

Special Districts: Statutory References

SUMMARY TABLE AND EXTRACTS FROM MONTANA CODE ANNOTATED – 2016*

** changes enacted in 2017 are noted*

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TABLE 1

Districts Covered in Title 7, Chapter 11, Part 10, MCA – No Independent Authority to Impose Costs, Fees, or Taxes

Districts Covered	Eligibility To Petition to Create District	Eligibility To Vote in a Referendum to Create District	Eligibility To Protest Against Creation of District	Eligibility to Dissolve District	Eligibility to Vote To Elect Board Members	Terms Used and Definitions Provided
County Fair County Museums, Arts County Parks Hospital Joint Solid Waste Local Improvement Mosquito Control Multijurisdictional Service Park Maintenance Road Improvement Rodent Control Rural Fire Solid Waste Management Television	<p><u>Min. required to trigger referendum</u></p> <ul style="list-style-type: none"> - 25% of registered voters within proposed district <p>or</p> <ul style="list-style-type: none"> - 25% of the real property owners within the proposed district <p><u>Min. required to trigger referendum if district would be financed by a mill levy</u></p> <ul style="list-style-type: none"> - 40% of registered voters within proposed boundary <p>or</p> <ul style="list-style-type: none"> - 40% of the real property owners within the proposed boundary <p><u>Min. required to allow governing body to create without a referendum</u></p> <ul style="list-style-type: none"> - 50% of registered voters within proposed boundary <p>or</p> <ul style="list-style-type: none"> - 50% of the real property owners within the proposed boundary <p><i>MCA Reference: 7-11-1003</i></p>	<p>If a referendum is held:</p> <p>To vote, one must be a registered elector of the state; and</p> <ul style="list-style-type: none"> - resident in the proposed district; or - owner of taxable property in the proposed district <p><i>MCA Reference: 7-11-1011(5)</i></p>	<p>Who may protest creation:</p> <ul style="list-style-type: none"> - Property owner within area <p><i>MCA Reference: 7-11-1011(5)</i></p> <p><u>Thresholds:</u></p> <ul style="list-style-type: none"> - If those who protest represent properties that would be assessed for 50% or more of the costs, then the district may not be created - If those who protest represent properties that would be assessed at least 10% but less than 50% of the costs, then a referendum must be held <p><i>MCA Reference: 7-11-1008(5)</i> <i>* Amended by SB 189 (2017) to remove requirement that not returning a protest form must be construed as support for district creation.</i></p>	<p><i>MCA Reference: 7-11-1029(4)</i> <i>*As amended by HB 405 (2017):</i></p> <p>The governing body may dissolve the district by passing a resolution, unless there is a petition against the dissolution by property owners in the district:</p> <p>“who are assessed for:</p> <ul style="list-style-type: none"> (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 programs or improvements.” <p>If (i), then no more action for at least 12 months</p> <p>If (ii), then election is held.</p> <p>Property owned by a governmental entity is considered the same as any other property in the district.</p>	<p>If created as an elective board – which is specified <u>in the petition or in the governing body’s resolution to create the district:</u></p> <p>There is not a statute in this part referencing who is eligible to vote for board members. General reference in 7-1-202 to election in accordance with Title 13, Ch. 1, Part 5.</p> <p><u>Note:</u> <i>*SB 274 (2017) new section allows referendum elections to be combined with the election of board members.</i></p>	<p><u>For purposes of petition and eligibility to vote in referendum:</u></p> <p>No definition for term “owner of real property”</p> <p><i>MCA References: 7-11-1003, 7-11-1011</i></p> <p><u>For purposes of eligibility to protest under 7-11-1008:</u></p> <p>“ (3) (a) For purposes of this section, “owner” means, as of the date a protest is filed, a record owner of fee simple title to the property or a contract buyer on file with the county clerk and recorder.</p> <p>(b) The term does not include a tenant of or other holder of a leasehold interest in the property.</p> <p>(4) An owner of property created as a condominium may protest pursuant to the provisions in 7-11-1027.”</p>

MONTANA CODE ANNOTATED - 2016

TITLE 7

CHAPTER 11

Part 10. Special Districts – Creation and Governance

7-11-1001. Purpose. The purpose of this part is to allow for the creation and governance of special districts.

7-11-1002. Definitions. As used in this part, the following definitions apply:

(1) "Governing body" means the legislative authority of a local government.

