

SENATE BILL NO. 335

INTRODUCED BY LOCKREM

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 as amended.
February 13, 1979	Correctly engrossed.
February 14, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 15, 1979	Introduced and referred to Committee on Local Government.
March 6, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 8, 1979	Second reading, concurred in.
March 12, 1979	Third reading, concurred in as amended.

IN THE SENATE

March 13, 1979	Returned from second house. Concurred in as amended.
March 14, 1979	Second reading, pass consideration.
March 15, 1979	Second reading, amendments adopted.

March 16, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 Sen. Lockrey BILL NO. 335
 2 INTRODUCED BY LOCKREY
 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 LOCAL
 7 GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105,
 8 AND 25-603, R.C.M. 1947."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 7-4-2203, MCA, is amended to read:
 12 "7-4-2203. County officers. (1) There may be elected
 13 or appointed in each county the following county officers,
 14 who shall possess the qualifications for suffrage prescribed
 15 by the Montana constitution and such other qualifications as
 16 may be prescribed by law:
 17 (a) one county attorney;
 18 (b) one clerk of the district court;
 19 (c) one county clerk;
 20 (d) one sheriff;
 21 (e) one treasurer;
 22 (f) one auditor if authorized by 7-6-2401;
 23 ~~(f)(g)~~ one county superintendent of schools;
 24 ~~(g)(h)~~ one county surveyor;
 25 ~~(h)(i)~~ one assessor;

1 ~~(f)(j)~~ one coroner;
 2 ~~(j)(k)~~ one public administrator; and
 3 ~~(k)(l)~~ at least one justice of the peace.
 4 (2) The commissioners may appoint at their discretion
 5 constables. Not more than one constable may be appointed
 6 for each justice of the peace court.
 7 (3) ~~County auditors and all~~ All elective township
 8 officers may be elected at each general election as now
 9 provided by law."
 10 Section 2. Section 7-4-2209, MCA, is amended to read:
 11 "7-4-2209. Authority to administer oaths. Every
 12 officer mentioned in former 16-2403, R.C.M. 1947, and every
 13 justice of the peace 7-4-2203(1) may administer and certify
 14 oaths."
 15 Section 3. Section 7-4-2213, MCA, is amended to read:
 16 "7-4-2213. Inspection of official bonds. (1) At the a
 17 regular quarterly meetings of all boards meeting of the
 18 board of county commissioners in this state in March and
 19 September of each year, every the board of county
 20 commissioners shall carefully examine all official bonds of
 21 all county and township officials of its county then in
 22 force and effect and investigate the qualifications and
 23 financial condition and liability of all sureties thereon
 24 and their sufficiency.
 25 (2) If it appears to the satisfaction of any such the

board or a majority of the members thereof that any surety upon any such bond ~~within-and-for-its-county~~ has, since the approval and acceptance of such bond, died or withdrawn therefrom; ~~or-removed-from~~ left the state; or disposed of all of his property in this state; or become ~~insane~~ mentally ill, insolvent, financially embarrassed, or not good and responsible for the amount of his liability thereon, such ~~the~~ board shall immediately cause the clerk of ~~said the~~ board to notify in writing the judge of the district court of that district of its action and conclusion and all facts in connection therewith and the reasons thereof.

(3) ~~Said the~~ judge shall forthwith take cognizance thereof and investigate such matter and take steps, by order to show cause or other order, citation, step, or action, as may be necessary to make such bond good and sufficient according to the requirements of law ~~in-the-premises~~ and ample security for the amount thereof."

Section 4. Section 7-4-2301, MCA, is amended to read:

"7-4-2301. Authorization to consolidate county offices. (1) Except as provided in subsection (2), the board of county commissioners of any county may in its discretion consolidate any two or more of the offices named in 7-4-2203 and combine the powers and the duties of the consolidated offices.

(2) The office of the justice of the peace may not be

combined or consolidated with any other office other than another justice of the peace office.

~~(3)--The provisions hereof shall not be construed as allowing one office incumbent to be entitled to the salaries and emoluments of two or more offices."~~

Section 5. Section 7-4-2306, MCA, is amended to read:

"7-4-2306. Processing of petition -- resolution of intent and hearing. (1) Upon the filing of ~~any-such a~~ petition for consolidation, the board or boards of county commissioners shall cause the county clerk or clerks to forthwith examine the ~~same~~ petition and the registration records of the county or counties.

(2) If after such examination ~~such the~~ county clerk or clerks ~~shall~~ report to ~~said the~~ board or boards of county commissioners that ~~such the~~ petition ~~or-petitions--have~~ has been signed by not less than 15% of the qualified electors of the county whose names appear on ~~such the~~ registration records, ~~said the~~ board or boards shall set a date for a hearing and pass a resolution of intent to consider ~~said the~~ consolidation. Upon the passage of the resolution of intent by the board or boards, proper notice ~~and-a-date~~ shall be set given for ~~a the~~ hearing ~~to-consider-said--consolidation~~. The date for the hearing ~~shall-be~~ may not ~~be~~ more than 20 days after the filing of ~~such the~~ petition or the passage of the resolution of intent."

Section 6. Section 7-4-2310, MCA, is amended to read:

"7-4-2310. Order for consolidation of offices. (1) In consolidating county offices, the board of county commissioners shall, 6 months prior to the general election held for the purpose of ~~electing the aforesaid officers~~ filling the offices to be consolidated or 6 months prior to the appointment ~~of the aforesaid officers to the offices to be consolidated~~, make and enter an order combining any two or more of the within-named offices.

(2) Whenever ~~a board or boards shall make~~ an order consolidating two or more offices ~~is made~~, such ~~the~~ order shall be entered in full on its ~~the board's~~ minutes of proceedings.

(3) ~~Each~~ The order shall be published in a newspaper of general circulation, printed and published in the county or counties affected, for a period of 2 successive weeks following the date of the making and entry ~~entering~~ of such ~~the~~ order.

~~the board shall cause the order to be published in a newspaper published and circulated generally in said county for a period of 6 weeks following the date of entry of said orders.~~

Section 7. Section 7-4-2313, MCA, is amended to read:

"7-4-2313. Deputies and personnel for consolidated offices. (1) Where whenever county offices are consolidated

~~as hereinbefore described~~, the officers officer of the consolidated officers ~~shall have any deputies they office~~ may appoint ~~who shall be as many deputies as are~~ approved by the board or boards of county commissioners.

(2) The board or boards shall determine the number of deputies, stenographers, and clerks the officers may appoint."

Section 8. Section 7-4-2501, MCA, is amended to read:

"7-4-2501. Compensation of county officers. (1) The county surveyor if not receiving a salary under 7-4-28121, the county coroner if not receiving a salary under 7-4-29221, and the public administrator ~~justice of the peace and constable~~ may collect and receive for their own use, respectively, for official services, the fees and emoluments prescribed ~~in this chapter by law~~.

(2) All other county officers receive salaries."

Section 9. Section 7-4-2502, MCA, is amended to read:

"7-4-2502. Payment of salaries of county officials and assistants. (1) ~~Except~~ Except as provided in subsection (2), the salaries of the ~~several~~ county officers and their assistants must be paid monthly out of the general fund of the county and upon the order of the board of county commissioners.

~~Soteries must be allowed and paid monthly upon the order of the board and paid out of the contingent fund.~~

(2) (a) The salary of the county attorney is payable monthly, with one-half from the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of any county attorney, certify such ~~the~~ election or appointment to the state auditor, who shall thereafter draw warrants for such salary in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the state auditor, and the auditor shall compute the salary due on the basis of ~~said the~~ notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed ~~in this code or~~ by general or special law and to provide for the payment of the same."

Section 10. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution. The county commissioners shall by resolution, on or before July 1 of each year, fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and county attorney; and the clerk of the district court; the county auditor (if there is one); the

county surveyor (if he receives a salary); and the county coroner (if he receives a salary) for the following fiscal year in conformity with the appropriate statutory salary schedule pertaining to each office. The salary schedule used for each office shall be the statutory schedule in effect on the first day of the following fiscal year."

Section 11. Section 7-4-2511, MCA, is amended to read:

7-4-2511. Collection and disposal of fees. (1) ~~At~~ ~~Each~~ ~~salaried officers~~ county officer ~~of the several~~ ~~counties~~ must charge and collect for the use of their ~~respective counties~~ his county and pay into the county treasury on the first Monday in each month all the fees now or hereafter allowed by law, paid or chargeable in all cases, except as provided in 25-10-403. Nothing in this subsection ~~shall be held to apply~~ applies to the compensation received by the sheriff as mileage while in the performance of official duties or for the board of prisoners or other persons while in his custody.

(2) No ~~salaried~~ county officer ~~shall~~ may receive for his own use any fees, penalties, or emoluments of any kind, except the salary as provided by law, for any official service rendered by him, but Unless otherwise provided, all fees, penalties, and emoluments of every kind must be collected by him a salaried county officer are for the sole use of the county and must be accounted for and paid to the

paid to the county treasurer as provided by subsection (1) and shall be credited to the general fund of the county.

~~(3) Every officer who fails or refuses to pay any fees collected by him to the county treasurer or fails to collect the same as provided by [this chapter] is guilty of a felony.~~

Section 12. Section 7-4-2512, MCA, is amended to read:

"7-4-2512. Statement and affidavit of fees collected.

(1) The fees and compensation collected and chargeable for the use of the county in each month must be paid to the county treasurer on the first Monday of the following month and must be accompanied by a statement and copy of the fee book for the preceding month, duly verified by the officer making such the payment.

(2) The affidavit must be in the following form:

State of Montana

County of

I,, of the county of, do swear that the fee book in my office contains a true statement in detail of all fees and compensation, of every kind and nature for official services rendered by me, paid or chargeable, or by my deputies or assistants for the month of, A.D. 19.., and that said this fee book shows the full amount received or chargeable in said month and since my last monthly payment; and neither myself nor, to my knowledge or belief, any of my

deputies or assistants have rendered any official service, except for the county or state, which is not fully set out in said this fee book; and that the foregoing statement is a full, true, and correct copy thereof.

.....(Signature)

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

Seal(Person authorized to take oaths)

.....(Title or notarial information)

~~(3) Every officer who makes a false report of the fees received by him is guilty of a felony.~~

Section 13. Section 7-4-2519, MCA, is amended to read:

"7-4-2519. Prohibition upon receiving other fees. (1)

The officers named above must may receive no other fees for any services performed by them in any action or proceeding or for the performance of any service for which fees are allowed, and

~~(2) In case of any violation of the provisions of [this chapter],~~ the party demanding or receiving any fees not herein allowed is liable to refund the same to the party aggrieved, with treble the amounts amount as damages, besides costs in addition to the cost of suit."

Section 14. Section 7-4-2613, MCA, is amended to read:

"7-4-2613. Documents subject to recording. The county clerk must, upon payment of his fees for the same, record,

1 photograph or correctly copy, separately, in large and
2 well-bound or to be bound separate books, either in a fair
3 hand or by printing, typewriting, or photographic process or
4 by the use of prepared blank forms:

5 (1) deeds, grants, transfers, certified copies of
6 final judgments or decrees partitioning or affecting the
7 title or possession of real property any part of which is
8 situated in the county, contracts to sell or convey real
9 estate and mortgages of real estate, releases of mortgages,
10 powers of attorney to convey real estate, leases which have
11 been acknowledged or proved, and abstracts of such
12 instruments which have been acknowledged or proved;

13 (2) certificates of births and deaths;

14 (3) wills devising real estate admitted to probate;

15 (4) official bonds;

16 (5) transcripts of judgments which by law are made
17 liens upon real estate;

18 ~~{6}--instruments---describing---or---relating---to---the~~
19 ~~individual-property-of-married-persons-and--sole-trader~~
20 ~~judgments;~~

21 {7}{16} all orders and decrees made by the district
22 court in probate matters affecting real estate and which are
23 required to be recorded;

24 {8}{17} notice of preemption claims;

25 {9}{18} notice and declaration of water rights;

1 ~~{10}{19}~~ assignments for the benefit of creditors;

2 ~~{11}{10}~~ affidavits of annual work done on mining
3 claims;

4 ~~{12}{11}~~ notices of mining locations and declaratory
5 statements;

6 ~~{13}{12}~~ estrays and lost property;

7 ~~{14}{13}~~ a book containing appraisement of state lands;

8 ~~{15}{14}~~ such other writings as are required or
9 permitted by law to be recorded."

10 Section 15. Section 7-4-2615, MCA, is amended to read:

11 "7-4-2615. Records of water users' associations. In
12 each county where water users' associations, organized in
13 conformity with the federal reclamation laws of the United
14 States ~~under the Reclamation Act, have organized or wherein~~
15 ~~such associations shall hereafter organize~~ exist, the county
16 commissioners are required to furnish the county recorder,
17 with books for the proper recording of stock subscriptions
18 and contracts, articles of incorporation, and stock
19 certificates of such companies associations, books ~~to~~
20 ~~conform to such articles of incorporation, stock~~
21 ~~certificates, and contracts as are used by the secretary of~~
22 ~~such water users' associations,~~ containing printed blank
23 forms of such the stock subscriptions, and contracts,
24 articles of incorporation, and stock certificates, in
25 ~~accordance with the laws of the United States and of the~~

1 state--of--Montana--such ~~the~~ forms are to be prepared by the
 2 attorney general and used by the county recorder for the
 3 recording of all such stock subscriptions, contracts,
 4 articles of incorporation, and stock certificates."

