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MT Local Government Review 2014

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THANK YOU!!



THE MONTANA CONSTITUTION

Preamble

We the people of Montana grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution.

Calibration



Objectives

- Constitutionality of Local Government Review
- Review Statutory Basis of Study Commission (7-3-171 to 7-3-191 MCA)
Pg. 31-38 Study Commission Handbook

Assumptions

- Local Government Review was established by a majority vote of the electorate
- Study Commissioners were elected or appointed from within the jurisdiction being reviewed
- Ex Officio member of the study commission has been appointed by the governing body of the jurisdiction being studied
- All Study Commissions have had their first meeting
 - Selected a temporary Chair
 - Taken the Oath of Office
 - Picked a date for your next meeting

1972 MONTANA CONSTITUTION ARTICLE XI SECTION 9

1972 MONTANA CONSTITUTION ARTICLE XI. SECTION 9

Section 9. Voter review of local government. (1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require an election in each local government to determine whether a local government will undertake a review procedure once every ten years after the first election.

Approval by a majority of those voting in the decennial general election on the question of undertaking a local government review is necessary to mandate the election of a local government study commission. Study commission members shall be elected during any regularly scheduled election in local governments mandating their election.

7-3-172. Purpose of study commission.

The purpose of a study commission is to study the existing form and powers of a local government and procedures for delivery of local government services and compare them with other forms available under the laws of the state.

Study Commissioner

- **Important responsibility**
- Potential for long-term effects on the health, safety and general well-being of your community
- Representing **ALL** of your community/county and its diverse needs and interests
- Understand your **role** and **scope of work**
- Adopt a position of inquiry
- **LISTEN!**
- Question ideas not motives
- Focus on outcomes not people

2-2-103. Public trust -- public duty.

- The holding of public office... is a **public trust**, created by the **confidence** that the electorate reposes in the **integrity** of public officers... A public officer... shall carry out the individual's duties for the **benefit of the people of the state.**

Good Governance Principles

Good Governance Principle	Application and Description
Legitimacy and Voice	Participation: voice in decision-making. Consensus Orientation: mediates differing interests to reach a broad.
Direction	Strategic Vision: broad and long-term perspective on development and understanding of the historical, cultural and social complexities.
Performance	Responsiveness: serve all stakeholders. Effectiveness and Efficiency: producing results while making the best use of resources.
Accountability	Accountability: answerable and responsible. Transparency: free flow of information directly accessible, sufficient and applicable.
Fairness	Equity: all have opportunities to improve or maintain their well-being. Rule of Law: legal frameworks are fair and enforced impartially.

Adapted from Graham, Amos and Plumptre (2003)

Voter Review

- THIS IS NOT ABOUT PEOPLE!!
- It's a study of the **POWER, FORM** and **PLAN** of local government
- Review the **PROCEDURES** for delivery of local government services
- Compare existing **POWER, FORM** and **PLAN** with alternative **POWER, FORMS** and **PLANS**
- Make recommendations and the **VOTERS WILL DECIDE!**

HAVE FUN!!

Remember:

If your not having fun
than your are not doing it right!

7-3-177. Composition of study commission.

(1) The number of positions, which must be an odd number of not less than three . . . the study commission shall consist of three members unless the local governing body by resolution declares that a larger number shall be elected.

(2) Every study commission shall include as an ex officio nonvoting member a member of the governing body or an elected official or employee of the local government appointed by the governing body.

At least 3 members + 1 ex officio member

Ex Officio Non Voting Member

- Liaison between local government and study commission
- Source of knowledge on the general organization of the local government unit
- Coordinate technical assistance and staff support provided (if available) from the local government
- Can assist with organizing the commission, creating the budget and developing the timeline

Study Commissioner Term of Office

Term of office begins the day the election results are certified by county election officials

OR

Upon the day of appointment by the local government

Study Commissioner Term of Office

- If an alternative plan of government is submitted to the voters, the study commissioners' terms of office end on the day of the vote
- If plan is adopted by the voters the terms of office end ninety (90) days after the vote on the adopted plan.
- If the study commission recommends no alternative plan of government, the term of office ends thirty (30) days after the submission of the final report required by 7-3-178, MCA

Study Commission Vacancies

- Causes for vacancy (7-4-4111 MCA)
 - Resignation
 - Illness
 - Residential relocation outside of the jurisdiction
 - Continuous absence from the jurisdiction, etc.
- Vacancies are filled by the local governing body being studied within 30 days of vacancy

Study Commission Compensation

- No compensation other than for actual expenses incurred while acting within official capacity
 - Travel cost to accomplish purposes of Study Commission
- Check with the local government about reimbursement procedures prior to incurring an expense

7-3-179. Organization of commission.

- (1) Not later than 10 days after all members of the study commission have been elected or appointed, the study commission shall meet and organize at a time **set by the presiding officer of the governing body** of the local government that the study commission is to examine.

- (2) At the first meeting of the study commission, the study commission may elect a temporary presiding officer, who will serve until a permanent presiding officer is selected.

First Meeting

- Commissioners take the Oath of Office
- Elect a presiding officer (temp or perm)
- Decide when and where to hold future meetings

Future Immediate Meetings

- Decide how to conduct your meetings (pg. 8 SCH)
- Create a budget to fund each year of your study commission activities (pg. 11-13 SCH)
 - Approved by governing body
- Decide whether or not you wish to cooperate with another county, city or town study commission in conducting your review (pg. 7 SCH)

7-3-180. Cooperation of study commissions.

- (1) Any two or more study commissions may cooperate in the conduct of their studies. A majority vote by each of the affected study commissions is required for a cooperative study.
- (2) Cooperative studies do not preclude each study commission from making a separate report and recommendation.

