

CHAPTER NO. 212

SENATE BILL NO. 332

INTRODUCED BY WATT

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

February 2, 1979	Introduced and referred to Committee on Local Government.
February 8, 1979	Committee recommend bill do pass. Report adopted.
February 9, 1979	Printed and placed on members' desks.
February 10, 1979	Second reading, do pass.
February 12, 1979	Considered correctly engrossed.
February 13, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 14, 1979	Introduced and referred to Committee on Local Government.
March 6, 1979	Committee recommend bill be concurred in. Report adopted.
March 8, 1979	Second reading, concurred in.
March 10, 1979	Third reading, concurred in.

IN THE SENATE

March 12, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. 332
 2 INTRODUCED BY Watt
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT
 7 MANACEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND
 8 CONSERVATION TO ISSUE REFUNDING REVENUE BONDS."

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

11 Section 1. Section 7-7-105, MCA, is amended to read:
 12 "7-7-105. Challenges to local government bond
 13 elections. (1) No action ~~can~~ may be brought for the purpose
 14 of restraining the issuance and sale of bonds or other
 15 obligations by any county, city, town, or political
 16 subdivision of the state or for the purpose of restraining
 17 the levy and collection of taxes for the payment of such
 18 bonds or other obligations ~~after the expiration of 60 days~~
 19 ~~from the date of the election on such bonds or obligations~~
 20 ~~or, if no election was held thereon, after the expiration of~~
 21 ~~60 days from the date of the order, resolution, or ordinance~~
 22 ~~authorizing the issuance thereof, on account of any defect,~~
 23 ~~irregularity, or informality in giving notice of or not in~~
 24 ~~holding the elections, ~~nor shall any~~ No defense based upon~~
 25 any such defect, irregularity, or informality may be

1 interposed in any action unless brought within this period.
 2 This subsection applies but is not limited to any action and
 3 defense in which the issue is raised whether a voted debt or
 4 liability has carried by the required majority vote of the
 5 electors qualified and offering to vote thereon.

6 (2) (a) Any elector qualified to vote in a bond
 7 election of a county, a city, or any political subdivision
 8 of either ~~may~~ contest a bond election for any of the
 9 following causes:

10 (i) that the precinct board, in conducting the
 11 election or in canvassing the returns, made errors
 12 sufficient to change the result of the election;

13 (ii) that any official charged with a duty under the
 14 election laws failed to perform that duty;

15 (iii) that in conducting the election, any official
 16 charged with a duty under the election laws violated any of
 17 the provisions of Title 13 relating to bond elections;

18 (iv) that electors qualified to vote in the election
 19 under the provisions of the constitutions of Montana and the
 20 United States were not given opportunity to vote in the
 21 election;

22 (v) that electors not qualified to vote in the
 23 election under the provisions of the constitutions of
 24 Montana and the United States were permitted to vote in the
 25 election.

1 (b) Within 60 days after the election, the contestant
2 shall file a verified petition with the clerk of the court
3 in the judicial district where the election was held.

4 (3) The word "action", as used in this section, is to
5 be construed, whenever it is necessary to do so, as
6 including a special proceeding proceeding of a civil
7 nature."

8 Section 2. Section 7-7-4103, MCA, is amended to read:

9 "7-7-4103. General qualifications to vote on questions
10 of municipal indebtedness. (1) ~~Only such registered~~
11 Registered electors of the city, town, or other municipal
12 corporation ~~whose names appear upon the last assessment roll~~
13 ~~shall be entitled to~~ may vote upon any proposal to create or
14 increase any indebtedness of the city, town, or other
15 municipal corporation required by law to be submitted to a
16 vote of the electors thereof.

17 (2) No such elector, otherwise qualified hereunder,
18 ~~shall~~ may be denied the right to vote by reason of the fact
19 ~~that because~~ the polling place for a general election for
20 the precinct wherein he resides and is entitled to vote lies
21 within another city, town, or other municipal corporation."

22 Section 3. Section 7-7-4111, MCA, is amended to read:

23 "7-7-4111. Procedure to declare municipal bankruptcy.
24 ~~(1) The state of Montana does hereby consent and exact that~~
25 any Any city or town ~~of the state of Montana shall have the~~

1 ~~right and power to~~ may submit itself and a proposed plan of
2 composition to the jurisdiction of the bankruptcy court
3 having jurisdiction of such matter ~~to and be governed by~~
4 the proceedings, orders, and decrees of said ~~the~~ court in
5 ~~the manner and extent and~~ as provided by ~~said act and to~~
6 the federal municipal bankruptcy laws.

7 (2) ~~The city or town may~~ compose and enter into,
8 submit itself to, and perform the plan of composition in the
9 ~~manner prescribed and as~~ required by ~~said act~~ the federal
10 laws and the orders and decrees of said ~~the~~ bankruptcy court
11 ~~thereunder and as effected thereby:~~

12 ~~(i)(a)~~ upon ~~and~~ after the adoption by its city council
13 or town council of an ordinance or resolution:

14 ~~(i)(1)~~ declaring that it is insolvent or unable to
15 meet its debts as they mature;

16 ~~(i)(ii)~~ declaring that it desires to effect a plan for
17 the composition of its debts under the provisions of ~~the~~
18 ~~Municipal Corporation Bankruptcy Act of the United States~~
19 ~~as amended, added to, and now existing~~ federal municipal
20 bankruptcy laws; and

21 ~~(i)(iii)~~ providing that ~~the~~ city or town shall
22 proceed to the composition of its municipal indebtedness
23 under the provisions of ~~said act~~ the federal laws; and

24 ~~(i)(b)~~ upon the acceptance in writing of the proposed
25 plan of composition of ~~its~~ municipal indebtedness proposed

1 ~~by such municipality~~ by creditors of the petitioning
 2 municipal corporation owning not less than the percentage
 3 thereof in amount of the municipal securities affected or to
 4 be affected by the proposed plan of composition, as provided
 5 in ~~said act~~ the federal laws."

6 Section 4. Section 7-7-4112, MCA, is amended to read:

7 "7-7-4112. Power to comply with court decrees related
 8 to bankruptcy. Any such city or town ~~shall have the power to~~
 9 ~~do all things and to may~~ comply with all orders and decrees
 10 contemplated by ~~said Municipal Corporation Bankruptcy Act~~
 11 the federal municipal bankruptcy laws and to ~~may~~ issue its
 12 bonds and other securities for the carrying out and
 13 consummation of the composition of its debts as provided and
 14 contemplated by ~~said act~~ the federal law and as required by
 15 the orders and decrees of ~~said~~ the bankruptcy court."

16 Section 5. Section 7-7-4221, MCA, is amended to read:

17 "7-7-4221. Election on question of incurring
 18 indebtedness -- exception. (1) Except as provided in
 19 subsection (2), whenever the ~~council or commission governing~~
 20 ~~body of any city or town having a corporate existence in~~
 21 ~~this state or hereafter organized under any of the laws~~
 22 ~~thereof shall deem~~ municipality considers it necessary to
 23 issue bonds pledging the general credit of the municipality
 24 for any purpose ~~whatever under its powers as set forth in~~
 25 ~~any statute or statutes of this state or amendments thereto~~

1 authorized by law, the question of issuing such ~~the~~ bonds
 2 shall first be submitted to the electors of ~~such the~~ city or
 3 town who are qualified to vote on such question, ~~in the~~
 4 ~~manner hereinafter set forth.~~

5 (2) It ~~shall~~ is not be necessary to submit to ~~such the~~
 6 electors the question of issuing refunding bonds to refund
 7 bonds ~~therefore~~ issued and ~~then~~ outstanding or the
 8 question of issuing revenue bonds not pledging the general
 9 credit of the municipality under any laws of this state.

10 ~~(3) No bonds shall be issued by a city or town~~
 11 ~~pledging the general credit of the municipality for any~~
 12 ~~purpose except to fund or refund warrants or bonds issued~~
 13 ~~prior to and outstanding on July 1, 1942, as authorized in~~
 14 ~~this section, unless authorized at a duly called special or~~
 15 ~~general election at which the question of issuing such bonds~~
 16 ~~is submitted to the qualified electors of the city or town~~
 17 ~~and approved as hereinafter provided."~~

18 Section 6. Section 7-7-4226, MCA, is amended to read:

19 "7-7-4226. Resolution to submit question of issuing
 20 bond to voters. (1) When the ~~council or commission governing~~
 21 ~~body of any city or town deems~~ municipality considers it
 22 necessary to issue bonds pledging the general credit of the
 23 municipality pursuant to any statute of this state, the
 24 ~~council governing body~~ shall pass and adopt a resolution.

