

HOUSE BILL NO. 728
INTRODUCED BY R. STOKER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING RURAL FIRE DISTRICTS; PROVIDING FOR CONFIRMATION OF EXISTING FIRE DISTRICTS; CLARIFYING THE PROCEDURE FOR CREATING, DIVIDING, OR SUBTRACTING LAND FROM A DISTRICT; CLARIFYING THAT COUNTY PROPERTY TAXATION AND BUDGETING LAWS APPLY TO RURAL FIRE DISTRICTS; AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2103, 7-33-2105, 7-33-2107, 7-33-2122, 7-33-2123, 7-33-2124, 7-33-2125, 7-33-2126, 7-33-2127, AND 7-33-2128, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 7-33-2101, MCA, is amended to read:

"7-33-2101. Rural fire districts authorized -- petition -- confirmation of existing districts. (1) The board of county commissioners ~~is authorized to~~ may establish fire districts in any unincorporated territory or town upon presentation of a petition in writing signed by the owners of 50% or more of the area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers ~~who are freeholders of such area upon property within the proposed district~~ and whose names appear upon the last-completed assessment roll.

(2) The legislature finds and declares that the operation of and collection of property taxes, without protest, for a rural fire district validates the existence of that rural fire district by the affected taxpayers. All rural fire districts established under the laws of the state of Montana prior to [the effective date of this act] and defined by boundaries described in the records of each county on [the effective date of this act] must be recognized as rural fire districts of that county."

Section 2. Section 7-33-2102, MCA, is amended to read:

"7-33-2102. Notice of hearing. (1) The board shall, within 10 days after the receipt of the petition provided for in 7-33-2101(1), give notice of the hearing ~~at least 10 days prior to the hearing by:~~

~~(1)(a)~~ by mailing a copy of the notice, as provided in 7-1-2122, to each freeholder property owner in the district at the address shown in the assessment roll; and

~~(2)(b)~~ by publishing the notice as provided in 7-1-2121.

(2) The notice required in subsection (1) must be provided at least 10 days prior to the hearing."

Section 3. Section 7-33-2103, MCA, is amended to read:

"7-33-2103. Hearing on petition -- decision. (1) The board shall ~~proceed to hear~~ conduct a hearing on the petition at the time ~~set or at any time within 5 days thereafter to which the same is postponed or continued~~ with due ~~provided in the notice.~~ and The board may grant the ~~same petition~~ unless it is established ~~thereat~~ at the hearing that the petition bears insufficient signatures ~~as above required~~ or, if originally sufficient, that by reason of written withdrawals ~~thereof~~ it of signatures, the petition has become insufficient.

(2) The board may adjust the boundaries of the proposed district to reflect any ~~freeholder's~~ property owner's written request for subtraction or ~~annexation~~ addition of parcels of the ~~freeholder's~~ property owner's land adjacent to the boundary line of the proposed district. ~~Such~~ A written request for the subtraction or addition of land to the proposed district must be submitted to the board prior to or on the date set for hearing on the petition.

(3) The board shall render its decision within 30 days after the hearing."

Section 4. Section 7-33-2105, MCA, is amended to read:

"7-33-2105. Powers and duties of trustees. (1) The trustees shall prepare and adopt suitable bylaws.

(2) The trustees ~~have the authority to~~ may provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing, and facilities, including real property, for the protection of the district. ~~They~~ The trustees shall appoint and form fire companies that have the same duties, exemptions, and privileges as other fire companies.

(3) (a) ~~The~~ Subject to subsection (3)(b), the trustees shall prepare annual budgets and request the county commissioners to impose special property tax levies for the budgets as provided in 15-10-420 or 15-10-425. The budget laws relating to county budgets ~~must, as far as applicable,~~ apply to fire districts. Prior to imposing the tax levy, the county commissioner shall hold a hearing on the requested levy. At the hearing, the commissioners shall receive testimony concerning the requested levy and may adjust the requested levy based on the testimony received.

(b) If pursuant to 15-10-420, the county commissioners propose an increase in the property tax levy for the district, the county commissioners shall submit the proposed levy to the qualified electors in the rural fire district pursuant to 15-10-425. The county commissioners may submit any levy for a rural fire district to the qualified electors in the rural fire district pursuant to 15-10-425. The tax levy is subject to the county tax appeal

provisions of Title 15, chapter 15, part 1, and the state tax appeal provisions of Title 15, chapter 2, part 1."

Section 5. Section 7-33-2107, MCA, is amended to read:

"7-33-2107. Contracts for fire protection services. (1) The trustees of ~~such a~~ fire district, ~~provided that the owners of 10% of the taxable value of the property in any such fire district may elect to make such a contract:~~

(a) may contract with ~~the council of any a~~ city or town or with ~~the trustees of any other another~~ fire district ~~established in any unincorporated territory, town, or village which has any boundary line lying located~~ within 5 straight-line miles of any boundary line of ~~such the~~ district, whether the city or town or other fire district ~~shall lie is located~~ within the same county or another county, for the extension of fire protection service by the city or town or ~~by such the~~ other fire district to property included within ~~such the~~ district; and

(b) may agree to pay a reasonable consideration ~~therefor~~ for the fire protection service provided for in subsection (1)(a).

(2) ~~Likewise, the~~ The trustees may contract to permit ~~such the~~ fire district's equipment and facilities to be used by the cities, towns, or other fire districts ~~which that~~ have any boundary lines lying within 5 straight-line miles of any boundary line of ~~such the~~ district.

