

SENATE BILL NO. 150

INTRODUCED BY R. JOHNSON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING AND CLARIFYING LOCAL GOVERNMENT BONDING AND ASSESSMENT LAWS; CLARIFYING REFUNDINGS CONCERNING VARIABLE RATES; PROVIDING PROTEST PROCEDURES FOR PROPERTY CREATED AS A CONDOMINIUM UNDER SPECIAL AND RURAL IMPROVEMENT DISTRICTS; REVISING THE DEFINITION OF "OWNER" FOR PURPOSES OF PROTESTING THE CREATION OR EXTENSION OF A SPECIAL OR RURAL IMPROVEMENT DISTRICT; REVISING THE PROCESS FOR PAYMENT OF IMPROVEMENTS AND MAINTENANCE OF SPECIAL AND RURAL IMPROVEMENT DISTRICTS; CLARIFYING CONDOMINIUM PROPERTY FOR ASSESSMENT PURPOSES FOR SPECIAL AND RURAL IMPROVEMENT DISTRICTS; ELIMINATING DEFINITIONS OF BOND FORMS FOR SPECIAL AND RURAL IMPROVEMENT DISTRICTS; CLARIFYING THE TYPES OF INVESTMENT SECURITIES AVAILABLE IN CERTAIN REFUNDINGS; CLARIFYING CROSSOVER REFUNDING; AMENDING SECTIONS 7-7-2304, 7-7-2316, 7-7-4304, 7-7-4316, 7-7-4502, 7-12-2109, 7-12-2120, 7-12-2161, 7-12-2168, 7-12-2171, 7-12-4110, 7-12-4174, 7-12-4203, 7-13-114, 7-13-3043, 7-14-4712, 7-14-4732, 17-5-2102, AND 20-9-412, MCA; REPEALING SECTIONS 7-12-2110 AND 7-12-4111, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-7-2304, MCA, is amended to read:

"7-7-2304. Interest rate on refunding general obligation bonds. (1) Except as provided in subsection (2), refunding bonds may not be issued unless the refunding bonds bear interest at a rate of at least 1/2 of 1% less than the outstanding bonds that are to be refunded. In determining whether the refunding bonds satisfy the savings requirements provided for in this section:

(a) if the bonds proposed to be refunded bear interest at a variable rate, the average annual interest rate on the bonds being refunded must be calculated by reference to the interest rate on the bonds currently in effect and over the immediately preceding 5 complete fiscal years of the issuer; or

(b) if the variable rate bonds being refunded have not been outstanding for the period of time referred to in subsection (1)(a), then the average annual interest rate on the bonds being refunded must be calculated by

reference to the interest rate on the bonds being refunded currently in effect and over the total number of complete fiscal years of the issuer since the date of issuance of the bonds.

(2) Refunding bonds may bear interest in excess of the rate on the ~~refunded~~ bonds being refunded if the issuance of the refunding bonds, including the total costs of refunding the bonds, results in a reduction of total debt service cost to the county.

(3) Refunding bonds may be issued in a principal amount greater than the principal amount of the outstanding bonds if there is a reduction of total debt service cost to the county."

Section 2. Section 7-7-2316, MCA, is amended to read:

"7-7-2316. Advance refunding bonds. (1) The board of county commissioners may issue refunding bonds pursuant to this section to refund outstanding bonds in advance of the date on which ~~such~~ the bonds mature or are subject to redemption, provided that the proceeds of the refunding bonds, less any accrued interest or premium received upon the sale ~~thereof~~ of the refunding bonds, are deposited with other funds appropriated to the payment of the outstanding bonds in escrow with a suitable banking institution in or out of the state. Funds ~~so~~

(2) Except as provided in subsection (3), the funds deposited shall must be invested in securities ~~which~~ that are general obligations of the United States or the principal and interest of which are guaranteed by the United States and ~~which~~ that mature or are callable at the option of the holder on ~~such~~ those dates and bear interest at ~~such~~ those rates and are payable on ~~such~~ the dates ~~as shall be~~ that are required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each ~~refunded~~ bond being refunded to its maturity or redemption date, if called for redemption, and to pay the principal ~~thereof~~ of the bond at maturity or upon ~~such~~ the redemption date, and to pay any redemption premium.

