

SENATE BILL NO. 503

INTRODUCED BY LOCKREM, WATT

IN THE SENATE

February 13, 1979	Introduced and referred to Committee on Local Government.
February 17, 1979	Committee recommend bill do pass as amended. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 23, 1979	Introduced and referred to Committee on Local Government.
March 15, 1979	Committee recommend bill be concurred in. Report adopted.
March 16, 1979	Second reading, concurred in.
March 20, 1979	Third reading, concurred in.

IN THE SENATE

March 21, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Senate* BILL NO. *503*
 2 INTRODUCED BY *LOCKREM Watt*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH GENERAL
 5 PROVISIONS AND DEFINITIONS COMMON TO ALL FORMS OF MUNICIPAL
 6 GOVERNMENT WITH GENERAL POWERS; TO OUTLINE GENERAL POWERS;
 7 AND TO ESTABLISH BASIC REQUIREMENTS FOR PUBLIC MEETINGS,
 8 RECORDS, AND REPORTS; REPEALING SECTIONS 7-1-4103 AND
 9 7-1-4104, MCA."

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

12 Section 1. General definitions. As used in [sections 1
 13 through 29], unless otherwise provided, the following
 14 definitions apply:

15 (1) "Charter" means a written document defining the
 16 powers, structure, privileges, rights, and duties of the
 17 government and limitations thereon.

18 (2) "Chief executive" means the elected executive in a
 19 government adopting the commission-executive form, the
 20 manager in a government adopting the commission-manager
 21 form, the chairman in a government adopting the
 22 commission-chairman form, the town chairman in a government
 23 adopting the town meeting form, the commission acting as a
 24 body in a government adopting the commission form, or the
 25 officer or officers so designated in the charter in a

1 government adopting a charter.

2 (3) "Elector" means a resident of the municipality
 3 qualified and registered to vote under state law.

4 (4) "Employee" means a person other than an officer
 5 who is employed by a municipality.

6 (5) "Executive branch" means that part of the
 7 municipality, including departments, offices, and boards,
 8 charged with implementing actions approved and administering
 9 policies adopted by the governing body of the local
 10 government or performing the duties required by law.

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 18 of Montana and approved and signed by the governor or a
 19 statute adopted by the people of Montana through statutory
 20 initiative procedures.

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 22 as a city or town.

23 (10) "Office of the municipality" means the permanent
 24 location of the seat of government from which the records
 25 administrator, or the office of the clerk of the governing

1 body where one is appointed, carries out his duties.

2 (11) "Officer" means a person holding a position with a
3 municipality which is ordinarily filled by election or, in
4 those municipalities with a manager, the manager.

5 (12) "Ordinance" means an act adopted and approved by a
6 municipality, having effect only within the jurisdiction of
7 the local government.

8 (13) "Person" means any individual, firm, partnership,
9 company, corporation, trust, trustee, assignee or other
10 representative, association, or other organized group.

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12 by a governing body that documents the basic form of
13 government selected, including all applicable suboptions.
14 The plan must establish the terms of all officers and the
15 number of commissioners, if any, to be elected.

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17 government, authority, school district, or multicounty
18 agency.

19 (16) "Population" means the number of inhabitants as
20 determined by an official federal, state, or local census or
21 official population estimate approved by the department of
22 community affairs.

23 (17) "Printed" means the act of reproducing a design on
24 a surface by any process as defined by 1-1-203(3).

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1 Indian tribal council, state or federal department or
2 office, or the Dominion of Canada or any provincial
3 department or office or political subdivision thereof.

4 (19) "Public property" means any and all property owned
5 by a municipality or held in the name of a municipality by
6 any of the departments, boards, or authorities of the local
7 government.

8 (20) "Real property" means lands, structures,
9 buildings, and interests in land, including lands under
10 water and riparian rights, and all things and rights usually
11 included within the term "real property", including not only
12 fee simple absolute but also all lesser interests such as
13 easements, rights-of-way, uses, leases, licenses, and all
14 other incorporeal hereditaments and every estate, interest,
15 or right, legal or equitable, pertaining to real property.

16 (21) "Reproduced" means the act of reproducing a design
17 on any surface by any process.

18 (22) "Resolution" means a statement of policy by the
19 governing body or an order by the governing body that a
20 specific action be taken.

21 (23) "Service" means an authorized function or activity
22 performed by local government.

23 (24) "Structure" means the entire governmental
24 organization through which a local government carries out
25 its duties, functions, and responsibilities.

1 Section 2. Administrative rules. The governing body
2 may by ordinance authorize the chief executive to adopt
3 administrative rules. All administrative rules shall be
4 entered in an administrative code that shall be available in
5 the office of the municipality.

6 Section 3. Publish notice. (1) When a municipality is
7 required to publish notice, publications shall be in a
8 newspaper, except that in a municipality with a population
9 of 500 or less or in which no newspaper is published,
10 publication may be made by posting in three public places in
11 the municipality, which have been designated by ordinance.

12 (2) The newspaper shall be:

13 (a) of general paid circulation with a second-class
14 mailing permit;

15 (b) published at least once a week;

16 (c) published in the county where the municipality is
17 located;

18 (d) published continuously in the county for the 12
19 months preceding the awarding of the contract.

20 (3) In a county where no newspaper meets these
21 qualifications, publication shall be made in a qualified
22 newspaper in an adjacent county.

23 (4) If a person is required by law or ordinance to pay
24 for publication, the payment must be received before the
25 publication may be made.

1 Section 4. Notice. When notice of a hearing or other
2 official act is required, the following shall apply:

3 (1) The notice shall be published two times with at
4 least 6 days separating each publication. The first
5 publication shall be no more than 21 days prior to the
6 action and the last no less than 3 days prior to the action.

7 (2) The published notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will occur;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring notice.

16 (3) A published notice required by law may be
17 supplemented by a radio or television broadcast of the
18 notice in the manner prescribed in 20-3-105 through
19 20-3-107.

20 Section 5. Mail notice. (1) Unless otherwise
21 specifically provided, when a municipality is required to
22 give notice of a hearing or other official act by mail, the
23 requirement may be met by:

24 (a) deposit of the notice properly addressed in the
25 United States mail with postage paid at the first-class

1 rate;

2 (b) sending the notice by registered or certified mail
3 rather than first class; or

4 (c) mailing the notice at the bulk rate instead of
5 first class when notice is to be given by mail to all
6 electors or residents of a municipality.

7 (2) The notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will be taken;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring mail notice.

16 (3) When notice by mail is required, the requirement
17 shall apply only to persons whose addresses are known.

18 Section 6. Petition. (1) Whenever a petition is
19 authorized, unless the section authorizing the petition
20 establishes different criteria, it shall be valid if it is
21 signed by 15% of the electors of the local government and
22 meets the following requirements:

23 (a) contains a statement of the purpose for which it
24 is circulated, sufficient to meet the specific criteria set
25 out in the section authorizing the petition;

1 (b) each signature is followed by the printed name of
2 the signer, the address of the signer's place of residence,
3 and the date of the signing; and

4 (c) the petition contains the date it was first
5 circulated and a statement that all signatures must be
6 collected within 90 days of that date.

7 (2) Unless otherwise provided, all petitions shall be
8 filed with the county election administrator, who shall
9 determine the sufficiency of the signatures. No petition
10 filed after the deadline for filing the petition, if any,
11 shall be considered.

12 (3) Within 10 working days of the date the petition
13 was filed, the county election administrator shall determine
14 the adequacy of the petition.

15 (4) Inadequate petitions shall be returned but may be
16 amended or supplementary signatures may be obtained, and the
17 petition may be refiled prior to the deadline for filing the
18 petition.

