

1 *House* BILL NO. *677*
 2 INTRODUCED BY *Courtesy Cooney / [Signature]*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE PUBLICATION
 5 OF NOTICE REQUIREMENTS FOR COUNTY WATER AND SEWER DISTRICTS;
 6 AMENDING SECTIONS 16-4503, 16-4505, 16-4507, 16-4520,
 7 16-4527, AND 16-4533, R.C.M. 1947."

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

10 Section 1. Section 16-4503, R.C.M. 1947, is amended to
 11 read as follows:

12 "16-4503. Petition -- boundaries of district --
 13 publication. A petition, which may consist of any number of
 14 separate instruments, shall be presented at a regular
 15 meeting of the board of commissioners of the county in which
 16 the proposed district is located, signed by the registered
 17 voters within the boundaries of the proposed district, equal
 18 in number to at least ten per centum (10%) of the registered
 19 voters of the territory included in such proposed district.
 20 When the territory to be included in such proposed district
 21 lies in more than one county, a petition must be presented
 22 to the board of county commissioners of each county in which
 23 said territory lies and each of said petitions must be
 24 signed by at least ten per centum (10%) of the registered
 25 voters of the territory within said county to be included

1 within such proposed district. Such petition shall set forth
 2 and describe the proposed boundaries of such district, and
 3 shall pray that the same be incorporated under the
 4 provisions of this act, and the text of such petition shall
 5 be published ~~for ten (10) consecutive days in a daily~~
 6 ~~newspaper or in two (2) issues of a weekly once each week~~
 7 for 2 consecutive weeks in a newspaper printed and published
 8 in every county in which said territory lies, together with
 9 a notice stating the time of the meeting at which same will
 10 be presented. The first publication shall be at least two
 11 (2) weeks before the time at which the petition is to be
 12 presented. When contained upon more than one (1) instrument,
 13 one (1) copy only of such petition need be published. No
 14 more than five of the names attached to said petition need
 15 appear. In such publication of said petition and notice, but
 16 the number of signers shall be stated."

17 Section 2. Section 16-4505, R.C.M. 1947, is amended to
 18 read as follows:

19 "16-4505. Proposition submitted -- who may vote --
 20 certificate of secretary of state -- district deemed
 21 incorporated -- must hear testimony -- suit commenced within
 22 one year -- election. Upon such hearing of said petition,
 23 the board of commissioners shall determine whether or not
 24 said petition complies with the requirements of the
 25 provisions of this act, and for that purpose must hear all

1 competent and relevant testimony offered in support of or in
 2 opposition thereto. Such determination shall be entered
 3 upon the minutes of said board of commissioners. A finding
 4 of the board of commissioners in favor of the genuineness
 5 and sufficiency of the petition and notice shall be final
 6 and conclusive against all persons except the state of
 7 Montana upon suit commenced by the attorney general. Any
 8 such suit must be commenced within one (1) year after the
 9 order of the board of commissioners declaring such district
 10 organized as herein provided, and not otherwise. Upon the
 11 final determination of the boundaries of the district the
 12 board of commissioners of each county in which said district
 13 lies shall give notice of an election to be held in said
 14 proposed district for the purpose of determining whether or
 15 not the same shall be incorporated, the date of which
 16 election shall be not more than sixty (60) days from the
 17 date of the final hearing of such petition. Such notice
 18 shall describe the boundaries so established and shall state
 19 the proposed name of the proposed incorporation (which name
 20 shall contain the words ".... county water and/or sewer
 21 district"), and this notice shall be published ~~for ten (10)~~
 22 ~~consecutive days in a daily newspaper or in two (2) issues~~
 23 ~~of a weekly once each week for 2 consecutive weeks in a~~
 24 newspaper printed and published in every county in which
 25 said district lies. The first publication shall be made at

1 least two (2) weeks before the time at which the election is
 2 to be held. At such election the proposition to be submitted
 3 shall be: "Shall the proposition to organize county
 4 water and/or sewer district under (naming the chapter
 5 containing this act) of the acts of the session of the
 6 Montana legislature and amendments thereto be adopted?" And
 7 the election thereupon shall be conducted, the vote
 8 canvassed and the result declared in the same manner as
 9 provided by law in respect to general elections, so far as
 10 they may be applicable, except as in this act otherwise
 11 provided. No person shall be entitled to vote at any
 12 election under the provisions of this act unless such person
 13 possesses all the qualifications required of voters under
 14 the general election laws of the state, and is a resident of
 15 the proposed district or the owner of taxable real property
 16 located within the county in which he proposes to vote and
 17 situated within the boundaries of the proposed district;
 18 provided however a person who is the owner of such real
 19 property need not possess the qualifications required of a
 20 voter in subsection (1)(c) of section 23-2701, R.C.M. 1947;
 21 provided further that such voter shall be qualified if he is
 22 registered to vote in any state of the United States. Within
 23 four (4) days after such election the vote shall be
 24 canvassed by the board of commissioners. If at least forty
 25 percent (40%) of all registered voters residing within the

1 proposed district have voted and if a majority of the votes
 2 cast at such election in each municipal corporation or part
 3 thereof and in the unincorporated territory of each county
 4 included in such proposed district shall be in favor of
 5 organizing such county district, said board of each such
 6 county shall by an order entered on its minutes declare the
 7 territory enclosed within the proposed boundaries duly
 8 organized as a county water and/or sewer district under the
 9 name theretofore designated, and the county clerk of each
 10 such county shall immediately cause to be filed with the
 11 secretary of state and shall cause to be recorded in the
 12 office of the county recorder of the county or counties in
 13 which such district is situated, each, a certificate stating
 14 that such a proposition was adopted. Upon the receipt of
 15 such last-mentioned certificate the secretary of state
 16 shall, within ten (10) days, issue his certificate reciting
 17 that the district (naming it) has been duly incorporated
 18 according to the laws of the state of Montana. A copy of
 19 such certificate shall be transmitted to and filed with the
 20 county clerk of the county or counties in which such
 21 district is situated. From and after the date of such
 22 certificate, the district named therein shall be deemed
 23 incorporated, with all the rights, privileges and powers set
 24 forth in this act and necessarily incident thereto. In case
 25 less than a majority of the votes cast are in favor of said

1 proposition the organization fails but without prejudice to
 2 renewing proceedings at any time in the future."

3 Section 3. Section 16-4507, R.C.M. 1947, is amended to
 4 read as follows:

5 "16-4507. Nomination of officers. (1) The mode of
 6 nomination and election of all elective officers of such
 7 district to be voted for at any district election and the
 8 mode of appointment of a director or directors by said mayor
 9 or mayors or by said board of commissioners shall be as
 10 follows and not otherwise.

11 (2) The name of a candidate shall be printed upon the
 12 ballot when a petition of nomination shall have been filed
 13 in his behalf in the manner and form and under the
 14 conditions hereinafter set forth.

