



AN ACT GENERALLY REVISING THE LAWS RELATING TO SPECIAL DISTRICTS; ALLOWING FOR THE CREATION OF SPECIAL DISTRICTS BY LOCAL GOVERNMENTS WORKING INDIVIDUALLY AND JOINTLY; ESTABLISHING UNIFORM STANDARDS FOR THE CREATION, ADMINISTRATION, AND OPERATION OF SPECIAL DISTRICTS BY GOVERNING BODIES AND ELECTED OR APPOINTED BOARDS; ELIMINATING SPECIFIC PROVISIONS RELATING TO CEMETERY DISTRICTS, COUNTY MUSEUMS, FACILITIES FOR THE ARTS, MUSEUM DISTRICTS, COUNTY PARK DISTRICTS, COUNTY FAIR COMMISSIONS, COUNTY FAIR DISTRICTS, MULTICOUNTY FAIR DISTRICTS, JOINT SOLID WASTE MANAGEMENT DISTRICTS, LOCAL IMPROVEMENT DISTRICTS, MOSQUITO CONTROL DISTRICTS, MULTIJURISDICTIONAL SERVICE DISTRICTS, PARK MAINTENANCE DISTRICTS, ROAD IMPROVEMENT DISTRICTS, RODENT CONTROL DISTRICTS, SOLID WASTE MANAGEMENT DISTRICTS, AND TELEVISION DISTRICTS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-1-201, 7-1-202, 7-6-2527, 7-7-2101, 7-11-1102, 7-11-1112, 7-13-2511, 7-13-2512, 7-14-2138, 7-16-2105, 7-16-2109, 7-21-3411, 7-22-2512, 15-6-201, 20-15-403, 53-30-503, AND 70-30-102, MCA; REPEALING SECTIONS 7-11-1101, 7-11-1105, 7-11-1106, 7-11-1107, 7-11-1111, 7-12-4001, 7-13-201, 7-13-202, 7-13-203, 7-13-204, 7-13-205, 7-13-206, 7-13-207, 7-13-208, 7-13-209, 7-13-210, 7-13-211, 7-13-212, 7-13-213, 7-13-215, 7-13-216, 7-13-217, 7-13-218, 7-13-231, 7-13-232, 7-13-233, 7-13-234, 7-13-235, 7-13-236, 7-13-237, 7-13-301, 7-13-302, 7-13-303, 7-13-304, 7-13-305, 7-13-306, 7-13-307, 7-13-308, 7-13-309, 7-13-310, 7-13-311, 7-13-2501, 7-13-2502, 7-13-2503, 7-13-2504, 7-13-2505, 7-13-2506, 7-13-2507, 7-13-2508, 7-13-2509, 7-13-2510, 7-13-2521, 7-13-2527, 7-13-2528, 7-13-2529, 7-13-2541, 7-13-2542, 7-14-2701, 7-14-2702, 7-14-2703, 7-14-2704, 7-14-2705, 7-14-2706, 7-14-2707, 7-14-2708, 7-14-2709, 7-14-2710, 7-14-2711, 7-14-2712, 7-14-2713, 7-14-2714, 7-14-2715, 7-14-2716, 7-14-2717, 7-14-2718, 7-14-2719, 7-14-2720, 7-14-2721, 7-14-2731, 7-14-2732, 7-14-2733, 7-14-2734, 7-14-2735, 7-14-2736, 7-14-2737, 7-14-2738, 7-14-2739, 7-14-2740, 7-14-2741, 7-14-2742, 7-14-2743, 7-14-2744, 7-14-2745, 7-14-2746, 7-14-2751, 7-14-2752, 7-14-2753, 7-14-2754, 7-14-2755, 7-14-2756, 7-14-2757, 7-14-2758, 7-14-2759, 7-14-2760, 7-14-2761, 7-14-2762, 7-14-2763, 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907, 7-14-2908, 7-16-2201, 7-16-2202, 7-16-2203, 7-16-2205, 7-16-2211, 7-16-2212, 7-16-2213, 7-16-2214, 7-16-2215, 7-16-2216, 7-16-2217, 7-16-2218, 7-16-2219, 7-16-2401, 7-16-2402,

7-16-2403, 7-16-2411, 7-16-2412, 7-16-2413, 7-16-2421, 7-16-2422, 7-16-2423, 7-16-2431, 7-16-2433, 7-16-2441, 7-16-2442, 7-16-2443, 7-21-3401, 7-21-3406, 7-21-3407, 7-21-3408, 7-21-3409, 7-21-3410, 7-21-3412, 7-21-3413, 7-21-3421, 7-21-3422, 7-21-3423, 7-21-3424, 7-21-3425, 7-21-3426, 7-21-3427, 7-21-3428, 7-21-3429, 7-21-3430, 7-21-3431, 7-21-3432, 7-21-3433, 7-21-3434, 7-21-3435, 7-21-3451, 7-21-3452, 7-21-3453, 7-21-3454, 7-21-3455, 7-21-3456, 7-21-3457, 7-21-3458, 7-22-2207, 7-22-2208, 7-22-2209, 7-22-2210, 7-22-2211, 7-22-2212, 7-22-2213, 7-22-2214, 7-22-2215, 7-22-2216, 7-22-2221, 7-22-2222, 7-22-2223, 7-22-2224, 7-22-2225, 7-22-2226, 7-22-2231, 7-22-2232, 7-22-2233, 7-22-2401, 7-22-2402, 7-22-2403, 7-22-2405, 7-22-2408, 7-22-2409, 7-22-2410, 7-22-2411, 7-22-2415, 7-22-2416, 7-22-2417, 7-22-2418, 7-22-2419, 7-22-2420, 7-22-2431, 7-22-2432, 7-22-2433, 7-22-2434, 7-22-2441, 7-22-2442, 7-22-2443, 7-22-2444, 7-22-2445, 7-22-2446, 7-22-2447, 7-22-2448, 7-35-101, 7-35-102, 7-35-2101, 7-35-2102, 7-35-2103, 7-35-2104, 7-35-2105, 7-35-2106, 7-35-2107, 7-35-2108, 7-35-2109, 7-35-2110, 7-35-2111, 7-35-2112, 7-35-2113, 7-35-2114, 7-35-2115, 7-35-2116, 7-35-2121, 7-35-2122, 7-35-2123, 7-35-2124, 7-35-2125, 7-35-2201, 7-35-2202, 7-35-4101, 7-35-4103, 7-35-4105, 7-35-4106, 7-35-4107, 7-35-4108, AND 7-35-4109, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Purpose.** The purpose of [sections 1 through 20] is to allow for the creation and governance of special districts.

