualified
 16 electors shall further define the structural characteristics
 17 of the form by including one item from each of the choices
 18 listed below:
 19 (a) The commission shall be:
 20 (i) elected at large; or
 21 (ii) elected by districts in which candidates must
 22 reside and which are apportioned by population; or
 23 (iii) nominated by districts in which candidates must
 24 reside and which are apportioned by population, but elected
 25 at large; or

1 (iv) elected by any combination of districts in which
 2 candidates must reside and which are apportioned by
 3 population, and at large.

4 (b) Local government elections shall be conducted on
 5 a:

6 (i) partisan basis as provided in this Title; or

7 (ii) non-partisan basis as provided in this Title.

8 (c) The chairman of the commission, who may be
 9 referred to as the "mayor", shall be the presiding officer
 10 of the commission. All members of boards and committees
 11 shall be appointed by the chairman with the consent of the
 12 commission. The chairman shall be recognized as the head of
 13 the local government unit and may vote as other members of
 14 the commission. The chairman shall be:

15 (i) elected by the members of the commission from
 16 their own number for a term established by ordinance; or

17 (ii) selected as provided by ordinance; or

18 (iii) elected directly by the voters for a term
 19 established by ordinance.

20 (d) The commission:

21 (i) shall appoint one or more administrative
 22 assistants to assist them in the supervision and operation
 23 of the local government; or

24 (ii) may appoint one or more administrative assistants
 25 to assist them in the supervision and operation of the local

1 government.

2 (e) Commission members shall be elected for:

3 (i) concurrent terms of office; or

4 (ii) overlapping terms of office.

5 (f) The size of the commission, which shall be a
 6 number of not less than three (3), shall be established when
 7 the form is adopted by the voters, and:

8 (i) community councils of at least three (3) members
 9 shall be elected within each district to advise the
 10 commissioner from that district. Local governments
 11 conducting elections at-large shall district according to
 12 population for the purpose of electing community councils;
 13 or

14 (ii) community councils to advise commissioners may be
 15 authorized by ordinance.

16 (g) The term of office of elected officials may not
 17 exceed four (4) years, except the term of office for
 18 commissioners in counties adopting the form authorized by
 19 Article XI, section 3 (2), of the Montana constitution, may
 20 not exceed six (6) years. Terms of office shall be
 21 established when the form is adopted by the voters.

22 (3) In county and consolidated local governments, the
 23 plan of government submitted to the qualified electors shall
 24 further define the structural characteristics of the form by
 25 including one item from each of the choices listed below.

1 The officers shall have the powers and duties established by
2 ordinance. After the establishment of any office, the
3 commission may consolidate, as provided by law, two or more
4 of the offices.

5 (a) A legal officer (who may be called the "county
6 attorney"):

7 (i) shall be elected; or
8 (ii) shall be appointed by the local government
9 commission; or

10 (iii) shall be appointed by the chairman of the local
11 government commission; or

12 (iv) shall be selected as provided by ordinance; or

13 (v) may at the discretion of the commission be
14 selected as PROVIDED by ordinance; or

15 (vi) shall not be included in this form as a separate
16 office.

17 (b) A law enforcement officer (who may be called the
18 "sheriff"):

19 (i) shall be elected; or

20 (ii) shall be appointed by the local government
21 commission; or

22 (iii) shall be appointed by the chairman of the local
23 government commission; or

24 (iv) shall be selected as provided by ordinance; or

25 (v) may at the discretion of the commission be

1 selected as provided by ordinance; or

2 (vi) shall not be included in this form as a separate
3 office.

4 (c) A clerk and recorder:

5 (i) shall be elected; or

6 (ii) shall be appointed by the local government
7 commission; or

8 (iii) shall be appointed by the chairman of the local
9 government commission; or

10 (iv) shall be selected as provided by ordinance; or

11 (v) may at the discretion of the commission be
12 selected as provided by ordinance; or

13 (vi) shall not be included in this form as a separate
14 office.

15 (d) A clerk of district court:

16 (i) shall be elected; or

17 (ii) shall be appointed by the local government
18 commission; or

19 (iii) shall be appointed by the chairman of the local
20 government commission; or

21 (iv) shall be selected as provided by ordinance; or

22 (v) may at the discretion of the commission be
23 selected as provided by ordinance; or

24 (vi) shall not be included in this form as a separate
25 office.

1 (e) A treasurer:
 2 (i) shall be elected; or
 3 (ii) shall be appointed by the local government
 4 commission; or
 5 (iii) shall be appointed by the chairman of the local
 6 government commission; or
 7 (iv) shall be selected as provided by ordinance; or
 8 (v) may at the discretion of the commission be
 9 selected as provided by ordinance; or
 10 (vi) shall not be included in this form as a separate
 11 office.
 12 (f) A surveyor:
 13 (i) shall be elected; or
 14 (ii) shall be appointed by the local government
 15 commission; or
 16 (iii) shall be appointed by the chairman of the local
 17 government commission; or
 18 (iv) shall be selected as provided by ordinance; or
 19 (v) may at the discretion of the commission be
 20 selected as provided by ordinance; or
 21 (vi) shall not be included in this form as a separate
 22 office.
 23 (g) A superintendent of schools:
 24 (i) shall be elected; or
 25 (ii) shall be appointed by the local government

1 commission; or
 2 (iii) shall be appointed by the chairman of the local
 3 government commission; or
 4 (iv) shall be selected as provided by ordinance; or
 5 (v) may at the discretion of the commission be
 6 selected as provided by ordinance; or
 7 (vi) shall not be included in this form as a separate
 8 office.
 9 (h) An assessor:
 10 (i) shall be elected; or
 11 (ii) shall be appointed by the local government
 12 commission; or
 13 (iii) shall be appointed by the chairman of the local
 14 government commission; or
 15 (iv) shall be selected as provided by ordinance; or
 16 (v) may at the discretion of the commission be
 17 selected as provided by ordinance; or
 18 (vi) shall not be included in this form as a separate
 19 office.
 20 (i) A coroner:
 21 (i) shall be elected; or
 22 (ii) shall be appointed by the local government
 23 commission; or
 24 (iii) shall be appointed by the chairman of the local
 25 government commission; or

1 (iv) shall be selected as provided by ordinance; or
 2 (v) may at the discretion of the commission be
 3 selected as provided by ordinance; or
 4 (vi) shall not be included in this form as a separate
 5 office.
 6 (j) A public administrator:
 7 (i) shall be elected; or
 8 (ii) shall be appointed by the local government
 9 commission; or
 10 (iii) shall be appointed by the chairman of the local
 11 government commission; or
 12 (iv) shall be selected as provided by ordinance; or
 13 (v) may at the discretion of the commission be
 14 selected as provided by ordinance; or
 15 (vi) shall not be included in this form as a separate
 16 office.
 17 (k) An auditor:
 18 (i) shall be elected; or
 19 (ii) shall be appointed by the local government
 20 commission; or
 21 (iii) shall be appointed by the chairman of the local
 22 government commission; or
 23 (iv) shall be selected as provided by ordinance; or
 24 (v) may at the discretion of the commission be
 25 selected as provided by ordinance; or

