

HOUSE BILL NO. 367

INTRODUCED BY J. BROWN, J. RICE, S. RICE, PHILLIPS,
GRADY, FRANKLIN, WYATT,
O'KEEFE, HARPER, SIMPKINS, STRIZICH, GALVIN,
DOLEZAL, NISBET, WATERMAN, MESSMORE,
DOHERTY, MAZUREK

IN THE HOUSE

JANUARY 22, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

JANUARY 23, 1991 FIRST READING.

JANUARY 24, 1991 ON MOTION, REREFERRED TO COMMITTEE
ON LOCAL GOVERNMENT.

FEBRUARY 13, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

 POSTED ON CONSENT CALENDAR.

FEBRUARY 14, 1991 CONSENT CALENDAR, QUESTIONS AND ANSWERS.

 ENGROSSING REPORT.

FEBRUARY 15, 1991 THIRD READING, PASSED.
AYES, 97; NOES, 0.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 16, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

 FIRST READING.

MARCH 6, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 8, 1991 SECOND READING, CONCURRED IN.

MARCH 9, 1991 THIRD READING, CONCURRED IN.
AYES, 48; NOES, 0.

 RETURNED TO HOUSE.

IN THE HOUSE

MARCH 11, 1991

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Spice* *HOUSE* BILL NO. *367* *Franklin*
 2 INTRODUCED BY *J. Brown* *Steve Phillips* *Grady*
 3 *Wright* *Kyle* *Thayer* *Simpkins* *St* *Harmon* *Dobson*
 4 *Thabet* *Messmore* *Doherty* *Meyers*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE
 6 EXPANSION OF BUSINESS IMPROVEMENT DISTRICTS; PROVIDING FOR
 7 ASSESSING LAND IN THE EXPANDED AREA OF A DISTRICT; AND
 8 AMENDING SECTIONS 7-12-1111, 7-12-1112, 7-12-1114,
 9 7-12-1115, AND 7-12-1133, MCA."

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

11 **Section 1.** Section 7-12-1111, MCA, is amended to read:

12 "7-12-1111. Establishment or expansion of a district.

13 (1) Upon receipt of a petition signed by the owners of more
14 than 60% of the area of the property proposed in the
15 petition to be included in a district or in the expansion of
16 a district, a governing body shall establish a district or
17 expand a district as provided in this part.

18 (2) The boundaries of a district must comply with
19 applicable zoning regulations, and the district may not
20 include areas that are zoned primarily as residential
21 areas."

22 **Section 2.** Section 7-12-1112, MCA, is amended to read:

23 "7-12-1112. Resolution of intention to create or expand
24 district -- notice. (1) Before creating or expanding a
25 district, the governing body shall pass a resolution of

1 intention to do so, designating the boundaries thereof.

2 (2) Notice of passage of the resolution must be
3 published for 5 days in a daily newspaper or in one issue of
4 a weekly paper published in the municipality or county or,
5 in case no newspaper is published in the municipality or
6 county, then by posting for 5 days in three public places in
7 the municipality or county. A copy of the notice shall be
8 mailed to every owner of real property within the proposed
9 district or within the proposed area of expansion listed on
10 the last completed assessment roll for state, county, and
11 school district taxes, at the owner's last-known address, on
12 the same day the notice is first published or posted.

13 (3) The notice must describe the general purpose of the
14 district or the general reason for the expansion and
15 designate the time when and the place where the governing
16 body will hear and pass upon all protests that may be made
17 against the creation of such the district or the expansion
18 of the existing district. The notice shall refer to the
19 resolution on file with the governing body or clerk, if any,
20 for the description of the boundaries.

21 (4) The resolution to expand a district deals only with
22 the question of the expanded area, and the existing district
23 does not have to be reestablished.

24 **Section 3.** Section 7-12-1114, MCA, is amended to read:

25 "7-12-1114. Hearing on protest -- sufficient protest to



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bar proceedings. (1) At a regular meeting of the governing body after the expiration of the time within which protest may be made, the governing body shall proceed to hear and pass upon all protests. Its decision shall be final and conclusive.