15 (3) The petition of nomination shall consist of not
 16 less than five (5) individual certificates, which shall read
 17 substantially as follows:

18 PETITION OF NOMINATION
 19 Individual Certificate
 20 State of
 21 County of
 22 Prect. No.

23 I, the undersigned, certify that I do hereby join in a
 24 petition for the nomination of, whose residence is at
 25 for the office of of the district to be voted

1 for at the district election to be held in the district
 2 on the day of, 19...; and I further certify that I
 3 am a qualified elector and an owner or lessee of real
 4 property within said district, or a resident therein, and am
 5 not at this time a signer of any other petition nominating
 6 any other candidate for the above named office; or, in case
 7 there are several places to be filled in the above named
 8 office, that I have not signed more petitions than there are
 9 places to be filled in the above named office; that my
 10 residence is at No. street,, and that my
 11 occupation is

(Signed)

12 State of Montana

13 County of

14
 15 being duly sworn, deposes and says that he is the
 16 person who signed the foregoing certificate and that the
 17 statements therein are true and correct.

18 (Signed)

19 Subscribed and sworn to before me this day of
 20 19...

21

22 Notary Public

23 The petition of nomination of which this certificate
 24 forms a part shall, if found insufficient, be returned to
 25, at, Montana.

1 (4) Clerk to furnish forms. It shall be the duty of
 2 the county clerk to furnish upon application a reasonable
 3 number of forms of individual certificates of the above
 4 character. If the district lies in more than one county, the
 5 county clerk whose county contains the largest percentage of
 6 the territory of said district shall fulfill this function.

7 (5) Certificates. Each certificate must be a separate
 8 paper. All certificates must be of uniform size as
 9 determined by the county clerk. Each certificate must
 10 contain the name of one signer thereto and no more. Each
 11 certificate shall contain the name of one candidate and no
 12 more. Each signer must be a qualified elector owning real
 13 property or residing within said district, must not at the
 14 time of signing a certificate have his name signed to any
 15 other certificate for any other candidate for the same
 16 office, or, in case there are several places to be filled in
 17 the same office, signed to more certificates for candidates
 18 for that office than there are places to be filled in such
 19 office. In case an elector has signed two or more
 20 conflicting certificates, all such certificates shall be
 21 rejected. Each signer must verify his certificate and make
 22 oath that the same is true, before a notary public. Each
 23 certificate shall further contain the name and address of
 24 the person to whom the petition is to be returned in case
 25 said petition is found insufficient.

1 (6) Presentation of petition. A petition of
 2 nomination, consisting of not less than five (5) individual
 3 certificates for any one candidate, may be presented to the
 4 county clerk not earlier than forty-five (45) days nor later
 5 than thirty (30) days before the election. The county clerk
 6 shall endorse thereon the date upon which the petition was
 7 presented to him. If the district lies in more than one
 8 county, such petition for nomination shall be presented to
 9 the county clerk whose county contains the largest
 10 percentage of the territory of said district and said county
 11 clerk shall fulfill all duties assigned to county clerks in
 12 elections under this act.

13 (7) Examination of petition. When a petition of
 14 nomination is presented for filing to the county clerk, he
 15 shall forthwith examine the same, and ascertain whether or
 16 not it conforms to the provisions of this section. If found
 17 not to conform thereto, he shall then and there in writing
 18 designate on said petition the defect or omission or reason
 19 why such petition cannot be filed, and shall return the
 20 petition to the person named as the person to whom the same
 21 may be returned in accordance with this section. The
 22 petition may then be amended and again presented to the
 23 clerk as in the first instance. The clerk shall forthwith
 24 proceed to examine the petition as hereinbefore provided. If
 25 necessary, the board of commissioners shall provide extra

1 help to enable the clerk to perform satisfactorily and
 2 promptly the duties imposed by this section.

3 (8) Signer may withdraw name. Any signer to a petition
 4 of nomination and certificate may withdraw his name from the
 5 same by filing with the county clerk a verified revocation
 6 of his signature before the filing of his petition by the
 7 clerk, and not otherwise. He shall then be at liberty to
 8 sign a petition for another candidate for the same office.

9 (9) Candidate may withdraw. Any person whose name has
 10 been presented under this section as a candidate may, not
 11 later than twenty-five (25) days before the day of election,
 12 cause his name to be withdrawn from nomination by filing
 13 with the county clerk a request therefor in writing, and no
 14 name so withdrawn shall be printed upon the ballot. If, upon
 15 such withdrawal, the number of candidates remaining does not
 16 exceed the number to be elected, then other nominations may
 17 be made by filing petitions therefor not later than
 18 twenty-five (25) days prior to such election.

19 (10) Petition filed. If either the original or amended
 20 petition of nomination be found sufficiently signed as
 21 hereinbefore provided, the clerk shall file the same
 22 twenty-five (25) days before the date of the election. When
 23 a petition of nomination shall have been filed by the clerk
 24 it shall not be withdrawn or added to and no signatures
 25 shall be revoked thereafter.

1 (11) Petitions preserved. The county clerk shall
2 preserve in his office for a period of two years, all
3 petitions of nomination and all certificates belonging
4 thereto, filed under this section.

5 (12) List of candidates. Immediately after such
6 petitions are filed, the county clerk shall enter the names
7 of the candidates in a list, with the offices to be filled,
8 and shall not later than twenty (20) days before the
9 election certify such list as being the list of candidates
10 nominated as required by the provisions of this act, and the
11 board of commissioners of each county in which the district
12 lies shall cause said certified list of names and the
13 offices to be filled, to be published in the proclamation
14 calling the election at least ten--~~(10) successive days~~
15 ~~before the election in at least one (1) but not more than~~
16 ~~three--(3) newspapers once each week for 2 consecutive weeks~~
17 in a newspaper of general circulation published in each
18 county in which such district is located. Such proclamation
19 shall conform in all respects to the general state law
20 governing the conduct of general elections now or hereafter
21 in force, applicable thereto, except as otherwise herein
22 provided.

23 (13) Ballots. Form. The county clerk shall cause the
24 ballots to be printed and bound and numbered as provided by
25 said general state law, except as otherwise required in this

1 act. The ballots shall contain the list of names and the
2 respective offices as published in the proclamation and
3 shall be in substantially the following form:

4 GENERAL (OR SPECIAL) DISTRICT ELECTION

5 District,

6 (Inserting date thereof.)

7 Instructions to Voters: To vote, stamp or write a cross
8 (x) opposite the name of the candidate for whom you desire
9 to vote. All marks otherwise made are forbidden. All
10 distinguishing marks are forbidden and make the ballot void.
11 If you wrongly mark, tear or deface this ballot, return it
12 to the inspector of election, and obtain another.

13 (14) How printed. All ballots printed shall be
14 precisely on the same size, quality, tint of paper, kind of
15 type, and color of ink, so that without the number it would
16 be impossible to distinguish one ballot from another; and
17 the names of all candidates printed upon the ballot shall be
18 in type of the same size and style. A column may be provided
19 on the right-hand side for questions to be voted upon at
20 district election, as provided for under this act. The names
21 of the candidates for each office shall be arranged in
22 alphabetical order, and nothing on the ballot shall be
23 indicative of the source of the candidacy or of the support
24 of any candidate.

25 (15) No candidate omitted. The name of no candidate who

1 has been duly and regularly nominated, and who has not
2 withdrawn his name as herein provided shall be omitted from
3 the ballot.

4 (16) Office. The offices to be filled shall be arranged
5 in the following order: "For director: vote for (giving
6 number)."

7 (17) Voting squares. Half-inch square shall be provided
8 at the right of the name of each candidate wherein to mark
9 the cross.

