

CHAPTER NO. 675

HOUSE BILL NO. 851

INTRODUCED BY SPILKER, WALDRON, REICHERT, H. ROBBINS,  
AZZARA, BARDANOUE, PALMER, WATT, RASMUSSEN,  
McCALLUM, DONALDSON

IN THE HOUSE

February 17, 1979	Introduced and referred to Committee on Local Government.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 22, 1979	Second reading, do pass as amended.
February 23, 1979	Correctly engrossed.  Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Local Government.
March 22, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 24, 1979	Second reading, concurred in.
March 27, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments rejected.

March 31, 1979	On motion Joint Conference Committee requested.
April 2, 1979	Joint Conference Committee appointed.
April 12, 1979	Joint Conference Committee dissolved.
	On motion Free Joint Conference Committee requested.
April 13, 1979	Free Joint Conference Committee appointed.
April 17, 1979	Free Joint Conference Committee Reported.
April 18, 1979	Second reading, adopted. Third reading, adopted. Adopted by second house.
April 19, 1979	Sent to enrolling. Reported correctly enrolled.

*House* BILL NO. *851*

INTRODUCED BY *Speaker Wallen Rider H. Rabb*  
*Arizona Barbero Palmer Watt Rosemore*  
*McCall Donaldson*  
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES  
FOR ALTERATION OF EXISTING FORMS OF LOCAL GOVERNMENT."

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

Section 1. Purpose. The purpose of [this act] is to provide procedures for alteration of existing forms of local government.

Section 2. Definitions. As used in [this act], unless the context indicates otherwise, the following definitions apply:

(1) "Authority" means:

- (a) a municipal or regional airport authority as provided in Title 67, chapter 11;
- (b) a conservancy district as provided in Title 85, chapter 9;
- (c) a conservation district as provided in Title 76, chapter 15;
- (d) a drainage district as provided in Title 85, chapter 8;
- (e) an irrigation district as provided in Title 85, chapter 7;
- (f) a hospital district as provided in Title 7,

chapter 34, part 21;

(g) a flood control and water conservation district as provided in Title 76, chapter 5, part 11;

(h) a county water and sewer district as provided in Title 7, chapter 13, part 22; or

(i) an urban transportation district as provided in Title 7, chapter 14, part 2.

(2) "Finance administrator" means the individual responsible for the financial administration of the local government and generally means the county or city treasurer or town clerk unless the alternative form or governing body specifies a different individual.

(3) "Governing body" means the commission or the town meeting legislative body established in the alternative form of a local government under Title 7, chapter 3, parts 1 through 6.

(4) "Local improvement district" means an improvement district in which property is assessed to pay for specific capital improvements benefiting the assessed property.

(5) "Records administrator" means the individual responsible for keeping the public records of the local government and generally means the county, city, or town clerk unless the alternative form or governing body specifies a different individual.

(6) "Subordinate service district" means a special

-2- *HB 851*  
INTRODUCED BILL

1 district within a local government in which certain services  
2 are provided and in which taxes may be levied to finance the  
3 services.

4 Section 3. Alteration of existing forms of local  
5 government. An alteration of an existing form of local  
6 government may be proposed by:

- 7 (1) a petition of the electors; or
- 8 (2) a resolution of the governing body.

9 Section 4. Election procedure. Except as otherwise  
10 provided in [this act], each election under [this act] is  
11 conducted in the same manner as an election involving ballot  
12 issues or of local officials.

13 Section 5. Petition for alteration. (1) A petition for  
14 the alteration of an existing form of local government may  
15 be presented to the governing body of the local government.  
16 The petition must meet the requirements of [sections 8  
17 through 11].

18 (2) The petition must be signed by a least 15% of the  
19 electors of the local government, and upon receipt of the  
20 petition the governing body shall call an election, as  
21 provided for in [sections 15 through 17], on the proposed  
22 alteration.

23 Section 6. Resolution for alteration. A governing body  
24 of a local government may by resolution submit to the  
25 electors of the local government a question on the

1 alteration or the existing form of the local government. The  
2 resolution must meet the requirements of [sections 8 through  
3 11].

4 Section 7. Permissible recommendations. (1) A petition  
5 or resolution proposing to alter an existing form of county  
6 government may:

7 (a) recommend amendments to the existing plan of  
8 government;

9 (b) recommend any plan of government authorized by  
10 Title 7, chapter 3, parts 1 through 6;

11 (c) draft a charter;

12 (d) recommend municipal-county consolidation or  
13 amendments to an existing consolidation; or

14 (e) in cooperation with a study commission in an  
15 adjoining county, recommend county merger.

16 (2) A petition or resolution proposing to alter an  
17 existing form of municipal government may:

18 (a) recommend amendments to the existing plan of  
19 government;

20 (b) recommend any plan of government authorized by  
21 Title 7, chapter 3, parts 1 through 7;

22 (c) draft a charter; or

23 (d) recommend disincorporation.

24 Section 8. Requirements for petition or resolution. A  
25 petition or resolution proposing an alteration of an

1 existing form of local government must contain:

2 (1) a certificate containing the "plan of government"  
3 of the existing form of local government;

4 (2) a certificate containing the "plan of government"  
5 of the proposed new form of local government or amendments  
6 to the existing plan;

7 (3) a certificate containing the "plan of  
8 apportionment" of commissioner districts if districts are  
9 contained in the "plan of government";

10 (4) a certificate establishing the date of the special  
11 election at which the alternative form of government shall  
12 be presented to the electors and a certificate establishing  
13 the form of the ballot question or questions;

14 (5) a certificate establishing the dates of the first  
15 primary and general elections if the proposal is approved  
16 and establishing the effective date of the proposal if  
17 approved; and

18 (6) a comparison of the existing plan and proposed  
19 plan of local government, including, if desired, a statement  
20 of the strengths and weaknesses of the existing and proposed  
21 plans of local government, information that supports the  
22 adoption of the proposed plan, and information that supports  
23 retention of the present plan.

24 Section 9. Special requirements if consolidation  
25 recommended. (1) Whenever county-municipal consolidation is

1 recommended, a petition or resolution, in addition to the  
2 material required in [section 8], must contain a  
3 consolidation plan which:

4 (a) provides for adjustment of existing bonded  
5 indebtedness and other obligations in a manner which assures  
6 a fair and equitable burden of taxation for debt service;

7 (b) provides for establishment of subordinate service  
8 districts;

9 (c) provides for the transfer or other disposition of  
10 property and other rights, claims, assets, and franchises of  
11 the local governments consolidated under its proposal;

12 (d) provides the official name of the consolidated  
13 local government; and

14 (e) (i) provides for the transfer, reorganization,  
15 abolition, adjustment of boundaries, or absorption of  
16 existing boards, subordinate service districts, local  
17 improvement districts, agencies, and political subdivisions  
18 of the consolidated governments, excluding school districts,  
19 authorities, and nonconsolidated municipalities; or

20 (ii) grants the legislative body of the consolidated  
21 government the authority to transfer, reorganize, abolish,  
22 adjust boundaries, or absorb existing boards, subordinate  
23 service districts, local improvement districts, agencies,  
24 and political subdivisions of the consolidated governments,  
25 excluding school districts, authorities, and nonconsolidated

HB 851

1 ~~municipalities, with or without referendum requirements.~~  
2 (2) The consolidation plan may include other  
3 provisions that are consistent with state law.  
4 (3) Whenever amendments to an existing consolidation  
5 plan are recommended, a petition or resolution must contain  
6 a certificate containing amendments to the consolidation  
7 plan.  
8 **Section 10. Special requirements if county merger**  
9 recommended. (1) Whenever county merger is recommended, a  
10 petition or resolution, in addition to the material required  
11 by [section 8], must contain a consolidation plan which:  
12 (a) provides for adjustment of existing bonded  
13 indebtedness and other obligations in a manner which assures  
14 a fair and equitable burden of taxation for debt service;  
15 (b) provides for establishment of subordinate service  
16 districts;  
17 (c) provides for the transfer or other disposition of  
18 property and other rights, claims, assets, and franchises of  
19 local governments consolidated under the alternative plan;  
20 (d) provides the official name of the consolidated  
21 local government; and  
22 (e) (i) provides for the transfer, reorganization,  
23 abolition, adjustment of boundaries, or absorption of  
24 existing boards, subordinate service districts, local  
25 improvement districts, agencies, and political subdivisions

1 of the consolidated governments, excluding school districts,  
2 authorities, and incorporated municipalities; or  
3 (ii) grants the legislative body of the consolidated  
4 government the authority to transfer, reorganize, abolish,  
5 adjust boundaries, or absorb existing boards, subordinate  
6 service districts, local improvement districts, agencies,  
7 and political subdivisions of the consolidated governments,  
8 excluding school districts, authorities, and incorporated  
9 municipalities, with or without referendum requirements.  
10 (2) The consolidation plan may include other  
11 provisions that are consistent with state law.  
12 **Section 11. Special requirements if municipal**  
13 **disincorporation recommended.** Whenever municipal  
14 disincorporation is recommended, a petition or resolution,  
15 in addition to the material required by [section 8], must  
16 contain:  
17 (1) a certificate of disincorporation instead of a  
18 plan of government; and  
19 (2) a recommended plan of disincorporation.  
20 **Section 12. Filing of petitions and resolutions.** (1)  
21 Two copies of a petition or a resolution shall be filed with  
22 the department of community affairs.  
23 (2) One copy of a petition or resolution shall be  
24 filed with the local government records administrator.  
25 (3) The filings required by this section shall be done

1 within 30 days of adoption of a resolution and within 45  
2 days of submission of a petition.

3 Section 13. Availability of petitions and resolutions.

4 (1) Sufficient copies of a petition or resolution proposing  
5 alterations to an existing form of local government must be  
6 made available to the public for inspection at convenient  
7 locations and at reasonable hours to provide all interested  
8 persons an opportunity to review the recommendations and  
9 documents. The copies must be available no later than 30  
10 days prior to an election on the recommendations if such an  
11 election is to be held. The local government may distribute  
12 copies of a petition or resolution to the electors or  
13 residents of the local government.

14 (2) The cost of preparing the copies needed to meet  
15 the requirements of this section shall be borne by the  
16 affected local government.

17 Section 14. Publication of summary and comparison. (1)

18 A summary of the recommendations contained in a petition or  
19 resolution proposing alteration of an existing form of local  
20 government must be published at least twice in a newspaper  
21 of general circulation in the local government. Whenever an  
22 election on the recommendations is to be held, publication  
23 must be made during the 2 weeks preceding the election.

24 (2) The summary must contain a description of the  
25 recommendations, a comparison of the existing and proposed

1 forms of government, and a list of locations where the full  
2 proposal may be seen or obtained.

3 (3) The cost of publication required by this section  
4 shall be borne by the affected local government.

5 Section 15. Election on alternative form. (1) The  
6 governing body shall call a special election on the question  
7 of an alternative form of government to be held within 120  
8 days of the date of filing with the records administrator  
9 under [section 12]. The special election may be held in  
10 conjunction with any other election. The records  
11 administrator shall prepare and print notices of the special  
12 election.

13 (2) The cost of the election shall be paid for by the  
14 local government.

15 (3) (a) The affirmative vote of a simple majority of  
16 those voting on the question is required for adoption.

17 (b) In any election involving the question of  
18 consolidation, each question shall be submitted to the  
19 electors in the county and requires an affirmative vote of a  
20 simple majority of the votes cast in the county on the  
21 question for adoption. There is no requirement for separate  
22 majorities in local governments voting on consolidation.

23 (c) In any election involving the question of county  
24 merger, the questions shall be submitted to the electors in  
25 the counties affected and requires a majority of the votes

HB 851

1 cast on the questions in each affected county for adoption.

2 (d) If the electors disapprove the proposed new form  
3 of local government, amendments, or consolidation plan, the  
4 local government retains its existing form.

5 Section 16. General ballot requirements. (1) The  
6 question of adopting an alteration of an existing form of  
7 government proposed by petition or resolution shall be  
8 submitted to the electors in substantially the following  
9 form:

10 Vote for one:

11  FOR adoption of the (self-government charter,  
12 amendment to an existing charter, or plan of  
13 government) proposed for (insert name of local  
14 government) proposed by (petition of the people or  
15 resolution of the governing body).

16  FOR the existing form of government.

17 (2) The whole number of ballots shall be divided into  
18 two equal sets. No more than one set may be used in  
19 printing the ballot for use in any one precinct and all  
20 ballots furnished for use in one precinct shall be  
21 identical. The existing plan of government shall be printed  
22 as the first item and the proposed plan as the second item  
23 on half of the ballots and the proposed form as the first  
24 item and the existing form as the second item on the other  
25 half of the ballots. If the local government consists of

1 only one precinct, the existing plan shall be listed first  
2 on the ballot.

3 Section 17. Treatment of suboptions for alternative  
4 forms. (1) No petition or resolution recommendation may  
5 involve more than three separate suboptions, and no  
6 suboption may contain more than two alternatives. If a  
7 suboption is submitted to the voters, only the ballot  
8 alternatives within that suboption receiving the highest  
9 number of affirmative votes are considered approved and  
10 included in the alternative form of government.

