

HOUSE BILL NO. 290
INTRODUCED BY R. RIPLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE METHODOLOGY FOR ESTABLISHING, REVISING, AND FUNDING LOCAL GOVERNMENT DISTRICTS; REPLACING THE PROTEST PROVISIONS FOR CHALLENGING THE ESTABLISHMENT, REVISION, OR FUNDING OF DISTRICTS WITH A REQUIREMENT FOR AUTHORIZATION FOR ESTABLISHMENT, REVISION, OR FUNDING; AMENDING SECTIONS 7-1-4132, 7-1-4133, 7-1-4134, 7-1-4139, 7-11-1107, 7-12-1112, 7-12-1113, 7-12-1114, 7-12-1115, 7-12-2102, 7-12-2105, 7-12-2109, 7-12-2111, 7-12-2112, 7-12-2113, 7-12-2159, 7-12-2160, 7-12-4102, 7-12-4106, 7-12-4110, 7-12-4112, 7-12-4113, 7-12-4114, 7-12-4177, 7-12-4255, 7-12-4303, 7-12-4304, 7-12-4305, 7-12-4306, 7-12-4351, 7-12-4352, 7-12-4407, 7-12-4502, 7-12-4503, 7-12-4603, 7-12-4604, 7-12-4605, 7-12-4606, 7-13-107, 7-13-108, 7-13-109, 7-13-110, 7-13-111, 7-13-126, 7-13-127, 7-13-208, 7-13-209, 7-13-210, 7-13-211, 7-13-212, 7-13-231, 7-13-2206, 7-13-2282, 7-13-2306, 7-13-2307, 7-13-2308, 7-13-2507, 7-13-3005, 7-13-3006, 7-13-3007, 7-13-3008, 7-13-3011, 7-13-3021, 7-13-3023, 7-13-4504, 7-13-4507, 7-13-4509, 7-13-4510, 7-13-4511, 7-13-4513, 7-13-4522, 7-13-4523, 7-14-2902, 7-22-2213, 7-22-2407, 7-22-2410, 7-33-2120, 7-33-2123, 7-33-2125, 7-33-2126, AND 7-33-2401, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 7-1-4132, MCA, is amended to read:

"7-1-4132. Protest -- authorization. (1) Whenever a protest or authorization is ~~authorized~~ provided for, it is sufficient if it is in writing, signed, and contains the following:

(a) a description of the action protested or authorized sufficient to identify the action ~~against which the protest is lodged~~;

(b) a statement of the ~~protestor's~~ person's qualifications to protest or authorize the action ~~against concerning~~ which the protest or authorization is ~~lodged~~ made, including ownership of property affected by the action; and

(c) the address of the person ~~protesting~~.

(2) ~~Protests shall~~ and authorizations must be submitted as provided by law and ordinance. The person receiving protests or authorizations for a municipality shall note on each protest or authorization the date it was received.

(3) A protest ~~which~~ or authorization that contains the required information may be signed by more than one person. A protest or authorization signed by more than one person is a valid protest or authorization by each signer.

(4) A person may, in writing, withdraw a previously filed protest or authorization at any time prior to final action by the governing body.

(5) Signers are encouraged to print their names after their signatures."

Section 2. Section 7-1-4133, MCA, is amended to read:

"7-1-4133. Signatures. (1) The signatures and addresses on petitions ~~shall~~ must be the same as the signatures and addresses on voter registration cards and, if not registered or if not required by law to be an elector, their common signature. If the elector has signed using an initial letter only in place of a name written on the registry card or using a name or the initial letter of a name that is not on the registry card, the signature may ~~nevertheless~~ be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the registry card as to provide reasonable certainty of its authenticity.

(2) The signatures on protests, authorizations, and waivers ~~shall~~ must be the accepted common signatures."

Section 3. Section 7-1-4134, MCA, is amended to read:

"7-1-4134. Rights on behalf of government or corporation. The chief executive of a municipality or political subdivision of the state, the responsible agent of a federal or state agency, or the chief executive officer of a corporation may exercise the right of petition, protest, authorization, or voting on behalf of property owned by the government or corporation."

Section 4. Section 7-1-4139, MCA, is amended to read:

"7-1-4139. Waiver of mail notice, or protest, or authorization. (1) If all persons entitled to mail notice waive, in writing, the mail notice requirement, the governing body may proceed without the required mail notice.

(2) If all persons entitled to protest or authorize an action waive, in writing, their right to protest or authorize, the governing body may proceed without publishing notice or meeting other requirements designed to permit protests or authorizations to be filed.

(3) A waiver is sufficient if it is in writing, signed, and contains the following:

(a) a description of the mailed notice, ~~or~~ protest, or authorization right waived;

(b) a statement of the ~~protestor's~~ person's qualifications to waive the mailed notice, ~~or~~ protest, or authorization right;

(c) the address of the person;

(d) a statement that the waiver of notice is voluntarily and knowingly given, with knowledge of the signer's constitutional rights to notice.

(4) Waivers ~~shall~~ must be submitted as provided by law and ordinance. The person receiving waivers for a local government shall note on each waiver the date it was received.

(5) A waiver ~~which~~ that contains the required information may be signed by more than one person. A waiver signed by more than one person is a valid waiver by each signer.

(6) Signers are encouraged to print their names after their signatures."

Section 5. Section 7-11-1107, MCA, is amended to read:

"7-11-1107. Adoption of ordinance -- ~~protest~~ authorization. (1) Upon receipt of a petition to enact an authorizing ordinance, the governing body of each jurisdiction may either adopt the substantive provisions of the petition as an ordinance or decline to adopt an authorizing ordinance for the district. The action on the petition is subject to the provisions of initiative and referendum as provided in 7-5-131 through 7-5-137.

(2) (a) Upon adoption of a multijurisdictional service district authorizing ordinance, notice must be published in a newspaper of general circulation in the jurisdiction.

(b) Each notice must set forth the text or substance of the ordinance and the text of subsection (2)(c).

(c) Within 30 days of the publication of the notice, electors or property owners of each portion of the proposed district may submit written ~~protests~~ authorizations to the local government clerk. If more than 50% of the electors, or the owners of more than 50% of the taxable value of the property, in the affected portion of any one of the jurisdictions proposed for inclusion in the district ~~protest~~ do not authorize the ordinance of that jurisdiction, the ordinance is void."

Section 6. Section 7-12-1112, MCA, is amended to read:

"7-12-1112. Resolution of intention to create or expand district -- notice. (1) Before creating or expanding a district, the governing body shall pass a resolution of intention to do so, designating the boundaries of the district.

(2) Notice of passage of the resolution must be published as provided in 7-1-2121. A copy of the notice must be mailed to every owner of real property within the proposed district or within the proposed area of

expansion listed on the ~~last completed~~ last-completed assessment roll for state, county, and school district taxes, at the owner's last-known address, on the same day the notice is first published or posted.

(3) The notice must describe the general purpose of the district or the general reason for the expansion and designate the time when and the place where the governing body will hear and pass upon all ~~protests~~ authorizations that may be made ~~against~~ for the creation of the district or the expansion of the existing district. The notice must refer to the resolution on file with the governing body or clerk, if any, for the description of the boundaries.

(4) The resolution to expand a district deals only with the question of the expanded area, and the existing district does not have to be reestablished."

Section 7. Section 7-12-1113, MCA, is amended to read:

"7-12-1113. ~~Protest against~~ Authorization for proposed district. (1) Any owner of property liable to be assessed may make written ~~protest against~~ authorization for the extent or creation of the district to be assessed, or both.

(2) The ~~protest~~ authorization must be in writing and must be delivered to the governing body or its clerk, if any, not later than 5 p.m. of the last day within 15 days after the date of the first publication of the notice of the resolution of intention. The date and hour of receipt of the ~~protest shall~~ authorization must be endorsed ~~thereon~~ on the authorization."

Section 8. Section 7-12-1114, MCA, is amended to read:

"7-12-1114. Hearing on protest authorization -- sufficient protest authorization to bar proceedings disapproval. (1) At a regular meeting of the governing body after the expiration of the time within which ~~protest authorization~~ may be made, the governing body shall proceed to hear and pass upon all ~~protests~~ authorizations. ~~Its~~ The governing body's decision ~~shall be~~ is final and conclusive.

(2) The governing body may adjourn the hearing from time to time. A ~~protestant shall have the right to~~ person may withdraw a ~~protest~~ an authorization at any time before final action ~~thereon~~ by the ~~council or~~ commission governing body.