(2) "Local government" means a city, town, county, or consolidated city-county government or any combination of these acting jointly.

(3) (a) "Special district" means a unit of local government that is authorized by law to perform a single function or a limited number of functions.

(b) The term includes but is not limited to cemetery districts, museum districts, park districts, fair districts, solid waste districts, local improvement districts, mosquito control districts, multijurisdictional districts, road districts, rodent control districts, television districts, and districts created for any public or governmental purpose not specifically prohibited by law. The term also includes any district or other entity formed to perform a single or limited number of functions by interlocal agreement.

(c) The term does not include business improvement districts, cattle protective districts, conservancy districts, conservation districts, water and sewer districts, planning and zoning districts, drainage districts, grazing districts, hospital districts, irrigation districts, library districts, livestock protective committees, parking districts, resort area districts, rural improvement districts, special improvement districts, lighting districts, rural fire districts, street maintenance districts, tax increment financing districts, urban transportation districts, water conservation and flood control projects, and weed management districts.

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 attached.

7-11-1006. Determining special district boundaries. (1) The boundaries of the proposed special district must be mapped, clearly described, and made available to the public at the time of the publication of the notice of public hearing pursuant to 7-11-1007 before the district may be approved.

(2) The governing body or petitioners shall consult with a professional land surveyor, as defined in 37-67-101, to prepare a legal description of the boundaries for the proposed special district.

(3) The boundaries must follow property ownership, precinct, school district, municipal, and county lines as far as practical.

7-11-1007. Public hearing — resolution of intention to create special district. (1) The governing body shall hold at least one public hearing concerning the creation of a proposed special district prior to the passage of a resolution of intention to create the special district. A resolution of intention to create a special district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-1003(1)(b).

(2) The resolution must designate:

(a) the proposed name of the special district;

(b) the necessity for the proposed special district;

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

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

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

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

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

(h) the duration of the proposed special district.

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

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

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

7-11-1008. Right to protest — procedure — hearing. AS REVISED BY SB 189 (2017) (1) An owner of property that is liable to be assessed for the program or improvements in the proposed special district has 60 days from either the date of the first publication of the notice of passage of the resolution of intention or the date the protest form provided for in subsection (2)(c) was sent to property owners, whichever is later, to make a written protest against the proposed program or improvements.

(2) (a) A property owner may register a written protest under either subsection (2)(b) or (2)(c).

(b) A property owner may register a written protest in any format in conformity with this section. The protest must identify the property in the district owned by the protestor by either its street address or its legal description, whichever the property owner prefers, be signed by a majority of the owners of that property, and be delivered to the clerk of the governing body, who shall endorse on the protest the date of receipt.

(c) The governing body shall send each person referred to in 7-11-1007(3)(c) a protest form with space for any information required under subsection (2)(b) of this section, mailing instructions, and the date the form must be returned to the governing body. ~~The form must specify that if it is not returned, the owner's lack of action must be construed as support of the creation of the special district.~~ The form must allow a property owner to select either support for or opposition against the creation of the district. ~~However, if an owner does not make a selection of support or opposition and returns the form to the governing body, it must be construed as a protest of the creation of the special district. The forms returned with an indication of either support for or opposition against the creation of the district may be used, along with written protests submitted under subsection (2)(b), in determining whether sufficient protest has been filed to prevent further proceedings.~~

(3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, a record owner of fee simple title to the property or a contract buyer on file with the county clerk and recorder.

(b) The term does not include a tenant of or other holder of a leasehold interest in the property.

(4) An owner of property created as a condominium may protest pursuant to the provisions in 7-11-1027.

(5) (a) At the hearing provided for in 7-11-1007, the governing body shall consider all protests.

(b) If the protest is made by the owners of property in the proposed district to be assessed for:

(i) 50% or more of the cost of the proposed program or improvements, in accordance with the method or methods of assessment, further proceedings may not be taken by the governing body for at least 12 months; or

(ii) more than 10% but less than 50% of the cost of the proposed program or improvements, in accordance with the method or methods of assessment, and if the governing body decides to proceed with proposing the district, the governing body shall order a referendum in accordance with 7-11-1011.

(c) In determining whether or not sufficient protests have been filed in the proposed special district to prevent further proceedings, property owned by a governmental entity must be considered the same as any other property in the district.

