

HOUSE BILL NO. 441

INTRODUCED BY J. ESSMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN ALTERNATIVE PROCESS FOR ABANDONMENT
5 OF A COUNTY AND ATTACHMENT OF THE COUNTY'S TERRITORY TO ADJOINING COUNTIES UNDER
6 CERTAIN CIRCUMSTANCES; REQUIRING THE QUESTION OF ABANDONMENT TO BE PLACED ON THE
7 BALLOT IF CERTAIN POPULATION THRESHOLDS ARE MET; REQUIRING A PLAN OF ABANDONMENT;
8 ALLOWING PETITIONERS TO SUBMIT A PETITION TO AMEND THE PLAN; REQUIRING ADOPTION OF A
9 RESOLUTION; REQUIRING AN ELECTION IN THE COUNTIES TO WHICH TERRITORY IS PROPOSED TO
10 BE ATTACHED; AND AMENDING SECTIONS 7-2-2706, 7-2-2723, 7-2-2724, 7-2-2725, 7-2-2726, 7-2-2741,
11 7-2-2742, 7-2-2743, 7-2-2745, 7-2-2749, 7-2-2751, AND 7-2-2759, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14

15 **NEW SECTION. Section 1. Alternative process for abandonment and consolidation of counties**
16 **based on population -- hearings -- plan of abandonment -- elections.** (1) If the population of a county is less
17 than 1,500 as reported in the last federal population census, the question of abandonment of the county must
18 be submitted to the qualified electors of the county in conjunction with the next election held on the question of
19 conducting a local government review pursuant to Article XI, section 9, of the Montana constitution and
20 7-3-173(2).

21 (2) At the election, the question to be submitted to the qualified electors of the county that meets the
22 criteria provided in subsection (1) must be as follows:

23 [] FOR the abandonment of the county of (name) and attaching the territory within its boundaries
24 to and making the territory a part of one or more adjoining counties.

25 [] AGAINST the abandonment of the county of (name) and attaching the territory within its
26 boundaries to and making the territory a part of one or more adjoining counties.

27 (3) (a) Votes cast on the question of abandonment must be counted, canvassed, and returned as
28 provided in Title 13 for general elections.

29 (b) The election administrator shall report the results of the election conducted under this section to the
30 secretary of state within 15 days of the date the results become official.

1 (4) If the results of the election are in favor of abandonment of the county, the board of county
2 commissioners shall hold a public hearing not less than 30 days or more than 60 days after the election to accept
3 comment and information regarding to which adjacent county or counties the territory in the county to be
4 abandoned should be attached.

5 (5) (a) Within 30 days after the public hearing required in subsection (4), the board of county
6 commissioners shall determine to which county or counties the territory in the county to be abandoned it proposes
7 to be attached.

8 (b) The board shall prepare and make available to the public a plan for abandonment that includes:
9 (i) a summary of the information and comment received at the hearing;
10 (ii) the name of the county or counties to which the board proposes its territory be attached;
11 (iii) a statement of the reasons for its proposal;
12 (iv) a map showing the proposed new county boundaries and names;
13 (v) the date on which the board of county commissioners will meet to finalize the plan and adopt a
14 resolution for abandonment which may be no later than 180 days after the election; and
15 (vi) any other information the board considers to be appropriate.

16 (6) At any time within 45 days after publication of the plan, petitions to amend the plan may be filed as
17 provided in 7-2-2705 and, if filed, must be processed as provided in 7-2-2706.

18 (7) (a) On the date that the board of county commissioners has scheduled to finalize the plan and adopt
19 a resolution, the board shall comply with the provisions of 7-2-2707. The resolution must include:

20 (i) the final decision of the board regarding the plan for abandonment; and
21 (ii) whether any petitions to amend the plan were filed as provided in subsection (6) and, if so, how the
22 plan was amended.

23 (b) The resolution and any associated petitions must be copied and forwarded to the governor and to
24 the clerks of each of the counties to which any part of the county to be abandoned is proposed to be attached.

