

SENATE BILL NO. 48

INTRODUCED BY G. JERGSON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCESS FOR REGIONAL AUTHORITIES TO ESTABLISH AND CHANGE RATES, FEES, AND CHARGES FOR PROVIDING WATER AND WASTEWATER SERVICES; AND AMENDING SECTIONS 7-13-2301, 7-13-4307, 75-6-304, AND 75-6-326, MCA."

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

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

- (i) payment of the reasonable expense of operation and maintenance of the facilities;
- (ii) administration of the district;
- (iii) payment of principal and interest on any bonded or other indebtedness of the district; ~~and~~
- (iv) establishment or maintenance of any required reserves, including reserves needed for expenditures for depreciation and replacement of facilities, as may be determined necessary from time to time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the district; and
- (v) payment of rates, fees, and charges levied by a regional authority established pursuant to Title 75, chapter 6, part 3.

(b) A portion of the rate, fee, toll, rent, tax, or other charge provided for in subsection (2)(a) may be

1 charged to the owner of an undeveloped lot, tract, or parcel to pay a share of the principal of and interest on  
2 bonded indebtedness issued to finance the capital cost of improvements to an existing water or sewer system,  
3 so long as the board makes findings in a resolution or ordinance of the district that demonstrate that the  
4 improvements to the existing system to be financed by the bonded indebtedness confer a direct benefit on the  
5 lot, tract, or parcel.

6 (3) A person or entity may not use any facility without paying the rate established for the facility. In the  
7 event of nonpayment, the board may order the discontinuance of water or sewer service, or both, to the property  
8 and may require that all delinquent charges, interest, penalties, and deposits be paid before restoration of the  
9 service.

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

17 (i) must specify the charges owed, including any interest and penalty;

18 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against the  
19 property;

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

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

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

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

3 (6) 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."

9

10 **Section 2.** Section 7-13-4307, MCA, is amended to read:

11 **"7-13-4307. Establishment of amount of charges.** The rates and charges established for the services  
12 and facilities afforded by this system ~~shall~~ must be sufficient in each year to provide income and ~~revenues~~  
13 revenue adequate for the:

14 (1) payment of the reasonable expense of operation and maintenance; ~~and for the~~

15 (2) payment of the sums required to be paid into the sinking fund; ~~and for the~~

16 (3) accumulation of such reserves;

17 (4) payment of rates, fees, and charges levied by a regional authority established pursuant to Title 75,  
18 chapter 6, part 3; and the making of such

19 (5) payment of expenditures for depreciation and replacement of ~~said the~~ system as ~~shall be~~ determined  
20 necessary ~~from time to time~~ by the governing body or as ~~shall have been~~ covenanted in the ordinances and  
21 resolutions authorizing the outstanding bonds."

22

23 **Section 3.** Section 75-6-304, MCA, is amended to read:

24 **"75-6-304. Definitions.** For the purposes of this part, the following definitions apply:

25 (1) "Authority" means any regional water authority, regional wastewater authority, or regional water and  
26 wastewater authority organized pursuant to the provisions of this part.

27 (2) "District customer" means a county water and/or sewer district that is afforded the use or the  
28 availability of service from an authority.

29 (3) "Municipal customer" means a municipality that is afforded the use or the availability of service from  
30 an authority.

1           ~~(2)~~(4) "Public agency" means any municipality, county, water and sewer district, or other political  
2 subdivision of this state.

3           (5) "Rural customer" means a customer who is afforded the use or the availability of service from an  
4 authority and is neither a district customer nor a municipal customer."

5

6           **Section 4.** Section 75-6-326, MCA, is amended to read:

7           "**75-6-326. Rates, fees, and charges -- establishment and changes.** (1) (a) The governing body shall  
8 by appropriate resolution make provisions for the payment of bonds issued pursuant to this part by taxing rates,  
9 fees, and charges, for the use of all services rendered by the authority.

10           (b) The governing body of the authority shall review at least annually the rates, fees, and charges for  
11 services, facilities, and benefits directly afforded by the facilities, taking into account services provided and direct  
12 benefits received.

13           (c) The rates, fees, and charges, in addition to grants or any other revenue, must be sufficient to:

14           (i) pay the costs of operation, improvement, and maintenance of the authority's water supply or  
15 wastewater transportation or treatment system;

16           (ii) provide an adequate depreciation fund;

17           (iii) provide an adequate sinking fund to retire any bonds and pay interest on the bonds when due; ~~and;~~

18           (iv) create reasonable reserves for the enumerated purposes. ~~The rates, fees, or charges must be~~  
19 ~~sufficient to; and~~

20           (v) allow for miscellaneous and emergency or unforeseen expenses.

21           (2) The resolution of the governing body authorizing the issuance of revenue bonds may include  
22 agreements, covenants, or restrictions considered necessary or advisable by the governing body to effect the  
23 efficient operation of the system, to safeguard the interests of the holders of the revenue bonds, and to secure  
24 the payment of the bonds and the interest on the bonds.

25           (3) Prior to adopting a resolution to establish or change rates, fees, or charges, the governing body of  
26 the authority shall hold a public hearing.

27           (4) Notice of the public hearing must be published as provided in 7-1-2121 in each county or counties  
28 in which customers of the authority are located. The published notice must contain:

29           (a) the date, time, and place of the hearing;

30           (b) a brief statement of the proposed action; and