(3) ~~No further action shall~~ Action may not be taken upon the proposed district or proposed expansion of an existing district for 1 year if a written ~~protest against~~ authorization for passage of the proposed ordinance is not filed by:

(a) owners of property within the proposed district or area of a proposed expansion having a taxable

valuation, when aggregated, representing ~~not less than~~ at least 50% of the total taxable valuation of property within the district or within the area of a proposed expansion;

(b) ~~not less than~~ at least 50% of the owners of property within the district or area of a proposed expansion; or

(c) owners of property within the proposed district or area of a proposed expansion having projected assessments, when aggregated, representing ~~not less than~~ at least 50% of the total projected assessments for property within the district or within the area of a proposed expansion."

Section 9. Section 7-12-1115, MCA, is amended to read:

"7-12-1115. Resolution creating or expanding district. When ~~no protests~~ sufficient authorizations have been delivered to the governing body within 15 days after the date of the first publication of the notice of the passing of the resolution of intention, ~~when a protest shall have been found by the governing body to be insufficient or has been overruled, or when a protest against the extent of the proposed district or proposed expansion of a district has been heard and denied,~~ the governing body has jurisdiction to order the creation or expansion of the district and shall pass a resolution creating or expanding the district in accordance with the resolution of intention."

Section 10. Section 7-12-2102, MCA, is amended to read:

"7-12-2102. Authorization to create rural improvement districts. (1) Whenever the public interest or convenience may require, the board of county commissioners ~~is hereby authorized and empowered to order and may~~ create special improvement districts outside of the limits of incorporated towns and cities for the purpose of building, constructing, or acquiring by purchase one or more of the improvements of the kind described in 7-12-4102, in or for the benefit of the special improvement district.

(2) The board of county commissioners may order and create special improvement districts covering projects abutting the city limits and include properties inside the city where the rural improvement district abuts and benefits that property. Property owners within the proposed district boundaries inside the city may not be included in the rural special improvement district if unless 40% of those property owners ~~protest~~ authorize the creation of the rural special improvement district. The property inside the city must be treated in a similar manner as to improvements, notices, and assessments as the property outside the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the rural special improvement district prior to passing the resolution of intention or resolution creating the rural special improvement district. A copy of the resolution of

intention and the resolution creating the rural special improvement district must be provided to the city clerk upon the passage of the respective resolutions."

Section 11. Section 7-12-2105, MCA, is amended to read:

"7-12-2105. Notice of resolution of intention to create district -- hearing. (1) Upon having passed the resolution of intention pursuant to 7-12-2103, the board of county commissioners shall publish notice of the passage of the resolution of intention 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 improvement or 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~~ authorizations that may be made ~~against~~ for the making or maintenance of the improvements or the creation of the district.

(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."

Section 12. Section 7-12-2109, MCA, is amended to read:

"7-12-2109. Right to ~~protest~~ authorize creation or extension of district. At any time within 15 days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for ~~said the~~ work may make written ~~protest against~~ authorization for the proposed work or ~~against~~ for the extending or creation of the district to be assessed, or both. ~~Such protest~~ The authorization must be in writing, identify the property in the district owned by the ~~protestor~~ persons making the authorization, and be signed by all owners of the property. The ~~protest~~ authorization must be delivered to the county clerk, who

shall endorse ~~thereon~~ the date of its receipt ~~by him~~ on the authorization."

Section 13. Section 7-12-2111, MCA, is amended to read:

"7-12-2111. Hearing on protest authorization. (1) At the next regular meeting of the board of county commissioners after the expiration of the time within which protest authorization may be made, the board shall proceed to hear and pass upon all ~~protests so made~~ authorizations, and its decision ~~shall be~~ is final and conclusive. The board may adjourn ~~said the~~ hearing from time to time.

(2) In determining whether or not sufficient ~~protests~~ authorizations have been filed in the proposed district to ~~prevent~~ allow further proceedings ~~therein~~, property owned by the county ~~shall~~ must be considered the same as other property in the district."

Section 14. Section 7-12-2112, MCA, is amended to read:

"7-12-2112. Sufficient ~~protest~~ insufficient authorization to bar proceedings -- exception. (1) Except as provided in subsection (2), ~~no~~ further proceedings ~~shall~~ may not be taken for a period of 6 months from the date when ~~said protest was~~ the authorizations were received by the county clerk when the board of county commissioners finds that ~~such protest is~~ authorization was not made by the owners of property in the district to be assessed for more than 50% of the cost of the proposed work, in accordance with the method or methods of assessment described in the resolution of intention.

(2) ~~In case~~ If the improvements are for the construction of sanitary sewers, the ~~protests~~ lack of authorization may be overruled by a unanimous vote of the board."

Section 15. Section 7-12-2113, MCA, is amended to read:

"7-12-2113. Resolution creating district -- power to order improvements. (1) Before ordering any of the proposed improvements, the board of county commissioners shall pass a resolution creating the special improvement district in accordance with the resolution of intention ~~heretofore~~ introduced and passed by the board.

(2) The board ~~shall be deemed~~ is considered to have acquired jurisdiction to order improvements immediately upon the occurrence of the following conditions:

~~(a)~~ when ~~no protests~~ sufficient authorizations have been delivered to the county clerk within 15 days after the date of the first publication of the notice of the passing of the resolution of intention;

~~(b) when a protest shall have been found by said board to be insufficient or shall have been overruled;~~

or

~~_____ (c) when a protest against the extending of the proposed district shall have been heard and denied."~~

Section 16. Section 7-12-2159, MCA, is amended to read:

"7-12-2159. Notice of resolution for levy and assessment of tax -- protest and hearing. (1) A notice, signed by the county clerk and stating that the resolution levying a special assessment to defray the cost of making the improvements is on file in the office of the county clerk and is subject to inspection, ~~shall~~ must be:

(a) published as provided in 7-1-2121;

(b) mailed to the owner of each lot, tract, or parcel of land to be assessed (~~such the~~ lands must be identified and the mailing address determined from the ~~last-completed~~ last-completed assessment roll for state, county, and school district taxes); and

(c) mailed to ~~such~~ other persons known to the clerk to have an ownership interest in the property.

(2) The notice ~~shall~~ must state the time at and place in which ~~objections to~~ comments on the final adoption of the resolution will be heard by the board of county commissioners. The time for the hearing may not be less than 5 days after the second publication or less than 10 days after the mailing of the notice."

Section 17. Section 7-12-2160, MCA, is amended to read:

"7-12-2160. Hearing on ~~protest~~ authorization. (1) At the time ~~so~~ fixed, the board of county commissioners shall meet and hear all ~~such objections~~ authorizations and for that purpose may adjourn from day to day.

(2) The board may by resolution modify ~~such an~~ assessment in whole or in part. A copy of ~~such the~~ resolution, certified by the county clerk, must be delivered to the county treasurer 2 days after its passage."

Section 18. Section 7-12-4102, MCA, is amended to read:

"7-12-4102. Authorization for creation of special improvement districts. (1) The city or town council may:

(a) create special improvement districts, designating them by number;

(b) extend the time for payment of assessments levied upon the districts for district improvements for a period not exceeding 20 years or, if refunding bonds are issued pursuant to 7-12-4194, for a period not exceeding 30 years;

(c) make the assessments payable in installments; and

(d) pay all expenses of whatever character incurred in making the improvements with special improvement warrants or bonds.

(2) Whenever the public interest or convenience requires, the city council may:

(a) create special improvement districts for acquiring by purchase, building, constructing, or maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water;

(b) create special improvement districts for acquiring by purchase or building and constructing municipal swimming pools and other recreation facilities;

(c) create special improvement districts and order the whole or a portion, either in length or width, of one or more of the streets, avenues, alleys, or places or public ways of the city:

(i) graded or regraded to the official grade;

(ii) planked or replanked;

(iii) paved or repaved;

(iv) macadamized or remacadamized;

(v) graveled or regraveled;

(vi) piled or repiled;

(vii) capped or recapped;

(viii) surfaced or resurfaced;

(ix) oiled or reoiled;

(d) create special improvement districts and order the acquisition, construction, or reconstruction within the districts of:

(i) sidewalks, crosswalks, culverts, bridges, gutters, curbs, steps, parkings (including the planting of grassplots and setting out of trees);

(ii) sewers, ditches, drains, conduits, and channels for sanitary or drainage purposes, with outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connecting sewers, ditches, drains, conduits, channels, and other appurtenances;

(iii) waterworks, water mains, and extensions of water mains;

(iv) pipes, hydrants, and hose connections for irrigating purposes;

(v) appliances for fire protection;

(vi) tunnels, viaducts, conduits, subways, breakwaters, levees, retaining walls, bulkheads, and walls of rock or other material to protect them from overflow or injury by water;

(vii) the opening of streets, avenues, and alleys and the planting of trees on the streets, avenues, and

alleys;

