

SENATE BILL NO. 181

INTRODUCED BY HAFHEY

BY REQUEST OF THE LIEUTENANT GOVERNOR

IN THE SENATE

January 22, 1985	Introduced and referred to Committee on Local Government.
February 8, 1985	Committee recommend bill do pass as amended. Report adopted.
February 9, 1985	Bill printed and placed on members' desks.
February 11, 1985	Second reading, do pass.
February 12, 1985	Considered correctly engrossed.
February 13, 1985	Third reading, passed. Ayes, 50; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Local Government.
March 25, 1985	Committee recommend bill be concurrent in. Report adopted.
March 30, 1985	Second reading, concurrent in.
April 1, 1985	Third reading, concurrent in. Returned to Senate.

IN THE SENATE

April 1, 1985	Received from House. Sent to enrolling. Reported correctly enrolled.
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Senate BILL NO. 181

INTRODUCED BY _____
BY REQUEST OF THE LIEUTENANT GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY PROVISIONS RELATING TO LOCAL GOVERNMENT STUDY COMMISSIONS; PROVIDING PROCEDURES FOR HANDLING TIE VOTES AND WRITE-IN CANDIDATES FOR ELECTION TO A STUDY COMMISSION; PROVIDING FOR APPOINTMENT OF EX OFFICIO MEMBERS; CLARIFYING PROVISIONS RELATING TO VACANCIES IN OFFICE; PROVIDING THAT RECOMMENDATIONS FOR SERVICE CONSOLIDATIONS AND TRANSFERS MAY BE MADE TO THE ELECTORATE; AMENDING SECTIONS 7-3-176 THROUGH 7-3-178, 7-3-185, AND 7-3-187, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 7-3-176, MCA, is amended to read:

"7-3-176. Election of commission members. (1) If the question of reviewing the local government and establishing a study commission is approved, an election to fill the positions on the local government study commission shall be held in conjunction with the 1984 general election date or at the first regularly scheduled election of the local government conducted after 90 days following the election establishing the study commission. A primary election may

not be held.

(2) The names of study commission candidates who have filed declarations of nomination not later than 60 days before the date of the election shall be placed on the ballot. There is no filing fee. The election is nonpartisan, and candidates shall be listed without party or other designation or slogan. The secretary of state shall prescribe the ballot form for study commissions commissioners.

(3) Candidates for study commission positions shall be electors of the local government for which the study commission has been established. The candidates may not be elected officials of the local government.

(4) The number of candidates, equal to the number of study commission positions to be elected, receiving the highest number of votes, which includes votes cast for candidates who have officially filed nominations and votes for write-in candidates, shall be declared elected. If there is a tie vote among candidates, the governing body shall decide by lot which candidate will fill the position.

(5) If the number of study commissioners elected is not equal to the number required to be selected, the chairman of the governing body, with the confirmation of the governing body, shall appoint the additional study commissioners within 20 days of the election. No elected



1 official of the local government may be appointed."

2 Section 2. Section 7-3-177, MCA, is amended to read:

3 "7-3-177. Composition of study commission. (1) The
4 number of positions, which must be an odd number of not less
5 than three, on the study commission shall be set out in the
6 resolution or petition calling for the election on the
7 question of reviewing the local government or local
8 governments and establishing a study commission. If the
9 election is called under the provisions of 7-3-173(1)(c),
10 the study commission shall consist of three members unless
11 the local governing body by resolution declares that a
12 larger number shall be elected.

13 (2) Every study commission shall include as an ex
14 officio nonvoting member a member of the governing body or
15 an elected official or employee of the local government
16 appointed by the governing body. The ex officio member must
17 be appointed prior to the organization of the study
18 commission provided for in 7-3-179."

19 Section 3. Section 7-3-178, MCA, is amended to read:

20 "7-3-178. Term of office -- vacancies -- compensation.
21 (1) The term of office of study commission members begins on
22 the day their election to the study commission is declared
23 or certified under 13-15-405 or on the day of their
24 appointment and ends on the day of the vote on the
25 alternative plan. If the alternative plan is adopted, the

1 term continues for 90 days after the day of the vote on the
2 alternative plan. If the commission recommends no
3 alternative plan, the term ends 30 days after submission of
4 the final report in accordance with 7-3-187.

