

SENATE BILL NO. 385

INTRODUCED BY G. HERTZ, M. BLASDEL, B. BROWN, J. ELLSWORTH, T. MCGILLVRAY, C. SMITH, M.

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAX AND ASSESSMENT LAWS; REVISING SPECIAL DISTRICT LAWS; PROVIDING FUNDING LIMITATIONS FOR SPECIAL DISTRICTS THAT ENCOMPASS THE ENTIRE JURISDICTION OF A LOCAL GOVERNMENT; LIMITING THE DURATION OF A CERTAIN SPECIAL DISTRICT DISTRICTS; ALLOWING A REFERENDUM TO EXTEND THE DURATION OF A SPECIAL DISTRICT; REVISING THE PETITION THRESHOLD REQUIRED TO CREATE A SPECIAL DISTRICT; REQUIRING A REFERENDUM TO CREATE, EXTEND, OR REVISE A SPECIAL DISTRICT; REVISING THE NOTICE OF ELECTION FOR PROPERTY TAX LEVIES; LIMITING THE DURATION OF VOTER-APPROVED PROPERTY TAX LEVIES; PROVIDING AN EXCEPTION FOR PROPERTY TAX LEVIES THAT ARE UTILIZED FOR BONDING AND FOR CERTAIN OTHER LOANS; AMENDING SECTIONS 7-11-1003, ~~7-11-1004~~, 7-11-1007, AND 7-11-1011, ~~7-11-1013, 7-11-1023, 7-11-1029,~~ ~~AND 15-10-425~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Provisions applicable to jurisdiction-wide special districts. (1) This section applies to a special district created under this part by resolution as allowed in 7-11-1007 and 7-11-1008 or by referendum as allowed in 7-11-1011 that encompasses the entire jurisdictional area of a local government as defined in 7-11-1002(2).

(2) (a) If the governing body seeks to create a special district by resolution pursuant to 7-11-1007 and 7-11-1008, the governing body may not increase the total amount assessed by the district above the

1 amount set forth in the resolution as required by 7-11-1007(2)(e) in a subsequent year by more than the lesser
2 of the following calculated values:

3 (i) the average of the total amount assessed by the district in each of the previous 5 years multiplied
4 by the average rate of inflation since the inception of the district; or

5 (ii) the total amount assessed by the governing body in the year the district was created multiplied by
6 the average rate of inflation since the inception of the district.

7 (b) The rate of inflation referenced in subsections (2)(a)(i) and (2)(a)(ii) must be calculated using the
8 consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by
9 the bureau of labor statistics of the United States department of labor.

10 (3) (a) If the governing body seeks to create a special district by resolution and referendum pursuant
11 to 7-11-1011, the resolution ordering the referendum must include, in addition to the items included in 7-11-
12 1011, a detailed description of:

13 (i) the estimated total cost of the programs, services, or improvements to be funded over the duration
14 of the district;

15 (ii) whether the governing body anticipates bonding for improvements and the estimated principal
16 amount of the bonds;

17 (iii) the estimated annual rate or amount of the proposed assessments or fees that would be imposed
18 over the duration of the district; and

19 (iv) an estimate of the impact of the creation of the district on a property in the district, according to the
20 method of assessment identified as required by 7-11-1011(2)(e).

21 (b) The governing body may not exceed the amounts provided in subsection (3)(a) over the duration
22 of the district without subsequent approval of the voters.

23 (4) (a) Unless otherwise dissolved pursuant to this part or by the terms of the resolution creating the
24 special district, a special district created by resolution pursuant to 7-11-1007 and 7-11-1008 and subject to the
25 provisions of this section must dissolve 13 years after the inception of the district or when any bonded
26 indebtedness has been paid in full, whichever is later. The provisions of 7-11-1029(5) through (8) apply to the
27 dissolution of a special district as provided in this subsection (4)(a).

28 (b) Prior to the dissolution of a special district, the governing body may extend the duration of the

district by following the same procedures set forth in this section and the applicable provisions of 7-11-1003, 7-11-1007, 7-11-1008, and 7-11-1011.

(5) As used in this section, "special district" means a special district created under this part that encompasses the entire jurisdictional area of a local government as defined in 7-11-1002(2).

Section 2. Section 7-11-1003, MCA, is amended to read:

"7-11-1003. Authorization to create special districts. (1) Whenever the public convenience and necessity may require:

(a) the governing body may:

(i) create a special district by resolution pursuant to 7-11-1007, 7-11-1008, and the provisions of [section 1], if applicable; or

(ii) order a referendum on the creation of a special district to serve the inhabitants of the special district as provided in 7-11-1011 and the provisions of [section 1], if applicable; or

(b) petitioners may initiate the creation of a special district to serve inhabitants of the special district as provided in subsection (2).

