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Senate BILL NO. 285

INTRODUCED BY *Eric Blaylock*
Blaylock

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE RIGHT OF THE PEOPLE IN A LOCAL COUNTY OR DISTRICT TO FORM PUBLIC UTILITY DISTRICTS BY ELECTION AND WITH LOCAL AUTONOMY IN DISTRICT AFFAIRS; PROVIDING FOR FORMATION, ORGANIZATION, POWERS, FINANCING, CONSOLIDATION OF PUBLIC UTILITY DISTRICTS; PROVIDING FOR LOCAL ELECTION OF COMMISSIONERS FOR ADMINISTRATION OF DISTRICTS, APPOINTMENT OF QUALIFIED MANAGERS; PROVIDING FOR DEVELOPMENT ON A DISTRICT WIDE BASIS TO BENEFIT ALL INHABITANTS, RURAL AND URBAN, AND ESTABLISHMENT OF RATES ON A UNIFORM AND NONDISCRIMINATORY BASIS; PROVIDING FOR PAYMENT OF TAXES TO LOCAL AND STATE GOVERNMENTS, AND SCHOOLS; PROVIDING FOR PLACEMENT OF SERVICE ABOVE PROFIT IN UTILITY SERVICES; PROVIDING FOR CONSERVATION OF POWER RESOURCES OF THE STATE OF MONTANA FOR BENEFIT OF THE PEOPLE THEREOF; PROVIDING FOR SEVERABILITY, RULE OF CONSTRUCTION, REPEALING CONFLICTING ACTS; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Definitions. As used in this title:

(1) "District" or "utility district" means a public utility district organized under this title.

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(2) "Commission" or "district commission" means the board of commissioners of a public utility district.

(3) "Wholesale power" means electric energy bought or sold for resale.

Section 2. Districts authorized. Municipal corporations, to be known as public utility districts, are hereby authorized for the purposes of this title and may be established as provided herein.

Section 3. Restrictions on invading other municipalities. This title does not repeal or affect any existing law relating to the construction, operation, and maintenance of public utilities by irrigation or water districts or other municipal corporations.

Section 4. Utilities within a city or town -- restrictions. A district shall not construct any property to be utilized by it in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale, on the streets, alleys, or public places within a city or town without the consent of the governing body of the city or town and approval of the plan and location of the construction, which shall be made under such reasonable terms as the city or town may impose. All such properties shall be maintained and operated subject to such regulations as the city or town may prescribe under its police power.

1 Section 5. District elections. The clerk and recorder
 2 of the county shall give notice of all elections held under
 3 this act, for the time and in the manner and form provided
 4 for school district elections. When the said clerk deems an
 5 emergency exists, and is requested to do so by a resolution
 6 of the district commission, he may call a special election
 7 at any time in the district, and he may combine or divide
 8 precincts for the purpose of holding special elections, and
 9 special elections shall be conducted and notice thereof
 10 given in the manner provided by law.

11 The clerk shall provide polling places, appoint the
 12 election officers, provide their compensation, provide
 13 ballot boxes, and ballots or voting machines, poll books and
 14 tally sheets, and deliver them to the election officers at
 15 the polling places, publish and post notices of the
 16 elections in the manner provided by law, and apportion to
 17 the district its share of the expense of the election.

18 The manner of conducting and voting at the elections,
 19 opening and closing of polls, keeping of poll lists,
 20 canvassing the votes, declaring the result, and certifying
 21 the returns, shall be the same as for the election of state
 22 and county officers, except as otherwise provided herein.

23 The district commission shall certify to the clerk a
 24 list of offices to be filled at a district election and the
 25 commission, if it desires to submit to the voters of the

1 district a proposition, shall require the secretary of the
 2 commission to certify it at the time and in the manner and
 3 form provided for certifying propositions by the governing
 4 board of cities and towns.

5 Section 6. Contracts for work or materials -- notice
 6 -- emergency purchases. All materials purchased and work
 7 ordered by a district commission, the estimated cost of
 8 which is in excess of five thousand dollars (\$5,000), shall
 9 be by contract, except that a district commission may have
 10 its own personnel perform work utilizing material of a worth
 11 not exceeding thirty thousand dollars (\$30,000) in value
 12 without a contract. Before awarding such a contract, the
 13 commission shall publish a notice at least thirty (30) days
 14 before the letting of the contract, inviting sealed
 15 proposals for the work, plans and specifications of which
 16 shall at the time of the publication be on file at the
 17 office of the district subject to public inspection. The
 18 commission may at the same time and as part of the same
 19 notice, invite tenders for the work or materials upon plans
 20 and specifications to be submitted by the bidders.

21 Whenever equipment or materials required by a district
 22 are held by a governmental agency and are available for sale
 23 but such agency is unwilling to submit a proposal, the
 24 commission may ascertain the price of such items and file a
 25 statement of such price supported by the sworn affidavit of

1 one (1) member of the commission and may consider such price
 2 as a bid without a deposit or bond: Provided, that where an
 3 emergency arises endangering the public safety, the
 4 commission may purchase materials or order work performed in
 5 any amount necessary without calling for bids after having
 6 taken precautions to secure the lowest price practicable
 7 under the circumstances.

8 Section 7. Bids -- deposit -- contract -- bond. The
 9 notice shall state generally the work to be done, and shall
 10 call for proposals for doing it, to be sealed and filed with
 11 the commission on or before the time named therein. Each
 12 bid shall be accompanied by a certified or cashier's check,
 13 payable to the order of the commission for a sum not less
 14 than five percent (5%) of the amount of the bid, or
 15 accompanied by a bid bond in an amount not less than five
 16 percent (5%) of the bid with a corporate surety license to
 17 do business in the state, conditioned that the bidder will
 18 pay the district as liquidated damages the amount specified
 19 in the bond unless he enters into a contract in accordance
 20 with his bid and furnishes the performance bond herein
 21 mentioned within ten (10) days from the date on which he is
 22 notified that he is the successful bidder. At the time and
 23 place named, the bids shall be publicly opened and read, and
 24 the commission shall canvass the bids, and may let the
 25 contract to the lowest responsible bidder upon the plans and

1 specifications on file, or to the best bidder submitting his
 2 own plans and specifications: Provided, that no contract
 3 shall be let in excess of the estimated cost of the
 4 materials or work. The commission may reject all bids and
 5 re-advertise, and in such case all checks shall be returned
 6 to the bidders. If the contract is let, all checks shall be
 7 returned to the bidders, except that of the successful
 8 bidder, which shall be retained until a contract is entered
 9 into and a bond to perform the work furnished, with sureties
 10 satisfactory to the commission, in an amount to be fixed by
 11 the commission, not less than twenty-five percent (25%) of
 12 the contract price, in accordance with the bid. If the
 13 bidder fails to enter into the contract and furnish the bond
 14 within ten (10) days from the date at which he is notified
 15 that he is the successful bidder, his check and the amount
 16 thereof shall be forfeited to the district.

17 Section 8. Rates for wholesale power -- procedure.
 18 Whenever a decree of public use and necessity has been
 19 entered in condemnation proceedings conducted by a district
 20 for the acquisition of electrical distribution properties,
 21 or whenever it has executed a contract for the purchase of
 22 such properties, the district may file with the public
 23 service commission, a copy of the contract or a certified
 24 copy of the decree, together with a petition requesting that
 25 the public service commission cause a rate to be filed with

1 it for the sale of wholesale power to the district, and
 2 thereupon the public service commission shall order that
 3 such a rate be filed with it forthwith. The public service
 4 commission may enter such an order as to any public service
 5 corporation which owns or operates the electrical
 6 distribution properties being condemned or purchased or as
 7 to any such corporation which owns or operates transmission
 8 facilities within a reasonable distance of the distribution
 9 properties and which engages in the business of selling
 10 wholesale power. The rate filed shall be for the period of
 11 service specified by the district, or if the district does
 12 not specify a particular period, the rate shall apply from
 13 the commencement of service until the district terminates it
 14 by thirty (30) days' written notice.