11 (2) A proposed plan shall be submitted to the voters  
12 as a single question, except that the suboptions within the  
13 alternative plan of local government authorized in Title 7,  
14 chapter 3, parts 1 through 7, and the suboptions authorized  
15 in a charter may be submitted to the electors as separate  
16 questions. The question of adopting a suboption shall be  
17 submitted to the electors in substantially the following  
18 form:

19 Vote for one:

20 A legal officer (who may be called the "county  
21 attorney"):

22  Shall be elected for a term of 4 years.

23  Shall be appointed for a term of 4 years by the  
24 chairman of the local governing body.

25 Section 18. Effect of adoption of new form of



1 government. The adoption of a new plan of government does  
2 not affect the validity of any bond, debt, contract,  
3 obligation, or cause of action accrued or established under  
4 the prior form of government.

5 Section 19. Filing of approved plan. (1) A copy of the  
6 existing or proposed plan of government ratified by the  
7 voters and any apportionment plan or consolidation or merger  
8 plan shall be certified by the chairman of the governing  
9 body and filed with the department of community affairs, the  
10 county records administrator, and the municipal records  
11 administrator if it is a municipal plan.

12 (2) The approved plan filed with the department of  
13 community affairs is the official plan and is a public  
14 record open to inspection by the public and judicially  
15 noticeable by all courts.

16 Section 20. Judicial review. Judicial review to  
17 determine the validity of the procedures whereby any charter  
18 or alternative plan of government is adopted may be  
19 initiated by petition in district court of 10 or more  
20 registered voters of the local government brought within 60  
21 days after the election at which the charter or plan of  
22 government, revision, or amendment is approved. If no  
23 petition is filed within that period, compliance with all  
24 the procedures required by [this act] and the validity of  
25 the manner in which the charter or plan of government was

1 approved is conclusively presumed. It is presumed that  
2 proper procedure was followed and all procedural  
3 requirements were met. The adoption of a charter or plan of  
4 government may not be considered invalid because of any  
5 procedural error or omission unless it is shown that the  
6 error or omission materially and substantially affected its  
7 adoption.

8 Section 21. Three-year moratorium. Unless the  
9 constitution requires otherwise, the electors of any unit of  
10 local government which has adopted a new alternative form of  
11 local government, charter, or consolidation plan may not  
12 vote on the question of changing the form of local  
13 government until 3 years after the new local government  
14 becomes effective, but the electors may vote on amendments  
15 to the alternative form, charter, or consolidation plan.

16 Section 22. Effective date of alternative plan or  
17 amendment. (1) An alternative plan of local government  
18 approved by the electors takes effect when the new officers  
19 take office, except as otherwise provided in any charter or  
20 consolidation plan. A consolidation or merger plan adopted  
21 by the electors takes effect in the same manner.

22 (2) Provisions creating offices and establishing  
23 qualifications for office under any apportionment plan  
24 become effective immediately for the purpose of electing  
25 officials.

HB 851

1 (3) An amendment to an existing plan of government  
2 becomes effective at the beginning of the local government's  
3 fiscal year commencing after the election results are  
4 officially declared.

5 Section 23. General transition provisions. (1) The  
6 governing body shall prepare an advisory plan for orderly  
7 transition to a new plan of local government. The transition  
8 plan may propose necessary ordinances, plans for  
9 consolidation of services and functions, and a plan for  
10 reorganizing boards, departments, and agencies.

11 (2) The governing body of a local government may enact  
12 and enforce ordinances to bring about an orderly transition  
13 to the new plan of government, including transfer of powers,  
14 records, documents, properties, assets, funds, liabilities,  
15 or personnel. These ordinances are to be consistent with the  
16 approved plan and necessary or convenient to place it into  
17 full effect. Whenever a question arises concerning  
18 transition which is not provided for, the governing body may  
19 provide for the transition by ordinance, rule, or resolution  
20 not inconsistent with law.

21 Section 24. Transition provisions affecting personnel.  
22 (1) The members of the governing body holding office on the  
23 date the new plan of government is adopted by the electors  
24 of the local government continue in office and in the  
25 performance of their duties until the governing body

1 authorized by the plan has been elected and qualified,  
2 whereupon the prior governing body is abolished.

3 (2) All other employees holding offices or positions,  
4 whether elective or appointive, under the government of the  
5 county or municipality continue in the performance of the  
6 duties of their respective offices and positions until  
7 provisions are made for the performance or discontinuance of  
8 the duties or the discontinuance of the offices or  
9 positions.

10 (3) A charter or a petition or resolution proposing an  
11 alteration to an existing form of local government may  
12 provide that existing elected officers shall continue in  
13 office until the end of the term for which they were elected  
14 or may provide that existing elected officers shall be  
15 retained as local government employees until the end of the  
16 term for which they were elected and their salaries may not  
17 be reduced.

18 Section 25. Treatment of existing ordinances and  
19 resolutions. (1) All ordinances and resolutions in effect at  
20 the time the new form of government becomes effective  
21 continue in effect until repealed or amended in the manner  
22 provided by law.

23 (2) Within 2 years after ratification of a  
24 consolidation plan, the governing body of the consolidated  
25 local government shall revise, repeal, or reaffirm all

1 rules, ordinances, and resolutions in force within the  
 2 participating county and municipalities at the time of  
 3 consolidation. Each rule, ordinance, or resolution in force  
 4 at the time of consolidation remains in force within the  
 5 former geographic jurisdiction until superseded by action of  
 6 the new governing body. Ordinances and resolutions relating  
 7 to public improvements to be paid for in whole or in part by  
 8 special assessments may not be repealed.

9 Section 26. Election of new officials. (1) Within 20  
 10 days after an election at which the new plan of government  
 11 is approved by the electors, the governing body of the local  
 12 government shall meet and order a special primary and  
 13 general election for the purpose of electing the officials  
 14 required by the new form of government. The elections for  
 15 officials may be held in conjunction with any other  
 16 election.

17 (2) The order shall specify a date for the primary  
 18 election not more than 120 days or less than 20 days after  
 19 the election approving the new form and a date for the  
 20 general election 60 days after the primary.

21 Section 27. Organization of new governing body. (1)  
 22 The first meeting of a new governing body for a new plan of  
 23 government shall be held at 10 a.m., 60 days after the  
 24 election of the new officers. At that time, newly elected  
 25 members shall take the oath of office prior to assuming the

1 duties of office.

2 (2) If the terms of the commissioners are to be  
 3 overlapping, they shall draw lots to establish their  
 4 respective terms of office.

5 Section 28. Codification. It is intended that sections  
 6 1 through 27 be codified as an integral part of Title 7,  
 7 chapter 3, part 1, and the provisions of Title 7, chapter 3,  
 8 apply to sections 1 through 27.

9 Section 29. Severability. If a part of this act is  
 10 invalid, all valid parts that are severable from the invalid  
 11 part remain in effect. If a part of this act is invalid in  
 12 one or more of its applications, the part remains in effect  
 13 in all valid applications that are severable from the  
 14 invalid applications.

-End-

HB 851

HOUSE BILL NO. 851

INTRODUCED BY SPILKER, WALDRON, REICHERT, H. ROBBINS,

AZZARA, BARDANOUVE, PALMER, WATT, RASMUSSEN,

McCALLUM, DONALDSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEOURES FOR ALTERATION OF EXISTING FORMS OF LOCAL GOVERNMENT."

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

Section 1. Purpose. The purpose of [this act] is to provide procedures for alteration of existing forms of local government.

Section 2. Definitions. As used in [this act], unless the context indicates otherwise, the following definitions apply:

(1) "Authority" means:

(a) a municipal or regional airport authority as provided in Title 67, chapter 11;

(b) a conservancy district as provided in Title 85, chapter 9;

(c) a conservation district as provided in Title 76, chapter 15;

(d) a drainage district as provided in Title 85, chapter 8;

(e) an irrigation district as provided in Title 85,

chapter 7;

(f) a hospital district as provided in Title 7, chapter 34, part 21;

(g) a flood control and water conservation district as provided in Title 76, chapter 5, part 11;

(h) a county water and sewer district as provided in Title 7, chapter 13, part 22; or

(i) an urban transportation district as provided in Title 7, chapter 14, part 2.

(2) "Finance administrator" means the individual responsible for the financial administration of the local government and generally means the county or city treasurer or town clerk unless the alternative form or governing body specifies a different individual.

(3) "Governing body" means the commission or the town meeting legislative body established in the alternative form of a local government under Title 7, chapter 3, parts 1 through 6.

(4) "Local improvement district" means an improvement district in which property is assessed to pay for specific capital improvements benefiting the assessed property.

(5) "Records administrator" means the individual responsible for keeping the public records of the local government and generally means the county, city, or town clerk unless the alternative form or governing body

1 specifies a different individual.

2 (6) "Subordinate service district" means a special  
3 district within a local government in which certain services  
4 are provided and in which taxes may be levied to finance the  
5 services.

6 Section 3. Alteration of existing forms of local  
7 government. An alteration of an existing form of local  
8 government may be proposed by:

- 9 (1) a petition of the electors; or
- 10 (2) a resolution of the governing body.

11 Section 4. Election procedure. Except as otherwise  
12 provided in [this act], each election under [this act] is  
13 conducted in the same manner as an election involving ballot  
14 issues or of local officials.

15 Section 5. Petition for alteration. (1) A petition for  
16 the alteration of an existing form of local government may  
17 be presented to the governing body of the local government.  
18 The petition must meet the requirements of [sections 8  
19 through 11].

20 (2) The petition must be signed by ~~a~~ at least 15%  
21 of the electors of the local government VOTING AT THE LAST  
22 GENERAL ELECTION REGISTERED AT THE LAST GENERAL ELECTION,  
23 and upon receipt of the petition the governing body shall  
24 call an election, as provided for in [sections 15 through  
25 17], on the proposed alteration.

1 Section 6. Resolution for alteration. A governing body  
2 of a local government may by resolution submit to the  
3 electors of the local government a question on the  
4 alteration of the existing form of the local government. The  
5 resolution must meet the requirements of [sections 8 through  
6 11].

7 Section 7. Permissible recommendations. (1) A petition  
8 or resolution proposing to alter an existing form of county  
9 government may:

- 10 (a) recommend amendments to the existing plan of
- 11 government;
- 12 (b) recommend any plan of government authorized by
- 13 Title 7, chapter 3, parts 1 through 6;
- 14 (c) draft a charter;
- 15 (d) recommend municipal-county consolidation or
- 16 amendments to an existing consolidation; or

17 (e) in cooperation with a study-commission SIMILAR  
18 PEITION CIRCULATED OR A RESOLUTION CALLING FOR AN ELECTION  
19 ON COUNTY MERGER ADOPTED BY THE GOVERNING BODY in an  
20 adjoining county, recommend county merger.

21 (2) A petition or resolution proposing to alter an  
22 existing form of municipal government may:

- 23 (a) recommend amendments to the existing plan of
- 24 government;
- 25 (b) recommend any plan of government authorized by

1 Title 7, chapter 3, parts 1 through 7;  
 2 (c) draft a charter; or  
 3 (d) recommend disincorporation.  
 4 Section 8. Requirements for petition or resolution. A  
 5 petition or resolution proposing an alteration of an  
 6 existing form of local government must contain:  
 7 (1) a certificate containing the "plan of government"  
 8 of the existing form of local government;  
 9 (2) a certificate containing the "plan of government"  
 10 of the proposed new form of local government or amendments  
 11 to the existing plan;  
 12 (3) a certificate containing the "plan of  
 13 apportionment" of commissioner districts if districts are  
 14 contained in the "plan of government"; AND  
 15 ~~(4) a certificate establishing the date of the special~~  
 16 ~~election at which the alternative form of government shall~~  
 17 ~~be presented to the electors and a certificate establishing~~  
 18 ~~the form of the ballot question or questions;~~  
 19 ~~(5) a certificate establishing the dates of the first~~  
 20 ~~primary and general elections if the proposal is approved~~  
 21 ~~and establishing the effective date of the proposal if~~  
 22 ~~approved; and~~  
 23 (6) ~~(4)~~ a comparison of the existing plan and proposed  
 24 plan of local government, including, if desired, a statement  
 25 of the strengths and weaknesses of the existing and proposed

1 plans of local government, information that supports the  
 2 adoption of the proposed plan, and information that supports  
 3 retention of the present plan.  
 4 Section 9. Special requirements if consolidation  
 5 recommended. (1) Whenever county-municipal consolidation is  
 6 recommended, a petition or resolution, in addition to the  
 7 material required in [section 8], must contain a  
 8 consolidation plan which:  
 9 (a) provides for adjustment of existing bonded  
 10 indebtedness and other obligations in a manner which assures  
 11 a fair and equitable burden of taxation for debt service;  
 12 (b) provides for establishment of subordinate service  
 13 districts;  
 14 (c) provides for the transfer or other disposition of  
 15 property and other rights, claims, assets, and franchises of  
 16 the local governments consolidated under its proposal;  
 17 (d) provides the official name of the consolidated  
 18 local government; and  
 19 (e) (i) provides for the transfer, reorganization,  
 20 abolition, adjustment of boundaries, or absorption of  
 21 existing boards, subordinate service districts, local  
 22 improvement districts, agencies, and political subdivisions  
 23 of the consolidated governments, excluding school districts,  
 24 authorities, and nonconsolidated municipalities; or  
 25 (ii) grants the legislative body of the consolidated

1 government the authority to transfer, reorganize, abolish,  
 2 adjust boundaries, or absorb existing boards, subordinate  
 3 service districts, local improvement districts, agencies,  
 4 and political subdivisions of the consolidated governments,  
 5 excluding school districts, authorities, and nonconsolidated  
 6 municipalities, with or without referendum requirements.

