

HOUSE BILL NO. 8

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Local Government.
January 9, 1985	Committee recommended bill do pass. Report adopted.
January 10, 1985	Bill printed and placed on members' desks.
January 11, 1985	Second reading, do pass. Considered correctly engrossed.
January 14, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 15, 1985	Introduced and referred to Committee on Local Government.
March 6, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 8, 1985	Second reading, concurred in.
March 11, 1985	Third reading, concurred in. Ayes, 48; Noes, 0. Returned to House with amendments.

IN THE HOUSE

March 12, 1985

Received from Senate.

March 15, 1985

Second reading, amendments
concurred in.

March 18, 1985

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 8

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 LOCAL GOVERNMENT; AMENDING SECTIONS 7-2-2209, 7-3-1216,
4 7-3-1219, 7-4-2619, 7-4-2631, 7-5-4208, 7-5-4304, 7-6-2211,
5 7-13-2225, 7-13-2236, 7-14-2531, 7-14-2823, 7-21-2306,
6 7-21-2407, AND 7-32-2102, MCA.

7 Section 1. 7-2-2209. This amendment deletes the first
8 "at" in dated line for clarity.

9 Section 2. 7-3-1216. This amendment clarifies when
10 commission members for the older city/county consolidation
11 process take office. All other municipal officers take
12 office on the first Monday in January and serve until their
13 successors are elected and qualified. This section missed
14 amendment in the Elections Revision Act of 1979. This form
15 of city/county consolidation has never been used in Montana.

16 Section 3. 7-3-1219. Same explanation as section 2.

17 Section 4. 7-4-2619. In subsection (6), the amendment
18 corrects an error from the 1907 recodification. The
19 subsection has never been amended, yet the phrase change
20 appeared in 1907 code and carried forward. Note that label
21 of second column is "To whom powers are executed".

22 In subsection (17), there are only five column headings
23 so "six" is deleted to conform.

24 Section 5. 7-4-2631. This amendment deletes the charge
25 for filing and indexing each certificate of fictitious name.
26 These are no longer used since Ch. 260, L. 1979, repealed
27 the filing requirement for fictitious names. County Clerks
28 continue, however, to hold those filed and indexed prior to
29 1979, by virtue of Title 35, chapter 11, part 2, MCA.

30 Section 6. 7-5-4208. This amendment deletes erroneous
31 references to initiatives and referenda which are governed
32 by Title 7, chapter 5, part 1. The balance of the section
33 was amended for clarity. Numerous questions indicated added
34 words of explanation were necessary. Meaning stays
35 unchanged.

36 Section 7. 7-5-4304. This amendment clarifies that
37 this section applies only to contracts entered into under
38 7-5-4302, MCA. This section was part of a very large section
39 in the R.C.M. 1947, and applied only to that portion
40 codified as 7-5-4302, MCA, but when the section was broken
41 up it appeared to apply to all contracts entered into by

1 municipalities.

2 Section 8. 7-6-2211. This amendment harmonizes the 23%
3 established in 7-7-2101, MCA, with this section.

4 Section 9. 7-13-2225. This amendment is needed because
5 7-13-2248, MCA, was repealed.

6 Section 10. 7-13-2236. This amendment provides for
7 elections for directors of County Water and/or Sewer
8 Districts every 2 years. The terms of directors are 4 years,
9 but they are on staggered terms, thus the necessity for
10 elections every 2 years.

11 Section 11. 7-14-2531. This amendment deletes, from
12 county road law, an exception that use of single purpose
13 there doesn't affect county library law. The predecessor of
14 this section was enacted to define "single purpose" for the
15 purposes of local government finances under the 1889
16 Constitution, and subsection (3) was amended in to preclude
17 finding that county libraries were not a single purpose. At
18 the time of this section's amendment and inclusion into
19 county road law in 1965, it was conceded that the whole
20 section was probably meaningless, but it was retained intact
21 nonetheless. Since the adoption of the 1972 Constitution
22 there is no requirement for single purpose financing, and
23 this section cannot under present law be considered to have
24 any bearing on libraries.

25 Section 12. 7-14-2823. This amendment deletes "penal"
26 before "bond" to standardize bonding language. This is the
27 only occurrence of the phrase "penal bond" in the Code.

28 Section 13. 7-21-2306. This amendment deletes "penal"
29 before "sum" to standardize language to conform to
30 provisions established by the Uniform Commercial Code.

31 Section 14. 7-21-2407. Same explanation as section 13.

32 Section 15. 7-32-2102. This amendment deletes
33 reference to eighth class counties. There are no eighth
34 class counties, and there weren't any when this section was
35 enacted.

1 HOUSE BILL NO. 8
 2 INTRODUCED BY MARKS
 3 BY REQUEST OF THE CODE COMMISSIONER
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY LAWS RELATING TO LOCAL GOVERNMENT; AMENDING SECTIONS
 7 7-2-2209, 7-3-1216, 7-3-1219, 7-4-2619, 7-4-2631, 7-5-4208,
 8 7-5-4304, 7-6-2211, 7-13-2225, 7-13-2236, 7-14-2531,
 9 7-14-2823, 7-21-2306, 7-21-2407, AND 7-32-2102, MCA."

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

12 Section 1. Section 7-2-2209, MCA, is amended to read:
 13 "7-2-2209. Hearing and notice on petition. (1) Upon
 14 the filing of such petition or petitions and affidavits with
 15 the clerk of the board of county commissioners, said clerk
 16 shall forthwith fix a date to hear the proof of the
 17 petitions and of any opponents thereto, which date must be
 18 not later than 30 days after the filing of such petition
 19 with the clerk of said board.

20 (2) The county clerk shall also, at the same time,
 21 designate a newspaper of general circulation published in
 22 the old counties but not within the proposed new county and
 23 also a newspaper of general circulation published within the
 24 boundaries of the proposed new county, if there be such, in
 25 which the county clerk shall order and cause to be

1 published, at least once a week for 2 weeks preceding the
 2 date fixed for such hearing, a notice in substantially the
 3 following form:

4 Notice
 5 Notice is hereby given that a petition has been
 6 presented to the board of county commissioners of
 7 County (naming the county represented by the board of county
 8 commissioners with which said petition was filed), praying
 9 for the formation of a new county out of portions of
 10 County and County (naming the county or counties of
 11 which it is proposed to form the new county), and that said
 12 petition will be heard by the board of county commissioners
 13 at its place of meeting (designating the city or town and
 14 the day and hour of the meeting to be so held), when and
 15 where all persons interested may appear and oppose the
 16 granting of said petition and make any objections thereto.

17 Dated at at, Montana.
 18 , County Clerk"

19 Section 2. Section 7-3-1216, MCA, is amended to read:
 20 "7-3-1216. Term of office of commission members. (1)
 21 Except as provided in subsection (2), the term of office of
 22 members of the commission shall be 4 years and shall
 23 commence on ~~July 1~~ the first Monday of January following
 24 their election.

25 (2) The terms of office of the members first elected



1 at such special election shall commence on the first day of
 2 the third month following their election, and the terms of
 3 office of a majority of such members first elected, to be
 4 determined by lot, shall expire ~~on--June--30~~ when their
 5 successors are elected and qualified in the first year
 6 following their election, and the terms of the remaining
 7 members first elected shall expire ~~on--June--30~~ when their
 8 successors are elected and qualified in the third year
 9 following their election."

10 Section 3. Section 7-3-1219, MCA, is amended to read:

11 "7-3-1219. Organization and officers of commission.

12 (1) At the first meeting of the commission following the
 13 special election at which the members thereof are first
 14 elected and thereafter at its meeting on ~~July--1~~ the first
 15 Monday of January following each general election at which
 16 members of the commission are elected, the commission shall
 17 choose one of its members as president and another as
 18 vice-president.

19 (2) The president shall preside at meetings of the
 20 commission and shall exercise the powers and perform the
 21 duties conferred and imposed by this part or part 13 and the
 22 ordinances of the municipality. He shall be recognized as
 23 the official head of the municipality for all ceremonial
 24 purposes, by the courts for serving civil processes, and by
 25 the governor for purposes of military law. In time of public

1 danger or emergency he shall, if authorized by vote of the
 2 commission, take command of the police, maintain order, and
 3 enforce the law. If a vacancy occurs in the office of
 4 president or in case of his absence or disability, the
 5 vice-president shall act as president for the unexpired term
 6 or during the continuance of the absence or disability.

7 (3) The director of finance shall be ex officio clerk
 8 of the commission and shall, either in person or by deputy,
 9 keep the records of the commission and perform such other
 10 duties as may be required by this part or part 13 or by the
 11 commission."

12 Section 4. Section 7-4-2619, MCA, is amended to read:

13 "7-4-2619. Indexes to recorded documents. Every county
 14 clerk, as ex officio recorder, must keep:

15 (1) an index of deeds, grants, and transfers and
 16 contracts to sell or convey real estate and notices of
 17 buyer's interest in real property labeled "Grantors", with
 18 each page divided into four columns headed, respectively:
 19 "Names of grantors", "Names of grantees", "Date of deeds,
 20 grants, transfers, contracts, or notices", and "Where
 21 recorded";

22 (2) an index of deeds and notices of buyer's interest
 23 in real property labeled "Grantees", with each page divided
 24 into four columns headed, respectively: "Names of grantees",
 25 "Names of grantors", "Date of deeds, grants, transfers,

1 contracts, or notices", and "Where recorded";

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

7 (4) an index of mortgages labeled "Mortgages of real
8 property", with each page divided into six columns headed,
9 respectively: "Names of mortgagees", "Names of mortgagors",
10 "Date of mortgage", "Where recorded", "When filed", and
11 "When canceled";

12 (5) an index of mortgages labeled "Releases of
13 mortgages of real property--Mortgagees", with each page
14 divided into six columns headed, respectively: "Parties
15 whose mortgages are released", "Parties releasing", "Date of
16 release", "Where recorded", "Dates of mortgages released",
17 and "Where mortgages released are recorded";

18 (6) an index of powers of attorney labeled "Powers of
19 attorney", with each page divided into five columns headed,
20 respectively: "Names of parties executing powers", "To whom
21 powers are executed", "Date of powers", "Date of recording",
22 and "~~to whom powers are executed~~" "Where powers are
23 recorded";

24 (7) an index of leases labeled "Leases", with each
25 page divided into four columns headed, respectively: "Names

1 of lessors", "Names of lessees", "Date of leases", and "When
2 and where recorded";

3 (8) an index of leases labeled "Lessees", with each
4 page divided into four columns headed, respectively: "Names
5 of lessees", "Names of lessors", "Date of leases", and "When
6 and where recorded";

7 (9) an index of marriage certificates labeled
8 "Marriage certificate--Men", with each page divided into six
9 columns headed, respectively: "Men married", "To whom
10 married", "When married", "By whom married", "Where
11 married", and "Where certificates are recorded";

12 (10) an index of marriage certificates labeled
13 "Marriage certificates--Women", with each page divided into
14 six columns headed, respectively: "Women married" (and under
15 this head placing the family names of the women), "To whom
16 married", "When married", "By whom married", "Where
17 married", and "Where certificates are recorded";

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

24 (12) an index of assignments of mortgages and leases
25 labeled "Assignments of mortgages and leases--Assignees",

1 with each page divided into five columns headed,
2 respectively: "Assignees", "Assignors", "Instruments", "Date
3 of assignment", and "When and where recorded";

4 (13) an index of wills labeled "Wills", with each page
5 divided into four columns headed, respectively: "Names of
6 testators", "Date of will", "Date of probate", and "When and
7 where recorded";

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

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

16 (16) an index to transcripts of judgments labeled
17 "Transcripts of judgments", with each page divided into
18 seven columns headed, respectively: "Judgment debtors",
19 "Judgment creditors", "Amount of judgment", "Where
20 recovered", "When recovered", "When transcript filed", and
21 "When judgment satisfied";