10 (18) Spaces below printed names. Half-inch spaces shall
11 be left below the printed names of candidates for each
12 office, equal in number to the number to be voted for,
13 wherein the voter may write the name of any person or
14 persons for whom he may wish to vote.

15 (19) Votes necessary to elect. In case there is but one
16 person to be elected to an office, the candidate receiving a
17 majority of the votes cast for all the candidates for that
18 office, shall be declared elected; in case there are two or
19 more persons to be elected to an office, as that of
20 director, then those candidates equal in number to the
21 number to be elected, who receive the highest number of
22 votes for such office shall be declared elected.

23 (20) Failure to qualify. If a person elected fails to
24 qualify, the office shall be filled as if there were a
25 vacancy in such office, as hereinafter provided.

1 (21) Mode of appointment by mayor. The mode of
2 appointment of director or directors by a mayor, or by a
3 board of commissioners, shall be by certificate of
4 appointment signed by said mayor or mayors, or issued by
5 said board of commissioners, and transmitted to the board of
6 directors of said district.

7 (22) Informality not to invalidate. No informality in
8 conducting district elections shall invalidate the same, if
9 they have been conducted by directors to fill a vacancy, or
10 appointed by a mayor or by this act."

11 Section 4. Section 16-4520, R.C.M. 1947, is amended to
12 read as follows:

13 "16-4520. Publication. Such notice shall be published
14 ~~for ten (10) consecutive days in a daily newspaper or in two~~
15 ~~(2) issues of a weekly once each week for 2 consecutive~~
16 ~~weeks in a newspaper~~ published in each county wherein such
17 district is located, which newspaper or newspapers shall be
18 designated by the board of directors. Every qualified
19 elector, owning or residing upon real property, within such
20 voting precincts, but no others, shall be entitled to vote
21 at such election. All the expenses of holding such election
22 shall be borne by the district."

23 Section 5. Section 16-4527, R.C.M. 1947, is amended to
24 read as follows:

25 "16-4527. Commissioners to levy water taxes. If from

1 any cause, the revenues of the district shall be inadequate
 2 to pay the interest or principal of any bonded debt as it
 3 becomes due or any other expenses or claims against the
 4 district, then the board of directors must, at least fifteen
 5 (15) days before the first day of the month in which the
 6 board of commissioners of the county, or city and county, or
 7 counties in which such district is located, are required by
 8 law to levy the amount of taxes required for county or city
 9 and county purposes, furnish to the board or boards of
 10 commissioners, and to the auditor or auditors, respectively,
 11 an estimate in writing of the amount of money required by
 12 the district for the payment of the principal of or interest
 13 on any bonded debt as it becomes due, and of the amount of
 14 money required to establish reasonable reserve funds for
 15 either of said purposes, together with a description of the
 16 lands benefited thereby, as stated by the board of directors
 17 in the resolution declaring the necessity to incur such
 18 bonded indebtedness, and also of the amount of money
 19 required by the district for any other purpose in this
 20 section set forth, and the board of commissioners of such
 21 county or city and county must annually, at the time and in
 22 the manner of levying other county or city and county taxes
 23 and until any such bonded debt is fully paid, levy upon the
 24 lands so benefited and cause to be collected, the
 25 proportionate share to be borne by the land located in their

1 county of a tax sufficient for the payment thereof to be
 2 known as the ".... district bond tax"; and until all other
 3 expenses or claims are fully paid, levy upon all of the
 4 lands of the district and cause to be collected the
 5 proportionate share to be borne by the land located in their
 6 county of a tax sufficient for the payment thereof to be
 7 known as the ".... district water and/or sewer tax.

8 When the amount of money required for any purpose in
 9 this section enumerated has been determined, each lot or
 10 parcel of land to be assessed shall be assessed with that
 11 part of the amount of money required which its area bears to
 12 the total area of all of the lands to be assessed; or said
 13 assessment may, at the option of the board or boards of
 14 county commissioners, be based upon the taxable valuation,
 15 as stated in the last completed county assessment roll, of
 16 the lots or parcels of land, exclusive of improvements
 17 thereon, within said district, in which case, each lot or
 18 parcel of land to be assessed shall be assessed with that
 19 part of the amount of money required which its taxable
 20 valuation bears to the total taxable valuation of all of the
 21 lands to be assessed. Provided however that where the
 22 district lies in more than one county, the same method of
 23 assessment shall be used by each board of county
 24 commissioners.

25 When the written estimate of the amount of money

1 required has been delivered to the board of commissioners,
 2 said board shall give notice of its intention to levy and
 3 collect a tax sufficient for the payment thereof. Such
 4 notice shall be given:

5 (1) By posting notice thereof in five (5) public
 6 places within the county and within the boundaries of the
 7 lands upon which the tax is to be levied, and

8 (2) By publishing a copy of the notice ~~for ten (10)~~
 9 ~~consecutive days in a daily newspaper or in two (2) issues~~
 10 ~~of a weekly once each week for 2 consecutive weeks in a~~
 11 newspaper published in each county wherein the district is
 12 located.

13 (3) By forwarding regular first class mail or
 14 registered mail, at least ten (10) days prior to the hearing
 15 provided for in paragraph (d) of this section, a copy of the
 16 notice addressed to the owners of taxable real property
 17 within the district as shown by the current assessment book
 18 on file in the office of the assessor of the county or
 19 counties the boundaries of which include taxable real
 20 property of the district.

21 The legislative assembly hereby finds, determines and
 22 declares that the giving of notice in accordance with
 23 paragraphs (1), (2) and (3) of this section is reasonably
 24 calculated to inform the owners of taxable real property
 25 located within the boundaries of the district of the hearing

1 provided for in paragraph (d) of this section, and that the
 2 giving of any further notice is impracticable and is
 3 unnecessary to the assurance of due process of law to such
 4 property owners.

5 Such notice shall state:

6 (a) The amount of money required;

7 (b) The method of assessment which the board or boards
 8 of commissioners intends to employ;

9 (c) The boundaries or description of the lands to be
 10 assessed, which said boundaries or description may be
 11 recited in full, or may be given by reference to any
 12 instrument on file or of record in the office of the clerk
 13 and recorder, treasurer or assessor of the county or
 14 counties in which the district or part thereof is situate;
 15 and

16 (d) The time when and the place where, the board or
 17 boards of commissioners will hear and pass upon all protests
 18 that may be made against the levy of the tax or any matter
 19 pertaining thereto, which said hearing shall be had no less
 20 than fifteen (15) days after the last publication of the
 21 notice.

22 At the time and place designated for said hearing any
 23 owner of property situated within the area to be assessed
 24 may appear and protest the levy of the tax or any matter
 25 pertaining thereto. All protests must be heard, considered

1 and ruled upon by the board of commissioners. The board of
2 commissioners may adjourn said hearing from time to time.

3 Where such tax is, for any reason, deemed unlawful by
4 the person whose property is taxed, whether he has protested
5 the same at the hearing above provided or not, he may pay
6 the tax or the installments thereof under protest in the
7 manner provided by section 84-4502, and thereupon, and
8 within the time prescribed and in the manner provided by
9 said section 84-4502, may commence an action to recover such
10 tax, or installments, and in such action contest and
11 litigate the payment of such tax on the same grounds and for
12 the same reasons that he has stated in his written protest,
13 and for no other reasons and on no other grounds; provided,
14 that all of the provisions of said section 84-4502 for the
15 retention or refunding of taxes paid under protest shall
16 apply to taxes paid under protest under this section."

