

House Bill 805

In The House

February 18, 1981	Introduced and referred to Committee on Local Government.
February 21, 1981	Committee recommend bill do pass.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading do pass.
February 25, 1981	On motion rules suspended and bill placed on third reading this day. Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Taxation.
March 27, 1981	Rereferred to Committee on Local Government.
April 23, 1981	Died in Committee.

1 House BILL NO. 805
2 INTRODUCED BY Kilschman

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SIMPLIFY AND
5 ECONOMIZE THE PROVISION OF PUBLIC SERVICES BY AUTHORIZING
6 THE CREATION OF MULTIPURPOSE SELF-GOVERNING METROPOLITAN
7 DISTRICTS."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Short title. [This act] may be cited as the
11 "Montana Metropolitan Districts Act".

12 Section 2. Purpose. The purpose of [this act] is to
13 simplify and economize the provision of vital public
14 services to persons living in both urban and rural areas of
15 Montana by authorizing the creation of multipurpose
16 self-governing metropolitan districts.

17 Section 3. Metropolitan district -- definition. A
18 "metropolitan district" is a district authorized by [this
19 act] and organized to provide any two or more of the public
20 services enumerated in Title 7, chapters 12, 13, 22, 33, and
21 35.

22 Section 4. Metropolitan districts authorized -- effect
23 on other service districts. (1) A metropolitan district may
24 be organized, incorporated, and managed as expressly
25 provided in [this act] and may exercise the powers expressly

1 granted or necessarily implied in [this act].

2 (2) The people of any county or counties, or portion
3 of a city or a county, or a city and a county, or any
4 combination of these political subdivisions, whether such
5 portion includes unincorporated territory or not, may
6 organize a metropolitan district under the provisions of
7 [this act] by proceeding as provided in [this act].

8 (3) No district organized to provide services,
9 authorized under Title 7, chapters 12 through 35, may be
10 organized within an existing metropolitan district after
11 [the effective date of this act].

12 (4) Nothing in [this act] affects the validity of an
13 existing service district unless the members of the district
14 elect to form a metropolitan district as provided in [this
15 act].

16 Section 5. Petition to create metropolitan district.

17 (1) In order to initiate the creation of a metropolitan
18 district, a petition signed by at least 10% of the
19 registered voters of the territory proposed to be included
20 in the district shall be presented at a regular meeting of
21 the board of county commissioners of the county in which the
22 proposed district or the major part of the district is
23 proposed to be located.

24 (2) Such petition shall include the proposed
25 boundaries of the district and shall request that the

1 district be incorporated under the provisions of [this act].

2 (3) The petition must also include:

3 (a) the name of the proposed metropolitan district;

4 (b) a general description of its purposes;

5 (c) a statement as to whether the proposed district
6 lies wholly or partly within another county, service
7 district, or municipality.

8 Section 6. Notice of petition -- hearing required. (1)
9 The text of the petition referred to in [section 5] shall be
10 published once each week for 2 consecutive weeks in a
11 newspaper or newspapers printed and published in every
12 county in which the proposed district lies, together with a
13 notice stating the time of the meeting at which the petition
14 to create the district will be presented.

15 (2) The notice shall be published at least 2 weeks
16 before the petition is to be presented. No more than five of
17 the names attached to the petition are required to appear in
18 the publication of the petition and notice, but the number
19 of signers must be stated.

20 (3) The notice must also include the time of the
21 meeting of the board when the petition will be considered
22 and a statement that all persons interested in the petition
23 may then appear and be heard.

24 (4) The board of county commissioners holding the
25 hearing shall also mail a copy of the notice to the

1 governing bodies of all other counties and all
2 municipalities to be included within the proposed
3 metropolitan district.

4 (5) Upon the request of the board of county
5 commissioners for any county in which part of the proposed
6 district is to be located, the board of county commissioners
7 holding the hearing shall form a joint commission, prior to
8 the hearing, made up of commissioners from all counties in
9 which a part of the proposed district is to be located. This
10 joint commission has all the powers provided for in [this
11 act] to be carried out by the board of county commissioners
12 with whom the petition was filed.

13 Section 7. Hearing on petition -- protest. (1) At the
14 time for the hearing, the board of county commissioners
15 shall hear the petition and those appearing on the petition,
16 together with any written protests filed with the county
17 clerk and recorder prior to the hearing by or on behalf of
18 owners of taxable property located within the boundaries of
19 the proposed district. The board of county commissioners may
20 adjourn the hearing from time to time, not exceeding a
21 period of 4 weeks in all.

22 (2) Upon hearing the petition, the board of county
23 commissioners shall determine whether or not the petition
24 complies with the requirements of [this act] and for that
25 purpose must hear all competent and relevant testimony

1 offered in support of or in opposition to the petition. Such
 2 determination shall be entered in the minutes of the meeting
 3 of the board of county commissioners at which the
 4 determination was made.

5 Section 8. Effect of certain irregularities. No defect
 6 in the contents or the title of the petition, the form of
 7 the signatures on the petition, or form of notice
 8 invalidates any proceedings on the petition if the petition
 9 or petitions contain a sufficient number of qualified
 10 signatures.

11 Section 9. Decision on petition -- election required.
 12 (1) At the final hearing, the board of county commissioners
 13 shall make such changes in the proposed boundaries as may be
 14 determined advisable and shall define and establish the
 15 boundaries. However, the board of county commissioners may
 16 not modify the boundaries so as to exclude from the proposed
 17 district any territory that would benefit from the formation
 18 of the district. No territory that will not, in the judgment
 19 of the board of county commissioners, benefit from inclusion
 20 in the district may be included within it.

21 (2) Upon the final determination of the boundaries of
 22 the district, the board of county commissioners of each
 23 county in which the district lies shall give notice of an
 24 election to be held in the proposed district for the purpose
 25 of determining whether or not it shall be incorporated. The

1 election must be held not more than 60 days from the date of
 2 the final hearing on the petition.

3 Section 10. Application to include benefited lands. A
 4 person whose lands may be benefited by inclusion in a
 5 proposed district may, in the discretion of the board of
 6 county commissioners, have such lands included within the
 7 proposed district upon application to the board of county
 8 commissioners of the county in which his lands are located.

9 Section 11. Notice of election. (1) The notice of
 10 election required by [section 9] shall describe the
 11 boundaries established and shall state the proposed name of
 12 the proposed incorporation. The name shall contain the
 13 words ". . . metropolitan district".

14 (2) This notice shall be published as provided in
 15 13-1-108.

16 Section 12. Conduct of election on question of
 17 creating district. (1) The election on the question of
 18 creating the district shall be conducted, the vote
 19 canvassed, and the result declared in the same manner as
 20 provided by Title 13 with respect to general elections, so
 21 far as it is applicable, except as otherwise provided in
 22 [this act].

23 (2) At the election the proposition to be submitted
 24 shall be stated substantially as follows: "Shall the
 25 proposition to organize . . . metropolitan district under

1 [this act] be adopted?*

2 Section 13. Qualifications to vote on question of
3 creating district. (1) Except as provided in subsection (2),
4 no individual is entitled to vote at any election under the
5 provisions of [this act] unless that individual possesses
6 all the qualifications required of electors under the
7 general election laws and is a resident of the proposed
8 district.

9 (2) An individual who is the owner of real property
10 within the proposed district need not possess the
11 qualifications required of an elector in 13-1-111(1)(c) if
12 he is registered to vote in any state of the United States
13 and files proof of such registration with the election
14 administrator.

15 Section 14. Effect of insufficient favorable vote. If
16 less than a majority of the votes cast are in favor of the
17 proposition to create a district, the proposition fails but
18 without prejudice to renewing proceedings at any time in the
19 future.

20 Section 15. Order creating district upon sufficient
21 favorable vote. (1) If at least 40% of all voters qualified
22 as provided in [section 13] have voted and if a majority of
23 the votes cast at the election are in favor of organizing
24 the metropolitan district, the board of county commissioners
25 of each such county shall, by an order entered on its

1 minutes, declare the territory enclosed within the proposed
2 boundaries duly organized as a metropolitan district under
3 the name designated.

4 (2) The county clerk of each applicable county shall
5 immediately file with the secretary of state and cause to be
6 recorded in the office of the county clerk and recorder of
7 that county in which such district is situated a certificate
8 stating that the proposition was adopted.

9 Section 16. Certificate of incorporation from
10 secretary of state. (1) Upon receipt of the certificate
11 referred to in [section 15], the secretary of state shall,
12 within 10 days, issue a certificate reciting that the
13 district has been incorporated. A copy of the certificate
14 shall be transmitted to and filed with the county clerk and
15 recorder of the county or counties in which the district is
16 located.

17 (2) From the date of such certificate, the district
18 named therein is considered incorporated, with all the
19 rights, privileges, and powers set forth in [this act] and
20 necessarily incident to it.

21 Section 17. Limitations on lawsuits challenging
22 formation of district. (1) A finding of the board of county
23 commissioners in favor of the genuineness and sufficiency of
24 the petition and notice is final and conclusive against all
25 persons except the state of Montana upon suit commenced by

1 the attorney general. Any such suit must be commenced within
2 1 year after the order of the board of county commissioners
3 declaring the district organized as provided in [this act].

4 (2) Any proceeding in which the validity of the
5 incorporation of the district is challenged shall be
6 commenced within 3 months from the date of the certificate
7 of incorporation. If no challenge is filed within those 3
8 months, the incorporation and the legal existence of the
9 district and all proceedings in respect to it are valid and
10 uncontestable.

11 Section 18. District to be governed by board of
12 directors. (1) At an election to be held within a district
13 under the provisions of [this act] and the laws governing
14 general elections not inconsistent with [this act], the
15 members of the district, within 120 days after its
16 formation, shall elect a board of directors.

17 (2) The board of directors is the governing body of
18 the district.

19 Section 19. Composition of board of directors. The
20 board of directors shall consist of five members or, if
21 there are 10 or fewer qualified electors in the district,
22 three members.

23 Section 20. Qualifications of directors. A director
24 must be an owner or lessee of real property within the
25 district or a resident of it.

1 Section 21. Term of office. (1) A director, elected or
2 appointed, shall hold office until the election and
3 qualification or appointment and qualification of his
4 successor.

5 (2) Except as otherwise provided, the term of office
6 of a director elected under the provisions of [this act] is
7 4 years from the date of his election.

8 (3) Directors elected at the first regular election
9 under [this act] shall serve as follows:

10 (a) three directors shall serve for a term of 2 years
11 and two for a term of 4 years, unless the board consists of
12 three members, in which case two directors shall serve for a
13 term of 2 years and one for a term of 4 years;

14 (b) at their first meeting, the directors shall
15 determine by lot which of them shall serve a term of less
16 than 4 years. Every term thereafter shall be a 4-year term.

17 (4) The first regular election for a district shall be
18 held in November of the next odd-numbered year following the
19 formation of the district.

20 Section 22. General district election. The election of
21 directors of the district shall be held every 4 years in
22 conjunction with the election for local government officials
23 provided for in 13-1-104(2).

24 Section 23. Petition of nomination required for
25 printing of name on ballot. The name of a candidate shall be

1 printed upon the ballot when a petition of nomination has
2 been filed in his behalf as provided in 7-13-2238 through
3 7-13-2247, except when directors are appointed as provided
4 in 7-13-2259 and 7-13-2260.

