

House Bill 59

In The House

January 6, 1981	Introduced and referred to Committee on Local Government.
January 21, 1981	Committee recommend bill do pass.
January 22, 1981	Bill printed and placed on members' desks.
January 23, 1981	Second reading do pass.
January 24, 1981	Considered correctly engrossed.
	Third reading passed.

In The Senate

January 26, 1981	Introduced and referred to Committee on Local Government.
March 30, 1981	Committee recommend bill not concurred.

In The House

March 31, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 59

2 INTRODUCED BY FABREGA

3 BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
6 DISTINCTION BETWEEN RIGHTS OF RESIDENT AND NONRESIDENT
7 FREEHOLDERS IN MATTERS OF ANNEXATION; AMENDING SECTIONS
8 7-2-4303, 7-2-4311 THROUGH 7-2-4314, 7-2-4325, 7-2-4501,
9 7-2-4502, 7-2-4601, 7-2-4606, 7-2-4704, 7-2-4705, 7-2-4710,
10 7-2-4741, AND 7-2-4751, MCA; AND REPEALING SECTIONS 7-2-4321
11 THROUGH 7-2-4324, MCA."

12

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

14 Section 1. Section 7-2-4303, MCA, is amended to read:
15 "~~7-2-4303. Restrictions on annexation power. Land used~~
16 for industrial or manufacturing purposes shall not be
17 included in such city under the provisions of 7-2-4311
18 through 7-2-4314 ~~and 7-2-4321 through 7-2-4325~~ without the
19 consent in writing of the owners of such land."

20 Section 2. Section 7-2-4311, MCA, is amended to read:
21 "~~7-2-4311. Annexation of contiguous land by cities-of~~
22 ~~the-first-class municipalities. Any tracts or parcels of~~
23 land which have been or may hereafter be platted into lots
24 or blocks, streets, and alleys or platted for parks and the

25 map or plat thereof filed in the office of the county clerk
1 and recorder of the county in which the same are situated or
2 any unplatte~~d~~ land that has been surveyed and for which a
3 certificate of survey has been filed, as provided in these
4 codes, which platted or unplatte~~d~~ land shall be contiguous
5 to any incorporated city-of-the-first-class municipality,
6 may be embraced within the corporate limits thereof and the
7 boundaries of such city--of--the-first-class municipality
8 extended so as to include the same in the manner provided in
9 7-2-4312 through 7-2-4314."

10 Section 3. Section 7-2-4312, MCA, is amended to read:
11 "~~7-2-4312. Resolution of intent by-first-class-city --~~
12 notice. When, in the judgment of any city-council-of-a--city
13 of--the--first-class municipal governing body expressed by a
14 resolution duly and regularly passed and adopted, it will be
15 to the best interest of such city municipality and the
16 inhabitants of any contiguous platted tracts or parcels of
17 land or unplatte~~d~~ land for which a certificate of survey has
18 been filed that the boundaries of such city municipality
19 shall be extended so as to include the same within the
20 corporate limits thereof, the city clerk of such city
21 municipality shall:

22 (1) immediately notify in writing, addressed to the
23 address to which tax notices are sent, all owners of
24 property in the territory to be embraced; and
25 (2) cause a notice to be published in the newspaper

1 published nearest such platted tracts or parcels of land or
 2 unplatted land for which a certificate of survey has been
 3 filed, at least once a week for 2 successive weeks."

4 Section 4. Section 7-2-4313, MCA, is amended to read:

5 "7-2-4313. Contents of notice -- protest period. The
 6 notice shall be to the effect that:

7 (1) such resolution has been duly and regularly passed;
 8 and

9 (2) for a period of 20 days after the first publication
 10 of such notice, such city clerk will receive expressions, in
 11 writing, of approval or disapproval of the proposed
 12 extensions of the boundaries of such ~~city-of-the-first-class~~
~~municipality~~ from freeholders of the territory proposed to
 14 be embraced therein."

15 Section 5. Section 7-2-4314, MCA, is amended to read:

16 "7-2-4314. Hearing on question of annexation --
 17 resolution of annexation. (1) The clerk shall, at the next
 18 regular meeting of the ~~city--council--of--such--city--of--the~~
~~first-class municipal governing body~~ after the expiration of
 20 said 20 days, lay before the same all communications in
 21 writing so received by him for its consideration. Except as
 22 provided in subsection (2), if after considering the same
 23 ~~such--council--the--governing--body~~ shall duly and regularly
 24 pass and adopt a resolution to that effect, the ~~municipal~~
 25 boundaries of ~~such--city--of--the--first--class~~ shall be extended

1 so as to embrace and include such platted tracts or parcels
 2 of land or unplatted land for which a certificate of survey
 3 has been filed; the time when the same shall go into effect
 4 to be fixed by such resolution.