(2) The governing body may adjourn the hearing from time to time. A protestant shall have the right to withdraw a protest at any time before final action thereon by the council or commission.

(3) No further action shall be taken upon the proposed district or proposed expansion of an existing district for 1 year if a written protest against passage of the proposed ordinance is filed by:

(a) owners of property within the proposed district or area of a proposed expansion having a taxable valuation, when aggregated, representing not less than 50% of the total taxable valuation of property within the district or within the area of a proposed expansion;

(b) not less than 50% of the owners of property within the district or area of a proposed expansion; or

(c) owners of property within the proposed district or area of a proposed expansion having projected assessments, when aggregated, representing not less than 50% of the total projected assessments for property within the district or within the area of a proposed expansion."

Section 4. Section 7-12-1115, MCA, is amended to read:

"7-12-1115. Resolution creating or expanding district.

When no protests have been delivered to the governing body within 15 days after the date of the first publication of the notice of the passing of the resolution of intention, when a protest shall have been found by the governing body to be insufficient or has been overruled, or when a protest against the extent of the proposed district or proposed expansion of a district has been heard and denied, the governing body has jurisdiction to order the creation or expansion of the district and shall pass a resolution creating or expanding the district in accordance with the resolution of intention."

Section 5. Section 7-12-1133, MCA, is amended to read:

"7-12-1133. Assessment of costs -- area, lot, taxable valuation, and square footage options. (1) At the same time the board submits the annual budget and work plan to the governing body as provided in 7-12-1132, the board shall also recommend to the governing body a method of levying an assessment on the property within the district which will best ensure that the assessment on each lot or parcel is equitable in proportion to the benefits to be received.

(2) The governing body shall annually assess the entire cost of the district against the entire district using a method which best ensures that the assessment on each lot or

1 parcel is equitable in proportion to the benefits to be
 2 received. In determining the method of assessment to be
 3 used, the governing body shall consider the recommendations
 4 of the board. The governing board shall levy the assessment
 5 using one of the following methods:

6 (a) each lot or parcel of land within such district may
 7 be assessed for that part of the whole cost which its area
 8 bears to the area of the entire district, exclusive of
 9 streets, avenues, alleys, and public places;

10 (b) if the governing body determines that the benefits
 11 derived by each lot or parcel are substantially equivalent,
 12 the cost may be assessed equally to each lot or parcel
 13 located within the district without regard to the area of
 14 the lot or parcel;

15 (c) each lot or parcel of land, including the
 16 improvements thereon, may be assessed for that part of the
 17 whole cost of the district which its taxable valuation bears
 18 to the total taxable valuation of the property of the
 19 district;

20 (d) each building may be assessed for that part of the
 21 whole cost of the district that the occupied or
 22 income-producing area of the building above the first floor
 23 bears to the area of the entire district; or

24 (e) by using any combination of the assessment options
 25 provided in subsections (2)(a) through (2)(d).

1 (3) If a district is expanded, the land within the
 2 expanded area must be assessed as provided for in subsection
 3 (2) for the duration of the district."

-End-

1 *Spica* *HOUSE* BILL NO. *367* *Franklin*
 2 INTRODUCED BY *J. Brown* *Spica* *Challenger* *Brady*
 3 *Wright* *Kufe* *Thompson* *St. Lawrence* *Delozal*
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14 than 60% of the area of the property proposed in the
15 petition to be included in a district or in the expansion of
16 a district, a governing body shall establish a district or
17 expand a district as provided in this part.

18 (2) The boundaries of a district must comply with
19 applicable zoning regulations, and the district may not
20 include areas that are zoned primarily as residential
21 areas."

22 **Section 2.** Section 7-12-1112, MCA, is amended to read:

23 "7-12-1112. Resolution of intention to create or expand
24 district -- notice. (1) Before creating or expanding a
25 district, the governing body shall pass a resolution of

1 intention to do so, designating the boundaries thereof.

