



AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR SPECIAL TAXES OR ASSESSMENTS BY RESOLUTION FOR IRRIGATION DISTRICT IMPROVEMENTS; PROVIDING NOTICE OF SPECIAL TAXES OR ASSESSMENTS; PROVIDING A RIGHT TO PROTEST SPECIAL TAXES OR ASSESSMENTS; PROVIDING FOR HEARINGS ON RESOLUTIONS TO LEVY SPECIAL TAXES AND ASSESSMENTS; REPEALING CERTAIN DISTRICT COURT REQUIREMENTS; AMENDING SECTIONS 85-7-2013, 85-7-2014, 85-7-2015, 85-7-2019, 85-7-2031, 85-7-2032, AND 85-7-2115, MCA; REPEALING SECTIONS 85-7-2016, 85-7-2017, AND 85-7-2018, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Levy of special taxes or assessments by resolution. (1) In lieu of authorizing bonds by petition or election, the board of commissioners may undertake proceedings pursuant to this part that may result in a resolution pursuant to [section 7] authorizing a levy of special taxes or assessments to repay and secure the repayment of bonds issued to pay the costs of improvements described in 85-7-2012. The costs of improvements may include the costs of bond issuance and a debt service reserve securing the repayment of bonds.

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

Section 2. Resolution of intent to levy special taxes or assessments -- determination of irrigable acres. (1) If the board of commissioners determines to undertake special tax or assessment proceedings to authorize the issuance of bonds, the board shall first determine the total number of irrigable

acres in the district or subdistrict pursuant to 85-7-2107 and apportionment of the costs subject to 85-7-2114.

(2) If the condition in subsection (1) is met, the board of commissioners shall pass a resolution of intention to levy special taxes or assessments.

(3) The resolution of intention must:

(a) describe the number of irrigable acres in the district or subdistrict and the number of irrigable acres that would be subject to the special taxes or assessments, and, if a subdistrict, include a map and description of the boundaries of the subdistrict;

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

(c) designate the name of the engineer, if any, who is in charge of the work and the estimated costs of the improvements and of the estimated maximum principal amount of the bonds;

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

(e) provide an estimate of the dollar amount proposed to be assessed against each irrigable acre based on the estimated maximum principal amount of the bonds.

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

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

Section 3. Notice of resolution of intention for levy of special taxes or assessments -- hearing - exception. (1) On passage of a resolution of intention to levy special taxes or assessments pursuant to [section 2], the board of commissioners shall publish a notice of that action as provided in 7-1-2121.

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

(3) (a) The notice must:

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

(ii) state the estimated cost of the improvements and the estimated maximum principal amount of the bonds;

(iii) describe that the debt service on the bonds will be repaid by a tax or assessment levied on the basis of equal amount for each irrigable acre;

(iv) state the dollar amount to be levied against each irrigable acre based on the estimated maximum principal amount of the bonds;

(v) state that the deadline for the receipt of protests against the proposed issuance of the bonds or levy of special taxes or assessment, or both, is 5 p.m. on the date of the end of the protest period pursuant to [section 4]; and

(vi) designate the time when and the place where the board will hear and act on all protests that may be made against the proposed issuance of the bonds or levy of the special taxes or assessments, or both.

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

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

(5) An error or mistake by the person posting or procuring the publication or posting of a resolution, notice, order, or determination does not invalidate or affect the notice and protest proceedings if the error or mistake is corrected in a timely manner.

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

(2) If the 30-day period described in subsection (1) concludes on a holiday pursuant to 1-1-216 or a

Saturday or a Sunday, the period of protest is extended to the day immediately following the holiday, Saturday, or Sunday.

(3) For the purposes of this section, "owner" means, as of the date a protest is filed, the record owner of fee simple title to the irrigable acres to be assessed. The term does not include a tenant or other holder of a leasehold interest in the irrigable acres.

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

(2) In determining whether or not sufficient protests have been made to prevent further proceedings pursuant to [section 6], irrigable acres owned by the irrigation district or other state or local government bodies must be considered the same as other irrigable acres in the irrigation district or subdistrict.

Section 6. Sufficient protest to bar issuance of bonds and to postpone further special tax or assessment proceedings. The board of commissioners may not authorize or hold further special tax or assessment proceedings to seek the authorization of the issuance of bonds for a period of 60 days from the date of the conclusion of the protest period if the board of commissioners finds that the protest is made by the owners of irrigable acres to be assessed for more than 50% of the costs of improvements to be financed with the bonds.

Section 7. Resolution authorizing special taxes or assessments. (1) If the board of commissioners finds that a protest is made by the owners of irrigable acres to be assessed for not more than 50% of the costs of improvements to be financed with the bonds, the board of commissioners following the public hearing described in [section 5] may adopt a resolution approving the levy of a special tax or assessment to repay the bonds in accordance with the resolution of intention that was introduced and passed by the board.