5 (2) Such resolution shall not be adopted by ~~such~~
 6 ~~council~~ ~~the municipal governing body~~ if disapproved in
 7 writing by a majority of the resident freeholders of the
 8 territory proposed to be embraced, and no further
 9 resolutions relating to the annexation of said territory or
 10 any portion thereof may be considered or acted upon by the
 11 ~~council~~ ~~governing body~~ on its own initiative and without
 12 petition for a period of 1 year from the date of
 13 disapproval."

14 Section 6. Section 7-2-4325, MCA, is amended to read:

15 "7-2-4325. Consolidation of proceedings for two or more
 16 tracts. Whenever two or more adjacent tracts taken as a
 17 whole shall adjoin the city, they may be included in one
 18 resolution ~~under 7-2-4321-through 7-2-4325~~, although one or
 19 more of said tracts taken alone may not be adjacent to the
 20 corporate limits as then existing."

21 Section 7. Section 7-2-4501, MCA, is amended to read:

22 "7-2-4501. Annexation of wholly surrounded land by
 23 cities--of--the--first--class municipalities. A city--of--the
 24 ~~first-class municipality~~ may include as part of the city
 25 ~~municipality~~ any platted or unplatted tract or parcel of

1 land that is wholly surrounded by the city ~~municipality~~ upon
 2 passing a resolution of intent, giving notice, and passing a
 3 resolution of annexation. Except as provided in 7-2-4502,
 4 the provisions of 7-2-4312 through 7-2-4314 apply to these
 5 resolutions and the notice requirement."

6 Section 8. Section 7-2-4502, MCA, is amended to read:
 7 "7-2-4502. Protest not available. Such land shall be
 8 annexed, if so resolved, whether or not a majority of the
 9 resident freeholders of the land to be annexed object."

10 Section 9. Section 7-2-4601, MCA, is amended to read:
 11 "7-2-4601. Annexation by petition. (1) The boundaries
 12 of any incorporated city or town, whether heretofore or
 13 hereafter formed, may be altered and new territory or
 14 territories annexed thereto, incorporated and included
 15 therein, and made a part thereof upon proceedings being had
 16 and taken as provided in this part.

17 (2) The council or other legislative body of any such
 18 municipal corporation, upon receiving a written petition
 19 therefor containing a description of the new territory or
 20 territories asked to be annexed to the corporation and
 21 signed by not less than 33 1/3% of the registered electors
 22 of the territory proposed to be annexed, must without delay
 23 submit to the electors of the municipal corporation and to
 24 the registered electors residing in the territory or
 25 territories proposed by the petition to be annexed to the

1 corporation, the question whether the new territory or
 2 territories shall be annexed to, incorporated in, and made a
 3 part of the municipal corporation.

4 (3) The governing body of a municipality, upon
 5 receiving a written petition containing a description of
 6 territory requested to be annexed and signed by more than
 7 50% of the ~~resident-freeholder-electors~~ ~~freeholders~~ of the
 8 territory to be annexed, need not submit the question of
 9 annexation to the qualified electors as provided in
 10 subsection (2). The governing body may approve or disapprove
 11 the petition upon its merits. When the governing body
 12 approves the petition, it shall pass a resolution providing
 13 for the annexation."

14 Section 10. Section 7-2-4606, MCA, is amended to read:
 15 "7-2-4606. Resolution of annexation. (1) (a) If it is
 16 found that a majority of votes were cast in favor of the
 17 annexation, the city or town council or other legislative
 18 body shall, at a regular or special meeting held within 30
 19 days thereafter, pass and adopt a resolution providing for
 20 such annexation.

21 (b) Such resolution shall recite that a petition has
 22 been filed with the said council or other legislative body
 23 with a sufficient number of signatures of 33 1/3% of the
 24 ~~resident-freeholder~~ ~~registered~~ electors of the territory
 25 proposed to be annexed; a description of the boundaries of

1 the territory or territories to be annexed; a copy of the
 2 resolution ordering a general or special election thereof,
 3 as the case may be; a copy of the notice of such election;
 4 the time and result of the canvass of the votes received in
 5 favor of annexation and the number thereof cast against
 6 annexation; and that the boundaries of such city or town, by
 7 such resolution, shall be extended so as to embrace and
 8 include such territory or territories as the same are
 9 described in the petition for annexation, which said
 10 resolution shall be incorporated in the minutes of said
 11 council or legislative body.

12 (2) A resolution adopted pursuant to 7-2-4601(3) must
 13 include a statement that a petition has been filed with the
 14 governing body containing the signatures of more than 50% of
 15 the ~~resident--freeholder--electors~~ ~~freeholders~~ of the
 16 territory to be annexed; a description of the boundaries of
 17 the territory to be annexed; and a statement that the
 18 boundaries of the municipality are to be extended to include
 19 the territory described in the petition for annexation. The
 20 resolution shall be incorporated in the minutes of the
 21 governing body. Upon incorporation in the minutes, the
 22 resolution must be filed and becomes effective as provided
 23 in 7-2-4607.

