

SENATE BILL NO. 149

INTRODUCED BY L. GROSFIELD

BY REQUEST OF THE STATE LIBRARY COMMISSION

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A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF PUBLIC LIBRARY DISTRICTS; PROVIDING FOR AN ELECTED BOARD OF TRUSTEES TO ADMINISTER A DISTRICT; PROVIDING FOR CONSOLIDATION OF EXISTING PUBLIC LIBRARIES WITH PUBLIC LIBRARY DISTRICTS; PROVIDING FOR A PROPERTY TAX MILL LEVY FOR THE OPERATION OF A DISTRICT; PROVIDING THAT THE MAXIMUM DISTRICT MILL LEVY MUST BE APPROVED BY THE DISTRICT ELECTORATE; AND PROVIDING FOR THE DISSOLUTION OF A DISTRICT."

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

NEW SECTION. **Section 1. Public library districts -- purpose -- territory.** (1) The purpose of [sections 1 through 11] is to provide a method for:

- (a) establishing, equipping, administering, and funding public libraries; and
- (b) contracting for library services from existing public libraries.

(2) A public library district may contain the entire territory of a county, the territory of part of a county, or territory in more than one county. A public library district may include incorporated municipalities within a county.

(3) The territory included in a public library district must contain a taxable value of at least \$5 million.

NEW SECTION. **Section 2. Creation or enlargement of public library district.** (1) Proceedings for the creation or enlargement of a public library district or the conversion of a public library to a public library district may be initiated by:

- (a) a petition signed by not less than 15% of the qualified electors who reside within the proposed district or the area to be added to an existing district; or
- (b) a resolution of intent adopted by the county governing body, calling for the creation of a district.

- 1 (2) The petition must contain:
- 2 (a) the boundaries of the proposed public library district;
- 3 (b) a map showing the boundaries;
- 4 (c) subject to 15-10-420, the proposed maximum property tax mill levy, ~~not to exceed 20 mills,~~
- 5 that could be levied on property owners within the district for the operation of the district; and
- 6 (d) the proposed number of members on the board of trustees. The number of members must be
- 7 five or seven.
- 8 (3) When the territory to be included in the proposed public library district lies in more than one
- 9 county, a petition must be presented to the governing body of each county in which the territory lies. Each
- 10 petition must be signed by not less than 15% of the qualified electors of the territory within the county
- 11 proposed for inclusion in the district.
- 12 (4) Upon receipt of a petition to create a public library district, the county clerk shall examine the
- 13 petition and within 15 days either reject the petition if it is insufficient under the provisions of subsection
- 14 (1), (2), or (3) or certify that the petition is sufficient and present it to the county governing body at its
- 15 next meeting.
- 16 (5) The text of the petition must be published as provided in 7-1-2121 in each county in which
- 17 territory of the proposed public library district lies.
- 18 (6) At a hearing on the proposed public library district, the county governing body shall hear
- 19 testimony:
- 20 (a) of all interested persons on whether a district should be created;
- 21 (b) regarding the proposed boundary, the property tax mill levy, and the number of members of
- 22 the board of trustees; and
- 23 (c) on any other matter relating to the petition.
- 24 (7) After the hearing, if the county governing body determines that the proposed public library
- 25 district should be created, it shall by resolution:
- 26 (a) set the boundaries of the proposed district;
- 27 (b) set the maximum mill levy, ~~not to exceed 20 mills,~~ for the proposed district;
- 28 (c) set the number of members to be on the board of trustees; and
- 29 (d) call for an election on the question of whether to create the district. The election may be:
- 30 (i) held in conjunction with a regular or primary election; or

1 (ii) conducted by mail ballot in accordance with the provisions of Title 13, chapter 19.

2 (8) Except as provided in [section 5], if all or part of the territory served by an existing public
3 library, as defined in 22-1-326, is included within the boundaries of a newly created or enlarged public
4 library district, the governing body of the county shall adjust the boundaries of the district to exclude the
5 territory served by the public library.