7-3-182. Open meetings and public involvement.

- All meetings of the study commission are open to the public as provided in Title 2, chapter 3, part 2.
- The study commission shall:
 - Hold public hearings and community forums
 - Disseminate information
 - Receive **suggestions** and **comments**
 - Stimulate public discussion of its **purpose**, **progress**, **conclusions**, and **recommendations**.

7-3-183. Commission powers.

The commission may hire necessary staff, retain consultants and establish appointed advisory boards and committees.

CAUTION!

Discuss with the appropriate local government officials (mayor, county commission or city manager) the hiring of any staff person or contracting with any consultant prior to doing so. These services tend to be expensive and, if affordable, must follow strict legal procedures.

7-3-183. Commission powers.

- A study commission may **contract** and **cooperate** with other **public or private agencies** as it considers reasonably necessary to perform its function.
- Upon request of the presiding officer of the study commission, state agencies, counties, and other local governments and the officers and employees of those entities shall furnish or make available to the commission information that may be necessary for carrying out the commission's function.

7-3-183. Commission powers.

- (3) A study commission may:
- (a) establish advisory boards and committees, including on them persons who are not members of the study commission;
 - (b) retain consultants; and
 - (c) do any other act consistent with and reasonably required to perform its function.

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

- (1) (a) A study commission examining the **government of a county** may:
- (i) recommend amendments to the existing plan of government;
 - (ii) recommend any plan of government authorized by Title 7, chapter 3, parts 1 through 6;
 - (iii) draft a charter;
 - (iv) recommend municipal-county consolidation or amendments to an existing consolidation;
 - (v) In cooperation with a study commission in an adjoining county, recommend county merger; or
 - (vi) submit no recommendation.
- (b) In addition to one of the items in subsection (1)(a), a county study commission may recommend service consolidation or transfer in cooperation with a study commission of another county or with a study commission of one or more municipalities.

7-3-185. Scope of study commission recommendations. (cont.)

- (2) (a) A study commission examining the government of a **municipality** may:
- (i) recommend amendments to the existing plan of government;
 - (ii) recommend any plan of government authorized by Title 7, chapter 3, parts 1 through 6;
 - (iii) draft a charter;
 - (iv) recommend municipal-county consolidation;
 - (v) recommend disincorporation; or
 - (vi) submit no recommendation.
- (b) In addition to one of the items in subsection (2)(a), a municipal study commission may recommend service consolidation or transfer in cooperation with:
- (i) a county study commission;
 - (ii) a county study commission and one or more municipal study commissions; or
 - (iii) one or more municipal study commissions.

No Recommendation

- If the study commission is not recommending any changes, publish and distribute the final report within 60 days after the final report is adopted
- A final report must still be prepared and filed!

7-3-186. Study commission timetable.

- Establish a time table within 90 days of organizational meeting (Pg. 19-20 SCH)
 - Establish a timetable for your deliberations and actions
 - Publish in a local paper of general circulation
 - Timetable can be revised but must be republished

7-3-186. Study commission timetable.

- The timetable must chronologically outline these minimum expectations:
 - **Conduct** one or more **public hearings** to gather **information on the current form, functions and problems** of local government.
 - **Formulate**, reproduce and distribute a **tentative report**.
 - **Conduct** one or more **public hearings** on the tentative report.
 - Adopt the final report.

7-3-186. Study commission timetable.

- If the study commission is recommending **changes**, set the date for a special election on the question of adopting the changes.
- If an **alternative plan** of government is **adopted** by the voters, the study commission shall prepare an **advisory plan** for orderly transition to the new plan of government.

7-3-184. Financial administration.

- Prepare and submit a budget to the local governing body for approval
- Each local government shall appropriate an amount necessary to fund the study
- The local government shall provide office and meeting space and clerical assistance to the study commission
- The local government may provide additional funds and other assistance

7-3-184. Financial administration.

- May apply for and accept available private, state, and federal money and may accept donations from any source
- The finance administrator is authorized to disburse appropriated money of the study commission on the study commission's order after approval of the budget by the governing body
- Unexpended money of the study commission reverts to the general fund of the local government at the end of the study

7-3-187. Final report.

- (1) A study commission shall adopt a final report.
- (2) The final report must contain any minority report signed by members of the commission who do not support the majority proposal.

Pages 68 – 122 SCH

Required Reports

- Final Report
 - Proposed Alterations
 - Minority Report signed by members of the commission who do not support the majority proposal
- Service Delivery Issues (optional)
 - Suggestions for modifying or changing the delivery of local government services
 - Examples:
 - Develop Long range plan and strategies for improving County Roads & Bridges
 - Initiate process to form a Parks and Recreation District
 - Consolidate city and county library into a single city/county library system

Final Report Certificates

- The following materials and documents must be signed by at least a majority of the study commission:
 - Certificate containing the "plan of government" of the existing form of local government;
 - Certificate containing the "plan of government" of the proposed new form of local government or amendments to the existing plan;
 - Certificate containing the "plan of apportionment" of commissioner districts if electoral districts are contained in the proposed "plan of government";

(Pg. 13 – 15 SCH)

- Comparison of the existing plan and proposed plan of local government, **strengths/weaknesses** of the existing and proposed plans of local government, information supporting the adoption of the proposed plan, and retention of the present plan
- Certificate establishing the **date of the election**, which must be held in conjunction with a regularly scheduled election, at which the alternative form of government shall be presented to the electors;
- Certificate establishing the **form of the ballot question** or questions; and
- Certificate establishing the **dates of the first primary and general elections** for officers of a new government if the proposal is approved and establishing the effective date of the proposal if approved