24 Section 11. Section 7-2-4704, MCA, is amended to read:
 25 **"7-2-4704. Definitions.** The following terms where used

1 in this part have the following meanings except where the
 2 context clearly indicates a different meaning:

3 (1) "Contiguous" means any area which, at the time
 4 annexation procedures are initiated, either abuts directly
 5 on the municipal boundary or is separated from the municipal
 6 boundary by a street or street right-of-way, a creek or
 7 river, the right-of-way of a railroad or other public
 8 service corporation, lands owned by the city or some other
 9 political subdivision, or lands owned by the state.

10 (2) "Municipality" means any city or town under Montana
 11 law.

12 (3) "Resident-freeholder" ~~"Freeholder"~~ means a person
 13 who ~~maintains--his--residence--on--real--property--in--which--he~~
 14 holds an estate of life or inheritance ~~in real property~~ or
 15 of which he is the purchaser of such an estate under a
 16 contract for deed, some memorandum of which has been filed
 17 in the office of the county clerk and recorder."

18 Section 12. Section 7-2-4705, MCA, is amended to read:
 19 **"7-2-4705. Annexation by municipalities providing**
 20 **services.** (1) The governing body of any municipality may
 21 extend the corporate limits of such municipality under the
 22 procedure set forth in this part upon the initiation of the
 23 procedure by the governing body itself.

24 (2) Whenever the ~~resident~~ freeholders situated outside
 25 the corporate boundaries of any municipality, but contiguous

1 thereto, desire to have real estate annexed to the
 2 municipality, they may file with the governing body of the
 3 municipality a petition bearing the signatures of 51% of the
 4 resident freeholders in the territory sought to be annexed,
 5 requesting a resolution stating the intent of the
 6 municipality to consider annexation. Upon passage of the
 7 resolution, the governing body shall follow the procedure in
 8 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

9 Section 13. Section 7-2-4710, MCA, is amended to read:
 10 "7-2-4710. Protest. (1) For a period of 20 days after
 11 the public hearing provided for in 7-2-4707 through
 12 7-2-4709, the governing body of the municipality shall
 13 receive expressions, in writing, of approval or disapproval
 14 of the proposed annexation from resident freeholders of the
 15 territory proposed to be annexed.

16 (2) If a majority of the said resident freeholders in
 17 writing disapprove the proposed annexation, no further
 18 proceedings under this part shall be had relating to the
 19 territory proposed to be annexed or any part thereof for a
 20 period of 1 year from the date of such disapproval."

21 Section 14. Section 7-2-4741, MCA, is amended to read:
 22 "7-2-4741. Right to court review when area annexed. (1)
 23 Within 30 days following the passage of an annexation
 24 ordinance under authority of this part, either a majority of
 25 the resident freeholders in the territory or the owners of

1 more than 75% in assessed valuation of the real estate in
 2 the territory who believe that they will suffer material
 3 injury by reason of the failure of the municipal governing
 4 body to comply with the procedure set forth in this part or
 5 to meet the requirements set forth in 7-2-4734 and 7-2-4735,
 6 as they apply to their property, may file a petition in the
 7 district court of the district in which the municipality is
 8 located seeking review of the action of the governing board
 9 and serve a copy of the petition on the municipality in the
 10 manner of service of civil process.

11 (2) If two or more petitions for review are submitted
 12 to the court, the court may consolidate all such petitions
 13 for review at a single hearing."

14 Section 15. Section 7-2-4751, MCA, is amended to read:
 15 "7-2-4751. Right to court review when area not annexed.
 16 (1) After the resident freeholders have properly petitioned
 17 the governing body of the municipality and the body has
 18 failed to pass a resolution of intent to annex within 60
 19 days, the petitioners may file a complaint and a duplicate
 20 copy of the petition in the district court of the proper
 21 jurisdiction stating the reason why the proposed annexation
 22 should take place.

23 (2) The municipality shall be designated party
 24 defendant in the cause and shall be required to appear and
 25 answer as in other cases."

1 Section 16. Repealer. Sections 7-2-4321 through
2 7-2-4324, MCA, are repealed.

-End-

Approved by Comm.
on Local Government

1 HOUSE BILL NO. 59

2 INTRODUCED BY FABREGA

3 BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
6 DISTINCTION BETWEEN RIGHTS OF RESIDENT AND NONRESIDENT
7 FREEHOLDERS IN MATTERS OF ANNEXATION; AMENDING SECTIONS
8 7-2-4303, 7-2-4311 THROUGH 7-2-4314, 7-2-4325, 7-2-4501,
9 7-2-4502, 7-2-4601, 7-2-4606, 7-2-4704, 7-2-4705, 7-2-4710,
10 7-2-4741, AND 7-2-4751, MCA; AND REPEALING SECTIONS 7-2-4321
11 THROUGH 7-2-4324, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 7-2-4303, MCA, is amended to read:
15 "7-2-4303. Restrictions on annexation power. Land used
16 for industrial or manufacturing purposes shall not be
17 included in such city under the provisions of 7-2-4311
18 through 7-2-4314 ~~and 7-2-4321 through 7-2-4325~~ without the
19 consent in writing of the owners of such land."