6

7 **NEW SECTION. Section 3. Election on creation of district.** (1) The election on the question of
8 whether to create a public library district must be conducted as provided in Title 13.

9 (2) Only qualified electors residing within the proposed public library district may vote on the
10 question of whether to create the district.

11 (3) The question of creating a public library district must be submitted to the electors in
12 substantially the following form:

13 FOR the creation of a public library district that may levy not more than ... mills of property
14 tax for the operation of the district.

15 AGAINST the creation of a public library district.

16

17 **NEW SECTION. Section 4. Formation of public library district -- appointment of initial board of**
18 **trustees.** (1) If a majority of the votes cast at the election in the territory of each county included in the
19 proposed public library district approve the formation of the district, the governing body of each county
20 shall, within 10 days of the receipt of the official canvass of the result, certify that the district is formed.

21 (2) Within 30 days after the certification of the formation of the public library district, the
22 governing body of each county with territory included in the district shall jointly appoint the initial members
23 of the district's board of trustees. The members shall serve until their successors are elected and qualified.

24

25 **NEW SECTION. Section 5. Consolidation of existing public libraries or public library districts.** (1)

26 (a) If all or part of the territory served by an existing public library, as defined in 22-1-326, is included
27 within the boundaries of a public library district, the territory served by the public library may be
28 consolidated into the district upon the adoption of a resolution, following a public hearing, by the governing
29 body of the city or county that established the public library and by the board of trustees of the district.

30 (b) Any existing bonded indebtedness against the territory served by the public library remains the

1 indebtedness of the original territory and must be paid by levies on the original territory.

2 (2) The territory of an existing public library district may be consolidated into a contiguous district
3 upon the adoption of a resolution, following a public hearing, by the board of trustees of each district. The
4 governing board of the county containing the largest percentage of territory in the district shall appoint the
5 board of trustees for the consolidated district. The appointed trustees shall serve until their successors are
6 elected, in accordance with the provisions of [section 6].

7

8 NEW SECTION. **Section 6. Election of board of trustees -- compensation -- removal --**
9 **single-member trustee districts.** (1) After appointment of the initial members of the board of trustees, all
10 members must be elected by the electors of the public library district.

11 (2) The election of members to the board of trustees must be held in conjunction with the annual
12 school elections held pursuant to 20-3-304.

13 (3) (a) A candidate for the office of trustee of the public library district must be a resident of the
14 district and must be nominated by petition, signed by at least five electors of the district and filed with the
15 office of the election administrator not earlier than 135 days or later than 75 days prior to the election day.

16 (b) If the district lies in more than one county, the petition for nomination must be presented to
17 the election administrator whose county contains the largest percentage of territory in the district.

18 (4) If the number of candidates is equal to or less than the number of positions to be elected, the
19 election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the
20 county governing body shall declare elected by acclamation each candidate who filed a nomination petition
21 for a position. If a nomination petition is not filed for an office, the county governing body of the county
22 containing the largest percentage of the territory in the public library district shall appoint a member to fill
23 the term. A person appointed pursuant to this subsection has the same term and obligations as a person
24 elected to fill the office.

25 (5) The term of office of an elected board member begins on the date that the board member is
26 elected and qualified. The term of office of an elected member is 4 years, except that a simple majority
27 of the members of the first elected board shall serve a term of 2 years, with the minority of the board
28 serving terms of 4 years. The members serving 2-year terms must be selected by lot.

29 (6) A vacancy in the office of a member must be filled by appointment by the remaining members
30 of the board. The term of the appointed member expires upon the election and qualification of an elected

1 successor or upon the election of a member to fill the unexpired term of the vacant office. The election
2 must be held at the next scheduled school election held pursuant to 20-3-304.

3 (7) Members of the board of trustees serve without compensation.

4 (8) A trustee may be removed from office by a court of competent jurisdiction pursuant to state
5 law governing the removal of elected officials. If charges are brought against a trustee and if good cause
6 is shown, the governing body of the county containing the largest percentage of territory in the public
7 library district may suspend the trustee until the charges can be heard in a court of competent jurisdiction.

