

HOUSE BILL 517

Introduced by Gould, et al.

1/31	Introduced
1/31	Referred to Local Government
2/01	First Reading
2/14	Hearing
2/14	Tabled in Committee

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 2 INTRODUCTION BY HOUSE BILL NO. 517
 3 *John E. NATHAN*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A BOARD OF
 5 COUNTY COMMISSIONERS TO CREATE A SPECIAL SERVICE DISTRICT
 6 AND LEVY TAXES FOR THE PURPOSE OF PROVIDING SERVICES TO A
 7 MUNICIPALITY THAT DISINCORPORATES; AND AMENDING SECTIONS
 8 7-2-4902, 7-2-4906, 7-3-145, AND 15-10-412, MCA."

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

11 NEW SECTION. **Section 1.** Special service district --
 12 tax levy authorized. (1) If a municipality disincorporates
 13 according to the provisions of Title 7, chapter 2, part 49,
 14 or Title 7, chapter 3, part 1, the board of county
 15 commissioners of the county in which the municipality is
 16 located, if requested in the petition calling for
 17 disincorporation, may create a special service district,
 18 with boundaries that encompass all or part of the
 19 disincorporated municipality, for the purpose of providing
 20 those services previously provided by the municipality.

21 (2) Any mills levied by the municipality on behalf of
 22 the area encompassed by the new special service district may
 23 be levied by the board of county commissioners on the
 24 property owners of the new district.

25 **Section 2.** Section 7-2-4902, MCA, is amended to read:

1 "7-2-4902. Disincorporation by election -- provision of
 2 services by county. (1) Any city or town may be
 3 disincorporated in the manner hereafter provided.

4 (2) If the registered electors of a city or town equal
 5 in number to 20% of the number of electors voting at the
 6 last regular municipal election petition the board of county
 7 commissioners of the county where the city or town is
 8 situated to disincorporate the city or town, or if the city
 9 governing body by a two-thirds vote of all its members
 10 resolves to disincorporate, then the board shall order,
 11 within 60 days, that a special election be held within the
 12 city or town on the question of disincorporating the city or
 13 town. The day for holding the election shall be not less
 14 than 75 days or more than 120 days after the board orders
 15 the election.

16 (3) The petition for disincorporation may include a
 17 request for the board of county commissioners to create a
 18 special service district for the purpose of providing
 19 services to the residents of the area of the city or town if
 20 it disincorporates. The request must also include
 21 authorization for the county commissioners to levy taxes on
 22 the special service district as provided in [section 1]."

23 **Section 3.** Section 7-2-4906, MCA, is amended to read:

24 "7-2-4906. Effect of sufficient vote to disincorporate
 25 -- creation of special service district. (1) In case the



1 canvass reveals that 60% or more of all the votes cast were
2 in favor of disincorporation, the county commissioners
3 shall, under their hands, make and file in their office and
4 cause to be entered upon their proceedings an order that the
5 petition for disincorporation be granted and declaring that
6 the city or town is disincorporated. The order takes effect
7 within 60 days following the date of the order.

8 (2) If the petition for disincorporation included a
9 request for the creation of a special service district and
10 an authorization to levy taxes as provided in [section 1],
11 the district is automatically created at the time the order
12 for disincorporation takes effect.

13 ~~(2)~~(3) A certified copy of the order shall be sent to
14 the secretary of state and the head of the department of
15 commerce."

16 **Section 4.** Section 7-3-145, MCA, is amended to read:

17 "7-3-145. Special requirements if municipal
18 disincorporation recommended. (1) Whenever municipal
19 disincorporation is recommended, a petition, in addition to
20 the material required by 7-3-142, must contain:

21 ~~(1)~~(a) a certificate of disincorporation instead of a
22 plan of government; and

23 ~~(2)~~(b) a recommended plan of disincorporation.

24 (2) The petition may also include a request for the
25 board of county commissioners to create a special service

1 district and an authorization to levy taxes as provided in
2 [section 1]."