5 (2) A vacancy on a study commission, including an ex
6 officio member vacancy, shall be determined in the same
7 manner as a vacancy in municipal office as provided in
8 7-4-4111. Vacancies A vacancy on a study commission shall be
9 filled by appointment by the governing body of the local
10 government being studied by the commission. The appointment
11 shall be made within 30 days of the date the vacancy occurs.

12 (3) Members of the study commission may receive no
13 compensation other than for actual and necessary expenses
14 incurred in their official capacity."

15 Section 4. Section 7-3-185, MCA, is amended to read:

16 "7-3-185. Scope of study commission recommendations.
17 (1) (a) A study commission ~~elected-to-examine~~ examining the
18 government of a county may:

19 (a)(i) recommend amendments to the existing plan of
20 government;

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

23 (c)(iii) draft a charter;

24 (d)(iv) recommend municipal-county consolidation or
25 amendments to an existing consolidation;

1 ~~f~~e~~t~~(v) in cooperation with a study commission in an
 2 adjoining county, recommend county merger; or
 3 ~~f~~f~~(v)~~(vi) submit no recommendation.
 4 (b) In addition to one of the items in subsection
 5 (1)(a), a county study commission may recommend service
 6 consolidation or transfer in cooperation with a study
 7 commission of another county or with a study commission of
 8 one or more municipalities.
 9 (2) (a) A study commission ~~elected---to---examine~~
 10 ~~examining~~ the government of a municipality may:
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 12 government;
 13 ~~f~~b~~(ii)~~(ii) recommend any plan of government authorized by
 14 Title 7, chapter 3, parts 1 through 6;
 15 ~~f~~e~~(iii)~~(iii) draft a charter;
 16 ~~f~~d~~(iv)~~(iv) recommend municipal-county consolidation;
 17 ~~f~~e~~(v)~~(v) recommend disincorporation; or
 18 ~~f~~f~~(vi)~~(vi) submit no recommendation.
 19 (b) In addition to one of the items in subsection
 20 (2)(a), a municipal study commission may recommend service
 21 consolidation or transfer in cooperation with:
 22 (i) a county study commission;
 23 (ii) a county study commission and one or more
 24 municipal study commissions; or
 25 (iii) one or more municipal study commissions."

1 Section 5. Section 7-3-187, MCA, is amended to read:
 2 "7-3-187. Final report. (1) Every study commission
 3 shall adopt a final report. If the study commission
 4 recommends an alternative form of government, the final
 5 report shall contain the following materials and documents,
 6 each signed by a majority of the study commission members:
 7 (a) those materials and documents required of a
 8 petition proposing an alteration of an existing form of
 9 government in 7-3-142;
 10 (b) a certificate establishing the date of the special
 11 election, which may be held in conjunction with a regularly
 12 scheduled election, at which the alternative form of
 13 government shall be presented to the electors and a
 14 certificate establishing the form of the ballot question or
 15 questions; and
 16 (c) a certificate establishing the dates of the first
 17 primary and general elections for officers of a new
 18 government if the proposal is approved and establishing the
 19 effective date of the proposal if approved.
 20 (2) The final report shall contain any minority report
 21 signed by members of the commission who do not support the
 22 majority proposal.
 23 (3) If the study commission is not recommending any
 24 changes, its final report shall so indicate.
 25 (4) The study commission shall file one copy of the

1 final report with the department of ~~administration~~ commerce.
2 A copy of the final report shall be certified by the study
3 commission to the municipal or county records administrator
4 within 30 days after the adoption of the final report.

5 (5) Sufficient copies of the final report are to be
6 prepared for public distribution. The final report must be
7 available to the electors not later than 30 days prior to
8 the election on the issue of adopting the alternative plan.
9 Copies of the final report may be distributed to electors or
10 residents of the local government or governments affected.

11 (6) After submission of the final report, the
12 commission shall deposit copies of its minutes and other
13 records with the county clerk and recorder."

