

HOUSE BILL NO. 367

Introduced: 01/19/83

Referred to Committee on Local Government: 01/19/83

Hearing: 2/3/83

Report: 02/07/83, Do Not Pass

Bill Killed: 02/09/83

1 *House* BILL NO. *367*
 2 INTRODUCED BY *Bernie V. Velky*
 3 *Rados Zelichy Mark*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 5 GOVERNING BODY OF A LOCAL GOVERNMENT MAY BY RESOLUTION CALL
 6 FOR AN ELECTION ON THE ADOPTION OF AN ALTERNATIVE FORM OF
 7 LOCAL GOVERNMENT; AMENDING SECTIONS 7-3-123, 7-3-141 THROUGH
 8 7-3-148, 7-3-150, 7-3-151, AND 7-3-158, MCA."

9

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

11 Section 1. Section 7-3-123, MCA, is amended to read:

12 "7-3-123. Alteration of existing forms of local
 13 government. An alteration of an existing form of local
 14 government may be proposed by:

15 (1) a petition of the electors; or
 16 (2) a resolution of the governing body."

17 NEW SECTION. Section 2. Resolution for alteration. A
 18 governing body of a local government may by resolution
 19 submit to the electors of the local government a question on
 20 the alteration of the existing form of local government.
 21 The resolution must meet the requirements of 7-3-149 through
 22 7-3-151.

23 Section 3. Section 7-3-141, MCA, is amended to read:

24 "7-3-141. Permissible recommendations. (1) A petition
 25 or resolution proposing to alter an existing form of county

1 government may:

2 (a) recommend amendments to the existing plan of
 3 government;

4 (b) recommend any plan of government authorized by
 5 Title 7, chapter 3, parts 1 through 6;

6 (c) draft a charter;

7 (d) recommend municipal-county consolidation or
 8 amendments to an existing consolidation; or

9 (e) in cooperation with a similar petition calling for
 10 an election on county merger circulated in an adjoining
 11 county, recommend county merger.

12 (2) A petition or resolution proposing to alter an
 13 existing form of municipal government may:

14 (a) recommend amendments to the existing plan of
 15 government;

16 (b) recommend any plan of government authorized by
 17 Title 7, chapter 3, parts 1 through 6;

18 (c) draft a charter; or

19 (d) recommend disincorporation."

20 Section 4. Section 7-3-142, MCA, is amended to read:

21 "7-3-142. Requirements for petition or resolution. A
 22 petition or resolution proposing an alteration of an
 23 existing form of local government must contain:

24 (1) a certificate containing the "plan of government"
 25 of the existing form of local government;

1 (2) a certificate containing the "plan of government"
2 of the proposed new form of local government or amendments
3 to the existing plan;

4 (3) a certificate containing the "plan of
5 apportionment" of commissioner districts if districts are
6 contained in the "plan of government"; and

7 (4) a comparison of the existing plan and proposed
8 plan of local government, including, if desired, a statement
9 of the strengths and weaknesses of the existing and proposed
10 plans of local government, information that supports the
11 adoption of the proposed plan, and information that supports
12 retention of the present plan."

13 Section 5. Section 7-3-143, MCA, is amended to read:

14 "7-3-143. Special requirements if consolidation
15 recommended. (1) Whenever county-municipal consolidation is
16 recommended, a petition or resolution, in addition to the
17 material required in 7-3-142, must contain a consolidation
18 plan which:

19 (a) provides for adjustment of existing bonded
20 indebtedness and other obligations in a manner which assures
21 a fair and equitable burden of taxation for debt service;

22 (b) provides for establishment of subordinate service
23 districts;

24 (c) provides for the transfer or other disposition of
25 property and other rights, claims, assets, and franchises of

1 the local governments consolidated under its proposal;

2 (d) provides the official name of the consolidated
3 local government; and

4 (e) (i) provides for the transfer, reorganization,
5 abolition, adjustment of boundaries, or absorption of
6 existing boards, subordinate service districts, local
7 improvement districts, agencies, and political subdivisions
8 of the consolidated governments, excluding school districts,
9 authorities, and nonconsolidated municipalities; or

10 (ii) grants the legislative body of the consolidated
11 government the authority to transfer, reorganize, abolish,
12 adjust boundaries, or absorb existing boards, subordinate
13 service districts, local improvement districts, agencies,
14 and political subdivisions of the consolidated governments,
15 excluding school districts, authorities, and nonconsolidated
16 municipalities, with or without referendum requirements.

17 (2) The consolidation plan may include other
18 provisions that are consistent with state law.

19 (3) Whenever amendments to an existing consolidation
20 plan are recommended, a petition or resolution must contain
21 a certificate containing amendments to the consolidation
22 plan."

23 Section 6. Section 7-3-144, MCA, is amended to read:

24 "7-3-144. Special requirements if county merger
25 recommended. (1) Whenever county merger is recommended, a

petition or resolution, in addition to the material required by 7-3-142, must contain a consolidation plan which:

(a) provides for adjustment of existing bonded indebtedness and other obligations in a manner which assures a fair and equitable burden of taxation for debt service;

(b) provides for establishment of subordinate service districts;

(c) provides for the transfer or other disposition of property and other rights, claims, assets, and franchises of local governments consolidated under the alternative plan;

(d) provides the official name of the consolidated local government; and

(e) (i) provides for the transfer, reorganization, abolition, adjustment of boundaries, or absorption of existing boards, subordinate service districts, local improvement districts, agencies, and political subdivisions of the consolidated governments, excluding school districts, authorities, and incorporated municipalities; or

(ii) grants the legislative body of the consolidated government the authority to transfer, reorganize, abolish, adjust boundaries, or absorb existing boards, subordinate service districts, local improvement districts, agencies, and political subdivisions of the consolidated governments, excluding school districts, authorities, and incorporated municipalities, with or without referendum requirements.

