

SENATE BILL NO. 283

INTRODUCED BY J. ESSMANN

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING REAL PROPERTY TO BE MOVED FROM ONE
5 COUNTY TO ANOTHER FOR REASONS OF PUBLIC SAFETY; REQUIRING A PETITION AND REQUIRING
6 THAT THE PETITION CONTAIN CERTAIN INFORMATION; REQUIRING THE PETITIONERS TO MEET
7 CERTAIN QUALIFICATIONS; REQUIRING BOARDS OF COUNTY COMMISSIONERS IN AFFECTED
8 ADJOINING COUNTIES TO ENTER INTO AN INTERLOCAL AGREEMENT UPON RECEIPT OF A PETITION
9 BEFORE AN ELECTION MAY BE HELD; REQUIRING THAT THE PROCESS CEASE IF THE ADJOINING
10 COUNTIES ARE UNABLE TO AGREE ON BOUNDARIES; PROVIDING FOR A VOTE AND FORM OF BALLOT;
11 PROVIDING FOR A PROCESS IF THE ELECTORS VOTE TO CHANGE THE BOUNDARIES; REQUIRING
12 TRANSFER OF CERTIFIED COPIES OF INDEXES AND LAND RECORD ABSTRACTS AND PROVIDING FOR
13 REIMBURSEMENT OF ASSOCIATED COSTS; ALLOWING A COUNTY TO WHICH PROPERTY IS
14 TRANSFERRED TO LEVY A TAX; REQUIRING NOTIFICATION OF CERTAIN STATE AGENCIES; PROVIDING
15 THAT SCHOOL DISTRICTS ARE NOT AFFECTED; AMENDING SECTIONS 7-2-103, 7-2-2201, 7-2-2202,
16 7-2-2411, 7-2-2412, AND 15-10-420, MCA."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 NEW SECTION. **Section 1. Alteration of county boundaries for public safety purposes --**
21 **authorization -- petition -- definitions.** (1) County boundaries may be altered for reasons of improving public
22 safety as provided in [sections 1 through 9].

23 (2) (a) Before a petition to alter county boundaries as provided in [sections 1 through 9] may be circulated
24 for signatures, a sample petition must be submitted to the county election administrator of the county in which
25 the property is located for approval as to form. The person submitting the sample petition shall consult with a
26 professional land surveyor, as defined in 37-67-101, to prepare a legal description of the proposed new county
27 boundary.

28 (b) The county election administrator shall refer a copy of the sample petition to the county attorney, who
29 shall review the sample petition to ensure compliance with the requirements of [sections 1 through 9].

30 (c) The county attorney shall cooperate with and provide necessary services to the person who

1 submitted the petition to ensure that an adequate and valid legal description is written for the proposed new
2 county boundary.

3 (d) If the petition is rejected as to form, the county election administrator shall within 10 days after
4 submission of the sample send written notice of the rejection to the person who submitted the petition. If the
5 petition is approved as to form, the election administrator shall within 10 days after submission of the sample send
6 written notice of the approval to the person who submitted the petition. After that notice, the petition may not be
7 challenged except with regard to the number and validity of signatures appended to it.

8 (3) Upon approval as to form, a petition to alter county boundaries for public safety purposes may be
9 circulated for signatures.

10 (4) To be considered at an election, the petition must be signed by at least 25 or a majority of the
11 qualified petitioners, whichever is less, and must be submitted within 120 days of the petition's approval as to form
12 to the county clerks of the adjoining counties for which boundary changes are proposed requesting that the
13 proposed boundary changes be submitted to the qualified electors of the adjoining counties.

14 (5) The petition must include:

15 (a) the names of the qualified petitioners and the legal description of the property owned by the qualified
16 petitioner that is proposed to be transferred to an adjoining county;

17 (b) a general description of the property proposed to be moved from one county to another;

18 (c) a general description and legal description of the proposed boundary change;

19 (d) a map showing the proposed boundary change; and

20 (e) the reason, based on proximity to public safety services, for the proposed boundary change.

