

SENATE BILL NO. 333

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, do pass. 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 12, 1979	Third reading, concurred in.

IN THE SENATE

March 13, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Amend* BILL NO. *333*
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 ALTERNATIVE
7 FORMS OF LOCAL GOVERNMENT; REPEALING SECTIONS 11-3221
8 THROUGH 11-3227 AND 11-3541 THROUGH 11-3547, R.C.M. 1947."

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

11 Section 1. Section 7-3-101, MCA, is amended to read:

12 "7-3-101. Compliance with constitution. (1) The
13 purpose of parts 1 through 7 is to comply with Article XI,
14 section 3(1), of the Montana constitution, which provides:
15 "The legislature shall provide such optional or alternative
16 forms of government that each unit or combination of units
17 may adopt, amend, or abandon an optional or alternative form
18 by a majority of those voting on the question."

19 (2) Parts 1 through 7 establish the alternative forms
20 of government for cities, towns, counties, and consolidated
21 governments. These parts shall be liberally construed to
22 facilitate the adoption of a form of local government. ~~the~~
23 ~~procedure--to--adopt--amend--or--abandon--these--forms--is~~
24 ~~provided-in-this-part"~~

25 Section 2. Section 7-3-1101, MCA, is amended to read:

1 "7-3-1101. City-county consolidation authorized. (1) A
2 county and a city or town within the county may unite to
3 form a single unit of local government under the provisions
4 of this part.

5 (2) An alternative form of government, including a
6 charter form, for a consolidated unit of government may be
7 submitted to the voters only by those study commissions that
8 have cooperated ~~under section 6, Chapter 222, Laws of 1974~~
9 ~~in the formulation of the plan.~~ A majority vote by each of
10 the affected study commissions is required for the
11 submission of an alternative form of government for a
12 consolidated unit of local government. The affected study
13 commissions submitting a consolidated form shall issue a
14 single joint report and proposal.

15 (3) An alternative form of government for a
16 consolidated unit of local government does not need to
17 include more than one municipality. A municipality may not
18 be included unless the local government study commission of
19 that municipality participates in the cooperative study and
20 unless its study commission by a majority vote approves the
21 proposed alternative plan for the consolidated government.

22 (4) This part shall not apply to excluded
23 municipalities, school districts, conservancy districts,
24 drainage districts, irrigation districts, soil and water
25 conservation districts, or livestock districts."

-2- *SB 333*
INTRODUCED BILL

1 Section 3. Section 7-3-1204, MCA, is amended to read:

2 "7-3-1204. Petition for city-county consolidated
3 government -- election required. (1) The question of the
4 abandonment and termination of the separate corporate
5 existence and government of a county and of each ~~end-every~~
6 city and town therein and the consolidation and merging of
7 the existence and government of such ~~the~~ county and each ~~end~~
8 ~~of~~ of the cities and towns therein into one municipal
9 corporation and government under the provisions of this part
10 and part 13 shall be submitted to the qualified electors of
11 such ~~the~~ county if a petition is filed in the office of the
12 county clerk of such ~~the~~ county, signed by at least 20% of
13 the electors of ~~said the~~ county whose names appear on the
14 official register of voters of the county on the date of the
15 filing of such ~~the~~ petition, requesting that such question
16 be submitted to the qualified electors of the county.

17 (2) Such ~~the~~ petition shall be substantially in the
18 form and shall be signed, verified, and filed in the manner
19 prescribed in this part for initiative, ~~and referendum~~-and
20 recall petitions and shall designate therein the name by
21 which such ~~the~~ consolidated government is to be known, which
22 must be either that of the county or of some one of the
23 cities or towns therein."

24 Section 4. Section 7-3-1209, MCA, is amended to read:

25 "7-3-1209. Resolution declaring creation of

1 consolidated government. (1) At the first meeting of the
2 commission whose members are first elected under the
3 provisions of this part, such ~~the~~ commission shall adopt a
4 resolution reciting the filing of the petition provided for
5 in 7-3-1204, the ordering and holding of a special election
6 as requested in such ~~the~~ petition, the result of such ~~the~~
7 election and the holding of the special election for and the
8 election of the members of the first commission, and the
9 name and designation of the consolidated municipality, ~~a~~
10 which ~~This~~ resolution must be in duplicate and signed by all
11 of the members of the commission and also entered at length
12 on the journal of the commission. One copy of such
13 ~~commission the resolution~~ must be filed in the office of the
14 clerk of the commission, and the other copy thereof must be
15 transmitted to and filed in the office of the secretary of
16 state.

17 (2) Immediately upon the adoption of such ~~it~~
18 resolution by the commission, the separate corporate
19 existence of the county and of each ~~end-every~~ city and town
20 therein ~~shall-be-deemed~~ is considered to be consolidated and
21 merged into one municipal corporation under the name
22 selected, designated, and adopted as provided in this part,
23 and such ~~the~~ consolidated municipality ~~shall-thereupon-be~~
24 deemed is considered to have succeeded to and to possess and
25 own all of the property and assets of every kind and

1 description and shall, ~~save except~~ as herein otherwise
 2 provided, become responsible for all of the obligations and
 3 liabilities of the county, cities, and towns so consolidated
 4 and merged."

5 Section 5. Section 7-3-1214, MCA, is amended to read:

6 "7-3-1214. Consolidated municipality commission. (1)

7 Except as otherwise provided in this part or part 13, all
 8 powers of the consolidated municipality ~~shall be~~ are vested
 9 in a commission. For the purpose of determining the number
 10 of members composing such ~~the~~ commission, consolidated
 11 municipalities organized under the provisions of this part
 12 and part 13 shall be classified and all of the provisions of
 13 7-1-2111 and 7-1-2112 ~~governing and controlling~~ govern and
 14 control the classification of such ~~the~~ consolidated
 15 municipalities.

16 (2) (a) In consolidated municipalities of the first
 17 class such ~~the~~ commission shall consist of seven members.

18 (b) In consolidated municipalities of the second
 19 class, third class, and or fourth class, such ~~the~~ commission
 20 shall consist of five members.

21 (c) In consolidated municipalities of the fifth class,
 22 sixth class, or seventh class, ~~and eighth class~~, such ~~the~~
 23 commission shall consist of three members."

24 Section 6. Section 7-3-1215, MCA, is amended to read:

25 "7-3-1215. Qualifications for commission. (1) Members

1 of the commission must be qualified electors of the
 2 consolidated municipality ~~and must be the owners of real~~
 3 ~~estate situated therein to the value of not less than \$1,000~~
 4 and ~~shall~~ may not hold any other public office except that
 5 of notary public or member of the state militia.

6 (2) A member of the commission ceasing to possess any
 7 of the qualifications specified in this section shall
 8 immediately forfeit his office."

9 Section 7. Section 7-3-1218, MCA, is amended to read:

10 "7-3-1218. Meetings of commission. (1) (a) Except as
 11 provided in subsection (1)(b), at 2 p.m. on ~~June 30~~ July 1
 12 following a regular municipal election, the commission shall
 13 meet at the courthouse in the consolidated municipality and
 14 the newly elected members shall assume the duties of office.

15 (b) The first meeting of such ~~the~~ commission after the
 16 special election at which the first members of the
 17 commission are elected shall be held at 2 p.m. on the first
 18 day of the third month following such ~~the~~ special election,
 19 and at such ~~this~~ meeting the members of such ~~the~~ commission
 20 shall determine by lot the members whose terms will expire
 21 on June 30 in the first year following such special election
 22 and the members whose terms will expire on ~~July 1~~ June 30 in
 23 the third year following such election.

24 (2) Thereafter the commission shall meet at such times
 25 as may be prescribed by ordinance or resolution, but not

1 less frequently than once in each month. Special meetings
 2 shall be called by the clerk of the commission upon written
 3 request of the president, the manager, or a majority of the
 4 members of the commission. Any such ~~A~~ notice of a meeting
 5 shall state the subject to be considered at the meeting, and
 6 no other subject shall be considered at such ~~the~~ meeting.

7 (3) All meetings of the commission and of committees
 8 thereof shall be open to the public, and the rules of the
 9 commission shall provide that citizens of the municipality
 10 shall have a reasonable opportunity to be heard at any such
 11 meeting in regard to any matter considered thereat."

12 Section 8. Section 7-3-1225, MCA, is amended to read:
 13 "7-3-1225. Vote required on certain measures. No
 14 measure making or amending a grant, renewal, or extension of
 15 a franchise or other special privilege ~~shall ever~~ may be
 16 passed without first submitting the application therefor to
 17 the ~~resident--freeholders~~ qualified electors in the manner
 18 provided by 7-5-4321 and 7-5-4322."

19 Section 9. Section 7-3-1233, MCA, is amended to read:
 20 "7-3-1233. Details relating to initiative and
 21 referendum petitions. (1) The signatures to initiative or
 22 ~~referendum--or-recall~~ petitions need not all be appended to
 23 one paper, but to each separate petition paper there shall
 24 be attached an affidavit of the circulator thereof as
 25 provided by this section. Each signer of any such petition

1 paper shall sign his name in ink or indelible pencil and
 2 shall indicate after his name his place of residence by
 3 street and number or other description sufficient to
 4 identify the place. There shall appear on each petition
 5 paper the names and addresses of five electors of the
 6 municipality who, as a committee of the petitioners, shall
 7 be regarded as responsible for the circulation and filing of
 8 the petition. The affidavit attached to the petition paper
 9 shall be as follows:

10 State of Montana, city and county of, being
 11 duly sworn, deposes and says that he is the circulator of
 12 the foregoing paper and that the signatures appended thereto
 13 were made in his presence and are the genuine signatures of
 14 the persons whose names they purport to be.

15 Signed

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

18

19 Notary public for the state of
 20 Montana
 21 Residing at, Montana
 22 My commission expires

23 (2) All petition papers comprising an initiative or
 24 ~~referendum--or-recall~~ petition shall be assembled and filed
 25 with the clerk as one instrument. Within 10 days after a

1 petition is filed, the clerk shall determine whether it is
 2 signed by a sufficient number of electors and shall attach
 3 thereto a certificate showing the result of his examination.
 4 If he ~~shall certify~~ certifies that the petition is
 5 insufficient, he shall set forth in his certificate the
 6 particulars in which it is defective and shall at once
 7 notify the committee of the petitioners of his findings.

8 (3) An initiative, ~~or referendum or recall~~ petition
 9 may be amended at any time within 10 days after the making
 10 of a certificate of insufficiency by the clerk, by filing a
 11 supplementary petition upon additional papers signed and
 12 filed as provided in case of an original petition. The clerk
 13 shall, within 5 days after such amendment is filed, make
 14 examination of the amended petition, and if his certificate
 15 ~~shall show~~ shows the petition still to be insufficient, he
 16 shall file it in his office and notify the committee of the
 17 petitioners of his findings and no further action shall be
 18 had on such insufficient petition. The finding of the
 19 insufficiency of a petition shall not prejudice the filing
 20 of a new petition for the same purpose."

21 Section 10. Section 7-3-1248, MCA, is amended to read:

22 "7-3-1248. Departments of consolidated municipality.

23 (1) (a) In consolidated municipalities of the first, second,
 24 third, and ~~or fourth classes class~~, there shall be a
 25 department of finance, a police department, a department of

1 public works, a department of health, a fire department, and
 2 such other departments and offices as may be established by
 3 ordinance.

4 (b) In consolidated municipalities of the fifth,
 5 sixth, ~~or seventh and eighth classes class~~, there shall be
 6 a department of finance, a police department, a department
 7 of public works, a department of health, and such other
 8 departments and offices as may be established by ordinance.

9 (2) The commission may change or abolish any
 10 department or office established by ordinance and may
 11 prescribe, combine, distribute, or discontinue the functions
 12 and duties thereof. Additional functions and duties may be
 13 by ordinance assigned to departments and offices created by
 14 this part or part 13, but no function or duty assigned by
 15 this part or part 13 to any such department or office shall
 16 be discontinued or assigned to any other department or
 17 office. If the manager so recommends and the commission so
 18 authorizes, the manager may appoint one person to act as the
 19 head of two or more departments or offices, but the
 20 department of law ~~must~~ may not thus be joined with any other
 21 department, nor ~~shall~~ may the manager be authorized to act
 22 as head of the department of finance or of any office
 23 therein other than of purchasing agent or assessor."

24 Section 11. Section 7-3-1272, MCA, is amended to read:

25 "7-3-1272. Procedure for primary election. (1) A

1 municipal primary election for the choice of members of the
 2 commission shall be held on the last Tuesday in April in
 3 each year in which members of the commission are to be
 4 elected.

5 (2) All candidates for the commission receiving a
 6 majority of the votes cast at the municipal primary election
 7 shall be deemed considered and declared elected to the
 8 commission. If candidates equal to the number of members of
 9 the commission to be elected do not receive a majority of
 10 the votes cast at such primary election, a municipal primary
 11 general election shall be held on the first Tuesday in June
 12 next following the election."

13 Section 12. Section 7-3-1331, MCA, is amended to read:
 14 "7-3-1331. Department of public works. (1) The
 15 department of public works shall be is in the charge of a
 16 director, who shall manage and have charge of the
 17 construction, repair, improvement, and maintenance of all
 18 public buildings; of roads, streets, alleys, sidewalks,
 19 bridges, viaducts, and other public ways; of sewers, drains,
 20 ditches, culverts, streams, and watercourses; and of
 21 boulevards, parks, playgrounds, cemeteries, and other public
 22 places and grounds dedicated to public use. He shall manage
 23 and control all public cemeteries, crematories, market
 24 places or houses, garbage and sewage disposal plants and
 25 farms, and all public utilities belonging to the

1 municipality or any subdivision thereof and shall have
 2 charge of the enforcement of the obligations to the
 3 municipality of all privately owned or operated public
 4 utilities enforceable by the municipality. He shall have
 5 charge of the cleaning, sprinkling, and lighting of the
 6 streets and the collection and disposal of garbage and
 7 waste. He shall also be responsible for the making and
 8 preservation of all surveys, maps, plans, drawings, and
 9 estimates for such public work and for the preservation of
 10 contracts, papers, plans, tools, and appliances belonging to
 11 the municipality and pertaining to the functions of the
 12 department.