25 (2) The resolution shall:

1 (a) recite the purpose or purposes for which it is
2 proposed to issue ~~such bond~~ the bonds;

3 (b) fix the amount of bonds to be issued for each
4 purpose;

5 (c) determine the number of years through which such
6 ~~the~~ bonds are to be paid, not exceeding the limits fixed in
7 ~~7-7-4201~~ 7-7-4205; and

8 (d) unless such bonds are revenue bonds not pledging
9 the general credit of the municipality, make such provisions
10 as are necessary for ~~having~~ submitting the question
11 submitted to the qualified electors of the city or town at
12 the next general city or town election or at a special
13 election which the ~~council or commission~~ governing body may
14 call for such purpose.

15 (3) ~~in cases where~~ whenever the bond issuance is
16 proposed by petition, the ~~council or commission~~ governing
17 body shall, before submitting the measure to the electorate
18 electors, pass a resolution containing the information
19 herein required and, in addition thereto, setting forth the
20 essential facts in regard to the filing and presentation of
21 the petition."

22 Section 7. Section 7-7-4236, MCA, is amended to read:

23 "7-7-4236. Resolution to issue bonds. (1) If ~~it is~~
24 ~~found that at such election~~ 40% or more of the qualified
25 electors of the city or town entitled to vote on ~~such~~ the

1 question ~~or proposition of issuing bonds~~ voted thereon and
2 ~~that~~ a majority of such ~~the~~ votes were cast in favor of the
3 issuing of such ~~the~~ bonds, the city or town council shall,
4 at a regular or special meeting held within 30 days
5 thereafter, ~~pass and adopt~~ a resolution providing for the
6 issuance of such ~~the~~ bonds.

7 (2) Such ~~the~~ resolution shall recite:

8 (a) the purpose for which such ~~the~~ bonds are to be
9 issued;

10 (b) the amount thereof;

11 (c) the maximum rate of interest the bonds may bear;

12 (d) the date they shall bear;

13 (e) the period of time through which they ~~shall be~~ are
14 payable; and

15 (f) that any thereof ~~bond~~ may be redeemed in full, at
16 the option of the city or town, on any interest payment date
17 ~~from and after 10 years from the date of issue~~ expiration of
18 one-half of the term for which the bond was issued.

19 (3) Such ~~the~~ resolution shall provide for the manner
20 of the execution of the bonds. It shall provide that
21 preference shall be given ~~amortization~~ bonds but shall fix
22 the denomination of serial bonds in case it shall be found
23 advantageous to issue bonds in that form. The ~~board~~ council
24 may in its discretion provide that such bonds may be issued
25 and sold in two or more series or installments.

1 (4) The resolution shall adopt a form of notice of the
2 sale of the bonds."

3 Section 8. Section 7-7-4254, MCA, is amended to read:

4 *7-7-4254. Procedure for sale of bonds. (1) The city
5 or town council shall meet at the time and place fixed in
6 the notice to consider bids for the bonds.

7 (2) The bonds shall be sold at not less than par and
8 accrued interest to date of delivery, and each bidder shall
9 specify the form of bonds to be issued, whether amortization
10 or serial, and the rate of interest at which he will
11 purchase the bonds. A bid for amortization bonds shall have
12 preference over a bid for serial bonds, all other things
13 being equal. In determining the kind of bonds to be issued,
14 the council shall take into consideration not only the rate
15 of interest demanded on each kind but also all other known
16 elements affecting the interests of the city or town. The
17 council shall accept the bid ~~they shall judge it considers~~
18 most advantageous to the city or town. The board--~~is~~
19 ~~authorized to~~ council may reject any and all bids and to
20 sell the bonds at private sale if ~~they deem it for this is~~
21 ~~considered to be in~~ the best interests of the city or town;
22 provided, however, that ~~such the~~ bonds ~~shall~~ may not be sold
23 at less than par and accrued interest to date of delivery.

24 (3) No attorneys' fees or brokerage or other fees or
25 commissions of any kind ~~shall~~ may be paid to any person or

1 corporation for assisting in the proceedings, in the
2 preparation of the bonds, or in negotiating the sale
3 thereof."

4 Section 9. Section 7-7-4265, MCA, is amended to read:

5 *7-7-4265. Tax levy for payment of bonds. (1) The city
6 or town council, at the time of making the levy of taxes for
7 general city or town purposes, must levy a separate and
8 special tax upon all taxable property in the city or town
9 for the payment of interest ~~on the~~ and principal of ~~for~~ each
10 series or issue of bonds outstanding. The tax levy for any
11 one series or issue of bonds must be entirely separate and
12 distinct from ~~such the~~ levy for any other issue or series of
13 bonds.

14 (2) The levy made for the purpose of paying interest
15 on and principal of each series or issue of bonds must be
16 high enough to raise an amount sufficient to pay all
17 interest on and so much of the principal, if any, of such
18 ~~the~~ bonds as will become due and payable during the
19 then-current fiscal year or within 90 days thereafter, as
20 such amount is shown by the treasurer's statement provided
21 for by 7-7-4264. If no part of the principal of such bonds
22 will become due and payable within such time, then such tax
23 levy must be high enough to raise an amount sufficient to
24 pay all interest which will become due and payable during
25 the current fiscal year or within 90 days thereafter and to

1 also place in the sinking fund for such issue or series of
 2 bonds, for the payment of the principal thereof when the
 3 same becomes due, an amount not less than a sum produced by
 4 dividing the whole amount for which such the series or issue
 5 of bonds were originally issued by the number of years for
 6 which such series or issue of bonds were originally issued
 7 to run, as such amounts are shown by the treasurer's
 8 statement provided for by 7-7-4264."

9 Section 10. Section 7-7-4602, MCA, is amended to read:

10 "7-7-4602. Definitions. ~~The following terms, wherever~~
 11 ~~used or referred to in this part, shall have the following~~
 12 ~~meanings unless a different meaning appears from the context~~
 13 As used in this part, unless the context indicates
 14 otherwise, the following definitions apply:

15 (1) ~~The term "enterprise" shall mean "Enterprise"~~
 16 ~~means~~ any work, undertaking, or project which the
 17 municipality is ~~or may hereafter be~~ authorized to construct
 18 and from which the municipality ~~has heretofore derived or~~
 19 ~~may hereafter derive~~ derives revenues, for the refinancing
 20 or the refinancing and improving of which enterprise
 21 refunding bonds are issued under this part; and such
 22 enterprise ~~shall include~~ includes all improvements,
 23 betterments, extensions, and replacements thereto and all
 24 appurtenances, facilities, lands, rights in lands, water
 25 rights, franchises, and structures in connection therewith

1 or incidental thereto.

2 (2) ~~The term "federal agency" shall include "Federal~~
 3 ~~agency" means~~ the United States, the president of the United
 4 States, the federal emergency administrator of public works,
 5 ~~reconstruction--finance--corporation,~~ or any agency,
 6 instrumentality, or corporation of the United States which
 7 ~~has heretofore been or may hereafter be~~ designated or
 8 created by or pursuant to any act or joint resolution of the
 9 congress of the United States or ~~which may be~~ directly or
 10 indirectly owned or controlled by the United States.

11 (3) ~~The term "governing body" "Governing body" means,~~
 12 in the case of a city or town, ~~shall mean~~ the council,
 13 commission, or other body, board, officer, or officers
 14 having charge of the finances thereof; ~~and in the case of~~
 15 ~~the state water conservation board, shall mean the board~~
 16 ~~itself.~~

17 (4) ~~The term "holder of bonds" "Holder of bonds"~~
 18 ~~"bondholder" (or any similar term) shall mean means~~ any
 19 person who ~~shall be~~ is the bearer of any outstanding
 20 refunding bond ~~or refunding bonds,~~ registered to bearer or
 21 not registered, or the registered owner of any such
 22 outstanding bond ~~or bonds~~ which ~~shall be~~ is at the time ~~be~~
 23 registered other than to bearer.

24 (5) ~~The term "improving" shall mean "Improving" means~~
 25 reconstructing, replacing, extending, repairing, bettering,

1 equipping, developing, embellishing, or improving or any one
2 or more of the foregoing.

3 ~~(6) The term "law" shall mean~~ "Law" means any act or
4 statute (general, special, or local) of this state,
5 including without being limited to the charter of any
6 municipality.

7 ~~(7) The term "municipality" shall mean~~ "Municipality"
8 means any city or town of this state ~~or the state water~~
9 ~~conservation board.~~

10 ~~(8) The term "refinancing" shall mean~~ "Refinancing"
11 means funding, refunding, paying, or discharging, by means
12 of refunding bonds or the proceeds received from the sale
13 thereof, all or any part of any notes, bonds, or other
14 obligations heretofore or hereafter issued to finance or to
15 aid in financing the acquisition, construction, or improving
16 of an enterprise and payable solely from all or any part of
17 the revenues thereof, including interest thereon in arrears
18 or about to become due, whether or not represented by
19 coupons or interest certificates.