(2) (a) ~~(i) Upon receipt of a petition to institute the creation of a special district that is signed by at least 25% 40% of the registered voters or by the owners of at least 25% 40% of the real property within the boundary of the proposed special district and that is submitted to the clerk of the governing body, the governing body shall order a referendum on the creation of the special district pursuant to 7-11-1011.~~

~~(ii) Upon receipt of a petition to institute the creation of a special district that is signed by more than 50% of the registered voters or by the owners of more than 50% of the real property within the boundary of the proposed special district, the governing body shall conduct a public hearing pursuant to 7-11-1007. Following the hearing and if insufficient protests are made as provided in 7-11-1008, the governing body shall order the creation of the special district in accordance with 7-11-1013.~~

~~(b) If a proposed special district would be financed by a mill levy, a petition to institute the creation of the special district must be signed by at least 40% of the registered voters or at least 40% of the property taxpayers within the boundary of the proposed district commence proceedings to create a special district as provided in subsection (1)(a).~~

1 ~~(e)~~(b) The form of the petition may be prescribed by the governing body, and the clerk of the
2 governing body shall verify the signatures on the petition.

3 ~~(d)~~(c) Subject to subsection (2)~~(e)~~(b), the petition must:

4 (i) require the printed name of each signatory;

5 (ii) specify whether the signatory is a property taxpayer or owner of real property within the proposed
6 special district and either the street address or the legal description, whichever the signatory prefers, of that
7 property;

8 (iii) describe the type of special district being proposed and the general character of any proposed
9 improvements and program to be administered within the special district;

10 (iv) designate the method of financing any proposed improvements or maintenance program within the
11 special district;

12 (v) include a description of the areas to be included in the proposed special district; and

13 (vi) specify whether the proposed special district would be administered by the local governing body or
14 an appointed or elected board.

15 (3) Within 60 days of receipt of a petition to create a special district, the clerk of the governing body
16 shall:

17 (a) certify that the petition is sufficient under the provisions of subsection (2) and present it to the
18 governing body at its next meeting; or

19 (b) reject the petition if it is insufficient under the provisions of subsection (2).

20 (4) A defect in the contents of the petition or in its title, form of notice, or signatures may not invalidate
21 the petition and subsequent proceedings as long as the petition has a sufficient number of qualified signatures
22 attached."
23

24 **Section 3.** Section 7-11-1007, MCA, is amended to read:

25 **"7-11-1007. Public hearing -- resolution of intention to create special district.** (1) The governing
26 body shall hold at least one public hearing concerning the creation of a proposed special district prior to the
27 passage of a resolution of intention to create the special district. A resolution of intention to create a special
28 district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition

1 that contains the required number of signatures as provided in 7-11-1003(1)(b).

2 (2) The resolution must designate, consistent with the requirements of [section 1] and 7-11-1024:

3 (a) the proposed name of the special district;

4 (b) the necessity for the proposed special district;

5 (c) a general description of the territory or lands to be included within the proposed special district,
6 giving the boundaries of the proposed special district;

7 (d) the general character of any proposed improvements and the proposed location for the proposed
8 program or improvements;

9 (e) the ~~estimated cost and~~ maximum rate or amount of the initial proposed assessments or fees that
10 would be imposed;

11 (f) the method of financing the proposed program or improvements;

12 ~~(f)~~(g) any requirements specifically applicable to the type of special district;

13 ~~(g)~~(h) whether the proposed special district would be administered by the governing body or an
14 appointed or elected board; and

15 ~~(h)~~(i) the duration of the proposed special district.

16 (3) (a) The governing body shall publish notice of passage of the resolution of intention to create a
17 special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must
18 contain a notice of a hearing and the time and place where the hearing will be held.

19 (b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall
20 provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the
21 proposed special district. The list may not be distributed or sold for use as a distribution list in accordance with
22 2-6-1017.

23 (c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser
24 under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the
25 current property tax record maintained by the department of revenue for the county."
26

27 **Section 4.** Section 7-11-1011, MCA, is amended to read:

28 **"7-11-1011. Referendum -- conduct of election on creating special district.** (1) The governing

body may order a referendum on the creation of the proposed special district.

(2) The resolution ordering the referendum must state, consistent with the requirements of [section 1], 7-11-1007, and 7-11-1024:

(a) ~~the type and~~ maximum rate or amount of the initial proposed assessments or fees that would be imposed, ~~consistent with the requirements of 7-11-1007(2)(e) and 7-11-1024;~~

(b) the type of activities proposed to be financed, including a general description of the program or improvements;

(c) a description of the areas included in the proposed special district; ~~and~~

(d) whether the proposed special district would be administered by the governing body or an appointed or elected board;

(e) the method of financing the proposed program or improvements; and

(f) the duration of the proposed special district.

(3) The election must be conducted in accordance with Title 13, chapter 1, part 5.

(4) The proposition to be submitted to the electorate must read: "Shall the proposition to organize (name of proposed special district) be adopted?"

(5) An individual is entitled to vote on the proposition if the individual:

(a) is a registered elector of the state; and

(b) is a resident of or owner of taxable real property in the area subject to the proposed special district.

(6) If the proposition is approved, the election administrator of each county shall:

(a) immediately file with the secretary of state a certificate stating that the proposition was adopted;

(b) record the certificate in the office of the clerk and recorder of the county or counties in which the special district is situated; and

(c) notify any municipalities lying within the boundaries of the special district."

NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 7, chapter 11, part 10, and the provisions of Title 7, chapter 11, part 10, apply to [section 1].

1 NEW SECTION. **Section 6. Applicability.** (1) [Section 1(1) through (3) and (5)] apply to any special
2 district created on or after [the effective date of this act].

3 (2) [Section 1(4)] applies to all special districts created by resolution and protest pursuant to 7-11-
4 1007 and 7-11-1008 on or after July 1, 2009.

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