25 (8) (a) A special election conducted by mail ballot as provided in Title 13, chapter 19, must be held in
26 each of the counties to which the resolution was forwarded. The question must be submitted on the ballot as
27 provided in 7-2-2711(2).

28 (b) (i) If a majority of the votes in the county or counties in which the election was held under this
29 subsection (8) are cast in favor of attachment, then the boards of county commissioners in the county to be
30 abandoned and the county or counties where an election was held under this subsection (8) shall agree to a date

1 on which the organization and political and corporate existence of the abandoned county terminates and its
2 territory is attached to the adjoining county or counties.

3 (ii) The terms of office of each of the officers and members of the board of county commissioners of the
4 abandoned county terminate at midnight on the date established under subsection (8)(b)(i).

5 (c) If a majority of the votes in the county or counties in which the election was held under this subsection
6 (8) are cast against the plan for attachment, the abandonment and attachment of territory may not be finalized
7 and the question may not again be submitted to the electors as provided in this subsection for a period of 6
8 months. After the 6-month period, the board of county commissioners in the county proposed for abandonment
9 shall schedule a public hearing as provided in subsection (4), revise the plan for abandonment, and submit a
10 resolution as provided in subsection (7).

11 (9) The provisions of 7-2-2721 through 7-2-2730 and 7-2-2741 through 7-2-2759 apply to the process
12 for abandonment and attachment of the abandoned county's territory to adjoining counties as provided in this
13 section.

14 (10) If, in the election required in subsection (1), the qualified electors vote both in favor of conducting
15 a local government review and for the abandonment of the county, abandonment of the county takes precedence
16 over conducting a local government review.

17

18 **Section 2.** Section 7-2-2706, MCA, is amended to read:

19 **"7-2-2706. Processing of petition to amend proposed consolidation -- certification to county**
20 **commissioners.** Whenever any petition is filed under 7-2-2705 or [section 1], the election administrator shall
21 immediately examine the petition and determine from the registration records of the county whether the petition
22 has been signed by the required number of registered electors and shall attach to the petition the administrator's
23 certificate showing the total number of registered electors residing within the boundaries described in the petition
24 and the number of registered electors whose names appear on the petition and shall deliver the petition, with the
25 certificate attached, to the board of county commissioners when the board meets to consider and take final action
26 on the petition for abandonment."

27

28 **Section 3.** Section 7-2-2723, MCA, is amended to read:

29 **"7-2-2723. Vesting of property and legal rights.** The county designated ~~in the petition for the~~
30 ~~abandonment of a county~~ as provided in this part as the county to which the territory of the abandoned county

1 is to be attached, subject to the provisions of this part, shall:

2 (1) succeed to, have, possess, and own all other property, assets, liens, rights, remedies, and claims
3 of every kind owned and belonging to or possessed by the abandoned county on the date that county ceases to
4 exist; and

5 (2) have the right to demand, collect, and receive all money to which the abandoned county was entitled
6 for taxes for which tax lien sales had not been held, for licenses, and for other demands remaining unpaid on the
7 date that the abandoned county ceases to exist and to enforce in any manner authorized by law all rights,
8 remedies, and claims."

9

10 **Section 4.** Section 7-2-2724, MCA, is amended to read:

11 **"7-2-2724. Disposition of records and other papers.** (1) All maps, plats, papers, documents, records,
12 record books, indexes, and files of every kind and description belonging to an abandoned and abolished county
13 or in the possession of any of the officers ~~thereof~~ of the abandoned and abolished county on the date when ~~such~~
14 the county ceases to exist ~~shall~~ must be, immediately after ~~such~~ the county ceases to exist, removed to the
15 county seat and placed in the custody of the officers of the county designated ~~in the petition for abandonment~~ as
16 provided in this part as the county to which the territory of the abandoned and abolished county is to be attached.
17 ~~The same shall be delivered over to the custody of the proper officers of such county and be placed in the proper~~
18 ~~offices thereof and shall thereafter constitute the maps, plats, papers, documents, records, record books, indexes,~~
19 ~~and files of such county.~~ The cost and expense of ~~such~~ the transfer and removal ~~shall~~ must be paid by warrants
20 ordered drawn and issued by the board of county commissioners of ~~such~~ the county against the general fund of
21 ~~such~~ the abandoned and abolished county.

