

SENATE BILL NO. 246
INTRODUCED BY B. GLASER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE ANNEXATION OF PROPERTY INCLUDED IN A FIRE SERVICE AREA; PROVIDING THAT ANNEXATION PLANS AND IMPLEMENTATION MUST PROVIDE A METHOD TO PREVENT THE PROPERTY OWNERS OF THE AREA TO BE ANNEXED FROM ASSUMING FINANCIAL RESPONSIBILITY TO BOTH THE MUNICIPALITY AND THE FIRE SERVICE AREA; DIRECTING THE DEPARTMENT OF REVENUE TO ADOPT RULES TO ADJUST THE MILL LEVY LIMIT APPLICABLE TO THE FIRE SERVICE AREA TO REFLECT THE REDUCED AMOUNT OF TAXABLE VALUE IN THE FIRE SERVICE AREA BECAUSE OF ANNEXATION; AND AMENDING SECTIONS 7-2-4716, 7-2-4732, 7-2-4736, 7-33-2401, 7-33-2404, AND 15-10-420, MCA."

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

Section 1. Section 7-2-4716, MCA, is amended to read:

"7-2-4716. Effect of annexation. (1) ~~From and after~~ After the effective date of the annexation ordinance, the territory and its citizens and property ~~shall~~ must be subject to all debts, laws, ordinances, and regulations in force in ~~such~~ the municipality and ~~shall be~~ are entitled to the same privileges and benefits as other parts of ~~such~~ the municipality.

(2) ~~The~~ Except as provided in 7-2-4732(3), the newly annexed territory ~~shall~~ must be subject to municipal taxes levied for the fiscal year following the effective date of annexation. Annexed property ~~which~~ that is part of a sanitary district or other special service district ~~which~~ that has installed water, sewer, or other utilities or improvements paid for by the residents of ~~said~~ the district ~~shall~~ may not be subject to that part of the municipal taxes levied for debt service for the first 5 years after the effective date of annexation."

Section 2. Section 7-2-4732, MCA, is amended to read:

"7-2-4732. Contents of plan for extension of services. (1) ~~Specifically, the~~ The plans for the extension of services shall provide a long-range plan for extension of services and the acquisition of ~~properties~~ property outside the corporate limits. This plan must show anticipated development a minimum of 5 years into the future, showing on a yearly basis how the municipality plans to extend services; and develop and add sections to the city.

(2) The plans ~~shall~~ must:

(a) provide for extending police protection, fire protection, garbage collection, and streets and street maintenance services to the area to be annexed on substantially the same basis and in the same manner as ~~such~~ those services are provided within the rest of the municipality prior to annexation;

(b) provide for future extension of streets and of major trunk water mains, sewer outfall lines, and other utility services into the area to be annexed, so that when ~~such~~ the streets and utility lines become necessary and are constructed, property owners in the area to be annexed will be able to secure ~~such~~ services, according to the policies in effect in ~~such~~ the municipality for extending ~~such~~ those services to individual lots or subdivisions;

(c) if extension of streets and water, sewer, or other utility lines into the area to be annexed is necessary, set forth a proposed timetable for construction of ~~such~~ the streets and utility lines.

(3) A method must be set forth by which the municipality plans to finance extension of services into the area to be annexed. If the area is serviced currently by adequate water and ~~sewage~~ sewer services, streets, curbs, and gutters and no capital improvements are needed to provide adequate services stipulated by ~~this section and 7-2-4731~~ and this section, the municipality ~~must~~ shall provide the area to be annexed with a plan of ~~how they plan to finance~~ for financing other services to be included within the district--~~mainly~~, such as police protection, fire protection, garbage collection, street, and street maintenance services, ~~as well as~~ and continued utility service. If the area to be annexed is part of a fire service area, the plan must provide a method to prevent the property owners of the area to be annexed from assuming financial responsibility to both the municipality and the fire service area.

(4) ~~In this annexation plan, it~~ The annexation plan ~~must be clearly stated that~~ state whether the entire municipality ~~tends~~ intends to share the tax burden for these services, and if so, the area may be annexed without a bond issue under the provisions of this part."