(2) The board may issue bonds to pay or reimburse the costs of the improvements when:

(a) sufficient protests have not been delivered to the secretary within the protest period pursuant to [section 4];

- (b) protests have been found by the board to be insufficient or have been overruled;
- (c) conditions for proceeding with the improvements have been or will be satisfied to the satisfaction of the board of commissioners; and
- (d) the requirements of 85-7-2014 and 85-7-2015 are satisfied.

Section 8. Adjournment of hearings on resolutions for special taxes or assessments. If a board of commissioners hearing on proceedings on a special tax or assessment for the repayment of bonds is not held at the scheduled place and time, is adjourned, or is rescheduled, the board has not lost its power or jurisdiction to levy special taxes or assessments to repay the bonds. The board may fix a time and a place for a new or additional hearing. The board shall provide notice of the hearing by publication in a daily, semiweekly, or weekly newspaper at least 5 days before the date of the new hearing.

Section 9. Collection of special taxes or assessments by county treasurer -- delinquencies. (1) When a resolution approving special taxes or assessments for the repayment of bonds has been certified by the board secretary, and delivered to the county clerk and recorder and the irrigation district has issued or will issue the bonds pursuant to 85-7-2014 and 85-7-2015, the county treasurer in the county in which the lot, tract, or parcel is located shall collect the special taxes or assessments in the same manner and at the same time as taxes for general state, county, and municipal purposes are collected.

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

(3) The lien of special taxes or assessments to repay the bonds must remain 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 all installments, the whole property must be sold as other property is sold for taxes. The enforcement of the lien does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent.

Section 10. Section 85-7-2013, MCA, is amended to read:

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

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

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

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

(d) adoption of a resolution by the board of commissioners approving special taxes or assessments to repay bonds pursuant to [section 7] following a determination that a protest as provided in [section 4] by owners of assessed irrigable acres as determined by [section 2] comprises no more than 50% of the special tax or assessment proposed to pay the costs of the suggested improvements.

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

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

subdistrict."

Section 11. Section 85-7-2014, MCA, is amended to read:

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

- (1) authorize and direct the issuance of the bonds of the district to the amount and for the purpose or purposes specified in the election, ~~or~~ petition, or resolution adopted pursuant to [section 7];
- (2) fix the numbers, denominations, and maturity or maturities of the bonds;
- (3) specify the rate of interest on the bonds and whether it is payable annually or semiannually;
- (4) designate the place and method of payment of the bonds and the interest on the bonds, within or outside the state of Montana;
- (5) prescribe the form of the bonds; and
- (6) provide for the levy of a special tax or assessment as provided in this chapter on all the lands in the district or for a levy on a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and benefit of which the district or subdistrict was organized and the bonds are issued or the contract is to be made, sufficient in an amount to pay the interest on and principal of the bonds when due and all amounts to be paid to the United States under any contract between the district and the United States for which bonds of the district have not been deposited with the United States as provided in 85-7-1906."

Section 12. Section 85-7-2015, MCA, is amended to read:

"85-7-2015. Effect of contracting with United States. If contract is to be made with the United States as provided in 85-7-1906 and bonds are not to be deposited with the United States in connection with the contract, the board of commissioners need not authorize the issuance of bonds, or if bonds are required in addition to the contract, the commissioners may authorize bonds only for the amount needed in addition to the contract. ~~Such order or resolution shall also provide for the confirmation proceedings in the district court as provided in 85-7-2016 through 85-7-2018.~~"

Section 13. Section 85-7-2019, MCA, is amended to read:

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

(2) An irrigation district may issue refunding bonds for the purpose of redeeming or paying the indebtedness or any portion of the indebtedness of the district, whether represented by existing and outstanding bonds, interest coupons, or warrants, including accrued and unpaid interest on the bonds, coupons, and warrants, and whether the indebtedness is due or not due or has or may become payable at the option of the district, by consent of the bondholders or warrant holders, or by any other legal means and whether the indebtedness is now existing or may be created, ~~and funds in the treasury of the district are not available for the payment of the indebtedness.~~ The refunding bonds may be issued in one or more series. If the average annual interest rate of the refunding bonds is more than the average annual interest rate on the bonds being refunded or the term of the bonds being refunded is extended by the refunding bonds, a petition must be filed with the board of commissioners before proceeding with the refunding. The petition for the refunding bonds must be signed as required by law by ~~at least 60% in number and a majority in~~ acreage of the holders of title or evidence of title to the lands included within the district, or by ~~at least 60% in number and a majority in~~ acreage of the holders of title or evidence of title to the lands within a subdistrict if the bonds to be refunded were issued by the district on behalf of the subdistrict, and addressed to the board of directors or commissioners of the district. The petition may contain the following specifications, in addition to the matters otherwise required by law:

- (a) how many series of bonds shall be issued; and
- (b) the terms, conditions, and liens of the bonds and the terms and conditions upon which each of the series of bonds shall be exchanged for outstanding bonds of the district if the bonds are to be exchanged and not sold.