20 ~~(9) The term "refunding bonds" shall mean~~ "Refunding
21 bonds" means notes, bonds, certificates, or other
22 obligations of a municipality issued pursuant to this part
23 or pursuant to any other law as supplemented by or in
24 conjunction with this part.

25 ~~(10) The term "revenues" shall mean~~ "Revenues" means

1 all fees, tolls, rates, rentals, and charges to be levied
2 and collected in connection with and all other income and
3 receipts of whatever kind or character derived by the
4 municipality from the operation of any enterprise or arising
5 from any enterprise."

6 NEW SECTION. Section 11. Refunding revenue bonds. The
7 board may issue refunding revenue bonds under the provisions
8 of Title 7, chapter 7, part 46. For this purpose, in Title
9 7, chapter 7, part 46, references to "governing body" means
10 the "board" and references to "municipality" means the
11 "board".

12 Section 12. Codification. It is intended that section
13 11 be codified as an integral part of Title 85, chapter 1,
14 part 3, and the provisions of Title 85, chapter 1, apply to
15 section 11.

-End-

SB 332



Montana Legislative Council

State Capitol
Helena, 59601

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LC0620

1979 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 332

AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT MANAGEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO ISSUE REFUNDING BONDS.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 7-7-105. In subsection (1), midway through the section, "not holding the election" is changed to "in holding the election" to correct what appears to be an error. From the context, the proper word is "in".

Section 2. 7-7-4103. Subsection (1) is rewritten to delete the requirement that voters in bond elections be listed on the assessment role. This provision is unconstitutional in view of the holdings of the United States Supreme Court (for discussion see 35 L.Ed.2d 843 (1974) and in particular, Phoenix v. Kolodziegski, 399 U.S. 204 (1970)). Subsection (2) is rewritten for clarity.

Sections 3 and 4. 7-7-4111 and 7-7-4112. Both sections are rewritten for clarity. References to the Federal Municipal Corporation Bankruptcy Act are changed to a more general reference, namely the federal municipal bankruptcy laws. There is no federal act with the specific name used in this section. Rather than to give USC cites, it was considered appropriate to create a general reference to federal laws dealing with municipal bankruptcy.

Section 5. 7-7-4221. The section is rewritten for clarity. The term "governing body" is inserted in place of "council or

commission" to utilize the terminology of the alternative forms law. Subsection (3) is deleted as either temporary (where it refers to refunding bonds or warrants outstanding prior to July 1, 1942) or redundant with subsection (1).

Section 6. 7-7-4226. In subsection (1), "council or commission" is changed to "governing body" and "city or town" is changed to "municipality" to provide more modern terminology. In subsection (2)(c), "7-7-4201" is changed to "7-7-4205" to correct an erroneous internal reference.

Section 7. 7-7-4236. The section is rewritten for clarity. In subsection (2)(f), "10 years from the date of issue" is changed to "expiration of the one-half of the term for which the bond was issued" for consistency with 7-7-4206. The subject matter is the redemption of general obligation bonds. In subsection (3), "board" is changed to "council" to correct what appears to be an obvious error. Board is not utilized elsewhere in this section.

Section 8. 7-7-4254. Subsection (2) is rewritten for clarity. A reference in the last sentence of subsection (2) to the "board" is changed to the "council" to correct what appears to be an obvious error. Nowhere else in the section is the term "board" utilized.

Section 9. 7-7-4265. In subsection (1), "interest on the principal" is changed to "interest and principal" to correct what appears to be an obvious error. The first sentence in subsection (2) and the general context of the section indicate the suggested amendment is needed to achieve the intent of the legislature.

Section 10. 7-7-4602. This section is rewritten for clarity and to provide uniform terminology in a definitional section. In subsection (2), a reference to the "reconstruction finance corporation" is deleted inasmuch as this agency no longer exists. In subsections (3) and (7), references to the "state water conservation board" are deleted. The subject matter of these references is transferred to 85-1-301 (see section 11).

Section 11. A new section is added to provide for refunding revenue bonds with respect to water projects because of the deletion of the state water conservation board in 7-7-4602 (see section 10).

Approved by Comm.
on Local Government

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2 INTRODUCED BY Watt

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT
7 MANAGEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND
8 CONSERVATION TO ISSUE REFUNDING REVENUE BONDS."

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

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13 elections. (1) No action can may be brought for the purpose
14 of restraining the issuance and sale of bonds or other
15 obligations by any county, city, town, or political
16 subdivision of the state or for the purpose of restraining
17 the levy and collection of taxes for the payment of such
18 bonds or other obligations after the expiration of 60 days
19 from the date of the election on such bonds or obligations
20 or, if no election was held thereon, after the expiration of
21 60 days from the date of the order, resolution, or ordinance
22 authorizing the issuance thereof, on account of any defect,
23 irregularity, or informality in giving notice of or not in
24 holding the election, ~~nor shall any~~ no defense based upon
25 any such defect, irregularity, or informality may be

1 interposed in any action unless brought within this period.
2 This subsection applies but is not limited to any action and
3 defense in which the issue is raised whether a voted debt or
4 liability has carried by the required majority vote of the
5 electors qualified and offering to vote thereon.

6 (2) (a) Any elector qualified to vote in a bond
7 election of a county, a city, or any political subdivision
8 of either may contest a bond election for any of the
9 following causes:

10 (i) that the precinct board, in conducting the
11 election or in canvassing the returns, made errors
12 sufficient to change the result of the election;

13 (ii) that any official charged with a duty under the
14 election laws failed to perform that duty;

15 (iii) that in conducting the election, any official
16 charged with a duty under the election laws violated any of
17 the provisions of Title 13 relating to bond elections;

18 (iv) that electors qualified to vote in the election
19 under the provisions of the constitutions of Montana and the
20 United States were not given opportunity to vote in the
21 election;

22 (v) that electors not qualified to vote in the
23 election under the provisions of the constitutions of
24 Montana and the United States were permitted to vote in the
25 election.

1 (b) Within 60 days after the election, the contestant
2 shall file a verified petition with the clerk of the court
3 in the judicial district where the election was held.

4 (3) The word "action", as used in this section, is to
5 be construed, whenever it is necessary to do so, as
6 including a special proceeding proceeding of a civil
7 nature."

8 Section 2. Section 7-7-4103, MCA, is amended to read:

9 "7-7-4103. General qualifications to vote on questions
10 of municipal indebtedness. (1) ~~Only such registered~~
11 Registered electors of the city, town, or other municipal
12 corporation ~~whose names appear upon the last assessment roll~~
13 ~~shall be entitled to~~ may vote upon any proposal to create or
14 increase any indebtedness of the city, town, or other
15 municipal corporation required by law to be submitted to a
16 vote of the electors thereof.

17 (2) ~~No such elector, otherwise qualified hereunder,~~
18 ~~shall~~ may be denied the right to vote ~~by reason of the fact~~
19 ~~that because~~ the polling place for a general election for
20 the precinct wherein he resides and is entitled to vote lies
21 within another city, town, or other municipal corporation."

22 Section 3. Section 7-7-4111, MCA, is amended to read:

23 "7-7-4111. Procedure to declare municipal bankruptcy.
24 ~~111 The state of Montana does hereby consent and exact that~~
25 ~~any~~ Any city or town ~~of the state of Montana shall have the~~

1 ~~right and power to~~ may submit itself and a proposed plan of
2 composition to the jurisdiction of the bankruptcy court
3 having jurisdiction of such matter ~~to and~~ be governed by
4 the proceedings, orders, and decrees of ~~the~~ the court in
5 ~~the manner and extent and~~ as provided by ~~said act and to~~
6 the federal municipal bankruptcy laws.

7 (2) The city or town may compose and enter into,
8 submit itself to, and perform the plan of composition ~~in the~~
9 ~~manner prescribed and as~~ required by ~~said act~~ the federal
10 laws and the orders and decrees of ~~the~~ the bankruptcy court
11 ~~thereunder and as affected thereby:~~

12 (a) upon ~~and after~~ the adoption by its city council
13 or town council of an ordinance or resolution:

14 (i) declaring that it is insolvent or unable to
15 meet its debts as they mature;

16 (ii) declaring that it desires to effect a plan for
17 the composition of its debts under the provisions of the
18 ~~Municipal Corporation Bankruptcy Act of the United States~~
19 ~~as amended, added to, and now existing~~ federal municipal
20 bankruptcy laws; and

21 (iii) providing that ~~the~~ the city or town shall
22 proceed to the composition of its municipal indebtedness
23 under the provisions of ~~said act~~ the federal laws; and

24 (b) upon the acceptance in writing of the proposed
25 plan of composition of ~~its~~ municipal indebtedness proposed

1 ~~by such municipality~~ by creditors of the petitioning
 2 municipal corporation owning not less than the percentage
 3 thereof in amount of the municipal securities affected or to
 4 be affected by the proposed plan of composition, as provided
 5 in ~~said act~~ the federal laws."