15 Section 9. Duty to furnish power to district. Upon
 16 reasonable notice, the public service corporation shall
 17 furnish wholesale power to a public utility district owning
 18 or operating electrical distribution properties. When a
 19 public service corporation furnishes wholesale power to a
 20 district and the rate therefor is reviewed by the public
 21 service commission, such reasonable rate as the commission
 22 finally may fix shall apply as to power thereafter furnished
 23 and as to that previously furnished under such rate from the
 24 time that the complaint pertaining thereto was filed by the
 25 commission or the district, as the case may be.

1 Section 10. Planning powers. In order that a district
 2 may be better able to plan for the marketing of power and
 3 for the development of resources pertaining thereto, it
 4 shall have the same powers as are vested in a board of
 5 county commissioners. For such purposes, the president of
 6 the district shall have the powers of the chairman of the
 7 board of county commissioners, and a planning commission
 8 created hereunder shall have the same powers, enumerated in
 9 the Montana codes, with reference to a district as a county
 10 planning board has with reference to a county.

11 Section 11. When district includes entire county --
 12 petition -- notice -- ballots. At any general election the
 13 board of county commissioners of a county may, or on
 14 petition of ten percent (10%) of the electors of the county
 15 based on the total vote cast for governor in the last
 16 general election, shall by resolution, submit to the voters
 17 of the county the proposition of creating a public utility
 18 district coextensive with the limits of the county. The
 19 petition shall be filed with the county clerk and recorder,
 20 who shall within fifteen (15) days examine the signatures
 21 thereon and certify to the sufficiency thereof. If the
 22 petition is found to be insufficient, it shall be returned
 23 to the persons filing it, who may amend or add names thereto
 24 for ten (10) days, when it shall be returned to the clerk,
 25 who shall have an additional fifteen (15) days to examine it

1 and attach his certificate thereto. No person having signed
 2 the petition may withdraw his name therefrom after it is
 3 filed. When the petition is certified as sufficient, the
 4 clerk shall forthwith send it, together with his certificate
 5 attached thereto, to the county commissioners, who shall
 6 thereupon immediately certify submission of the proposition
 7 to the voters at the next general election. The notice of
 8 the election shall state the boundaries of the proposed
 9 district and the object of the election, and shall in other
 10 respects conform to the requirements of the general laws
 11 governing the time and manner of holding elections. In
 12 submitting the question to the voters the proposition shall
 13 be expressed on the ballot substantially in the following
 14 terms:

15 Yes Public Utility District No. _____

16 No Public Utility District No. _____

17 Section 12. When district includes less than entire
 18 county -- petition -- hearing -- boundaries to be fixed. A
 19 petition for the formation of a district may describe a
 20 lesser area than the entire county in which the petition is
 21 filed, the boundaries of which shall follow the then
 22 existing precinct boundaries and not divide any voting
 23 precinct. If such a petition is filed, the county
 24 commissioners shall fix a date for a hearing thereon, and

1 publish the petition, without the signatures, for two (2)
 2 weeks prior to the date of the hearing, together with a
 3 notice stating the time of the meeting when the petition
 4 will be heard. The publication and all other publications
 5 required by this title, shall be in a newspaper published in
 6 the district or proposed district, or, if there is no such
 7 newspaper, then in a newspaper published in the county in
 8 which the district is situated, and of general circulation
 9 in the county. The hearing on the petition may be adjourned
 10 from time to time, not exceeding four (4) weeks in all. If
 11 upon the final hearing the county commissioners find that
 12 any lands have been unjustly or improperly included in the
 13 proposed district and will not be benefited thereby, they
 14 shall change and fix the boundary lines in such manner as
 15 they deem just and conducive to the public welfare and
 16 convenience, and shall enter an order establishing the
 17 boundary lines of the proposed district: Provided, that no
 18 lands shall be included within the boundaries so fixed lying
 19 outside the boundaries described in the petition, except
 20 upon the written request of the owners thereof. Thereafter
 21 the same procedure shall be followed as prescribed for the
 22 formation of a district embracing an entire county, except
 23 that the petition and election shall be confined solely to
 24 the lesser area.

25 Section 13. Canvass of returns -- district created

1 -- name. Within five (5) days after the election, the
 2 canvassing board shall canvass the returns, and if a
 3 majority of the votes cast favor the proposition to form the
 4 district, the board shall so declare in its return, and the
 5 district shall become a municipal corporation with the name
 6 "Public Utility District No. ____ of _____
 7 County," inserting the number of the district as it appeared
 8 on the ballot and the name of the county in which the
 9 district is located.

10 Section 14. Election expense -- repayment. The
 11 expense of an election to form a district shall be paid by
 12 the county, which expenditure is hereby declared to be for a
 13 county purpose. Such expenditures shall be repaid to the
 14 county by the district, if formed.

15 Section 15. Validity of district -- questioning of.
 16 The existence of a public utility district cannot be
 17 questioned by any person, except the state in an action
 18 brought within six (6) months from the date that the
 19 canvassing board canvassed the returns of the election held
 20 on the proposition of creating the district. If the
 21 existence of a district is not challenged within that
 22 period, by the filing and service of a petition or complaint
 23 in the action, the state shall be barred forever from
 24 questioning the validity of the district by reason of any
 25 defect in the organization thereof, and it shall be deemed

1 regularly organized.

2 Section 16. Special election for formation of
 3 district. Whenever a proposition for the formation of a
 4 public utility district is to be submitted to voters in any
 5 county, the board of county commissioners may by resolution
 6 call a special election, and at the request of petitioners
 7 for the formation of such district contained in the petition
 8 shall do so and shall provide for holding the same at the
 9 earliest practicable time. If the boundaries of the
 10 proposed district embrace an area less than the entire
 11 county, such election shall be confined to the area so
 12 included. The notice of such election shall state the
 13 boundaries of the proposed district and the object of such
 14 election; in other respects, such election shall be held and
 15 called in the same manner as provided by law for the holding
 16 and calling of general elections: Provided, that notice
 17 thereof shall be given for not less than ten (10) days nor
 18 more than thirty (30) days prior to such special election.
 19 In submitting the said proposition to the voters for their
 20 approval or rejection, such proposition shall be expressed
 21 on the ballots in substantially the following terms:

" Yes Public Utility District No. ____

No Public Utility District No. ____ "

22
 23 The term "general election" as used herein means biennial

1 general elections at which state and county officers are
2 elected.

3 Section 17. Number of commissioners -- commissioner
4 districts -- qualifications. The powers of a district shall
5 be exercised through a commission consisting of three (3)
6 members, one (1) from each of the three (3) county
7 commissioner districts, when the district is coextensive
8 with the limits of the county. When the district comprises
9 only a portion of the county, three (3) commissioner
10 districts, numbered consecutively, having approximately
11 equal population and boundaries, following ward and precinct
12 lines, as far as practicable, shall be described and
13 numbered in the petition for the formation of the district,
14 and one (1) commissioner shall be elected from each
15 commissioner district.

16 A commissioner shall be a voter and freeholder in the
17 utility district, and, except as hereinafter provided, shall
18 have been a resident of the commissioner district from which
19 he is elected, for three (3) years.

20 Section 18. Change in commissioner districts. The
21 boundaries of a commissioner district shall not be changed
22 more often than once in four (4) years, excepting in the event
23 of consolidation of districts, and only when all members of
24 the commission are present. A proposed change shall be made
25 by resolution, and notice of the time of a public hearing

1 thereon shall be published for two (2) weeks prior thereto:
2 Provided, that upon a referendum petition signed by six
3 percent (6%) of the voters of the district being filed with
4 the clerk, the commission shall submit the proposed change
5 to the voters of the district for their approval or
6 rejection. The checking of the petition as to its
7 sufficiency shall be governed by the provisions relating to
8 petitions to form a district.

9 Section 19. Terms of office. Except as otherwise
10 provided herein, the term of office of each commissioner
11 shall be six (6) years beginning on the first day of
12 December following his election. One (1) commissioner shall
13 be elected at each biennial general election for the term of
14 six (6) years. All candidates shall be voted upon by the
15 entire utility district.