**Section 2. Definitions.** As used in [sections 1 through 20], 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.

**Section 3. Authorization to create special districts.** (1) Whenever the public convenience and necessity may require:

(a) the governing body may create a special district to serve the inhabitants of the special district; or

(b) petitioners may initiate the creation of a special district to serve inhabitants of the special district.

(2) (a) Subject to subsection (2)(b), a petition to institute the creation of a special district must be signed by 40% of registered voters or 40% of owners of real property within the boundary of the proposed special district and submitted to the clerk of the governing body.

(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 40% of registered voters or 40% of property taxpayers within the boundary of the proposed district.

(c) The form of the petition may be prescribed by the governing body.

(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 the address 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 and program within the special district;

(v) include a general 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 30 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.

**Section 4. Determining special district boundaries.** (1) The boundaries of the proposed special district must be mapped and clearly described 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.

**Section 5. 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 or upon a petition that contains the required number of signatures.

(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; and

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

(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 mailing list in accordance with 2-6-109.

(c) A copy of the notice described in subsection (3)(a) must be mailed to the owners of the property included on the list referred to in subsection (3)(b).

**Section 6. Right to protest -- procedure -- hearing.** (1) An owner of property that is liable to be assessed for the program or improvements in the proposed special district has 30 days from the date of the first publication of the notice of passage of the resolution of intention to make a written protest against the proposed program or improvements.

(2) The protest must be in writing, identify the property in the district owned by the protestor, be signed by all 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.

(3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner of fee simple title to the property or the 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 [section 18].

(5) (a) At the hearing provided for in [section 5], the governing body shall consider all protests.

(b) In determining the sufficiency of protest, each protest must be weighted in proportion to the amount of the assessment to be levied against the lot or parcel with respect to which it is made.

(c) If the protest is made by the owners of property in the proposed district to be assessed for more than 50% 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.

(d) 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.

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

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

**Section 7. Referendum -- election.** (1) The governing body may order a referendum on the creation of the proposed special district to be submitted to the registered voters who reside within the proposed special district and the individuals qualified to vote pursuant to subsections (5) and (6).

(2) 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 [sections 5(2)(e) and 15];

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

(c) a general 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 referendum must be held in conjunction with a regular or primary election or must be conducted by mail ballot election as provided in Title 13, chapter 19.

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

(5) Except as provided in subsection (6), an individual is entitled to vote on the proposition if the individual:

(a) meets all qualifications required of electors under the general election laws 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) An individual who is the owner of real property described in subsection (5)(b) need not possess the

qualifications required of an elector in subsection (5)(a) if the individual is qualified to vote in any county of the state and files proof of registration with the election administrator at least 20 days prior to the referendum in which the individual intends to vote.

(7) The referendum must be conducted, the vote canvassed, and the result declared in the same manner as provided by Title 13 in respect to general elections, so far as it is applicable, except as provided in subsection (3).

(8) If the referendum 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 and record the certificate in the office of the clerk and recorder of the county or counties in which the special district is situated; and

(b) notify any municipalities lying within the boundaries of the special district.

**Section 8. Certificate of establishment.** (1) Upon receipt of the certificate referred to in [section 7(8)], 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 [section 12].

**Section 9. Order creating district -- power to implement program.** (1) The governing body may create a special district and establish assessments or fees if the governing body finds that insufficient protests have been made in accordance with [section 6] or if the eligible registered voters have approved a referendum as provided in [section 7].

(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. 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 [section 8].

**Section 10. 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 department of administration.

(4) The department of administration, 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 department's base map service center's website and discovered through the Montana geographical information system portal at the Montana state library.

**Section 11. 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.

**Section 12. Governance -- powers and duties.** (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, 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) administer the budget of the special district;

(c) employ personnel;

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

(e) 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;

(f) 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;

(g) construct and maintain facilities and buildings necessary to accomplish the purposes of the special district;

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

- (i) adopt a seal and alter it at the entity's pleasure;
- (j) administer local ordinances as appropriate;
- (k) establish district capital improvement funds pursuant to 7-6-616, maintenance funds, and debt service funds; and
- (l) 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) The entity chosen to administer the special district 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.

**Section 13. 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.

**Section 14. Alteration of special districts.** (1) 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 [section 3].

(3) Alteration of boundaries is also subject to procedures for public notice, protest, referendum, certification, reporting, and establishment of assessment as provided in [sections 4 through 11 and 15].

(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 15. 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 [section 12].

(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; or

(vi) any combination of the assessment options provided in subsections (3)(a)(i) through (3)(a)(v) 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 16. 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 second Monday in August or within 45 calendar days after receiving certified taxable values from the department of revenue.

(2) 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.

(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 third Monday in August or within 45 calendar days after receiving certified taxable values from the department of revenue.