22 (2) (a) If any part of an abandoned county ~~shall be~~ is attached to and ~~become~~ becomes a part of any
23 adjoining county other than the county designated ~~in the petition for abandonment, it shall be the duty of~~ as
24 provided in this part, the board of county commissioners of the county designated ~~in said petition for~~
25 ~~abandonment~~ as provided in this part shall:

26 (i) ~~to enter into a contract with some competent person or persons for transcribing so much of the~~ any
27 records of ~~said~~ the abandoned county ~~as affects or relates to~~ that relate to the property in ~~that~~ the portion of the
28 abandoned county ~~which~~ that has been attached to ~~such~~ the other county;

29 (ii) ~~to~~ prepare complete and proper indexes for ~~such~~ transcribed records; and

30 (iii) ~~to~~ transmit ~~such~~ transcribed records and indexes, when completed, to ~~such~~ the other county.

1 (b) If portions of ~~such the~~ abandoned county have been attached to more than one adjoining county, the
 2 board of county commissioners may enter into separate contracts for transcribing the records for each of ~~such~~
 3 ~~the~~ other counties or may enter into one contract for transcribing the records for all of ~~such the~~ other counties.

4 (c) Chattel mortgages, construction and other liens, and other instruments filed but not recorded ~~shall~~
 5 ~~may~~ not be transcribed, but the original instruments ~~shall must~~ be transmitted to ~~such the~~ other county or
 6 counties. The cost of transcribing, indexing, and transmitting ~~such the~~ records ~~shall must~~ be paid by warrants
 7 drawn by the board of county commissioners letting ~~such the~~ contracts on the general fund of the abandoned
 8 county. All of the provisions of 7-2-2405 through 7-2-2407 ~~shall~~ apply to such transcribed records.

9 (3) All electronic public documents and records created and maintained by officers and employees of
 10 the abandoned county must be transmitted in accordance with the provisions of Title 2, chapter 6, that govern
 11 possession, retention, and transfer of public records."

12

13 **Section 5.** Section 7-2-2725, MCA, is amended to read:

14 **"7-2-2725. Status of continuing contracts.** Except as provided in 7-2-2726, all valid and existing
 15 contracts entered into by a county abandoned and abolished under this part ~~which that~~, by the terms ~~thereof~~ of
 16 the contract, will extend beyond the time when ~~such the~~ county ceases to exist ~~shall must~~ continue in full force
 17 and effect as contracts of the county designated ~~in the petition for abandonment~~ as provided in this part as the
 18 county to which the territory of the abandoned and abolished county is attached and made a part."

19

20 **Section 6.** Section 7-2-2726, MCA, is amended to read:

21 **"7-2-2726. Status of printing contracts.** (1) If the abandoned and abolished county has entered into
 22 a printing contract in accordance with the provisions of Title 18, chapter 7, part 4, and the contract is in full force
 23 and effect on the date when the county ceases to exist, the purchase of all supplies and printing for the county
 24 designated ~~in the petition for abandonment~~ as provided in this part as the county to which the territory of the
 25 abandoned and abolished county is attached ~~shall must~~ be divided by the board of county commissioners of the
 26 continuing county between the contract of the abandoned county and any similar existing contract entered into
 27 by the board of the continuing county in ~~such manner as~~ the manner that the board considers equitable and just
 28 to the holders of both contracts until the expiration of the contract entered into by the abandoned and abolished
 29 county.

30 (2) (a) When a petition is filed with the election administrator of a county for the abandonment and

1 abolitionment of the county in accordance with the provisions of 7-2-2702 and 7-2-2703, the board of county
 2 commissioners of the county may not ~~thereafter~~ enter into any contract under the provisions of Title 18, chapter
 3 7, part 4, until the time has expired when the petition may be presented to the board by the county clerk as
 4 provided in 7-2-2702 and 7-2-2703.