22 (17) an index of attachments labeled "Attachments",
23 with each page divided into ~~six~~ columns headed,
24 respectively: "Parties against whom attachments are issued",
25 "Parties issuing attachments", "Notices of attachments",

1 "When filed", and "When attachments discharged";

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

6 (19) an index of certificates of sale of real estate
7 sold under execution or under orders made in any judicial
8 proceedings labeled "Certificates of sale", with each page
9 divided into four columns headed, respectively: "Plaintiff",
10 "Defendant", "Purchaser at sale", and "Date of sale";

11 (20) an index of the individual property of married
12 persons labeled "Individual property of married persons",
13 with each page divided into five columns headed,
14 respectively: "Names of married persons", "Names of their
15 spouses", "Nature of instruments recorded", "When recorded",
16 and "Where recorded";

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

22 (22) an index of mining claims and declaratory
23 statements labeled "Notices of location of mining claims and
24 declaratory statements", with each page divided into four
25 columns headed, respectively: "Locators", "Name of claim",

1 "Notice, when filed", and "Where recorded";
 2 (23) an index to the register of births and deaths;
 3 (24) an index to notices and declarations of water
 4 rights;
 5 (25) an index to the "estray and lost property book";
 6 (26) an index to the record of assignments for the
 7 benefit of creditors, containing names of assignor and
 8 assignee, date and where recorded, and inventory, when
 9 filed;
 10 (27) an index to financing statements as provided in
 11 Part 4 of the Uniform Commercial Code--Secured Transactions;
 12 (28) an index to filed subdivision plats, containing
 13 number of lots, number of acres, filing date, and the
 14 location of the quarter section of each subdivision;
 15 (29) an index to the book of maps and plats, which must
 16 contain the name of the proprietor of the town, village, or
 17 addition platted and a general description of the same;
 18 (30) a miscellaneous index, in which must be indexed
 19 papers not hereinbefore stated."
 20 Section 5. Section 7-4-2631, MCA, is amended to read:
 21 "7-4-2631. Fees of county clerk. (1) The county clerks
 22 must charge, for the use of their respective counties:
 23 (a) for recording and indexing each certificate of
 24 location of a quartz or placer mining claim or millsite
 25 claim, including a certificate that the instrument has been

1 recorded with seal affixed, \$6;
 2 (b) for recording and indexing each affidavit of
 3 annual labor on a mining claim, including certificate that
 4 the instrument has been recorded with seal affixed:
 5 (i) for the first mining claim in the affidavit, \$3;
 6 and
 7 (ii) for each additional mining claim included in it,
 8 50 cents;
 9 (c) for filing and indexing each writ of attachment,
 10 execution, certificate of sale, lien, or other instrument
 11 required by law to be filed and indexed, \$2;
 12 ~~{d}--for---filing--and--indexing--each--certificate--of~~
 13 ~~fictitious-name,--\$3;~~
 14 ~~{e}{d}~~ for filing of subdivision and townsite plats,
 15 \$5 plus:
 16 (i) for each lot up to and including 100, 50 cents;
 17 (ii) for each additional lot in excess of 100, 25
 18 cents;
 19 ~~{f}{e}~~ for filing certificates of surveys and
 20 amendments thereto, \$5 plus 50 cents per tract or lot;
 21 ~~{g}{f}~~ for a copy of a record or paper:
 22 (i) for the first page of any document, 50 cents, and
 23 25 cents for each subsequent page; and
 24 (ii) for each certification with seal affixed, \$1;
 25 ~~{h}{g}~~ for searching an index record of files of the

1 office for each year when required in abstracting or
2 otherwise, 50 cents;

3 {i}(h) for administering an oath with certificate and
4 seal, no charge;

5 {j}(i) for taking and certifying an acknowledgment,
6 with seal affixed, for signature to it, no charge;

7 {k}(j) for documents requiring multiple indexing
8 (including but not limited to mortgages; releases; deeds;
9 certificates of location; affidavits of annual labor on
10 mining claims; assignments of leases; assignments of
11 mortgages; oil, gas, and mineral leases; releases of oil,
12 gas, and mineral leases; assignments of overriding
13 royalties; executions; lis pendens; attachments; and all
14 liens), 50 cents per entry in excess of the first entry
15 contained in a single document;

16 {l}(k) for filing, indexing, or other services
17 provided for by 30-9-401 through 30-9-407, the fees
18 prescribed in those sections;

19 {m}(l) for recording each stock subscription and
20 contract, stock certificate, and articles of incorporation
21 for water users' associations, \$3;

22 {n}(m) for filing, recording, or indexing any other
23 instrument not expressly provided for in this section or
24 7-4-2632, the same fee provided in this section or 7-4-2632
25 for a similar service;

1 {o}(n) for each certified copy of a birth certificate
2 or a death certificate, \$2.

3 (2) State agencies submitting documents to be put of
4 record shall pay the fees provided for in this section.
5 These fees must be paid by a state agency on a monthly
6 basis."

7 Section 6. Section 7-5-4208, MCA, is amended to read:

8 "7-5-4208. Applicability of part. (1) Except as
9 provided in subsection (2), the provisions of this part
10 govern the adoption procedures and effect of municipal
11 ordinances, and resolutions, and initiatives and referenda.

12 (2) The following provisions apply to adoption
13 procedures and effect of municipal ordinances, and
14 resolutions, and initiatives and referenda notwithstanding
15 the provisions of this part:

16 (a) ~~provisions~~ Provisions of law not within Title 7,
17 chapter 5, parts 1 and 42, that set forth different
18 procedures for the adoption of an ordinance or resolution
19 relating to specific situations govern the adoption rather
20 than the general provisions of this part or part 1 of this
21 chapter.

22 (b) ~~sections~~ Sections of Title 7, chapter 5, part 1,
23 that are in conflict with the provisions of this part which
24 may be adopted by a municipality by ordinance adopts--for
25 governing--its--procedures--or--effects,--and to govern the

1 adoption of ordinances and resolutions and the effects of
 2 such ordinances and resolutions as a substitute for the
 3 applicable sections of this part.

4 (c) sections Sections of Title 7, chapter 5, part 1,
 5 that address procedures or effects which are neither
 6 addressed by this part nor in conflict with any provision of
 7 this part apply to municipal ordinances and resolutions."

8 Section 7. Section 7-5-4304, MCA, is amended to read:

9 "7-5-4304. Certain contracts to be submitted to
 10 voters. No contract may be let extending pursuant to
 11 7-5-4302 that extends over a period of 5 years or more
 12 without first submitting the question to a vote of the
 13 electors of the city or town."

14 Section 8. Section 7-6-2211, MCA, is amended to read:

15 "7-6-2211. Authorization to conduct county business on
 16 a cash basis. (1) In case the total indebtedness of a
 17 county, lawful when incurred, exceeds the limit of ~~22.5%~~ 23%
 18 established in 7-7-2101 by reason of great diminution of
 19 taxable value, the county may conduct its business affairs
 20 on a cash basis and pay the reasonable and necessary current
 21 expenses of the county out of the cash in the county
 22 treasury derived from its current revenue and under such
 23 restrictions and regulations as may be imposed by the board
 24 of county commissioners of the county by a resolution duly
 25 adopted and included in the minutes of the board.

1 (2) Nothing in this section restricts the right of the
 2 board to make the necessary tax levies for interest and
 3 sinking fund purposes, and nothing in this section affects
 4 the right of any creditor of the county to pursue any remedy
 5 now given him by law to obtain payment of his claim."

6 Section 9. Section 7-13-2225, MCA, is amended to read:

7 "7-13-2225. Combination of elections. (1) The board of
 8 county commissioners in its discretion may combine in one
 9 election the election on the formation of the district, the
 10 election of directors, and the election on incurring a
 11 bonded indebtedness so that the electors of the district may
 12 vote on all of these matters on the same date and at the
 13 same time.

14 (2) If the elections are combined, the board of county
 15 commissioners shall so declare by resolution containing the
 16 provisions required by 7-13-2321. If the elections are
 17 combined, the notice of the election shall contain the names
 18 of the candidates and the details concerning the bonded
 19 indebtedness.

20 (3) Candidates for the office of director shall be
 21 nominated in the manner required by 7-13-2235 through
 22 ~~7-13-2248~~ 7-13-2247."

23 Section 10. Section 7-13-2236, MCA, is amended to
 24 read:

25 "7-13-2236. General district election. The election of

1 directors of the district shall be held every 4 2 years with
2 the election for local government officials provided for in
3 13-1-104(2)."

4 Section 11. Section 7-14-2531, MCA, is amended to
5 read:

6 "7-14-2531. Definition of term single purpose. (1) It
7 shall be deemed a single purpose to:

8 (a) acquire a right-of-way for and construct a public
9 highway, including any bridge or bridges thereon;

10 (b) contribute to the cost of a federal-aid bridge;

11 (c) contribute to the cost of a federal-aid highway
12 project on a highway leading to a federal-aid bridge.

13 (2) Construction of two or more bridges not forming a
14 part of the same public highway shall be deemed separate
15 purposes.

16 ~~{3}--Nothing--contained--in--this--section---shall---be~~
17 ~~construed---as---amending--or--repealing--7-16-2201--through~~
18 ~~7-16-2205-"~~

19 Section 12. Section 7-14-2823, MCA, is amended to
20 read:

21 "7-14-2823. Hearing and decision on application. (1)
22 At the hearing, proof of giving the notice required by
23 7-14-2821 and 7-14-2822 must be made, and any person may
24 appear and contest the application. If the board of
25 commissioners finds that the ferry is either a public

1 necessity or convenience and that the applicant is a
2 suitable person and, by reason of the ownership of the
3 landing or failure of the owner thereof to apply, is
4 entitled thereto, authority to erect and take tolls on the
5 ferry may be granted to him for the term of 10 years. The
6 board may at any time they see fit authorize and maintain
7 fords across any water within any distance of any ferry.

8 (2) The board granting authority to keep a public
9 ferry must at the same time:

10 (a) fix the amount of a ~~penal~~ bond to be given by the
11 person or corporation owning or taking tolls on the ferry
12 for the benefit of the county and all persons crossing or
13 desiring to cross the same and provide for the annual
14 renewal thereof;

15 (b) fix the amount of license tax to be paid by the
16 person or corporation for taking tolls thereon, not less
17 than \$3 or over \$100 per month, payable annually;

18 (c) fix the rate of tolls which may be collected for
19 crossing the ferry;

20 (d) make all necessary orders relative to the
21 construction, erection, and business of ferries which they
22 have by law the power to make.

23 (3) When a county commissioner is interested in an
24 application to erect, construct, or take tolls on a ferry,
25 he must not act in any such matters."

1 Section 13. Section 7-21-2306, MCA, is amended to
2 read:

3 "7-21-2306. Bond required if deposit taken on orders
4 for future delivery. (1) Every application made by an
5 itinerant vendor taking orders for future delivery and
6 collecting advance payments, deposits, or guarantees thereon
7 under the terms of 7-21-2301 through 7-21-2305 shall be
8 accompanied by a bond in the ~~penal~~ sum of \$250 to said
9 county treasurer.

10 (2) (a) The bond shall be executed by a surety company
11 licensed to do business in this state or by two responsible
12 freeholders residing in the county and whose names appear
13 upon the assessment roll of said county.

14 (b) In lieu of a bond meeting the requirements of
15 subsection (2)(a), the application may be accompanied by a
16 cash bond of equal amount.

17 (3) The bond shall be approved by said county
18 treasurer and conditioned upon making of final delivery of
19 the goods ordered or the services to be rendered in
20 accordance with the terms of such order or failing therein,
21 that the money advanced by his customers be refunded.

22 (4) Such bond shall remain in full force and effect
23 for a period of 6 months after the expiration of any such
24 license and shall be held to assure only business transacted
25 under the authority of the license issued pursuant to the

1 application which such bond accompanied."

