

Testimony Submitted by John MacDonald
On Behalf of the City of Missoula
House Local Government. Feb. 1, 2011

In 2010, the City of Missoula created two special districts pursuant to state law. The districts provide the city with another revenue source to maintain and enhance services that citizens consistently demand from local government. They follow a long tradition in Montana cities that directly links assessments to projects but have the distinct advantage of offering more flexibility than traditional maintenance districts.

You'll hear from special district opponents that protest provisions aren't robust enough in current legislation. In fact, the protest provisions in law provide for a protest that's not provided for in maintenance district legislation. Further, after weeks of controversy and extensive press coverage, a concerted effort by a few opponents of special-district legislation, an effort by the Missoula Area Chamber of Commerce to rally membership to protest, and an extended protest period, less than 10% of property owners protested, far below the 50% threshold.

You'll hear from opponents that deals were made with non-profits for payment in lieu of assessment. The City of Missoula did work with three large non-profit institutions to establish a fair value but, on advice from the Montana Department of Revenue, elected to assess non-profits based on DOR valuations, which is zero.

You'll hear from opponents that these districts are a way to raise taxes outside of the legislative cap on general-fund levies. Instead, this is a way to connect assessments with services, show property owners exactly where their dollars are going, pay for critical community infrastructure that serves business and residences, important community institutions and spurs economic development. Counties have been using these districts for years with great success and little backlash. Cities should be able to do the same.

Opponents say all new revenue ought to come in the form of general-fund taxation. Those increased are not subject to protest or formal, mailed notice. Special districts are.

Opponents will say Missoula's process was illegal. It was not. There were mistakes in the process that were corrected. Some say not everyone received notice, but the City certainly fulfilled its good-faith obligation to mail notice to all affected property owners.

Opponents here today from the Missoula City Council did not make any effort to modify the districts through their own legislative process. They are here today asking you, through this legislation, to wrest local control from elected officials in Missoula and around the state.

We'd respectfully suggest that the Legislature was wise to approve the special-district law that's on the books today. It allows local governments to present their constituents with options for maintaining and enhancing services, to seize opportunities to leverage state and federal dollars for significant community projects, to relieve individual property owners of the entire burden for improvements adjacent to their property that serves the larger community.

The law is good. A district is created with considerable constituent participation. It is subject to protest. Each year, the district must be funded through a public process. It keeps sheriff's departments open and bridges in repair. It keeps ice off of streets and weeds under control. It works in larger cities and smaller towns, in urban and rural Montana.

A clear majority of Missoulians surveyed in 2010 said they were willing to pay more for the maintenance and improvement of their road and park facilities. Please don't let the personal taxing philosophies of a minority in Missoula alter the revenue picture for countless Montanans in cities and counties.

Additional Background

Special Districts Q & A

1. What are special districts?

Special districts are geographical areas of a city that provide a way to pay for maintenance of and improvements to such services as parks and roads through assessments to property owners in the area.

2. How are they created?

They are created by City Council resolution. The process includes notification of property owners; a public hearing on the resolution creation; a protest period; and a public hearing to create the districts and set the assessment. The rules for the districts are created by state law, Title 7, Chapter 11, Part 10 Montana Code Annotated.

3. How can special districts be used? What do they pay for?

In the areas of service they fund, they can pay for:

- Maintenance and improvements, such as street paving and cleaning park restrooms, as well as upgrading roads and developing parks
- Implementation of measures required to maintain public health and safety or meet legal or regulatory requirements
- Purchasing, replacing and maintaining equipment, tools or vehicles used to carry out the functions funded
- Any other functions and/or labor, supplies and materials necessary for management and maintenance of City-owned facilities, lands and equipment under the responsibility and care of the City.

Road District Number 1 would include these provisions for streets, alleys, driveways, alley approaches, sidewalks, curbs and gutters, medians, boulevards, lighting, parking lots, support facilities, public amenities, storm water facilities, traffic control inclusive of traffic signals, signs and pavement markings, acquisition of right-of-ways, as well as other public facilities located in the public right-of-way and within public easements.

Park District Number 1 would include these provisions for public parks and park areas, recreation facilities, trails, open space, urban forest, medians, boulevards, pathways, sidewalks, acquisition of land, public easements and other facilities located in the City or owned by the City.