17 Section 6. Section 16-4533, R.C.M. 1947, is amended to
18 read as follows:

19 "16-4533. Exclusion of territory -- petition --
20 contents -- duties of secretary -- hearing -- order
21 excluding lands. Any territory, included within any district
22 formed under the provisions of this act, and not benefited
23 in any manner by such district, or its continued inclusion
24 therein, may be excluded therefrom by order of the board of
25 directors of such district upon the verified petition of the

1 owner or owners in fee of lands whose assessed value, with
2 improvements, is in excess of one-half of the assessed value
3 of all the lands, with improvements, held in private
4 ownership in such territory. Said petition shall describe
5 the territory sought to be excluded and shall set forth that
6 such territory is not benefited in any manner by said
7 district or its continued inclusion therein, and shall pray
8 that such territory may be excluded and taken from said
9 district. Such petition shall be filed with the secretary of
10 the district and shall be accompanied by a deposit with such
11 secretary of the sum of one hundred dollars (\$100.00), to
12 meet the expenses of advertising and other costs incident to
13 the proceedings for the exclusion of such territory,
14 including the cost of recording a certified copy of the
15 order hereinafter provided for, any unconsumed balance to be
16 returned to the petitioner. Upon the filing of such petition
17 with the secretary of the district he shall call a meeting
18 of the board of directors of the district at a time not less
19 than twenty-five (25) days nor more than fifty (50) days
20 after the filing of the petition and cause a notice of the
21 filing of such petition to be published ~~for ten (10)~~
22 ~~consecutive days in a daily newspaper or in two (2) issues~~
23 ~~of a weekly newspaper within said district, if there be one~~
24 ~~and if not, in some~~ once each week for 2 consecutive weeks
25 in a newspaper of general circulation published in each

1 county in which the district is situated. Such notice shall
 2 also state the date of the filing of such petition and that
 3 the same will come on for hearing before the board of
 4 directors of the district and shall state the time of the
 5 hearing and the place thereof, which shall be the regular
 6 meeting place of the board of directors of the district;
 7 provided, that the board may adjourn the hearing to a more
 8 convenient meeting place within the district. Any landowner
 9 or taxpayer within the district shall have the right to
 10 appear at said hearing, either in behalf of or in opposition
 11 to the granting of said petition. Said petition shall come
 12 on for hearing before the board of directors of the district
 13 at the time and place specified in the notice of hearing. If
 14 upon such hearing the board of directors determines that it
 15 is for the best interests of the district that the lands
 16 mentioned in the petition, or some portion thereof, be
 17 excluded from the district, or if it appears that such
 18 lands, or some portion thereof, will not be benefited by
 19 their continued inclusion in the district, then the board of
 20 directors shall make an order that such lands, or such
 21 portion thereof, be excluded from the district, such order
 22 to describe specifically the lands so excluded. From the
 23 time of the making of such order the lands so excluded shall
 24 be deemed to be no longer included in the district, but such
 25 order of exclusion shall not be taken to invalidate in any

1 manner any taxes or assessments theretofore levied or
 2 assessed against the lands so excluded. A copy of such order
 3 of exclusion, certified to by the secretary of the district,
 4 shall be recorded in the office of the county recorder of
 5 the county or counties in which the district is situated and
 6 the record of such certified copy shall be deemed prima
 7 facie evidence of the exclusion from the district of the
 8 lands purporting to be excluded thereby."

-End-

Approved by Comm.
on Local Government

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2 INTRODUCED BY *Country Cooney / Representative White*
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19 voters of the territory included in such proposed district.
20 When the territory to be included in such proposed district
21 lies in more than one county, a petition must be presented
22 to the board of county commissioners of each county in which
23 said territory lies and each of said petitions must be
24 signed by at least ten per centum (10%) of the registered
25 voters of the territory within said county to be included

1 within such proposed district. Such petition shall set forth
2 and describe the proposed boundaries of such district, and
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24 said petition complies with the requirements of the
25 provisions of this act, and for that purpose must hear all

There are no changes in *HB 677*, & will not be re-run.

Please refer to white copy for complete text. SECOND READING

HB 677

1 competent and relevant testimony offered in support of or in
 2 opposition thereto. Such determination shall be entered
 3 upon the minutes of said board of commissioners. A finding
 4 of the board of commissioners in favor of the genuineness
 5 and sufficiency of the petition and notice shall be final
 6 and conclusive against all persons except the state of
 7 Montana upon suit commenced by the attorney general. Any
 8 such suit must be commenced within one (1) year after the
 9 order of the board of commissioners declaring such district
 10 organized as herein provided, and not otherwise. Upon the
 11 final determination of the boundaries of the district the
 12 board of commissioners of each county in which said district
 13 lies shall give notice of an election to be held in said
 14 proposed district for the purpose of determining whether or
 15 not the same shall be incorporated, the date of which
 16 election shall be not more than sixty (60) days from the
 17 date of the final hearing of such petition. Such notice
 18 shall describe the boundaries so established and shall state
 19 the proposed name of the proposed incorporation (which name
 20 shall contain the words ".... county water and/or sewer
 21 district"), and this notice shall be published ~~for ten (10)~~
 22 ~~consecutive days in a daily newspaper or in two (2) issues~~
 23 ~~of a weekly once each week for 2 consecutive weeks in a~~
 24 newspaper printed and published in every county in which
 25 said district lies. The first publication shall be made at

1 least two (2) weeks before the time at which the election is
 2 to be held. At such election the proposition to be submitted
 3 shall be: "Shall the proposition to organize county
 4 water and/or sewer district under (naming the chapter
 5 containing this act) of the acts of the session of the
 6 Montana legislature and amendments thereto be adopted?" And
 7 the election thereupon shall be conducted, the vote
 8 canvassed and the result declared in the same manner as
 9 provided by law in respect to general elections, so far as
 10 they may be applicable, except as in this act otherwise
 11 provided. No person shall be entitled to vote at any
 12 election under the provisions of this act unless such person
 13 possesses all the qualifications required of voters under
 14 the general election laws of the state, and is a resident of
 15 the proposed district or the owner of taxable real property
 16 located within the county in which he proposes to vote and
 17 situated within the boundaries of the proposed district;
 18 provided however a person who is the owner of such real
 19 property need not possess the qualifications required of a
 20 voter in subsection (1)(c) of section 23-2701, R.C.M. 1947;
 21 provided further that such voter shall be qualified if he is
 22 registered to vote in any state of the United States. Within
 23 four (4) days after such election the vote shall be
 24 canvassed by the board of commissioners. If at least forty
 25 percent (40%) of all registered voters residing within the

1 *House* BILL NO. *677*
 2 INTRODUCED BY *Courtesy Cooney / [Signature]*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE PUBLICATION
 5 OF NOTICE REQUIREMENTS FOR COUNTY WATER AND SEWER DISTRICTS;
 6 AMENDING SECTIONS 16-4503, 16-4505, 16-4507, 16-4520,
 7 16-4527, AND 16-4533, R.C.M. 1947."