5 Section 24. General powers of metropolitan district.

6 (1) A district incorporated as provided in [this act] may:

7 (a) have perpetual succession;

8 (b) sue and be sued, except as otherwise provided, in

9 all actions and proceedings in any court of competent
10 jurisdiction;

11 (c) adopt a seal and alter it at pleasure;

12 (d) acquire by grant, purchase, gift, devise, or lease
13 and hold, use, enjoy, and lease or dispose of real and
14 personal property, within or without the district, necessary
15 to the full exercise of its powers;

16 (e) make contracts, employ labor, and undertake all
17 action necessary for the full exercise of its powers.

18 (2) Except as otherwise provided in [this act], the
19 powers enumerated in [this act] shall be exercised by the
20 board of directors provided for in [section 18] and elected
21 and appointed as described in [this act].

22 Section 25. Right-of-way across state lands.
23 Right-of-way is given to locate, construct, and maintain
24 metropolitan district works over and through any lands that
25 are the property of this state, and the district has the

1 same rights and privileges relating to the right-of-way as
2 are granted to municipalities.

3 Section 26. Powers related to district finances. A
4 district incorporated as provided in [this act] may:

5 (1) accept funds and property or other assistance,
6 financial or otherwise, from federal, state, and other
7 public or private sources for the purposes of aiding the
8 construction or maintenance of public services;

9 (2) cooperate and contract with the state or federal
10 government or any department or agency of this state in
11 furnishing assurances for and meeting local cooperation
12 requirements of any project involving control, conservation,
13 and use of water;

14 (3) borrow money, incur indebtedness, and issue bonds
15 or other evidence of such indebtedness, and refund or retire
16 any indebtedness or lien that may exist against the district
17 or its property;

18 (4) cause taxes to be levied in the manner provided
19 for in [this act] for the purpose of paying any obligation
20 of the district and to accomplish the purposes of [this act]
21 as provided in it.

22 Section 27. Applicability of general election laws.
23 Except as otherwise provided in [this act], the provisions
24 of law relating to the qualifications of electors, the
25 manner of voting, the duties of election officers, the

1 canvassing of returns, and all other requirements for
2 management of general elections, so far as they may be
3 applicable, govern district elections.

4 Section 28. Combination of elections. (1) The board of
5 county commissioners may combine in one election the
6 election on the formation of the district, the election of
7 directors, and the election on incurring a bonded
8 indebtedness so that the electors of the district may vote
9 on all of these matters on the same date.

10 (2) If the elections are combined, the board of county
11 commissioners shall so declare by resolution containing the
12 provisions required by 7-13-2321. Whenever the elections are
13 combined, the county commissioners shall give notice of the
14 election. The notice shall include the names of the
15 candidates and the details concerning the bonded
16 indebtedness.

17 Section 29. Special powers -- water and sewer
18 district. A metropolitan district incorporated to provide
19 services as a county water or sewer district, or both, in
20 addition to all other powers provided for in [this act], has
21 those powers not inconsistent with [this act] allowed county
22 water or sewer districts, or both, in Title 7, chapter 13,
23 parts 22 and 23.

24 Section 30. Special powers -- garbage and ash
25 collection. A metropolitan district incorporated to provide

1 services as a garbage and ash collection district, in
2 addition to all other powers provided for in [this act], has
3 those powers, not inconsistent with [this act], allowed
4 garbage and ash collection districts, in Title 7, chapter
5 13, part 24.

6 Section 31. Special powers -- television districts. A
7 metropolitan district incorporated to provide services as a
8 television district, in addition to all other powers
9 provided for in [this act], has those powers, not
10 inconsistent with [this act], allowed television districts
11 in Title 7, chapter 13, part 25.

12 Section 32. Special powers -- mosquito control
13 districts. Any metropolitan district incorporated to provide
14 services as a mosquito control district, in addition to all
15 other powers provided for in [this act], has those powers,
16 not inconsistent with [this act], allowed mosquito control
17 districts in Title 7, chapter 22, part 24.

18 Section 33. Special powers -- weed control districts.
19 Any metropolitan district incorporated to provide services
20 as a weed control district, in addition to all other powers
21 provided for in [this act], has those powers, not
22 inconsistent with [this act], allowed weed control districts
23 in Title 7, chapter 22, part 21.

24 Section 34. Special powers -- cemetery districts. Any
25 metropolitan district incorporated to provide services as a

1 cemetery district, in addition to all other powers provided
 2 for in [this act], has those powers, not inconsistent with
 3 [this act], allowed cemetery districts in Title 7, chapter
 4 35, part 21.

5 Section 35. Special powers -- rural fire districts.
 6 Any metropolitan district incorporated to provide services
 7 as a rural fire district, in addition to all other powers
 8 provided for in [this act], has those powers, not
 9 inconsistent with [this act], allowed rural fire districts
 10 in Title 7, chapter 33, part 21.

11 Section 36. Special powers -- refuse disposal
 12 districts. Any metropolitan district incorporated to provide
 13 services as a refuse disposal district, in addition to all
 14 other powers provided for in [this act], has those powers,
 15 not inconsistent with [this act], allowed refuse disposal
 16 districts in Title 7, chapter 13, part 2.

17 Section 37. Special powers -- lighting districts. Any
 18 metropolitan district incorporated to provide services as a
 19 lighting district, in addition to all other powers provided
 20 for in [this act], may exercise those powers provided for in
 21 Title 7, chapter 12, parts 22 and 43.

22 Section 38. Establishment of charges for services. (1)
 23 The board of directors shall fix all rates charged for
 24 services rendered by the district and shall, through a
 25 general manager, collect all charges.

1 (2) The board in furnishing of all services and
 2 facilities shall fix such rates, fees, tolls, rents, or
 3 other charges as will pay the operating expenses of the
 4 district, provide for repairs and depreciation of works
 5 owned or operated by it, pay the interest on any bonded
 6 indebtedness, and, so far as possible, provide a sinking or
 7 other fund for the payment of principal of such debt as it
 8 becomes due.

9 (3) Notwithstanding any other section of [this act] or
 10 limitation imposed by it and when the board has applied for
 11 and received from the federal government any money for the
 12 construction, operation, and maintenance of service
 13 facilities, the board may adopt a system of charges and
 14 rates to require that each recipient of those services pays
 15 its proportionate share of the costs of operation,
 16 maintenance, and replacement of those service facilities.

17 Section 39. Levies to cover deficiencies. The board,
 18 in certifying annual levies, shall take into account the
 19 maturing indebtedness for the ensuing year as provided in
 20 its contracts, maturing bonds, and interest on bonds and
 21 deficiencies and defaults of prior years and shall make
 22 sufficient provision for the payment of them. If the money
 23 produced from such levies, together with other revenues of
 24 the district, are not sufficient to pay in a timely manner
 25 the annual installments on its contracts or bonds and

1 interest on them and to pay defaults and deficiencies, the
2 board shall levy additional taxes as may be necessary for
3 such purposes. Notwithstanding any limitations, such taxes
4 shall continue to be levied until the indebtedness of the
5 district is fully paid.

6 Section 40. Method of assessment. When the amount of
7 money required for any purposes enumerated in [section 38]
8 has been determined:

9 (1) each lot or parcel of land to be assessed shall be
10 assessed with that part of the amount of money required
11 which its area bears to the total area of all the lands to
12 be assessed; or

13 (2) the assessment may, at the option of the board of
14 directors, be based upon the taxable valuation as stated in
15 the last completed county assessment roll of the lots or
16 parcels of land, exclusive of improvements thereon, within
17 the district, in which case each lot or parcel of land to be
18 assessed shall be assessed with that part of the amount of
19 money required which its taxable valuation bears to the
20 total taxable valuation of all the lands to be assessed.

21 Section 41. Notice of intention to levy tax. (1) When
22 the written estimate of the amount of money required for the
23 district has been delivered to the board, the board shall
24 give notice of its intention to levy and collect a
25 sufficient tax.

1 (2) The notice shall be given:

2 (a) by posting notice in five public places within the
3 boundaries of the territory upon which the tax is to be
4 levied;

5 (b) by publishing a copy of the notice once each week
6 for 2 consecutive weeks in a newspaper published in each
7 county in which the district is located; and

8 (c) by forwarding, by regular first-class mail or
9 registered or certified mail at least 10 days prior to the
10 hearing provided for in [section 43], a copy of the notice
11 addressed to the owners of taxable real property within the
12 district as shown by the current assessment book on file in
13 the office of the assessor of the county or counties the
14 boundaries of which include taxable real property of the
15 district.

16 Section 42. Legal sufficiency of notice. The
17 legislature determines that the giving of notice in
18 accordance with [section 41] is reasonably calculated to
19 inform the owners of taxable real property located within
20 the boundaries of the district of the hearing provided for
21 in [section 43] and that the giving of any further notice is
22 impracticable and is unnecessary to the assurance of due
23 process of law to such property owners.

24 Section 43. Contents of notice -- hearing and protest.
25 The notice required by [section 41] shall state:

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- 1 (1) the amount of money required;
- 2 (2) the method of assessment that the board or boards
- 3 of county commissioners intend to employ;
- 4 (3) the boundaries or description of the lands to be
- 5 assessed, which boundaries or description may be recited in
- 6 full or may be given by reference to any instrument on file
- 7 or of record in the office of the clerk and recorder,
- 8 treasurer, or assessor of the county or counties in which
- 9 the district or part thereof is situated; and
- 10 (4) the time when and the place where the board or
- 11 boards of county commissioners will hear and pass upon all
- 12 protests that may be made against the levy of the tax or any
- 13 matter pertaining to it.

14 Section 44. Hearing on protest to levy of tax. (1) The

15 hearing provided for in [section 43] shall be held at least

16 15 days after the last publication of the notice.

17 (2) At the time and place designated for the hearing,

18 an owner of property located within the area to be assessed

19 may appear and protest the levy of the tax or any matter

20 pertaining to it. All protests must be heard, considered,

21 and ruled upon by the board of county commissioners.

22 Section 45. Payment of tax under protest -- action to

23 recover. (1) Whenever such tax is considered unlawful for

24 any reason by the person whose property is taxed, whether or

25 not he has protested the tax at the hearing provided for in

1 [section 43], he may pay the tax or its installments under

2 protest in the manner provided by 15-1-402 and, within the

3 time prescribed and in the manner provided by 15-1-402, may

4 commence an action to recover such tax or installments and

5 in such action contest and litigate the payment of such tax

6 only on the same grounds and for the same reasons that he

7 has stated in his written protest.

8 (2) All of the provisions of 15-1-402 for the

9 retention or refunding of taxes paid under protest apply to

10 taxes paid under protest under this section.

11 Section 46. Collection of taxes. (1) All taxes

12 referred to in [section 39] shall be collected at the same

13 time and in the same manner as county taxes are collected

14 and when collected shall be paid to the district for which

15 the taxes were levied and collected.

16 (2) Such taxes, if not paid, become delinquent at the

17 same time as do county taxes.