7 (2) The consolidation plan may include other  
 8 provisions that are consistent with state law.

9 (3) Whenever amendments to an existing consolidation  
 10 plan are recommended, a petition or resolution must contain  
 11 a certificate containing amendments to the consolidation  
 12 plan.

13 Section 10. Special requirements if county merger  
 14 recommended. (1) Whenever county merger is recommended, a  
 15 petition or resolution, in addition to the material required  
 16 by [section 8], must contain a consolidation plan which:

17 (a) provides for adjustment of existing bonded  
 18 indebtedness and other obligations in a manner which assures  
 19 a fair and equitable burden of taxation for debt service;

20 (b) provides for establishment of subordinate service  
 21 districts;

22 (c) provides for the transfer or other disposition of  
 23 property and other rights, claims, assets, and franchises of  
 24 local governments consolidated under the alternative plan;

25 (d) provides the official name of the consolidated

1 local government; and

2 (e) (i) provides for the transfer, reorganization,  
 3 abolition, adjustment of boundaries, or absorption of  
 4 existing boards, subordinate service districts, local  
 5 improvement districts, agencies, and political subdivisions  
 6 of the consolidated governments, excluding school districts,  
 7 authorities, and incorporated municipalities; or

8 (ii) grants the legislative body of the consolidated  
 9 government the authority to transfer, reorganize, abolish,  
 10 adjust boundaries, or absorb existing boards, subordinate  
 11 service districts, local improvement districts, agencies,  
 12 and political subdivisions of the consolidated governments,  
 13 excluding school districts, authorities, and incorporated  
 14 municipalities, with or without referendum requirements.

15 (2) The consolidation plan may include other  
 16 provisions that are consistent with state law.

17 Section 11. Special requirements if municipal  
 18 disincorporation recommended. Whenever municipal  
 19 disincorporation is recommended, a petition or resolution,  
 20 in addition to the material required by [section 8], must  
 21 contain:

22 (1) a certificate of disincorporation instead of a  
 23 plan of government; and

24 (2) a recommended plan of disincorporation.

25 Section 12. Filing of petitions and resolutions. (1)

1 Two copies of a petition or a resolution shall be filed with  
2 the department of community affairs.

3 (2) One copy of a petition or resolution shall be  
4 filed with the local government records administrator.

5 (3) The filings required by this section shall be done  
6 within 30 days of adoption of a resolution and within 45  
7 days of submission of a petition.

8 Section 13. Availability of petitions and resolutions.

9 (1) Sufficient copies of a petition or resolution proposing  
10 alterations to an existing form of local government must be  
11 made available to the public for inspection at convenient  
12 locations and at reasonable hours to provide all interested  
13 persons an opportunity to review the recommendations and  
14 documents. The copies must be available no later than 30  
15 days prior to an election on the recommendations if such an  
16 election is to be held. The local government may distribute  
17 copies of a petition or resolution to the electors or  
18 residents of the local government.

19 (2) The cost of preparing the copies needed to meet  
20 the requirements of this section shall be borne by the  
21 affected local government.

22 Section 14. Publication of summary and comparison. (1)

23 A summary of the recommendations contained in a petition or  
24 resolution proposing alteration of an existing form of local  
25 government must be published at least twice in a newspaper

1 of general circulation in the local government. Whenever an  
2 election on the recommendations is to be held, publication  
3 must be made during the 2 weeks preceding the election.

4 (2) The summary must contain a description of the  
5 recommendations, a comparison of the existing and proposed  
6 forms of government, and a list of locations where the full  
7 proposal may be seen or obtained.

8 (3) The cost of publication required by this section  
9 shall be borne by the affected local government.

10 Section 15. Election on alternative form. (1) The

11 governing body shall call a special election on the question  
12 of an alternative form of government to be held within 120  
13 days of the date of filing with the records administrator  
14 under [section 12]. The special election may be held in  
15 conjunction with any other election. The records  
16 administrator shall prepare and print notices of the special  
17 election.

18 (2) The cost of the election shall be paid for by the  
19 local government.

20 (3) (a) The affirmative vote of a simple majority of  
21 those voting on the question is required for adoption.

22 (b) In any election involving the question of  
23 consolidation, each question shall be submitted to the  
24 electors in the county and requires an affirmative vote of a  
25 simple majority of the votes cast in the county on the



1 question for adoption. There is no requirement for separate  
 2 majorities in local governments voting on consolidation.

3 (c) In any election involving the question of county  
 4 merger, the questions shall be submitted to the electors in  
 5 the counties affected and requires a majority of the votes  
 6 cast on the questions in each affected county for adoption.

7 (d) If the electors disapprove the proposed new form  
 8 of local government, amendments, or consolidation plan, the  
 9 local government retains its existing form.

10 Section 16. General ballot requirements. (1) The  
 11 question of adopting an alteration of an existing form of  
 12 government proposed by petition or resolution shall be  
 13 submitted to the electors in substantially the following  
 14 form:

15 Vote for one:

16  FOR adoption of the (self-government charter,  
 17 amendment to an existing charter, or plan of  
 18 government) proposed for (insert name of local  
 19 government) proposed by (petition of the people or  
 20 resolution of the governing body).

21  FOR the existing form of government.

22 (2) The whole number of ballots shall be divided into  
 23 two equal sets. No more than one set may be used in  
 24 printing the ballot for use in any one precinct and all  
 25 ballots furnished for use in one precinct shall be

1 identical. The existing plan of government shall be printed  
 2 as the first item and the proposed plan as the second item  
 3 on half of the ballots and the proposed form as the first  
 4 item and the existing form as the second item on the other  
 5 half of the ballots. If the local government consists of  
 6 only one precinct, the existing plan shall be listed first  
 7 on the ballot.

8 Section 17. Treatment of suboptions for alternative  
 9 forms. (1) No petition or resolution recommendation may  
 10 involve more than three separate suboptions, and no  
 11 suboption may contain more than two alternatives. If a  
 12 suboption is submitted to the voters, only the ballot  
 13 alternatives within that suboption receiving the highest  
 14 number of affirmative votes are considered approved and  
 15 included in the alternative form of government.

16 (2) A proposed plan shall be submitted to the voters  
 17 as a single question, except that the suboptions within the  
 18 alternative plan of local government authorized in Title 7,  
 19 chapter 3, parts 1 through 7, and the suboptions authorized  
 20 in a charter may be submitted to the electors as separate  
 21 questions. The question of adopting a suboption shall be  
 22 submitted to the electors in substantially the following  
 23 form:

24 Vote for one:

25 A legal officer (who may be called the "county

1 attorney"):

2  Shall be elected for a term of 4 years.

3  Shall be appointed for a term of 4 years by the  
4 chairman of the local governing body.

5 Section 18. Effect of adoption of new form of  
6 government. The adoption of a new plan of government does  
7 not affect the validity of any bond, debt, contract,  
8 obligation, or cause of action accrued or established under  
9 the prior form of government.

10 Section 19. Filing of approved plan. (1) A copy of the  
11 existing or proposed plan of government ratified by the  
12 voters and any apportionment plan or consolidation or merger  
13 plan shall be certified by the chairman of the governing  
14 body and filed with the department of community affairs, the  
15 county records administrator, and the municipal records  
16 administrator if it is a municipal plan.

17 (2) The approved plan filed with the department of  
18 community affairs is the official plan and is a public  
19 record open to inspection by the public and judicially  
20 noticeable by all courts.

21 Section 20. Judicial review. Judicial review to  
22 determine the validity of the procedures whereby any charter  
23 or alternative plan of government is adopted may be  
24 initiated by petition in district court of 10 or more  
25 registered voters of the local government brought within 60

1 days after the election at which the charter or plan of  
2 government, revision, or amendment is approved. If no  
3 petition is filed within that period, compliance with all  
4 the procedures required by [this act] and the validity of  
5 the manner in which the charter or plan of government was  
6 approved is conclusively presumed. It is presumed that  
7 proper procedure was followed and all procedural  
8 requirements were met. The adoption of a charter or plan of  
9 government may not be considered invalid because of any  
10 procedural error or omission unless it is shown that the  
11 error or omission materially and substantially affected its  
12 adoption.

13 Section 21. Three-year moratorium. Unless the  
14 constitution requires otherwise, the electors of any unit of  
15 local government which has adopted a new alternative form of  
16 local government, charter, or consolidation plan may not  
17 vote on the question of changing the form of local  
18 government until 3 years after the new local government  
19 becomes effective, but the electors may vote on amendments  
20 to the alternative form, charter, or consolidation plan.

21 Section 22. Effective date of alternative plan or  
22 amendment. (1) An alternative plan of local government  
23 approved by the electors takes effect when the new officers  
24 take office, except as otherwise provided in any charter or  
25 consolidation plan. A consolidation or merger plan adopted

1 by the electors takes effect in the same manner.

2 (2) Provisions creating offices and establishing  
3 qualifications for office under any apportionment plan  
4 become effective immediately for the purpose of electing  
5 officials.

6 (3) An amendment to an existing plan of government  
7 becomes effective at the beginning of the local government's  
8 fiscal year commencing after the election results are  
9 officially declared.

10 Section 23. General transition provisions. (1) The  
11 governing body shall prepare an advisory plan for orderly  
12 transition to a new plan of local government. The transition  
13 plan may propose necessary ordinances, plans for  
14 consolidation of services and functions, and a plan for  
15 reorganizing boards, departments, and agencies.

16 (2) The governing body of a local government may enact  
17 and enforce ordinances to bring about an orderly transition  
18 to the new plan of government, including transfer of powers,  
19 records, documents, properties, assets, funds, liabilities,  
20 or personnel. These ordinances are to be consistent with the  
21 approved plan and necessary or convenient to place it into  
22 full effect. Whenever a question arises concerning  
23 transition which is not provided for, the governing body may  
24 provide for the transition by ordinance, rule, or resolution  
25 not inconsistent with law.

1 Section 24. Transition provisions affecting personnel.

2 (1) The members of the governing body holding office on the  
3 date the new plan of government is adopted by the electors  
4 of the local government continue in office and in the  
5 performance of their duties until the governing body  
6 authorized by the plan has been elected and qualified,  
7 whereupon the prior governing body is abolished.

8 (2) All other employees holding offices or positions,  
9 whether elective or appointive, under the government of the  
10 county or municipality continue in the performance of the  
11 duties of their respective offices and positions until  
12 provisions are made for the performance or discontinuance of  
13 the duties or the discontinuance of the offices or  
14 positions.

15 (3) A charter or a petition or resolution proposing an  
16 alteration to an existing form of local government may  
17 provide that existing elected officers shall continue in  
18 office until the end of the term for which they were elected  
19 or may provide that existing elected officers shall be  
20 retained as local government employees until the end of the  
21 term for which they were elected and their salaries may not  
22 be reduced.

23 Section 25. Treatment of existing ordinances and  
24 resolutions. (1) All ordinances and resolutions in effect at  
25 the time the new form of government becomes effective

1 continue in effect until repealed or amended in the manner  
2 provided by law.

3 (2) Within 2 years after ratification of a  
4 consolidation plan, the governing body of the consolidated  
5 local government shall revise, repeal, or reaffirm all  
6 rules, ordinances, and resolutions in force within the  
7 participating county and municipalities at the time of  
8 consolidation. Each rule, ordinance, or resolution in force  
9 at the time of consolidation remains in force within the  
10 former geographic jurisdiction until superseded by action of  
11 the new governing body. Ordinances and resolutions relating  
12 to public improvements to be paid for in whole or in part by  
13 special assessments may not be repealed.

14 Section 26. Election of new officials. (1) Within 20  
15 days after an election at which the new plan of government  
16 is approved by the electors, the governing body of the local  
17 government shall meet and order a special primary and  
18 general election for the purpose of electing the officials  
19 required by the new form of government. The elections for  
20 officials may be held in conjunction with any other  
21 election.

22 (2) The order shall specify a date for the primary  
23 election not more than 120 days or less than 20 days after  
24 the election approving the new form and a date for the  
25 general election 60 days after the primary.

1 Section 27. Organization of new governing body. (1)  
2 The first meeting of a new governing body for a new plan of  
3 government shall be held at 10 a.m., 60 days after the  
4 election of the new officers. At that time, newly elected  
5 members shall take the oath of office prior to assuming the  
6 duties of office.