13 (2) The director of public works shall have the
 14 qualifications prescribed by law for county surveyors, and
 15 in addition to the duties required by this part or part 12
 16 and by the ordinances of the municipality, he shall have the
 17 powers and shall, either in person or by a deputy having the
 18 qualifications prescribed by law for county surveyors,
 19 perform the duties required of county surveyors by the laws
 20 of the state."

21 Section 13. Section 7-3-1341, MCA, is amended to read:
 22 "7-3-1341. Department of law. (1) The department of
 23 law shall be is in the charge of a director to be appointed
 24 by the commission without definite term, who shall be a
 25 resident and elector of the municipality and who shall

1 possess all of the qualifications required of county
2 attorneys.

3 (2) He shall have all the powers and, either
4 personally or by such assistants as he may designate, shall
5 perform all the duties that now are ~~or hereafter may be~~
6 prescribed for county attorneys, city attorneys, and public
7 administrators, and in addition thereto, he shall be chief
8 legal adviser of and attorney and counsel for the
9 municipality and of all departments and offices thereof and
10 shall perform such other duties as may be required by the
11 commission.

12 (3) He shall qualify by taking the oath of office
13 prescribed by the constitution and giving a bond in the
14 amount required of a public administrator in a county of the
15 same class. He shall receive from the state as part of his
16 salary the same amount which is paid by the state to county
17 attorneys in counties of the same class, and the remainder
18 of his salary shall be paid by the municipality. For all
19 purposes in connection with criminal prosecutions he shall
20 be known and designated as "county attorney of the city and
21 county of".

22 Section 14. Section 7-3-1342, MCA, is amended to read:

23 "7-3-1342. City court. (1) A city court is hereby
24 established in and for each municipality, with the
25 jurisdiction, powers, and duties within the municipality

1 provided by general law for city courts in cities and towns
2 and for justices of the peace.

3 ~~(2) The commission shall, by majority vote of all its~~
4 ~~members, appoint a city judge or judges to serve during the~~
5 ~~pleasure of the commission. No person shall be appointed~~
6 ~~city judge unless at least 25 years of age and admitted to~~
7 ~~practice law in Montana. The commission shall by ordinance~~
8 ~~determine the number of judges required for operation of the~~
9 ~~city court. City court judges are to be elected every 4~~
10 ~~years in a nonpartisan election held in conjunction with the~~
11 ~~regularly scheduled general election. The term of office for~~
12 ~~city judge is 4 years.~~

13 (3) The qualifications to hold the office of city
14 judge shall be set by ordinance by the commission. The
15 ordinance shall be consistent with any rules adopted by the
16 Montana supreme court on city judge qualifications.

17 (4) Whenever a vacancy occurs in the office of city
18 judge, the commission shall appoint a qualified individual
19 to serve for the remainder of the term. The compensation of
20 the city judge or judges shall be fixed by the commission."

21 Section 15. Section 7-3-1343, MCA, is amended to read:

22 "7-3-1343. Police department. (1) The police
23 department ~~shall be~~ is in the charge of a director, who
24 shall be chief of the police force of the municipality. The
25 director shall have the powers and perform the duties

1 conferred on and required of sheriffs.

2 (2) Officers and patrolmen of the police department,
3 subordinate to the director, ~~shall~~ have the powers and
4 ~~perform~~ the duties conferred on and required of police
5 officers and patrolmen in cities and towns by the laws of
6 this state and such powers and duties as may be conferred
7 and required by the ordinances of the municipality. Police
8 officers and patrolmen ~~shall~~ have the powers and ~~perform~~ the
9 duties conferred on and required of deputy sheriffs by the
10 general laws of the state.

11 (3) For the purpose of serving and making return on
12 all criminal and civil process, executing judgments,
13 decrees, and orders of court, and making sales thereunder
14 and returns thereof, the director shall be known and
15 designated as Sheriff of the city and county of, and
16 each police officer and patrolman shall be known and
17 designated as deputy sheriff."

18 Section 16. Section 7-3-1345, MCA, is amended to read:
19 "7-3-1345. Fire department. (1) The fire department of
20 the municipality ~~shall be~~ is in ~~the~~ charge of a director,
21 who shall be chief thereof and who shall manage and control
22 the department in the manner prescribed by the ordinances of
23 the municipality.

24 (2) (a) Notwithstanding any other provision of law,
25 the adoption of a consolidated county municipal government

1 shall have no effect on the existence, rights, or duties of
2 any voluntary fire department or fire district created and
3 legally in existence pursuant to the provisions of parts 21
4 and 23 of chapter 33.

5 (b) Nothing in this part or part 12 shall be construed
6 to prohibit the creation of voluntary fire departments or
7 fire districts pursuant to the provisions of parts 21 and 23
8 of chapter 33 within consolidated county municipalities.

9 (c) Voluntary fire departments or fire districts
10 within consolidated county municipalities ~~shall~~ may only be
11 organized, created, supported, financed, dissolved, and
12 managed and their boundaries ~~shall~~ may only be changed
13 pursuant to the provisions of parts 21 and 23 of chapter 33.
14 These organizations may enter mutual aid agreements as
15 provided by 7-33-2108."

16 Section 17. Section 7-3-2104, MCA, is amended to read:
17 "7-3-2104. Notice of election. It ~~shall be~~ is the dut-
18 of the board of county commissioners to publish a notice of
19 the referendum in a daily paper newspaper twice a week for a
20 period of 3 consecutive weeks or, in case there is no daily
21 paper newspaper of wide circulation in the county, then in a
22 weekly paper newspaper for 4 consecutive weeks."

23 Section 18. Section 7-3-2109, MCA, is amended to read:
24 "7-3-2109. Provisions for board elected at large. (1)
25 Under all optional forms of county government whereby the

1 entire board of county commissioners is elected at large,
2 there shall be a board of county commissioners who shall
3 have the qualifications and shall be nominated and elected
4 as provided by general law except as otherwise provided for
5 in this section.

6 (2) If the electors of a county approve a proposition
7 to adopt an optional form of county government under this
8 part and thereby adopt a different size board, the change in
9 membership shall be effected as follows:

10 (a) Whenever the number of members of the board is
11 increased, there shall be elected at the next regular state
12 election following the adoption of such provision a
13 sufficient number of county commissioners to bring the total
14 membership of the board up to the number fixed. County
15 ~~commissioners shall first serve a term of 6 years, except~~
16 ~~the candidates first elected under the provisions of this~~
17 ~~section.~~

18 (b) Whenever the number of members of the board is
19 decreased, the optional number of county commissioners
20 adopted under this part shall be effective as to the
21 commissioner with the least time left on his term on the
22 first Monday in January following the next regular state
23 election and, as to the other half of the decrease, on the
24 first Monday in January 2 years later. The latter decrease
25 in board size shall also be determined by the least time

1 left on his term and, should two commissioners have the same
2 amount of term left to serve, then by lot.

3 (3) The term of office of county commissioners shall
4 be ~~is~~ 6 years except as provided in this subsection ~~section~~.
5 If the optional form as adopted provides for no change in
6 size of the board of county commissioners, county
7 commissioners shall continue to be elected for 6-year terms.
8 ~~if the optional form as adopted provides for an increased~~
9 ~~membership on the board as provided in this part, the~~
10 ~~additional members shall be elected to the board at the~~
11 ~~first regular state election subsequent to the adoption of~~
12 ~~the alternative form.~~

13 (4) If the first election under an optional form of
14 county government provided for in this part occurs in a year
15 in which one county commissioner is to be elected under the
16 former law and the optional form as adopted provides for an
17 expansion of the board to five commissioners, there shall be
18 elected for a staggered term ~~terms~~ two commissioners for a
19 6-year term and one commissioner for a 4-year term as
20 provided in this part.

21 ~~(5) At all succeeding elections after the first~~
22 ~~regular state election subsequent to adoption of an optional~~
23 ~~form, all members of the board of county commissioners shall~~
24 ~~continue to be elected for 6-year terms."~~

25 Section 19. Section 7-3-4224, MCA, is amended to read:

1 "7-3-4224. Petition for initiative. (1) Any proposed
2 ordinance may be submitted to the council by petition signed
3 by electors of the city equal in number to the percentage
4 hereinafter required. ~~The signature, verification,
5 inspection, certification, amendment, and submission of such
6 petition shall be the same as provided for petition under
7 former 11-3132.~~

8 (2) If the petition accompanying the proposed
9 ordinance ~~be~~ is signed by electors ~~equal in number to 25% or~~
10 ~~more~~ of the entire number of persons registered to vote at
11 the ~~test~~ preceding general election and contains a request
12 that the said ordinance be submitted to a vote of the people
13 if not passed by the council, ~~such~~ the council shall either:

14 (a) pass ~~each~~ the ordinance without alteration within
15 20 60 days after the ~~attachment of the clerk's certificate~~
16 ~~to the accompanying receipt of the~~ petition; or

17 (b) ~~forthwith after the clerk shall attach to the~~
18 ~~petition accompanying such ordinance his certificate of~~
19 ~~sufficiency,~~ call a special election, unless a general
20 municipal election is fixed by law within 30 days
21 thereafter, and at ~~such~~ the special or general municipal
22 election, if one is so fixed, ~~such~~ the proposed ordinance
23 shall be submitted to the vote of the electors of such city.

24 (3) If the petition is signed by ~~not less than~~ at
25 ~~least 10% or but not~~ more than 25% of the electors, as above

1 defined, then the council shall within 20 60 days pass said
2 the ordinance without change or submit the same at the next
3 general city election occurring after the ~~clerk's~~
4 ~~certificate of sufficiency is attached to said~~ receipt of
5 the petition."

6 Section 20. Section 7-3-4227, MCA, is amended to read:
7 "7-3-4227. Abandonment of commission form. (1) Any
8 city which ~~shall have~~ has operated for more than 1 year
9 under the provisions of this part may abandon such
10 organization hereunder and accept the provisions of the
11 general law of the state then applicable to cities of its
12 population.

13 (2) Upon the petition of not less than 10% of the
14 electors of ~~such~~ the city registered for the ~~test~~ preceding
15 general election, the following proposition shall be placed
16 upon the ballot at the next regular city election, provided
17 the petition be is filed at least 60 days prior to the ~~date~~
18 of ~~such~~ the election:

19 "Shall the city of (name of city) abandon its
20 organization under chapter 57 of the acts of the twelfth
21 legislative assembly and become a city under the general law
22 governing cities of like population or, if formerly
23 organized under special charter, resume ~~said~~ the special
24 charter?"

25 (3) If the majority of the votes cast at such election

1 be ~~is~~ in favor of such proposition, the officers elected at
 2 the next succeeding biennial election shall be those then
 3 prescribed by the general law of the state for cities of
 4 like population, and upon the qualification of ~~such these~~
 5 officers, ~~such the~~ city shall become a city under ~~such the~~
 6 general law of the state, but ~~such this~~ change ~~shall may~~ not
 7 in any manner or degree affect the property, rights, or
 8 liabilities of any nature of ~~such the~~ city but shall merely
 9 extend to each change in its form of government.

10 (4) ~~The sufficiency of such petition shall be~~
 11 ~~determined, the election ordered and conducted, and the~~
 12 ~~results declared generally as provided for by former 11-3132~~
 13 ~~insofar as the provisions thereof are applicable, or if now~~
 14 ~~organized under special charter, may resume said special~~
 15 ~~charters. Whenever the form of government of any city is~~
 16 ~~determined by a vote of the people under the provision of~~
 17 ~~this section, the same question shall may~~ not be submitted
 18 again for a period of 2 years, and any ordinance adopted by
 19 a vote of the people shall not be repealed or the same
 20 question submitted for a period of 2 years."

21 Section 21. Section 7-3-4233, MCA, is amended to read:
 22 "7-3-4233. Statement and petition of candidacy. (1)
 23 Any qualified elector of ~~said the~~ city ~~who is the owner of~~
 24 ~~any real estate situated therein,~~ desiring to become a
 25 candidate for mayor or councilman shall, at least 10 days

1 prior to ~~said the~~ primary election, file with the city clerk
 2 a statement of such candidacy and shall at the same time
 3 file ~~therewith~~ the petition of at least 25 qualified voters
 4 requesting such candidacy. Each petition shall be verified
 5 by one or more persons as to qualifications and residence,
 6 with street number, of each of the persons so signing the
 7 petition.

8 (2) The statement shall be in substantially the
 9 following form:

10 State of Montana)
 11)ss.
 12 County of

13 I,, being first duly sworn, say that I reside at
 14 street, city of county of, state of
 15 Montana; that I am a qualified voter therein; that I am a
 16 candidate for nomination to the office of (mayor or
 17 councilman) to be voted upon at the primary election to be
 18 held on the Monday of, 19...; and I hereby request
 19 that my name be printed upon the official primary ballot for
 20 nomination by such primary election for such office.

21 (Signed)
 22 Subscribed and sworn to (or affirmed) before me by
 23 on this day of, 19...
 24 (Signed)

25 (3) The petition shall be in substantially the

1 following form:

2 The undersigned, duly qualified electors of the city of
3 and residing at the places set opposite our respective
4 names hereto, do hereby request that the name of (name of
5 candidate) be placed in the ballot as a candidate for
6 nomination for (name of office) at the primary election to
7 be held in such city on the Monday of, 19... We
8 further state that we know him/her to be a qualified elector
9 of said city and a person of good moral character and
10 qualified, in our judgment, for the duties of such office.

11 Names of qualifying electors Number Street
12
13

14 (4) Each signer of a nomination paper shall may sign
15 but one such nomination paper for the same office, except
16 where ~~whenever~~ more than one officer is to be elected to the
17 same office, in which case he may sign as many nomination
18 papers as there are officers to be elected; and only one
19 candidate shall be petitioned for or nominated in the same
20 nomination paper."

21 Section 22. Section 7-3-4333, MCA, is amended to read:
22 "7-3-4333. Special provisions for election on question
23 related to expenditures. ~~(1) in case~~ Whenever a petition be
24 is filed requiring that a measure passed by the commission
25 providing for an expenditure of money, a bond issue, or a

1 public improvement be submitted to a vote of the electors,
2 all steps preliminary to such expenditure, actual issuance
3 of the bonds, or actual execution of the contract for such
4 improvement may be taken prior to the election. ~~At such~~
5 ~~election only resident taxpayers of such city or town whose~~
6 ~~names as such appear upon the assessment roll and who are~~
7 ~~also~~ ANY qualified electors of said ~~the~~ city or town shall
8 be entitled to may vote at such election.

