

HOUSE BILL NO. 588

INTRODUCED BY M. CUFFE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROCESS FOR REQUIRING OWNERS OF REAL PROPERTY TO PAY OUTSTANDING CHARGES FOR LOCAL GOVERNMENT WATER AND SEWER SERVICES WHEN THE DEBT HAS BEEN INCURRED BY A TENANT; PROHIBITING COLLECTION OF INTEREST AND PENALTIES FROM A PROPERTY OWNER UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 7-13-2201, 7-13-2301, 7-13-4305, 7-13-4306, AND 7-13-4309, MCA."

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

Section 1. Section 7-13-2201, MCA, is amended to read:

"7-13-2201. Definitions. For the purposes of part 23 and this part, the following definitions apply:

(1) ~~The word "board" and the words "boards"~~ "Board of directors" ~~apply to~~ means the board of directors of the district.

(2) ~~The term "county"~~ "County" means one or more counties and includes a city and county.

(3) ~~The word "district"~~ "District", unless otherwise expressed or used, ~~applies to~~ means a district formed under the provisions of ~~this part and part 23~~ and this part. A district is a unit of local government separate and distinct from a municipality, but a district may be treated as a municipality when applying for a grant, a loan, or other financial assistance from the state.

(4) ~~The term "municipality", as used in this part and part 23,~~ "Municipality" includes a consolidated city and county, city, or town and includes all corporations organized for municipal purposes within the districts.

(5) "Tenant" has the meaning provided in 70-24-103.

Section 2. Section 7-13-2301, MCA, is amended to read:

"7-13-2301. Establishment of charges for services -- payment of charges. (1) The board of directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer charges and the charges for the sale and distribution of water to all users.

(2) (a) The board, in furnishing water, sewer service, other services, and facilities, shall review, at least once every year, and set, as required, the rate, fee, toll, rent, tax, or other charge for the services, facilities, and

1 benefits directly afforded by the facilities, taking into account services provided and direct benefits received.
 2 Taking into account the collections of any special assessments levied pursuant to 7-13-2280 through 7-13-2290
 3 and any property taxes that will be levied to pay debt service on general obligation bonds authorized pursuant
 4 to 7-13-2331, the amount to be collected and appropriated must be sufficient in each year to provide income and
 5 revenue adequate for the:

6 (i) payment of the reasonable expense of operation and maintenance of the facilities;
 7 (ii) administration of the district;
 8 (iii) payment of principal and interest on any bonded or other indebtedness of the district; and
 9 (iv) establishment or maintenance of any required reserves, including reserves needed for expenditures
 10 for depreciation and replacement of facilities, as may be determined necessary from time to time by the board
 11 or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the district.

12 (b) A portion of the rate, fee, toll, rent, tax, or other charge provided for in subsection (2)(a) may be
 13 charged to the owner of an undeveloped lot, tract, or parcel to pay a share of the principal of and interest on
 14 bonded indebtedness issued to finance the capital cost of improvements to an existing water or sewer system,
 15 so long as the board makes findings in a resolution or ordinance of the district that demonstrate that the
 16 improvements to the existing system to be financed by the bonded indebtedness confer a direct benefit on the
 17 lot, tract, or parcel.

18 (3) A person or entity may not use any facility without paying the rate established for the facility. ~~It~~
 19 Subject to subsection (5), in the event of nonpayment, the board may order the discontinuance of water or sewer
 20 service, or both, to the property and may require that all delinquent charges, interest, penalties, and deposits be
 21 paid before restoration of the service.