7 (2) If the terms of the commissioners are to be  
8 overlapping, they shall draw lots to establish their  
9 respective terms of office.

10 Section 28. Codification. It is intended that sections  
11 1 through 27 be codified as an integral part of Title 7,  
12 chapter 3, part 1, and the provisions of Title 7, chapter 3,  
13 apply to sections 1 through 27.

14 Section 29. Severability. If a part of this act is  
15 invalid, all valid parts that are severable from the invalid  
16 part remain in effect. If a part of this act is invalid in  
17 one or more of its applications, the part remains in effect  
18 in all valid applications that are severable from the  
19 invalid applications.

-End-

## 1 HOUSE BILL NO. 851

2 INTRODUCED BY SPILKER, WALDRON, REICHERT, H. ROBBINS,

3 AZZARA, BARDANDUVE, PALMER, WATT, RASMUSSEN,

4 McCALLUM, DONALDSON

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES  
6 FOR ALTERATION OF EXISTING FORMS OF LOCAL GOVERNMENT."7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9 Section 1. Purpose. The purpose of [this act] is to  
10 provide procedures for alteration of existing forms of local  
11 government.12 Section 2. Definitions. As used in [this act], unless  
13 the context indicates otherwise, the following definitions  
14 apply:

15 (1) "Authority" means:

16 (a) a municipal or regional airport authority as  
17 provided in Title 67, chapter 11;18 (b) a conservancy district as provided in Title 85,  
19 chapter 9;20 (c) a conservation district as provided in Title 76,  
21 chapter 15;22 (d) a drainage district as provided in Title 85,  
23 chapter 8;

24 (e) an irrigation district as provided in Title 85,

1 chapter 7;

2 (f) a hospital district as provided in Title 7,  
3 chapter 34, part 21;4 (g) a flood control and water conservation district as  
5 provided in Title 76, chapter 5, part 11;6 (h) a county water and sewer district as provided in  
7 Title 7, chapter 13, part 22; or8 (i) an urban transportation district as provided in  
9 Title 7, chapter 14, part 2.10 (2) "Finance administrator" means the individual  
11 responsible for the financial administration of the local  
12 government and generally means the county or city treasurer  
13 or town clerk unless the alternative form or governing body  
14 specifies a different individual.15 (3) "Governing body" means the commission or the town  
16 meeting legislative body established in the alternative form  
17 of a local government under Title 7, chapter 3, parts 1  
18 through 6.19 (4) "Local improvement district" means an improvement  
20 district in which property is assessed to pay for specific  
21 capital improvements benefiting the assessed property.22 (5) "Records administrator" means the individual  
23 responsible for keeping the public records of the local  
24 government and generally means the county, city, or town  
25 clerk unless the alternative form or governing body

1 specifies a different individual.

2 (6) "Subordinate service district" means a special  
3 district within a local government in which certain services  
4 are provided and in which taxes may be levied to finance the  
5 services.

6 Section 3. Alteration of existing forms of local  
7 government. An alteration of an existing form of local  
8 government may be proposed by:

- 9 (1) a petition of the electors; or
- 10 (2) a resolution of the governing body.

11 Section 4. Election procedure. Except as otherwise  
12 provided in [this act], each election under [this act] is  
13 conducted in the same manner as an election involving ballot  
14 issues or of local officials.

15 Section 5. Petition for alteration. (1) A petition for  
16 the alteration of an existing form of local government may  
17 be presented to the governing body of the local government.  
18 The petition must meet the requirements of [sections 8  
19 through 11].

20 (2) The petition must be signed by ~~a~~ at least 15% of  
21 the electors of the local government REGISTERED AT THE LAST  
22 GENERAL ELECTION, and upon receipt of the petition the  
23 governing body shall call an election, as provided for in  
24 [sections 15 through 17], on the proposed alteration.

25 Section 6. Resolution for alteration. A governing body

1 of a local government may by resolution submit to the  
2 electors of the local government a question on the  
3 alteration of the existing form of the local government. The  
4 resolution must meet the requirements of [sections 8 through  
5 11].

6 Section 7. Permissible recommendations. (1) A petition  
7 or resolution proposing to alter an existing form of county  
8 government may:

- 9 (a) recommend amendments to the existing plan of  
10 government;
- 11 (b) recommend any plan of government authorized by  
12 Title 7, chapter 3, parts 1 through 6;
- 13 (c) draft a charter;
- 14 (d) recommend municipal-county consolidation or  
15 amendments to an existing consolidation; or
- 16 (e) in cooperation with a study--commission SIMILAR  
17 PEITION CIRCULATED OR A RESOLUTION CALLING FOR AN ELECTION  
18 ON COUNTY MERGER ADOPTED BY THE GOVERNING BODY in an  
19 adjoining county, recommend county merger.

20 (2) A petition or resolution proposing to alter an  
21 existing form of municipal government may:

- 22 (a) recommend amendments to the existing plan of  
23 government;
- 24 (b) recommend any plan of government authorized by  
25 Title 7, chapter 3, parts 1 through 7;

- 1 (c) draft a charter; or
- 2 (d) recommend disincorporation.

3 Section 8. Requirements for petition or resolution. A  
 4 petition or resolution proposing an alteration of an  
 5 existing form of local government must contain:

- 6 (1) a certificate containing the "plan of government"  
 7 of the existing form of local government;
- 8 (2) a certificate containing the "plan of government"  
 9 of the proposed new form of local government or amendments  
 10 to the existing plan;
- 11 (3) a certificate containing the "plan of  
 12 apportionment" of commissioner districts if districts are  
 13 contained in the "plan of government"; AND
- 14 ~~(4) a certificate establishing the date of the special~~  
 15 ~~election at which the alternative form of government shall~~  
 16 ~~be presented to the electors and a certificate establishing~~  
 17 ~~the form of the ballot question or questions;~~
- 18 ~~(5) a certificate establishing the dates of the first~~  
 19 ~~primary and general elections if the proposal is approved~~  
 20 ~~and establishing the effective date of the proposal if~~  
 21 ~~approved; and~~
- 22 (6) ~~(4)~~ a comparison of the existing plan and proposed  
 23 plan of local government, including, if desired, a statement  
 24 of the strengths and weaknesses of the existing and proposed  
 25 plans of local government, information that supports the

- 1 adoption of the proposed plan, and information that supports  
 2 retention of the present plan.

3 Section 9. Special requirements if consolidation  
 4 recommended. (1) Whenever county-municipal consolidation is  
 5 recommended, a petition or resolution, in addition to the  
 6 material required in [section 8], must contain a  
 7 consolidation plan which:

- 8 (a) provides for adjustment of existing bonded  
 9 indebtedness and other obligations in a manner which assures  
 10 a fair and equitable burden of taxation for debt service;
- 11 (b) provides for establishment of subordinate service  
 12 districts;
- 13 (c) provides for the transfer or other disposition of  
 14 property and other rights, claims, assets, and franchises of  
 15 the local governments consolidated under its proposal;
- 16 (d) provides the official name of the consolidated  
 17 local government; and
- 18 (e) (i) provides for the transfer, reorganization,  
 19 abolition, adjustment of boundaries, or absorption of  
 20 existing boards, subordinate service districts, local  
 21 improvement districts, agencies, and political subdivisions  
 22 of the consolidated governments, excluding school districts,  
 23 authorities, and nonconsolidated municipalities; or
- 24 (ii) grants the legislative body of the consolidated  
 25 government the authority to transfer, reorganize, abolish,

1 adjust boundaries, or absorb existing boards, subordinate  
2 service districts, local improvement districts, agencies,  
3 and political subdivisions of the consolidated governments,  
4 excluding school districts, authorities, and nonconsolidated  
5 municipalities, with or without referendum requirements.

6 (2) The consolidation plan may include other  
7 provisions that are consistent with state law.

8 (3) Whenever amendments to an existing consolidation  
9 plan are recommended, a petition or resolution must contain  
10 a certificate containing amendments to the consolidation  
11 plan.

12 Section 10. Special requirements if county merger  
13 recommended. (1) Whenever county merger is recommended, a  
14 petition or resolution, in addition to the material required  
15 by [section 8], must contain a consolidation plan which:

16 (a) provides for adjustment of existing bonded  
17 indebtedness and other obligations in a manner which assures  
18 a fair and equitable burden of taxation for debt service;

19 (b) provides for establishment of subordinate service  
20 districts;

21 (c) provides for the transfer or other disposition of  
22 property and other rights, claims, assets, and franchises of  
23 local governments consolidated under the alternative plan;

24 (d) provides the official name of the consolidated  
25 local government; and

1 (e) (i) provides for the transfer, reorganization,  
2 abolition, adjustment of boundaries, or absorption of  
3 existing boards, subordinate service districts, local  
4 improvement districts, agencies, and political subdivisions  
5 of the consolidated governments, excluding school districts,  
6 authorities, and incorporated municipalities; or

7 (ii) grants the legislative body of the consolidated  
8 government the authority to transfer, reorganize, abolish,  
9 adjust boundaries, or absorb existing boards, subordinate  
10 service districts, local improvement districts, agencies,  
11 and political subdivisions of the consolidated governments,  
12 excluding school districts, authorities, and incorporated  
13 municipalities, with or without referendum requirements.

14 (2) The consolidation plan may include other  
15 provisions that are consistent with state law.

16 Section 11. Special requirements if municipal  
17 disincorporation recommended. Whenever municipal  
18 disincorporation is recommended, a petition or resolution,  
19 in addition to the material required by [section 8], must  
20 contain:

21 (1) a certificate of disincorporation instead of a  
22 plan of government; and

23 (2) a recommended plan of disincorporation.

24 Section 12. Filing of petitions and resolutions. (1)  
25 Two copies of a petition or a resolution shall be filed with



1 the department of community affairs.

2 (2) One copy of a petition or resolution shall be  
3 filed with the local government records administrator.

4 (3) The filings required by this section shall be done  
5 within 30 days of adoption of a resolution and within 45  
6 days of submission of a petition.

7 Section 13. Availability of petitions and resolutions.

8 (1) Sufficient copies of a petition or resolution proposing  
9 alterations to an existing form of local government must be  
10 made available to the public for inspection at convenient  
11 locations and at reasonable hours to provide all interested  
12 persons an opportunity to review the recommendations and  
13 documents. The copies must be available no later than 30  
14 days prior to an election on the recommendations if such an  
15 election is to be held. The local government may distribute  
16 copies of a petition or resolution to the electors or  
17 residents of the local government.

18 (2) The cost of preparing the copies needed to meet  
19 the requirements of this section shall be borne by the  
20 affected local government.

21 Section 14. Publication of summary and comparison. (1)

22 A summary of the recommendations contained in a petition or  
23 resolution proposing alteration of an existing form of local  
24 government must be published at least twice in a newspaper  
25 of general circulation in the local government. Whenever an

1 election on the recommendations is to be held, publication  
2 must be made during the 2 weeks preceding the election.

3 (2) The summary must contain a description of the  
4 recommendations, a comparison of the existing and proposed  
5 forms of government, and a list of locations where the full  
6 proposal may be seen or obtained.

7 (3) The cost of publication required by this section  
8 shall be borne by the affected local government.

9 Section 15. Election on alternative form. (1) The

10 governing body shall call a special election on the question  
11 of an alternative form of government to be held within 120  
12 days of the date of filing with the records administrator  
13 under [section 12]. The special election may be held in  
14 conjunction with any other election. The records  
15 administrator shall prepare and print notices of the special  
16 election.

17 (2) The cost of the election shall be paid for by the  
18 local government.

19 (3) (a) The affirmative vote of a simple majority of  
20 those voting on the question is required for adoption.