1 (vi) shall not be included in this form as a separate
 2 office.
 3 47A-3-206. Commission chairman form. (1) The
 4 commission chairman form consists of an elected commission
 5 (which may also be referred to as the "council"), and a
 6 commission chairman (who may also be referred to as "mayor"
 7 or as "president") elected by the members of the commission
 8 from their own number.
 9 (2) The commission chairman (who may also be referred
 10 to as "mayor") shall be elected by the members of the
 11 commission from their own number to serve at the pleasure of
 12 the commission. He shall: be the presiding officer of the
 13 commission, be recognized as the head of the local
 14 government unit, have the power to vote as other members of
 15 the commission, be the chief executive officer of the local
 16 government, and:
 17 (a) enforce laws, ordinances, and resolutions;
 18 (b) perform duties required of him by law, ordinance,
 19 or resolution;
 20 (c) administer the affairs of the local government;
 21 (d) direct, supervise, and administer all departments,
 22 agencies, and offices of the local government, except as
 23 otherwise provided by law or ordinance;
 24 (e) carry out policies established by the commission;
 25 (f) prepare the commission agenda;

- 1 (g) recommend measures to the commission;
- 2 (h) report to the commission on the affairs and
- 3 financial condition of the local government;
- 4 (i) execute bonds, notes, contracts, and written
- 5 obligations of the commission, subject to the approval of
- 6 the commission;
- 7 (j) report to the commission as the commission may
- 8 require;
- 9 (k) attend commission meetings and may take part in
- 10 discussions;
- 11 (l) execute the budget adopted by the commission;
- 12 (m) appoint with the consent of the commission all
- 13 members of boards and committees; except the chairman may
- 14 appoint without the consent of the commission temporary
- 15 advisory committees established by the chairman;
- 16 (n) appoint with the consent of a majority of the
- 17 commission all department heads. The chairman may remove
- 18 department heads and may appoint and remove all other
- 19 employees;
- 20 (o) prepare the budget and present it to the
- 21 commission for adoption;
- 22 (p) exercise control and supervision over the
- 23 administration of departments and boards.
- 24 (3) The plan of government submitted to the qualified
- 25 electors shall further define the structural characteristics

- 1 of the form by including one item from each of the choices
- 2 listed below:
- 3 (a) The commission shall be:
- 4 (i) elected at large; or
- 5 (ii) elected by districts in which candidates must
- 6 reside and which are apportioned by population; or
- 7 (iii) nominated by districts in which candidates must
- 8 reside and which are apportioned by population, but elected
- 9 at large; or
- 10 (iv) elected by any combination of districts in which
- 11 candidates must reside and which are apportioned by
- 12 population, and at large.
- 13 (b) Local government elections shall be conducted on
- 14 a:
- 15 (i) partisan basis as provided in this Title; or
- 16 (ii) non-partisan basis as provided in this Title.
- 17 (c) The commission chairman:
- 18 (i) shall appoint one or more administrative
- 19 assistants to assist him in the supervision and operation of
- 20 the local government. Such administrative assistants shall
- 21 be answerable solely to the chairman; or
- 22 (ii) may appoint one or more administrative assistants
- 23 to assist him in the supervision and operation of the local
- 24 government. Such administrative assistants shall be
- 25 answerable solely to the chairman.

1 (d) Commission members shall be elected for:
 2 (i) concurrent terms of office; or
 3 (ii) overlapping terms of office.
 4 (e) The size of the commission, which shall be a
 5 number of not less than five (5), shall be established when
 6 the form is adopted by the voters, and:
 7 (i) community councils of at least three (3) members
 8 shall be elected within each district to advise the
 9 commissioner from that district. Local governments
 10 conducting elections at-large shall district according to
 11 population for the purpose of electing community councils;
 12 or
 13 (ii) community councils to advise commissioners may be
 14 authorized by ordinance.
 15 (f) The term of office of elected officials may not
 16 exceed four (4) years, and shall be established when the
 17 form is adopted by the voters.
 18 (4) The plan of government submitted to the qualified
 19 electors shall determine the powers of the local government
 20 unit by authorizing:
 21 (a) general government powers; or
 22 (b) self-government powers.
 23 47A-3-207. Town meeting form. (1) The town meeting
 24 form consists of an assembly of the qualified electors of a
 25 town (known as a town meeting), an elected town chairman,

1 who shall be a qualified elector, and an optional elected
 2 town meeting moderator. The town meeting form may be
 3 adopted only by incorporated cities or towns of less than
 4 two thousand (2,000) persons as determined by the most
 5 recent decennial census as conducted by the United States
 6 bureau of the census unless a more recent enumeration of
 7 inhabitants be made by the state, in which case such
 8 enumeration shall be used for the purposes of this section.
 9 Any unit of local government which adopts this form may
 10 retain it even though its population increases to more than
 11 two thousand (2,000).
 12 (2) All legislative powers of the town shall vest in
 13 the town meeting. The town meeting may enact rules,
 14 resolutions, and ordinances.
 15 (3) (a) Towns adopting this form shall convene an
 16 annual town meeting on the first Tuesday of March. Special
 17 town meetings may be called by the town chairman or upon
 18 petition of ten percent (10%) of the qualified electors of
 19 the town, but in no case by less than ten (10) qualified
 20 electors.
 21 (b) All qualified electors of the town may attend the
 22 town meeting, take part in the discussion and vote on all
 23 matters coming before the town meeting. Others may attend
 24 but shall not vote nor take part in the discussion except by
 25 a majority vote of the town meeting.

1 (c) A quorum shall consist of at least ten percent
 2 (10%) of the qualified electors of the town but a higher
 3 quorum requirement may be established by a majority vote of
 4 the town meeting.

5 (d) The election of town officials shall be
 6 non-partisan and shall be by a plurality of those qualified
 7 electors present and voting. All other voting in the town
 8 meeting shall be by a simple majority of those qualified
 9 electors present and voting.

10 (e) Election of officials shall be by secret ballot.
 11 Other voting shall be by secret ballot upon the request of
 12 at least five members of the town meeting.