20 Section 2. Section 7-2-4311, MCA, is amended to read:
21 "7-2-4311. Annexation of contiguous land by ~~cities~~ of
22 the ~~first~~-class ~~municipalities~~. Any tracts or parcels of
23 land which have been or may hereafter be platted into lots
24 or blocks, streets, and alleys or platted for parks and the
25 map or plat thereof filed in the office of the county clerk

1 and recorder of the county in which the same are situated or
2 any unplatte~~d~~ land that has been surveyed and for which a
3 certificate of survey has been filed, as provided in these
4 codes, which platted or unplatte~~d~~ land shall be contiguous
5 to any incorporated ~~city-of-the-first-class municipality~~,
6 may be embraced within the corporate limits thereof and the
7 boundaries of such ~~city--of--the--first--class municipality~~
8 extended so as to include the same in the manner provided in
9 7-2-4312 through 7-2-4314."

10 Section 3. Section 7-2-4312, MCA, is amended to read:
11 "7-2-4312. Resolution of intent by ~~first-class city~~ --
12 notice. When, in the judgment of any ~~city-council~~ of a ~~city~~
13 of ~~the~~-first-class ~~municipal governing body~~ expressed by a
14 resolution duly and regularly passed and adopted, it will be
15 to the best interest of such ~~city~~ ~~municipality~~ and the
16 inhabitants of any contiguous platted tracts or parcels of
17 land or unplatte~~d~~ land for which a certificate of survey has
18 been filed that the boundaries of such ~~city~~ ~~municipality~~
19 shall be extended so as to include the same within the
20 corporate limits thereof, the city clerk of such ~~city~~
21 ~~municipality~~ shall:

22 (1) immediately notify in writing, addressed to the
23 address to which tax notices are sent, all owners of
24 property in the territory to be embraced; and
25 (2) cause a notice to be published in the newspaper

-2- SECOND READING

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published nearest such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, at least once a week for 2 successive weeks."

Section 4. Section 7-2-4313, MCA, is amended to read:

"7-2-4313. Contents of notice -- protest period. The notice shall be to the effect that:

(1) such resolution has been duly and regularly passed; and

(2) for a period of 20 days after the first publication of such notice, such city clerk will receive expressions, in writing, of approval or disapproval of the proposed extensions of the boundaries of such ~~city-of-the-first-class municipality~~ from freeholders of the territory proposed to be embraced therein."

Section 5. Section 7-2-4314, MCA, is amended to read:

"7-2-4314. Hearing on question of annexation -- resolution of annexation. (1) The clerk shall, at the next meeting of the ~~city--council--of--such--city--of--the--first--class~~ municipal governing body after the expiration of said 20 days, lay before the same all communications in writing so received by him for its consideration. Except as provided in subsection (2), if after considering the same ~~such--council~~ the governing body shall duly and regularly pass and adopt a resolution to that effect, the municipal boundaries of ~~such--city--of--the--first--class~~ shall be extended

so as to embrace and include such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed; the time when the same shall go into effect to be fixed by such resolution.

(2) Such resolution shall not be adopted by ~~such~~ council ~~the municipal governing body~~ if disapproved in writing by a majority of the resident freeholders of the territory proposed to be embraced, and no further resolutions relating to the annexation of said territory or any portion thereof may be considered or acted upon by the ~~council~~ governing body on its own initiative and without petition for a period of 1 year from the date of disapproval."

Section 6. Section 7-2-4325, MCA, is amended to read:

"7-2-4325. Consolidation of proceedings for two or more tracts. Whenever two or more adjacent tracts taken as a whole shall adjoin the city, they may be included in one resolution under 7-2-4321 through 7-2-4325, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

Section 7. Section 7-2-4501, MCA, is amended to read:

"7-2-4501. Annexation of wholly surrounded land by cities--of--the--first--class municipalities. A ~~city--of--the--first--class~~ municipality may include as part of the ~~city~~ municipality any platted or unplatted tract or parcel of

1 land that is wholly surrounded by the city municipality upon
 2 passing a resolution of intent, giving notice, and passing a
 3 resolution of annexation. Except as provided in 7-2-4502,
 4 the provisions of 7-2-4312 through 7-2-4314 apply to these
 5 resolutions and the notice requirement."

6 Section 8. Section 7-2-4502, MCA, is amended to read:
 7 "7-2-4502. Protest not available. Such land shall be
 8 annexed, if so resolved, whether or not a majority of the
 9 resident freeholders of the land to be annexed object."

10 Section 9. Section 7-2-4601, MCA, is amended to read:
 11 "7-2-4601. Annexation by petition. (1) The boundaries
 12 of any incorporated city or town, whether heretofore or
 13 hereafter formed, may be altered and new territory or
 14 territories annexed thereto, incorporated and included
 15 therein, and made a part thereof upon proceedings being had
 16 and taken as provided in this part.

