



AN ACT REQUIRING RECALCULATION OF THE AMOUNT ASSESSABLE TO EACH LOT, TRACT, OR PARCEL IN A SPECIAL IMPROVEMENT DISTRICT OR RURAL SPECIAL IMPROVEMENT DISTRICT IF THE NUMBER OF LOTS, TRACTS, OR PARCELS INCREASES; REQUIRING NOTICE OF POSSIBLE RECALCULATIONS DURING THE CREATION OF THE DISTRICT; AMENDING SECTIONS 7-12-2103, 7-12-2105, 7-12-2151, 7-12-4104, 7-12-4106, 7-12-4161, AND 7-12-4162, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Section 7-12-2103, MCA, is amended to read:

"7-12-2103. Resolution of intention to create rural improvement district. (1) Before creating a special improvement district for the purpose of making any of the improvements or acquiring any private property for any purpose authorized by this part, the board of county commissioners shall pass a resolution of intention.

(2) The resolution must:

(a) designate the number of the district;

(b) describe the boundaries of the district;

(c) state in the resolution the general character of the improvements that are to be made;

(d) designate the name of the engineer who is to have charge of the work and an approximate estimate of the cost of the work; ~~and~~

(e) specify the method or methods by which the costs of the improvements will be assessed against property in the district; and

(f) if the method of assessment is that described in 7-12-2151(1)(d), specify that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of the bonded indebtedness, the assessment per lot, tract, or parcel then in the district will be recalculated as provided in 7-12-2151(4).

(3) The board of county commissioners may include, in one proceeding under one resolution of intention

and in one contract, any of the different kinds of improvements or work provided for in this part and may include any number of streets and rights-of-way or portions of streets and rights-of-way, and it may exempt any of the work already done upon a street to the official grade."

Section 2. Section 7-12-2105, MCA, is amended to read:

"7-12-2105. Notice of resolution of intention to create district -- hearing -- exception. (1) Upon passage of a resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the passage as provided in 7-1-2121.

(2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation or the agent of the person, firm, or corporation owning real property within the proposed district listed in the owner's name upon the last-completed assessment roll for state, county, and school district taxes.

(3) (a) The notice must describe the general character of the improvements proposed to be made or acquired by purchase, state the estimated cost of the improvements, describe generally the method or methods by which the costs of the improvements will be assessed, and designate the time when and the place where the board will hear and pass upon all protests that may be made against the making or maintenance of the improvements or the creation of the district. If the method of assessment described in 7-12-2151(1)(d) is used, the notice must state that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of the bonded indebtedness, the assessment per lot, tract, or parcel then in the district will be recalculated as provided in 7-12-2151(4).

(b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must include a statement that, subject to the limitations in 7-12-2182:

(i) the county general fund may be used to provide loans to the revolving fund; or
 (ii) a general tax levy may be imposed on all taxable property in the county to meet the financial requirements of the revolving fund.

(c) The notice must refer to the resolution on file in the office of the county clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact purchase price of the existing improvement.

(4) The provisions of this section do not apply to a resolution of intention to create a district that is passed upon receipt of a petition as provided in 7-12-2102(2)."

Section 3. Section 7-12-2151, MCA, is amended to read:

"7-12-2151. Assessment of costs. (1) To defray the cost of making or acquiring any of the improvements provided for in this part, including incidental expenses, the board of county commissioners shall assess the entire cost of the improvements against benefited lots, tracts, or parcels of land in the district, based upon the benefits received, and shall adopt one or any combination of the following methods of assessment for each improvement made or acquired for the benefit of the district:

(a) Each lot, tract, or parcel of land assessed in the district may be assessed with that part of the whole cost which its assessable area bears to the assessable area of all the benefited lots, tracts, or parcels in the district, exclusive of streets, avenues, alleys, and public places. For the purposes of this subsection (1)(a), "assessable area" means an area of a lot, tract, or parcel of land representing the benefit conferred upon the lot, tract, or parcel by the improvement. Assessable area may be less than but may not exceed the actual area of the lot, tract, or parcel.