6 Section 4. Section 7-7-4112, MCA, is amended to read:
 7 "7-7-4112. Power to comply with court decrees related
 8 to bankruptcy. Any such city or town ~~shall have the power to~~
 9 ~~do all things and to may~~ comply with all orders and decrees
 10 contemplated by ~~said Municipal Corporation Bankruptcy Act~~
 11 the federal municipal bankruptcy laws and to ~~may~~ issue its
 12 bonds and other securities for the carrying out and
 13 consummation of the composition of its debts as provided and
 14 contemplated by ~~said act~~ the federal law and as required by
 15 the orders and decrees of ~~said~~ the bankruptcy court."

16 Section 5. Section 7-7-4221, MCA, is amended to read:
 17 "7-7-4221. Election on question of incurring
 18 indebtedness -- exception. (1) Except as provided in
 19 subsection (2), whenever the ~~council or commission governing~~
 20 ~~body of any city or town having a corporate existence in~~
 21 ~~this state or hereafter organized under any of the laws~~
 22 ~~thereof shall deem~~ municipality considers it necessary to
 23 issue bonds pledging the general credit of the municipality
 24 for any purpose ~~whatever under its powers as set forth in~~
 25 ~~any statute or statutes of this state or amendments thereto~~

1 authorized by law, the question of issuing such the bonds
 2 shall first be submitted to the electors of such the city or
 3 town who are qualified to vote on such question ~~in the~~
 4 ~~manner hereinafter set forth.~~

5 (2) It ~~shall~~ is not be necessary to submit to such the
 6 electors the question of issuing refunding bonds to refund
 7 bonds ~~therefore~~ issued and then outstanding or the
 8 question of issuing revenue bonds not pledging the general
 9 credit of the municipality under any laws of this state.

10 ~~(3) No bonds shall be issued by a city or town~~
 11 ~~pledging the general credit of the municipality for any~~
 12 ~~purpose except to fund or refund warrants or bonds issued~~
 13 ~~prior to and outstanding on July 1, 1942, as authorized in~~
 14 ~~this section, unless authorized at a duly called special or~~
 15 ~~general election at which the question of issuing such bonds~~
 16 ~~is submitted to the qualified electors of the city or town~~
 17 ~~and approved as hereinafter provided."~~

18 Section 6. Section 7-7-4226, MCA, is amended to read:
 19 "7-7-4226. Resolution to submit question of issuing
 20 bond to voters. (1) When the ~~council or commission governing~~
 21 ~~body of any city or town deems~~ municipality considers it
 22 necessary to issue bonds pledging the general credit of the
 23 municipality pursuant to any statute of this state, the
 24 ~~council governing body~~ shall pass and adopt a resolution.

25 (2) The resolution shall:

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1 (a) recite the purpose or purposes for which it is
2 proposed to issue ~~such bond~~ the bonds;

3 (b) fix the amount of bonds to be issued for each
4 purpose;

5 (c) determine the number of years through which such
6 ~~the~~ bonds are to be paid, not exceeding the limits fixed in
7 ~~7-7-4201~~ 1-7-4205; and

8 (d) unless such bonds are revenue bonds not pledging
9 the general credit of the municipality, make such provisions
10 as are necessary for ~~having~~ submitting the question
11 ~~submitted~~ to the qualified electors of the city or town at
12 the next general city or town election or at a special
13 election which the ~~council~~ or-commission governing body may
14 call for such purpose.

15 (3) ~~in cases where~~ whenever the bond issuance is
16 proposed by petition, the ~~council~~ or-commission governing
17 body shall, before submitting the measure to the ~~electorate~~
18 electors, pass a resolution containing the information
19 herein required and, in addition thereto, setting forth the
20 essential facts in regard to the filing and presentation of
21 the petition."

22 Section 7. Section 7-7-4236, MCA, is amended to read:

23 "7-7-4236. Resolution to issue bonds. (1) If ~~it is~~
24 ~~found that at such election~~ 40% or more of the qualified
25 electors of the city or town entitled to vote on ~~such~~ the

1 question ~~or-proposition of issuing bonds~~ voted thereon and
2 that a majority of such ~~the~~ votes were cast in favor of the
3 issuing of such ~~the~~ bonds, the city or town council shall,
4 at a regular or special meeting held within 30 days
5 thereafter, pass ~~and-adopt~~ a resolution providing for the
6 issuance of such ~~the~~ bonds.

7 (2) Such ~~the~~ resolution shall recite:

8 (a) the purpose for which such ~~the~~ bonds are to be
9 issued;

10 (b) the amount thereof;

11 (c) the maximum rate of interest the bonds may bear;

12 (d) the date they shall bear;

13 (e) the period of time through which they shall ~~be~~ are
14 payable; and

15 (f) that any thereof ~~bond~~ may be redeemed in full, at
16 the option of the city or town, on any interest payment date
17 ~~from and after 10 years from the date of issue~~ expiration of
18 one-half of the term for which the bond was issued.

19 (3) Such ~~the~~ resolution shall provide for the manner
20 of the execution of the bonds. It shall provide that
21 preference shall be given amortization bonds but shall fix
22 the denomination of serial bonds in case it shall be found
23 advantageous to issue bonds in that form. The ~~board~~ council
24 may in its discretion provide that such bonds may be issued
25 and sold in two or more series or installments.

1 (4) The resolution shall adopt a form of notice of the
2 sale of the bonds."

3 Section 8. Section 7-7-4254, MCA, is amended to read:

4 "7-7-4254. Procedure for sale of bonds. (1) The city
5 or town council shall meet at the time and place fixed in
6 the notice to consider bids for the bonds.

7 (2) The bonds shall be sold at not less than par and
8 accrued interest to date of delivery, and each bidder shall
9 specify the form of bonds to be issued, whether amortization
10 or serial, and the rate of interest at which he will
11 purchase the bonds. A bid for amortization bonds shall have
12 preference over a bid for serial bonds, all other things
13 being equal. In determining the kind of bonds to be issued,
14 the council shall take into consideration not only the rate
15 of interest demanded on each kind but also all other known
16 elements affecting the interests of the city or town. The
17 council shall accept the bid ~~they shall judge~~ it considers
18 most advantageous to the city or town. The board ~~is~~
19 authorized to council may reject any and all bids and to
20 sell the bonds at private sale if ~~they deem it for this is~~
21 considered to be in the best interests of the city or town;
22 provided, however, that ~~such the bonds shall~~ may not be sold
23 at less than par and accrued interest to date of delivery.

24 (3) No attorneys' fees or brokerage or other fees or
25 commissions of any kind ~~shall~~ may be paid to any person or

1 corporation for assisting in the proceedings, in the
2 preparation of the bonds, or in negotiating the sale
3 thereof."

4 Section 9. Section 7-7-4265, MCA, is amended to read:

5 "7-7-4265. Tax levy for payment of bonds. (1) The city
6 or town council, at the time of making the levy of taxes for
7 general city or town purposes, must levy a separate and
8 special tax upon all taxable property in the city or town
9 for the payment of interest ~~on the~~ and principal of ~~for~~ each
10 series or issue of bonds outstanding. The tax levy for any
11 one series or issue of bonds must be entirely separate and
12 distinct from ~~such the~~ the levy for any other issue or series of
13 bonds.

14 (2) The levy made for the purpose of paying interest
15 on and principal of each series or issue of bonds must be
16 high enough to raise an amount sufficient to pay all
17 interest on and so much of the principal, if any, of ~~such~~
18 the bonds as will become due and payable during the
19 then-current fiscal year or within 90 days thereafter, as
20 such amount is shown by the treasurer's statement provided
21 for by 7-7-4264. If no part of the principal of such bonds
22 will become due and payable within such time, then such tax
23 levy must be high enough to raise an amount sufficient to
24 pay all interest which will become due and payable during
25 the current fiscal year or within 90 days thereafter and to

1 also place in the sinking fund for such issue or series of
 2 bonds, for the payment of the principal thereof when the
 3 same becomes due, an amount not less than a sum produced by
 4 dividing the whole amount for which such ~~the~~ series or issue
 5 of bonds were originally issued by the number of years for
 6 which such series or issue of bonds were originally issued
 7 to run, as such amounts are shown by the treasurer's
 8 statement provided for by 7-7-4264."