13 (4) An agenda of the town meeting and a list of all
 14 elective and appointive offices to be filled shall be
 15 prepared by the town chairman who shall post notice at least
 16 two (2) weeks prior to the convening of all annual and
 17 special town meetings. Upon written petition of at least
 18 ten percent (10%) of the qualified electors of the town, but
 19 not less than ten (10) qualified electors, the town chairman
 20 shall insert a particular item or items in the agenda for
 21 the next annual or special town meeting. The town meeting
 22 agenda may include an item entitled "other business" under
 23 which any matter may be considered by the town meeting
 24 except no matter dealing with finance or taxation shall be
 25 considered under "other business".

1 (5) The town meeting shall elect a town chairman for a
 2 term of not less than one (1) year or more than two (2)
 3 years. An unexpired term of a town chairman shall be filled
 4 at the next annual or special town meeting.

5 (6) The town chairman shall be the chief executive
 6 officer of the town and he shall:

- 7 (a) enforce laws, ordinances, and resolutions;
- 8 (b) perform duties required of him by law, ordinance,
 9 or resolution;
- 10 (c) administer the affairs of the town;
- 11 (d) prepare the town meeting agenda;
- 12 (e) attend all annual and special town meetings;
- 13 (f) recommend measures to the town meeting;
- 14 (g) report to the town on the affairs and financial
 15 condition of the town;
- 16 (h) execute bonds, notes, contracts, and written
 17 obligations of the town, subject to the approval of the
 18 town;
- 19 (i) appoint, with the consent of the town meeting,
 20 members of all boards and appoint and remove all employees
 21 of the town;
- 22 (j) prepare the budget and present it to the town
 23 meeting for adoption;
- 24 (k) exercise control and supervision of the
 25 administration of all departments and boards;

1 (1) carry out policies established by the town
2 meeting.

3 (7) Compensation of the town chairman shall be
4 established by ordinance but shall not be reduced during the
5 current term of the town chairman.

6 (8) Permanent committees to advise the town chairman
7 and/or the town meeting may be established and dissolved by
8 ordinance. The town chairman may establish temporary
9 committees to advise him.

10 (9) The plan of government submitted to the qualified
11 electors shall further define the structural characteristics
12 of the form by including one item from each of the choices
13 listed below:

14 (a) The town meeting shall:

15 (i) elect a town meeting moderator for a term of one
16 (1) year who shall be the presiding officer of all annual
17 and special town meetings but who shall have no other
18 governmental powers; or

19 (ii) designate the town chairman as presiding officer
20 of all annual and special town meetings.

21 (b) The town chairman:

22 (i) shall appoint an administrative assistant to
23 assist him in the supervision and operation of the affairs
24 of the town. The administrative assistant shall be
25 answerable solely to the town chairman and the town chairman

1 may delegate powers to the administrative assistant at his
2 discretion; or

3 (ii) may appoint an administrative assistant to assist
4 him in the supervision and operation of the affairs of the
5 town. The administrative assistant shall be answerable
6 solely to the town chairman and the town chairman may
7 delegate powers to the administrative assistant at his
8 discretion.

9 (10) The first agenda of the first town meeting
10 following the adoption of this form shall be established by
11 the local study commission. At that town meeting the
12 chairman of the local study commission shall preside over
13 the election of the presiding officer of the town after
14 which the presiding officer of the town shall preside.

15 (11) The plan of government submitted to the qualified
16 electors shall determine the powers of the local government
17 unit by authorizing:

18 (a) general government powers; or

19 (b) self-government powers.

20 47A-3-208. Charter form. (1) The purpose of this
21 section is to comply with Article XI, section 5 (1), of the
22 Montana constitution, which provides: "(1) The legislature
23 shall provide procedures permitting a local government unit
24 or combination of units to frame, adopt, amend, revise, or
25 abandon a self-government charter with the approval of a

1 majority of those voting on the question. The procedures
2 shall not require approval of a charter by a legislative
3 body."

4 (2) Charter provisions establishing executive,
5 legislative, and administrative structure and organization
6 are superior to statutory provisions.

7 (3) A charter form of government shall possess
8 self-government powers.

9 (4) Charter form of government shall be established by
10 a charter which is a written document defining the powers,
11 structures, privileges, rights, and duties of the unit of
12 local government and limitations thereon.

13 (5) The charter shall provide for an elected
14 legislative body, called a commission or council, or shall
15 provide for a legislative body comprised of all qualified
16 electors. For elected legislative bodies the charter shall
17 specify the number of members thereof, their term of office,
18 ~~the--method--of--their--election~~ ELECTION ON A PARTISAN OR
19 NON-PARTISAN BASIS, the grounds for their removal, and the
20 method for filling vacancies.

21 (6) The charter shall provide for the ~~election-and~~
22 ~~nominatien~~ NOMINATION AND ELECTION of commissions at-large,
23 or by districts in which candidates must reside and which
24 are apportioned by population, or by a combination of
25 districts in which candidates must reside and which are

1 apportioned by population and at-large.

2 (7) The charter shall specify which official of the
3 local government will be the chief administrative and
4 executive officer, the method of his selection, his term of
5 office, except that it may be at the pleasure of the
6 selecting authority if such officer is not elected by
7 popular vote, the grounds for his removal, and his powers
8 and duties. Notwithstanding the foregoing, the charter may
9 allocate the chief executive and the chief administrative
10 functions among two or more officials specified as above, or
11 the charter may provide that chief executive and
12 administrative functions of the local government will be
13 performed by one or more members of the legislative body.

14 (8) The charter may establish other legislative,
15 administrative, and organizational structures.

16 (9) A charter form of government shall have such
17 officers, departments, boards, commissions, and agencies as
18 are established in the charter, by local ordinance, or
19 required by state law.

20 (10) Charter provisions may not conflict with the
21 provisions of Title 47-A, part PART 7 which establish
22 statutory limitations on the powers of self-government
23 units.

24 (11) The enumeration of powers in a charter shall not
25 be construed as a limitation or prohibition on the residual

1 of self-governing powers granted by the constitution.

2 (12) The charter may contain prohibitions on the
3 exercise of power by a unit of local government.

4 (13) The charter may include such provisions as may be
5 necessary to permit an orderly transition to the new form of
6 government.

7 (14) The charter shall specify the date on which the
8 charter will take effect, except that provisions may be made
9 for temporary partial effectiveness consistent with an
10 orderly transition of government.

11 (15) The listing of charter provisions in this section
12 shall not be construed to prevent the inclusion of
13 additional provisions in charters.

14 (16) A charter may be amended only as provided by state
15 law.

16 Section 2. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

22 Section 3. Effective date. This act is effective May
23 2, 1977.

-ENC-

March 20, 1975

SENATE COMMITTEE ON LOCAL GOVERNMENT

AMENDMENTS TO HOUSE BILL NO. 176

That House Bill No. 176, third reading, be amended as follows:

1. Amend page 20, section 1, line 2.
Following: line 2
Insert: "(4) Local governments that adopt this form shall have general government powers."
2. Amend page 30, section 1, line 23.
Following: "units."
Insert: "(11) Charter forms are subject to state laws establishing election, initiative and referendum procedures and charters shall not contain provisions establishing election, initiative and referendum procedures.