5 Section 16. Section 7-4-2619, MCA, is amended to read:
 6 "7-4-2619. Indexes to recorded documents. Every county
 7 clerk, as ex officio recorder, must keep:

8 (1) an index of deeds, grants, and transfers, and
 9 contracts to sell or convey real estate labeled "Grantors",
 10 with each page divided into four columns headed,
 11 respectively: "Names of grantors", "Names of grantees",
 12 "Date of deeds, grants, transfers, or contracts", and "Where
 13 recorded";

14 (2) an index of deeds labeled "Grantees", with each
 15 page divided into four columns headed, respectively: "Names
 16 of grantees", "Names of grantors", "Date of deeds, grants,
 17 transfers, or contracts", and "Where recorded";

18 (3) an index of mortgages labeled "Mortgages of real
 19 property", with ~~the pages thereof~~ each page divided into six
 20 columns headed, respectively: "Names of mortgagors", "Names
 21 of mortgagees", "Dates of mortgages", "Where recorded",
 22 "When filed", and "When canceled";

23 (4) an index of mortgages labeled "Mortgages of real
 24 property", with ~~the pages thereof~~ each page divided into six
 25 columns headed, respectively: "Names of mortgagees", "Names

1 of mortgagors", "Date of mortgage", "Where recorded", "When
 2 filed", and "When canceled";

3 (5) an index of mortgages labeled "Releases of
 4 mortgages of real property--Mortgagees", with ~~the--pages~~
 5 thereof each page divided into six columns headed,
 6 respectively: "Parties whose mortgages are released",
 7 "Parties releasing", "Date of release", "Where recorded",
 8 "Dates of mortgages released", and "Where mortgages released
 9 are recorded";

10 (6) an index of powers of attorney labeled "Powers of
 11 attorney", with each page divided into five columns headed,
 12 respectively: "Names of parties executing powers", "To whom
 13 powers are executed", "Date of powers", "Date of recording",
 14 and "To whom powers are executed";

15 (7) an index of leases labeled "Leases", with each
 16 page divided into four columns headed, respectively: "Names
 17 of lessors", "Names of lessees", "Date of leases", and "When
 18 and where recorded";

19 (8) an index of leases labeled "Lessees", with each
 20 page divided into four columns headed, respectively: "Names
 21 of lessees", "Names of lessors", "Date of leases", and "When
 22 and where recorded";

23 (9) an index of marriage certificates labeled
 24 "Marriage certificate--Men", with each page divided into six
 25 columns headed, respectively: "Men married", "To whom

1 married", "When married", "By whom married", "Where
2 married", and "Where certificates are recorded";

3 (10) an index of marriage certificates labeled
4 "Marriage certificates--Women", with each page divided into
5 six columns headed, respectively: "Women married" (and under
6 this head placing the family names of the women), "To whom
7 married", "When married", "By whom married", "Where
8 married", and "Where certificates are recorded";

9 (11) an index of assignments of mortgages and leases
10 labeled "Assignments of mortgages and leases--Assignors",
11 with each page divided into five columns headed,
12 respectively: "Assignors", "Assignees", "Instruments
13 assigned", "Date of assignment", and "When and where
14 recorded";

15 (12) an index of assignments of mortgages and leases
16 labeled "Assignments of mortgages and leases--Assignees",
17 with each page divided into five columns headed,
18 respectively: "Assignees", "Assignors", "Instruments", "Date
19 of assignment", and "When and where recorded";

20 (13) an index of wills labeled "Wills", with each page
21 divided into four columns headed, respectively: "Names of
22 testators", "Date of will", "Date of probate", and "When and
23 where recorded";

24 (14) an index of official bonds labeled "Official
25 bonds", with each page divided into five columns headed,

1 respectively: "Names of officers", "Names of offices", "Date
2 of bond", "Amount of bond", and "When and where recorded";

3 (15) an index of notices of mechanics' liens labeled
4 "Mechanics' liens", with each page divided into three
5 columns headed, respectively: "Parties claiming liens",
6 "Against whom claimed", and "Notices, when filed";

7 (16) an index to transcripts of judgments labeled
8 "Transcripts of judgments", with each page divided into
9 seven columns headed, respectively: "Judgment debtors",
10 "Judgment creditors", "Amount of judgment", "Where
11 recovered", "When recovered", "When transcript filed", and
12 "When judgment satisfied";

13 (17) an index of attachments labeled "Attachments",
14 with each page divided into six columns headed,
15 respectively: "Parties against whom attachments are issued",
16 "Parties issuing attachments", "Notices of attachments",
17 "When filed", and "When attachments discharged";

18 (18) an index of notices of the pendency of actions
19 labeled "Notices of actions", with each page divided into
20 three columns headed, respectively: "Parties to actions",
21 "Notices, when recorded", and "When filed";

22 (19) an index of certificates of sale of real estate
23 sold under execution or under orders made in any judicial
24 proceedings labeled "Certificates of sale", with each page
25 divided into four columns headed, respectively: "Plaintiff",

"Defendant", "Purchaser at sale", and "Date of sale";

~~{20} an index of the individual property of married persons and sole trader judgments labeled "Individual property of married persons and sole traders" with each page divided into five columns headed, respectively: "Names of married persons", "Names of their spouses", "Nature of instruments recorded", "When recorded", and "Where recorded";~~

~~{21} {20} an index to affidavits for annual work done on mining claims labeled "Annual work on mining claims", showing the name with each page divided into four columns headed, respectively: "Name of the affiant", the name "Name of the claim", where "Where situated", and the year "Year when the work was done";~~

~~{22} {21} an index of mining claims and declaratory statements labeled "Notices of location of mining claims and declaratory statements", with each page divided into four columns headed, respectively: "Locators", "Name of claim", "Notice, when filed", and "Where recorded";~~

~~{23} {22} an index to the register of births and deaths;~~

~~{24} {23} an index to notices and declarations of water rights;~~

~~{25} {24} an index to the "estrays and lost property book";~~

~~{26} {25} an index to the record of assignments for the~~

benefit of creditors, containing names of assignor and assignee, date and where recorded, and inventory, when filed;

~~{27} {26} an index to financing statements as provided in Part 4 of the Uniform Commercial Code--Secured Transactions;~~

~~{28} {27} an index to filed subdivision plats, containing number of lots, number of acres, filing date, and the location of the quarter section of each subdivision;~~

~~{29} {28} an index to the book of maps and plats, which must contain the name of the proprietor of the town, village, or addition platted and a general description of the same;~~

~~{30} {29} a miscellaneous index, in which must be indexed papers not hereinbefore stated."~~

Section 17. Section 7-4-2703, MCA, is amended to read:

"7-4-2703. Limitation on number of deputies. ~~The whole number of deputies allowed the county attorney must not exceed one chief deputy and one deputy in counties of the first and second classes and in all other counties such deputies as may be allowed by the board of county commissioners not to exceed one chief deputy and one deputy.~~ In counties of the first and second class, the county attorney may appoint one chief deputy and one deputy. In all other counties, the county attorney may appoint a chief

1 ~~deputy or a deputy only with the approval of the board of~~
2 ~~county commissioners."~~

3 Section 18. Section 7-4-2714, MCA, is amended to read:

4 "7-4-2714. Recovery of illegally paid money. ~~It~~ if
5 ~~Whenever~~ the board of county commissioners, without
6 authority of law, orders any money paid as a salary or fee
7 or for any other purpose and such money has been actually
8 paid or ~~if~~ ~~whenever~~ any other county officer has drawn any a
9 warrant ~~or--warrants~~ in his own favor or in favor of any
10 other person without being authorized by the board or by law
11 and the same has been paid, the county attorney is empowered
12 and it is his duty to institute an action in the name of the
13 county against such person ~~or--persons~~ to recover the money
14 ~~so-paid~~ and 25% damages for the use thereof. No order of the
15 board therefor is necessary to maintain such ~~this~~ suit. When
16 ~~Whenever~~ the money has not been paid on such ~~the~~ order or
17 warrant, it is the duty of the county attorney, upon
18 receiving notice thereof, to commence an action in the name
19 of the county for restraining the payment of the same, and
20 no order of the board is necessary to maintain such ~~the~~
21 action.

22 ~~(2) Whenever any board, without authority of law~~
23 ~~orders any money paid as a salary or fee or for other~~
24 ~~purposes and such money has been actually paid or whenever~~
25 ~~the county clerk has drawn any warrant or warrants in his~~

1 ~~own favor or in favor of any other person without being~~
2 ~~authorized by the board or by the law and the same has been~~
3 ~~paid, the county attorney of such county must institute an~~
4 ~~action in the name of the county against such person or~~
5 ~~persons to recover the money so paid and 25% damages for the~~
6 ~~use thereof. No order of the board therefor is necessary in~~
7 ~~order to maintain such actions. When the money has not been~~
8 ~~paid on such order, it is the duty of the county attorney to~~
9 ~~commence an action in the name of the county for restraining~~
10 ~~the payment of the same, and no order of the board therefor~~
11 ~~is necessary to maintain such action."~~

12 Section 19. Section 7-4-2803, MCA, is amended to read:

13 "7-4-2803. Situations involving use of other
14 surveyors. (1) When ~~Whenever~~ the county surveyor is
15 interested in any land the title to which is in dispute and
16 a survey thereof is necessary, the court must direct the
17 survey to be made by some disinterested person. The perso
18 so appointed is, for the purpose, authorized to administer
19 and certify oaths. He ~~must~~ shall return such ~~the~~ survey,
20 verified by his affidavit annexed thereto, and receive for
21 his services the same fees as the county surveyor would be
22 entitled to for similar services.

23 (2) ~~if~~ ~~Whenever~~ the county surveyor neglects, refuses,
24 or is incompetent to perform the duties prescribed in former
25 ~~16-3311v-R6-M-1947 this part~~, it ~~shall be~~ is the dut, of

1 the board of county commissioners to employ another
2 competent civil engineer, who shall be subject to the law
3 ~~laws~~ governing the county surveyor."

4 Section 20. Section 7-4-2911, MCA, is amended to read:
5 "7-4-2911. Duties of county coroner. (1) The coroner
6 must hold inquests as provided in Title 46, chapter 4, parts
7 1 and 2.

8 (2) In the cases specified in 25-3-205, the coroner
9 must discharge the duties of sheriff. If acting as sheriff,
10 the coroner is allowed the same fees as sheriff or constable
11 for like services.

12 ~~{3}--When a prisoner confined in the state prison dies,~~
13 ~~the coroner of the county wherein the state prison is~~
14 ~~located may hold an inquest as provided in Title 46, chapter~~
15 ~~4, parts 1 and 2."~~

16 Section 21. Section 7-4-2912, MCA, is amended to read:
17 "7-4-2912. Coroner's register. ~~It is the duty of the~~
18 ~~The county~~ coroner of each county to shall keep an official
19 register, to be labeled "coroner's register", in which he
20 must enter as provided in 46-4-207.

21 ~~{1}--the date of holding all inquests;~~

22 ~~{2}--the name of the deceased, when known, and such~~
23 ~~description of the deceased as may be sufficient for~~
24 ~~identification when not known;~~

25 ~~{3}--property found on the person of the deceased, if~~

1 any;

2 ~~{4}--what disposition of the same was made by the~~
3 ~~coroner;~~

4 ~~{5}--the cause of death, when known; and~~

5 ~~{6}--any other information which may pertain to the~~
6 ~~identity of the deceased."~~

7 Section 22. Section 7-4-2913, MCA, is amended to read:

8 "7-4-2913. Payment of costs of inquest. Whenever an
9 inquest is held ~~pursuant to 7-4-2911~~ because of the death
10 of an individual confined in the state prison, the county
11 clerk of the county where such ~~the~~ inquest is had held shall
12 make out a statement of all the costs incurred by the county
13 in such ~~the~~ inquest, properly certified by the coroner of
14 said ~~the~~ county. This statement shall be sent to the
15 department of institutions for approval, and after such
16 approval, the department ~~must cause the amount of such~~ shall
17 pay the costs ~~to be paid~~ out of the money appropriated for
18 the support of the state prison to the county treasurer of
19 the county where such ~~the~~ inquest was had held."

20 Section 23. Section 7-4-3006, MCA, is amended to read:

21 "7-4-3006. Limitation on number of deputy district
22 court clerks. The whole number of deputies allowed the clerk
23 of the district court ~~must~~ may not exceed one chief deputy
24 and deputies ~~to the number up to:~~

25 (1) six deputies in counties of the first and or

1 second ~~classes~~ class;

2 (2) four deputies in counties of the third ~~and or~~
3 fourth ~~classes~~ class having more than one district judge;

4 (3) two deputies in counties of the third ~~and or~~
5 fourth ~~classes~~ class having one district judge;

6 (4) one deputy in counties of the fifth, sixth, ~~or~~
7 seventh, ~~and eighth~~ ~~classes~~ class."