9 Section 10. Section 7-7-4602, MCA, is amended to read:

10 "7-7-4602. Definitions. ~~The following terms, wherever~~
 11 ~~used or referred to in this part, shall have the following~~
 12 ~~meanings unless a different meaning appears from the context~~
 13 As used in this part, unless the context indicates
 14 otherwise, the following definitions apply:

15 (1) ~~The term "enterprise" shall mean~~ "Enterprise"
 16 means any work, undertaking, or project which the
 17 municipality is ~~or may hereafter be~~ authorized to construct
 18 and from which the municipality ~~has heretofore derived or~~
 19 ~~may hereafter derive~~ derives revenues, for the refinancing
 20 or the refinancing and improving of which enterprise
 21 refunding bonds are issued under this part; and such
 22 enterprise ~~shall include~~ includes all improvements,
 23 betterments, extensions, and replacements thereto and all
 24 appurtenances, facilities, lands, rights in land, water
 25 rights, franchises, and structures in connection therewith

1 or incidental hereto.

2 (2) ~~The term "federal agency" shall include~~ "Federal
 3 agency" means the United States, the president of the United
 4 States, the federal emergency administrator of public works,
 5 ~~reconstruction--finance--corporation,~~ or any agency,
 6 instrumentality, or corporation of the United States which
 7 ~~has heretofore been or may hereafter be~~ designated or
 8 created by or pursuant to any act or joint resolution of the
 9 congress of the United States or which ~~may be~~ directly or
 10 indirectly owned or controlled by the United States.

11 (3) ~~The term "governing body" shall mean~~ "Governing body" means,
 12 in the case of a city or town, ~~shall mean~~ the council,
 13 commission, or other body, board, officer, or officers
 14 having charge of the finances thereof; ~~and in the case of~~
 15 ~~the state water conservation board, shall mean the board~~
 16 ~~itself.~~

17 (4) ~~The term "holder of bonds" shall mean~~ "Holder of bonds" or
 18 "bondholder" [or any similar term] ~~shall mean~~ means any
 19 person who ~~shall be~~ is the bearer of any outstanding
 20 refunding bond ~~or refunding bonds,~~ registered to bearer or
 21 not registered, or the registered owner of any such
 22 outstanding bond ~~or bonds~~ which ~~shall be~~ is at the time ~~be~~
 23 registered other than to bearer.

24 (5) ~~The term "improving" shall mean~~ "Improving" means
 25 reconstructing, replacing, extending, repairing, bettering,

1 equipping, developing, embellishing, or improving or any one
2 or more of the foregoing.

3 (6) ~~The term "Law" shall mean~~ "Law" means any act or
4 statute (general, special, or local) of this state,
5 including without being limited to the charter of any
6 municipality.

7 (7) ~~The term "municipality" shall mean~~ "Municipality"
8 means any city or town of this state ~~or the state water~~
9 ~~conservation board.~~

10 (8) ~~The term "refinancing" shall mean~~ "Refinancing"
11 means funding, refunding, paying, or discharging, by means
12 of refunding bonds or the proceeds received from the sale
13 thereof, all or any part of any notes, bonds, or other
14 obligations ~~heretofore or hereafter~~ issued to finance or to
15 aid in financing the acquisition, construction, or improving
16 of an enterprise and payable solely from all or any part of
17 the revenues thereof, including interest thereon in arrears
18 or about to become due, whether or not represented by
19 coupons or interest certificates.

20 (9) ~~The term "refunding bonds" shall mean~~ "Refunding
21 bonds" means notes, bonds, certificates, or other
22 obligations of a municipality issued pursuant to this part
23 or pursuant to any other law as supplemented by or in
24 conjunction with this part.

25 (10) ~~The term "revenues" shall mean~~ "Revenues" means

1 all fees, tolls, rates, rentals, and charges to be levied
2 and collected in connection with and all other income and
3 receipts of whatever kind or character derived by the
4 municipality from the operation of any enterprise or arising
5 from any enterprise."

6 NEW SECTION. Section 11. Refunding revenue bonds. The
7 board may issue refunding revenue bonds under the provisions
8 of Title 7, chapter 7, part 46. For this purpose, in Title
9 7, chapter 7, part 46, references to "governing body" means
10 the "board" and references to "municipality" means the
11 "board".

12 Section 12. Codification. It is intended that section
13 11 be codified as an integral part of Title 85, chapter 1,
14 part 3, and the provisions of Title 85, chapter 1, apply to
15 section 11.

-End-

SB 332

1 *Sen* BILL NO. 332
 2 INTRODUCED BY Watt
 3 BY REQUEST OF THE CODE COMMISSIONER
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT
 7 MANAGEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND
 8 CONSERVATION TO ISSUE REFUNDING REVENUE BONDS."
 9

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

11 Section 1. Section 7-7-105, MCA, is amended to read:
 12 "7-7-105. Challenges to local government bond
 13 elections. (1) No action ~~can~~ may be brought for the purpose
 14 of restraining the issuance and sale of bonds or other
 15 obligations by any county, city, town, or political
 16 subdivision of the state or for the purpose of restraining
 17 the levy and collection of taxes for the payment of such
 18 bonds or other obligations after the expiration of 60 days
 19 from the date of the election on such bonds or obligations
 20 or, if no election was held thereon, after the expiration of
 21 60 days from the date of the order, resolution, or ordinance
 22 authorizing the issuance thereof, on account of any defect,
 23 irregularity, or informality in giving notice of or ~~not in~~
 24 holding the election, ~~nor shall any~~ no defense based upon
 25 any such defect, irregularity, or informality ~~may~~ be

1 interposed in any action unless brought within this period.
 2 This subsection applies but is not limited to any action and
 3 defense in which the issue is raised whether a voted debt or
 4 liability has carried by the required majority vote of the
 5 electors qualified and offering to vote thereon.

6 (2) (a) Any elector qualified to vote in a bond
 7 election of a county, a city, or any political subdivision
 8 of either may contest a bond election for any of the
 9 following causes:

10 (i) that the precinct board, in conducting the
 11 election or in canvassing the returns, made errors
 12 sufficient to change the result of the election;

13 (ii) that any official charged with a duty under the
 14 election laws failed to perform that duty;

15 (iii) that in conducting the election, any official
 16 charged with a duty under the election laws violated any of
 17 the provisions of Title 13 relating to bond elections;

18 (iv) that electors qualified to vote in the election
 19 under the provisions of the constitutions of Montana and the
 20 United States were not given opportunity to vote in the
 21 election;

22 (v) that electors not qualified to vote in the
 23 election under the provisions of the constitutions of
 24 Montana and the United States were permitted to vote in the
 25 election.

1 (b) Within 60 days after the election, the contestant
2 shall file a verified petition with the clerk of the court
3 in the judicial district where the election was held.

4 (3) The word "action", as used in this section, is to
5 be construed, whenever it is necessary to do so, as
6 including a special proceeding proceeding of a civil
7 nature."

8 Section 2. Section 7-7-4103, MCA, is amended to read:

9 "7-7-4103. General qualifications to vote on questions
10 of municipal indebtedness. (1) ~~Only such registered~~
11 Registered electors of the city, town, or other municipal
12 corporation ~~whose names appear upon the last assessment roll~~
13 ~~shall be entitled to~~ may vote upon any proposal to create or
14 increase any indebtedness of the city, town, or other
15 municipal corporation required by law to be submitted to a
16 vote of the electors thereof.

17 (2) ~~No such elector, otherwise qualified hereunder,~~
18 ~~shall~~ may be denied the right to vote ~~by reason of the fact~~
19 ~~that because~~ the polling place for a general election for
20 the precinct wherein he resides and is entitled to vote lies
21 within another city, town, or other municipal corporation."

22 Section 3. Section 7-7-4111, MCA, is amended to read:

23 "7-7-4111. Procedure to declare municipal bankruptcy.
24 ~~(1) The state of Montana does hereby consent and enact that~~
25 any Any city or town ~~of the state of Montana shall have the~~

1 ~~right and power to~~ may submit itself and a proposed plan of
2 composition to the jurisdiction of the bankruptcy court
3 having jurisdiction of such matter ~~to~~ and be governed by
4 the proceedings, orders, and decrees of ~~said the~~ court ~~in~~
5 ~~the manner and extent and~~ as provided by ~~said act~~ and to
6 the federal municipal bankruptcy laws.