2 Section 14. Section 7-21-2407, MCA, is amended to
3 read:

4 "7-21-2407. Bond in lieu of license fee. (1) In lieu
5 of the license fee prescribed in 7-21-2404, every transient
6 retail merchant who files with the application required in
7 7-21-2406 an affidavit indicating bona fide intention to
8 become a permanent merchant and continue in business for a
9 period longer than 1 year shall, upon filing and approval of
10 the bond provided for in this section, receive from the
11 county treasurer a license permitting the conduct of such
12 business for a period of 1 year.

13 (2) Such bond shall be a surety bond in the ~~penal~~ sum
14 of \$1,000 to said county treasurer.

15 (3) (a) The bond shall be executed by a surety company
16 licensed to do business in this state or by two responsible
17 freeholders residing in the county and whose names appear
18 upon the assessment roll of said county.

19 (b) In lieu of a bond meeting the requirements of
20 subsection (3)(a), the bond may be a cash bond of equal
21 amount.

22 (4) The bond shall be approved by said county
23 treasurer and conditioned upon the performance of the
24 intention to become a permanent merchant and continue in
25 business for a period longer than 1 year and to insure the

1 payment of license fees for the period such business is
2 actually conducted if not in fact a bona fide permanent
3 business. The bond shall be further conditioned upon the
4 delivery of goods ordered or sold in accordance with the
5 terms of such order or sale.

6 (5) Such bond shall remain in full force and effect
7 for a period of 6 months after the expiration of the 1-year
8 period."

9 Section 15. Section 7-32-2102, MCA, is amended to
10 read:

11 "7-32-2102. Undersheriff to be appointed. The sheriff,
12 as soon as may be after he enters upon the duties of his
13 office, must, except in counties of the seventh class and
14 ~~eighth--classes~~, appoint some person undersheriff to hold
15 during the pleasure of the sheriff. Such undersheriff has
16 the same powers and duties as a deputy sheriff."

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 HOUSE BILL NO. 8

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO
3 LOCAL GOVERNMENT; AMENDING SECTIONS 7-2-2209, 7-3-1216,
4 7-3-1219, 7-4-2619, 7-4-2631, 7-5-4208, 7-5-4304, 7-6-2211,
5 7-13-2225, 7-13-2236, 7-14-2531, 7-14-2823, 7-21-2306,
6 7-21-2407, AND 7-32-2102, MCA.

7 Section 1. 7-2-2209. This amendment deletes the first
8 "at" in dated line for clarity.

9 Section 2. 7-3-1216. This amendment clarifies when
10 commission members for the older city/county consolidation
11 process take office. All other municipal officers take
12 office on the first Monday in January and serve until their
13 successors are elected and qualified. This section missed
14 amendment in the Elections Revision Act of 1979. This form
15 of city/county consolidation has never been used in Montana.

16 Section 3. 7-3-1219. Same explanation as section 2.

17 Section 4. 7-4-2619. In subsection (6), the amendment
18 corrects an error from the 1907 recodification. The
19 subsection has never been amended, yet the phrase change
20 appeared in 1907 code and carried forward. Note that label
21 of second column is "To whom powers are executed".

22 In subsection (17), there are only five column headings
23 so "six" is deleted to conform.

24 Section 5. 7-4-2631. This amendment deletes the charge
25 for filing and indexing each certificate of fictitious name.
26 These are no longer used since Ch. 260, L. 1979, repealed
27 the filing requirement for fictitious names. County Clerks
28 continue, however, to hold those filed and indexed prior to
29 1979, by virtue of Title 35, chapter 11, part 2, MCA.

30 Section 6. 7-5-4208. This amendment deletes erroneous
31 references to initiatives and referenda which are governed
32 by Title 7, chapter 5, part 1. The balance of the section
33 was amended for clarity. Numerous questions indicated added
34 words of explanation were necessary. Meaning stays
35 unchanged.

36 Section 7. 7-5-4304. This amendment clarifies that
37 this section applies only to contracts entered into under
38 7-5-4302, MCA. This section was part of a very large section
39 in the R.C.M. 1947, and applied only to that portion
40 codified as 7-5-4302, MCA, but when the section was broken
41 up it appeared to apply to all contracts entered into by

SECOND READING

1 municipalities.

2 Section 8. 7-6-2211. This amendment harmonizes the 23%
3 established in 7-7-2101, MCA, with this section.

4 Section 9. 7-13-2225. This amendment is needed because
5 7-13-2248, MCA, was repealed.

6 Section 10. 7-13-2236. This amendment provides for
7 elections for directors of County Water and/or Sewer
8 Districts every 2 years. The terms of directors are 4 years,
9 but they are on staggered terms, thus the necessity for
10 elections every 2 years.

11 Section 11. 7-14-2531. This amendment deletes, from
12 county road law, an exception that use of single purpose
13 there doesn't affect county library law. The predecessor of
14 this section was enacted to define "single purpose" for the
15 purposes of local government finances under the 1889
16 Constitution, and subsection (3) was amended in to preclude
17 finding that county libraries were not a single purpose. At
18 the time of this section's amendment and inclusion into
19 county road law in 1965, it was conceded that the whole
20 section was probably meaningless, but it was retained intact
21 nonetheless. Since the adoption of the 1972 Constitution
22 there is no requirement for single purpose financing, and
23 this section cannot under present law be considered to have
24 any bearing on libraries.

25 Section 12. 7-14-2823. This amendment deletes "penal"
26 before "bond" to standardize bonding language. This is the
27 only occurrence of the phrase "penal bond" in the Code.

28 Section 13. 7-21-2306. This amendment deletes "penal"
29 before "sum" to standardize language to conform to
30 provisions established by the Uniform Commercial Code.

31 Section 14. 7-21-2407. Same explanation as section 13.

32 Section 15. 7-32-2102. This amendment deletes
33 reference to eighth class counties. There are no eighth
34 class counties, and there weren't any when this section was
35 enacted.

1 at such special election shall commence on the first day of
 2 the third month following their election, and the terms of
 3 office of a majority of such members first elected, to be
 4 determined by lot, shall expire ~~on--June--30~~ when their
 5 successors are elected and qualified in the first year
 6 following their election, and the terms of the remaining
 7 members first elected shall expire ~~on--June--30~~ when their
 8 successors are elected and qualified in the third year
 9 following their election."

10 Section 3. Section 7-3-1219, MCA, is amended to read:

11 "7-3-1219. Organization and officers of commission.

12 (1) At the first meeting of the commission following the
 13 special election at which the members thereof are first
 14 elected and thereafter at its meeting on ~~July--1~~ the first
 15 Monday of January following each general election at which
 16 members of the commission are elected, the commission shall
 17 choose one of its members as president and another as
 18 vice-president.

19 (2) The president shall preside at meetings of the
 20 commission and shall exercise the powers and perform the
 21 duties conferred and imposed by this part or part 13 and the
 22 ordinances of the municipality. He shall be recognized as
 23 the official head of the municipality for all ceremonial
 24 purposes, by the courts for serving civil processes, and by
 25 the governor for purposes of military law. In time of public

1 danger or emergency he shall, if authorized by vote of the
 2 commission, take command of the police, maintain order, and
 3 enforce the law. If a vacancy occurs in the office of
 4 president or in case of his absence or disability, the
 5 vice-president shall act as president for the unexpired term
 6 or during the continuance of the absence or disability.

7 (3) The director of finance shall be ex officio clerk
 8 of the commission and shall, either in person or by deputy,
 9 keep the records of the commission and perform such other
 10 duties as may be required by this part or part 13 or by the
 11 commission."

12 Section 4. Section 7-4-2619, MCA, is amended to read:

13 "7-4-2619. Indexes to recorded documents. Every county
 14 clerk, as ex officio recorder, must keep:

15 (1) an index of deeds, grants, and transfers and
 16 contracts to sell or convey real estate and notices of
 17 buyer's interest in real property labeled "Grantors", with
 18 each page divided into four columns headed, respectively:
 19 "Names of grantors", "Names of grantees", "Date of deeds,
 20 grants, transfers, contracts, or notices", and "Where
 21 recorded";

22 (2) an index of deeds and notices of buyer's interest
 23 in real property labeled "Grantees", with each page divided
 24 into four columns headed, respectively: "Names of grantees",
 25 "Names of grantors", "Date of deeds, grants, transfers,

1 contracts, or notices", and "Where recorded";

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

7 (4) an index of mortgages labeled "Mortgages of real
8 property", with each page divided into six columns headed,
9 respectively: "Names of mortgagees", "Names of mortgagors",
10 "Date of mortgage", "Where recorded", "When filed", and
11 "When canceled";

12 (5) an index of mortgages labeled "Releases of
13 mortgages of real property--Mortgagees", with each page
14 divided into six columns headed, respectively: "Parties
15 whose mortgages are released", "Parties releasing", "Date of
16 release", "Where recorded", "Dates of mortgages released",
17 and "Where mortgages released are recorded";

18 (6) an index of powers of attorney labeled "Powers of
19 attorney", with each page divided into five columns headed,
20 respectively: "Names of parties executing powers", "To whom
21 powers are executed", "Date of powers", "Date of recording",
22 and "~~To--whom--powers--are--executed~~" "Where powers are
23 recorded";

24 (7) an index of leases labeled "Leases", with each
25 page divided into four columns headed, respectively: "Names

1 of lessors", "Names of lessees", "Date of leases", and "When
2 and where recorded";

3 (8) an index of leases labeled "Lessees", with each
4 page divided into four columns headed, respectively: "Names
5 of lessees", "Names of lessors", "Date of leases", and "When
6 and where recorded";

7 (9) an index of marriage certificates labeled
8 "Marriage certificate--Men", with each page divided into six
9 columns headed, respectively: "Men married", "To whom
10 married", "When married", "By whom married", "Where
11 married", and "Where certificates are recorded";

12 (10) an index of marriage certificates labeled
13 "Marriage certificates--Women", with each page divided into
14 six columns headed, respectively: "Women married" (and under
15 this head placing the family names of the women), "To whom
16 married", "When married", "By whom married", "Where
17 married", and "Where certificates are recorded";

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

24 (12) an index of assignments of mortgages and leases
25 labeled "Assignments of mortgages and leases--Assignees",

1 with each page divided into five columns headed,
2 respectively: "Assignees", "Assignors", "Instruments", "Date
3 of assignment", and "When and where recorded";

4 (13) an index of wills labeled "Wills", with each page
5 divided into four columns headed, respectively: "Names of
6 testators", "Date of will", "Date of probate", and "When and
7 where recorded";

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

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

16 (16) an index to transcripts of judgments labeled
17 "Transcripts of judgments", with each page divided into
18 seven columns headed, respectively: "Judgment debtors",
19 "Judgment creditors", "Amount of judgment", "Where
20 recovered", "When recovered", "When transcript filed", and
21 "When judgment satisfied";

22 (17) an index of attachments labeled "Attachments",
23 with each page divided into six columns headed,
24 respectively: "Parties against whom attachments are issued",
25 "Parties issuing attachments", "Notices of attachments",

1 "When filed", and "When attachments discharged";

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

6 (19) an index of certificates of sale of real estate
7 sold under execution or under orders made in any judicial
8 proceedings labeled "Certificates of sale", with each page
9 divided into four columns headed, respectively: "Plaintiff",
10 "Defendant", "Purchaser at sale", and "Date of sale";

11 (20) an index of the individual property of married
12 persons labeled "Individual property of married persons",
13 with each page divided into five columns headed,
14 respectively: "Names of married persons", "Names of their
15 spouses", "Nature of instruments recorded", "When recorded",
16 and "Where recorded";

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

22 (22) an index of mining claims and declaratory
23 statements labeled "Notices of location of mining claims and
24 declaratory statements", with each page divided into four
25 columns headed, respectively: "Locators", "Name of claim",