3 **Section 5.** Section 15-10-412, MCA, is amended to read:

4 "15-10-412. Property tax limited to 1986 levels --
5 clarification -- extension to all property classes. Section
6 15-10-402 is interpreted and clarified as follows:

7 (1) The limitation to 1986 levels is extended to apply
8 to all classes of property described in Title 15, chapter 6,
9 part 1.

10 (2) The limitation on the amount of taxes levied is
11 interpreted to mean that, except as otherwise provided in
12 this section, the actual tax liability for an individual
13 property is capped at the dollar amount due in each taxing
14 unit for the 1986 tax year. In tax years thereafter, the
15 property must be taxed in each taxing unit at the 1986 cap
16 or the product of the taxable value and mills levied,
17 whichever is less for each taxing unit, except in a taxing
18 unit that levied a tax in tax years 1983 through 1985 but
19 did not levy a tax in 1986, in which case the actual tax
20 liability for an individual property is capped at the dollar
21 amount due in that taxing unit for the 1985 tax year.

22 (3) The limitation on the amount of taxes levied does
23 not mean that no further increase may be made in the total
24 taxable valuation of a taxing unit as a result of:

25 (a) annexation of real property and improvements into a

1 taxing unit;

2 (b) construction, expansion, or remodeling of

3 improvements;

4 (c) transfer of property into a taxing unit;

5 (d) subdivision of real property;

6 (e) reclassification of property;

7 (f) increases in the amount of production or the value

8 of production for property described in 15-6-131 or

9 15-6-132;

10 (g) transfer of property from tax-exempt to taxable

11 status;

12 (h) revaluations caused by:

13 (i) cyclical reappraisal; or

14 (ii) expansion, addition, replacement, or remodeling of

15 improvements; or

16 (i) increases in property valuation pursuant to

17 15-7-111(4) through (8) in order to equalize property values

18 annually.

19 (4) The limitation on the amount of taxes levied does

20 not mean that no further increase may be made in the taxable

21 valuation or in the actual tax liability on individual

22 property in each class as a result of:

23 (a) a revaluation caused by:

24 (i) construction, expansion, replacement, or remodeling

25 of improvements that adds value to the property; or

1 (ii) cyclical reappraisal;

2 (b) transfer of property into a taxing unit;

3 (c) reclassification of property;

4 (d) increases in the amount of production or the value

5 of production for property described in 15-6-131 or

6 15-6-132;

7 (e) annexation of the individual property into a new

8 taxing unit;

9 (f) conversion of the individual property from

10 tax-exempt to taxable status; or

11 (g) increases in property valuation pursuant to

12 15-7-111(4) through (8) in order to equalize property values

13 annually.

14 (5) Property in classes four, twelve, and fourteen is

15 valued according to the procedures used in 1986, including

16 the designation of 1982 as the base year, until the

17 reappraisal cycle beginning January 1, 1986, is completed

18 and new valuations are placed on the tax rolls and a new

19 base year designated, if the property is:

20 (a) new construction;

21 (b) expanded, deleted, replaced, or remodeled

22 improvements;

23 (c) annexed property; or

24 (d) property converted from tax-exempt to taxable

25 status.

1 (6) Property described in subsections (5)(a) through
 2 (5)(d) that is not class four, class twelve, or class
 3 fourteen property is valued according to the procedures used
 4 in 1986 but is also subject to the dollar cap in each taxing
 5 unit based on 1986 mills levied.

6 (7) The limitation on the amount of taxes, as clarified
 7 in this section, is intended to leave the property appraisal
 8 and valuation methodology of the department of revenue
 9 intact. Determinations of county classifications, salaries
 10 of local government officers, and all other matters in which
 11 total taxable valuation is an integral component are not
 12 affected by 15-10-401 and 15-10-402 except for the use of
 13 taxable valuation in fixing tax levies. In fixing tax
 14 levies, the taxing units of local government may anticipate
 15 the deficiency in revenues resulting from the tax
 16 limitations in 15-10-401 and 15-10-402, while understanding
 17 that regardless of the amount of mills levied, a taxpayer's
 18 liability may not exceed the dollar amount due in each
 19 taxing unit for the 1986 tax year unless:

20 (a) the taxing unit's taxable valuation decreases by 5%
 21 or more from the 1986 tax year. If a taxing unit's taxable
 22 valuation decreases by 5% or more from the 1986 tax year, it
 23 may levy additional mills to compensate for the decreased
 24 taxable valuation, but in no case may the mills levied
 25 exceed a number calculated to equal the revenue from

1 property taxes for the 1986 tax year in that taxing unit.