18 Section 47. Taxes to be lien. (1) If taxes are levied

19 for the payment of a bonded debt for the benefit of certain

20 property within the district, as stated in the resolution of

21 the board of directors, those taxes shall be a lien upon

22 each lot or parcel of that property to the extent of the

23 levy of the taxes upon that lot or parcel. All taxes for

24 other purposes shall be a lien upon each lot or parcel of

25 land within the entire area comprising the district, to the

1 extent of the levy of the taxes upon that lot or parcel.

2 (2) Taxes levied for the purposes of financing a
3 district, whether for the payment of a bonded indebtedness
4 or for other purposes, shall be of the same force and effect
5 as other liens for taxes, and their collection shall be
6 enforced by the same means as provided for in the
7 enforcement of liens for state and county taxes.

8 Section 48. Designation of fund depository. The board
9 of directors shall designate a depository or depositories to
10 have the custody of the funds of the district, all of which
11 shall have security sufficient to secure the district
12 against possible loss and shall pay the warrants drawn by
13 the auditor for demands against the district under such
14 rules as the directors may prescribe.

15 Section 49. Procedure to incur bonded indebtedness.
16 whenever the board of directors considers it necessary for
17 the district to incur a bonded indebtedness, it shall by a
18 resolution so declare and state the purpose for which the
19 proposed debt is to be incurred, the land within the
20 district to be benefited, the amount of debt to be incurred,
21 the maximum term the bonds proposed to be issued shall run
22 before maturity, and the proposition to be submitted to the
23 electors.

24 Section 50. Term of bonds. The maximum term of bonds
25 may not exceed 40 years.

1 Section 51. Election on question of incurring bonded
2 indebtedness. The board of directors shall fix a date upon
3 which an election shall be held for the purpose of
4 authorizing bonded indebtedness to be incurred.

5 Section 52. Notice of election on incurring bonded
6 indebtedness. (1) The board of directors shall give notice
7 of the holding of the election. The notice shall contain:

8 (a) the resolution adopted by the board of directors
9 of the district;

10 (b) boundaries of voting precincts, which may include
11 only the lands to be benefited as stated in the resolution;
12 and

13 (c) the location of polling places.

14 (2) The notice shall be published as provided in
15 13-1-108.

16 Section 53. Qualifications to vote on question of
17 incurring bonded indebtedness. Each registered elector
18 owning or residing upon real property within such voting
19 precincts may vote at the election.

20 Section 54. Entry of bond election results. The
21 secretary of the board of directors, as soon as the result
22 is declared, shall enter in the records of the board a
23 statement of the results.

24 Section 55. Sufficient vote required to issue bonds.
25 If from the election returns it appears that 60% or more of

1 the votes cast on the question at the election were in favor
 2 of the incurring of indebtedness, the board of directors may
 3 by resolution, at such time as it considers proper, provide
 4 for the form and execution of the bonds and for the issuance
 5 of any part of them.

6 Section 56. Sale of bonds. The board of directors may
 7 sell or dispose of the bonds issued pursuant to [section 55]
 8 at such times or in such manner as it determines to be in
 9 the public interest.

10 Section 57. Status of bonds -- tax exemption. Any
 11 bonds issued by any district organized under the provisions
 12 of [this act] have the same force, value, and use as bonds
 13 issued by any municipality and are exempt from all taxation
 14 within the state of Montana.

15 Section 58. Addition of land to district. (1) Any
 16 portion of a county, a municipality, or both, may be added
 17 to a district organized under the provisions of [this act]
 18 at any time upon petition presented in the manner provided
 19 in [this act] for the organization of a district.

20 (2) The petition may be granted by resolution of the
 21 board of directors of the district. Such resolution shall be
 22 submitted for adoption or rejection to the vote of the
 23 qualified electors in such district and in the proposed
 24 addition at a general or special election held, as provided
 25 in [this act], within 70 days after the adoption of the

1 resolution.

2 (3) If the resolution is approved, the president and
 3 secretary of the board of directors shall certify that fact
 4 to the secretary of state and to the county clerk and
 5 recorder of the county in which the district is located.
 6 Upon receipt of the certificate, the secretary of state
 7 shall within 10 days issue his certificate, reciting the
 8 passage of the ordinance and the addition of the territory
 9 to the district. A copy of the secretary of state's
 10 certificate shall be transmitted to and filed with the
 11 county clerk and recorder of the county in which the
 12 district is located.

13 (4) From the date of the certificate, the territory
 14 named in it is considered a part of the district with all
 15 the rights, privileges, and powers set forth in [this act]
 16 and necessarily incident to it.

17 Section 59. Consolidation of metropolitan districts.
 18 (1) Two or more districts organized under the provisions of
 19 [this act] may consolidate at any time, upon petitions
 20 submitted to the board of directors of each district. The
 21 petitions shall be in the form required for petitions for
 22 the organization of districts. Each petition shall be signed
 23 by not less than 10% of the registered electors of the
 24 territory included within the district.

25 (2) These petitions may be granted by resolution of

1 the board of directors of each of the districts. The
 2 resolutions shall be submitted for adoption or rejection to
 3 the vote of the qualified electors in the districts at
 4 general or special elections held, as provided in [this
 5 act], within 70 days after the adoption of the resolutions.

6 (3) If the resolutions are approved, the president and
 7 secretary of the boards of directors of each of the
 8 districts shall certify that fact to the secretary of state
 9 and to the county clerk and recorder of the county or
 10 counties in which the districts are located. Upon the
 11 receipt of the certificate, the secretary of state shall
 12 within 10 days issue his certificate, reciting the passage
 13 of the ordinances and the consolidation of the districts. A
 14 copy of the secretary of state's certificate shall be
 15 transmitted to and filed with the county clerk and recorder
 16 of each county in which the consolidated district is
 17 located.

18 (4) From the date of the certificate, the districts
 19 are consolidated and consist of one district with all the
 20 rights, privileges, and powers set forth in [this act] and
 21 necessarily incident to it.

22 (5) The number and manner of selection and election of
 23 directors of the consolidated district shall be the same as
 24 the number and manner of selection and election of directors
 25 of newly organized districts.

1 Section 60. Exclusion of land from district --
 2 initiated by petition. Any or all territory included within
 3 a district formed under the provisions of [this act] and not
 4 benefited in any manner by the district or its continued
 5 inclusion in it may be excluded from the district by order
 6 of the board of directors of the district upon the verified
 7 petition of the owner or owners in fee of lands whose
 8 assessed value, with improvements, is in excess of one-half
 9 of the assessed value of all the lands, with improvements,
 10 held in private ownership in the territory.

11 Section 61. Details relating to petition to exclude
 12 land from district. (1) The petition referred to in [section
 13 60] shall:

14 (a) describe the territory sought to be excluded;

15 (b) set forth that the territory is not benefited in
 16 any manner by the district or its continued inclusion in it;
 17 and

18 (c) propose that the territory may be excluded from
 19 the district.

20 (2) The petition shall be filed with the secretary of
 21 the district and shall be accompanied by a deposit of \$100
 22 to meet the expenses of advertising and other costs incident
 23 to the proceedings for the exclusion of the territory,
 24 including the cost of recording a certified copy of the
 25 order as provided for in [section 62]. Any unconsumed

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1 balance shall be returned to the petitioner.

2 Section 62. Procedure to exclude land. The procedure
3 for excluding any land from the district shall be the same
4 as for the exclusion of land from a water or sewer district
5 as prescribed by 7-13-2345 through 7-13-2348.

6 Section 63. Effect of municipal annexation of all
7 territory within a district. If a municipality annexes all
8 of the territory within a metropolitan district, the
9 municipality shall provide the services formerly provided by
10 the district and the district shall be dissolved.

11 Section 64. Severability. If a part of this act is
12 invalid, all valid parts that are severable from the invalid
13 part remain in effect. If a part of this act is invalid in
14 one or more of its applications, the part remains in effect
15 in all valid applications that are severable from the
16 invalid applications.

-End-

Approved by Comm.
on Local Government

House BILL NO. 805

INTRODUCED BY Kilschman

A BILL FOR AN ACT ENTITLED: "AN ACT TO SIMPLIFY AND ECONOMIZE THE PROVISION OF PUBLIC SERVICES BY AUTHORITY OF THE CREATION OF MULTIPURPOSE SELF-GOVERNING METROPOLITAN DISTRICTS."

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

Section 1. Short title. [This act] may be cited as the "Montana Metropolitan Districts Act".

Section 2. Purpose. The purpose of [this act] is to simplify and economize the provision of vital public services to persons living in both urban and rural areas of Montana by authorizing the creation of multipurpose self-governing metropolitan districts.

Section 3. Metropolitan district -- definition. A "metropolitan district" is a district authorized by [this act] and organized to provide any two or more of the public services enumerated in Title 7, chapters 12, 13, 22, 33, and 35.

Section 4. Metropolitan districts authorized -- effect on other service districts. (1) A metropolitan district may be organized, incorporated, and managed as expressly provided in [this act] and may exercise the powers expressly

granted or necessarily implied in [this act].

(2) The people of any county or counties, or portion of a city or a county, or a city and a county, or any combination of these political subdivisions, whether such portion includes unincorporated territory or not, may organize a metropolitan district under the provisions of [this act] by proceeding as provided in [this act].

(3) No district organized to provide services, authorized under Title 7, chapters 12 through 35, may be organized within an existing metropolitan district after [the effective date of this act].

(4) Nothing in [this act] affects the validity of an existing service district unless the members of the district elect to form a metropolitan district as provided in [this act].

Section 5. Petition to create metropolitan district.

(1) In order to initiate the creation of a metropolitan district, a petition signed by at least 10% of the registered voters of the territory proposed to be included in the district shall be presented at a regular meeting of the board of county commissioners of the county in which the proposed district or the major part of the district is proposed to be located.

(2) Such petition shall include the proposed boundaries of the district and shall request that the

1 district be incorporated under the provisions of [this act].

2 (3) The petition must also include:

3 (a) the name of the proposed metropolitan district;

4 (b) a general description of its purposes;

5 (c) a statement as to whether the proposed district
6 lies wholly or partly within another county, service
7 district, or municipality.

8 Section 6. Notice of petition -- hearing required. (1)
9 The text of the petition referred to in [section 5] shall be
10 published once each week for 2 consecutive weeks in a
11 newspaper or newspapers printed and published in every
12 county in which the proposed district lies, together with a
13 notice stating the time of the meeting at which the petition
14 to create the district will be presented.

15 (2) The notice shall be published at least 2 weeks
16 before the petition is to be presented. No more than five of
17 the names attached to the petition are required to appear in
18 the publication of the petition and notice, but the number
19 of signers must be stated.

20 (3) The notice must also include the time of the
21 meeting of the board when the petition will be considered
22 and a statement that all persons interested in the petition
23 may then appear and be heard.

24 (4) The board of county commissioners holding the
25 hearing shall also mail a copy of the notice to the

1 governing bodies of all other counties and all
2 municipalities to be included within the proposed
3 metropolitan district.

4 (5) Upon the request of the board of county
5 commissioners for any county in which part of the proposed
6 district is to be located, the board of county commissioners
7 holding the hearing shall form a joint commission, prior to
8 the hearing, made up of commissioners from all counties in
9 which a part of the proposed district is to be located. This
10 joint commission has all the powers provided for in [this
11 act] to be carried out by the board of county commissioners
12 with whom the petition was filed.