22 (4) (a) If the board has ordered discontinuance of service as provided in ~~subsection~~ subsection (3) or
 23 (5) and the person or entity who received the service has not made full payment of all delinquent charges,
 24 interest, penalties, and deposits, then a district may elect to have its delinquent charges for water or sewer
 25 services collected as a tax against the property by following the procedures of this subsection (4) and subsection
 26 (5) if subsection (5) applies. If a charge for services is due and payable in a fiscal year and is not paid by the end
 27 of the fiscal year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to the owners
 28 of the property to which the service was provided. The notice must be in writing and:

29 (i) must specify the charges owed, including any interest and penalty;
 30 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against the

1 property;

2 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover the
3 amount due; and

4 (iv) may be served on the owner personally or by letter addressed to the post-office address of the owner
5 as recorded in the county assessor's office.

6 (b) On September 1 of each year, the general manager shall certify and file with the county assessor
7 a list of all property, including legal descriptions, on which arrearages remain unpaid. The list must include the
8 amount of each arrearage, including interest and penalty. The county assessor shall assess the amount owed
9 as a tax against each lot or parcel with an arrearage. If the property on which arrearages remain unpaid contains
10 a mobile home, the amount owed must be assessed as a tax against the owner of the mobile home. If the mobile
11 home for which arrearages remain unpaid is no longer on the property, the amount owed must be assessed as
12 a tax against the property.

13 (5) (a) When arrearages are the result of delinquent charges that have been incurred by a tenant of the
14 real property and not the owner of the real property, the provisions of this subsection (5) apply and the district
15 may collect unpaid arrearages as a tax levied against real property. The board may require that all arrearages
16 be paid by the owner of the property before restoration of service to that property only if:

17 (i) prior to the provision of water and sewer services to the tenant, the district has collected a deposit
18 from the tenant that is equivalent to 1 1/2 times the average bill in a monthly billing cycle or \$200 if the billing cycle
19 is not monthly; and

20 (ii) the district has provided to the property owner a 10-day notice for payment after the tenant's bill
21 amount has become 15 days delinquent on the district's billing cycle.

22 (b) The district may discontinue service if the district notifies the owner of the property at least 10 working
23 days before the service is to be discontinued.

24 (c) The account must be in the name of the tenant, the tenant's immediate family member, or the
25 property owner.

26 (d) If the account is in the name of the tenant or the tenant's immediate family member, the landlord or
27 property owner must be provided access to information regarding the account status, the account balance, the
28 current bill, and any deposits made.

29 (e) The district may not attempt to collect interest or penalties from the landlord or property owner.
30

1 ~~(5)~~(6) In addition to collecting delinquent charges in the same manner as a tax, a district may bring suit
2 in any court of competent jurisdiction to collect amounts due as a debt owed to the district.

3 ~~(6)~~(7) Notwithstanding any other section of part 22 or this part or any limitation imposed in part 22 or this
4 part, when the board has applied for and received from the federal government any money for the construction,
5 operation, and maintenance of facilities, the board may adopt a system of charges and rates to require that each
6 recipient of facility services pays its proportionate share of the costs of operation, maintenance, and replacement
7 and may require industrial users of facilities to pay the portion of the cost of construction of the facilities that is
8 allocable to the treatment of that industrial user's wastes."

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10 **Section 3.** Section 7-13-4305, MCA, is amended to read:

11 **"7-13-4305. Consumers required to pay for services.** (1) ~~No~~ A person, firm, or corporation ~~shall be~~
12 ~~permitted to~~ may not use ~~said a water or sewer~~ system unless ~~they pay~~ it pays the full ~~and established~~
13 ~~said the~~ service.

14 (2) ~~No~~ Subject to 7-13-4306(2) and 7-13-4309(5), a person, firm, or corporation may not have service
15 reestablished after it is discontinued pursuant to 7-13-4306 unless ~~they have~~ it has paid the full amount past due,
16 any interest or penalty on ~~such the~~ past-due amount, and any required reestablishment deposit."

17

18 **Section 4.** Section 7-13-4306, MCA, is amended to read:

19 **"7-13-4306. Effect of failure to pay charges.** (1) ~~In~~ Subject to subsection (2), in the event of
20 nonpayment of charges for either water or sewer service and benefits to any premises, the governing body may
21 direct that the supply of water or provision of sewer service to ~~such the~~ premises ~~to~~ be discontinued until ~~such~~
22 charges are paid.