21 (b) In any election involving the question of  
22 consolidation, each question shall be submitted to the  
23 electors in the county and requires an affirmative vote of a  
24 simple majority of the votes cast in the county on the  
25 question for adoption. There is no requirement for separate

1 majorities in local governments voting on consolidation.  
 2 (c) In any election involving the question of county  
 3 merger, the questions shall be submitted to the electors in  
 4 the counties affected and requires a majority of the votes  
 5 cast on the questions in each affected county for adoption.  
 6 (d) If the electors disapprove the proposed new form  
 7 of local government, amendments, or consolidation plan, the  
 8 local government retains its existing form.  
 9 Section 16. General ballot requirements. (1) The  
 10 question of adopting an alteration of an existing form of  
 11 government proposed by petition or resolution shall be  
 12 submitted to the electors in substantially the following  
 13 form:  
 14 Vote for one:  
 15 FOR adoption of the (self-government charter,  
 16 amendment to an existing charter, or plan of  
 17 government) proposed for (insert name of local  
 18 government) proposed by (petition of the people or  
 19 resolution of the governing body).  
 20 FOR the existing form of government.  
 21 (2) The whole number of ballots shall be divided into  
 22 two equal sets. No more than one set may be used in  
 23 printing the ballot for use in any one precinct and all  
 24 ballots furnished for use in one precinct shall be  
 25 identical. The existing plan of government shall be printed

1 as the first item and the proposed plan as the second item  
 2 on half of the ballots and the proposed form as the first  
 3 item and the existing form as the second item on the other  
 4 half of the ballots. If the local government consists of  
 5 only one precinct, the existing plan shall be listed first  
 6 on the ballot.  
 7 Section 17. Treatment of suboptions for alternative  
 8 forms. (1) No petition or resolution recommendation may  
 9 involve more than three separate suboptions, and no  
 10 suboption may contain more than two alternatives. If a  
 11 suboption is submitted to the voters, only the ballot  
 12 alternatives within that suboption receiving the highest  
 13 number of affirmative votes are considered approved and  
 14 included in the alternative form of government.  
 15 (2) A proposed plan shall be submitted to the voters  
 16 as a single question, except that the suboptions within the  
 17 alternative plan of local government authorized in Title 7,  
 18 chapter 3, parts 1 through 7, and the suboptions authorized  
 19 in a charter may be submitted to the electors as separate  
 20 questions. The question of adopting a suboption shall be  
 21 submitted to the electors in substantially the following  
 22 form:  
 23 Vote for one:  
 24 A legal officer (who may be called the "county  
 25 attorney"):

1 Shall be elected for a term of 4 years.

2 Shall be appointed for a term of 4 years by the  
3 chairman of the local governing body.

4 Section 18. Effect of adoption of new form of  
5 government. The adoption of a new plan of government does  
6 not affect the validity of any bond, debt, contract,  
7 obligation, or cause of action accrued or established under  
8 the prior form of government.

9 Section 19. Filing of approved plan. (1) A copy of the  
10 existing or proposed plan of government ratified by the  
11 voters and any apportionment plan or consolidation or merger  
12 plan shall be certified by the chairman of the governing  
13 body and filed with the department of community affairs, the  
14 county records administrator, and the municipal records  
15 administrator if it is a municipal plan.

16 (2) The approved plan filed with the department of  
17 community affairs is the official plan and is a public  
18 record open to inspection by the public and judicially  
19 noticeable by all courts.

20 Section 20. Judicial review. Judicial review to  
21 determine the validity of the procedures whereby any charter  
22 or alternative plan of government is adopted may be  
23 initiated by petition in district court of 10 or more  
24 registered voters of the local government brought within 60  
25 days after the election at which the charter or plan of

1 government, revision, or amendment is approved. If no  
2 petition is filed within that period, compliance with all  
3 the procedures required by [this act] and the validity of  
4 the manner in which the charter or plan of government was  
5 approved is conclusively presumed. It is presumed that  
6 proper procedure was followed and all procedural  
7 requirements were met. The adoption of a charter or plan of  
8 government may not be considered invalid because of any  
9 procedural error or omission unless it is shown that the  
10 error or omission materially and substantially affected its  
11 adoption.

12 Section 21. Three-year moratorium. Unless the  
13 constitution requires otherwise, the electors of any unit of  
14 local government which has adopted a new alternative form of  
15 local government, charter, or consolidation plan may not  
16 vote on the question of changing the form of local  
17 government until 3 years after the new local government  
18 becomes effective, but the electors may vote on amendments  
19 to the alternative form, charter, or consolidation plan.

20 Section 22. Effective date of alternative plan or  
21 amendment. (1) An alternative plan of local government  
22 approved by the electors takes effect when the new officers  
23 take office, except as otherwise provided in any charter or  
24 consolidation plan. A consolidation or merger plan adopted  
25 by the electors takes effect in the same manner.

1 (2) Provisions creating offices and establishing  
 2 qualifications for office under any apportionment plan  
 3 become effective immediately for the purpose of electing  
 4 officials.

5 (3) An amendment to an existing plan of government  
 6 becomes effective at the beginning of the local government's  
 7 fiscal year commencing after the election results are  
 8 officially declared.

9 Section 23. General transition provisions. (1) The  
 10 governing body shall prepare an advisory plan for orderly  
 11 transition to a new plan of local government. The transition  
 12 plan may propose necessary ordinances, plans for  
 13 consolidation of services and functions, and a plan for  
 14 reorganizing boards, departments, and agencies.

15 (2) The governing body of a local government may enact  
 16 and enforce ordinances to bring about an orderly transition  
 17 to the new plan of government, including transfer of powers,  
 18 records, documents, properties, assets, funds, liabilities,  
 19 or personnel. These ordinances are to be consistent with the  
 20 approved plan and necessary or convenient to place it into  
 21 full effect. Whenever a question arises concerning  
 22 transition which is not provided for, the governing body may  
 23 provide for the transition by ordinance, rule, or resolution  
 24 not inconsistent with law.

25 Section 24. Transition provisions affecting personnel.

1 (1) The members of the governing body holding office on the  
 2 date the new plan of government is adopted by the electors  
 3 of the local government continue in office and in the  
 4 performance of their duties until the governing body  
 5 authorized by the plan has been elected and qualified,  
 6 whereupon the prior governing body is abolished.

7 (2) All other employees holding offices or positions,  
 8 whether elective or appointive, under the government of the  
 9 county or municipality continue in the performance of the  
 10 duties of their respective offices and positions until  
 11 provisions are made for the performance or discontinuance of  
 12 the duties or the discontinuance of the offices or  
 13 positions.

14 (3) A charter or a petition or resolution proposing an  
 15 alteration to an existing form of local government may  
 16 provide that existing elected officers shall continue in  
 17 office until the end of the term for which they were elected  
 18 or may provide that existing elected officers shall be  
 19 retained as local government employees until the end of the  
 20 term for which they were elected and their salaries may not  
 21 be reduced.

22 Section 25. Treatment of existing ordinances and  
 23 resolutions. (1) All ordinances and resolutions in effect at  
 24 the time the new form of government becomes effective  
 25 continue in effect until repealed or amended in the manner

1 provided by law.

2 (2) Within 2 years after ratification of a  
 3 consolidation plan, the governing body of the consolidated  
 4 local government shall revise, repeal, or reaffirm all  
 5 rules, ordinances, and resolutions in force within the  
 6 participating county and municipalities at the time of  
 7 consolidation. Each rule, ordinance, or resolution in force  
 8 at the time of consolidation remains in force within the  
 9 former geographic jurisdiction until superseded by action of  
 10 the new governing body. Ordinances and resolutions relating  
 11 to public improvements to be paid for in whole or in part by  
 12 special assessments may not be repealed.

13 Section 26. Election of new officials. (1) Within 20  
 14 days after an election at which the new plan of government  
 15 is approved by the electors, the governing body of the local  
 16 government shall meet and order a special primary and  
 17 general election for the purpose of electing the officials  
 18 required by the new form of government. The elections for  
 19 officials may be held in conjunction with any other  
 20 election.

21 (2) The order shall specify a date for the primary  
 22 election not more than 120 days or less than 20 days after  
 23 the election approving the new form and a date for the  
 24 general election 60 days after the primary.

25 Section 27. Organization of new governing body. (1)

1 The first meeting of a new governing body for a new plan of  
 2 government shall be held at 10 a.m., 60 days after the  
 3 election of the new officers. At that time, newly elected  
 4 members shall take the oath of office prior to assuming the  
 5 duties of office.

6 (2) If the terms of the commissioners are to be  
 7 overlapping, they shall draw lots to establish their  
 8 respective terms of office.

9 Section 28. Codification. It is intended that sections  
 10 1 through 27 be codified as an integral part of Title 7,  
 11 chapter 3, part 1, and the provisions of Title 7, chapter 3,  
 12 apply to sections 1 through 27.

13 Section 29. Severability. If a part of this act is  
 14 invalid, all valid parts that are severable from the invalid  
 15 part remain in effect. If a part of this act is invalid in  
 16 one or more of its applications, the part remains in effect  
 17 in all valid applications that are severable from the  
 18 invalid applications.

-End-

1 HOUSE BILL NO. 851

2 INTRODUCED BY SPILKER, WALDRON, REICHERT, H. ROBBINS,

3 AZZARA, BARDANOUVE, PALMER, WATT, RASMUSSEN,

4 McCALLUM, DONALDSON

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES  
6 FOR ALTERATION OF EXISTING FORMS OF LOCAL GOVERNMENT."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Purpose. The purpose of [this act] is to  
10 provide procedures for alteration of existing forms of local  
11 government.

12 Section 2. Definitions. As used in [this act], unless  
13 the context indicates otherwise, the following definitions  
14 apply:

15 (1) "Authority" means:

16 (a) a municipal or regional airport authority as  
17 provided in Title 67, chapter 11;

18 (b) a conservancy district as provided in Title 85,  
19 chapter 9;

20 (c) a conservation district as provided in Title 76,  
21 chapter 15;

22 (d) a drainage district as provided in Title 85,  
23 chapter 8;

24 (e) an irrigation district as provided in Title 85,

1 chapter 7;

2 (f) a hospital district as provided in Title 7,  
3 chapter 34, part 21;

4 (g) a flood control and water conservation district as  
5 provided in Title 76, chapter 5, part 11;

6 (h) a county water and sewer district as provided in  
7 Title 7, chapter 13, part 22; or

8 (i) an urban transportation district as provided in  
9 Title 7, chapter 14, part 2.

10 (2) "Finance administrator" means the individual  
11 responsible for the financial administration of the local  
12 government and generally means the county or city treasurer  
13 or town clerk unless the alternative form or governing body  
14 specifies a different individual.

15 (3) "Governing body" means the commission or the town  
16 meeting legislative body established in the alternative form  
17 of a local government under Title 7, chapter 3, parts 1  
18 through 6.

19 (4) "Local improvement district" means an improvement  
20 district in which property is assessed to pay for specific  
21 capital improvements benefiting the assessed property.

22 (5) "Records administrator" means the individual  
23 responsible for keeping the public records of the local  
24 government and generally means the county, city, or town  
25 clerk unless the alternative form or governing body

1 specifies a different individual.

2 (6) "Subordinate service district" means a special  
3 district within a local government in which certain services  
4 are provided and in which taxes may be levied to finance the  
5 services.

6 Section 3. Alteration of existing forms of local  
7 government. An alteration of an existing form of local  
8 government may be proposed by:

9 ~~{1}~~--a petition of the electors; ~~or~~

10 ~~{2}~~--a resolution of the governing body.

11 Section 4. Election procedure. Except as otherwise  
12 provided in [this act], each election under [this act] is  
13 conducted in the same manner as an election involving ballot  
14 issues or of local officials.

15 Section 5. Petition for alteration. (1) A petition for  
16 the alteration of an existing form of local government may  
17 be presented to the governing body of the local government.  
18 The petition must meet the requirements of [sections 8  
19 through 11].

20 (2) The petition must be signed by a ~~AI~~ least 15% of  
21 the electors of the local government REGISTERED AT THE LAST  
22 GENERAL ELECTION, and upon receipt of the petition the  
23 governing body shall call an election, as provided for in  
24 [sections 15 through 17], on the proposed alteration.  
25 WHENEVER COUNTY-MUNICIPAL CONSOLIDATION IS PROPOSED, THE

1 PETITION MUST BE SIGNED BY AT LEAST 15% OF THE ELECTORS  
2 RESIDING WITHIN THE MUNICIPALITY OR MUNICIPALITIES PROPOSED  
3 TO BE CONSOLIDATED AND 15% OF THE ELECTORS RESIDING IN THE  
4 REMAINDER OF THE COUNTY.

5 ~~Section 4. Resolution for alterations. A governing~~  
6 ~~body of a local government may by resolution submit to the~~  
7 ~~electors of the local government a question on the~~  
8 ~~alteration of the existing form of the local government. The~~  
9 ~~resolution must meet the requirements of [sections 8 through~~  
10 ~~11].~~

11 Section 6. Permissible recommendations. (1) A petition  
12 or resolution proposing to alter an existing form of county  
13 government may:

14 (a) recommend amendments to the existing plan of  
15 government;

16 (b) recommend any plan of government authorized by  
17 Title 7, chapter 3, parts 1 through 6;

18 (c) draft a charter;

19 (d) recommend municipal-county consolidation or  
20 amendments to an existing consolidation; or

21 (e) in cooperation with a study commission SIMILAR  
22 PETITION CIRCULATED OR A RESOLUTION CALLING FOR AN ELECTION  
23 ON COUNTY MERGER ADOPTED BY THE GOVERNING BODY in an  
24 adjoining county, recommend county merger.

25 (2) A petition or resolution proposing to alter an

1 existing form of municipal government may:

2 (a) recommend amendments to the existing plan of  
3 government;

4 (b) recommend any plan of government authorized by  
5 Title 7, chapter 3, parts 1 through 7;

6 (c) draft a charter; or

7 (d) recommend disincorporation.