(e) create special improvement districts and order the construction or reconstruction in, over, or through property or rights-of-way owned by the city of:

(i) tunnels, sewers, ditches, drains, conduits, and channels for sanitary or drainage purposes, with necessary outlets, cesspools, manholes, catchbasins, flush tanks, septic tanks, connection sewers, ditches, drains, conduits, channels, and other appurtenances;

(ii) pipes and hose connections for irrigating and hydrants and appliances for fire protection;

(iii) breakwaters, levees, retaining walls, and bulkheads; and

(iv) walls of rock or other material to protect the streets, avenues, lanes, alleys, courts, places, public ways, and other property in the city from overflow by water;

(f) create special improvement districts to make monetary advances or contributions to aid in the construction of additional natural gas and electric distribution lines and telecommunications facilities in order to extend those public utility services;

(g) create special improvement districts and order work to be done that is considered necessary to improve the whole or a portion of the streets, avenues, sidewalks, alleys, places, or public ways, property, or right-of-way of the city;

(h) create special improvement districts to acquire and improve by purchase, gift, bequest, lease, or other means land to be designated as public park or open-space land;

(i) create special improvement districts for the conversion of overhead utilities to underground locations in accordance with 69-4-311 through 69-4-314;

(j) create special improvement districts for the purchase, installation, maintenance, and management of alternative energy production facilities; and

(k) maintain, preserve, and care for any of the improvements authorized in this section.

(3) The city governing body may order and create special improvement districts covering projects abutting the city limits and include properties outside the city when the special improvement district abuts and benefits that property. Property owners within the proposed district boundaries outside the city may not be included in the special improvement district if unless 40% of those property owners ~~protest~~ authorize the creation of the special improvement district. The property outside the city must be treated in a similar manner as to improvements, notices, and assessments as the property inside the city limits. A joint resolution of the city and county must be passed agreeing to the terms of the special improvement district prior to passing the resolution of intention or the resolution creating the special improvement district. A copy of the resolution of intention and

the resolution creating the special improvement district must be provided to the county commissioners upon the passage of the respective resolutions."

Section 19. Section 7-12-4106, MCA, is amended to read:

"7-12-4106. Notice of passage of resolution of intention. (1) 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~~ authorizations that may be made ~~against~~ for the making or acquisition of the improvements or the creation of the district.

(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."

Section 20. Section 7-12-4110, MCA, is amended to read:

"7-12-4110. ~~Protest against~~ Authorization for proposed work or district. (1) At any time within 15 days after the date of the first publication of the notice of the passage of the resolution of intention, any owner of property liable to be assessed for ~~said the~~ work may make written ~~protest against~~ authorization for the proposed work, ~~or against~~ for the extent or creation of the district to be assessed, ~~or both.~~

(2) ~~Such protest~~ The authorization must be in writing, identify the property in the district owned by the ~~protestor~~ persons making the authorization, and be signed by all the owners of the property. The ~~protest~~

authorization must be delivered to the clerk of the city or town council or commission not later than 5 p.m. of the last day ~~within said~~ of the 15-day period. ~~Said~~ The clerk shall endorse ~~thereon~~ the date and hour of ~~its~~ the receipt by ~~him~~ of the authorization."

Section 21. Section 7-12-4112, MCA, is amended to read:

"7-12-4112. Hearing on protest authorization. (1) At the next regular meeting of the city or town council or commission after the expiration of the time within which ~~said protest~~ authorization may be made, the city or town council or commission shall ~~proceed to~~ hear and pass upon all ~~protests so made~~ authorizations, and its decision ~~shall be~~ is final and conclusive.

(2) The council or commission may adjourn ~~said~~ hearing from time to time. ~~Protestants shall have the right to~~ Persons filing authorizations may withdraw ~~protest or protests~~ an authorization at any time before final action ~~thereon~~ by the council or commission.

(3) In determining whether or not sufficient ~~protests~~ authorizations have been filed on a proposed district to ~~prevent~~ allow further proceedings ~~therein~~, property owned by a county, city, or town shall ~~shall~~ must be considered to the same effect as other property in the proposed district."

Section 22. Section 7-12-4113, MCA, is amended to read:

"7-12-4113. ~~Sufficient protest~~ Insufficient authorization to bar proceedings -- exceptions. (1) Except as provided in subsections (2) and (3), ~~no~~ further proceedings shall ~~may not~~ be taken for a period of 6 months from the date when ~~said protest shall have been~~ authorizations were required to be received by said the clerk of the city or town council or commission when:

(a) the council or commission finds that ~~such protest is~~ authorization was not made by the owners of property in the district to be assessed for more than 50% of the cost of the proposed work, in accordance with the method or methods of assessment described in the resolution of intention; or

(b) the cost ~~thereof~~ of the proposed work is to be assessed upon the property within an extended district and the council or commission finds that ~~such protest is~~ authorization was not made by the owners of more than 50% of the area of the property to be assessed for ~~said the~~ improvements.

(2) The council or commission ~~shall have the right to overrule any and all objections and~~ may pave the proposed block with gravel and oil surface when the improvement proposed is the paving, with necessary incidentals, of not more than one cross block to connect with streets or avenues already paved for a continuous distance of three blocks or more running at a right angle₁ (or substantially so)₁ with the single cross block ~~so~~

proposed to be paved.

(3) ~~In case~~ If the improvement is the construction of a sanitary sewer, ~~such protest insufficient authorization~~ may be overruled by an affirmative vote of a majority of the members of the council or commission unless ~~such protest is made by~~ authorization is received from the owners of property in the district to be assessed for ~~more~~ less than ~~75%~~ 25% of the cost of the district, in accordance with the methods of assessment described in the resolution of intention, in which event the ~~protest lack of or insufficient authorization~~ must be sustained as to the construction of ~~such~~ the sanitary sewer."

Section 23. Section 7-12-4114, MCA, is amended to read:

"7-12-4114. Resolution creating special improvement district. When ~~no protests~~ sufficient authorizations have been delivered to the clerk of the city council within 15 days after the date of the first publication of the notice of the passing of the resolution of intention, ~~when a protest shall have been found by said council to be insufficient or shall have been overruled,~~ or when a protest against the extent of sufficient authorizations for extending the proposed district ~~shall have been heard and denied, immediately thereupon received,~~ the council ~~shall be deemed to have acquired jurisdiction to~~ may order the proposed improvements. Before ordering any ~~of said~~ proposed improvements, the council shall pass a resolution creating the special improvement district in accordance with the resolution of intention ~~theretofore~~ introduced and passed by the council."

Section 24. Section 7-12-4177, MCA, is amended to read:

"7-12-4177. Notice of resolution for tax levy -- protest and hearing. (1) A notice signed by the city clerk, stating that the resolution levying the special assessment to defray the cost of the improvements is on file in the city clerk's office and subject to inspection, must be:

(a) published as provided in 7-1-4127;

(b) mailed to the owner of each lot, tract, or parcel of land to be assessed. The lands must be identified and the mailing address determined from the ~~last completed~~ last-completed assessment roll for state, county, and school district taxes.

(c) mailed to all other persons known to the clerk to have an ownership interest in the property.

(2) The notice must state the time and place at which ~~objections to~~ authorizations for the final adoption of the resolution will be heard by the council. The time for the hearing may not be less than 10 days after the final publication and mailing of the notice."

Section 25. Section 7-12-4255, MCA, is amended to read:

"7-12-4255. Contents of notice of hearing -- protest authorization. (1) The notice ~~shall~~ must state the substance of the petition and the time and place for hearing and that any interested person or any person whose rights may be affected by the issuance or sale of the bonds or the levy of the special assessment; may, on or before the day fixed for the hearing on the petition, answer the petition and may appear at the hearing and contest the granting of the ~~prayer of the petition~~ and the entry of any order of confirmation pursuant ~~thereto~~ to the petition.

(2) ~~Any~~ A person eligible to appear may ~~enter his appearance in~~ attend the proceedings and answer the petition and contest or authorize the granting of the ~~prayer of the petition~~, and all provisions of the code of civil procedure ~~shall be~~ are applicable to the proceedings."

Section 26. Section 7-12-4303, MCA, is amended to read:

"7-12-4303. Notice of resolution of intent to create lighting district. (1) Upon having passed the resolution required by 7-12-4302, the council shall give notice of the passage of the resolution of intention. The notice of the passage of the resolution must be published as provided in 7-1-4127. A copy of the notice must be mailed to every person, firm, or corporation having property within the proposed district, as listed on the current property tax record, at the property owner's address as the address is listed on the current property tax record, on the same day that the notice is first published or posted.