23 (2) If the delinquent charges have been incurred by a tenant, as defined in 70-24-103, the provisions of
24 7-13-4309(5) apply and the governing body may discontinue service if the governing body notifies the owner of
25 the property at least 10 working days before the service is to be discontinued."

26

27 **Section 5.** Section 7-13-4309, MCA, is amended to read:

28 **"7-13-4309. Procedure to collect sewer or water charges.** (1) Sewer or water charges must be
29 collected by the treasurer.

30 (2) On or before July 7 of each year, notice must be given by the city treasurer or town clerk to the

1 owners of all lots or parcels of real estate to which sewer or water service has been furnished prior to July 1 by
2 the city or town. The notice must specify the assessment owing and in arrears at the time of giving notice. The
3 notice must be in writing and must state the amount of arrearage, including any penalty and interest assessed
4 pursuant to the provisions of the city or town ordinance, and that, except as provided in subsection (5), unless
5 the amount is paid within 30 days of the notice, the amount will be levied as a tax against the lot or parcel of real
6 estate to which sewer or water service was furnished and for which payment is delinquent. The notice must also
7 state that the city or town may by suit collect past-due assessments, interest, and penalties, as a debt owing the
8 city or town, in any court of competent jurisdiction, including city court. The notice may be delivered to the owner
9 personally or by letter addressed to the owner at the post-office address of the owner as shown in property tax
10 records maintained by the department of revenue.

11 (3) (a) Except as provided in ~~subsection~~ subsections (3)(b) and (3)(c), at the time that the annual tax levy
12 is certified to the county clerk, the city treasurer or town clerk shall certify and file with the department of revenue
13 a list of all lots or parcels of real estate, giving the legal description of the lot or parcel, to the owners of which
14 notices of arrearage in payments were given and which arrearage remains unpaid and stating the amount of the
15 arrearage, including any penalty and interest. The department of revenue shall insert the amount as a tax against
16 the lot or parcel of real estate.

17 (b) In cities where the council has provided by ordinance for the collection of taxes, the city treasurer
18 shall collect the delinquent amount, including penalty and interest, as a tax against the lot or parcel of real estate
19 to which sewer or water service was furnished and payment for which is delinquent.

20 (c) If the arrearages are the result of delinquent charges that have been incurred by a tenant, as defined
21 in 70-24-103, the provisions of subsection (5) apply.

22 (4) ~~A~~ Except as provided in subsection (5)(e), a city or town may, in addition to pursuing the collection
23 of assessments in the same manner as a tax, bring suit in any court of competent jurisdiction, including city court,
24 to collect the amount due and owing, including penalties and interest, as a debt owing the city or town.

25 (5) (a) When arrearages are the result of delinquent charges that have been incurred by a tenant of the
26 real property and not the owner of the real property, the governing body may collect unpaid arrearages as a tax
27 levied against real property and may require that all arrearages be paid by the owner of the property before
28 restoration of service to that property only if:

29 (i) prior to the provision of water and sewer services to the tenant, the governing body has collected a
30 deposit from the tenant that is equivalent to 1 1/2 times the average bill in a monthly billing cycle or \$200 if the

1 billing cycle is not monthly; and

2 (ii) the governing body has provided to the property owner a 10-day notice for payment after the tenant's
3 bill amount has become 15 days delinquent on the district's billing cycle.

4 (b) The governing body may discontinue service if the district notifies the owner of the property at least
5 10 working days before the service is to be discontinued.

6 (c) The account must be in the name of the tenant, the tenant's immediate family member, or the
7 property owner.

8 (d) If the account is in the name of the tenant or the tenant's immediate family member, the landlord or
9 property owner must be provided access to information regarding the account status, the account balance, the
10 current bill, and any deposits made.

11 (e) The governing body may not attempt to collect interest or penalties from the landlord or property
12 owner."

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