4. Why is the City of Missoula proposing creation of special districts for roads and parks?

The City of Missoula surveyed citizens in February 2010 and found the majority of citizens are willing to pay more to maintain certain existing City services. In four areas, these percentages of residents supported:

- Fire emergency services 81%
- Police services 77 %
- Street repair and maintenance, including street cleaning and snow removal 76%
- Maintenance and improvements of City parks and trails 67%

See the full survey at

<http://www.ci.missoula.mt.us/DocumentView.aspx?DID=4236>

Special districts and another type of district called maintenance districts are standard mechanisms for funding services in other major cities in Montana. Cities such as Billings, Great Falls, Helena and Bozeman use districts to fund streets. They offer the opportunity to allocate money for specific services and particular purposes. They can go beyond maintaining services to improve streets and parks.

This year, the creation of special districts will allow the City to maintain services and balance the Fiscal Year 2011 budget. In the future, the City Council may elect to assess for improvements.

5. How will citizens be assessed? Will everybody pay?

All properties in the city will be assessed, including residential and business and tax-exempt properties. The rate is approximately 2.15 % of the property's City taxes per year. As an example, the owner of a house valued at \$225,000 would be assessed about \$13 a year total for both districts.

6. Why will tax-exempt properties be assessed?

The law allows the City to assess all properties in the area that benefits from the services. All other cities in Montana that use special districts also assess tax-exempt properties. The only properties that will not be assessed are park lands; common areas and greenways; open space lands; parcels used as public streets; and alley right-of-ways.

7. What is the difference between an assessment and a tax?

An assessment is linked to a particular service and/or improvement. It has to be expended for the particular service (such as parks or roads in the proposed districts) and cannot be used for other City services. A City tax can be used for any City function that the City Council decides to use it for.

8. How can I figure my own assessment?

Here's an easy calculator we've established to help citizens do that. Go here: <http://maps.ci.missoula.mt.us/special/>

9. How could the assessment rise in the future?

The City Council will set the assessment annually. Its members could vote to fund specific projects, either fully or in conjunction with a local SID. Each year, a work plan and budget will be developed for each district. They will be presented to the Council as part of the budget process. The Council will pass an annual resolution specifying the special district assessment after providing notice and holding a public hearing.

10. When will the first assessment appear on tax bills?

If the Council creates the districts, November 2010.

11. What will the process be for creation?

The attached timeline from July 19 includes:

- Legal notice mailed to all property owners
- Legal advertisements in the Missoulian
- A 30-day protest and comment period, extended to September 7 by City Council on August 23
- A final public hearing to create and assess the districts.
- The Council may adopt or deny resolutions creating and assessing the districts, or the resolutions may fail by protests.

12. How can I protest the formation of the districts?

- Owners of assessed properties have the right to protest within 30 days of the first legal advertisement. (Extended to September 7 by City Council on August 23.)

Protests must be made in writing, signed by all the owners of that property, and must identify the property subject to protest. Letters must be delivered or mailed to the City of Missoula City Clerk, 435 Ryman St., Missoula, MT 59802. E-mails and phone calls are not legally acceptable protests.

Valid protests for properties representing more than 50% of the taxable/assessable value of each district will prevent the creation of that district and prohibit further attempts for one year.

Protests are due by September 7 at 5:00 p.m. The Missoula City Council extended the deadline, originally August 25, at its August 23 meeting. The City of Missoula has published a timeline with dates following the passage of the resolutions of intention to create the districts.

13. How does a corporate property owner protest?
Like all protests, the protest must be in writing and must identify the property. The letter must be signed by the chief executive officer of the corporation, identified by his or her title, as state law dictates.
14. How can I help?
You can e-mail your opinions to the members of the Missoula City Council at council@ci.missoula.mt.us. All are welcome to talk at the public hearings.
15. Where and how can I ask questions?
The City of Missoula has dedicated a phone line and e-mail address for questions about special districts during the comment period.

(406) 552-6083
specialdistricts@ci.missoula.mt.us

Special Districts and the Street Maintenance District Comparison

June 23, 2010

	Park District	Road District	Street Maintenance District
Statutes	MCA 7-11-10	MCA 7-11-10	MCA 7-12-44
What is funded?	Maintenance and Improvements	Maintenance and Improvements	Maintenance only
Bonded improvements	Yes	Yes	No
Is there a mail notice required to property owners of Intention to Create?	Yes	Yes	No
Is there protest against creation of district?	Yes	Yes	No
Can protest stop district?	Yes. >50% value	Yes. >50% value	No
How is it assessed?	Taxable value	Taxable value	Taxable value