17 (2) The council or other legislative body of any such
 18 municipal corporation, upon receiving a written petition
 19 therefor containing a description of the new territory or
 20 territories asked to be annexed to the corporation and
 21 signed by not less than 33 1/3% of the registered electors
 22 of the territory proposed to be annexed, must without delay
 23 submit to the electors of the municipal corporation and to
 24 the registered electors residing in the territory or
 25 territories proposed by the petition to be annexed to the

1 corporation, the question whether the new territory or
 2 territories shall be annexed to, incorporated in, and made a
 3 part of the municipal corporation.

4 (3) The governing body of a municipality, upon
 5 receiving a written petition containing a description of
 6 territory requested to be annexed and signed by more than
 7 50% of the resident-freeholder-electors freeholders of the
 8 territory to be annexed, need not submit the question of
 9 annexation to the qualified electors as provided in
 10 subsection (2). The governing body may approve or disapprove
 11 the petition upon its merits. When the governing body
 12 approves the petition, it shall pass a resolution providing
 13 for the annexation."

14 Section 10. Section 7-2-4606, MCA, is amended to read:
 15 "7-2-4606. Resolution of annexation. (1) (a) If it is
 16 found that a majority of votes were cast in favor of the
 17 annexation, the city or town council or other legislative
 18 body shall, at a regular or special meeting held within 30
 19 days thereafter, pass and adopt a resolution providing for
 20 such annexation.

21 (b) Such resolution shall recite that a petition has
 22 been filed with the said council or other legislative body
 23 with a sufficient number of signatures of 33 1/3% of the
 24 resident-freeholder registered electors of the territory
 25 proposed to be annexed; a description of the boundaries of

1 the territory or territories to be annexed; a copy of the
 2 resolution ordering a general or special election thereof,
 3 as the case may be; a copy of the notice of such election;
 4 the time and result of the canvass of the votes received in
 5 favor of annexation and the number thereof cast against
 6 annexation; and that the boundaries of such city or town, by
 7 such resolution, shall be extended so as to embrace and
 8 include such territory or territories as the same are
 9 described in the petition for annexation, which said
 10 resolution shall be incorporated in the minutes of said
 11 council or legislative body.

12 (2) A resolution adopted pursuant to 7-2-4601(3) must
 13 include a statement that a petition has been filed with the
 14 governing body containing the signatures of more than 50% of
 15 the ~~resident--freeholder--electors~~ ~~freeholders~~ of the
 16 territory to be annexed; a description of the boundaries of
 17 the territory to be annexed; and a statement that the
 18 boundaries of the municipality are to be extended to include
 19 the territory described in the petition for annexation. The
 20 resolution shall be incorporated in the minutes of the
 21 governing body. Upon incorporation in the minutes, the
 22 resolution must be filed and becomes effective as provided
 23 in 7-2-4607."

24 Section 11. Section 7-2-4704, MCA, is amended to read:
 25 "7-2-4704. Definitions. The following terms where used

1 in this part have the following meanings except where the
 2 context clearly indicates a different meaning:

3 (1) "Contiguous" means any area which, at the time
 4 annexation procedures are initiated, either abuts directly
 5 on the municipal boundary or is separated from the municipal
 6 boundary by a street or street right-of-way, a creek or
 7 river, the right-of-way of a railroad or other public
 8 service corporation, lands owned by the city or some other
 9 political subdivision, or lands owned by the state.

10 (2) "Municipality" means any city or town under Montana
 11 law.

12 (3) "Resident-freeholder" ~~"Freeholder"~~ means a person
 13 who ~~maintains--his--residence--on--real--property--in--which--he~~
 14 holds an estate of life or inheritance in real property or
 15 of which he is the purchaser of such an estate under a
 16 contract for deed, some memorandum of which has been filed
 17 in the office of the county clerk and recorder."

18 Section 12. Section 7-2-4705, MCA, is amended to read:
 19 "7-2-4705. Annexation by municipalities providing
 20 services. (1) The governing body of any municipality may
 21 extend the corporate limits of such municipality under the
 22 procedure set forth in this part upon the initiation of the
 23 procedure by the governing body itself.

24 (2) Whenever the ~~resident~~ freeholders situated outside
 25 the corporate boundaries of any municipality, but contiguous

1 thereto, desire to have real estate annexed to the
 2 municipality, they may file with the governing body of the
 3 municipality a petition bearing the signatures of 51% of the
 4 resident freeholders in the territory sought to be annexed,
 5 requesting a resolution stating the intent of the
 6 municipality to consider annexation. Upon passage of the
 7 resolution, the governing body shall follow the procedure in
 8 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

9 Section 13. Section 7-2-4710, MCA, is amended to read:
 10 "7-2-4710. Protest. (1) For a period of 20 days after
 11 the public hearing provided for in 7-2-4707 through
 12 7-2-4709, the governing body of the municipality shall
 13 receive expressions, in writing, of approval or disapproval
 14 of the proposed annexation from resident freeholders of the
 15 territory proposed to be annexed.