**Section 17. 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.

**Section 18. Payment of assessment under protest -- action to recover.** (1) When an assessment made under [sections 1 through 20] is considered unlawful by the party whose property is charged or from whom the payment is demanded, the person may pay the assessment or any part of the assessment considered to be unlawful under protest to the county treasurer, city treasurer, or town clerk, whoever is charged with collection of the assessment.

(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.

**Section 19. 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.

**Section 20. 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) 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.

(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 [section 10] when a district is created. The department of revenue and the department of administration shall respond to the dissolution in the same manner they respond to the creation of a district, as described in [section 10].

(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.

**Section 21. Multijurisdictional public library districts -- administration.** A multijurisdictional public library district created under the provisions of [sections 1 through 20] must be administered according to the provisions of 22-1-305 through 22-1-317.

**Section 22.** Section 7-1-201, MCA, is amended to read:

**"7-1-201. Boards.** (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, [sections 1 through 20], and this section, listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

- (a) the number of board, district, or commission members;
- (b) the terms of the members;
- (c) whether members are entitled to mileage, per diem, expenses, and salary; and
- (d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, district, or commission may be assigned responsibility for a department or service district.

- (b) An administrative board, district, or commission may:
  - (i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law;

(ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, district, or commission must grant the board, district, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, district, or commission may employ personnel to assist in its functions.

(3) (a) Administrative boards, districts, and commissions may be made elective.

(b) If an administrative board is made elective and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. A position for which there were no nominees must be filled by appointment by the county commissioners for the same term as if the position were filled by election. If there is only one nominee for a position, the nominee may be declared elected by acclamation.

(4) Administrative boards, districts, and commissions may not sue or be sued independently of the local government unless authorized by state law.

(5) Members must be appointed by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy.

(6) The county commissioners shall maintain a register of appointments, including:

(a) the name of the board, district, or commission;

(b) the date of appointment and confirmation, if any is required;

(c) the length of term;

(d) the name and term of the presiding officer and other officers of each administrative board, district, or commission; and

(e) the date, time, and place of regularly scheduled meetings.

(7) Terms of all members, except elected members, may not exceed 4 years. Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(8) An administrative board, district, or commission must consist of a minimum of 3 members and must have an odd number of members.

(9) The resolution creating an administrative board, district, or commission may provide for voting or

nonvoting ex officio members.

(10) Two or more local governments may provide for joint boards, districts, or commissions to be established by interlocal agreements.

(11) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting; unless the resolution creating the board, district, or commission specifies otherwise.

(12) An administrative board, district, or commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

(13) An administrative board, district, or commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

(14) Unless otherwise provided by law, a person must be a resident of the county to be eligible for appointment to an administrative board, district, or commission. The county commissioners may prescribe by resolution additional qualifications for membership.

(15) A person may be removed from an administrative board, district, or commission for cause by the county commissioners or as provided by resolution.

(16) A resolution creating an administrative board, district, or commission must contain, if applicable, budgeting and accounting requirements for which the board, district, or commission is accountable to the county commissioners.

(17) If a municipality creates a special district in accordance with [sections 1 through 20], the governing body of the municipality shall comply with this section if the governing body chooses to have the special district governed by a separate board."

**Section 23.** Section 7-1-202, MCA, is amended to read:

**"7-1-202. Creation of new boards.** Subject to 7-1-201 and 7-1-203 and in addition to the following, a county may create administrative boards, districts, and commissions that are not otherwise provided for by law:

- (1) county building commission;
- (2) cemetery districts;
- (3) county fair commission;
- ~~(4)~~(4) mosquito control board;

- (5)(5) museum board;
- (6)(6) board of park commissioners;
- (7) road district;
- (7)(8) rodent control board;
- (8)(9) solid waste district;
- (9)(10) television district;
- (10)(11) weed management district."

**Section 24.** Section 7-6-2527, MCA, is amended to read:

**"7-6-2527. Taxation -- public and governmental purposes.** A county may impose a property tax levy for any public or governmental purpose not specifically prohibited by law. Public and governmental purposes include but are not limited to:

- (1) district court purposes as provided in 7-6-2511;
- (2) county-owned or county-operated health care facility purposes as provided in 7-6-2512;
- (3) county law enforcement services and maintenance of county detention center purposes as provided in 7-6-2513 and search and rescue units as provided in 7-32-235;
- (4) multijurisdictional service purposes as provided in ~~7-11-1106~~ [section 13];
- (5) transportation services for senior citizens and persons with disabilities as provided in 7-14-111;
- (6) support for a port authority as provided in 7-14-1132;
- (7) county road, bridge, and ferry purposes as provided in 7-14-2101, 7-14-2501, 7-14-2502, 7-14-2503, 7-14-2801, and 7-14-2807;
- (8) recreational, educational, and other activities of the elderly as provided in 7-16-101;
- (9) purposes of county fair activities, parks, cultural facilities, and any county-owned civic center, youth center, recreation center, or recreational complex as provided in 7-16-2102, and 7-16-2109, ~~and 7-21-3410~~;
- (10) programs for the operation of licensed day-care centers and homes as provided in 7-16-2108 and 7-16-4114;
- (11) support for ~~a museum, facility for the arts and the humanities, collection of exhibits, or a museum district as provided in 7-16-2205~~ a museum, facility for the arts and the humanities, collection of exhibits, or a museum district created under provisions of former Title 7, chapter 16, part 22, or [sections 1 through 20];

- (12) extension work in agriculture and home economics as provided in 7-21-3203;
- (13) weed control and management purposes as provided in 7-22-2142;
- (14) insect control programs as provided in 7-22-2306;
- (15) fire control as provided in 7-33-2209;
- (16) ambulance service as provided in 7-34-102;
- (17) public health purposes as provided in 50-2-111 and 50-2-114;
- (18) public assistance purposes as provided in 53-3-115;
- (19) indigent assistance purposes as provided in 53-3-116;
- (20) developmental disabilities facilities as provided in 53-20-208;
- (21) mental health services as provided in 53-21-1010;
- (22) airport purposes as provided in 67-10-402 and 67-11-302;
- (23) purebred livestock shows and sales as provided in 81-8-504;
- (24) economic development purposes as provided in 90-5-112; and
- (25) prevention programs, including programs that reduce substance abuse."

