

CHAPTER NO. 251.

SENATE BILL NO. 337

INTRODUCED BY CONOVER

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

February 2, 1979	Introduced and referred to Committee on Local Government.
February 12, 1979	Committee recommend bill do pass. Report adopted.
February 13, 1979	Printed and placed on members' desks.
February 14, 1979	Motion pass consideration.
February 15, 1979	Second reading, do pass.
February 16, 1979	Considered correctly engrossed.
February 17, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 19, 1979	Introduced and referred to Committee on Local Government.
March 6, 1979	Committee recommend bill be concurred in. Report adopted.
March 8, 1979	Second reading, concurred in.
March 12, 1979	Third reading, concurred in.

IN THE SENATE

March 13, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *Smith* BILL NO. 337
 2 INTRODUCED BY *Conover*

3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO IMPROVEMENT
 7 DISTRICTS AND TO UTILITY SERVICES."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 7-12-2106, MCA, is amended to read:

11 "7-12-2106. General provisions related to notice. (1)

12 The notices, resolutions, orders, or other ~~matter~~ matters
 13 required to be published by the provisions of this part
 14 shall be published in a daily, semiweekly, or weekly
 15 newspaper, to be designated by the board of county
 16 commissioners, as often as the same is issued during the
 17 period specified for ~~said~~ publication, and no other statute
 18 ~~shall govern or be~~ is applicable to publications herein
 19 provided for. In case there is no daily, semiweekly, or
 20 weekly newspaper printed or circulated in ~~any such a~~ county,
 21 then ~~such those~~ notices, resolutions, orders, or other
 22 matters as are herein required to be published in a
 23 newspaper shall be posted ~~and kept posted~~, for the same
 24 length of time as required herein for the publication ~~of the~~
 25 same in a daily, semiweekly, or weekly newspaper, in three

1 of the most public places in each voting precinct except as
 2 otherwise specifically provided herein.

3 (2) Proof of the publication or posting of any notice
 4 ~~provided for herein shall be~~ is made by affidavit of the
 5 owner, publisher, printer, or clerk of the newspaper or of
 6 the poster of the notice.

7 (3) No publication of notice other than that provided
 8 for in this part ~~shall be~~ is necessary to give validity to
 9 any of the proceedings provided therein.

10 (4) The word "twice", as used in this part, referring
 11 to the number of times notices, resolutions, ~~orders~~, or
 12 other ~~matter~~ matters shall be published, ~~shall be held to~~
 13 ~~mean~~ means publication of the same in two entire issues of
 14 the newspaper, one being on one day and the other issue
 15 being on a subsequent day of the same or subsequent week."

16 Section 2. Section 7-12-2121, MCA, is amended to read:

17 "7-12-2121. Administration of multicounty district.

18 (1) If a rural improvement district includes areas in more
 19 than one county, the board of county commissioners of each
 20 county in which any portion of the district is situated
 21 shall, upon the creation of ~~such the~~ district and at a joint
 22 session, appoint an initial board of three trustees to
 23 administer the affairs of the district. ~~At least one trustee~~
 24 ~~shall be appointed from each county within the district~~

25 (2) At the end of the ~~respective terms of said~~

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1 ~~trustees term of a trustee,~~ the then board of county
 2 commissioners of the county represented by the trustee shall
 3 appoint a new trustee ~~for a 3-year term~~. In case of a
 4 vacancy by death, resignation, removal from the district, or
 5 otherwise, a trustee shall be appointed by the board of
 6 county commissioners of the county represented by the
 7 trustee to fill ~~the~~ vacancy.

8 (3) At least one trustee shall be appointed from each
 9 county within the district."

10 Section 3. Section 7-12-2122, MCA, is amended to read:

11 "7-12-2122. Term of office of multicounty district
 12 trustee. (1) The trustees appointed upon the creation of
 13 such district shall serve staggered terms of 1, 2, and 3
 14 years. Thereafter, each trustee serves a term of 3 years.