(b) Each lot, tract, or parcel of land assessed in the district may be assessed with that part of the whole cost of the improvement based upon the assessed value of the benefited lots or pieces of land within the district, if the board determines the assessment to be equitable in proportion to and not exceeding the benefits received from the improvement by the lot, tract, or parcel.

(c) Each lot, tract, or parcel of land in the district abutting upon the street where the improvement has been made may be assessed in proportion to its lineal feet abutting the street.

(d) Each lot, tract, or parcel of land in the district may be assessed an equal amount based upon the total cost of the improvement.

(e) Each lot, tract, or parcel of land in the district served by a utility connection may be assessed an equitable lump sum for the connection based on the bid price in the applicable contract.

(2) The board may use one or any combination of methods of assessment in a single special improvement district and, if more than one improvement is undertaken, need not assess each lot, tract, or parcel in the district for the cost of all the improvements. If the method of assessment described in subsection (1)(d) is used, the resolution of intention under 7-12-2103 and notice under 7-12-2105 must provide that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of the bonded indebtedness, the assessment per lot, tract, or parcel then in the district will be recalculated as

provided in subsection (4).

(3) The board in its discretion may pay the whole or any part of the cost of any street, avenue, or alley intersection out of any funds ~~in its hands~~ that are available to it for that purpose or to include the whole or any part of the costs within the amount of the assessment to be paid by the benefited property in the district.

(4) (a) If the method specified for assessment is that provided in subsection (1)(d) and an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of a district created as provided in this part during the term of bonded indebtedness that is payable from the assessments, the board shall recalculate the amount assessable to each lot, tract, or parcel. The board shall comply with the provisions of sections 7-12-2158 through 7-12-2160 in adopting the recalculated amount.

(b) The board shall base the recalculation on the amount of the district's outstanding bonded indebtedness for the current fiscal year and shall spread the assessments across the district based on the number of benefited lots, tracts, or parcels within the boundaries of the district as of July 1 following the action that resulted in the increase in the number of benefited lots, tracts, or parcels."

Section 4. Section 7-12-4104, MCA, is amended to read:

"7-12-4104. Resolution of intention to create special improvement district. (1) Before creating any special improvement district for the purpose of making any of the improvements or acquiring any private property for any purpose authorized by this part, the city council shall pass a resolution of intention to do so.

(2) The resolution shall:

(a) designate the number of such district;

(b) describe the boundaries thereof;

(c) state therein the general character of the improvement or improvements which are to be made and an approximate estimate of the cost thereof; ~~and~~

(d) specify the method or methods by which the costs of the improvements will be assessed against property in the district; and

(e) if the method of assessment is that described in 7-12-4162(3)(a), specify that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of the bonded indebtedness, the assessment per lot, tract, or parcel then in the district will be recalculated as provided in 7-12-4162(3)(b).

(3) When any improvement is to be made in paving, the city or town council may, in describing the general character of it in the resolution, describe several kinds of paving."

Section 5. Section 7-12-4106, MCA, is amended to read:

"7-12-4106. Notice of passage of resolution of intention -- exception. (1) Except as provided in subsection (4), upon having passed the resolution of intention pursuant to 7-12-4104, the council shall give notice of the passage of the resolution of intention.

(2) The notice must be published as provided in 7-1-2121. A copy of the notice must be mailed to each person, firm, or corporation or the agent of the person, firm, or corporation having real property within the proposed district listed in the owner's name upon the last-completed assessment roll for state, county, and school district taxes, at the owner's last-known address, upon the same day that the notice is first published or posted.

(3) (a) The notice must describe the general character of the proposed improvements, state the estimated cost of the improvements, describe generally the method by which the costs of the improvements will be assessed, and designate the time when and the place where the council will hear and pass upon all written protests that may be made against the making or acquisition of the improvements or the creation of the district. If the method of assessment described in 7-12-4162(3)(a) is used, the notice must state that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of the bonded indebtedness, the assessment per lot, tract, or parcel then in the district will be recalculated as provided in 7-12-4162(3)(b).

(b) If the revolving fund is to be pledged to secure the payment of bonds and warrants, the notice must include a statement that, subject to the limitations in 7-12-4222:

(i) the general fund of the city or town may be used to provide loans to the revolving fund; or
 (ii) a general tax levy may be imposed on all taxable property in the city or town to meet the financial requirements of the revolving fund.