**Section 25.** Section 7-7-2101, MCA, is amended to read:

**"7-7-2101. Limitation on amount of county indebtedness.** (1) A county may not issue bonds or incur other indebtedness for any purpose in an amount, including existing indebtedness, that in the aggregate exceeds 2.5% of the total assessed value of taxable property, determined as provided in 15-8-111, within the county; as ascertained by the last assessment for state and county taxes.

(2) Except as provided in 7-7-2402 and ~~7-21-3413~~, a county may not incur indebtedness or liability for any single purpose to an amount exceeding \$500,000 without the approval of a majority of the electors of the county voting at an election as provided by law.

(3) This section does not apply to the acquisition of conservation easements as set forth in Title 76, chapter 6."

**Section 26.** Section 7-11-1102, MCA, is amended to read:

**"7-11-1102. Services that may be provided.** (1) A multijurisdictional service district may provide only those services that are authorized to be provided by local governments.

(2) The services that a multijurisdictional service district may provide are:

(a) recreation programs other than park and recreation programs in a county park district established under ~~Title 7, chapter 16, part 24~~ [sections 1 through 20];

(b) road, street, and highway maintenance;

(c) libraries;

(d) jails;

(e) dog control programs;

(f) ambulance service;

(g) dispatch service;

(h) protection of human health and the environment, including scenic concerns and recreational activities for areas requiring or involving environmental reclamation;

(i) health services and health department functions; and

(j) maintenance or provision of any public infrastructure facility, project, or service."

**Section 27.** Section 7-11-1112, MCA, is amended to read:

**"7-11-1112. Financing.** (1) Subject to 15-10-420, local governments organizing a multijurisdictional service district are authorized to levy property taxes in an amount not to exceed that authorized for the district in ~~7-11-1106~~ accordance with [section 5] and to appropriate funds derived from other than general tax ~~revenues~~ revenue for the operation of the district. Subject to 15-10-420, property taxes levied for a library established under this part as a multijurisdictional service must be added to taxes levied under 22-1-304.

(2) A property tax levied for the purpose of financing the district ~~must~~ may, for all agricultural property having an area greater than 10 acres, be levied only on the principal residential dwelling, if any, on the property."

**Section 28.** Section 7-13-2511, MCA, is amended to read:

**"7-13-2511. Prohibition on operation of cable TV systems.** A television district organized under [sections 1 through 20] or the former provision of this part may not perform any acts or take any steps to construct or operate community antenna systems, commonly known and referred to as cable TV systems."

**Section 29.** Section 7-13-2512, MCA, is amended to read:

**"7-13-2512. Authorization for FM translator.** (1) A television district may construct and operate a broadcast FM translator facility (88 to 108 megahertz) as provided in this section.

(2) (a) A request to provide FM translator services may be initiated by a petition signed by at least 51% of the registered electors who are residents of the television district and presented to the board of county commissioners ~~which that~~ initially established the district. The petition, its filing, ~~and its processing,~~ and the public hearing are governed by ~~7-13-2503, 7-13-2504, and 7-13-2505~~ [sections 3, 5, and 6].

(b) ~~Upon receiving a certified petition, the board of county commissioners shall give notice and hold a hearing as provided in 7-13-2506 and 7-13-2507. After the hearing, the board of county commissioners shall approve or deny the petition by resolution. If the county commissioners approve the decision is to approve the petition, the resolution shall must authorize the board of trustees of the district to provide the requested services and shall must describe the proposed system, including the type of construction, proposed location, and estimated costs."~~

**Section 30.** Section 7-14-2138, MCA, is amended to read:

**"7-14-2138. Prosecution by county attorney.** (1) The county attorney, upon complaint of the road supervisor, county surveyor, or any other person, shall prosecute all actions provided in Title 7, chapter 14, parts 21 through 26 and 28, in the name of the state of Montana.

(2) All penalties, except those paid to a justice's court, ~~shall must~~ be paid into the general fund of the county."

**Section 31.** Section 7-16-2105, MCA, is amended to read:

**"7-16-2105. Acquisition of land by county for public recreational or cultural purposes.** ~~(1)~~ A county may acquire, by purchase, grant, deed, gift, devise, condemnation pursuant to Title 70, chapter 30, or otherwise, lands suitable for public camping, public recreational purposes, civic centers, youth centers, museums, recreational centers, and any combination of the enumerated uses. A county may lease the land tracts, each of which must be situated so that it offers ready access to a public highway.

~~(2) This section may not be construed as amending or repealing 7-16-2201 through 7-16-2203."~~

**Section 32.** Section 7-16-2109, MCA, is amended to read:

**"7-16-2109. Single ~~tax~~ assessment for county fair activities, county parks, and certain cultural, social, and recreational facilities -- restriction.** (1) Subject to 15-10-420 and except as provided in subsection (2) of this section, the county commissioners of a county who have levied taxes pursuant to ~~both 7-16-2102 and 7-21-3410~~ may combine ~~the two taxes that levy with any fees assessed in accordance with [section 15]~~ into a single tax assessment for the purpose of maintaining, operating, and equipping county fair activities, county parks, cultural facilities, and any county-owned civic center, youth center, recreation center, recreational complex, or any combination of purposes, activities, and facilities. The money collected may be distributed among the activities and facilities as determined by the county commissioners.

(2) (a) The board of county commissioners shall submit the question of imposing or continuing the imposition of the single tax assessment provided for in subsection (1) to the electors of the county at the next general election if a petition requesting a vote on the single tax assessment, signed by at least 15% of the resident taxpayers of the county, is filed with the county clerk and recorder at least 90 days prior to the date of the general election.