9 ~~(2) At any and all elections in such city or town at~~
10 ~~which questions relating to bond issues, tax levies, or the~~
11 ~~expenditure of money shall be submitted, no person shall be~~
12 ~~entitled to vote unless qualified as provided in this~~
13 ~~section."~~

14 Section 23. Section 7-3-4352, MCA, is amended to read:
15 "7-3-4352. Election and campaign practices. (1) Any
16 person who ~~shall agree~~ agrees to perform any services in the
17 interest of any candidate for any office provided in this
18 part or part 44, in consideration of any money or other
19 valuable thing for such services performed ~~in the interest~~
20 ~~of any candidate, shall be punished, is punishable~~ by a
21 fine not exceeding \$300 or ~~be imprisoned by imprisonment~~ in
22 the county jail ~~for a period~~ not exceeding 30 days or by
23 both such fine and imprisonment.

24 (2) Any person offering to give a bribe, either in
25 money or other consideration, to any elector for the purpose

1 of influencing his vote at any election provided in this
 2 part or part 44 or any elector entitled to vote at any such
 3 election receiving and accepting such bribe or other
 4 consideration; any person who agrees, by promise or written
 5 statement, that he will do or will not do any particular act
 6 or acts for the purpose of influencing the vote of any
 7 elector or electors at any election provided in this part or
 8 part 44; any person making false answer to any of the
 9 provisions of this part or part 44 relative to his
 10 qualifications to vote at such election; any person
 11 willfully voting or offering to vote at such election who
 12 has not met the residency requirement of the state of
 13 Montana or is not a citizen of the United States or knowing
 14 ~~knows~~ himself not to be a qualified elector of such precinct
 15 where he offers to vote; or any person knowingly procuring,
 16 aiding, or abetting any violation hereof ~~shall be deemed~~ is
 17 guilty of a misdemeanor and upon conviction ~~shall be fined a~~
 18 ~~sum~~ is punishable by a fine of not less than \$100 or more
 19 than \$500 or ~~be imprisoned by imprisonment~~ in the county
 20 jail for a period not less than 10 or more than 90 days or
 21 by both such fine and imprisonment."

22 Section 24. Section 7-3-4365, MCA, is amended to read:
 23 "7-3-4365. Investigations by commission. (1) The
 24 commission or any committee thereof duly authorized by the
 25 commission to do so may investigate the financial

1 transactions of any office or department of the municipal
 2 government and the official acts of any municipal official
 3 and by similar investigations may secure information upon
 4 any matter.

5 (2) In conducting such investigations, the commission
 6 or any committee thereof may compel the attendance of
 7 witnesses and the production of books, papers, and other
 8 evidence and for that purpose may issue subpoenas or
 9 attachments, which shall be signed by the presiding officer
 10 of the commission or the chairman of such committee, as the
 11 case may be, and which may be served and executed by any
 12 officer authorized by law to serve subpoenas or other
 13 process. ~~if any witness shall refuse to testify to any facts~~
 14 ~~within his knowledge or to produce any papers or books in~~
 15 ~~his possession or under his control relating to the matter~~
 16 ~~under inquiry before the commission or any such committee,~~
 17 ~~the commission shall have the power to cause the witness to~~
 18 ~~be punished for contempt.~~ No witness shall may be excused
 19 from testifying touching his knowledge of the matter under
 20 investigation in any such inquiry, but such testimony shall
 21 may not be used against him in any criminal prosecution
 22 except for perjury committed upon such inquiry."

23 Section 25. Section 7-3-4366, MCA, is amended to read:
 24 "7-3-4366. Investigatory powers of city manager. The
 25 city manager may, without notice, cause the affairs of any

1 department or the conduct of any officer or employee to be
 2 examined. Any person or persons appointed by the city
 3 manager to examine the affairs of any department or the
 4 conduct of any officer or employee shall have ~~has~~ the same
 5 power to compel the attendance of witnesses and the
 6 production of books and papers and other evidence and to
 7 cause witnesses to be punished for contempt as is conferred
 8 upon the commission by this part."

9 Section 26. Section 7-3-4445, MCA, is amended to read:

10 ~~"7-3-4445. Survey and plats of subdivided~~ Subdivided
 11 ~~lands. (1) Any owner of lots or grounds within the~~
 12 ~~municipality who subdivides or lays them out for sale must~~
 13 ~~cause to be made an accurate survey and plat thereof~~
 14 ~~conforming in all things to the provisions of former 11-601~~
 15 ~~to 11-614, inclusive, and shall also file with the clerk of~~
 16 ~~the commission a duly certified copy of such plat or plats.~~
 17 ~~(2) The map or plat recorded under the provisions of~~
 18 ~~the foregoing sections shall thereupon be sufficient~~
 19 ~~conveyance to vest in the municipality the fee of the parcel~~
 20 ~~of land designated or intended for streets, alleys, ways~~
 21 ~~common, or other public uses, to be held in the corporate~~
 22 ~~name in trust to and for the uses and purposes in the~~
 23 ~~instrument set forth, expressed, designated, or intended.~~
 24 Subdivisions in the municipality must conform to the
 25 provisions of Title 76, chapter 3."

1 Section 27. Section 7-3-4448, MCA, is amended to read:

2 "7-3-4448. Vacating or changing name of street. (1)

3 The commission, in vacating any street or part of a street
 4 or changing the name of any street, may include in one
 5 ordinance the change of name or the vacation or narrowing of
 6 more than one street, alley, or avenue. Before vacating any
 7 street or part thereof or narrowing any street, the
 8 commission shall first pass a resolution declaring its
 9 intention to do so.

10 (2) The city manager shall cause ~~serve~~ notice of such
 11 ~~the~~ resolution to be served, in the manner that service of
 12 summons is required to be made in civil actions, upon all
 13 persons whose property abuts upon the portion of the street
 14 affected by the proposed vacation or narrowing and by
 15 publication shall publish notice once in one daily newspaper
 16 of general circulation in the municipality if such there be
 17 ~~and~~ is one or if not, once in one weekly newspaper of 11'
 18 circulation ~~as to all persons who cannot be personally~~
 19 ~~served.~~ Said ~~the~~ notice shall state the time and place at
 20 which objection objections will be heard.

21 (3) Unless at least 51% of the affected property
 22 owners object to the proposed vacation or narrowing, the
 23 commission may by ordinance declare such vacation or
 24 narrowing ~~and such the~~ order of the commission vacating or
 25 narrowing a street or alley which has been dedicated to

1 public use by the proprietor ~~shall~~, to the extent that it is
2 vacated or narrowed, ~~operate~~ operates as a revocation of the
3 acceptance thereof by the commission, but the right-of-way
4 and easement therein of any lot owner ~~shall~~ is not be
5 impaired thereby."

6 Section 28. Repealer. Sections 11-3221 through 11-3227
7 and 11-3541 through 11-3547, R.C.M. 1947, are repealed.

-End-

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LC 0552

1979 Legislature
Code Commissioner Bill - Summary*And* Bill No. *333*AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS
RELATING TO ALTERNATIVE FORMS OF LOCAL GOVERNMENT.((This summary does not include discussion of routine form or
grammatical changes.))

Section 1. 7-3-101. In subsection (2), the reference to procedure with respect to alteration of government form is deleted. The material is not found in the part, and in fact the reference had been placed there in anticipation of the passage of a local government code.

Section 2. 7-3-1101. In subsection (2), a reference to section 6, chapter 222, Laws of 1974 is replaced by a general statement which reflects the thrust of the replaced language. Section 6, chapter 22, Laws of 1974, was repealed effective June 30, 1977.

Section 3. 7-3-1204. In subsection (2), the reference to recall petitions is deleted. In section 28 of this bill, the recall provisions are recommended for repeal, having been superseded by the recall initiative of 1976.

Section 4. 7-3-1209. In subsection (1), "such commission" is changed to "the resolution" to correct an obvious error in terminology. The intent is to file a copy of the resolution, clearly not the commission.

Section 5. 7-3-1214. In subsection (2)(c), a reference to the "eighth class" is deleted. Under 7-1-1211, the highest class for a county (and hence for a consolidated municipality) is seventh class.

Section 6. 7-3-1215. In subsection (1), the requirement that a member of the commission in a consolidated municipality be the owner of at least \$1,000 worth of property is deleted. Such a requirement would be unconstitutional under the holding of the Montana Supreme Court in Sadler v. Connolly, 575 P 2d. 51 (1978).

Section 7. 7-3-1218. In subsection (1)(a), "June 30" is changed to "July 1" and in subsection (1)(b), "July 1" is changed to "June 30" for consistency with 7-3-1216 which provides that the term of commission members begins on July 1 and ends on June 30. In subsection (2), "Any such notice" is changed to "A notice of a meeting" for clarity.

Section 8. 7-3-1225. A requirement that certain questions be submitted to the vote of the resident freeholders is changed to the vote of the qualified electors. This section would appear to violate the United States constitution under the holdings of the United States Supreme Court (see the discussion in 35 L. Ed 2d 843 (1974)).

Section 9. 7-3-1233. Several references to recall petitions are deleted throughout the sections. The provisions dealing with recall are recommended for repeal in section 28 of this bill.

Section 10. 7-3-1248. In subsection (1)(b), a reference to "eighth class" is deleted. See section 5.

Section 11. 7-3-1272. In subsection (2), "primary election" is changed to "general election" to correct an obvious error. Section 7-3-1272 deals with the primary election. The primary would be followed by a general election, not another primary.

Sections 12 and 13. 7-3-1331 and 7-3-1341. The first sentence of each section is rewritten for clarity. The director is in charge of the department and not vice-versa as the existing language seems to say.

Section 14. 7-3-1342. This section is considerably revised for consistency with the general city court law found in Title 3, chapter 11, and in 7-3-4462. Some of the changes, such as deletion of the statement that the judge serves at the pleasure of the commission, are required by the doctrine of separation of powers; in particular see State ex rel Morales v. City Commission, 570 P 2d 887 (1977).

Sections 15 and 16. 7-3-1343 and 7-3-1345. The first sentence of each section is rewritten for clarity. The director is in charge of the department and vice-versa as the existing language seems to say.

Section 17. 7-3-2104. "Paper" is changed to "newspaper" for clarity.

Section 18. 7-3-2109. This section is rewritten for clarity. The deleted language in subsections (2)(a) and (5) is redundant with the language of subsection (3). The deleted language in subsection (3) is redundant with the language of subsection (2)(a).

Section 19. 7-3-4224. The section is rewritten for consistency with the initiative procedure found in Title 7, chapter 5, part 42. A reference to section 11-3132, R.C.M. 1947, is deleted inasmuch as that section has been repealed, and as a consequence references to the "clerk's certificate" have also been deleted. The various percentage requirements have been rewritten for clarity.

Section 20. 7-3-4227. In subsection (4), material relating to section 11-3132, R.C.M. 1947, is deleted. The referenced section has been repealed.

Section 21. 7-3-4233. In subsection (1), the requirement that a candidate for mayor or councilman be a freeholder is deleted. See section 6.

Section 22. 7-3-4333. In subsection (1), the requirement that a voter in certain elections be a taxpayer is deleted. See section 8. Because of the changes in subsection (1), subsection (2) is essentially redundant and hence deleted.

Section 23. 7-3-4352. The section is rewritten for clarity; especially the provisions which provide the penalty.

Sections 24 and 25. 7-3-4365 and 7-3-4366. In both sections, language granting power to punish for contempt is deleted. This type of grant of judicial power has been held to be an unconstitutional grant by the attorney general (8 Att. Gen. 184), violating the doctrine of separation of powers.

Section 26. 7-3-4445. This section is totally rewritten. The section referred to sections 11-601 through 11-614, R.C.M. 1947, which were repealed. These sections dealt with plats and subdivided lands. In place of the former language is a reference to the laws governing local control of subdivisions, which are applicable in any case.

Section 27. 7-3-4448. The section is rewritten for clarity. Also, in subsection (3), attention should be paid to the protest provision. As originally enacted by Chapter 152, Laws of 1917, the phrase read "if 51% of the affected property objects". Allen-Smith added "[owners]" after property to provide meaning to the sentence. Under recodification, the brackets were removed. However, it is possible that the language was intended to mean "owners of 51% of the affected property". If the legislature wishes to use the latter interpretation, further amendment is needed. In similar sections, such as 7-14-4112 and 7-14-4114, the same language as is presently found in 7-3-4448 is employed.

Section 28. Repealer. The sections listed for repeal all have to do with recall petitions and have been superseded by the recall law enacted by the 1976 initiative and amended by the 1977 legislature.

Approved by Comm.
on Local Government

Amick BILL NO. *333*

INTRODUCED BY *Watt*
BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO ALTERNATIVE FORMS OF LOCAL GOVERNMENT; REPEALING SECTIONS 11-3221 THROUGH 11-3227 AND 11-3541 THROUGH 11-3547, R.C.M. 1947."

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

Section 1. Section 7-3-101, MCA, is amended to read:
"7-3-101. Compliance with constitution. (1) The purpose of parts 1 through 7 is to comply with Article XI, section 3(1), of the Montana constitution, which provides: "The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, or abandon an optional or alternative form by a majority of those voting on the question."

(2) Parts 1 through 7 establish the alternative forms of government for cities, towns, counties, and consolidated governments. These parts shall be liberally construed to facilitate the adoption of a form of local government. The procedure to adopt, amend, or abandon these forms is provided in this part."

~~Section 2.~~ Section 7-3-1101, MCA, is amended to read:

"7-3-1101. City-county consolidation authorized. (1) A county and a city or town within the county may unite to form a single unit of local government under the provisions of this part.

(2) An alternative form of government, including a charter form, for a consolidated unit of government may be submitted to the voters only by those study commissions that have cooperated under section 6, Chapter 222, Laws of 1974 in the formulation of the plan. A majority vote by each of the affected study commissions is required for the submission of an alternative form of government for a consolidated unit of local government. The affected study commissions submitting a consolidated form shall issue a single joint report and proposal.

(3) An alternative form of government for a consolidated unit of local government does not need to include more than one municipality. A municipality may not be included unless the local government study commission of that municipality participates in the cooperative study and unless its study commission by a majority vote approves the proposed alternative plan for the consolidated government.