21 (6) For the purposes of [sections 1 through 9], the following definitions apply:

22 (a) "Public safety services" means law enforcement, firefighting, or emergency medical services.

23 (b) "Qualified petitioner" means an owner of real property in an area of a county that is proposed to
24 become part of an adjoining county whose property may be reached more quickly by public safety services
25 headquartered in the county seat of an adjoining county than by public safety services headquartered in the
26 county seat of the county in which the owner's property is located.

27

28 **NEW SECTION. Section 2. Affidavits to be attached to petition -- verification of signatures.** (1)

29 There must be attached and filed with each sheet or section for a petition to alter county boundaries an affidavit
30 of the person who circulated the petition, stating that it is the person's belief that:

- 1 (a) the petition is signed by at least 25 or a majority of the qualified petitioners, whichever is less;
 2 (b) the signatures are genuine; and
 3 (c) each person signing was, at the date of signing, a qualified petitioner.

4 (2) Upon receipt of the petition, the clerk of the county in which the qualified petitioners' property is
 5 located shall verify, using property records filed with the county and any other information that may be necessary,
 6 that the signatories are qualified petitioners.

7 (3) Within 30 days of receipt of the petition, the clerk shall:

8 (a) certify that the petition is sufficient under the provisions of subsection (2) and present the petition to
 9 the governing body at its next meeting; or

10 (b) reject the petition if it is insufficient under the provisions of subsection (2).

11 (4) The clerk shall notify the adjoining county where the proposed boundary change will occur of the
 12 clerk's action under subsection (3).

13 (5) A defect in the contents of the petition or in its title, form of notice, or signatures may not invalidate
 14 the petition and subsequent proceedings as long as the petition has a sufficient number of qualified signatures
 15 attached.

16
 17 **NEW SECTION. Section 3. County commissioners to accept, amend, or reject petition -- interlocal**
 18 **agreement.** (1) Upon receipt of a petition submitted as provided in [sections 1 and 2], the boards of county
 19 commissioners in the adjoining counties for which boundary changes are proposed shall either accept, reject,
 20 or amend the boundary changes as proposed in the petition.

21 (2) The proposed boundary change as accepted or amended by the boards, including the legal
 22 description of the proposed boundary change, the procedure each board intends to follow in complying with the
 23 provisions of [sections 1 through 9], and any other elements to which the boards agree regarding provision of
 24 services or county operations upon relocation of the boundary must be stated in an interlocal agreement entered
 25 into by the adjoining counties.

26 (3) If the boards of county commissioners do not agree on the proposed boundary changes, either as
 27 presented in the petition or as amended, or if one or both boards reject the proposal, the process for changing
 28 the boundaries must cease and may not be initiated again for a period of 1 year.

29
 30 **NEW SECTION. Section 4. Order for election -- registered electors entitled to vote.** (1) Upon

1 execution of an interlocal agreement under [section 3(2)], the boards of county commissioners in the adjoining
 2 counties for which boundary changes are proposed shall order and give notice of an election to be held for the
 3 purpose of determining whether or not to change the boundaries of the adjoining counties. The order may not
 4 be made less than 75 days before the election is to be held.

5 (2) The question of determining whether or not to change the boundaries of the adjoining counties must
 6 be included on the ballot for the next regular election scheduled not less than 75 days after the date of the order
 7 and the notice.

8 (3) All registered electors of the adjoining counties are entitled to vote at the election.

9 (4) The notice must require that the ballot contain the legal description of the proposed boundary change,
 10 together with any descriptive name or names for the property that may be in common use.

11 (5) The election must be conducted in conformance with the provisions of Title 13 unless otherwise
 12 provided for in [sections 4 through 6].