Section 3. Section 7-2-4736, MCA, is amended to read:

"7-2-4736. Preservation of existing garbage or solid waste service in the event of annexation -- fire services. (1) A municipality that annexes or incorporates additional area receiving garbage and solid waste disposal service by a motor carrier authorized by the public service commission to conduct ~~such service~~ those services may not provide competitive or similar garbage and solid waste disposal service to any person or business located in the area for 5 years following annexation except:

(a) upon a proper showing to the public service commission that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area; or

(b) after the expiration of 5 years, if a majority of the residents of the annexed or incorporated area sign a petition requesting the municipality to provide the service.

(2) If a proper showing is made that the existing carrier is unable or refuses to provide adequate service to the annexed or incorporated area or, after the expiration of 5 years, if a majority of the residents sign a petition requesting service from the municipality, the municipality may provide garbage and solid waste disposal service to the entire annexed or incorporated area.

(3) For the purposes of determining whether an existing motor carrier provides adequate service, those services provided by the carrier prior to annexation are considered adequate services.

(4) A municipality that annexes or incorporates additional area receiving fire services from a fire service area shall adopt a plan that prevents the property owners of the area to be annexed from assuming financial responsibility to both the municipality and the fire service area. A municipality may not assess the annexed area for fire services until the next assessment period."

Section 4. 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 notice as provided in 7-1-2121 and written notice 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 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 than 50% of the property owners of the proposed fire service area protest 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. The board of county commissioners shall alter the boundaries of a fire service area to exclude any area that is annexed by a city or town. 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."

Section 5. Section 7-33-2404, MCA, is amended to read:

"7-33-2404. Financing of fire service area -- fee on structures. (1) In the resolution creating the fire service area and by resolution as necessary after creation of the fire service area, the board of county commissioners shall establish a schedule of rates to be charged to owners of structures that are benefited by the services offered by the fire service area.

(2) The rates must be applied on a fair and equal basis to all classes of structures benefited by the fire service area.

(3) The board of county commissioners shall collect the funds necessary to operate the fire service area by charging the area rate as a special assessment on the owners of structures and shall collect the assessments with the general taxes of the county. The assessments are a lien on the assessed property.

(4) The board of county commissioners or the trustees, if the fire service area is governed by trustees under 7-33-2403, may pledge the income of the fire service area to secure financing necessary to procure equipment and buildings to house the equipment. The outstanding amount of the indebtedness may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the area, as ascertained by the last assessment for state and county taxes prior to the incurring of the indebtedness.

(5) If a fire service area is reduced or eliminated by annexation of all or a portion of the fire service area into a municipality, then the county commissioners or trustees of the fire service area shall provide information to the annexing municipality that prevents the property owners of the area to be annexed from assuming financial responsibility to both the municipality and the fire service area. The annexed area is subject to levies for the fire service area until the next assessment."

Section 6. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) For purposes of this section, newly taxable property includes:

- (a) annexation of real property and improvements into a taxing unit;
- (b) construction, expansion, or remodeling of improvements;
- (c) transfer of property into a taxing unit;
- (d) subdivision of real property; and
- (e) transfer of property from tax-exempt to taxable status.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonagricultural land as described

in 15-6-133(1)(c).

(c) For the purposes of this section, newly taxable property does not include an increase in appraised value of land that was previously valued at 75% of the value of improvements on the land, as provided in 15-7-111(4) and (5), as those subsections applied on December 31, 2001.

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

- (a) school district levies established in Title 20; or
- (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under 2-9-212 or 2-18-703.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

- (i) a judgment levy under 2-9-316 or 7-7-2202;
 - (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or
 - (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.
- (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit. The department shall adopt rules to adjust the mill levy calculated pursuant to subsection (1) to reflect the reduced amount of taxable value of property within the boundaries of a governmental entity when newly taxable property is created in an adjacent taxing unit because of annexation."

NEW SECTION. **Section 7. 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].

- END -