1 "Notice, when filed", and "Where recorded";
 2 (23) an index to the register of births and deaths;
 3 (24) an index to notices and declarations of water
 4 rights;
 5 (25) an index to the "estray and lost property book";
 6 (26) an index to the record of assignments for the
 7 benefit of creditors, containing names of assignor and
 8 assignee, date and where recorded, and inventory, when
 9 filed;
 10 (27) an index to financing statements as provided in
 11 Part 4 of the Uniform Commercial Code--Secured Transactions;
 12 (28) an index to filed subdivision plats, containing
 13 number of lots, number of acres, filing date, and the
 14 location of the quarter section of each subdivision;
 15 (29) an index to the book of maps and plats, which must
 16 contain the name of the proprietor of the town, village, or
 17 addition platted and a general description of the same;
 18 (30) a miscellaneous index, in which must be indexed
 19 papers not hereinbefore stated."
 20 Section 5. Section 7-4-2631, MCA, is amended to read:
 21 "7-4-2631. Fees of county clerk. (1) The county clerks
 22 must charge, for the use of their respective counties:
 23 (a) for recording and indexing each certificate of
 24 location of a quartz or placer mining claim or millsite
 25 claim, including a certificate that the instrument has been

1 recorded with seal affixed, \$6;
 2 (b) for recording and indexing each affidavit of
 3 annual labor on a mining claim, including certificate that
 4 the instrument has been recorded with seal affixed:
 5 (i) for the first mining claim in the affidavit, \$3;
 6 and
 7 (ii) for each additional mining claim included in it,
 8 50 cents;
 9 (c) for filing and indexing each writ of attachment,
 10 execution, certificate of sale, lien, or other instrument
 11 required by law to be filed and indexed, \$2;
 12 ~~{d}--for---filing--and--indexing--each--certificate--of~~
 13 ~~fictitious-name, \$3;~~
 14 ~~{e}~~(d) for filing of subdivision and townsite plats,
 15 \$5 plus:
 16 (i) for each lot up to and including 100, 50 cents;
 17 (ii) for each additional lot in excess of 100, 25
 18 cents;
 19 ~~{f}~~(e) for filing certificates of surveys and
 20 amendments thereto, \$5 plus 50 cents per tract or lot;
 21 ~~{g}~~(f) for a copy of a record or paper:
 22 (i) for the first page of any document, 50 cents, and
 23 25 cents for each subsequent page; and
 24 (ii) for each certification with seal affixed, \$1;
 25 ~~{h}~~(g) for searching an index record of files of the

1 office for each year when required in abstracting or
2 otherwise, 50 cents;

3 (i)(h) for administering an oath with certificate and
4 seal, no charge;

5 (i)(i) for taking and certifying an acknowledgment,
6 with seal affixed, for signature to it, no charge;

7 (i)(j) for documents requiring multiple indexing
8 (including but not limited to mortgages; releases; deeds;
9 certificates of location; affidavits of annual labor on
10 mining claims; assignments of leases; assignments of
11 mortgages; oil, gas, and mineral leases; releases of oil,
12 gas, and mineral leases; assignments of overriding
13 royalties; executions; lis pendens; attachments; and all
14 liens), 50 cents per entry in excess of the first entry
15 contained in a single document;

16 (i)(k) for filing, indexing, or other services
17 provided for by 30-9-401 through 30-9-407, the fees
18 prescribed in those sections;

19 (i)(l) for recording each stock subscription and
20 contract, stock certificate, and articles of incorporation
21 for water users' associations, \$3;

22 (i)(m) for filing, recording, or indexing any other
23 instrument not expressly provided for in this section or
24 7-4-2632, the same fee provided in this section or 7-4-2632
25 for a similar service;

1 (n) for each certified copy of a birth certificate
2 or a death certificate, \$2.

3 (2) State agencies submitting documents to be put of
4 record shall pay the fees provided for in this section.
5 These fees must be paid by a state agency on a monthly
6 basis."

7 Section 6. Section 7-5-4208, MCA, is amended to read:

8 "7-5-4208. Applicability of part. (1) Except as
9 provided in subsection (2), the provisions of this part
10 govern the adoption procedures and effect of municipal
11 ordinances, and resolutions, and initiatives and referenda.

12 (2) The following provisions apply to adoption
13 procedures and effect of municipal ordinances, and
14 resolutions, ~~and initiatives and referenda~~ notwithstanding
15 the provisions of this part:

16 (a) ~~provisions~~ Provisions of law not within Title 7,
17 chapter 5, parts 1 and 42, that set forth different
18 procedures for the adoption of an ordinance or resolution
19 relating to specific situations govern the adoption rather
20 than the general provisions of this part or part 1 of this
21 chapter.

22 (b) ~~sections~~ Sections of Title 7, chapter 5, part 1,
23 that are in conflict with the provisions of this part ~~which~~
24 may be adopted by a municipality by ordinance adopts--for
25 governing--its--procedures--or--effects;--and to govern the

1 adoption of ordinances and resolutions and the effects of
 2 such ordinances and resolutions as a substitute for the
 3 applicable sections of this part.

4 (c) ~~sections~~ Sections of Title 7, chapter 5, part 1,
 5 that address procedures or effects which are neither
 6 addressed by this part nor in conflict with any provision of
 7 this part apply to municipal ordinances and resolutions."

8 Section 7. Section 7-5-4304, MCA, is amended to read:

9 "7-5-4304. Certain contracts to be submitted to
 10 voters. No contract may be let extending pursuant to
 11 7-5-4302 that extends over a period of 5 years or more
 12 without first submitting the question to a vote of the
 13 electors of the city or town."

14 Section 8. Section 7-6-2211, MCA, is amended to read:

15 "7-6-2211. Authorization to conduct county business on
 16 a cash basis. (1) In case the total indebtedness of a
 17 county, lawful when incurred, exceeds the limit of ~~22.5%~~ 23%
 18 established in 7-7-2101 by reason of great diminution of
 19 taxable value, the county may conduct its business affairs
 20 on a cash basis and pay the reasonable and necessary current
 21 expenses of the county out of the cash in the county
 22 treasury derived from its current revenue and under such
 23 restrictions and regulations as may be imposed by the board
 24 of county commissioners of the county by a resolution duly
 25 adopted and included in the minutes of the board.

1 (2) Nothing in this section restricts the right of the
 2 board to make the necessary tax levies for interest and
 3 sinking fund purposes, and nothing in this section affects
 4 the right of any creditor of the county to pursue any remedy
 5 now given him by law to obtain payment of his claim."

6 Section 9. Section 7-13-2225, MCA, is amended to read:

7 "7-13-2225. Combination of elections. (1) The board of
 8 county commissioners in its discretion may combine in one
 9 election the election on the formation of the district, the
 10 election of directors, and the election on incurring a
 11 bonded indebtedness so that the electors of the district may
 12 vote on all of these matters on the same date and at the
 13 same time.

14 (2) If the elections are combined, the board of county
 15 commissioners shall so declare by resolution containing the
 16 provisions required by 7-13-2321. If the elections are
 17 combined, the notice of the election shall contain the names
 18 of the candidates and the details concerning the bonded
 19 indebtedness.

20 (3) Candidates for the office of director shall be
 21 nominated in the manner required by 7-13-2235 through
 22 ~~7-13-2246~~ 7-13-2247."

23 Section 10. Section 7-13-2236, MCA, is amended to
 24 read:

25 "7-13-2236. General district election. The election of

1 directors of the district shall be held every 4 2 years with
 2 the election for local government officials provided for in
 3 13-1-104(2)."

4 Section 11. Section 7-14-2531, MCA, is amended to
 5 read:

6 "7-14-2531. Definition of term single purpose. (1) It
 7 shall be deemed a single purpose to:

8 (a) acquire a right-of-way for and construct a public
 9 highway, including any bridge or bridges thereon;

10 (b) contribute to the cost of a federal-aid bridge;

11 (c) contribute to the cost of a federal-aid highway
 12 project on a highway leading to a federal-aid bridge.

13 (2) Construction of two or more bridges not forming a
 14 part of the same public highway shall be deemed separate
 15 purposes.

16 ~~{3}--Nothing--contained--in--this--section---shall---be~~
 17 ~~construed---as---amending--or--repeating--7-16-2201--through~~
 18 ~~7-16-2205r"~~

19 Section 12. Section 7-14-2823, MCA, is amended to
 20 read:

21 "7-14-2823. Hearing and decision on application. (1)
 22 At the hearing, proof of giving the notice required by
 23 7-14-2821 and 7-14-2822 must be made, and any person may
 24 appear and contest the application. If the board of
 25 commissioners finds that the ferry is either a public

1 necessity or convenience and that the applicant is a
 2 suitable person and, by reason of the ownership of the
 3 landing or failure of the owner thereof to apply, is
 4 entitled thereto, authority to erect and take tolls on the
 5 ferry may be granted to him for the term of 10 years. The
 6 board may at any time they see fit authorize and maintain
 7 fords across any water within any distance of any ferry.

8 (2) The board granting authority to keep a public
 9 ferry must at the same time:

10 (a) fix the amount of a ~~penal~~ bond to be given by the
 11 person or corporation owning or taking tolls on the ferry
 12 for the benefit of the county and all persons crossing or
 13 desiring to cross the same and provide for the annual
 14 renewal thereof;

15 (b) fix the amount of license tax to be paid by the
 16 person or corporation for taking tolls thereon, not less
 17 than \$3 or over \$100 per month, payable annually;

18 (c) fix the rate of tolls which may be collected for
 19 crossing the ferry;

20 (d) make all necessary orders relative to the
 21 construction, erection, and business of ferries which they
 22 have by law the power to make.

23 (3) When a county commissioner is interested in an
 24 application to erect, construct, or take tolls on a ferry,
 25 he must not act in any such matters."

1 Section 13. Section 7-21-2306, MCA, is amended to
2 read:

3 "7-21-2306. Bond required if deposit taken on orders
4 for future delivery. (1) Every application made by an
5 itinerant vendor taking orders for future delivery and
6 collecting advance payments, deposits, or guarantees thereon
7 under the terms of 7-21-2301 through 7-21-2305 shall be
8 accompanied by a bond in the ~~penal~~ sum of \$250 to said
9 county treasurer.

10 (2) (a) The bond shall be executed by a surety company
11 licensed to do business in this state or by two responsible
12 freeholders residing in the county and whose names appear
13 upon the assessment roll of said county.

14 (b) In lieu of a bond meeting the requirements of
15 subsection (2)(a), the application may be accompanied by a
16 cash bond of equal amount.

17 (3) The bond shall be approved by said county
18 treasurer and conditioned upon making of final delivery of
19 the goods ordered or the services to be rendered in
20 accordance with the terms of such order or failing therein,
21 that the money advanced by his customers be refunded.

22 (4) Such bond shall remain in full force and effect
23 for a period of 6 months after the expiration of any such
24 license and shall be held to assure only business transacted
25 under the authority of the license issued pursuant to the

1 application which such bond accompanied."

2 Section 14. Section 7-21-2407, MCA, is amended to
3 read:

4 "7-21-2407. Bond in lieu of license fee. (1) In lieu
5 of the license fee prescribed in 7-21-2404, every transient
6 retail merchant who files with the application required in
7 7-21-2406 an affidavit indicating bona fide intention to
8 become a permanent merchant and continue in business for a
9 period longer than 1 year shall, upon filing and approval of
10 the bond provided for in this section, receive from the
11 county treasurer a license permitting the conduct of such
12 business for a period of 1 year.

13 (2) Such bond shall be a surety bond in the ~~penal~~ sum
14 of \$1,000 to said county treasurer.

15 (3) (a) The bond shall be executed by a surety company
16 licensed to do business in this state or by two responsible
17 freeholders residing in the county and whose names appear
18 upon the assessment roll of said county.