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

(e) The governing body may adjourn the hearing from time to time.

NEW SECTION UNDER SB 274 (2017)

7-11-2010. Combination of elections -- term of board members if election combined. (1) (a) If the governing body orders a referendum on the creation of a proposed special district and the special district would be administered by an elected board, the governing body may combine the referendum on the formation of the district with the election of the members of the board so that the qualified electors of the district may vote on these matters on the same date and at the same time.

(b) If the elections are combined, the notice of the election must contain the names of the candidates. Candidates for the board must file a declaration of candidacy with the election administrator within the time period specified in 13-1-502. The election administrator shall endorse on the declaration the date on which it was presented.

(2) If the governing body orders a combined election pursuant to subsection (1) and unless otherwise provided by resolution by the governing body pursuant to 7-1-201:

(a) a board member elected pursuant to this section shall hold office until the election and qualification or the appointment and qualification of the member's successor.

(b) Except as provided in subsection (2)(c), a board member has a term of office of 4 years.

(c) (i) In a special district requiring the election of five directors, three of the initial directors shall serve for a term of 2 years and two of the initial directors shall serve for a term of 4 years.

(ii) In a special district requiring the election of three directors, one initial director shall serve for a term of 2 years and two initial directors shall serve for a term of 4 years.

(iii) At the first meeting following an initial election of board members, the board shall determine by lot who shall serve a 2-year term.

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:

(a) the type and maximum rate 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.

(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.

7-11-1012. Certificate of establishment. (1) On receipt of the certificate referred to in 7-11-1011(6), the secretary of state shall, within 10 days, issue a certificate reciting that the specified district has been established according to the laws of the state of Montana. A copy of the certificate must be transmitted to and filed with the clerk and recorder of the county or counties in which the district is situated.

(2) When the certificate is issued by the secretary of state, the district named in the certificate is established with all the rights, privileges, and powers set forth in 7-11-1021.

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

(2) To create a special district, the governing body shall issue an order or pass an ordinance or resolution in accordance with the resolution of intention introduced and passed by the governing body or in accordance with the terms of the referendum required under 7-11-1011. This must be 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.

7-11-1014. Additional reporting procedures — coordination of information collection, transfer, and accessibility. (1) Within 60 days after the creation of a special district or by January 1 of the effective tax year, whichever occurs first, the governing body shall provide to the department of revenue a:

- (a) legal description of the special district;
- (b) map of its boundaries;
- (c) list of the property taxpayers or owners of real property within the special district's boundaries; and
- (d) copy of the resolution establishing the special district, including any adopted method of assessment.

(2) The department of revenue shall review the information provided in accordance with subsection (1) and work with the governing body to identify and correct any discrepancies before the information is recorded by the department.

(3) If the governing body intends to submit any digital information to the department of revenue for the purposes of subsection (4)(b), the governing body shall notify the department of revenue as to the expected date of submission and submit the digital information in a manner prescribed by the department of revenue in consultation with the state library.

(4) The state library, in coordination with the department of revenue, governing bodies, and other appropriate entities, may develop standards, best practices, and procedures for:

- (a) collecting and transferring between agencies any digital information submitted by a governing body for purposes of subsection (4)(b); and
- (b) creating digital information to map special districts for land information purposes authorized in Title 90, chapter 1, part 4, that can be accessed through the website of the state library.

7-11-1015. Limitations on lawsuits. (1) A finding of the governing body in favor of the genuineness and sufficiency of the petition or election is final and conclusive against all persons except the state of Montana upon suit brought by the attorney general.

(2) A lawsuit filed by the attorney general must be filed by the earlier of:

- (a) 1 year after the order, ordinance, or resolution creating the special district is approved by the governing body; or
- (b) the issuance of bonds to implement the program or improvements approved for the special district.

7-11-1021. Governance — powers and duties. AS AMENDED BY SB 274 (2017). (1) A special district must be administered and operated either by the governing body or by a separate elected or appointed board as determined by the governing body.

(2) (a) If the special district is governed by a separate board, the board must be established in accordance with Title 7, chapter 1, part 2, except as provided in 7-11-1010, and specific powers and duties granted to the board and those specifically withheld must be stated.

(b) The governing body may grant additional powers to the board. This includes the authorization to use privately contracted legal counsel or the attorney of the governing body. If privately contracted counsel is used, notice must be provided to the attorney of the governing body.