19 (5) Within 10 days of its second filing, the county
20 election administrator shall again determine the adequacy of
21 the petition. If it is still determined inadequate, it shall
22 be rejected without prejudice to the filing of a new
23 petition to the same effect.

24 (6) If a petition is determined adequate, the county
25 election administrator shall certify its adequacy and submit

1 it to the governing body without delay.

2 (7) A person may in writing withdraw his signature
3 from a previously filed petition at any time prior to final
4 action of the governing body.

5 (8) The department of community affairs, in
6 cooperation with the secretary of state, shall prepare and
7 provide each municipality with:

- 8 (a) a standard petition form;
- 9 (b) sample petition forms for initiatives,
10 referendums, and recall elections; and
- 11 (c) sample petition forms for creation of districts.

12 (9) Each municipality shall make available to the
13 public on request sample petition forms.

14 Section 7. Public hearing. (1) When required, the
15 governing body shall conduct public hearings for the purpose
16 of providing reasonable opportunity for citizen
17 participation prior to final decisions.

18 (2) At a minimum, a public hearing shall provide for
19 submission of both oral and written testimony for and
20 against the action or matter at issue. If the hearing is
21 not held before the ultimate decision makers, provision
22 shall be made for the transmittal of a summary or transcript
23 of the testimony received to the ultimate decision makers
24 prior to their determination.

25 (3) Public hearings may be held at regular or special

1 meetings of the governing body.

2 (4) Petitions and letters received by the governing
3 body or executive prior to the hearing shall be entered by
4 reference into the minutes of the governing body and
5 considered as other testimony received at the hearing.

6 (5) Hearings may be adjourned from day to day or to a
7 date certain.

8 (6) Except for budget hearings, the governing body may
9 designate a subcommittee or hearing examiner to conduct
10 public hearings.

11 Section 8. Protest. (1) Whenever a protest is
12 authorized, it is sufficient if it is in writing, signed,
13 and contains the following:

- 14 (a) a description of the action protested sufficient
15 to identify the action against which the protest is lodged;
- 16 (b) a statement of the protestor's qualifications to
17 protest the action against which the protest is lodged,
18 including ownership of property affected by the action; and
- 19 (c) the address of the person protesting.

20 (2) Protests shall be submitted as provided by law and
21 ordinance. The person receiving protests for a local
22 government shall note on each protest the date it was
23 received.

24 (3) A protest which contains the required information
25 may be signed by more than one person. A protest signed by

1 more than one person is a valid protest by each signer.

2 (4) A person may in writing withdraw a previously
3 filed protest at any time prior to final action by the
4 governing body.

5 (5) Signers are encouraged to print their names after
6 their signatures.

7 Section 9. Signatures. (1) The signatures and
8 addresses on petitions shall be the same as the signatures
9 and addresses on voter registration cards and, if not
10 registered or if not required by law to be an elector, their
11 common signature.

12 (2) The signatures on protests and waivers shall be
13 the accepted common signatures.

14 Section 10. Rights on behalf of government or
15 corporation. The chief executive of a municipality or
16 political subdivision of the state, the responsible agent of
17 a federal or state agency, or the chief executive officer of
18 a corporation may exercise the right of petition, protest,
19 or voting on behalf of property owned by the government or
20 corporation.

21 Section 11. Posting. (1) The governing body shall
22 specify by resolution a public location for posting
23 information and shall order erected a suitable posting
24 board.

25 (2) When posting is required, a copy of the document

1 shall be placed on the posting board, and a copy shall be
2 available at the municipal office.

3 Section 12. Oaths. The chief executive and all elected
4 municipal officers may administer oaths.

5 Section 13. Oath of office. Every elected municipal
6 officer shall take the oath of office prescribed in Article
7 III, section 4, of the Montana constitution. The oath of
8 office, certified by the official before whom the same was
9 taken, shall be filed with the county election administrator
10 before the officer exercises any official duties.

11 Section 14. Public servants. All municipal officers
12 and employees are public servants for the purpose of
13 determining the offense of obstructing a public servant as
14 provided in 45-7-302.

15 Section 15. Waiver of mail notice or protest. (1) If
16 all persons entitled to mail notice waive in writing the
17 mail notice requirement, the governing body may proceed
18 without the required mail notice.

19 (2) If all persons entitled to protest an action waive
20 in writing their right to protest, the governing body may
21 proceed without publishing notice or meeting other
22 requirements designed to permit protests to be filed.

23 (3) A waiver is sufficient if it is in writing,
24 signed, and contains the following:

25 (a) a description of the mailed notice or protest

1 right waived;

2 (b) a statement of the protestor's qualifications to
3 waive the mailed notice or protest right;

4 (c) the address of the person;

5 (d) a statement that the waiver of notice is
6 voluntarily and knowingly given, with knowledge of the
7 signer's constitutional rights to notice.

8 (4) Waivers shall be submitted as provided by law and
9 ordinance. The person receiving waivers for a local
10 government shall note on each waiver the date it was
11 received.

12 (5) A waiver which contains the required information
13 may be signed by more than one person. A waiver signed by
14 more than one person is a valid waiver by each signer.

15 (6) Signers are encouraged to print their names after
16 their signatures.

17 Section 16. Facsimile signature. Any officer or
18 employee may use a facsimile signature or seal as provided
19 in Title 2, chapter 16.

20 Section 17. Public meeting required. (1) All meetings
21 of municipal governing bodies, boards, authorities,
22 committees, or other entities created by a municipality
23 shall be open to the public except as provided in 2-3-203.

24 (2) Appropriate minutes shall be kept of all public
25 meetings and shall be made available upon request to the

1 public for inspection and copying.

2 Section 18. Public participation. Each municipal
3 governing body, committee, board, authority, or entity, in
4 accordance with Article II, section 8, of the Montana
5 constitution and Title 2, chapter 3, shall develop
6 procedures for permitting and encouraging the public to
7 participate in decisions that are of significant interest to
8 the public.

9 Section 19. Participation. In any meeting required to
10 be open to the public, the governing body, committee, board,
11 authority, or entity shall adopt rules for conducting the
12 meeting, affording citizens a reasonable opportunity to
13 participate prior to the final decision.

14 Section 20. Public records. (1) Except as provided in
15 subsection (2), all records and other written materials in
16 the possession of a municipality shall be available for
17 inspection and reproduction by any person during normal
18 office hours. The governing body may impose reasonable fees
19 for providing copies of public records.

20 (2) Personal records, medical records, and other
21 records which relate to matters in which the right to
22 individual privacy exceeds the merits of public disclosure
23 shall not be available to the public unless the person they
24 concern requests they be made public.

25 (3) Except as provided by law and as determined by the

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1 chief law enforcement administrator, law enforcement records
2 which relate to matters in which the right to individual
3 privacy or law enforcement security exceeds the merits of
4 public disclosure shall not be available to the public.

5 Section 21. State reports. (1) Municipal governing
6 bodies, chief executives, officers, employees, departments,
7 boards, and authorities shall file with state agencies in a
8 timely fashion all reports and information required by state
9 law.

10 (2) The department of community affairs shall
11 coordinate to the greatest extent possible the collection of
12 data by state and federal agencies in order to minimize the
13 requests of municipalities and to maximize access to
14 information collected on municipalities.

15 (3) Prior to requesting reports from a municipality,
16 all state agencies shall notify the department of community
17 affairs of the intended request.

18 Section 22. Reports of departments, boards, and
19 authorities. (1) All departments, boards, and authorities
20 shall file an annual report with the chief executive, who
21 shall compile the reports and present them to the governing
22 body.