5 (b) When a county is abandoned as provided in [section 1], the board of county commissioners of the
 6 abandoned county may not enter into any contract under the provisions of Title 18, chapter 7, part 4, after the
 7 date of the election held under [section 1(8)]."

8

9 **Section 7.** Section 7-2-2741, MCA, is amended to read:

10 **"7-2-2741. Processing of claims against abandoned county.** (1) All claims and demands against any
 11 abandoned and abolished county ~~for salaries, services, wages, materials, and supplies; for all other current~~
 12 ~~expenses; and for claims and demands accruing under contracts and for which said the county was liable at the~~
 13 ~~time it ceased to exist and which that had not been approved and warrants issued therefor and for which warrants~~
 14 ~~had not been issued~~ prior to the time it ceased to exist ~~shall~~ must be presented to the board of county
 15 commissioners of the county designated ~~in the petition for abandonment as provided in this part~~ as the county
 16 to which its territory is attached and made a part. Except as provided in subsection (2), all ~~such~~ claims and
 17 demands ~~shall~~ must be acted on by the board of ~~such the~~ county to which the abandoned and abolished county's
 18 territory is attached, and warrants ~~shall~~ must be issued in payment ~~thereof~~ in the same manner as though the
 19 ~~same~~ claims and demands had been incurred by ~~such the~~ county to which the abandoned and abolished county's
 20 territory is attached.

21 (2) All ~~such~~ warrants ~~shall~~ must be drawn and issued against the proper funds of ~~such the~~ abandoned
 22 and abolished county. ~~No such~~ A claim or demand shall may not be approved ~~or~~ and a warrant may not be issued
 23 ~~in payment thereof~~ if the amount of ~~such the~~ claim or demand exceeds the unexpended balance of appropriation
 24 for ~~such that~~ purpose contained in the budget of the abandoned and abolished county for the year in which the
 25 ~~same~~ claim or demand was incurred."

26

27 **Section 8.** Section 7-2-2742, MCA, is amended to read:

28 **"7-2-2742. Transfer and use of funds of abandoned county.** (1) All money in each of the funds of an
 29 abandoned and abolished county ~~shall~~ must be transferred to and paid over by the treasurer ~~thereof~~ of the
 30 abandoned and abolished county to the treasurer of the county designated ~~in the petition for abandonment as~~

1 ~~provided in this part~~ as the county to which its territory is to be attached and become a part, ~~and shall~~ The money
 2 must be kept and maintained by ~~such the~~ treasurer in separate funds in the name of ~~such the~~ abandoned and
 3 abolished county and, except as provided in subsection (2), used and applied for paying warrants issued against
 4 ~~such the~~ funds by the abandoned and abolished county prior to the time it ceased to exist and for paying
 5 warrants, including interest on the warrants, issued against ~~such the~~ fund by the board of county commissioners
 6 of the county to which it is attached and becomes a part under the provisions of 7-2-2724 and 7-2-2741 ~~and the~~
 7 ~~interest on such warrants~~.

8 (2) Money in any bond sinking and interest funds of ~~such the~~ abandoned and abolished county ~~shall~~
 9 must be used ~~and applied~~ for the sole purpose of paying the interest and principal becoming due on the county's
 10 unpaid and outstanding bonds ~~of such county~~."

11

12 **Section 9.** Section 7-2-2743, MCA, is amended to read:

13 **"7-2-2743. Collection of taxes and other money.** Taxes levied for all funds that were delinquent on
 14 the day ~~the~~ an abandoned and abolished county ceased to exist and for which tax lien sales had not been held
 15 and all licenses and other money owing to the county at that time must be collected by the treasurer of the county
 16 designated ~~in the petition for abandonment~~ as provided in this part as the county to which its territory is to be
 17 attached and must be deposited to the credit of the funds of the abandoned and abolished county."

