

SENATE BILL NO. 261

INTRODUCED BY LYNCH, HALLIGAN, JACOBSON, STIMATZ, PIPINICH,  
FRITZ, DAILY, WHALEN, HARRINGTON, QUILICI, KADAS, BROOKE,  
DRISCOLL, COCCHIARELLA, MENAHAN, MCCARTHY, REAM, SQUIRES,  
HARPER, MANNING, PINSONEAULT, PAVLOVICH

IN THE SENATE

FEBRUARY 2, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON LOCAL GOVERNMENT.

FEBRUARY 4, 1991                   FIRST READING.

FEBRUARY 15, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 16, 1991                  PRINTING REPORT.

                                      SECOND READING, DO PASS.

FEBRUARY 18, 1991                  ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
AYES, 49; NOES, 0.

                                      TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 4, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON LOCAL GOVERNMENT.

                                      FIRST READING.

MARCH 14, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 16, 1991                   SECOND READING, CONCURRED IN.

MARCH 18, 1991                   THIRD READING, CONCURRED IN.  
AYES, 92; NOES, 4.

                                      RETURNED TO SENATE.

IN THE SENATE

MARCH 19, 1991                   RECEIVED FROM HOUSE.

                                      SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *241* *Bob Fijorech*  
 2 INTRODUCED BY *Just Kelly* *Isabelle Dwyer*  
 3 *John Paul Whalen* *Hampton* *Julian Kados*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE *Ream*  
 5 LAW RELATING TO CONSOLIDATED GOVERNMENT AND MUNICIPAL WATER *Cocchiarella* *Menagar B. McCarty*  
 6 SUPPLY SYSTEMS, PROVIDING THAT A CONSOLIDATED LOCAL *Richard* *Murphy* *Kennell*  
 7 GOVERNMENT MAY SUPPLY SANITARY SEWER OR STORM SEWER SERVICES *Carlson*  
 8 OR WATER TO A DISTRICT; PROVIDING THAT A CONSOLIDATED LOCAL  
 9 GOVERNMENT OR A CITY OR TOWN COUNCIL MAY PURCHASE A PRIVATE  
 10 WATER SUPPLY SYSTEM OR TAKE THE SYSTEM BY EMINENT DOMAIN;  
 11 PROVIDING THAT THE PASSAGE OF AN ORDINANCE OR RESOLUTION  
 12 PROPOSING THE TAKING IS CONCLUSIVE ON THE ISSUE OF NECESSITY  
 13 FOR THE TAKING OF A SYSTEM; AND AMENDING SECTION 7-13-4403,  
 14 MCA."

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

16 NEW SECTION. **Section 1.** Definitions. As used in  
17 [sections 1 through 34], the following definitions apply:

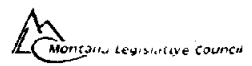
- 18 (1) "District" means a district authorized in [section
- 19 2] to provide a system.
- 20
- 21 (2) "Local government" means a consolidated form of
- 22 local government provided for in Title 7, chapter 3, parts
- 23 11 through 13.
- 24
- 25 (3) "System" means a public water supply, sanitary
- sewer system, storm sewer system, or any combination of

1 water supply, sanitary sewer, or storm sewer systems.  
 2 NEW SECTION. **Section 2.** Authorization to create  
 3 district. Whenever the public convenience and necessity may  
 4 require, in order to construct a water supply, sanitary  
 5 sewer, or storm sewer system within a local government that  
 6 would serve the inhabitants of the local government, the  
 7 governing body may create a district to provide the system.

8 NEW SECTION. **Section 3.** Resolution of intention to  
 9 create district. (1) Before creating a district, the  
 10 governing body shall pass a resolution of intention to  
 11 create the district.

- 12 (2) The resolution must designate:
- 13 (a) the proposed name of the district;
- 14 (b) the necessity for the proposed district;
- 15 (c) a general description of the territory or lands to
- 16 be included within the district, giving the boundaries of
- 17 the district;
- 18 (d) the general character of the system and its
- 19 proposed location;
- 20 (e) the name of the engineer who is to have charge of
- 21 the work; and
- 22 (f) the estimated cost of the district.

23 NEW SECTION. **Section 4.** Sufficiency of description in  
 24 resolution of intention. In all resolutions, notices,  
 25 orders, and determinations subsequent to the resolution of



1 intention and notice of improvements, it is sufficient to  
2 briefly describe the work or the district and to refer to  
3 the resolution of intention for further particulars.

4 NEW SECTION. Section 5. Notice of resolution of  
5 intention upon concurrence -- hearing. (1) The governing  
6 body shall give notice of the passage of its resolution of  
7 intention to create the district.

8 (2) The notice must be published for 10 consecutive  
9 days in a daily newspaper published nearest to the place  
10 where the district is to be created. The governing body  
11 shall also cause a copy of the notice to be posted in three  
12 public places within the boundaries of the district. A copy  
13 of the notice must be mailed to every person, firm, or  
14 corporation or the agent of the person, firm, or corporation  
15 owning property within the proposed district, at his  
16 last-known place of residence, upon the same day the notice  
17 is first published or posted.

18 (3) The notice must describe the general character of  
19 the improvement or improvements proposed to be made, state  
20 the estimated cost, and designate the time when and the  
21 place where the governing body will hear and pass upon all  
22 protests that may be made against the making or maintenance  
23 of the improvements or the creation of the district. The  
24 notice must refer to the resolution on file in the office of  
25 the local government clerk for the description of the

1 boundaries.

2 NEW SECTION. Section 6. Right to protest. (1) At any  
3 time within 30 days after the date of the first publication  
4 of the passage of the resolution of intention, any owner of  
5 property liable to be assessed for the system may make  
6 written protest against the proposed system.

7 (2) The protest must be in writing and be delivered to  
8 the county clerk, who shall endorse on the protest the date  
9 of the receipt.

10 NEW SECTION. Section 7. Sufficient protest to bar  
11 proceedings. If protests against the proposed system are  
12 received from the owners of 50% or more of the area in the  
13 proposed district, further proceedings may not be taken by  
14 the governing body.

15 NEW SECTION. Section 8. Hearing on protest. (1) At the  
16 next regular meeting of the governing body after the  
17 expiration of the time within which protest may be made, the  
18 governing body shall hear and pass upon all protests, and  
19 its decision is final and conclusive.

20 (2) In determining whether or not sufficient protests  
21 have been filed in the proposed district to prevent further  
22 proceedings, property owned by local government and school  
23 districts is considered the same as any other property in  
24 the district.

25 (3) The governing body may adjourn the hearing from

1 time to time.

2 NEW SECTION. Section 9. Resolution creating district  
3 -- power to order improvements. (1) Before ordering any of  
4 the proposed improvements, the governing body shall pass a  
5 resolution creating the district in accordance with the  
6 resolution of intention introduced and passed by the  
7 governing body.

8 (2) The governing body has jurisdiction to order  
9 improvements immediately upon the occurrence of one of the  
10 following:

11 (a) when no protests have been delivered to the county  
12 clerk within 30 days after the date of the first publication  
13 of the notice of the passing of the resolution of intention;

14 (b) when a protest is found by the governing body to be  
15 insufficient; or

16 (c) when a protest is overruled.

17 NEW SECTION. Section 10. Governing body to administer  
18 district. (1) The members of the governing body are ex  
19 officio commissioners of the district formed under the  
20 provisions of [sections 1 through 34] and have jurisdiction  
21 over the system within the district. The governing body is  
22 responsible for the proper functioning and maintenance of  
23 the system.

24 (2) The governing body is responsible for the condition  
25 and maintenance of all publicly owned roads, streets,

1 alleys, land, parks, or other thoroughfares within the  
2 boundaries of the district affected by the construction or  
3 maintenance of the structures under control and jurisdiction  
4 of the district.

5 NEW SECTION. Section 11. Change of boundaries --  
6 limitations. (1) The governing body may by resolution make  
7 changes in the boundaries of a district as they consider  
8 reasonable and proper but may not delete any portion of the  
9 proposed area if the deletion will create an island of  
10 included or excluded lands.

11 (2) The governing body may not delete any portion of  
12 the proposed area that is contributing or may reasonably be  
13 expected to contribute to the pollution of any watercourse  
14 or body of water in the proposed area.

15 (3) For the purpose of subsection (2), it is  
16 conclusively presumed that an area that is within 1,500 feet  
17 of a proposed or existing sanitary sewer is contributing to  
18 the pollution of a watercourse in the proposed area.

19 NEW SECTION. Section 12. Applicable provisions of laws  
20 relating to rural improvement districts. The provisions of  
21 7-12-2101, 7-12-2106, 7-12-2107, 7-12-2110, 7-12-2115  
22 through 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153,  
23 7-12-2154, 7-12-2161 through 7-12-2165, 7-12-2166(2),  
24 7-12-2168(2), 7-12-2169, and 7-12-2171 through 7-12-2174  
25 pertaining to rural improvement districts apply to [sections

1 1 through 34] unless in conflict with the provisions of  
2 [sections 1 through 34].

3 NEW SECTION. Section 13. Adequate records to be  
4 maintained. The records of the district pertaining to the  
5 collection of the operation and maintenance tax levied and  
6 the records of the district pertaining to expenditures for  
7 construction of the system must be kept and maintained in  
8 the office of the treasurer of the local government where  
9 the district is located. These records must include but not  
10 be limited to a list of individual property that is  
11 delinquent in payment, together with the name of the owner  
12 or owners of the property.

13 NEW SECTION. Section 14. Assessment of costs. To  
14 defray the cost of installing and maintaining the system  
15 under the provisions of [sections 1 through 34], the  
16 governing body shall adopt the following method of  
17 assessment:

18 (1) The governing body shall assess the entire cost of  
19 the improvements against the entire district.

20 (2) Each lot or parcel of land assessed in the district  
21 is to be assessed with that part of the whole cost that its  
22 area bears to the area of the entire district, exclusive of  
23 streets, avenues, alleys, and public places.

24 NEW SECTION. Section 15. Status of federal property  
25 within district. Whenever any lot, piece, or parcel of land

1 belonging to the United States fronts upon the proposed work  
2 or improvement or is to be included within the district the  
3 governing body shall in the resolution of intention declare  
4 that the lots, pieces, or parcels of land must be omitted  
5 from the assessment to be made to cover the cost and  
6 expenses of the work or improvement, and the cost of the  
7 work or improvement in front of the lots, pieces, or parcels  
8 of land must be paid by the local government from its  
9 general fund.

10 NEW SECTION. Section 16. Restriction on assessments  
11 following change of boundaries. Nothing in [section 11]  
12 permits the assessment of the cost of the system against the  
13 lands remaining in the district after a boundary change at a  
14 higher rate per square foot than the rate per square foot  
15 that would have been assessed if the entire cost of the  
16 improvements as estimated in the resolution of intention had  
17 been assessed against each lot and parcel of land included  
18 within the boundaries of the district as described in the  
19 resolution of intention unless a new resolution of intention  
20 to recreate the district is adopted and a hearing is held on  
21 the new resolution after notice as required for the original  
22 resolution of intention.

23 NEW SECTION. Section 17. Resolution to assess and levy  
24 tax for making improvements. (1) To defray the cost of  
25 making improvements in the district, the governing body

1 shall by resolution levy and assess a tax upon all property  
2 in the district created for the purpose of the system by  
3 using as a basis for the assessment the method provided for  
4 by [sections 1 through 34].