23 (2) The chief executive may specify the form, content,
24 and deadline for filing reports.

25 Section 23. Distribution of powers. (1) A municipality

1 has legislative, executive, and judicial powers.

2 (2) All legislative powers are vested in the governing
3 body of the municipality.

4 (3) Executive powers are vested as provided in the
5 form of government adopted by the municipality.

6 (4) The judicial powers of a municipality are vested
7 in the municipal court.

8 Section 24. Legislative powers. A municipality with
9 general powers has the legislative power, subject to the
10 provisions of state law, to adopt, amend, and repeal
11 ordinances and resolutions required to:

12 (1) preserve peace and order and secure freedom from
13 dangerous or noxious activities;

14 (2) secure and promote the general public health and
15 welfare;

16 (3) provide any service or perform any function
17 authorized or required by state law;

18 (4) exercise any power granted by state law;

19 (5) levy any tax authorized by state law;

20 (6) appropriate public funds;

21 (7) impose a special assessment reasonably related to
22 the cost of any special service or special benefit provided
23 by the municipality or impose a fee for the provision of a
24 service;

25 (8) grant franchises; and

1 (9) provide for its own organization and the
2 management of its affairs.

3 Section 25. Powers. A municipality with general powers
4 has the power, subject to the provisions of state law, to:

- 5 (1) enact ordinances and resolutions;
6 (2) sue and be sued;
7 (3) buy, sell, mortgage, rent, lease, hold, manage, or
8 dispose of any interest in real or personal property;
9 (4) contract with persons, corporations, or any other
10 governmental entity;
11 (5) pay debts and expenses;
12 (6) borrow money;
13 (7) solicit and accept bequests, donations, or grants
14 of money, property, services, or other advantages and comply
15 with any condition that is not contrary to the public
16 interest;
17 (8) execute documents necessary to receive money,
18 property, services, or other advantages from the state
19 government, the federal government, or any other source;
20 (9) make grants and loans of money, property, and
21 services for public purposes;
22 (10) require the attendance of witnesses and production
23 of documents relevant to matters being considered by the
24 governing body;
25 (11) hire, direct, and discharge employees and appoint

1 and remove members of boards;

2 (12) ratify any action of the municipality or its
3 officers or employees which could have been approved in
4 advance;

5 (13) have a corporate seal and flag;

6 (14) acquire by eminent domain as provided in Title 70,
7 chapter 30, any interest in property to provide any service
8 or facility authorized by law;

9 (15) initiate a civil action to restrain or enjoin
10 violation of an ordinance;

11 (16) enter private property, obtaining warrants when
12 necessary, for the purpose of enforcing ordinances that
13 affect the general welfare and public safety;

14 (17) conduct a census;

15 (18) conduct inventories of public property and
16 preparatory studies;

17 (19) condemn and demolish hazardous structures;

18 (20) purchase insurance and establish self-insurance
19 plans;

20 (21) impound animals and other private property
21 creating a nuisance or obstructing a street or highway;

22 (22) establish quarantines; and

23 (23) exercise powers not inconsistent with law
24 necessary for effective administration of authorized
25 services and functions.

1 **Section 26. Limit on liability.** (1) As provided in
 2 Article II, section 18, of the Montana constitution, a
 3 municipality has no immunity from suit for injury to a
 4 person or property, except as may be specifically provided
 5 by law by a two-thirds vote of each house of the
 6 legislature.

7 (2) A local government has the right but not the duty
 8 to purchase insurance to protect against claims for injury
 9 to a person or property.

10 (3) Local governments are subject to the provisions of
 11 Title 2, chapter 9.

12 **Section 27. State technical advice and assistance.** (1)
 13 All state agencies are authorized and encouraged to provide
 14 technical assistance to municipalities.

15 (2) The technical assistance services shall not
 16 include those that can be as reasonably and expeditiously
 17 obtained through business channels.

18 (3) State agencies are encouraged to develop the
 19 capacity to provide technical advice and assistance without
 20 charge to municipalities, but they are also encouraged to
 21 establish service charges for special or extraordinary
 22 technical advice.

23 (4) The department of community affairs shall
 24 coordinate technical advice and assistance provided to
 25 municipalities by state agencies.

1 (5) State agencies may lend personnel, equipment, and
 2 machinery to municipalities.

3 **Section 28. Penalty.** Where a municipality is required
 4 by state law to provide information to a state agency and
 5 fails to provide the required information, the department of
 6 community affairs may issue an order stopping payment of any
 7 state financial aid to the municipality. Upon provision of
 8 the information, all financial aid which was stopped because
 9 of failure to provide the information shall be paid to the
 10 municipality.

11 **Section 29. Applicability.** (1) Except as provided in
 12 subsection (2), a provision of [sections 1 through 28]
 13 applies only in the absence of other laws governing the same
 14 subject matter.

15 (2) The governing body may by ordinance adopt the
 16 procedures and provisions contained in [sections 1 through
 17 28] and make them applicable to all proceedings before the
 18 body.

19 **Section 30. Repealer.** Sections 7-1-4103 and 7-1-4104
 20 are repealed.

21 **Section 31. Codification.** Sections 1 through 29 are
 22 intended to be codified as an integral part of Title 7,
 23 chapter 1, part 41, and the provisions contained in Title 7,
 24 chapter 1, part 41, apply to sections 1 through 29.

-End-

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20 (3) In a county where no newspaper meets these
21 qualifications, publication shall be made in a qualified
22 newspaper in an adjacent county.

23 (4) If a person is required by law or ordinance to pay
24 for publication, the payment must be received before the
25 publication may be made.

1 Section 4. Notice. When notice of a hearing or other
2 official act is required, the following shall apply:

3 (1) The notice shall be published two times with at
4 least 6 days separating each publication. The first
5 publication shall be no more than 21 days prior to the
6 action and the last no less than 3 days prior to the action.

7 (2) The published notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will occur;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring notice.

16 (3) A published notice required by law may be
17 supplemented by a radio or television broadcast of the
18 notice in the manner prescribed in ~~20-3-105~~ 2-3-105 through
19 ~~20-3-107~~ 2-3-107.

20 Section 5. Mail notice. (1) Unless otherwise
21 specifically provided, when a municipality is required to
22 give notice of a hearing or other official act by mail, the
23 requirement may be met by:

24 (a) deposit of the notice properly addressed in the
25 United States mail with postage paid at the first-class

1 rate;

2 (b) sending the notice by registered or certified mail
3 rather than first class; or

4 (c) mailing the notice at the bulk rate instead of
5 first class when notice is to be given by mail to all
6 electors or residents of a municipality.

7 (2) The notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will be taken;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring mail notice.

16 (3) When notice by mail is required, the requirement
17 shall apply only to persons whose addresses are known.

18 Section 6. Petition. (1) Whenever a petition is
19 authorized, unless the section authorizing the petition
20 establishes different criteria, it shall be valid if it is
21 signed by 15% of the electors of the ~~local~~-government
22 MUNICIPALITY and meets the following requirements:

23 (a) contains a statement of the purpose for which it
24 is circulated, sufficient to meet the specific criteria set
25 out in the section authorizing the petition;

1 (b) each signature is followed by the printed name of
2 the signer, the address of the signer's place of residence,
3 and the date of the signing; and

4 (c) the petition contains the date it was first
5 circulated and a statement that all signatures must be
6 collected within 90 days of that date.

7 (2) Unless otherwise provided, all petitions shall be
8 filed with the county election administrator, who shall
9 determine the sufficiency of the signatures. No petition
10 filed after the deadline for filing the petition, if any,
11 shall be considered.

