

**Proposed form of Government
5 Commissioners Manager**

\$13,000 **	\$16,500
793	2,170
	6,900
	1,044
3,000	1,000
	2,000
\$16,793	\$29,614
\$46,707 Total Cost	

7/1/76 **Based on one day per week.

Recommendations and Reasons

Charged with three areas of responsibility, namely, to study the alternative forms of government in Hill County; to study the alternative forms of government and to recommend one of these alternative forms to be submitted to the voters.

During the study, all elected officials and various county employees and public hearings were conducted in an effort to learn what they felt was needed. Study commissioners in the county and worked closely with the City Study Commission to determine areas where City and County might work together.

The study involved examination of the alternate forms available, reviewing material available from various sources elsewhere and how successfully they do function. Other jurisdictions in the State were contacted in order to glean as much information as possible on how problem areas could be best overcome.

The study has now been completed and the Study Commission is recommending an alternative form on November 2nd. This form has been chosen because it is felt that it can best answer the needs of the county for the coming years.

County officials indicated that they feel that the present form of government is all right and they stressed the value of the selection of a manager. However, other persons interviewed indicated a need for authority, lack of clear-cut areas of responsibility, duplication of services, lack of responsiveness to the needs of the population for all areas of the county.

As outlined above, the Study Commission considered the various alternatives and arrived at the conclusion that another form of professional management of budgets and services. After all alternatives considered, it was felt that planning should begin now to insure that the least cost should this growth indeed take place. After all alternatives forms available, it was decided that a manager form would best answer the needs of the county and that the form of government would answer these needs in the future.

While there are now 10 separate elected officials in the county, only the five commissioners, an auditor, a clerk, and a treasurer could be elected and management authority would be vested in the manager. Clear-cut lines of authority could be established in the hands of the manager and legislation or resolutions by the commissioners.

It is recommended that one person to whom the voter may go to voice a concern about the manager would have the authority to act and that the manager would be in a position to keep the public informed of county policies and activities.

Concerning each individual, it was felt that the county attorney should remain elective. Neither office is elected and officials could work effectively with the county manager to serve at the discretion of the voter.

As for the auditor's hands, the commission felt that there

The salary for county managers (similar to Hill County in size) in other areas of the country ranges from \$12,000 to \$18,000 per year; the study commission felt that it would be necessary for Hill County to pay somewhere in the area of \$16,500 per year. However, the elected commissioners would serve on a part-time basis at considerably less than at present, thus representing a savings even with the manager's salary considered. While it is difficult to project whether additional savings could be realized or in what areas, it was felt by the study commission that, under the manager's administration, more efficient handling of responsibilities and services could result in better all-around service by local government.

From the standpoint of budget savings, several areas of service transfer or consolidation were studied in conjunction with the City study commission. These areas included library, health, law enforcement, and shops. Recommendations regarding these areas are included in the Appendix to this report. Action to submit any such transfer or consolidation must be made jointly by the City and County study commissions and, should such action seem advisable, could appear as a part of the County's final proposal.

Charter

PREAMBLE

WE, THE PEOPLE OF HILL COUNTY, State of Montana, in accordance with Article XI, Section 5 of the Constitution of Montana, do adopt this Charter.

Article I General Provisions

Section 1.01 Powers of County

(1) Hill County shall have all powers not prohibited by the Constitution of Montana or the laws of Montana, or this Charter.

COMMENT: These powers shall include, but are not limited to, the following:

- [a] Adopt laws, ordinances, and resolutions.
- [b] Appoint and remove the County Manager.
- [c] Raise and borrow money, subject to the limitations provided by law.
- [d] Sue and be sued.
- [e] Approve all contracts subject to bid.
- [f] Make appropriations for county purposes.
- [g] Approve the budget submitted by the County Manager.
- [h] Appoint members of all boards and commissions.

(2) Hill County shall exercise fiscal control by maintaining a balanced budget for the county. Citizens shall be informed of all phases of the budgeting process.