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

10 Section 1. Section 16-4503, R.C.M. 1947, is amended to
 11 read as follows:

12 "16-4503. Petition -- boundaries of district --
 13 publication. A petition, which may consist of any number of
 14 separate instruments, shall be presented at a regular
 15 meeting of the board of commissioners of the county in which
 16 the proposed district is located, signed by the registered
 17 voters within the boundaries of the proposed district, equal
 18 in number to at least ten per centum (10%) of the registered
 19 voters of the territory included in such proposed district.
 20 When the territory to be included in such proposed district
 21 lies in more than one county, a petition must be presented
 22 to the board of county commissioners of each county in which
 23 said territory lies and each of said petitions must be
 24 signed by at least ten per centum (10%) of the registered
 25 voters of the territory within said county to be included

There are no changes in *HB 677*, & will not be re-run.

Please refer to white copy for complete text. THIRD READING

1 within such proposed district. Such petition shall set forth
 2 and describe the proposed boundaries of such district, and
 3 shall pray that the same be incorporated under the
 4 provisions of this act, and the text of such petition shall
 5 be published ~~for ten (10) consecutive days in a daily~~
 6 ~~newspaper or in two (2) issues of a weekly~~ once each week
 7 for 2 consecutive weeks in a newspaper printed and published
 8 in every county in which said territory lies, together with
 9 a notice stating the time of the meeting at which same will
 10 be presented. The first publication shall be at least two
 11 (2) weeks before the time at which the petition is to be
 12 presented. When contained upon more than one (1) instrument,
 13 one (1) copy only of such petition need be published. No
 14 more than five of the names attached to said petition need
 15 appear in such publication of said petition and notice, but
 16 the number of signers shall be stated."

17 Section 2. Section 16-4505, R.C.M. 1947, is amended to
 18 read as follows:

19 "16-4505. Proposition submitted -- who may vote --
 20 certificate of secretary of state -- district deemed
 21 incorporated -- must hear testimony -- suit commenced within
 22 one year -- election. Upon such hearing of said petition,
 23 the board of commissioners shall determine whether or not
 24 said petition complies with the requirements of the
 25 provisions of this act, and for that purpose must hear all

HB 677

1 competent and relevant testimony offered in support of or in
 2 opposition thereto. Such determination shall be entered
 3 upon the minutes of said board of commissioners. A finding
 4 of the board of commissioners in favor of the genuineness
 5 and sufficiency of the petition and notice shall be final
 6 and conclusive against all persons except the state of
 7 Montana upon suit commenced by the attorney general. Any
 8 such suit must be commenced within one (1) year after the
 9 order of the board of commissioners declaring such district
 10 organized as herein provided, and not otherwise. Upon the
 11 final determination of the boundaries of the district the
 12 board of commissioners of each county in which said district
 13 lies shall give notice of an election to be held in said
 14 proposed district for the purpose of determining whether or
 15 not the same shall be incorporated, the date of which
 16 election shall be not more than sixty (60) days from the
 17 date of the final hearing of such petition. Such notice
 18 shall describe the boundaries so established and shall state
 19 the proposed name of the proposed incorporation (which name
 20 shall contain the words ".... county water and/or sewer
 21 district"), and this notice shall be published ~~for ten (10)~~
 22 ~~consecutive days in a daily newspaper or in two (2) issues~~
 23 ~~of a weekly once each week for 2 consecutive weeks in a~~
 24 newspaper printed and published in every county in which
 25 said district lies. The first publication shall be made at

1 least two (2) weeks before the time at which the election is
 2 to be held. At such election the proposition to be submitted
 3 shall be: "Shall the proposition to organize county
 4 water and/or sewer district under (naming the chapter
 5 containing this act) of the acts of the session of the
 6 Montana legislature and amendments thereto be adopted?" And
 7 the election thereupon shall be conducted, the vote
 8 canvassed and the result declared in the same manner as
 9 provided by law in respect to general elections, so far as
 10 they may be applicable, except as in this act otherwise
 11 provided. No person shall be entitled to vote at any
 12 election under the provisions of this act unless such person
 13 possesses all the qualifications required of voters under
 14 the general election laws of the state, and is a resident of
 15 the proposed district or the owner of taxable real property
 16 located within the county in which he proposes to vote and
 17 situated within the boundaries of the proposed district;
 18 provided however a person who is the owner of such real
 19 property need not possess the qualifications required of a
 20 voter in subsection (1)(c) of section 23-2701, R.C.M. 1947;
 21 provided further that such voter shall be qualified if he is
 22 registered to vote in any state of the United States. Within
 23 four (4) days after such election the vote shall be
 24 canvassed by the board of commissioners. If at least forty
 25 percent (40%) of all registered voters residing within the

HOUSE BILL NO. 677

INTRODUCED BY COURTNEY, COONEY, HUENNEKENS, UHDE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE PUBLICATION OF NOTICE REQUIREMENTS FOR COUNTY WATER AND SEWER DISTRICTS; AMENDING SECTIONS 16-4503, 16-4505, 16-4507, 16-4520, 16-4527, AND 16-4533, R.C.M. 1947."

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

Section 1. Section 16-4503, R.C.M. 1947, is amended to read as follows:

"16-4503. Petition -- boundaries of district -- publication. A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of commissioners of the county in which the proposed district is located, signed by the registered voters within the boundaries of the proposed district, equal in number to at least ten per centum (10%) of the registered voters of the territory included in such proposed district. When the territory to be included in such proposed district lies in more than one county, a petition must be presented to the board of county commissioners of each county in which said territory lies and each of said petitions must be signed by at least ten per centum (10%) of the registered voters of the territory within said county to be included

within such proposed district. Such petition shall set forth and describe the proposed boundaries of such district, and shall pray that the same be incorporated under the provisions of this act, and the text of such petition shall be published ~~for ten (10) consecutive days in a daily newspaper or in two (2) issues of a weekly~~ once each week for 2 consecutive weeks in a newspaper printed and published in every county in which said territory lies, together with a notice stating the time of the meeting at which same will be presented. The first publication shall be at least two (2) weeks before the time at which the petition is to be presented. When contained upon more than one (1) instrument, one (1) copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated."

Section 2. Section 16-4505, R.C.M. 1947, is amended to read as follows:

"16-4505. Proposition submitted -- who may vote -- certificate of secretary of state -- district deemed incorporated -- must hear testimony -- suit commenced within one year -- election. Upon such hearing of said petition, the board of commissioners shall determine whether or not said petition complies with the requirements of the provisions of this act, and for that purpose must hear all

1 competent and relevant testimony offered in support of or in
 2 opposition thereto. Such determination shall be entered
 3 upon the minutes of said board of commissioners. A finding
 4 of the board of commissioners in favor of the genuineness
 5 and sufficiency of the petition and notice shall be final
 6 and conclusive against all persons except the state of
 7 Montana upon suit commenced by the attorney general. Any
 8 such suit must be commenced within one (1) year after the
 9 order of the board of commissioners declaring such district
 10 organized as herein provided, and not otherwise. Upon the
 11 final determination of the boundaries of the district the
 12 board of commissioners of each county in which said district
 13 lies shall give notice of an election to be held in said
 14 proposed district for the purpose of determining whether or
 15 not the same shall be incorporated, the date of which
 16 election shall be not more than sixty (60) days from the
 17 date of the final hearing of such petition. Such notice
 18 shall describe the boundaries so established and shall state
 19 the proposed name of the proposed incorporation (which name
 20 shall contain the words ".... county water and/or sewer
 21 district"), and this notice shall be published ~~for ten (10)~~
 22 ~~consecutive days in a daily newspaper or in two (2) issues~~
 23 ~~of a weekly once each week for 2 consecutive weeks in a~~
 24 newspaper printed and published in every county in which
 25 said district lies. The first publication shall be made at