16 Section 20. First commissioners -- election -- terms.
17 Three (3) commissioners shall be elected at the election at
18 which the proposition of forming the district is submitted
19 to the voters. The one elected from commissioner district
20 number one (1) shall hold office for the term of six (6)
21 years; the one elected from commissioner district number two
22 (2) shall hold office for the term of four (4) years; and
23 the one elected from commissioner district number three (3)
24 shall hold office for the term of two (2) years. The terms
25 of all commissioners first elected shall include the time

1 between their election and the date from which the length of
2 their terms is computed.

3 Section 21. Nominations. Nominations for
4 commissioners shall be by petition signed by one hundred
5 (100) electors of the utility district, to be filed in the
6 office of the county clerk not more than sixty (60) days,
7 and not less than thirty (30) days prior to the day of
8 election: Provided, that in a district having a population
9 of less than four thousand (4,000), the nominating petition
10 shall be signed by ten percent (10%) or more of the electors
11 of the district.

12 Section 22. Vacancies -- causes -- how filled. A
13 vacancy in the office of commissioner shall occur by death,
14 resignation, removal, conviction of a felony, nonattendance
15 at meetings of the commission for sixty (60) days, unless
16 excused by the commission, by any statutory
17 disqualification, or by any permanent disability preventing
18 the proper discharge of his duty. A vacancy shall be filled
19 at the next general election, the vacancy in the interim to
20 be filled by appointment by the remaining commissioners. If
21 more than one (1) vacancy exists at the same time a special
22 election shall be called by the county clerk and recorder
23 upon the request of any remaining commissioner and if there
24 is none, then by the county clerk and recorder. The
25 election shall be held not more than forty (40) days after

1 the occurrence of the vacancies.

2 Section 23. Compensation and expenses. District
3 commissioners shall serve without compensation, except that
4 a district may provide by resolution for the payment of
5 compensation to each of its commissioners at a rate not
6 exceeding twenty-five dollars (\$25) for each day or major
7 part thereof devoted to the business of the district, and
8 days upon which he attends meetings of the commission of his
9 own district or meetings attended by one (1) or more
10 commissioners of two (2) or more districts called to
11 consider business common to them: Provided, that the total
12 compensation paid to such commissioner during any one (1)
13 year shall not exceed two thousand five hundred dollars
14 (\$2,500). Provided further, that commissioners may not be
15 compensated for services performed of ministerial or
16 professional nature. Each commissioner shall be reimbursed
17 for reasonable expenses actually incurred in connection with
18 such business and meetings including his subsistence and
19 lodging and travel while away from his place of residence:
20 Provided, that the expense, except for travel, shall not
21 exceed the amount provided for in section 59-538, R.C.M.
22 1947, and the travel twelve cents (\$.12) per mile.

23 Section 24. President -- secretary -- rules -- seal
24 -- minutes. The commission shall elect from its members,
25 president and secretary, and shall, by resolution, adopt

1 rules governing the transaction of district business, and
2 adopt an official seal. All proceedings of the commission
3 shall be by motion or resolution, recorded in its minute
4 books, which shall be public records.

5 A majority of the members shall constitute a quorum of
6 the commission for the transaction of business. The
7 concurrence of a majority of the whole commission in office
8 at the time shall be necessary for the passage of any
9 resolution, and no business shall be transacted, except in
10 usual and ordinary course, unless there are in office at
11 least a majority of the full number of commissioners as
12 fixed by law.

13 The commission may create and fill such positions and
14 fix salaries and bonds thereof as it may provide by
15 resolution.

16 Section 25. Surveys and plans. A district may make a
17 survey of hydroelectric power within or without the
18 district, and compile comprehensive maps and plans showing
19 the territory that can be most economically served by the
20 utility and the natural order in which it should be
21 developed.

22 Section 26. Acquisition of property and rights --
23 eminent domain. A district may construct, condemn and
24 purchase, purchase, acquire, lease, add to, maintain,
25 operate, develop, and regulate all lands, property, property

1 rights, water, water rights, dams, ditches, flumes,
2 aqueducts, pipes and pipe lines, water power, leases,
3 easements, rights-of-way, franchises, plants, plant
4 facilities, and systems for generating electric energy by
5 water power, steam, or other methods; buildings, structures,
6 poles and pole lines, and cables and conduits and any and
7 all other facilities; and may exercise the right of eminent
8 domain to effectuate the foregoing purposes or for the
9 acquisition and damaging of such property and rights, or
10 property of any kind appurtenant thereto, and for the
11 purpose of acquiring the right to make physical connection
12 with plants and plant facilities of all persons and
13 municipalities. The right of eminent domain shall be
14 exercised pursuant to resolution of the commission and
15 conducted in the same manner and by the same procedure as is
16 provided for the exercise of that power by cities and towns
17 of the state in the acquisition of like property and
18 property rights. It shall be no defense to a condemnation
19 proceeding that a portion of the electric current generated
20 or sold by the district will be applied to private purposes,
21 if the principal uses intended are public: Provided, that no
22 public utility owned by a city or town shall be condemned,
23 and none shall be purchased without submission of the
24 question to the voters of the utility district. In a
25 condemnation proceeding, the court shall submit to the jury

1 the value placed upon the property by the taxing authority
 2 for taxation purposes, and in respect to property, plants,
 3 and facilities of persons using public highways for
 4 furnishing public service without franchises, shall consider
 5 in determining the value thereof the fact that the property,
 6 plants, and facilities are subject to be removed from the
 7 highways by reason of being so operated without a franchise.

8 Section 27. Electric energy. A district may purchase,
 9 within or without its limits, electric current for sale and
 10 distribution within or without its limits, and construct,
 11 condemn and purchase, purchase, acquire, add to, maintain,
 12 conduct, and operate works, plants, transmission and
 13 distribution lines and facilities for generating electric
 14 current, operated either by water power, steam, or other
 15 methods, within or without its limits, for the purpose of
 16 furnishing the district, and the inhabitants thereof and any
 17 other persons, including public and private corporations,
 18 within or without its limits, with electric current for all
 19 uses, with full and exclusive authority to sell and regulate
 20 and control the use, distribution, rates, service, charges,
 21 and price thereof, free from the jurisdiction and control of
 22 the public service commission, in all things, together with
 23 the right to purchase, handle, sell, or lease motors, lamps,
 24 transformers and all other kinds of equipment and
 25 accessories necessary and convenient for the use,

1 distribution, and sale thereof: Provided, that the
 2 commission shall not supply water to a privately owned
 3 utility for the production of electric energy, but may
 4 supply, directly or indirectly, to an instrumentality of the
 5 United States government or any publicly or privately owned
 6 public utilities which sell electric energy to the public,
 7 any amount of electric energy under its control, and
 8 contracts therefor shall extend over such period of years
 9 and contain such terms and conditions for the sale thereof
 10 as the commission of the district shall elect; such contract
 11 shall only be made pursuant to a resolution of the
 12 commission authorizing such contract, which resolution shall
 13 be introduced at a meeting of the commission at least ten
 14 (10) days prior to the date of the adoption of the
 15 resolution: Provided further, that it shall first make
 16 adequate provision for the needs of the district, both
 17 actual and prospective.

18 Section 28. Water rights. A district may purchase and
 19 acquire any public and private property, franchises and
 20 property rights, for any of the purposes aforesaid, and for
 21 railroads, tunnels, pipe lines, aqueducts, transmission
 22 lines, and all other facilities necessary or convenient,
 23 and, in connection with the construction, maintenance, or
 24 operation of any such utility, may acquire by purchase or
 25 condemnation and purchase the right to divert, take, retain,

1 and impound and use water from or in any lake or
 2 watercourse, public or private, navigable or nonnavigable,
 3 or held, owned, or used by the state, or any subdivision
 4 thereof, or by any person for any public or private use, or
 5 any underflowing water within the state; and the district
 6 may erect, within or without its limits, dams or other works
 7 across any river or watercourse, or across or at the outlet
 8 of any lake, up to and above high water mark; and, for the
 9 purpose of constructing or laying aqueducts or pipe lines,
 10 dams, or waterworks or other necessary structures in storing
 11 or retaining water, or for any other purpose authorized
 12 hereunder, the district may occupy and use the beds and
 13 shores up to the high water mark of any such lake, river, or
 14 watercourse, and acquire by purchase or by condemnation and
 15 purchase, or otherwise, any water, water rights, easements,
 16 or privileges named herein or necessary for any of such
 17 purposes: Provided, that should private property be
 18 necessary for any of its purposes, or for storing water
 19 above high water mark, the district may condemn and
 20 purchase, or purchase and acquire such private property.
 21 Existing water rights are to be protected in all
 22 undertakings of the public utility districts and the public
 23 utility districts may initiate a right to unappropriated
 24 waters in the same manner as the state water conservation
 25 board.