- (a) The county commission may levy a property tax not to exceed the maximum mill levy allowable to general government counties. Any proposed increase in mill levies beyond the limits of this section must be submitted to the electors of Hill County and approved by a majority of those voting on the question.
- (b) Any proposed new form of taxation must be submitted to the electors of Hill County and approved by a majority of those voting on the question.
- (c) Nothing in this charter shall be construed to prohibit the county from charging license, user, service, or other fees.

(3) A copy of the budget as proposed by the County Manager shall be made available to the public, accompanied by a statement showing actual and estimated expenditures for the previous fiscal year.

- (a) The county commission shall hold well-publicized hearings, both in incorporated and unincorporated areas, to allow for public comment on budget expenditures.

Section 1.02 Interpretation of Powers

The powers and authority of this self-government unit shall be liberally construed. Every reasonable doubt as to the existence of a county power or authority shall be resolved in favor of the existence of that power or authority.

Section 1.03 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of Montana, provisions

Comparison of Existing Form of Government And Proposed Form of Government

Characteristic	Present form of Government	Proposed form of Government	Comments
Form of Government	Commission Form	Commission Manager Form written into a charter. Commission becomes legislative body; manager becomes administrator of government policy	Commission responsible for creation of ordinances and policies and supervision of manager Manager responsible for supervision of county offices and their performance Allows local government commission to pass ordinances to suit local needs: greater flexibility
Powers	General Government Powers. Commission is limited to acting as an arm of the state with no powers to regulate local ordinances	Self Government Powers All powers not denied by the State are vested in the commission	
Governing Body Size	3 commissioners nominated by district, elected at-large	5 commissioners elected from the district in which they reside	Greater number of commissioners gives better all-over representation; elected from own district they can be more responsive to needs of that district
Election	Partisan	Partisan	
Term	6 year overlapping terms	4-Year overlapping terms	Overlapping terms insure continuity
Presiding Officer	Chairman elected from own members	Same as presently	
Duties	Commission is responsible for executive and many administrative functions. Administrative powers are shared with other elected officials	Commission becomes the legislative arm of the government. Professional manager, appointed by the commission, is administrator	Manager administers policy and serves as liaison between commission and public. Commission able to concentrate on policy
Other Elected Officials	10 separate elected officials Clerk & Recorder Treasurer Clerk of Court Superintendent of schools Public Administrator Coroner Assessor Auditor Sheriff County Attorney	3 elected officials Auditor Sheriff County Attorney	Eliminates fragmentation of authority and responsibility. Qualifications can be established for appointive offices
Chief Administrative Officer	None Administration divided between elected commissioners, 10 other elected officials, and various appointed boards	County Manager Employees and department heads appointed and supervised by the manager. Other elected officials work in conjunction with him	Clear-cut division of administration from policymaking. One individual responsible for delivery of services
Appointment Powers	Commission appoints department heads not elected, members of boards, commissions, special districts	Commission appoints and removes County Manager, members of boards and commissions. County Manager appoints department heads and employees as well as temporary advisory committees. Other elected officials choose their employees	Department heads and other employees can be appointed on the basis of qualifications. Supervision and appointment handled by the Manager. Special boards and districts established by commission
Budget Preparation	Clerk & Recorder prepares budget with officials and departments. Modified and/or approved by commission	Manager prepares budget. Commission modifies and/or approves	Budget preparation handled by the individual responsible for department administration.
Service Delivery	Performed by elected officials and appointed boards, commissions, and special districts	County activities could be grouped into a few departments. Departments perform under direction of manager	Functions now performed by independently elected offices or boards brought under supervision of professional manager and commission control.

herein establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

Section 1.04 Intergovernmental Co-operation

As provided by Article XI, Section 7 of the Constitution of Montana, Hill County, unless prohibited by law or this charter, may

- Co-operate in the exercise of any function, powers, or responsibility with one or more other local government units, school districts, the state or the United States.
- Share the services of any officer or facilities with one or more other local government units, school districts, the state or the United States.
- Transfer or delegate any function, power, responsibility or duty of an officer to one or more other local government units, school districts, the state or the United States.