8 Section 24. Section 7-4-4105, MCA, is amended to read:

9 "7-4-4105. Authority to abolish appointive municipal
10 offices. ~~{1}~~ The city or town council ~~has the power to may~~
11 abolish, by a majority vote of the council, any office the
12 appointment to which is made by the mayor with the advice
13 and consent of the council and ~~may~~ discharge any officer so
14 appointed.

15 ~~{2}--No office created under this title must be~~
16 ~~abolished by the council."~~

17 Section 25. Section 7-4-4114, MCA, is amended to read:

18 "7-4-4114. Municipal executive officers. (1) The
19 executive officers of a city or town are the mayor, the
20 marshal (if there is one), and such officers as the council
21 may provide for assessment; ~~collection~~ collecting,
22 auditing, safekeeping, and disbursing the revenue; and
23 keeping the records and journals of the city or town.

24 (2) The mayor is the chief executive officer of the
25 city or town."

1 Section 26. Section 7-4-4201, MCA, is amended to read:

2 "7-4-4201. Salary of officers. (1) The council must by
3 ordinance fix the salaries and compensation of the city
4 officers, policemen, and other employees, which ~~must~~ may not
5 exceed the ~~amount~~ amounts specified in this code.

6 (2) The salary and compensation of an officer ~~must~~ may
7 not be increased or diminished during his term of office.

8 ~~{3}--The maximum annual salary of a mayor must be fixed~~
9 ~~by ordinance in all classes of cities.~~

10 ~~{4}--The annual salary and compensation of the~~
11 ~~treasurer must be fixed by ordinance and must be for all~~
12 ~~services rendered by such treasurer in any capacity.~~

13 ~~{5}--The annual salary and compensation of the city~~
14 ~~attorney must be fixed by ordinance.~~

15 ~~{6}--The annual salary and compensation of the city~~
16 ~~clerk must be fixed by ordinance.~~

17 ~~{7}--The compensation of the street commissioner, chief~~
18 ~~of the fire department, city surveyor, and other city~~
19 ~~officers not provided in this code may be prescribed by~~
20 ~~ordinance."~~

21 Section 27. Section 7-4-4301, MCA, is amended to read:

22 "7-4-4301. Qualifications for mayor. (1) No person
23 ~~shall be~~ is eligible to for the office of mayor unless he
24 ~~shall be:~~

25 (a) at least 21 years old ~~and a taxpaying freeholder~~

1 ~~within the limits of the city or town;~~

2 (b) a resident of the state for at least 3 years; and

3 (c) a resident for at least 2 years preceding the
4 election to office of the city or town or an area which has
5 been annexed by the city or town ~~for which he may be elected~~
6 ~~mayor 2 years preceding his election to said office.~~

7 (2) ~~A person elected mayor shall reside in the city or~~
8 ~~town for which he shall be elected mayor during his term of~~
9 ~~office. The office of mayor of a city or town is considered~~
10 ~~vacant if the individual elected as mayor ceases to be a~~
11 ~~resident of the city or town."~~

12 Section 28. Section 7-4-4401, MCA, is amended to read:

13 "7-4-4401. Qualifications for alderman. No person
14 shall be ~~is~~ eligible to for the office of alderman unless he
15 shall be ~~is~~

16 ~~(1) a taxpayer freeholder within the limits of a~~
17 ~~city and~~

18 ~~(2) a resident for at least 60 days preceding the~~
19 ~~election to office~~ of the ward so electing him or ~~a resident~~
20 of an area which has been annexed by the city or town and
21 placed in a the ward ~~for at least 60 days preceding such~~
22 ~~election."~~

23 Section 29. Section 7-4-4402, MCA, is amended to read:

24 "7-4-4402. Term of office. (1) Except as provided in
25 subsection (2), ~~each an~~ alderman ~~elected~~ shall hold office

1 for a term of 4 years and until the qualification of his
2 successor.

3 (2) At the first annual election held after the
4 organization of a city or town under this title, the
5 electors of such ~~the~~ city or town must elect two aldermen
6 from each ward, who must, at the first meeting of the
7 council, decide by lot their terms of office, with one from
8 each ward to hold for a term of 2 ~~1~~ years and one, for the a
9 term of ~~1-year~~ 2 years and until the qualification of their
10 successors. In the ~~next~~ succeeding election and thereafter,
11 one alderman from each ward will be elected for a 4-year
12 term."

13 Section 30. Repealer. Sections 16-2616, 16-3105, and
14 25-603, R.C.M. 1947, are repealed.

-End-

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LC 0553

1979 Legislature
Code Commissioner Bill - Summary*Senate* Bill No. 335AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS
RELATING TO LOCAL GOVERNMENT OFFICERS.(This summary does not include discussion of routine form or
grammatical changes.)

Section 1. 7-4-2203. This section is rewritten to permit the inclusion of the county auditor (if authorized) in the list of county officers. This permits some language to be deleted in other sections.

Section 2. 7-4-2209. The reference to a repealed section of law, 16-2403, R.C.M. 1947, is replaced by 7-4-2203(1). Because of the amendment to 7-4-2203, the list of officers authorized to administer oaths will also include the county auditor, but this inclusion seems to reflect the intent that all county officers be able to administer oaths. The reference to justices of the peace is deleted since the justice of the peace is listed in 7-4-2203(1).

Section 3. 7-4-2213. This section is rewritten for clarity. In subsection (1), a reference to the regular quarterly meeting is changed to a regular meeting to reflect the fact that in many counties the board of county commissioners meets more often than quarterly. In subsection (2), the term "insane" is changed to "mentally ill" for consistency and to utilize more up-to-date terminology.

Section 4. 7-4-2301. Subsection (3) is deleted in its entirety as redundant with and conceivably inconsistent with 7-4-2312.

Section 5. 7-4-2306. This section is rewritten for clarity. In subsection (2), a phrase is added requiring passage of a resolution of intent. As presently written, this section refers to the passage of such a resolution but does not actually require passage. The added language resolves this minor inconsistency.

Section 6. 7-4-2310. In subsection (1), references to officers are changed to offices for consistency with the introductory prepositional phrase. In subsection (3), the language of subsection (3)(b) is deleted as inconsistent with that of subsection (3)(a), the more recently enacted language.

Section 7. 7-4-2313. Subsection (1) is rewritten for clarity to make clear that the board of county commissioners has final authority in determining the number of deputy officers for a consolidated office.

Section 8. 7-4-2501. In subsection (1), the justice of the peace and the constable are deleted from the list of officers entitled to fees since the justice of the peace and the constable now receive salaries (see 3-10-206 and 3-10-703). The references to the county surveyor and the county coroner are amended to accommodate the possibility that those officers may be salaried. The reference to fees prescribed by this chapter is changed to fees prescribed by law to allow for the relocation due to recodification of any fees formerly within the chapter.

Section 9. 7-4-2502. Subsection (1)(b) is deleted as redundant in part and inconsistent in part with subsection (1)(a). The reference to payment from the contingent fund is confusing, and the salaries of the officials appear to be paid from the general fund in actual practice, as specified in subsection (1)(a).

Section 10. 7-4-2504. The county auditor, surveyor, and coroner are added to the list of county officials whose salaries are to be set by resolution of the county commissioners. These additions reflect the possibility that the added officials may receive a salary under the existing law.

Section 11. 7-4-2511. In subsection (2), references to county officers are changed to salaried county office to eliminate a conflict with respect to county officers who receive fees for their own use. Language is also added to indicate an exception to the disposal of fees for consistency with such sections as 25-1-201. Subsection (3) is deleted in its entirety as the crime it creates is covered by official misconduct (45-7-401) in the criminal code. However, the nature of the offense is changed from a felony to a misdemeanor.

Section 12. 7-4-2512. In subsection (2), a signature line is added to the form for the affidavit. Subsection (3) is deleted in its entirety as the crime it creates is covered by false swearing (45-7-202) in the criminal code. However, under that section the nature of the offense is a misdemeanor rather than a felony.

Section 13. 7-4-2519. This section is rewritten for clarity. The introductory phrase in subsection (2) is deleted as redundant following the rearrangement of the section.

Section 14. 7-4-2613. Subsection (6) is deleted. The law relating to sole trader judgments has been repealed. The language relating to the individual property of married persons relates to sole trader judgments.

Section 15. 7-4-2615. This section is rewritten for clarity. A reference to the "Reclamation Act" is changed to a general reference to the federal reclamation laws because there is no such statute with the title "Reclamation Act" and the general reference is appropriate. A reference to forms used by the secretary of a water users' association is deleted because the last sentence requires the forms to be approved by the attorney general and hence the reference to the forms used by the secretary is superfluous. The phrase "in accordance with the laws of the United States and of the state of Montana" is deleted as redundant.

Section 16. 7-4-2619. Subsection (20) is deleted. The material relating to sole trade judgments has been repealed. Several other subsections are rewritten for consistency.

Section 17. 7-4-2703. The section is rewritten for clarity.

Section 18. 7-4-2714. Subsection (2) is deleted. Except for the figure of 20% near the end of the first sentence, the two subsections are redundant. The 25% figure was selected because it was the larger of the two figures. Both numbers were present in the 1895 Code, so the conflict has existed for many years.

Section 19. 7-4-2803. In subsection (2), an internal reference to "16-3311, R.C.M. 1947," is changed to "this part". Section 16-3311, R.C.M. 1947, was repealed, and given the intent of the language the use of the reference "this part" is appropriate.

Section 20. 7-4-2911. Subsection (3) is deleted. The language made the holding of an inquest discretionary while the language of 46-4-201 mandates an inquest. The language used in 46-4-201 is the result of more recent legislative action.

Section 21. 7-4-2912. The section is rewritten for consistency with 46-4-207, which is the more recent legislation.

Section 22. 7-4-2913. The section is rewritten for clarity. The reference to 7-4-2911(3) is replaced by a descriptive reference because of the amendment to 7-4-2911 (see section 20).

Section 23. 7-4-3006. In subsection (4), a reference to counties of the eighth class is deleted. The highest class of county is seven; there are no eighth class counties.

Section 24. 7-4-4105. Subsection (2) is deleted for clarity. The precise meaning of the deleted language is unclear. Since subsection (1) is a grant of power and imposes no duty to abolish an office, subsection (2) appears to be redundant.

Section 25. 7-4-4114. In subsection (1), the phrase "if there is one" is added after "marshal" to indicate that the office is not found in all municipalities.

Section 26. 7-4-4201. Subsections (3) through (7) are deleted as redundant with subsection (1).

Section 27. 7-4-4301. In subsection (1)(a), the requirement that a person be a taxpaying freeholder to be eligible for the office of mayor is deleted. Such a requirement was held unconstitutional in Sadler v. Connolly, 575 P. 2d 51 (1978). In subsection (1)(c) the language is rearranged for clarity and to better express the intent of the legislature based on the language as first enacted and subsequently amended. Subsection (2) is rewritten for clarity.

Section 28. 7-4-4401. Subsection (1) is deleted. The taxpaying freeholder requirement has held unconstitutional in Sadler v. Connolly, 575 P. 2d 51 (1978). Subsection (2) is rewritten for clarity and to reflect legislative intent based on the language as first enacted and subsequently amended.

Section 29. 7-4-4402. In subsection (2), references to "1 year" and "2 years" are changed to "2 years" and "4 years", respectively to reflect the change made in 1971 (Chapter 193, Laws of 1971) which changed the term of office from 2 years to 4 years.

Section 30. Repealer. Section 16-2616, R.C.M. 1947, is recommended for repeal. This section dealt with disposition of property by the county treasurer received from the county coroner. This material is superseded by the Montana Forensic Science System Act, (Chapter 530, Laws of 1977), specifically 44-3-402. Section 16-3105, R.C.M. 1947, is recommended for repeal. The section is unnecessary; it requires nothing which is not required elsewhere. Section 25-603, R.C.M. 1947, is recommended for repeal. The salary minimums are so out-of-date as to be meaningless.