19 (b) In lieu of a bond meeting the requirements of
20 subsection (3)(a), the bond may be a cash bond of equal
21 amount.

22 (4) The bond shall be approved by said county
23 treasurer and conditioned upon the performance of the
24 intention to become a permanent merchant and continue in
25 business for a period longer than 1 year and to insure the

1 payment of license fees for the period such business is
2 actually conducted if not in fact a bona fide permanent
3 business. The bond shall be further conditioned upon the
4 delivery of goods ordered or sold in accordance with the
5 terms of such order or sale.

6 (5) Such bond shall remain in full force and effect
7 for a period of 6 months after the expiration of the 1-year
8 period."

9 Section 15. Section 7-32-2102, MCA, is amended to
10 read:

11 "7-32-2102. Undersheriff to be appointed. The sheriff,
12 as soon as may be after he enters upon the duties of his
13 office, must, except in counties of the seventh class and
14 ~~eighth--classes~~, appoint some person undersheriff to hold
15 during the pleasure of the sheriff. Such undersheriff has
16 the same powers and duties as a deputy sheriff."

-End-

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11 process take office. All other municipal officers take
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15 of city/county consolidation has never been used in Montana.

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8 Districts every 2 years. The terms of directors are 4 years,
9 but they are on staggered terms, thus the necessity for
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11 Section 11. 7-14-2531. This amendment deletes, from
12 county road law, an exception that use of single purpose
13 there doesn't affect county library law. The predecessor of
14 this section was enacted to define "single purpose" for the
15 purposes of local government finances under the 1889
16 Constitution, and subsection (3) was amended in to preclude
17 finding that county libraries were not a single purpose. At
18 the time of this section's amendment and inclusion into
19 county road law in 1965, it was conceded that the whole
20 section was probably meaningless, but it was retained intact
21 nonetheless. Since the adoption of the 1972 Constitution
22 there is no requirement for single purpose financing, and
23 this section cannot under present law be considered to have
24 any bearing on libraries.

25 Section 12. 7-14-2823. This amendment deletes "penal"
26 before "bond" to standardize bonding language. This is the
27 only occurrence of the phrase "penal bond" in the Code.

28 Section 13. 7-21-2306. This amendment deletes "penal"
29 before "sum" to standardize language to conform to
30 provisions established by the Uniform Commercial Code.

31 Section 14. 7-21-2407. Same explanation as section 13.

32 Section 15. 7-32-2102. This amendment deletes
33 reference to eighth class counties. There are no eighth
34 class counties, and there weren't any when this section was
35 enacted.

1 at such special election shall commence on the first day of
 2 the third month following their election, and the terms of
 3 office of a majority of such members first elected, to be
 4 determined by lot, shall expire ~~on--June--30~~ when their
 5 successors are elected and qualified in the first year
 6 following their election, and the terms of the remaining
 7 members first elected shall expire ~~on--June--30~~ when their
 8 successors are elected and qualified in the third year
 9 following their election."

10 Section 3. Section 7-3-1219, MCA, is amended to read:

11 "7-3-1219. Organization and officers of commission.
 12 (1) At the first meeting of the commission following the
 13 special election at which the members thereof are first
 14 elected and thereafter at its meeting on ~~July--1~~ the first
 15 Monday of January following each general election at which
 16 members of the commission are elected, the commission shall
 17 choose one of its members as president and another as
 18 vice-president.

19 (2) The president shall preside at meetings of the
 20 commission and shall exercise the powers and perform the
 21 duties conferred and imposed by this part or part 13 and the
 22 ordinances of the municipality. He shall be recognized as
 23 the official head of the municipality for all ceremonial
 24 purposes, by the courts for serving civil processes, and by
 25 the governor for purposes of military law. In time of public

1 danger or emergency he shall, if authorized by vote of the
 2 commission, take command of the police, maintain order, and
 3 enforce the law. If a vacancy occurs in the office of
 4 president or in case of his absence or disability, the
 5 vice-president shall act as president for the unexpired term
 6 or during the continuance of the absence or disability.

7 (3) The director of finance shall be ex officio clerk
 8 of the commission and shall, either in person or by deputy,
 9 keep the records of the commission and perform such other
 10 duties as may be required by this part or part 13 or by the
 11 commission."

12 Section 4. Section 7-4-2619, MCA, is amended to read:

13 "7-4-2619. Indexes to recorded documents. Every county
 14 clerk, as ex officio recorder, must keep:

15 (1) an index of deeds, grants, and transfers and
 16 contracts to sell or convey real estate and notices of
 17 buyer's interest in real property labeled "Grantors", with
 18 each page divided into four columns headed, respectively:
 19 "Names of grantors", "Names of grantees", "Date of deeds,
 20 grants, transfers, contracts, or notices", and "Where
 21 recorded";

22 (2) an index of deeds and notices of buyer's interest
 23 in real property labeled "Grantees", with each page divided
 24 into four columns headed, respectively: "Names of grantees",
 25 "Names of grantors", "Date of deeds, grants, transfers,

1 contracts, or notices", and "Where recorded";

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

7 (4) an index of mortgages labeled "Mortgages of real
8 property", with each page divided into six columns headed,
9 respectively: "Names of mortgagees", "Names of mortgagors",
10 "Date of mortgage", "Where recorded", "When filed", and
11 "When canceled";

12 (5) an index of mortgages labeled "Releases of
13 mortgages of real property--Mortgagees", with each page
14 divided into six columns headed, respectively: "Parties
15 whose mortgages are released", "Parties releasing", "Date of
16 release", "Where recorded", "Dates of mortgages released",
17 and "Where mortgages released are recorded";

18 (6) an index of powers of attorney labeled "Powers of
19 attorney", with each page divided into five columns headed,
20 respectively: "Names of parties executing powers", "To whom
21 powers are executed", "Date of powers", "Date of recording",
22 and "~~To--whom--powers--are--executed~~" "Where powers are
23 recorded";

24 (7) an index of leases labeled "Leases", with each
25 page divided into four columns headed, respectively: "Names

1 of lessors", "Names of lessees", "Date of leases", and "When
2 and where recorded";

3 (8) an index of leases labeled "Lessees", with each
4 page divided into four columns headed, respectively: "Names
5 of lessees", "Names of lessors", "Date of leases", and "When
6 and where recorded";

7 (9) an index of marriage certificates labeled
8 "Marriage certificate--Men", with each page divided into six
9 columns headed, respectively: "Men married", "To whom
10 married", "When married", "By whom married", "Where
11 married", and "Where certificates are recorded";

12 (10) an index of marriage certificates labeled
13 "Marriage certificates--Women", with each page divided into
14 six columns headed, respectively: "Women married" (and under
15 this head placing the family names of the women), "To whom
16 married", "When married", "By whom married", "Where
17 married", and "Where certificates are recorded";

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

24 (12) an index of assignments of mortgages and leases
25 labeled "Assignments of mortgages and leases--Assignees",

1 with each page divided into five columns headed,
2 respectively: "Assignees", "Assignors", "Instruments", "Date
3 of assignment", and "When and where recorded";

4 (13) an index of wills labeled "Wills", with each page
5 divided into four columns headed, respectively: "Names of
6 testators", "Date of will", "Date of probate", and "When and
7 where recorded";

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

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

16 (16) an index to transcripts of judgments labeled
17 "Transcripts of judgments", with each page divided into
18 seven columns headed, respectively: "Judgment debtors",
19 "Judgment creditors", "Amount of judgment", "Where
20 recovered", "When recovered", "When transcript filed", and
21 "When judgment satisfied";

22 (17) an index of attachments labeled "Attachments",
23 with each page divided into six columns headed,
24 respectively: "Parties against whom attachments are issued",
25 "Parties issuing attachments", "Notices of attachments",

1 "When filed", and "When attachments discharged";

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

6 (19) an index of certificates of sale of real estate
7 sold under execution or under orders made in any judicial
8 proceedings labeled "Certificates of sale", with each page
9 divided into four columns headed, respectively: "Plaintiff",
10 "Defendant", "Purchaser at sale", and "Date of sale";

11 (20) an index of the individual property of married
12 persons labeled "Individual property of married persons",
13 with each page divided into five columns headed,
14 respectively: "Names of married persons", "Names of their
15 spouses", "Nature of instruments recorded", "When recorded",
16 and "Where recorded";

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

22 (22) an index of mining claims and declaratory
23 statements labeled "Notices of location of mining claims and
24 declaratory statements", with each page divided into four
25 columns headed, respectively: "Locators", "Name of claim",

1 "Notice, when filed", and "Where recorded";
 2 (23) an index to the register of births and deaths;
 3 (24) an index to notices and declarations of water
 4 rights;
 5 (25) an index to the "estrays and lost property book";
 6 (26) an index to the record of assignments for the
 7 benefit of creditors, containing names of assignor and
 8 assignee, date and where recorded, and inventory, when
 9 filed;
 10 (27) an index to financing statements as provided in
 11 Part 4 of the Uniform Commercial Code--Secured Transactions;
 12 (28) an index to filed subdivision plats, containing
 13 number of lots, number of acres, filing date, and the
 14 location of the quarter section of each subdivision;
 15 (29) an index to the book of maps and plats, which must
 16 contain the name of the proprietor of the town, village, or
 17 addition platted and a general description of the same;
 18 (30) a miscellaneous index, in which must be indexed
 19 papers not hereinbefore stated."
 20 Section 5. Section 7-4-2631, MCA, is amended to read:
 21 "7-4-2631. Fees of county clerk. (1) The county clerks
 22 must charge, for the use of their respective counties:
 23 (a) for recording and indexing each certificate of
 24 location of a quartz or placer mining claim or millsite
 25 claim, including a certificate that the instrument has been

1 recorded with seal affixed, \$6;
 2 (b) for recording and indexing each affidavit of
 3 annual labor on a mining claim, including certificate that
 4 the instrument has been recorded with seal affixed:
 5 (i) for the first mining claim in the affidavit, \$3;
 6 and
 7 (ii) for each additional mining claim included in it,
 8 50 cents;
 9 (c) for filing and indexing each writ of attachment,
 10 execution, certificate of sale, lien, or other instrument
 11 required by law to be filed and indexed, \$2;
 12 ~~(d) for filing and indexing each certificate of~~
 13 ~~fictitious name, \$3;~~
 14 ~~(e)(d)~~ for filing of subdivision and townsite plats,
 15 \$5 plus:
 16 (i) for each lot up to and including 100, 50 cents;
 17 (ii) for each additional lot in excess of 100, 25
 18 cents;
 19 ~~(f)(e)~~ for filing certificates of surveys and
 20 amendments thereto, \$5 plus 50 cents per tract or lot;
 21 ~~(g)(f)~~ for a copy of a record or paper:
 22 (i) for the first page of any document, 50 cents, and
 23 25 cents for each subsequent page; and
 24 (ii) for each certification with seal affixed, \$1;
 25 ~~(h)(g)~~ for searching an index record of files of the

1 office for each year when required in abstracting or
2 otherwise, 50 cents;

3 ††(h) for administering an oath with certificate and
4 seal, no charge;

5 ††(i) for taking and certifying an acknowledgment,
6 with seal affixed, for signature to it, no charge;

7 †*(j) for documents requiring multiple indexing
8 (including but not limited to mortgages; releases; deeds;
9 certificates of location; affidavits of annual labor on
10 mining claims; assignments of leases; assignments of
11 mortgages; oil, gas, and mineral leases; releases of oil,
12 gas, and mineral leases; assignments of overriding
13 royalties; executions; lis pendens; attachments; and all
14 liens), 50 cents per entry in excess of the first entry
15 contained in a single document;

16 ††(k) for filing, indexing, or other services
17 provided for by 30-9-401 through 30-9-407, the fees
18 prescribed in those sections;

19 †*(l) for recording each stock subscription and
20 contract, stock certificate, and articles of incorporation
21 for water users' associations, \$3;

22 †*(m) for filing, recording, or indexing any other
23 instrument not expressly provided for in this section or
24 7-4-2632, the same fee provided in this section or 7-4-2632
25 for a similar service;

1 †*(n) for each certified copy of a birth certificate
2 or a death certificate, \$2.