(12) The charter shall not contain provisions establishing or modifying local court systems."
Re-number: All subsequent subsections

1 HOUSE BILL NO. 176
 2 INTRODUCED BY GERKE, MCKITTRICK, DISCOLL, MELOY, PAGE,
 3 KIMBLE, LOCKBEN, BARKS, SOUTH, GAYNN, BARDANOUVE,
 4 O'CONNELL, BRADLEY, HAGER, HOLMES, WILLIAMS
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZ
 7 ALTERNATIVE FORMS OF LOCAL GOVERNMENT PARTIALLY IMPLEMENTING
 8 ARTICLE XI, SECTIONS 3 AND 5 OF THE 1972 MONTANA
 9 CONSTITUTION AND PROVIDING FOR A DELAYED EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. There is a new R.C.M. Title 47A, Part 3,
 13 Chapter 2 that reads as follows:

14 PART 3, CHAPTER 2
 15 ALTERNATIVE FORMS OF LOCAL GOVERNMENT

16 47A-3-201. Declaration of purpose. (1) The purpose
 17 of this chapter is to comply with Article XI, section 3 (1),
 18 of the Montana constitution, which provides: "The
 19 legislature shall provide such optional or alternative forms
 20 of government that each unit or combination of units may
 21 adopt, amend, or abandon an optional or alternative form by
 22 a majority of those voting on the question."

23 (2) This chapter establishes the alternative forms of
 24 government for cities, towns, counties, and consolidated
 25 governments. This chapter shall be liberally construed to

REFERENCE BILL

1 facilitate the adoption of a form of local government. The
 2 procedure to adopt, amend, or abandon these forms is
 3 provided in sections 16-5101 et. seq.

4 47A-3-202. Adoption of alternative forms. Each local
 5 government in the state shall adopt one of the alternative
 6 forms of government provided for in this chapter including
 7 one of each sub-option authorized: the commission-executive
 8 form (which may also be called the "council-executive", the
 9 "council-mayor", or the "commission-mayor" form), the
 10 commission-manager form (which may also be called the
 11 "council-manager" form), the commission form, the
 12 commission-chairman form, the town meeting form, or the
 13 charter form.

14 47A-3-203. Commission-executive form. (1) The
 15 commission-executive form (which may be called the "council-
 16 executive", the "council-mayor", or the "commission-mayor"
 17 form) consists of an elected commission (which may be
 18 referred to as the "council" and one elected executive (who
 19 may be referred to as the "mayor") who is elected at large.

- 20 (2) The executive shall:
 21 (a) enforce laws, ordinances, and resolutions;
 22 (b) perform duties required of him by law, ordinance,
 23 or resolution;
 24 (c) administer affairs of the local government;
 25 ~~(d) direct, supervise, and administer all departments,~~

1 ~~agencies, and offices of the local government, except as~~
 2 ~~otherwise provided by law or ordinance;~~

3 ~~(e) — (D)~~ carry out policies established by the
 4 commission;

5 ~~(f) — (E)~~ recommend measures to the commission;

6 ~~(g) — (F)~~ report to the commission on the affairs and
 7 financial condition of the local government;

8 ~~(h) — (G)~~ execute bonds, notes, contracts, and written
 9 obligations of the commission, subject to the approval of
 10 the commission;

11 ~~(i) — (H)~~ report to the commission as the commission
 12 may require;

13 ~~(j) — (I)~~ attend commission meetings and may take part
 14 in discussions;

15 ~~(k) — (J)~~ execute the budget adopted by the commission;

16 ~~(l) — (K)~~ appoint, with the consent of the commission,
 17 all members of boards; except, the executive may appoint
 18 without the consent of the commission temporary advisory
 19 committees established by the executive.

20 (3) The plan of government submitted to the qualified
 21 electors shall further define the structural characteristics
 22 of the form by including one item from each of the choices
 23 listed below:

24 (a) The executive:

25 (i) shall appoint one or more administrative

1 assistants to assist him in the supervision and operation of
 2 the local government. Such administrative assistants shall
 3 be answerable solely to the executive; or

4 (ii) may appoint one or more administrative assistants
 5 to assist him in the supervision and operation of the local
 6 government. Such administrative assistants shall be
 7 answerable solely to the executive.

8 (b) The executive may:

9 (i) appoint and remove all employees of the local
 10 government; or

11 (ii) appoint and remove, with the consent of a majority
 12 of the commission, all employees of the local government; or

13 (iii) appoint, with the consent of a majority of the
 14 commission, all department heads. The executive may remove
 15 department heads and may appoint and remove all other
 16 department employees; or

17 (iv) appoint and remove, with the consent of a majority
 18 of the commission, all department heads. The executive may
 19 appoint and remove all other employees of the local
 20 government.

21 (c) The executive may:

22 (i) veto ordinances and resolutions, subject to
 23 override by a majority plus one of the whole number of the
 24 commission; or

25 (ii) veto ordinances and resolutions, subject to

1 override by a two-thirds vote of the commission; or
 2 (iii) sign all ordinances and resolutions with no veto
 3 power.
 4 (d) The executive may:
 5 (i) prepare the budget and present it to the
 6 commission for adoption; or
 7 (ii) prepare the budget in consultation with the
 8 commission and department heads.
 9 (e) The executive may:
 10 (i) exercise control and supervision of the
 11 administration of all departments and boards; or
 12 (ii) exercise control and supervision of all
 13 departments and boards to the degree authorized by ordinance
 14 of the commission.
 15 (f) A financial officer (who may be called the
 16 "treasurer"):
 17 (i) shall be elected; or
 18 (ii) shall be appointed by the executive with the
 19 consent of the council; or
 20 (iii) shall be selected as provided by ordinance; or
 21 (iv) may, at the discretion of the commission, be
 22 selected as provided by ordinance.
 23 (g) The commission shall be:
 24 (i) elected at large; or
 25 (ii) elected by districts in which candidates must

1 reside and which are apportioned by population; or
 2 (iii) nominated by districts in which candidates must
 3 reside and which are apportioned by population, but elected
 4 at large; or
 5 (iv) elected by any combination of districts in which
 6 candidates must reside and which are apportioned by
 7 population, and at large.
 8 (h) Local government elections shall be conducted on
 9 a:
 10 (i) partisan basis as provided in this title; or
 11 (ii) non-partisan basis as provided in this title.
 12 (i) The commission shall have a chairman who shall be:
 13 (i) elected by the members of the commission from
 14 their own number for a term established by ordinance; or
 15 (ii) selected as provided by ordinance.
 16 (j) The presiding officer of the commission shall be:
 17 (i) the chairman of the commission who may vote as
 18 other members of the commission; or
 19 (ii) the executive who may vote as the commissioners;
 20 or
 21 (iii) the executive who shall decide all tie votes of
 22 the commission, but shall have no other vote. The chairman
 23 of the commission shall preside if the executive is absent;
 24 or
 25 (iv) the executive, but he may not vote.