14 NEW SECTION. Section 6. Effective date. This act is
15 effective on passage and approval.

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 SENATE BILL NO. 181
2 INTRODUCED BY HAFHEY
3 BY REQUEST OF THE LIEUTENANT GOVERNOR
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6 CLARIFY PROVISIONS RELATING TO LOCAL GOVERNMENT STUDY
7 COMMISSIONS; PROVIDING PROCEDURES FOR HANDLING TIE VOTES AND
8 WRITE-IN CANDIDATES FOR ELECTION TO A STUDY COMMISSION;
9 PROVIDING FOR APPOINTMENT OF EX OFFICIO MEMBERS; CLARIFYING
10 PROVISIONS RELATING TO VACANCIES IN OFFICE; PROVIDING THAT
11 RECOMMENDATIONS FOR SERVICE CONSOLIDATIONS AND TRANSFERS MAY
12 BE MADE TO THE ELECTORATE; AMENDING SECTIONS 7-3-176 THROUGH
13 7-3-178, 7-3-185, AND 7-3-187, AND 7-3-190, MCA; AND
14 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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20 a study commission is approved, an election to fill the
21 positions on the local government study commission shall be
22 held in conjunction with the 1984 general election date or
23 at the first regularly scheduled election of the local
24 government conducted after 90 days following the election
25 establishing the study commission. A primary election may

1 not be held.
2 (2) The names of study commission candidates who have
3 filed declarations of nomination not later than 60 days
4 before the date of the election shall be placed on the
5 ballot. There is no filing fee. The election is nonpartisan,
6 and candidates shall be listed without party or other
7 designation or slogan. The secretary of state shall
8 prescribe the ballot form for study ~~commissions~~
9 commissioners.
10 (3) Candidates for study commission positions shall be
11 electors of the local government for which the study
12 commission has been established. The candidates may not be
13 elected officials of the local government.
14 (4) The number of candidates, equal to the number of
15 study commission positions to be elected, receiving the
16 highest number of votes, which includes votes cast for
17 candidates who have officially filed nominations and votes
18 for write-in candidates, shall be declared elected. If there
19 is a tie vote among candidates, the governing body shall
20 decide by lot which candidate will fill the position.
21 (5) If the number of study commissioners elected is
22 not equal to the number required to be selected, the
23 chairman of the governing body, with the confirmation of the
24 governing body, shall appoint the additional study
25 commissioners within 20 days of the election. No elected

1 official of the local government may be appointed."

2 Section 2. Section 7-3-177, MCA, is amended to read:

3 "7-3-177. Composition of study commission. (1) The
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6 resolution or petition calling for the election on the
7 question of reviewing the local government or local
8 governments and establishing a study commission. If the
9 election is called under the provisions of 7-3-173(1)(c),
10 the study commission shall consist of three members unless
11 the local governing body by resolution declares that a
12 larger number shall be elected.

13 (2) Every study commission shall include as an ex
14 officio nonvoting member a member of the governing body or
15 an elected official or employee of the local government
16 appointed by the governing body. The ex officio member must
17 be appointed prior to the organization of the study
18 commission provided for in 7-3-179."

19 Section 3. Section 7-3-178, MCA, is amended to read:

20 "7-3-178. Term of office -- vacancies -- compensation.
21 (1) The term of office of study commission members begins on
22 the day their election to the study commission is declared
23 or certified under 13-15-405 or on the day of their
24 appointment and ends on the day of the vote on the
25 alternative plan. If the alternative plan is adopted, the

1 term continues for 90 days after the day of the vote on the
2 alternative plan. If the commission recommends no
3 alternative plan, the term ends 30 days after submission of
4 the final report in accordance with 7-3-187.

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6 officio member vacancy, shall be determined in the same
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9 filled by appointment by the governing body of the local
10 government being studied by the commission. The appointment
11 shall be made within 30 days of the date the vacancy occurs.

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13 compensation other than for actual and necessary expenses
14 incurred in their official capacity."

15 Section 4. Section 7-3-185, MCA, is amended to read:

16 "7-3-185. Scope of study commission recommendations.
17 (1) (a) A study commission ~~elected-to-examine~~ examining the
18 government of a county may:

19 (a)(i) recommend amendments to the existing plan of
20 government;

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

23 (c)(iii) draft a charter;

24 (d)(iv) recommend municipal-county consolidation or
25 amendments to an existing consolidation;

1 ~~f~~e(v) in cooperation with a study commission in an
2 adjoining county, recommend county merger; or

3 ~~f~~f(vi) submit no recommendation.