(3) If the funds initially deposited in escrow are sufficient, without regard to any investment income on those funds, to redeem in full the bonds being refunded as of their redemption date and to pay the principal of and interest and premium on the bonds being refunded at their stated maturities, the funds may be invested in the securities described in subsection (2) or in a money market fund composed exclusively of eligible securities described in 7-6-202 and that otherwise satisfies the requirements of 7-6-202(3).

(4) The escrow account ~~shall be~~ is irrevocably appropriated to the payment of the principal of and interest and redemption premium, ~~if any,~~ on the ~~refunded~~ bonds being refunded. Funds ~~to the credit of~~ in the sinking fund account for the payment of the ~~refunded~~ bonds being refunded and not required for the payment of principal of or interest ~~thereon~~ on the bonds being refunded due prior to issuance of the refunding bonds may be appropriated

by the county to the escrow account. The county may pay the reasonable costs and expenses of printing the refunding bonds and of establishing and maintaining the escrow account. Bonds that are refunded pursuant to this part are not to be considered outstanding for purposes of 7-7-2203 or any other debt limitation."

Section 3. Section 7-7-4304, MCA, is amended to read:

"7-7-4304. Interest rate on refunding general obligation bonds. (1) Except as provided in subsection (2), refunding bonds may not be issued unless the refunding bonds bear interest at a rate of at least 1/2 of 1% less than the interest rate of the outstanding bonds to be refunded. In determining whether the refunding bonds satisfy the savings requirements provided for in this section:

(a) if the bonds proposed to be refunded bear interest at a variable rate, the average annual interest rate on the bonds being refunded must be calculated by reference to the interest rate on the bonds currently in effect and over the immediately preceding 5 complete fiscal years of the issuer; or

(b) if the variable rate bonds being refunded have not been outstanding for the period of time referred to in subsection (1)(a), then the average annual interest rate on the bonds being refunded must be calculated by reference to the interest rate on the bonds being refunded currently in effect and over the total number of complete fiscal years of the issuer since the date of issuance of the bonds.

(2) Refunding bonds may bear interest in excess of the rate on the ~~refunded~~ bonds being refunded if the issuance of the refunding bonds, including the total costs of refunding the bonds, results in a reduction of total debt service cost to the city or town.

(3) Refunding bonds may be issued in a principal amount greater than the principal amount of the outstanding bonds if there is a reduction of total debt service cost to the county."

Section 4. Section 7-7-4316, MCA, is amended to read:

"7-7-4316. Advance refunding bonds. (1) A city or town may issue refunding bonds pursuant to this section to refund outstanding bonds in advance of the date on which ~~such the~~ the bonds mature or are subject to redemption, provided that the proceeds of the refunding bonds, less any accrued interest or premium received upon the sale ~~thereof~~ of the refunding bonds, are deposited with other funds appropriated to the payment of the outstanding bonds in escrow with a suitable banking institution in or ~~out~~ outside of the state. ~~Funds so~~

(2) Except as provided in subsection (3), the funds deposited shall must be invested in securities which that are general obligations of the United States or the principal and interest of which are guaranteed by the United States and which that mature or are callable at the option of the holder on such those dates and bear

interest at ~~such those~~ rates and ~~are~~ payable on ~~such the~~ dates ~~as shall be~~ that are required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each ~~refunded~~ bond being refunded to its maturity or redemption date, if called for redemption, ~~and to pay the principal thereof~~ of the bond at maturity or upon ~~such the~~ redemption date, and to pay any redemption premium.

(3) If the funds initially deposited in escrow are sufficient, without regard to any investment income on those funds, to redeem in full the bonds being refunded as of their redemption date and to pay the principal of and interest and premium on the bonds being refunded at their stated maturities, the funds may be invested in the securities described in subsection (2) or in a money market fund composed exclusively of eligible securities described in 7-6-202 and that otherwise satisfies the requirements of 7-6-202(3).

(4) The escrow account shall be is irrevocably appropriated to the payment of the principal of and interest and redemption premium, ~~if any,~~ on the ~~refunded~~ bonds being refunded. Funds ~~to the credit of in~~ the sinking fund account for the payment of the ~~refunded~~ bonds being refunded and not required for the payment of principal of or interest ~~thereon~~ on the bonds being refunded due prior to issuance of the refunding bonds may be appropriated by the city or town to the escrow account. The city or town may pay the reasonable costs and expenses of printing the refunding bonds and of establishing and maintaining the escrow account. Bonds that are refunded pursuant to this part are not to be considered outstanding for purposes of 7-7-4201 or any other debt limitation."