13 Section 7. Hearing on petition -- protest. (1) At the
14 time for the hearing, the board of county commissioners
15 shall hear the petition and those appearing on the petition,
16 together with any written protests filed with the county
17 clerk and recorder prior to the hearing by or on behalf of
18 owners of taxable property located within the boundaries of
19 the proposed district. The board of county commissioners may
20 adjourn the hearing from time to time, not exceeding a
21 period of 4 weeks in all.

22 (2) Upon hearing the petition, the board of county
23 commissioners shall determine whether or not the petition
24 complies with the requirements of [this act] and for that
25 purpose must hear all competent and relevant testimony

1 offered in support of or in opposition to the petition. Such
2 determination shall be entered in the minutes of the meeting
3 of the board of county commissioners at which the
4 determination was made.

5 Section 8. Effect of certain irregularities. No defect
6 in the contents or the title of the petition, the form of
7 the signatures on the petition, or form of notice
8 invalidates any proceedings on the petition if the petition
9 or petitions contain a sufficient number of qualified
10 signatures.

11 Section 9. Decision on petition -- election required.
12 (1) At the final hearing, the board of county commissioners
13 shall make such changes in the proposed boundaries as may be
14 determined advisable and shall define and establish the
15 boundaries. However, the board of county commissioners may
16 not modify the boundaries so as to exclude from the proposed
17 district any territory that would benefit from the formation
18 of the district. No territory that will not, in the judgment
19 of the board of county commissioners, benefit from inclusion
20 in the district may be included within it.

21 (2) Upon the final determination of the boundaries of
22 the district, the board of county commissioners of each
23 county in which the district lies shall give notice of an
24 election to be held in the proposed district for the purpose
25 of determining whether or not it shall be incorporated. The

1 election must be held not more than 60 days from the date of
2 the final hearing on the petition.

3 Section 10. Application to include benefited lands. A
4 person whose lands may be benefited by inclusion in a
5 proposed district may, in the discretion of the board of
6 county commissioners, have such lands included within the
7 proposed district upon application to the board of county
8 commissioners of the county in which his lands are located.

9 Section 11. Notice of election. (1) The notice of
10 election required by [section 9] shall describe the
11 boundaries established and shall state the proposed name of
12 the proposed incorporation. The name shall contain the
13 words ". . . metropolitan district".

14 (2) This notice shall be published as provided in
15 13-1-108.

16 Section 12. Conduct of election on question of
17 creating district. (1) The election on the question of
18 creating the district shall be conducted, the vote
19 canvassed, and the result declared in the same manner as
20 provided by Title 13 with respect to general elections, so
21 far as it is applicable, except as otherwise provided in
22 [this act].

23 (2) At the election the proposition to be submitted
24 shall be stated substantially as follows: "Shall the
25 proposition to organize . . . metropolitan district under

1 [this act] be adopted?"

2 Section 13. Qualifications to vote on question of
3 creating district. (1) Except as provided in subsection (2),
4 no individual is entitled to vote at any election under the
5 provisions of [this act] unless that individual possesses
6 all the qualifications required of electors under the
7 general election laws and is a resident of the proposed
8 district.

9 (2) An individual who is the owner of real property
10 within the proposed district need not possess the
11 qualifications required of an elector in 13-1-111(1)(c) if
12 he is registered to vote in any state of the United States
13 and files proof of such registration with the election
14 administrator.

15 Section 14. Effect of insufficient favorable vote. If
16 less than a majority of the votes cast are in favor of the
17 proposition to create a district, the proposition fails but
18 without prejudice to renewing proceedings at any time in the
19 future.

20 Section 15. Order creating district upon sufficient
21 favorable vote. (1) If at least 40% of all voters qualified
22 as provided in [section 13] have voted and if a majority of
23 the votes cast at the election are in favor of organizing
24 the metropolitan district, the board of county commissioners
25 of each such county shall, by an order entered on its

1 minutes, declare the territory enclosed within the proposed
2 boundaries duly organized as a metropolitan district under
3 the name designated.

4 (2) The county clerk of each applicable county shall
5 immediately file with the secretary of state and cause to be
6 recorded in the office of the county clerk and recorder of
7 that county in which such district is situated a certificate
8 stating that the proposition was adopted.

9 Section 16. Certificate of incorporation from
10 secretary of state. (1) Upon receipt of the certificate
11 referred to in [section 15], the secretary of state shall,
12 within 10 days, issue a certificate reciting that the
13 district has been incorporated. A copy of the certificate
14 shall be transmitted to and filed with the county clerk and
15 recorder of the county or counties in which the district is
16 located.

17 (2) From the date of such certificate, the district
18 named therein is considered incorporated, with all the
19 rights, privileges, and powers set forth in [this act] and
20 necessarily incident to it.

21 Section 17. Limitations on lawsuits challenging
22 formation of district. (1) A finding of the board of county
23 commissioners in favor of the genuineness and sufficiency of
24 the petition and notice is final and conclusive against all
25 persons except the state of Montana upon suit commenced by

1 the attorney general. Any such suit must be commenced within
2 1 year after the order of the board of county commissioners
3 declaring the district organized as provided in [this act].

4 (2) Any proceeding in which the validity of the
5 incorporation of the district is challenged shall be
6 commenced within 3 months from the date of the certificate
7 of incorporation. If no challenge is filed within those 3
8 months, the incorporation and the legal existence of the
9 district and all proceedings in respect to it are valid and
10 uncontestable.

11 Section 18. District to be governed by board of
12 directors. (1) At an election to be held within a district
13 under the provisions of [this act] and the laws governing
14 general elections not inconsistent with [this act], the
15 members of the district, within 120 days after its
16 formation, shall elect a board of directors.

17 (2) The board of directors is the governing body of
18 the district.

19 Section 19. Composition of board of directors. The
20 board of directors shall consist of five members or, if
21 there are 10 or fewer qualified electors in the district,
22 three members.

23 Section 20. Qualifications of directors. A director
24 must be an owner or lessee of real property within the
25 district or a resident of it.

1 Section 21. Term of office. (1) A director, elected or
2 appointed, shall hold office until the election and
3 qualification or appointment and qualification of his
4 successor.

5 (2) Except as otherwise provided, the term of office
6 of a director elected under the provisions of [this act] is
7 4 years from the date of his election.

8 (3) Directors elected at the first regular election
9 under [this act] shall serve as follows:

10 (a) three directors shall serve for a term of 2 years
11 and two for a term of 4 years, unless the board consists of
12 three members, in which case two directors shall serve for a
13 term of 2 years and one for a term of 4 years;

14 (b) at their first meeting, the directors shall
15 determine by lot which of them shall serve a term of less
16 than 4 years. Every term thereafter shall be a 4-year term.

17 (4) The first regular election for a district shall be
18 held in November of the next odd-numbered year following the
19 formation of the district.

20 Section 22. General district election. The election of
21 directors of the district shall be held every 4 years in
22 conjunction with the election for local government officials
23 provided for in 13-1-104(2).

24 Section 23. Petition of nomination required for
25 printing of name on ballot. The name of a candidate shall be

1 printed upon the ballot when a petition of nomination has
2 been filed in his behalf as provided in 7-13-2233 through
3 7-13-2247, except when directors are appointed as provided
4 in 7-13-2259 and 7-13-2260.

5 Section 24. General powers of metropolitan district.

6 (1) A district incorporated as provided in [this act] may:

7 (a) have perpetual succession;

8 (b) sue and be sued, except as otherwise provided, in

9 all actions and proceedings in any court of competent
10 jurisdiction;

11 (c) adopt a seal and alter it at pleasure;

12 (d) acquire by grant, purchase, gift, devise, or lease
13 and hold, use, enjoy, and lease or dispose of real and
14 personal property, within or without the district, necessary
15 to the full exercise of its powers;

16 (e) make contracts, employ labor, and undertake all
17 action necessary for the full exercise of its powers.

18 (2) Except as otherwise provided in [this act], the
19 powers enumerated in [this act] shall be exercised by the
20 board of directors provided for in [section 18] and elected
21 and appointed as described in [this act].

22 Section 25. Right-of-way across state lands.
23 Right-of-way is given to locate, construct, and maintain
24 metropolitan district works over and through any lands that
25 are the property of this state, and the district has the

1 same rights and privileges relating to the right-of-way as
2 are granted to municipalities.

3 Section 26. Powers related to district finances. A
4 district incorporated as provided in [this act] may:

5 (1) accept funds and property or other assistance,
6 financial or otherwise, from federal, state, and other
7 public or private sources for the purposes of aiding the
8 construction or maintenance of public services;

9 (2) cooperate and contract with the state or federal
10 government or any department or agency of this state in
11 furnishing assurances for and meeting local cooperation
12 requirements of any project involving control, conservation,
13 and use of water;

14 (3) borrow money, incur indebtedness, and issue bonds
15 or other evidence of such indebtedness, and refund or retire
16 any indebtedness or lien that may exist against the district
17 or its property;

18 (4) cause taxes to be levied in the manner provided
19 for in [this act] for the purpose of paying any obligation
20 of the district and to accomplish the purposes of [this act]
21 as provided in it.

22 Section 27. Applicability of general election laws.
23 Except as otherwise provided in [this act], the provisions
24 of law relating to the qualifications of electors, the
25 manner of voting, the duties of election officers, the

1 canvassing of returns, and all other requirements for
2 management of general elections, so far as they may be
3 applicable, govern district elections.

4 Section 28. Combination of elections. (1) The board of
5 county commissioners may combine in one election the
6 election on the formation of the district, the election of
7 directors, and the election on incurring a bonded
8 indebtedness so that the electors of the district may vote
9 on all of these matters on the same date.

10 (2) If the elections are combined, the board of county
11 commissioners shall so declare by resolution containing the
12 provisions required by 7-13-2321. Whenever the elections are
13 combined, the county commissioners shall give notice of the
14 election. The notice shall include the names of the
15 candidates and the details concerning the bonded
16 indebtedness.

17 Section 29. Special powers -- water and sewer
18 district. A metropolitan district incorporated to provide
19 services as a county water or sewer district, or both, in
20 addition to all other powers provided for in [this act], has
21 those powers not inconsistent with [this act] allowed county
22 water or sewer districts, or both, in Title 7, chapter 13,
23 parts 22 and 23.

24 Section 30. Special powers -- garbage and ash
25 collection. A metropolitan district incorporated to provide

1 services as a garbage and ash collection district, in
2 addition to all other powers provided for in [this act], has
3 those powers, not inconsistent with [this act], allowed
4 garbage and ash collection districts, in Title 7, chapter
5 13, part 24.

6 Section 31. Special powers -- television districts. A
7 metropolitan district incorporated to provide services as a
8 television district, in addition to all other powers
9 provided for in [this act], has those powers, not
10 inconsistent with [this act], allowed television districts
11 in Title 7, chapter 13, part 25.

12 Section 32. Special powers -- mosquito control
13 districts. Any metropolitan district incorporated to provide
14 services as a mosquito control district, in addition to all
15 other powers provided for in [this act], has those powers,
16 not inconsistent with [this act], allowed mosquito control
17 districts in Title 7, chapter 22, part 24.

18 Section 33. Special powers -- weed control districts.
19 Any metropolitan district incorporated to provide services
20 as a weed control district, in addition to all other powers
21 provided for in [this act], has those powers, not
22 inconsistent with [this act], allowed weed control districts
23 in Title 7, chapter 22, part 21.