Approved by Comm.
on Local Government

1 Sen. Lockrey BILL NO. 335
2 INTRODUCED BY LOCKREY
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 LOCAL
7 GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105,
8 AND 25-603, R.C.M. 1947."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 7-4-2203, MCA, is amended to read:
12 "7-4-2203. County officers. (1) There may be elected
13 or appointed ~~in each county~~ the following county officers,
14 who shall possess the qualifications for suffrage prescribed
15 by the Montana constitution and such other qualifications as
16 may be prescribed by law:
17 (a) one county attorney;
18 (b) one clerk of the district court;
19 (c) one county clerk;
20 (d) one sheriff;
21 (e) one treasurer;
22 (f) one auditor if authorized by 7-6-2401;
23 ~~†††(g)~~ one county superintendent of schools;
24 ~~†††(h)~~ one county surveyor;
25 ~~†††(i)~~ one assessor;

1 ~~†††(j)~~ one coroner;
2 ~~†††(k)~~ one public administrator; and
3 ~~†††(l)~~ at least one justice of the peace.
4 (2) The commissioners may appoint at their discretion
5 constables. Not more than one constable may be appointed
6 for each justice of the peace court.
7 (3) ~~County--auditors--and--all~~ All elective township
8 officers may be elected at each general election as now
9 provided by law."
10 Section 2. Section 7-4-2209, MCA, is amended to read:
11 "7-4-2209. Authority to administer oaths. Every
12 officer mentioned in former ~~16-2403, R.C.M. 1947, and every~~
13 ~~justice of the peace 7-4-2203(1)~~ may administer and certify
14 oaths."
15 Section 3. Section 7-4-2213, MCA, is amended to read:
16 "7-4-2213. Inspection of official bonds. (1) At the a
17 regular ~~quarterly--meetings--of--all--boards~~ meeting of the
18 ~~board~~ of county commissioners ~~in this state~~ in March and
19 September of each year, ~~every the~~ board of county
20 commissioners shall carefully examine all official bonds of
21 all county and township officials ~~of its county~~ then in
22 force and effect and investigate the qualifications and
23 financial condition and liability of all sureties thereon
24 and their sufficiency.
25 (2) If it appears to the satisfaction of ~~any such the~~

There are no changes in SB 335 and due to length will not
be rerun. Please refer to white copy for complete text.

1 board or a majority of the members thereof that any surety
 2 upon any such bond ~~within-and-for-its-county~~ has, since the
 3 approval and acceptance of such bond, died or withdrawn
 4 therefrom, ~~or removed from left~~ the state, or disposed of
 5 all of his property in this state, or become ~~insane~~ mentally
 6 ill, insolvent, financially embarrassed, or not good and
 7 responsible for the amount of his liability thereon, such
 8 ~~the~~ board shall immediately cause the clerk of ~~said the~~
 9 board to notify in writing the judge of the district court
 10 of that district of its action and conclusion and all facts
 11 in connection therewith and the reasons thereof.

12 (3) ~~Said the~~ judge shall ~~forthwith~~ take cognizance
 13 thereof and investigate such matter and take steps, by order
 14 to show cause or other order, citation, step, or action, as
 15 may be necessary to make such bond good and sufficient
 16 according to the requirements of law ~~in-the-premises~~ and
 17 ample security for the amount thereof."

18 Section 4. Section 7-4-2301, MCA, is amended to read:

19 "7-4-2301. Authorization to consolidate county
 20 offices. (1) Except as provided in subsection (2), the board
 21 of county commissioners of any county may in its discretion
 22 consolidate any two or more of the offices named in 7-4-2203
 23 and combine the powers and the duties of the consolidated
 24 offices.

25 (2) The office of the justice of the peace may not be

1 combined or consolidated with any other office other than
 2 another justice of the peace office.

3 ~~(3)--The provisions hereof shall not be construed as~~
 4 ~~allowing one office incumbent to be entitled to the salaries~~
 5 ~~and emoluments of two or more offices."~~

6 Section 5. Section 7-4-2306, MCA, is amended to read:

7 "7-4-2306. Processing of petition -- resolution of
 8 intent and hearing. (1) Upon the filing of ~~any-such a~~
 9 petition for consolidation, the board or boards of county
 10 commissioners shall cause the county clerk or clerks to
 11 ~~forthwith~~ examine the ~~same~~ petition and the registration
 12 records of the county ~~or counties~~.

13 (2) If after such examination ~~such the~~ county clerk or
 14 clerks ~~shall~~ report to ~~said the~~ board or boards of county
 15 commissioners that ~~such the~~ petition ~~or petitions--have~~ has
 16 been signed by not less than 15% of the qualified electors
 17 of the county whose names appear on ~~such the~~ registration
 18 records, ~~said the~~ board or boards shall set a date for a
 19 hearing and pass a resolution of intent to consider ~~said the~~
 20 consolidation. Upon the passage of the resolution of intent
 21 by the board or boards, proper notice ~~and-a-date~~ shall be
 22 set given for a ~~the~~ hearing ~~to-consider-said--consolidation~~.
 23 The date for the hearing ~~shall-be~~ may not ~~be~~ more than 20
 24 days after the filing of ~~such the~~ petition or the passage of
 25 the resolution of intent."

SENATE BILL NO. 335

INTRODUCED BY LOCKREM

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 LOCAL GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105, AND 25-603, R.C.M. 1947."

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

Section 1. Section 7-4-2203, MCA, is amended to read:

"7-4-2203. County officers. (1) There may be elected or appointed in each county the following county officers, who shall possess the qualifications for suffrage prescribed by the Montana constitution and such other qualifications as may be prescribed by law:

(a) one county attorney;

(b) one clerk of the district court;

(c) one county clerk;

(d) one sheriff;

(e) one treasurer;

(f) one auditor if authorized by 7-6-2401;

~~(f)(g)~~ one county superintendent of schools;

~~(g)(h)~~ one county surveyor;

~~(h)(i)~~ one assessor;

~~(i)(j)~~ one coroner;

~~(j)(k)~~ one public administrator; and

~~(k)(l)~~ at least one justice of the peace.

(2) The commissioners may appoint at their discretion constables. Not more than one constable may be appointed for each justice-of-the-peace JUSTICE'S court.

(3) ~~County--auditors--and--at~~ All elective township officers may be elected at each general election as now provided by law."

Section 2. Section 7-4-2209, MCA, is amended to read:

"7-4-2209. Authority to administer oaths. Every officer mentioned in ~~former 16-2403, R.C.M. 1947, and every~~ justice-of-the-peace 7-4-2203(i) may administer and certify oaths."

Section 3. Section 7-4-2213, MCA, is amended to read:

"7-4-2213. Inspection of official bonds. (1) At the a regular ~~quarterly--meetings--of--all--boards~~ meeting of the board of county commissioners ~~in this state~~ in March and September of each year, every ~~the~~ board of county commissioners shall carefully examine all official bonds of all county and township officials ~~of its county~~ then in force and effect and investigate the qualifications and financial condition and liability of all sureties thereon and their sufficiency.

(2) If it appears to the satisfaction of any such ~~the~~

board or a majority of the members thereof that any surety upon any such bond ~~within-and-for-its-county~~ has, since the approval and acceptance of such bond, died or withdrawn therefrom; ~~or-removed-from~~ left the state; or disposed of all of his property in this state; or become insane ~~mentally~~ ill, insolvent, financially embarrassed, or not good and responsible for the amount of his liability thereon, such ~~the~~ board shall immediately cause the clerk of ~~said the~~ board to notify in writing the judge of the district court of that district of its action and conclusion and all facts in connection therewith and the reasons thereof.

(3) ~~Said the~~ judge shall forthwith take cognizance thereof and investigate such matter and take steps, by order to show cause or other order, citation, steps or actions, as may be necessary to make such bond good and sufficient according to the requirements of law ~~in-the-premises~~ and ample security for the amount thereof."

Section 4. Section 7-4-2301, MCA, is amended to read:

"7-4-2301. Authorization to consolidate county offices. (1) Except as provided in subsection (2), the board of county commissioners of any county may in its discretion consolidate any two or more of the offices named in 7-4-2203 and combine the powers and the duties of the consolidated offices.

(2) The office of the justice of the peace may not be

combined or consolidated with any other office other than another justice of the peace office.

~~{3}--The-provisions-hereof-shall-not-be-construed-as allowing-one-office-incumbent-to-be-entitled-to-the-salaries-and-emoluments-of-two-or-more-offices."~~

Section 5. Section 7-4-2306, MCA, is amended to read:

"7-4-2306. Processing of petition -- resolution of intent and hearing. (1) Upon the filing of any such a petition for consolidation, the board or boards of county commissioners shall cause the county clerk or clerks to forthwith examine the same petition and the registration records of the county or counties.

(2) If after such examination ~~such the~~ county clerk or clerks ~~shall~~ report to ~~said the~~ board or boards of county commissioners that ~~such the~~ petition or petitions ~~--have~~ has been signed by not less than 15% of the qualified electors of the county whose names appear on such the registration records, ~~said the~~ board or boards shall set a date for a hearing and pass a resolution of intent to consider ~~said the~~ consolidation. Upon the passage of the resolution of intent by the board or boards, proper notice ~~and-a-date~~ shall be set given for a the hearing ~~to-consider-said--consolidation~~. The date for the hearing ~~shall-be~~ may not ~~be~~ more than 20 days after the filing of ~~such the~~ petition or the passage of the resolution of intent."

Section 6. Section 7-4-2310, MCA, is amended to read:

"7-4-2310. Order for consolidation of offices. (1) In consolidating county offices, the board of county commissioners shall, 6 months prior to the general election held for the purpose of ~~electing the aforesaid officers~~ filling the offices to be consolidated or 6 months prior to the appointment of ~~the aforesaid officers to the offices to be consolidated~~, make and enter an order combining any two or more of the within-named offices.

(2) Whenever ~~a board or boards shall make~~ an order consolidating two or more offices ~~is made~~, such ~~the~~ order shall be entered in full on ~~its~~ the board's minutes of proceedings.

(3) ~~for~~ Such ~~the~~ order shall be published in a newspaper of general circulation, printed and published in the county or counties affected, for a period of 2 successive weeks following the date of the making and entry ~~entering~~ of such ~~the~~ order.

~~for~~ ~~The board shall cause the order to be published in a newspaper published and circulated generally in said county for a period of 6 weeks following the date of entry of said orders.~~

Section 7. Section 7-4-2313, MCA, is amended to read:

"7-4-2313. Deputies and personnel for consolidated offices. (1) Where ~~whenever~~ county offices are consolidated

~~as heretofore described~~, the officers officer of the consolidated ~~officers shall have any deputies they~~ office may appoint ~~who shall be as many deputies as are~~ approved by the board or boards of county commissioners.

(2) The board or boards shall determine the number of deputies, stenographers, and clerks the officers may appoint."

Section 8. Section 7-4-2501, MCA, is amended to read:

"7-4-2501. Compensation of county officers. (1) The county surveyor if not receiving a salary under 7-4-2812, the county coroner if not receiving a salary under 7-4-2922, and the public administrator ~~justice of the peace and constable~~ may collect and receive for their own use, respectively, for official services, the fees and emoluments prescribed ~~in this chapter by law~~.

(2) All other county officers receive salaries."

Section 9. Section 7-4-2502, MCA, is amended to read:

"7-4-2502. Payment of salaries of county officials and assistants. (1) ~~for~~ Except as provided in subsection (2), the salaries of the ~~several~~ county officers and their assistants must be paid monthly out of the general fund of the county and upon the order of the board of county commissioners.

~~for~~ ~~Salaries must be allowed and paid monthly upon the order of the board and paid out of the contingent funds~~

(2) (a) The salary of the county attorney is payable monthly, with one-half from the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of any county attorney, certify ~~such the~~ election or appointment to the state auditor, who shall thereafter draw warrants for such salary in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the state auditor, and the auditor shall compute the salary due on the basis of said ~~the~~ notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed ~~in this code or~~ by general or special law and to provide for the payment of the same."

Section 10. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution. The county commissioners shall by resolution, on or before July 1 of each year, fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and county attorney; and the clerk of the district court; the county auditor (if there is one); the

county surveyor (if he receives a salary); and the county coroner (if he receives a salary) for the following fiscal year in conformity with the appropriate statutory salary schedule pertaining to each office. The salary schedule used for each office shall be the statutory schedule in effect on the first day of the following fiscal year."

Section 11. Section 7-4-2511, MCA, is amended to read:

7-4-2511. Collection and disposal of fees. (1) ~~At~~ Each salaried officers county officer of ~~the several~~ counties must charge and collect for the use of their respective ~~counties~~ his county and pay into the county treasury on the first Monday in each month all the fees now or hereafter allowed by law, paid or chargeable in all cases, except as provided in 25-10-403. Nothing in this subsection ~~shall be held to apply~~ applies to the compensation received by the sheriff as mileage while in the performance of official duties or for the board of prisoners or other persons while in his custody.

(2) No ~~salaried~~ county officer ~~shall~~ may receive for his own use any fees, penalties, or emoluments of any kind, except the salary as provided by law, for any official service rendered by him, but Unless otherwise provided, all fees, penalties, and emoluments of every kind must be collected by him a salaried county officer are for the sole use of the county and must be accounted for and ~~paid to the~~

1 paid to the county treasurer as provided by subsection (1)
2 and shall be credited to the general fund of the county.

3 ~~{3}--Every officer who fails or refuses to pay any fees~~
4 ~~collected by him to the county treasurer or fails to collect~~
5 ~~the same as provided by [this chapter] is guilty of a~~
6 ~~felony."~~

7 Section 12. Section 7-4-2512, MCA, is amended to read:
8 "7-4-2512. Statement and affidavit of fees collected.
9 (1) The fees and compensation collected and chargeable for
10 the use of the county in each month must be paid to the
11 county treasurer on the first Monday of the following month
12 and must be accompanied by a statement and copy of the fee
13 book for the preceding month, duly verified by the officer
14 making such the payment.