1 (k) Commission members shall be elected for:
 2 (i) concurrent terms of office; or
 3 (ii) overlapping terms of office.
 4 (1) The size of the commission, which shall be a
 5 number not less than three (3), shall be established when
 6 the form is adopted by the voters, and;
 7 (i) community councils or at least three (3) members
 8 shall be elected within each district to advise the
 9 commissioner from that district. Local governments
 10 conducting elections at large shall district according to
 11 population for the purpose of electing community councils;
 12 or
 13 (ii) community councils to advise commissioners may be
 14 authorized by ordinance.
 15 (m) The term of office of elected officials may not
 16 exceed four (4) years, and shall be established when the
 17 form is adopted by the voters.
 18 (4) The plan of government submitted to the qualified
 19 electors shall determine the powers of the local government
 20 unit by authorizing:
 21 (a) general government powers; or
 22 (b) self-government powers.
 23 47A-3-204. Commission-manager form. (3) The
 24 commission-manager form (which may be called the "council-
 25 manager" form) consists of an elected commission (which may

1 be called the "council") and a manager appointed by the
 2 commission who shall be the chief administrative officer of
 3 the local government. The manager shall be responsible to
 4 the commission for the administration of all local
 5 government affairs placed in his charge by law, ordinance,
 6 or resolution.
 7 (2) The manager shall be appointed by the commission
 8 for an indefinite term on the basis of merit only, and
 9 removed only by a majority vote of the whole number of the
 10 commission.
 11 (3) The manager shall:
 12 (a) enforce laws, ordinances, and resolutions;
 13 (b) perform the duties required of him by law,
 14 ordinance, or resolution;
 15 (c) administer the affairs of the local government;
 16 (d) direct, supervise, and administer all departments,
 17 agencies and offices of the local government unit except as
 18 otherwise provided by law or ordinance;
 19 (e) carry out policies established by the commission;
 20 (f) prepare the commission agenda;
 21 (g) recommend measures to the commission;
 22 (h) report to the commission on the affairs and
 23 financial condition of the local government;
 24 (i) execute bonds, notes, contracts, and written
 25 obligations of the commission, subject to the approval of

1 the commission;

2 (j) report to the commission as the commission may
3 require;

4 (k) attend commission meetings and may take part in
5 the discussion, but he may not vote;

6 (l) prepare and present the budget to the commission
7 for its approval and execute the budget adopted by the
8 commission;

9 (m) appoint, suspend, and remove all employees of the
10 local government except as otherwise provided by law or
11 ordinance. Employees appointed by the manager and his
12 subordinates shall be administratively responsible to the
13 manager;

14 (n) appoint members of temporary advisory committees
15 established by the manager.

16 (4) Neither the commission nor any of its members may
17 dictate the appointment or removal of any employee whom the
18 manager or any of his subordinates are empowered to appoint.

19 (5) Except for the purpose of inquiry or investigation
20 under this title, the commission or its members shall deal
21 with the local government employees who are subject to the
22 direction and supervision of the manager, solely through the
23 manager, and neither the commission nor its members may give
24 orders to any such employee, either publicly or privately.

25 (6) The plan of government submitted to the qualified

1 electors shall further define the structural characteristics
2 of the form by including one item from each of the choices
3 listed below:

4 (a) All members of boards, other than temporary
5 advisory committees established by the manager, shall be
6 appointed by:

7 (i) the chairman with the consent of the commission;
8 or

9 (ii) the manager with the consent of the commission; or
10 (iii) the commission.

11 (b) The commission shall be:

12 (i) elected at large; or

13 (ii) elected by districts in which candidates must
14 reside and which are apportioned by population; or

15 (iii) nominated by districts in which candidates must
16 reside and which are apportioned by population, but elected
17 at large; or

18 (iv) elected by any combination of districts in which
19 candidates must reside and which are apportioned by
20 population, and at large.

21 (c) Local government elections shall be conducted on
22 a:

23 (i) partisan basis as provided in this title; or

24 (ii) non-partisan basis as provided in this title.

25 (d) The chairman of the commission shall be:

1 (i) elected by the members of the commission from
2 their own number for a term established by ordinance; or

3 (ii) elected by the qualified electors for a term of
4 office; or

5 (iii) selected as provided by ordinance.

6 (3) Commission members shall be elected for:

7 (i) concurrent terms of office; or

8 (ii) overlapping terms of office.

9 (f) The size of the commission, which shall be a
10 number of not less than three (3), shall be established when
11 the form is adopted by the voters, and:

12 (i) community councils of at least three (3) members
13 shall be elected within each district to advise the
14 commissioner from that district. Local governments
15 conducting elections at-large shall district according to
16 population for the purpose of electing community councils;
17 or

18 (ii) community councils to advise commissioners may be
19 authorized by ordinance.

20 (g) The term of office of elected officials may not
21 exceed four (4) years, and shall be established when the
22 form is adopted by the voters.

23 (7) The plan of government submitted to the qualified
24 electors shall determine the powers of the local government
25 unit by authorizing:

1 (a) general government powers; or
2 (b) self-government powers.

3 47A-3-205. Commission form. (1) The commission form
4 consists of an elected commission (which may also be called
5 the "council") and other elected officers as provided in
6 this section. All legislative, executive, and
7 administrative powers and duties of the local government not
8 specifically reserved by law or ordinance to other elected
9 officers shall reside in the commission. The commission
10 shall appoint the heads of departments and other employees,
11 except for those appointed by other elected officials.
12 Cities and towns which adopt this form may distribute by
13 ordinance the executive and administrative powers and duties
14 into departments headed by individual commissioners.

15 (2) The plan of government submitted to the qualified
16 electors shall further define the structural characteristics
17 of the form by including one item from each of the choices
18 listed below:

19 (a) The commission shall be:

20 (i) elected at large; or

21 (ii) elected by districts in which candidates must
22 reside and which are apportioned by population; or

23 (iii) nominated by districts in which candidates must
24 reside and which are apportioned by population, but elected
25 at large; or

1 (iv) elected by any combination of districts in which
2 candidates must reside and which are apportioned by
3 population, and at large.

4 (b) Local government elections shall be conducted on
5 a:

- 6 (i) partisan basis as provided in this title; or
- 7 (ii) non-partisan basis as provided in this title.