1 Section 29. Intertie lines. A district may build and
 2 maintain intertie lines connecting its power plant and
 3 distribution system with the power plant and distribution
 4 system owned by any other public utility district, or
 5 municipal corporation, or connect with the power plants and
 6 distribution systems owned by any municipal corporation in
 7 the district, and from any such intertie line, sell electric
 8 energy to any person, public utility district, city, town or
 9 other corporation, public or private, and, by means of
 10 transmission or pole lines, conduct electric energy from the
 11 place of production to the point of distribution, and
 12 construct and lay aqueducts, pipe or pole lines, and
 13 transmission lines along and upon public highways, roads,
 14 and streets, and condemn and purchase, purchase or acquire,
 15 lands, franchises, and rights-of-way necessary therefor.

16 Section 30. May borrow money and issue bonds. A
 17 district may contract indebtedness or borrow money for
 18 corporate purposes on its credit or on the revenues of its
 19 public utilities, and issue general obligation or utility
 20 bonds therefor, bearing interest at a rate not exceeding
 21 seven percent (7%) per year, payable semiannually, the bonds
 22 may not be sold for less than par and accrued interest; may
 23 purchase with surplus funds, local utility district bonds of
 24 districts created by the commission and sell them, giving
 25 preference to residents of the district, and may create a

1 revolving fund to insure the prompt payment of all local
2 utility district bonds.

3 Section 31. Levy and collection of taxes -- tax
4 anticipation warrants. A district may raise revenue by the
5 levy of an annual tax on all taxable property within the
6 district, not exceeding two (2) mills in any one (1) year,
7 exclusive of interest and redemption for general obligation
8 bonds. The commission shall prepare a proposed budget of
9 the contemplated financial transactions for the ensuing year
10 and file it in its records, on or before the first Monday in
11 September. Notice of the filing of the proposed budget and
12 the date and place of hearing thereon shall be published for
13 at least two (2) consecutive weeks in a newspaper printed
14 and of general circulation in the county. On the first
15 Monday in October, the commission shall hold a public
16 hearing on the proposed budget at which any taxpayer may
17 appear and be heard against the whole or any part thereof.
18 Upon the conclusion of the hearing, the commission shall, by
19 resolution, adopt the budget as finally determined, and fix
20 the final amount of expenditures for the ensuing year.
21 Taxes levied by the commission shall be certified to and
22 collected by the proper officer of the county in which the
23 district is located in the same manner as provided for the
24 certification and collection of other district taxes. The
25 commission may, prior to the receipt of taxes raised by

1 levy, borrow money or issue warrants of the district in
2 anticipation of the revenue to be derived from the levy or
3 taxes for district purposes, and the warrants shall be
4 redeemed from the first money available from such taxes.
5 The warrants shall not exceed the anticipated revenue of one
6 (1) year, and shall bear interest at a rate not to exceed
7 seven percent (7%) per year.

8 Section 32. Contracts with other agencies -- gifts,
9 etc. -- employees and experts. A district may enter into any
10 contract with the United States, or any state, municipality,
11 or other utility district, or any department of those
12 entities, for carrying out any of the powers authorized by
13 this title.

14 It may acquire by gift, devise, bequest, lease, or
15 purchase, real and personal property necessary or convenient
16 for its purposes, or for any local district therein.

17 It may make contracts, employ engineers, attorneys, and
18 other technical or professional assistance; print and
19 publish information or literature and do all other things
20 necessary to carry out the provisions of this title.

21 Section 33. Manager -- appointment -- salary --
22 duties. The commission, by resolution introduced at a
23 regular meeting and adopted at a subsequent regular meeting,
24 shall appoint and may remove at will a district manager, and
25 shall, by resolution, fix his salary.

1 The manager shall be the chief administrative officer
 2 of the district, in control of all administrative functions
 3 and shall be responsible to the commission for the efficient
 4 administration of the affairs of the district placed in his
 5 charge. He shall be an experienced executive with
 6 administrative ability. In the absence or temporary
 7 disability of the manager, he shall, with the approval of
 8 the president of the commission, designate some competent
 9 person as acting manager.

10 The manager may attend all meetings of the commission
 11 and its committees, and take part in the discussion of any
 12 matters pertaining to the duties of his department, but
 13 shall have no vote.

14 The manager shall carry out the orders of the
 15 commission, and see that the laws pertaining to matters with
 16 the functions of this department are enforced; keep the
 17 commission fully advised as to the financial condition and
 18 needs of the districts; prepare an annual estimate for the
 19 ensuing fiscal year of the probable expenses of his
 20 department, and recommend to the commission what development
 21 work should be undertaken, and what extensions and
 22 additions, if any, should be made during the ensuing fiscal
 23 year, with an estimate of the costs of the development work,
 24 extensions, and additions; certify to the commission all
 25 bills, allowances and payrolls, including claims due

1 contractors of public works; recommend to the commission
 2 salaries of the employees of his office, and a scale of
 3 salaries or wages to be paid for the different classes of
 4 service required by the district; hire and discharge
 5 employees under his direction; and perform such other duties
 6 as may be imposed upon him by resolution of the commission.
 7 It is unlawful for him to make any contribution of money in
 8 aid of or in opposition to the election of any candidate for
 9 public utility commission or to advocate or oppose any such
 10 election.

11 Section 34. May sue and be sued -- claims. A district
 12 may sue in any court of competent jurisdiction, and may be
 13 sued in any county in which it is located. No suit for
 14 damages shall be maintained against a district except on a
 15 verified claim filed with the commission.

16 Section 35. Local utility districts authorized. A
 17 district may, by resolution, establish and define the
 18 boundaries of local assessment districts to be known as
 19 local utility district No. _____ for distribution, under the
 20 general supervision and control of the commission, electric
 21 energy, and for providing street lighting, and in like
 22 manner provide for the purchasing, or otherwise acquiring,
 23 or constructing and equipping of distribution systems for
 24 such purposes, and for extensions and betterments thereof,
 25 and may levy and collect in accordance with the special

1 benefits conferred thereon, special assessments and
 2 reassessments on property specially benefited thereby, for
 3 paying the cost and expense thereof, as herein provided, and
 4 issue local improvement bonds or warrants or both to be
 5 repaid wholly or in part by collection of local improvement
 6 assessments.

7 Section 36. Local districts -- procedure -- financing.
 8 The commission shall by resolution establish the method of
 9 procedure in all matters relating to local utility
 10 districts. A public utility district may determine by
 11 resolution what work shall be done or improvements made at
 12 the expense, in whole or in part, of the property specially
 13 benefited thereby; and adopt and provide the manner,
 14 machinery and proceedings in any way relating to the making
 15 and collecting of assessments therefor in pursuance thereof.
 16 Except as herein otherwise provided or as may hereafter be
 17 set forth by resolution, all matters and proceedings
 18 relating to the local utility district, the levying and
 19 collection of assessments, the issuance and redemption of
 20 local improvement warrants and bonds, and the enforcement of
 21 local assessment liens hereunder, shall be governed, as
 22 nearly as may be, by the laws relating to local improvements
 23 for cities of the first class: Provided, that no protest
 24 against a local utility district improvement shall be
 25 received after 12 noon of the day set for hearing.

1 The commission may determine to finance the project by
 2 bonds or warrants secured by assessments against the
 3 property within the local utility district; or it may
 4 finance the project by revenue bonds, in which case no bonds
 5 or warrants shall be issued by the local utility district,
 6 but assessments shall be levied upon the taxable property
 7 therein on the basis of special benefits up to, but not
 8 exceeding, the total cost of the improvement and in such
 9 cases the entire principal and interest of such assessments
 10 shall be paid into a revenue bond fund of the district, to
 11 be used for the sole purpose of the payment of revenue
 12 bonds.