Section 5. Section 7-7-4502, MCA, is amended to read:

"7-7-4502. Interest rates on refunding revenue bonds. (1) Except as provided in subsection (2), refunding bonds may not be issued unless their average annual interest rate, computed to their stated maturity dates and excluding any premium from ~~such the~~ computation, is at least 3/8 of 1% less than the average annual interest rate on the bonds being refunded thereby, computed to their respective stated maturity dates. In determining whether the refunding bonds satisfy the savings requirements provided for in this section:

(a) if the bonds proposed to be refunded bear interest at a variable rate, the average annual interest rate on the bonds being refunded must be calculated by reference to the interest rate on the bonds currently in effect and over the immediately preceding 5 complete fiscal years of the issuer; or

(b) if the variable rate bonds being refunded have not been outstanding for the period of time referred to in subsection (1)(a), then the average annual interest rate on the bonds being refunded must be calculated by reference to the interest rate on the bonds being refunded currently in effect and over the total number of complete fiscal years of the issuer since the date of issuance of the bonds.

(2) Refunding bonds may bear interest at a rate lower or higher than the bonds being refunded thereby

if:

(a) they are issued to refund matured principal or interest for the payment of which ~~revenues~~ revenue on hand ~~are~~ is not sufficient;

(b) the refunding bonds are combined with an issue of new bonds for reconstruction, improvement, betterment, or extension and the lien of ~~such~~ the new bonds upon the ~~revenues~~ revenue of the undertaking must be junior and subordinate to the lien of the outstanding bonds being refunded, under the terms of the ordinances or resolutions authorizing the outstanding bonds as applied to circumstances existing on the date of refunding; or

(c) the issuance of the refunding bonds, including the total costs of refunding the bonds, results in a reduction of total debt service cost to the municipality."

Section 6. Section 7-12-2109, MCA, is amended to read:

"7-12-2109. Right to protest creation or extension of 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 the proposed work or against the extending or creation of the district to be assessed, or both. ~~Such~~ The protest must be in writing, identify the property in the district owned by the protestor, and be signed by all owners of the property. The protest must be delivered to the county clerk, who shall endorse ~~thereon~~ on the protest document the date of its receipt by ~~him~~ the county clerk.

(2) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner of fee simple title to the property.

(b) The term does not include a tenant of or other holder of a leasehold interest in the property."

NEW SECTION. Section 7. Protest procedures for property created as condominium. (1) Whenever property created as a condominium is included within the boundaries of a proposed district and the proposed work or the creation of the district relates to or affects property created as a condominium, and not solely a certain unit in the condominium, the owner of the property created as a condominium that is entitled to protest under this part is collectively the owners of all units having an undivided ownership interest in the common elements of the condominium.

(2) An owner of property created as a condominium may protest against the proposed work or against the extent or creation of the district to be assessed, or both, only through a president, vice president, secretary, or treasurer of the condominium owners' association who timely presents to the county clerk in accordance with

7-12-2109:

- (a) a writing identifying the condominium property;
 - (b) the condominium declaration or other condominium document that shows how votes of unit owners in the condominium are calculated;
 - (c) original signatures of owners of units in the condominium having an undivided ownership interest in the common elements of the condominium sufficient to constitute an affirmative vote for an undertaking relating to the common elements under the condominium declaration; and
 - (d) a certificate signed by the president, vice president, secretary, or treasurer of the condominium owners' association certifying that the votes of the unit owners as evidenced by the signatures of the owners are sufficient to constitute an affirmative vote of the condominium owners' association to protest against the proposed work or against the extent or creation of the district, or both.
- (3) Each holder of title to a unit in a condominium that is within a proposed district is entitled to notice of the passage of the resolution of intention as provided in this part and, if the district is created and assessments levied, assessments must be levied against the units in the condominium as provided in this part.