5 (2) The resolution must contain a description of each  
6 lot or parcel of land, with the name of the owner, if known,  
7 and the amount of each partial payment when made and the day  
8 when the payment becomes delinquent.

9 (3) The resolution, signed by the governing body, must  
10 be kept on file in the office of the local government clerk.

11 NEW SECTION. Section 18. Term of assessment for costs  
12 of construction. The payment of the assessment to defray the  
13 cost of constructing any improvements in the district may be  
14 spread over a term of not more than 20 years, with payment  
15 to be made in equal installments.

16 NEW SECTION. Section 19. Notice of resolution to  
17 assess and levy tax for making improvements -- protest. (1)  
18 A notice, signed by the local government clerk and stating  
19 that the resolution levying a special assessment to defray  
20 the cost of making the improvements is on file in the office  
21 of the clerk and is subject to inspection, must be published  
22 at least once in a newspaper published nearest to where the  
23 special improvement is to be made.

24 (2) The notice must state the time and place in which  
25 objections to the final adoption of the resolution will be

1 heard by the governing body.

2 NEW SECTION. Section 20. Hearing on protest. (1) The  
3 time for the hearing on protest must be not less than 5 days  
4 after the publication of the notice required by 7-13-126.

5 (2) At the time fixed, the governing body shall meet  
6 and hear all objections and for that purpose may adjourn  
7 from day to day. The governing body may by resolution modify  
8 the assessment in whole or in part. A copy of the  
9 resolution, certified by the clerk of the local government,  
10 must be delivered to the local government treasurer within 2  
11 days after its passage.

12 NEW SECTION. Section 21. Assessments and other charges  
13 as lien. A special assessment made and levied to defray the  
14 cost and expenses of the work for the system, together with  
15 any percentages imposed for delinquency and for cost of  
16 collection, are a lien upon the property upon which the  
17 assessment is made and levied, from and after the date of  
18 the passage of the resolution levying the assessment. The  
19 lien may only be extinguished by payment of the assessment,  
20 with all penalties, costs, and interest.

21 NEW SECTION. Section 22. Charges for services. (1) The  
22 governing body may by ordinance or resolution establish just  
23 and equitable rates, charges, and rentals for the services  
24 and benefits directly or indirectly afforded by a system  
25 operated by, controlled by, and under the jurisdiction of a

1 district formed under [sections 1 through 34].

2 (2) The rates, charges, and rentals must be as nearly  
3 as possible equitable in proportion to the services and  
4 benefits rendered and may take into consideration the  
5 quantity of water supplied, the amount of sewage produced  
6 and its concentration, water pollution qualities in general,  
7 and the cost of disposal of sewage and storm waters.

8 NEW SECTION. Section 23. Authorization to use federal  
9 funds. The governing body may apply for and receive from the  
10 federal government, on behalf of the district, any money  
11 that may be appropriated by congress for aiding in local  
12 public works projects. The governing body may borrow from  
13 the federal government any funds available for assisting in  
14 the planning or financing of local public works projects and  
15 repay the loan out of the money received from the tax levy  
16 provided for in this part.

17 NEW SECTION. Section 24. Charges for costs when  
18 federal funding is sought. Notwithstanding any other section  
19 of [sections 1 through 34] or a limitation imposed in  
20 [sections 1 through 34], when the governing body has applied  
21 for funds pursuant to [section 23], the governing body may  
22 adopt a system of charges and rates to require that each  
23 recipient of services pays its proportionate share of the  
24 costs of operation, maintenance, and replacement and to  
25 require industrial users of services to pay that portion of

1 the cost of construction of the system that is allocable to  
2 the industrial user.

3 NEW SECTION. Section 25. Resolution to establish  
4 service charges -- hearing -- limitations and tax levy. The  
5 governing body may, subject to the provisions of Title 69,  
6 chapter 7, by resolution and after public hearing:

7 (1) establish the rates, charges, and rentals in  
8 amounts sufficient in each year to provide income and  
9 revenues adequate for the payment of the reasonable expense  
10 of operation and maintenance of the system;

11 (2) establish an additional charge for the operation  
12 and maintenance of a system and a plant; and

13 (3) levy and assess a tax upon the taxable valuation of  
14 each and every lot or parcel of land and improvements in the  
15 district, not in excess of 2 mills on each dollar of taxable  
16 valuation, to provide sufficient revenues for the reserve  
17 fund in the amounts necessary to meet the financial  
18 requirements of the fund as described in [sections 28  
19 through 33].

20 NEW SECTION. Section 26. Hearing and notice on tax  
21 levy for operation and maintenance. (1) Not less than 30  
22 days prior to the date of making the levy for operation and  
23 maintenance of the system, the governing body shall hold a  
24 public hearing on the resolution.

25 (2) Notice clearly setting forth the subject matter of



1 the hearing must be given by the governing body by  
2 publication as provided in 7-1-2121, and notice must also be  
3 posted in three public places within the district.

4 NEW SECTION. Section 27. Preparation and filing of  
5 district budget. (1) Not less than 30 days prior to the date  
6 of the public hearing on the resolution, the governing body  
7 shall prepare and file in the office of the clerk of the  
8 local government in which the district is located and in the  
9 office of the governing body a complete, detailed budget for  
10 operation and maintenance of the system, showing all income  
11 and expenditures for the year prior to the hearing and all  
12 estimated income and expenditures for the next ensuing year  
13 in which the levy is assessed.

14 (2) The provisions of law relating to local government  
15 budgets and expenditures must be complied with by the  
16 district.

17 NEW SECTION. Section 28. Authorization for reserve  
18 fund. The governing body may, in order to secure prompt  
19 payment of any district bonds issued in payment of the cost  
20 of improvements for the district and the interest on the  
21 bonds as it becomes due, create, establish, and maintain by  
22 resolution a fund, to be designated as the "reserve fund",  
23 for each issue of bonds.

24 NEW SECTION. Section 29. Sources of money for reserve  
25 fund. (1) For the purpose of providing money for the reserve

1 fund, the governing body may in its discretion, from time to  
2 time, transfer to the reserve fund from the operation and  
3 maintenance fund of the district an amount as may be  
4 considered necessary or as may be agreed upon with the  
5 holders of the bonds.

6 (2) Whenever there is money in the bond fund that is  
7 not required for payment of a bond of the district or  
8 interest on the bond, as much as is necessary to pay the  
9 loan referred to in [section 31] must, by order of the  
10 governing body, be transferred to the reserve fund.

11 NEW SECTION. Section 30. Transfers to reserve fund  
12 considered as loans. The amount or amounts transferred under  
13 [section 29] must be considered as loans from the operation  
14 and maintenance fund to the reserve fund.

15 NEW SECTION. Section 31. Loans from reserve fund to  
16 bond fund as lien. (1) Whenever a loan is made to the bond  
17 fund from the reserve fund, the reserve fund has a lien for  
18 the amount of the loan on:

19 (a) the land within the district that is delinquent in  
20 the payment of its assessments;

21 (b) unpaid assessments and instalments of assessments  
22 on the district, whether delinquent or not; and

23 (c) money coming into the bond fund to the amount of  
24 the loan, together with interest on the loan from the time  
25 it was made at the rate or percentage payable by the bond or

1 of interest on the bond for which the loan was made.

2 (2) If after all the bonds of the district have been  
3 fully paid and all money remaining in the bond fund has been  
4 transferred to the reserve fund, there still remains a debt  
5 from the district to the reserve fund, the governing body  
6 may foreclose the lien upon property within the district  
7 owing unpaid assessments to the district for the purpose of  
8 paying off the loan to the reserve fund.

9 NEW SECTION. Section 32. Limitation on repayment of  
10 loan to reserve fund. Nothing in [sections 28 through 33]  
11 permits the repayment of a loan to the reserve fund at any  
12 time unless all interest accrued on the bonds has been fully  
13 paid and all principal agreed to be paid in accordance with  
14 the redemption schedule as may be provided in the resolution  
15 or resolutions authorizing the bonds has been paid.

16 NEW SECTION. Section 33. Covenants to use and maintain  
17 reserve fund. (1) In connection with the issuance of  
18 district bonds, the governing body may undertake and agree:

19 (a) to issue orders annually authorizing loans or  
20 advances from the reserve fund to the fund maintained for  
21 the payment of the bonds in amounts sufficient to make good  
22 any deficiency in the bond and interest accounts to the  
23 extent that money is available; and

24 (b) to provide money for the reserve fund pursuant to  
25 the provisions of [sections 22 and 25] by establishing and

1 collecting rates, charges, and rentals for services and  
2 benefits in amounts sufficient to provide net revenues in  
3 excess of the current costs of operation and maintenance of  
4 the system and sufficient to maintain a balance in the  
5 reserve fund as the governing body may agree to and  
6 undertake.

7 (2) The undertakings and agreements authorized by  
8 subsection (1) are binding upon the local government as long  
9 as any bonds or any interest on the bonds remains unpaid.

10 NEW SECTION. Section 34. Acquisition of private water  
11 supply system. (1) If a franchise has been granted to or a  
12 contract made with any person or corporation and the person  
13 or corporation has established or maintained a system of  
14 water supply or has valuable water rights or a supply of  
15 water desired by the district for supplying the district  
16 with water, the governing body granting the franchise,  
17 entering the contract, or desiring the water supply shall,  
18 by the passage of a resolution, give notice to the person or  
19 corporation that it desires to purchase the plant,  
20 franchise, or water supply of the person or corporation.

21 (2) The governing body passing a resolution as provided  
22 in subsection (1) may:

23 (a) purchase the plant, franchise, or water supply upon  
24 terms agreed to by the parties; or

25 (b) take the plant, franchise, or water supply by

1 eminent domain.

2 (3) A resolution that authorizes the taking of private  
3 property for purposes of supplying the district with water  
4 is conclusive as to the necessity for the taking, except  
5 with respect to a water supply system used for irrigation of  
6 agricultural crops or for livestock purposes. The taking  
7 must conform to and be conducted as provided in Title 70,  
8 chapters 30 and 31.

9 **Section 35.** Section 7-13-4403, MCA, is amended to read:

10 "7-13-4403. Acquisition of private water supply system.

11 (1) ~~It is provided that whenever~~ If a franchise has been  
12 granted to or a contract made with any person or persons,  
13 corporation,~~or corporations~~ and such the person or persons,  
14 corporation,~~or corporations,~~ ~~in pursuance thereof,~~ or  
15 ~~otherwise,~~ has established or maintained a system of  
16 water supply or have has valuable water rights or a supply  
17 of water desired by the city or town for supplying the city  
18 or town with water, the city or town granting such the  
19 franchise, or entering ~~in such the~~ contract, or desiring  
20 such the water supply shall, by the passage of an ordinance,  
21 give notice to such the person or persons, corporation,~~or~~  
22 corporations that it desires to purchase the plant, and  
23 franchise, and or water supply of such the person or  
24 persons, corporation,~~or corporations.~~

25 (2) The city or town ~~shall have the right to so~~ passing

1 an ordinance as provided in subsection (1) may:

2 (a) purchase the plant or water supply upon such terms  
3 as agreed to by the parties agree; or

4 (b) take the plant, franchise, or water supply by  
5 eminent domain if the plant, franchise, or water supply is  
6 to be used for a municipal water system.

