

HOUSE BILL NO. 255

INTRODUCED BY L. BREWSTER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SEWER AND/OR WATER DISTRICT LAWS; PROVIDING THAT A DISTRICT FOUND IN VIOLATION OF A PROVISION OF SECTION 7-13-2275, MCA, IS LIABLE FOR ALL ATTORNEY FEES AND COSTS; EXTENDING THE TIME PERIOD ALLOWED FOR THE PROTEST OF PROPOSED ASSESSMENTS AND TO BRING ACTION FOR PAYMENTS PAID IN PROTEST; AND AMENDING SECTIONS 7-13-2275, 7-13-2282, AND 7-13-2284, MCA."

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

Section 1. Section 7-13-2275, MCA, is amended to read:

"7-13-2275. Procedure relating to ordinances and resolutions -- rates, fees, and charges established. (1) ~~The ayes and noes must be taken upon the passage~~ voting record of all ordinances or resolutions ~~and entered upon~~ must be entered in the journal of the proceedings of the board of directors. An ordinance or resolution may not be passed or become effective without the affirmative votes of at least a majority of the total members of the board.

(2) The enacting clause of all ordinances passed by the board must ~~be in these words~~ read: "Be it ordained by the board of directors of _____ district as follows:"

(3) All resolutions and ordinances must be signed by the president of the board and attested by the secretary.

(4) (a) Except as provided in subsections (5) and (6), prior to the passage or enactment of an ordinance or resolution imposing, establishing, changing, or increasing rates, fees, or charges for services or facilities, the board shall order a public hearing.

(b) Notice of the public hearing must be published as provided in 7-1-2121. The published notice must contain:

- (i) the date, time, and place of the hearing;
- (ii) a brief statement of the proposed action; and

(iii) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(c) The notice must also be mailed to all persons who own property in the district and to all customers of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must contain an estimate of the amount that the property owner or customer will be charged under the proposed ordinance or resolution.

(d) Any interested person, corporation, or company may be present, represented by counsel, and testify at the hearing.

(e) The hearing may be continued by the board as necessary. After the public hearing, the board may, by resolution, impose, establish, change, or increase rates, fees, or charges.

(5) A public hearing is not required for a cumulative rate increase of less than or equal to 5% within a 12-month period if the board provides notification of the increase to persons within the district on whom the rate will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution implementing the increase.

(6) (a) If the establishment of or change in rates, fees, or charges proposed by a regional authority requires the authority to hold a public hearing pursuant to 75-6-326 and requires an increase to the rates, fees, or charges imposed by the district greater than the increase provided in subsection (5) of this section, the board shall:

(i) mail notice of the public hearing to be held by the authority to all customers of the district system at least 15 days prior to the public hearing; and

(ii) provide notification of the change to customers of the district system on whom the increased rates, fees, or charges will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution implementing the increase.

(b) The district is not required to hold a public hearing on the increase.

(7) If the district is found in violation of any provision of this section, the district is responsible for all applicable attorney fees and costs that may arise from an action brought by either party."

Section 2. Section 7-13-2282, MCA, is amended to read:

1 **"7-13-2282. Hearing on assessment.** (1) At the time fixed, the board of directors shall meet and hear
2 all objections and for that purpose may adjourn from day to day.

3 (2) The board of directors may by resolution modify the assessment in whole or in part. A copy of the
4 resolution, certified by the secretary, must be delivered to the county clerk and recorder of the county in which
5 the lot, tract, or parcel is located within 2 days after passage of the resolution.

6 (3) At any time within ~~30~~90 days after the date of the first publication of the notice of proposed
7 assessments, any owner of property to be assessed for the costs of making the improvements may make
8 written protest against the levy of assessments. The protest must be in writing, identify the property in the
9 district owned by the protestor, and be signed by all owners of the property except as provided in 7-13-2290.
10 The protest must be delivered to the secretary of the district not later than 5 p.m. of the last day of the 30-day
11 period provided for in this subsection. The secretary shall endorse the date and hour of receipt on the protest.

12 (4) If the board of directors finds that a protest with respect to the method or methods of assessment
13 described in the resolution is made by the owners of property in the district to be assessed for more than 50%
14 of the cost of improvements, the board of directors may not use the method or methods of assessment
15 described in the resolution. A protest does not bar the board of directors from adopting subsequent resolutions
16 pursuant to 7-13-2280, using a different method of assessment, and levying the assessments following notice
17 and hearing as provided in 7-13-2281 and this section or, not less than 6 months after the receipt of sufficient
18 protests, instituting proceedings under 7-13-2280, 7-13-2281, and this section proposing the same method of
19 assessment."
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21 **Section 3.** Section 7-13-2284, MCA, is amended to read:

22 **"7-13-2284. Payment of assessment under protest -- action to recover.** (1) When any special
23 assessment levied and assessed under any of the provisions of this part is considered unlawful by the party
24 whose property is assessed, the person may pay the assessment or any part of the assessment considered
25 unlawful under protest to the county treasurer.

26 (2) After the payment, the party or the party's legal representative may bring an action in any court of
27 competent jurisdiction against the officer to whom the assessment was paid or against the district on whose
28 behalf the assessment was collected to recover the assessment or any portion of the assessment paid under

- 1 protest. Any action instituted to recover the assessment paid under protest must be commenced within ~~60~~120
- 2 days after the date of payment.
- 3 (3) The assessment paid under protest must be held by the county treasurer until the determination of
- 4 any action brought for the recovery of the assessment."
- 5 - END -