

SENATE BILL NO. 539

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAXATION AND SPECIAL ASSESSMENTS; PROVIDING CRITERIA FOR THE DETERMINATION OF WHETHER A LOCAL GOVERNMENT PROPOSAL TO COLLECT REVENUE FROM AN ASSESSMENT ON PROPERTY IS A TAX OR A FEE; PROVIDING THAT CERTAIN PROPERTY IS NOT SUBJECT TO RURAL SPECIAL DISTRICT ASSESSMENTS; PROVIDING FOR DIRECT APPEAL TO THE MONTANA TAX APPEAL BOARD FOR DEPARTMENT OF REVENUE FINAL DECISIONS INVOLVING PROPERTY TAX EXEMPTIONS; PROVIDING A DEFINITION; AMENDING SECTIONS 7-12-2108 AND 15-2-302, MCA; AND PROVIDING EFFECTIVE DATES, A RETROACTIVE APPLICABILITY DATE, AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Assessment and fees -- distinction between special assessment and tax -- definition. (1) In addition to assessing taxes, local governments are authorized to impose various charges, fees, and assessments for designated purposes defined by statute and ordinance.

(2) Except as provided in subsections (3) and (5), an assessment is presumed to be a tax that must be assessed based on taxable value pursuant to the provisions of Title 15, chapter 10.

(3) Subject to subsection (4), to qualify as a special assessment:

(a) the charges collected from the assessment must compensate the government entity for providing the services to the specific property that is assessed;

(b) the benefit received by the property assessed must be commensurate with the amount of the assessment imposed on the property; and

(c) the benefit received from the assessment will be realized by the property assessed in a reasonable time in the future and is not contingent on any conditions other than payment of the assessment.

(4) An assessment levied for the general public good or without regard to whether it confers a special benefit on assessed property is a tax.

(5) An assessment imposed by a special district, special improvement district, or rural improvement district that is created through a petition by owners within a proposed district is presumed to be a special assessment unless a property owner establishes that the requirements of this section are not satisfied.

(6) Nothing in this section confers rights on a local government to impose an assessment, and any assessment imposed must comply with the applicable legal requirements for imposition of the assessment.

(7) For the purposes this section, the term "assessment" means any charge or assessment on property by a local government, except property taxes authorized by Title 15 and Title 20, ~~and fees for services provided for in 7-6-4013, and voluntary assessments that were approved by the owner of the property assessed.~~

Section 2. Section 7-12-2108, MCA, is amended to read:

"7-12-2108. Extension of proposed district -- definition. ~~(1) (a) Whenever Except as provided in subsection (2), when the board of county commissioners determines that a contemplated work or improvement, in the opinion of the board of county commissioners, is of provides more than local or ordinary public benefit or, whenever, according to subject to subsection (1)(b), when the estimates furnished by the county surveyor or the engineer, the provide that total estimated cost and expenses thereof would exceed one-half of the total assessed value of the lots and lands assessed (if assessed upon the lots and lands fronting upon such proposed work or improvement according to the valuation fixed by the last assessment roll whereon it was assessed for taxes), the board may make the expense of such the work chargeable upon on the lots and lands fronting upon such the proposed improvement and upon on other lots and lands not fronting on the improvement, and which the~~ When making a determination, the board shall, in a resolution of intention, declare, in its resolution of intention, to be the what property is benefited by said the work or improvement and to that must be assessed to pay the cost and expense thereof of the work or improvement.

(b) The total assessed value is determined based on the lots and lands fronting the proposed work or improvement using the valuation fixed by the last assessment roll.

(2) For the purpose of this section, "property benefited" does not include a parcel that is classified as class three property pursuant to 15-6-133 when the property:

(a) contains no residential structures;