(4) This part shall not apply to excluded municipalities, school districts, conservancy districts, drainage districts, irrigation districts, soil and water conservation districts, or livestock districts."

There are no changes in *SB 333* and due to length will not be rerun. Please refer to white copy for complete text.

1 Section 3. Section 7-3-1204, MCA, is amended to read:

2 "7-3-1204. Petition for city-county consolidated
3 government — election required. (1) The question of the
4 abandonment and termination of the separate corporate
5 existence and government of a county and of each ~~and every~~
6 city and town therein and the consolidation and merging of
7 the existence and government of such ~~the~~ county and each ~~and~~
8 ~~of~~ of the cities and towns therein into one municipal
9 corporation and government under the provisions of this part
10 and part 13 shall be submitted to the qualified electors of
11 such ~~the~~ county if a petition is filed in the office of the
12 county clerk of such ~~the~~ county, signed by at least 20% of
13 the electors of ~~said the~~ county whose names appear on the
14 official register of voters of the county on the date of the
15 filing of such ~~the~~ petition, requesting that such question
16 be submitted to the qualified electors of the county.

17 (2) Such ~~the~~ petition shall be substantially in the
18 form and shall be signed, verified, and filed in the manner
19 prescribed in this part for initiative, ~~and referendum~~ and
20 ~~refer~~ petitions and shall designate therein the name by
21 which such ~~the~~ consolidated government is to be known, which
22 must be either that of the county or of some one of the
23 cities or towns therein."

24 Section 4. Section 7-3-1209, MCA, is amended to read:

25 "7-3-1209. Resolution declaring creation of

1 consolidated government. (1) At the first meeting of the
2 commission whose members are first elected under the
3 provisions of this part, such ~~the~~ commission shall adopt a
4 resolution reciting the filing of the petition provided for
5 in 7-3-1204, the ordering and holding of a special election
6 as requested in such ~~the~~ petition, the result of such ~~the~~
7 election and the holding of the special election for and the
8 election of the members of the first commission, and the
9 name and designation of the consolidated municipality ~~in~~
10 which This resolution must be in duplicate and signed by all
11 of the members of the commission and also entered at length
12 on the journal of the commission. One copy of such
13 ~~commission the resolution~~ must be filed in the office of the
14 clerk of the commission, and the other copy thereof must be
15 transmitted to and filed in the office of the secretary of
16 state.

17 (2) Immediately upon the adoption of such ~~the~~
18 resolution by the commission, the separate corporate
19 existence of the county and of each ~~and every~~ city and town
20 therein ~~shall be deemed is considered~~ to be consolidated and
21 merged into one municipal corporation under the name
22 selected, designated, and adopted as provided in this part,
23 and such ~~the~~ consolidated municipality ~~shall thereupon be~~
24 ~~deemed is considered~~ to have succeeded to and to possess and
25 own all of the property and assets of every kind and

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 ALTERNATIVE
7 FORMS OF LOCAL GOVERNMENT; REPEALING SECTIONS 11-3221
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6 charter form, for a consolidated unit of government may be
7 submitted to the voters only by those study commissions that
8 have cooperated ~~under section 6, Chapter 222, laws of 1974~~
9 ~~in the formulation of the plan.~~ A majority vote by each of
10 the affected study commissions is required for the
11 submission of an alternative form of government for a
12 consolidated unit of local government. The affected study
13 commissions submitting a consolidated form shall issue a
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17 include more than one municipality. A municipality may not
18 be included unless the local government study commission of
19 that municipality participates in the cooperative study and
20 unless its study commission by a majority vote approves the
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6 city and town therein and the consolidation and merging of
7 the existence and government of such ~~the~~ county and each ~~and~~
8 ~~and~~ of the cities and towns therein into one municipal
9 corporation and government under the provisions of this part
10 and part 13 shall be submitted to the qualified electors of
11 such ~~the~~ county if a petition is filed in the office of the
12 county clerk of such ~~the~~ county, signed by at least 20% of
13 the electors of ~~and~~ ~~the~~ county whose names appear on the
14 official register of voters of the county on the date of the
15 filing of such ~~the~~ petition, requesting that such question
16 be submitted to the qualified electors of the county.

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5 in 7-3-1204, the ordering and holding of a special election
6 as requested in such ~~the~~ petition, the result of such ~~the~~
7 election and the holding of the special election for and the
8 election of the members of the first commission, and the
9 name and designation of the consolidated municipality, ~~a~~
10 which ~~this~~ resolution must be in duplicate and signed by all
11 of the members of the commission and also entered at length
12 on the journal of the commission. One copy of such
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15 transmitted to and filed in the office of the secretary of
16 state.

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18 resolution by the commission, the separate corporate
19 existence of the county and of each ~~and~~-every city and town
20 therein ~~shall be deemed~~ is considered to be consolidated and
21 merged into one municipal corporation under the name
22 selected, designated, and adopted as provided in this part,
23 and such ~~the~~ consolidated municipality ~~shall thereupon be~~
24 ~~deemed is considered~~ to have succeeded to and to possess and
25 own all of the property and assets of every kind and

1 description and shall, ~~save except~~ as herein otherwise
 2 provided, become responsible for all of the obligations and
 3 liabilities of the county, cities, and towns so consolidated
 4 and merged."

5 Section 5. Section 7-3-1214, MCA, is amended to read:

6 "7-3-1214. Consolidated municipality commission. (1)
 7 Except as otherwise provided in this part or part 13, all
 8 powers of the consolidated municipality ~~shall be~~ are vested
 9 in a commission. For the purpose of determining the number
 10 of members composing such ~~the~~ commission, consolidated
 11 municipalities organized under the provisions of this part
 12 and part 13 shall be classified and all of the provisions of
 13 7-1-2111 and 7-1-2112 ~~governing and controlling govern and~~
 14 ~~control~~ the classification of such ~~the~~ consolidated
 15 municipalities.

16 (2) (a) In consolidated municipalities of the first
 17 class such ~~the~~ commission shall consist of seven members.

18 (b) In consolidated municipalities of the second
 19 class, third class, and or fourth class, such ~~the~~ commission
 20 shall consist of five members.

21 (c) In consolidated municipalities of the fifth class,
 22 sixth class, or seventh class, ~~and eighth class~~, such ~~the~~
 23 commission shall consist of three members."

24 Section 6. Section 7-3-1215, MCA, is amended to read:

25 "7-3-1215. Qualifications for commission. (1) Members

1 of the commission must be qualified electors of the
 2 consolidated municipality ~~and must be the owners of real~~
 3 ~~estate situated therein to the value of not less than \$1,000~~
 4 and shall ~~may~~ not hold any other public office except that
 5 of notary public or member of the state militia.

6 (2) A member of the commission ceasing to possess any
 7 of the qualifications specified in this section shall
 8 immediately forfeit his office."

9 Section 7. Section 7-3-1218, MCA, is amended to read:

10 "7-3-1218. Meetings of commission. (1) (a) Except as
 11 provided in subsection (1)(b), at 2 p.m. on ~~June 30~~ July 1
 12 following a regular municipal election, the commission shall
 13 meet at the courthouse in the consolidated municipality and
 14 the newly elected members shall assume the duties of office.

15 (b) The first meeting of such ~~the~~ commission after the
 16 special election at which the first members of the
 17 commission are elected shall be held at 2 p.m. on the first
 18 day of the third month following such ~~the~~ special election,
 19 and at such ~~this~~ meeting the members of such ~~the~~ commission
 20 shall determine by lot the members whose terms will expire
 21 on June 30 in the first year following such special election
 22 and the members whose terms will expire on ~~July 1~~ June 30 in
 23 the third year following such election.

24 (2) Thereafter the commission shall meet at such times
 25 as may be prescribed by ordinance or resolution, but not

1 less frequently than once in each month. Special meetings
 2 shall be called by the clerk of the commission upon written
 3 request of the president, the manager, or a majority of the
 4 members of the commission. Any such ~~A~~ notice of a meeting
 5 shall state the subject to be considered at the meeting, and
 6 no other subject shall be considered at such ~~the~~ meeting.

7 (3) All meetings of the commission and of committees
 8 thereof shall be open to the public, and the rules of the
 9 commission shall provide that citizens of the municipality
 10 shall have a reasonable opportunity to be heard at any such
 11 meeting in regard to any matter considered thereat."

12 Section 8. Section 7-3-1225, MCA, is amended to read:
 13 "7-3-1225. Vote required on certain measures. No
 14 measure making or amending a grant, renewal, or extension of
 15 a franchise or other special privilege ~~shall ever~~ may be
 16 passed without first submitting the application therefor to
 17 the ~~resident--freeholders~~ qualified electors in the manner
 18 provided by 7-5-4321 and 7-5-4322."

19 Section 9. Section 7-3-1233, MCA, is amended to read:
 20 "7-3-1233. Details relating to initiative and
 21 referendum petitions. (1) The signatures to initiative or
 22 ~~referendum--or-refer~~ petitions need not all be appended to
 23 one paper, but to each separate petition paper there shall
 24 be attached an affidavit of the circulator thereof as
 25 provided by this section. Each signer of any such petition

1 paper shall sign his name in ink or indelible pencil and
 2 shall indicate after his name his place of residence by
 3 street and number or other description sufficient to
 4 identify the place. There shall appear on each petition
 5 paper the names and addresses of five electors of the
 6 municipality who, as a committee of the petitioners, shall
 7 be regarded as responsible for the circulation and filing of
 8 the petition. The affidavit attached to the petition paper
 9 shall be as follows:

10 State of Montana, city and county of, being
 11 duly sworn, deposes and says that he is the circulator of
 12 the foregoing paper and that the signatures appended thereto
 13 were made in his presence and are the genuine signatures of
 14 the persons whose names they purport to be.

15 Signed

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

18

19 Notary public for the state of
 20 Montana
 21 Residing at Montana
 22 My commission expires

23 (2) All petition papers comprising an initiative or
 24 ~~referendum--or-refer~~ petition shall be assembled and filed
 25 with the clerk as one instrument. Within 10 days after a

1 petition is filed, the clerk shall determine whether it is
 2 signed by a sufficient number of electors and shall attach
 3 thereto a certificate showing the result of his examination.
 4 If he ~~shall certify~~ certifies that the petition is
 5 insufficient, he shall set forth in his certificate the
 6 particulars in which it is defective and shall at once
 7 notify the committee of the petitioners of his findings.

8 (3) An initiative, ~~or referendum or recall~~ petition
 9 may be amended at any time within 10 days after the making
 10 of a certificate of insufficiency by the clerk, by filing a
 11 supplementary petition upon additional papers signed and
 12 filed as provided in case of an original petition. The clerk
 13 shall, within 5 days after such amendment is filed, make
 14 examination of the amended petition, and if his certificate
 15 ~~shall show~~ shows the petition still to be insufficient, he
 16 shall file it in his office and notify the committee of the
 17 petitioners of his findings and no further action shall be
 18 had on such insufficient petition. The finding of the
 19 insufficiency of a petition shall not prejudice the filing
 20 of a new petition for the same purpose."

21 Section 10. Section 7-3-1248, MCA, is amended to read:

22 "7-3-1248. Departments of consolidated municipality.
 23 (1) (a) In consolidated municipalities of the first, second,
 24 third, ~~and~~ or fourth ~~classes~~ class, there shall be a
 25 department of finance, a police department, a department of

1 public works, a department of health, a fire department, and
 2 such other departments and offices as may be established by
 3 ordinance.

4 (b) In consolidated municipalities of the fifth,
 5 sixth, ~~or seventh and eighth classes~~ class, there shall be
 6 a department of finance, a police department, a department
 7 of public works, a department of health, and such other
 8 departments and offices as may be established by ordinance.

9 (2) The commission may change or abolish any
 10 department or office established by ordinance and may
 11 prescribe, combine, distribute, or discontinue the functions
 12 and duties thereof. Additional functions and duties may be
 13 by ordinance assigned to departments and offices created by
 14 this part or part 13, but no function or duty assigned by
 15 this part or part 13 to any such department or office shall
 16 be discontinued or assigned to any other department or
 17 office. If the manager so recommends and the commission so
 18 authorizes, the manager may appoint one person to act as the
 19 head of two or more departments or offices, but the
 20 department of law ~~must~~ may not thus be joined with any other
 21 department, nor ~~shall~~ may the manager be authorized to act
 22 as head of the department of finance or of any office
 23 therein other than of purchasing agent or assessor."

24 Section 11. Section 7-3-1272, MCA, is amended to read:

25 "7-3-1272. Procedure for primary election. (1) A

1 municipal primary election for the choice of members of the
2 commission shall be held on the last Tuesday in April in
3 each year in which members of the commission are to be
4 elected.

5 (2) All candidates for the commission receiving a
6 majority of the votes cast at the municipal primary election
7 shall be deemed ~~considered~~ and declared elected to the
8 commission. If candidates equal to the number of members of
9 the commission to be elected do not receive a majority of
10 the votes cast at such primary election, a municipal primary
11 ~~general~~ election shall be held on the first Tuesday in June
12 next following the election."

13 Section 12. Section 7-3-1331, MCA, is amended to read:

14 "7-3-1331. Department of public works. (1) The
15 department of public works ~~shall be~~ is in ~~the~~ charge of a
16 director, who shall manage and have charge of the
17 construction, repair, improvement, and maintenance of all
18 public buildings; of roads, streets, alleys, sidewalks,
19 bridges, viaducts, and other public ways; of sewers, drains,
20 ditches, culverts, streams, and watercourses; and of
21 boulevards, parks, playgrounds, cemeteries, and other public
22 places and grounds dedicated to public use. He shall manage
23 and control all public cemeteries, crematories, market
24 places or houses, garbage and sewage disposal plants and
25 farms, and all public utilities belonging to the

1 municipality or any subdivision thereof and shall have
2 charge of the enforcement of the obligations to the
3 municipality of all privately owned or operated public
4 utilities enforceable by the municipality. He shall have
5 charge of the cleaning, sprinkling, and lighting of the
6 streets and the collection and disposal of garbage and
7 waste. He shall also be responsible for the making and
8 preservation of all surveys, maps, plans, drawings, and
9 estimates for such public work and for the preservation of
10 contracts, papers, plans, tools, and appliances belonging to
11 the municipality and pertaining to the functions of the
12 department.