8 Section 7. Requirements for petition or resolution. A  
9 petition or--resolution proposing an alteration of an  
10 existing form of local government must contain:

11 (1) a certificate containing the "plan of government"  
12 of the existing form of local government;

13 (2) a certificate containing the "plan of government"  
14 of the proposed new form of local government or amendments  
15 to the existing plan;

16 (3) a certificate containing the "plan of  
17 apportionment" of commissioner districts if districts are  
18 contained in the "plan of government"; AND

19 ~~{4}--a-certificate-establishing-the-date-of-the-special~~  
20 ~~election-at-which-the-alternative-form-of--government--shall~~  
21 ~~be--presented-to-the-electors-and-a-certificate-establishing~~  
22 ~~the-form-of-the-ballot-question-or-questions;~~

23 ~~{5}--a-certificate-establishing-the-dates-of-the--first~~  
24 ~~primary--and--general--elections-if-the-proposal-is-approved~~  
25 ~~and-establishing-the--effective--date--of--the--proposal--if~~

1 approved; and

2 ~~{6}{4}~~ a comparison of the existing plan and proposed  
3 plan of local government, including, if desired, a statement  
4 of the strengths and weaknesses of the existing and proposed  
5 plans of local government, information that supports the  
6 adoption of the proposed plan, and information that supports  
7 retention of the present plan.

8 Section 8. Special requirements if consolidation  
9 recommended. (1) Whenever county-municipal consolidation is  
10 recommended, a petition or-resolution, in addition to the  
11 material required in [section 8], must contain a  
12 consolidation plan which:

13 (a) provides for adjustment of existing bonded  
14 indebtedness and other obligations in a manner which assures  
15 a fair and equitable burden of taxation for debt service;

16 (b) provides for establishment of subordinate service  
17 districts;

18 (c) provides for the transfer or other disposition of  
19 property and other rights, claims, assets, and franchises of  
20 the local governments consolidated under its proposal;

21 (d) provides the official name of the consolidated  
22 local government; and

23 (e) (i) provides for the transfer, reorganization,  
24 abolition, adjustment of boundaries, or absorption of  
25 existing boards, subordinate service districts, local



1 improvement districts, agencies, and political subdivisions  
2 of the consolidated governments, excluding school districts,  
3 authorities, and nonconsolidated municipalities; or

4 (ii) grants the legislative body of the consolidated  
5 government the authority to transfer, reorganize, abolish,  
6 adjust boundaries, or absorb existing boards, subordinate  
7 service districts, local improvement districts, agencies,  
8 and political subdivisions of the consolidated governments,  
9 excluding school districts, authorities, and nonconsolidated  
10 municipalities, with or without referendum requirements.

11 (2) The consolidation plan may include other  
12 provisions that are consistent with state law.

13 (3) Whenever amendments to an existing consolidation  
14 plan are recommended, a petition or-resolution must contain  
15 a certificate containing amendments to the consolidation  
16 plan.

17 Section 9. Special requirements if county merger  
18 recommended. (1) Whenever county merger is recommended, a  
19 petition or-resolution, in addition to the material required  
20 by [section 8], must contain a consolidation plan which:

21 (a) provides for adjustment of existing bonded  
22 indebtedness and other obligations in a manner which assures  
23 a fair and equitable burden of taxation for debt service;

24 (b) provides for establishment of subordinate service  
25 districts;

1 (c) provides for the transfer or other disposition of  
2 property and other rights, claims, assets, and franchises of  
3 local governments consolidated under the alternative plan;

4 (d) provides the official name of the consolidated  
5 local government; and

6 (e) (i) provides for the transfer, reorganization,  
7 abolition, adjustment of boundaries, or absorption of  
8 existing boards, subordinate service districts, local  
9 improvement districts, agencies, and political subdivisions  
10 of the consolidated governments, excluding school districts,  
11 authorities, and incorporated municipalities; or

12 (ii) grants the legislative body of the consolidated  
13 government the authority to transfer, reorganize, abolish,  
14 adjust boundaries, or absorb existing boards, subordinate  
15 service districts, local improvement districts, agencies,  
16 and political subdivisions of the consolidated governments,  
17 excluding school districts, authorities, and incorporated  
18 municipalities, with or without referendum requirements.

19 (2) The consolidation plan may include other  
20 provisions that are consistent with state law.

21 Section 10. Special requirements if municipal  
22 disincorporation recommended. Whenever municipal  
23 disincorporation is recommended, a petition or-resolution,  
24 in addition to the material required by [section 8], must  
25 contain:

1 (1) a certificate of disincorporation instead of a  
2 plan of government; and

3 (2) a recommended plan of disincorporation.

4 Section 11. Filing of petitions and--resolutions. (1)  
5 Two copies of a petition or--a-resolution shall be filed with  
6 the department of community affairs.

7 (2) One copy of a petition or--resolution shall be  
8 filed with the local government records administrator.

9 (3) The filings required by this section shall be done  
10 within 30-days-of-adoption-of-a--resolution--and--within 45  
11 days of submission of a IHE petition.

12 Section 12. Availability of petitions and--resolutions.

13 (1) Sufficient copies of a petition or--resolution proposing  
14 alterations to an existing form of local government must be  
15 made available to the public for inspection at convenient  
16 locations and at reasonable hours to provide all interested  
17 persons an opportunity to review the recommendations and  
18 documents. The copies must be available no later than 30  
19 days prior to an election on the recommendations if such an  
20 election is to be held. The local government may distribute  
21 copies of a petition or--resolution to the electors or  
22 residents of the local government.

23 (2) The cost of preparing the copies needed to meet  
24 the requirements of this section shall be borne by the  
25 affected local government.

1 Section 13. Publication of summary and comparison. (1)  
2 A summary of the recommendations contained in a petition or  
3 resolution proposing alteration of an existing form of local  
4 government must be published at least twice in a newspaper  
5 of general circulation in the local government. Whenever an  
6 election on the recommendations is to be held, publication  
7 must be made during the 2 weeks preceding the election.

8 (2) The summary must contain a description of the  
9 recommendations, a comparison of the existing and proposed  
10 forms of government, and a list of locations where the full  
11 proposal may be seen or obtained.

12 (3) The cost of publication required by this section  
13 shall be borne by the affected local government.

14 Section 14. Election on alternative form. (1) The  
15 governing body shall call a special election on the question  
16 of an alternative form of government to be held within 120  
17 days of the date of filing with the records administrator  
18 under [section 12]. The special election may be held in  
19 conjunction with any other election. The records  
20 administrator shall prepare and print notices of the special  
21 election.

22 (2) The cost of the election shall be paid for by the  
23 local government.

24 (3) (a) The affirmative vote of a simple majority of  
25 those voting on the question is required for adoption.

1 (b) In any election involving the question of  
 2 consolidation, each question shall be submitted to the  
 3 electors in the county and requires an affirmative vote of a  
 4 simple majority of the votes cast in the county on the  
 5 question for adoption. There is no requirement for separate  
 6 majorities in local governments voting on consolidation.

7 (c) In any election involving the question of county  
 8 merger, the questions shall be submitted to the electors in  
 9 the counties affected and requires a majority of the votes  
 10 cast on the questions in each affected county for adoption.

11 (d) If the electors disapprove the proposed new form  
 12 of local government, amendments, or consolidation plan, the  
 13 local government retains its existing form.

14 Section 15. General ballot requirements. (1) The  
 15 question of adopting an alteration of an existing form of  
 16 government proposed by petition or--resolution shall be  
 17 submitted to the electors in substantially the following  
 18 form:

19 Vote for one:

20  FOR adoption of the (self-government charter,  
 21 amendment to an existing charter, or plan of  
 22 government) proposed for (insert name of local  
 23 government) proposed by (petition of the people or  
 24 resolution-of-the-governing-body).

25  FOR the existing form of government.

1 (2) The whole number of ballots shall be divided into  
 2 two equal sets. No more than one set may be used in  
 3 printing the ballot for use in any one precinct and all  
 4 ballots furnished for use in one precinct shall be  
 5 identical. The existing plan of government shall be printed  
 6 as the first item and the proposed plan as the second item  
 7 on half of the ballots and the proposed form as the first  
 8 item and the existing form as the second item on the other  
 9 half of the ballots. If the local government consists of  
 10 only one precinct, the existing plan shall be listed first  
 11 on the ballot.

12 Section 16. Treatment of suboptions for alternative  
 13 forms. (1) No petition or--resolution recommendation may  
 14 involve more than three separate suboptions, and no  
 15 suboption may contain more than two alternatives. If a  
 16 suboption is submitted to the voters, only the ballot  
 17 alternatives within that suboption receiving the highest  
 18 number of affirmative votes are considered approved and  
 19 included in the alternative form of government.

20 (2) A proposed plan shall be submitted to the voters  
 21 as a single question, except that the suboptions within the  
 22 alternative plan of local government authorized in Title 7,  
 23 chapter 3, parts 1 through 7, and the suboptions authorized  
 24 in a charter may be submitted to the electors as separate  
 25 questions. The question of adopting a suboption shall be

1 submitted to the electors in substantially the following  
2 form:

3 Vote for one:

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

- 6  Shall be elected for a term of 4 years.
- 7  Shall be appointed for a term of 4 years by the  
8 chairman of the local governing body.

9 Section 17. Effect of adoption of new form of  
10 government. The adoption of a new plan of government does  
11 not affect the validity of any bond, debt, contract,  
12 obligation, or cause of action accrued or established under  
13 the prior form of government.

14 Section 18. Filing of approved plan. (1) A copy of the  
15 existing or proposed plan of government ratified by the  
16 voters and any apportionment plan or consolidation or merger  
17 plan shall be certified by the chairman of the governing  
18 body and filed with the department of community affairs, the  
19 county records administrator, and the municipal records  
20 administrator if it is a municipal plan.

21 (2) The approved plan filed with the department of  
22 community affairs is the official plan and is a public  
23 record open to inspection by the public and judicially  
24 noticeable by all courts.

25 Section 19. Judicial review. Judicial review to

1 determine the validity of the procedures whereby any charter  
2 or alternative plan of government is adopted may be  
3 initiated by petition in district court of 10 or more  
4 registered voters of the local government brought within 60  
5 days after the election at which the charter or plan of  
6 government, revision, or amendment is approved. If no  
7 petition is filed within that period, compliance with all  
8 the procedures required by [this act] and the validity of  
9 the manner in which the charter or plan of government was  
10 approved is conclusively presumed. It is presumed that  
11 proper procedure was followed and all procedural  
12 requirements were met. The adoption of a charter or plan of  
13 government may not be considered invalid because of any  
14 procedural error or omission unless it is shown that the  
15 error or omission materially and substantially affected its  
16 adoption.

17 Section 20. Three-year moratorium. Unless the  
18 constitution requires otherwise, the electors of any unit of  
19 local government which has adopted ~~a new alternative~~ VOIDED  
20 UPON THE QUESTION OF CHANGING THE form of local government,  
21 OR UPON THE QUESTION OF  
22 AMENDING THE ALTERNATIVE FORM, CHARTER, OR CONSOLIDATION  
23 PLAN may not vote on the question of changing OR AMENDING  
24 the form of local government until 3 years after the  
25 ~~new local government becomes effective, but the electors may~~

1 ~~vote--on--amendments--to--the--alternative-forms--charters--or~~  
2 ~~consolidation-plans~~

3 Section 21. Effective date of alternative plan or  
4 amendment. (1) An alternative plan of local government  
5 approved by the electors takes effect when the new officers  
6 take office, except as otherwise provided in any charter or  
7 consolidation plan. A consolidation or merger plan adopted  
8 by the electors takes effect in the same manner.

9 (2) Provisions creating offices and establishing  
10 qualifications for office under any apportionment plan  
11 become effective immediately for the purpose of electing  
12 officials.

13 (3) An amendment to an existing plan of government  
14 becomes effective at the beginning of the local government's  
15 fiscal year commencing after the election results are  
16 officially declared.

17 Section 22. General transition provisions. (1) The  
18 governing body shall prepare an advisory plan for orderly  
19 transition to a new plan of local government. The transition  
20 plan may propose necessary ordinances, plans for  
21 consolidation of services and functions, and a plan for  
22 reorganizing boards, departments, and agencies.

23 (2) The governing body of a local government may enact  
24 and enforce ordinances to bring about an orderly transition  
25 to the new plan of government, including transfer of powers,

1 records, documents, properties, assets, funds, liabilities,  
2 or personnel. These ordinances are to be consistent with the  
3 approved plan and necessary or convenient to place it into  
4 full effect. Whenever a question arises concerning  
5 transition which is not provided for, the governing body may  
6 provide for the transition by ordinance, rule, or resolution  
7 not inconsistent with law.

8 Section 23. Transition provisions affecting personnel.  
9 (1) The members of the governing body holding office on the  
10 date the new plan of government is adopted by the electors  
11 of the local government continue in office and in the  
12 performance of their duties until the governing body  
13 authorized by the plan has been elected and qualified,  
14 whereupon the prior governing body is abolished.

15 (2) All other employees holding offices or positions,  
16 whether elective or appointive, under the government of the  
17 county or municipality continue in the performance of the  
18 duties of their respective offices and positions until  
19 provisions are made for the performance or discontinuance of  
20 the duties or the discontinuance of the offices or  
21 positions.