3 (2) State agencies submitting documents to be put of
4 record shall pay the fees provided for in this section.
5 These fees must be paid by a state agency on a monthly
6 basis."

7 Section 6. Section 7-5-4208, MCA, is amended to read:
8 "7-5-4208. Applicability of part. (1) Except as
9 provided in subsection (2), the provisions of this part
10 govern the adoption procedures and effect of municipal
11 ordinances, and resolutions, and initiatives and referenda.

12 (2) The following provisions apply to adoption
13 procedures and effect of municipal ordinances, and
14 resolutions, and initiatives and referenda notwithstanding
15 the provisions of this part:

16 (a) provisions Provisions of law not within Title 7,
17 chapter 5, parts 1 and 42, that set forth different
18 procedures for the adoption of an ordinance or resolution
19 relating to specific situations govern the adoption rather
20 than the general provisions of this part or part 1 of this
21 chapter.

22 (b) sections Sections of Title 7, chapter 5, part 1,
23 that are in conflict with the provisions of this part which
24 may be adopted by a municipality by ordinance adopts--for
25 governing its procedures or effects, and to govern the

1 adoption of ordinances and resolutions and the effects of
 2 such ordinances and resolutions as a substitute for the
 3 applicable sections of this part.

4 (c) sections Sections of Title 7, chapter 5, part 1,
 5 that address procedures or effects which are neither
 6 addressed by this part nor in conflict with any provision of
 7 this part apply to municipal ordinances and resolutions."

8 Section 7. Section 7-5-4304, MCA, is amended to read:

9 "7-5-4304. Certain contracts to be submitted to
 10 voters. No contract may be let extending pursuant to
 11 7-5-4302 that extends over a period of 5 years or more
 12 without first submitting the question to a vote of the
 13 electors of the city or town."

14 Section 8. Section 7-6-2211, MCA, is amended to read:

15 "7-6-2211. Authorization to conduct county business on
 16 a cash basis. (1) In case the total indebtedness of a
 17 county, lawful when incurred, exceeds the limit of ~~22-5%~~ 23%
 18 established in 7-7-2101 by reason of great diminution of
 19 taxable value, the county may conduct its business affairs
 20 on a cash basis and pay the reasonable and necessary current
 21 expenses of the county out of the cash in the county
 22 treasury derived from its current revenue and under such
 23 restrictions and regulations as may be imposed by the board
 24 of county commissioners of the county by a resolution duly
 25 adopted and included in the minutes of the board.

1 (2) Nothing in this section restricts the right of the
 2 board to make the necessary tax levies for interest and
 3 sinking fund purposes, and nothing in this section affects
 4 the right of any creditor of the county to pursue any remedy
 5 now given him by law to obtain payment of his claim."

6 Section 9. Section 7-13-2225, MCA, is amended to read:

7 "7-13-2225. Combination of elections. (1) The board of
 8 county commissioners in its discretion may combine in one
 9 election the election on the formation of the district, the
 10 election of directors, and the election on incurring a
 11 bonded indebtedness so that the electors of the district may
 12 vote on all of these matters on the same date and at the
 13 same time.

14 (2) If the elections are combined, the board of county
 15 commissioners shall so declare by resolution containing the
 16 provisions required by 7-13-2321. If the elections are
 17 combined, the notice of the election shall contain the names
 18 of the candidates and the details concerning the bonded
 19 indebtedness.

20 (3) Candidates for the office of director shall be
 21 nominated in the manner required by 7-13-2235 through
 22 ~~7-13-2240~~ 7-13-2247."

23 Section 10. Section 7-13-2236, MCA, is amended to
 24 read:

25 "7-13-2236. General district election. The election of

1 directors of the district shall be held every 4 2 years with
 2 the election for local government officials provided for in
 3 13-1-104(2)."

4 Section 11. Section 7-14-2531, MCA, is amended to
 5 read:

6 "7-14-2531. Definition of term single purpose. (1) It
 7 shall be deemed a single purpose to:

8 (a) acquire a right-of-way for and construct a public
 9 highway, including any bridge or bridges thereon;

10 (b) contribute to the cost of a federal-aid bridge;

11 (c) contribute to the cost of a federal-aid highway
 12 project on a highway leading to a federal-aid bridge.

13 (2) Construction of two or more bridges not forming a
 14 part of the same public highway shall be deemed separate
 15 purposes.

16 ~~{3}--Nothing--contained--in--this--section---shall---be~~
 17 ~~construed---as---amending--or--repealing--7-16-2201--through~~
 18 ~~7-16-2205-"~~

19 Section 12. Section 7-14-2823, MCA, is amended to
 20 read:

21 "7-14-2823. Hearing and decision on application. (1)
 22 At the hearing, proof of giving the notice required by
 23 7-14-2821 and 7-14-2822 must be made, and any person may
 24 appear and contest the application. If the board of
 25 commissioners finds that the ferry is either a public

1 necessity or convenience and that the applicant is a
 2 suitable person and, by reason of the ownership of the
 3 landing or failure of the owner thereof to apply, is
 4 entitled thereto, authority to erect and take tolls on the
 5 ferry may be granted to him for the term of 10 years. The
 6 board may at any time they see fit authorize and maintain
 7 fords across any water within any distance of any ferry.

8 (2) The board granting authority to keep a public
 9 ferry must at the same time:

10 (a) fix the amount of a penal bond to be given by the
 11 person or corporation owning or taking tolls on the ferry
 12 for the benefit of the county and all persons crossing or
 13 desiring to cross the same and provide for the annual
 14 renewal thereof;

15 (b) fix the amount of license tax to be paid by the
 16 person or corporation for taking tolls thereon, not less
 17 than \$3 or over \$100 per month, payable annually;

18 (c) fix the rate of tolls which may be collected for
 19 crossing the ferry;

20 (d) make all necessary orders relative to the
 21 construction, erection, and business of ferries which they
 22 have by law the power to make.

23 (3) When a county commissioner is interested in an
 24 application to erect, construct, or take tolls on a ferry,
 25 he must not act in any such matters."

1 Section 13. Section 7-21-2306, MCA, is amended to
2 read:

3 "7-21-2306. Bond required if deposit taken on orders
4 for future delivery. (1) Every application made by an
5 itinerant vendor taking orders for future delivery and
6 collecting advance payments, deposits, or guarantees thereon
7 under the terms of 7-21-2301 through 7-21-2305 shall be
8 accompanied by a bond in the penat sum of \$250 to said
9 county treasurer.

10 (2) (a) The bond shall be executed by a surety company
11 licensed to do business in this state or by two responsible
12 freeholders residing in the county and whose names appear
13 upon the assessment roll of said county.

14 (b) In lieu of a bond meeting the requirements of
15 subsection (2)(a), the application may be accompanied by a
16 cash bond of equal amount.

17 (3) The bond shall be approved by said county
18 treasurer and conditioned upon making of final delivery of
19 the goods ordered or the services to be rendered in
20 accordance with the terms of such order or failing therein,
21 that the money advanced by his customers be refunded.

22 (4) Such bond shall remain in full force and effect
23 for a period of 6 months after the expiration of any such
24 license and shall be held to assure only business transacted
25 under the authority of the license issued pursuant to the

1 application which such bond accompanied."

2 Section 14. Section 7-21-2407, MCA, is amended to
3 read:

4 "7-21-2407. Bond in lieu of license fee. (1) In lieu
5 of the license fee prescribed in 7-21-2404, every transient
6 retail merchant who files with the application required in
7 7-21-2406 an affidavit indicating bona fide intention to
8 become a permanent merchant and continue in business for a
9 period longer than 1 year shall, upon filing and approval of
10 the bond provided for in this section, receive from the
11 county treasurer a license permitting the conduct of such
12 business for a period of 1 year.

13 (2) Such bond shall be a surety bond in the penat sum
14 of \$1,000 to said county treasurer.

15 (3) (a) The bond shall be executed by a surety company
16 licensed to do business in this state or by two responsible
17 freeholders residing in the county and whose names appear
18 upon the assessment roll of said county.

19 (b) In lieu of a bond meeting the requirements of
20 subsection (3)(a), the bond may be a cash bond of equal
21 amount.

22 (4) The bond shall be approved by said county
23 treasurer and conditioned upon the performance of the
24 intention to become a permanent merchant and continue in
25 business for a period longer than 1 year and to insure the

LC 0127/01

1 payment of license fees for the period such business is
2 actually conducted if not in fact a bona fide permanent
3 business. The bond shall be further conditioned upon the
4 delivery of goods ordered or sold in accordance with the
5 terms of such order or sale.

6 (5) Such bond shall remain in full force and effect
7 for a period of 6 months after the expiration of the 1-year
8 period."

9 Section 15. Section 7-32-2102, MCA, is amended to
10 read:

11 "7-32-2102. Undersheriff to be appointed. The sheriff,
12 as soon as may be after he enters upon the duties of his
13 office, must, except in counties of the seventh class and
14 eighth--classes, appoint some person undersheriff to hold
15 during the pleasure of the sheriff. Such undersheriff has
16 the same powers and duties as a deputy sheriff."

-End-

STANDING COMMITTEE REPORT

SENATE

MARCH 5

85

19.....

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE BILL No. 8

THIRD reading copy (BLUE color)

REVISE AND CLARIFY LOCAL GOVERNMENT LAW

Respectfully report as follows: That HOUSE BILL No. 8

be amended as follows:

1. Page 4, line 12.

Following: line 11

Insert: "Section 4. Section 7-4-2105, MCA, is amended to read:

"7-4-2105. Term of office. The term of office of county commissioners is 6 years. A county commissioner takes office on the first Monday of January succeeding the date of the election at which the county commissioner was elected."

Renumber: subsequent sections

AND AS AMENDED BE CONCURRED IN

XOXXOXX

XOXXOXXOXXOXX

Senator Dave Fuller Chairman.

1 HOUSE BILL NO. 8

2 AN ACT TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO

3 LOCAL GOVERNMENT; AMENDING SECTIONS 7-2-2209, 7-3-1216,

4 7-3-1219, 7-4-2619, 7-4-2631, 7-5-4208, 7-5-4304, 7-6-2211,

5 7-13-2225, 7-13-2236, 7-14-2531, 7-14-2823, 7-21-2306,

6 7-21-2407, AND 7-32-2102, MCA.

7 Section 1. 7-2-2209. This amendment deletes the first

8 "at" in dated line for clarity.

9 Section 2. 7-3-1216. This amendment clarifies when

10 commission members for the older city/county consolidation

11 process take office. All other municipal officers take

12 office on the first Monday in January and serve until their

13 successors are elected and qualified. This section missed

14 amendment in the Elections Revision Act of 1979. This form

15 of city/county consolidation has never been used in Montana.

16 Section 3. 7-3-1219. Same explanation as section 2.

17 Section 4. 7-4-2619. In subsection (6), the amendment

18 corrects an error from the 1907 recodification. The

19 subsection has never been amended, yet the phrase change

20 appeared in 1907 code and carried forward. Note that label

21 of second column is "To whom powers are executed".

22 In subsection (17), there are only five column headings

23 so "six" is deleted to conform.

24 Section 5. 7-4-2631. This amendment deletes the charge

25 for filing and indexing each certificate of fictitious name.

26 These are no longer used since Ch. 260, L. 1979, repealed

27 the filing requirement for fictitious names. County Clerks

28 continue, however, to hold those filed and indexed prior to

29 1979, by virtue of Title 35, chapter 11, part 2, MCA.