1 least two (2) weeks before the time at which the election is
 2 to be held. At such election the proposition to be submitted
 3 shall be: "Shall the proposition to organize county
 4 water and/or sewer district under (naming the chapter
 5 containing this act) of the acts of the session of the
 6 Montana legislature and amendments thereto be adopted?" And
 7 the election thereupon shall be conducted, the vote
 8 canvassed and the result declared in the same manner as
 9 provided by law in respect to general elections, so far as
 10 they may be applicable, except as in this act otherwise
 11 provided. No person shall be entitled to vote at any
 12 election under the provisions of this act unless such person
 13 possesses all the qualifications required of voters under
 14 the general election laws of the state, and is a resident of
 15 the proposed district or the owner of taxable real property
 16 located within the county in which he proposes to vote and
 17 situated within the boundaries of the proposed district;
 18 provided however a person who is the owner of such real
 19 property need not possess the qualifications required of a
 20 voter in subsection (1)(c) of section 23-2701, R.C.M. 1947;
 21 provided further that such voter shall be qualified if he is
 22 registered to vote in any state of the United States. Within
 23 four (4) days after such election the vote shall be
 24 canvassed by the board of commissioners. If at least forty
 25 percent (40%) of all registered voters residing within the

1 proposed district have voted and if a majority of the votes
 2 cast at such election in each municipal corporation or part
 3 thereof and in the unincorporated territory of each county
 4 included in such proposed district shall be in favor of
 5 organizing such county district, said board of each such
 6 county shall by an order entered on its minutes declare the
 7 territory enclosed within the proposed boundaries duly
 8 organized as a county water and/or sewer district under the
 9 name theretofore designated, and the county clerk of each
 10 such county shall immediately cause to be filed with the
 11 secretary of state and shall cause to be recorded in the
 12 office of the county recorder of the county or counties in
 13 which such district is situated, each, a certificate stating
 14 that such a proposition was adopted. Upon the receipt of
 15 such last-mentioned certificate the secretary of state
 16 shall, within ten (10) days, issue his certificate reciting
 17 that the district (naming it) has been duly incorporated
 18 according to the laws of the state of Montana. A copy of
 19 such certificate shall be transmitted to and filed with the
 20 county clerk of the county or counties in which such
 21 district is situated. From and after the date of such
 22 certificate, the district named therein shall be deemed
 23 incorporated, with all the rights, privileges and powers set
 24 forth in this act and necessarily incident thereto. In case
 25 less than a majority of the votes cast are in favor of said

1 proposition the organization fails but without prejudice to
 2 renewing proceedings at any time in the future."

3 Section 3. Section 16-4507, R.C.M. 1947, is amended to
 4 read as follows:

5 "16-4507. Nomination of officers. (1) The mode of
 6 nomination and election of all elective officers of such
 7 district to be voted for at any district election and the
 8 mode of appointment of a director or directors by said mayor
 9 or mayors or by said board of commissioners shall be as
 10 follows and not otherwise.

11 (2) The name of a candidate shall be printed upon the
 12 ballot when a petition of nomination shall have been filed
 13 in his behalf in the manner and form and under the
 14 conditions hereinafter set forth.

15 (3) The petition of nomination shall consist of not
 16 less than five (5) individual certificates, which shall read
 17 substantially as follows:

18 PETITION OF NOMINATION

19 Individual Certificate

20 State of

21 County of

22 Prec. No.

23 I, the undersigned, certify that I do hereby join in a
 24 petition for the nomination of, whose residence is at
 25 for the office of of the district to be voted

1 for at the district election to be held in the district
 2 on the day of, 19...; and I further certify that I
 3 am a qualified elector and an owner or lessee of real
 4 property within said district, or a resident therein, and am
 5 not at this time a signer of any other petition nominating;
 6 any other candidate for the above named office; or, in case
 7 there are several places to be filled in the above named
 8 office, that I have not signed more petitions than there are
 9 places to be filled in the above named office; that my
 10 residence is at No. street,, and that my
 11 occupation is

(Signed)

12 State of Montana
 13 County of

14, being duly sworn, deposes and says that he is the
 15 person who signed the foregoing certificate and that the
 16 statements therein are true and correct.

(Signed)

17 Subscribed and sworn to before me this day of
 18 19...

.....

Notary Public

19 The petition of nomination of which this certificate
 20 forms a part shall, if found insufficient, be returned to
 21, at, Montana.

1 (4) Clerk to furnish forms. It shall be the duty of
 2 the county clerk to furnish upon application a reasonable
 3 number of forms of individual certificates of the above
 4 character. If the district lies in more than one county, the
 5 county clerk whose county contains the largest percentage of
 6 the territory of said district shall fulfill this function.

7 (5) Certificates. Each certificate must be a separate
 8 paper. All certificates must be of uniform size as
 9 determined by the county clerk. Each certificate must
 10 contain the name of one signer thereto and no more. Each
 11 certificate shall contain the name of one candidate and no
 12 more. Each signer must be a qualified elector owning real
 13 property or residing within said district, must not at the
 14 time of signing a certificate have his name signed to any
 15 other certificate for any other candidate for the same
 16 office, or, in case there are several places to be filled in
 17 the same office, signed to more certificates for candidates
 18 for that office than there are places to be filled in such
 19 office. In case an elector has signed two or more
 20 conflicting certificates, all such certificates shall be
 21 rejected. Each signer must verify his certificate and make
 22 oath that the same is true, before a notary public. Each
 23 certificate shall further contain the name and address of
 24 the person to whom the petition is to be returned in case
 25 said petition is found insufficient.

1 (6) Presentation of petition. A petition of
 2 nomination, consisting of not less than five (5) individual
 3 certificates for any one candidate, may be presented to the
 4 county clerk not earlier than forty-five (45) days nor later
 5 than thirty (30) days before the election. The county clerk
 6 shall endorse thereon the date upon which the petition was
 7 presented to him. If the district lies in more than one
 8 county, such petition for nomination shall be presented to
 9 the county clerk whose county contains the largest
 10 percentage of the territory of said district and said county
 11 clerk shall fulfill all duties assigned to county clerks in
 12 elections under this act.

13 (7) Examination of petition. When a petition of
 14 nomination is presented for filing to the county clerk, he
 15 shall forthwith examine the same, and ascertain whether or
 16 not it conforms to the provisions of this section. If found
 17 not to conform thereto, he shall then and there in writing
 18 designate on said petition the defect or omission or reason
 19 why such petition cannot be filed, and shall return the
 20 petition to the person named as the person to whom the same
 21 may be returned in accordance with this section. The
 22 petition may then be amended and again presented to the
 23 clerk as in the first instance. The clerk shall forthwith
 24 proceed to examine the petition as hereinbefore provided. If
 25 necessary, the board of commissioners shall provide extra

1 help to enable the clerk to perform satisfactorily and
 2 promptly the duties imposed by this section.

3 (8) Signer may withdraw name. Any signer to a petition
 4 of nomination and certificate may withdraw his name from the
 5 same by filing with the county clerk a verified revocation
 6 of his signature before the filing of his petition by the
 7 clerk, and not otherwise. He shall then be at liberty to
 8 sign a petition for another candidate for the same office.