12 (3) Within 10 working days of the date the petition
13 was filed, the county election administrator shall determine
14 the adequacy of the petition.

15 (4) Inadequate petitions shall be returned but may be
16 amended or supplementary signatures may be obtained, and the
17 petition may be refiled prior to the deadline for filing the
18 petition.

19 (5) Within 10 days of its second filing, the county
20 election administrator shall again determine the adequacy of
21 the petition. If it is still determined inadequate, it shall
22 be rejected without prejudice to the filing of a new
23 petition to the same effect.

24 (6) If a petition is determined adequate, the county
25 election administrator shall:

1 (A) certify its adequacy and submit it to the
2 governing body without delay;

3 (B) SUBMIT A COPY OF THE PETITION TO THE ATTORNEY OF
4 THE MUNICIPALITY.

5 (7) A person may in writing withdraw his signature
6 from a previously filed petition at any time prior to final
7 action of the governing body.

8 (8) THE ATTORNEY FOR THE MUNICIPALITY SHALL PREPARE
9 AND TRANSMIT TO THE GOVERNING BODY WITHOUT DELAY A CONCISE
10 STATEMENT NOT EXCEEDING 100 WORDS. THIS STATEMENT SHALL
11 EXPRESS A TRUE AND IMPARTIAL EXPLANATION OF THE PURPOSE OF
12 THE PROPOSED BALLOT ISSUE IN PLAIN, EASILY UNDERSTOOD
13 LANGUAGE. THE STATEMENT MAY NOT INTENTIONALLY BE AN ARGUMENT
14 AND MAY NOT INTENTIONALLY BE WRITTEN SO AS TO CREATE
15 PREJUDICE FOR OR AGAINST THE MEASURE.

16 (A) AT THE SAME TIME THE STATEMENT OF PURPOSE IS
17 PREPARED, THE ATTORNEY SHALL PREPARE STATEMENTS OF THE
18 IMPLICATIONS OF A VOTE FOR OR AGAINST A BALLOT ISSUE. THE
19 STATEMENTS OF IMPLICATION MAY BE NO MORE THAN 25 WORDS EACH
20 AND SHALL BE IN SIMPLE, IMPARTIAL LANGUAGE CLEARLY
21 EXPLAINING THE MEANING OF A VOTE FOR AND A VOTE AGAINST THE
22 ISSUE.

23 (B) PRIOR TO AN ELECTION OR AN OFFICIAL ACTION
24 INVOLVING A PETITION ISSUE, THE GOVERNING BODY SHALL PUBLISH
25 COPIES OF THE STATEMENT OF PURPOSE AND STATEMENT OF

1 IMPLICATIONS TO THE PROCEDURE ESTABLISHED IN (SECTION 4).

2 ~~(8)(9)~~ The department of community affairs, in
3 cooperation with the secretary of state, shall prepare and
4 provide each municipality with:

- 5 (a) a standard petition form;
- 6 (b) sample petition forms for initiatives,
- 7 referendums, and recall elections; and
- 8 (c) sample petition forms for creation of districts.

9 ~~(9)(10)~~ Each municipality shall make available to the
10 public on request sample petition forms.

11 Section 7. Public hearing. (1) When required, the
12 governing body shall conduct public hearings for the purpose
13 of providing reasonable opportunity for citizen
14 participation prior to final decisions.

15 (2) At a minimum, a public hearing shall provide for
16 submission of both oral and written testimony for and
17 against the action or matter at issue. If the hearing is
18 not held before the ultimate decision makers, provision
19 shall be made for the transmittal of a summary or transcript
20 of the testimony received to the ultimate decision makers
21 prior to their determination.

22 (3) Public hearings may be held at regular or special
23 meetings of the governing body.

24 (4) Petitions and letters received by the governing
25 body or executive prior to the hearing shall be entered by

1 reference into the minutes of the governing body and
2 considered as other testimony received at the hearing.

3 (5) Hearings may be adjourned from day to day or to a
4 date certain.

5 (6) Except for budget hearings, the governing body may
6 designate a subcommittee or hearing examiner to conduct
7 public hearings.

8 Section 8. Protest. (1) Whenever a protest is
9 authorized, it is sufficient if it is in writing, signed,
10 and contains the following:

11 (a) a description of the action protested sufficient
12 to identify the action against which the protest is lodged;

13 (b) a statement of the protestor's qualifications to
14 protest the action against which the protest is lodged,
15 including ownership of property affected by the action; and

16 (c) the address of the person protesting.

17 (2) Protests shall be submitted as provided by law and
18 ordinance. The person receiving protests for a local
19 government MUNICIPALITY shall note on each protest the date
20 it was received.

21 (3) A protest which contains the required information
22 may be signed by more than one person. A protest signed by
23 more than one person is a valid protest by each signer.

24 (4) A person may in writing withdraw a previously
25 filed protest at any time prior to final action by the

1 governing body.

2 (5) Signers are encouraged to print their names after
3 their signatures.

4 Section 9. Signatures. (1) The signatures and
5 addresses on petitions shall be the same as the signatures
6 and addresses on voter registration cards and, if not
7 registered or if not required by law to be an elector, their
8 common signature. IF THE ELECTOR HAS SIGNED USING AN INITIAL
9 LETTER ONLY IN PLACE OF A NAME WRITTEN ON THE REGISTRY CARD
10 OR USING A NAME OR THE INITIAL LETTER OF A NAME THAT IS NOT
11 ON THE REGISTRY CARD, THE SIGNATURE MAY NEVERTHELESS BE
12 COUNTED SO LONG AS THE SIGNATURE, TAKEN AS A WHOLE, BEARS
13 SUFFICIENT SIMILARITY TO THE SIGNATURE ON THE REGISTRY CARD
14 AS TO PROVIDE REASONABLE CERTAINTY OF ITS AUTHENTICITY.

15 (2) The signatures on protests and waivers shall be
16 the accepted common signatures.

17 Section 10. Rights on behalf of government or
18 corporation. The chief executive of a municipality or
19 political subdivision of the state, the responsible agent of
20 a federal or state agency, or the chief executive officer of
21 a corporation may exercise the right of petition, protest,
22 or voting on behalf of property owned by the government or
23 corporation.

24 Section 11. Posting. (1) The governing body shall
25 specify by resolution a public location for posting

1 information and shall order erected a suitable posting
2 board.

3 (2) When posting is required, a copy of the document
4 shall be placed on the posting board, and a copy shall be
5 available at the municipal office.

6 Section 12. Oaths. The chief executive and all elected
7 municipal officers may administer oaths.

8 Section 13. Oath of office. Every elected municipal
9 officer shall take the oath of office prescribed in Article
10 III, section 4, of the Montana constitution. The oath of
11 office, certified by the official before whom the same was
12 taken, shall be filed with the county election administrator
13 before the officer exercises any official duties.

14 Section 14. Public servants. All municipal officers
15 and employees are public servants for the purpose of
16 determining the offense of obstructing a public servant as
17 provided in 45-7-302.

18 Section 15. Waiver of mail notice or protest. (1) If
19 all persons entitled to mail notice waive in writing the
20 mail notice requirement, the governing body may proceed
21 without the required mail notice.

22 (2) If all persons entitled to protest an action waive
23 in writing their right to protest, the governing body may
24 proceed without publishing notice or meeting other
25 requirements designed to permit protests to be filed.

1 (3) A waiver is sufficient if it is in writing,
2 signed, and contains the following:

3 (a) a description of the mailed notice or protest
4 right waived;

5 (b) a statement of the protestor's qualifications to
6 waive the mailed notice or protest right;

7 (c) the address of the person;

8 (d) a statement that the waiver of notice is
9 voluntarily and knowingly given, with knowledge of the
10 signer's constitutional rights to notice.