13

14 **NEW SECTION. Section 5. Form of ballot.** (1) The ballot containing the question of whether or not to
 15 change the boundaries of adjoining counties must include the legal description of the proposed boundary change,
 16 together with any descriptive name or names for the property that may be in common use.

17 (2) The question must be in a form similar to the following:

18 [] FOR changing the boundary between (County) and (County) by moving the boundary
 19 and the property described from (County) to (County).

20 [] AGAINST changing the boundary between (County) and (County) by moving the
 21 boundary and the property described from (County) to (County).

22 (3) The language on the ballot must be the same in each adjoining county in which the election is held.

23

24 **NEW SECTION. Section 6. Effect of election -- resolution by boards of county commissioners.**

25 If, upon the canvass of votes cast at the election, more than 50% of the votes cast in each adjoining county
 26 approve the proposed boundary change, then the boards of county commissioners in the adjoining counties shall,
 27 by resolution, declare the boundary to be changed as of January 1 of the year that begins at least 13 months after
 28 the date the election is held and shall direct the transfer of all certified copies of property records and other
 29 records to the appropriate county to be completed by the date the boundary change becomes effective. The
 30 resolution must include the legal description of the new boundaries of each county.

1
2 **NEW SECTION. Section 7. Transfer of certified copies -- costs to be reimbursed -- tax levy**
3 **authorized.** (1) Upon a resolution adopted as provided in [section 6], the county clerk in the county from which
4 property will be transferred shall prepare certified copies of the indexes to recorded documents maintained by
5 the county clerk pursuant to 7-4-2619.

6 (2) (a) The clerk shall contract with a land title company that maintains a geographical tract index of the
7 recorded documents in the county to prepare an abstract of the property to be transferred. The abstract must
8 include deeds, mortgages, assignments of mortgages, leases, mining claims, and any other documents recorded
9 from the date that the county was created to the date of the boundary change implementation as provided in
10 [section 6].

11 (b) The land title company with which the clerk contracts must be a member in good standing of the
12 Montana land title association.

13 (3) The clerk shall certify each copy of the recorded documents included in the abstract and shall transfer
14 all copies of indexes and recorded documents certified pursuant to this section to the county clerk of the county
15 to which the property will be transferred. The clerk of the county to which the property will be transferred shall
16 record the documents pursuant to 7-4-2617 and shall maintain an index of the documents pursuant to 7-4-2619.

17 (4) Actual or customary costs incurred by a county in complying with subsections (1) through (3) must
18 be reimbursed to the county from which certified copies are transferred. Subject to 15-10-420, the county to which
19 records are transferred may levy a property tax against the property that has been transferred in the amount
20 necessary to reimburse the county that incurred the costs. The property tax levied as provided in this subsection
21 may be collected over a period of up to 5 years.

22
23 **NEW SECTION. Section 8. Notification of boundary change -- certification of taxable value --**
24 **indebtedness.** (1) Upon implementation of a boundary change under [sections 1 through 9], the county clerk and
25 recorders in the adjoining counties where the boundary was changed shall notify the department of
26 administration, the department of revenue, and the secretary of state of the boundary change.

27 (2) The department of revenue shall certify to each adjoining county the total taxable value within each
28 county for the year following implementation of the boundary change accounting for the transfer of the property.

29 (3) The provisions of 7-2-102 apply to a boundary change implemented as provided in [sections 1
30 through 9].

1

2 **NEW SECTION. Section 9. Effect on school districts.** Relocation of property from one county to
3 another under [sections 1 through 9] does not affect school district boundaries, the operation of a school district,
4 or the county in which the district was located before the boundary was changed.

5

6 **Section 10.** Section 7-2-103, MCA, is amended to read:

7 **"7-2-103. Collection of taxes upon alteration of boundary of local government.** Subject to the
8 provisions of part 27 of this chapter and [section 9], if any territory is detached from any county, city, or town and
9 is annexed to any other county, city, or town ~~therein~~, it does not invalidate or interfere with the collection of taxes
10 in ~~such the~~ territory and the taxes ~~shall~~ must be collected by and the returns made to the county to which the
11 territory is attached in the manner provided by law for levying and collecting taxes."

