SENATE BILL NO. 77

INTRODUCED BY T. MCGILLVRAY

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING SPECIAL DISTRICT LAWS; LIMITING THE AMOUNT OF ASSESSMENT ALLOWED TO FUND A SPECIAL DISTRICT; ALLOWING THE DISSOLUTION OF A SPECIAL DISTRICT UPON PETITION BY PROPERTY OWNERS; REQUIRING THAT A SPECIAL DISTRICT ENCOMPASSING THE JURISDICTIONAL AREA OF A LOCAL GOVERNMENT MUST DISSOLVE 10 YEARS AFTER ITS INCEPTION; AMENDING SECTIONS 7-11-1024 AND 7-11-1029, MCA; AND PROVIDING AN EFFECTIVE DATE.”

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

Section 1. Section 7-11-1024, MCA, is amended to read:

"**7-11-1024. Financing for special district.** (1) <u>(a)</u> The governing body shall make assessments or impose fees for the costs and expenses of the special district based upon a budget proposed by the governing body or separate board administering the district pursuant to 7-11-1021.

<u>(b) After the governing body of a special district that encompasses the jurisdictional area of a local government as defined in 7-11-1002(2) proposes and approves a budget as provided in subsection (1)(a), the governing body may not in a subsequent year increase the total amount assessed by the district for the amount equal to the annual cost of programs and improvements as provided in 7-6-4012 and 7-6-4013 and any growth in the assessable area of the district by more than the lessor of the following calculated values:</u>

<u>(i) the average of the total amount assessed by the district in each of the previous 5 years multiplied by the average rate of inflation since the inception of the district; or</u>

<u>(ii) the total amount assessed as approved by the voters or the governing body in the year the district was created multiplied by the average rate of inflation since the inception of the district.</u>

<u>(c) The rate of inflation referenced in subsections (1)(b)(i) and (1)(b)(ii) is the rate of inflation as calculated in 15-10-420.</u>

(2) For the purposes of this section, "assessable area" means the portion of a lot or parcel of land that

is benefited by the special district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.

(3) The governing body shall assess the percentage of the cost of the program or improvements:

(a) against the entire district as follows:

(i) each lot or parcel of land within the special district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire special district, exclusive of roads, streets, avenues, alleys, and public places;

(ii) if the governing body determines that the benefits derived from the program or improvements by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the special district without regard to the assessable area of the lot or parcel;

(iii) each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the special district that its taxable valuation bears to the total taxable valuation of the property of the district;

(iv) each lot or parcel of land may be assessed based on the lineal front footage of any part of the lot or parcel that is in the district and abuts the area to be improved or maintained;

(v) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification;

(vi) each lot or parcel of land within the district may be assessed based on each family residential unit or one or more business units; or

(vii) any combination of the assessment options provided in subsections (3)(a)(i) through (3)(a)(vi) may be used for the special district as a whole; or

(b) based upon the character, kind, and quality of service for a residential or commercial unit, taking into consideration:

(i) the nature of the property or entity assessed;

(ii) a calculated basis for the program or service, including volume or weight;

(iii) the cost, incentives, or penalties applicable to the program or service practices; or

(iv) any combination of these factors.

(4) If property created as a condominium is subject to assessment, each unit within the condominium is considered a separate parcel of real property subject to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of the undivided ownership interest must be as set forth in the condominium declaration."

Section 2. 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.

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

(3) The governing body shall pass a resolution of intent to dissolve a special district if property owners within the district who represent property assessed at least 50% of the total cost of programs and improvements provided by the district in the prior fiscal year sign a petition to dissolve the district.

(4) The governing body shall submit the question of dissolution to the qualified electors of a district as defined in 7-11-1011(5) if residents or property owners who represent property assessed at least 2% but less than 50% of the total cost of programs and improvements provided by the district in the prior fiscal year sign a petition requesting a referendum for the dissolution of the district.

(5) (a) A special district that encompasses the jurisdictional area of a local government as defined in 7-11-1002(2) must dissolve 10 years after the inception of the district.

(b) The governing body may submit the question to continue a special district dissolved as provided in subsection (5)(a) to the electors of the district as defined in 7-11-1011(5).

~~(3)~~(6) After the passage of ~~the~~ a resolution provided for in ~~subsection~~ subsections (2) through (4), the clerk of the local government that established the special district shall publish a notice, as provided in 7-1-2121 or 7-1-4127, of the intention to dissolve the district.

~~(4)~~(7) (a) The notice must specify the boundaries of the special district to be dissolved, the date of the passage of the resolution of intention to dissolve, the date set for the passage of the resolution of dissolution, and that the resolution will be passed unless the clerk of the local government receives written protest in advance from the owners of property in the district who are assessed for:

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

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

(b) If the governing body receives the protest as provided in subsection ~~(4)(a)(i)~~ (7)(a)(i), further dissolution proceedings may not be taken by the governing body for at least 12 months.

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

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

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

~~(5)~~(8) If the special district is dissolved, the clerk of the local government shall immediately send written notice to:

(a) the secretary of state; and

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

~~(6)~~(9) The dissolution of a special district may not relieve the property owners from the assessment and payment of a sufficient amount to liquidate all charges existing against the special district prior to the date of dissolution.

~~(7)~~(10) Any assets remaining after all debts and obligations of the special district have been paid, discharged, or irrevocably settled must be:

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

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

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

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

NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2021.

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