15 (2) ~~The trustees so appointed shall hold~~ A trustee
 16 holds office for the term of ~~their~~ his ~~respective~~
 17 appointment or until ~~their~~ his successor is appointed and
 18 qualified."

19 Section 4. Section 7-12-2154, MCA, is amended to read:

20 "7-12-2154. Payment of damages incurred as a result of
 21 improvements. Whenever the owner or anyone interested in any
 22 property situated in the special improvement district, after
 23 ~~having filed~~ filing with the county clerk a written notice
 24 claiming that his property has been damaged, ~~she~~ is
 25 awarded or recover recovers any amount ~~on account~~ because of

1 damages sustained ~~to said by the~~ property ~~by the reason~~
 2 because of the construction of any improvement in said the
 3 special improvement district:

4 (1) before the resolution levying the assessment to
 5 defray the cost of making ~~such the~~ improvement in said the
 6 district ~~has been~~ is passed and adopted by the board of
 7 county commissioners, the amount ~~so ordered as to be~~
 8 recovered shall be added to and constitute a part of making
 9 such the improvements; but

10 (2) if the resolution levying the assessment to defray
 11 the cost and expenses of making ~~said the~~ improvement has
 12 been passed and adopted by the board, it shall pass and
 13 adopt a supplemental resolution levying an additional
 14 assessment against the property in said the district for the
 15 purpose of paying the amount ~~so awarded~~ {of covering} and
 16 the supplemental resolution shall be made in the same manner
 17 and prepared and certified the same as the original
 18 resolution levying the assessment to defray the cost or
 19 making such the improvements."

20 Section 5. Section 7-12-2159, MCA, is amended to read:

21 "7-12-2159. Notice of resolution for levy and
 22 assessment of tax -- protest and hearing. (1) A notice,
 23 signed by the county clerk and stating that the resolution
 24 levying a special assessment to defray the cost of making
 25 such the improvements is on file in the office of the county

1 clerk and is subject to inspection, shall be published at
2 least ~~one-publication~~ once in a newspaper published nearest
3 to where the special improvement is to be made.

4 (2) ~~Such~~ The notice shall state the time at and place
5 in which objections to the final adoption of ~~such~~ the
6 resolution will be heard by the board of county
7 commissioners. The time for ~~such~~ the hearing ~~shall--be~~ may
8 not be less than 5 days after the publication of ~~such~~ the
9 notice."

10 Section 6. Section 7-12-2165, MCA, is amended to read:

11 "7-12-2165. Procedure to correct assessment and reliev
12 and collect tax. (1) Whenever, by reason of any alleged
13 nonconformity to any law or by reason of any omission or
14 irregularity, any special tax or assessment is either
15 invalid or its validity is questioned, the board of county
16 commissioners may make all necessary orders and may take all
17 necessary steps to correct, ~~the same and--to~~ reassess, and
18 reliev the same, including the ordering of work, with the
19 same force and effect as ~~it~~ if made at the time provided by
20 the law or resolution relating thereto. The board may
21 reassess and reliev the ~~same tax or assessment~~ with the same
22 force and effect as an original levy.

23 (2) Any special tax, upon reassessment or reliev,
24 shall, so far as ~~it--is~~ practicable, be levied and collected
25 as the same as it would have been if the first levy had been

1 enforced. Any provision of any law specifying a time when or
2 order in which acts shall be done in a proceeding which may
3 result in a special tax ~~shall-be-taken-to-be~~ are subject to
4 the qualifications of this part.

5 (3) Whenever any apportionment or assessment is made
6 and any property is assessed too little or too much, the
7 ~~same assessment~~ may be corrected and reassessed for such
8 additional amount as ~~may-be~~ is proper or the assessment may
9 be reduced even to the extent of refunding the tax
10 collected."

