

SENATE BILL NO. 48

INTRODUCED BY G. JERGSON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCESS FOR REGIONAL AUTHORITIES TO ESTABLISH AND CHANGE RATES, FEES, AND CHARGES FOR PROVIDING WATER AND WASTEWATER SERVICES; AND AMENDING SECTIONS 7-13-2275, 7-13-2301, 7-13-4307, 69-7-111, 75-6-304, AND 75-6-326, MCA."

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

SECTION 1. SECTION 7-13-2275, MCA, IS AMENDED TO READ:

"7-13-2275. Procedure relating to ordinances and resolutions -- rates, fees, and charges established. (1) The ayes and noes must be taken upon the passage of all ordinances or resolutions and entered upon the journal of the proceedings of the board of directors. An ordinance or resolution may not be passed or become effective without the affirmative votes of at least a majority of the total members of the board.

(2) The enacting clause of all ordinances passed by the board must be in these words: "Be it ordained by the board of directors of _____ district as follows:"

(3) All resolutions and ordinances must be signed by the president of the board and attested by the secretary.

(4) (a) Except as provided in ~~subsection~~ subsections (5) and (6), prior to the passage or enactment of an ordinance or resolution imposing, establishing, changing, or increasing rates, fees, or charges for services or facilities, the board shall order a public hearing.

(b) Notice of the public hearing must be published as provided in 7-1-2121. The published notice must contain:

- (i) the date, time, and place of the hearing;
- (ii) a brief statement of the proposed action; and
- (iii) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(c) The notice must also be mailed to all persons who own property in the district and to all customers



1 of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must
2 contain an estimate of the amount that the property owner or customer will be charged under the proposed
3 ordinance or resolution.

4 (d) Any interested person, corporation, or company may be present, represented by counsel, and testify
5 at the hearing.

6 (e) The hearing may be continued by the board as necessary. After the public hearing, the board may,
7 by resolution, impose, establish, change, or increase rates, fees, or charges.

8 (5) A public hearing is not required for a cumulative rate increase of less than or equal to 5% within a
9 12-month period if the board provides notification of the increase to persons within the district on whom the rate
10 will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution implementing
11 the increase.

12 (6)(a) If the establishment of or change in rates, fees, or charges proposed by a regional authority
13 requires the authority to hold a public hearing pursuant to 75-6-326 and requires an increase to the rates, fees,
14 or charges imposed by the district greater than the increase provided in subsection (5), the board shall:

15 (i) mail notice of the public hearing to be held by the authority to all customers of the district system at
16 least 15 days prior to the public hearing; and

17 (ii) provide notification of the change to customers of the district system on whom the increased rates,
18 fees, or charges will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution
19 implementing the increase.

20 (b) The district is not required to hold a public hearing on the increase."

21

22 **Section 2.** Section 7-13-2301, MCA, is amended to read:

23 **"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of directors
24 shall fix all water and sewer rates and shall, through the general manager, collect the sewer charges and the
25 charges for the sale and distribution of water to all users.

26 (2) (a) The board, in furnishing water, sewer service, other services, and facilities, shall review, at least
27 once every year, and set, as required, the rate, fee, toll, rent, tax, or other charge for the services, facilities, and
28 benefits directly afforded by the facilities, taking into account services provided and direct benefits received.
29 Taking into account the collections of any special assessments levied pursuant to 7-13-2280 through 7-13-2290
30 and any property taxes that will be levied to pay debt service on general obligation bonds authorized pursuant

1 to 7-13-2331, the amount to be collected and appropriated must be sufficient in each year to provide income and
2 revenue adequate for the:

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

11 (b) A portion of the rate, fee, toll, rent, tax, or other charge provided for in subsection (2)(a) may be
12 charged to the owner of an undeveloped lot, tract, or parcel to pay a share of the principal of and interest on
13 bonded indebtedness issued to finance the capital cost of improvements to an existing water or sewer system,
14 so long as the board makes findings in a resolution or ordinance of the district that demonstrate that the
15 improvements to the existing system to be financed by the bonded indebtedness confer a direct benefit on the
16 lot, tract, or parcel.

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

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

- 28 (i) must specify the charges owed, including any interest and penalty;
29 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against the
30 property;

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

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

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

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

14 (6) Notwithstanding any other section of part 22 or this part or any limitation imposed in part 22 or this
15 part, when the board has applied for and received from the federal government any money for the construction,
16 operation, and maintenance of facilities, the board may adopt a system of charges and rates to require that each
17 recipient of facility services pays its proportionate share of the costs of operation, maintenance, and replacement
18 and may require industrial users of facilities to pay the portion of the cost of construction of the facilities that is
19 allocable to the treatment of that industrial user's wastes."

20

21 **Section 3.** Section 7-13-4307, MCA, is amended to read:

22 **"7-13-4307. Establishment of amount of charges.** The rates and charges established for the services
23 and facilities afforded by this system ~~shall~~ must be sufficient in each year to provide income and ~~revenues~~
24 revenue adequate for the:

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

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

27 (3) accumulation of such reserves;

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

30 (5) payment of expenditures for depreciation and replacement of said the system as shall be determined

1 necessary ~~from time to time~~ by the governing body or as ~~shall have been~~ covenanted in the ordinances and
 2 resolutions authorizing the outstanding bonds."