(2) The consolidation plan may include other provisions that are consistent with state law."

Section 7. Section 7-3-145, MCA, is amended to read:

"7-3-145. Special requirements if municipal disincorporation recommended. Whenever municipal disincorporation is recommended, a petition or resolution, in addition to the material required by 7-3-142, must contain:

(1) a certificate of disincorporation instead of a plan of government; and

(2) a recommended plan of disincorporation."

Section 8. Section 7-3-146, MCA, is amended to read:

"7-3-146. Filing of petitions and resolutions. (1) Two copies of a petition or resolution shall be filed with the department of administration.

(2) One copy of a petition or resolution shall be filed with the local government records administrator.

(3) The filings required by this section shall be done within 30 days of adoption of a resolution and within 45 days of submission of the a petition."

Section 9. Section 7-3-147, MCA, is amended to read:

"7-3-147. Availability of petitions and resolutions.

(1) Sufficient copies of a petition or resolution proposing alterations to an existing form of local government must be made available to the public for inspection at convenient

1 locations and at reasonable hours to provide all interested
 2 persons an opportunity to review the recommendations and
 3 documents. The copies must be available no later than 30
 4 days prior to an election on the recommendations if such an
 5 election is to be held. The local government may distribute
 6 copies of a petition or resolution to the electors or
 7 residents of the local government.

8 (2) The cost of preparing the copies needed to meet
 9 the requirements of this section shall be borne by the
 10 affected local government."

11 Section 10. Section 7-3-148, MCA, is amended to read:

12 "7-3-148. Publication of summary and comparison. (1) A
 13 summary of the recommendations contained in a petition or
 14 resolution proposing alteration of an existing form of local
 15 government must be published at least twice in a newspaper
 16 of general circulation in the local government. Whenever an
 17 election on the recommendations is to be held, publication
 18 must be made during the 2 weeks preceding the election.

19 (2) The summary must contain a description of the
 20 recommendations, a comparison of the existing and proposed
 21 forms of government, and a list of locations where the full
 22 proposal may be seen or obtained.

23 (3) The cost of publication required by this section
 24 shall be borne by the affected local government."

25 Section 11. Section 7-3-150, MCA, is amended to read:

1 "7-3-150. General ballot requirements. (1) The
 2 question of adopting an alteration of an existing form of
 3 government proposed by petition or resolution shall be
 4 submitted to the electors in substantially the following
 5 form:

6 Vote for one:

7 ☐ FOR adoption of the (self-government charter,
 8 amendment to an existing charter, or plan of
 9 government) proposed for (insert name of local
 10 government) proposed by (petition of the people or
 11 resolution of the governing body).

12 ☐ FOR the existing form of government.

13 (2) The whole number of ballots shall be divided into
 14 two equal sets. No more than one set may be used in
 15 printing the ballot for use in any one precinct and all
 16 ballots furnished for use in one precinct shall be
 17 identical. The existing plan of government shall be printed
 18 as the first item and the proposed plan as the second item
 19 on half of the ballots and the proposed form as the first
 20 item and the existing form as the second item on the other
 21 half of the ballots. If the local government consists of
 22 only one precinct, the existing plan shall be listed first
 23 on the ballot."

24 Section 12. Section 7-3-151, MCA, is amended to read:

25 "7-3-151. Treatment of suboptions for alternative

forms. (1) No petition or resolution recommendation may involve more than three separate suboptions, and no suboption may contain more than two alternatives. If a suboption is submitted to the voters, only the ballot alternatives within that suboption receiving the highest number of affirmative votes are considered approved and included in the alternative form of government.

(2) A proposed plan shall be submitted to the voters as a single question, except that the suboptions within the alternative plan of local government authorized in Title 7, chapter 3, parts 1 through 6, and the suboptions authorized in a charter may be submitted to the electors as separate questions. The question of adopting a suboption shall be submitted to the electors in substantially the following form:

Vote for one:

A legal officer (who may be called the "county attorney"):

☐ Shall be elected for a term of 4 years.

☐ Shall be appointed for a term of 4 years by the chairman of the local governing body."

Section 13. Section 7-3-158, MCA, is amended to read:

"7-3-158. Transition provisions affecting personnel.

(1) The members of the governing body holding office on the date the new plan of government is adopted by the electors

of the local government continue in office and in the performance of their duties until the governing body authorized by the plan has been elected and qualified, whereupon the prior governing body is abolished.

(2) All other employees holding offices or positions, whether elective or appointive, under the government of the county or municipality continue in the performance of the duties of their respective offices and positions until provisions are made for the performance or discontinuance of the duties or the discontinuance of the offices or positions.

(3) A charter or a petition or resolution proposing an alteration to an existing form of local government may provide that existing elected officers shall continue in office until the end of the term for which they were elected or may provide that existing elected officers shall be retained as local government employees until the end of the term for which they were elected, and their salaries may not be reduced."

NEW SECTION. Section 14. Codification instruction. Section 2 is intended to be codified as an integral part of Title 7, chapter 3, part 1, and the provisions of Title 7, chapter 3, part 1, apply to section 2.

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