7 (2) The city or town may compose and enter into,
8 submit itself to, and perform the plan of composition ~~in the~~
9 ~~manner prescribed and~~ as required by ~~said act~~ the federal
10 laws and the orders and decrees of ~~said the~~ bankruptcy court
11 ~~thereunder and as effected thereby:~~

12 (a) ~~(i)~~ upon ~~and after~~ the adoption by its city council
13 or town council of an ordinance or resolution:

14 (a) ~~(i)~~ declaring that it is insolvent or unable to
15 meet its debts as they mature;

16 (a) ~~(ii)~~ declaring that it desires to effect a plan for
17 the composition of its debts under the provisions of the
18 ~~Municipal Corporation Bankruptcy Act of the United States~~
19 ~~as amended, added to, and now existing~~ federal municipal
20 bankruptcy laws; and

21 (a) ~~(iii)~~ providing that ~~said the~~ city or town shall
22 proceed to the composition of its municipal indebtedness
23 under the provisions of ~~said act~~ the federal laws; and

24 (b) upon the acceptance in writing of the proposed
25 plan of composition of its municipal indebtedness proposed

1 by ~~such municipality~~ by creditors of the petitioning
 2 municipal corporation owning not less than the percentage
 3 thereof in amount of the municipal securities affected or to
 4 be affected by the proposed plan of composition, as provided
 5 in ~~said act~~ the federal laws."

6 Section 4. Section 7-7-4112, MCA, is amended to read:
 7 "7-7-4112. Power to comply with court decrees related
 8 to bankruptcy. Any such city or town ~~shall have the power to~~
 9 ~~do all things and to may~~ comply with all orders and decrees
 10 contemplated by ~~said Municipal Corporation Bankruptcy Act~~
 11 the federal municipal bankruptcy laws and to ~~may~~ issue its
 12 bonds and other securities for the carrying out and
 13 consummation of the composition of its debts as provided and
 14 contemplated by ~~said act~~ the federal law and as required by
 15 the orders and decrees of ~~said~~ the bankruptcy court."

16 Section 5. Section 7-7-4221, MCA, is amended to read:
 17 "7-7-4221. Election on question of incurring
 18 indebtedness -- exception. (1) Except as provided in
 19 subsection (2), whenever the ~~council or commission governing~~
 20 ~~body of any city or town having a corporate existence in~~
 21 ~~this state or hereafter organized under any of the laws~~
 22 ~~thereof shall deem~~ municipality considers it necessary to
 23 issue bonds pledging the general credit of the municipality
 24 for any purpose ~~whatever under its powers as set forth in~~
 25 ~~any statute or statutes of this state or amendments thereto~~

1 ~~authorized by law~~, the question of issuing such ~~the~~ bonds
 2 shall first be submitted to the electors of ~~such the~~ city or
 3 town who are qualified to vote on such question, ~~in the~~
 4 ~~manner hereinafter set forth.~~

5 (2) It ~~shall is~~ not be necessary to submit to ~~such the~~
 6 electors the question of issuing refunding bonds to refund
 7 bonds ~~theretofore~~ issued and then outstanding or the
 8 question of issuing revenue bonds not pledging the general
 9 credit of the municipality under any laws of this state.

10 (3) ~~No bonds shall be issued by a city or town~~
 11 ~~pledging the general credit of the municipality for any~~
 12 ~~purpose except to fund or refund warrants or bonds issued~~
 13 ~~prior to and outstanding on July 1, 1942, as authorized in~~
 14 ~~this section, unless authorized at a duly called special or~~
 15 ~~general election at which the question of issuing such bonds~~
 16 ~~is submitted to the qualified electors of the city or town~~
 17 ~~and approved as hereinafter provided."~~

18 Section 6. Section 7-7-4226, MCA, is amended to read:
 19 "7-7-4226. Resolution to submit question of issuing
 20 bond to voters. (1) When the ~~council or commission governing~~
 21 ~~body of any city or town deems~~ municipality considers it
 22 necessary to issue bonds pledging the general credit of the
 23 municipality pursuant to any statute of this state, the
 24 ~~council governing body~~ shall pass and adopt a resolution.

25 (2) The resolution shall:

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1 (a) recite the purpose or purposes for which it is
2 proposed to issue ~~such bond~~ the bonds;

3 (b) fix the amount of bonds to be issued for each
4 purpose;

5 (c) determine the number of years through which such
6 ~~the~~ bonds are to be paid, not exceeding the limits fixed in
7 ~~7-7-4201~~ 7-7-4202; and

8 (d) unless such bonds are revenue bonds not pledging
9 the general credit of the municipality, make such provisions
10 as are necessary for ~~having~~ submitting the question
11 submitted to the qualified electors of the city or town at
12 the next general city or town election or at a special
13 election which the ~~council~~ or commission governing body may
14 call for such purpose.

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16 proposed by petition, the ~~council~~ or commission governing
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24 ~~found that at such election~~ 40% or more of the qualified
25 electors of the city or town entitled to vote on the

1 ~~question or proposition of issuing bonds~~ voted thereon and
2 ~~that~~ a majority of ~~such~~ the votes were cast in favor of the
3 issuing of ~~such~~ the bonds, the city or town council shall,
4 at a regular or special meeting held within 30 days
5 thereafter, ~~pass and adopt~~ a resolution providing for the
6 issuance of ~~such~~ the bonds.

7 (2) ~~Such~~ The resolution shall recite:

8 (a) the purpose for which ~~such~~ the bonds are to be
9 issued;

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14 payable; and

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16 the option of the city or town, on any interest payment date
17 ~~from and after 10 years from the date of issue~~ expiration of
18 one-half of the term for which the bond was issued.

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20 of the execution of the bonds. It shall provide that
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16 high enough to raise an amount sufficient to pay all
17 interest on and so much of the principal, if any, of ~~such~~
18 ~~the~~ bonds as will become due and payable during the
19 ~~then-current~~ fiscal year or within 90 days thereafter, as
20 such amount is shown by the treasurer's statement provided
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 3 agency" means the United States, the president of the United
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 14 having charge of the finances thereof; ~~and in the case of~~
 15 ~~the state water conservation board, shall mean the board~~
 16 ~~itself.~~

17 (4) ~~The term "holder of bonds" shall mean~~ "Holder of bonds" or
 18 "bondholder" (or any similar term) ~~shall mean~~ means any
 19 person who ~~shall be~~ is the bearer of any outstanding
 20 refunding bond ~~or refunding bonds,~~ registered to bearer or
 21 not registered, or the registered owner of any such
 22 outstanding bond ~~or bonds~~ which ~~shall be~~ is at the time be
 23 registered other than to bearer.

24 (5) ~~The term "improving" shall mean~~ "Improving" means
 25 reconstructing, replacing, extending, repairing, bettering,

1 equipping, developing, embellishing, or improving or any one
2 or more of the foregoing.

3 ~~(6) The term "law" shall mean~~ "Law" means any act or
4 statute (general, special, or local) of this state,
5 including without being limited to the charter of any
6 municipality.

7 ~~(7) The term "municipality" shall mean~~ "Municipality"
8 means any city or town of this state or ~~the state water~~
9 ~~conservation board.~~

10 ~~(8) The term "refinancing" shall mean~~ "Refinancing"
11 means funding, refunding, paying, or discharging, by means
12 of refunding bonds or the proceeds received from the sale
13 thereof, all or any part of any notes, bonds, or other
14 obligations ~~heretofore or hereafter~~ issued to finance or to
15 aid in financing the acquisition, construction, or improving
16 of an enterprise and payable solely from all or any part of
17 the revenues thereof, including interest thereon in arrears
18 or about to become due, whether or not represented by
19 coupons or interest certificates.

20 ~~(9) The term "refunding bonds" shall mean~~ "Refunding
21 bonds" means notes, bonds, certificates, or other
22 obligations of a municipality issued pursuant to this part
23 or pursuant to any other law as supplemented by or in
24 conjunction with this part.

25 ~~(10) The term "revenues" shall mean~~ "Revenues" means

1 all fees, tolls, rates, rentals, and charges to be levied
2 and collected in connection with and all other income and
3 receipts of whatever kind or character derived by the
4 municipality from the operation of any enterprise or arising
5 from any enterprise."

6 NEW SECTION. Section 11. Refunding revenue bonds. The
7 board may issue refunding revenue bonds under the provisions
8 of Title 7, chapter 7, part 46. For this purpose, in Title
9 7, chapter 7, part 46, references to "governing body" means
10 the "board" and references to "municipality" means the
11 "board".

12 Section 12. Codification. It is intended that section
13 11 be codified as an integral part of Title 85, chapter 1,
14 part 3, and the provisions of Title 85, chapter 1, apply to
15 section 11.

-End-

SB 332

1 SENATE BILL NO. 332

2 INTRODUCED BY WATT

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT
7 MANAGEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND
8 CONSERVATION TO ISSUE REFUNDING REVENUE BONDS."