13 (2) The director of public works shall have the
14 qualifications prescribed by law for county surveyors, and
15 in addition to the duties required by this part or part 12
16 and by the ordinances of the municipality, he shall have the
17 powers and shall, either in person or by a deputy having the
18 qualifications prescribed by law for county surveyors,
19 perform the duties required of county surveyors by the laws
20 of the state."

21 Section 13. Section 7-3-1341, MCA, is amended to read:

22 "7-3-1341. Department of law. (1) The department of
23 law ~~shall be~~ is in ~~the~~ charge of a director to be appointed
24 by the commission without definite term, who shall be a
25 resident and elector of the municipality and who shall

1 possess all of the qualifications required of county
2 attorneys.

3 (2) He shall have all the powers and, either
4 personally or by such assistants as he may designate, shall
5 perform all the duties that now are ~~or hereafter may be~~
6 prescribed for county attorneys, city attorneys, and public
7 administrators, and in addition thereto, he shall be chief
8 legal adviser of and attorney and counsel for the
9 municipality and of all departments and offices thereof and
10 shall perform such other duties as may be required by the
11 commission.

12 (3) He shall qualify by taking the oath of office
13 prescribed by the constitution and giving a bond in the
14 amount required of a public administrator in a county of the
15 same class. He shall receive from the state as part of his
16 salary the same amount which is paid by the state to county
17 attorneys in counties of the same class, and the remainder
18 of his salary shall be paid by the municipality. For all
19 purposes in connection with criminal prosecutions he shall
20 be known and designated as "county attorney of the city and
21 county of".

22 Section 14. Section 7-3-1342, MCA, is amended to read:
23 "7-3-1342. City court. (1) A city court is hereby
24 established in and for each municipality, with the
25 jurisdiction, powers, and duties within the municipality

1 provided by general law for city courts in cities and towns
2 and for justices of the peace.

3 ~~(2) The commission shall, by majority vote of all its~~
4 ~~members, appoint a city judge or judges to serve during the~~
5 ~~pleasure of the commission. No person shall be appointed~~
6 ~~city judge unless at least 25 years of age and admitted to~~
7 ~~practice law in Montana. The commission shall by ordinance~~
8 ~~determine the number of judges required for operation of the~~
9 ~~city court. City court judges are to be elected every 4~~
10 ~~years in a nonpartisan election held in conjunction with the~~
11 ~~regularly scheduled general election. The term of office for~~
12 ~~city judge is 4 years.~~

13 ~~(3) The qualifications to hold the office of city~~
14 ~~judge shall be set by ordinance by the commission. The~~
15 ~~ordinance shall be consistent with any rules adopted by the~~
16 ~~Montana supreme court on city judge qualifications.~~

17 ~~(4) Whenever a vacancy occurs in the office of city~~
18 ~~judge, the commission shall appoint a qualified individual~~
19 ~~to serve for the remainder of the term.~~ The compensation of
20 the city judge or judges shall be fixed by the commission."

21 Section 15. Section 7-3-1343, MCA, is amended to read:
22 "7-3-1343. Police department. (1) The police
23 department ~~shall be~~ is in the charge of a director, who
24 shall be chief of the police force of the municipality. The
25 director shall have the powers and perform the duties

1 conferred on and required of sheriffs.

2 (2) Officers and patrolmen of the police department,
3 subordinate to the director, ~~shall~~ have the powers and
4 ~~perform~~ the duties conferred on and required of police
5 officers and patrolmen in cities and towns by the laws of
6 this state and such powers and duties as may be conferred
7 and required by the ordinances of the municipality. Police
8 officers and patrolmen ~~shall~~ have the powers and ~~perform~~ the
9 duties conferred on and required of deputy sheriffs by the
10 general laws of the state.

11 (3) For the purpose of serving and making return on
12 all criminal and civil process, executing judgments,
13 decrees, and orders of court, and making sales thereunder
14 and returns thereof, the director shall be known and
15 designated as Sheriff of the city and county of and
16 each police officer and patrolman shall be known and
17 designated as deputy sheriff."

18 Section 16. Section 7-3-1345, MCA, is amended to read:

19 "7-3-1345. Fire department. (1) The fire department of
20 the municipality ~~shall be~~ is in the charge of a director,
21 who shall be chief thereof and who shall manage and control
22 the department in the manner prescribed by the ordinances of
23 the municipality.

24 (2) (a) Notwithstanding any other provision of law,
25 the adoption of a consolidated county municipal government

1 shall have no effect on the existence, rights, or duties of
2 any voluntary fire department or fire district created and
3 legally in existence pursuant to the provisions of parts 21
4 and 23 of chapter 33.

5 (b) Nothing in this part or part 12 shall be construed
6 to prohibit the creation of voluntary fire departments or
7 fire districts pursuant to the provisions of parts 21 and 23
8 of chapter 33 within consolidated county municipalities.

9 (c) Voluntary fire departments or fire districts
10 within consolidated county municipalities ~~shall may~~ only be
11 organized, created, supported, financed, dissolved, and
12 managed and their boundaries ~~shall may~~ only be changed
13 pursuant to the provisions of parts 21 and 23 of chapter 33.
14 These organizations may enter mutual aid agreements as
15 provided by 7-33-2108."

16 Section 17. Section 7-3-2104, MCA, is amended to read:

17 "7-3-2104. Notice of election. It ~~shall be~~ is the duty
18 of the board of county commissioners to publish a notice
19 the referendum in a daily paper ~~newspaper~~ twice a week for a
20 period of 3 consecutive weeks or, in case there is no daily
21 paper ~~newspaper~~ of wide circulation in the county, then in a
22 weekly paper ~~newspaper~~ for 4 consecutive weeks."

23 Section 18. Section 7-3-2109, MCA, is amended to read:

24 "7-3-2109. Provisions for board elected at large. (1)
25 Under all optional forms of county government whereby the

1 entire board of county commissioners is elected at large,
2 there shall be a board of county commissioners who shall
3 have the qualifications and shall be nominated and elected
4 as provided by general law except as otherwise provided for
5 in this section.

6 (2) If the electors of a county approve a proposition
7 to adopt an optional form of county government under this
8 part and thereby adopt a different size board, the change in
9 membership shall be effected as follows:

10 (a) Whenever the number of members of the board is
11 increased, there shall be elected at the next regular state
12 election following the adoption of such provision a
13 sufficient number of county commissioners to bring the total
14 membership of the board up to the number fixed. County
15 ~~commissioners shall first serve a term of 6 years, except~~
16 ~~the candidates first elected under the provisions of this~~
17 ~~section.~~

18 (b) Whenever the number of members of the board is
19 decreased, the optional number of county commissioners
20 adopted under this part shall be effective as to the
21 commissioner with the least time left on his term on the
22 first Monday in January following the next regular state
23 election and, as to the other half of the decrease, on the
24 first Monday in January 2 years later. The latter decrease
25 in board size shall also be determined by the least time

1 left on his term and, should two commissioners have the same
2 amount of term left to serve, then by lot.

3 (3) The term of office of county commissioners shall
4 be is 6 years except as provided in this subsection ~~section.~~
5 If the optional form as adopted provides for no change in
6 size of the board of county commissioners, county
7 commissioners shall continue to be elected for 6-year terms.
8 ~~if the optional form as adopted provides for an increased~~
9 ~~membership on the board as provided in this part, the~~
10 ~~additional members shall be elected to the board at the~~
11 ~~first regular state election subsequent to the adoption of~~
12 ~~the alternative form.~~

13 (4) If the first election under an optional form of
14 county government provided for in this part occurs in a year
15 in which one county commissioner is to be elected under the
16 former law and the optional form as adopted provides for an
17 expansion of the board to five commissioners, there shall be
18 elected for a staggered term ~~terms~~ two commissioners for a
19 6-year term and one commissioner for a 4-year term as
20 provided in this part.

21 ~~(5) At all succeeding elections after the first~~
22 ~~regular state election subsequent to adoption of an optional~~
23 ~~form, all members of the board of county commissioners shall~~
24 ~~continue to be elected for 6-year terms.~~

25 Section 19. Section 7-3-4224, MCA, is amended to read:

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1 "7-3-4224. Petition for initiative. (1) Any proposed
 2 ordinance may be submitted to the council by petition signed
 3 by electors of the city equal in number to the percentage
 4 hereinafter required. ~~The signature verification~~
 5 ~~inspection certification amendment and submission of such~~
 6 ~~petition shall be the same as provided for petition under~~
 7 ~~former 11-3132.~~

8 (2) If the petition accompanying the proposed
 9 ordinance be ~~is~~ signed by electors equal in number to 25% ~~or~~
 10 ~~more~~ of the entire number of persons registered to vote at
 11 the ~~last~~ preceding general election and contains a request
 12 that the said ordinance be submitted to a vote of the people
 13 if not passed by the council, such ~~the~~ council shall either:

14 (a) pass each ~~the~~ ordinance without alteration within
 15 20 ~~60~~ days after the ~~attachment of the clerk's certificate~~
 16 ~~to the accompanying receipt of the~~ petition; or

17 (b) ~~forthwith after the clerk shall attach to the~~
 18 ~~petition accompanying such ordinance his certificate of~~
 19 ~~sufficiency~~ call a special election, unless a general
 20 municipal election is fixed by law within 30 days
 21 thereafter, and at such ~~the~~ special or general municipal
 22 election, if one is so fixed, such ~~the proposed~~ ordinance
 23 shall be submitted to the vote of the electors of such city.

24 (3) If the petition is signed by ~~not less than at~~
 25 ~~least 10% or but not~~ more than 25% of the electors, as above

1 defined, then the council shall within 20 ~~60~~ days pass said
 2 ~~the~~ ordinance without change or submit the same at the next
 3 general city election occurring after the ~~clerk's~~
 4 ~~certificate of sufficiency is attached to said~~ receipt of
 5 ~~the~~ petition."

6 Section 20. Section 7-3-4227, MCA, is amended to read:

7 "7-3-4227. Abandonment of commission form. (1) Any
 8 city which ~~shall have~~ ~~has~~ operated for more than 1 year
 9 under the provisions of this part may abandon such
 10 organization ~~hereunder~~ and accept the provisions of the
 11 general law of the state then applicable to cities of its
 12 population.

13 (2) Upon the petition of not less than 10% of the
 14 electors of such ~~the~~ city registered for the ~~last~~ preceding
 15 general election, the following proposition shall be placed
 16 upon the ballot at the next regular city election, provided
 17 the petition be ~~is~~ filed at least 60 days prior to the date
 18 of such ~~the~~ election:

19 "Shall the city of (name of city) abandon its
 20 organization under chapter 57 of the acts of the twelfth
 21 legislative assembly and become a city under the general law
 22 governing cities of like population or, if formerly
 23 organized under special charter, resume said ~~the~~ special
 24 charter?"

25 (3) If the majority of the votes cast at such election

1 be ~~is~~ in favor of such proposition, the officers elected at
 2 the next succeeding biennial election shall be those then
 3 prescribed by the general law of the state for cities of
 4 like population, and upon the qualification of such ~~these~~
 5 officers, such ~~the~~ city shall become a city under such ~~the~~
 6 general law of the state, but such ~~this~~ change shall ~~may~~ not
 7 in any manner or degree affect the property, rights, or
 8 liabilities of any nature of such ~~the~~ city but shall merely
 9 extend to each change in its form of government.

10 (4) ~~The sufficiency of such petition shall be~~
 11 ~~determined, the election ordered and conducted, and the~~
 12 ~~results declared generally as provided for by former 11-3132~~
 13 ~~insofar as the provisions thereof are applicable, or if now~~
 14 ~~organized under special charter, may resume said special~~
 15 ~~charter. Whenever the form of government of any city is~~
 16 determined by a vote of the people under the provision of
 17 this section, the same question shall ~~may~~ not be submitted
 18 again for a period of 2 years, and any ordinance adopted by
 19 a vote of the people shall not be repealed or the same
 20 question submitted for a period of 2 years."

21 Section 21. Section 7-3-4233, MCA, is amended to read:
 22 "7-3-4233. Statement and petition of candidacy. (1)
 23 Any qualified elector of ~~said the~~ city ~~who is the owner of~~
 24 ~~any real estate situated therein,~~ desiring to become a
 25 candidate for mayor or councilman shall, at least 10 days

1 prior to ~~said the~~ primary election, file with the city clerk
 2 a statement of such candidacy and shall at the same time
 3 file therewith the petition of at least 25 qualified voters
 4 requesting such candidacy. Each petition shall be verified
 5 by one or more persons as to qualifications and residence,
 6 with street number, of each of the persons so signing the
 7 petition.

8 (2) The statement shall be in substantially the
 9 following form:

10 State of Montana)

11)ss.

12 County of

13 I,, being first duly sworn, say that I reside at
 14 street, city of, county of, state of
 15 Montana; that I am a qualified voter therein; that I am a
 16 candidate for nomination to the office of (mayor or
 17 councilman) to be voted upon at the primary election to be
 18 held on the Monday of, 19...; and I hereby request
 19 that my name be printed upon the official primary ballot for
 20 nomination by such primary election for such office.

21 (Signed)

22 Subscribed and sworn to (or affirmed) before me by
 23 on this day of, 19...

24 (Signed)

25 (3) The petition shall be in substantially the

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1 following form:

2 The undersigned, duly qualified electors of the city of
3 and residing at the places set opposite our respective
4 names hereto, do hereby request that the name of (name of
5 candidate) be placed in the ballot as a candidate for
6 nomination for (name of office) at the primary election to
7 be held in such city on the Monday of, 19... We
8 further state that we know him/her to be a qualified elector
9 of said city and a person of good moral character and
10 qualified, in our judgment, for the duties of such office.

11 Names of qualifying electors Number Street
12
13

14 (4) Each signer of a nomination paper shall ~~may~~ sign
15 but one such nomination paper for the same office, except
16 where ~~whenever~~ more than one officer is to be elected to the
17 same office, in which case he may sign as many nomination
18 papers as there are officers to be elected; and only one
19 candidate shall be petitioned for or nominated in the same
20 nomination paper."