(b) The question must be submitted as provided in 15-10-425.

(c) The board of county commissioners shall ~~levy the tax~~ collect the assessment if the imposition or continued imposition of the single tax assessment is approved by a majority of the electors voting on the question."

**Section 33.** Section 7-21-3411, MCA, is amended to read:

**"7-21-3411. Restriction on use of appropriation or tax money.** ~~No portion~~ An amount of the appropriation or tax levy ~~provided for in 7-21-3410 shall~~ or assessment for a county fair district or a multiple county fair district may not be expended for horseracing."

**Section 34.** Section 7-22-2512, MCA, is amended to read:

**"7-22-2512. Financing of vertebrate pest management program -- tax.** (1) A governing body may:

(a) appropriate from the county general fund an amount to fund vertebrate pest management and transfer it to the county vertebrate pest management fund; and

(b) subject to 15-10-420, levy a vertebrate pest management tax on the taxable valuation of all agricultural, horticultural, grazing, and timber lands and their improvements. Land within a rodent control district

may not be taxed in any given year under both ~~7-22-2222~~ [section 15] and this section for the control of rodents as defined in ~~7-22-2207~~. Land within a rodent control district may be taxed under this section only in a dollar amount that is proportional to the part of the vertebrate pest program's projected fiscal year budget that is allocated to the management and suppression of vertebrate pests other than rodents.

(2) The tax provided for in subsection (1) must be collected as other county taxes and credited to the county vertebrate pest management fund."

**Section 35.** Section 15-6-201, MCA, is amended to read:

**"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

(iv) municipal corporations;

(v) public libraries; ~~and~~

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33; and

(vii) special districts created pursuant to [sections 1 through 20];

(b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;

(c) property owned and used exclusively for agricultural and horticultural societies not operated for gain

or profit;

(d) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:

- (i) is not operated for gain or profit;
- (ii) has an attendance policy; and
- (iii) has a definable curriculum with systematic instruction;

(e) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(f) property that is:

(i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) not maintained and not operated for gain or profit;

(g) subject to subsection (2), property that is owned or property that is leased from a federal, state, or local governmental entity by institutions of purely public charity if the property is directly used for purely public charitable purposes;

(h) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(i) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

(j) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(k) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(l) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit; and

(m) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(m), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(2) (a) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal Internal Revenue Code:

(i) an ordained minister, priest, or rabbi;

(ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the person has the authority to perform substantially all the religious duties of the church or denomination;

(iii) a member of a religious order who has taken a vow of poverty; or

(iv) a Christian Science practitioner.

(b) For the purposes of subsection (1)(g):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal

Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even if the property must be improved before it can directly be used for its intended charitable purpose. If the property is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property shall pay an amount equal to the amount of the tax due that year times the number of years that the property was tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed. At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county in which the property is located. The notice must indicate that an exemption pursuant to this section has been granted. The notice must describe the penalty for default under this section and must specify that a default under this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the department.

(iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally applied for after December 31, 2004. An application for exemption under this section must contain a legal description of the property for which the exemption is requested.

(c) For the purposes of subsection (1)(i), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or

(iii) used to house or store a public display."

**Section 36.** Section 20-15-403, MCA, is amended to read:

**"20-15-403. Applications of other school district provisions.** (1) When the term "school district" appears in the following sections outside of Title 20, the term includes community college districts and the provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111, 2-9-316, 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106, 7-13-110, ~~7-13-210~~, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-605, 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402, 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 40-6-237, 49-3-101, 49-3-102, 52-2-617, 53-20-304, 82-10-201 through 82-10-203, 85-7-2158, and 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

(2) When the term "school district" appears in a section outside of Title 20 but the section is not listed in subsection (1), the school district provision does not apply to a community college district."

**Section 37.** Section 53-30-503, MCA, is amended to read:

**"53-30-503. Definitions.** As used in this part, the following definitions apply:

(1) "Corporation" means an entity organized and existing pursuant to Title 35, chapter 1 or 2, and approved or designated by a local governmental entity.

(2) "Department" means the department of corrections.

(3) "Interlocal cooperation commission" means a commission established in accordance with Title 7, chapter 11, part 2.

(4) "Local governmental entity" means:

- (a) a local governmental unit;
- (b) a multijurisdictional service district; or
- (c) an interlocal cooperation commission.

(5) "Multijurisdictional service district" means a district established in accordance with ~~Title 7, chapter 11, part 11~~ sections 1 through 20.

(6) "Regional correctional facility" means a facility for the housing of persons charged with or convicted of a criminal offense that is a joint detention center and correctional facility and that is designed, constructed, or operated under this part by a local governmental entity, a corporation, the department, or any combination of a local governmental entity, a corporation, and the department."

**Section 38.** Section 70-30-102, MCA, is amended to read:

**"70-30-102. Public uses enumerated.** Subject to the provisions of this chapter, the right of eminent domain may be exercised for the following public uses:

- (1) all public uses authorized by the government of the United States;
- (2) public buildings and grounds for the use of the state and all other public uses authorized by the legislature of the state;
- (3) public buildings and grounds for the use of any county, city, town, or school district;
- (4) canals, aqueducts, flumes, ditches, or pipes conducting water, heat, or gas for the use of the inhabitants of any county, city, or town;
- (5) projects to raise the banks of streams, remove obstructions from streambanks, and widen, deepen, or straighten stream channels;
- (6) water and water supply systems as provided in Title 7, chapter 13, part 44;
- (7) roads, streets, alleys, controlled-access facilities, and other publicly owned buildings and facilities for the benefit of a county, city, or town or the inhabitants of a county, city, or town;
- (8) acquisition of road-building material as provided in 7-14-2123;
- (9) stock lanes as provided in 7-14-2621;
- (10) parking areas as provided in 7-14-4501 and 7-14-4622;
- (11) airport purposes as provided in 7-14-4801, 67-2-301, 67-7-210, and Title 67, chapters 10 and 11;
- (12) urban renewal projects as provided in Title 7, chapter 15, parts 42 and 43, except that private property may be acquired for urban renewal through eminent domain only if the property is determined to be a blighted area, as defined in 7-15-4206(2)(a), (2)(h), (2)(k), or (2)(n), and may not be acquired for urban renewal through eminent domain if the purpose of the project is to increase government tax revenue;
- (13) housing authority purposes as provided in Title 7, chapter 15, part 44;
- (14) county recreational and cultural purposes as provided in 7-16-2105;

- (15) city or town athletic fields and civic stadiums as provided in 7-16-4106;
- (16) county cemetery purposes ~~as provided in~~ pursuant to 7-35-2204 [section 12], cemetery association purposes as provided in 35-20-104, and state veterans' cemetery purposes as provided in 10-2-604;
- (17) preservation of historical or archaeological sites as provided in 23-1-102 and 87-1-209(2);
- (18) public assistance purposes as provided in 53-2-201;
- (19) highway purposes as provided in 60-4-103 and 60-4-104;
- (20) common carrier pipelines as provided in 69-13-104;
- (21) water supply, water transportation, and water treatment systems as provided in 75-6-313;
- (22) mitigation of the release or threatened release of a hazardous or deleterious substance as provided in 75-10-720;
- (23) the acquisition of nonconforming outdoor advertising as provided in 75-15-123;
- (24) screening for or the relocation or removal of junkyards, motor vehicle graveyards, motor vehicle wrecking facilities, garbage dumps, and sanitary landfills as provided in 75-15-223;
- (25) water conservation and flood control projects as provided in 76-5-1108;
- (26) acquisition of natural areas as provided in 76-12-108;
- (27) acquisition of water rights for the natural flow of water as provided in 85-1-204;
- (28) property and water rights necessary for waterworks as provided in 85-1-209 and 85-7-1904;
- (29) conservancy district purposes as provided in 85-9-410;
- (30) wharves, docks, piers, chutes, booms, ferries, bridges, private roads, plank and turnpike roads, and railroads;
- (31) canals, ditches, flumes, aqueducts, and pipes for:
  - (a) supplying mines, mills, and smelters for the reduction of ores;
  - (b) supplying farming neighborhoods with water and drainage;
  - (c) reclaiming lands; and
  - (d) floating logs and lumber on streams that are not navigable;
- (32) sites for reservoirs necessary for collecting and storing water. However, reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.
- (33) roads, tunnels, and dumping places for working mines, mills, or smelters for the reduction of ores;
- (34) outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines,

mills, and smelters for the reduction of ores;

(35) an occupancy in common by the owners or the possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines, mills, or smelters for reduction of ores and sites for reservoirs necessary for collecting and storing water for the mines, mills, or smelters. However, the reservoir sites must possess a public use demonstrable to the district court as the highest and best use of the land.

(36) private roads leading from highways to residences or farms;

(37) telephone or electrical energy lines, except that local government entities as defined in 2-7-501, municipal utilities, or competitive electricity suppliers may not use this chapter to acquire existing telephone or electrical energy lines and appurtenant facilities owned by a public utility or cooperative for the purpose of transmitting or distributing electricity or providing telecommunications services;

(38) telegraph lines;

(39) sewerage of any:

(a) county, city, or town or any subdivision of a county, city, or town, whether incorporated or unincorporated;

(b) settlement consisting of not less than 10 families; or

(c) public buildings belonging to the state or to any college or university;

(40) tramway lines;

(41) logging railways;

(42) temporary logging roads and banking grounds for the transportation of logs and timber products to public streams, lakes, mills, railroads, or highways for a time that the court or judge may determine. However, the grounds of state institutions may not be used for this purpose.

(43) underground reservoirs suitable for storage of natural gas;

(44) projects to mine and extract ores, metals, or minerals owned by the condemnor located beneath or upon the surface of property where the title to the surface vests in others. However, the use of the surface of property for strip mining or open-pit mining of coal (i.e., any mining method or process in which the strata or overburden is removed or displaced in order to extract the coal) is not a public use, and eminent domain may not be exercised for this purpose.

(45) projects to restore and reclaim lands that were strip mined or underground mined for coal and not

reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or underground mining on those lands."