22 (3) A charter or a petition or resolution proposing an  
23 alteration to an existing form of local government may  
24 provide that existing elected officers shall continue in  
25 office until the end of the term for which they were elected

1 or may provide that existing elected officers shall be  
 2 retained as local government employees until the end of the  
 3 term for which they were elected and their salaries may not  
 4 be reduced.

5 Section 24. Treatment of existing ordinances and  
 6 resolutions. (1) All ordinances and resolutions in effect at  
 7 the time the new form of government becomes effective  
 8 continue in effect until repealed or amended in the manner  
 9 provided by law.

10 (2) Within 2 years after ratification of a  
 11 consolidation plan, the governing body of the consolidated  
 12 local government shall revise, repeal, or reaffirm all  
 13 rules, ordinances, and resolutions in force within the  
 14 participating county and municipalities at the time of  
 15 consolidation. Each rule, ordinance, or resolution in force  
 16 at the time of consolidation remains in force within the  
 17 former geographic jurisdiction until superseded by action of  
 18 the new governing body. Ordinances and resolutions relating  
 19 to public improvements to be paid for in whole or in part by  
 20 special assessments may not be repealed.

21 Section 25. Election of new officials. (1) Within 20  
 22 days after an election at which the new plan of government  
 23 is approved by the electors, the governing body of the local  
 24 government shall meet and order a special primary and  
 25 general election for the purpose of electing the officials

1 required by the new form of government. The elections for  
 2 officials may be held in conjunction with any other  
 3 election.

4 (2) The order shall specify a date for the primary  
 5 election not more than 120 days or less than 20 days after  
 6 the election approving the new form and a date for the  
 7 general election 60 days after the primary.

8 Section 26. Organization of new governing body. (1)  
 9 The first meeting of a new governing body for a new plan of  
 10 government shall be held at 10 a.m., 60 days after the  
 11 election of the new officers. At that time, newly elected  
 12 members shall take the oath of office prior to assuming the  
 13 duties of office.

14 (2) If the terms of the commissioners are to be  
 15 overlapping, they shall draw lots to establish their  
 16 respective terms of office.

17 Section 27. Codification. It is intended that sections  
 18 1 through 27 be codified as an integral part of Title 7,  
 19 chapter 3, part 1, and the provisions of Title 7, chapter 3,  
 20 apply to sections 1 through 27.

21 Section 28. Severability. If a part of this act is  
 22 invalid, all valid parts that are severable from the invalid  
 23 part remain in effect. If a part of this act is invalid in  
 24 one or more of its applications, the part remains in effect  
 25 in all valid applications that are severable from the

HB 0851/03

1 invalid applications.

-End-

## HOUSE BILL NO. 851

INTRODUCED BY SPILKER, WALDRON, REICHERT, H. ROBBINS,

AZZARA, BARDANOUVE, PALMER, WATT, RASMUSSEN,

MCCALLUM, DONALDSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROCEDURES  
FOR ALTERATION OF EXISTING FORMS OF LOCAL GOVERNMENT."

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

Section 1. Purpose. The purpose of [this act] is to  
provide procedures for alteration of existing forms of local  
government.

Section 2. Definitions. As used in [this act], unless  
the context indicates otherwise, the following definitions  
apply:

(1) "Authority" means:

(a) a municipal or regional airport authority as  
provided in Title 67, chapter 11;

(b) a conservancy district as provided in Title 85,  
chapter 9;

(c) a conservation district as provided in Title 76,  
chapter 15;

(d) a drainage district as provided in Title 85,  
chapter 8;

(e) an irrigation district as provided in Title 85,

chapter 7;

(f) a hospital district as provided in Title 7,  
chapter 34, part 21;

(g) a flood control and water conservation district as  
provided in Title 76, chapter 5, part 11;

(h) a county water and sewer district as provided in  
Title 7, chapter 13, part 22; or

(i) an urban transportation district as provided in  
Title 7, chapter 14, part 2.

(2) "Finance administrator" means the individual  
responsible for the financial administration of the local  
government and generally means the county or city treasurer  
or town clerk unless the alternative form or governing body  
specifies a different individual.

(3) "Governing body" means the commission or the town  
meeting legislative body established in the alternative form  
of a local government under Title 7, chapter 3, parts 1  
through 6.

(4) "Local improvement district" means an improvement  
district in which property is assessed to pay for specific  
capital improvements benefiting the assessed property.

(5) "Records administrator" means the individual  
responsible for keeping the public records of the local  
government and generally means the county, city, or town  
clerk unless the alternative form or governing body



1 specifies a different individual.

2 (6) "Subordinate service district" means a special  
3 district within a local government in which certain services  
4 are provided and in which taxes may be levied to finance the  
5 services.

6 Section 3. Alteration of existing forms of local  
7 government. An alteration of an existing form of local  
8 government may be proposed by:

- 9 ~~{1}--a petition of the electors, or~~  
10 ~~{2}--a resolution of the governing body;~~

11 Section 4. Election procedure. Except as otherwise  
12 provided in [this act], each election under [this act] is  
13 conducted in the same manner as an election involving ballot  
14 issues or of local officials.

15 Section 5. Petition for alteration. (1) A petition for  
16 the alteration of an existing form of local government may  
17 be presented to the governing body of the local government.  
18 The petition must meet the requirements of [sections 8  
19 through 11].

20 (2) The petition must be signed by at least 15% of  
21 the electors of the local government REGISTERED AT THE LAST  
22 GENERAL ELECTION, and upon receipt of the petition the  
23 governing body shall call an election, as provided for in  
24 [sections 15 through 17], on the proposed alteration.  
25 WHENEVER COUNTY-MUNICIPAL CONSOLIDATION IS PROPOSED, THE

1 PETITION MUST BE SIGNED BY AT LEAST 15% OF THE ELECTORS  
2 RESIDING WITHIN THE MUNICIPALITY OR MUNICIPALITIES PROPOSED  
3 TO BE CONSOLIDATED AND 15% OF THE ELECTORS RESIDING IN THE  
4 REMAINDER OF THE COUNTY.

5 ~~Section 6--Resolution--for--alterations--A--governing~~  
6 ~~body--of--a--local--government--may--by--resolution--submit--to--the~~  
7 ~~electors--of--the--local--government--a--question--on--the~~  
8 ~~alteration--of--the--existing--form--of--the--local--government--The~~  
9 ~~resolution--must--meet--the--requirements--of--[sections--8--through~~  
10 ~~11].~~

11 Section 6. Permissible recommendations. (1) A petition  
12 or resolution proposing to alter an existing form of county  
13 government may:

- 14 (a) recommend amendments to the existing plan of  
15 government;  
16 (b) recommend any plan of government authorized by  
17 Title 7, chapter 3, parts 1 through 6;  
18 (c) draft a charter;  
19 (d) recommend municipal-county consolidation or  
20 amendments to an existing consolidation; or  
21 (e) in cooperation with a study--commission SIMILAR  
22 PETITION CIRCULATED OR A RESOLUTION CALLING FOR AN ELECTION  
23 ON COUNTY MERGER ADOPTED BY THE GOVERNING BODY CIRCULATED in  
24 an adjoining county, recommend county merger.  
25 (2) A petition or resolution proposing to alter an

1 existing form of municipal government may:

2 (a) recommend amendments to the existing plan of  
3 government;

4 (b) recommend a plan of government authorized by  
5 Title 7, chapter 3, parts 1 through 7;

6 (c) draft a charter; or

7 (d) recommend disincorporation.

8 Section 7. Requirements for petition ~~or resolution~~. A  
9 petition ~~or resolution~~ proposing an alteration of an  
10 existing form of local government must contain:

11 (1) a certificate containing the "plan of government"  
12 of the existing form of local government;

13 (2) a certificate containing the "plan of government"  
14 of the proposed new form of local government or amendments  
15 to the existing plan;

16 (3) a certificate containing the "plan of  
17 apportionment" of commissioner districts if districts are  
18 contained in the "plan of government"; ~~AND~~

19 ~~(4) a certificate establishing the date of the special~~  
20 ~~election at which the alternative form of government shall~~  
21 ~~be presented to the electors and a certificate establishing~~  
22 ~~the form of the ballot question or questions;~~

23 ~~(5) a certificate establishing the dates of the first~~  
24 ~~primary and general elections if the proposal is approved~~  
25 ~~and establishing the effective date of the proposal if~~

1 ~~approved and~~

2 ~~(6) (i)~~ a comparison of the existing plan and proposed  
3 plan of local government, including, if desired, a statement  
4 of the strengths and weaknesses of the existing and proposed  
5 plans of local government, information that supports the  
6 adoption of the proposed plan, and information that supports  
7 retention of the present plan.

8 Section 8. Special requirements if consolidation  
9 recommended. (1) Whenever county-municipal consolidation is  
10 recommended, a petition ~~or resolution~~, in addition to the  
11 material required in [section 8], must contain a  
12 consolidation plan which:

13 (a) provides for adjustment of existing bonded  
14 indebtedness and other obligations in a manner which assures  
15 a fair and equitable burden of taxation for debt service;

16 (b) provides for establishment of subordinate service  
17 districts;

18 (c) provides for the transfer or other disposition of  
19 property and other rights, claims, assets, and franchises of  
20 the local governments consolidated under its proposal;

21 (d) provides the official name of the consolidated  
22 local government; and

23 (e) (i) provides for the transfer, reorganization,  
24 abolition, adjustment of boundaries, or absorption of  
25 existing boards, subordinate service districts, local

1 improvement districts, agencies, and political subdivisions  
 2 of the consolidated governments, excluding school districts,  
 3 authorities, and nonconsolidated municipalities; or

4 (i) grants the legislative body of the consolidated  
 5 government the authority to transfer, reorganize, abolish,  
 6 adjust boundaries, or absorb existing boards, subordinate  
 7 service districts, local improvement districts, agencies,  
 8 and political subdivisions of the consolidated governments,  
 9 excluding school districts, authorities, and nonconsolidated  
 10 municipalities, with or without referendum requirements.

11 (2) The consolidation plan may include other  
 12 provisions that are consistent with state law.

13 (3) Whenever amendments to an existing consolidation  
 14 plan are recommended, a petition or resolution must contain  
 15 a certificate containing amendments to the consolidation  
 16 plan.

17 Section 9. Special requirements if county merger  
 18 recommended. (1) Whenever county merger is recommended, a  
 19 petition or resolution, in addition to the material required  
 20 by [section 8], must contain a consolidation plan which:

21 (a) provides for adjustment of existing bonded  
 22 indebtedness and other obligations in a manner which assures  
 23 a fair and equitable burden of taxation for debt service;

24 (b) provides for establishment of subordinate service  
 25 districts;

1 (c) provides for the transfer or other disposition of  
 2 property and other rights, claims, assets, and franchises of  
 3 local governments consolidated under the alternative plan;

4 (d) provides the official name of the consolidated  
 5 local government; and

6 (e) (i) provides for the transfer, reorganization,  
 7 abolition, adjustment of boundaries, or absorption of  
 8 existing boards, subordinate service districts, local  
 9 improvement districts, agencies, and political subdivisions  
 10 of the consolidated governments, excluding school districts,  
 11 authorities, and incorporated municipalities; or

12 (ii) grants the legislative body of the consolidated  
 13 government the authority to transfer, reorganize, abolish,  
 14 adjust boundaries, or absorb existing boards, subordinate  
 15 service districts, local improvement districts, agencies,  
 16 and political subdivisions of the consolidated governments,  
 17 excluding school districts, authorities, and incorporated  
 18 municipalities, with or without referendum requirements.

19 (2) The consolidation plan may include other  
 20 provisions that are consistent with state law.

21 Section 10. Special requirements if municipal  
 22 disincorporation recommended. Whenever municipal  
 23 disincorporation is recommended, a petition or resolution,  
 24 in addition to the material required by [section 8], must  
 25 contain:

1 (1) a certificate of disincorporation instead of a  
2 plan of government; and

3 (2) a recommended plan of disincorporation.

4 Section 11. Filing of petitions ~~and resolutions~~. (1)  
5 Two copies of a petition ~~or a resolution~~ shall be filed with  
6 the department of community affairs.

7 (2) One copy of a petition ~~or resolution~~ shall be  
8 filed with the local government records administrator.

9 (3) The filings required by this section shall be done  
10 within ~~30 days of adoption of a resolution and within~~ 45  
11 days of submission of a ~~THE~~ petition.

12 Section 12. Availability of petitions ~~and resolutions~~.

13 (1) Sufficient copies of a petition ~~or resolution~~ proposing  
14 alterations to an existing form of local government must be  
15 made available to the public for inspection at convenient  
16 locations and at reasonable hours to provide all interested  
17 persons an opportunity to review the recommendations and  
18 documents. The copies must be available no later than 30  
19 days prior to an election on the recommendations if such an  
20 election is to be held. The local government may distribute  
21 copies of a petition ~~or resolution~~ to the electors or  
22 residents of the local government.

23 (2) The cost of preparing the copies needed to meet  
24 the requirements of this section shall be borne by the  
25 affected local government.