13 Section 37. Petition for local district -- hearing
 14 -- notice. Any such improvement shall be ordered by
 15 resolution of the commission either upon petition or
 16 resolution therefor. When a petition, signed by ten percent
 17 (10%) of the owners of land in the district to be therein
 18 described, is filed with the commission, asking that the
 19 plan or improvement therein set forth be adopted and
 20 ordered, and defining the boundaries of a local improvement
 21 district to be assessed in whole or in part to pay the cost
 22 thereof, the commission shall fix the date of hearing
 23 thereon, and give not less than two (2) weeks notice thereof
 24 by publication. The commission may deny the petition or
 25 order the improvement, unless a majority of the owners of

1 lands in the district file prior to 12 noon of the day of
 2 the hearing, with the secretary a petition protesting
 3 against the improvement. If the commission orders the
 4 improvement, it may alter the boundaries of the proposed
 5 local district and prepare and adopt detail plans of the
 6 local improvement, declare the estimated cost thereof, what
 7 proportion thereof shall be borne by the local improvement
 8 district, and what proportion if any shall be borne by the
 9 entire public utility district.

10 Section 38. Procedure when petition is signed by
 11 majority of landowners. When a petition signed by a majority
 12 of the landowners in a proposed local improvement district
 13 is filed with the commission, asking that the improvement
 14 therein described be ordered, the commission shall forthwith
 15 fix a date for hearing thereon after which it shall, by
 16 resolution, order the improvement, and may alter the
 17 boundaries of the proposed district; prepare and adopt the
 18 improvement; prepare and adopt detail plans thereof; declare
 19 the estimated cost thereof, what proportion of the cost
 20 shall be borne by the local district, and what proportion,
 21 if any, shall be borne by the entire public utility
 22 district, and provide the general funds thereof to be
 23 applied thereto, if any; acquire all lands and other
 24 properties therefor; pay all damages caused thereby; and
 25 commence in the name of the public utility district such

1 eminent domain proceedings and supplemental assessment or
 2 reassessment proceedings to pay all eminent domain awards
 3 necessary to entitle the district to proceed with the work,
 4 and shall thereafter proceed with the work, and shall file
 5 with the county treasurer its roll levying special
 6 assessments in the amount to be paid by special assessment
 7 against the property in the local improvement district in
 8 proportion to the special benefits to be derived by the
 9 property in the local district from the improvement.

10 Section 39. Assessment roll -- hearing -- appeal
 11 -- expenses. Before approval of the roll, a notice shall be
 12 published for ten (10) days stating that the roll is on file
 13 and open to inspection in the office of the secretary, and
 14 fixing a time not less than fifteen (15) nor more than
 15 thirty (30) days from the date of the first publication of
 16 the notice, within which protests must be filed with the
 17 secretary against any assessments shown thereon, and fixing
 18 a time when a hearing shall be held by the commission on the
 19 protests. After the hearing the commission may alter any
 20 and all assessments shown on the roll and may, by
 21 resolution, approve it, but if an assessment is raised, a
 22 new notice, similar to the first, shall be given, and a
 23 hearing had thereon, after which final approval of the roll
 24 may be made. Any person aggrieved by the assessments shall
 25 perfect an appeal to the district court of the county within

1 ten (10) days after the approval, in the manner now provided
 2 for appeals from assessments under section 84-4502, R.C.M.
 3 1947. In the event such an appeal shall be taken, the
 4 judgment of the court shall confirm the assessment insofar
 5 as it affects the property of the appellant unless the court
 6 shall find from the evidence that such assessment is founded
 7 upon a fundamentally wrong basis and/or the decision of the
 8 commission thereon was arbitrary or capricious; in which
 9 event the judgment of the court shall correct, change,
 10 modify, or annul the assessment insofar as it affects the
 11 property of the appellant. In the same manner as provided
 12 with reference to other levies an appeal shall lie to the
 13 supreme court from the judgment of the superior court, as in
 14 other cases, if taken within fifteen (15) days after the
 15 date of the entry of the judgment in the district court.
 16 Engineering, office, and other expenses necessary or
 17 incident to the improvement shall be borne by the public
 18 utility district: Provided, that when a municipal
 19 corporation included in the public utility district already
 20 owns or operates a utility of a character like that for
 21 which the assessments are levied hereunder, all such
 22 engineering and other expenses shall be borne by the local
 23 assessment district.

24 Section 40. Apportionment of cost of improvement. When
 25 an improvement is ordered hereunder, payment for which shall

1 be made in part from assessments against property specially
 2 benefited, not more than fifty percent (50%) of the cost
 3 thereof shall ever be borne by the entire public utility
 4 district, nor shall any sum be contributed by it to any
 5 improvement acquired or constructed with or by any other
 6 body, exceed such amount, unless a majority of the electors
 7 of the district consent to or ratify the making of such
 8 expenditure.

9 Section 41. Sale or lease of properties -- procedure.
 10 A district may sell and convey, lease, or otherwise dispose
 11 of all or any part of its works, plants, systems, utilities
 12 and properties, after proceedings and approval by the voters
 13 of the district: Provided, that the affirmative vote of
 14 three fifths (3/5) of the voters voting at an election on
 15 the question of approval of a proposed sale, shall be
 16 necessary to authorize such sale: Provided further, that a
 17 district may sell, convey, lease, or otherwise dispose of
 18 all or any part of the property owned by it, located outside
 19 its boundaries, to another public utility district, city,
 20 town, or other municipal corporation without the approval of
 21 the voters; or may sell, convey, lease, or otherwise dispose
 22 of to any person or public body, any part, either within or
 23 without its boundaries, which has become unserviceable,
 24 inadequate, obsolete, worn out or unfit to be used in the
 25 operations of the system and which is no longer necessary,

1 material to, and useful in such operations, without the
 2 approval of the voters. Public utility districts are
 3 municipal corporations for the purpose of this section and
 4 the commission shall be held to be the legislative body and
 5 the president and secretary shall have the same powers and
 6 perform the same duties as the mayor and city clerk and the
 7 resolutions of the districts shall be held to be ordinances
 8 within the meaning of the statutes governing the sale,
 9 lease, or other disposal of public utilities owned by cities
 10 or towns.

11 Section 42. General resolutions. The commission of a
 12 district may adopt general resolutions to carry out the
 13 purposes, objects, and provisions of this title.

14 Section 43. Joint exercise of powers and joint
 15 acquisition properties. Any two (2) or more public utility
 16 districts shall have the power, by mutual agreement, to
 17 exercise jointly all powers granted to each individual
 18 district, and in the exercise of such powers shall have the
 19 right and power to acquire jointly all or any part of any
 20 electric utility properties which constitute an
 21 interconnected and physically integrated electric utility
 22 system, whether entirely within or partly within and partly
 23 without such districts: Provided, that any two (2) or more
 24 districts so acting jointly, by mutual agreement, shall not
 25 acquire any electric utility distribution properties in any

1 other public utility district without the consent of such
 2 district, and shall not exercise jointly the power to
 3 condemn any privately owned utility property or any public
 4 utility owned by a municipality, to levy taxes, or to create
 5 subdistricts.

6 Section 44. Statement of operations. In condemnation
 7 proceedings instituted or conducted by a district for the
 8 acquisition of properties, the district may serve upon the
 9 condemnee's attorneys of record and file with the court, a
 10 notice of its intention to present a decree of
 11 appropriation, together with a demand for a verified
 12 statement showing in reasonable detail the following
 13 information with respect to the operation of the properties
 14 since the date of the verdict, if the case was tried by a
 15 jury, or since the date of the judgment fixing compensation,
 16 if the case was tried by the court, namely:

17 (1) the cost of any improvements and betterments to
 18 the properties which were reasonably necessary and prudently
 19 made;

20 (2) the gross income received from the properties,
 21 betterments, and improvements; and

22 (3) the actual reasonable expense, exclusive of
 23 depreciation, incurred in the operation thereof.

