

HOUSE BILL NO. 221

INTRODUCED BY D. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING A REDUNDANCY RELATED TO PUBLIC RECORDS OF MUNICIPALITIES; AMENDING SECTIONS 7-1-4121 AND 7-1-4149, MCA; AND REPEALING SECTION 7-1-4144, MCA."

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

Section 1. Section 7-1-4121, MCA, is amended to read:

"7-1-4121. General definitions. As used in 7-1-4121 through 7-1-4127 ~~and~~ 7-1-4129 through 7-1-4143, and 7-1-4145 through 7-1-4149, unless otherwise provided, the following definitions apply:

(1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of the government and limitations on the government.

(2) "Chief executive" means the elected executive in a government adopting the commission-executive form, the manager in a government adopting the commission-manager form, the presiding officer in a government adopting the commission-presiding officer form, the town presiding officer in a government adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers designated in the charter in a government adopting a charter.

(3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

(4) "Employee" means a person other than an officer who is employed by a municipality.

(5) "Executive branch" means that part of the municipality, including departments, offices, and boards, charged with implementing actions approved and administering policies adopted by the governing body of the local government or performing the duties required by law.

(6) "Governing body" means the commission or town meeting legislative body established in the alternative form of local government.

(7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of comparison and is not enforceable as a regulation.

(8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the governor or a statute adopted by the people of Montana through statutory initiative procedures.

(9) "Municipality" means an entity that incorporates as a city or town.

(10) "Office of the municipality" means the permanent location of the seat of government from which the records administrator, or the office of the clerk of the governing body if one is appointed, carries out the duties of the records administrator.

(11) "Officer" means a person holding a position with a municipality that is ordinarily filled by election or, in those municipalities with a manager, the manager.

(12) "Ordinance" means an act that is adopted and approved by a municipality and that has effect only within the jurisdiction of the local government.

(13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or other representative, association, or other organized group.

(14) "Plan of government" means a certificate submitted by a governing body that documents the basic form of government selected, including all applicable suboptions. The plan must establish the terms of all officers and the number of commissioners, if any, to be elected.

(15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

(16) "Population" means the number of inhabitants as determined by an official federal, state, or local census or official population estimate approved by the department of commerce.

(17) "Printed" means the act of reproducing a design on a surface by any process as defined by 1-1-203(4).

(18) "Public agency" means a political subdivision, Indian tribal council, state or federal department or office, or the Dominion of Canada or any provincial department, office, or political subdivision.

(19) "Public property" means any property owned by a municipality or held in the name of a municipality by any of the departments, boards, or authorities of the local government.

(20) "Real property" means lands, structures, buildings, and interests in land, including lands under water and riparian rights, and all things and rights usually included within the term "real property", including not only fee simple absolute but also all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

(21) "Reproduced" means the act of reproducing a design on any surface by any process.

(22) "Resolution" means a statement of policy by the governing body or an order by the governing body that a specific action be taken.

(23) "Service" means an authorized function or activity performed by local government.

1 (24) "Structure" means the entire governmental organization through which a local government carries
2 out its duties, functions, and responsibilities."

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4 **Section 2.** Section 7-1-4149, MCA, is amended to read:

5 **"7-1-4149. Applicability.** (1) Except as provided in subsection (2), a provision of 7-1-4121 through
6 7-1-4127 ~~and~~, 7-1-4129 through 7-1-4143, and 7-1-4145 through 7-1-4148 applies only in the absence of other
7 laws governing the same subject matter.

8 (2) The governing body may by ordinance adopt the procedures and provisions contained in 7-1-4121
9 through 7-1-4127 and 7-1-4129 through 7-1-4148 and make them applicable to all proceedings before the body."

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11 NEW SECTION. **Section 3. Repealer.** The following section of the Montana Code Annotated is
12 repealed:

13 7-1-4144. Public records.

14 - END -