(2) The notice must describe the general character of the improvement proposed to be made, state the estimated cost of the improvement and the estimated cost of maintaining the lights and supplying the ~~electrical current~~ electricity for the improvement and lights within the district for the first year, and designate the time when and the place where the council will hear and pass upon all ~~protests~~ authorizations that may be made ~~against~~ for the making of the improvement or the creation of the district. The notice must refer to the resolution on file in the office of the city clerk for a description of the boundaries."

Section 27. Section 7-12-4304, MCA, is amended to read:

"7-12-4304. Protest against Authorization for creation of lighting district. At any time within 15 days after the date of the first publication of the notice of passage of the resolution of intention, any owner of property liable to be assessed for ~~said~~ the work may make written ~~protest against~~ authorization for the proposed work, or ~~against~~ for the ~~extent~~ extension or creation of the district to be assessed, or both. ~~Such~~ The notice must be in writing and must be delivered to the clerk of the city council, who shall endorse ~~thereon~~ the date of ~~its~~ receipt by

him on the authorization."

Section 28. Section 7-12-4305, MCA, is amended to read:

"7-12-4305. Consideration of protest authorization. (1) At the next regular meeting of the city council after the expiration of the time within which ~~said protests~~ authorization may be made, the city council shall proceed to hear and pass upon all ~~protests so made~~ authorizations, and its decision ~~shall be~~ is final and conclusive. When the ~~protest is against~~ authorization is for the proposed work and the cost ~~thereof of the work~~ is to be assessed upon property embraced within the boundaries of the district and if the city council finds that ~~such protest is~~ insufficient authorization was made by the owners of a majority of the property embraced within the district to be assessed for the proposed work, ~~no~~ further proceedings ~~shall~~ may not be taken for a period of 6 months from the date when ~~said protest was~~ the authorizations were received by the city clerk of ~~said~~ the city council.

(2) In determining the sufficiency of protest authorization, each ~~protest shall~~ authorization must be weighted in proportion to the amount of the assessment to be levied against the lot or parcel with respect to which it is made.

(3) In determining whether or not sufficient protest authorization has been filed in a proposed district to ~~prevent~~ allow further proceedings ~~therein~~, property owned by a county, city, or town ~~shall~~ must be considered the same as other property in the district.

(4) The city council may adjourn ~~said~~ the hearing from time to time."

Section 29. Section 7-12-4306, MCA, is amended to read:

"7-12-4306. Resolution to create lighting district. When ~~no protests~~ sufficient authorizations have been delivered to the clerk of the city council within 15 days after the date of the first publication of the notice of the passage of the resolution of intention or when ~~a protest shall~~ authorizations have been found by the city council to be insufficient or ~~shall have been overruled~~ or when a protest against the extent of the proposed district ~~shall have been heard and denied, immediately thereupon~~ sufficient, the city council ~~shall be deemed to have acquired jurisdiction to~~ may order the proposed improvements. Before ordering any of ~~said~~ the proposed improvements, the city council shall pass a resolution creating the special improvement lighting district in accordance with the resolution of intention ~~thereof~~ introduced and passed by the city council."

Section 30. Section 7-12-4351, MCA, is amended to read:

"7-12-4351. Major modification of existing lighting district. (1) The council of any city or town is authorized to:

(a) modify an existing special improvement lighting district by changing the number and spacing of lights, replacing overhead transmission lines with underground lines, increasing or decreasing the level of illumination, or making other major modifications required by the public interest and convenience;

(b) require that all or any part of the cost of the modification be paid by the owners of the property within the district; and

(c) assess and collect all or any part of the cost of the modification by special assessment against the property within the district.

(2) Before modifying an existing lighting district, the city council shall adopt a resolution of intention to do so, either by motion of the council or upon presentation of a petition signed by the owners or agents of at least 10% of the property within the district.

(3) The provisions in 7-12-4302 through 7-12-4305 for the content of the resolution, public notice, ~~protest authorization~~, and consideration of ~~protest authorizations~~ that apply to the creation of a special improvement lighting district also apply to the modification of an existing special improvement lighting district authorized by this section."

Section 31. Section 7-12-4352, MCA, is amended to read:

"7-12-4352. Jurisdiction to modify lighting district. If ~~no protests~~ sufficient authorizations have been delivered to the clerk of the city or town council within 15 days of the date of the first publication of the notice of the passage of the resolution of intention required by 7-12-4351 ~~or if a protest has been found to be insufficient or has been overruled~~, the city or town council ~~is considered to have acquired~~ has jurisdiction to order the proposed modification."

Section 32. Section 7-12-4407, MCA, is amended to read:

"7-12-4407. Protest against Insufficient authorization for ordinance for improvements. ~~No further~~ Additional action ~~shall~~ may not be taken upon the proposed district for 1 year if ~~a~~ written ~~protest against authorization~~ for passage of the proposed ordinance is not filed by:

(1) owners of property within the proposed maintenance district having a taxable valuation, when aggregated, representing ~~not less than~~ at least 50% of the total taxable valuation of property within the district;

(2) ~~not less than~~ at least 50% of the owners of property within the district; or

(3) owners of property within the proposed maintenance district having projected assessments, when aggregated, representing ~~not less than~~ at least 50% of the total projected assessments for property within the district."

Section 33. Section 7-12-4502, MCA, is amended to read:

"7-12-4502. Notice of intention to abandon district. (1) After the passage of the resolution provided for in 7-12-4501, the city or town clerk shall publish a notice as provided in 7-1-4127 of the intention to abandon.

(2) The notice must specify the boundaries of the district to be abandoned, the date of the passage of the resolution of intention to abandon, and the date set for the passage of the resolution of abandonment and that unless 40% of the owners in the district file written ~~protest~~ authorization with the clerk of the city or town before the passage of the resolution, it will not be passed. The notice must also set forth, when applicable, that it is the duty of the owners of the property abutting on the street parking district involved to maintain the property after the abandonment."

Section 34. Section 7-12-4503, MCA, is amended to read:

"7-12-4503. ~~Protest to~~ Authorization for abandonment of district. Unless 40% of the property owners owning property abutting the district file written ~~protests against~~ authorizations for the abandonment by the date set for the passage of the resolution of abandonment, the council ~~shall~~ may not pass a resolution declaring the district abandoned."

Section 35. Section 7-12-4603, MCA, is amended to read:

"7-12-4603. Notice of resolution of intent to create a fire hydrant maintenance district. (1) Upon passing the resolution required by 7-12-4602, the council shall publish a notice of the passage as provided in 7-1-4127. A copy of the notice must be mailed to the last-known address of every person, firm, or corporation having property within the proposed district on the same day the notice is first published or posted.

(2) The notice must describe the general character of the proposed improvement, state the estimated cost of the improvement and the cost of maintaining the hydrants within the district for the first year, and designate the time when and place where the council will hear and pass upon all ~~protests against~~ authorizations for the establishment of the improvement or the creation of the district. The notice must refer to the resolution on file in the office of the city clerk for a description of the boundaries."

Section 36. Section 7-12-4604, MCA, is amended to read:

"7-12-4604. ~~Protest against~~ Authorization for creation of fire hydrant maintenance district. At any time within 15 days after the date of the first publication or posting of the notice of passage of the resolution of intention, any owner of property who would be liable for district assessments may make a written ~~protest against~~ authorization for the proposed improvement, or the creation of the district, or both. The ~~protest~~ authorization must be delivered, in writing, to the clerk of the city council, who shall endorse ~~thereon~~ the date of its receipt ~~by him~~ on the authorization."

Section 37. Section 7-12-4605, MCA, is amended to read:

"7-12-4605. Consideration of protest authorization. (1) At the next regular meeting of the city council after the expiration of the 15-day ~~protest~~ authorization period provided for in 7-12-4604, the city council shall proceed to hear and pass upon all ~~protests~~ authorizations, and its decision is final and conclusive. If the council finds that the owners of a majority of the property proposed to be assessed have ~~protested on grounds of cost of not authorized~~ the improvement, ~~no~~ further proceedings may ~~not~~ be taken on the subject of ~~such the~~ proposed improvement district for a period of at least 6 months from the date of expiration of the 15-day ~~protest~~ authorization period.

(2) In determining whether or not sufficient ~~protests~~ authorizations have been filed ~~to prevent further proceedings~~, property owned by a county, city, or town is considered the same as other property in the district.

(3) The city council may adjourn and reconvene the hearing on ~~protests~~ authorizations from time to time."