12

13 **Section 11.** Section 7-2-2201, MCA, is amended to read:

14 **"7-2-2201. Authorization to create new counties.** (1) New counties may, ~~from time to time~~, be formed
15 and created in this state from portions of one or more counties ~~which shall~~ that must have been created and in
16 existence for a period of more than 2 years, in the manner ~~set forth and~~ provided in this part.

17 (2) ~~A~~ Except as provided in [sections 1 through 9], a county enlarged by the addition of territory taken
18 from one or more other counties is a new county under the provisions of this part."

19

20 **Section 12.** Section 7-2-2202, MCA, is amended to read:

21 **"7-2-2202. Limitations on creation of new counties.** (1) ~~No~~ A new county ~~shall~~ may not be established
22 ~~which shall reduce~~ that reduces any county to an assessed valuation of less than \$12 million, inclusive of all
23 assessed valuation as shown by the last preceding assessment.

24 (2) ~~No~~ A new county ~~shall~~ may not be formed ~~which~~ that contains an assessed valuation of property less
25 than \$10 million, inclusive of all assessed valuation, as shown by the last preceding assessment of the county
26 or counties from which ~~such the~~ new county is to be established.

27 (3) ~~No~~ A new county ~~shall~~ may not be established ~~which shall reduce~~ that reduces the area of any
28 existing county from which territory is taken to form ~~such the~~ new county to less than 500 square miles of
29 surveyed land, exclusive of all forest reserve and Indian reservations within old counties.

30 (4) ~~No~~ Except as provided in [sections 1 through 9], territory ~~shall~~ may not be taken from one county and

1 added to another county unless its surveyed area is greater than 49 square miles.

2 (5) ~~No~~ A new county ~~shall~~ may not be formed ~~which that~~ contains less than 250 square miles of surveyed
3 land, exclusive of all forest reserve land or Indian reservations not open for settlement."

4

5 **Section 13.** Section 7-2-2411, MCA, is amended to read:

6 **"7-2-2411. Transfer of court actions affecting real property.** (1) In all counties created out of any
7 other county or where the county boundary has been changed as provided in [section 1 through 9] and wherever
8 there has been an action or proceeding begun affecting any real property situated within the new county or the
9 county to which property has been added under [sections 1 through 9], whether the action has been prosecuted
10 to judgment or not, upon a written motion being filed by any person or persons interested in the real property
11 affected by the action or proceeding requesting the transfer of the files and papers and records of the action or
12 proceeding to the office of the clerk of the district court of the ~~new~~ county in to which the real property is ~~situated~~
13 added, ~~it is the duty of~~ the judge of the district court in which the action or proceeding was originally begun to shall
14 order that a transfer of all the files and papers of the action or proceeding be made to the office of the clerk of the
15 district court of the ~~new~~ county in to which the real property is ~~situated~~ added. When an order of transfer is made,
16 ~~it is the duty of~~ the clerk of the district court in which the action or proceeding was originally instituted to shall
17 transmit all of the files and papers in the action or proceeding, together with a certified copy of all minutes of the
18 court relating to the action or proceeding, to the clerk of the ~~new~~ county in to which the real property, the subject
19 matter of the action or proceeding, is ~~situated~~ added.

20 (2) The clerk of the district court of the ~~new~~ county in which the property is ~~situated~~ added shall, upon
21 the receipt of the files and papers and certified copies of the minutes of the court, file the papers in the clerk's
22 office as transferred files from the original county and shall enter and transcribe upon the clerk's records any final
23 judgment or decree or order contained in the files or papers or records transferred.