4 (b) In addition to one of the items in subsection
5 (1)(a), a county study commission may recommend service
6 consolidation or transfer in cooperation with a study
7 commission of another county or with a study commission of
8 one or more municipalities.

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19 (b) In addition to one of the items in subsection
20 (2)(a), a municipal study commission may recommend service
21 consolidation or transfer in cooperation with:

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24 municipal study commissions; or

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1 Section 5. Section 7-3-187, MCA, is amended to read:

2 "7-3-187. Final report. (1) Every study commission
3 shall adopt a final report. If the study commission
4 recommends an alternative form of government, the final
5 report shall contain the following materials and documents,
6 each signed by a majority of the study commission members:

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8 petition proposing an alteration of an existing form of
9 government in 7-3-142;

10 (b) a certificate establishing the date of the special
11 election, which may be held in conjunction with a regularly
12 scheduled election, at which the alternative form of
13 government shall be presented to the electors and a
14 certificate establishing the form of the ballot question or
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16 (c) a certificate establishing the dates of the first
17 primary and general elections for officers of a new
18 government if the proposal is approved and establishing the
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21 signed by members of the commission who do not support the
22 majority proposal.

23 (3) If the study commission is not recommending any
24 changes, its final report shall so indicate.

25 (4) The study commission shall file ~~one~~ copy TWO

1 COPIES of the final report with the department of
2 administration commerce, ONE OF WHICH THE DEPARTMENT SHALL
3 FORWARD TO THE STATE LIBRARY. A copy of the final report
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14 commission shall deposit copies of its minutes and other
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16 SECTION 6. SECTION 7-3-190, MCA, IS AMENDED TO READ:

17 "7-3-190. Supplementary reports. A study commission
18 may prepare separate reports in addition to its final
19 report. These reports may recommend consolidation of
20 services and functions and indicate potential areas for
21 interlocal agreements. Such reports shall be submitted to
22 all appropriate governing bodies for reaction within 1
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24 NEW SECTION. Section 7. Effective date. This act is
25 effective on passage and approval.

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22 not equal to the number required to be selected, the
23 chairman of the governing body, with the confirmation of the
24 governing body, shall appoint the additional study
25 commissioners within 20 days of the election. No elected

1 official of the local government may be appointed."

2 Section 2. Section 7-3-177, MCA, is amended to read:

3 "7-3-177. Composition of study commission. (1) The
4 number of positions, which must be an odd number of not less
5 than three, on the study commission shall be set out in the
6 resolution or petition calling for the election on the
7 question of reviewing the local government or local
8 governments and establishing a study commission. If the
9 election is called under the provisions of 7-3-173(1)(c),
10 the study commission shall consist of three members unless
11 the local governing body by resolution declares that a
12 larger number shall be elected.

13 (2) Every study commission shall include as an ex
14 officio nonvoting member a member of the governing body or
15 an elected official or employee of the local government
16 appointed by the governing body. The ex officio member must
17 be appointed prior to the organization of the study
18 commission provided for in 7-3-179."

19 Section 3. Section 7-3-178, MCA, is amended to read:

20 "7-3-178. Term of office -- vacancies -- compensation.
21 (1) The term of office of study commission members begins on
22 the day their election to the study commission is declared
23 or certified under 13-15-405 or on the day of their
24 appointment and ends on the day of the vote on the
25 alternative plan. If the alternative plan is adopted, the

1 term continues for 90 days after the day of the vote on the
2 alternative plan. If the commission recommends no
3 alternative plan, the term ends 30 days after submission of
4 the final report in accordance with 7-3-187.

5 (2) A vacancy on a study commission, including an ex
6 officio member vacancy, shall be determined in the same
7 manner as a vacancy in municipal office as provided in
8 7-4-4111. Vacancies A vacancy on a study commission shall be
9 filled by appointment by the governing body of the local
10 government being studied by the commission. The appointment
11 shall be made within 30 days of the date the vacancy occurs.

12 (3) Members of the study commission may receive no
13 compensation other than for actual and necessary expenses
14 incurred in their official capacity."

