

LOCAL GOVERNMENT VOTER REVIEW

LOCAL GOVERNMENT INTERIM COMMITTEE
TONI HENNEMAN - SEPTEMBER 2023

CONSTITUTIONAL & STATUTORY REQUIREMENTS

MONTANA CONSTITUTION:

[Article XI, Part XI, 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*¹ 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.

NEXT SCHEDULED
VOTER REVIEW:
2024

STATUTORY REFERENCES:

The following statutes set the parameters and model processes for the voter review required in the MT Constitution.

7-3-171. Purpose. The purpose of [7-3-171](#) through [7-3-193](#) is to provide a mechanism for local government review as required by Article XI, section 9, of the Montana constitution.

7-3-173. Establishment of study commissions. (1) A study commission may be established by an affirmative vote of the people. An election on the question of conducting a local government review and establishing a study commission must be held if:

- (a) the governing body of the local government unit calls for an election by resolution;
- (b) a petition signed by at least 15% of the electors of the local government calling for an election is submitted to the governing body; or
- (c) 10 years have elapsed since the electors voted on the question of conducting a local government review and establishing a study commission.

(2) The governing body shall call for an election on the question of conducting a local government review and establishing a study commission, as required by Article XI, section 9(2), of the Montana constitution, within 1 year after the 10-year period referred to in subsection (1)(c).

7-3-174. Election dates and procedures. (1) An election on the question of establishing a study commission under 7-3-173 must be held in conjunction with a primary election held on the date established in 13-1-107.

(2) An election of study commission members under 7-3-176 must be held in conjunction with a general election held on the date established in 13-1-104.

¹ Emphasis added.

(3) The elections must be counted, canvassed, and returned as provided in Title 13 for general elections.

(4) The election administrator shall report the results of an election conducted under 7-3-171 through 7-3-193 to the secretary of state within 15 days of the date the election results become official.

7-3-175. Ballot form and question. The question of conducting a local government review and establishing a study commission must be submitted to the electors in substantially the following form:

Vote for one:

FOR the review of the government of (insert name of local government) and the establishment and funding, not to exceed (insert dollar or mill amount), of a local government study commission consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations on the government.

AGAINST the review of the government of (insert name of local government) and the establishment and funding, not to exceed (insert dollar or mill amount), of a local government study commission consisting of (insert number of members) members to examine the government of (insert name of local government) and submit recommendations on the government.

7-3-176. Election of commission members — appointments. (1) An election to fill the positions on the local government study commission must be held in accordance with 7-3-174. A primary election may not be held.

(2) The names of study commission candidates who have filed declarations of nomination not later than the filing deadline established in 13-1-403 must be placed on the ballot. There is no filing fee. The election is nonpartisan, and candidates must be listed without party or other designation or slogan. The secretary of state shall prescribe the ballot form for study commissioners.

(3) Candidates for study commission positions must 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, must 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 candidates filing for election is equal to or less than the number of positions to be filled, the election administrator and governing body shall proceed in accordance with 13-1-403(4) and (5). If the number of study commissioners elected is not equal to the number required to be selected, the presiding officer of the governing body, with the confirmation of the governing body, shall appoint the additional study commissioners within 20 days after the election. An elected official of the local government may not be appointed.

7-3-177. Composition of study commission. (1) The number of positions, which must be an odd number of not less than three, on the study commission shall be set out in the resolution or petition calling for the election on the question of reviewing the local government or local governments and establishing a study commission. If the election is called under the provisions of 7-3-173(1)(c), 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. The ex officio member must be appointed prior to the organization of the study commission provided for in 7-3-179.

7-3-178. Term of office — vacancies — compensation. (1) The term of office of study commission members begins on the day that their election to the study commission is declared or certified under 13-15-405 or on the day of their appointment and ends on the day of the vote on the alternative plan. If the alternative plan is adopted, the term continues for 90 days after the day of the vote on the alternative plan. If the commission recommends no alternative plan, the term ends 30 days after submission of the final report in accordance with 7-3-187.

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

(3) Members of the study commission may not receive compensation other than for actual and necessary expenses incurred in their official capacity.

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.

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.

7-3-181. Conduct of business. (1) Meetings of the study commission must be held upon the call of the presiding officer, the vice presiding officer in the absence or inability of the presiding officer, or a majority of the members. The presiding officer shall announce the time and place of the meetings of the study commission.

(2) The study commission shall maintain a written record of its proceedings and its finances. This record is open to inspection by a person at the office of the study commission during the office hours determined by the governing body by resolution after a public hearing and only if consented to by the presiding officer.

(3) A majority of the members of the study commission constitutes a quorum for the transaction of business, but a recommendation of a study commission does not have legal effect unless adopted by a majority of the whole number of members of the study commission.

(4) The study commission may adopt rules for its own organization and procedure.

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 and may use other suitable means to disseminate information, receive suggestions and comments, and stimulate public discussion of its purpose, progress, conclusions, and recommendations.