15 (2) The affidavit must be in the following form:

16 State of Montana
17 County of

18 I,, of the county of, do swear that the fee
19 book in my office contains a true statement in detail of all
20 fees and compensations of every kind and nature for official
21 services rendered by me, paid or chargeable, or by my
22 deputies or assistants for the month of, A.D. 19.., and
23 that ~~said~~ this fee book shows the full amount received or
24 chargeable in said month and since my last monthly payment;
25 and neither myself nor, to my knowledge or belief, any of my

1 deputies or assistants have rendered any official service,
2 except for the county or state, which is not fully set out
3 in said this fee book; and that the foregoing statement is a
4 full, true, and correct copy thereof.

5(Signature)

6 Subscribed and sworn to before me this day of
7, 19....

8 Seal(Person authorized to take oaths)

9(Title or notarial information)

10 ~~{3}--Every officer who makes a false report of the fees~~
11 ~~received by him is guilty of a felony."~~

12 Section 13. Section 7-4-2519, MCA, is amended to read:

13 "7-4-2519. Prohibition upon receiving other fees. (1)
14 The officers named above must may receive no other fees for
15 any services performed by them in any action or proceeding
16 or for the performance of any service for which fees are
17 allowed, and

18 ~~{2}--In case of any violation of the provisions of~~
19 ~~[this chapter], the party demanding or receiving any fees~~
20 ~~not herein allowed is liable to refund the same to the party~~
21 ~~aggrieved, with treble the amounts amount as damages,~~
22 ~~besides costs in addition to the cost of suit."~~

23 Section 14. Section 7-4-2613, MCA, is amended to read:

24 "7-4-2613. Documents subject to recording. The county
25 clerk must, upon payment of his fees for the same, record,

1 photograph, or correctly copy, separately, in large and
2 well-bound or to be bound separate books, either in a fair
3 hand or by printing, typewriting, or photographic process or
4 by the use of prepared blank forms:

5 (1) deeds, grants, transfers, certified copies of
6 final judgments or decrees partitioning or affecting the
7 title or possession of real property any part of which is
8 situated in the county, contracts to sell or convey real
9 estate and mortgages of real estate, releases of mortgages,
10 powers of attorney to convey real estate, leases which have
11 been acknowledged or proved, and abstracts of such
12 instruments which have been acknowledged or proved;

13 (2) certificates of births and deaths;

14 (3) wills devising real estate admitted to probate;

15 (4) official bonds;

16 (5) transcripts of judgments which by law are made
17 liens upon real estate;

18 ~~(6) instruments describing or relating to the~~
19 ~~individual property of married persons and sole trader~~
20 ~~judgments;~~

21 ~~(7) all orders and decrees made by the district~~
22 ~~court in probate matters affecting real estate and which are~~
23 ~~required to be recorded;~~

24 ~~(8) notice of preemption claims;~~

25 ~~(9) notice and declaration of water rights;~~

1 ~~(10) assignments for the benefit of creditors;~~

2 ~~(11) affidavits of annual work done on mining~~
3 ~~claims;~~

4 ~~(12) notices of mining locations and declaratory~~
5 ~~statements;~~

6 ~~(13) estrays and lost property;~~

7 ~~(14) a book containing appraisal of state lands;~~

8 ~~(15) such other writings as are required or~~
9 ~~permitted by law to be recorded."~~

10 Section 15. Section 7-4-2615, MCA, is amended to read:

11 "7-4-2615. Records of water users' associations. In
12 each county where water users' associations organized in
13 conformity with the federal reclamation laws of the United
14 States ~~under the Reclamation Act have organized or wherein~~
15 ~~such associations shall hereafter organize exist,~~ the county
16 commissioners are required to furnish the county recorder
17 with books for the proper recording of stock subscription
18 and contracts, articles of incorporation, and stock
19 certificates of such companies associations, books ~~to~~
20 ~~conform to such articles of incorporation, stock~~
21 ~~certificates, and contracts as are used by the secretary of~~
22 ~~such water users' associations,~~ containing printed blank
23 forms of such the stock subscriptions, and contracts,
24 articles of incorporation, and stock certificates, in
25 ~~accordance with the laws of the United States and of the~~

1 state--of--Monteney--such ~~the~~ forms ~~are~~ to be prepared by the
 2 attorney general and used by the county recorder for the
 3 recording of all such stock subscriptions, contracts,
 4 articles of incorporation, and stock certificates."

5 Section 16. Section 7-4-2619, MCA, is amended to read:
 6 "7-4-2619. Indexes to recorded documents. Every county
 7 clerk, as ex officio recorder, must keep:

8 (1) an index of deeds, grants, and transfers, and
 9 contracts to sell or convey real estate labeled "Grantors",
 10 with each page divided into four columns headed,
 11 respectively: "Names of grantors", "Names of grantees",
 12 "Date of deeds, grants, transfers, or contracts", and "Where
 13 recorded";

14 (2) an index of deeds labeled "Grantees", with each
 15 page divided into four columns headed, respectively: "Names
 16 of grantees", "Names of grantors", "Date of deeds, grants,
 17 transfers, or contracts", and "Where recorded";

18 (3) an index of mortgages labeled "Mortgages of real
 19 property", with the-pages--thereof ~~each page~~ divided into six
 20 columns headed, respectively: "Names of mortgagors", "Names
 21 of mortgagees", "Dates of mortgages", "Where recorded",
 22 "When filed", and "When canceled";

23 (4) an index of mortgages labeled "Mortgages of real
 24 property", with the-pages--thereof ~~each page~~ divided into six
 25 columns headed, respectively: "Names of mortgagees", "Names

1 of mortgagors", "Date of mortgage", "Where recorded", "When
 2 filed", and "When canceled";

3 (5) an index of mortgages labeled "Releases of
 4 mortgages of real property--Mortgagees", with the--pages
 5 thereof ~~each page~~ divided into six columns headed,
 6 respectively: "Parties whose mortgages are released",
 7 "Parties releasing", "Date of release", "Where recorded",
 8 "Dates of mortgages released", and "Where mortgages released
 9 are recorded";

10 (6) an index of powers of attorney labeled "Powers of
 11 attorney", with each page divided into five columns headed,
 12 respectively: "Names of parties executing powers", "To whom
 13 powers are executed", "Date of powers", "Date of recording",
 14 and "To whom powers are executed";

15 (7) an index of leases labeled "Leases", with each
 16 page divided into four columns headed, respectively: "Names
 17 of lessors", "Names of lessees", "Date of leases", and "When
 18 and where recorded";

19 (8) an index of leases labeled "Lessees", with each
 20 page divided into four columns headed, respectively: "Names
 21 of lessees", "Names of lessors", "Date of leases", and "When
 22 and where recorded";

23 (9) an index of marriage certificates labeled
 24 "Marriage certificate--Men", with each page divided into six
 25 columns headed, respectively: "Men married", "To whom

1 married", "When married", "By whom married", "Where
2 married", and "Where certificates are recorded";

3 (10) an index of marriage certificates labeled
4 "Marriage certificates--Women", with each page divided into
5 six columns headed, respectively: "Women married" (and under
6 this head placing the family names of the women), "To whom
7 married", "When married", "By whom married", "Where
8 married", and "Where certificates are recorded";

9 (11) an index of assignments of mortgages and leases
10 labeled "Assignments of mortgages and leases--Assignors",
11 with each page divided into five columns headed,
12 respectively: "Assignors", "Assignees", "Instruments
13 assigned", "Date of assignment", and "When and where
14 recorded";

15 (12) an index of assignments of mortgages and leases
16 labeled "Assignments of mortgages and leases--Assignees",
17 with each page divided into five columns headed,
18 respectively: "Assignees", "Assignors", "Instruments", "Date
19 of assignment", and "When and where recorded";

20 (13) an index of wills labeled "Wills", with each page
21 divided into four columns headed, respectively: "Names of
22 testators", "Date of will", "Date of probate", and "When and
23 where recorded";

24 (14) an index of official bonds labeled "Official
25 bonds", with each page divided into five columns headed,

1 respectively: "Names of officers", "Names of offices", "Date
2 of bond", "Amount of bond", and "When and where recorded";

3 (15) an index of notices of mechanics' liens labeled
4 "Mechanics' liens", with each page divided into three
5 columns headed, respectively: "Parties claiming liens",
6 "Against whom claimed", and "Notices, when filed";

7 (16) an index to transcripts of judgments labeled
8 "Transcripts of judgments", with each page divided into
9 seven columns headed, respectively: "Judgment debtors",
10 "Judgment creditors", "Amount of judgment", "Where
11 recovered", "When recovered", "When transcript filed", and
12 "When judgment satisfied";

13 (17) an index of attachments labeled "Attachments",
14 with each page divided into six columns headed,
15 respectively: "Parties against whom attachments are issued",
16 "Parties issuing attachments", "Notices of attachments",
17 "When filed", and "When attachments discharged";

18 (18) an index of notices of the pendency of actions
19 labeled "Notices of actions", with each page divided into
20 three columns headed, respectively: "Parties to actions",
21 "Notices, when recorded", and "When filed";

22 (19) an index of certificates of sale of real estate
23 sold under execution or under orders made in any judicial
24 proceedings labeled "Certificates of sale", with each page
25 divided into four columns headed, respectively: "Plaintiff",

1 "Defendant", "Purchaser at sale", and "Date of sale";

2 {20} ~~an index of the individual property of married~~

3 ~~persons and sole trader judgments labeled "individual~~

4 ~~property of married persons and sole traders" with each~~

5 ~~page divided into five columns headed, respectively, "Names~~

6 ~~of married persons", "Names of their spouses", "Nature of~~

7 ~~instruments recorded", "When recorded", and "Where~~

8 ~~recorded"~~

9 {21}{20} an index to affidavits for annual work done on

10 mining claims labeled "Annual work on mining claims",

11 ~~showing the name with each page divided into four columns~~

12 ~~headed, respectively: "Name of the affiant", the name "Name~~

13 ~~of the claim", where "Where situated", and the year "Year~~

14 ~~when the work was done"~~;

15 {22}{21} an index of mining claims and declaratory

16 statements labeled "Notices of location of mining claims and

17 declaratory statements", with each page divided into four

18 columns headed, respectively: "Locators", "Name of claim",

19 "Notice, when filed", and "Where recorded";

20 {23}{22} an index to the register of births and deaths;

21 {24}{23} an index to notices and declarations of water

22 rights;

23 {25}{24} an index to the "estrays and lost property

24 book";

25 {26}{25} an index to the record of assignments for the

1 benefit of creditors, containing names of assignor and

2 assignee, date and where recorded, and inventory, when

3 filed;

4 {27}{26} an index to financing statements as provided

5 in Part 4 of the Uniform Commercial Code--Secured

6 Transactions;

7 {28}{27} an index to filed subdivision plats,

8 containing number of lots, number of acres, filing date, and

9 the location of the quarter section of each subdivision;

10 {29}{28} an index to the book of maps and plats, which

11 must contain the name of the proprietor of the town,

12 village, or addition platted and a general description of

13 the same;

14 {30}{29} a miscellaneous index, in which must be

15 indexed papers not hereinbefore stated."

16 Section 17. Section 7-4-2703, MCA, is amended to read:

17 "7-4-2703. Limitation on number of deputies. ~~The whole~~

18 ~~number of deputies allowed the county attorney must not~~

19 ~~exceed one chief deputy and one deputy in counties of the~~

20 ~~first and second classes and in all other counties, such~~

21 ~~deputies as may be allowed by the board of county~~

22 ~~commissioners not to exceed one chief deputy and one deputy.~~

23 In counties of the first and second class, the county

24 attorney may appoint one chief deputy and one deputy. In all

25 other counties, the county attorney may appoint a chief

1 ~~deputy or a deputy only with the approval of the board of~~
2 ~~county commissioners."~~

3 Section 18. Section 7-4-2714, MCA, is amended to read:

4 "7-4-2714. Recovery of illegally paid money. ~~{1}~~--~~if~~
5 ~~whenever~~ the board of county commissioners, without
6 authority of law, orders any money paid as a salary or fee
7 or for any other purpose and such money has been actually
8 paid or ~~if~~ ~~whenever~~ any other county officer has drawn any a
9 warrant or warrants in his own favor or in favor of any
10 other person without being authorized by the board or by law
11 and the same has been paid, the county attorney is empowered
12 and it is his duty to institute an action in the name of the
13 county against such person or persons to recover the money
14 so-paid and 25% damages for the use thereof. No order of the
15 board therefor is necessary to maintain such ~~this~~ suit. When
16 ~~whenever~~ the money has not been paid on such ~~the~~ order or
17 warrant, it is the duty of the county attorney, upon
18 receiving notice thereof, to commence an action in the name
19 of the county for restraining the payment of the same, and
20 no order of the board is necessary to maintain such ~~the~~
21 action.