7 (3) An ordinance that authorizes the taking of private  
8 property for purposes of supplying the city or town with  
9 water is conclusive as to the necessity for the taking,  
10 except with respect to a water supply system used for  
11 irrigation of agricultural crops or livestock purposes. The  
12 taking must conform to and be conducted as provided in Title  
13 70, chapters 30 and 31."

14 NEW SECTION. Section 36. Codification instruction.

15 [Sections 1 through 34] are intended to be codified as an  
16 integral part of Title 7, chapter 13, and the provisions of  
17 Title 7, chapter 13, apply to [sections 1 through 34].

-End-

APPROVED BY COMM.  
ON LOCAL GOVERNMENT

SENATE BILL NO. 261

INTRODUCED BY LYNCH, HALLIGAN, JACOBSON, STIMATZ, PIPINICH,  
FRITZ, DAILY, WHALEN, HARRINGTON, QUILICI, KADAS, BROOKE,  
DRISCOLL, COCCHIARELLA, MENAHAN, MCCARTHY, REAM, SQUIRES,  
HARPER, MANNING, PINSONEAULT, PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
LAW RELATING TO CONSOLIDATED GOVERNMENT AND MUNICIPAL WATER  
SUPPLY SYSTEMS; PROVIDING THAT A CONSOLIDATED LOCAL  
GOVERNMENT MAY SUPPLY SANITARY SEWER OR STORM SEWER SERVICES  
OR WATER TO A DISTRICT; AND PROVIDING THAT A CONSOLIDATED  
LOCAL GOVERNMENT OR A CITY OR TOWN COUNCIL MAY PURCHASE A  
PRIVATE WATER SUPPLY SYSTEM OR TAKE THE SYSTEM BY EMINENT  
DOMAIN;--PROVIDING--THAT--THE--PASSAGE--OF--AN--ORDINANCE--OR  
RESOLUTION--PROPOSING--THE--TAKING--IS--CONCLUSIVE--ON--THE--ISSUE  
OF--NECESSITY--FOR--THE--TAKING--OF--A--SYSTEM;--AND--AMENDING  
SECTION-7-13-4403,-MCA."

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

NEW SECTION. Section 1. Definitions. As used in

[sections 1 through 34], the following definitions apply:

(1) "District" means a district authorized in [section  
2] to provide a system.

(2) "Local government" means a consolidated form of  
local government provided for in Title 7, chapter 3, parts

11 through 13.

(3) "System" means a public water supply, sanitary  
sewer system, storm sewer system, or any combination of  
water supply, sanitary sewer, or storm sewer systems.

NEW SECTION. Section 2. Authorization to create  
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require, in order to construct a water supply, sanitary  
sewer, or storm sewer system within a local government that  
would serve the inhabitants of the local government, the  
governing body may create a district to provide the system.

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(2) The resolution must designate:

(a) the proposed name of the district;

(b) the necessity for the proposed district;

(c) a general description of the territory or lands to  
be included within the district, giving the boundaries of  
the district;

(d) the general character of the system and its  
proposed location;

(e) the name of the engineer who is to have charge of  
the work; and

(f) the estimated cost of the district.



1        NEW SECTION.    **Section 4.**    Sufficiency of description in  
2    resolution of intention. In all resolutions, notices,  
3    orders, and determinations subsequent to the resolution of  
4    intention and notice of improvements, it is sufficient to  
5    briefly describe the work or the district and to refer to  
6    the resolution of intention for further particulars.

7        NEW SECTION.    **Section 5.**    Notice of resolution of  
8    intention upon concurrence -- hearing. (1) The governing  
9    body shall give notice of the passage of its resolution of  
10   intention to create the district.

11        (2) The notice must be published for 10 consecutive  
12   days in a daily newspaper published nearest to the place  
13   where the district is to be created. The governing body  
14   shall also cause a copy of the notice to be posted in three  
15   public places within the boundaries of the district. A copy  
16   of the notice must be mailed to every person, firm, or  
17   corporation or the agent of the person, firm, or corporation  
18   owning property within the proposed district, at his  
19   last-known place of residence, upon the same day the notice  
20   is first published or posted.

21        (3) The notice must describe the general character of  
22   the improvement or improvements proposed to be made, state  
23   the estimated cost, and designate the time when and the  
24   place where the governing body will hear and pass upon all  
25   protests that may be made against the making or maintenance

1    of the improvements or the creation of the district. The  
2    notice must refer to the resolution on file in the office of  
3    the local government clerk for the description of the  
4    boundaries.

5        NEW SECTION.    **Section 6.**    Right to protest. (1) At any  
6    time within 30 days after the date of the first publication  
7    of the passage of the resolution of intention, any owner of  
8    property liable to be assessed for the system may make  
9    written protest against the proposed system.

10        (2) The protest must be in writing and be delivered to  
11   the county clerk, who shall endorse on the protest the date  
12   of the receipt.

13        NEW SECTION.    **Section 7.**    Sufficient protest to bar  
14   proceedings. If protests against the proposed system are  
15   received from the owners of 50% or more of the area in the  
16   proposed district, further proceedings may not be taken by  
17   the governing body.

18        NEW SECTION.    **Section 8.**    Hearing on protest. (1) At the  
19   next regular meeting of the governing body after the  
20   expiration of the time within which protest may be made, the  
21   governing body shall hear and pass upon all protests, and  
22   its decision is final and conclusive.

23        (2) In determining whether or not sufficient protests  
24   have been filed in the proposed district to prevent further  
25   proceedings, property owned by local government and school

1 districts is considered the same as any other property in  
2 the district.

3 (3) The governing body may adjourn the hearing from  
4 time to time.

5 NEW SECTION. Section 9. Resolution creating district  
6 -- power to order improvements. (1) Before ordering any of  
7 the proposed improvements, the governing body shall pass a  
8 resolution creating the district in accordance with the  
9 resolution of intention introduced and passed by the  
10 governing body.

11 (2) The governing body has jurisdiction to order  
12 improvements immediately upon the occurrence of one of the  
13 following:

14 (a) when no protests have been delivered to the county  
15 clerk within 30 days after the date of the first publication  
16 of the notice of the passing of the resolution of intention;

17 (b) when a protest is found by the governing body to be  
18 insufficient; or

19 (c) when a protest is overruled.

20 NEW SECTION. Section 10. Governing body to administer  
21 district. (1) The members of the governing body are ex  
22 officio commissioners of the district formed under the  
23 provisions of [sections 1 through 34] and have jurisdiction  
24 over the system within the district. The governing body is  
25 responsible for the proper functioning and maintenance of

1 the system.

2 (2) The governing body is responsible for the condition  
3 and maintenance of all publicly owned roads, streets,  
4 alleys, land, parks, or other thoroughfares within the  
5 boundaries of the district affected by the construction or  
6 maintenance of the structures under control and jurisdiction  
7 of the district.

8 NEW SECTION. Section 11. Change of boundaries --  
9 limitations. (1) The governing body may by resolution make  
10 changes in the boundaries of a district as they consider  
11 reasonable and proper but may not delete any portion of the  
12 proposed area if the deletion will create an island of  
13 included or excluded lands.

14 (2) The governing body may not delete any portion of  
15 the proposed area that is contributing or may reasonably be  
16 expected to contribute to the pollution of any watercourse  
17 or body of water in the proposed area.

18 (3) For the purpose of subsection (2), it is  
19 conclusively presumed that an area that is within 1,500 feet  
20 of a proposed or existing sanitary sewer is contributing to  
21 the pollution of a watercourse in the proposed area.

22 NEW SECTION. Section 12. Applicable provisions of laws  
23 relating to rural improvement districts. The provisions of  
24 7-12-2101, 7-12-2106, 7-12-2107, 7-12-2110, 7-12-2115  
25 through 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153,

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 2 7-12-2168(2), 7-12-2169, and 7-12-2171 through 7-12-2174  
 3 pertaining to rural improvement districts apply to [sections  
 4 1 through 34] unless in conflict with the provisions of  
 5 [sections 1 through 34].

6 NEW SECTION. **Section 13.** Adequate records to be  
 7 maintained. The records of the district pertaining to the  
 8 collection of the operation and maintenance tax levied and  
 9 the records of the district pertaining to expenditures for  
 10 construction of the system must be kept and maintained in  
 11 the office of the treasurer of the local government where  
 12 the district is located. These records must include but not  
 13 be limited to a list of individual property that is  
 14 delinquent in payment, together with the name of the owner  
 15 or owners of the property.

16 NEW SECTION. **Section 14.** Assessment of costs. To  
 17 defray the cost of installing and maintaining the system  
 18 under the provisions of [sections 1 through 34], the  
 19 governing body shall adopt the following method of  
 20 assessment:

21 (1) The governing body shall assess the entire cost of  
 22 the improvements against the entire district.

23 (2) Each lot or parcel of land assessed in the district  
 24 is to be assessed with that part of the whole cost that its  
 25 area bears to the area of the entire district, exclusive of

1 streets, avenues, alleys, and public places.

2 NEW SECTION. **Section 15.** Status of federal property  
 3 within district. Whenever any lot, piece, or parcel of land  
 4 belonging to the United States fronts upon the proposed work  
 5 or improvement or is to be included within the district the  
 6 governing body shall in the resolution of intention declare  
 7 that the lots, pieces, or parcels of land must be omitted  
 8 from the assessment to be made to cover the cost and  
 9 expenses of the work or improvement, and the cost of the  
 10 work or improvement in front of the lots, pieces, or parcels  
 11 of land must be paid by the local government from its  
 12 general fund.

13 NEW SECTION. **Section 16.** Restriction on assessments  
 14 following change of boundaries. Nothing in [section 11]  
 15 permits the assessment of the cost of the system against the  
 16 lands remaining in the district after a boundary change at a  
 17 higher rate per square foot than the rate per square foot  
 18 that would have been assessed if the entire cost of the  
 19 improvements as estimated in the resolution of intention had  
 20 been assessed against each lot and parcel of land included  
 21 within the boundaries of the district as described in the  
 22 resolution of intention unless a new resolution of intention  
 23 to recreate the district is adopted and a hearing is held on  
 24 the new resolution after notice as required for the original  
 25 resolution of intention.

1        NEW SECTION.    **Section 17. Resolution to assess and levy**  
 2 tax for making improvements. (1) To defray the cost of  
 3 making improvements in the district, the governing body  
 4 shall by resolution levy and assess a tax upon all property  
 5 in the district created for the purpose of the system by  
 6 using as a basis for the assessment the method provided for  
 7 by [sections 1 through 34].

8        (2) The resolution must contain a description of each  
 9 lot or parcel of land, with the name of the owner, if known,  
 10 and the amount of each partial payment when made and the day  
 11 when the payment becomes delinquent.

12        (3) The resolution, signed by the governing body, must  
 13 be kept on file in the office of the local government clerk.

14        NEW SECTION.    **Section 18. Term of assessment for costs**  
 15 of construction. The payment of the assessment to defray the  
 16 cost of constructing any improvements in the district may be  
 17 spread over a term of not more than 20 years, with payment  
 18 to be made in equal installments.