21 Section 22. Section 7-3-4333, MCA, is amended to read:

22 "7-3-4333. Special provisions for election on question
23 related to expenditures. ~~(1)-in case~~ ~~whenever~~ a petition be
24 is filed requiring that a measure passed by the commission
25 providing for an expenditure of money, a bond issue, or a

1 public improvement be submitted to a vote of the electors,
2 all steps preliminary to such expenditure, actual issuance
3 of the bonds, or actual execution of the contract for such
4 improvement may be taken prior to the election. ~~At such~~
5 ~~election--only resident taxpayers of such city or town whose~~
6 ~~names as such appear upon the assessment roll and who are~~
7 ~~also~~ ANY qualified electors of said ~~the~~ city or town shall
8 be entitled to ~~may~~ vote at such election.

9 ~~(2)--At any and all elections in such city or town at~~
10 ~~which questions relating to bond issues, tax levies, or the~~
11 ~~expenditure of money shall be submitted, no person shall be~~
12 ~~entitled to vote unless qualified as provided in this~~
13 ~~section."~~

14 Section 23. Section 7-3-4352, MCA, is amended to read:

15 "7-3-4352. Election and campaign practices. (1) Any
16 person who ~~shall agree~~ agrees to perform any services in the
17 interest of any candidate for any office provided in this
18 part or part 44, in consideration of any money or other
19 valuable thing for such services performed ~~in the interest~~
20 ~~of any candidate, shall be punished, is punishable~~ by a
21 fine not exceeding \$300 or ~~be imprisoned by imprisonment~~ in
22 the county jail for a period not exceeding 30 days or by
23 both such fine and imprisonment.

24 (2) Any person offering to give a bribe, either in
25 money or other consideration, to any elector for the purpose

1 of influencing his vote at any election provided in this
 2 part or part 44 or any elector entitled to vote at any such
 3 election receiving and accepting such bribe or other
 4 consideration; any person who agrees, by promise or written
 5 statement, that he will do or will not do any particular act
 6 or acts for the purpose of influencing the vote of any
 7 elector or electors at any election provided in this part or
 8 part 44; any person making false answer to any of the
 9 provisions of this part or part 44 relative to his
 10 qualifications to vote at such election; any person
 11 willfully voting or offering to vote at such election who
 12 has not met the residency requirement of the state of
 13 Montana or is not a citizen of the United States or knowing
 14 ~~knows~~ himself not to be a qualified elector of such precinct
 15 where he offers to vote; or any person knowingly procuring,
 16 aiding, or abetting any violation hereof ~~shall be deemed~~ is
 17 guilty of a misdemeanor and upon conviction ~~shall be fined a~~
 18 ~~sum~~ is punishable by a fine of not less than \$100 or more
 19 than \$500 or ~~be imprisoned by imprisonment~~ in the county
 20 jail for a period not less than 10 or more than 90 days or
 21 by both such fine and imprisonment."

22 Section 24. Section 7-3-4365, MCA, is amended to read:

23 "7-3-4365. Investigations by commission. (1) The
 24 commission or any committee thereof duly authorized by the
 25 commission to do so may investigate the financial

1 transactions of any office or department of the municipal
 2 government and the official acts of any municipal official
 3 and by similar investigations may secure information upon
 4 any matter.

5 (2) In conducting such investigations, the commission
 6 or any committee thereof may compel the attendance of
 7 witnesses and the production of books, papers, and other
 8 evidence and for that purpose may issue subpoenas or
 9 attachments, which shall be signed by the presiding officer
 10 of the commission or the chairman of such committee, as the
 11 case may be, and which may be served and executed by any
 12 officer authorized by law to serve subpoenas or other
 13 process. ~~If any witness shall refuse to testify to any facts~~
 14 ~~within his knowledge or to produce any papers or books in~~
 15 ~~his possession or under his control relating to the matter~~
 16 ~~under inquiry before the commission or any such committee~~
 17 ~~the commission shall have the power to cause the witness to~~
 18 ~~be punished for contempt.~~ No witness shall may be excused
 19 from testifying touching his knowledge of the matter under
 20 investigation in any such inquiry, but such testimony shall
 21 may not be used against him in any criminal prosecution
 22 except for perjury committed upon such inquiry."

23 Section 25. Section 7-3-4366, MCA, is amended to read:

24 "7-3-4366. Investigatory powers of city manager. The
 25 city manager may, without notice, cause the affairs of any

1 department or the conduct of any officer or employee to be
 2 examined. Any person or persons appointed by the city
 3 manager to examine the affairs of any department or the
 4 conduct of any officer or employee shall have has the same
 5 power to compel the attendance of witnesses and the
 6 production of books and papers and other evidence ~~and to~~
 7 ~~cause witnesses to be punished for contempt~~ as is conferred
 8 upon the commission by this part."

9 Section 26. Section 7-3-4445, MCA, is amended to read:

10 "7-3-4445. ~~Survey and plats of subdivided~~ Subdivided
 11 ~~lands. (1) Any owner of lots or grounds within the~~
 12 ~~municipality who subdivides or lays them out for sale must~~
 13 ~~cause to be made an accurate survey and plat thereof~~
 14 ~~conforming in all things to the provisions of former 11-601~~
 15 ~~to 11-614 inclusive, and shall also file with the clerk of~~
 16 ~~the commission a duly certified copy of such plat or plats~~
 17 ~~(2) The map or plat recorded under the provisions of~~
 18 ~~the foregoing sections shall thereupon be sufficient~~
 19 ~~conveyance to vest in the municipality the fee of the parcel~~
 20 ~~of land designated or intended for streets, alleys, ways,~~
 21 ~~commons, or other public uses, to be held in the corporate~~
 22 ~~name in trust to and for the uses and purposes in the~~
 23 ~~instrument set forth, expressed, designated, or intended.~~
 24 Subdivisions in the municipality must conform to the
 25 provisions of Title 76, chapter 3."

1 Section 27. Section 7-3-4448, MCA, is amended to read:
 2 "7-3-4448. Vacating or changing name of street. (1)
 3 The commission, in vacating any street or part of a street
 4 or changing the name of any street, may include in one
 5 ordinance the change of name or the vacation or narrowing of
 6 more than one street, alley, or avenue. Before vacating any
 7 street or part thereof or narrowing any street, the
 8 commission shall first pass a resolution declaring its
 9 intention to do so.

10 (2) The city manager shall cause serve notice of such
 11 ~~the~~ resolution to be served, in the manner that service of
 12 summons is required to be made in civil actions, upon all
 13 persons whose property abuts upon the portion of the street
 14 affected by the proposed vacation or narrowing and by
 15 publication shall publish notice once in one daily newspaper
 16 of general circulation in the municipality if such there be
 17 and is one or if not, once in one weekly newspaper of like
 18 circulation ~~as to all persons who cannot be personally~~
 19 served. Said the notice shall state the time and place at
 20 which objection objections will be heard.

21 (3) Unless at least 51% of the affected property
 22 owners object to the proposed vacation or narrowing, the
 23 commission may by ordinance declare such vacation or
 24 narrowing and such the order of the commission vacating or
 25 narrowing a street or alley which has been dedicated to

1 public use by the proprietor ~~shall~~, to the extent that it is
2 vacated or narrowed, ~~operate~~ operates as a revocation of the
3 acceptance thereof by the commission, but the right-of-way
4 and easement therein of any lot owner ~~shall~~ is not be
5 impaired thereby."

6 Section 28. Repealer. Sections 11-3221 through 11-3227
7 and 11-3541 through 11-3547, R.C.M. 1947, are repealed.

-End-

1 SENATE BILL NO. 333

2 INTRODUCED BY WATT

3 BY REQUEST OF THE CODE COMMISSIONER
45 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO ALTERNATIVE
7 FORMS OF LOCAL GOVERNMENT; REPEALING SECTIONS 11-3221
8 THROUGH 11-3227 AND 11-3541 THROUGH 11-3547, R.C.M. 1947."
9

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

11 Section 1. Section 7-3-101, MCA, is amended to read:

12 "7-3-101. Compliance with constitution. (1) The
13 purpose of parts 1 through 7 is to comply with Article XI,
14 section 3(1), of the Montana constitution, which provides:
15 "The legislature shall provide such optional or alternative
16 forms of government that each unit or combination of units
17 may adopt, amend, or abandon an optional or alternative form
18 by a majority of those voting on the question."19 (2) Parts 1 through 7 establish the alternative forms
20 of government for cities, towns, counties, and consolidated
21 governments. These parts shall be liberally construed to
22 facilitate the adoption of a form of local government. ~~The
23 procedure to adopt, amend, or abandon these forms is
24 provided in this part."~~

25 Section 2. Section 7-3-1101, MCA, is amended to read:

1 "7-3-1101. City-county consolidation authorized. (1) A
2 county and a city or town within the county may unite to
3 form a single unit of local government under the provisions
4 of this part.5 (2) An alternative form of government, including a
6 charter form, for a consolidated unit of government may be
7 submitted to the voters only by those study commissions that
8 have cooperated ~~under section 6 of Chapter 222, laws of 1974~~
9 ~~in the formulation of the plan.~~ A majority vote by each of
10 the affected study commissions is required for the
11 submission of an alternative form of government for a
12 consolidated unit of local government. The affected study
13 commissions submitting a consolidated form shall issue a
14 single joint report and proposal.15 (3) An alternative form of government for a
16 consolidated unit of local government does not need to
17 include more than one municipality. A municipality may not
18 be included unless the local government study commission of
19 that municipality participates in the cooperative study and
20 unless its study commission by a majority vote approves the
21 proposed alternative plan for the consolidated government.22 (4) This part shall not apply to excluded
23 municipalities, school districts, conservancy districts,
24 drainage districts, irrigation districts, soil and water
25 conservation districts, or livestock districts."

1 Section 3. Section 7-3-1204, MCA, is amended to read:
 2 "7-3-1204. Petition for city-county consolidated
 3 government -- election required. (1) The question of the
 4 abandonment and termination of the separate corporate
 5 existence and government of a county and of each and every
 6 city and town therein and the consolidation and merging of
 7 the existence and government of such ~~the~~ county and each and
 8 ~~all~~ of the cities and towns therein into one municipal
 9 corporation and government under the provisions of this part
 10 and part 13 shall be submitted to the qualified electors of
 11 such ~~the~~ county if a petition is filed in the office of the
 12 county clerk of such ~~the~~ county, signed by at least 20% of
 13 the electors of said ~~the~~ county whose names appear on the
 14 official register of voters of the county on the date of the
 15 filing of such ~~the~~ petition, requesting that such question
 16 be submitted to the qualified electors of the county.
 17 (2) Such ~~the~~ petition shall be substantially in the
 18 form and shall be signed, verified, and filed in the manner
 19 prescribed in this part for initiative and referendum and
 20 recall petitions and shall designate therein the name by
 21 which such ~~the~~ consolidated government is to be known, which
 22 must be either that of the county or of some one of the
 23 cities or towns therein."
 24 Section 4. Section 7-3-1209, MCA, is amended to read:
 25 "7-3-1209. Resolution declaring creation of

1 consolidated government. (1) At the first meeting of the
 2 commission whose members are first elected under the
 3 provisions of this part, such ~~the~~ commission shall adopt a
 4 resolution reciting the filing of the petition provided for
 5 in 7-3-1204, the ordering and holding of a special election
 6 as requested in such ~~the~~ petition, the result of such ~~the~~
 7 election and the holding of the special election for and the
 8 election of the members of the first commission, and the
 9 name and designation of the consolidated municipality, ~~a~~
 10 which ~~this~~ resolution must be in duplicate and signed by all
 11 of the members of the commission and also entered at length
 12 on the journal of the commission. One copy of such
 13 ~~commission~~ ~~the resolution~~ must be filed in the office of the
 14 clerk of the commission, and the other copy thereof must be
 15 transmitted to and filed in the office of the secretary of
 16 state.
 17 (2) Immediately upon the adoption of such ~~the~~
 18 resolution by the commission, the separate corporate
 19 existence of the county and of each and every city and town
 20 therein ~~shall be deemed~~ is considered to be consolidated and
 21 merged into one municipal corporation under the name
 22 selected, designated, and adopted as provided in this part,
 23 and such ~~the~~ consolidated municipality ~~shall thereupon be~~
 24 deemed is considered to have succeeded to and to possess and
 25 own all of the property and assets of every kind and

1 description and shall, ~~save except~~ as herein otherwise
 2 provided, become responsible for all of the obligations and
 3 liabilities of the county, cities, and towns so consolidated
 4 and merged."

5 Section 5. Section 7-3-1214, MCA, is amended to read:

6 "7-3-1214. Consolidated municipality commission. (1)

7 Except as otherwise provided in this part or part 13, all
 8 powers of the consolidated municipality ~~shall be~~ are vested
 9 in a commission. For the purpose of determining the number
 10 of members composing such ~~the~~ commission, consolidated
 11 municipalities organized under the provisions of this part
 12 and part 13 shall be classified and all of the provisions of
 13 7-1-2111 and 7-1-2112 ~~governing and controlling govern and~~
 14 ~~control~~ the classification of such ~~the~~ consolidated
 15 municipalities.

16 (2) (a) In consolidated municipalities of the first
 17 class such ~~the~~ commission shall consist of seven members.

18 (b) In consolidated municipalities of the second
 19 class, third class, ~~and of~~ fourth class, such ~~the~~ commission
 20 shall consist of five members.

21 (c) In consolidated municipalities of the fifth class,
 22 sixth class, ~~or~~ seventh class, ~~and eighth class,~~ such ~~the~~
 23 commission shall consist of three members."

24 Section 6. Section 7-3-1215, MCA, is amended to read:

25 "7-3-1215. Qualifications for commission. (1) Members

1 of the commission must be qualified electors of the
 2 consolidated municipality ~~and--must--be--the--owners--of--real~~
 3 ~~estate--situated--therein--to--the--value--of--not--less--than--\$1,000~~
 4 and shall ~~may~~ not hold any other public office except that
 5 of notary public or member of the state militia.

6 (2) A member of the commission ceasing to possess any
 7 of the qualifications specified in this section shall
 8 immediately forfeit his office."

9 Section 7. Section 7-3-1218, MCA, is amended to read:

10 "7-3-1218. Meetings of commission. (1) (a) Except as
 11 provided in subsection (1)(b), at 2 p.m. on ~~June 30~~ July 1
 12 following a regular municipal election, the commission shall
 13 meet at the courthouse in the consolidated municipality and
 14 the newly elected members shall assume the duties of office.