24 Section 45. Failure to give statement -- contempt
 25 -- payment and decree. If the condemnee fails to serve and

1 file the statement within fifteen (15) days after service of
 2 the demand therefor, it may be compelled to do so by
 3 contempt proceedings, and the time during which the
 4 proceedings are pending shall not be considered in computing
 5 the time within which the district may exercise its right of
 6 appropriation. After the statement is filed, the district
 7 may pay the amount of the verdict or judgment plus

8 (1) accrued interest thereon, less the net income
 9 before allowance for depreciation, and

10 (2) the cost of the improvements and betterments, all
 11 as shown by the sworn statement, and concurrently obtain its
 12 decree of appropriation.

13 Section 46. Retirement of properties -- adjustment.
 14 The condemnee may retire from use after the verdict or
 15 judgment such items of the properties as may be reasonably
 16 necessary in the ordinary and usual course of operation
 17 thereof, in which case it shall show in its statement the
 18 reasonable value of the items retired, and the district may
 19 deduct such value from the sum otherwise payable by it. If
 20 the condemnee fails to file the statement within fifteen
 21 (15) days after service of the demand therefor, the district
 22 may pay the full amount of the judgment or verdict plus
 23 accrued interest thereon and concurrently obtain a decree of
 24 appropriation.

25 Section 47. Accounting. After payment is made and the

1 decree of appropriation entered, the district or the
 2 condemnee shall be entitled to an accounting in the
 3 condemnation proceedings to determine the true amount of
 4 each item required to be furnished in the above statement,
 5 and to payment of any balance found due in such accounting.

6 Section 48. Limitation on new proceedings. If the
 7 condemnation proceedings are abandoned, no new proceedings
 8 for the acquisition of the same or substantially similar
 9 properties shall be instituted within one (1) year from the
 10 date of the abandonment.

11 Section 49. Treasurer -- bond -- duties -- funds
 12 -- depositaries. The treasurer of the county in which a
 13 utility district is located shall be ex officio treasurer of
 14 the district and all district funds shall be paid to him,
 15 and shall be disbursed by him only on warrants issued by an
 16 auditor appointed by the commission, upon orders or vouchers
 17 approved by it. The treasurer shall establish a public
 18 utility district fund, into which shall be paid all district
 19 funds, and he shall maintain such special funds as may be
 20 created by the commission, into which he shall place all
 21 money as the commission may, by resolution, direct.

22 All district funds shall be deposited with the county
 23 depositaries under the same restrictions, contracts, and
 24 security as provided for county depositaries, and all
 25 interest collected thereon shall belong to the district and

1 be deposited to its credit in the proper district funds.

2 A district may provide and require a reasonable bond of
3 the treasurer or any person handling moneys or securities of
4 the district: Provided, that the district pays the premium
5 thereon.

6 In the event of a consolidation of districts covering
7 more than one (1) county, such district shall appoint a
8 district treasurer who shall be bonded and carry out the
9 duties prescribed herein for the county treasurers and who
10 shall remit to the several county treasurers the proper
11 apportionment of funds of the respective county.

12 Section 50. Bonds or warrants for cost of utilities.
13 When the commission deems it advisable that the district
14 acquire or construct a public utility, or make additions or
15 betterments thereto or extensions thereof, it shall provide
16 thereof by resolution, which shall specify and adopt the
17 system or plan proposed, and declare the estimated cost
18 thereof, as near as may be, including as part of the cost,
19 funds necessary for working capital for the operation of the
20 utility and for the payment of the expenses incurred in the
21 acquisition or construction thereof, and shall specify
22 whether general obligation bonds or utility revenue bonds or
23 warrants.

24 The commission may provide in the resolution that any
25 additional works, plants, or facilities subsequently

1 acquired or constructed by the district for the same uses,
2 whether or not physically connected therewith, shall be
3 deemed additions or betterments to or extensions of the
4 public utility.

5 Section 51. Revenue bonds or warrants -- special fund
6 -- time and place of payment -- interest. When the
7 commission deems it advisable to issue revenue bonds or
8 warrants for such purposes, it may, as a part of the plan
9 and system, create a special fund or funds to defray the
10 cost of the public utility, or additions or betterments
11 thereto or extensions thereof, into which it may obligate
12 and bind the district to set aside and pay a fixed
13 proportion of the gross revenue of the utility, and all
14 additions or betterments thereto or extensions thereof, or
15 any fixed amount out of, and not exceeding a fixed
16 proportion of such revenue, or a fixed amount without regard
17 to any fixed proportion, or an amount of the revenue equal
18 to a fixed percentage of the aggregate principal amount of
19 utility revenue bonds or warrants at any time issued
20 against the special fund or funds and issue and sell utility
21 revenue bonds or warrants payable as to both principal and
22 interest only out of such fund or funds.

23 The bonds or warrants shall be payable at such places
24 and times, both as to principal and interest, and bear
25 interest at such rates payable semiannually as the

1 commission shall determine.

2 Section 52. Considerations in creating special fund.
 3 In creating any such special fund the commission shall have
 4 due regard to the cost of operation and maintenance of the
 5 utility as constructed or added to, and to any proportion or
 6 amount of the revenue previously pledged as a fund for the
 7 payment of utility revenue bonds or warrants, and shall not
 8 set aside into the fund a greater amount or proportion of
 9 the revenue and proceeds than in its judgment will be
 10 available over and above the cost of maintenance and
 11 operation and any amount or proportion of the revenue so
 12 previously pledged. Bonds or warrants and interest thereon
 13 issued against such fund shall be a valid claim of the
 14 holder thereof only as against the fund and the proportion
 15 or amount of the revenue pledged thereto, but shall
 16 constitute a prior charge over all other charges or claims
 17 whatsoever, including the charge or lien of any general
 18 obligation bonds against the fund and the proportion or
 19 amount of the revenue pledged thereto. Such bonds or
 20 warrants shall not constitute an indebtedness of the
 21 district within the meaning of any constitutional provisions
 22 and limitations. Each bond or warrant shall state on its
 23 face that it is payable from a special fund, naming the fund
 24 and the resolution creating it.

25 Section 53. Covenants to secure bondholders. The

1 resolution creating any such special fund and authorizing
 2 the issuance of revenue bonds or warrants payable therefrom
 3 shall specify the title of the bonds or warrants as
 4 determined by the commission, and may contain covenants by
 5 the district to protect and safeguard the security and the
 6 rights of the holders thereof, including covenants as to,
 7 among other things: (1) the purpose or purposes to which
 8 the proceeds of sale of the bonds or warrants may be applied
 9 and the use and disposition thereof;

10 (2) the use and disposition of the gross revenue of
 11 the public utility, and any additions or betterments thereto
 12 or extensions thereof, the cost of which is to be defrayed
 13 with such proceeds, including the creation and maintenance
 14 of funds for working capital to be used in the operation of
 15 the utility and for renewals and replacements thereof;

16 (3) the amount, if any, of additional bonds or
 17 warrants payable from such fund which may be issued and the
 18 terms and conditions on which the additional bonds or
 19 warrants may be issued;

20 (4) the establishment and maintenance of adequate
 21 rates and charges for electric energy sold, furnished, or
 22 supplied by the utility;

23 (5) the operation, maintenance, management,
 24 accounting, and auditing of the utility;

25 (6) the terms upon which the bonds or warrants or any

of them may be redeemed at the election of the district;

(7) limitations upon the right to dispose of the public utility or any part thereof without providing for the payment of the outstanding bonds; and

(8) the appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts, and profits derived by the district from the operation, ownership, and management of its utilities.

Section 54. Sale of revenue obligations. Utility revenue bonds or warrants shall be sold in such manner and for such price as the commission deems for the best interest of the district: Provided, that the aggregate interest cost to maturity of the money received for such an issue shall not exceed seven percent (7%) per year. The commission may, if it deems it to the best interest of the district, provided in any contract for the construction or acquisition of the public utility, or the additions or betterments thereto or extensions thereof, that payment therefor shall be made only in such revenue bonds or warrants at par value.

Section 55. Registration of bonds -- prima facie validity. Prior to the issue and delivery of revenue bonds, they and a certified copy of the resolution authorizing them shall be forwarded by the commission to the state auditor together with any additional information that he may

require, and when the bonds have been examined they shall be registered by the auditor in books to be kept by him for that purpose and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him for the purpose. The bonds shall then be prima facie valid and binding obligations of the district in accordance with their terms, notwithstanding any defects or irregularities in the proceedings for the organization of the district and the election of the commissioners thereof or for the authorization and issuance of the bonds or in the sale, execution, or delivery thereof.