8 (9) (a) If the trustees determine that it is in the best interest of the electors of the public library
9 district, they shall:

10 (i) propose the creation of a single-member trustee district plan with districts that are as compact
11 in area and as equal in population as possible;

12 (ii) schedule and hold a public hearing on the plan; and

13 (iii) publish a notice of the public hearing as provided in 7-1-2121.

14 (b) After the public hearing is held, the trustees may amend, revise, approve, or disapprove the
15 proposed plan. If the plan is adopted, the trustees shall publish notice of its adoption as provided in
16 7-1-2121.

17 (c) All successors to the board of trustees must be elected in accordance with the adopted
18 single-member trustee district plan, and the election of each member must be submitted to the electors
19 of the trustee district in which the candidate resides.

20

21 **NEW SECTION. Section 7. Duties and powers of board of trustees.** (1) The board of trustees of
22 a public library district shall:

23 (a) operate and maintain library property within the district and may conduct programs relating
24 to libraries and make improvements to district property as the board considers appropriate;

25 (b) prepare annual budgets as required by the county governing body or bodies;

26 (c) pay necessary expenses of district staff members when on business of the district; and

27 (d) prepare and submit any records required by the Montana state library.

28 (2) The board has all powers necessary for the betterment, operation, and maintenance of library
29 property within the territory of the public library district, including establishing library locations. In the
30 exercise of this general grant of powers, the board may:

1 (a) (i) employ or contract with administrative, professional, or other personnel necessary for the
2 operation of the district; or

3 (ii) contract with other entities to provide or receive library services and to pay out or receive funds
4 for those library services;

5 (b) lease, purchase, or contract for the purchase of personal property, including property that after
6 purchase constitutes a fixture on real property;

7 (c) (i) lease, purchase, or contract for the purchase of buildings and facilities on lands controlled
8 by the district and equip, operate, and maintain the buildings and facilities; or

9 (ii) receive by transfer, conditionally or otherwise, from a county or city, the ownership or control
10 of a library building, with all or any part of its property, provided that any existing debt of the governing
11 body transferring the interest tied to the property must remain an obligation of the governing body and
12 may not become an obligation of the district;

13 (d) adopt by resolution, bylaws and rules for the operation and administration of the district;

14 (e) subject to 15-10-420, establish a property tax mill levy for the operation of the district as
15 provided in [section 8];

16 (f) with the concurrence of the county governing body or bodies, accept donations of land or
17 facilities within the district to be used for district purposes;

18 (g) accept donations and devises of money or personal property; and

19 (h) exercise other powers, not inconsistent with the law, necessary for the operation and
20 management of the district.

21

22 **NEW SECTION. Section 8. Public library district budget -- property tax levy.** (1) The board of
23 trustees shall annually prepare a budget for the ensuing fiscal year and present the budget to the governing
24 body of each county with territory in the public library district at the regular budget meetings as prescribed
25 in Title 7, chapter 6, part 23, and certify the amount of money necessary for the operation of the district
26 for the ensuing fiscal year.

27 (2) Subject to 15-10-420, the county governing body shall, annually at the time of levying county
28 taxes, fix and levy a tax on all taxable property within the public library district sufficient to raise the
29 amount certified by the board of trustees and approved by the electors. The tax levied may not in any year
30 exceed the maximum amount approved by the electorate in [section 3 or 9].

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2 **NEW SECTION. Section 9. Election to change maximum property tax mill levy.** (1) The maximum
3 property tax mill levy authorized for the operation of a public library district may be changed by an election
4 on the question of changing the maximum mill levy.

5 (2) A vote on the question of raising or lowering the maximum property tax mill levy in the public
6 library district may be initiated by:

7 (a) a petition signed by not less than 15% of the electorate of the district; or

8 (b) a resolution of the board of trustees.

9 (3) The petition must set forth the proposed new maximum mill levy for the operation of the
10 district.