Section 1.05 Oath of Office

Before entering upon the duties of office, all elected county officials shall take and subscribe the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

Section 1.06 Nepotism

The law regarding nepotism as outlined in Sections 59-518, 59-519, and 59-520 RCM 1947 shall be strictly adhered to by officials of Hill County.

Section 1.07 Election, Terms, Compensation, Vacancy, and Removal of Elected Officials

Except as otherwise provided in this charter, the following shall apply to elected officials of Hill County.

- Candidates shall be nominated and elected at large by the qualified electors of the county.
- Officials shall be elected for a term of four (4) years.
 - Additional deputies may be appointed by the elected official as provided by law, order, or resolution.
- Salaries for officials shall be established by the county commission subject to any limitations outlined by said commission. Salaries shall not be lowered during any term of office.
- An office shall become vacant upon the death, resignation, removal from office in any manner authorized by law, or forfeiture of the person holding said office.
- An office shall be forfeited if the person holding that office:
 - loses his eligibility for election to the office
 - violates any express prohibition of this charter

(iii) is convicted of a felony or other offense involving moral turpitude

(f) The commission shall be the judge of the grounds of forfeiture of an office. An official charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

(g) In the event of a vacancy in any office, the commission shall, by majority vote of its members, appoint a person eligible to hold the office until the next regular county election at which time the remainder of the term shall be filled as provided by law.

Article II County Commission

Section 2.01 Composition, Terms, Election, Qualifications, Compensation, Removal, Filling of Vacancies

- There shall be a commission of Hill County consisting of five (5) members who shall serve for four (4) years except in the case of the first election when two (2) shall be chosen by lot from their number to serve two (2) year terms. Henceforth all will serve for four (4) year terms.
- Elections for the commission shall be partisan.
- As provided in Article VIII of this charter, each member of the commission shall be nominated and elected from the district in which candidates must reside.
- By ordinance adopted at least six (6) months prior to the next county general election, the commission may determine the compensation of its members. Commissioners shall be reimbursed for actual and necessary expenses incurred in performance of county duties, or the commission may establish per diem and mileage allowances in lieu of these expenses, as provided by statute. Salaries shall not be lowered during any term of office.
- Members of the commission shall meet in regular session at least once each week for the period of time necessary to conduct pertinent county business and shall receive compensation not to exceed \$50.00 per day or compensation as established by ordinance.
- The office of commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office.
 - A commissioner shall forfeit his office if he:
 - loses his eligibility for election to his commission seat
 - violates any express prohibition of this charter
 - is convicted of a felony or other offense involving moral turpitude

- (iv) without commission approval fails to attend two consecutive regularly scheduled commission meetings or absents himself from the county continuously for thirty (30) days without consent of the commission.
- (7) In the event of vacancy, the commission shall, by majority vote of the remaining members, appoint a person eligible to hold such commission seat, to fill the vacancy until the next regular county election at which time the remainder of the term shall be filled as provided by law.
- (8) The commission shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.
- (9) The commission shall elect from its members a chairman and vice-chairman, each of whom shall serve at the pleasure of the commission. The chairman shall preside at the commission meetings. If the chairman is not present at any meeting, or is unable to act, the vice-chairman shall preside at the meeting.

Section 2.02 Powers of County Commissioners

- (1) The county commission shall be the legislative and policy determining body of the county. Except as otherwise provided by this charter, the commission shall have all powers of the county.
- (2) All members of appointive boards, other than temporary advisory committees established by the manager, shall be appointed by the chairman with the consent of the commission. No more than one (1) commissioner shall serve as a member of an appointive board, or as provided by statute.

Section 2.03 Restrictions on the County Commission

- (1) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of his subordinates are empowered to appoint except when appointment or removal is governed by commission policy.
- (2) Except for the purpose of inquiry or investigation under this charter or the code of local government, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager, solely through the manager, and neither the commission nor its members, may give orders to any such employee, either publicly or privately.