Section 38. Section 7-12-4606, MCA, is amended to read:

"7-12-4606. Resolution to create fire hydrant maintenance district. (1) The city council has jurisdiction to order the proposed improvements if:

——— ~~(a) no~~ protests sufficient authorizations have been delivered to the clerk of the city council within the 15-day ~~protest~~ authorization period provided for in 7-12-4604; ~~or~~

——— ~~(b) protests have been found by the city council to be insufficient in number to halt further proceedings and such protests have been heard on their merits and denied.~~

(2) Before ordering the proposed improvements, the city council shall pass a resolution creating the fire hydrant maintenance district in accordance with the resolution of intention previously introduced and passed by the council."

Section 39. Section 7-13-107, MCA, is amended to read:

"7-13-107. Notice of resolution of intention upon concurrence -- hearing. (1) If the city or town council concurs in the resolution of the board of county commissioners, the board shall give notice of the passage of its resolution of intention and of the concurrence in the resolution by the city or town council.

(2) The notice must be published as provided in 7-1-2121. A copy of the notice must be mailed to every person, firm, or corporation or the agent of the person, firm, or corporation owning property within the proposed district, at the last-known place of residence, on the same day the notice is first published.

(3) The notice must describe the general character of the improvement or improvements proposed to be made, state the estimated cost, and designate the time when and the place where the board will hear and pass upon all ~~protests~~ authorizations that may be made ~~against~~ for the making or maintenance of the improvements or the creation of the district. The notice must refer to the resolution on file in the office of the county clerk for the description of the boundaries."

Section 40. Section 7-13-108, MCA, is amended to read:

"7-13-108. Right to ~~protest~~ authorize. (1) At any time within 30 days after the date of the first publication of the passage of the resolution of intention, any owner of property liable to be assessed for ~~said~~ the work may make written ~~protest against~~ authorization for the proposed work.

(2) ~~Such protest~~ The authorization must be in writing and must be delivered to the county clerk, who shall endorse ~~thereon~~ the date of the receipt ~~by him~~ on the authorization."

Section 41. Section 7-13-109, MCA, is amended to read:

"7-13-109. ~~Sufficient protest~~ Insufficient authorization to bar proceedings. If the ~~protest against~~ authorization for the proposed work is not made by the owners of more than 50% of the area in the proposed district, ~~no~~ further proceedings ~~shall~~ may not be taken by the board of county commissioners."

Section 42. Section 7-13-110, MCA, is amended to read:

"7-13-110. Hearing on ~~protest~~ authorization. (1) At the next regular meeting of the board of county commissioners after the expiration of the time within which ~~said~~ ~~protest~~ authorization may be made, the board shall ~~proceed to~~ hear and pass upon all ~~protests so made~~ authorizations, and its decision ~~shall be final and is~~ conclusive.

(2) In determining whether or not sufficient ~~protests~~ authorizations have been filed in the proposed district

to ~~prevent~~ allow further proceedings therein, property owned by the city, county, and school districts ~~shall~~ must be considered the same as any other property in the district.

(3) The board may adjourn ~~said~~ the hearing from time to time."

Section 43. Section 7-13-111, MCA, is amended to read:

"7-13-111. Resolution creating district -- power to order improvements. (1) Before ordering any of the proposed improvements, the board of county commissioners shall pass a resolution creating the metropolitan sanitary and/or storm sewer district in accordance with the resolution of intention ~~heretofore~~ introduced and passed by the board.

(2) The board ~~shall be deemed to have acquired~~ has jurisdiction to order improvements ~~immediately upon the occurrence of one of the following:~~

———(a) ~~when no protests~~ sufficient authorizations have been delivered to the county clerk within 30 days after the date of the first publication of the notice of the passing of the resolution of intention;

———(b) ~~when a protest shall have been found by said board to be insufficient;~~

———(c) ~~when a protest shall have been overruled."~~

Section 44. Section 7-13-126, MCA, is amended to read:

"7-13-126. Notice of resolution to assess and levy tax for making improvements -- protest authorization. (1) A notice, signed by the county clerk and stating that the resolution levying a special assessment to defray the cost of making the improvements is on file in the office of the county clerk and is subject to inspection, must be published as provided in 7-1-2121.

(2) The notice must state the time and place in which ~~objections to~~ authorization for the final adoption of the resolution will be heard by the board of county commissioners."

Section 45. Section 7-13-127, MCA, is amended to read:

"7-13-127. Hearing on protest authorization. (1) The time for the hearing on ~~protest~~ authorization must be not less than 5 days after the final publication of the notice required by 7-13-126.

(2) At the time fixed for the hearing, the board of county commissioners shall meet and hear all ~~objections~~ authorizations and for that purpose may adjourn from day to day. The board may by resolution modify the assessment in whole or in part. A copy of the resolution, certified by the county clerk, must be delivered to the county treasurer within 2 days after its passage."

Section 46. Section 7-13-208, MCA, is amended to read:

"7-13-208. Notice of resolutions of intention and concurrence -- hearing. (1) The commissioners shall give notice of the passage of the resolution of intention and resolution of concurrence, if applicable, and a notice describing the general characteristics of the collection system and proposed fees to be charged for the service, designating the time and place where the commissioners will hear and pass upon ~~protests~~ authorizations made ~~against~~ for the operation of the proposed district and stating that a description of the boundaries for the proposed district is included in the resolution on file in the county clerk's office.

(2) The notice must be published as provided in 7-1-2121.

(3) A copy of the notice must be mailed as provided in 7-1-2122 to every person, firm, or corporation having real property within the proposed district listed upon the ~~last completed~~ last-completed assessment list for county taxes the same day the notice is first published."

Section 47. Section 7-13-209, MCA, is amended to read:

"7-13-209. Right to protest authorize. (1) At any time within 21 days after the date of the first publication of the notice provided for in 7-13-208, any owner of property liable to be assessed for ~~said~~ the service may make written ~~protest against~~ authorization for the proposed service or ~~against~~ the fees proposed to be charged for the service.

(2) ~~Such protest~~ An authorization must be in writing and must be delivered to the county clerk, who shall endorse ~~thereon~~ the date of the receipt by him on the authorization."

Section 48. Section 7-13-210, MCA, is amended to read:

"7-13-210. Hearing on protest authorization. (1) At the next regular meeting of the commissioners after the expiration of the time within which the protest authorization provided for in 7-13-209 may be made, the commissioners shall proceed to hear and pass upon all ~~protests so made~~ authorizations, and its decision ~~shall be final and is~~ conclusive.

(2) The commissioners shall evaluate and rule upon the factual accuracy of and legal basis for all ~~protests~~ authorizations made ~~against~~ for the resolution of intent. Upon determining a factual or legal defect in the resolution of intent, the commission shall halt all further proceedings or modify the resolution.

(3) In determining whether or not sufficient ~~protests~~ authorizations have been filed in the proposed district to ~~prevent~~ allow further proceedings ~~therein~~, property owned by the city, county, and school districts ~~shall~~ must be considered the same as any other property in the district. The commissioners may include commercial and

industrial establishments in ~~said the~~ the district.

(4) The commissioners may adjourn ~~said the~~ hearings from time to time."

Section 49. Section 7-13-211, MCA, is amended to read:

"7-13-211. Sufficient protest Insufficient authorization to bar proceedings. (1) If the ~~protest against authorization~~ for the proposed service is not made by the owners of more than 50% of the family residential units in the proposed district, ~~no~~ further proceedings ~~shall~~ may not be taken by the commissioners.

(2) If the ~~protest against~~ authorization for the fees proposed to be charged is not made by the owners of more than 50% of the family residential units in the proposed district, the board and commissioners shall hold a hearing to determine an acceptable fee. Following the hearing, the commissioners may adopt the proposed fee or a different fee.

(3) Each commercial and industrial service that is to be included in the collection system may be considered as a family residential unit for the purpose of determining percent of ~~protest~~ authorization."

Section 50. Section 7-13-212, MCA, is amended to read:

"7-13-212. Resolution creating district -- power to order improvements. (1) Before ordering any of the proposed improvements, the commissioners shall pass a resolution creating the solid waste management district in accordance with the resolution of intention ~~thereof~~ introduced and passed by the commissioners.

(2) The commissioners may change the boundaries and description of the district from the resolution of intention if the changes do not add territory or increase the proposed fees.

(3) The commissioners ~~shall be deemed to have acquired~~ jurisdiction to order improvements ~~immediately upon the occurrence of one of the following:~~

——— ~~(a) when no protests~~ sufficient authorizations have been delivered to the county clerk within 21 days after the date of the first publication of the notice provided for in 7-13-208;

——— ~~(b) when an insufficient number of protests have been made as provided for in 7-13-211; or~~

——— ~~(c) when a protest shall have been overruled."~~

Section 51. Section 7-13-231, MCA, is amended to read:

"7-13-231. Authorization for charges for services. (1) To defray the cost of maintenance and operation of a solid waste management district, the board shall establish a fee for service, with approval of the county commissioners, ~~provided that a public hearing has been held if written protest has been made as provided~~

~~in 7-13-211.~~ An increase in fees may not be approved and implemented unless notice of the increase is given as provided in 7-13-208(1) and (2) and an opportunity for protest authorization is allowed, as provided in 7-13-209 and 7-13-211.