2 (b) a levy authorized under Title 20 raised less
 3 revenue in 1986 than was raised in either 1984 or 1985, in
 4 which case the taxing unit may, after approval by the voters
 5 in the taxing unit, raise each year thereafter an additional
 6 number of mills but may not levy more revenue than the
 7 3-year average of revenue raised for that purpose during
 8 1984, 1985, and 1986;

9 (c) a levy authorized in 50-2-111 that was made in 1986
 10 was for less than the number of mills levied in either 1984
 11 or 1985, in which case the taxing unit may, after approval
 12 by the voters in the taxing unit, levy each year thereafter
 13 an additional number of mills but may not levy more than the
 14 3-year average number of mills levied for that purpose
 15 during 1984, 1985, and 1986.

16 (8) The limitation on the amount of taxes levied does
 17 not apply to the following levy or special assessment
 18 categories, whether or not they are based on commitments
 19 made before or after approval of 15-10-401 and 15-10-402:

- 20 (a) rural improvement districts;
- 21 (b) special improvement districts;
- 22 (c) levies pledged for the repayment of bonded
- 23 indebtedness, including tax increment bonds;
- 24 (d) city street maintenance districts;
- 25 (e) tax increment financing districts;

1 (f) satisfaction of judgments against a taxing unit;
 2 (g) street lighting assessments;
 3 (h) revolving funds to support any categories specified
 4 in this subsection (8);
 5 (i) levies for economic development authorized pursuant
 6 to 90-5-112(4); and
 7 (j) elementary and high school districts; and
 8 (k) special service districts authorized in [section
 9 1].

10 (9) The limitation on the amount of taxes levied does
 11 not apply in a taxing unit if the voters in the taxing unit
 12 approve an increase in tax liability following a resolution
 13 of the governing body of the taxing unit containing:

14 (a) a finding that there are insufficient funds to
 15 adequately operate the taxing unit as a result of 15-10-401
 16 and 15-10-402;

17 (b) an explanation of the nature of the financial
 18 emergency;

19 (c) an estimate of the amount of funding shortfall
 20 expected by the taxing unit;

21 (d) a statement that applicable fund balances are or by
 22 the end of the fiscal year will be depleted;

23 (e) a finding that there are no alternative sources of
 24 revenue;

25 (f) a summary of the alternatives that the governing

1 body of the taxing unit has considered; and
 2 (g) a statement of the need for the increased revenue
 3 and how it will be used.

4 (10) (a) The limitation on the amount of taxes levied
 5 does not apply to levies required to address the funding of
 6 relief of suffering of inhabitants caused by famine,
 7 conflagration, or other public calamity.

8 (b) The limitation set forth in this chapter on the
 9 amount of taxes levied does not apply to levies to support a
 10 city-county board of health as provided in Title 50, chapter
 11 2, if the governing bodies of the taxing units served by the
 12 board of health determine, after a public hearing, that
 13 public health programs require funds to ensure the public
 14 health. A levy for the support of a local board of health
 15 may not exceed the 5-mill limit established in 50-2-111.

16 (11) The limitation on the amount of taxes levied by a
 17 taxing jurisdiction subject to a statutory maximum mill levy
 18 does not prevent a taxing jurisdiction from increasing its
 19 number of mills beyond the statutory maximum mill levy to
 20 produce revenue equal to its 1986 revenue.

21 (12) The limitation on the amount of taxes levied does
 22 not apply to a levy increase to repay taxes paid under
 23 protest in accordance with 15-1-402."

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