



AN ACT AUTHORIZING MUNICIPALITIES TO ESTABLISH, ADJUST, AND COLLECT RATES, RENTALS, AND CHARGES FOR SOLID WASTE SERVICES; AMENDING SECTION 75-10-112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Local government authority to charge for solid waste services -- procedure to collect charges. (1) The governing body of a municipality operating a solid waste management system pursuant to 75-10-112 may charge its solid waste customers for services rendered either by rates, rentals, and charges or by levy pursuant to 75-10-112. The governing body may fix, establish, and adjust, by ordinance or resolution, and collect rates, rentals, and charges for the services, facilities, and benefits directly or indirectly afforded by the system, taking into account services provided and benefits received. The rates, rentals, and charges must be collected by the municipal treasurer or clerk.

(2) (a) Solid waste rates, rentals, and charges on solid waste customers may take into consideration:

(i) the quantity of solid waste produced;

(ii) the cost of disposal of solid waste;

(iii) payment of the reasonable expense of operation and maintenance;

(iv) payment of the sums required to be paid into the sinking fund;

(v) accumulation of reserves; and

(vi) payment of expenditures for depreciation and replacement of equipment as determined necessary by the governing body.

(b) The governing body may adjust the rates, rentals, and charges to meet the requirements of this section.

(c) The rates, rentals, and charges must be uniform for like services regardless of the location of the customer in the municipality.

(3) Solid waste rates, rentals, and charges must be as nearly as possible equitable in proportion to the

services and benefits rendered.

(4) No person, firm, or corporation may be permitted to use the system unless they pay the full and established rate for solid waste service.

(5) (a) In the event of nonpayment of rates, rentals, or charges for solid waste service and benefits, the governing body may direct the provision of solid waste service to be discontinued until the rates, rentals, or charges are paid.

(b) No person may have service reestablished after it is discontinued pursuant to subsection (5)(a) until the full amount past due, any interest or penalty on the past-due amount, and any required reestablishment deposit are paid.

(6) (a) On or before July 7 of each year, the municipal treasurer or clerk shall give notice to the owners of all lots or parcels of real estate to which solid waste service was furnished prior to July 1 by the city or town. The written notice must:

(i) specify the assessment owing and in arrears at the time of notice, including any penalty and interest assessed pursuant to the provisions of the city or town ordinance;

(ii) state that unless the amount is paid within 30 days of the notice, the amount will be levied as a tax against the lot or parcel of real estate to which solid waste service was furnished and for which payment is delinquent;

(iii) state that the city or town may sue to collect past-due assessments, interest, and penalties, as a debt owing the city or town, in any court of competent jurisdiction, including city court; and

(iv) be delivered to the owner personally or by letter addressed to the owner at the post-office address of the owner as shown in property tax records maintained by the department of revenue.

(b) Except as provided in subsection (6)(c), at the time that the annual tax levy is certified to the county clerk, the municipal treasurer or clerk shall certify and file with the department of revenue a list of all lots or parcels of real estate, giving the legal description of the lot or parcel, to the owners of which notices of arrearage in payments were given and for which the arrearage remains unpaid and stating the amount of the arrearage, including any penalty and interest. The department of revenue shall insert the amount as a tax against the lot or parcel of real estate.

(c) In cities where the council provides by ordinance for the collection of taxes, the municipal treasurer or clerk shall collect the delinquent amount, including penalty and interest, as a tax against the lot or parcel of

real estate to which service was furnished and for which payment is delinquent.

(7) A city or town may, in addition to pursuing the collection of assessments in the same manner as a tax, bring suit in any court of competent jurisdiction, including city court, to collect the amount due and owing, including penalties and interest, as a debt owing the city or town.

Section 2. Section 75-10-112, MCA, is amended to read:

"75-10-112. Powers and duties of local government. A local government may:

(1) plan, develop, and implement a solid waste management system consistent with the state's solid waste management and resource recovery plan and propose modifications to the state's solid waste management and resource recovery plan;

(2) upon adoption of the state plan by the board, pass an ordinance or resolution to exempt the local jurisdiction from complying with the state plan and subsequent rules implementing the state plan. The ordinance or resolution must include a means to provide solid waste disposal to the citizens of the jurisdiction as required in part 2 of this chapter.

(3) employ appropriate personnel to carry out the provisions of this part;

(4) purchase, rent, or execute leasing agreements for equipment and material necessary for the implementation of a solid waste management system;

(5) cooperate with and enter into agreements with any persons in order to implement an effective solid waste management system;

(6) receive gifts, grants, or donations or acquire by gift, deed, or purchase land necessary for the implementation of any provision of this part;

(7) enforce the rules of the department or a local board of health pertaining to solid waste management through the appropriate county attorney;

(8) apply for and utilize state, federal, or other available money for developing or operating a solid waste management system;

(9) borrow from any lending agency funds available for assistance in planning a solid waste management system;

(10) ~~subject to 15-10-420, finance a solid waste management system through by:~~

(a) subject to 15-10-420, fixing the assessment of a tax as authorized by state law; and

(b) as provided in [section 1], fixing and collecting by ordinance or resolution the rates, rentals, and charges for a solid waste management system on system customers;

(11) sell on an installment sales contract or lease to a person all or a portion of a solid waste management system that the local government plans, designs, or constructs for the consideration and upon the terms established by the local governments and consistent with the loan requirements set forth in this part and rules adopted to implement this part;

(12) procure insurance against any loss in connection with property, assets, or activities;

(13) mortgage or otherwise encumber all or a portion of a solid waste management system when the local government finds that the action is necessary to implement the purposes of this part, as long as the action is consistent with the loan requirements set forth in this part and rules adopted to implement this part;

(14) hold or dispose of real property and, subject to agreements with lessors and lessees, develop or alter the property by making improvements or betterments for the purpose of enhancing the value and usefulness of the property;

(15) finance, design, construct, own, and operate a solid waste management system or contract for any or all of the powers authorized under this part;

(16) control the disposition of solid waste generated within the jurisdiction of the local government, except that, in the absence of an imminent threat to public health, safety, or the environment, a local government may not adopt a flow control or similar ordinance to require use of a specific transfer station or landfill for disposal of solid waste;

(17) enter into long-term contracts with local governments and private entities for:

(a) financing, designing, constructing, and operating a solid waste management system;

(b) marketing all raw or processed material recovered from solid waste;

(c) marketing energy products or byproducts resulting from processing or utilization of solid waste;

(18) finance an areawide solid waste management system through the use of any of the sources of revenue available to the implementation entity for public works projects, by the use of revenue bonds issued by the city or county, or by fees levied by a solid waste management district, whichever is appropriate;

(19) enter into interlocal agreements in order to achieve and implement the powers enumerated in this part;

(20) regulate the siting and operation of container sites."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 13, and the provisions of Title 7, chapter 13, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0331, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 331
INTRODUCED BY R. FITZGERALD

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