22 ~~{2}--Whenever--any--board,--without--authority--of--law~~
23 ~~orders--any--money--paid--as--a--salary--or--fee--or--for--other~~
24 ~~purposes--and--such--money--has--been--actually--paid--or--whenever~~
25 ~~the--county--clerk--has--drawn--any--warrant--or--warrants--in--his~~

1 ~~own--favor--or--in--favor--of--any--other--person--without--being~~
2 ~~authorized--by--the--board--or--by--the--law--and--the--same--has--been~~
3 ~~paid--the--county--attorney--of--such--county--must--institute--an~~
4 ~~action--in--the--name--of--the--county--against--such--person--or~~
5 ~~persons--to--recover--the--money--so--paid--and--25%--damages--for--the~~
6 ~~use--thereof--No--order--of--the--board--therefor--is--necessary--in~~
7 ~~order--to--maintain--such--actions--When--the--money--has--not--been~~
8 ~~paid--on--such--order--it--is--the--duty--of--the--county--attorney--to~~
9 ~~commence--an--action--in--the--name--of--the--county--for--restraining~~
10 ~~the--payment--of--the--same,--and--no--order--of--the--board--therefor~~
11 ~~is--necessary--to--maintain--such--actions"~~

12 Section 19. Section 7-4-2803, MCA, is amended to read:

13 "7-4-2803. Situations involving use of other
14 surveyors. (1) When ~~whenever~~ the county surveyor is
15 interested in any land the title to which is in dispute and
16 a survey thereof is necessary, the court must direct the
17 survey to be made by some disinterested person. The person
18 so appointed is, for the purpose, authorized to administer
19 and certify oaths. He ~~must~~ shall return such ~~the~~ survey,
20 verified by his affidavit annexed thereto, and receive for
21 his services the same fees as the county surveyor would be
22 entitled to for similar services.

23 (2) ~~if~~ ~~whenever~~ the county surveyor neglects, refuses,
24 or is incompetent to perform the duties prescribed in former
25 ~~16-3311,--Revised--1947~~ this part, it ~~shall~~ is the duty of

the board of county commissioners to employ another competent civil engineer, who shall be subject to the laws governing the county surveyor."

Section 20. Section 7-4-2911, MCA, is amended to read:

"7-4-2911. Duties of county coroner. (1) The coroner must hold inquests as provided in Title 46, chapter 4, parts 1 and 2.

(2) In the cases specified in 25-3-205, the coroner must discharge the duties of sheriff. If acting as sheriff, the coroner is allowed the same fees as sheriff or constable for like services.

{3}--When a prisoner confined in the state prison dies, the coroner of the county wherein the state prison is located may hold an inquest as provided in Title 46, chapter 4, parts 1 and 2."

Section 21. Section 7-4-2912, MCA, is amended to read:

"7-4-2912. Coroner's register. It is the duty of the county coroner of each county to shall keep an official register, to be labeled "coroner's register", in which he must enter as provided in 46-4-207.

{1}--the date of holding of inquests;

{2}--the name of the deceased, when known, and such description of the deceased as may be sufficient for identification when not known;

{3}--property found on the person of the deceased, if

any;

{4}--what disposition of the same was made by the coroner;

{5}--the cause of death, when known; and

{6}--any other information which may pertain to the identity of the deceased."

Section 22. Section 7-4-2913, MCA, is amended to read:

"7-4-2913. Payment of costs of inquest. Whenever an inquest is held pursuant to 7-4-2911(3) because of the death of an individual confined in the state prison, the county clerk of the county where such the inquest is had held shall make out a statement of all the costs incurred by the county in such the inquest, properly certified by the coroner of said the county. This statement shall be sent to the department of institutions for approval, and after such approval, the department must cause the amount of such shall pay the costs to be paid out of the money appropriated for the support of the state prison to the county treasurer of the county where such the inquest was had held."

Section 23. Section 7-4-3006, MCA, is amended to read:

"7-4-3006. Limitation on number of deputy district court clerks. The whole number of deputies allowed the clerk of the district court must may not exceed one chief deputy and deputies to the number up to:

(1) six deputies in counties of the first and or

1 second classes class;

2 (2) four ~~deputies~~ in counties of the third and ~~or~~
3 fourth classes class having more than one district judge;

4 (3) two ~~deputies~~ in counties of the third and ~~or~~
5 fourth classes class having one district judge;

6 (4) one ~~deputy~~ in counties of the fifth, sixth, ~~or~~
7 seventh-and-eighth-classes class."

8 Section 24. Section 7-4-4105, MCA, is amended to read:

9 "7-4-4105. Authority to abolish appointive municipal
10 offices. ~~{1} The city or town council has the power to~~ ~~may~~
11 ~~abolish, by a majority vote of the council, any office the~~
12 ~~appointment to which is made by the mayor with the advice~~
13 ~~and consent of the council and~~ ~~may~~ discharge any officer so
14 appointed.

15 ~~{2}--No--office--created--under--this--title--must--be~~
16 ~~abolished-by-the-council."~~

17 Section 25. Section 7-4-4114, MCA, is amended to read:

18 "7-4-4114. Municipal executive officers. (1) The
19 executive officers of a city or town are the mayor, the
20 marshal ~~(if there is one)~~, and such officers as the council
21 may provide for assessment; collection ~~collecting~~;
22 auditing, safekeeping, and disbursing the revenue; and
23 keeping the records and journals of the city or town.

24 (2) The mayor is the chief executive officer of the
25 city or town."

1 Section 26. Section 7-4-4201, MCA, is amended to read:

2 "7-4-4201. Salary of officers. (1) The council must by
3 ordinance fix the salaries and compensation of the city
4 officers, policemen, and other employees, which must ~~may~~ not
5 exceed the amount ~~amounts~~ specified in this code.

6 (2) The salary and compensation of an officer must ~~may~~
7 not be increased or diminished during his term of office.

8 ~~{3}--The-maximum-annual-salary-of-a-mayor-must-be-fixed~~
9 ~~by-ordinance-in-all-classes-of-cities"~~

10 ~~{4}--The--annual--salary--and--compensation--of--the~~
11 ~~treasurer--must--be--fixed--by-ordinance-and-must-be-for-all~~
12 ~~services-rendered-by-such-treasurer-in-any-capacity"~~

13 ~~{5}--The-annual-salary-and-compensation-of-the-city~~
14 ~~attorney-must-be-fixed-by-ordinance"~~

15 ~~{6}--The--annual--salary--and--compensation-of-the-city~~
16 ~~clerk-must-be-fixed-by-ordinance"~~

17 ~~{7}--The-compensation-of-the-street-commissioner,--chief~~
18 ~~of-the--fire-department,--city--surveyor,--and--other--city~~
19 ~~officers--not--provided--in--this--code--may-be-prescribed-by~~
20 ~~ordinance"~~

21 Section 27. Section 7-4-4301, MCA, is amended to read:

22 "7-4-4301. Qualifications for mayor. (1) No person
23 ~~shall--be~~ is eligible to ~~for~~ the office of mayor unless he
24 ~~shall-be~~:

25 (a) at least 21 years old-and-a--taxpaying--freeholder

1 within-the-limits-of-the-city-or-town;

2 (b) a resident of the state for at least 3 years; and

3 (c) a resident for at least 2 years preceding the
4 election to office of the city or town or an area which has
5 been annexed by the city or town ~~for which he may be elected~~
6 ~~mayor 2 years preceding his election to said office.~~

7 (2) ~~A person elected mayor shall reside in the city or~~
8 ~~town for which he shall be elected mayor during his term of~~
9 ~~office. The office of mayor of a city or town is considered~~
10 ~~vacant if the individual elected as mayor ceases to be a~~
11 ~~resident of the city or town."~~

12 Section 28. Section 7-4-4401, MCA, is amended to read:

13 "7-4-4401. Qualifications for alderman. No person
14 shall be ~~is~~ eligible to ~~for~~ the office of alderman unless he
15 shall be ~~is~~

16 ~~{1}--a-taxpaying-freeholder--within--the--limits--of--a~~
17 ~~city--and~~

18 ~~{2} a resident for at least 60 days preceding the~~
19 ~~election to office~~ of the ward so electing him or a resident
20 of an area which has been annexed by the city or town and
21 placed in a ~~the ward, for at least 60 days preceding such~~
22 ~~election."~~

23 Section 29. Section 7-4-4402, MCA, is amended to read:

24 "7-4-4402. Term of office. (1) Except as provided in
25 subsection (2), each ~~an~~ alderman elected shall hold office

1 for a term of 4 years and until the qualification of his
2 successor.

3 (2) At the first annual election held after the
4 organization of a city or town under this title, the
5 electors of such ~~the~~ city or town must elect two aldermen
6 from each ward, who must, at the first meeting of the
7 council, decide by lot their terms of office, with one from
8 each ward to hold for a term of 2 $\frac{1}{2}$ years and one, for the a
9 term of 1-year 2 years and until the qualification of their
10 successors. In the next succeeding election and thereafter,
11 one alderman from each ward will be elected for a 4-year
12 term."

13 Section 30. Repealer. Sections 16-2616, 16-3105, and
14 25-603, R.C.M. 1947, are repealed.

-End-

SENATE BILL NO. 335

INTRODUCED BY LOCKREM

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 LOCAL GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105, AND 25-603, R.C.M. 1947."

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

Section 1. Section 7-4-2203, MCA, is amended to read:

"7-4-2203. County officers. (1) There may be elected or appointed in each county the following county officers, who shall possess the qualifications for suffrage prescribed by the Montana constitution and such other qualifications as may be prescribed by law:

(a) one county attorney;

(b) one clerk of the district court;

(c) one county clerk;

(d) one sheriff;

(e) one treasurer;

(f) one auditor if authorized by 7-6-2401;

~~(f)(1)~~ one county superintendent of schools;

~~(g)(1)~~ one county surveyor;

~~(h)(1)~~ one assessor;

~~(i)(1)~~ one coroner;

~~(j)(1)~~ one public administrator; and

~~(k)(1)~~ at least one justice of the peace.

(2) The commissioners may appoint at their discretion constables. Not more than one constable may be appointed for each justice-of-the-peace JUSTICE'S court.

(3) ~~County--auditors--and--at~~ All elective township officers may be elected at each general election as now provided by law."

Section 2. Section 7-4-2209, MCA, is amended to read:

"7-4-2209. Authority to administer oaths. Every officer mentioned in ~~former 16-2403, R.C.M. 1947, and every~~ justice-of-the-peace ~~7-4-2203(1)~~ may administer and certify oaths."

Section 3. Section 7-4-2213, MCA, is amended to read:

"7-4-2213. Inspection of official bonds. (1) At the a regular quarterly--meetings--of--all--boards ~~meeting of the~~ board of county commissioners in this--state in March and September of each year, every ~~the~~ board of county commissioners shall carefully examine all official bonds of all county and township officials of--its--county then in force and effect and investigate the qualifications and financial condition and liability of all sureties thereon and their sufficiency.

(2) If it appears to the satisfaction of any-such ~~the~~

board or a majority of the members thereof that any surety upon any such bond ~~within-and-for-its-county~~ has, since the approval and acceptance of such bond, died or withdrawn therefrom; ~~or-removed-from~~ left the state; or disposed of all of his property in this state; or become insane ~~mentally ill~~, insolvent, financially embarrassed, or not good and responsible for the amount of his liability thereon, such ~~the~~ board shall immediately cause the clerk of ~~said the~~ board to notify in writing the judge of the district court of that district of its action and conclusion and all facts in connection therewith and the reasons thereof.

(3) ~~Said the~~ judge shall forthwith take cognizance thereof and investigate such matter and take steps, by order to show cause or other order, citation, step, or action, as may be necessary to make such bond good and sufficient according to the requirements of law ~~in-the-premises~~ and ample security for the amount thereof."

Section 4. Section 7-4-2301, MCA, is amended to read:

"7-4-2301. Authorization to consolidate county offices. (1) Except as provided in subsection (2), the board of county commissioners of any county may in its discretion consolidate any two or more of the offices named in 7-4-2203 and combine the powers and the duties of the consolidated offices.

(2) The office of the justice of the peace may not be

combined or consolidated with any other office other than another justice of the peace office.

~~{3}--The-provisions-hereof-shall-not--be--construed--as allowing-one-office-incumbent-to-be-entitled-to-the-salaries and-emoluments-of-two-or-more-offices--"~~

Section 5. Section 7-4-2306, MCA, is amended to read:

"7-4-2306. Processing of petition -- resolution of intent and hearing. (1) Upon the filing of any-such a petition for consolidation, the board or boards of county commissioners shall cause the county clerk or clerks to forthwith examine the same petition and the registration records of the county or counties.

(2) If after such examination such ~~the~~ county clerk or clerks ~~shall~~ report to ~~said the~~ board or boards of county commissioners that such ~~the~~ petition or-petitions--have ~~has~~ been signed by not less than 15% of the qualified electors of the county whose names appear on such ~~the~~ registration records, ~~said the~~ board or boards shall set a date for a hearing and pass a resolution of intent to consider ~~said the~~ consolidation. Upon the passage of the resolution of intent by the board or boards, proper notice ~~and-a-date~~ shall be set given for a ~~the~~ hearing-to-consider-said--consolidation. The date for the hearing ~~shall-be~~ may not ~~be~~ more than 20 days after the filing of such ~~the~~ petition or the passage of the resolution of intent."