24 Section 34. Special powers -- cemetery districts. Any
25 metropolitan district incorporated to provide services as a

1 cemetery district, in addition to all other powers provided
2 for in [this act], has those powers, not inconsistent with
3 [this act], allowed cemetery districts in Title 7, chapter
4 35, part 21.

5 Section 35. Special powers -- rural fire districts.
6 Any metropolitan district incorporated to provide services
7 as a rural fire district, in addition to all other powers
8 provided for in [this act], has those powers, not
9 inconsistent with [this act], allowed rural fire districts
10 in Title 7, chapter 33, part 21.

11 Section 36. Special powers -- refuse disposal
12 districts. Any metropolitan district incorporated to provide
13 services as a refuse disposal district, in addition to all
14 other powers provided for in [this act], has those powers,
15 not inconsistent with [this act], allowed refuse disposal
16 districts in Title 7, chapter 13, part 2.

17 Section 37. Special powers -- lighting districts. Any
18 metropolitan district incorporated to provide services as a
19 lighting district, in addition to all other powers provided
20 for in [this act], may exercise those powers provided for in
21 Title 7, chapter 12, parts 22 and 43.

22 Section 38. Establishment of charges for services. (1)
23 The board of directors shall fix all rates charged for
24 services rendered by the district and shall, through a
25 general manager, collect all charges.

1 (2) The board in furnishing of all services and
2 facilities shall fix such rates, fees, tolls, rents, or
3 other charges as will pay the operating expenses of the
4 district, provide for repairs and depreciation of works
5 owned or operated by it, pay the interest on any bonded
6 indebtedness, and, so far as possible, provide a sinking or
7 other fund for the payment of principal of such debt as it
8 becomes due.

9 (3) Notwithstanding any other section of [this act] or
10 limitation imposed by it and when the board has applied for
11 and received from the federal government any money for the
12 construction, operation, and maintenance of service
13 facilities, the board may adopt a system of charges and
14 rates to require that each recipient of those services pays
15 its proportionate share of the costs of operation,
16 maintenance, and replacement of those service facilities.

17 Section 39. Levies to cover deficiencies. The board,
18 in certifying annual levies, shall take into account the
19 maturing indebtedness for the ensuing year as provided in
20 its contracts, maturing bonds, and interest on bonds and
21 deficiencies and defaults of prior years and shall make
22 sufficient provision for the payment of them. If the money
23 produced from such levies, together with other revenues of
24 the district, are not sufficient to pay in a timely manner
25 the annual installments on its contracts or bonds and

1 interest on them and to pay defaults and deficiencies, the
 2 board shall levy additional taxes as may be necessary for
 3 such purposes. Notwithstanding any limitations, such taxes
 4 shall continue to be levied until the indebtedness of the
 5 district is fully paid.

6 Section 40. Method of assessment. When the amount of
 7 money required for any purposes enumerated in [section 38]
 8 has been determined:

9 (1) each lot or parcel of land to be assessed shall be
 10 assessed with that part of the amount of money required
 11 which its area bears to the total area of all the lands to
 12 be assessed; or

13 (2) the assessment may, at the option of the board of
 14 directors, be based upon the taxable valuation as stated in
 15 the last completed county assessment roll of the lots or
 16 parcels of land, exclusive of improvements thereon, within
 17 the district, in which case each lot or parcel of land to be
 18 assessed shall be assessed with that part of the amount of
 19 money required which its taxable valuation bears to the
 20 total taxable valuation of all the lands to be assessed.

21 Section 41. Notice of intention to levy tax. (1) When
 22 the written estimate of the amount of money required for the
 23 district has been delivered to the board, the board shall
 24 give notice of its intention to levy and collect a
 25 sufficient tax.

1 (2) The notice shall be given:

2 (a) by posting notice in five public places within the
 3 boundaries of the territory upon which the tax is to be
 4 levied;

5 (b) by publishing a copy of the notice once each week
 6 for 2 consecutive weeks in a newspaper published in each
 7 county in which the district is located; and

8 (c) by forwarding, by regular first-class mail or
 9 registered or certified mail at least 10 days prior to the
 10 hearing provided for in [section 43], a copy of the notice
 11 addressed to the owners of taxable real property within the
 12 district as shown by the current assessment book on file in
 13 the office of the assessor of the county or counties the
 14 boundaries of which include taxable real property of the
 15 district.

16 Section 42. Legal sufficiency of notice. The
 17 legislature determines that the giving of notice in
 18 accordance with [section 41] is reasonably calculated to
 19 inform the owners of taxable real property located within
 20 the boundaries of the district of the hearing provided for
 21 in [section 43] and that the giving of any further notice is
 22 impracticable and is unnecessary to the assurance of due
 23 process of law to such property owners.

24 Section 43. Contents of notice -- hearing and protest.
 25 The notice required by [section 41] shall state:

- 1 (1) the amount of money required;
- 2 (2) the method of assessment that the board or boards
- 3 of county commissioners intend to employ;
- 4 (3) the boundaries or description of the lands to be
- 5 assessed, which boundaries or description may be recited in
- 6 full or may be given by reference to any instrument on file
- 7 or of record in the office of the clerk and recorder,
- 8 treasurer, or assessor of the county or counties in which
- 9 the district or part thereof is situated; and
- 10 (4) the time when and the place where the board or
- 11 boards of county commissioners will hear and pass upon all
- 12 protests that may be made against the levy of the tax or any
- 13 matter pertaining to it.

14 Section 44. Hearing on protest to levy of tax. (1) The

15 hearing provided for in [section 43] shall be held at least

16 15 days after the last publication of the notice.

17 (2) At the time and place designated for the hearing,

18 an owner of property located within the area to be assessed

19 may appear and protest the levy of the tax or any matter

20 pertaining to it. All protests must be heard, considered,

21 and ruled upon by the board of county commissioners.

22 Section 45. Payment of tax under protest -- action to

23 recover. (1) Whenever such tax is considered unlawful for

24 any reason by the person whose property is taxed, whether or

25 not he has protested the tax at the hearing provided for in

1 [section 43], he may pay the tax or its installments under

2 protest in the manner provided by 15-1-402 and, within the

3 time prescribed and in the manner provided by 15-1-402, may

4 commence an action to recover such tax or installments and

5 in such action contest and litigate the payment of such tax

6 only on the same grounds and for the same reasons that he

7 has stated in his written protest.

8 (2) All of the provisions of 15-1-402 for the

9 retention or refunding of taxes paid under protest apply to

10 taxes paid under protest under this section.

11 Section 46. Collection of taxes. (1) All taxes

12 referred to in [section 39] shall be collected at the same

13 time and in the same manner as county taxes are collected

14 and when collected shall be paid to the district for which

15 the taxes were levied and collected.

16 (2) Such taxes, if not paid, become delinquent at the

17 same time as do county taxes.

18 Section 47. Taxes to be lien. (1) If taxes are levied

19 for the payment of a bonded debt for the benefit of certain

20 property within the district, as stated in the resolution of

21 the board of directors, those taxes shall be a lien upon

22 each lot or parcel of that property to the extent of the

23 levy of the taxes upon that lot or parcel. All taxes for

24 other purposes shall be a lien upon each lot or parcel of

25 land within the entire area comprising the district, to the

1 extent of the levy of the taxes upon that lot or parcel.

2 (2) Taxes levied for the purposes of financing a
3 district, whether for the payment of a bonded indebtedness
4 or for other purposes, shall be of the same force and effect
5 as other liens for taxes, and their collection shall be
6 enforced by the same means as provided for in the
7 enforcement of liens for state and county taxes.

8 Section 48. Designation of fund depository. The board
9 of directors shall designate a depository or depositories to
10 have the custody of the funds of the district, all of which
11 shall have security sufficient to secure the district
12 against possible loss and shall pay the warrants drawn by
13 the auditor for demands against the district under such
14 rules as the directors may prescribe.

15 Section 49. Procedure to incur bonded indebtedness.
16 Whenever the board of directors considers it necessary for
17 the district to incur a bonded indebtedness, it shall by a
18 resolution so declare and state the purpose for which the
19 proposed debt is to be incurred, the land within the
20 district to be benefited, the amount of debt to be incurred,
21 the maximum term the bonds proposed to be issued shall run
22 before maturity, and the proposition to be submitted to the
23 electors.

24 Section 50. Term of bonds. The maximum term of bonds
25 may not exceed 40 years.

1 Section 51. Election on question of incurring bonded
2 indebtedness. The board of directors shall fix a date upon
3 which an election shall be held for the purpose of
4 authorizing bonded indebtedness to be incurred.

5 Section 52. Notice of election on incurring bonded
6 indebtedness. (1) The board of directors shall give notice
7 of the holding of the election. The notice shall contain:

8 (a) the resolution adopted by the board of directors
9 of the district;

10 (b) boundaries of voting precincts, which may include
11 only the lands to be benefited as stated in the resolution;
12 and

13 (c) the location of polling places.

14 (2) The notice shall be published as provided in
15 13-1-108.

16 Section 53. Qualifications to vote on question of
17 incurring bonded indebtedness. Each registered elector
18 owning or residing upon real property within such voting
19 precincts may vote at the election.

20 Section 54. Entry of bond election results. The
21 secretary of the board of directors, as soon as the result
22 is declared, shall enter in the records of the board a
23 statement of the results.

24 Section 55. Sufficient vote required to issue bonds.
25 If from the election returns it appears that 60% or more of

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1 the votes cast on the question at the election were in favor
 2 of the incurring of indebtedness, the board of directors may
 3 by resolution, at such time as it considers proper, provide
 4 for the form and execution of the bonds and for the issuance
 5 of any part of them.

6 Section 56. Sale of bonds. The board of directors may
 7 sell or dispose of the bonds issued pursuant to [section 55]
 8 at such times or in such manner as it determines to be in
 9 the public interest.

10 Section 57. Status of bonds -- tax exemption. Any
 11 bonds issued by any district organized under the provisions
 12 of [this act] have the same force, value, and use as bonds
 13 issued by any municipality and are exempt from all taxation
 14 within the state of Montana.

15 Section 58. Addition of land to district. (1) Any
 16 portion of a county, a municipality, or both, may be added
 17 to a district organized under the provisions of [this act]
 18 at any time upon petition presented in the manner provided
 19 in [this act] for the organization of a district.

20 (2) The petition may be granted by resolution of the
 21 board of directors of the district. Such resolution shall be
 22 submitted for adoption or rejection to the vote of the
 23 qualified electors in such district and in the proposed
 24 addition at a general or special election held, as provided
 25 in [this act], within 70 days after the adoption of the

1 resolution.

2 (3) If the resolution is approved, the president and
 3 secretary of the board of directors shall certify that fact
 4 to the secretary of state and to the county clerk and
 5 recorder of the county in which the district is located.
 6 Upon receipt of the certificate, the secretary of state
 7 shall within 10 days issue his certificate, reciting the
 8 passage of the ordinance and the addition of the territory
 9 to the district. A copy of the secretary of state's
 10 certificate shall be transmitted to and filed with the
 11 county clerk and recorder of the county in which the
 12 district is located.

