

1 SENATE BILL NO. 326

2 INTRODUCED BY M. LANG

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR
5 SPECIAL TAXES OR ASSESSMENTS BY RESOLUTION FOR IRRIGATION DISTRICT IMPROVEMENTS;
6 PROVIDING NOTICE OF SPECIAL TAXES OR ASSESSMENTS; PROVIDING A RIGHT TO PROTEST
7 SPECIAL TAXES OR ASSESSMENTS; PROVIDING FOR HEARINGS ON RESOLUTIONS TO LEVY
8 SPECIAL TAXES AND ASSESSMENTS; PROVIDING FOR PAYMENT TERMS FOR SPECIAL TAXES AND
9 ASSESSMENTS; AMENDING SECTIONS 85-7-2013, 85-7-2014, 85-7-2016, 85-7-2019, AND 85-7-2032,
10 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11

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

13

14 **NEW SECTION. Section 1. Levy of special assessments by resolution.** (1) In lieu of authorizing
15 bonds by petition or election, an irrigation district may adopt a resolution to undertake proceedings pursuant to
16 this part authorizing a levy of special taxes or assessments to repay and secure the repayment of bonds issued
17 to pay the costs of improvements described in 85-7-2012.

18 (2) A board of commissioners, if authorized by this part to issue bonds by adopting a resolution, shall
19 levy and assess on all irrigable acres in the district or subdistrict benefited by the improvements in an equal
20 dollar amount for each irrigable acre.

21

22 **NEW SECTION. Section 2. Resolution of intent to levy special taxes or assessments --**
23 **determination of irrigable acres.** (1) The board of commissioners may not authorize by resolution the levy of
24 taxes or assessments pursuant to [section 1] if the protest proceedings in 85-7-2013 are met.

25 (2) Before authorizing by resolution the levy of taxes or assessments pursuant to [section 1], the
26 board of commissioners shall determine the total number of irrigable acres in the district or subdistrict pursuant
27 to 85-7-2107 and apportionment of the costs subject to 85-7-2114.

28 (3) If the conditions in subsections (1) and (2) are met, the board of commissioners shall pass a

1 resolution of intention to levy special taxes or assessments.

2 (4) The resolution of intention must:

3 (a) describe the number of irrigable acres in the district or subdistrict and the number of irrigable
4 acres that would be subject to the special assessments;

5 (b) state the general character of the improvements that are desired to be made;

6 (c) designate the name of the engineer, if any, who is in charge of the work and approximate estimate
7 of the cost of the work; and

8 (d) specify that the costs of the improvements will be assessed against irrigable acres in the district or
9 subdistrict benefited by the improvements on the basis of equal amount for each irrigable acre.

10 (5) The board of commissioners may include in one proceeding under one resolution of intention the
11 different kinds of improvement or work provided for in the part.

12 (6) In all resolutions, notices, orders, and determinations subsequent to the resolution of intention and
13 notice of improvements, it is sufficient for the board to briefly describe the work or the assessments, or both,
14 and to refer to the resolution of intention for further information.

15

16 **NEW SECTION. Section 3. Notice of resolution of intention for levy of special assessments --**
17 **hearing – exception.** (1) On passage of a resolution of intention to levy special taxes or assessments pursuant
18 to [section 1], the board of commissioners shall publish a notice of that action as provided in 7-1-2121.

19 (2) A copy of the notice must be mailed, as provided in 7-1-2122, to each person, firm, or corporation
20 or the agent of the person, firm, or corporation owning real property within the proposed district listed in the
21 owner's name on the last-completed assessment roll for state, county, and school district taxes.

22 (3) (a) The notice must:

23 (i) describe the general character of the improvements proposed to be made or acquired by purchase;

24 (ii) state the estimated cost of the improvements;

25 (iii) describe generally that the costs of the improvements will be taxed or assessed on the basis of
26 equal amount for each irrigable acre; and

27 (iv) designate the time when and the place where the board will hear and act on all protests that may
28 be made against the levy of the special taxes or assessments.

1 (b) The notice must refer to the resolution on file in the office of the commission secretary for the
2 description of the particulars. If the proposal is for the purchase of an existing improvement, the notice must
3 state the expected cost of the proposed improvement.

4 (4) If no officer of the county is specifically assigned to publish or post a resolution, order, notice, or
5 determination subject to this section, the commission secretary shall post or procure the publication or posting.

6 (5) An error or mistake by the person posting or procuring the publication or posting of a resolution,
7 notice, order, or determination does not invalidate or affect any proceeding pursuant to [section 1].

