

SENATE BILL NO. 385

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAX AND ASSESSMENT LAWS; REVISING SPECIAL DISTRICT LAWS; LIMITING THE DURATION OF 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, 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:

Section 1. 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; 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; 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% of the registered voters or by the owners of at least 25% 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.

(c) The form of the petition may be prescribed by the governing body, and the clerk of the governing body shall verify the signatures on the petition.

(d) Subject to subsection (2)(c), the petition must:

(i) require the printed name of each signatory;

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

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

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

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

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

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

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

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

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

1 attached."

2

3 **Section 2.** Section 7-11-1004, MCA, is amended to read:

4 **"7-11-1004. Applicability of part -- grandfathered special districts.** (1) A special district in
5 existence on July 1, 2009, continues in existence and remains subject to the provisions of the statutes under
6 which it was created or established, as those statutes existed on June 30, 2009.

7 (2) A special district in existence on [the effective date of this act] continues in existence and remains
8 subject to the provisions of the statutes under which it was created or established, as those statutes existed on
9 the day prior to [the effective date of this act]."

10

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

12 **"7-11-1007. Public hearing -- resolution of intention to create special district.** (1) The governing
13 body shall hold at least one public hearing concerning the creation of a proposed special district prior to the
14 passage of a resolution of intention to create the special district by referendum. A resolution of intention to
15 create a special district may be based upon a decision of the governing body to order a referendum as provided
16 in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-
17 1003(1)(b). The governing body may not create or extend the duration of a special district without referring the
18 question to the people by a referendum on the creation of the special district pursuant to 7-11-1011.

19 (2) The resolution must designate:

20 ~~(a) the proposed name of the special district;~~

21 ~~(b) the necessity for the proposed special district;~~

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

24 ~~(d) the general character of any proposed improvements and the proposed location for the proposed~~
25 ~~program or improvements;~~

26 ~~(e) the estimated cost and method of financing the proposed program or improvements;~~

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

28 ~~(g) whether the proposed special district would be administered by the governing body or an~~

1 ~~appointed or elected board; and~~

2 ~~(h) the duration of the proposed special district~~ the same items required for a referendum as provided
3 in 7-11-1011(2).

4 (3) (a) The governing body shall publish notice of passage of the resolution of intention to create a
5 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
6 contain a notice of a hearing and the time and place where the hearing will be held.

7 (b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall
8 provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the
9 proposed special district. The list may not be distributed or sold for use as a distribution list in accordance with
10 2-6-1017.

11 (c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser
12 under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the
13 current property tax record maintained by the department of revenue for the county."
14

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

16 **"7-11-1011. Referendum -- conduct of election on creating special district.** (1) The governing
17 body may order a referendum on the creation, extension, revision, or termination of the proposed special
18 district.

19 (2) The resolution ordering the referendum on the creation, extension, or revision of the boundaries
20 must state:

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

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

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

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

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

1 (f) the duration of the proposed special district, which may not exceed 10 years.

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

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

5 (b) For an extension of a duration of a special district, the proposition to be submitted to the electorate
6 must read: "Shall the proposition to extend the duration of (name of proposed special district) be adopted?"

7 (c) For a revision of the boundaries of a special district, the proposition to be submitted to the
8 electorate must read: "Shall the proposition to revise the boundaries of (name of proposed special district) be
9 adopted?"

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

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

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

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

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

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

18 (c) notify any municipalities lying within the boundaries of the special district."
19

20 **Section 5.** Section 7-11-1013, MCA, is amended to read:

21 **"7-11-1013. Order creating district -- power to implement program -- bond limitation.** (1) The
22 governing body shall create a special district and establish assessments or fees ~~if the governing body finds that~~
23 ~~insufficient protests have been made in accordance with 7-11-1008 or if the eligible registered voters have~~
24 approved a referendum as provided in 7-11-1011.

25 (2) To create or extend the duration of a special district, the governing body shall issue an order or
26 pass an ordinance or resolution ~~in accordance with the resolution of intention introduced and passed by the~~
27 ~~governing body or~~ in accordance with the terms of the referendum required under 7-11-1011. This must be
28 done within 30 days of the end of the ~~protest period or~~ approval of the referendum.

~~(3) If the governing body creates the special district of its own accord and without a referendum being held, a copy of the order, ordinance, or resolution creating the district, certified by the clerk of the governing body, must be delivered to the clerk and recorder of the county or counties in which the special district is situated and to the secretary of state, who shall issue a certificate of establishment in accordance with 7-11-1012.~~

(3) A special district may not issue bonds 7 or more years following the inception of the special district or extension of the duration of the special district in accordance with 7-11-1011."

Section 6. Section 7-11-1023, MCA, is amended to read:

"7-11-1023. Alteration of special districts. (1) Subject to subsections (2) and (3), the governing body may change the boundaries of any special district ~~by resolution.~~

(2) The boundaries may be altered by petition after complying with the requirements for petitions as provided in 7-11-1003.

(3) Alteration of special district boundaries is also subject to procedures for public notice, protest, referendum, certification, reporting, and establishment of assessment as provided in 7-11-1006 through 7-11-1008, 7-11-1011 through 7-11-1015, and 7-11-1024.

(4) Changes made to the boundaries may not:

(a) occur more than once each year ~~unless the governing body makes a special finding that an alteration is necessary;~~

(b) delete any portion of the area if the deletion will create an island of included or excluded lands;

(c) delete any portion of the area that is negatively contributing or may reasonably be expected to negatively contribute to environmental impacts that fall within the scope of the special district's program; and

(d) affect indebtedness existing at the time of the change."

