

HOUSE BILL NO. 369

INTRODUCED BY J. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COUNTY ROAD MAINTENANCE DISTRICT;
REQUIRING THE BOARD OF COUNTY COMMISSIONERS TO CREATE THE DISTRICT UPON RECEIPT
OF A SUFFICIENT PETITION; ALLOWING FOR ASSESSMENT OF COSTS TO FUND THE DISTRICT;
REQUIRING THE COUNTY TO SUBTRACT THE COST OF THE DISTRICT FROM THE TOTAL COUNTY
GENERAL FUND; PROVIDING FOR CONTINGENT VOIDNESS; AND AMENDING SECTION 15-10-420,
MCA."

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

NEW SECTION. **Section 1. County road maintenance district authorized.** (1) If the board of
county commissioners has indicated by a vote of the board, correspondence, or other board action that the
board no longer intends to provide road maintenance services on roads previously maintained by the county
and owned by an entity other than the county, the board of county commissioners is authorized to create a
county road maintenance district pursuant to [section 2].

(2) The district may include road miles under the jurisdiction of an entity other than the county if the
entity and the county road maintenance district have entered into a memorandum of understanding that
provides authority to the county road maintenance district to maintain the road miles.

(3) Unless otherwise provided for in [sections 1 through 3], a county road maintenance district is
governed by the provisions of Title 7, chapter 12, part 21, for rural improvement districts that are applicable to
road maintenance.

(4) As used in [sections 1 through 3], "maintenance" includes but is not limited to sprinkling,
graveling, oiling, chip sealing, seal coating, overlaying, treating, general cleaning, sweeping, flushing, snow
removal, leaf and debris removal, the operation, maintenance, and repair of traffic signal systems, the repair of
traffic signs, the placement and maintenance of pavement markings, and curb and gutter repair.

NEW SECTION. Section 2. Creation of county road maintenance district -- petition -- public

hearing. (1) The board of county commissioners shall order and create a county road maintenance district authorized in [section 1] upon the receipt of a petition signed by at least 66% of the owners of real property located within the proposed district requesting that the district be created.

(2) Before the creation of a county road maintenance district as provided in [sections 1 through 3], the petitioners shall provide to the board of county commissioners a county road maintenance district plan. The plan must:

- (a) designate the boundaries of the district;
- (b) designate the miles of road that are to be maintained;
- (c) recognize the entity that has jurisdiction over each road mile included in the district;
- (d) state the general type of maintenance that will be provided; and
- (e) specify the method or methods by which the costs of the maintenance will be assessed against property in the district.

(3) After receipt of a petition that meets the qualifications provided in subsection (1), the board of county commissioners shall hold a public hearing pursuant to 7-12-2105.

(4) After the petition and public hearing requirements of this section have been met, the board of county commissioners shall issue and deliver to the county clerk and recorder an order creating the district in accordance with the terms of the county road maintenance plan provided for in subsection (2).

(5) The board of county commissioners may not deny or condition the petition or county road maintenance district plan provided for in this section.

NEW SECTION. Section 3. Annual budget -- assessment of costs -- contracts authorized. (1)

The governing board of the district shall prepare an annual budget for the operation and maintenance of the roads within the district for the next fiscal year and submit the budget to the board of county commissioners for inclusion with the county budget. The board of county commissioners may not exclude the district budget from the county budget or modify or change the district's budget.

(2) To cover the cost of maintaining the roads within the district that have been designated as roads to be maintained, the governing board of the district may assess the entire cost of maintenance against

benefited lots, tracts, or parcels of land in the district based on the benefits received and shall adopt the assessment method provided in 7-12-2151(1)(b).

(3) (a) Pursuant to 15-10-420(11), the board of county commissioners shall reduce property taxes actually assessed in the prior year for the county general levy dedicated to road improvement or maintenance by the total dollar amount assessed by the district pursuant to this section.

(b) The portion of the county general levy that is reduced pursuant to subsection (3)(a) must be:

(i) reflected in the road and bridge component budgets included in the preliminary budget as provided in 7-6-4020(3)(d)(ii); and

(ii) used to determine the property tax levy for the fund designated for county road maintenance and improvement pursuant to 7-6-4034.

(4) The county road maintenance district may enter into agreements and contracts with public and private entities as appropriate to provide for road maintenance service.

Section 4. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section and except as provided for in subsection (11), a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of

1 labor.

2 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any
3 additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit,
4 including newly taxable property.

5 (3) (a) For purposes of this section, newly taxable property includes:

6 (i) annexation of real property and improvements into a taxing unit;

7 (ii) construction, expansion, or remodeling of improvements;

8 (iii) transfer of property into a taxing unit;

9 (iv) subdivision of real property; and

10 (v) transfer of property from tax-exempt to taxable status.

11 (b) Newly taxable property does not include an increase in value that arises because of an
12 increase in the incremental value within a tax increment financing district.

13 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
14 release of taxable value from the incremental taxable value of a tax increment financing district because of:

15 (i) a change in the boundary of a tax increment financing district;

16 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

17 (iii) the termination of a tax increment financing district.

18 (b) If a tax increment financing district terminates prior to the certification of taxable values as
19 required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax
20 increment financing district terminates. If a tax increment financing district terminates after the certification of
21 taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the
22 following tax year.

23 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
24 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
25 year market value of that property less the previous year market value of that property.

26 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale
27 of real property that results in the property being taxable as class four property under 15-6-134 or as
28 nonqualified agricultural land as described in 15-6-133(1)(c).

- 1 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 2 (a) school district levies established in Title 20; or
- 3 (b) a mill levy imposed for a newly created regional resource authority.
- 4 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes
- 5 received under 15-6-131 and 15-6-132.
- 6 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:
- 7 (a) may increase the number of mills to account for a decrease in reimbursements; and
- 8 (b) may not increase the number of mills to account for a loss of tax base because of legislative
- 9 action that is reimbursed under the provisions of 15-1-121(7).
- 10 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
- 11 purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated
- 12 by the department may not exceed the mill levy limits established in those sections. The mill calculation must
- 13 be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
- 14 calculation must be rounded up to the nearest tenth of a mill.
- 15 (9) (a) The provisions of subsection (1) do not prevent or restrict:
- 16 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
- 17 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;
- 18 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;
- 19 (iv) a levy for the support of a study commission under 7-3-184;
- 20 (v) a levy for the support of a newly established regional resource authority;
- 21 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's
- 22 property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;
- 23 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an
- 24 adjoining county under 7-2-2807 upon relocation of a county boundary;
- 25 (viii) a levy used to fund the sheriffs' retirement system under 19-7-404(3)(b); or
- 26 (ix) a governmental entity from levying mills for the support of an airport authority in existence prior
- 27 to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past.
- 28 The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) In a county that contains a county road maintenance district created pursuant to [section 2], the amount of property taxes actually assessed pursuant to subsection (1) must be reduced by the total dollar amount assessed under [section 3].

~~(11)~~(12)The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit."

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 7, chapter 12, and the provisions of Title 7, chapter 12, apply to [sections 1 through 3].

NEW SECTION. Section 6. Contingent voidness. If a county has announced plans to reduce road maintenance on roads previously maintained by the county and the county enters into a long-term agreement with a homeowners' association or other legal entity representing the property owners affected by the potential reduction in road maintenance and the agreement provides for the future reconstruction and maintenance, including snow plowing, of the roads, then [this act] is void.

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