(3) ~~Likewise, the~~ The trustees may enter into contracts with public or private parties under which ~~such the district fire company district~~ may extend fire protection to public or private property lying outside of ~~such the~~ district or any other district or city limits ~~but~~ within 5 straight-line miles of any boundary line of ~~such the~~ district, whether ~~such the~~ public or private property ~~shall lie is located~~ within the same county or another county. ~~Such The~~ district fire company may use ~~such the~~ fire district's equipment and facilities outside of ~~such the~~ district in the performance of ~~such~~ contracts.

(4) All money received from ~~such~~ contracts ~~shall must~~ be deposited in the county treasurer's office and ~~must be~~ credited to the account for the fire district fund ~~holding such contracts.~~

(5) The relationship between the fire district and the city, town, or private fire service ~~shall be is~~ that of an independent contractor."

Section 6. Section 7-33-2122, MCA, is amended to read:

"7-33-2122. Petition for subtraction of land or division of district -- hearing and notice. (1) Whenever a petition in writing ~~shall be made is submitted~~ to the county commissioners, signed by the owners of 20% or more of the privately owned lands of an area proposed to be ~~detracted subtracted~~ from the original district who constitute 20% or more of the taxpayers ~~who are freeholders~~ within ~~such proposed detracted the~~ area

proposed for subtraction and whose names appear upon the last-completed assessment roll, the county commissioners shall, within 10 days from the receipt of ~~such the~~ petition, give notice of the hearing of the petition by mailing a copy of the notice by first-class mail to each ~~freeholder~~ property owner in the district at the address shown in the assessment roll and by causing a notice thereof to be posted, ~~at least 10 days prior to the time appointed by them for the consideration of the petition, in at least three of the most public places within the proposed detracted area and also in at least three of the most public places within the remaining area~~ published as provided in 7-1-2121.

(2) The petition for ~~detracted~~ subtraction of land or division of the district must describe the boundaries of the proposed ~~detracted~~ subtracted area and the boundaries of the remaining area.

(3) The county commissioners shall, on the day fixed for hearing ~~such the~~ petition (~~or on any legally postponed day~~), proceed to hear the petition."

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

"7-33-2123. Decision on petition for subtraction of land or division of district -- protest. The petition ~~shall~~ must be granted and the original districts ~~shall thereupon be~~ must be reduced or divided into separate districts unless at the time of the hearing on ~~such the~~ petition protests ~~shall be~~ 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 are presented, the petition for ~~division shall~~ must be disallowed."

Section 8. Section 7-33-2124, MCA, is amended to read:

"7-33-2124. Distribution of assets and liabilities following division. (1) Upon the division of districts, money on hand ~~shall~~ must be apportioned between the divided areas according to their respective taxable valuations. All other assets of the original district ~~shall~~ become the property of the remaining area, but a reasonable value ~~shall~~ must be placed upon ~~such~~ other assets, and the remaining area ~~shall become~~ is indebted to the ~~detracted~~ subtracted area for its proportionate share ~~thereof~~ of the assets, based upon taxable valuations.

(2) Any ~~detracted~~ area ~~shall remain~~ subtracted from the original district remains liable for any existing warrant and bonded indebtedness of the original district."

Section 9. 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~~ property owners 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 the annexation. The board shall approve the annexation unless a protest 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 10. 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~~ be withdrawn from ~~such~~ the current 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 is part of any organized fire district who constitute a majority of the taxpaying ~~freeholders~~ property owners within ~~such~~ the area according to the last-completed assessment roll ~~shall~~ must be presented to the county commissioners, asking that ~~such~~ the area be transferred to and included in any other organized fire district to which ~~said~~ the proposed area is adjacent. The petition must set forth the change of boundaries to be affected by ~~such~~ 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 be allowed unless protests 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~~ property owners of either district according to the last-completed assessment roll.

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

Section 11. Section 7-33-2127, MCA, is amended to read:

"7-33-2127. Withdrawal by owner of individual tract adjacent to municipality. In lieu of the ~~detracting~~ subtraction procedure set forth in 7-33-2122 and 7-33-2123, whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be ~~detracted~~ subtracted from the fire district as follows:

(1) The owner shall mail notice to the ~~chairman~~ presiding officer of the trustees of the fire district or, if ~~none~~ there is no presiding officer, to the board of county commissioners of ~~his~~ the property owner's intention to request annexation.

(2) The owner shall attach a copy of this notice of intention to ~~his~~ the petition to the municipal governing body requesting annexation.

(3) Following adoption of the annexation order under 7-2-4714, the land is ~~detracted~~ subtracted from the fire district."

Section 12. Section 7-33-2128, MCA, is amended to read:

"7-33-2128. Dissolution of fire district. Any fire district organized under this part may be dissolved by the board of county commissioners upon presentation of a petition ~~therefor~~ for dissolution signed by the owners of 50% or more of the area of the privately owned lands included within ~~such~~ the fire district who constitute a majority of the taxpayers who are ~~freeholders~~ property owners of ~~such~~ the area and whose names appear upon the last-completed assessment roll. The procedure and requirements outlined in 7-33-2101 through 7-33-2103 ~~shall~~ apply to ~~such~~ requests for dissolution of fire districts."

NEW SECTION. **Section 13. Effective date.** [This act] is effective July 1, 2003.

NEW SECTION. **Section 14. Retroactive applicability.** [Section 1] applies retroactively, within the meaning of 1-2-109, to December 3, 1958.

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