Section 8. Section 7-12-2120, MCA, is amended to read:

"7-12-2120. Maintenance of improvements. (1) Whenever ~~any~~ sanitary or storm sewers, lights or light systems, waterworks plants, water systems, sidewalks, or any other special improvements petitioned for or created by the state or federal government have been made, built, constructed, erected, or accomplished as provided in this part, ~~it is hereby made the duty of the board of county commissioners under whose jurisdiction the district was created or supervised or directed to~~ shall adequately and suitably maintain and preserve ~~said the~~ improvements and ~~to fully keep the same~~ keep those improvements in proper repair and operation, by contract or otherwise, ~~in such way or manner as the board shall deem suitable and proper.~~

(2) The whole cost of maintaining, preserving, and repairing ~~of said~~ improvements in any improvement district ~~shall~~ may, in the discretion of the board, be paid by assessing the entire district in the method provided for by 7-12-2108."

Section 9. Section 7-12-2161, MCA, is amended to read:

"7-12-2161. Payment of maintenance costs -- resolution for assessment and for change of boundaries -- assessment for administrative costs. (1) ~~It is the duty of the~~ The board of county commissioners ~~to~~ shall estimate, as near as practicable, the cost of maintaining, preserving, or repairing the improvements in

each district for each year beginning January 1 or another time as it may appear necessary.

(2) ~~Before~~ The board may, before the first Monday in September of each year, ~~the board shall~~ pass and finally adopt a resolution levying and assessing all the property within the district with an amount equal to the whole cost of maintaining, preserving, or repairing the improvements within the district. ~~The~~ An assessment authorized by the board must be proportioned as provided in 7-12-2108. In lieu of an assessment, the board shall otherwise provide for the whole cost of maintaining, preserving, or repairing the improvements in the district.

(3) The resolution levying assessments to defray the cost of maintenance, preservation, or repair of improvements must be prepared and certified to in substantially the same manner as a resolution levying assessments for making, constructing, and installing the improvements in the special improvement district.

(4) The board may change by resolution, not more than once a year, the boundaries of any maintenance district.

(5) The board shall include in the estimated cost of maintaining the district the lesser of \$500 or 5% of the annual assessment of the district. The amount determined by the board under this subsection is to defray the costs incurred by the county in administering the maintenance district and is a cost of maintenance. The board shall annually pay the amount determined under this subsection to the county treasurer for deposit in the county general fund."

Section 10. Section 7-12-2168, MCA, is amended to read:

"7-12-2168. Assessments and certain other charges as liens. (1) ~~Any~~ A special assessment made and levied to defray the cost and expenses of ~~any~~ of the work enumerated in this part, together with any percentages imposed for delinquency and for cost of collection, ~~shall constitute~~ constitutes a lien upon and against the property upon which ~~such~~ the assessment is made and levied from and after the date of the passage of the resolution levying ~~such~~ the assessment. This lien can only be extinguished by payment of ~~such~~ the assessment, with all penalties, costs, and interest.

(2) ~~Any~~ A special assessment levied and made for any of the purposes mentioned in 7-12-2120 and 7-12-2161, together with all costs and penalties, ~~shall constitute~~ constitutes a lien upon and against the property upon which ~~said~~ the assessment is made and levied from and after the date of the final passage and adoption of the resolution levying the ~~same, which~~ assessment. ~~The~~ lien can only be ~~is~~ extinguished only by payment of ~~such~~ the assessment, with all penalties, costs, and interest.

(3) For assessment purposes, whenever property created as a condominium is included within the boundaries of a district, each unit within the condominium is considered a separate parcel of real property subject

to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of an undivided ownership interest must be as set forth in the condominium declaration."

Section 11. Section 7-12-2171, MCA, is amended to read:

"7-12-2171. Details relating to rural improvement district bonds and warrants-- definitions of bond forms. (1) (a) The bonds and warrants must be drawn against either the construction or maintenance fund created for the special improvement district and must bear interest from the date of registration until called for redemption or paid in full. Bonds or warrants sold at a private, negotiated sale may bear interest at a rate varying periodically at the time or times and on the terms determined by the board of county commissioners. The terms determined by the board of county commissioners may include the establishment of a maximum rate of interest or the convertibility to a fixed rate of interest.

(b) Variable rate bonds may be sold at a private negotiated sale if the principal amount of the bonds is \$500,000 or less and the board of county commissioners obtains separate written opinions from underwriters of Montana rural improvement district bonds stating the bonds are not marketable through a competitive bond sale. Bonds sold in principal amounts below \$250,000 do not require a marketability opinion.