(2) This fee must be assessed to all units in the district that are receiving a service, for the purpose of maintenance and operation of the district.

(3) An opportunity for protest authorization or hearing is not required to increase fees for the purpose of paying fees collected by the department of environmental quality under 75-10-115. Notice must be provided to all units of the rate or portion of any rate that is directly attributable to the fee imposed.

(4) In order to aid in the determination of rates for service charges under 7-13-232, the department of revenue shall assist the board by providing the board with information pertaining to new construction, demolition, remodeling that changes the use of a building, and the location of mobile homes within the district boundaries."

Section 52. Section 7-13-2206, MCA, is amended to read:

"7-13-2206. Hearing on petition ~~protest.~~ (1) At the time for the hearing, the board of county commissioners shall hear the petition and those appearing ~~thereon~~ on the petition, together with ~~such~~ written ~~protests as shall~~ authorizations that have been filed with the county clerk and recorder prior to ~~such~~ the hearing by or on behalf of owners of taxable property situated within the boundaries of the proposed district within the county. The board of county commissioners may adjourn ~~such~~ the hearing from time to time, not exceeding 4 weeks in all.

(2) Upon ~~such~~ the hearing of ~~said~~ the petition, the board of county commissioners shall determine whether or not ~~said~~ the petition complies with the requirements of the provisions of ~~this part and part 23~~ and this part and for that purpose ~~must~~ shall hear all competent and relevant testimony offered in support of or in opposition ~~thereto~~ to the petition. ~~Such~~ The determination ~~shall~~ must be entered upon the minutes of ~~said~~ the board of county commissioners."

Section 53. Section 7-13-2282, MCA, is amended to read:

"7-13-2282. Hearing on assessment -- who considered owner -- ~~sufficient protest~~ insufficient authorization to bar proceedings. (1) At the time fixed, the board of directors shall meet and hear all ~~objections~~ authorizations and for that purpose may adjourn from day to day.

(2) The board of directors may by resolution modify the assessment in whole or in part. A copy of the resolution, certified by the secretary, must be delivered to the county clerk and recorder of the county in which

the lot, tract, or parcel is located within 2 days after passage of the resolution and not later than the July 15 preceding the county's next fiscal year.

(3) At any time within 30 days after the date of the first publication of the notice of proposed assessments, any owner of property to be assessed for the costs of making the improvements may make written ~~protest against~~ authorization for the levy of assessments. The ~~protest~~ authorization must be in writing, identify the property in the district owned by the ~~protestor~~ persons making the authorization, and be signed by all owners of the property. The ~~protest~~ authorization must be delivered to the secretary of the district not later than 5 p.m. of the last day of the 30-day period provided for in this subsection. The secretary shall endorse the date and hour of receipt on the ~~protest~~ authorization.

(4) If the board of directors finds that a ~~protest an authorization~~ with respect to the method or methods of assessment described in the resolution of intention is not made by the owners of property in the district to be assessed for more than 50% of the cost of improvements, the board of directors may not use the method or methods of assessment described in the resolution of intention."

Section 54. Section 7-13-2306, MCA, is amended to read:

"7-13-2306. Contents of notice -- hearing and protest. The notice required by 7-13-2304 must state:

- (1) the amount of money required;
- (2) the method of assessment that the board or boards of county commissioners intend to employ;
- (3) the boundaries or description of the lands to be assessed, which may be recited in full or may be given by reference to any instrument on file or of record in the office of the clerk and recorder or treasurer of the county or counties in which the district or part of the district is situated or with the department of revenue; and
- (4) the time when and the place where the board or boards of county commissioners will hear and pass upon all ~~protests~~ authorizations that may be made ~~against~~ for the levy of the tax or any matter pertaining to the tax."

Section 55. Section 7-13-2307, MCA, is amended to read:

"7-13-2307. Hearing on ~~protest to~~ authorization for levy of tax. (1) The hearing provided for in 7-13-2306(4) ~~shall~~ must be ~~had no less than~~ held within 15 days after the last publication of the notice.

(2) At the time and place designated for ~~said~~ the hearing, any owner of property situated within the area to be assessed may appear and ~~protest~~ authorize the levy of the tax or any matter pertaining ~~thereto~~ to the levy. All ~~protests~~ authorizations must be heard, considered, and ruled upon by the board of county commissioners.

(3) The board of county commissioners may adjourn ~~said~~ the hearing from time to time."

Section 56. Section 7-13-2308, MCA, is amended to read:

"7-13-2308. Payment of tax under protest -- action to recover. (1) ~~Where such~~ If a tax is deemed considered unlawful for any reason by the person whose property is taxed, whether or not ~~he~~ the person has ~~protested~~ authorized the ~~same tax~~ at the hearing provided for in 7-13-2306(4), ~~he~~ the person may pay the tax or the tax installments ~~thereof~~ under protest in the manner provided by 15-1-402, ~~and, thereupon and within~~ Within the time prescribed and in the manner provided by 15-1-402, the person may commence an action to recover ~~such~~ the tax or installments and ~~in such action~~ contest and litigate the payment of ~~such~~ the tax on the same grounds and for only the same reasons ~~that he has stated in his~~ the written protest ~~and for no other reasons and on no other grounds.~~

(2) All of the provisions of 15-1-402 for the retention or refunding of taxes paid under protest ~~shall~~ apply to taxes paid under protest under this section."

Section 57. Section 7-13-2507, MCA, is amended to read:

"7-13-2507. Hearing on petition. At the time set for hearing ~~such~~ the petition or petitions, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of a television district. The board may, ~~if it so desires and if it appears to be desirable,~~ adjourn the meeting for not to exceed 30 days in time to further hear the petitioners and ~~protestants~~ opponents, if any."

Section 58. Section 7-13-3005, MCA, is amended to read:

"7-13-3005. Notice of resolution of intention upon concurrence -- hearing. (1) The governing body shall give notice of the passage of its resolution of intention to create the district.

(2) The notice must be published as provided in 7-1-2121. A copy of the notice must be mailed to every person, firm, or corporation or the agent of the person, firm, or corporation owning property within the proposed district, at the last-known place of residence, on the same day the notice is first published or posted.

(3) The notice must describe the general character of the improvement or improvements proposed to be made, state the estimated cost, and designate the time when and the place where the governing body will hear and pass upon all ~~protests~~ authorizations that may be made ~~against~~ for the making or maintenance of the improvements or the creation of the district. The notice must refer to the resolution on file in the office of the local government clerk for the description of the boundaries."

Section 59. Section 7-13-3006, MCA, is amended to read:

"7-13-3006. Right to ~~protest~~ authorize. (1) At any time within 30 days after the date of the first publication of the passage of the resolution of intention, any owner of property liable to be assessed for the system may make written ~~protest against~~ authorization for the proposed system.

(2) The ~~protest~~ authorization must be in writing and must be delivered to the county clerk, who shall endorse on the ~~protest~~ authorization the date of the receipt."

Section 60. Section 7-13-3007, MCA, is amended to read:

"7-13-3007. ~~Sufficient protest~~ Insufficient authorization to bar proceedings. If ~~protests against~~ authorizations for the proposed system are not received from the owners of at least 50% ~~or more~~ of the area in the proposed district, further proceedings may not be taken by the governing body."

Section 61. Section 7-13-3008, MCA, is amended to read:

"7-13-3008. Hearing on ~~protest~~ authorization. (1) At the next regular meeting of the governing body after the expiration of the time within which ~~protest~~ authorization may be made, the governing body shall hear and pass upon all ~~protests~~ authorizations, and its decision is ~~final and~~ conclusive.

(2) In determining whether or not sufficient ~~protests~~ authorizations have been filed in the proposed district to ~~prevent~~ allow further proceedings, property owned by local government and school districts is considered the same as any other property in the district.

(3) The governing body may adjourn the hearing from time to time."

Section 62. Section 7-13-3011, MCA, is amended to read:

"7-13-3011. Resolution creating district -- power to order improvements. (1) Before ordering any of the proposed improvements, the governing body shall pass a resolution creating the district in accordance with the resolution of intention introduced and passed by the governing body.