11 (4) Waivers shall be submitted as provided by law and
12 ordinance. The person receiving waivers for a local
13 government shall note on each waiver the date it was
14 received.

15 (5) A waiver which contains the required information
16 may be signed by more than one person. A waiver signed by
17 more than one person is a valid waiver by each signer.

18 (6) Signers are encouraged to print their names after
19 their signatures.

20 Section 16. Facsimile signature. Any officer or
21 employee may use a facsimile signature or seal as provided
22 in Title 2, chapter 16.

23 Section 17. Public meeting required. (1) All meetings
24 of municipal governing bodies, boards, authorities,
25 committees, or other entities created by a municipality

1 shall be open to the public except as provided in 2-3-203.

2 (2) Appropriate minutes shall be kept of all public
3 meetings and shall be made available upon request to the
4 public for inspection and copying.

5 Section 18. Public participation. Each municipal
6 governing body, committee, board, authority, or entity, in
7 accordance with Article II, section 8, of the Montana
8 constitution and Title 2, chapter 3, shall develop
9 procedures for permitting and encouraging the public to
10 participate in decisions that are of significant interest to
11 the public.

12 Section 19. Participation. In any meeting required to
13 be open to the public, the governing body, committee, board,
14 authority, or entity shall adopt rules for conducting the
15 meeting, affording citizens a reasonable opportunity to
16 participate prior to the final decision.

17 Section 20. Public records. (1) Except as provided in
18 subsection (2), all records and other written materials in
19 the possession of a municipality shall be available for
20 inspection and reproduction by any person during normal
21 office hours. The governing body may impose reasonable fees
22 for providing copies of public records.

23 (2) Personal records, medical records, and other
24 records which relate to matters in which the right to
25 individual privacy exceeds the merits of public disclosure

1 shall not be available to the public unless the person they
2 concern requests they be made public.

3 (3) Except as provided by law and as determined by the
4 chief law enforcement administrator, law enforcement records
5 which relate to matters in which the right to individual
6 privacy or law enforcement security exceeds the merits of
7 public disclosure shall not be available to the public.

8 Section 21. State reports. (1) Municipal governing
9 bodies, chief executives, officers, employees, departments,
10 boards, and authorities shall file with state agencies in a
11 timely fashion all reports and information required by state
12 law.

13 (2) The department of community affairs shall
14 coordinate to the greatest extent possible the collection of
15 data by state and federal agencies in order to minimize the
16 requests of municipalities and to maximize access to
17 information collected on municipalities.

18 (3) Prior to requesting reports from a municipality,
19 all state agencies shall notify the department of community
20 affairs of the intended request.

21 Section 22. Reports of departments, boards, and
22 authorities. (1) All departments, boards, and authorities
23 shall file an annual report with the chief executive, who
24 shall compile the reports and present them to the governing
25 body.

1 (2) The chief executive may specify the form, content,
2 and deadline for filing reports.

3 Section 23. Distribution of powers. (1) A municipality
4 has legislative, executive, and judicial powers.

5 (2) All legislative powers are vested in the governing
6 body of the municipality.

7 (3) Executive powers are vested as provided in the
8 form of government adopted by the municipality.

9 (4) The judicial powers of a municipality are vested
10 in the municipal court.

11 Section 24. Legislative powers. A municipality with
12 general powers has the legislative power, subject to the
13 provisions of state law, to adopt, amend, and repeal
14 ordinances and resolutions required to:

15 (1) preserve peace and order and secure freedom from
16 dangerous or noxious activities;

17 (2) secure and promote the general public health and
18 welfare;

19 (3) provide any service or perform any function
20 authorized or required by state law;

21 (4) exercise any power granted by state law;

22 (5) levy any tax authorized by state law;

23 (6) appropriate public funds;

24 (7) impose a special assessment reasonably related to
25 the cost of any special service or special benefit provided

1 by the municipality or impose a fee for the provision of a
2 service;

3 (8) grant franchises; and

4 (9) provide for its own organization and the
5 management of its affairs.

6 Section 25. Powers. A municipality with general powers
7 has the power, subject to the provisions of state law, to:

8 (1) enact ordinances and resolutions;

9 (2) sue and be sued;

10 (3) buy, sell, mortgage, rent, lease, hold, manage, or
11 dispose of any interest in real or personal property;

12 (4) contract with persons, corporations, or any other
13 governmental entity;

14 (5) pay debts and expenses;

15 (6) borrow money;

16 (7) solicit and accept bequests, donations, or grants
17 of money, property, services, or other advantages and comply
18 with any condition that is not contrary to the public
19 interest;

20 (8) execute documents necessary to receive money,
21 property, services, or other advantages from the state
22 government, the federal government, or any other source;

23 (9) make grants and loans of money, property, and
24 services for public purposes;

25 (10) require the attendance of witnesses and production

1 of documents relevant to matters being considered by the
2 governing body;

3 (11) hire, direct, and discharge employees and appoint
4 and remove members of boards;

5 (12) ratify any action of the municipality or its
6 officers or employees which could have been approved in
7 advance;

8 (13) have a corporate seal and flag;

9 (14) acquire by eminent domain as provided in Title 70,
10 chapter 30, any interest in property to provide any service
11 or facility authorized by law;

12 (15) initiate a civil action to restrain or enjoin
13 violation of an ordinance;

14 (16) enter private property, obtaining warrants when
15 necessary, for the purpose of enforcing ordinances that
16 affect the general welfare and public safety;

17 (17) conduct a census;

18 (18) conduct inventories of public property and
19 preparatory studies;

20 (19) condemn and demolish hazardous structures;

21 (20) purchase insurance and establish self-insurance
22 plans;

23 (21) impound animals and other private property
24 creating a nuisance or obstructing a street or highway;

25 (22) establish quarantines; and

1 (23) exercise powers not inconsistent with law
2 necessary for effective administration of authorized
3 services and functions.

4 Section 26. Limit on liability. (1) As provided in
5 Article II, section 18, of the Montana constitution, a
6 municipality has no immunity from suit for injury to a
7 person or property, except as may be specifically provided
8 by law by a two-thirds vote of each house of the
9 legislature.

10 (2) A local government has the right but not the duty
11 to purchase insurance to protect against claims for injury
12 to a person or property.

13 (3) Local governments are subject to the provisions of
14 Title 2, chapter 9.

15 Section 27. State technical advice and assistance. (1)
16 All state agencies are authorized and encouraged to provide
17 technical assistance to municipalities.

18 (2) The technical assistance services shall not
19 include those that can be as reasonably and expeditiously
20 obtained through business channels.

21 (3) State agencies are encouraged to develop the
22 capacity to provide technical advice and assistance without
23 charge to municipalities, but they are also encouraged to
24 establish service charges for special or extraordinary
25 technical advice.

1 (4) The department of community affairs shall
2 coordinate technical advice and assistance provided to
3 municipalities by state agencies.

4 (5) State agencies may lend personnel, equipment, and
5 machinery to municipalities.

6 Section 28. Penalty. Where a municipality is required
7 by state law to provide information to a state agency and
8 fails to provide the required information, the department of
9 community affairs may issue an order stopping payment of any
10 state financial aid to the municipality. Upon provision of
11 the information, all financial aid which was stopped because
12 of failure to provide the information shall be paid to the
13 municipality.

14 Section 29. Applicability. (1) Except as provided in
15 subsection (2), a provision of [sections 1 through 28]
16 applies only in the absence of other laws governing the same
17 subject matter.