(3) The specifications provided for in subsection (2), when set forth in the petition, are controlling upon the board of directors or commissioners. The petitioners shall in the specifications set forth the contract of exchange to be made, with particularity. The contract may include any term, requirement, grant, transfer of property or rights, covenant, or condition considered by the petitioners to be in the best interest of the district or of the subdistrict if the bonds that are the subject of the contract were issued by the district on behalf of the subdistrict. The petition shall state that the board of directors or commissioners of the district may authorize and

direct the issuance of bonds according to the specifications of the petition, make any such contract, and bind the irrigation district under the contract."

Section 14. Section 85-7-2031, MCA, is amended to read:

"85-7-2031. Amending or supplementing United States contracts -- effect on indebtedness. The board of commissioners of any irrigation district established and organized under and by virtue of the laws of Montana, whenever deemed advisable and to the interests of the district, shall have the power and authority to enter into any contract with the United States supplementing or amending any original contract with the United States, said original contract having been entered into pursuant to the provisions of 85-7-1906 and 85-7-2012 through ~~85-7-2018~~ 85-7-2015; provided, that such supplementary or amendatory contract does not increase the amount of the principal indebtedness of the district to the United States as it exists at the date of the supplementary or amendatory contract authorized under the provisions of 85-7-2012 through 85-7-2015."

Section 15. Section 85-7-2032, MCA, is amended to read:

"85-7-2032. Amending or supplementing United States contracts -- petition, or election, or resolution not necessary. If a supplementary or amendatory contract is made with the United States under this part, an election, ~~or petition, or resolution~~ required under 85-7-2012 through 85-7-2015 is not necessary and the board of commissioners of the irrigation district is not required to proceed under ~~85-7-2016 through 85-7-2018~~ for a judicial confirmation of the making of the contract and the terms of the contract. It is sufficient in the case of a contract made with the United States under this part for the board of commissioners of any irrigation district to authorize the execution of the contract by its president and secretary by appropriate resolution adopted at any regular or special meeting of the board of commissioners."

Section 16. Section 85-7-2115, MCA, is amended to read:

"85-7-2115. Objection by landowner. If a landowner objects to the proceedings of the board in determining the irrigable area in the landowner's own or any other tract of land or the amount or rate per acre of the special tax and assessment to be levied against each irrigable acre in the district or subdistrict for the purposes of the proposed bond issue and the objection is overruled by the board, the objection without further

proceedings must be regarded as appealed to the district court ~~and must, with the other proceedings of the board at the meeting, be heard at the proceedings to confirm the bonds, as provided in 85-7-2016 through 85-7-2018.~~ When confirmed, the order overruling the objection and confirming the order of the board determining the irrigable area of each tract of land and apportioning the cost of the improvement to each tract becomes final, binding, and conclusive upon the landowner and upon the district unless appealed ~~from as provided in 85-7-2018.~~"

Section 17. Repealer. The following sections of the Montana Code Annotated are repealed:

- 85-7-2016. Confirmation by district court.
- 85-7-2017. Hearing and procedure in the district court.
- 85-7-2018. District court findings and order -- appeal.

Section 18. Codification instruction. [Section 1 through 9] are intended to be codified as an integral part of Title 85, chapter 7, part 20, and the provisions of Title 85, chapter 7, part 20, apply to [sections 1 through 9].

Section 19. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 326, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 326

INTRODUCED BY M. LANG

AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR SPECIAL TAXES OR ASSESSMENTS BY RESOLUTION FOR IRRIGATION DISTRICT IMPROVEMENTS; PROVIDING NOTICE OF SPECIAL TAXES OR ASSESSMENTS; PROVIDING A RIGHT TO PROTEST SPECIAL TAXES OR ASSESSMENTS; PROVIDING FOR HEARINGS ON RESOLUTIONS TO LEVY SPECIAL TAXES AND ASSESSMENTS; REPEALING CERTAIN DISTRICT COURT REQUIREMENTS; AMENDING SECTIONS 85-7-2013, 85-7-2014, 85-7-2015, 85-7-2019, 85-7-2031, 85-7-2032, AND 85-7-2115, MCA; REPEALING SECTIONS 85-7-2016, 85-7-2017, AND 85-7-2018, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.