9 (9) Candidate may withdraw. Any person whose name has
 10 been presented under this section as a candidate may, not
 11 later than twenty-five (25) days before the day of election,
 12 cause his name to be withdrawn from nomination by filing
 13 with the county clerk a request therefor in writing, and no
 14 name so withdrawn shall be printed upon the ballot. If, upon
 15 such withdrawal, the number of candidates remaining does not
 16 exceed the number to be elected, then other nominations may
 17 be made by filing petitions therefor not later than
 18 twenty-five (25) days prior to such election.

19 (10) Petition filed. If either the original or amended
 20 petition of nomination be found sufficiently signed as
 21 hereinbefore provided, the clerk shall file the same
 22 twenty-five (25) days before the date of the election. When
 23 a petition of nomination shall have been filed by the clerk
 24 it shall not be withdrawn or added to and no signatures
 25 shall be revoked thereafter.

1 (11) Petitions preserved. The county clerk shall
2 preserve in his office for a period of two years, all
3 petitions of nomination and all certificates belonging
4 thereto, filed under this section.

5 (12) List of candidates. Immediately after such
6 petitions are filed, the county clerk shall enter the names
7 of the candidates in a list, with the offices to be filled,
8 and shall not later than twenty (20) days before the
9 election certify such list as being the list of candidates
10 nominated as required by the provisions of this act, and the
11 board of commissioners of each county in which the district
12 lies shall cause said certified list of names and the
13 offices to be filled, to be published in the proclamation
14 calling the election at least ~~ten--(10)--successive-days~~
15 ~~before the election in at least one (1) but not more than~~
16 ~~three--(3)--newspapers~~ once each week for 2 consecutive weeks
17 in a newspaper of general circulation published in each
18 county in which such district is located. Such proclamation
19 shall conform in all respects to the general state law
20 governing the conduct of general elections now or hereafter
21 in force, applicable thereto, except as otherwise herein
22 provided.

23 (13) Ballots. Form. The county clerk shall cause the
24 ballots to be printed and bound and numbered as provided by
25 said general state law, except as otherwise required in this

1 act. The ballots shall contain the list of names and the
2 respective offices as published in the proclamation and
3 shall be in substantially the following form:

4 GENERAL (OR SPECIAL) DISTRICT ELECTION

5 District,

6 (Inserting date thereof.)

7 Instructions to Voters: To vote, stamp or write a cross
8 (x) opposite the name of the candidate for whom you desire
9 to vote. All marks otherwise made are forbidden. All
10 distinguishing marks are forbidden and make the ballot void.
11 If you wrongly mark, tear or deface this ballot, return it
12 to the inspector of election, and obtain another.

13 (14) How printed. All ballots printed shall be
14 precisely on the same size, quality, tint of paper, kind of
15 type, and color of ink, so that without the number it would
16 be impossible to distinguish one ballot from another; and
17 the names of all candidates printed upon the ballot shall be
18 in type of the same size and style. A column may be provided
19 on the right-hand side for questions to be voted upon at
20 district election, as provided for under this act. The names
21 of the candidates for each office shall be arranged in
22 alphabetical order, and nothing on the ballot shall be
23 indicative of the source of the candidacy or of the support
24 of any candidate.

25 (15) No candidate omitted. The name of no candidate who

1 has been duly and regularly nominated, and who has not
 2 withdrawn his name as herein provided shall be omitted from
 3 the ballot.

4 (16) Office. The offices to be filled shall be arranged
 5 in the following order: "For director vote for (giving
 6 number)."

7 (17) Voting squares. Half-inch square shall be provided
 8 at the right of the name of each candidate wherein to mark
 9 the cross.

10 (18) Spaces below printed names. Half-inch spaces shall
 11 be left below the printed names of candidates for each
 12 office, equal in number to the number to be voted for,
 13 wherein the voter may write the name of any person or
 14 persons for whom he may wish to vote.

15 (19) Votes necessary to elect. In case there is but one
 16 person to be elected to an office, the candidate receiving a
 17 majority of the votes cast for all the candidates for that
 18 office, shall be declared elected; in case there are two or
 19 more persons to be elected to an office, as that of
 20 director, then those candidates equal in number to the
 21 number to be elected, who receive the highest number of
 22 votes for such office shall be declared elected.

23 (20) Failure to qualify. If a person elected fails to
 24 qualify, the office shall be filled as if there were a
 25 vacancy in such office, as hereinafter provided.

1 (21) Mode of appointment by mayor. The mode of
 2 appointment of director or directors by a mayor, or by a
 3 board of commissioners, shall be by certificate of
 4 appointment signed by said mayor or mayors, or issued by
 5 said board of commissioners, and transmitted to the board of
 6 directors of said district.

7 (22) Informality not to invalidate. No informality in
 8 conducting district elections shall invalidate the same, if
 9 they have been conducted by directors to fill a vacancy, or
 10 appointed by a mayor or by this act."

11 Section 4. Section 16-4520, R.C.M. 1947, is amended to
 12 read as follows:

13 "16-4520. Publication. Such notice shall be published
 14 ~~for ten (10) consecutive days in a daily newspaper or in two~~
 15 ~~(2) issues of a weekly once each week for 2 consecutive~~
 16 weeks in a newspaper published in each county wherein such
 17 district is located, which newspaper or newspapers shall be
 18 designated by the board of directors. Every qualified
 19 elector, owning or residing upon real property, within such
 20 voting precincts, but no others, shall be entitled to vote
 21 at such election. All the expenses of holding such election
 22 shall be borne by the district."

23 Section 5. Section 16-4527, R.C.M. 1947, is amended to
 24 read as follows:

25 "16-4527. Commissioners to levy water taxes. If from

1 any cause, the revenues of the district shall be inadequate
 2 to pay the interest or principal of any bonded debt as it
 3 becomes due or any other expenses or claims against the
 4 district, then the board of directors must, at least fifteen
 5 (15) days before the first day of the month in which the
 6 board of commissioners of the county, or city and county, or
 7 counties in which such district is located, are required by
 8 law to levy the amount of taxes required for county or city
 9 and county purposes, furnish to the board or boards of
 10 commissioners, and to the auditor or auditors, respectively,
 11 an estimate in writing of the amount of money required by
 12 the district for the payment of the principal of or interest
 13 on any bonded debt as it becomes due, and of the amount of
 14 money required to establish reasonable reserve funds for
 15 either of said purposes, together with a description of the
 16 lands benefited thereby, as stated by the board of directors
 17 in the resolution declaring the necessity to incur such
 18 bonded indebtedness, and also of the amount of money
 19 required by the district for any other purpose in this
 20 section set forth, and the board of commissioners of such
 21 county or city and county must annually, at the time and in
 22 the manner of levying other county or city and county taxes
 23 and until any such bonded debt is fully paid, levy upon the
 24 lands so benefited and cause to be collected, the
 25 proportionate share to be borne by the land located in their

1 county of a tax sufficient for the payment thereof to be
 2 known as the ".... district bond tax"; and until all other
 3 expenses or claims are fully paid, levy upon all of the
 4 lands of the district and cause to be collected the
 5 proportionate share to be borne by the land located in their
 6 county of a tax sufficient for the payment thereof to be
 7 known as the ".... district water and/or sewer tax.