16 (2) If a majority of the said resident freeholders in
 17 writing disapprove the proposed annexation, no further
 18 proceedings under this part shall be had relating to the
 19 territory proposed to be annexed or any part thereof for a
 20 period of 1 year from the date of such disapproval."

21 Section 14. Section 7-2-4741, MCA, is amended to read:
 22 "7-2-4741. Right to court review when area annexed. (1)
 23 Within 30 days following the passage of an annexation
 24 ordinance under authority of this part, either a majority of
 25 the resident freeholders in the territory or the owners of

1 more than 75% in assessed valuation of the real estate in
 2 the territory who believe that they will suffer material
 3 injury by reason of the failure of the municipal
 4 body to comply with the procedure set forth in this part or
 5 to meet the requirements set forth in 7-2-4734 and 7-2-4735,
 6 as they apply to their property, may file a petition in the
 7 district court of the district in which the municipality is
 8 located seeking review of the action of the governing board
 9 and serve a copy of the petition on the municipality in the
 10 manner of service of civil process.

11 (2) If two or more petitions for review are submitted
 12 to the court, the court may consolidate all such petitions
 13 for review at a single hearing."

14 Section 15. Section 7-2-4751, MCA, is amended to read:
 15 "7-2-4751. Right to court review when area not annexed.
 16 (1) After the resident freeholders have properly petitioned
 17 the governing body of the municipality and the body has
 18 failed to pass a resolution of intent to annex within 60
 19 days, the petitioners may file a complaint and a duplicate
 20 copy of the petition in the district court of the proper
 21 jurisdiction stating the reason why the proposed annexation
 22 should take place.

23 (2) The municipality shall be designated party
 24 defendant in the cause and shall be required to appear and
 25 answer as in other cases."

LC 0115/01

1 Section 16. Repealer. Sections 7-2-4321 through
2 7-2-4324, MCA, are repealed.

-End-

1 HOUSE BILL NO. 59

2 INTRODUCED BY FABREGA

3 BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

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6 DISTINCTION BETWEEN RIGHTS OF RESIDENT AND NONRESIDENT
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8 7-2-4303, 7-2-4311 THROUGH 7-2-4314, 7-2-4325, 7-2-4501,
9 7-2-4502, 7-2-4601, 7-2-4606, 7-2-4704, 7-2-4705, 7-2-4710,
10 7-2-4741, AND 7-2-4751, MCA; AND REPEALING SECTIONS 7-2-4321
11 THROUGH 7-2-4324, MCA."

12

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

14 Section 1. Section 7-2-4303, MCA, is amended to read:
15 "7-2-4303. Restrictions on annexation power. Land used
16 for industrial or manufacturing purposes shall not be
17 included in such city under the provisions of 7-2-4311
18 through 7-2-4314 ~~and 7-2-4321 through 7-2-4325~~ without the
19 consent in writing of the owners of such land."

20 Section 2. Section 7-2-4311, MCA, is amended to read:
21 "7-2-4311. Annexation of contiguous land by ~~cities~~-of
22 ~~the~~-first-class ~~municipalities~~. Any tracts or parcels of
23 land which have been or may hereafter be platted into lots
24 or blocks, streets, and alleys or platted for parks and the
25 map or plat thereof filed in the office of the county clerk

1 and recorder of the county in which the same are situated or
2 any unplatte~~d~~ land that has been surveyed and for which a
3 certificate of survey has been filed, as provided in these
4 codes, which platted or unplatte~~d~~ land shall be contiguous
5 to any incorporated ~~city-of-the-first-class municipality~~,
6 may be embraced within the corporate limits thereof and the
7 boundaries of such ~~city--of--the-first-class municipality~~
8 extended so as to include the same in the manner provided in
9 7-2-4312 through 7-2-4314."

10 Section 3. Section 7-2-4312, MCA, is amended to read:
11 "7-2-4312. Resolution of intent by first-class city --
12 notice. When, in the judgment of any ~~city-council~~-of-a--city
13 ~~of-the--first-class municipal governing body~~ expressed by a
14 resolution duly and regularly passed and adopted, it will be
15 to the best interest of such ~~city~~ ~~municipality~~ and the
16 inhabitants of any contiguous platted tracts or parcels of
17 land or unplatte~~d~~ land for which a certificate of survey has
18 been filed that the boundaries of such ~~city~~ ~~municipality~~
19 shall be extended so as to include the same within the
20 corporate limits thereof, the city clerk of such ~~city~~
21 ~~municipality~~ shall:

22 (1) immediately notify in writing, addressed to the
23 address to which tax notices are sent, all owners of
24 property in the territory to be embraced; and
25 (2) cause a notice to be published in the newspaper

1 published nearest such platted tracts or parcels of land or
 2 unplatted land for which a certificate of survey has been
 3 filed, at least once a week for 2 successive weeks.*

4 Section 4. Section 7-2-4313, MCA, is amended to read:

5 "7-2-4313. Contents of notice -- protest period. The
 6 notice shall be to the effect that:

7 (1) such resolution has been duly and regularly passed;
 8 and

9 (2) for a period of 20 days after the first publication
 10 of such notice, such city clerk will receive expressions, in
 11 writing, of approval or disapproval of the proposed
 12 extensions of the boundaries of such city-of-the-first-class
 13 municipality from freeholders of the territory proposed to
 14 be embraced therein.*

15 Section 5. Section 7-2-4314, MCA, is amended to read:

16 "7-2-4314. Hearing on question of annexation --
 17 resolution of annexation. (1) The clerk shall, at the next
 18 regular meeting of the city--council--of--such--city--of--the
 19 first-class municipal governing body after the expiration of
 20 said 20 days, lay before the same all communications in
 21 writing so received by him for its consideration. Except as
 22 provided in subsection (2), if after considering the same
 23 such--council--the governing body shall duly and regularly
 24 pass and adopt a resolution to that effect, the municipal
 25 boundaries of--such--city--of--the--first--class shall be extended

1 so as to embrace and include such platted tracts or parcels
 2 of land or unplatted land for which a certificate of survey
 3 has been filed; the time when the same shall go into effect
 4 to be fixed by such resolution.

5 (2) Such resolution shall not be adopted by such
 6 council--the municipal governing body if disapproved in
 7 writing by a majority of the resident freeholders of the
 8 territory proposed to be embraced, and no further
 9 resolutions relating to the annexation of said territory or
 10 any portion thereof may be considered or acted upon by the
 11 council--governing body on its own initiative and without
 12 petition for a period of 1 year from the date of
 13 disapproval.*

14 Section 6. Section 7-2-4325, MCA, is amended to read:

15 "7-2-4325. Consolidation of proceedings for two or more
 16 tracts. Whenever two or more adjacent tracts taken as a
 17 whole shall adjoin the city, they may be included in one
 18 resolution under 7-2-4321-through-7-2-4325, although one or
 19 more of said tracts taken alone may not be adjacent to the
 20 corporate limits as then existing.*

21 Section 7. Section 7-2-4501, MCA, is amended to read:

22 "7-2-4501. Annexation of wholly surrounded land by
 23 cities--of--the--first--class municipalities. A city--of--the
 24 first-class municipality may include as part of the city
 25 municipality any platted or unplatted tract or parcel of

1 land that is wholly surrounded by the ~~city~~ municipality upon
 2 passing a resolution of intent, giving notice, and passing a
 3 resolution of annexation. Except as provided in 7-2-4502,
 4 the provisions of 7-2-4312 through 7-2-4314 apply to these
 5 resolutions and the notice requirement."

6 Section 8. Section 7-2-4502, MCA, is amended to read:
 7 "7-2-4502. Protest not available. Such land shall be
 8 annexed, if so resolved, whether or not a majority of the
 9 ~~resident~~ freeholders of the land to be annexed object."

10 Section 9. Section 7-2-4601, MCA, is amended to read:
 11 "7-2-4601. Annexation by petition. (1) The boundaries
 12 of any incorporated city or town, whether heretofore or
 13 hereafter formed, may be altered and new territory or
 14 territories annexed thereto, incorporated and included
 15 therein, and made a part thereof upon proceedings being had
 16 and taken as provided in this part.

17 (2) The council or other legislative body of any such
 18 ~~municipal corporation~~, upon receiving a written petition
 19 therefor containing a description of the new territory or
 20 territories asked to be annexed to the corporation and
 21 signed by not less than 33 1/3% of the registered electors
 22 of the territory proposed to be annexed, must without delay
 23 submit to the electors of the municipal corporation and to
 24 the registered electors residing in the territory or
 25 territories proposed by the petition to be annexed to the

1 corporation, the question whether the new territory or
 2 territories shall be annexed to, incorporated in, and made a
 3 part of the municipal corporation.

4 (3) The governing body of a municipality, upon
 5 receiving a written petition containing a description of
 6 territory requested to be annexed and signed by more than
 7 50% of the ~~resident-freeholder-electors~~ freeholders of the
 8 territory to be annexed, need not submit the question of
 9 annexation to the qualified electors as provided in
 10 subsection (2). The governing body may approve or disapprove
 11 the petition upon its merits. When the governing body
 12 approves the petition, it shall pass a resolution providing
 13 for the annexation."

14 Section 10. Section 7-2-4606, MCA, is amended to read:
 15 "7-2-4606. Resolution of annexation. (1) (a) If it is
 16 found that a majority of votes were cast in favor of the
 17 annexation, the city or town council or other legislative
 18 body shall, at a regular or special meeting held within 30
 19 days thereafter, pass and adopt a resolution providing for
 20 such annexation.

21 (b) Such resolution shall recite that a petition has
 22 been filed with the said council or other legislative body
 23 with a sufficient number of signatures of 33 1/3% of the
 24 ~~resident-freeholder~~ registered electors of the territory
 25 proposed to be annexed; a description of the boundaries of

1 the territory or territories to be annexed; a copy of the
 2 resolution ordering a general or special election thereof,
 3 as the case may be; a copy of the notice of such election;
 4 the time and result of the canvass of the votes received in
 5 favor of annexation and the number thereof cast against
 6 annexation; and that the boundaries of such city or town, by
 7 such resolution, shall be extended so as to embrace and
 8 include such territory or territories as the same are
 9 described in the petition for annexation, which said
 10 resolution shall be incorporated in the minutes of said
 11 council or legislative body.