Section 6. Section 7-4-2310, MCA, is amended to read:

"7-4-2310. Order for consolidation of offices. (1) In consolidating county offices, the board of county commissioners shall, 6 months prior to the general election held for the purpose of electing ~~the~~ ~~aforsaid~~ ~~officers~~ filling the offices to be consolidated or 6 months prior to the appointment of ~~the~~ ~~aforsaid~~ ~~officers~~ to the offices to be consolidated, make and enter an order combining any two or more of the within-named offices.

(2) Whenever ~~a board or boards~~ ~~shall~~ ~~make~~ an order consolidating two or more offices is made, such ~~the~~ order shall be entered in full on ~~its~~ the board's minutes of proceedings.

(3) ~~that~~ ~~such~~ The order shall be published in a newspaper of general circulation, printed and published in the county or counties affected, for a period of 2 successive weeks following the date of the making and entry entering of such ~~the~~ order.

~~that the board shall cause the order to be published in a newspaper published and circulated generally in said county for a period of 6 weeks following the date of entry of said order.~~

Section 7. Section 7-4-2313, MCA, is amended to read:

"7-4-2313. Deputies and personnel for consolidated offices. (1) Where ~~whenever~~ county offices are consolidated

~~as hereinbefore described~~, the officers officer of the consolidated ~~officers~~ ~~shall~~ ~~have any deputies they office~~ may appoint ~~who shall be as many deputies as are~~ approved by the board or boards of county commissioners.

(2) The board or boards shall determine the number of deputies, stenographers, and clerks the officers may appoint."

Section 8. Section 7-4-2501, MCA, is amended to read:

"7-4-2501. Compensation of county officers. (1) The county surveyor if not receiving a salary under 7-4-2812, the county coroner if not receiving a salary under 7-4-2922, and the public administrator, ~~justice of the peace, and constable~~ may collect and receive for their own use, respectively, for official services, the fees and emoluments prescribed ~~in this chapter~~ by law.

(2) All other county officers receive salaries."

Section 9. Section 7-4-2502, MCA, is amended to read:

"7-4-2502. Payment of salaries of county officials and assistants. (1) ~~that~~ Except as provided in subsection (2), the salaries of the several county officers and their assistants must be paid monthly out of the general fund of the county and upon the order of the board of county commissioners.

~~that salaries must be allowed and paid monthly upon the order of the board and paid out of the contingent funds~~

(2) (a) The salary of the county attorney is payable monthly, with one-half from the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor.

(b) The county commissioners of each county shall, within 30 days after the election or appointment to fill a vacancy for any cause in the office of any county attorney, certify such ~~the~~ election or appointment to the state auditor, who shall thereafter draw warrants for such salary in the same manner as for state officers. In case of a vacancy, the county commissioners shall immediately notify the state auditor, and the auditor shall compute the salary due on the basis of said ~~the~~ notification.

(3) The board has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to fix the compensation of all county officers not otherwise fixed ~~in--this--code--or~~ by general or special law and to provide for the payment of the same."

Section 10. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution. The county commissioners shall by resolution, on or before July 1 of each year, fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and county attorney; and the clerk of the district court; the county auditor if there is one; the

county surveyor if he receives a salary; and the county coroner if he receives a salary for the following fiscal year in conformity with the appropriate statutory salary schedule pertaining to each office. The salary schedule used for each office shall be the statutory schedule in effect on the first day of the following fiscal year."

Section 11. Section 7-4-2511, MCA, is amended to read:

7-4-2511. Collection and disposal of fees. (1) ~~Each~~ Each ~~salaried officers county officer~~ salaried county officer of--the--several ~~counties~~ must charge and collect for the use of their ~~respective--counties~~ his county and pay into the county treasury on the first Monday in each month all the fees now or hereafter allowed by law, paid or chargeable in all cases, except as provided in 25-10-403. Nothing in this subsection ~~shall---be---held---to---apply~~ applies to the compensation received by the sheriff as mileage while in the performance of official duties or for the board of prisoners or other persons while in his custody.

(2) ~~No salaried county officer shall~~ may receive for his own use any fees, penalties, or emoluments of any kind, except the salary as provided by law, for any official service rendered by him; ~~but unless otherwise provided,~~ all fees, penalties, and emoluments of every kind ~~must be~~ collected by him a salaried county officer ~~are~~ for the sole use of the county and must be accounted for and paid to the

paid to the county treasurer as provided by subsection (1) and shall be credited to the general fund of the county.

~~{3}--Every officer who fails or refuses to pay any fees collected by him to the county treasurer or fails to collect the same as provided by [this chapter] is guilty of a felony.~~

Section 12. Section 7-4-2512, MCA, is amended to read:

"7-4-2512. Statement and affidavit of fees collected.

(1) The fees and compensation collected and chargeable for the use of the county in each month must be paid to the county treasurer on the first Monday of the following month and must be accompanied by a statement and copy of the fee book for the preceding month, duly verified by the officer making such the payment.

(2) The affidavit must be in the following form:

State of Montana

County of

I,, of the county of, do swear that the fee book in my office contains a true statement in detail of all fees and compensations of every kind and nature for official services rendered by me, paid or chargeable, or by my deputies or assistants for the month of, A.D. 19.., and that said this fee book shows the full amount received by chargeable in said month and since my last monthly payment; and neither myself nor, to my knowledge or belief, any of my

deputies or assistants have rendered any official service, except for the county or state, which is not fully set out in said this fee book; and that the foregoing statement is a full, true, and correct copy thereof.

.....(Signature)

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

Seal(Person authorized to take oaths)

.....(Title or notarial information)

~~{3}--Every officer who makes a false report of the fees received by him is guilty of a felony.~~

Section 13. Section 7-4-2519, MCA, is amended to read:

"7-4-2519. Prohibition upon receiving other fees. (1)

The officers named above must may receive no other fees for any services performed by them in any action or proceeding or for the performance of any service for which fees are allowed, and

~~{2}--In case of any violation of the provisions of [this chapter], the party demanding or receiving any fees not herein allowed is liable to refund the same to the party aggrieved, with treble the amounts amount as damages, besides costs in addition to the cost of suit.~~

Section 14. Section 7-4-2613, MCA, is amended to read:

"7-4-2613. Documents subject to recording. The county clerk must, upon payment of his fees for the same, record,

1 photograph, or correctly copy, separately, in large and
2 well-bound or to be bound separate books, either in a fair
3 hand or by printing, typewriting, or photographic process or
4 by the use of prepared blank forms:

5 (1) deeds, grants, transfers, certified copies of
6 final judgments or decrees partitioning or affecting the
7 title or possession of real property any part of which is
8 situated in the county, contracts to sell or convey real
9 estate and mortgages of real estate, releases of mortgages,
10 powers of attorney to convey real estate, leases which have
11 been acknowledged or proved, and abstracts of such
12 instruments which have been acknowledged or proved;

13 (2) certificates of births and deaths;

14 (3) wills devising real estate admitted to probate;

15 (4) official bonds;

16 (5) transcripts of judgments which by law are made
17 liens upon real estate;

18 ~~{6}--instruments--describing--or--relating--to--the~~
19 ~~individual--property--of--married--persons--and--sole-trader~~
20 ~~judgments;~~

21 {6} INSTRUMENTS DESCRIBING OR RELATING TO THE
22 INDIVIDUAL PROPERTY OF MARRIED PERSONS;

23 ~~{7}{16}{17}~~ all orders and decrees made by the district
24 court in probate matters affecting real estate and which are
25 required to be recorded;

1 ~~{8}{17}{18}~~ notice of preemption claims;
2 ~~{9}{18}{19}~~ notice and declaration of water rights;
3 ~~{10}{19}{20}~~ assignments for the benefit of creditors;
4 ~~{11}{20}{21}~~ affidavits of annual work done on mining
5 claims;
6 ~~{12}{21}{22}~~ notices of mining locations and
7 declaratory statements;
8 ~~{13}{22}{23}~~ estrays and lost property;
9 ~~{14}{23}{24}~~ a book containing appraisal of state
10 lands;
11 ~~{15}{24}{25}~~ such other writings as are required or
12 permitted by law to be recorded."

13 Section 15. Section 7-4-2615, MCA, is amended to read:
14 "7-4-2615. Records of water users' associations. In
15 each county where water users' associations, organized in
16 conformity with the federal reclamation laws of the United
17 States ~~under the Reclamation Act~~ have organized or wherein
18 ~~such associations shall hereafter organize~~ exist, the county
19 commissioners are required to furnish the county recorder
20 with books for the proper recording of stock subscriptions,
21 and contracts, articles of incorporation, and stock
22 certificates of such companies associations, books ~~to~~
23 ~~conform to such articles of incorporation~~ stock
24 ~~certificates and contracts as are used by the secretary of~~
25 ~~such water users' associations~~ containing printed blank

1 forms of such ~~the~~ stock subscriptions, and contracts,
 2 articles of incorporation, and stock certificates, in
 3 accordance-with-the-laws-of-the-United--States--and--of--the
 4 state--of--Montana; such ~~the~~ forms are to be prepared by the
 5 attorney general and used by the county recorder for the
 6 recording of all such stock subscriptions, contracts,
 7 articles of incorporation, and stock certificates."

8 Section 16. Section 7-4-2619, MCA, is amended to read:
 9 "7-4-2619. Indexes to recorded documents. Every county
 10 clerk, as ex officio recorder, must keep:

11 (1) an index of deeds, grants, and transfers, and
 12 contracts to sell or convey real estate labeled "Grantors",
 13 with each page divided into four columns headed,
 14 respectively: "Names of grantors", "Names of grantees",
 15 "Date of deeds, grants, transfers, or contracts", and "Where
 16 recorded";

17 (2) an index of deeds labeled "Grantees", with each
 18 page divided into four columns headed, respectively: "Names
 19 of grantees", "Names of grantors", "Date of deeds, grants,
 20 transfers, or contracts", and "Where recorded";

21 (3) an index of mortgages labeled "Mortgages of real
 22 property", with the-pages-thereof each page divided into six
 23 columns headed, respectively: "Names of mortgagors", "Names
 24 of mortgagees", "Dates of mortgages", "Where recorded",
 25 "When filed", and "When canceled";

1 (4) an index of mortgages labeled "Mortgages of real
 2 property", with the-pages-thereof each page divided into six
 3 columns headed, respectively: "Names of mortgagees", "Names
 4 of mortgagors", "Date of mortgage", "Where recorded", "When
 5 filed", and "When canceled";

6 (5) an index of mortgages labeled "Releases of
 7 mortgages of real property--Mortgagees", with the--pages
 8 thereof each page divided into six columns headed,
 9 respectively: "Parties whose mortgages are released",
 10 "Parties releasing", "Date of release", "Where recorded",
 11 "Dates of mortgages released", and "Where mortgages released
 12 are recorded";

13 (6) an index of powers of attorney labeled "Powers of
 14 attorney", with each page divided into five columns headed,
 15 respectively: "Names of parties executing powers", "To whom
 16 powers are executed", "Date of powers", "Date of recording",
 17 and "To whom powers are executed";

18 (7) an index of leases labeled "Leases", with each
 19 page divided into four columns headed, respectively: "Names
 20 of lessors", "Names of lessees", "Date of leases", and "Where
 21 and where recorded";

22 (8) an index of leases labeled "Lessees", with each
 23 page divided into four columns headed, respectively: "Names
 24 of lessees", "Names of lessors", "Date of leases", and "When
 25 and where recorded";

1 (9) an index of marriage certificates labeled
2 "Marriage certificate--Men", with each page divided into six
3 columns headed, respectively: "Men married", "To whom
4 married", "When married", "By whom married", "Where
5 married", and "Where certificates are recorded";

6 (10) an index of marriage certificates labeled
7 "Marriage certificates--Women", with each page divided into
8 six columns headed, respectively: "Women married" (and under
9 this head placing the family names of the women), "To whom
10 married", "When married", "By whom married", "Where
11 married", and "Where certificates are recorded";

12 (11) an index of assignments of mortgages and leases
13 labeled "Assignments of mortgages and leases--Assignors",
14 with each page divided into five columns headed,
15 respectively: "Assignors", "Assignees", "Instruments
16 assigned", "Date of assignment", and "When and where
17 recorded";

18 (12) an index of assignments of mortgages and leases
19 labeled "Assignments of mortgages and leases--Assignees",
20 with each page divided into five columns headed,
21 respectively: "Assignees", "Assignors", "Instruments", "Date
22 of assignment", and "When and where recorded";

23 (13) an index of wills labeled "Wills", with each page
24 divided into four columns headed, respectively: "Names of
25 testators", "Date of will", "Date of probate", and "When and

1 where recorded";

2 (14) an index of official bonds labeled "Official
3 bonds", with each page divided into five columns headed,
4 respectively: "Names of officers", "Names of offices", "Date
5 of bond", "Amount of bond", and "When and where recorded";