(c) The interest must be payable annually or semiannually, at the discretion of the board of county commissioners, on the dates that the board prescribes. The warrants or bonds must bear the signatures of the presiding officer of the board and the county clerk and may bear the corporate seal of the county. The warrants or bonds must be registered in the office of the county clerk and the county treasurer, and if interest coupons are attached to the warrants or bonds, ~~they~~ the interest coupons must also be registered and ~~shall~~ must bear the signatures of the presiding officer of the board and the county clerk. The coupons may bear the facsimile signatures of the officers in the discretion of the board.

(2) The bonds must be in denominations of \$100 or fractions or multiples of \$100, may be issued in installments, and may extend over a period not to exceed 30 years. However, if federal loans are available for improvements, repayment may extend over a period not to exceed 40 years. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the county first levies to pay principal and interest on the bonds.

~~— (3) As used in this part, unless the context clearly indicates otherwise, the following definitions apply:~~

~~— (a) "Amortization bonds" means the form of bonds that bear interest at a fixed rate and on which:~~

~~— (i) a part of the principal must be paid each time that interest becomes payable;~~

~~—— (ii) the part payment of principal increases at each installment in the same amount that the interest decreases;~~

~~—— (iii) the combined interest and principal due on each due date remains the same until the bonds are paid;~~

~~—— (iv) the final payment may vary from prior payments in the amount resulting from disregarding fractional costs in prior payments; and~~

~~—— (v) the initial payment may be larger than subsequent payments if the increase represents interest accrued over an additional period not greater than 6 months.~~

~~—— (b) "Serial bonds" means a bond issue payable in semiannual or annual installments commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing in each installment not exceeding five times the principal amount of the bonds maturing in the immediately preceding installment."~~

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

"7-12-4110. Protest against 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 the proposed work or against the extent or creation of the district to be assessed, or both.

(2) ~~Such~~ A protest must be in writing, identify the property in the district owned by the protestor, and be signed by all the owners of the property. The protest 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~~ the 15-day period. ~~Said~~ The clerk shall endorse ~~thereon~~ on the protest document the date and hour of its receipt by ~~him~~ the clerk.

(3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, the record owner of fee simple title to the property.

(b) The term does not include a tenant of or other holder of a leasehold interest in the property."

NEW SECTION. Section 13. Protest procedures for property created as condominium. (1) Whenever property created as a condominium is included within the boundaries of a proposed district and the proposed work or the creation of the district relates to or affects property created as a condominium, and not solely a certain unit in the condominium, the owner of the property created as a condominium that is entitled to protest under this part is collectively the owners of all units having an undivided ownership interest in the common elements of the condominium.

(2) An owner of property created as a condominium may protest against the proposed work or against the extent or creation of the district to be assessed, or both, only through a president, vice president, secretary, or treasurer of the condominium owners' association who timely presents to the clerk of the city or town council or commission in accordance with 7-12-4110:

(a) a writing identifying the condominium property;

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

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

(d) a certificate signed by the president, vice president, secretary, or treasurer of the condominium owners' association certifying that the votes of the unit owners as evidenced by the signatures of the owners are sufficient to constitute an affirmative vote of the condominium owners' association to protest against the proposed work or against the extent or creation of the district, or both.

(3) Each holder of title to a unit in a condominium that is within a proposed district is entitled to notice of the passage of the resolution of intention as provided in this part and, if the district is created and assessments levied, assessments must be levied against the units in the condominium as provided in this part.

Section 14. Section 7-12-4174, MCA, is amended to read:

"7-12-4174. Inclusion and assessment of unplatted, undedicated, or unsurveyed land in improvement district -- inclusion of condominium property. (1) Whenever ~~any~~ an unplatted, undedicated, or unsurveyed lot, piece, or parcel of land that separates one platted part of the city from another platted part of ~~said the~~ city, lying wholly within the boundaries of any city or town and except land owned by the United States, ~~shall abut or border~~ abuts or borders upon any special improvement district or ~~be~~ is included within the boundaries of any special improvement district of ~~such a~~ city or town, the city or town council may ~~cause the same to be included within and made a part of such~~ include the land within a special improvement district in the same manner as other property ~~within such~~ is included within the special improvement district ~~and~~. The special improvement district may assess the ~~same~~ included land for its proportionate share of the cost of making or maintaining ~~such those~~ improvements in the same manner as other property within ~~such the~~ special improvement district.