8 (c) The chairman of the commission, who may be
9 referred to as the "mayor", shall be the presiding officer
10 of the commission. All members of boards and committees
11 shall be appointed by the chairman with the consent of the
12 commission. The chairman shall be recognized as the head of
13 the local government unit and may vote as other members of
14 the commission. The chairman shall be:

- 15 (i) elected by the members of the commission from
16 their own number for a term established by ordinance; or
- 17 (ii) selected as provided by ordinance; or
- 18 (iii) elected directly by the voters for a term
19 established by ordinance.

20 (d) The commission:

21 (i) shall appoint one or more administrative
22 assistants to assist them in the supervision and operation
23 of the local government; or

24 (ii) may appoint one or more administrative assistants
25 to assist them in the supervision and operation of the local

1 government.

2 (e) Commission members shall be elected for:

- 3 (i) concurrent terms of office; or
- 4 (ii) overlapping terms of office.

5 (f) The size of the commission, which shall be a
6 number of not less than three (3), shall be established when
7 the form is adopted by the voters, and:

8 (i) community councils of at least three (3) members
9 shall be elected within each district to advise the
10 commissioner from that district. Local governments
11 conducting elections at-large shall district according to
12 population for the purpose of electing community councils;
13 or

14 (ii) community councils to advise commissioners may be
15 authorized by ordinance.

16 (g) The term of office of elected officials may not
17 exceed four (4) years, except the term of office for
18 commissioners in counties adopting the form authorized by
19 Article II, section 3 (2), of the Montana constitution, may
20 not exceed six (6) years. Terms of office shall be
21 established when the form is adopted by the voters.

22 (3) In county and consolidated local governments, the
23 plan of government submitted to the qualified electors shall
24 further define the structural characteristics of the form by
25 including one item from each of the choices listed below.

1 The officers shall have the powers and duties established by
 2 ordinance. After the establishment of any office, the
 3 commission may consolidate, as provided by law, two or more
 4 of the offices.

5 (a) A legal officer (who may be called the "county
 6 attorney"):

7 (i) shall be elected; or
 8 (ii) shall be appointed by the local government
 9 commission; or

10 (iii) shall be appointed by the chairman of the local
 11 government commission; or

12 (iv) shall be selected as provided by ordinance; or

13 (v) may at the discretion of the commission be
 14 selected as PROVIDED by ordinance; or

15 (vi) shall not be included in this form as a separate
 16 office.

17 (b) A law enforcement officer (who may be called the
 18 "sheriff"):

19 (i) shall be elected; or

20 (ii) shall be appointed by the local government
 21 commission; or

22 (iii) shall be appointed by the chairman of the local
 23 government commission; or

24 (iv) shall be selected as provided by ordinance; or

25 (v) may at the discretion of the commission be

1 selected as provided by ordinance; or

2 (vi) shall not be included in this form as a separate
 3 office.

4 (c) A clerk and recorder:

5 (i) shall be elected; or

6 (ii) shall be appointed by the local government
 7 commission; or

8 (iii) shall be appointed by the chairman of the local
 9 government commission; or

10 (iv) shall be selected as provided by ordinance; or

11 (v) may at the discretion of the commission be
 12 selected as provided by ordinance; or

13 (vi) shall not be included in this form as a separate
 14 office.

15 (d) A clerk of district court:

16 (i) shall be elected; or

17 (ii) shall be appointed by the local government
 18 commission; or

19 (iii) shall be appointed by the chairman of the local
 20 government commission; or

21 (iv) shall be selected as provided by ordinance; or

22 (v) may at the discretion of the commission be
 23 selected as provided by ordinance; or

24 (vi) shall not be included in this form as a separate
 25 office.

1 (e) A treasurer:
 2 (i) shall be elected; or
 3 (ii) shall be appointed by the local government
 4 commission; or
 5 (iii) shall be appointed by the chairman of the local
 6 government commission; or
 7 (iv) shall be selected as provided by ordinance; or
 8 (v) may at the discretion of the commission be
 9 selected as provided by ordinance; or
 10 (vi) shall not be included in this form as a separate
 11 office.
 12 (f) A surveyor:
 13 (i) shall be elected; or
 14 (ii) shall be appointed by the local government
 15 commission; or
 16 (iii) shall be appointed by the chairman of the local
 17 government commission; or
 18 (iv) shall be selected as provided by ordinance; or
 19 (v) may at the discretion of the commission be
 20 selected as provided by ordinance; or
 21 (vi) shall not be included in this form as a separate
 22 office.
 23 (g) A superintendent of schools:
 24 (i) shall be elected; or
 25 (ii) shall be appointed by the local government

1 commission; or
 2 (iii) shall be appointed by the chairman of the local
 3 government commission; or
 4 (iv) shall be selected as provided by ordinance; or
 5 (v) may at the discretion of the commission be
 6 selected as provided by ordinance; or
 7 (vi) shall not be included in this form as a separate
 8 office.
 9 (h) An assessor:
 10 (i) shall be elected; or
 11 (ii) shall be appointed by the local government
 12 commission; or
 13 (iii) shall be appointed by the chairman of the local
 14 government commission; or
 15 (iv) shall be selected as provided by ordinance; or
 16 (v) may at the discretion of the commission be
 17 selected as provided by ordinance; or
 18 (vi) shall not be included in this form as a separate
 19 office.
 20 (i) A coroner:
 21 (i) shall be elected; or
 22 (ii) shall be appointed by the local government
 23 commission; or
 24 (iii) shall be appointed by the chairman of the local
 25 government commission; or

1 (iv) shall be selected as provided by ordinance; or
 2 (v) may at the discretion of the commission be
 3 selected as provided by ordinance; or
 4 (vi) shall not be included in this form as a separate
 5 office.
 6 (j) A public administrator:
 7 (i) shall be elected; or
 8 (ii) shall be appointed by the local government
 9 commission; or
 10 (iii) shall be appointed by the chairman of the local
 11 government commission; or
 12 (iv) shall be selected as provided by ordinance; or
 13 (v) may at the discretion of the commission be
 14 selected as provided by ordinance; or
 15 (vi) shall not be included in this form as a separate
 16 office.
 17 (k) An auditor:
 18 (i) shall be elected; or
 19 (ii) shall be appointed by the local government
 20 commission; or
 21 (iii) shall be appointed by the chairman of the local
 22 government commission; or
 23 (iv) shall be selected as provided by ordinance; or
 24 (v) may at the discretion of the commission be
 25 selected as provided by ordinance; or