3

4 **SECTION 4. SECTION 69-7-111, MCA, IS AMENDED TO READ:**

5 **"69-7-111. Municipal rate hearing required -- notice.** (1) Except as provided in 75-5-516, and
 6 75-6-108, and subsection (6), if the governing body of a municipality considers it advisable to regulate, establish,
 7 or change rates, charges, or classifications imposed on its customers, it shall order a hearing to be held before
 8 it at a time and place specified.

9 (2) Notice of the hearing ~~shall~~ must be published in a newspaper as provided in 7-1-4127.

10 (3) (a) The notice ~~shall~~ must be published three times with at least 6 days separating each publication.
 11 The first publication may be no more than 28 days prior to the hearing, and the last publication may be no less
 12 than 3 days prior to the hearing.

13 (b) The notice must also be mailed at least 7 days and not more than 30 days prior to the hearing to
 14 persons served by the utility. The notice must be mailed within the prescribed time period. This notice must
 15 contain an estimate of the amount the customer's average bill will increase.

16 (4) The published notice must contain:

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

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

19 (c) the address and telephone number of a person who may be contacted for further information
 20 regarding the hearing.

21 (5) Notice of all hearings shall be mailed first class, postage prepaid, to the Montana consumer counsel.

22 (6)(a) If the proposed increase in the rates, fees, or charges imposed by the municipality is the result of
 23 the establishment of or change in rates, fees, or charges imposed by a regional authority of which the municipality
 24 is a customer and the authority is required to hold a public hearing pursuant to 75-6-326, the governing body of
 25 the municipality shall:

26 (i) mail notice of the public hearing to be held by the authority to all persons served by the municipality
 27 at least 15 days before the public hearing; and

28 (ii) provide notification to all persons served by the municipality at least 10 days prior to the enactment
 29 of the ordinance or adoption of the resolution implementing the increase.

30 (b) The municipality is not required to hold a public hearing in connection with the increase.

1 (7) If a regional authority is not required to hold a public hearing as provided in 75-6-326(9), the
 2 municipality is subject to the hearing requirements of this section."

3

4 **Section 5.** Section 75-6-304, MCA, is amended to read:

5 **"75-6-304. Definitions.** For the purposes of this part, the following definitions apply:

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

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

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

12 ~~(2)~~(4) "Public agency" means any municipality, county, water and sewer district, or other political
 13 subdivision of this state.

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

16

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

18 **"75-6-326. Rates, fees, and charges -- establishment and changes.** (1) (a) The governing body shall
 19 by appropriate resolution make provisions for the payment of bonds issued pursuant to this part by taxing rates,
 20 fees, and charges, for the use of all services rendered by the authority.

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

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

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

27 (ii) provide an adequate depreciation fund;

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

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

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

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

6 (3) ~~Prior~~ EXCEPT AS PROVIDED IN SUBSECTION (9), PRIOR to adopting a resolution to establish or change
7 rates, fees, or charges, the governing body of the authority shall hold a public hearing.

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

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

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

12 (c) the address and telephone number of a person at the authority who may be contacted for information
13 regarding the hearing.

14 (5) (a) The notice must be mailed to each rural customer and TO the governing body BODIES of district
15 customers or municipal customers at least 7 25 days and not more than 30 40 days prior to the public hearing.

16 (b) The mailed notice must contain an estimate of the amount that a customer would be charged under
17 the proposed resolution.

18 (6) If the establishment or change in rates, fees, or charges proposed by the authority requires an
19 adjustment to INCREASE IN the rates, fees, or charges imposed by district customers or municipal customers,
20 district customers and municipal customers shall comply with the provisions of 7-13-2275 or 69-7-111.

21 (7) Any interested person, corporation, GOVERNMENTAL BODY, or company may be present, be
22 represented by counsel, and testify at the public hearing of the authority.

23 (8) (a) The hearing may be continued by the governing body of the authority as necessary. After the
24 public hearing, the governing body of the authority may, by resolution, impose, establish, change, or increase
25 rates, fees, or charges.

26 (b) Within 10 days after adoption of a resolution establishing or changing rates, fees, or charges OF THE
27 AUTHORITY, an officer of the authority shall send a copy of the resolution to each governing body of an affected
28 district or municipal customer.

29 (9) THE AUTHORITY IS NOT REQUIRED TO HOLD A PUBLIC HEARING FOR A CUMULATIVE RATE INCREASE OF LESS
30 THAN OR EQUAL TO 5% WITHIN A 12-MONTH PERIOD IF THE GOVERNING BODY OF THE AUTHORITY PROVIDES NOTIFICATION

1 OF THE INCREASE TO RURAL CUSTOMERS AND TO THE GOVERNING BODIES OF DISTRICT CUSTOMERS AND MUNICIPAL
2 CUSTOMERS ON WHOM THE RATE WILL BE IMPOSED AT LEAST 10 DAYS PRIOR TO THE PASSAGE OR ENACTMENT OF THE
3 ORDINANCE OR RESOLUTION IMPLEMENTING THE INCREASE."

4 - END -