**Section 39. Repealer.** Sections 7-11-1101, 7-11-1105, 7-11-1106, 7-11-1107, 7-11-1111, 7-12-4001, 7-13-201, 7-13-202, 7-13-203, 7-13-204, 7-13-205, 7-13-206, 7-13-207, 7-13-208, 7-13-209, 7-13-210, 7-13-211, 7-13-212, 7-13-213, 7-13-215, 7-13-216, 7-13-217, 7-13-218, 7-13-231, 7-13-232, 7-13-233, 7-13-234, 7-13-235, 7-13-236, 7-13-237, 7-13-301, 7-13-302, 7-13-303, 7-13-304, 7-13-305, 7-13-306, 7-13-307, 7-13-308, 7-13-309, 7-13-310, 7-13-311, 7-13-2501, 7-13-2502, 7-13-2503, 7-13-2504, 7-13-2505, 7-13-2506, 7-13-2507, 7-13-2508, 7-13-2509, 7-13-2510, 7-13-2521, 7-13-2527, 7-13-2528, 7-13-2529, 7-13-2541, 7-13-2542, 7-14-2701, 7-14-2702, 7-14-2703, 7-14-2704, 7-14-2705, 7-14-2706, 7-14-2707, 7-14-2708, 7-14-2709, 7-14-2710, 7-14-2711, 7-14-2712, 7-14-2713, 7-14-2714, 7-14-2715, 7-14-2716, 7-14-2717, 7-14-2718, 7-14-2719, 7-14-2720, 7-14-2721, 7-14-2731, 7-14-2732, 7-14-2733, 7-14-2734, 7-14-2735, 7-14-2736, 7-14-2737, 7-14-2738, 7-14-2739, 7-14-2740, 7-14-2741, 7-14-2742, 7-14-2743, 7-14-2744, 7-14-2745, 7-14-2746, 7-14-2751, 7-14-2752, 7-14-2753, 7-14-2754, 7-14-2755, 7-14-2756, 7-14-2757, 7-14-2758, 7-14-2759, 7-14-2760, 7-14-2761, 7-14-2762, 7-14-2763, 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907, 7-14-2908, 7-16-2201, 7-16-2202, 7-16-2203, 7-16-2205, 7-16-2211, 7-16-2212, 7-16-2213, 7-16-2214, 7-16-2215, 7-16-2216, 7-16-2217, 7-16-2218, 7-16-2219, 7-16-2401, 7-16-2402, 7-16-2403, 7-16-2411, 7-16-2412, 7-16-2413, 7-16-2421, 7-16-2422, 7-16-2423, 7-16-2431, 7-16-2433, 7-16-2441, 7-16-2442, 7-16-2443, 7-21-3401, 7-21-3406, 7-21-3407, 7-21-3408, 7-21-3409, 7-21-3410, 7-21-3412, 7-21-3413, 7-21-3421, 7-21-3422, 7-21-3423, 7-21-3424, 7-21-3425, 7-21-3426, 7-21-3427, 7-21-3428, 7-21-3429, 7-21-3430, 7-21-3431, 7-21-3432, 7-21-3433, 7-21-3434, 7-21-3435, 7-21-3451, 7-21-3452, 7-21-3453, 7-21-3454, 7-21-3455, 7-21-3456, 7-21-3457, 7-21-3458, 7-22-2207, 7-22-2208, 7-22-2209, 7-22-2210, 7-22-2211, 7-22-2212, 7-22-2213, 7-22-2214, 7-22-2215, 7-22-2216, 7-22-2221, 7-22-2222, 7-22-2223, 7-22-2224, 7-22-2225, 7-22-2226, 7-22-2231, 7-22-2232, 7-22-2233, 7-22-2401, 7-22-2402, 7-22-2403, 7-22-2405, 7-22-2408, 7-22-2409, 7-22-2410, 7-22-2411, 7-22-2415, 7-22-2416, 7-22-2417, 7-22-2418, 7-22-2419, 7-22-2420, 7-22-2431, 7-22-2432, 7-22-2433, 7-22-2434, 7-22-2441, 7-22-2442, 7-22-2443, 7-22-2444, 7-22-2445, 7-22-2446, 7-22-2447, 7-22-2448, 7-35-101, 7-35-102, 7-35-2101, 7-35-2102, 7-35-2103, 7-35-2104, 7-35-2105, 7-35-2106, 7-35-2107, 7-35-2108, 7-35-2109, 7-35-2110, 7-35-2111, 7-35-2112, 7-35-2113, 7-35-2114, 7-35-2115, 7-35-2116, 7-35-2121, 7-35-2122, 7-35-2123, 7-35-2124, 7-35-2125, 7-35-2201,

7-35-2202, 7-35-4101, 7-35-4103, 7-35-4105, 7-35-4106, 7-35-4107, 7-35-4108, and 7-35-4109, MCA, are repealed.

**Section 40. Codification instruction.** [Sections 1 through 20] are intended to be codified as an integral part of Title 7, and the provisions of Title 7 apply to [sections 1 through 20].

**Section 41. Codification instruction.** [Section 21] is intended to be codified as an integral part of Title 22, chapter 1, part 7, and the provisions of Title 22, chapter 1, part 7, apply to [section 21].

**Section 42. Saving clause.** [Sections 1 through 20] do not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before July 1, 2009.

**Section 43. Transition.** (1) Subject to subsection (2), a special district in existence on [the effective date of this act] must comply with the provisions of [sections 1 through 20] upon alteration of its boundaries or a change in its amount or method of assessment. If dissolution is proposed for a special district in existence on [the effective date of this act], the proposal is subject to the provisions of [section 20].

(2) A special district in existence on [the effective date of this act] is required to comply with the provisions of [section 10] only upon alteration of its boundaries.

**Section 44. Effective date.** [This act] is effective July 1, 2009.

- END -

I hereby certify that the within bill,  
SB 0057, originated in the Senate.