18 (2) The governing body may by ordinance adopt the
19 procedures and provisions contained in [sections 1 through
20 28] and make them applicable to all proceedings before the
21 body.

22 Section 30. Repealer. Sections 7-1-4103 and 7-1-4104
23 are repealed.

24 Section 31. Codification. Sections 1 through 29 are
25 intended to be codified as an integral part of Title 7,

1 chapter 1, part 41, and the provisions contained in Title 7,
2 chapter 1, part 41, apply to sections 1 through 29.

-End-

SENATE BILL NO. 503

INTRODUCED BY LOCKREM, WATT

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH GENERAL PROVISIONS AND DEFINITIONS COMMON TO ALL FORMS OF MUNICIPAL GOVERNMENT WITH GENERAL POWERS; TO OUTLINE GENERAL POWERS; AND TO ESTABLISH BASIC REQUIREMENTS FOR PUBLIC MEETINGS, RECORDS, AND REPORTS; REPEALING SECTIONS 7-1-4103 AND 7-1-4104, MCA."

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

Section 1. General definitions. As used in [sections 1 through 29], unless otherwise provided, the following definitions apply:

(1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of the government and limitations thereon.

(2) "Chief executive" means the elected executive in a government adopting the commission-executive form, the manager in a government adopting the commission-manager form, the chairman in a government adopting the commission-chairman form, the town chairman in a government adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers so designated in the charter in a

government adopting a charter.

(3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

(4) "Employee" means a person other than an officer who is employed by a municipality.

(5) "Executive branch" means that part of the municipality, including departments, offices, and boards, charged with implementing actions approved and administering policies adopted by the governing body of the local government or performing the duties required by law.

(6) "Governing body" means the commission or town meeting legislative body established in the alternative form of local government.

(7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of comparison and is not enforceable as a regulation.

(8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the governor or a statute adopted by the people of Montana through statutory initiative procedures.

(9) "Municipality" means an entity which incorporates as a city or town.

(10) "Office of the municipality" means the permanent location of the seat of government from which the records administrator, or the office of the clerk of the governing

1 body where one is appointed, carries out his duties.

2 (11) "Officer" means a person holding a position with a
3 municipality which is ordinarily filled by election or, in
4 those municipalities with a manager, the manager.

5 (12) "Ordinance" means an act adopted and approved by a
6 municipality, having effect only within the jurisdiction of
7 the local government.

8 (13) "Person" means any individual, firm, partnership,
9 company, corporation, trust, trustee, assignee or other
10 representative, association, or other organized group.

11 (14) "Plan of government" means a certificate submitted
12 by a governing body that documents the basic form of
13 government selected, including all applicable suboptions.
14 The plan must establish the terms of all officers and the
15 number of commissioners, if any, to be elected.

16 (15) "Political subdivision" refers to a local
17 government, authority, school district, or multicounty
18 agency.

19 (16) "Population" means the number of inhabitants as
20 determined by an official federal, state, or local census or
21 official population estimate approved by the department of
22 community affairs.

23 (17) "Printed" means the act of reproducing a design on
24 a surface by any process as defined by 1-1-203(3).

25 (18) "Public agency" means a political subdivision,

1 Indian tribal council, state or federal department or
2 office, or the Dominion of Canada or any provincial
3 department or office or political subdivision thereof.

4 (19) "Public property" means any and all property owned
5 by a municipality or held in the name of a municipality by
6 any of the departments, boards, or authorities of the local
7 government.

8 (20) "Real property" means lands, structures,
9 buildings, and interests in land, including lands under
10 water and riparian rights, and all things and rights usually
11 included within the term "real property", including not only
12 fee simple absolute but also all lesser interests such as
13 easements, rights-of-way, uses, leases, licenses, and all
14 other incorporeal hereditaments and every estate, interest,
15 or right, legal or equitable, pertaining to real property.

16 (21) "Reproduced" means the act of reproducing a design
17 on any surface by any process.

18 (22) "Resolution" means a statement of policy by the
19 governing body or an order by the governing body that a
20 specific action be taken.

21 (23) "Service" means an authorized function or activity
22 performed by local government.

23 (24) "Structure" means the entire governmental
24 organization through which a local government carries out
25 its duties, functions, and responsibilities.

1 Section 2. Administrative rules. The governing body
2 may by ordinance authorize the chief executive to adopt
3 administrative rules. All administrative rules shall be
4 entered in an administrative code that shall be available in
5 the office of the municipality.

6 Section 3. Publish notice. (1) When a municipality is
7 required to publish notice, publications shall be in a
8 newspaper, except that in a municipality with a population
9 of 500 or less or in which no newspaper is published,
10 publication may be made by posting in three public places in
11 the municipality, which have been designated by ordinance.

12 (2) The newspaper shall be:

13 (a) of general paid circulation with a second-class
14 mailing permit;

15 (b) published at least once a week;

16 (c) published in the county where the municipality is
17 located;

18 (d) published continuously in the county for the 12
19 months preceding the awarding of the contract.

20 (3) In a county where no newspaper meets these
21 qualifications, publication shall be made in a qualified
22 newspaper in an adjacent county.

23 (4) If a person is required by law or ordinance to pay
24 for publication, the payment must be received before the
25 publication may be made.

1 Section 4. Notice. When notice of a hearing or other
2 official act is required, the following shall apply:

3 (1) The notice shall be published two times with at
4 least 6 days separating each publication. The first
5 publication shall be no more than 21 days prior to the
6 action and the last no less than 3 days prior to the action.

7 (2) The published notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will occur;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring notice.

16 (3) A published notice required by law may be
17 supplemented by a radio or television broadcast of the
18 notice in the manner prescribed in ~~20-3-105 2-3-105~~ through
19 ~~20-3-107 2-3-107~~.

20 Section 5. Mail notice. (1) Unless otherwise
21 specifically provided, when a municipality is required to
22 give notice of a hearing or other official act by mail, the
23 requirement may be met by:

24 (a) deposit of the notice properly addressed in the
25 United States mail with postage paid at the first-class

1 rate;

2 (b) sending the notice by registered or certified mail
3 rather than first class; or

4 (c) mailing the notice at the bulk rate instead of
5 first class when notice is to be given by mail to all
6 electors or residents of a municipality.

7 (2) The notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will be taken;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring mail notice.

16 (3) When notice by mail is required, the requirement
17 shall apply only to persons whose addresses are known.

18 Section 6. Petition. (1) Whenever a petition is
19 authorized, unless the section authorizing the petition
20 establishes different criteria, it shall be valid if it is
21 signed by 15% of the electors of the local government
22 **MUNICIPALITY** and meets the following requirements:

23 (a) contains a statement of the purpose for which it
24 is circulated, sufficient to meet the specific criteria set
25 out in the section authorizing the petition;

1 (b) each signature is followed by the printed name of
2 the signer, the address of the signer's place of residence,
3 and the date of the signing; and

4 (c) the petition contains the date it was first
5 circulated and a statement that all signatures must be
6 collected within 90 days of that date.

7 (2) Unless otherwise provided, all petitions shall be
8 filed with the county election administrator, who shall
9 determine the sufficiency of the signatures. No petition
10 filed after the deadline for filing the petition, if any,
11 shall be considered.

12 (3) Within 10 working days of the date the petition
13 was filed, the county election administrator shall determine
14 the adequacy of the petition.

15 (4) Inadequate petitions shall be returned but may be
16 amended or supplementary signatures may be obtained, and the
17 petition may be refiled prior to the deadline for filing the
18 petition.

19 (5) Within 10 days of its second filing, the county
20 election administrator shall again determine the adequacy of
21 the petition. If it is still determined inadequate, it shall
22 be rejected without prejudice to the filing of a new
23 petition to the same effect.