1 (vi) shall not be included in this form as a separate
 2 office.
 3 (4) LOCAL GOVERNMENTS THAT ADOPT THIS FORM SHALL HAVE
 4 GENERAL GOVERNMENT POWERS.
 5 47A-3-206. Commission-chairman form. (1) The
 6 commission-chairman form consists of an elected commission
 7 (which may also be referred to as the "council"), and a
 8 commission chairman (who may also be referred to as "mayor"
 9 or as "president") elected by the members of the commission
 10 from their own number.
 11 (2) The commission chairman (who may also be referred
 12 to as "mayor") shall be elected by the members of the
 13 commission from their own number to serve at the pleasure of
 14 the commission. He shall: be the presiding officer of the
 15 commission, be recognized as the head of the local
 16 government unit, have the power to vote as other members of
 17 the commission, be the chief executive officer of the local
 18 government, and:
 19 (a) enforce laws, ordinances, and resolutions;
 20 (b) perform duties required of him by law, ordinance,
 21 or resolution;
 22 (c) administer the affairs of the local government;
 23 (d) direct, supervise, and administer all departments,
 24 agencies, and offices of the local government, except as
 25 otherwise provided by law or ordinance;

1 (e) carry out policies established by the commission;
 2 (f) prepare the commission agenda;
 3 (g) recommend measures to the commission;
 4 (h) report to the commission on the affairs and
 5 financial condition of the local government;
 6 (i) execute bonds, notes, contracts, and written
 7 obligations of the commission, subject to the approval of
 8 the commission;
 9 (j) report to the commission as the commission may
 10 require;
 11 (k) attend commission meetings and may take part in
 12 discussions;
 13 (l) execute the budget adopted by the commission;
 14 (m) appoint with the consent of the commission all
 15 members of boards and committees; except the chairman may
 16 appoint without the consent of the commission temporary
 17 advisory committees established by the chairman;
 18 (n) appoint with the consent of a majority of the
 19 commission all department heads. The chairman may remove
 20 department heads and may appoint and remove all other
 21 employees;
 22 (o) prepare the budget and present it to the
 23 commission for adoption;
 24 (p) exercise control and supervision over the
 25 administration of departments and boards.

1 (3) The plan of government submitted to the qualified
 2 electors shall further define the structural characteristics
 3 of the form by including one item from each of the choices
 4 listed below:
 5 (a) The commission shall be:
 6 (i) elected at large; or
 7 (ii) elected by districts in which candidates must
 8 reside and which are apportioned by population; or
 9 (iii) nominated by districts in which candidates must
 10 reside and which are apportioned by population, but elected
 11 at large; or
 12 (iv) elected by any combination of districts in which
 13 candidates must reside and which are apportioned by
 14 population, and at large.
 15 (b) Local government elections shall be conducted on
 16 a:
 17 (i) partisan basis as provided in this title; or
 18 (ii) non-partisan basis as provided in this title.
 19 (c) The commission chairman:
 20 (i) shall appoint one or more administrative
 21 assistants to assist him in the supervision and operation of
 22 the local government. Such administrative assistants shall
 23 be answerable solely to the chairman; or
 24 (ii) may appoint one or more administrative assistants
 25 to assist him in the supervision and operation of the local

1 government. Such administrative assistants shall be
2 answerable solely to the chairman.

3 (d) Commission members shall be elected for:

4 (i) concurrent terms of office; or

5 (ii) overlapping terms of office.

6 (e) The size of the commission, which shall be a
7 number or not less than five (5), shall be established when
8 the form is adopted by the voters, and:

9 (i) community councils of at least three (3) members
10 shall be elected within each district to advise the
11 commissioner from that district. Local governments
12 conducting elections at-large shall district according to
13 population for the purpose of electing community councils;
14 or

15 (ii) community councils to advise commissioners may be
16 authorized by ordinance.

17 (f) The term of office of elected officials may not
18 exceed four (4) years, and shall be established when the
19 form is adopted by the voters.

20 (4) The plan of government submitted to the qualified
21 electors shall determine the powers of the local government
22 unit by authorizing:

23 (a) general government powers; or

24 (b) self-government powers.

25 47A-3-207. Town meeting form. (1) The town meeting

1 form consists of an assembly of the qualified electors of a
2 town (known as a town meeting), an elected town chairman,
3 who shall be a qualified elector, and an optional elected
4 town meeting moderator. The town meeting form may be
5 adopted only by incorporated cities or towns of less than
6 two thousand (2,000) persons as determined by the most
7 recent decennial census as conducted by the United States
8 bureau of the census unless a more recent enumeration of
9 inhabitants be made by the state, in which case such
10 enumeration shall be used for the purposes of this section.
11 Any unit of local government which adopts this form may
12 retain it even though its population increases to more than
13 two thousand (2,000).

14 (2) All legislative powers of the town shall vest in
15 the town meeting. The town meeting may enact rules,
16 resolutions, and ordinances.

17 (3) (a) Towns adopting this form shall convene an
18 annual town meeting on the first Tuesday of March. Special
19 town meetings may be called by the town chairman or upon
20 petition of ten percent (10%) of the qualified electors of
21 the town, but in no case by less than ten (10) qualified
22 electors.

23 (b) All qualified electors of the town may attend the
24 town meeting, take part in the discussion and vote on all
25 matters coming before the town meeting. Others may attend

1 but shall not vote nor take part in the discussion except by
 2 a majority vote of the town meeting.

3 (c) A quorum shall consist of at least ten percent
 4 (10%) of the qualified electors of the town but a higher
 5 quorum requirement may be established by a majority vote of
 6 the town meeting.

7 (d) The election of town officials shall be
 8 non-partisan and shall be by a plurality of those qualified
 9 electors present and voting. All other voting in the town
 10 meeting shall be by a simple majority of those qualified
 11 electors present and voting.

12 (e) Election of officials shall be by secret ballot.
 13 Other voting shall be by secret ballot upon the request of
 14 at least five members of the town meeting.

15 (4) An agenda of the town meeting and a list of all
 16 elective and appointive offices to be filled shall be
 17 prepared by the town chairman who shall post notice at least
 18 two (2) weeks prior to the convening of all annual and
 19 special town meetings. Upon written petition of at least
 20 ten percent (10%) of the qualified electors of the town, but
 21 not less than ten (10) qualified electors, the town chairman
 22 shall insert a particular item or items in the agenda for
 23 the next annual or special town meeting. The town meeting
 24 agenda may include an item entitled "other business" under
 25 which any matter may be considered by the town meeting

1 except no matter dealing with finance or taxation shall be
 2 considered under "other business".

3 (5) The town meeting shall elect a town chairman for a
 4 term of not less than one (1) year or more than two (2)
 5 years. An unexpired term of a town chairman shall be filled
 6 at the next annual or special town meeting.