19        NEW SECTION.    **Section 19. Notice of resolution to**  
 20 **assess and levy tax for making improvements -- protest.** (1)  
 21 A notice, signed by the local government clerk and stating  
 22 that the resolution levying a special assessment to defray  
 23 the cost of making the improvements is on file in the office  
 24 of the clerk and is subject to inspection, must be published  
 25 at least once in a newspaper published nearest to where the

1 special improvement is to be made.

2        (2) The notice must state the time and place in which  
 3 objections to the final adoption of the resolution will be  
 4 heard by the governing body.

5        NEW SECTION.    **Section 20. Hearing on protest.** (1) The  
 6 time for the hearing on protest must be not less than 5 days  
 7 after the publication of the notice required by 7-13-126.

8        (2) At the time fixed, the governing body shall meet  
 9 and hear all objections and for that purpose may adjourn  
 10 from day to day. The governing body may by resolution modify  
 11 the assessment in whole or in part. A copy of the  
 12 resolution, certified by the clerk of the local government,  
 13 must be delivered to the local government treasurer within 2  
 14 days after its passage.

15        NEW SECTION.    **Section 21. Assessments and other charges**  
 16 **as lien.** A special assessment made and levied to defray the  
 17 cost and expenses of the work for the system, together with  
 18 any percentages imposed for delinquency and for cost of  
 19 collection, are a lien upon the property upon which the  
 20 assessment is made and levied, from and after the date of  
 21 the passage of the resolution levying the assessment. The  
 22 lien may only be extinguished by payment of the assessment,  
 23 with all penalties, costs, and interest.

24        NEW SECTION.    **Section 22. Charges for services.** (1) The  
 25 governing body may by ordinance or resolution establish just



1 and equitable rates, charges, and rentals for the services  
2 and benefits directly or indirectly afforded by a system  
3 operated by, controlled by, and under the jurisdiction of a  
4 district formed under [sections 1 through 34].

5 (2) The rates, charges, and rentals must be as nearly  
6 as possible equitable in proportion to the services and  
7 benefits rendered and may take into consideration the  
8 quantity of water supplied, the amount of sewage produced  
9 and its concentration, water pollution qualities in general,  
10 and the cost of disposal of sewage and storm waters.

11 NEW SECTION. Section 23. Authorization to use federal  
12 funds. The governing body may apply for and receive from the  
13 federal government, on behalf of the district, any money  
14 that may be appropriated by congress for aiding in local  
15 public works projects. The governing body may borrow from  
16 the federal government any funds available for assisting in  
17 the planning or financing of local public works projects and  
18 repay the loan out of the money received from the tax levy  
19 provided for in this part.

20 NEW SECTION. Section 24. Charges for costs when  
21 federal funding is sought. Notwithstanding any other section  
22 of [sections 1 through 34] or a limitation imposed in  
23 [sections 1 through 34], when the governing body has applied  
24 for funds pursuant to [section 23], the governing body may  
25 adopt a system of charges and rates to require that each

1 recipient of services pays its proportionate share of the  
2 costs of operation, maintenance, and replacement and to  
3 require industrial users of services to pay that portion of  
4 the cost of construction of the system that is allocable to  
5 the industrial user.

6 NEW SECTION. Section 25. Resolution to establish  
7 service charges -- hearing -- limitations and tax levy. The  
8 governing body may, subject to the provisions of Title 69,  
9 chapter 7, by resolution and after public hearing:

10 (1) establish the rates, charges, and rentals in  
11 amounts sufficient in each year to provide income and  
12 revenues adequate for the payment of the reasonable expense  
13 of operation and maintenance of the system;

14 (2) establish an additional charge for the operation  
15 and maintenance of a system and a plant; and

16 (3) levy and assess a tax upon the taxable valuation of  
17 each and every lot or parcel of land and improvements in the  
18 district, not in excess of 2 mills on each dollar of taxable  
19 valuation, to provide sufficient revenues for the reserve  
20 fund in the amounts necessary to meet the financial  
21 requirements of the fund as described in [sections 28  
22 through 33].

23 NEW SECTION. Section 26. Hearing and notice on tax  
24 levy for operation and maintenance. (1) Not less than 30  
25 days prior to the date of making the levy for operation and

1 maintenance of the system, the governing body shall hold a  
 2 public hearing on the resolution.

3 (2) Notice clearly setting forth the subject matter of  
 4 the hearing must be given by the governing body by  
 5 publication as provided in 7-1-2121, and notice must also be  
 6 posted in three public places within the district.

7 NEW SECTION. Section 27. Preparation and filing of  
 8 district budget. (1) Not less than 30 days prior to the date  
 9 of the public hearing on the resolution, the governing body  
 10 shall prepare and file in the office of the clerk of the  
 11 local government in which the district is located and in the  
 12 office of the governing body a complete, detailed budget for  
 13 operation and maintenance of the system, showing all income  
 14 and expenditures for the year prior to the hearing and all  
 15 estimated income and expenditures for the next ensuing year  
 16 in which the levy is assessed.

17 (2) The provisions of law relating to local government  
 18 budgets and expenditures must be complied with by the  
 19 district.

20 NEW SECTION. Section 28. Authorization for reserve  
 21 fund. The governing body may, in order to secure prompt  
 22 payment of any district bonds issued in payment of the cost  
 23 of improvements for the district and the interest on the  
 24 bonds as it becomes due, create, establish, and maintain by  
 25 resolution a fund, to be designated as the "reserve fund",

1 for each issue of bonds.

2 NEW SECTION. Section 29. Sources of money for reserve  
 3 fund. (1) For the purpose of providing money for the reserve  
 4 fund, the governing body may in its discretion, from time to  
 5 time, transfer to the reserve fund from the operation and  
 6 maintenance fund of the district an amount as may be  
 7 considered necessary or as may be agreed upon with the  
 8 holders of the bonds.

9 (2) Whenever there is money in the bond fund that is  
 10 not required for payment of a bond of the district or  
 11 interest on the bond, as much as is necessary to pay the  
 12 loan referred to in [section 31] must, by order of the  
 13 governing body, be transferred to the reserve fund.

14 NEW SECTION. Section 30. Transfers to reserve fund  
 15 considered as loans. The amount or amounts transferred under  
 16 [section 29] must be considered as loans from the operation  
 17 and maintenance fund to the reserve fund.

18 NEW SECTION. Section 31. Loans from reserve fund to  
 19 bond fund as lien. (1) Whenever a loan is made to the bond  
 20 fund from the reserve fund, the reserve fund has a lien for  
 21 the amount of the loan on:

22 (a) the land within the district that is delinquent in  
 23 the payment of its assessments;

24 (b) unpaid assessments and installments of assessments  
 25 on the district, whether delinquent or not; and

1 (c) money coming into the bond fund to the amount of  
2 the loan, together with interest on the loan from the time  
3 it was made at the rate or percentage payable by the bond or  
4 of interest on the bond for which the loan was made.

5 (2) If after all the bonds of the district have been  
6 fully paid and all money remaining in the bond fund has been  
7 transferred to the reserve fund, there still remains a debt  
8 from the district to the reserve fund, the governing body  
9 may foreclose the lien upon property within the district  
10 owing unpaid assessments to the district for the purpose of  
11 paying off the loan to the reserve fund.

12 NEW SECTION. Section 32. Limitation on repayment of  
13 loan to reserve fund. Nothing in [sections 28 through 33]  
14 permits the repayment of a loan to the reserve fund at any  
15 time unless all interest accrued on the bonds has been fully  
16 paid and all principal agreed to be paid in accordance with  
17 the redemption schedule as may be provided in the resolution  
18 or resolutions authorizing the bonds has been paid.

19 NEW SECTION. Section 33. Covenants to use and maintain  
20 reserve fund. (1) In connection with the issuance of  
21 district bonds, the governing body may undertake and agree:

22 (a) to issue orders annually authorizing loans or  
23 advances from the reserve fund to the fund maintained for  
24 the payment of the bonds in amounts sufficient to make good  
25 any deficiency in the bond and interest accounts to the

1 extent that money is available; and

2 (b) to provide money for the reserve fund pursuant to  
3 the provisions of [sections 22 and 25] by establishing and  
4 collecting rates, charges, and rentals for services and  
5 benefits in amounts sufficient to provide net revenues in  
6 excess of the current costs of operation and maintenance of  
7 the system and sufficient to maintain a balance in the  
8 reserve fund as the governing body may agree to and  
9 undertake.

10 (2) The undertakings and agreements authorized by  
11 subsection (1) are binding upon the local government as long  
12 as any bonds or any interest on the bonds remains unpaid.

13 NEW SECTION. Section 34. Acquisition of private water  
14 supply system. (1) If a franchise has been granted to or a  
15 contract made with any person or corporation and the person  
16 or corporation has established or maintained a system of  
17 water supply or has valuable water rights or a supply of  
18 water desired by the district for supplying the district  
19 with water, the governing body granting the franchise,  
20 entering the contract, or desiring the water supply shall,  
21 by the passage of a resolution, give notice to the person or  
22 corporation that it desires to purchase the plant,  
23 franchise, or water supply of the person or corporation.

24 (2) The governing body passing a resolution as provided  
25 in subsection (1) may:

1 (a) purchase the plant, franchise, or water supply upon  
2 terms agreed to by the parties; or

3 (b) (3) IN CASE AGREEMENT IS NOT REACHED IN ACCORDANCE  
4 WITH SUBSECTION (2), THE GOVERNING BODY MAY take the plant,  
5 franchise, or water supply by eminent domain IN ACCORDANCE  
6 WITH TITLE 70, CHAPTERS 30 AND 31.

7 (3) A resolution that authorizes the taking of private  
8 property for purposes of supplying the district with water  
9 is conclusive as to the necessity for the taking, except  
10 with respect to a water supply system used for irrigation of  
11 agricultural crops or for livestock purposes. The taking  
12 must conform to and be conducted as provided in Title 70  
13 chapters 30 and 31.

14 Section 35. Section 7-13-4403, MCA, is amended to read:  
15 "7-13-4403. Acquisition of private water supply system.  
16 (1) It is provided that whenever if a franchise has been  
17 granted to or a contract made with any person or persons,  
18 corporation, or corporations and such the person or persons,  
19 corporation, or corporations, in pursuance thereof or  
20 otherwise, have established or maintained a system of  
21 water supply or have has valuable water rights or a supply  
22 of water desired by the city or town for supplying the city  
23 or town with water, the city or town granting such the  
24 franchise or entering in such the contract, or desiring  
25 such the water supply shall, by the passage of an ordinance,

1 give notice to such the person or persons, corporation, or  
2 corporations that it desires to purchase the plant, and  
3 franchise, and or water supply of such the person or  
4 persons, corporation, or corporations.

5 (2) The city or town shall have the right to so passing  
6 an ordinance as provided in subsection (1) may:

7 (a) purchase the plant or water supply upon such terms  
8 as agreed to by the parties agree, or

9 (b) take the plant, franchise, or water supply by  
10 eminent domain if the plant, franchise, or water supply is  
11 to be used for a municipal water system.

12 (3) An ordinance that authorizes the taking of private  
13 property for purposes of supplying the city or town with  
14 water is conclusive as to the necessity for the taking,  
15 except with respect to a water supply system used for  
16 irrigation of agricultural crops or livestock purposes. The  
17 taking must conform to and be conducted as provided in Title  
18 70, chapters 30 and 31."