(2) The governing body ~~has jurisdiction to~~ may order improvements immediately upon the ~~occurrence~~ of one of the following:

- ~~_____~~ (a) ~~when no protests have been delivered~~ delivery of sufficient authorizations to the county clerk within 30 days after the date of the first publication of the notice of the passing of the resolution of intention;
- ~~_____~~ (b) ~~when a protest is found by the governing body to be insufficient; or~~
- ~~_____~~ (c) ~~when a protest is overruled."~~

Section 63. Section 7-13-3021, MCA, is amended to read:

"7-13-3021. Notice of resolution to assess and levy tax for making improvements -- ~~protest~~ authorization. (1) A notice, signed by the local government clerk and stating that the resolution levying a special assessment to defray the cost of making the improvements is on file in the office of the clerk and is subject to inspection, must be published as provided in 7-1-2121.

(2) The notice must state the time and place in which ~~objections to~~ authorization for the final adoption of the resolution will be heard by the governing body."

Section 64. Section 7-13-3023, MCA, is amended to read:

"7-13-3023. Hearing on ~~protest~~ authorization. (1) The time for the hearing on ~~protest~~ authorization must be not less than 5 days after the final publication of the notice required by 7-13-126.

(2) At the time fixed for the hearing, the governing body shall meet and hear all ~~objections~~ authorizations and for that purpose may adjourn from day to day. The governing body may by resolution modify the assessment in whole or in part. A copy of the resolution, certified by the clerk of the local government, must be delivered to the local government treasurer within 2 days after its passage."

Section 65. Section 7-13-4504, MCA, is amended to read:

"7-13-4504. Authorization to initiate creation of a local water quality district. (1) The commissioners may initiate the creation of a local water quality district for the purpose of protecting, preserving, and improving the quality of surface water and ground water, as provided by this part, by holding a public meeting, passing a resolution of intention, providing an opportunity for owners of fee-assessed units to ~~protest~~ provide authorization, and conducting a public hearing to hear and decide upon ~~protests~~ authorizations, as provided in 7-13-4506, 7-13-4507, 7-13-4509, and 7-13-4510.

(2) A city or town may be included in the district if approved by the governing body of the city or town."

Section 66. Section 7-13-4507, MCA, is amended to read:

"7-13-4507. Notice of resolutions of intention and concurrence. (1) The commissioners shall give notice of the passage of the resolution of intention and resolution of concurrence, if applicable, and publish a notice that:

- (a) describes the local water quality program that would be implemented in the local water quality district;
- (b) specifies the initial proposed fees to be charged;

(c) designates the time and place where the commissioners will hear and decide upon ~~protests~~ authorizations made ~~against~~ for the operation of the proposed district; and

(d) states that a description of the boundaries for the proposed district is included in the resolution on file in the county clerk's office.

(2) The notice must be published as provided in 7-1-2121.

(3) The commissioners shall mail to all owners of proposed fee-assessed units, as listed in the property tax record maintained by the department of revenue, a postcard that identifies the location where the resolution of intention, resolution of concurrence, and ~~protest~~ protest authorization forms may be obtained."

Section 67. Section 7-13-4509, MCA, is amended to read:

"7-13-4509. Right to ~~protest~~ protest authorization -- procedure. (1) At any time within 30 days after the date of the first publication of the notice provided for in 7-13-4507(1), a person owning a fee-assessed unit located within the proposed local water quality district may make written ~~protest against~~ protest authorization for the proposed district and the fees proposed to be charged.

(2) The ~~protest~~ protest authorization must be in writing and must be delivered to the county clerk, who shall endorse on it the date the ~~protest~~ protest authorization is received.

(3) Owners may file one ~~protest per~~ protest per authorization for each fee-assessed unit."

Section 68. Section 7-13-4510, MCA, is amended to read:

"7-13-4510. Hearing on ~~protest~~ protest authorization. (1) At the next regular meeting of the commissioners after the expiration of the time period provided for in 7-13-4509, the commissioners shall hear and decide upon all ~~protests~~ authorizations.

(2) The commissioners may adjourn the hearing as necessary."

Section 69. Section 7-13-4511, MCA, is amended to read:

"7-13-4511. ~~Sufficient protest~~ Insufficient authorization to require referendum. If the owners of more than 20% of the fee-assessed units in the proposed district ~~protest~~ do not authorize the creation of the proposed district and the fees proposed to be charged, the commissioners are barred from further proceedings on the matter unless the commissioners submit a referendum to create the district to the registered voters who reside within the proposed district and the registered voters approve the creation of the district and establish the fees by approving the referendum."

Section 70. Section 7-13-4513, MCA, is amended to read:

"7-13-4513. ~~Insufficient protest~~ Authorization to bar continue proceedings -- resolution creating district -- power to implement local water quality program. (1) The commissioners may create a local water quality district, establish fees, and appoint a board of directors if the commissioners find that ~~insufficient protests~~ sufficient authorizations have been made in accordance with 7-13-4511 or if the registered voters who reside in the proposed district have approved a referendum as provided in 7-13-4512.

(2) To create a local water quality district, the commissioners shall pass a resolution in accordance with the resolution of intention introduced and passed by the commissioners or in accordance with the terms of the referendum.

(3) The commissioners and board of directors may implement a local water quality program after the program is approved by the board of environmental review pursuant to 75-5-311."

Section 71. Section 7-13-4522, MCA, is amended to read:

"7-13-4522. Changes in district boundaries. The board of directors may by resolution make changes in the boundaries of a local water quality district that the board determines are reasonable and proper, following the same procedures of notice and hearing provided in 7-13-4507, 7-13-4509, and 7-13-4510, except that the notice provisions of 7-13-4507(3) apply only to the owners of proposed fee-assessed units in new areas that are proposed to be included in the district. If 20% of the owners of fee-assessed units in the new areas ~~protest do not authorize~~ the inclusion in the district and the fees proposed to be charged, the board of directors is barred from further proceedings on the matter unless the registered voters who reside in the areas proposed for inclusion agree to be included in the district and accept the proposed fees by approving a referendum in accordance with the provisions of 7-13-4512."

Section 72. Section 7-13-4523, MCA, is amended to read:

"7-13-4523. Fees -- determination of rates -- increases -- exemption for agricultural water use. (1) The commissioners shall determine fee rates according to a classification system that is based upon the volume of water withdrawn and the volume and type of waste produced at each fee-assessed unit in the local water quality district.

(2) Fees for commercial and industrial units must be based on a comparison with a typical family residential unit as to volume of water withdrawn and volume and type of waste produced. Commercial and industrial units may be assessed fees that are not greater than 50 times the fees assessed on a family residential

unit.

(3) The commissioners may increase fees up to 10% a year by passing a resolution to establish the new fee rate. The commissioners may not approve a proposed fee increase of more than 10% a year unless notice of the proposed increase is given as provided in 7-13-4507(1) and (2) and opportunity for ~~protest~~ authorization is provided as set forth in 7-13-4509 and 7-13-4510. If more than 20% of the owners of fee assessed units in the district ~~protest~~ do not provide authorization, the fee increase may not be approved except through the referendum procedure provided for in 7-13-4512.

(4) Water withdrawals for irrigation and livestock use and related water discharges may not be assessed fees."

Section 73. Section 7-14-2902, MCA, is amended to read:

"7-14-2902. Creation of road improvement district -- resolutions -- hearing. (1) The board of county commissioners may establish a road improvement district upon petition of at least 60% of the landowners in the proposed district. The petition must:

- (a) describe the boundaries of the proposed district;
- (b) describe the proposed improvement;
- (c) estimate the total cost of the improvement and suggest the method of making landowner assessments;
- (d) if the improvement is a service, such as snowplowing, estimate the length of time the service is to be provided; and
- (e) describe the manner of providing the improvement, such as through contract with a private party or local government.

(2) To establish a road improvement district, the board shall:

- (a) pass a resolution of intent to form the district. The notice of intent to form the district must:
 - (i) be published as provided in 7-1-2121;
 - (ii) be mailed as provided in 7-1-2122 to every person, firm, or corporation or to the agent of the person, firm, or corporation owning real property within the proposed district listed in the name of the person, firm, or corporation upon the ~~last completed~~ last-completed assessment roll for state, county, and school district taxes; and
 - (iii) specify the method or methods by which the costs of the improvements are assessed against property in the district.

(b) (i) hold a public hearing no earlier than 30 days or later than 90 days after passage of the resolution of intent;

(ii) accept written ~~protests~~ authorizations at the hearing from property owners of the proposed district; and

(iii) receive general ~~protests~~ objections and comments at the hearing relating to the establishment of the road improvement district and its boundaries, service levels, or any other matter relating to the proposed district; and

(c) pass a resolution creating the road improvement district. The district is created effective 60 days after passage of the resolution unless by that date the owners of property in the district to be assessed for more than 50% of the cost of the proposed work, in accordance with the method or methods of assessment described in the resolution of intention, ~~protest~~ do not authorize its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the road improvement district may establish different boundaries or change the manner in which the area will provide services to its residents. The board may change district boundaries only if all landowners affected by the change were given written notice of the public hearing as provided in subsection (2)(a)(ii).