15 (b) The first meeting of such ~~the~~ commission after the
 16 special election at which the first members of the
 17 commission are elected shall be held at 2 p.m. on the first
 18 day of the third month following such ~~the~~ special election,
 19 and at such ~~this~~ meeting the members of such ~~the~~ commission
 20 shall determine by lot the members whose terms will expire
 21 on June 30 in the first year following such special election
 22 and the members whose terms will expire on ~~July 1~~ June 30 in
 23 the third year following such election.

24 (2) Thereafter the commission shall meet at such times
 25 as may be prescribed by ordinance or resolution, but not

1 less frequently than once in each month. Special meetings
2 shall be called by the clerk of the commission upon written
3 request of the president, the manager, or a majority of the
4 members of the commission. Any such ~~A~~ notice ~~of a meeting~~
5 shall state the subject to be considered at the meeting, and
6 no other subject shall be considered at such ~~the~~ meeting.

7 (3) All meetings of the commission and of committees
8 thereof shall be open to the public, and the rules of the
9 commission shall provide that citizens of the municipality
10 shall have a reasonable opportunity to be heard at any ~~such~~
11 meeting in regard to any matter considered thereat."

12 Section 8. Section 7-3-1225, MCA, is amended to read:

13 "7-3-1225. Vote required on certain measures. No
14 measure making or amending a grant, renewal, or extension of
15 a franchise or other special privilege ~~shall ever may~~ be
16 passed without first submitting the application therefor to
17 the ~~resident--freeholders~~ qualified electors in the manner
18 provided by 7-5-4321 and 7-5-4322."

19 Section 9. Section 7-3-1233, MCA, is amended to read:

20 "7-3-1233. Details relating to initiative and
21 referendum petitions. (1) The signatures to initiative ~~or~~
22 referendum ~~or recall~~ petitions need not all be appended to
23 one paper, but to each separate petition paper there shall
24 be attached an affidavit of the circulator thereof as
25 provided by this section. Each signer of any such petition

1 paper shall sign his name in ink or indelible pencil and
2 shall indicate after his name his place of residence by
3 street and number or other description sufficient to
4 identify the place. There shall appear on each petition
5 paper the names and addresses of five electors of the
6 municipality who, as a committee of the petitioners, shall
7 be regarded as responsible for the circulation and filing of
8 the petition. The affidavit attached to the petition paper
9 shall be as follows:

10 State of Montana, city and county of, being
11 duly sworn, deposes and says that he is the circulator of
12 the foregoing paper and that the signatures appended thereto
13 were made in his presence and are the genuine signatures of
14 the persons whose names they purport to be.

15 Signed

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

18

19 Notary public for the state of

20 Montana

21 Residing at, Montana

22 My commission expires

23 (2) All petition papers comprising an initiative ~~or~~
24 referendum ~~or recall~~ petition shall be assembled and filed
25 with the clerk as one instrument. Within 10 days after a

1 petition is filed, the clerk shall determine whether it is
 2 signed by a sufficient number of electors and shall attach
 3 thereto a certificate showing the result of his examination.
 4 If he ~~shall--certify~~ certifies that the petition is
 5 insufficient, he shall set forth in his certificate the
 6 particulars in which it is defective and shall at once
 7 notify the committee of the petitioners of his findings.

8 (3) An initiative, ~~or referendum--or--recall~~ petition
 9 may be amended at any time within 10 days after the making
 10 of a certificate of insufficiency by the clerk, by filing a
 11 supplementary petition upon additional papers signed and
 12 filed as provided in case of an original petition. The clerk
 13 shall, within 5 days after such amendment is filed, make
 14 examination of the amended petition, and if his certificate
 15 ~~shall--show~~ shows the petition still to be insufficient, he
 16 shall file it in his office and notify the committee of the
 17 petitioners of his findings and no further action shall be
 18 had on such insufficient petition. The finding of the
 19 insufficiency of a petition shall not prejudice the filing
 20 of a new petition for the same purpose."

21 Section 10. Section 7-3-1248, MCA, is amended to read:

22 "7-3-1248. Departments of consolidated municipality.

23 (1) (a) In consolidated municipalities of the first, second,
 24 third, and ~~or~~ or fourth classes class, there shall be a
 25 department of finance, a police department, a department of

1 public works, a department of health, a fire department, and
 2 such other departments and offices as may be established by
 3 ordinance.

4 (b) In consolidated municipalities of the fifth,
 5 sixth, ~~or seventh-and-eighth-classes~~ class, there shall be
 6 a department of finance, a police department, a department
 7 of public works, a department of health, and such other
 8 departments and offices as may be established by ordinance.

9 (2) The commission may change or abolish any
 10 department or office established by ordinance and may
 11 prescribe, combine, distribute, or discontinue the functions
 12 and duties thereof. Additional functions and duties may be
 13 by ordinance assigned to departments and offices created by
 14 this part or part 13, but no function or duty assigned by
 15 this part or part 13 to any such department or office shall
 16 be discontinued or assigned to any other department or
 17 office. If the manager so recommends and the commission so
 18 authorizes, the manager may appoint one person to act as the
 19 head of two or more departments or offices, but the
 20 department of law ~~must~~ may not thus be joined with any other
 21 department, nor ~~shall~~ may the manager be authorized to act
 22 as head of the department of finance or of any office
 23 therein other than of purchasing agent or assessor."

24 Section 11. Section 7-3-1272, MCA, is amended to read:

25 "7-3-1272. Procedure for primary election. (1) A

1 municipal primary election for the choice of members of the
2 commission shall be held on the last Tuesday in April in
3 each year in which members of the commission are to be
4 elected.

5 (2) All candidates for the commission receiving a
6 majority of the votes cast at the municipal primary election
7 shall be deemed ~~considered~~ and declared elected to the
8 commission. If candidates equal to the number of members of
9 the commission to be elected do not receive a majority of
10 the votes cast at such primary election, a municipal primary
11 general election shall be held on the first Tuesday in June
12 next following the election."

13 Section 12. Section 7-3-1331, MCA, is amended to read:

14 "7-3-1331. Department of public works. (1) The
15 department of public works ~~shall be~~ is in ~~the~~ charge of a
16 director, who shall manage and have charge of the
17 construction, repair, improvement, and maintenance of all
18 public buildings; of roads, streets, alleys, sidewalks,
19 bridges, viaducts, and other public ways; of sewers, drains,
20 ditches, culverts, streams, and watercourses; and of
21 boulevards, parks, playgrounds, cemeteries, and other public
22 places and grounds dedicated to public use. He shall manage
23 and control all public cemeteries, crematories, market
24 places or houses, garbage and sewage disposal plants and
25 farms, and all public utilities belonging to the

1 municipality or any subdivision thereof and shall have
2 charge of the enforcement of the obligations to the
3 municipality of all privately owned or operated public
4 utilities enforceable by the municipality. He shall have
5 charge of the cleaning, sprinkling, and lighting of the
6 streets and the collection and disposal of garbage and
7 waste. He shall also be responsible for the making and
8 preservation of all surveys, maps, plans, drawings, and
9 estimates for such public work and for the preservation of
10 contracts, papers, plans, tools, and appliances belonging to
11 the municipality and pertaining to the functions of the
12 department.

13 (2) The director of public works shall have the
14 qualifications prescribed by law for county surveyors, and
15 in addition to the duties required by this part or part 12
16 and by the ordinances of the municipality, he shall have the
17 powers and shall, either in person or by a deputy having the
18 qualifications prescribed by law for county surveyors,
19 perform the duties required of county surveyors by the laws
20 of the state."

21 Section 13. Section 7-3-1341, MCA, is amended to read:

22 "7-3-1341. Department of law. (1) The department of
23 law ~~shall be~~ is in ~~the~~ charge of a director to be appointed
24 by the commission without definite term, who shall be a
25 resident and elector of the municipality and who shall

1 possess all of the qualifications required of county
2 attorneys.

3 (2) He shall have all the powers and, either
4 personally or by such assistants as he may designate, shall
5 perform all the duties that now are ~~or hereafter may be~~
6 prescribed for county attorneys, city attorneys, and public
7 administrators, and in addition thereto, he shall be chief
8 legal adviser of and attorney and counsel for the
9 municipality and of all departments and offices thereof and
10 shall perform such other duties as may be required by the
11 commission.

12 (3) He shall qualify by taking the oath of office
13 prescribed by the constitution and giving a bond in the
14 amount required of a public administrator in a county of the
15 same class. He shall receive from the state as part of his
16 salary the same amount which is paid by the state to county
17 attorneys in counties of the same class, and the remainder
18 of his salary shall be paid by the municipality. For all
19 purposes in connection with criminal prosecutions he shall
20 be known and designated as "county attorney of the city and
21 county of"

22 Section 14. Section 7-3-1342, MCA, is amended to read:
23 "7-3-1342. City court. (1) A city court is hereby
24 established in and for each municipality, with the
25 jurisdiction, powers, and duties within the municipality

1 provided by general law for city courts in cities and towns
2 and for justices of the peace.

3 ~~(2) The commission shall by majority vote of all its~~
4 ~~members, appoint a city judge or judges to serve during the~~
5 ~~pleasure of the commission. No person shall be appointed~~
6 ~~city judge unless at least 25 years of age and admitted to~~
7 ~~practice law in Montana. The commission shall by ordinance~~
8 ~~determine the number of judges required for operation of the~~
9 ~~city court. City court judges are to be elected every 4~~
10 ~~years in a nonpartisan election held in conjunction with the~~
11 ~~regularly scheduled general election. The term of office for~~
12 ~~city judge is 4 years.~~

13 (2) The qualifications to hold the office of city
14 judge shall be set by ordinance by the commission. The
15 ordinance shall be consistent with any rules adopted by the
16 Montana supreme court on city judge qualifications.

17 (4) Whenever a vacancy occurs in the office of city
18 judge, the commission shall appoint a qualified individual
19 to serve for the remainder of the term. The compensation of
20 the city judge or judges shall be fixed by the commission."

21 Section 15. Section 7-3-1343, MCA, is amended to read:
22 "7-3-1343. Police department. (1) The police
23 department shall be in the charge of a director, who
24 shall be chief of the police force of the municipality. The
25 director shall have the powers and perform the duties

1 conferred on and required of sheriffs.

2 (2) Officers and patrolmen of the police department,
3 subordinate to the director, ~~shall~~ have the powers and
4 ~~perform--the~~ duties conferred on and required of police
5 officers and patrolmen in cities and towns by the laws of
6 this state and such powers and duties as may be conferred
7 and required by the ordinances of the municipality. Police
8 officers and patrolmen ~~shall~~ have the powers and ~~perform--the~~
9 duties conferred on and required of deputy sheriffs by the
10 general laws of the state.

11 (3) For the purpose of serving and making return on
12 all criminal and civil process, executing judgments,
13 decrees, and orders of court, and making sales thereunder
14 and returns thereof, the director shall be known and
15 designated as Sheriff of the city and county of, and
16 each police officer and patrolman shall be known and
17 designated as deputy sheriff."

18 Section 16. Section 7-3-1345, MCA, is amended to read:
19 "7-3-1345. Fire department. (1) The fire department of
20 the municipality ~~shall-be is~~ in ~~the~~ charge of a director,
21 who shall be chief thereof and who shall manage and control
22 the department in the manner prescribed by the ordinances of
23 the municipality.

24 (2) (a) Notwithstanding any other provision of law,
25 the adoption of a consolidated county municipal government

1 shall have no effect on the existence, rights, or duties of
2 any voluntary fire department or fire district created and
3 legally in existence pursuant to the provisions of parts 21
4 and 23 of chapter 33.

5 (b) Nothing in this part or part 12 shall be construed
6 to prohibit the creation of voluntary fire departments or
7 fire districts pursuant to the provisions of parts 21 and 23
8 of chapter 33 within consolidated county municipalities.

9 (c) Voluntary fire departments or fire districts
10 within consolidated county municipalities ~~shall may~~ only be
11 organized, created, supported, financed, dissolved, and
12 managed and their boundaries ~~shall may~~ only be changed
13 pursuant to the provisions of parts 21 and 23 of chapter 33.
14 These organizations may enter mutual aid agreements as
15 provided by 7-33-2108."

16 Section 17. Section 7-3-2104, MCA, is amended to read:
17 "7-3-2104. Notice of election. It ~~shall-be is~~ the duty
18 of the board of county commissioners to publish a notice of
19 the referendum in a daily paper newspaper twice a week for a
20 period of 3 consecutive weeks or, in case there is no daily
21 paper newspaper of wide circulation in the county, then in a
22 weekly paper newspaper for 4 consecutive weeks."

23 Section 18. Section 7-3-2109, MCA, is amended to read:
24 "7-3-2109. Provisions for board elected at large. (1)
25 Under all optional forms of county government whereby the

1 entire board of county commissioners is elected at large,
 2 there shall be a board of county commissioners who shall
 3 have the qualifications and shall be nominated and elected
 4 as provided by general law except as otherwise provided for
 5 in this section.

6 (2) If the electors of a county approve a proposition
 7 to adopt an optional form of county government under this
 8 part and thereby adopt a different size board, the change in
 9 membership shall be effected as follows:

10 (a) Whenever the number of members of the board is
 11 increased, there shall be elected at the next regular state
 12 election following the adoption of such provision a
 13 sufficient number of county commissioners to bring the total
 14 membership of the board up to the number fixed. County
 15 ~~commissioners shall first serve a term of 6 years except~~
 16 ~~the candidates first elected under the provisions of this~~
 17 ~~section.~~

18 (b) Whenever the number of members of the board is
 19 decreased, the optional number of county commissioners
 20 adopted under this part shall be effective as to the
 21 commissioner with the least time left on his term on the
 22 first Monday in January following the next regular state
 23 election and, as to the other half of the decrease, on the
 24 first Monday in January 2 years later. The latter decrease
 25 in board size shall also be determined by the least time

1 left on his term and, should two commissioners have the same
 2 amount of term left to serve, then by lot.