Section 56. Rates and charges. The commission of a district which has revenue bonds or warrants outstanding shall establish, maintain, and collect rates or charges for electric energy sold or supplied by the district, which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on the bonds or warrants and all payments which the district is obligated to set aside in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements, and renewals thereof.

Section 57. Funding and refunding bonds. When a district has outstanding utility revenue warrants or bonds, the commission may, by resolution provide for the issuance

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1 of funding or refunding bonds with which to refund the
 2 outstanding warrants or bonds or any part thereof at
 3 maturity, or before maturity if they are by their terms or
 4 by other agreement subject to call for prior redemption,
 5 with the right in the commission to combine various series
 6 and issues of the outstanding warrants or bonds by a single
 7 issue of funding or refunding bonds. The funding or
 8 refunding bonds shall be payable only out of a special fund
 9 created out of the gross revenue of the public utility, and
 10 shall only be a valid claim as against such special fund and
 11 the amount of the revenue of the utility pledged to the
 12 fund. The coupon rate of interest on funding or refunding
 13 bonds shall not exceed the coupon rate of interest on the
 14 warrants and bonds funded or refunded thereby. The
 15 commission may exchange the funding or refunding bonds at
 16 par for the warrants or bonds which are being funded or
 17 refunded, or it may sell them in such manner as it deems for
 18 the best interest of the district. The funding or refunding
 19 bonds shall, except as specifically provided in this
 20 section, be issued in accordance with the provisions with
 21 respect to utility revenue bonds and warrants.

22 Section 58. Bonds and coupons -- how signed. All
 23 revenue bonds or warrants, including funding and refunding
 24 bonds, shall be signed by the president of the commission,
 25 attested by the secretary, and the seal of the district

1 shall be affixed to each bond. The interest coupons may
 2 have printed or lithographed facsimiles of the signatures of
 3 such officers.

4 Section 59. Resolution as contract. The provisions of
 5 this title and of any resolution providing for the issuance
 6 of revenue bonds shall constitute a contract with the holder
 7 of the bonds or warrants and the obligations of the district
 8 and of any such resolution or resolutions shall be
 9 enforceable by any bond or warrant holder by appropriate
 10 action.

11 Section 60. Obligations as lawful securities and
 12 investments. All bonds and warrants issued under this title
 13 shall be legal securities, which may be used by a bank or
 14 trust company for deposit with the state treasurer, or a
 15 county or city or town treasurer, as security for deposits
 16 in lieu of a surety bond under any law relating to deposits
 17 of public moneys and shall constitute legal investments for
 18 trustees and other fiduciaries other than corporations doing
 19 a trust business in this state, and for savings and loan
 20 associations, banks and insurance companies doing business
 21 in this state. All such bonds and coupons appertaining
 22 thereto shall be negotiable instruments within the meaning
 23 and for all purposes of the negotiable instruments law.

24 Section 61. General obligation bonds -- resolution
 25 -- election. If general obligation bonds are to be issued,

1 the resolution shall specify the amount thereof, the rate of
2 interest thereon and the time in which they shall be paid,
3 not to exceed thirty (30) years.

4 If general district indebtedness is proposed and it
5 brings the district indebtedness to an amount exceeding one
6 and one half percent (1 1/2%) of the value of the taxable
7 property of the district, the proposition and the proposed
8 plan or system of the utility or improvement shall be
9 submitted to a vote of the district electors at the next
10 general district election.

11 Section 62. Bonds authorized. When a system or plan
12 for the utility or improvement has been adopted by a
13 majority vote, and three fifths (3/5) of the voters at the
14 election voting on the proposition have authorized the
15 indebtedness, general public utility bonds may be issued.

16 Section 63. Bonds -- form -- execution, etc. The
17 general bonds shall be serial in form and maturity, and
18 numbered from one (1) upwards consecutively. The various
19 annual maturities shall commence not later than the tenth
20 year after the date of issue. The resolution authorizing
21 the issuance of the bonds shall fix the rate of interest the
22 bonds shall bear, but not to exceed seven percent (7%), and
23 the place and date of the payment of the principal and
24 interest. The bonds shall be signed by the president and
25 attested by the secretary of the district and the district

1 seal shall be affixed to each bond, but not the coupons.
2 The coupons may bear the facsimile of the signatures of such
3 officers.

4 Section 64. General bonds -- payment. The principal
5 and interest of the general bonds shall be paid from the
6 revenue of the district, after deducting costs of
7 maintenance, operation, and expenses of the district, and
8 any deficit in the payment of principal and interest shall
9 be paid by levying each year a tax upon the taxable property
10 of the district sufficient therefor, which tax shall be due
11 and collectible as any other tax.

12 The bonds shall be sold in such manner as the
13 commission deems for the best interest of the district.

14 Section 65. Definitions. As used in this chapter:
15 (1) "Department of revenue" means the state department of
16 revenue.

17 (2) "Operating property" means all of the property
18 utilized by a public utility district in the operation of a
19 plant or system for the generation, transmission, or
20 distribution of electric energy for sale.

21 (3) "Taxing districts" means counties, cities, towns,
22 school districts, and road districts.

23 (4) "Distributes to consumers" means the sale of
24 electric energy to ultimate consumers thereof, and does not
25 include sales of electric energy for resale by the

1 purchaser.

2 Section 66. Tax imposed -- rates. There is hereby
3 levied and there shall be collected from every district a
4 tax for the act or privilege of engaging within this state
5 in the business of operating works, plants or facilities for
6 the generation, distribution and sale of electric energy.
7 With respect to each such district, such tax shall be the
8 sum of the following amounts:

9 (1) two percent (2%) of the gross revenues derived by
10 the district from the sale of all "distributed energy",
11 i.e., electric energy which it distributes to consumers but
12 neither generates nor purchases from generating districts;

13 (2) five percent (5%) of the gross revenues derived by
14 the district from the sale of all "self-generated and
15 distributed energy", i.e., the electric energy which it
16 distributes to customers and also generates; and

17 (3) five percent (5%) of the gross revenues derived by
18 the district from the sale of "distributed energy purchased
19 from another generating district", i.e., electric energy
20 which it distributes to consumers and also purchases from
21 another district which generated the same.

22 Section 67. District's report to tax commission. On or
23 before March 15 of each year, each district subject to this
24 tax shall file with the department of revenue a report
25 verified by the affidavit of its manager or secretary on

1 forms prescribed by the department of revenue. Such report
2 shall state (1) the taxing districts wherein the operating
3 property of the district is located;

4 (2) as to the entire property and as to each such
5 taxing district, the reproduction cost new and less
6 depreciation of such operating property insofar as that
7 information is available from the district's existing
8 records without taking additional inventory or procuring an
9 engineering report or survey;

10 (3) actual cost and general description of operating
11 property purchased or constructed;

12 (4) the district's separately stated gross revenues
13 for the preceding year derived from the sale of each of the
14 three (3) classes of electric energy described in the
15 preceding section; and

16 (5) such other and further information as the
17 department of revenue reasonably may require in order to
18 administer the provisions of this chapter. In case of
19 failure by a district to file such report, the department of
20 revenue may proceed to determine the information, which
21 determination shall be contestable by the district only for
22 actual fraud. The department of revenue shall proceed to
23 determine the fair cash market value of the operating
24 property of each and all of the districts taxable hereunder
25 as of December 31 last past, and the percentage thereof

1 located in each of the taxing districts wherein such
2 operating property is located.

3 Section 68. Tax computed -- payment -- disposition.
4 Prior to May 1, the department of revenue shall compute the
5 tax imposed by this chapter for the last preceding calendar
6 year and notify the district of the amount thereof, which
7 shall be payable on or before the following June 1. Upon
8 receipt of the amount of each tax imposed the department of
9 revenue shall deposit the same with the state treasurer, who
10 shall deposit four percent (4%) thereof in the general fund
11 of the state and shall distribute the remainder in the
12 manner hereinafter set forth. The state treasurer shall
13 send a duplicate copy of each such letter of transmittal to
14 the department of revenue, and the department of revenue
15 shall instruct the county treasurer or treasurers as to the
16 distribution of the money, as hereinafter provided.