1 Section 13. Publication of summary and comparison. (1)  
2 A summary of the recommendations contained in a petition ~~or~~  
3 ~~resolution~~ proposing alteration of an existing form of local  
4 government must be published at least twice in a newspaper  
5 of general circulation in the local government. Whenever an  
6 election on the recommendations is to be held, publication  
7 must be made during the 2 weeks preceding the election.

8 (2) The summary must contain a description of the  
9 recommendations, a comparison of the existing and proposed  
10 forms of government, and a list of locations where the full  
11 proposal may be seen or obtained.

12 (3) The cost of publication required by this section  
13 shall be borne by the affected local government.

14 Section 14. Election on alternative form. (1) The  
15 governing body shall call a special election on the question  
16 of an alternative form of government to be held within 120  
17 days of the date of filing with the records administrator  
18 under [section 12]. The special election may be held in  
19 conjunction with any other election. The records  
20 administrator shall prepare and print notices of the special  
21 election.

22 (2) The cost of the election shall be paid for by the  
23 local government.

24 (3) (a) The affirmative vote of a simple majority of  
25 those voting on the question is required for adoption.

1 (b) In any election involving the question of  
 2 consolidation, each question shall be submitted to the  
 3 electors in the county and requires an affirmative vote of a  
 4 simple majority of the votes cast in the county on the  
 5 question for adoption. There is no requirement for separate  
 6 majorities in local governments voting on consolidation.

7 (c) In any election involving the question of county  
 8 merger, the questions shall be submitted to the electors in  
 9 the counties affected and requires a majority of the votes  
 10 cast on the questions in each affected county for adoption.

11 (d) If the electors disapprove the proposed new form  
 12 of local government, amendments, or consolidation plan, the  
 13 local government retains its existing form.

14 Section 15. General ballot requirements. (1) The  
 15 question of adopting an alteration of an existing form of  
 16 government proposed by petition or--resolution shall be  
 17 submitted to the electors in substantially the following  
 18 form:

19 Vote for one:

20 FDR adoption of the (self-government charter,  
 21 amendment to an existing charter, or plan of  
 22 government) proposed for (insert name of local  
 23 government) proposed by (petition of the people or  
 24 resolution-of-the-governing-body).

25 FDR the existing form of government.

1 (2) The whole number of ballots shall be divided into  
 2 two equal sets. No more than one set may be used in  
 3 printing the ballot for use in any one precinct and all  
 4 ballots furnished for use in one precinct shall be  
 5 identical. The existing plan of government shall be printed  
 6 as the first item and the proposed plan as the second item  
 7 on half of the ballots and the proposed form as the first  
 8 item and the existing form as the second item on the other  
 9 half of the ballots. If the local government consists of  
 10 only one precinct, the existing plan shall be listed first  
 11 on the ballot.

12 Section 16. Treatment of suboptions for alternative  
 13 forms. (1) No petition or--resolution recommendation may  
 14 involve more than three separate suboptions, and no  
 15 suboption may contain more than two alternatives. If a  
 16 suboption is submitted to the voters, only the ballot  
 17 alternatives within that suboption receiving the highest  
 18 number of affirmative votes are considered approved and  
 19 included in the alternative form of government.

20 (2) A proposed plan shall be submitted to the voters  
 21 as a single question, except that the suboptions within the  
 22 alternative plan of local government authorized in Title 7,  
 23 chapter 3, parts 1 through 7, and the suboptions authorized  
 24 in a charter may be submitted to the electors as separate  
 25 questions. The question of adopting a suboption shall be

1 submitted to the electors in substantially the following  
2 form:

3 Vote for one:

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

6 Shall be elected for a term of 4 years.

7 Shall be appointed for a term of 4 years by the  
8 chairman of the local governing body.

9 Section 17. Effect of adoption of new form of  
10 government. The adoption of a new plan of government does  
11 not affect the validity of any bond, debt, contract,  
12 obligation, or cause of action accrued or established under  
13 the prior form of government.

14 Section 18. Filing of approved plan. (1) A copy of the  
15 existing or proposed plan of government ratified by the  
16 voters and any apportionment plan or consolidation or merger  
17 plan shall be certified by the chairman of the governing  
18 body and filed with the department of community affairs, the  
19 county records administrator, and the municipal records  
20 administrator if it is a municipal plan.

21 (2) The approved plan filed with the department of  
22 community affairs is the official plan and is a public  
23 record open to inspection by the public and judicially  
24 noticeable by all courts.

25 Section 19. Judicial review. Judicial review to

1 determine the validity of the procedures whereby any charter  
2 or alternative plan of government is adopted may be  
3 initiated by petition in district court of 10 or more  
4 registered voters of the local government brought within 60  
5 days after the election at which the charter or plan of  
6 government, revision, or amendment is approved. If no  
7 petition is filed within that period, compliance with all  
8 the procedures required by [this act] and the validity of  
9 the manner in which the charter or plan of government was  
10 approved is conclusively presumed. It is presumed that  
11 proper procedure was followed and all procedural  
12 requirements were met. The adoption of a charter or plan of  
13 government may not be considered invalid because of any  
14 procedural error or omission unless it is shown that the  
15 error or omission materially and substantially affected its  
16 adoption.

17 Section 20. Three-year moratorium. Unless the  
18 constitution requires otherwise, the electors of any unit of  
19 local government which has ~~adopted a new alternative~~ VOTED  
20 UPON THE QUESTION OF CHANGING THE form of local government,  
21 charter, or consolidation plan OR UPON THE QUESTION OF  
22 AMENDING THE ALTERNATIVE FORM, CHARTER, OR CONSOLIDATION  
23 PLAN may not vote on the question of changing OR AMENDING  
24 the form of local government until EQB 3 years after the  
25 ~~new local government becomes effective, but the electors may~~

1 ~~vote on amendments to the alternative form charter or~~  
 2 ~~consolidation plans~~

3 Section 21. Effective date of alternative plan or  
 4 amendment. (1) An alternative plan of local government  
 5 approved by the electors takes effect when the new officers  
 6 take office, except as otherwise provided in any charter or  
 7 consolidation plan. A consolidation or merger plan adopted  
 8 by the electors takes effect in the same manner.

9 (2) Provisions creating offices and establishing  
 10 qualifications for office under any apportionment plan  
 11 become effective immediately for the purpose of electing  
 12 officials.

13 (3) An amendment to an existing plan of government  
 14 becomes effective at the beginning of the local government's  
 15 fiscal year commencing after the election results are  
 16 officially declared.

17 Section 22. General transition provisions. (1) The  
 18 governing body shall prepare an advisory plan for orderly  
 19 transition to a new plan of local government. The transition  
 20 plan may propose necessary ordinances, plans for  
 21 consolidation of services and functions, and a plan for  
 22 reorganizing boards, departments, and agencies.

23 (2) The governing body of a local government may enact  
 24 and enforce ordinances to bring about an orderly transition  
 25 to the new plan of government, including transfer of powers,

1 records, documents, properties, assets, funds, liabilities,  
 2 or personnel. These ordinances are to be consistent with the  
 3 approved plan and necessary or convenient to place it into  
 4 full effect. Whenever a question arises concerning  
 5 transition which is not provided for, the governing body may  
 6 provide for the transition by ordinance, rule, or resolution  
 7 not inconsistent with law.

8 Section 23. Transition provisions affecting personnel.  
 9 (1) The members of the governing body holding office on the  
 10 date the new plan of government is adopted by the electors  
 11 of the local government continue in office and in the  
 12 performance of their duties until the governing body  
 13 authorized by the plan has been elected and qualified,  
 14 whereupon the prior governing body is abolished.

15 (2) All other employees holding offices or positions,  
 16 whether elective or appointive, under the government of the  
 17 county or municipality continue in the performance of the  
 18 duties of their respective offices and positions until  
 19 provisions are made for the performance or discontinuance of  
 20 the duties or the discontinuance of the offices or  
 21 positions.

22 (3) A charter or a petition or resolution proposing an  
 23 alteration to an existing form of local government may  
 24 provide that existing elected officers shall continue in  
 25 office until the end of the term for which they were elected

1 or may provide that existing elected officers shall be  
 2 retained as local government employees until the end of the  
 3 term for which they were elected and their salaries may not  
 4 be reduced.

5 Section 24. Treatment of existing ordinances and  
 6 resolutions. (1) All ordinances and resolutions in effect at  
 7 the time the new form of government becomes effective  
 8 continue in effect until repealed or amended in the manner  
 9 provided by law.

10 (2) Within 2 years after ratification of a  
 11 consolidation plan, the governing body of the consolidated  
 12 local government shall revise, repeal, or reaffirm all  
 13 rules, ordinances, and resolutions in force within the  
 14 participating county and municipalities at the time of  
 15 consolidation. Each rule, ordinance, or resolution in force  
 16 at the time of consolidation remains in force within the  
 17 former geographic jurisdiction until superseded by action of  
 18 the new governing body. Ordinances and resolutions relating  
 19 to public improvements to be paid for in whole or in part by  
 20 special assessments may not be repealed.

21 Section 25. Election of new officials. (1) Within 20  
 22 days after an election at which the new plan of government  
 23 is approved by the electors, the governing body of the local  
 24 government shall meet and order a special primary and  
 25 general election for the purpose of electing the officials

1 required by the new form of government. The elections for  
 2 officials may be held in conjunction with any other  
 3 election.

4 (2) The order shall specify a date for the primary  
 5 election not more than 120 days or less than 20 days after  
 6 the election approving the new form and a date for the  
 7 general election 60 days after the primary.

8 Section 26. Organization of new governing body. (1)  
 9 The first meeting of a new governing body for a new plan of  
 10 government shall be held at 10 a.m., 60 days after the  
 11 election of the new officers. At that time, newly elected  
 12 members shall take the oath of office prior to assuming the  
 13 duties of office.

14 (2) If the terms of the commissioners are to be  
 15 overlapping, they shall draw lots to establish their  
 16 respective terms of office.

17 Section 27. Codification. It is intended that sections  
 18 1 through 27 be codified as an integral part of Title 7,  
 19 chapter 3, part 1, and the provisions of Title 7, chapter 3,  
 20 apply to sections 1 through 27.

21 Section 28. Severability. If a part of this act is  
 22 invalid, all valid parts that are severable from the invalid  
 23 part remain in effect. If a part of this act is invalid in  
 24 one or more of its applications, the part remains in effect  
 25 in all valid applications that are severable from the



HB 0851/04

1 invalid applications.

-End-

March 22, 1979

SENATE STANDING COMMITTEE REPORT  
(Local Government)

That House Bill No. 851, third reading bill, be amended as follows:

1. Page 3, line 8.

Strike: ":"

2. Page 3, line 9.

Following: line 8

Strike: "(1)"

Following: "electors"

Strike: remainder of lines 9 and 10 in their entirety

Insert: "."

3. Page 3, line 24.

Following: "alteration."

Insert: "Whenever county-municipal consolidation is proposed,  
the petition must be signed by at least 15% of the electors  
residing within the municipality or municipalities proposed  
to be consolidated and 15% of the electors residing in the  
remainder of the county."

4. Page 3, line 25.

Strike: lines 25 through line 5 on Page 4 in their entirety

Renumber: Subsequent sections

5. Page 4, line 7.

Strike: "or resolution"

6. Page 4, line 17.

Strike: "CIRCULATED OR A RESOLUTION"

7. Page 4, line 20.

Strike: "or resolution"

8. Page 5, line 3.

Strike: "or resolution"

9. Page 5, line 4.

Strike: "or resolution"

10. Page 6, line 5.

Strike: "or resolution"

11. Page 7, line 9.

Strike: "or resolution"

12. Page 7, line 14.

Strike: "or resolution"

13. Page 8, line 18.

Strike: "or resolution"

14. Page 8, line 24.

Strike: "and resolutions"

15. Page 8, line 25.

Strike: "or a resolution"

16. Page 9, line 2.

Strike: "or resolution"

17. Page 9, line 5.

Strike: "30 days of adoption of a resolution and within"

18. Page 9, line 6.

Following: "of"

Strike: "a"

Insert: "the"

19. Page 9, line 7.

Strike: "and resolution"

20. Page 9, line 8.

Strike: "or resolution"

21. Page 9, line 16.

Strike: "or resolution"

22. Page 9, line 22.

Strike: "or"

23. Page 9, line 23.

Strike: "resolution"

24. Page 11, line 11.

Strike: "or resolution"

25. Page 11, line 18.

Following: "by"

Strike: "("

Following: "people"

Strike: remainder of lines 18 and 19 in their entirety

Insert: "."

26. Page 12, line 8.

Strike: "or resolution"

27. Page 14, line 14.

Following: "has"

Strike: "adopted a new alternative "

Insert: "voted upon the question of changing the"

28. Page 14, line 15.

Following: "plan"

Insert: "or upon the question of amending the alternative  
form, charter, or consolidation plan"

Page 3  
March 22, 1979  
House Bill No. 851

29. Page 14, line 16.  
Following: "changing"  
Insert: "or amending"

30. Page 14, line 17.  
Following: "government"  
Strike: "until"  
Insert: "for"  
Following: "years"  
Strike: remainder of lines 17 through line 19 in their entirety  
Insert: "."