Section 7. Section 7-11-1029, MCA, is amended to read:

"7-11-1029. Dissolution of special district. (1) A special district may be dissolved if it is considered to be in the best interest of a local government or the inhabitants of the local government or if the purpose for creating the special district has been fulfilled and the special district is not needed ~~in perpetuity.~~ A special

1 district is automatically dissolved after 10 years unless extended by referendum in accordance with 7-11-1011
2 before dissolution.

3 (2) The governing body may pass a resolution of intention to dissolve a special district upon its own
4 request or upon request of the separate board administering the special district.

5 (3) After the passage of the resolution provided for in subsection (2), the clerk of the local government
6 that established the special district shall publish a notice, as provided in 7-1-2121 or 7-1-4127, of the intention
7 to dissolve the district.

8 (4) (a) The notice must specify the boundaries of the special district to be dissolved, the date of the
9 passage of the resolution of intention to dissolve, the date set for the passage of the resolution of dissolution,
10 and that the resolution will be passed unless the clerk of the local government receives written protest in
11 advance from the owners of property in the district who are assessed for:

12 (i) 50% or more of the cost of the program or improvements; or

13 (ii) more than 10% but less than 50% of the cost of the program or improvements.

14 (b) If the governing body receives the protest as provided in subsection (4)(a)(i), further dissolution
15 proceedings may not be taken by the governing body for at least 12 months.

16 (c) If the governing body receives the protest as provided in subsection (4)(a)(ii), the governing body
17 shall order a referendum on the dissolution in accordance with 7-11-1011.

18 (d) In determining whether or not sufficient protests have been filed, property owned by a
19 governmental entity must be considered the same as any other property in the district.

20 (e) The decision of the governing body is final and conclusive.

21 (5) If the special district is dissolved, the clerk of the local government shall immediately send written
22 notice to:

23 (a) the secretary of state; and

24 (b) the department of revenue, providing the same information required in 7-11-1014 when a district is
25 created. The department of revenue and the state library shall respond to the dissolution in the same manner
26 as they respond to the creation of a district, as described in 7-11-1014.

27 (6) The dissolution of a special district may not relieve the property owners from the assessment and
28 payment of a sufficient amount to liquidate all charges existing against the special district prior to the date of

1 dissolution.

2 (7) Any assets remaining after all debts and obligations of the special district have been paid,
3 discharged, or irrevocably settled must be:

4 (a) deposited in the general fund of the local government;

5 (b) in the case of multiple local governments, divided in accordance with their interlocal agreement
6 and deposited in the general fund of each local government; or

7 (c) transferred to a new special district that has been created to provide substantially the same
8 service as provided by the dissolved special district.

9 (8) If the remaining assets are derived from private grants or gifts that restrict the use of those funds,
10 the funds must be returned to the grantor or donor."
11

12 **Section 8.** Section 15-10-425, MCA, is amended to read:

13 **"15-10-425. Mill levy election.** (1) A county, consolidated government, incorporated city,
14 incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is
15 required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an
16 election as provided in this section.

17 (2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4 or
18 5, or Title 20 for school elections, whichever is appropriate to the taxing entity. The governing body shall pass a
19 resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to impose a
20 new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on the
21 approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or
22 petition must include:

23 (a) the specific purpose for which the additional money will be used;

24 (b) either:

25 (i) the specific amount of money to be raised and the approximate number of mills to be imposed; or

26 (ii) the specific number of mills to be imposed and the approximate amount of money to be raised; and

27 (c) ~~whether the levy is permanent or~~ subject to subsection (6), the durational limit on the levy.

28 (3) Notice of the election must be prepared by the governing body and given as provided in 13-1-108.

1 The form of the ballot must reflect the content of the resolution or charter amendment and must include a
2 statement of the impact of the election on a home valued at ~~\$100,000~~ \$200,000 and a home valued at
3 ~~\$200,000~~ \$400,000 in the district in terms of actual dollars in additional property taxes that would be imposed
4 on residences with those values if the mill levy were to pass. The ballot may also include a statement of the
5 impact of the election on homes of any other value in the district, if appropriate.

6 (4) If the majority voting on the question are in favor of the additional levy, the governing body is
7 authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter
8 amendment.

9 (5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year without
10 losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills
11 approved in the election. However, nothing in this subsection authorizes a governing body to impose more than
12 the approved levy in any fiscal year or to extend the duration of the approved levy.

13 (6) (a) Except as provided in subsection (6)(b), a voted levy is limited to a duration of 10 years.

14 (b) (i) A voted levy is not subject to a durational limit when revenue from the levy is used to support a
15 library or used as security for the payment of bonds or for the repayment of loans provided for in Title 17,
16 chapter 5, part 16.

17 (ii) Levies provided for in 20-9-353, 20-9-502, and 20-9-533 are not subject to the limit specified in
18 subsection (6)(a)."

19
20 NEW SECTION. Section 9. Saving clause. [This act] does not affect rights and duties that matured,
21 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

22
23 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.

24
25 NEW SECTION. Section 11. Applicability. (1) [Sections 1 through 7] apply to special districts
26 created on or after [the effective date of this act].

27 (2) [Section 8] applies to elections conducted pursuant to 15-10-425 on or after [the effective date of
28 this act].

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- END -