(c) The notice must refer to the resolution on file in the office of the city clerk for the description of the boundaries. If the proposal is for the purchase of an existing improvement, the notice must state the exact purchase price of the existing improvement.

(4) The provisions of this section do not apply to a district that is created under 7-12-4114 following receipt of a petition as provided in 7-12-4102(3)."

Section 6. Section 7-12-4161, MCA, is amended to read:

"7-12-4161. Choice in manner of assessing costs. (1) Except as provided in subsection (2), to defray the cost of making or acquiring any of the improvements provided for in this part, including incidental expenses, the city council or commission shall adopt one of the methods of assessment, where applicable, provided in 7-12-4162 through 7-12-4165 for each improvement to be made or acquired for the benefit of the district.

(2) The city council may use one or any combination of methods of assessment in a single special improvement district, and if more than one improvement is undertaken, each lot or parcel of land in the district need not be assessed for the cost of all the improvements. If the method of assessment described in 7-12-4162(3)(a) is used, the resolution of intention under 7-12-4104 and notice under 7-12-4106 must provide that if an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of the district during the term of the bonded indebtedness, the assessment per lot, tract, or parcel then in the district will be recalculated as provided in 7-12-4162(3)(b)."

Section 7. Section 7-12-4162, MCA, is amended to read:

"7-12-4162. Assessment of costs -- area option -- assessed valuation option -- equal amount option. (1) (a) The city council or commission shall assess the entire cost of an improvement against benefited property in the district, each lot or parcel of land assessed within such district to be assessed for that part of the whole cost which its assessable area bears to the assessable area of all benefited lots or parcels in the district, exclusive of streets, avenues, alleys, and public places. For the purposes of this subsection, "assessable area" means an area of a lot or parcel of land representing the benefit conferred on the lot or parcel by the improvement. Assessable area may be less than but may not exceed the actual area of the lot or parcel.

(b) The council or commission, in its discretion, shall have the power to pay the whole or any part of the cost of any street, avenue, or alley intersection out of any funds in its hands available for that purpose or to include the whole or any part of such costs within the amount of the assessment to be paid by the benefited property in the district.

(c) In order to equitably apportion the cost of any of the improvements herein provided for between that land within the district which lies within 25 feet of the line of the street on which the improvement is to be made and all other benefited land within the district, the council or commission may, in the resolution creating any

improvement district, provide that the amount of the assessment against the property in such district to defray the cost of such improvements shall be so assessed that each square foot of land within the district lying within 25 feet of the line of the street on which the improvements therein provided for are made shall bear double the amount of cost of such improvements per square foot of such land that each square foot of any other benefited land within the district shall bear.

(2) The city council or city commission may assess the cost of an improvement against each lot or parcel of land in the district based on the assessed value of the benefited lots or parcels of land within the district if the council or commission determines such assessment to be equitable and in proportion to and not exceeding the benefits derived from the improvement by the lot or parcel.

(3) (a) The city council or city commission may assess each lot or parcel of land in the district an equal amount based upon the total cost of the improvement.

(b) If the method specified for assessment is that described in subsection (3)(a) and an increase occurs in the number of benefited lots, tracts, or parcels within the boundaries of a district created as provided in this part during the term of bonded indebtedness that is payable from the assessments, the city council or city commission shall recalculate the amount assessable to each lot, tract, or parcel. The city council or city commission shall comply with the provisions of sections 7-12-4176 through 7-12-4178 in adopting the recalculated amount. The city council or city commission shall base the recalculation on the amount of the district's outstanding bonded indebtedness for the current fiscal year and shall spread the assessments across the district based on the number of benefited lots, tracts, or parcels within the boundaries of the district as of July 1 following the action that resulted in the increase in the number of benefited lots, tracts, or parcels."

Section 8. Effective date. [This act] is effective January 1, 2012.

Section 9. Applicability. [This act] applies to bonds issued pursuant to Title 7, chapter 12, parts 21, 41, and 42, for which the resolution to create the district is adopted after December 31, 2011.

- END -

I hereby certify that the within bill,
SB 0001, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 1

INTRODUCED BY B. TUTVEDT

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