30 Section 6. 7-5-4208. This amendment deletes erroneous

31 references to initiatives and referenda which are governed

32 by Title 7, chapter 5, part 1. The balance of the section

33 was amended for clarity. Numerous questions indicated added

34 words of explanation were necessary. Meaning stays

35 unchanged.

36 Section 7. 7-5-4304. This amendment clarifies that

37 this section applies only to contracts entered into under

38 7-5-4302, MCA. This section was part of a very large section

39 in the R.C.M. 1947, and applied only to that portion

40 codified as 7-5-4302, MCA, but when the section was broken

41 up it appeared to apply to all contracts entered into by

1 municipalities.

2 Section 8. 7-6-2211. This amendment harmonizes the 23rd

3 established in 7-7-2101, MCA, with this section.

4 Section 9. 7-13-2225. This amendment is needed because

5 7-13-2248, MCA, was repealed.

6 Section 10. 7-13-2236. This amendment provides for

7 elections for directors of County Water and/or Sewer

8 Districts every 2 years. The terms of directors are 4 years,

9 but they are on staggered terms, thus the necessity for

10 elections every 2 years.

11 Section 11. 7-14-2531. This amendment deletes, from

12 county road law, an exception that use of single purpose

13 there doesn't affect county library law. The predecessor of

14 this section was enacted to define "single purpose" for the

15 purposes of local government finances under the 1889

16 Constitution, and subsection (3) was amended in to preclude

17 finding that county libraries were not a single purpose. At

18 the time of this section's amendment and inclusion into

19 county road law in 1965, it was conceded that the whole

20 section was probably meaningless, but it was retained intact

21 nonetheless. Since the adoption of the 1972 Constitution

22 there is no requirement for single purpose financing, and

23 this section cannot under present law be considered to have

24 any bearing on libraries.

25 Section 12. 7-14-2823. This amendment deletes "penal"

26 before "bond" to standardize bonding language. This is the

27 only occurrence of the phrase "penal bond" in the Code.

28 Section 13. 7-21-2306. This amendment deletes "penal"

29 before "sum" to standardize language to conform to

30 provisions established by the Uniform Commercial Code.

31 Section 14. 7-21-2407. Same explanation as section 13.

32 Section 15. 7-32-2102. This amendment deletes

33 reference to eighth class counties. There are no eighth

34 class counties, and there weren't any when this section was

35 enacted.

1 HOUSE BILL NO. 8
 2 INTRODUCED BY MARKS
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY LAWS RELATING TO LOCAL GOVERNMENT; AMENDING SECTIONS
 7 7-2-2209, 7-3-1216, 7-3-1219, 7-4-2105, 7-4-2619, 7-4-2631,
 8 7-5-4208, 7-5-4304, 7-6-2211, 7-13-2225, 7-13-2236,
 9 7-14-2531, 7-14-2823, 7-21-2306, 7-21-2407, AND 7-32-2102,
 10 MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 7-2-2209, MCA, is amended to read:
 14 "7-2-2209. Hearing and notice on petition. (1) Upon
 15 the filing of such petition or petitions and affidavits with
 16 the clerk of the board of county commissioners, said clerk
 17 shall forthwith fix a date to hear the proof of the
 18 petitions and of any opponents thereto, which date must be
 19 not later than 30 days after the filing of such petition
 20 with the clerk of said board.
 21 (2) The county clerk shall also, at the same time,
 22 designate a newspaper of general circulation published in
 23 the old counties but not within the proposed new county and
 24 also a newspaper of general circulation published within the
 25 boundaries of the proposed new county, if there be such, in

1 which the county clerk shall order and cause to be
 2 published, at least once a week for 2 weeks preceding the
 3 date fixed for such hearing, a notice in substantially the
 4 following form:

5 Notice
 6 Notice is hereby given that a petition has been
 7 presented to the board of county commissioners of
 8 County (naming the county represented by the board of county
 9 commissioners with which said petition was filed), praying
 10 for the formation of a new county out of portions of
 11 County and County (naming the county or counties of
 12 which it is proposed to form the new county), and that said
 13 petition will be heard by the board of county commissioners
 14 at its place of meeting (designating the city or town and
 15 the day and hour of the meeting to be so held), when and
 16 where all persons interested may appear and oppose the
 17 granting of said petition and make any objections thereto.

18 Dated at at, Montana.
 19, County Clerk"

20 Section 2. Section 7-3-1216, MCA, is amended to read:
 21 "7-3-1216. Term of office of commission members. (1)
 22 Except as provided in subsection (2), the term of office of
 23 members of the commission shall be 4 years and shall
 24 commence on ~~July--1~~ the first Monday of January following
 25 their election.

1 (2) The terms of office of the members first elected
 2 at such special election shall commence on the first day of
 3 the third month following their election, and the terms of
 4 office of a majority of such members first elected, to be
 5 determined by lot, shall expire ~~on--June--30~~ when their
 6 successors are elected and qualified in the first year
 7 following their election, and the terms of the remaining
 8 members first elected shall expire ~~on--June--30~~ when their
 9 successors are elected and qualified in the third year
 10 following their election."

11 Section 3. Section 7-3-1219, MCA, is amended to read:

12 "7-3-1219. Organization and officers of commission.

13 (1) At the first meeting of the commission following the
 14 special election at which the members thereof are first
 15 elected and thereafter at its meeting on ~~July-1~~ the first
 16 Monday of January following each general election at which
 17 members of the commission are elected, the commission shall
 18 choose one of its members as president and another as
 19 vice-president.

20 (2) The president shall preside at meetings of the
 21 commission and shall exercise the powers and perform the
 22 duties conferred and imposed by this part or part 13 and the
 23 ordinances of the municipality. He shall be recognized as
 24 the official head of the municipality for all ceremonial
 25 purposes, by the courts for serving civil processes, and by

1 the governor for purposes of military law. In time of public
 2 danger or emergency he shall, if authorized by vote of the
 3 commission, take command of the police, maintain order, and
 4 enforce the law. If a vacancy occurs in the office of
 5 president or in case of his absence or disability, the
 6 vice-president shall act as president for the unexpired term
 7 or during the continuance of the absence or disability.

8 (3) The director of finance shall be ex officio clerk
 9 of the commission and shall, either in person or by deputy,
 10 keep the records of the commission and perform such other
 11 duties as may be required by this part or part 13 or by the
 12 commission."

13 SECTION 4. SECTION 7-4-2105, MCA, IS AMENDED TO READ:

14 "7-4-2105. Term of office. The term of office of
 15 county commissioners is 6 years. A county commissioner
 16 takes office on the first Monday of January succeeding the
 17 date of the election at which the county commissioner was
 18 elected."

19 Section 5. Section 7-4-2619, MCA, is amended to read:

20 "7-4-2619. Indexes to recorded documents. Every county
 21 clerk, as ex officio recorder, must keep:

22 (1) an index of deeds, grants, and transfers and
 23 contracts to sell or convey real estate and notices of
 24 buyer's interest in real property labeled "Grantors", with
 25 each page divided into four columns headed, respectively:

1 "Names of grantors", "Names of grantees", "Date of deeds,
2 grants, transfers, contracts, or notices", and "Where
3 recorded";

4 (2) an index of deeds and notices of buyer's interest
5 in real property labeled "Grantees", with each page divided
6 into four columns headed, respectively: "Names of grantees",
7 "Names of grantors", "Date of deeds, grants, transfers,
8 contracts, or notices", and "Where recorded";

9 (3) an index of mortgages labeled "Mortgages of real
10 property", with each page divided into six columns headed,
11 respectively: "Names of mortgagors", "Names of mortgagees",
12 "Dates of mortgages", "Where recorded", "When filed", and
13 "When canceled";

14 (4) an index of mortgages labeled "Mortgages of real
15 property", with each page divided into six columns headed,
16 respectively: "Names of mortgagees", "Names of mortgagors",
17 "Date of mortgage", "Where recorded", "When filed", and
18 "When canceled";

19 (5) an index of mortgages labeled "Releases of
20 mortgages of real property--Mortgagees", with each page
21 divided into six columns headed, respectively: "Parties
22 whose mortgages are released", "Parties releasing", "Date of
23 release", "Where recorded", "Dates of mortgages released",
24 and "Where mortgages released are recorded";

25 (6) an index of powers of attorney labeled "Powers of

1 attorney", with each page divided into five columns headed,
2 respectively: "Names of parties executing powers", "To whom
3 powers are executed", "Date of powers", "Date of recording",
4 and ~~"To--whom--powers--are--executed"~~ "Where powers are
5 recorded";

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

10 (8) an index of leases labeled "Lessees", with each
11 page divided into four columns headed, respectively: "Names
12 of lessees", "Names of lessors", "Date of leases", and "When
13 and where recorded";

14 (9) an index of marriage certificates labeled
15 "Marriage certificate--Men", with each page divided into six
16 columns headed, respectively: "Men married", "To whom
17 married", "When married", "By whom married", "Where
18 married", and "Where certificates are recorded";

19 (10) an index of marriage certificates labeled
20 "Marriage certificates--Women", with each page divided into
21 six columns headed, respectively: "Women married" (and under
22 this head placing the family names of the women), "To whom
23 married", "When married", "By whom married", "Where
24 married", and "Where certificates are recorded";

25 (11) an index of assignments of mortgages and leases

1 labeled "Assignments of mortgages and leases--Assignors",
 2 with each page divided into five columns headed,
 3 respectively: "Assignors", "Assignees", "Instruments
 4 assigned", "Date of assignment", and "When and where
 5 recorded";

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

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

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

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

23 (16) an index to transcripts of judgments labeled
 24 "Transcripts of judgments", with each page divided into
 25 seven columns headed, respectively: "Judgment debtors",

1 "Judgment creditors", "Amount of judgment", "Where
 2 recovered", "When recovered", "When transcript filed", and
 3 "When judgment satisfied";

4 (17) an index of attachments labeled "Attachments",
 5 with each page divided into six columns headed,
 6 respectively: "Parties against whom attachments are issued",
 7 "Parties issuing attachments", "Notices of attachments",
 8 "When filed", and "When attachments discharged";

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

13 (19) an index of certificates of sale of real estate
 14 sold under execution or under orders made in any judicial
 15 proceedings labeled "Certificates of sale", with each page
 16 divided into four columns headed, respectively: "Plaintiff",
 17 "Defendant", "Purchaser at sale", and "Date of sale";

18 (20) an index of the individual property of married
 19 persons labeled "Individual property of married persons",
 20 with each page divided into five columns headed,
 21 respectively: "Names of married persons", "Names of their
 22 spouses", "Nature of instruments recorded", "When recorded",
 23 and "Where recorded";

24 (21) an index to affidavits for annual work done on
 25 mining claims labeled "Annual work on mining claims", with

1 each page divided into four columns headed, respectively:
 2 "Name of the affiant", "Name of the claim", "Where
 3 situated", and "Year when the work was done";

4 (22) an index of mining claims and declaratory
 5 statements labeled "Notices of location of mining claims and
 6 declaratory statements", with each page divided into four
 7 columns headed, respectively: "Locators", "Name of claim",
 8 "Notice, when filed", and "Where recorded";

9 (23) an index to the register of births and deaths;

10 (24) an index to notices and declarations of water
 11 rights;

12 (25) an index to the "estrays and lost property book";

13 (26) an index to the record of assignments for the
 14 benefit of creditors, containing names of assignor and
 15 assignee, date and where recorded, and inventory, when
 16 filed;

17 (27) an index to financing statements as provided in
 18 Part 4 of the Uniform Commercial Code--Secured Transactions;

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

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

25 (30) a miscellaneous index, in which must be indexed

1 papers not hereinbefore stated."