11 (4) Upon receipt of a petition for a change in the maximum mill levy, certified by the county clerk
12 as sufficient under this section, or upon receipt of a resolution for a change adopted by the board of
13 trustees, the county governing body shall submit to the electorate of the public library district, at the next
14 regular or primary election, a ballot question on changing the maximum mill levy. The election must be held
15 as provided in Title 13. The question must be submitted to the electors of the district in substantially the
16 following form:

17 FOR changing the authorized maximum property tax mill levy for the operation of the public
18 library district from to

19 AGAINST changing the authorized maximum property tax mill levy for the operation of the
20 public library district.

21

22 **NEW SECTION. Section 10. Dissolution of public library district.** (1) A public library district may
23 be dissolved after an election on the question of dissolving the district. The process of dissolving the
24 district may be initiated by a petition of 15% of the electorate of the district or by a resolution of intent
25 to dissolve the district adopted by either the board of trustees or the governing body of the county in
26 which territory of the district is located.

27 (2) Upon receipt of a petition that has been certified by the county clerk as sufficient under this
28 section or upon adoption of a resolution of intent, the county governing body shall hold a public hearing
29 on the question of dissolving the public library district. Notice of the hearing must be published as provided
30 in 7-1-2121.

1 (3) At the public hearing, the county governing body shall hear testimony of interested persons
2 regarding the dissolution of the public library district. After the public hearing, the county governing body
3 may either submit the question of dissolving the district to the electorate of the district or it may call for
4 a public hearing on the question of altering the boundaries of the district. If the county governing body
5 calls for a public hearing on the question of altering the boundaries of the district by the withdrawal of
6 territory, it shall publish notice of the hearing as provided in 7-1-2121. The notice must state the
7 boundaries of the area proposed to be withdrawn from the district. After hearing testimony at the hearing,
8 the county governing body may submit the question of either dissolving the district or altering the district
9 by the withdrawal of specified territory from the district to the electorate of the district.

10 (4) The question must be submitted by a resolution calling for an election on either dissolving the
11 public library district or altering the boundaries of the district by the withdrawal of land from the district.
12 The county governing body shall schedule the election in conjunction with any other regularly scheduled
13 election. The election on the question must be conducted as provided in Title 13.

14 (5) The question of withdrawal of territory under this section must be voted upon separately by
15 the electorate of the territory to be withdrawn and the electorate of the balance of the territory of the
16 public library district. The question fails unless a simple majority of those voting on the question in each
17 of the two territories authorize altering the district boundary. If the question passes, the boundary
18 alteration is effective the following January 1. If the question fails, the county governing body shall by
19 resolution call for an election on the question of dissolving the district.

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21 NEW SECTION. **Section 11. Effect of dissolution.** (1) If dissolution of a public library district is
22 authorized by a majority of the electorate of the district, the county governing body shall order the
23 dissolution and file the order with the county clerk. The dissolution is effective upon the earlier of the
24 following:

25 (a) 6 months after the date of the filing of the order; or

26 (b) certification by the board of trustees that all debts and obligations of the district have been
27 paid, discharged, or irrevocably settled.

28 (2) (a) If debts or obligation of the public library district remain unsatisfied after the dissolution of
29 the district, the county governing body shall, subject to 15-10-420 and for as long as necessary, levy a
30 property tax in an amount not to exceed the amount authorized for the district, on all taxable property that

1 is in the territory formerly comprising the district, to be used to discharge the debts of the former district.

2 (b) If the electors of the district lowered the maximum amount to be levied for the operation of
3 the district within 2 calendar years prior to the election authorizing the dissolution, the county governing
4 body may, subject to 15-10-420, levy a property tax not to exceed the levy authorized prior to the
5 reduction of the maximum levy for the discharge of the district's obligations.

6 (3) Any asset of the public library district remaining after all debts and obligations have been
7 discharged becomes the property of the county in which the asset is located.

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9 NEW SECTION. **Section 12. Codification instruction.** [Sections 1 through 11] are intended to be
10 codified as an integral part of Title 22, chapter 1, and the provisions of Title 22, chapter 1, apply to
11 [sections 1 through 11].

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