---

Secretary of the Senate

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

SENATE BILL NO. 57

INTRODUCED BY K. GILLAN

BY REQUEST OF THE EDUCATION AND LOCAL GOVERNMENT INTERIM COMMITTEE

AN ACT GENERALLY REVISING THE LAWS RELATING TO SPECIAL DISTRICTS; ALLOWING FOR THE CREATION OF SPECIAL DISTRICTS BY LOCAL GOVERNMENTS WORKING INDIVIDUALLY AND JOINTLY; ESTABLISHING UNIFORM STANDARDS FOR THE CREATION, ADMINISTRATION, AND OPERATION OF SPECIAL DISTRICTS BY GOVERNING BODIES AND ELECTED OR APPOINTED BOARDS; ELIMINATING SPECIFIC PROVISIONS RELATING TO CEMETERY DISTRICTS, COUNTY MUSEUMS, FACILITIES FOR THE ARTS, MUSEUM DISTRICTS, COUNTY PARK DISTRICTS, COUNTY FAIR COMMISSIONS, COUNTY FAIR DISTRICTS, MULTICOUNTY FAIR DISTRICTS, JOINT SOLID WASTE MANAGEMENT DISTRICTS, LOCAL IMPROVEMENT DISTRICTS, MOSQUITO CONTROL DISTRICTS, MULTIJURISDICTIONAL SERVICE DISTRICTS, PARK MAINTENANCE DISTRICTS, ROAD IMPROVEMENT DISTRICTS, RODENT CONTROL DISTRICTS, SOLID WASTE MANAGEMENT DISTRICTS, AND TELEVISION DISTRICTS; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-1-201, 7-1-202, 7-6-2527, 7-7-2101, 7-11-1102, 7-11-1112, 7-13-2511, 7-13-2512, 7-14-2138, 7-16-2105, 7-16-2109, 7-21-3411, 7-22-2512, 15-6-201, 20-15-403, 53-30-503, AND 70-30-102, MCA; REPEALING SECTIONS 7-11-1101, 7-11-1105, 7-11-1106, 7-11-1107, 7-11-1111, 7-12-4001, 7-13-201, 7-13-202, 7-13-203, 7-13-204, 7-13-205, 7-13-206, 7-13-207, 7-13-208, 7-13-209, 7-13-210, 7-13-211, 7-13-212, 7-13-213, 7-13-215, 7-13-216, 7-13-217, 7-13-218, 7-13-231, 7-13-232, 7-13-233, 7-13-234, 7-13-235, 7-13-236, 7-13-237, 7-13-301, 7-13-302, 7-13-303, 7-13-304, 7-13-305, 7-13-306, 7-13-307, 7-13-308, 7-13-309, 7-13-310, 7-13-311, 7-13-2501, 7-13-2502, 7-13-2503, 7-13-2504, 7-13-2505, 7-13-2506, 7-13-2507, 7-13-2508, 7-13-2509, 7-13-2510, 7-13-2521, 7-13-2527, 7-13-2528, 7-13-2529, 7-13-2541, 7-13-2542, 7-14-2701, 7-14-2702, 7-14-2703, 7-14-2704, 7-14-2705, 7-14-2706, 7-14-2707, 7-14-2708, 7-14-2709, 7-14-2710, 7-14-2711, 7-14-2712, 7-14-2713, 7-14-2714, 7-14-2715, 7-14-2716, 7-14-2717, 7-14-2718, 7-14-2719, 7-14-2720, 7-14-2721, 7-14-2731, 7-14-2732, 7-14-2733, 7-14-2734, 7-14-2735, 7-14-2736, 7-14-2737, 7-14-2738, 7-14-2739, 7-14-2740, 7-14-2741, 7-14-2742, 7-14-2743, 7-14-2744, 7-14-2745, 7-14-2746, 7-14-2751, 7-14-2752, 7-14-2753, 7-14-2754, 7-14-2755, 7-14-2756, 7-14-2757, 7-14-2758, 7-14-2759, 7-14-2760, 7-14-2761, 7-14-2762, 7-14-2763, 7-14-2901, 7-14-2902, 7-14-2903, 7-14-2907, 7-14-2908, 7-16-2201, 7-16-2202, 7-16-2203, 7-16-2205, 7-16-2211, 7-16-2212, 7-16-2213, 7-16-2214, 7-16-2215, 7-16-2216, 7-16-2217, 7-16-2218, 7-16-2219, 7-16-2401, 7-16-2402,

7-16-2403, 7-16-2411, 7-16-2412, 7-16-2413, 7-16-2421, 7-16-2422, 7-16-2423, 7-16-2431, 7-16-2433,  
7-16-2441, 7-16-2442, 7-16-2443, 7-21-3401, 7-21-3406, 7-21-3407, 7-21-3408, 7-21-3409, 7-21-3410,  
7-21-3412, 7-21-3413, 7-21-3421, 7-21-3422, 7-21-3423, 7-21-3424, 7-21-3425, 7-21-3426, 7-21-3427,  
7-21-3428, 7-21-3429, 7-21-3430, 7-21-3431, 7-21-3432, 7-21-3433, 7-21-3434, 7-21-3435, 7-21-3451,  
7-21-3452, 7-21-3453, 7-21-3454, 7-21-3455, 7-21-3456, 7-21-3457, 7-21-3458, 7-22-2207, 7-22-2208,  
7-22-2209, 7-22-2210, 7-22-2211, 7-22-2212, 7-22-2213, 7-22-2214, 7-22-2215, 7-22-2216, 7-22-2221,  
7-22-2222, 7-22-2223, 7-22-2224, 7-22-2225, 7-22-2226, 7-22-2231, 7-22-2232, 7-22-2233, 7-22-2401,  
7-22-2402, 7-22-2403, 7-22-2405, 7-22-2408, 7-22-2409, 7-22-2410, 7-22-2411, 7-22-2415, 7-22-2416,  
7-22-2417, 7-22-2418, 7-22-2419, 7-22-2420, 7-22-2431, 7-22-2432, 7-22-2433, 7-22-2434, 7-22-2441,  
7-22-2442, 7-22-2443, 7-22-2444, 7-22-2445, 7-22-2446, 7-22-2447, 7-22-2448, 7-35-101, 7-35-102, 7-35-2101,  
7-35-2102, 7-35-2103, 7-35-2104, 7-35-2105, 7-35-2106, 7-35-2107, 7-35-2108, 7-35-2109, 7-35-2110,  
7-35-2111, 7-35-2112, 7-35-2113, 7-35-2114, 7-35-2115, 7-35-2116, 7-35-2121, 7-35-2122, 7-35-2123,  
7-35-2124, 7-35-2125, 7-35-2201, 7-35-2202, 7-35-4101, 7-35-4103, 7-35-4105, 7-35-4106, 7-35-4107,  
7-35-4108, AND 7-35-4109, MCA; AND PROVIDING AN EFFECTIVE DATE.