19 NEW SECTION. Section 35. Codification instruction.  
20 [Sections 1 through 34] are intended to be codified as an  
21 integral part of Title 7, chapter 13, and the provisions of  
22 Title 7, chapter 13, apply to [sections 1 through 34].

-End-

## SENATE BILL NO. 261

INTRODUCED BY LYNCH, HALLIGAN, JACOBSON, STIMATZ, PIPINICH,  
FRITZ, DAILY, WHALEN, HARRINGTON, QUILICI, KADAS, BROOKE,  
DRISCOLL, COCCHIARELLA, MENAHAN, MCCARTHY, REAM, SQUIRES,  
HARPER, MANNING, PINSONEAULT, PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
LAW RELATING TO CONSOLIDATED GOVERNMENT AND MUNICIPAL WATER  
SUPPLY SYSTEMS; PROVIDING THAT A CONSOLIDATED LOCAL  
GOVERNMENT MAY SUPPLY SANITARY SEWER OR STORM SEWER SERVICES  
OR WATER TO A DISTRICT; AND PROVIDING THAT A CONSOLIDATED  
LOCAL GOVERNMENT OR A CITY OR TOWN COUNCIL MAY PURCHASE A  
PRIVATE WATER SUPPLY SYSTEM OR TAKE THE SYSTEM BY EMINENT  
DOMAIN; ~~PROVIDING THAT THE PASSAGE OF AN ORDINANCE OR  
RESOLUTION PROPOSING THE TAKING IS CONCLUSIVE ON THE ISSUE  
OF NECESSITY FOR THE TAKING OF A SYSTEM, AND AMENDING  
SECTION 7-13-4403, MCA.~~"

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

NEW SECTION. Section 1. Definitions. As used in  
[sections 1 through 34], the following definitions apply:

- (1) "District" means a district authorized in [section  
2] to provide a system.
- (2) "Local government" means a consolidated form of  
local government provided for in Title 7, chapter 3, parts

11 through 13.

(3) "System" means a public water supply, sanitary  
sewer system, storm sewer system, or any combination of  
water supply, sanitary sewer, or storm sewer systems.

NEW SECTION. Section 2. Authorization to create  
district. Whenever the public convenience and necessity may  
require, in order to construct a water supply, sanitary  
sewer, or storm sewer system within a local government that  
would serve the inhabitants of the local government, the  
governing body may create a district to provide the system.

NEW SECTION. Section 3. Resolution of intention to  
create district. (1) Before creating a district, the  
governing body shall pass a resolution of intention to  
create the district.

(2) The resolution must designate:

- (a) the proposed name of the district;
- (b) the necessity for the proposed district;
- (c) a general description of the territory or lands to  
be included within the district, giving the boundaries of  
the district;
- (d) the general character of the system and its  
proposed location;
- (e) the name of the engineer who is to have charge of  
the work; and
- (f) the estimated cost of the district.

1        NEW SECTION.    **Section 4.** Sufficiency of description in  
2 resolution of intention. In all resolutions, notices,  
3 orders, and determinations subsequent to the resolution of  
4 intention and notice of improvements, it is sufficient to  
5 briefly describe the work or the district and to refer to  
6 the resolution of intention for further particulars.

7        NEW SECTION.    **Section 5.** Notice of resolution of  
8 intention upon concurrence -- hearing. (1) The governing  
9 body shall give notice of the passage of its resolution of  
10 intention to create the district.

11        (2) The notice must be published for 10 consecutive  
12 days in a daily newspaper published nearest to the place  
13 where the district is to be created. The governing body  
14 shall also cause a copy of the notice to be posted in three  
15 public places within the boundaries of the district. A copy  
16 of the notice must be mailed to every person, firm, or  
17 corporation or the agent of the person, firm, or corporation  
18 owning property within the proposed district, at his  
19 last-known place of residence, upon the same day the notice  
20 is first published or posted.

21        (3) The notice must describe the general character of  
22 the improvement or improvements proposed to be made, state  
23 the estimated cost, and designate the time when and the  
24 place where the governing body will hear and pass upon all  
25 protests that may be made against the making or maintenance

1 of the improvements or the creation of the district. The  
2 notice must refer to the resolution on file in the office of  
3 the local government clerk for the description of the  
4 boundaries.

5        NEW SECTION.    **Section 6.** Right to protest. (1) At any  
6 time within 30 days after the date of the first publication  
7 of the passage of the resolution of intention, any owner of  
8 property liable to be assessed for the system may make  
9 written protest against the proposed system.

10        (2) The protest must be in writing and be delivered to  
11 the county clerk, who shall endorse on the protest the date  
12 of the receipt.

13        NEW SECTION.    **Section 7.** Sufficient protest to bar  
14 proceedings. If protests against the proposed system are  
15 received from the owners of 50% or more of the area in the  
16 proposed district, further proceedings may not be taken by  
17 the governing body.

18        NEW SECTION.    **Section 8.** Hearing on protest. (1) At the  
19 next regular meeting of the governing body after the  
20 expiration of the time within which protest may be made, the  
21 governing body shall hear and pass upon all protests, and  
22 its decision is final and conclusive.

23        (2) In determining whether or not sufficient protests  
24 have been filed in the proposed district to prevent further  
25 proceedings, property owned by local government and school

1 districts is considered the same as any other property in  
2 the district.

3 (3) The governing body may adjourn the hearing from  
4 time to time.

5 NEW SECTION. Section 9. Resolution creating district  
6 -- power to order improvements. (1) Before ordering any of  
7 the proposed improvements, the governing body shall pass a  
8 resolution creating the district in accordance with the  
9 resolution of intention introduced and passed by the  
10 governing body.

11 (2) The governing body has jurisdiction to order  
12 improvements immediately upon the occurrence of one of the  
13 following:

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15 clerk within 30 days after the date of the first publication  
16 of the notice of the passing of the resolution of intention;

17 (b) when a protest is found by the governing body to be  
18 insufficient; or

19 (c) when a protest is overruled.

20 NEW SECTION. Section 10. Governing body to administer  
21 district. (1) The members of the governing body are ex  
22 officio commissioners of the district formed under the  
23 provisions of [sections 1 through 34] and have jurisdiction  
24 over the system within the district. The governing body is  
25 responsible for the proper functioning and maintenance of

1 the system.

2 (2) The governing body is responsible for the condition  
3 and maintenance of all publicly owned roads, streets,  
4 alleys, land, parks, or other thoroughfares within the  
5 boundaries of the district affected by the construction or  
6 maintenance of the structures under control and jurisdiction  
7 of the district.

8 NEW SECTION. Section 11. Change of boundaries --  
9 limitations. (1) The governing body may by resolution make  
10 changes in the boundaries of a district as they consider  
11 reasonable and proper but may not delete any portion of the  
12 proposed area if the deletion will create an island of  
13 included or excluded lands.

14 (2) The governing body may not delete any portion of  
15 the proposed area that is contributing or may reasonably be  
16 expected to contribute to the pollution of any watercourse  
17 or body of water in the proposed area.

18 (3) For the purpose of subsection (2), it is  
19 conclusively presumed that an area that is within 1,500 feet  
20 of a proposed or existing sanitary sewer is contributing to  
21 the pollution of a watercourse in the proposed area.

22 NEW SECTION. Section 12. Applicable provisions of laws  
23 relating to rural improvement districts. The provisions of  
24 7-12-2101, 7-12-2106, 7-12-2107, 7-12-2110, 7-12-2115  
25 through 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153,

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 3 pertaining to rural improvement districts apply to [sections  
 4 1 through 34] unless in conflict with the provisions of  
 5 [sections 1 through 34].

6 NEW SECTION. **Section 13.** Adequate records to be  
 7 maintained. The records of the district pertaining to the  
 8 collection of the operation and maintenance tax levied and  
 9 the records of the district pertaining to expenditures for  
 10 construction of the system must be kept and maintained in  
 11 the office of the treasurer of the local government where  
 12 the district is located. These records must include but not  
 13 be limited to a list of individual property that is  
 14 delinquent in payment, together with the name of the owner  
 15 or owners of the property.

16 NEW SECTION. **Section 14.** Assessment of costs. To  
 17 defray the cost of installing and maintaining the system  
 18 under the provisions of [sections 1 through 34], the  
 19 governing body shall adopt the following method of  
 20 assessment:

21 (1) The governing body shall assess the entire cost of  
 22 the improvements against the entire district.

23 (2) Each lot or parcel of land assessed in the district  
 24 is to be assessed with that part of the whole cost that its  
 25 area bears to the area of the entire district, exclusive of

1 streets, avenues, alleys, and public places.

2 NEW SECTION. **Section 15.** Status of federal property  
 3 within district. Whenever any lot, piece, or parcel of land  
 4 belonging to the United States fronts upon the proposed work  
 5 or improvement or is to be included within the district the  
 6 governing body shall in the resolution of intention declare  
 7 that the lots, pieces, or parcels of land must be omitted  
 8 from the assessment to be made to cover the cost and  
 9 expenses of the work or improvement, and the cost of the  
 10 work or improvement in front of the lots, pieces, or parcels  
 11 of land must be paid by the local government from its  
 12 general fund.

13 NEW SECTION. **Section 16.** Restriction on assessments  
 14 following change of boundaries. Nothing in [section 11]  
 15 permits the assessment of the cost of the system against the  
 16 lands remaining in the district after a boundary change at a  
 17 higher rate per square foot than the rate per square foot  
 18 that would have been assessed if the entire cost of the  
 19 improvements as estimated in the resolution of intention had  
 20 been assessed against each lot and parcel of land included  
 21 within the boundaries of the district as described in the  
 22 resolution of intention unless a new resolution of intention  
 23 to recreate the district is adopted and a hearing is held on  
 24 the new resolution after notice as required for the original  
 25 resolution of intention.



1        NEW SECTION.    **Section 17.** Resolution to assess and levy  
2 tax for making improvements. (1) To defray the cost of  
3 making improvements in the district, the governing body  
4 shall by resolution levy and assess a tax upon all property  
5 in the district created for the purpose of the system by  
6 using as a basis for the assessment the method provided for  
7 by [sections 1 through 34].

8        (2) The resolution must contain a description of each  
9 lot or parcel of land, with the name of the owner, if known,  
10 and the amount of each partial payment when made and the day  
11 when the payment becomes delinquent.

12        (3) The resolution, signed by the governing body, must  
13 be kept on file in the office of the local government clerk.

14        NEW SECTION.    **Section 18.** Term of assessment for costs  
15 of construction. The payment of the assessment to defray the  
16 cost of constructing any improvements in the district may be  
17 spread over a term of not more than 20 years, with payment  
18 to be made in equal installments.

19        NEW SECTION.    **Section 19.** Notice of resolution to  
20 assess and levy tax for making improvements -- protest. (1)  
21 A notice, signed by the local government clerk and stating  
22 that the resolution levying a special assessment to defray  
23 the cost of making the improvements is on file in the office  
24 of the clerk and is subject to inspection, must be published  
25 at least once in a newspaper published nearest to where the

1 special improvement is to be made.

2        (2) The notice must state the time and place in which  
3 objections to the final adoption of the resolution will be  
4 heard by the governing body.