12 (2) A resolution adopted pursuant to 7-2-4601(3) must
 13 include a statement that a petition has been filed with the
 14 governing body containing the signatures of more than 50% of
 15 the resident--freeholder--electors freeholders of the
 16 territory to be annexed; a description of the boundaries of
 17 the territory to be annexed; and a statement that the
 18 boundaries of the municipality are to be extended to include
 19 the territory described in the petition for annexation. The
 20 resolution shall be incorporated in the minutes of the
 21 governing body. Upon incorporation in the minutes, the
 22 resolution must be filed and becomes effective as provided
 23 in 7-2-4607."

24 Section 11. Section 7-2-4704, MCA, is amended to read:
 25 **7-2-4704. Definitions.** The following terms where used

1 in this part have the following meanings except where the
 2 context clearly indicates a different meaning:

3 (1) "Contiguous" means any area which, at the time
 4 annexation procedures are initiated, either abuts directly
 5 on the municipal boundary or is separated from the municipal
 6 boundary by a street or street right-of-way, a creek or
 7 river, the right-of-way of a railroad or other public
 8 service corporation, lands owned by the city or some other
 9 political subdivision, or lands owned by the state.

10 (2) "Municipality" means any city or town under Montana
 11 law.

12 (3) "Resident-freeholder" "Freeholder" means a person
 13 who maintains his residence on real property in which he
 14 holds an estate of life or inheritance in real property or
 15 of which he is the purchaser of such an estate under a
 16 contract for deed, some memorandum of which has been filed
 17 in the office of the county clerk and recorder."

18 Section 12. Section 7-2-4705, MCA, is amended to read:

19 **7-2-4705. Annexation by municipalities providing**
 20 **services.** (1) The governing body of any municipality may
 21 extend the corporate limits of such municipality under the
 22 procedure set forth in this part upon the initiation of the
 23 procedure by the governing body itself.

24 (2) Whenever the resident freeholders situated outside
 25 the corporate boundaries of any municipality, but contiguous

1 thereto, desire to have real estate annexed to the
 2 municipality, they may file with the governing body of the
 3 municipality a petition bearing the signatures of 51% of the
 4 resident freeholders in the territory sought to be annexed,
 5 requesting a resolution stating the intent of the
 6 municipality to consider annexation. Upon passage of the
 7 resolution, the governing body shall follow the procedure in
 8 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

9 Section 13. Section 7-2-4710, MCA, is amended to read:
 10 "7-2-4710. Protest. (1) For a period of 20 days after
 11 the public hearing provided for in 7-2-4707 through
 12 7-2-4709, the governing body of the municipality shall
 13 receive expressions, in writing, of approval or disapproval
 14 of the proposed annexation from resident freeholders of the
 15 territory proposed to be annexed.

16 (2) If a majority of the said resident freeholders in
 17 writing disapprove the proposed annexation, no further
 18 proceedings under this part shall be had relating to the
 19 territory proposed to be annexed or any part thereof for a
 20 period of 1 year from the date of such disapproval."

21 Section 14. Section 7-2-4741, MCA, is amended to read:
 22 "7-2-4741. Right to court review when area annexed. (1)
 23 Within 30 days following the passage of an annexation
 24 ordinance under authority of this part, either a majority of
 25 the resident freeholders in the territory or the owners of

1 more than 75% in assessed valuation of the real estate in
 2 the territory who believe that they will suffer material
 3 injury by reason of the failure of the municipal governing
 4 body to comply with the procedure set forth in this part or
 5 to meet the requirements set forth in 7-2-4734 and 7-2-4735,
 6 as they apply to their property, may file a petition in the
 7 district court of the district in which the municipality is
 8 located seeking review of the action of the governing board
 9 and serve a copy of the petition on the municipality in the
 10 manner of service of civil process.

11 (2) If two or more petitions for review are submitted
 12 to the court, the court may consolidate all such petitions
 13 for review at a single hearing."

14 Section 15. Section 7-2-4751, MCA, is amended to read:
 15 "7-2-4751. Right to court review when area not annexed.
 16 (1) After the resident freeholders have properly petitioned
 17 the governing body of the municipality and the body has
 18 failed to pass a resolution of intent to annex within 60
 19 days, the petitioners may file a complaint and a duplicate
 20 copy of the petition in the district court of the proper
 21 jurisdiction stating the reason why the proposed annexation
 22 should take place.

23 (2) The municipality shall be designated party
 24 defendant in the cause and shall be required to appear and
 25 answer as in other cases."

LC 0115/01

1 Section 16. Repealer. Sections 7-2-4321 through
2 7-2-4324, NCA, are repealed.

-End-