24 (3) Upon the receipt and filing of the files and papers in any action or proceeding transferred to a ~~new~~
25 county in accordance with the provisions of this section, the district court of the ~~new~~ county in which the files and
26 papers have been transferred has the same jurisdiction with reference to the real property for the enforcement
27 of any decree, judgment, or order that may have been entered or for other proceedings that may be necessary
28 in the action or proceeding as the district court had in the county in which the action or proceeding was originally
29 begun."

30

1 **Section 14.** Section 7-2-2412, MCA, is amended to read:

2 **"7-2-2412. Fees for transfer of court records.** (1) The clerk of the district court in which an action or
3 proceeding was originally begun is entitled to receive, for transferring the files, papers, and certified copies of the
4 minutes and records entered in connection with the action or proceeding, only a fee at the rate of 20 cents per
5 folio for copies of minutes and 50 cents for a certificate fee.

6 (2) The clerk of the district court of the ~~new~~ county to which files and papers may be transferred in
7 accordance with the provisions of 7-2-2411 is not entitled to any fees for the filing of the transferred records, but
8 for the filing of any papers that may be filed after the transfer in connection with an action or proceeding or for
9 the issuance of any writs or other papers, the clerk is entitled to charge the same fees as provided by law."

10

11 **Section 15.** Section 15-10-420, MCA, is amended to read:

12 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
13 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
14 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
15 years. The maximum number of mills that a governmental entity may impose is established by calculating the
16 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the
17 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus
18 one-half of the average rate of inflation for the prior 3 years.

19 (b) A governmental entity that does not impose the maximum number of mills authorized under
20 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
21 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
22 carried forward may be imposed in a subsequent tax year.

23 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
24 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
25 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

26 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
27 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
28 taxable property.

29 (3) (a) For purposes of this section, newly taxable property includes:

30 (i) annexation of real property and improvements into a taxing unit;

- 1 (ii) construction, expansion, or remodeling of improvements;
- 2 (iii) transfer of property into a taxing unit;
- 3 (iv) subdivision of real property; and
- 4 (v) transfer of property from tax-exempt to taxable status.
- 5 (b) Newly taxable property does not include an increase in value that arises because of an increase in
- 6 the incremental value within a tax increment financing district.
- 7 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
- 8 release of taxable value from the incremental taxable value of a tax increment financing district because of:
- 9 (i) a change in the boundary of a tax increment financing district;
- 10 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- 11 (iii) the termination of a tax increment financing district.
- 12 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
- 13 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
- 14 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
- 15 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.
- 16 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
- 17 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
- 18 year market value of that property less the previous year market value of that property.
- 19 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
- 20 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
- 21 agricultural land as described in 15-6-133(1)(c).
- 22 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 23 (a) school district levies established in Title 20; or
- 24 (b) a mill levy imposed for a newly created regional resource authority.
- 25 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
- 26 under 15-6-131 and 15-6-132.
- 27 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
- 28 increase the number of mills to account for a decrease in reimbursements.
- 29 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes
- 30 of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the

1 department may not exceed the mill levy limits established in those sections. The mill calculation must be
 2 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
 3 calculation must be rounded up to the nearest tenth of a mill.

4 (9) (a) The provisions of subsection (1) do not prevent or restrict:

5 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

6 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

7 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

8 (iv) a levy for the support of a study commission under 7-3-184;

9 (v) a levy for the support of a newly established regional resource authority; ~~or~~

10 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
 11 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703; or

12 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining
 13 county under [section 7] upon relocation of a county boundary.

14 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
 15 actually assessed in a subsequent year.

16 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
 17 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
 18 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
 19 funds by a county or municipality during that time.

20 (11) The department may adopt rules to implement this section. The rules may include a method for
 21 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
 22 improvements, or newly taxable property in a governmental unit."

23
 24 **NEW SECTION. Section 16. Codification instruction.** [Sections 1 through 9] are intended to be
 25 codified as an integral part of Title 7, chapter 2, and the provisions of Title 7, chapter 2, apply to [sections 1
 26 through 9].

27 - END -