3 (3) The term of office of county commissioners shall
 4 be ~~is~~ 6 years except as provided in this subsection ~~section~~.
 5 If the optional form as adopted provides for no change in
 6 size of the board of county commissioners, county
 7 commissioners shall continue to be elected for 6-year terms.
 8 ~~if the optional form as adopted provides for an increased~~
 9 ~~membership on the board as provided in this part, the~~
 10 ~~additional members shall be elected to the board at the~~
 11 ~~first regular state election subsequent to the adoption of~~
 12 ~~the alternative form.~~

13 (4) If the first election under an optional form of
 14 county government provided for in this part occurs in a year
 15 in which one county commissioner is to be elected under the
 16 former law and the optional form as adopted provides for an
 17 expansion of the board to five commissioners, there shall be
 18 elected for a staggered term ~~terms~~ two commissioners for a
 19 6-year term and one commissioner for a 4-year term as
 20 provided in this part.

21 ~~(5) At all succeeding elections after the first~~
 22 ~~regular state election subsequent to adoption of an optional~~
 23 ~~form, all members of the board of county commissioners shall~~
 24 ~~continue to be elected for 6-year terms."~~

25 Section 19. Section 7-3-4224, MCA, is amended to read:

1 "7-3-4224. Petition for initiative. (1) Any proposed
2 ordinance may be submitted to the council by petition signed
3 by electors of the city equal in number to the percentage
4 hereinafter required. ~~The signature verification~~
5 ~~inspection certification amendment and submission of such~~
6 ~~petition shall be the same as provided for petition under~~
7 ~~former 11-3132.~~

8 (2) If the petition accompanying the proposed
9 ordinance be is signed by ~~electors equal in number to 25% or~~
10 ~~more~~ of the entire number of persons registered to vote at
11 the ~~last~~ preceding general election and contains a request
12 that the said ordinance be submitted to a vote of the people
13 if not passed by the council, such the council shall either:

14 (a) pass each the ordinance without alteration within
15 ~~20 60~~ days after the ~~attachment of the clerk's certificate~~
16 ~~to the accompanying receipt of the~~ petition; or

17 (b) ~~forthwith after the clerk shall attach to the~~
18 ~~petition accompanying such ordinance his certificate of~~
19 ~~sufficiency~~ call a special election, unless a general
20 municipal election is fixed by law within 30 days
21 thereafter, and at such the special or general municipal
22 election, if one is so fixed, such the proposed ordinance
23 shall be submitted to the vote of the electors of such city.

24 (3) If the petition is signed by ~~not less than~~ at
25 least 10% or but not more than 25% of the electors, as above

1 defined, then the council shall within 20 60 days pass said
2 the ordinance without change or submit the same at the next
3 general city election occurring after the ~~clerk's~~
4 ~~certificate of sufficiency is attached to said receipt of~~
5 the petition."

6 Section 20. Section 7-3-4227, MCA, is amended to read:

7 "7-3-4227. Abandonment of commission form. (1) Any
8 city which ~~shall have~~ has operated for more than 1 year
9 under the provisions of this part may abandon such
10 organization hereunder and accept the provisions of the
11 general law of the state then applicable to cities of its
12 population.

13 (2) Upon the petition of not less than 10% of the
14 electors of such the city registered for the ~~last~~ preceding
15 general election, the following proposition shall be placed
16 upon the ballot at the next regular city election, provided
17 the petition be is filed at least 60 days prior to the date
18 of such the election:

19 "Shall the city of (name of city) abandon its
20 organization under chapter 57 of the acts of the twelfth
21 legislative assembly and become a city under the general law
22 governing cities of like population or, if formerly
23 organized under special charter, resume said the special
24 charter?"

25 (3) If the majority of the votes cast at such election

1 be ~~is~~ in favor of such proposition, the officers elected at
 2 the next succeeding biennial election shall be those then
 3 prescribed by the general law of the state for cities of
 4 like population, and upon the qualification of ~~such these~~
 5 officers, ~~such the~~ city shall become a city under ~~such the~~
 6 general law of the state, but ~~such this~~ change shall ~~may~~ not
 7 in any manner or degree affect the property, rights, or
 8 liabilities of any nature of ~~such the~~ city but shall merely
 9 extend to each change in its form of government.

10 (4) ~~The--sufficiency--of--such--petition---shall---be~~
 11 ~~determined--the--election--ordered--and--conducted--and--the~~
 12 ~~results--declared--generally--as--provided--for--by--former--§--3-3132~~
 13 ~~insofar--as--the--provisions--thereof--are--applicable--or--if--now~~
 14 ~~organized--under--special--charter--may--resume--said--special~~
 15 ~~charter. Whenever the form of government of any city is~~
 16 ~~determined by a vote of the people under the provision of~~
 17 ~~this section, the same question shall may not be submitted~~
 18 ~~again for a period of 2 years, and any ordinance adopted by~~
 19 ~~a vote of the people shall not be repealed or the same~~
 20 ~~question submitted for a period of 2 years."~~

21 Section 21. Section 7-3-4233, MCA, is amended to read:
 22 "7-3-4233. Statement and petition of candidacy. (1)
 23 Any qualified elector of ~~said the~~ city ~~who-is-the-owner--of~~
 24 ~~any--real--estate--situated--therein~~ desiring to become a
 25 candidate for mayor or councilman shall, at least 10 days

1 prior to ~~said the~~ primary election, file with the city clerk
 2 a statement of ~~such~~ candidacy and shall at the same time
 3 file ~~therewith~~ the petition of at least 25 qualified voters
 4 requesting such candidacy. Each petition shall be verified
 5 by one or more persons as to qualifications and residence,
 6 with street number, of each of the persons so signing the
 7 petition.

8 (2) The statement shall be in substantially the
 9 following form:

10 State of Montana)
 11)ss.
 12 County of

13 I,, being first duly sworn, say that I reside at
 14 street, city of, county of, state of
 15 Montana; that I am a qualified voter therein; that I am a
 16 candidate for nomination to the office of (mayor or
 17 councilman) to be voted upon at the primary election to be
 18 held on the Monday of, 19...; and I hereby request
 19 that my name be printed upon the official primary ballot for
 20 nomination by such primary election for such office.

21 (Signed)

22 Subscribed and sworn to (or affirmed) before me by
 23 on this day of, 19...

24 (Signed)

25 (3) The petition shall be in substantially the

1 following form:

2 The undersigned, duly qualified electors of the city of
3 and residing at the places set opposite our respective
4 names hereto, do hereby request that the name of (name of
5 candidate) be placed in the ballot as a candidate for
6 nomination for (name of office) at the primary election to
7 be held in such city on the Monday of, 19... We
8 further state that we know him/her to be a qualified elector
9 of said city and a person of good moral character and
10 qualified, in our judgment, for the duties of such office.

11 Names of qualifying electors Number Street
12
13

14 (4) Each signer of a nomination paper shall ~~may~~ sign
15 but one such nomination paper for the same office, except
16 where ~~whenever~~ more than one officer is to be elected to the
17 same office, in which case he may sign as many nomination
18 papers as there are officers to be elected; and only one
19 candidate shall be petitioned for or nominated in the same
20 nomination paper."

21 Section 22. Section 7-3-4333, MCA, is amended to read:
22 "7-3-4333. Special provisions for election on question
23 related to expenditures. ~~(1)-in case whenever~~ a petition be
24 ~~is~~ filed requiring that a measure passed by the commission
25 providing for an expenditure of money, a bond issue, or a

1 public improvement be submitted to a vote of the electors,
2 all steps preliminary to such expenditure, actual issuance
3 of the bonds, or actual execution of the contract for such
4 improvement may be taken prior to the election. At--such
5 election--only-resident-taxpayers-of-such-city-or-town-whose
6 names-as-suchy-appear-upon-the-assessment-roll-and-who--are
7 also ~~any~~ qualified electors of said ~~the~~ city or town shall
8 be-entitled-to ~~may~~ vote at such election.

9 ~~(2)--At-any-and-all-elections-in-such-city-or--town--at
10 which--questions-relating-to-bond-issuesv-tax-leviesv-or-the
11 expenditure-of-money-shall-be-submittedv-no-person-shall--be
12 entitled--to--vote--unless--qualified--as--provided--in-this
13 sections"~~

14 Section 23. Section 7-3-4352, MCA, is amended to read:
15 "7-3-4352. Election and campaign practices. (1) Any
16 person who shall-agree ~~agrees~~ to perform any services in the
17 interest of any candidate for any office provided in this
18 part or part 44, in consideration of any money or other
19 valuable thing for such services performed-in-the-interest
20 of-any-candidatev-shall-be-punished ~~is~~ is punishable by a
21 fine not exceeding \$300 or be-imprisoned ~~by imprisonment~~ in
22 the county jail for-a-period not exceeding 30 days or by
23 both such fine and imprisonment.

24 (2) Any person offering to give a bribe, either in
25 money or other consideration, to any elector for the purpose

1 of influencing his vote at any election provided in this
 2 part or part 44 or any elector entitled to vote at any such
 3 election receiving and accepting such bribe or other
 4 consideration; any person who agrees, by promise or written
 5 statement, that he will do or will not do any particular act
 6 or acts for the purpose of influencing the vote of any
 7 elector or electors at any election provided in this part or
 8 part 44; any person making false answer to any of the
 9 provisions of this part or part 44 relative to his
 10 qualifications to vote at such election; any person
 11 willfully voting or offering to vote at such election who
 12 has not met the residency requirement of the state of
 13 Montana or is not a citizen of the United States or knowing
 14 ~~knows~~ himself not to be a qualified elector of such precinct
 15 where he offers to vote; or any person knowingly procuring,
 16 aiding, or abetting any violation hereof ~~shall be deemed~~ is
 17 guilty of a misdemeanor and upon conviction ~~shall be fined a~~
 18 ~~sum~~ is punishable by a fine of not less than \$100 or more
 19 than \$500 or ~~be imprisoned by imprisonment~~ in the county
 20 jail for a period not less than 10 or more than 90 days or
 21 by both such fine and imprisonment."

22 Section 24. Section 7-3-4365, MCA, is amended to read:

23 "7-3-4365. Investigations by commission. (1) The
 24 commission or any committee thereof duly authorized by the
 25 commission to do so may investigate the financial

1 transactions of any office or department of the municipal
 2 government and the official acts of any municipal official
 3 and by similar investigations may secure information upon
 4 any matter.

5 (2) In conducting such investigations, the commission
 6 or any committee thereof may compel the attendance of
 7 witnesses and the production of books, papers, and other
 8 evidence and for that purpose may issue subpoenas or
 9 attachments, which shall be signed by the presiding officer
 10 of the commission or the chairman of such committee, as the
 11 case may be, and which may be served and executed by any
 12 officer authorized by law to serve subpoenas or other
 13 process. ~~if any witness shall refuse to testify to any facts~~
 14 ~~within his knowledge or to produce any papers or books in~~
 15 ~~his possession or under his control relating to the matter~~
 16 ~~under inquiry before the commission or any such committee~~
 17 ~~the commission shall have the power to cause the witness to~~
 18 ~~be punished for contempt. No witness shall~~ may be excused
 19 from testifying touching his knowledge of the matter under
 20 investigation in any such inquiry, but such testimony ~~shall~~
 21 may not be used against him in any criminal prosecution
 22 except for perjury committed upon such inquiry."

23 Section 25. Section 7-3-4366, MCA, is amended to read:

24 "7-3-4366. Investigatory powers of city manager. The
 25 city manager may, without notice, cause the affairs of any

1 department or the conduct of any officer or employee to be
 2 examined. Any person or persons appointed by the city
 3 manager to examine the affairs of any department or the
 4 conduct of any officer or employee shall have has the same
 5 power to compel the attendance of witnesses and the
 6 production of books and papers and other evidence ~~and to~~
 7 ~~cause witnesses to be punished for contempt~~ as is conferred
 8 upon the commission by this part."

9 Section 26. Section 7-3-4445, MCA, is amended to read:

10 "7-3-4445. Survey ~~and plots of subdivided~~ Subdivided
 11 lands. ~~(1) Any owner of lots or grounds within the~~
 12 ~~municipality who subdivides or toys them out for sale must~~
 13 ~~cause to be made an accurate survey and plat thereof~~
 14 ~~conforming in all things to the provisions of former 11-601~~
 15 ~~to 11-614 inclusive, and shall also file with the clerk of~~
 16 ~~the commission a duly certified copy of such plat or plats~~

17 ~~(2) The map or plat recorded under the provisions of~~
 18 ~~the foregoing sections shall thereupon be sufficient~~
 19 ~~conveyance to vest in the municipality the fee of the parcel~~
 20 ~~of land designated or intended for streets, alleys, ways,~~
 21 ~~commons, or other public uses, to be held in the corporate~~
 22 ~~name in trust to and for the uses and purposes in the~~
 23 ~~instrument set forth, expressed, designated, or intended~~
 24 Subdivisions in the municipality must conform to the
 25 provisions of Title 76, chapter 3."

1 Section 27. Section 7-3-4448, MCA, is amended to read:

2 "7-3-4448. Vacating or changing name of street. (1)
 3 The commission, in vacating any street or part of a street
 4 or changing the name of any street, may include in one
 5 ordinance the change of name or the vacation or narrowing of
 6 more than one street, alley, or avenue. Before vacating any
 7 street or part thereof or narrowing any street, the
 8 commission shall first pass a resolution declaring its
 9 intention to do so.

10 (2) The city manager shall ~~cause~~ serve notice of such
 11 ~~the~~ resolution to be served, in the manner that service of
 12 summons is required to be made in civil actions, upon all
 13 persons whose property abuts upon the portion of the street
 14 affected by the proposed vacation or narrowing and by
 15 publication shall publish notice once in one daily newspaper
 16 of general circulation in the municipality if such there be
 17 ~~and~~ is one or if not, once in one weekly newspaper of like
 18 circulation ~~as to all persons who cannot be personally~~
 19 ~~served.~~ Said ~~the~~ notice shall state the time and place at
 20 which objection objections will be heard.

21 (3) Unless at least 51% of the affected property
 22 owners object to the proposed vacation or narrowing, the
 23 commission may by ordinance declare such vacation or
 24 narrowing ~~and such~~ ~~the~~ order of the commission vacating or
 25 narrowing a street or alley which has been dedicated to

1 public use by the proprietor ~~shall~~, to the extent that it is
2 vacated or narrowed, ~~operate~~ ~~operates~~ as a revocation of the
3 acceptance thereof by the commission, but the right-of-way
4 and easement therein of any lot owner ~~shall~~ is not be
5 impaired thereby."

6 Section 28. Repealer. Sections 11-3221 through 11-3227
7 and 11-3541 through 11-3547, R.C.M. 1947, are repealed.

-End-