2 (2) Notice of passage of the resolution must be
3 published for 5 days in a daily newspaper or in one issue of
4 a weekly paper published in the municipality or county or,
5 in case no newspaper is published in the municipality or
6 county, then by posting for 5 days in three public places in
7 the municipality or county. A copy of the notice shall be
8 mailed to every owner of real property within the proposed
9 district or within the proposed area of expansion listed on
10 the last completed assessment roll for state, county, and
11 school district taxes, at the owner's last-known address, on
12 the same day the notice is first published or posted.

13 (3) The notice must describe the general purpose of the
14 district or the general reason for the expansion and
15 designate the time when and the place where the governing
16 body will hear and pass upon all protests that may be made
17 against the creation of such the district or the expansion
18 of the existing district. The notice shall refer to the
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20 for the description of the boundaries.

21 (4) The resolution to expand a district deals only with
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24 **Section 3.** Section 7-12-1114, MCA, is amended to read:

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THIRD READING
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CONSENT CALENDAR

1 **bar proceedings.** (1) At a regular meeting of the governing
2 body after the expiration of the time within which protest
3 may be made, the governing body shall proceed to hear and
4 pass upon all protests. Its decision shall be final and
5 conclusive.

6 (2) The governing body may adjourn the hearing from
7 time to time. A protestant shall have the right to withdraw
8 a protest at any time before final action thereon by the
9 council or commission.

10 (3) No further action shall be taken upon the proposed
11 district or proposed expansion of an existing district for 1
12 year if a written protest against passage of the proposed
13 ordinance is filed by:

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15 area of a proposed expansion having a taxable valuation,
16 when aggregated, representing not less than 50% of the total
17 taxable valuation of property within the district or within
18 the area of a proposed expansion;

19 (b) not less than 50% of the owners of property within
20 the district or area of a proposed expansion; or

21 (c) owners of property within the proposed district or
22 area of a proposed expansion having projected assessments,
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24 projected assessments for property within the district or
25 within the area of a proposed expansion."

1 **Section 4.** Section 7-12-1115, MCA, is amended to read:

2 "7-12-1115. Resolution creating or expanding district.
3 When no protests have been delivered to the governing body
4 within 15 days after the date of the first publication of
5 the notice of the passing of the resolution of intention,
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7 to be insufficient or has been overruled, or when a protest
8 against the extent of the proposed district or proposed
9 expansion of a district has been heard and denied, the
10 governing body has jurisdiction to order the creation or
11 expansion of the district and shall pass a resolution
12 creating or expanding the district in accordance with the
13 resolution of intention."

14 **Section 5.** Section 7-12-1133, MCA, is amended to read:

15 "7-12-1133. **Assessment of costs -- area, lot, taxable**
16 **valuation, and square footage options.** (1) At the same time
17 the board submits the annual budget and work plan to the
18 governing body as provided in 7-12-1132, the board shall
19 also recommend to the governing body a method of levying an
20 assessment on the property within the district which will
21 best ensure that the assessment on each lot or parcel is
22 equitable in proportion to the benefits to be received.

23 (2) The governing body shall annually assess the entire
24 cost of the district against the entire district using a
25 method which best ensures that the assessment on each lot or

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 2 received. In determining the method of assessment to be
 3 used, the governing body shall consider the recommendations
 4 of the board. The governing board shall levy the assessment
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6 (a) each lot or parcel of land within such district may
 7 be assessed for that part of the whole cost which its area
 8 bears to the area of the entire district, exclusive of
 9 streets, avenues, alleys, and public places;

10 (b) if the governing body determines that the benefits
 11 derived by each lot or parcel are substantially equivalent,
 12 the cost may be assessed equally to each lot or parcel
 13 located within the district without regard to the area of
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 25 provided in subsections (2)(a) through (2)(d).

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