8
9 **NEW SECTION. Section 4. Right to protest levy of special assessments.** (1) Except as provided
10 in subsection (2), within 30 days after the first publication date of a notice of a resolution of intention, a property
11 owner liable to be assessed for the work proposed in the resolution of intention pursuant to [section 3] may
12 make a written protest against the proposed work or proposed levy, or both. The protest must be in writing,
13 identify the property owned by the protestor, and be signed by all owners of the property. The protest must be
14 delivered to the commission secretary, who shall endorse the date of the receipt of the protest document.

15 (2) If the 30-day period described in subsection (1) concludes on a holiday pursuant to 1-1-216 or a
16 Saturday or a Sunday, the period of protest is extended to the day immediately following the holiday, Saturday,
17 or Sunday.

18 (3) For the purposes of this section, "owner" means, as of the date a protest is filed, the record owner
19 of fee simple title to the irrigable acres to be assessed.

20
21 **NEW SECTION. Section 5. Hearing on protest.** (1) At the next regular meeting of a board of
22 commissioners after the 30-day protest period described in [section 4], the board shall hear and rule on all
23 protests made. Decisions of the board are final and conclusive. The board may recess this hearing from time to
24 time.

25 (2) In determining whether or not sufficient protests have been made to prevent further proceedings
26 pursuant to [section 1], irrigable acres owned by the irrigation district or other state or local government bodies
27 must be considered the same as other irrigable acres in the irrigation district or subdistrict.

28

1 **NEW SECTION. Section 6. Sufficient protest to postpone further special assessment**
2 **proceedings.** Further proceedings pursuant to [section 1] may not be taken for a period of 60 days from the
3 date of the conclusion of the protest period if the board of commissioners finds that the protest is made by the
4 owners of irrigable acres to be assessed for more than 50% of the cost of the proposed improvements.

5
6 **NEW SECTION. Section 7. Resolution authorizing special assessments -- power to order**
7 **improvements.** (1) Before ordering proposed improvements pursuant to [section 1], a board of commissioners
8 shall pass a resolution approving the special taxes or assessments following a public hearing and in
9 accordance with the resolution of intention that was introduced and passed by the board.

10 (2) The board may order improvements for the following conditions:

11 (a) when sufficient protests have not been delivered to the secretary within the protest period
12 pursuant to [section 4] or at the end of a board-determined protest period;

13 (b) when protests have been found by the board to be insufficient or have been overruled;

14 (c) when a resolution approving the special taxes or assessments has been adopted; and

15 (d) when conditions for proceeding with the improvements have been or will be satisfied to the
16 satisfaction of the board of commissioners.

17
18 **NEW SECTION. Section 8. Adjournment of hearings on resolutions for special taxes or**
19 **assessments.** If a board of commissioners hearing on proceedings related to [section 1] is not held at the
20 scheduled place and time, is adjourned, or is rescheduled, the board has not lost its power or jurisdiction to levy
21 special taxes or assessments pursuant to [section 1]. The board may fix a time and a place for a new or
22 additional hearing. The board shall provide notice of the hearing by publication in a daily, semiweekly, or weekly
23 newspaper at least 5 days before the date of the new hearing.

24
25 **NEW SECTION. Section 9. Collection of special taxes or assessments by county treasurer --**
26 **delinquencies.** (1) When a resolution approving special taxes or assessments pursuant to [section 1] has been
27 certified by the board secretary and the county clerk and recorder, the county treasurer in the county in which
28 the lot, tract, or parcel is located shall collect the special taxes or assessments in the same manner and at the

1 same time as taxes for general state, county, and municipal purposes are collected.

2 (2) A board may declare an unpaid installment of special taxes or assessments as delinquent on the
3 adoption of an appropriate resolution. The special taxes or assessments constitute a first and prior lien on the
4 land against which it is levied as taxes levied for state, county, and municipal purposes. The lien may be
5 extinguished only by the payment of the special taxes or assessments, with all penalties, costs, and interest, as
6 provided in 85-7-2021 and Title 85, chapter 7, part 20.

7 (3) The lien of special taxes or assessments to repay the bonds pursuant to [section 1] must remain
8 on the land for a period of 8 years after the date of the final maturity of the bonds. On the delinquency of one or
9 all installments, the whole property must be sold as other property is sold for taxes. The enforcement of the lien
10 does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.

11

12 **NEW SECTION. Section 10. Procedure to correct assessment and to relevy.** (1) Whenever
13 special taxes or assessments for the repayment of bonds pursuant to [section 1] is determined to be either
14 invalid or its validity is questioned by an alleged nonconformity or by an omission or irregularity, the board of
15 commissioners may make all necessary orders and may take all necessary steps to correct, reassess, and
16 relevy the taxes or assessments, including the ordering of the improvement.

17 (2) The board may relevy or reassess special taxes or assessments for the repayment of bonds
18 pursuant to [section 1] in the same manner as it would have been if the first levy had been enforced, including
19 the time and order in which acts must be done in a proceeding pursuant to [section 1].