24 (6) If a petition is determined adequate, the county
25 election administrator shall:

1 (A) certify its adequacy and submit it to the
2 governing body without delay;

3 (B) SUBMIT A COPY OF THE PETITION TO THE ATTORNEY OF
4 THE MUNICIPALITY.

5 (7) A person may in writing withdraw his signature
6 from a previously filed petition at any time prior to final
7 action of the governing body.

8 (8) THE ATTORNEY FOR THE MUNICIPALITY SHALL PREPARE
9 AND TRANSMIT TO THE GOVERNING BODY WITHOUT DELAY A CONCISE
10 STATEMENT NOT EXCEEDING 100 WORDS. THIS STATEMENT SHALL
11 EXPRESS A TRUE AND IMPARTIAL EXPLANATION OF THE PURPOSE OF
12 THE PROPOSED BALLOT ISSUE IN PLAIN, EASILY UNDERSTOOD
13 LANGUAGE. THE STATEMENT MAY NOT INTENTIONALLY BE AN ARGUMENT
14 AND MAY NOT INTENTIONALLY BE WRITTEN SO AS TO CREATE
15 PREJUDICE FOR OR AGAINST THE MEASURE.

16 (A) AT THE SAME TIME THE STATEMENT OF PURPOSE IS
17 PREPARED, THE ATTORNEY SHALL PREPARE STATEMENTS OF THE
18 IMPLICATIONS OF A VOTE FOR OR AGAINST A BALLOT ISSUE. THE
19 STATEMENTS OF IMPLICATION MAY BE NO MORE THAN 25 WORDS EACH
20 AND SHALL BE IN SIMPLE, IMPARTIAL LANGUAGE CLEARLY
21 EXPLAINING THE MEANING OF A VOTE FOR AND A VOTE AGAINST THE
22 ISSUE.

23 (B) PRIOR TO AN ELECTION OR AN OFFICIAL ACTION
24 INVOLVING A PETITION ISSUE, THE GOVERNING BODY SHALL PUBLISH
25 COPIES OF THE STATEMENT OF PURPOSE AND STATEMENT OF

1 IMPLICATIONS TO THE PROCEDURE ESTABLISHED IN SECTION 4.

2 (9) The department of community affairs, in
3 cooperation with the secretary of state, shall prepare and
4 provide each municipality with:

- 5 (a) a standard petition form;
- 6 (b) sample petition forms for initiatives,
- 7 referendums, and recall elections; and
- 8 (c) sample petition forms for creation of districts.

9 (10) Each municipality shall make available to the
10 public on request sample petition forms.

11 Section 7. Public hearing. (1) When required, the
12 governing body shall conduct public hearings for the purpose
13 of providing reasonable opportunity for citizen
14 participation prior to final decisions.

15 (2) At a minimum, a public hearing shall provide for
16 submission of both oral and written testimony for and
17 against the action or matter at issue. If the hearing is
18 not held before the ultimate decision makers, provision
19 shall be made for the transmittal of a summary or transcript
20 of the testimony received to the ultimate decision makers
21 prior to their determination.

22 (3) Public hearings may be held at regular or special
23 meetings of the governing body.

24 (4) Petitions and letters received by the governing
25 body or executive prior to the hearing shall be entered by

1 reference into the minutes of the governing body and
2 considered as other testimony received at the hearing.

3 (5) Hearings may be adjourned from day to day or to a
4 date certain.

5 (6) Except for budget hearings, the governing body may
6 designate a subcommittee or hearing examiner to conduct
7 public hearings.

8 Section 8. Protest. (1) Whenever a protest is
9 authorized, it is sufficient if it is in writing, signed,
10 and contains the following:

11 (a) a description of the action protested sufficient
12 to identify the action against which the protest is lodged;

13 (b) a statement of the protestor's qualifications to
14 protest the action against which the protest is lodged,
15 including ownership of property affected by the action; and

16 (c) the address of the person protesting.

17 (2) Protests shall be submitted as provided by law and
18 ordinance. The person receiving protests for a local
19 government MUNICIPALITY shall note on each protest the date
20 it was received.

21 (3) A protest which contains the required information
22 may be signed by more than one person. A protest signed by
23 more than one person is a valid protest by each signer.

24 (4) A person may in writing withdraw a previously
25 filed protest at any time prior to final action by the

1 governing body.

2 (5) Signers are encouraged to print their names after
3 their signatures.

4 Section 9. Signatures. (1) The signatures and
5 addresses on petitions shall be the same as the signatures
6 and addresses on voter registration cards and, if not
7 registered or if not required by law to be an elector, their
8 common signature. IF THE ELECTOR HAS SIGNED USING AN INITIAL
9 LETTER ONLY IN PLACE OF A NAME WRITTEN ON THE REGISTRY CARD
10 OR USING A NAME OR THE INITIAL LETTER OF A NAME THAT IS NOT
11 ON THE REGISTRY CARD, THE SIGNATURE MAY NEVERTHELESS BE
12 COUNTED SO LONG AS THE SIGNATURE, TAKEN AS A WHOLE, BEARS
13 SUFFICIENT SIMILARITY TO THE SIGNATURE ON THE REGISTRY CARD
14 AS TO PROVIDE REASONABLE CERTAINTY OF ITS AUTHENTICITY.

15 (2) The signatures on protests and waivers shall be
16 the accepted common signatures.

17 Section 10. Rights on behalf of government or
18 corporation. The chief executive of a municipality or
19 political subdivision of the state, the responsible agent of
20 a federal or state agency, or the chief executive officer of
21 a corporation may exercise the right of petition, protest,
22 or voting on behalf of property owned by the government or
23 corporation.

24 Section 11. Posting. (1) The governing body shall
25 specify by resolution a public location for posting

1 information and shall order erected a suitable posting
2 board.

3 (2) When posting is required, a copy of the document
4 shall be placed on the posting board, and a copy shall be
5 available at the municipal office.

6 Section 12. Oaths. The chief executive and all elected
7 municipal officers may administer oaths.

8 Section 13. Oath of office. Every elected municipal
9 officer shall take the oath of office prescribed in Article
10 III, section 4, of the Montana constitution. The oath of
11 office, certified by the official before whom the same was
12 taken, shall be filed with the county election administrator
13 before the officer exercises any official duties.

14 Section 14. Public servants. All municipal officers
15 and employees are public servants for the purpose of
16 determining the offense of obstructing a public servant as
17 provided in 45-7-302.

18 Section 15. Waiver of mail notice or protest. (1) If
19 all persons entitled to mail notice waive in writing the
20 mail notice requirement, the governing body may proceed
21 without the required mail notice.

22 (2) If all persons entitled to protest an action waive
23 in writing their right to protest, the governing body may
24 proceed without publishing notice or meeting other
25 requirements designed to permit protests to be filed.

1 (3) A waiver is sufficient if it is in writing,
2 signed, and contains the following:

3 (a) a description of the mailed notice or protest
4 right waived;

5 (b) a statement of the protestor's qualifications to
6 waive the mailed notice or protest right;

7 (c) the address of the person;

8 (d) a statement that the waiver of notice is
9 voluntarily and knowingly given, with knowledge of the
10 signer's constitutional rights to notice.

11 (4) Waivers shall be submitted as provided by law and
12 ordinance. The person receiving waivers for a local
13 government shall note on each waiver the date it was
14 received.

15 (5) A waiver which contains the required information
16 may be signed by more than one person. A waiver signed by
17 more than one person is a valid waiver by each signer.

18 (6) Signers are encouraged to print their names after
19 their signatures.