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

11 Section 1. Section 7-7-105, MCA, is amended to read:

12 "7-7-105. Challenges to local government bond
13 elections. (1) No action ~~can~~ may be brought for the purpose
14 of restraining the issuance and sale of bonds or other
15 obligations by any county, city, town, or political
16 subdivision of the state or for the purpose of restraining
17 the levy and collection of taxes for the payment of such
18 bonds or other obligations after the expiration of 60 days
19 from the date of the election on such bonds or obligations
20 or, if no election was held thereon, after the expiration of
21 60 days from the date of the order, resolution, or ordinance
22 authorizing the issuance thereof, on account of any defect,
23 irregularity, or informality in giving notice of or ~~not~~ in
24 holding the election, ~~nor shall any~~ no defense based upon
25 any such defect, irregularity, or informality may be

1 interposed in any action unless brought within this period.
2 This subsection applies but is not limited to any action and
3 defense in which the issue is raised whether a voted debt or
4 liability has carried by the required majority vote of the
5 electors qualified and offering to vote thereon.

6 (2) (a) Any elector qualified to vote in a bond
7 election of a county, a city, or any political subdivision
8 of either ~~may~~ contest a bond election for any of the
9 following causes:

10 (i) that the precinct board, in conducting the
11 election or in canvassing the returns, made errors
12 sufficient to change the result of the election;

13 (ii) that any official charged with a duty under the
14 election laws failed to perform that duty;

15 (iii) that in conducting the election, any official
16 charged with a duty under the election laws violated any of
17 the provisions of Title 13 relating to bond elections;

18 (iv) that electors qualified to vote in the election
19 under the provisions of the constitutions of Montana and the
20 United States were not given opportunity to vote in the
21 election;

22 (v) that electors not qualified to vote in the
23 election under the provisions of the constitutions of
24 Montana and the United States were permitted to vote in the
25 election.

1 (b) Within 60 days after the election, the contestant
2 shall file a verified petition with the clerk of the court
3 in the judicial district where the election was held.

4 (3) The word "action", as used in this section, is to
5 be construed, whenever it is necessary to do so, as
6 including a special proceeding ~~proceeding~~ of a civil
7 nature."

8 Section 2. Section 7-7-4103, MCA, is amended to read:

9 "7-7-4103. General qualifications to vote on questions
10 of municipal indebtedness. (1) ~~Only---such---registered~~
11 ~~Registered~~ electors of the city, town, or other municipal
12 corporation ~~whose names appear upon the last assessment roll~~
13 ~~shall be entitled to~~ ~~may~~ vote upon any proposal to create or
14 increase any indebtedness of the city, town, or other
15 municipal corporation required by law to be submitted to a
16 vote of the electors thereof.

17 (2) No such elector, otherwise qualified hereunder,
18 shall ~~may~~ be denied the right to vote by reason of the fact
19 that ~~because~~ the polling place for a general election for
20 the precinct wherein he resides and is entitled to vote lies
21 within another city, town, or other municipal corporation."

22 Section 3. Section 7-7-4111, MCA, is amended to read:

23 "7-7-4111. Procedure to declare municipal bankruptcy.
24 (1) ~~The state of Montana does hereby consent and exact--that~~
25 any ~~Any~~ city or town of the state of Montana shall have the

1 right-and-power-to ~~may~~ submit itself and a proposed plan of
2 composition to the jurisdiction of the bankruptcy court
3 having jurisdiction of such matter--~~to~~ and be governed by
4 the proceedings, orders, and decrees of said ~~the~~ court in
5 the ~~manner and extent and~~ as provided by said ~~act--and--to~~
6 ~~the federal municipal bankruptcy laws.~~

7 (2) ~~The city or town may~~ compose and enter into,
8 submit itself to, and perform the plan of composition in the
9 ~~manner prescribed and as~~ required by said ~~act~~ ~~the federal~~
10 ~~laws~~ and the orders and decrees of said ~~the bankruptcy~~ court
11 thereunder and as affected thereby:

12 (a) upon ~~and after~~ the adoption by its city council
13 or town council of an ordinance or resolution:

14 (i) declaring that it is insolvent or unable to
15 meet its debts as they mature;

16 (ii) declaring that it desires to effect a plan for
17 the composition of its debts under the provisions of the
18 ~~Municipal Corporation Bankruptcy Act of the--United--States,~~
19 ~~as--amended,--added--to,--and--now--existing~~ ~~federal municipal~~
20 ~~bankruptcy laws;~~ and

21 (iii) providing that said ~~the~~ city or town shall
22 proceed to the composition of its municipal indebtedness
23 under the provisions of said ~~act~~ ~~the federal laws;~~ and

24 (b) upon the acceptance in writing of the ~~proposed~~
25 plan of composition of its municipal indebtedness proposed

1 by--such--municipality by creditors of the petitioning
 2 municipal corporation owning not less than the percentage
 3 thereof in amount of the municipal securities affected or to
 4 be affected by the proposed plan of composition, as provided
 5 in said act the federal laws."

6 Section 4. Section 7-7-4112, MCA, is amended to read:

7 "7-7-4112. Power to comply with court decrees related
 8 to bankruptcy. Any such city or town shall ~~have the power to~~
 9 ~~do all things and to may~~ comply with all orders and decrees
 10 contemplated by said ~~Municipal Corporation Bankruptcy Act~~
 11 the federal municipal bankruptcy laws and to may issue its
 12 bonds and other securities for the carrying out and
 13 consummation of the composition of its debts as provided and
 14 contemplated by said act the federal law and as required by
 15 the orders and decrees of said the bankruptcy court."

16 Section 5. Section 7-7-4221, MCA, is amended to read:

17 "7-7-4221. Election on question of incurring
 18 indebtedness -- exception. (1) Except as provided in
 19 subsection (2), whenever the ~~council or commission governing~~
 20 ~~body of any city or town having a corporate existence in~~
 21 ~~this state or hereafter organized under any of the laws~~
 22 ~~thereof shall deem~~ municipality considers it necessary to
 23 issue bonds pledging the general credit of the municipality
 24 for any purpose ~~whatever under its powers as set forth in~~
 25 ~~any statute or statutes of this state or amendments thereto~~

1 authorized by law, the question of issuing such the bonds
 2 shall first be submitted to the electors of such the city or
 3 town who are qualified to vote on such question ~~in the~~
 4 ~~manner hereinafter set forth.~~

5 (2) It shall ~~is~~ not be necessary to submit to such the
 6 electors the question of issuing refunding bonds to refund
 7 bonds theretofore issued and then outstanding or the
 8 question of issuing revenue bonds not pledging the general
 9 credit of the municipality under any laws of this state.

10 ~~(3) No bonds shall be issued by a city or town~~
 11 ~~pledging the general credit of the municipality for any~~
 12 ~~purpose except to fund or refund warrants or bonds issued~~
 13 ~~prior to and outstanding on duty in 1942, as authorized in~~
 14 ~~this section, unless authorized at a duly called special or~~
 15 ~~general election at which the question of issuing such bonds~~
 16 ~~is submitted to the qualified electors of the city or town~~
 17 ~~and approved as hereinafter provided."~~

18 Section 6. Section 7-7-4226, MCA, is amended to read:

19 "7-7-4226. Resolution to submit question of issuing
 20 bond to voters. (1) When the ~~council or commission governing~~
 21 ~~body of any city or town deems~~ municipality considers it
 22 necessary to issue bonds pledging the general credit of the
 23 municipality pursuant to any statute of this state, the
 24 council governing body shall pass and adopt a resolution.

25 (2) The resolution shall:

1 (a) recite the purpose or purposes for which it is
2 proposed to issue such bond ~~the bonds~~;

3 (b) fix the amount of bonds to be issued for each
4 purpose;

5 (c) determine the number of years through which such
6 ~~the~~ bonds are to be paid, not exceeding the limits fixed in
7 ~~7-7-4201~~ 7-7-4205; and

8 (d) unless such bonds are revenue bonds not pledging
9 the general credit of the municipality, make such provisions
10 as are necessary for having ~~submitting~~ the question
11 ~~submitted~~ to the qualified electors of the city or town at
12 the next general city or town election or at a special
13 election which the ~~council~~ ~~or~~ ~~commission~~ governing body may
14 call for such purpose.

15 (3) ~~in cases--where~~ Whenever the bond issuance is
16 proposed by petition, the ~~council~~ ~~or~~ ~~commission~~ governing
17 body shall, before submitting the measure to the electorate
18 electors, pass a resolution containing the information
19 herein required and, in addition thereto, setting forth the
20 essential facts in regard to the filing and presentation of
21 the petition."