(2) For assessment purposes, whenever property created as a condominium is included within the

boundaries of any special improvement district, each unit within the condominium is considered a separate parcel of real property subject to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of the undivided ownership interest must be as set forth in the condominium declaration."

Section 15. Section 7-12-4203, MCA, is amended to read:

"7-12-4203. Details relating to special improvement district bonds and warrants—~~definitions of bond forms.~~ (1)(a) The bonds and warrants must be drawn against the special improvement district fund created for the district and must bear interest from the date of registration until called for redemption or paid in full. Bonds or warrants sold at a private, negotiated sale may bear interest at a rate varying periodically at the time or times and on the terms determined by the governing body of the municipality. The terms determined by the governing body of the municipality may include the establishment of a maximum rate of interest or the convertibility to a fixed rate of interest.

(b) Variable rate bonds may be sold at a private negotiated sale if the principal amount of the bonds is \$500,000 or less and the governing body of the municipality obtains separate written opinions from underwriters of Montana special improvement district bonds stating the bonds are not marketable through a competitive bond sale. Bonds sold in principal amounts below \$250,000 do not require a marketability opinion.

(c) The interest must be payable annually or semiannually, at the discretion of the governing body of the municipality, on the dates that the governing body prescribes. The warrants or bonds must bear the signatures of the mayor and clerk and may bear the corporate seal of the city. The warrants or bonds must be registered in the office of the clerk and treasurer, and if interest coupons are attached to the warrants or bonds, they must also be registered and bear the signatures of the mayor and clerk.

(2) The bonds must be in denominations of \$100 or fractions or multiples of \$100, may be issued in installments, and may extend over a period not to exceed 20 years or, if refunding bonds are issued pursuant to 7-12-4194, over a period ending not later than 30 years after the date that the bonds to be refunded were issued. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the city first levies assessments to pay principal and interest on the bonds.

~~(3) As used in part 41 and this part, unless the context clearly indicates otherwise, the following definitions apply:~~

- ~~—— (a) "Amortization bonds" means the form of bonds that bear interest at a fixed rate and on which:~~
~~—— (i) a part of the principal must be paid each time that interest becomes payable;~~

~~—— (ii) the part payment of principal increases at each installment in the same amount that the interest decreases;~~

~~—— (iii) the combined interest and principal due on each due date remains the same until the bonds are paid;~~

~~—— (iv) the final payment may vary from prior payments in the amount resulting from disregarding fractional costs in prior payments; and~~

~~—— (v) the initial payment may be larger than subsequent payments if the increase represents interest accrued over an additional period not greater than 6 months.~~

~~—— (b) "Serial bonds" means a bond issue payable in semiannual or annual installments commencing not more than 2 years from the date of issue, any one installment consisting of one or more bonds, with the principal amount of bonds maturing in each installment not exceeding five times the principal amount of the bonds maturing in the immediately preceding installment."~~

Section 16. Section 7-13-114, MCA, is amended to read:

"7-13-114. Applicable provisions of laws relating to rural improvement districts. The provisions of 7-12-2101, 7-12-2107, ~~7-12-2110~~, 7-12-2115 through 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153, 7-12-2154, 7-12-2161 through 7-12-2165, 7-12-2166(2), 7-12-2168(2), and 7-12-2169 and 7-12-2171 through 7-12-2174 pertaining to rural improvement districts apply under the provisions of this part unless in conflict with the provisions of this part."

Section 17. Section 7-13-3043, MCA, is amended to read:

"7-13-3043. Applicable provisions of laws relating to rural improvement districts. The provisions of 7-12-2101, 7-12-2107, ~~7-12-2110~~, 7-12-2115 through 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153, 7-12-2154, 7-12-2161 through 7-12-2165, 7-12-2166(2), 7-12-2168(2), 7-12-2169, and 7-12-2171 through 7-12-2174 pertaining to rural improvement districts apply to this part unless in conflict with the provisions of this part."