6 (15) an index of notices of mechanics' liens labeled
7 "Mechanics' liens", with each page divided into three
8 columns headed, respectively: "Parties claiming liens",
9 "Against whom claimed", and "Notices, when filed";

10 (16) an index to transcripts of judgments labeled
11 "Transcripts of judgments", with each page divided into
12 seven columns headed, respectively: "Judgment debtors",
13 "Judgment creditors", "Amount of judgment", "Where
14 recovered", "When recovered", "When transcript filed", and
15 "When judgment satisfied";

16 (17) an index of attachments labeled "Attachments",
17 with each page divided into six columns headed,
18 respectively: "Parties against whom attachments are issued",
19 "Parties issuing attachments", "Notices of attachments",
20 "When filed", and "When attachments discharged";

21 (18) an index of notices of the pendency of actions
22 labeled "Notices of actions", with each page divided into
23 three columns headed, respectively: "Parties to actions",
24 "Notices, when recorded", and "When filed";

25 (19) an index of certificates of sale of real estate

1 sold under execution or under orders made in any judicial
 2 proceedings labeled "Certificates of sale", with each page
 3 divided into four columns headed, respectively: "Plaintiff",
 4 "Defendant", "Purchaser at sale", and "Date of sale";

5 ~~(20) an index of the individual property of married~~
 6 ~~persons--and--sole--trader--judgments--labeled--"individual~~
 7 ~~property-of-married-persons-and--sole--traders"--with--each~~
 8 ~~page--divided--into--five--columns--headed--respectively--"Names~~
 9 ~~of-married-persons"--"Names-of-their--spouses"--"Nature--of~~
 10 ~~instruments---recorded"--"When---recorded"--and---"Where~~
 11 ~~recorded"~~

12 (20) AN INDEX OF THE INDIVIDUAL PROPERTY OF MARRIED
 13 PERSONS LABELED "INDIVIDUAL PROPERTY OF MARRIED PERSONS",
 14 WITH EACH PAGE DIVIDED INTO FIVE COLUMNS HEADED,
 15 RESPECTIVELY: "NAMES OF MARRIED PERSONS", "NAMES OF THEIR
 16 SPOUSES", "NATURE OF INSTRUMENTS RECORDED", "WHEN RECORDED",
 17 AND "WHERE RECORDED";

18 ~~(21)(20)(21)~~ an index to affidavits for annual work done
 19 on mining claims labeled "Annual work on mining claims",
 20 showing--the--name with each page divided into four columns
 21 headed, respectively: "Name of the affiant", the name "Name
 22 of the claim", where "Where situated", and the year "Year
 23 when the work was done";

24 ~~(22)(21)(22)~~ an index of mining claims and declaratory
 25 statements labeled "Notices of location of mining claims and

1 declaratory statements", with each page divided into four
 2 columns headed, respectively: "Locators", "Name of claim",
 3 "Notice, when filed", and "Where recorded";

4 ~~(23)(22)(23)~~ an index to the register of births and
 5 deaths;

6 ~~(24)(23)(24)~~ an index to notices and declarations of
 7 water rights;

8 ~~(25)(24)(25)~~ an index to the "estrays and lost property
 9 book";

10 ~~(26)(25)(26)~~ an index to the record of assignments for
 11 the benefit of creditors, containing names of assignor and
 12 assignee, date and where recorded, and inventory, when
 13 filed;

14 ~~(27)(26)(27)~~ an index to financing statements as
 15 provided in Part 4 of the Uniform Commercial Code--Secured
 16 Transactions;

17 ~~(28)(27)(28)~~ an index to filed subdivision plats,
 18 containing number of lots, number of acres, filing date, and
 19 the location of the quarter section of each subdivision;

20 ~~(29)(28)(29)~~ an index to the book of maps and plats,
 21 which must contain the name of the proprietor of the town,
 22 village, or addition platted and a general description of
 23 the same;

24 ~~(30)(29)(30)~~ a miscellaneous index, in which must be
 25 indexed papers not hereinbefore stated."

Section 17. Section 7-4-2703, MCA, is amended to read:

"7-4-2703. Limitation on number of deputies. The whole number of deputies allowed the county attorney must not exceed one chief deputy and one deputy in counties of the first and second classes and in all other counties such deputies as may be allowed by the board of county commissioners not to exceed one chief deputy and one deputy. In counties of the first and second class, the county attorney may appoint one chief deputy and one deputy. In all other counties, the county attorney may appoint a chief deputy or a deputy only with the approval of the board of county commissioners."

Section 18. Section 7-4-2714, MCA, is amended to read:

"7-4-2714. Recovery of illegally paid money. (1) If ~~Whenever~~ the board of county commissioners, without authority of law, orders any money paid as a salary or fee or for any other purpose and such money has been actually paid or if ~~whenever~~ any other county officer has drawn any a warrant or warrants in his own favor or in favor of any other person without being authorized by the board or by law and the same has been paid, the county attorney is empowered and it is his duty to institute an action in the name of the county against such person or persons to recover the money so paid and 25% damages for the use thereof. No order of the board therefor is necessary to maintain such ~~this~~ suit. When

Whenever the money has not been paid on such an order or warrant, it is the duty of the county attorney, upon receiving notice thereof, to commence an action in the name of the county for restraining the payment of the same, and no order of the board is necessary to maintain such the action.

(2) ~~Whenever any board, without authority of law, orders any money paid as a salary or fee or for other purposes and such money has been actually paid or whenever the county clerk has drawn any warrant or warrants in his own favor or in favor of any other person without being authorized by the board or by the law and the same has been paid, the county attorney of such county must institute an action in the name of the county against such person or persons to recover the money so paid and 25% damages for the use thereof. No order of the board therefor is necessary in order to maintain such actions. When the money has not been paid on such orders, it is the duty of the county attorney to commence an action in the name of the county for restraining the payment of the same and no order of the board therefor is necessary to maintain such actions.~~

Section 19. Section 7-4-2803, MCA, is amended to read:

"7-4-2803. Situations involving use of other surveyors. (1) When ~~Whenever~~ the county surveyor is interested in any land the title to which is in dispute and

a survey thereof is necessary, the court must direct the survey to be made by some disinterested person. The person so appointed is, for the purpose, authorized to administer and certify oaths. He must ~~shall~~ return such ~~the~~ survey, verified by his affidavit annexed thereto, and receive for his services the same fees as the county surveyor would be entitled to for similar services.

(2) If ~~Whenever~~ the county surveyor neglects, refuses, or is incompetent to perform the duties prescribed in former ~~16-3311, Re En. 1947 this part,~~ it shall be ~~is~~ the duty of the board of county commissioners to employ another competent civil engineer, who shall be subject to the ~~few~~ laws governing the county surveyor."

Section 20. Section 7-4-2911, MCA, is amended to read:

"7-4-2911. Duties of county coroner. (1) The coroner must hold inquests as provided in Title 46, chapter 4, parts 1 and 2.

(2) In the cases specified in 25-3-205, the coroner must discharge the duties of sheriff. If acting as sheriff, the coroner is allowed the same fees as sheriff or constable for like services.

~~(3) When a prisoner confined in the state prison dies, the coroner of the county wherein the state prison is located may hold an inquest as provided in Title 46, chapter 4, parts 1 and 2."~~

Section 21. Section 7-4-2912, MCA, is amended to read:

"7-4-2912. Coroner's register. ~~It is the duty of the~~ ~~The county~~ coroner of each county to ~~shall~~ keep an official register, to be labeled "coroner's register", in which he ~~must enter, as provided in 46-4-207,~~

~~(1) the date of holding all inquests;~~

~~(2) the name of the deceased, when known, and such description of the deceased as may be sufficient for identification when not known;~~

~~(3) property found on the person of the deceased, if any;~~

~~(4) what disposition of the same was made by the coroner;~~

~~(5) the cause of death, when known; and~~

~~(6) any other information which may pertain to the identity of the deceased."~~

Section 22. Section 7-4-2913, MCA, is amended to read:

"7-4-2913. Payment of costs of inquest. Whenever an inquest is held pursuant to 7-4-2911(3) ~~because of the death of an individual confined in the state prison,~~ the county clerk of the county where such ~~the~~ inquest is had ~~held~~ shall make out a statement of all the costs incurred by the county in such ~~the~~ inquest, properly certified by the coroner of said ~~the~~ county. This statement shall be sent to the department of institutions for approval, and after such

1 approval, the department ~~must cause the amount of such~~ shall
2 ~~pay the~~ costs to be paid out of the money appropriated for
3 the support of the state prison to the county treasurer of
4 the county where such ~~the~~ inquest was had held."

5 Section 23. Section 7-4-3006, MCA, is amended to read:

6 "7-4-3006. Limitation on number of deputy district
7 court clerks. The whole number of deputies allowed the clerk
8 of the district court ~~must~~ may not exceed one chief deputy
9 and ~~deputies to the number up to:~~

10 (1) six ~~deputies~~ in counties of the first and ~~or~~
11 second ~~classes class;~~

12 (2) four ~~deputies~~ in counties of the third and ~~or~~
13 fourth ~~classes class~~ having more than one district judge;

14 (3) two ~~deputies~~ in counties of the third and ~~or~~
15 fourth ~~classes class~~ having one district judge;

16 (4) one ~~deputy~~ in counties of the fifth, sixth, ~~or~~
17 seventh, and eighth ~~classes class.~~"

18 Section 24. Section 7-4-4105, MCA, is amended to read:

19 "7-4-4105. Authority to abolish appointive municipal
20 offices. (1) The city or town council ~~has the power to~~ may
21 abolish, by a majority vote of the council, any office the
22 appointment to which is made by the mayor with the advice
23 and consent of the council and ~~may~~ discharge any officer so
24 appointed.

25 (2) ~~No office created under this title must be~~

1 ~~abolished by the council.~~"

2 Section 25. Section 7-4-4114, MCA, is amended to read:

3 "7-4-4114. Municipal executive officers. (1) The
4 executive officers of a city or town are the mayor, the
5 marshal ~~(if there is one)~~, and such officers as the council
6 may provide for assessment; collection collecting;
7 auditing, safekeeping, and disbursing the revenue; and
8 keeping the records and journals of the city or town.

9 (2) The mayor is the chief executive officer of the
10 city or town."

11 Section 26. Section 7-4-4201, MCA, is amended to read:

12 "7-4-4201. Salary of officers. (1) The council must by
13 ordinance fix the salaries and compensation of the city
14 officers, policemen, and other employees, which ~~must~~ may not
15 exceed the amount ~~amounts~~ specified in this code.

16 (2) The salary and compensation of an officer ~~must~~ may
17 not be increased or diminished during his term of office.

18 (3) ~~The maximum annual salary of a mayor must be fixed~~
19 ~~by ordinance in all classes of cities~~

20 (4) ~~The annual salary and compensation of the~~
21 ~~treasurer must be fixed by ordinance and must be for all~~
22 ~~services rendered by such treasurer in any capacity~~

23 (5) ~~The annual salary and compensation of the city~~
24 ~~attorney must be fixed by ordinance~~

25 (6) ~~The annual salary and compensation of the city~~

clerk-must-be-fixed-by-ordinances

~~(7) The compensation of the street commissioner, chief of the fire department, city surveyor, and other city officers not provided in this code may be prescribed by ordinances.~~

Section 27. Section 7-4-4301, MCA, is amended to read:

"7-4-4301. Qualifications for mayor. (1) No person shall be is eligible to for the office of mayor unless he shall be:

(a) at least 21 years old-and-a-taxpaying-freeholder within-the-limits-of-the-city-or-town;

(b) a resident of the state for at least 3 years; and

(c) a resident for at least 2 years preceding the election to office of the city or town or an area which has been annexed by the city or town ~~for which he may be elected~~ mayor-2-years-preceding-his-election-to-said-office.

(2) ~~A person elected mayor shall reside in the city or town--for which he shall be elected mayor during his term of office. The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases to be a resident of the city or town.~~

Section 28. Section 7-4-4401, MCA, is amended to read:

"7-4-4401. Qualifications for alderman. No person shall be is eligible to for the office of alderman unless he shall be: is

~~(1) a taxpaying freeholder within the limits of a city; and~~

~~(2) a resident for at least 60 days preceding the election to office~~ of the ward so electing him or a resident of an area which has been annexed by the city or town and placed in a the ward, ~~for at least 60 days preceding such election.~~

Section 29. Section 7-4-4402, MCA, is amended to read:

"7-4-4402. Term of office. (1) Except as provided in subsection (2), each an alderman elected shall hold office for a term of 4 years and until the qualification of his successor.

(2) At the first annual election held after the organization of a city or town under this title, the electors of such the city or town must elect two aldermen from each ward, who must, at the first meeting of the council, decide by lot their terms of office, with one from each ward to hold for a term of 2 1/2 years and one, for the a term of 1-year 2 years and until the qualification of their successors. In the next succeeding election and thereafter, one alderman from each ward will be elected for a 4-year term."

Section 30. Repealer. Sections 16-261, 16-3105, and 25-603, R.C.M. 1947, are repealed.

-End-