22 Section 7. Section 7-7-4236, MCA, is amended to read:

23 "7-7-4236. Resolution to issue bonds. (1) If ~~it is~~
24 ~~found that at such election~~ 40% or more of the qualified
25 electors of the city or town entitled to vote on such ~~the~~

1 question ~~or proposition~~ of issuing bonds voted thereon and
2 ~~that~~ a majority of such ~~the~~ votes were cast in favor of the
3 issuing of such ~~the~~ bonds, the city or town council shall,
4 at a regular or special meeting held within 30 days
5 thereafter, pass and ~~adopt~~ a resolution providing for the
6 issuance of such ~~the~~ bonds.

7 (2) Such ~~the~~ resolution shall recite:

8 (a) the purpose for which such ~~the~~ bonds are to be
9 issued;

10 (b) the amount thereof;

11 (c) the maximum rate of interest the bonds may bear;

12 (d) the date they shall bear;

13 (e) the period of time through which they shall ~~be~~ are
14 payable; and

15 (f) that any thereof ~~bond~~ may be redeemed in full, at
16 the option of the city or town, on any interest payment date
17 ~~from and after 10 years from the date of issue~~ expiration of
18 one-half of the term for which the bond was issued.

19 (3) Such ~~the~~ resolution shall provide for the manner
20 of the execution of the bonds. It shall provide that
21 preference shall be given amortization bonds but shall fix
22 the denomination of serial bonds in case it shall be found
23 advantageous to issue bonds in that form. The board council
24 may in its discretion provide that such bonds may be issued
25 and sold in two or more series or installments.

1 (4) The resolution shall adopt a form of notice of the
2 sale of the bonds."

3 Section 8. Section 7-7-4254, MCA, is amended to read:

4 "7-7-4254. Procedure for sale of bonds. (1) The city
5 or town council shall meet at the time and place fixed in
6 the notice to consider bids for the bonds.

7 (2) The bonds shall be sold at not less than par and
8 accrued interest to date of delivery, and each bidder shall
9 specify the form of bonds to be issued, whether amortization
10 or serial, and the rate of interest at which he will
11 purchase the bonds. A bid for amortization bonds shall have
12 preference over a bid for serial bonds, all other things
13 being equal. In determining the kind of bonds to be issued,
14 the council shall take into consideration not only the rate
15 of interest demanded on each kind but also all other known
16 elements affecting the interests of the city or town. The
17 council shall accept the bid ~~they shall judge it considers~~
18 most advantageous to the city or town. The board ~~is~~
19 ~~authorized to~~ council may reject any and all bids and to
20 sell the bonds at private sale if ~~they deem it for this is~~
21 considered to be in the best interests of the city or town;
22 provided, however, that ~~such the~~ bonds shall may not be sold
23 at less than par and accrued interest to date of delivery.

24 (3) No attorneys' fees or brokerage or other fees or
25 commissions of any kind shall may be paid to any person or

1 corporation for assisting in the proceedings, in the
2 preparation of the bonds, or in negotiating the sale
3 thereof."

4 Section 9. Section 7-7-4265, MCA, is amended to read:

5 "7-7-4265. Tax levy for payment of bonds. (1) The city
6 or town council, at the time of making the levy of taxes for
7 general city or town purposes, must levy a separate and
8 special tax upon all taxable property in the city or town
9 for the payment of interest ~~on the~~ and principal of ~~for~~ each
10 series or issue of bonds outstanding. The tax levy for any
11 one series or issue of bonds must be entirely separate and
12 distinct from ~~such the~~ levy for any other issue or series of
13 bonds.

14 (2) The levy made for the purpose of paying interest
15 on and principal of each series or issue of bonds must be
16 high enough to raise an amount sufficient to pay all
17 interest on and so much of the principal, if any, of ~~such~~
18 ~~the~~ bonds as will become due and payable during the
19 then-current fiscal year or within 90 days thereafter, as
20 such amount is shown by the treasurer's statement provided
21 for by 7-7-4264. If no part of the principal of such bonds
22 will become due and payable within such time, then such tax
23 levy must be high enough to raise an amount sufficient to
24 pay all interest which will become due and payable during
25 the current fiscal year or within 90 days thereafter and to

1 also place in the sinking fund for such issue or series of
 2 bonds, for the payment of the principal thereof when the
 3 same becomes due, an amount not less than a sum produced by
 4 dividing the whole amount for which such ~~the~~ series or issue
 5 of bonds were originally issued by the number of years for
 6 which such series or issue of bonds were originally issued
 7 to run, as such amounts are shown by the treasurer's
 8 statement provided for by 7-7-4264."

9 Section 10. Section 7-7-4602, MCA, is amended to read:

10 "7-7-4602. Definitions. ~~The following terms whenever~~
 11 ~~used or referred to in this part shall have the following~~
 12 ~~meanings unless a different meaning appears from the context~~
 13 ~~As used in this part, unless the context indicates~~
 14 ~~otherwise, the following definitions apply:~~

15 (1) ~~The term "enterprise" shall mean~~ "Enterprise"
 16 means any work, undertaking, or project which the
 17 municipality is or may hereafter be authorized to construct
 18 and from which the municipality has heretofore derived or
 19 may hereafter derive ~~derives~~ revenues, for the refinancing
 20 or the refinancing and improving of which enterprise
 21 refunding bonds are issued under this part; and such
 22 enterprise shall ~~include~~ includes all improvements,
 23 betterments, extensions, and replacements thereto and all
 24 appurtenances, facilities, lands, rights in land, water
 25 rights, franchises, and structures in connection therewith

1 or incidental thereto.

2 (2) ~~The term "federal agency" shall include~~ "Federal
 3 agency" means the United States, the president of the United
 4 States, the federal emergency administrator of public works,
 5 reconstruction ~~finance~~ corporation, or any agency,
 6 instrumentality, or corporation of the United States which
 7 has heretofore ~~been or may hereafter be~~ designated or
 8 created by or pursuant to any act or joint resolution of the
 9 congress of the United States or which may be directly or
 10 indirectly owned or controlled by the United States.

11 (3) ~~The term "governing body" shall mean~~ "Governing body" means,
 12 in the case of a city or town, shall mean the council,
 13 commission, or other body, board, officer, or officers
 14 having charge of the finances thereof; ~~and in the case of~~
 15 ~~the state water conservation board, shall mean the board~~
 16 ~~itself.~~

17 (4) ~~The term "holder of bonds" shall mean~~ "Holder of bonds" or
 18 "bondholder" (or any similar term) shall mean means any
 19 person who shall be is the bearer of any outstanding
 20 refunding bond or refunding bonds, registered to bearer or
 21 not registered, or the registered owner of any such
 22 outstanding bond or bonds which shall is at the time be
 23 registered other than to bearer.

24 (5) ~~The term "improving" shall mean~~ "Improving" means
 25 reconstructing, replacing, extending, repairing, bettering,

1 equipping, developing, embellishing, or improving or any one
2 or more of the foregoing.

3 (6) ~~The term "law" shall mean~~ "Law" means any act or
4 statute (general, special, or local) of this state
5 including without being limited to the charter of any
6 municipality.

7 (7) ~~The term "municipality" shall mean~~ "Municipality"
8 means any city or town of this state ~~or the state water~~
9 ~~conservation board.~~

10 (8) ~~The term "refinancing" shall mean~~ "Refinancing"
11 means funding, refunding, paying, or discharging, by means
12 of refunding bonds or the proceeds received from the sale
13 thereof, all or any part of any notes, bonds, or other
14 obligations heretofore or hereafter issued to finance or to
15 aid in financing the acquisition, construction, or improving
16 of an enterprise and payable solely from all or any part of
17 the revenues thereof, including interest thereon in arrears
18 or about to become due, whether or not represented by
19 coupons or interest certificates.

20 (9) ~~The term "refunding bonds" shall mean~~ "Refunding
21 bonds" means notes, bonds, certificates, or other
22 obligations of a municipality issued pursuant to this part
23 or pursuant to any other law as supplemented by or in
24 conjunction with this part.

25 (10) ~~The term "revenues" shall mean~~ "Revenues" means

1 all fees, tolls, rates, rentals, and charges to be levied
2 and collected in connection with and all other income and
3 receipts of whatever kind or character derived by the
4 municipality from the operation of any enterprise or arising
5 from any enterprise."

6 **NEW SECTION.** Section 11. Refunding revenue bonds. The
7 board may issue refunding revenue bonds under the provisions
8 of Title 7, chapter 7, part 46. For this purpose, in Title
9 7, chapter 7, part 46, references to "governing body" means
10 the "board" and references to "municipality" means the
11 "board".

12 Section 12. Codification. It is intended that section
13 11 be codified as an integral part of Title 85, chapter 1,
14 part 3, and the provisions of Title 85, chapter 1, apply to
15 section 11.

-End-