Section 18. Section 7-14-4712, MCA, is amended to read:

"7-14-4712. Procedure upon receipt of petition from all property owners within proposed district. If a petition for the formation of an improvement district under the provisions of 7-14-4711 is presented to the governing body purporting to be signed by all of the real property owners in the proposed district, exclusive of mortgagees and other lienholders, the governing body, after verifying the ownership and making a finding of the

fact, shall adopt a resolution of intention to order the improvement, as provided in 7-12-4104 and 7-12-4117, and may adopt the resolution ordering the improvement pursuant to 7-14-4711 through 7-14-4723 without the publication of the resolution of intention provided for in 7-12-4106. However, if special improvement district bonds are proposed to be issued and secured by the revolving fund, the requirements of 7-12-4106, 7-12-4108 through 7-12-4110, 7-12-4112 through 7-12-4114, 7-12-4169, 7-12-4189, 7-12-4222, 7-12-4223, and 7-12-4225 must be met by the governing body."

Section 19. Section 7-14-4732, MCA, is amended to read:

"7-14-4732. Procedure upon receipt of petition for creation of offstreet parking district. (1) If a petition for the formation of an improvement district for the leasing, improvement, or operation and maintenance of an offstreet parking site is presented to the governing body purporting to be signed by all of the real property owners in the proposed district, exclusive of mortgagees and other lienholders, the governing body, after verifying the ownership and making a finding of fact, shall adopt a resolution of intention to order the improvement, pursuant to the provisions of 7-12-4104 and 7-12-4117, and may adopt the resolution ordering the improvement pursuant to 7-12-4114 without the publication of the resolution of intention provided for in 7-12-4106. However, if special improvement district bonds are proposed to be issued and secured by the revolving fund, the requirements of 7-12-4106, 7-12-4108 through 7-12-4110, 7-12-4112 through 7-12-4114, 7-12-4169, 7-12-4189, 7-12-4222, 7-12-4223, and 7-12-4225 must be met by the governing body.

(2) If a petition for the formation of an improvement district for offstreet parking purposes and for the leasing of sites and improvement, operation, and maintenance of sites is signed by the owners of a majority of the frontage of the property proposed to be contained within the limits of the assessment district and is presented to the governing body, the governing body shall adopt a resolution of intention ordering the proposed improvement and publish the resolution pursuant to the provisions of 7-12-4104 and 7-12-4106."

Section 20. Section 17-5-2102, MCA, is amended to read:

"17-5-2102. Crossover refunding bonds authorized. (1) ~~Any~~ A public body authorized to issue refunding obligations may issue bonds pursuant to this part without regard to the limitations contained in any other law relating to:

- (a) the establishment of an escrow account for the obligations to be refunded;
- (b) the giving of a notice of redemption for the obligations to be refunded and redeemed; or
- (c) the application of the proceeds of the refunding obligations.

(2) The proceeds of bonds, less any proceeds applied to payment of costs of issuance or refunding, must be deposited in a sinking fund account irrevocably appropriated to the payment of principal of and interest on the refunding obligations until the crossover date. The sinking fund account must be maintained as an escrow account with a suitable financial institution within or outside the state and amounts in it must be invested in securities that are direct obligations of the United States or on which the payment of the principal and interest is guaranteed by the United States. In the resolution authorizing the issuance of the bonds, the governing body may pledge to their payment any source of payment of the obligations to be refunded. In the case of general obligation bonds, property taxes must be levied and appropriated to the sinking fund account in the amounts needed, together with estimated investment income from money in the sinking fund account and any other ~~revenues~~ revenue available upon discharge of the obligations to be refunded, to pay when due the principal of and interest on the bonds. Funds pledged to the credit of the sinking fund for the obligations to be refunded and not required on the crossover date for the payment of principal, premium, or interest on the obligations to be refunded may be appropriated by the public body to the sinking fund account for the bonds.

(3) The public body may pay the reasonable costs and expenses of issuing bonds and of establishing and maintaining the escrow account.

(4) On the crossover date, obligations that are refunded pursuant to this part are no longer considered outstanding for purposes of any debt limitation if the provisions of subsection (5) are met. Until the crossover date, the bonds do not count against any debt limitation if the provisions of subsection (5) are met. After the crossover date, the bonds must be considered outstanding for purposes of any debt limitation.