15 Section 4. Section 7-3-185, MCA, is amended to read:

16 "7-3-185. Scope of study commission recommendations.

17 (1) ~~(a)~~ A study commission ~~elected-to-examine~~ examining the
18 government of a county may:

19 ~~(a)~~(i) recommend amendments to the existing plan of
20 government;

21 ~~(b)~~(ii) recommend any plan of government authorized by
22 Title 7, chapter 3, parts 1 through 6;

23 ~~(c)~~(iii) draft a charter;

24 ~~(d)~~(iv) recommend municipal-county consolidation or
25 amendments to an existing consolidation;

1 ~~(e)(v)~~ in cooperation with a study commission in an
 2 adjoining county, recommend county merger; or
 3 ~~(f)(vi)~~ submit no recommendation.

4 (b) In addition to one of the items in subsection
 5 (1)(a), a county study commission may recommend service
 6 consolidation or transfer in cooperation with a study
 7 commission of another county or with a study commission of
 8 one or more municipalities.

9 (2) (a) A study commission ~~electe~~---to---~~examine~~
 10 ~~examining~~ the government of a municipality may:
 11 ~~(a)(i)~~ recommend amendments to the existing plan of
 12 government;
 13 ~~(b)(ii)~~ recommend any plan of government authorized by
 14 Title 7, chapter 3, parts 1 through 6;
 15 ~~(c)(iii)~~ draft a charter;
 16 ~~(d)(iv)~~ recommend municipal-county consolidation;
 17 ~~(e)(v)~~ recommend disincorporation; or
 18 ~~(f)(vi)~~ submit no recommendation.

19 (b) In addition to one of the items in subsection
 20 (2)(a), a municipal study commission may recommend service
 21 consolidation or transfer in cooperation with:
 22 (i) a county study commission;
 23 (ii) a county study commission and one or more
 24 municipal study commissions; or
 25 (iii) one or more municipal study commissions."

1 Section 5. Section 7-3-187, MCA, is amended to read:
 2 "7-3-187. Final report. (1) Every study commission
 3 shall adopt a final report. If the study commission
 4 recommends an alternative form of government, the final
 5 report shall contain the following materials and documents,
 6 each signed by a majority of the study commission members:
 7 (a) those materials and documents required of a
 8 petition proposing an alteration of an existing form of
 9 government in 7-3-142;
 10 (b) a certificate establishing the date of the special
 11 election, which may be held in conjunction with a regularly
 12 scheduled election, at which the alternative form of
 13 governr nt shall be presented to the electors and a
 14 certificate establishing the form of the ballot question or
 15 questions; and
 16 (c) a certificate establishing the dates of the first
 17 primary and general elections for officers of a new
 18 government if the proposal is approved and establishing the
 19 effective date of the proposal if approved.

20 (2) The final report shall contain any minority report
 21 signed by members of the commission who do not support the
 22 majority proposal.

23 (3) If the study commission is not recommending any
 24 changes, its final report shall so indicate.

25 (4) The study commission shall file ~~one~~---copy TWO

1 COPIES of the final report with the department of
2 administration commerce, ONE OF WHICH THE DEPARTMENT SHALL
3 FORWARD TO THE STATE LIBRARY. A copy of the final report
4 shall be certified by the study commission to the municipal
5 or county records administrator within 30 days after the
6 adoption of the final report.

7 (5) Sufficient copies of the final report are to be
8 prepared for public distribution. The final report must be
9 available to the electors not later than 30 days prior to
10 the election on the issue of adopting the alternative plan.
11 Copies of the final report may be distributed to electors or
12 residents of the local government or governments affected.

13 (6) After submission of the final report, the
14 commission shall deposit copies of its minutes and other
15 records with the county clerk and recorder."

16 SECTION 6. SECTION 7-3-190, MCA, IS AMENDED TO READ:

17 "7-3-190. Supplementary reports. A study commission
18 may prepare separate reports in addition to its final
19 report. These reports may recommend consolidation of
20 services and functions and indicate potential areas for
21 interlocal agreements. Such reports shall be submitted to
22 all appropriate governing bodies for reaction within 1
23 year."

24 NEW SECTION. Section 7. Effective date. This act is
25 effective on passage and approval.

-End-