8 When the amount of money required for any purpose in
 9 this section enumerated has been determined, each lot or
 10 parcel of land to be assessed shall be assessed with that
 11 part of the amount of money required which its area bears to
 12 the total area of all of the lands to be assessed; or said
 13 assessment may, at the option of the board or boards of
 14 county commissioners, be based upon the taxable valuation,
 15 as stated in the last completed county assessment roll, of
 16 the lots or parcels of land, exclusive of improvements
 17 thereon, within said district, in which case, each lot or
 18 parcel of land to be assessed shall be assessed with that
 19 part of the amount of money required which its taxable
 20 valuation bears to the total taxable valuation of all of the
 21 lands to be assessed. Provided however that where the
 22 district lies in more than one county, the same method of
 23 assessment shall be used by each board of county
 24 commissioners.

25 When the written estimate of the amount of money

1 required has been delivered to the board of commissioners,
 2 said board shall give notice of its intention to levy and
 3 collect a tax sufficient for the payment thereof. Such
 4 notice shall be given:

5 (1) By posting notice thereof in five (5) public
 6 places within the county and within the boundaries of the
 7 lands upon which the tax is to be levied, and

8 (2) By publishing a copy of the notice ~~for ten (10)~~
 9 ~~consecutive days in a daily newspaper or in two (2) issues~~
 10 ~~of a weekly once each week for 2 consecutive weeks in a~~
 11 newspaper published in each county wherein the district is
 12 located.

13 (3) By forwarding regular first class mail or
 14 registered mail, at least ten (10) days prior to the hearing
 15 provided for in paragraph (d) of this section, a copy of the
 16 notice addressed to the owners of taxable real property
 17 within the district as shown by the current assessment book
 18 on file in the office of the assessor of the county or
 19 counties the boundaries of which include taxable real
 20 property of the district.

21 The legislative assembly hereby finds, determines and
 22 declares that the giving of notice in accordance with
 23 paragraphs (1), (2) and (3) of this section is reasonably
 24 calculated to inform the owners of taxable real property
 25 located within the boundaries of the district of the hearing

1 provided for in paragraph (d) of this section, and that the
 2 giving of any further notice is impracticable and is
 3 unnecessary to the assurance of due process of law to such
 4 property owners.

5 Such notice shall state:

6 (a) The amount of money required;

7 (b) The method of assessment which the board or boards
 8 of commissioners intends to employ;

9 (c) The boundaries or description of the lands to be
 10 assessed, which said boundaries or description may be
 11 recited in full, or may be given by reference to any
 12 instrument on file or of record in the office of the clerk
 13 and recorder, treasurer or assessor of the county or
 14 counties in which the district or part thereof is situate;
 15 and

16 (d) The time when and the place where, the board or
 17 boards of commissioners will hear and pass upon all protests
 18 that may be made against the levy of the tax or any matter
 19 pertaining thereto, which said hearing shall be had no less
 20 than fifteen (15) days after the last publication of the
 21 notice.

22 At the time and place designated for said hearing any
 23 owner of property situated within the area to be assessed
 24 may appear and protest the levy of the tax or any matter
 25 pertaining thereto. All protests must be heard, considered

1 and ruled upon by the board of commissioners. The board of
2 commissioners may adjourn said hearing from time to time.

3 Where such tax is, for any reason, deemed unlawful by
4 the person whose property is taxed, whether he has protested
5 the same at the hearing above provided or not, he may pay
6 the tax or the installments thereof under protest in the
7 manner provided by section 84-4502, and thereupon, and
8 within the time prescribed and in the manner provided by
9 said section 84-4502, may commence an action to recover such
10 tax, or installments, and in such action contest and
11 litigate the payment of such tax on the same grounds and for
12 the same reasons that he has stated in his written protest,
13 and for no other reasons and on no other grounds; provided,
14 that all of the provisions of said section 84-4502 for the
15 retention or refunding of taxes paid under protest shall
16 apply to taxes paid under protest under this section.*

17 Section 6. Section 16-4533, R.C.M. 1947, is amended to
18 read as follows:

19 *16-4533. Exclusion of territory -- petition --
20 contents -- duties of secretary -- hearing -- order
21 excluding lands. Any territory, included within any district
22 formed under the provisions of this act, and not benefited
23 in any manner by such district, or its continued inclusion
24 therein, may be excluded therefrom by order of the board of
25 directors of such district upon the verified petition of the

1 owner or owners in fee of lands whose assessed value, with
2 improvements, is in excess of one-half of the assessed value
3 of all the lands, with improvements, held in private
4 ownership in such territory. Said petition shall describe
5 the territory sought to be excluded and shall set forth that
6 such territory is not benefited in any manner by said
7 district or its continued inclusion therein, and shall pray
8 that such territory may be excluded and taken from said
9 district. Such petition shall be filed with the secretary of
10 the district and shall be accompanied by a deposit with such
11 secretary of the sum of one hundred dollars (\$100.00), to
12 meet the expenses of advertising and other costs incident to
13 the proceedings for the exclusion of such territory,
14 including the cost of recording a certified copy of the
15 order hereinafter provided for, any unconsumed balance to be
16 returned to the petitioner. Upon the filing of such petition
17 with the secretary of the district he shall call a meeting
18 of the board of directors of the district at a time not less
19 than twenty-five (25) days nor more than fifty (50) days
20 after the filing of the petition and cause a notice of the
21 filing of such petition to be published ~~for ten (10)~~
22 ~~consecutive days in a daily newspaper or in two (2) issues~~
23 ~~of a weekly newspaper within said district, if there be one~~
24 ~~and if not in some~~ once each week for 2 consecutive weeks
25 in a newspaper of general circulation published in each

1 county in which the district is situated. Such notice shall
 2 also state the date of the filing of such petition and that
 3 the same will come on for hearing before the board of
 4 directors of the district and shall state the time of the
 5 hearing and the place thereof, which shall be the regular
 6 meeting place of the board of directors of the district;
 7 provided, that the board may adjourn the hearing to a more
 8 convenient meeting place within the district. Any landowner
 9 or taxpayer within the district shall have the right to
 10 appear at said hearing, either in behalf of or in opposition
 11 to the granting of said petition. Said petition shall come
 12 on for hearing before the board of directors of the district
 13 at the time and place specified in the notice of hearing. If
 14 upon such hearing the board of directors determines that it
 15 is for the best interests of the district that the lands
 16 mentioned in the petition, or some portion thereof, be
 17 excluded from the district, or if it appears that such
 18 lands, or some portion thereof, will not be benefited by
 19 their continued inclusion in the district, then the board of
 20 directors shall make an order that such lands, or such
 21 portion thereof, be excluded from the district, such order
 22 to describe specifically the lands so excluded. From the
 23 time of the making of such order the lands so excluded shall
 24 be deemed to be no longer included in the district, but such
 25 order of exclusion shall not be taken to invalidate in any

1 manner any taxes or assessments theretofore levied or
 2 assessed against the lands so excluded. A copy of such order
 3 of exclusion, certified to by the secretary of the district,
 4 shall be recorded in the office of the county recorder of
 5 the county or counties in which the district is situated and
 6 the record of such certified copy shall be deemed prima
 7 facie evidence of the exclusion from the district of the
 8 lands purporting to be excluded thereby."

-End-