(5) The securities in the escrow account must mature or be callable at the option of the holder on ~~such~~ the crossover date, bearing interest at ~~such a~~ such rate, and payable on ~~such the~~ such dates ~~as that are~~ as that are necessary to provide sufficient funds, in addition to any cash retained in the escrow account, to pay the following when due:

- (a) the interest that will accrue on each refunded obligation to its maturity or redemption date, if called for redemption;
- (b) the principal of each refunded obligation at maturity or on the redemption date; and
- (c) any redemption premium."

Section 21. Section 20-9-412, MCA, is amended to read:

"20-9-412. Issuance of refunding bonds without election. (1) Bonds of a school district issued for the purpose of providing the money needed to redeem outstanding bonds may be issued without submitting the proposition to the electorate at an election. In order to issue refunding bonds, the trustees, at a regular meeting

or a special meeting, shall adopt a resolution setting forth:

- (a) the facts regarding the outstanding bonds that are to be redeemed;
- (b) the reasons for issuing new bonds; and
- (c) the term and details of the new bond issue.

(2) After the adoption of the resolution, the trustees shall:

- (a) sell the bonds at a private negotiated sale; or
- (b) at their option, give notice of the sale of the new bonds in the same manner that notice is required to be given for the sale of bonds authorized at a school election and sell the new bonds in open competitive bidding, by written bids or by sealed bids.

(3) Except for bonds refunded by a school district under the provisions of Title 17, chapter 5, part 16, including any variable rate finance program ~~so~~ that is authorized, bonds may not be refunded by the issuance of new bonds unless the rate of interest offered on the new bonds is at least 1/2 of 1% a year less than the rate of interest in the bonds to be refunded or redeemed.

(4) If a refunding bond issue refunds only a portion of an outstanding bond issue, the unrefunded portion of the outstanding bond issue and the refunding bond issue must be treated as a single bond issue for the purposes of 20-9-408.

(5) Refunding bonds may be issued in a principal amount greater than the principal amount of the outstanding bonds if there is a reduction of total debt service cost to the district.

(6) (a) Refunding bonds issued pursuant to this section may be issued to refund outstanding bonds in advance of the date on which the bonds mature or are subject to redemption, provided that the proceeds of the refunding bonds, less any accrued interest or premium received upon the sale of the bonds, are deposited with other funds appropriated to the payment of the outstanding bonds in escrow with a suitable banking institution in or ~~out~~ outside of the state. ~~Funds~~

(b) Except as provided in subsection (6)(c), funds deposited must be invested in securities that are general obligations of the United States or the principal and interest of which are guaranteed by the United States and that mature or are callable at the option of the holder on the dates and bear interest at the rates and are payable on the dates that are required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each ~~refunded~~ being refunded bond being refunded to its maturity or redemption date, if called for redemption, to pay the principal of the bond at maturity or upon the redemption date, and to pay any redemption premium.

(c) If the funds initially deposited in escrow are sufficient, without regard to any investment income on

those funds, to redeem in full the bonds being refunded as of their redemption date and to pay the principal of and interest and premium on the bonds being refunded at their stated maturities, the funds may be invested in the securities described in subsection (6)(b) or in a money market fund composed exclusively of eligible securities described in 7-6-202 and that otherwise satisfies the requirements of 7-6-202(3).

(d) The escrow account must be irrevocably appropriated to the payment of the principal of and interest and redemption premium, ~~if any,~~ on the ~~refunded~~ bonds being refunded. Funds ~~to the credit of in~~ the debt service fund for the payment of the ~~refunded~~ bonds being refunded and not required for the payment of principal of or interest on the bonds being refunded due prior to issuance of the refunding bonds may be appropriated by the district to the escrow account. The school district may pay the reasonable costs and expenses of printing the refunding bonds and of establishing and maintaining the escrow account. Bonds that are refunded pursuant to this part are not to be considered outstanding for purposes of 20-9-406 or any other debt limitation."

NEW SECTION. Section 22. Codification instruction. (1) [Section 7] is intended to be codified as an integral part of Title 7, chapter 12, part 21, and the provisions of Title 7, chapter 12, part 21, apply to [section 7].

(2) [Section 13] is intended to be codified as an integral part of Title 7, chapter 12, part 41, and the provisions of Title 7, chapter 12, part 41, apply to [section 13].

NEW SECTION. Section 23. Repealer. Sections 7-12-2110 and 7-12-4111, MCA, are repealed.

NEW SECTION. Section 24. Effective date. [This act] is effective July 1, 2003.

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