7-3-183. Commission powers. (1) A study commission may employ and fix the compensation and duties of necessary staff. State, municipal, and county officers and employees, at the request of the study commission and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the study commission. If leave with pay is granted, they may receive no other compensation from the study commission except mileage and per diem.

(2) A study commission may contract and cooperate with other agencies, public or private, that it considers necessary for assistance in carrying out the purposes for which the commission was established. 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.

(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.

7-3-184. Financial administration. (1) A study commission shall prepare a budget for each fiscal year that it is in existence and shall submit it to the local governing body for approval.

(2) (a) For the support of the study commission, for each fiscal year that the study commission is in existence, each local government under study shall appropriate an amount necessary to fund the study, and the local government may levy mills in excess of all other mill levies authorized by law to fund the appropriation for the support of the study commission.

(b) The local government shall provide office and meeting space and clerical assistance to the study commission. The cost of clerical assistance and other in-kind services provided by the local government may be used to partially fulfill the appropriation provision of subsection (2)(a).

(c) The local government may provide additional funds and other assistance.

(3) The study commission may apply for and accept available private, state, and federal money and may accept donations from any source.

(4) All money received by the study commission must be deposited with the local government finance administrator. 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 does not revert to the general fund of the local government at the end of the fiscal year but carries over to the study commission's appropriation for the following fiscal year. Upon termination of the study commission, unexpended money reverts to the general fund of the local government.

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.

(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.

7-3-186. Study commission timetable. (1) Each local government study commission shall, within 90 days of its organizational meeting, establish a timetable for its deliberations and actions. The timetable must be published in a local newspaper of general circulation. The timetable may be revised, but each revision must be republished.

(2) The timetable must provide, at a minimum, the following provisions, to be accomplished chronologically in the order presented:

(a) conduct one or more public hearings for the purpose of gathering information regarding the current form, functions, and problems of local government;

(b) formulate, reproduce, and distribute a tentative report, containing the same categories of information required to be included in the final report;

(c) conduct one or more public hearings on the tentative report; and

(d) adopt the final report of the commission and set the date for an election on the question of adopting a new plan of government pursuant to 7-3-192 or, if the study commission is not recommending any changes, publish and distribute the final report as provided in 7-3-187 within 60 days after the final report is adopted.

7-3-187. Final report. (1) A study commission shall adopt a final report. If the study commission recommends an alteration of a local government, the final report must contain the following materials and documents, each signed by a majority of the study commission members:

(a) those materials and documents required of a petition proposing an alteration of a local government in 7-3-142;

(b) a certificate establishing the date of the election pursuant to 7-3-192 at which the alternative form of government or change in a plan of government is presented to the electors and a certificate establishing the form of the ballot question or questions; and

(c) a 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.

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

(3) If the study commission is not recommending any changes, its final report must indicate that changes are not recommended.

(4) The study commission shall file two copies of the final report with the department of administration, one of which the department shall forward to the state library. A copy of the final report must be certified by the study commission to the municipal or county records administrator within 30 days after the adoption of the final report.

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

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

7-3-188. Special final report requirements — consolidation or county merger. (1) Consolidation or merger may be placed on the ballot only by a joint report by cooperative study commissions.

(2) A final report, in addition to the material required in 7-3-187, must contain a consolidation plan if county-municipal consolidation or county merger is recommended. The consolidation plan must conform to the provisions and requirements relating to petitions in:

- (a) 7-3-143 whenever county-municipal consolidation is recommended; or
- (b) 7-3-144 whenever county merger is recommended.

7-3-189. Special final report requirements for disincorporation. If a study commission proposes municipal disincorporation, the final report shall contain the following additional material and documents:

- (1) a certificate of disincorporation instead of a plan of government; and
- (2) a recommended plan of disincorporation.

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

7-3-191. Publication of summary. Each study commission shall publish once each week for 2 successive weeks in a newspaper of general circulation throughout the area of the affected local government a summary of its findings and recommendations, together with the address of a convenient public place where the text of its proposal may be obtained. The summary shall include a comparison of the existing and proposed plans of government.

7-3-192. Election on recommendation. (1) An alternative form or plan of government recommended by a study commission must be submitted to the voters in the same manner as provided in 7-3-149.

(2) Ballot requirements and treatment of suboptions on an alternative form or plan of government recommended by a study commission must be the same as for recommendations by petition as provided in 7-3-150 and 7-3-151.

7-3-193. Application of other sections. (1) Except as provided in subsection (2) of this section, the provisions of 7-3-122 and 7-3-152 through 7-3-161 apply to the adoption of an alternative form or plan of government upon recommendation by a study commission.

(2) (a) The presiding officer of the study commission and not the presiding officer of the governing body shall certify documents under 7-3-153.

(b) The study commission and not the governing body shall prepare an advisory plan for orderly transition to a new form or plan of government under 7-3-157.

(c) A study commission plan may provide for existing elected officers under 7-3-158(4).