



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 of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must

contain an estimate of the amount that the property owner or customer will be charged under the proposed ordinance or resolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

property;

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

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

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

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

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

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

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

- (1) payment of the reasonable expense of operation and maintenance; ~~and for the~~
- (2) payment of the sums required to be paid into the sinking fund; ~~and for the~~
- (3) accumulation of ~~such~~ reserves;
- (4) payment of rates, fees, and charges levied by a regional authority established pursuant to Title 75,

chapter 6, part 3; and the making of such

(5) payment of expenditures for depreciation and replacement of said the system as shall be determined necessary from time to time by the governing body or as shall have been covenanted in the ordinances and resolutions authorizing the outstanding bonds."

Section 4. Section 69-7-111, MCA, is amended to read:

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

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

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

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

(4) The published notice must contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) provide an adequate depreciation fund;
(iii) provide an adequate sinking fund to retire any bonds and pay interest on the bonds when due; and;
(iv) create reasonable reserves for the enumerated purposes. The rates, fees, or charges must be sufficient to; and

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

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

(3) Except as provided in subsection (9), prior to adopting a resolution to establish or change rates, fees, or charges, the governing body of the authority shall hold a public hearing.

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

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

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

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

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

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

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

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

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

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

(9) The authority is not required to hold a public hearing for a cumulative rate increase of less than or equal to 5% within a 12-month period if the governing body of the authority provides notification of the increase to rural customers and to the governing bodies of district customers and municipal customers on whom the rate will be imposed at least 10 days prior to the passage or enactment of the ordinance or resolution implementing the increase."

- END -

I hereby certify that the within bill,
SB 0048, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2013.

Speaker of the House

Signed this _____ day
of _____, 2013.

SENATE BILL NO. 48

INTRODUCED BY G. JERGESON

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

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