(c) The governing body has ultimate authority under this subsection (2).

(3) The entity chosen to administer the special district, as provided in subsection (1), may:

- (a) implement a program and order improvements for the special district designed to fulfill the purposes of the special district;
- (b) employ personnel directly related to the specific improvement or program;

(c) purchase, rent, or lease equipment, personal property, and material necessary to develop and implement an effective program;

(d) cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of federal, state, or local government, in order to develop and implement an effective program;

(e) receive gifts, grants, or donations for the purpose of advancing the program and, by gift, deed, devise, or purchase, acquire land, facilities, buildings, and material necessary to implement the purposes of the special district;

(f) construct, improve, and maintain new or existing facilities and buildings necessary to accomplish the purposes of the special district;

(g) provide grants to private, nonprofit entities as part of implementing an effective program;

(h) adopt a seal and alter it at the entity's pleasure;

(i) administer local ordinances as appropriate;

(j) establish district capital improvement funds pursuant to 7-6-616, maintenance funds, and debt service funds; and

(k) borrow money by the issuance of:

(i) general obligation bonds as authorized by the governing body pursuant to Title 7, chapter 6, part 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or

(ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the funding of projects in the manner and subject to the appropriate provisions of Title 7, chapter 7, part 25 or 44.

(4) If the special district is administered by a separate board, the board shall submit annual budget and work plans to the governing body for review and approval.

(5) The right to exercise eminent domain pursuant to 70-30-102 is limited to cemetery districts.

7-11-1022. Multiple jurisdictions. (1) A special district created by a combination of local governments acting together must be administered according to an interlocal agreement. The interlocal agreement may determine whether the administrative body of the special district consists of the entire membership of all governing bodies from the participating jurisdictions or representatives of each governing body or jurisdiction.

(2) A special district created by a combination of local governments acting together may enlarge an existing service district, but may not supersede or void an existing contract, district, or interlocal agreement under which the same service is currently provided to residents of one or more of the participating jurisdictions. The local governments acting together may agree to alter an existing contract, district, or interlocal agreement as necessary.

(3) The local governments shall proportionally share the ownership of real or personal property acquired by the district pursuant to their interlocal agreement.

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.

7-11-1024. Financing for special district. (1) 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.

(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.

7-11-1025. Notice of resolution for assessment — assessment. (1) The governing body shall estimate, as near as practicable, the cost of each established special district annually by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values from the department of revenue.

(2) (a) The governing body shall pass and finally adopt a resolution specifying the special district assessment option and levying and assessing all the property within the special district with an amount equal to the annual cost of the program and improvements as provided in 7-6-4012 and 7-6-4013.

(b) If the entity chosen to administer the special district is the governing body, the governing body may not charge more than 15% of the annual fees or assessments collected to administer the special district.

(3) The resolution levying the assessment to defray the cost of the special district must contain or refer to a list that describes the lot or parcel of land assessed with the name of the owner of the lot or parcel, if known, and the amount assessed.

(4) The resolution must be kept on file in the office of the clerk of the governing body.

(5) A notice, signed by the clerk of the governing body, stating that the resolution levying a special assessment or changing the method of assessment to defray the cost of the special district is on file in the clerk's office and subject to inspection must be published as provided in 7-1-2121 or 7-1-4127. The notice must state the time and place at which objections to the final adoption of the resolution will be heard by the governing body and must contain a statement setting out the method of assessment being proposed for adoption or the change in assessment being proposed for adoption. The time for the hearing must be at least 5 days after the final publication of the notice.

(6) The notice and hearing process may be included in the local government's general budgeting process as provided in Title 7, chapter 6, part 40.

(7) At the time set, the governing body shall meet and hear all objections that may be made to the assessment or any part of the assessment, may adjourn from time to time for that purpose, and may by resolution modify the assessment.

(8) A copy of the resolution, certified by the clerk of the governing body, must be delivered to the department of revenue by the later of the first Thursday after the first Tuesday in September or within 30 calendar days after receiving certified taxable values from the department of revenue.

7-11-1026. Collection of special district assessments. (1) When a resolution of assessment has been certified by the clerk of the local government, the county treasurer, the city treasurer, or the town clerk, as provided in 7-12-4182, shall collect the assessment in the same manner and at the same time as property taxes for general purposes are collected.