20 Section 16. Facsimile signature. Any officer or
21 employee may use a facsimile signature or seal as provided
22 in Title 2, chapter 16.

23 Section 17. Public meeting required. (1) All meetings
24 of municipal governing bodies, boards, authorities,
25 committees, or other entities created by a municipality

1 shall be open to the public except as provided in 2-3-203.

2 (2) Appropriate minutes shall be kept of all public
3 meetings and shall be made available upon request to the
4 public for inspection and copying.

5 Section 18. Public participation. Each municipal
6 governing body, committee, board, authority, or entity, in
7 accordance with Article II, section 8, of the Montana
8 constitution and Title 2, chapter 3, shall develop
9 procedures for permitting and encouraging the public to
10 participate in decisions that are of significant interest to
11 the public.

12 Section 19. Participation. In any meeting required to
13 be open to the public, the governing body, committee, board,
14 authority, or entity shall adopt rules for conducting the
15 meeting, affording citizens a reasonable opportunity to
16 participate prior to the final decision.

17 Section 20. Public records. (1) Except as provided in
18 subsection (2), all records and other written materials in
19 the possession of a municipality shall be available for
20 inspection and reproduction by any person during normal
21 office hours. The governing body may impose reasonable fees
22 for providing copies of public records.

23 (2) Personal records, medical records, and other
24 records which relate to matters in which the right to
25 individual privacy exceeds the merits of public disclosure

1 shall not be available to the public unless the person they
2 concern requests they be made public.

3 (3) Except as provided by law and as determined by the
4 chief law enforcement administrator, law enforcement records
5 which relate to matters in which the right to individual
6 privacy or law enforcement security exceeds the merits of
7 public disclosure shall not be available to the public.

8 Section 21. State reports. (1) Municipal governing
9 bodies, chief executives, officers, employees, departments,
10 boards, and authorities shall file with state agencies in a
11 timely fashion all reports and information required by state
12 law.

13 (2) The department of community affairs shall
14 coordinate to the greatest extent possible the collection of
15 data by state and federal agencies in order to minimize the
16 requests of municipalities and to maximize access to
17 information collected on municipalities.

18 (3) Prior to requesting reports from a municipality,
19 all state agencies shall notify the department of community
20 affairs of the intended request.

21 Section 22. Reports of departments, boards, and
22 authorities. (1) All departments, boards, and authorities
23 shall file an annual report with the chief executive, who
24 shall compile the reports and present them to the governing
25 body.

1 (2) The chief executive may specify the form, content,
2 and deadline for filing reports.

3 Section 23. Distribution of powers. (1) A municipality
4 has legislative, executive, and judicial powers.

5 (2) All legislative powers are vested in the governing
6 body of the municipality.

7 (3) Executive powers are vested as provided in the
8 form of government adopted by the municipality.

9 (4) The judicial powers of a municipality are vested
10 in the municipal court.

11 Section 24. Legislative powers. A municipality with
12 general powers has the legislative power, subject to the
13 provisions of state law, to adopt, amend, and repeal
14 ordinances and resolutions required to:

15 (1) preserve peace and order and secure freedom from
16 dangerous or noxious activities;

17 (2) secure and promote the general public health and
18 welfare;

19 (3) provide any service or perform any function
20 authorized or required by state law;

21 (4) exercise any power granted by state law;

22 (5) levy any tax authorized by state law;

23 (6) appropriate public funds;

24 (7) impose a special assessment reasonably related to
25 the cost of any special service or special benefit provided

1 by the municipality or impose a fee for the provision of a
2 service;

3 (8) grant franchises; and

4 (9) provide for its own organization and the
5 management of its affairs.

6 Section 25. Powers. A municipality with general powers
7 has the power, subject to the provisions of state law, to:

8 (1) enact ordinances and resolutions;

9 (2) sue and be sued;

10 (3) buy, sell, mortgage, rent, lease, hold, manage, or
11 dispose of any interest in real or personal property;

12 (4) contract with persons, corporations, or any other
13 governmental entity;

14 (5) pay debts and expenses;

15 (6) borrow money;

16 (7) solicit and accept bequests, donations, or grants
17 of money, property, services, or other advantages and comply
18 with any condition that is not contrary to the public
19 interest;

20 (8) execute documents necessary to receive money,
21 property, services, or other advantages from the state
22 government, the federal government, or any other source;

23 (9) make grants and loans of money, property, and
24 services for public purposes;

25 (10) require the attendance of witnesses and production

1 of documents relevant to matters being considered by the
2 governing body;

3 (11) hire, direct, and discharge employees and appoint
4 and remove members of boards;

5 (12) ratify any action of the municipality or its
6 officers or employees which could have been approved in
7 advance;

8 (13) have a corporate seal and flag;

9 (14) acquire by eminent domain as provided in Title 70,
10 chapter 30, any interest in property to provide any service
11 or facility authorized by law;

12 (15) initiate a civil action to restrain or enjoin
13 violation of an ordinance;

14 (16) enter private property, obtaining warrants when
15 necessary, for the purpose of enforcing ordinances that
16 affect the general welfare and public safety;

17 (17) conduct a census;

18 (18) conduct inventories of public property and
19 preparatory studies;

20 (19) condemn and demolish hazardous structures;

21 (20) purchase insurance and establish self-insurance
22 plans;

23 (21) impound animals and other private property
24 creating a nuisance or obstructing a street or highway;

25 (22) establish quarantines; and

1 (23) exercise powers not inconsistent with law
2 necessary for effective administration of authorized
3 services and functions.

4 Section 26. Limit on liability. (1) As provided in
5 Article II, section 18, of the Montana constitution, a
6 municipality has no immunity from suit for injury to a
7 person or property, except as may be specifically provided
8 by law by a two-thirds vote of each house of the
9 legislature.

10 (2) A local government has the right but not the duty
11 to purchase insurance to protect against claims for injury
12 to a person or property.

13 (3) Local governments are subject to the provisions of
14 Title 2, chapter 9.

15 Section 27. State technical advice and assistance. (1)
16 All state agencies are authorized and encouraged to provide
17 technical assistance to municipalities.

18 (2) The technical assistance services shall not
19 include those that can be as reasonably and expeditiously
20 obtained through business channels.

21 (3) State agencies are encouraged to develop the
22 capacity to provide technical advice and assistance without
23 charge to municipalities, but they are also encouraged to
24 establish service charges for special or extraordinary
25 technical advice.

1 (4) The department of community affairs shall
2 coordinate technical advice and assistance provided to
3 municipalities by state agencies.

4 (5) State agencies may lend personnel, equipment, and
5 machinery to municipalities.

6 Section 28. Penalty. Where a municipality is required
7 by state law to provide information to a state agency and
8 fails to provide the required information, the department of
9 community affairs may issue an order stopping payment of any
10 state financial aid to the municipality. Upon provision of
11 the information, all financial aid which was stopped because
12 of failure to provide the information shall be paid to the
13 municipality.

14 Section 29. Applicability. (1) Except as provided in
15 subsection (2), a provision of [sections 1 through 28]
16 applies only in the absence of other laws governing the same
17 subject matter.

18 (2) The governing body may by ordinance adopt the
19 procedures and provisions contained in [sections 1 through
20 28] and make them applicable to all proceedings before the
21 body.

22 Section 30. Repealer. Sections 7-1-4103 and 7-1-4104
23 are repealed.

24 Section 31. Codification. Sections 1 through 29 are
25 intended to be codified as an integral part of Title 7,

1 chapter 1, part 41, and the provisions contained in Title 7,
2 chapter 1, part 41, apply to sections 1 through 29.

-End-