Section 2.04 Commission Procedure, Public Participation

- (1) Commission procedure shall be as prescribed by state law.
- (2) The commission shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings.
- (3) All meetings shall be open to the public except in such circumstances as are prescribed by state law.
- (4) All documents and records of the commission shall be public records and shall be made available for examining or copying except in such circumstances as are prescribed by state law.

Article III County Manager

Section 3.01 Qualifications, Compensation, Appointment and Removal

- (1) The county manager shall be appointed by the commission for an indefinite term on the basis of merit only. The commission shall fix his compensation.
- (2) The county manager need not be a resident of the county at the time of his appointment but must reside in the county while employed.
- (3) The commission may remove the manager from office by a majority vote of the total number of the commission but must do so at a regularly scheduled meeting or at a special meeting called for this purpose and must state their reasons for such removal.
- (4) In the event of a vacancy in this office, the commission shall appoint an acting manager to serve until another manager can be appointed.

Section 3.02 Acting County Manager

By written notice to the commission, the county manager may designate, subject to the approval of the commission, an acting county manager to exercise the powers and perform the duties of his office during his temporary absence or disability.

Section 3.03 Powers and Duties of County Manager

- (1) The county manager shall be the chief administrative officer of the county; he shall be responsible to the commission for the administration of all county affairs placed in his charge by this charter, law, ordinance, or resolution.
- (2) The manager shall:
- Perform the duties required of him by law, ordinance, or resolution
 - Administer the affairs of the local government
 - Direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance
 - Carry out policies established by the commission
 - Prepare the commission agenda
 - Recommend measures to the commission
 - Report to the commission on the affairs and financial condition of the local government
 - Execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission
 - Report to the commission as the commission may require
 - Attend commission meetings and may take part in the discussion, but he may, not vote
 - Prepare and present the budget to the commission for its approval and execute the budget adopted by the commission
 - Appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance
 - Appoint members of temporary advisory committees established by the manager
 - Establish a means by which the public may be periodically informed of local government policies and actions and act as a liaison between the public and commission.

Article IV Law Enforcement

Section 4.01 Election, Term, Compensation, Vacancy, and Removal

- (1) The chief law enforcement officer, who shall be known as the sheriff, shall be nominated and elected in the manner as set forth in Section 1.07 of this charter.

- (2) All other provisions as set forth in Section 1.07 of this charter shall apply to the office of sheriff, except that a vacancy in this office shall be filled by the person who holds the office of under-sheriff until the next regular county election at which time the remainder of the term shall be filled as provided by law.
- (a) The under-sheriff shall be appointed by the sheriff.
- (3) The under-sheriff shall serve as acting sheriff in the event of temporary absence or disability.

Section 4.02 Powers and Duties of Sheriff

- (1) The sheriff shall:
- Enforce laws, ordinances and resolutions
 - Be designated chief investigative officer of criminal activities in the county
 - Perform such duties as may be prescribed according to this charter or by state law to the sheriff or chief law enforcement officer

Article V County Attorney

Section 5.01 Election, Term, Compensation, Vacancy, and Removal

- (1) There shall be elected in the county a county attorney who shall possess the qualifications prescribed by state law, and who shall be nominated and elected in the manner as set forth in Section 1.07 of this charter.
- (2) All other provisions as set forth in Section 1.07 of this charter shall apply to the office of county attorney, except that a vacancy in this office shall be filled by the person who holds the office of chief deputy, until the next regular county election at which time the remainder of the term shall be filled as provided by law.
- (a) The chief deputy shall be appointed by the county attorney
- (3) The chief deputy shall serve as county attorney in the event of temporary absence or disability.

Section 5.02 Powers and Duties of County Attorney

- (1) The county attorney shall be the chief legal advisor and criminal prosecutor of the county and shall perform such duties as may be prescribed according to this charter or by law.
- (2) The county attorney, except for his own services, must not present any claim, account, or other demand for allowance against the county, nor in any way advocate the relief asked on the claim or demand made by another.