(2) All money received by the special district, including interest and earnings accrued, must be deposited in an account held only for the special district by the office of the county treasurer, city treasurer, or town clerk.

7-11-1027. Payment of assessment under protest — action to recover. (1) (a) When an assessment made under this part is considered erroneous by the party whose property is charged or from whom the payment is demanded, the person may:

(i) prior to the assessment becoming delinquent, file an appeal to the administrative board of the district; or

(ii) pay the assessment or any part of the assessment considered to be erroneous under protest to the county treasurer, city treasurer, or town clerk, whoever is charged with collection of the assessment, and either file an appeal to the administrative board of the district or initiate action in court as provided in subsection (2).

(b) (i) If an appeal is filed before the administrative board and the board finds in favor of the taxpayer, the board shall order the assessment or the contested portion of the assessment removed, and if the payment was made under protest, it must be refunded by the county treasurer, city treasurer, or town clerk.

(ii) If an appeal is filed before the administrative board and the board does not find in favor of the taxpayer and if a payment was made under protest or the taxpayer makes a payment under protest before the assessment becomes delinquent, the taxpayer may initiate an action in court as provided in subsection (2).

(2) The party paying under protest or the party's legal representative may bring an action in any court of competent jurisdiction against the officer to whom the assessment was paid or against the local government on whose behalf the assessment was collected to recover the assessment or any portion of the assessment paid under protest. An action instituted to recover the assessment paid under protest must be commenced within 90 days after the date of payment.

(3) The assessment paid under protest must be held by the county treasurer, city treasurer, or town clerk until the determination of an action brought for the recovery of the assessment.

(4) If the assessment considered to be unlawful pertains to property created as a condominium and the property is not solely a certain unit in the condominium, then the owner of the property created as a condominium that is entitled to protest is considered to be the collective owners of all units having an undivided ownership interest in the common elements of the condominium.

(5) An owner of property created as a condominium may protest against the method of assessment or vote at an election of the special district only through a president, vice president, secretary, or treasurer of the condominium owners' association who timely presents to the secretary of the special district the following:

(a) a writing identifying the condominium property;

(b) the condominium declaration or other condominium document that shows how votes of unit owners in the condominium are calculated;

(c) original signatures of owners of units in the condominium having an undivided ownership interest in the common elements of the condominium sufficient to constitute an affirmative vote for an undertaking relating to the common elements under the condominium declaration; and

(d) a certificate signed by the president, vice president, secretary, or treasurer of the condominium owners' association certifying that the votes of the unit owners, as evidenced by the

signatures of the owners, are sufficient to constitute an affirmative vote of the condominium owners' association to protest against the method of assessment.

7-11-1028. Assessments as liens. (1) An assessment made and levied to defray the cost and expenses of the program or improvements, together with any percentages imposed for delinquency and for cost of collection, constitutes a lien upon the property on which the assessment is made and levied from the date of the passage of the resolution levying the assessment. This lien may be extinguished only by payment of the assessment, with all penalties, costs, and interest, or by sale of the property as provided in subsection (2).

(2) When the payment of an installment of an assessment becomes delinquent, all payments of subsequent installments of the assessment may, at the option of the governing body and upon adoption of the appropriate resolutions, become delinquent. Upon delinquency in one or all installments, the whole property must be sold in the same manner as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.

7-11-1029. Dissolution of special district. AS AMENDED BY HB 405. (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) After the passage of the resolution provided for in subsection (2), 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) 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:

~~(a) 40% of registered voters or 40% of the owners of real property in the district; or~~

~~(b) 40% of registered voters or 40% of the property taxpayers in the district if the district program or improvements have been financed through a mill levy.~~ 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), 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), 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) 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) 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) 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) 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.

7-11-1030. Minutes. The board or governing body administering and operating the special district as provided by 7-11-1021 shall submit the minutes of its proceedings for electronic storage as provided in 7-1-204 unless:

(1) the special district is operated by the governing body of a municipality; and

(2) the governing body has designated an alternative place for the minutes to be recorded or maintained.

7-11-1035. Energy performance contracts exempt. This part does not apply to solicitation and award of an investment-grade energy audit or energy performance contract pursuant to Title 90, chapter 4, part 11, or to the construction or installation of conservation measures pursuant to the energy performance contract.