20 (3) The board shall correct and reassess special taxes or assessments made incorrectly, including
21 refunding the taxes or assessments collected.

22

23 **NEW SECTION. Section 11. Certain errors do not invalidate special taxes, assessments, or**
24 **liens.** (1) A misidentified owner or supposed owner of irrigable acres subject to special taxes or assessments
25 pursuant to [section 1] or other mistakes related to the ownership does not render the special taxes or
26 assessments void.

27 (2) A mistake in the property description or the name of the owner does not void a lien created by this
28 part unless it is impossible to identify the property from the description.

1

2 **NEW SECTION. Section 12. Term of payment of special taxes or assessments.** (1) The payment
3 of special taxes or assessments pursuant to [section 1] may be spread over a term not to exceed 40 years.

4 (2) The special taxes or assessments are payable:

5 (i) in equal semiannual installments of principal, with interest on the unpaid installments; or

6 (ii) if prescribed by the board of commissioners pursuant to [section 2], in equal semiannual
7 installments of principal and interest, with interest at the rate borne by the assessment.

8 (3) Special taxes or assessments that are not delinquent may be prepaid after the special taxes or
9 assessments are levied. The payment of the special taxes and assessments must be with interest accrued
10 through the next date on which an installment of the taxes or assessments is payable.

11

12 **NEW SECTION. Section 13. Interest rate on unpaid taxes or assessments.** An unpaid installment
13 of special taxes or assessments bears simple interest at an annual rate equal to the sum of:

14 (1) the average interest rate payable on the outstanding bonds issued to finance the costs of the
15 improvement for which the special taxes or assessments are levied; and

16 (2) an additional interest at a rate to be determined by the board of commissioners, not exceeding 2%
17 a year.

18

19 **Section 14.** Section 85-7-2013, MCA, is amended to read:

20 **"85-7-2013. Majority vote, and petition, and resolution requirements.** (1) Bonds provided for in
21 85-7-2012 through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district
22 organized under this chapter or by an irrigation district on behalf of a subdistrict located in the district and a
23 contract may not be made with the United States as provided in 85-7-1906 except on:

24 (a) approval by a majority vote of those voting on the question at an election conducted in accordance
25 with Title 13, chapter 1, part 5, with votes cast and counted as prescribed in 85-7-1710;

26 (b) receipt of a petition signed by ~~at least 60% in number and acreage,~~ a majority in acreage of the
27 holders of title or evidence of title to lands included within the district or, if the bonds are issued on behalf of or if
28 the contract relates to a subdistrict, ~~at least 60% in number and acreage,~~ a majority in acreage of the holders of

1 title or evidence of title to lands within the subdistrict; ~~or~~

2 (c) receipt of a petition signed by at least 75%, in number and acreage, of the holders of title or
3 evidence of title to the lands who are residents of the county or counties in which lands of the district are
4 situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 75% in number
5 and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in
6 which lands of the subdistrict are situated; or

7 (d) adoption of a resolution by the board of commissioners approving special taxes or assessments
8 pursuant to [section 1] and a determination that a protest as provided in [section 4] by owners of assessed
9 irrigable acres as determined by [section 2] comprise no more than 50% of the special tax or assessment
10 proposed to pay the cost of the suggested improvements.

11 (2) The petition must be addressed to the board of commissioners, set forth the aggregate amount of
12 bonds to be issued and the purpose or purposes of the bonds, have attached to it an affidavit verifying the
13 signatures to the petition, and be filed with the secretary of the board. When bonds are issued for the sole
14 purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent
15 and accrued interest, of the district, the bonds may be authorized and issued in the manner provided for by 85-
16 7-2019.

17 (3) In an election held for approval to allow a district or subdistrict to issue bonds or enter into a
18 contract under this section, the voting majority must own at least 50% of the acreage included in the district or
19 subdistrict."
20

21 **Section 15.** Section 85-7-2014, MCA, is amended to read:

22 "**85-7-2014. Procedure after election, ~~or~~ petition, or resolution filed.** Upon an election, ~~or~~ the filing
23 of the petition pursuant to 85-7-2013, or the adoption of a resolution approving the levy of a special tax or
24 assessment under [section 1], the board of commissioners shall, by appropriate order or resolution:

25 (1) authorize and direct the issuance of the bonds of the district to the amount and for the purpose or
26 purposes specified in the election or petition;

27 (2) fix the numbers, denominations, and maturity or maturities of the bonds;

28 (3) specify the rate of interest on the bonds and whether it is payable annually or semiannually;

- 1 (4) designate the place and method of payment of the bonds and the interest on the bonds, within or
2 outside the state of Montana;
- 3 (5) prescribe the form of the bonds; and
- 4 (6) provide for the levy of a special tax or assessment as provided in this chapter on all the lands in
5 the district or for a levy on a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and
6 benefit of which the district or subdistrict was organized and the bonds are issued or the contract is to be made,
7 sufficient in an amount to pay the interest on and principal of the bonds when due and all amounts to be paid to
8 the United States under any contract between the district and the United States for which bonds of the district
9 have not been deposited with the United States as provided in 85-7-1906."