Article VI Auditor

Section 6.01 Election, Term, Compensation, Vacancy, and Removal

- (1) The auditor shall be nominated and elected in the manner as set forth in Section 1.07 of this charter.
- (2) All other provisions as set forth in Section 1.07 of this charter shall apply to the office of auditor.

Section 6.02 Powers and Duties of Auditor

- (1) The auditor shall perform all duties charged to him by this charter, law, ordinance, or resolution.

Article VII Administrative Departments

Section 7.01 General

The activities under the direction and supervision of the county manager shall be distributed among such departments, agencies, and offices as are established by this charter or may be established thereunder by ordinance of the county commission in order to execute and enforce policies as determined by the commission and to carry out obligations imposed on the county by state law.

Article VIII Nominations and Elections

Section 8.01 Elected County Offices

The procedure for the nomination and election of all elected county offices shall be as prescribed by state law for partisan elections.

Section 8.02 Districts

For purposes of representation on the county commission, Hill County shall be divided into five (5) districts apportioned by population. Boundaries of commission districts may be changed in accordance with this charter.

Section 8.03 Re-apportionment of Commission Districts

- (1) Within six (6) months after the availability of the official United States Census, the commission shall modify the boundaries of districts so that they are as equal in population as is practicable.
- (2) If the commission fails to perform the modifications required by subsection one (1) of this section within the specified time, the members of the commission shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to these modifications.
- (3) District boundaries may be changed by ordinance, provided that any such revised district boundaries must comply with the equal population requirements of this section. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the county.

Article IX

Miscellaneous Provisions

Section 9.01 Amendment of Charter

This charter may be amended only as prescribed by state law.

Section 9.02 Effective date

This charter shall become effective on May 2, 1977.

Section 9.03 Separability

If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby.

Article X Transitional Provisions

Section 10.01 General Transition

(1) Transition to this charter form of government shall be as prescribed by state law. The commission may provide for such transition by ordinance, rule, or resolution not inconsistent with state law.

Section 10.02 Commission Districts

- Until modified in accordance with the provisions of this charter, commission districts shall be as follows: (a) District number one (1) shall include precinct numbers eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22), twenty-three (23), twenty-five (25), twenty-six (26), and twenty-seven (27) as recorded and described in the office of the Hill County Clerk and Recorder.

Section 10.03 Salaries and Expenses

- (1) The initial expenses of the commission, including the expense of advertising for applicants for the position of county manager and of interviewing and investigating such applicants in the county or elsewhere, shall be paid by the county on claims signed by the chairman of the commission.

Appendix

CERTIFICATE ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT FOR HILL COUNTY

If adopted by the voters of Hill County the government shall be organized under the provisions of the proposed charter written in accordance with State law 47A-3-208 RCM 1947, as follows:

- (1) The purpose of this section is to comply with Article XI, section 5(1), of the Montana constitution, which provides: "(1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body."

systems.

- (13) The enumeration of powers in a charter shall not be construed as a limitation or prohibition on the residual or self-governing powers granted by the constitution. (14) The charter may contain prohibitions on the exercise of power by a unit of local government. (15) The charter may include such provisions as may be necessary to permit an orderly transition to the new form of government.

CERTIFICATE ESTABLISHING THE EXISTING PLAN OF GOVERNMENT FOR HILL COUNTY

If retained by the voters, the government of Hill County shall be organized under the following provisions of Section 47A-3-205 RCM 1947, Commission Form.

- (1) The commission form consists of an elected commission and other elected officers as provided in this section. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officials, shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials.

Te, the Study Commissioners of Hill County, do hereby certify that this is the Proposed Plan of Government approved by the Study Commissioners of Hill County. In testimony whereof, we set our hands. Done at Havre, Montana this 20th day of July, 1976.

LOCAL GOVERNMENT STUDY COMMISSIONERS

Te, the Study Commissioners of Hill County do hereby certify that this is the Existing Plan of Government as established by Section 47A-3-205 RCM 1947. In testimony whereof, we set our hands. Done at Havre, Montana this 20th day of July, 1976.

LOCAL GOVERNMENT STUDY COMMISSIONERS



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