13 (4) From the date of the certificate, the territory
 14 named in it is considered a part of the district with all
 15 the rights, privileges, and powers set forth in [this act]
 16 and necessarily incident to it.

17 Section 59. Consolidation of metropolitan districts.
 18 (1) Two or more districts organized under the provisions of
 19 [this act] may consolidate at any time, upon petitions
 20 submitted to the board of directors of each district. The
 21 petitions shall be in the form required for petitions for
 22 the organization of districts. Each petition shall be signed
 23 by not less than 10% of the registered electors of the
 24 territory included within the district.

25 (2) These petitions may be granted by resolution of

1 the board of directors of each of the districts. The
 2 resolutions shall be submitted for adoption or rejection to
 3 the vote of the qualified electors in the districts at
 4 general or special elections held, as provided in [this
 5 act], within 70 days after the adoption of the resolutions.

6 (3) If the resolutions are approved, the president and
 7 secretary of the boards of directors of each of the
 8 districts shall certify that fact to the secretary of state
 9 and to the county clerk and recorder of the county or
 10 counties in which the districts are located. Upon the
 11 receipt of the certificate, the secretary of state shall
 12 within 10 days issue his certificate, reciting the passage
 13 of the ordinances and the consolidation of the districts. A
 14 copy of the secretary of state's certificate shall be
 15 transmitted to and filed with the county clerk and recorder
 16 of each county in which the consolidated district is
 17 located.

18 (4) From the date of the certificate, the districts
 19 are consolidated and consist of one district with all the
 20 rights, privileges, and powers set forth in [this act] and
 21 necessarily incident to it.

22 (5) The number and manner of selection and election of
 23 directors of the consolidated district shall be the same as
 24 the number and manner of selection and election of directors
 25 of newly organized districts.

1 Section 60. Exclusion of land from district --
 2 initiated by petition. Any or all territory included within
 3 a district formed under the provisions of [this act] and not
 4 benefited in any manner by the district or its continued
 5 inclusion in it may be excluded from the district by order
 6 of the board of directors of the district upon the verified
 7 petition of the owner or owners in fee of lands whose
 8 assessed value, with improvements, is in excess of one-half
 9 of the assessed value of all the lands, with improvements,
 10 held in private ownership in the territory.

11 Section 61. Details relating to petition to exclude
 12 land from district. (1) The petition referred to in [section
 13 60] shall:

- 14 (a) describe the territory sought to be excluded;
- 15 (b) set forth that the territory is not benefited in
- 16 any manner by the district or its continued inclusion in it;
- 17 and
- 18 (c) propose that the territory may be excluded from
- 19 the district.

20 (2) The petition shall be filed with the secretary of
 21 the district and shall be accompanied by a deposit of \$100
 22 to meet the expenses of advertising and other costs incident
 23 to the proceedings for the exclusion of the territory,
 24 including the cost of recording a certified copy of the
 25 order as provided for in [section 62]. Any unconsumed

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1 balance shall be returned to the petitioner.

2 Section 62. Procedure to exclude land. The procedure
3 for excluding any land from the district shall be the same
4 as for the exclusion of land from a water or sewer district
5 as prescribed by 7-13-2345 through 7-13-2348.

6 Section 63. Effect of municipal annexation of all
7 territory within a district. If a municipality annexes all
8 of the territory within a metropolitan district, the
9 municipality shall provide the services formerly provided by
10 the district and the district shall be dissolved.

11 Section 64. Severability. If a part of this act is
12 invalid, all valid parts that are severable from the invalid
13 part remain in effect. If a part of this act is invalid in
14 one or more of its applications, the part remains in effect
15 in all valid applications that are severable from the
16 invalid applications.

-End-

1 Clause BILL NO. 805
 2 INTRODUCED BY Kitselman
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SIMPLIFY AND
 5 ECONOMIZE THE PROVISION OF PUBLIC SERVICES BY AUTHORIZING
 6 THE CREATION OF MULTIPURPOSE SELF-GOVERNING METROPOLITAN
 7 DISTRICTS."
 8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Short title. [This act] may be cited as the
 11 "Montana Metropolitan Districts Act".
 12 Section 2. Purpose. The purpose of [this act] is to
 13 simplify and economize the provision of vital public
 14 services to persons living in both urban and rural areas of
 15 Montana by authorizing the creation of multipurpose
 16 self-governing metropolitan districts.
 17 Section 3. Metropolitan district -- definition. A
 18 "metropolitan district" is a district authorized by [this
 19 act] and organized to provide any two or more of the public
 20 services enumerated in Title 7, chapters 12, 13, 22, 33, and
 21 35.
 22 Section 4. Metropolitan districts authorized -- effect
 23 on other service districts. (1) A metropolitan district may
 24 be organized, incorporated, and managed as expressly
 25 provided in [this act] and may exercise the powers expressly

1 granted or necessarily implied in [this act].
 2 (2) The people of any county or counties, or portion
 3 of a city or a county, or a city and a county, or any
 4 combination of these political subdivisions, whether such
 5 portion includes unincorporated territory or not, may
 6 organize a metropolitan district under the provisions of
 7 [this act] by proceeding as provided in [this act].
 8 (3) No district organized to provide services,
 9 authorized under Title 7, chapters 12 through 35, may be
 10 organized within an existing metropolitan district after
 11 [the effective date of this act].
 12 (4) Nothing in [this act] affects the validity of an
 13 existing service district unless the members of the district
 14 elect to form a metropolitan district as provided in [this
 15 act].
 16 Section 5. Petition to create metropolitan district.
 17 (1) In order to initiate the creation of a metropolitan
 18 district, a petition signed by at least 10% of the
 19 registered voters of the territory proposed to be included
 20 in the district shall be presented at a regular meeting of
 21 the board of county commissioners of the county in which the
 22 proposed district or the major part of the district is
 23 proposed to be located.
 24 (2) Such petition shall include the proposed
 25 boundaries of the district and shall request that the

1 district be incorporated under the provisions of [this act].

2 (3) The petition must also include:

3 (a) the name of the proposed metropolitan district;

4 (b) a general description of its purposes;

5 (c) a statement as to whether the proposed district
6 lies wholly or partly within another county, service
7 district, or municipality.

8 Section 6. Notice of petition -- hearing required. (1)
9 The text of the petition referred to in [section 5] shall be
10 published once each week for 2 consecutive weeks in a
11 newspaper or newspapers printed and published in every
12 county in which the proposed district lies, together with a
13 notice stating the time of the meeting at which the petition
14 to create the district will be presented.

15 (2) The notice shall be published at least 2 weeks
16 before the petition is to be presented. No more than five of
17 the names attached to the petition are required to appear in
18 the publication of the petition and notice, but the number
19 of signers must be stated.

20 (3) The notice must also include the time of the
21 meeting of the board when the petition will be considered
22 and a statement that all persons interested in the petition
23 may then appear and be heard.

24 (4) The board of county commissioners holding the
25 hearing shall also mail a copy of the notice to the

1 governing bodies of all other counties and all
2 municipalities to be included within the proposed
3 metropolitan district.

4 (5) Upon the request of the board of county
5 commissioners for any county in which part of the proposed
6 district is to be located, the board of county commissioners
7 holding the hearing shall form a joint commission, prior to
8 the hearing, made up of commissioners from all counties in
9 which a part of the proposed district is to be located. This
10 joint commission has all the powers provided for in [this
11 act] to be carried out by the board of county commissioners
12 with whom the petition was filed.

13 Section 7. Hearing on petition -- protest. (1) At the
14 time for the hearing, the board of county commissioners
15 shall hear the petition and those appearing on the petition,
16 together with any written protests filed with the county
17 clerk and recorder prior to the hearing by or on behalf of
18 owners of taxable property located within the boundaries of
19 the proposed district. The board of county commissioners may
20 adjourn the hearing from time to time, not exceeding a
21 period of 4 weeks in all.

22 (2) Upon hearing the petition, the board of county
23 commissioners shall determine whether or not the petition
24 complies with the requirements of [this act] and for that
25 purpose must hear all competent and relevant testimony

1 offered in support of or in opposition to the petition. Such
 2 determination shall be entered in the minutes of the meeting
 3 of the board of county commissioners at which the
 4 determination was made.

5 Section 8. Effect of certain irregularities. No defect
 6 in the contents or the title of the petition, the form of
 7 the signatures on the petition, or form of notice
 8 invalidates any proceedings on the petition if the petition
 9 or petitions contain a sufficient number of qualified
 10 signatures.

11 Section 9. Decision on petition -- election required.
 12 (1) At the final hearing, the board of county commissioners
 13 shall make such changes in the proposed boundaries as may be
 14 determined advisable and shall define and establish the
 15 boundaries. However, the board of county commissioners may
 16 not modify the boundaries so as to exclude from the proposed
 17 district any territory that would benefit from the formation
 18 of the district. No territory that will not, in the judgment
 19 of the board of county commissioners, benefit from inclusion
 20 in the district may be included within it.

21 (2) Upon the final determination of the boundaries of
 22 the district, the board of county commissioners of each
 23 county in which the district lies shall give notice of an
 24 election to be held in the proposed district for the purpose
 25 of determining whether or not it shall be incorporated. The

1 election must be held not more than 60 days from the date of
 2 the final hearing on the petition.

3 Section 10. Application to include benefited lands. A
 4 person whose lands may be benefited by inclusion in a
 5 proposed district may, in the discretion of the board of
 6 county commissioners, have such lands included within the
 7 proposed district upon application to the board of county
 8 commissioners of the county in which his lands are located.

9 Section 11. Notice of election. (1) The notice of
 10 election required by [section 9] shall describe the
 11 boundaries established and shall state the proposed name of
 12 the proposed incorporation. The name shall contain the
 13 words ". . . metropolitan district".

14 (2) This notice shall be published as provided in
 15 13-1-108.

16 Section 12. Conduct of election on question of
 17 creating district. (1) The election on the question of
 18 creating the district shall be conducted, the vote
 19 canvassed, and the result declared in the same manner as
 20 provided by Title 13 with respect to general elections, so
 21 far as it is applicable, except as otherwise provided in
 22 [this act].

23 (2) At the election the proposition to be submitted
 24 shall be stated substantially as follows: "Shall the
 25 proposition to organize . . . metropolitan district under

1 [this act] be adopted?"

2 Section 13. Qualifications to vote on question of
3 creating district. (1) Except as provided in subsection (2),
4 no individual is entitled to vote at any election under the
5 provisions of [this act] unless that individual possesses
6 all the qualifications required of electors under the
7 general election laws and is a resident of the proposed
8 district.

9 (2) An individual who is the owner of real property
10 within the proposed district need not possess the
11 qualifications required of an elector in 13-1-111(1)(c) if
12 he is registered to vote in any state of the United States
13 and files proof of such registration with the election
14 administrator.

15 Section 14. Effect of insufficient favorable vote. If
16 less than a majority of the votes cast are in favor of the
17 proposition to create a district, the proposition fails but
18 without prejudice to renewing proceedings at any time in the
19 future.

20 Section 15. Order creating district upon sufficient
21 favorable vote. (1) If at least 40% of all voters qualified
22 as provided in [section 13] have voted and if a majority of
23 the votes cast at the election are in favor of organizing
24 the metropolitan district, the board of county commissioners
25 of each such county shall, by an order entered on its

1 minutes, declare the territory enclosed within the proposed
2 boundaries duly organized as a metropolitan district under
3 the name designated.