10

11 **Section 16.** Section 85-7-2016, MCA, is amended to read:

12 **"85-7-2016. Confirmation by district court.** (1) Within 10 days after the adoption of the order or
13 resolution mentioned in 85-7-2014, the board of commissioners shall file a petition in the district court of the
14 judicial district where the office of the board is located to determine the validity of the proceedings relative to the
15 issuance of the bonds and the levy of the special tax or assessment.

16 (2) The action must be in the nature of a proceeding in rem, and jurisdiction of all parties interested
17 must be had by giving notice. The petition must set forth:

- 18 (a) generally, the establishment and organization of the district;
- 19 (b) a certified copy of the election results, ~~or petition, or resolution~~ provided for in 85-7-2013;
- 20 (c) a certified copy of the order or resolution provided for in 85-7-2014;
- 21 (d) a request for the confirmation of the proceedings of the board stated in the petition and for the
22 confirmation of the bond issue and the special tax or assessment levied to pay the bonds and interest thereon."

23

24 **Section 17.** Section 85-7-2019, MCA, is amended to read:

25 **"85-7-2019. Refunding bonds.** (1) Any irrigation district may issue refunding bonds.

26 (2) An irrigation district may issue refunding bonds for the purpose of redeeming or paying the
27 indebtedness or any portion of the indebtedness of the district, whether represented by existing and
28 outstanding bonds, interest coupons, or warrants, including accrued and unpaid interest on the bonds,

1 coupons, and warrants, and whether the indebtedness is due or not due or has or may become payable at the
 2 option of the district, by consent of the bondholders or warrant holders, or by any other legal means and
 3 whether the indebtedness is now existing or may be created, and funds in the treasury of the district are not
 4 available for the payment of the indebtedness. The refunding bonds may be issued in one or more series. The
 5 petition for the refunding bonds must be signed as required by law by ~~at least 60% in number and~~ a majority in
 6 acreage of the holders of title or evidence of title to the lands included within the district, or by ~~at least 60% in~~
 7 ~~number and~~ a majority in acreage of the holders of title or evidence of title to the lands within a subdistrict if the
 8 bonds to be refunded were issued by the district on behalf of the subdistrict, and addressed to the board of
 9 directors or commissioners of the district. The petition may contain the following specifications, in addition to the
 10 matters otherwise required by law:

- 11 (a) how many series of bonds shall be issued; and
- 12 (b) the terms, conditions, and liens of the bonds and the terms and conditions upon which each of the
 13 series of bonds shall be exchanged for outstanding bonds of the district if the bonds are to be exchanged and
 14 not sold.
- 15 (3) The specifications provided for in subsection (2), when set forth in the petition, are controlling
 16 upon the board of directors or commissioners. The petitioners shall in the specifications set forth the contract of
 17 exchange to be made, with particularity. The contract may include any term, requirement, grant, transfer of
 18 property or rights, covenant, or condition considered by the petitioners to be in the best interest of the district or
 19 of the subdistrict if the bonds that are the subject of the contract were issued by the district on behalf of the
 20 subdistrict. The petition shall state that the board of directors or commissioners of the district may authorize and
 21 direct the issuance of bonds according to the specifications of the petition, make any such contract, and bind
 22 the irrigation district under the contract."

23

24 **Section 18.** Section 85-7-2032, MCA, is amended to read:

25 **"85-7-2032. Amending or supplementing United States contracts -- petition, or election, or**
 26 **resolution not necessary.** If a supplementary or amendatory contract is made with the United States under
 27 this part, an election, ~~or~~ petition, or resolution required under 85-7-2012 through 85-7-2015 is not necessary
 28 and the board of commissioners of the irrigation district is not required to proceed under 85-7-2016 through 85-

1 7-2018 for a judicial confirmation of the making of the contract and the terms of the contract. It is sufficient in
2 the case of a contract made with the United States under this part for the board of commissioners of any
3 irrigation district to authorize the execution of the contract by its president and secretary by appropriate
4 resolution adopted at any regular or special meeting of the board of commissioners."

5
6 **NEW SECTION. Section 19. Codification instruction.** [Sections 1 through 13] are intended to be
7 codified as an integral part of Title 85, chapter 7, part 20, and the provisions of Title 85, chapter 7, part 20,
8 apply to [sections 1 through 13].

9
10 **NEW SECTION. Section 20. Effective date.** [This act] is effective on passage and approval.

11 - END -