5        NEW SECTION.    **Section 20.** Hearing on protest. (1) The  
6 time for the hearing on protest must be not less than 5 days  
7 after the publication of the notice required by 7-13-126.

8        (2) At the time fixed, the governing body shall meet  
9 and hear all objections and for that purpose may adjourn  
10 from day to day. The governing body may by resolution modify  
11 the assessment in whole or in part. A copy of the  
12 resolution, certified by the clerk of the local government,  
13 must be delivered to the local government treasurer within 2  
14 days after its passage.

15        NEW SECTION.    **Section 21.** Assessments and other charges  
16 as lien. A special assessment made and levied to defray the  
17 cost and expenses of the work for the system, together with  
18 any percentages imposed for delinquency and for cost of  
19 collection, are a lien upon the property upon which the  
20 assessment is made and levied, from and after the date of  
21 the passage of the resolution levying the assessment. The  
22 lien may only be extinguished by payment of the assessment,  
23 with all penalties, costs, and interest.

24        NEW SECTION.    **Section 22.** Charges for services. (1) The  
25 governing body may by ordinance or resolution establish just

1 and equitable rates, charges, and rentals for the services  
 2 and benefits directly or indirectly afforded by a system  
 3 operated by, controlled by, and under the jurisdiction of a  
 4 district formed under [sections 1 through 34].

5 (2) The rates, charges, and rentals must be as nearly  
 6 as possible equitable in proportion to the services and  
 7 benefits rendered and may take into consideration the  
 8 quantity of water supplied, the amount of sewage produced  
 9 and its concentration, water pollution qualities in general,  
 10 and the cost of disposal of sewage and storm waters.

11 NEW SECTION. Section 23. Authorization to use federal  
 12 funds. The governing body may apply for and receive from the  
 13 federal government, on behalf of the district, any money  
 14 that may be appropriated by congress for aiding in local  
 15 public works projects. The governing body may borrow from  
 16 the federal government any funds available for assisting in  
 17 the planning or financing of local public works projects and  
 18 repay the loan out of the money received from the tax levy  
 19 provided for in this part.

20 NEW SECTION. Section 24. Charges for costs when  
 21 federal funding is sought. Notwithstanding any other section  
 22 of [sections 1 through 34] or a limitation imposed in  
 23 [sections 1 through 34], when the governing body has applied  
 24 for funds pursuant to [section 23], the governing body may  
 25 adopt a system of charges and rates to require that each

1 recipient of services pays its proportionate share of the  
 2 costs of operation, maintenance, and replacement and to  
 3 require industrial users of services to pay that portion of  
 4 the cost of construction of the system that is allocable to  
 5 the industrial user.

6 NEW SECTION. Section 25. Resolution to establish  
 7 service charges -- hearing -- limitations and tax levy. The  
 8 governing body may, subject to the provisions of Title 69,  
 9 chapter 7, by resolution and after public hearing:

10 (1) establish the rates, charges, and rentals in  
 11 amounts sufficient in each year to provide income and  
 12 revenues adequate for the payment of the reasonable expense  
 13 of operation and maintenance of the system;

14 (2) establish an additional charge for the operation  
 15 and maintenance of a system and a plant; and

16 (3) levy and assess a tax upon the taxable valuation of  
 17 each and every lot or parcel of land and improvements in the  
 18 district, not in excess of 2 mills on each dollar of taxable  
 19 valuation, to provide sufficient revenues for the reserve  
 20 fund in the amounts necessary to meet the financial  
 21 requirements of the fund as described in [sections 28  
 22 through 33].

23 NEW SECTION. Section 26. Hearing and notice on tax  
 24 levy for operation and maintenance. (1) Not less than 30  
 25 days prior to the date of making the levy for operation and

1 maintenance of the system, the governing body shall hold a  
2 public hearing on the resolution.

3 (2) Notice clearly setting forth the subject matter of  
4 the hearing must be given by the governing body by  
5 publication as provided in 7-1-2121, and notice must also be  
6 posted in three public places within the district.

7 NEW SECTION. Section 27. Preparation and filing of  
8 district budget. (1) Not less than 30 days prior to the date  
9 of the public hearing on the resolution, the governing body  
10 shall prepare and file in the office of the clerk of the  
11 local government in which the district is located and in the  
12 office of the governing body a complete, detailed budget for  
13 operation and maintenance of the system, showing all income  
14 and expenditures for the year prior to the hearing and all  
15 estimated income and expenditures for the next ensuing year  
16 in which the levy is assessed.

17 (2) The provisions of law relating to local government  
18 budgets and expenditures must be complied with by the  
19 district.

20 NEW SECTION. Section 28. Authorization for reserve  
21 fund. The governing body may, in order to secure prompt  
22 payment of any district bonds issued in payment of the cost  
23 of improvements for the district and the interest on the  
24 bonds as it becomes due, create, establish, and maintain by  
25 resolution a fund, to be designated as the "reserve fund",

1 for each issue of bonds.

2 NEW SECTION. Section 29. Sources of money for reserve  
3 fund. (1) For the purpose of providing money for the reserve  
4 fund, the governing body may in its discretion, from time to  
5 time, transfer to the reserve fund from the operation and  
6 maintenance fund of the district an amount as may be  
7 considered necessary or as may be agreed upon with the  
8 holders of the bonds.

9 (2) Whenever there is money in the bond fund that is  
10 not required for payment of a bond of the district or  
11 interest on the bond, as much as is necessary to pay the  
12 loan referred to in [section 31] must, by order of the  
13 governing body, be transferred to the reserve fund.

14 NEW SECTION. Section 30. Transfers to reserve fund  
15 considered as loans. The amount or amounts transferred under  
16 [section 29] must be considered as loans from the operation  
17 and maintenance fund to the reserve fund.

18 NEW SECTION. Section 31. Loans from reserve fund to  
19 bond fund as lien. (1) Whenever a loan is made to the bond  
20 fund from the reserve fund, the reserve fund has a lien for  
21 the amount of the loan on:

22 (a) the land within the district that is delinquent in  
23 the payment of its assessments;

24 (b) unpaid assessments and installments of assessments  
25 on the district, whether delinquent or not; and

1 (c) money coming into the bond fund to the amount of  
2 the loan, together with interest on the loan from the time  
3 it was made at the rate or percentage payable by the bond or  
4 of interest on the bond for which the loan was made.

5 (2) If after all the bonds of the district have been  
6 fully paid and all money remaining in the bond fund has been  
7 transferred to the reserve fund, there still remains a debt  
8 from the district to the reserve fund, the governing body  
9 may foreclose the lien upon property within the district  
10 owing unpaid assessments to the district for the purpose of  
11 paying off the loan to the reserve fund.

12 NEW SECTION. Section 32. Limitation on repayment of  
13 loan to reserve fund. Nothing in [sections 28 through 33]  
14 permits the repayment of a loan to the reserve fund at any  
15 time unless all interest accrued on the bonds has been fully  
16 paid and all principal agreed to be paid in accordance with  
17 the redemption schedule as may be provided in the resolution  
18 or resolutions authorizing the bonds has been paid.

19 NEW SECTION. Section 33. Covenants to use and maintain  
20 reserve fund. (1) In connection with the issuance of  
21 district bonds, the governing body may undertake and agree:

22 (a) to issue orders annually authorizing loans or  
23 advances from the reserve fund to the fund maintained for  
24 the payment of the bonds in amounts sufficient to make good  
25 any deficiency in the bond and interest accounts to the

1 extent that money is available; and

2 (b) to provide money for the reserve fund pursuant to  
3 the provisions of [sections 22 and 25] by establishing and  
4 collecting rates, charges, and rentals for services and  
5 benefits in amounts sufficient to provide net revenues in  
6 excess of the current costs of operation and maintenance of  
7 the system and sufficient to maintain a balance in the  
8 reserve fund as the governing body may agree to and  
9 undertake.

10 (2) The undertakings and agreements authorized by  
11 subsection (1) are binding upon the local government as long  
12 as any bonds or any interest on the bonds remains unpaid.

13 NEW SECTION. Section 34. Acquisition of private water  
14 supply system. (1) If a franchise has been granted to or a  
15 contract made with any person or corporation and the person  
16 or corporation has established or maintained a system of  
17 water supply or has valuable water rights or a supply of  
18 water desired by the district for supplying the district  
19 with water, the governing body granting the franchise,  
20 entering the contract, or desiring the water supply shall,  
21 by the passage of a resolution, give notice to the person or  
22 corporation that it desires to purchase the plant,  
23 franchise, or water supply of the person or corporation.

24 (2) The governing body passing a resolution as provided  
25 in subsection (1) may:

1       (a) purchase the plant, franchise, or water supply upon  
2 terms agreed to by the parties; or.

3       (b) (3) IN CASE AGREEMENT IS NOT REACHED IN ACCORDANCE  
4 WITH SUBSECTION (2), THE GOVERNING BODY MAY take the plant,  
5 franchise, or water supply by eminent domain IN ACCORDANCE  
6 WITH TITLE 70, CHAPTERS 30 AND 31.

7       ~~(3) A resolution that authorizes the taking of private~~  
8 ~~property for purposes of supplying the district with water~~  
9 ~~is conclusive as to the necessity for the taking, except~~  
10 ~~with respect to a water supply system used for irrigation of~~  
11 ~~agricultural crops or for livestock purposes. The taking~~  
12 ~~must conform to and be conducted as provided in Title 70,~~  
13 ~~chapters 30 and 31.~~

14       ~~Section 35, Section 7-13-4403, MCA, is amended to read:~~

15       ~~"7-13-4403. Acquisition of private water supply system:~~  
16 ~~(1) It is provided that whenever if a franchise has been~~  
17 ~~granted to or a contract made with any person or persons,~~  
18 ~~corporation, or corporations and such the person or persons,~~  
19 ~~corporation, or corporations, in pursuance thereof or~~  
20 ~~otherwise, have has established or maintained a system of~~  
21 ~~water supply or have has valuable water rights or a supply~~  
22 ~~of water desired by the city or town for supplying the city~~  
23 ~~or town with water, the city or town granting such the~~  
24 ~~franchise, or entering in such the contract, or desiring~~  
25 ~~such the water supply shall, by the passage of an ordinance,~~

1       ~~give notice to such the person or persons, corporation or~~  
2 ~~corporations that it desires to purchase the plant, and~~  
3 ~~franchise, and or water supply of such the person or~~  
4 ~~persons, corporation or corporations.~~

5       ~~(2) The city or town shall have the right to so passing~~  
6 ~~an ordinance as provided in subsection (1) may:~~

7       ~~(a) purchase the plant or water supply upon such terms~~  
8 ~~as agreed to by the parties agree; or~~

9       ~~(b) take the plant, franchise, or water supply by~~  
10 ~~eminent domain if the plant, franchise, or water supply is~~  
11 ~~to be used for a municipal water system.~~

12       ~~(3) An ordinance that authorizes the taking of private~~  
13 ~~property for purposes of supplying the city or town with~~  
14 ~~water is conclusive as to the necessity for the taking,~~  
15 ~~except with respect to a water supply system used for~~  
16 ~~irrigation of agricultural crops or livestock purposes. The~~  
17 ~~taking must conform to and be conducted as provided in Title~~  
18 ~~70, chapters 30 and 31."~~

19       NEW SECTION. Section 35. Codification instruction.  
20 [Sections 1 through 34] are intended to be codified as an  
21 integral part of Title 7, chapter 13, and the provisions of  
22 Title 7, chapter 13, apply to [sections 1 through 34].