17 Section 69. Apportionment of tax to taxing districts.
18 Immediately after the computation by the department of
19 revenue of the tax imposed by this chapter, the department
20 of revenue shall determine the amount of money which each
21 taxing district in which operating property of the district
22 is located would have received if the levies made in the
23 preceding calendar year for county, city, town, school
24 district, and road district purposes, not including excess
25 levies noted by the people, had been applied to the fair

1 cash market value of the district's operating property in
2 the taxing district. These amounts are referred to herein
3 as the "taxing district's tentative tax", their total for
4 all the taxing districts wherein the operating of a given
5 district is located is referred to herein as such district's
6 "aggregate taxing districts' tentative tax", and their total
7 for any county is herein referred to as the "county
8 districts' tentative tax".

9 With respect to each taxing district in which is
10 located a district's generating plants or transmission lines
11 utilized in the generation or transmission of electric
12 energy sold to other districts, the department of revenue
13 shall also determine the amount of money which each such
14 taxing district would have received if the levies made for
15 county, city, town, school district, and improvement
16 district purposes, had been applied to the fair cash market
17 value of such generating plants and/or transmission lines in
18 the taxing district. These amounts are referred to herein
19 as the "taxing district's tentative tax for generation or
20 transmission of energy sold" and their total for any county
21 is herein referred to as the "county district's tentative
22 tax for generation or transmission of energy sold".

23 Where any district generates electric energy, the whole
24 or any part of which it sells to other districts for
25 distribution to consumers by them, and the remainder, if

1 any, of which it distributes itself to consumers, in such
 2 case such selling district and each such purchasing district
 3 shall be deemed a "contributing district" and, for the
 4 purpose of distribution thereof, sixty percent (60%) of all
 5 the taxes payable by each such contributing district with
 6 respect to such electric energy so distributed to consumers
 7 shall be pooled by the department of revenue and distributed
 8 to each of the taxing districts in which the generating
 9 plants generating such energy or the transmission lines
 10 utilized for transmitting such energy are located. Such
 11 taxes shall be distributed to each such taxing district in
 12 the proportion which its "taxing district's tentative tax
 13 for generation or transmission of energy sold" bears to the
 14 total of such tentative taxes for all the taxing districts
 15 sharing therein.

16 The remainder of the taxes collectible from each
 17 district hereunder shall be distributed by the department of
 18 revenue to each taxing district in which the operating
 19 property of such district is located in the proportion that
 20 such "taxing district's tentative tax" bears to said
 21 district's "aggregate taxing districts' tentative tax":
 22 Provided, that none of such remainder shall be distributed
 23 on the basis of any "taxing district's tentative tax for
 24 generation and transmission of energy sold".

25 After deduction therefrom of the state tax of four

1 percent (4%), the remainder of each such tax payment by any
 2 district shall be distributed by the state treasurer to each
 3 county wherein the taxing districts entitled to any portion
 4 thereof are located, and shall in turn be distributed by the
 5 county treasurer of each such county to such taxing
 6 districts as hereinabove provided. All money received by
 7 the county shall be used exclusively for maintenance and
 8 operation of the district court and sheriff's office of the
 9 county; all moneys received by a city or town shall be
 10 expended exclusively for the fire and police departments of
 11 the particular city or town to which the same is thus
 12 apportioned; all moneys received by a school district shall
 13 be expended exclusively for the public schools in the
 14 particular school district to which the same is thus
 15 apportioned; all moneys transmitted to the county treasurer
 16 for road districts shall be expended exclusively for the
 17 maintenance and construction of public roads in the
 18 particular road districts to which the same is thus
 19 apportioned.

20 Section 70. Interest. Interest at the rate of six
 21 percent (6%) per year shall be added to the tax hereby
 22 imposed after the due date. The tax shall constitute a debt
 23 to the state and may be collected as such.

24 Section 71. Municipal taxes -- may be passed on. A
 25 city or town in which a public utility district operates

1 works, plants, or facilities for the distribution and sale
 2 of electricity may levy and collect from the district a tax
 3 on the gross revenues derived by the district from the sale
 4 of electricity within the city or town, exclusive of the
 5 revenues derived from the sale of electricity for purposes
 6 of resale. The tax when levied shall be a debt of the
 7 district, and may be collected as such. The district may
 8 add the amount of the tax to the rates or charges it makes
 9 for electricity so sold within the city or town.

10 Section 72. Additional tax for payment on bonded
 11 indebtedness of school districts. Whenever any district
 12 acquires an operating property from any private person,
 13 firm, or corporation and a portion of the operating property
 14 is situated within the boundaries of any school district and
 15 at the time of such acquisition there is any outstanding
 16 bonded indebtedness of the school district, then the public
 17 utility district shall, in addition to the tax imposed by
 18 this chapter, pay directly to the school district a
 19 proportion of all subsequent payments by the school district
 20 of principal and interest on said bonded indebtedness, said
 21 additional payments to be computed and paid as follows: The
 22 amount of principal and interest required to be paid by the
 23 school district shall be multiplied by the percentage which
 24 the assessed value of the property acquired bore to the
 25 assessed value of the total property in the school district

1 at the time of such acquisition. Such additional amounts
 2 shall be paid by the public utility district to the school
 3 district not less than fifteen (15) days prior to the date
 4 that such principal and interest payments are required to be
 5 paid by the school district. In addition, any public
 6 utility district which acquires from any private person,
 7 firm, or corporation an operating property situated within a
 8 school district, is authorized to make voluntary payments to
 9 such school district for the use and benefit of the school
 10 district.

11 Section 73. Consolidation of contiguous districts. Two
 12 (2) or more contiguous districts may consolidate into one
 13 (1) district, and a district may be enlarged by annexation.

14 Section 74. Districts not liable for taxes incurred
 15 prior to consolidation or annexation. No property of a
 16 former district shall be taxed to pay any indebtedness of
 17 any other former district, nor shall any property annexed be
 18 taxed to pay any indebtedness of a district incurred prior
 19 to annexation.

20 Section 75. Procedure for consolidation. Consolidation
 21 may be initiated by petition of ten percent (10%) of the
 22 electors in each of the districts to be joined by such
 23 consolidation, or by resolution of the governing commissions
 24 of each of the said districts. The procedure with reference
 25 to said petitions or resolutions shall thereafter be the

1 same as in the case of the formation of a district
2 hereinbefore set forth.

3 Section 76. Procedure for annexation. Annexation may
4 be initiated and accomplished in accordance with the
5 procedures established for alteration of the boundaries of
6 cities and towns by annexation as established by Chapter 5
7 of Title 11, Revised Codes of Montana, 1947.

8 Section 77. Elections not necessary in certain cases
9 of consolidation and annexation. If a district which
10 comprises less than an entire county is to be consolidated
11 with a district comprising one (1) or more entire counties,
12 no election need be held in the district comprising one (1)
13 or more entire counties. If a district comprising one (1)
14 or more entire counties is to be enlarged by annexing an
15 area less than an entire county, no election need be held in
16 the district comprising one (1) or more entire counties.

17 Section 78. Election of commissioners in a
18 consolidated district. In the event of consolidation where
19 the resulting district will comprise more than one (1)
20 county, the commissioners of the consolidating districts
21 shall divide the proposed consolidated district into three
22 (3) areas of equal population and area, so far as possible,
23 and the commission for the consolidated district shall be
24 elected from those district areas.

25 Existing commissioners shall serve only until the

1 election and qualification of the consolidated district
2 commissioners.

3 Section 79. Act shall be construed liberally and shall
4 control. The rule of strict construction shall have no
5 application to this act, but the same shall be liberally
6 construed, in order to carry out the purposes and objects
7 for which this act is intended.

8 If this act is held in conflict with any provision,
9 limitation or restriction in any other law, this act shall
10 govern and control.

11 Section 80. Severability. Adjudication of invalidity
12 of any section, clause, or part of a section of this act
13 shall not impair or otherwise affect the validity of the act
14 as a whole or any part thereof.

15 Section 81. Effective date. This act shall be in full
16 force and effect from and after its date of passage and
17 approval.

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