

SENATE BILL NO. 288

INTRODUCED BY K. GILLAN

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ASSESSMENTS OF A SPECIAL DISTRICT TO BE APPEALED TO THE ADMINISTRATIVE BOARD OF THE DISTRICT; AND AMENDING SECTION 7-11-1027, MCA."

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

Section 1. Section 7-11-1027, MCA, is amended to read:

"7-11-1027. Payment of assessment under protest -- action to recover. (1) (a) When an assessment made under this part is considered ~~unlawful~~ ERRONEOUS by the party whose property is charged or from whom the payment is demanded, the person may:

(i) prior to the assessment becoming delinquent, file an appeal to the administrative board of the district;

or

(ii) pay the assessment or any part of the assessment considered to be ~~unlawful~~ ERRONEOUS under protest to the county treasurer, city treasurer, or town clerk, whoever is charged with collection of the assessment, and either file an appeal to the administrative board of the district or initiate action in court as provided in subsection (2).

(b) (i) If an appeal is filed before the administrative board and the board finds in favor of the taxpayer, the board shall order the assessment, or the contested portion of the assessment, removed and if the payment was made under protest, it must be refunded by the county treasurer, city treasurer, or town clerk.

(ii) IF AN APPEAL IS FILED BEFORE THE ADMINISTRATIVE BOARD AND THE BOARD DOES NOT FIND IN FAVOR OF THE TAXPAYER AND IF A PAYMENT WAS MADE UNDER PROTEST OR THE TAXPAYER MAKES A PAYMENT UNDER PROTEST BEFORE THE ASSESSMENT BECOMES DELINQUENT, THE TAXPAYER MAY INITIATE AN ACTION IN COURT AS PROVIDED IN SUBSECTION (2).

(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

1 days after the date of payment.

2 (3) The assessment paid under protest must be held by the county treasurer, city treasurer, or town clerk
3 until the determination of an action brought for the recovery of the assessment.

4 (4) If the assessment considered to be unlawful pertains to property created as a condominium and the
5 property is not solely a certain unit in the condominium, then the owner of the property created as a condominium
6 that is entitled to protest is considered to be the collective owners of all units having an undivided ownership
7 interest in the common elements of the condominium.

8 (5) An owner of property created as a condominium may protest against the method of assessment or
9 vote at an election of the special district only through a president, vice president, secretary, or treasurer of the
10 condominium owners' association who timely presents to the secretary of the special district the following:

11 (a) a writing identifying the condominium property;

12 (b) the condominium declaration or other condominium document that shows how votes of unit owners
13 in the condominium are calculated;

14 (c) original signatures of owners of units in the condominium having an undivided ownership interest in
15 the common elements of the condominium sufficient to constitute an affirmative vote for an undertaking relating
16 to the common elements under the condominium declaration; and

17 (d) a certificate signed by the president, vice president, secretary, or treasurer of the condominium
18 owners' association certifying that the votes of the unit owners, as evidenced by the signatures of the owners,
19 are sufficient to constitute an affirmative vote of the condominium owners' association to protest against the
20 method of assessment."

21 - END -