(4) The board of county commissioners may alter the boundaries or dissolve a road improvement district, using the same procedures required for the creation of a road improvement district. Any existing indebtedness of a road improvement district that is dissolved remains the responsibility of the owners of benefited property within the district, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the district."

Section 74. Section 7-22-2213, MCA, is amended to read:

"7-22-2213. ~~Objection to~~ Authorization for district. (1) At any time up to and including the date of the hearing, a landowner may file written ~~objection to~~ authorization for the creation of the district with the county clerk. The county clerk shall note the time of receipt on the written ~~protest~~ authorization and shall compute the percentage of land in the proposed district represented by the ~~protesting~~ authorizing landowner.

(2) If the owners of at least 51% of the land in the proposed district do not file written ~~objections~~ authorizations with the county clerk, the district may not be created."

Section 75. Section 7-22-2407, MCA, is amended to read:

"7-22-2407. Notice to include information relating to protest authorization. The notice shall state

that any qualified elector or owner of property lying within the boundaries of the proposed district may appear before the board at the time of hearing and ~~show cause why~~ testify concerning the creation of the district should not be created or may file his a written objection to authorization for creation of the district at any time before the date of ~~said the~~ the hearing."

Section 76. Section 7-22-2410, MCA, is amended to read:

"7-22-2410. Protest to Insufficient authorization for creation of district. (1) At the hearing provided for in 7-22-2403 or at any time following the first publication of notice of ~~such the~~ the hearing until the time of ~~said the~~ the hearing, any qualified elector or an owner of property within the proposed district may file his a written objections to authorization for the creation of the district. ~~Such objections shall~~ The authorizations must be delivered to the county clerk, who shall endorse ~~thereon~~ the date of its receipt ~~by him~~ on the authorization.

(2) If 51% or more of the qualified electors or of the owners of property within the boundaries of the proposed district do not file their written ~~objections to authorization for~~ the creation of such the district, the commissioners ~~shall~~ may not proceed with the creation of ~~such the~~ the district.

(3) If, as the result of objections authorizations filed, the commissioners ~~in their discretion determine the question in doubt~~ are undecided whether or not the creation of a district is ~~to in~~ in the best interest of an area and the residents ~~therein in the area,~~ the commissioners may ~~cause~~ submit the issue ~~to be determined by as a~~ as a referendum at the next regular election."

Section 77. Section 7-33-2120, MCA, is amended to read:

"7-33-2120. Consolidation of fire districts. (1) Two or more rural fire districts may consolidate to form a single rural fire district upon an affirmative vote of each rural fire district's board of trustees. At the time they vote to consolidate, the boards of trustees ~~must~~ shall also adopt a consolidation plan. The plan must contain:

(a) a timetable for consolidation, including the effective date of consolidation, which must be after the time allowed for ~~protests to authorizations for~~ the creation of the consolidated rural fire district under subsection (3);

(b) the name of the new rural fire district;

(c) a boundary map of the new rural fire district; and

(d) the estimated financial impact of consolidation on the average taxpayer within the proposed district.

(2) Within 14 days of the date that the trustees vote to consolidate, notice of the consolidation must be published, as provided in 7-1-2121, in each county in which any part of the consolidated fire district will be

located. A public hearing on the consolidation must be held within 14 days of the first publication of notice. The hearing must be held before the joint boards of trustees at a time and place set forth in the publication of notice.

(3) Property owners of each affected rural fire district may submit written ~~protests opposing~~ authorizations for consolidation to the trustees of their district. If within 21 days of the first publication of notice ~~more than~~ at least 50% of the property owners in an existing district ~~protest~~ do not authorize the consolidation, it is void.

(4) After consolidation, the former rural fire districts constitute a single rural fire district governed under the provisions of 7-33-2104 through 7-33-2106."

Section 78. Section 7-33-2123, MCA, is amended to read:

"7-33-2123. Decision on petition for division -- ~~protest authorization~~. The petition ~~shall~~ for division of the district may not be granted and the original districts ~~shall thereupon~~ may not be divided into separate districts unless at the time of the hearing on ~~such the~~ petition ~~protests shall be~~ authorizations are presented by the owners of 50% or more of the area of the privately owned lands included within the entire original district who constitute a majority of the taxpayers who are freeholders of the entire original district and whose names appear upon the last-completed assessment roll. If ~~such the~~ required amount of ~~protests~~ authorizations are presented, the petition for division ~~shall~~ must be ~~disallowed~~ granted."

Section 79. Section 7-33-2125, MCA, is amended to read:

"7-33-2125. Annexation of adjacent territory not contained in a fire district. (1) Adjacent territory that is not already a part of a fire district may be annexed in the following manner:

(a) A petition in writing by the owners of 50% or more of the area of privately owned lands of the adjacent area proposed to be annexed who constitute a majority of the taxpaying freeholders within the proposed area to be annexed and whose names appear upon the ~~last-completed~~ last-completed assessment roll must be presented to the board of trustees of the district for approval. If the proposed annexation is approved by the board of trustees, the petition must be presented to the board of county commissioners.

(b) At the first regular meeting of the board of county commissioners after the presentation of the petition, the commissioners shall set a date to hold a hearing on the petition. The date of the hearing may not be less than 4 weeks after the date of the presentation of the petition to the board of county commissioners. The board of county commissioners shall publish notice of the hearing as provided in 7-1-2121.

(2) On the date set for the hearing, the board of county commissioners shall consider the petition and

any ~~objections to~~ authorizations for the annexation. The board shall approve the annexation ~~unless a protest if~~ an authorization petition signed by a majority of the landowners of the area proposed for annexation is presented at the hearing, ~~in which case the annexation must be disapproved.~~

(3) The annexed territory is liable for any outstanding warrant and bonded indebtedness of the original district."

Section 80. Section 7-33-2126, MCA, is amended to read:

"7-33-2126. Annexation of adjacent territory contained in a fire district. (1) Adjacent territory that is already a part of a fire district may withdraw from ~~such that~~ that fire district and become annexed to another fire district in the following manner:

(a) A petition in writing by the owners of 50% or more of the privately owned lands of an area ~~which that~~ that is part of any organized fire district who constitute a majority of the taxpaying freeholders within ~~such that~~ that area according to the last-completed assessment roll ~~shall must~~ must be presented to the county commissioners, asking that ~~such the~~ the area be transferred to and included in any other organized fire district to which ~~said the~~ the area is adjacent. The petition must set forth the change of boundaries to be affected by ~~such the~~ the proposed transfer of area.

(b) The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in 7-33-2122. The withdrawal and annexation ~~shall must~~ must be allowed ~~unless protests if~~ authorizations are presented at the hearing by the owners of 50% or more of the area of the privately owned lands included within either district affected who constitute a majority of the taxpaying freeholders of either district according to the last-completed assessment roll.

(2) The withdrawals and annexation ~~shall must~~ must be allowed only upon a showing of more advantageous proximity and communications with the firefighting facilities of the other district."

Section 81. Section 7-33-2401, MCA, is amended to read:

"7-33-2401. Fire service area -- establishment -- alteration -- dissolution. (1) Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment set forth in 7-33-2402.

(2) To establish a fire service area, the board shall:

(a) pass a resolution of intent to form the area, with public notice₁ as provided in 7-1-2121₁ and written notice₂ as provided in 7-1-2122;

(b) hold a public hearing no earlier than 30 or later than 90 days after passage of the resolution of intent;

(c) at the public hearing:

(i) accept written ~~protests~~ authorizations from property owners of the area of the proposed area; and

(ii) receive general ~~protests~~ and comments relating to the establishment of the fire service area and its boundaries, rates, kinds, types, or levels of service; or any other matter relating to the proposed fire service area; and

(d) pass a resolution creating the fire service area. The area is created effective 60 days after passage of the resolution unless by that date ~~more~~ less than 50% of the property owners of the proposed fire service area ~~protest~~ authorize its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the fire service area may establish different boundaries, establish a different fee schedule than proposed, change the kinds, types, or levels of service, or change the manner in which the area will provide services to its residents.

(4) The board of county commissioners may alter the boundaries or the kinds, types, or levels of service or dissolve a fire service area, using the same procedures required for the creation of a fire service area. Any existing indebtedness of a fire service area that is dissolved remains the responsibility of the owners of property within the area, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the area."

NEW SECTION. **Section 82. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 83. Applicability.** [This act] applies to proceedings concerning the establishment, revision, or funding for a local government district commenced on or after [the effective date of this act].

- END -