2 Section 6. Section 7-4-2631, MCA, is amended to read:

3 "7-4-2631. Fees of county clerk. (1) The county clerks
 4 must charge, for the use of their respective counties:

5 (a) for recording and indexing each certificate of
 6 location of a quartz or placer mining claim or millsite
 7 claim, including a certificate that the instrument has been
 8 recorded with seal affixed, \$6;

9 (b) for recording and indexing each affidavit of
 10 annual labor on a mining claim, including certificate that
 11 the instrument has been recorded with seal affixed:

12 (i) for the first mining claim in the affidavit, \$3;
 13 and

14 (ii) for each additional mining claim included in it,
 15 50 cents;

16 (c) for filing and indexing each writ of attachment,
 17 execution, certificate of sale, lien, or other instrument
 18 required by law to be filed and indexed, \$2;

19 ~~{d}--for--filing--and--indexing--each--certificate--of~~
 20 ~~fictitious-name,--\$3,~~

21 ~~{e}{d}~~ for filing of subdivision and townsite plats,
 22 \$5 plus:

23 (i) for each lot up to and including 100, 50 cents;

24 (ii) for each additional lot in excess of 100, 25
 25 cents;

1 ~~(f)~~(e) for filing certificates of surveys and
 2 amendments thereto, \$5 plus 50 cents per tract or lot;
 3 ~~(g)~~(f) for a copy of a record or paper:
 4 (i) for the first page of any document, 50 cents, and
 5 25 cents for each subsequent page; and
 6 (ii) for each certification with seal affixed, \$1;
 7 ~~(h)~~(g) for searching an index record of files of the
 8 office for each year when required in abstracting or
 9 otherwise, 50 cents;
 10 ~~(i)~~(h) for administering an oath with certificate and
 11 seal, no charge;
 12 ~~(j)~~(i) for taking and certifying an acknowledgment,
 13 with seal affixed, for signature to it, no charge;
 14 ~~(k)~~(j) for documents requiring multiple indexing
 15 (including but not limited to mortgages; releases; deeds;
 16 certificates of location; affidavits of annual labor on
 17 mining claims; assignments of leases; assignments of
 18 mortgages; oil, gas, and mineral leases; releases of oil,
 19 gas, and mineral leases; assignments of overriding
 20 royalties; executions; lis pendens; attachments; and all
 21 liens), 50 cents per entry in excess of the first entry
 22 contained in a single document;
 23 ~~(l)~~(k) for filing, indexing, or other services
 24 provided for by 30-9-401 through 30-9-407, the fees
 25 prescribed in those sections;

1 ~~(m)~~(l) for recording each stock subscription and
 2 contract, stock certificate, and articles of incorporation
 3 for water users' associations, \$3;
 4 ~~(n)~~(m) for filing, recording, or indexing any other
 5 instrument not expressly provided for in this section or
 6 7-4-2632, the same fee provided in this section or 7-4-2632
 7 for a similar service;
 8 ~~(o)~~(n) for each certified copy of a birth certificate
 9 or a death certificate, \$2.
 10 (2) State agencies submitting documents to be put of
 11 record shall pay the fees provided for in this section.
 12 These fees must be paid by a state agency on a monthly
 13 basis."
 14 Section 7. Section 7-5-4208, MCA, is amended to read:
 15 "7-5-4208. Applicability of part. (1) Except as
 16 provided in subsection (2), the provisions of this part
 17 govern the adoption procedures and effect of municipal
 18 ordinances, and resolutions, and initiatives and referenda.
 19 (2) The following provisions apply to adoption
 20 procedures and effect of municipal ordinances, and
 21 resolutions, and initiatives and referenda notwithstanding
 22 the provisions of this part:
 23 (a) ~~provisions~~ Provisions of law not within Title 7,
 24 chapter 5, parts 1 and 42, that set forth different
 25 procedures for the adoption of an ordinance or resolution

1 relating to specific situations govern the adoption rather
 2 than the general provisions of this part or part 1 of this
 3 chapter.

4 (b) sections Sections of Title 7, chapter 5, part 1,
 5 that are in conflict with the provisions of this part which
 6 may be adopted by a municipality by ordinance adopts--for
 7 governing--its--procedures--or--effects;--and to govern the
 8 adoption of ordinances and resolutions and the effects of
 9 such ordinances and resolutions as a substitute for the
 10 applicable sections of this part.

11 (c) sections Sections of Title 7, chapter 5, part 1,
 12 that address procedures or effects which are neither
 13 addressed by this part nor in conflict with any provision of
 14 this part apply to municipal ordinances and resolutions."

15 Section 8. Section 7-5-4304, MCA, is amended to read:

16 "7-5-4304. Certain contracts to be submitted to
 17 voters. No contract may be let extending pursuant to
 18 7-5-4302 that extends over a period of 5 years or more
 19 without first submitting the question to a vote of the
 20 electors of the city or town."

21 Section 9. Section 7-6-2211, MCA, is amended to read:

22 "7-6-2211. Authorization to conduct county business on
 23 a cash basis. (1) In case the total indebtedness of a
 24 county, lawful when incurred, exceeds the limit of ~~22-5%~~ 23%
 25 established in 7-7-2101 by reason of great diminution of

1 taxable value, the county may conduct its business affairs
 2 on a cash basis and pay the reasonable and necessary current
 3 expenses of the county out of the cash in the county
 4 treasury derived from its current revenue and under such
 5 restrictions and regulations as may be imposed by the board
 6 of county commissioners of the county by a resolution duly
 7 adopted and included in the minutes of the board.

8 (2) Nothing in this section restricts the right of the
 9 board to make the necessary tax levies for interest and
 10 sinking fund purposes, and nothing in this section affects
 11 the right of any creditor of the county to pursue any remedy
 12 now given him by law to obtain payment of his claim."

13 Section 10. Section 7-13-2225, MCA, is amended to
 14 read:

15 "7-13-2225. Combination of elections. (1) The board of
 16 county commissioners in its discretion may combine in one
 17 election the election on the formation of the district, the
 18 election of directors, and the election on incurring a
 19 bonded indebtedness so that the electors of the district may
 20 vote on all of these matters on the same date and at the
 21 same time.

22 (2) If the elections are combined, the board of county
 23 commissioners shall so declare by resolution containing the
 24 provisions required by 7-13-2321. If the elections are
 25 combined, the notice of the election shall contain the names

1 of the candidates and the details concerning the bonded
2 indebtedness.

3 (3) Candidates for the office of director shall be
4 nominated in the manner required by 7-13-2235 through
5 ~~7-13-2240~~ 7-13-2247."

6 Section 11. Section 7-13-2236, MCA, is amended to
7 read:

8 "7-13-2236. General district election. The election of
9 directors of the district shall be held every ~~4~~ 2 years with
10 the election for local government officials provided for in
11 13-1-104(2)."

12 Section 12. Section 7-14-2531, MCA, is amended to
13 read:

14 "7-14-2531. Definition of term single purpose. (1) It
15 shall be deemed a single purpose to:

16 (a) acquire a right-of-way for and construct a public
17 highway, including any bridge or bridges thereon;

18 (b) contribute to the cost of a federal-aid bridge;

19 (c) contribute to the cost of a federal-aid highway
20 project on a highway leading to a federal-aid bridge.

21 (2) Construction of two or more bridges not forming a
22 part of the same public highway shall be deemed separate
23 purposes.

24 ~~{3}--Nothing---contained---in---this---section---shall---be~~
25 ~~construed---as---amending---or---repealing---7-16-2201---through~~

1 ~~7-16-2205-~~"

2 Section 13. Section 7-14-2823, MCA, is amended to
3 read:

4 "7-14-2823. Hearing and decision on application. (1)
5 At the hearing, proof of giving the notice required by
6 7-14-2821 and 7-14-2822 must be made, and any person may
7 appear and contest the application. If the board of
8 commissioners finds that the ferry is either a public
9 necessity or convenience and that the applicant is a
10 suitable person and, by reason of the ownership of the
11 landing or failure of the owner thereof to apply, is
12 entitled thereto, authority to erect and take tolls on the
13 ferry may be granted to him for the term of 10 years. The
14 board may at any time they see fit authorize and maintain
15 fords across any water within any distance of any ferry.

16 (2) The board granting authority to keep a public
17 ferry must at the same time:

18 (a) fix the amount of a ~~penal~~ bond to be given by the
19 person or corporation owning or taking tolls on the ferry
20 for the benefit of the county and all persons crossing or
21 desiring to cross the same and provide for the annual
22 renewal thereof;

23 (b) fix the amount of license tax to be paid by the
24 person or corporation for taking tolls thereon, not less
25 than \$3 or over \$100 per month, payable annually;

1 (c) fix the rate of tolls which may be collected for
2 crossing the ferry;

3 (d) make all necessary orders relative to the
4 construction, erection, and business of ferries which they
5 have by law the power to make.

6 (3) When a county commissioner is interested in an
7 application to erect, construct, or take tolls on a ferry,
8 he must not act in any such matters."

9 Section 14. Section 7-21-2306, MCA, is amended to
10 read:

11 "7-21-2306. Bond required if deposit taken on orders
12 for future delivery. (1) Every application made by an
13 itinerant vendor taking orders for future delivery and
14 collecting advance payments, deposits, or guarantees thereon
15 under the terms of 7-21-2301 through 7-21-2305 shall be
16 accompanied by a bond in the ~~penal~~ sum of \$250 to said
17 county treasurer.

18 (2) (a) The bond shall be executed by a surety company
19 licensed to do business in this state or by two responsible
20 freeholders residing in the county and whose names appear
21 upon the assessment roll of said county.

22 (b) In lieu of a bond meeting the requirements of
23 subsection (2)(a), the application may be accompanied by a
24 cash bond of equal amount.

25 (3) The bond shall be approved by said county

1 treasurer and conditioned upon making of final delivery of
2 the goods ordered or the services to be rendered in
3 accordance with the terms of such order or failing therein,
4 that the money advanced by his customers be refunded.

5 (4) Such bond shall remain in full force and effect
6 for a period of 6 months after the expiration of any such
7 license and shall be held to assure only business transacted
8 under the authority of the license issued pursuant to the
9 application which such bond accompanied."

10 Section 15. Section 7-21-2407, MCA, is amended to
11 read:

12 "7-21-2407. Bond in lieu of license fee. (1) In lieu
13 of the license fee prescribed in 7-21-2404, every transient
14 retail merchant who files with the application required in
15 7-21-2406 an affidavit indicating bona fide intention to
16 become a permanent merchant and continue in business for a
17 period longer than 1 year shall, upon filing and approval of
18 the bond provided for in this section, receive from the
19 county treasurer a license permitting the conduct of such
20 business for a period of 1 year.

21 (2) Such bond shall be a surety bond in the ~~penal~~ sum
22 of \$1,000 to said county treasurer.

23 (3) (a) The bond shall be executed by a surety company
24 licensed to do business in this state or by two responsible
25 freeholders residing in the county and whose names appear

1 upon the assessment roll of said county.

2 (b) In lieu of a bond meeting the requirements of
3 subsection (3)(a), the bond may be a cash bond of equal
4 amount.

5 (4) The bond shall be approved by said county
6 treasurer and conditioned upon the performance of the
7 intention to become a permanent merchant and continue in
8 business for a period longer than 1 year and to insure the
9 payment of license fees for the period such business is
10 actually conducted if not in fact a bona fide permanent
11 business. The bond shall be further conditioned upon the
12 delivery of goods ordered or sold in accordance with the
13 terms of such order or sale.

14 (5) Such bond shall remain in full force and effect
15 for a period of 6 months after the expiration of the 1-year
16 period."

17 Section 16. Section 7-32-2102, MCA, is amended to
18 read:

19 "7-32-2102. Undersheriff to be appointed. The sheriff,
20 as soon as may be after he enters upon the duties of his
21 office, must, except in counties of the seventh class and
22 eighth-classes, appoint some person undersheriff to hold
23 during the pleasure of the sheriff. Such undersheriff has
24 the same powers and duties as a deputy sheriff."

-End-