7 (b) The town chairman shall be the chief executive
 8 officer of the town and he shall:

- 9 (a) enforce laws, ordinances, and resolutions;
- 10 (b) perform duties required of him by law, ordinance,
 11 or resolution;
- 12 (c) administer the affairs of the town;
- 13 (d) prepare the town meeting agenda;
- 14 (e) attend all annual and special town meetings;
- 15 (f) recommend measures to the town meeting;
- 16 (g) report to the town on the affairs and financial
 17 condition of the town;
- 18 (h) execute bonds, notes, contracts, and written
 19 obligations of the town, subject to the approval of the
 20 town;
- 21 (i) appoint, with the consent of the town meeting,
 22 members of all boards and appoint and remove all employees
 23 of the town;
- 24 (j) prepare the budget and present it to the town
 25 meeting for adoption;

1 (k) exercise control and supervision of the
2 administration of all departments and boards;

3 (l) carry out policies established by the town
4 meeting.

5 (7) Compensation of the town chairman shall be
6 established by ordinance but shall not be reduced during the
7 current term of the town chairman.

8 (8) Permanent committees to advise the town chairman
9 and/or the town meeting may be established and dissolved by
10 ordinance. The town chairman may establish temporary
11 committees to advise him.

12 (9) The plan of government submitted to the qualified
13 electors shall further define the structural characteristics
14 of the form by including one item from each of the choices
15 listed below:

16 (a) The town meeting shall:

17 (i) elect a town meeting moderator for a term of one
18 (1) year who shall be the presiding officer of all annual
19 and special town meetings but who shall have no other
20 governmental powers; or

21 (ii) designate the town chairman as presiding officer
22 of all annual and special town meetings.

23 (b) The town chairman:

24 (i) shall appoint an administrative assistant to
25 assist him in the supervision and operation of the affairs

1 of the town. The administrative assistant shall be
2 answerable solely to the town chairman and the town chairman
3 may delegate powers to the administrative assistant at his
4 discretion; or

5 (ii) may appoint an administrative assistant to assist
6 him in the supervision and operation of the affairs of the
7 town. The administrative assistant shall be answerable
8 solely to the town chairman and the town chairman may
9 delegate powers to the administrative assistant at his
10 discretion.

11 (10) The first agenda of the first town meeting
12 following the adoption of this form shall be established by
13 the local study commission. At that town meeting the
14 chairman of the local study commission shall preside over
15 the election of the presiding officer of the town after
16 which the presiding officer of the town shall preside.

17 (11) The plan of government submitted to the qualified
18 electors shall determine the powers of the local government
19 unit by authorizing:

20 (a) general government powers; or

21 (b) self-government powers.

22 47A-3-208. Charter form. (1) The purpose of this
23 section is to comply with Article II, section 5 (1), of the
24 Montana constitution, which provides: "(1) The legislature
25 shall provide procedures permitting a local government unit

1 or combination of units to frame, adopt, amend, revise, or
 2 abandon a self-government charter with the approval of a
 3 majority of those voting on the question. The procedures
 4 shall not require approval of a charter by a legislative
 5 body."

6 (2) Charter provisions establishing executive,
 7 legislative, and administrative structure and organization
 8 are superior to statutory provisions.

9 (3) A charter form of government shall possess
 10 self-government powers.

11 (4) Charter form of government shall be established by
 12 a charter which is a written document defining the powers,
 13 structures, privileges, rights, and duties of the unit of
 14 local government and limitations thereon.

15 (5) The charter shall provide for an elected
 16 legislative body, called a commission or council, or shall
 17 provide for a legislative body comprised of all qualified
 18 electors. For elected legislative bodies the charter shall
 19 specify the number of members thereof, their term of office,
 20 ~~the method of their election~~ ELECTION ON A PARTISAN OR
 21 NON-PARTISAN BASIS, the grounds for their removal, and the
 22 method for filling vacancies.

23 (6) The charter shall provide for the ~~election and~~
 24 ~~nomination~~ NOMINATION AND ELECTION of commissions at-large,
 25 or by districts in which candidates must reside and which

1 are apportioned by population, or by a combination of
 2 districts in which candidates must reside and which are
 3 apportioned by population and at-large.

4 (7) The charter shall specify which official of the
 5 local government will be the chief administrative and
 6 executive officer, the method of his selection, his term of
 7 office, except that it may be at the pleasure of the
 8 selecting authority if such officer is not elected by
 9 popular vote, the grounds for his removal, and his powers
 10 and duties. Notwithstanding the foregoing, the charter may
 11 allocate the chief executive and the chief administrative
 12 functions among two or more officials specified as above, or
 13 the charter may provide that chief executive and
 14 administrative functions of the local government will be
 15 performed by one or more members of the legislative body.

16 (8) The charter may establish other legislative,
 17 administrative, and organizational structures.

18 (9) A charter form of government shall have such
 19 officers, departments, boards, commissions, and agencies as
 20 are established in the charter, by local ordinance, or
 21 required by state law.

22 (10) Charter provisions may not conflict with the
 23 provisions of Title 47-A, ~~part~~ PART 7 which establish
 24 statutory limitations on the powers of self-government
 25 units.

1 ~~(11) CHARTER FORMS ARE SUBJECT TO STATE LAWS~~
 2 ~~ESTABLISHING ELECTION, INITIATIVE AND REFERENDUM PROCEDURES~~
 3 ~~AND CHARTERS SHALL NOT CONTAIN PROVISIONS ESTABLISHING~~
 4 ~~ELECTION, INITIATIVE AND REFERENDUM PROCEDURES.~~

5 ~~(12) THE CHARTER SHALL NOT CONTAIN PROVISIONS~~
 6 ~~ESTABLISHING OR MODIFYING LOCAL COURT SYSTEMS.~~

7 ~~(13)~~ (13) The enumeration of powers in a charter shall
 8 not be construed as a limitation or prohibition on the
 9 residual or self-governing powers granted by the
 10 constitution.

11 ~~(14)~~ (14) The charter may contain prohibitions on the
 12 exercise of power by a unit of local government.

13 ~~(15)~~ (15) The charter may include such provisions as may
 14 be necessary to permit an orderly transition to the new form
 15 of government.

16 ~~(16)~~ (16) The charter shall specify the date on which
 17 the charter will take effect, except that provisions may be
 18 made for temporary partial effectiveness consistent with an
 19 orderly transition of government.

20 ~~(17)~~ (17) The listing of charter provisions in this
 21 section shall not be construed to prevent the inclusion of
 22 additional provisions in charters.

23 ~~(18)~~ (18) A charter may be amended only as provided by
 24 state law.

25 Section 2. Severability. If a part of this act is

1 invalid, all valid parts that are severable from the invalid
 2 part remain in effect. If a part of this act is invalid in
 3 one or more of its applications, the part remains in effect
 4 in all valid applications that are severable from the
 5 invalid applications.

6 Section 3. Effective date. This act is effective May
 7 2, 1977.

-End-