4 (2) The county clerk of each applicable county shall
5 immediately file with the secretary of state and cause to be
6 recorded in the office of the county clerk and recorder of
7 that county in which such district is situated a certificate
8 stating that the proposition was adopted.

9 Section 16. Certificate of incorporation from
10 secretary of state. (1) Upon receipt of the certificate
11 referred to in [section 15], the secretary of state shall,
12 within 10 days, issue a certificate reciting that the
13 district has been incorporated. A copy of the certificate
14 shall be transmitted to and filed with the county clerk and
15 recorder of the county or counties in which the district is
16 located.

17 (2) From the date of such certificate, the district
18 named therein is considered incorporated, with all the
19 rights, privileges, and powers set forth in [this act] and
20 necessarily incident to it.

21 Section 17. Limitations on lawsuits challenging
22 formation of district. (1) A finding of the board of county
23 commissioners in favor of the genuineness and sufficiency of
24 the petition and notice is final and conclusive against all
25 persons except the state of Montana upon suit commenced by

1 the attorney general. Any such suit must be commenced within
2 1 year after the order of the board of county commissioners
3 declaring the district organized as provided in [this act].

4 (2) Any proceeding in which the validity of the
5 incorporation of the district is challenged shall be
6 commenced within 3 months from the date of the certificate
7 of incorporation. If no challenge is filed within those 3
8 months, the incorporation and the legal existence of the
9 district and all proceedings in respect to it are valid and
10 uncontestable.

11 Section 18. District to be governed by board of
12 directors. (1) At an election to be held within a district
13 under the provisions of [this act] and the laws governing
14 general elections not inconsistent with [this act], the
15 members of the district, within 120 days after its
16 formation, shall elect a board of directors.

17 (2) The board of directors is the governing body of
18 the district.

19 Section 19. Composition of board of directors. The
20 board of directors shall consist of five members or, if
21 there are 10 or fewer qualified electors in the district,
22 three members.

23 Section 20. Qualifications of directors. A director
24 must be an owner or lessee of real property within the
25 district or a resident of it.

1 Section 21. Term of office. (1) A director, elected or
2 appointed, shall hold office until the election and
3 qualification or appointment and qualification of his
4 successor.

5 (2) Except as otherwise provided, the term of office
6 of a director elected under the provisions of [this act] is
7 4 years from the date of his election.

8 (3) Directors elected at the first regular election
9 under [this act] shall serve as follows:

10 (a) three directors shall serve for a term of 2 years
11 and two for a term of 4 years, unless the board consists of
12 three members, in which case two directors shall serve for a
13 term of 2 years and one for a term of 4 years;

14 (b) at their first meeting, the directors shall
15 determine by lot which of them shall serve a term of less
16 than 4 years. Every term thereafter shall be a 4-year term.

17 (4) The first regular election for a district shall be
18 held in November of the next odd-numbered year following the
19 formation of the district.

20 Section 22. General district election. The election of
21 directors of the district shall be held every 4 years in
22 conjunction with the election for local government officials
23 provided for in 13-1-104(2).

24 Section 23. Petition of nomination required for
25 printing of name on ballot. The name of a candidate shall be

1 printed upon the ballot when a petition of nomination has
 2 been filed in his behalf as provided in 7-13-2233 through
 3 7-13-2247, except when directors are appointed as provided
 4 in 7-13-2259 and 7-13-2260.

5 Section 24. General powers of metropolitan district.

6 (1) A district incorporated as provided in [this act] may:

7 (a) have perpetual succession;

8 (b) sue and be sued, except as otherwise provided, in

9 all actions and proceedings in any court of competent
 10 jurisdiction;

11 (c) adopt a seal and alter it at pleasure;

12 (d) acquire by grant, purchase, gift, devise, or lease
 13 and hold, use, enjoy, and lease or dispose of real and
 14 personal property, within or without the district, necessary
 15 to the full exercise of its powers;

16 (e) make contracts, employ labor, and undertake all
 17 action necessary for the full exercise of its powers.

18 (2) Except as otherwise provided in [this act], the
 19 powers enumerated in [this act] shall be exercised by the
 20 board of directors provided for in [section 18] and elected
 21 and appointed as described in [this act].

22 Section 25. Right-of-way across state lands.

23 Right-of-way is given to locate, construct, and maintain
 24 metropolitan district works over and through any lands that
 25 are the property of this state, and the district has the

1 same rights and privileges relating to the right-of-way as
 2 are granted to municipalities.

3 Section 26. Powers related to district finances. A
 4 district incorporated as provided in [this act] may:

5 (1) accept funds and property or other assistance,
 6 financial or otherwise, from federal, state, and other
 7 public or private sources for the purposes of aiding the
 8 construction or maintenance of public services;

9 (2) cooperate and contract with the state or federal
 10 government or any department or agency of this state in
 11 furnishing assurances for and meeting local cooperation
 12 requirements of any project involving control, conservation,
 13 and use of water;

14 (3) borrow money, incur indebtedness, and issue bonds
 15 or other evidence of such indebtedness, and refund or retire
 16 any indebtedness or lien that may exist against the district
 17 or its property;

18 (4) cause taxes to be levied in the manner provided
 19 for in [this act] for the purpose of paying any obligation
 20 of the district and to accomplish the purposes of [this act]
 21 as provided in it.

22 Section 27. Applicability of general election laws.

23 Except as otherwise provided in [this act], the provisions
 24 of law relating to the qualifications of electors, the
 25 manner of voting, the duties of election officers, the

1 canvassing of returns, and all other requirements for
2 management of general elections, so far as they may be
3 applicable, govern district elections.

4 Section 28. Combination of elections. (1) The board of
5 county commissioners may combine in one election the
6 election on the formation of the district, the election of
7 directors, and the election on incurring a bonded
8 indebtedness so that the electors of the district may vote
9 on all of these matters on the same date.

10 (2) If the elections are combined, the board of county
11 commissioners shall so declare by resolution containing the
12 provisions required by 7-13-2321. Whenever the elections are
13 combined, the county commissioners shall give notice of the
14 election. The notice shall include the names of the
15 candidates and the details concerning the bonded
16 indebtedness.

17 Section 29. Special powers -- water and sewer
18 district. A metropolitan district incorporated to provide
19 services as a county water or sewer district, or both, in
20 addition to all other powers provided for in [this act], has
21 those powers not inconsistent with [this act] allowed county
22 water or sewer districts, or both, in Title 7, chapter 13,
23 parts 22 and 23.

24 Section 30. Special powers -- garbage and ash
25 collection. A metropolitan district incorporated to provide

1 services as a garbage and ash collection district, in
2 addition to all other powers provided for in [this act], has
3 those powers, not inconsistent with [this act], allowed
4 garbage and ash collection districts, in Title 7, chapter
5 13, part 24.

6 Section 31. Special powers -- television districts. A
7 metropolitan district incorporated to provide services as a
8 television district, in addition to all other powers
9 provided for in [this act], has those powers, not
10 inconsistent with [this act], allowed television districts
11 in Title 7, chapter 13, part 25.

12 Section 32. Special powers -- mosquito control
13 districts. Any metropolitan district incorporated to provide
14 services as a mosquito control district, in addition to all
15 other powers provided for in [this act], has those powers,
16 not inconsistent with [this act], allowed mosquito control
17 districts in Title 7, chapter 22, part 24.

18 Section 33. Special powers -- weed control districts.
19 Any metropolitan district incorporated to provide services
20 as a weed control district, in addition to all other powers
21 provided for in [this act], has those powers, not
22 inconsistent with [this act], allowed weed control districts
23 in Title 7, chapter 22, part 21.

24 Section 34. Special powers -- cemetery districts. Any
25 metropolitan district incorporated to provide services as a

1 cemetery district, in addition to all other powers provided
 2 for in [this act], has those powers, not inconsistent with
 3 [this act], allowed cemetery districts in Title 7, chapter
 4 35, part 21.

5 Section 35. Special powers -- rural fire districts.
 6 Any metropolitan district incorporated to provide services
 7 as a rural fire district, in addition to all other powers
 8 provided for in [this act], has those powers, not
 9 inconsistent with [this act], allowed rural fire districts
 10 in Title 7, chapter 33, part 21.

11 Section 36. Special powers -- refuse disposal
 12 districts. Any metropolitan district incorporated to provide
 13 services as a refuse disposal district, in addition to all
 14 other powers provided for in [this act], has those powers,
 15 not inconsistent with [this act], allowed refuse disposal
 16 districts in Title 7, chapter 13, part 2.

17 Section 37. Special powers -- lighting districts. Any
 18 metropolitan district incorporated to provide services as a
 19 lighting district, in addition to all other powers provided
 20 for in [this act], may exercise those powers provided for in
 21 Title 7, chapter 12, parts 22 and 43.

22 Section 38. Establishment of charges for services. (1)
 23 The board of directors shall fix all rates charged for
 24 services rendered by the district and shall, through a
 25 general manager, collect all charges.

1 (2) The board in furnishing of all services and
 2 facilities shall fix such rates, fees, tolls, rents, or
 3 other charges as will pay the operating expenses of the
 4 district, provide for repairs and depreciation of works
 5 owned or operated by it, pay the interest on any bonded
 6 indebtedness, and, so far as possible, provide a sinking or
 7 other fund for the payment of principal of such debt as it
 8 becomes due.

9 (3) Notwithstanding any other section of [this act] or
 10 limitation imposed by it and when the board has applied for
 11 and received from the federal government any money for the
 12 construction, operation, and maintenance of service
 13 facilities, the board may adopt a system of charges and
 14 rates to require that each recipient of those services pays
 15 its proportionate share of the costs of operation,
 16 maintenance, and replacement of those service facilities.

17 Section 39. Levies to cover deficiencies. The board,
 18 in certifying annual levies, shall take into account the
 19 maturing indebtedness for the ensuing year as provided in
 20 its contracts, maturing bonds, and interest on bonds and
 21 deficiencies and defaults of prior years and shall make
 22 sufficient provision for the payment of them. If the money
 23 produced from such levies, together with other revenues of
 24 the district, are not sufficient to pay in a timely manner
 25 the annual installments on its contracts or bonds and

1 interest on them and to pay defaults and deficiencies, the
 2 board shall levy additional taxes as may be necessary for
 3 such purposes. Notwithstanding any limitations, such taxes
 4 shall continue to be levied until the indebtedness of the
 5 district is fully paid.

6 Section 40. Method of assessment. When the amount of
 7 money required for any purposes enumerated in [section 38]
 8 has been determined:

9 (1) each lot or parcel of land to be assessed shall be
 10 assessed with that part of the amount of money required
 11 which its area bears to the total area of all the lands to
 12 be assessed; or

13 (2) the assessment may, at the option of the board of
 14 directors, be based upon the taxable valuation as stated in
 15 the last completed county assessment roll of the lots or
 16 parcels of land, exclusive of improvements thereon, within
 17 the district, in which case each lot or parcel of land to be
 18 assessed shall be assessed with that part of the amount of
 19 money required which its taxable valuation bears to the
 20 total taxable valuation of all the lands to be assessed.