18

19 **Section 10.** Section 7-2-2745, MCA, is amended to read:

20 **"7-2-2745. Procedure if insufficient funds -- special warrant district or special funding bond**
 21 **district.** (1) After all warrants have been drawn and issued against the funds of an abandoned and abolished
 22 county under the provisions of 7-2-2724 and 7-2-2741, if ~~shall appear~~ appears to the satisfaction of the board
 23 of county commissioners of the county designated ~~in the petition for abandonment~~ as provided in this part as the
 24 county to which the territory of the abandoned and abolished county is to be attached and made a part that the
 25 money in the several funds of ~~such the~~ abandoned and abolished county, together with all money ~~which that~~ may
 26 be received for ~~such the~~ funds from the payment and collection of delinquent taxes, unpaid licenses, and other
 27 sources owing to ~~such the~~ abandoned and abolished county, will be insufficient to pay all outstanding and unpaid
 28 warrants issued and drawn against ~~such the~~ funds, then the board ~~of such county~~ shall make an order creating
 29 a special warrant district and shall include within ~~such the~~ district all of the territory embraced within the
 30 boundaries of the abandoned and abolished county at the time it ceased to exist.

1 (2) If it ~~shall appear~~ appears to the satisfaction of the board that a tax levy sufficient to pay ~~such the~~
 2 warrants and interest, when spread over a term of 3 years, will be too great a hardship on and too burdensome
 3 to the taxpayers owning property within the boundaries of ~~such the~~ abandoned and abolished county, ~~said the~~
 4 board, instead of creating ~~such the~~ special warrant district, shall create and establish a special funding bond
 5 district and shall include within the boundaries ~~thereof~~ of the district all of the territory embraced within the
 6 boundaries of ~~such the~~ abandoned and abolished ~~district county~~ at the time it ceased to exist."

7

8 **Section 11.** Section 7-2-2749, MCA, is amended to read:

9 **"7-2-2749. Payment of outstanding bonds of abandoned county.** (1) If any abandoned and abolished
 10 county ~~shall have~~ has any bonds outstanding and unpaid at the time it ceases to exist, the territory within the
 11 boundaries of ~~such the~~ county as they existed when ~~such the~~ county ~~so~~ ceased to exist ~~shall constitute~~
 12 constitutes a special district for the payment ~~thereof~~ of the bonds. The board of county commissioners of the
 13 county designated ~~in the petition for abandonment as provided in this part~~ as the county to which the territory of
 14 ~~such the abandoned and abolished~~ county is to be attached and made a part shall annually levy a tax against
 15 all taxable property in ~~such the~~ taxing district sufficient to pay the interest and principal of ~~such the~~ bonds as ~~the~~
 16 ~~same they~~ become due, and all of the provisions of 7-7-107, 7-7-108, 7-7-123, 7-7-124, 7-7-2104, 7-7-2106, and
 17 parts 22 and 23 of chapter 7 shall apply to, govern, and control the levying and collection of ~~such the~~ taxes and
 18 the payment of interest and principal ~~thereof~~ by the boards and officers of the county within which ~~such the~~ district
 19 is situated.

20 (2) ~~Any and all~~ All money in any bond sinking and interest funds of ~~such the~~ abandoned and abolished
 21 county, when transmitted and paid over to the treasurer of the county to which the territory of ~~such the~~ abandoned
 22 and abolished county has been attached, ~~shall~~ must be credited to and deposited in a sinking and interest fund.
 23 All taxes levied for the payment of ~~such the~~ bonds and interest and delinquent at the time ~~such the~~ county ceased
 24 to exist, all taxes levied for ~~such the~~ sinking and interest fund in accordance with the provisions of 7-2-2742
 25 through 7-2-2750, and all other money ~~coming to the hands of such~~ received by the county treasurer for the use
 26 or benefit of ~~such the~~ abandoned county, when not required for any other purposes under the provisions of this
 27 part, ~~shall~~ must be deposited to the credit of ~~such the~~ sinking and interest fund and used for the payment of the
 28 principal and interest of ~~such the~~ bonds and for no other purpose."