-End-

SENATE BILL NO. 261

INTRODUCED BY LYNCH, HALLIGAN, JACOBSON, STIMATZ, PIPINICH, FRITZ, DAILY, WHALEN, HARRINGTON, QUILICI, KADAS, BROOKE, DRISCOLL, COCCHIARELLA, MENAHAN, MCCARTHY, REAM, SQUIRES, HARPER, MANNING, PINSONEAULT, PAVLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAW RELATING TO CONSOLIDATED GOVERNMENT AND MUNICIPAL WATER SUPPLY SYSTEMS; PROVIDING THAT A CONSOLIDATED LOCAL GOVERNMENT MAY SUPPLY SANITARY SEWER OR STORM SEWER SERVICES OR WATER TO A DISTRICT; AND PROVIDING THAT A CONSOLIDATED LOCAL GOVERNMENT OR A CITY OR TOWN COUNCIL MAY PURCHASE A PRIVATE WATER SUPPLY SYSTEM OR TAKE THE SYSTEM BY EMINENT DOMAIN;--PROVIDING--THAT--THE--PASSAGE--OF--AN--ORDINANCE--OR RESOLUTION--PROPOSING--THE--TAKING--IS--CONCLUSIVE--ON--THE--ISSUE OF--NECESSITY--FOR--THE--TAKING--OF--A--SYSTEM;--AND--AMENDING SECTION-7-13-4403,-MCA."

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

NEW SECTION. Section 1. Definitions. As used in

[sections 1 through 34], the following definitions apply:

- (1) "District" means a district authorized in [section 2] to provide a system.
(2) "Local government" means a consolidated form of local government provided for in Title 7, chapter 3, parts

11 through 13.

(3) "System" means a public water supply, sanitary sewer system, storm sewer system, or any combination of water supply, sanitary sewer, or storm sewer systems.

NEW SECTION. Section 2. Authorization to create district. Whenever the public convenience and necessity may require, in order to construct a water supply, sanitary sewer, or storm sewer system within a local government that would serve the inhabitants of the local government, the governing body may create a district to provide the system.

NEW SECTION. Section 3. Resolution of intention to create district. (1) Before creating a district, the governing body shall pass a resolution of intention to create the district.

- (2) The resolution must designate:
(a) the proposed name of the district;
(b) the necessity for the proposed district;
(c) a general description of the territory or lands to be included within the district, giving the boundaries of the district;
(d) the general character of the system and its proposed location;
(e) the name of the engineer who is to have charge of the work; and
(f) the estimated cost of the district.



1        NEW SECTION. Section 4. Sufficiency of description in  
2 resolution of intention. In all resolutions, notices,  
3 orders, and determinations subsequent to the resolution of  
4 intention and notice of improvements, it is sufficient to  
5 briefly describe the work or the district and to refer to  
6 the resolution of intention for further particulars.

7        NEW SECTION. Section 5. Notice of resolution of  
8 intention upon concurrence -- hearing. (1) The governing  
9 body shall give notice of the passage of its resolution of  
10 intention to create the district.

11        (2) The notice must be published for 10 consecutive  
12 days in a daily newspaper published nearest to the place  
13 where the district is to be created. The governing body  
14 shall also cause a copy of the notice to be posted in three  
15 public places within the boundaries of the district. A copy  
16 of the notice must be mailed to every person, firm, or  
17 corporation or the agent of the person, firm, or corporation  
18 owning property within the proposed district, at his  
19 last-known place of residence, upon the same day the notice  
20 is first published or posted.

21        (3) The notice must describe the general character of  
22 the improvement or improvements proposed to be made, state  
23 the estimated cost, and designate the time when and the  
24 place where the governing body will hear and pass upon all  
25 protests that may be made against the making or maintenance

1 of the improvements or the creation of the district. The  
2 notice must refer to the resolution on file in the office of  
3 the local government clerk for the description of the  
4 boundaries.

5        NEW SECTION. Section 6. Right to protest. (1) At any  
6 time within 30 days after the date of the first publication  
7 of the passage of the resolution of intention, any owner of  
8 property liable to be assessed for the system may make  
9 written protest against the proposed system.

10        (2) The protest must be in writing and be delivered to  
11 the county clerk, who shall endorse on the protest the date  
12 of the receipt.

13        NEW SECTION. Section 7. Sufficient protest to bar  
14 proceedings. If protests against the proposed system are  
15 received from the owners of 50% or more of the area in the  
16 proposed district, further proceedings may not be taken by  
17 the governing body.

18        NEW SECTION. Section 8. Hearing on protest. (1) At the  
19 next regular meeting of the governing body after the  
20 expiration of the time within which protest may be made, the  
21 governing body shall hear and pass upon all protests, and  
22 its decision is final and conclusive.

23        (2) In determining whether or not sufficient protests  
24 have been filed in the proposed district to prevent further  
25 proceedings, property owned by local government and school

1 districts is considered the same as any other property in  
2 the district.

3 (3) The governing body may adjourn the hearing from  
4 time to time.

5 NEW SECTION. Section 9. Resolution creating district  
6 -- power to order improvements. (1) Before ordering any of  
7 the proposed improvements, the governing body shall pass a  
8 resolution creating the district in accordance with the  
9 resolution of intention introduced and passed by the  
10 governing body.

11 (2) The governing body has jurisdiction to order  
12 improvements immediately upon the occurrence of one of the  
13 following:

14 (a) when no protests have been delivered to the county  
15 clerk within 30 days after the date of the first publication  
16 of the notice of the passing of the resolution of intention;

17 (b) when a protest is found by the governing body to be  
18 insufficient; or

19 (c) when a protest is overruled.

20 NEW SECTION. Section 10. Governing body to administer  
21 district. (1) The members of the governing body are ex  
22 officio commissioners of the district formed under the  
23 provisions of [sections 1 through 34] and have jurisdiction  
24 over the system within the district. The governing body is  
25 responsible for the proper functioning and maintenance of

1 the system.

2 (2) The governing body is responsible for the condition  
3 and maintenance of all publicly owned roads, streets,  
4 alleys, land, parks, or other thoroughfares within the  
5 boundaries of the district affected by the construction or  
6 maintenance of the structures under control and jurisdiction  
7 of the district.

8 NEW SECTION. Section 11. Change of boundaries --  
9 limitations. (1) The governing body may by resolution make  
10 changes in the boundaries of a district as they consider  
11 reasonable and proper but may not delete any portion of the  
12 proposed area if the deletion will create an island of  
13 included or excluded lands.

14 (2) The governing body may not delete any portion of  
15 the proposed area that is contributing or may reasonably be  
16 expected to contribute to the pollution of any watercourse  
17 or body of water in the proposed area.

18 (3) For the purpose of subsection (2), it is  
19 conclusively presumed that an area that is within 1,500 feet  
20 of a proposed or existing sanitary sewer is contributing to  
21 the pollution of a watercourse in the proposed area.

22 NEW SECTION. Section 12. Applicable provisions of laws  
23 relating to rural improvement districts. The provisions of  
24 7-12-2101, 7-12-2106, 7-12-2107, 7-12-2110, 7-12-2115  
25 through 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153,



1 7-12-2154, 7-12-2161 through 7-12-2165, 7-12-2166(2),  
 2 7-12-2168(2), 7-12-2169, and 7-12-2171 through 7-12-2174  
 3 pertaining to rural improvement districts apply to [sections  
 4 1 through 34] unless in conflict with the provisions of  
 5 [sections 1 through 34].

6 NEW SECTION. **Section 13.** Adequate records to be  
 7 maintained. The records of the district pertaining to the  
 8 collection of the operation and maintenance tax levied and  
 9 the records of the district pertaining to expenditures for  
 10 construction of the system must be kept and maintained in  
 11 the office of the treasurer of the local government where  
 12 the district is located. These records must include but not  
 13 be limited to a list of individual property that is  
 14 delinquent in payment, together with the name of the owner  
 15 or owners of the property.

16 NEW SECTION. **Section 14.** Assessment of costs. To  
 17 defray the cost of installing and maintaining the system  
 18 under the provisions of [sections 1 through 34], the  
 19 governing body shall adopt the following method of  
 20 assessment:

21 (1) The governing body shall assess the entire cost of  
 22 the improvements against the entire district.

23 (2) Each lot or parcel of land assessed in the district  
 24 is to be assessed with that part of the whole cost that its  
 25 area bears to the area of the entire district, exclusive of

1 streets, avenues, alleys, and public places.

2 NEW SECTION. **Section 15.** Status of federal property  
 3 within district. Whenever any lot, piece, or parcel of land  
 4 belonging to the United States fronts upon the proposed work  
 5 or improvement or is to be included within the district the  
 6 governing body shall in the resolution of intention declare  
 7 that the lots, pieces, or parcels of land must be omitted  
 8 from the assessment to be made to cover the cost and  
 9 expenses of the work or improvement, and the cost of the  
 10 work or improvement in front of the lots, pieces, or parcels  
 11 of land must be paid by the local government from its  
 12 general fund.

13 NEW SECTION. **Section 16.** Restriction on assessments  
 14 following change of boundaries. Nothing in [section 11]  
 15 permits the assessment of the cost of the system against the  
 16 lands remaining in the district after a boundary change at a  
 17 higher rate per square foot than the rate per square foot  
 18 that would have been assessed if the entire cost of the  
 19 improvements as estimated in the resolution of intention had  
 20 been assessed against each lot and parcel of land included  
 21 within the boundaries of the district as described in the  
 22 resolution of intention unless a new resolution of intention  
 23 to recreate the district is adopted and a hearing is held on  
 24 the new resolution after notice as required for the original  
 25 resolution of intention.

1        NEW SECTION. Section 17. Resolution to assess and levy  
 2 tax for making improvements. (1) To defray the cost of  
 3 making improvements in the district, the governing body  
 4 shall by resolution levy and assess a tax upon all property  
 5 in the district created for the purpose of the system by  
 6 using as a basis for the assessment the method provided for  
 7 by [sections 1 through 34].

8        (2) The resolution must contain a description of each  
 9 lot or parcel of land, with the name of the owner, if known,  
 10 and the amount of each partial payment when made and the day  
 11 when the payment becomes delinquent.

12        (3) The resolution, signed by the governing body, must  
 13 be kept on file in the office of the local government clerk.

14        NEW SECTION. Section 18. Term of assessment for costs  
 15 of construction. The payment of the assessment to defray the  
 16 cost of constructing any improvements in the district may be  
 17 spread over a term of not more than 20 years, with payment  
 18 to be made in equal installments.

19        NEW SECTION. Section 19. Notice of resolution to  
 20 assess and levy tax for making improvements -- protest. (1)  
 21 A notice, signed by the local government clerk and stating  
 22 that the resolution levying a special assessment to defray  
 23 the cost of making the improvements is on file in the office  
 24 of the clerk and is subject to inspection, must be published  
 25 at least once in a newspaper published nearest to where the

1 special improvement is to be made.