21 Section 41. Notice of intention to levy tax. (1) When
 22 the written estimate of the amount of money required for the
 23 district has been delivered to the board, the board shall
 24 give notice of its intention to levy and collect a
 25 sufficient tax.

1 (2) The notice shall be given:

2 (a) by posting notice in five public places within the
 3 boundaries of the territory upon which the tax is to be
 4 levied;

5 (b) by publishing a copy of the notice once each week
 6 for 2 consecutive weeks in a newspaper published in each
 7 county in which the district is located; and

8 (c) by forwarding, by regular first-class mail or
 9 registered or certified mail at least 10 days prior to the
 10 hearing provided for in [section 43], a copy of the notice
 11 addressed to the owners of taxable real property within the
 12 district as shown by the current assessment book on file in
 13 the office of the assessor of the county or counties the
 14 boundaries of which include taxable real property of the
 15 district.

16 Section 42. Legal sufficiency of notice. The
 17 legislature determines that the giving of notice in
 18 accordance with [section 41] is reasonably calculated to
 19 inform the owners of taxable real property located within
 20 the boundaries of the district of the hearing provided for
 21 in [section 43] and that the giving of any further notice is
 22 impracticable and is unnecessary to the assurance of due
 23 process of law to such property owners.

24 Section 43. Contents of notice -- hearing and protest.
 25 The notice required by [section 41] shall state:

- 1 (1) the amount of money required;
- 2 (2) the method of assessment that the board or boards
- 3 of county commissioners intend to employ;
- 4 (3) the boundaries or description of the lands to be
- 5 assessed, which boundaries or description may be recited in
- 6 full or may be given by reference to any instrument on file
- 7 or of record in the office of the clerk and recorder,
- 8 treasurer, or assessor of the county or counties in which
- 9 the district or part thereof is situated; and
- 10 (4) the time when and the place where the board or
- 11 boards of county commissioners will hear and pass upon all
- 12 protests that may be made against the levy of the tax or any
- 13 matter pertaining to it.

14 Section 44. Hearing on protest to levy of tax. (1) The

15 hearing provided for in [section 43] shall be held at least

16 15 days after the last publication of the notice.

17 (2) At the time and place designated for the hearing,

18 an owner of property located within the area to be assessed

19 may appear and protest the levy of the tax or any matter

20 pertaining to it. All protests must be heard, considered,

21 and ruled upon by the board of county commissioners.

22 Section 45. Payment of tax under protest -- action to

23 recover. (1) Whenever such tax is considered unlawful for

24 any reason by the person whose property is taxed, whether or

25 not he has protested the tax at the hearing provided for in

1 [section 43], he may pay the tax or its installments under

2 protest in the manner provided by 15-1-402 and, within the

3 time prescribed and in the manner provided by 15-1-402, may

4 commence an action to recover such tax or installments and

5 in such action contest and litigate the payment of such tax

6 only on the same grounds and for the same reasons that he

7 has stated in his written protest.

8 (2) All of the provisions of 15-1-402 for the

9 retention or refunding of taxes paid under protest apply to

10 taxes paid under protest under this section.

11 Section 46. Collection of taxes. (1) All taxes

12 referred to in [section 39] shall be collected at the same

13 time and in the same manner as county taxes are collected

14 and when collected shall be paid to the district for which

15 the taxes were levied and collected.

16 (2) Such taxes, if not paid, become delinquent at the

17 same time as do county taxes.

18 Section 47. Taxes to be lien. (1) If taxes are levied

19 for the payment of a bonded debt for the benefit of certain

20 property within the district, as stated in the resolution of

21 the board of directors, those taxes shall be a lien upon

22 each lot or parcel of that property to the extent of the

23 levy of the taxes upon that lot or parcel. All taxes for

24 other purposes shall be a lien upon each lot or parcel of

25 land within the entire area comprising the district, to the

1 extent of the levy of the taxes upon that lot or parcel.

2 (2) Taxes levied for the purposes of financing a
3 district, whether for the payment of a bonded indebtedness
4 or for other purposes, shall be of the same force and effect
5 as other liens for taxes, and their collection shall be
6 enforced by the same means as provided for in the
7 enforcement of liens for state and county taxes.

8 Section 48. Designation of fund depository. The board
9 of directors shall designate a depository or depositories to
10 have the custody of the funds of the district, all of which
11 shall have security sufficient to secure the district
12 against possible loss and shall pay the warrants drawn by
13 the auditor for demands against the district under such
14 rules as the directors may prescribe.

15 Section 49. Procedure to incur bonded indebtedness.
16 Whenever the board of directors considers it necessary for
17 the district to incur a bonded indebtedness, it shall by a
18 resolution so declare and state the purpose for which the
19 proposed debt is to be incurred, the land within the
20 district to be benefited, the amount of debt to be incurred,
21 the maximum term the bonds proposed to be issued shall run
22 before maturity, and the proposition to be submitted to the
23 electors.

24 Section 50. Term of bonds. The maximum term of bonds
25 may not exceed 40 years.

1 Section 51. Election on question of incurring bonded
2 indebtedness. The board of directors shall fix a date upon
3 which an election shall be held for the purpose of
4 authorizing bonded indebtedness to be incurred.

5 Section 52. Notice of election on incurring bonded
6 indebtedness. (1) The board of directors shall give notice
7 of the holding of the election. The notice shall contain:

8 (a) the resolution adopted by the board of directors
9 of the district;

10 (b) boundaries of voting precincts, which may include
11 only the lands to be benefited as stated in the resolution;
12 and

13 (c) the location of polling places.

14 (2) The notice shall be published as provided in
15 13-1-108.

16 Section 53. Qualifications to vote on question of
17 incurring bonded indebtedness. Each registered elector
18 owning or residing upon real property within such voting
19 precincts may vote at the election.

20 Section 54. Entry of bond election results. The
21 secretary of the board of directors, as soon as the result
22 is declared, shall enter in the records of the board a
23 statement of the results.

24 Section 55. Sufficient vote required to issue bonds.
25 If from the election returns it appears that 60% or more of

1 the votes cast on the question at the election were in favor
 2 of the incurring of indebtedness, the board of directors may
 3 by resolution, at such time as it considers proper, provide
 4 for the form and execution of the bonds and for the issuance
 5 of any part of them.

6 Section 56. Sale of bonds. The board of directors may
 7 sell or dispose of the bonds issued pursuant to [section 55]
 8 at such times or in such manner as it determines to be in
 9 the public interest.

10 Section 57. Status of bonds -- tax exemption. Any
 11 bonds issued by any district organized under the provisions
 12 of [this act] have the same force, value, and use as bonds
 13 issued by any municipality and are exempt from all taxation
 14 within the state of Montana.

15 Section 58. Addition of land to district. (1) Any
 16 portion of a county, a municipality, or both, may be added
 17 to a district organized under the provisions of [this act]
 18 at any time upon petition presented in the manner provided
 19 in [this act] for the organization of a district.

20 (2) The petition may be granted by resolution of the
 21 board of directors of the district. Such resolution shall be
 22 submitted for adoption or rejection to the vote of the
 23 qualified electors in such district and in the proposed
 24 addition at a general or special election held, as provided
 25 in [this act], within 70 days after the adoption of the

1 resolution.

2 (3) If the resolution is approved, the president and
 3 secretary of the board of directors shall certify that fact
 4 to the secretary of state and to the county clerk and
 5 recorder of the county in which the district is located.
 6 Upon receipt of the certificate, the secretary of state
 7 shall within 10 days issue his certificate, reciting the
 8 passage of the ordinance and the addition of the territory
 9 to the district. A copy of the secretary of state's
 10 certificate shall be transmitted to and filed with the
 11 county clerk and recorder of the county in which the
 12 district is located.

13 (4) From the date of the certificate, the territory
 14 named in it is considered a part of the district with all
 15 the rights, privileges, and powers set forth in [this act]
 16 and necessarily incident to it.

17 Section 59. Consolidation of metropolitan districts.
 18 (1) Two or more districts organized under the provisions of
 19 [this act] may consolidate at any time, upon petitions
 20 submitted to the board of directors of each district. The
 21 petitions shall be in the form required for petitions for
 22 the organization of districts. Each petition shall be signed
 23 by not less than 10% of the registered electors of the
 24 territory included within the district.

25 (2) These petitions may be granted by resolution of

1 the board of directors of each of the districts. The
 2 resolutions shall be submitted for adoption or rejection to
 3 the vote of the qualified electors in the districts at
 4 general or special elections held, as provided in [this
 5 act], within 70 days after the adoption of the resolutions.

6 (3) If the resolutions are approved, the president and
 7 secretary of the boards of directors of each of the
 8 districts shall certify that fact to the secretary of state
 9 and to the county clerk and recorder of the county or
 10 counties in which the districts are located. Upon the
 11 receipt of the certificate, the secretary of state shall
 12 within 10 days issue his certificate, reciting the passage
 13 of the ordinances and the consolidation of the districts. A
 14 copy of the secretary of state's certificate shall be
 15 transmitted to and filed with the county clerk and recorder
 16 of each county in which the consolidated district is
 17 located.

18 (4) From the date of the certificate, the districts
 19 are consolidated and consist of one district with all the
 20 rights, privileges, and powers set forth in [this act] and
 21 necessarily incident to it.

22 (5) The number and manner of selection and election of
 23 directors of the consolidated district shall be the same as
 24 the number and manner of selection and election of directors
 25 of newly organized districts.

1 Section 60. Exclusion of land from district --
 2 initiated by petition. Any or all territory included within
 3 a district formed under the provisions of [this act] and not
 4 benefited in any manner by the district or its continued
 5 inclusion in it may be excluded from the district by order
 6 of the board of directors of the district upon the verified
 7 petition of the owner or owners in fee of lands whose
 8 assessed value, with improvements, is in excess of one-half
 9 of the assessed value of all the lands, with improvements,
 10 held in private ownership in the territory.

11 Section 61. Details relating to petition to exclude
 12 land from district. (1) The petition referred to in [section
 13 60] shall:

- 14 (a) describe the territory sought to be excluded;
 15 (b) set forth that the territory is not benefited in
 16 any manner by the district or its continued inclusion in it;
 17 and
 18 (c) propose that the territory may be excluded from
 19 the district.

20 (2) The petition shall be filed with the secretary of
 21 the district and shall be accompanied by a deposit of \$100
 22 to meet the expenses of advertising and other costs incident
 23 to the proceedings for the exclusion of the territory,
 24 including the cost of recording a certified copy of the
 25 order as provided for in [section 62]. Any unconsumed

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1 balance shall be returned to the petitioner.

2 Section 62. Procedure to exclude land. The procedure
3 for excluding any land from the district shall be the same
4 as for the exclusion of land from a water or sewer district
5 as prescribed by 7-13-2345 through 7-13-2348.

6 Section 63. Effect of municipal annexation of all
7 territory within a district. If a municipality annexes all
8 of the territory within a metropolitan district, the
9 municipality shall provide the services formerly provided by
10 the district and the district shall be dissolved.

11 Section 64. Severability. If a part of this act is
12 invalid, all valid parts that are severable from the invalid
13 part remain in effect. If a part of this act is invalid in
14 one or more of its applications, the part remains in effect
15 in all valid applications that are severable from the
16 invalid applications.

-End-