29

30 **Section 12.** Section 7-2-2751, MCA, is amended to read:

1 **"7-2-2751. Disposition of money of abandoned district county.** If, after all warrants issued and drawn
 2 by an abandoned and abolished ~~district county~~ during its existence against its several funds and all warrants
 3 drawn and issued against ~~said the~~ funds under the provisions of 7-2-2724 and 7-2-2741 have been fully paid, ~~with~~
 4 ~~the including~~ interest ~~thereon~~:

5 (1) any balance remains in ~~such the~~ funds, ~~such and the~~ balance, ~~with any and in addition to~~ all money
 6 ~~thereafter~~ accruing to ~~any of such funds~~ from the collection of delinquent taxes, unpaid licenses, and from other
 7 sources ~~shall~~ must be deposited:

8 (a) to the credit of any special sinking and interest fund for the payment of district funding bonds issued
 9 under the provisions of 7-2-2745(2), 7-2-2747, and 7-2-2748; and

10 (b) if there ~~be no such~~ is no fund as provided in subsection (1)(a), then to the credit of any bond sinking
 11 and interest fund under 7-2-2749 and 7-2-2750; and

12 (2) after all warrants issued and drawn against any of ~~such the~~ funds with the interest ~~thereon~~ included,
 13 and all district funding bonds issued under the provisions of 7-2-2745(2), 7-2-2747, and 7-2-2748 and all bonds
 14 referred to in 7-2-2749 have been fully paid, then any balance remaining in any of ~~such the~~ funds and all money
 15 accruing to any ~~or all of such the~~ funds ~~thereafter~~ after payment from any ~~and all~~ sources ~~shall~~ must be deposited
 16 to the credit of ~~such the~~ funds of the county designated ~~in the petition for abandonment~~ as provided in this part
 17 as the county to which the territory of the abandoned and abolished county has been attached and made a part,
 18 as its board of county commissioners may direct."
 19

20 **Section 13.** Section 7-2-2759, MCA, is amended to read:

21 **"7-2-2759. Distribution of money derived from acquired property.** (1) Money received from leases
 22 or sales of real or personal property by any county other than the county designated ~~in the petition for~~
 23 ~~abandonment~~ as provided in this part as the county to which the territory of the abandoned county is to be
 24 ~~allocated shall~~ attached must be transmitted by the officers of ~~such the~~ county to the treasurer of the county
 25 designated ~~in such petition for abandonment~~ as provided in this part.

26 (2) ~~All money~~ Money received from the sale of personal property and from the leasing or sale of real
 27 estate, after deducting ~~therefrom~~ the amounts paid appraisers and for publishing notices of sale, ~~shall~~ must be
 28 used ~~and applied~~ as follows:

29 (a) if there are any warrants issued and outstanding against any of the funds of the abandoned and
 30 abolished county, ~~such the~~ money ~~shall~~ must be applied in payment of ~~such the~~ warrants and interest;

1 (b) if there are no warrants outstanding but district bonds have been issued under the provisions of
2 7-2-2745(2), 7-2-2747, and 7-2-2748, then the money ~~shall~~ must be deposited in the sinking and interest fund
3 for district bonds;

4 (c) if there are no district bonds outstanding, then the money ~~shall~~ must be deposited to the credit of the
5 sinking and interest funds for bonds issued and outstanding when the abandoned and abolished county ceased
6 to exist; and

7 (d) if there are no bonds outstanding, then the money ~~shall~~ must be apportioned to all of the counties
8 to which parts of the abandoned county were attached in the proportion which the taxable value of the property
9 in each part on January 1 immediately preceding the abandonment bears to the taxable value of all the property
10 in the abandoned county, and the apportioned money ~~shall~~ must be deposited in the funds of each county as the
11 boards of county commissioners of the counties may direct."

12
13 NEW SECTION. Section 14. Codification instruction. [Section 1] is intended to be codified as an
14 integral part of Title 7, chapter 2, part 27, and the provisions of Title 7, chapter 2, part 27, apply to [section 1].

15 - END -