11 Section 7. Section 7-12-2301, MCA, is amended to read:

12 "7-12-2301. Rental provisions of municipal public
13 sewer law applicable to rural districts. ~~it--is--further~~
14 ~~provided--that--all--the~~ The provisions of part 42 of chapter
15 13 referring to sewer rentals ~~shall~~ apply to special
16 improvement districts for the constructing and maintaining
17 and operating of sanitary sewers and storm sewers, ~~as~~
18 ~~provided--for--in--chapter--133, laws of 1929,~~ and the powers
19 conferred on councils in part 42 of chapter 13 ~~shall-be--and~~
20 are hereby conferred on ~~the severel boards~~ each board of
21 county commissioners ~~for the purposes of said--chapter--133,~~
22 ~~laws--of--1929, insofar as the same relates to sewers as far~~
23 as those powers relate to sewer rentals."

24 Section 8. Section 7-12-4101, MCA, is amended to read:

25 "7-12-4101. Definitions. Unless the context indicates

1 otherwise, as used in this part and part 42, the following
 2 definitions apply:

3 (1) ~~The word "blocks", whether regular or irregular~~
 4 ~~shall mean such "Blocks" means blocks as, whether regular or~~
 5 ~~irregular, that are bounded by main streets or partially by~~
 6 ~~main streets and a boundary line of the city.~~

7 (2) ~~The word "city" and the word "municipality" as~~
 8 ~~used in this part and part 42, shall be understood and so~~
 9 ~~construed as to include "City" or "municipality" means all~~
 10 ~~corporations heretofore organized and now existing and those~~
 11 ~~hereafter organized for municipal purposes.~~

12 (3) ~~The terms "city clerk" and "clerk" as used in~~
 13 ~~this part and part 42, include "City clerk" or "clerk" means~~
 14 ~~any person or officer who shall be is clerk of the council.~~

15 (4) ~~The term "city council" includes "City council"~~
 16 ~~means any body or board which under the law that is the~~
 17 ~~legislative department of the government of the city.~~

18 (5) ~~The term "city engineer" as used in this part and~~
 19 ~~part 42, includes "City engineer" means any person or~~
 20 ~~officer whose duty it is, under the law, to have the care or~~
 21 ~~charge who is responsible for the maintenance and~~
 22 ~~improvement of the streets or the improvement thereof in any~~
 23 ~~a city.~~

24 (6) ~~The term "city treasurer" as used in this part~~
 25 ~~and part 42, "City treasurer" means and includes any person~~

1 who, under whatever name or title, is the custodian of the
 2 funds of the municipality.

3 (7) ~~The term "incidental expenses" as used in this~~
 4 ~~part and part 42, shall include "Incidental expenses" means~~
 5 ~~the compensation of the city engineer for work done by him,~~
 6 ~~also the cost of printing and advertising as provided in~~
 7 ~~this part and part 42, the compensation of the persons~~
 8 ~~appointed by the city engineer to take charge of and~~
 9 ~~superintend any of the work mentioned in this part, or the~~
 10 ~~expenses of making the assessment for any work authorized by~~
 11 ~~this part.~~

12 (8) ~~The term "main street" "Main street" means such~~
 13 ~~actually opened street or streets as bound bounds a block.~~

14 (9) ~~The words "paved" or "repaved" as used in this~~
 15 ~~part and part 42, "Paved" or "repaved" means and includes~~
 16 ~~pavement of stone (whether paving blocks or macadam), of~~
 17 ~~bituminous rock or asphalt, or of wood, brick, or oth~~
 18 ~~material (whether patented or not) which the city council~~
 19 ~~shall adopts by ordinance or resolution-adopt.~~

20 (10) ~~The term "quarter block" as used in this part and~~
 21 ~~part 42, as "Quarter block", when used in reference to~~
 22 ~~irregular blocks, includes means all lots or portions of~~
 23 ~~lots having any frontage on either of two intersecting~~
 24 ~~street streets halfway from such the intersection to the~~
 25 ~~next main street or, when no main street intervenes, all the~~

1 way to a boundary line of the city.