2        (2) The notice must state the time and place in which  
 3 objections to the final adoption of the resolution will be  
 4 heard by the governing body.

5        NEW SECTION. Section 20. Hearing on protest. (1) The  
 6 time for the hearing on protest must be not less than 5 days  
 7 after the publication of the notice required by 7-13-126.

8        (2) At the time fixed, the governing body shall meet  
 9 and hear all objections and for that purpose may adjourn  
 10 from day to day. The governing body may by resolution modify  
 11 the assessment in whole or in part. A copy of the  
 12 resolution, certified by the clerk of the local government,  
 13 must be delivered to the local government treasurer within 2  
 14 days after its passage.

15        NEW SECTION. Section 21. Assessments and other charges  
 16 as lien. A special assessment made and levied to defray the  
 17 cost and expenses of the work for the system, together with  
 18 any percentages imposed for delinquency and for cost of  
 19 collection, are a lien upon the property upon which the  
 20 assessment is made and levied, from and after the date of  
 21 the passage of the resolution levying the assessment. The  
 22 lien may only be extinguished by payment of the assessment,  
 23 with all penalties, costs, and interest.

24        NEW SECTION. Section 22. Charges for services. (1) The  
 25 governing body may by ordinance or resolution establish just

1 and equitable rates, charges, and rentals for the services  
2 and benefits directly or indirectly afforded by a system  
3 operated by, controlled by, and under the jurisdiction of a  
4 district formed under [sections 1 through 34].

5 (2) The rates, charges, and rentals must be as nearly  
6 as possible equitable in proportion to the services and  
7 benefits rendered and may take into consideration the  
8 quantity of water supplied, the amount of sewage produced  
9 and its concentration, water pollution qualities in general,  
10 and the cost of disposal of sewage and storm waters.

11 NEW SECTION. Section 23. Authorization to use federal  
12 funds. The governing body may apply for and receive from the  
13 federal government, on behalf of the district, any money  
14 that may be appropriated by congress for aiding in local  
15 public works projects. The governing body may borrow from  
16 the federal government any funds available for assisting in  
17 the planning or financing of local public works projects and  
18 repay the loan out of the money received from the tax levy  
19 provided for in this part.

20 NEW SECTION. Section 24. Charges for costs when  
21 federal funding is sought. Notwithstanding any other section  
22 of [sections 1 through 34] or a limitation imposed in  
23 [sections 1 through 34], when the governing body has applied  
24 for funds pursuant to [section 23], the governing body may  
25 adopt a system of charges and rates to require that each

1 recipient of services pays its proportionate share of the  
2 costs of operation, maintenance, and replacement and to  
3 require industrial users of services to pay that portion of  
4 the cost of construction of the system that is allocable to  
5 the industrial user.

6 NEW SECTION. Section 25. Resolution to establish  
7 service charges -- hearing -- limitations and tax levy. The  
8 governing body may, subject to the provisions of Title 69,  
9 chapter 7, by resolution and after public hearing:

10 (1) establish the rates, charges, and rentals in  
11 amounts sufficient in each year to provide income and  
12 revenues adequate for the payment of the reasonable expense  
13 of operation and maintenance of the system;

14 (2) establish an additional charge for the operation  
15 and maintenance of a system and a plant; and

16 (3) levy and assess a tax upon the taxable valuation of  
17 each and every lot or parcel of land and improvements in the  
18 district, not in excess of 2 mills on each dollar of taxable  
19 valuation, to provide sufficient revenues for the reserve  
20 fund in the amounts necessary to meet the financial  
21 requirements of the fund as described in [sections 28  
22 through 33].

23 NEW SECTION. Section 26. Hearing and notice on tax  
24 levy for operation and maintenance. (1) Not less than 30  
25 days prior to the date of making the levy for operation and

1 maintenance of the system, the governing body shall hold a  
2 public hearing on the resolution.

3 (2) Notice clearly setting forth the subject matter of  
4 the hearing must be given by the governing body by  
5 publication as provided in 7-1-2121, and notice must also be  
6 posted in three public places within the district.

7 NEW SECTION. Section 27. Preparation and filing of  
8 district budget. (1) Not less than 30 days prior to the date  
9 of the public hearing on the resolution, the governing body  
10 shall prepare and file in the office of the clerk of the  
11 local government in which the district is located and in the  
12 office of the governing body a complete, detailed budget for  
13 operation and maintenance of the system, showing all income  
14 and expenditures for the year prior to the hearing and all  
15 estimated income and expenditures for the next ensuing year  
16 in which the levy is assessed.

17 (2) The provisions of law relating to local government  
18 budgets and expenditures must be complied with by the  
19 district.

20 NEW SECTION. Section 28. Authorization for reserve  
21 fund. The governing body may, in order to secure prompt  
22 payment of any district bonds issued in payment of the cost  
23 of improvements for the district and the interest on the  
24 bonds as it becomes due, create, establish, and maintain by  
25 resolution a fund, to be designated as the "reserve fund",

1 for each issue of bonds.

2 NEW SECTION. Section 29. Sources of money for reserve  
3 fund. (1) For the purpose of providing money for the reserve  
4 fund, the governing body may in its discretion, from time to  
5 time, transfer to the reserve fund from the operation and  
6 maintenance fund of the district an amount as may be  
7 considered necessary or as may be agreed upon with the  
8 holders of the bonds.

9 (2) Whenever there is money in the bond fund that is  
10 not required for payment of a bond of the district or  
11 interest on the bond, as much as is necessary to pay the  
12 loan referred to in [section 31] must, by order of the  
13 governing body, be transferred to the reserve fund.

14 NEW SECTION. Section 30. Transfers to reserve fund  
15 considered as loans. The amount or amounts transferred under  
16 [section 29] must be considered as loans from the operation  
17 and maintenance fund to the reserve fund.

18 NEW SECTION. Section 31. Loans from reserve fund to  
19 bond fund as lien. (1) Whenever a loan is made to the bond  
20 fund from the reserve fund, the reserve fund has a lien for  
21 the amount of the loan on:

22 (a) the land within the district that is delinquent in  
23 the payment of its assessments;

24 (b) unpaid assessments and installments of assessments  
25 on the district, whether delinquent or not; and

1 (c) money coming into the bond fund to the amount of  
2 the loan, together with interest on the loan from the time  
3 it was made at the rate or percentage payable by the bond or  
4 of interest on the bond for which the loan was made.

5 (2) If after all the bonds of the district have been  
6 fully paid and all money remaining in the bond fund has been  
7 transferred to the reserve fund, there still remains a debt  
8 from the district to the reserve fund, the governing body  
9 may foreclose the lien upon property within the district  
10 owing unpaid assessments to the district for the purpose of  
11 paying off the loan to the reserve fund.

12 NEW SECTION. Section 32. Limitation on repayment of  
13 loan to reserve fund. Nothing in [sections 28 through 33]  
14 permits the repayment of a loan to the reserve fund at any  
15 time unless all interest accrued on the bonds has been fully  
16 paid and all principal agreed to be paid in accordance with  
17 the redemption schedule as may be provided in the resolution  
18 or resolutions authorizing the bonds has been paid.

19 NEW SECTION. Section 33. Covenants to use and maintain  
20 reserve fund. (1) In connection with the issuance of  
21 district bonds, the governing body may undertake and agree:

22 (a) to issue orders annually authorizing loans or  
23 advances from the reserve fund to the fund maintained for  
24 the payment of the bonds in amounts sufficient to make good  
25 any deficiency in the bond and interest accounts to the

1 extent that money is available; and

2 (b) to provide money for the reserve fund pursuant to  
3 the provisions of [sections 22 and 25] by establishing and  
4 collecting rates, charges, and rentals for services and  
5 benefits in amounts sufficient to provide net revenues in  
6 excess of the current costs of operation and maintenance of  
7 the system and sufficient to maintain a balance in the  
8 reserve fund as the governing body may agree to and  
9 undertake.

10 (2) The undertakings and agreements authorized by  
11 subsection (1) are binding upon the local government as long  
12 as any bonds or any interest on the bonds remains unpaid.

13 NEW SECTION. Section 34. Acquisition of private water  
14 supply system. (1) If a franchise has been granted to or a  
15 contract made with any person or corporation and the person  
16 or corporation has established or maintained a system of  
17 water supply or has valuable water rights or a supply of  
18 water desired by the district for supplying the district  
19 with water, the governing body granting the franchise,  
20 entering the contract, or desiring the water supply shall,  
21 by the passage of a resolution, give notice to the person or  
22 corporation that it desires to purchase the plant,  
23 franchise, or water supply of the person or corporation.

24 (2) The governing body passing a resolution as provided  
25 in subsection (1) may:

1 (a) purchase the plant, franchise, or water supply upon  
2 terms agreed to by the parties; or,

3 (b)(3) IN CASE AGREEMENT IS NOT REACHED IN ACCORDANCE  
4 WITH SUBSECTION (2), THE GOVERNING BODY MAY take the plant,  
5 franchise, or water supply by eminent domain IN ACCORDANCE  
6 WITH TITLE 70, CHAPTERS 30 AND 31.

7 (3) ~~A resolution that authorizes the taking of private~~  
8 ~~property for purposes of supplying the district with water~~  
9 ~~is conclusive as to the necessity for the taking, except~~  
10 ~~with respect to a water supply system used for irrigation of~~  
11 ~~agricultural crops or for livestock purposes. The taking~~  
12 ~~must conform to and be conducted as provided in Title 70,~~  
13 ~~chapters 30 and 31.~~

14 Section 35, Section 7-13-4403, MCA, is amended to read:

15 "7-13-4403. Acquisition of private water supply system:  
16 (1) It is provided that whenever if a franchise has been  
17 granted to or a contract made with any person or persons,  
18 corporation, or corporations and such the person or persons,  
19 corporation, or corporations, in pursuance thereof or  
20 otherwise, have has established or maintained a system of  
21 water supply or have has valuable water rights or a supply  
22 of water desired by the city or town for supplying the city  
23 or town with water, the city or town granting such the  
24 franchise or entering in such the contract or desiring  
25 such the water supply shall, by the passage of an ordinance,

1 give notice to such the person or persons, corporation, or  
2 corporations that it desires to purchase the plant and  
3 franchise, and or water supply of such the person or  
4 persons, corporation, or corporations:

5 (2) ~~The city or town shall have the right to so passing~~  
6 ~~an ordinance as provided in subsection (1) may:~~

7 (a) purchase the plant or water supply upon such terms  
8 as agreed to by the parties agree; or

9 (b) take the plant, franchise, or water supply by  
10 eminent domain if the plant, franchise, or water supply is  
11 to be used for a municipal water system.

12 (3) ~~An ordinance that authorizes the taking of private~~  
13 ~~property for purposes of supplying the city or town with~~  
14 ~~water is conclusive as to the necessity for the taking,~~  
15 ~~except with respect to a water supply system used for~~  
16 ~~irrigation of agricultural crops or livestock purposes. The~~  
17 ~~taking must conform to and be conducted as provided in Title~~  
18 ~~70, chapters 30 and 31.~~

19 NEW SECTION. Section 35. Codification instruction.  
20 [Sections 1 through 34] are intended to be codified as an  
21 integral part of Title 7, chapter 13, and the provisions of  
22 Title 7, chapter 13, apply to [sections 1 through 34].

-End-