2 (11) ~~The word "street" as used in this part and part~~
3 ~~42, includes "Street" means~~ avenues, highways, lanes,
4 alleys, crossings or intersections, courts, and places which
5 have been dedicated and accepted according to the law or in
6 common and undisputed use by the public for a period of not
7 less than 5 years next preceding.

8 (12) ~~The term "street intersection" wherever used in~~
9 ~~this part and part 42 shall be held to mean "Street~~
10 ~~intersection" means~~ that parcel of land at the point of
11 juncture or crossing of intersecting streets which lies
12 between lines drawn from corner to corner of all lot lines
13 immediately cornering at such juncture.

14 (13) ~~The words "work", "improved", and "improvement"~~
15 ~~as used in this part and part 42 shall include "Work",~~
16 ~~"improved", or "improvement" means~~ all work or the securing
17 of property mentioned in this part and part 42 and also the
18 construction, reconstruction, and repair of all or any
19 portion of said work."

20 Section 9. Section 7-12-4170, MCA, is amended to read:

21 "7-12-4170. Payment of damages incurred as a result of
22 improvements. Whenever the owner or ~~any one~~ anyone
23 interested in any property situated within any special
24 improvement district, after ~~having filed~~ filing with the
25 clerk the a written notice required by ~~section 5237 of this~~

1 ~~code} claiming that his property has been damaged, shall be~~
2 ~~is~~ awarded or recover recovers any amount on account because
3 of damages sustained ~~to such~~ by the property by ~~reason~~
4 because of the construction of any improvement in said ~~the~~
5 special improvement district:

6 (1) if the resolution levying ~~the~~ assessment to defray
7 the cost of making such ~~the~~ improvement in said ~~the~~ district
8 ~~has is~~ not been passed and adopted by the city council, the
9 amount ~~so awarded or to be~~ recovered shall be added to and
10 constitute a part of the cost of making such ~~the~~
11 improvement; but

12 (2) if the resolution levying ~~assessments the~~
13 ~~assessment~~ to defray the costs and expenses of making said
14 ~~the~~ improvement has been passed and adopted by the council,
15 it shall pass and adopt a supplemental resolution levying
16 additional assessments against all the property in said ~~the~~
17 district for the purpose of paying the amount so awarded or
18 ~~recovered,~~ and said ~~the~~ supplemental resolution shall be
19 made and in ~~every the same~~ manner and prepared and certified
20 the same as the original resolution levying ~~assessments the~~
21 ~~assessment~~ to defray the cost of making such ~~the~~
22 improvement."

23 Section 10. Section 7-12-4179, MCA, is amended to
24 read:

25 "7-12-4179. Payment of maintenance costs -- resolution

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1 for assessment. (1) The whole cost of maintaining said the
 2 improvements shall be paid by assessing the entire district
 3 ~~in either one of the two methods set forth in 7-12-4162 and~~
 4 ~~7-12-4163~~ under a permissible assessment option as provided
 5 in 7-12-4162 through 7-12-4165.

6 (2) It ~~shall be~~ is the duty of said the council to
 7 estimate, as near as practicable, the cost of maintaining
 8 the improvements in each district for the season. Before the
 9 first Monday in September of each year, the council shall
 10 pass and finally adopt a resolution levying and assessing
 11 all the property within the several districts with an amount
 12 equal to the whole cost of maintaining said the improvements
 13 within the several districts ~~and in the manner hereinabove~~
 14 provided.

15 (3) Said the resolution levying assessments to defray
 16 the cost of maintenance of such the improvement shall be in
 17 every ~~manner~~ prepared and certified to in the same manner as
 18 a resolution levying assessments for making improvements in
 19 said the special improvement ~~districts~~ district.

20 (4) The council ~~shall have the power of changing~~ may
 21 change by resolution, not more than once in a year, the
 22 boundaries of any maintenance district, but such the change
 23 of boundaries ~~shall~~ may not affect indebtedness existing at
 24 the time of such the change."

25 Section 11. Section 7-12-4184, NCA, is amended to

1 read:

2 "7-12-4184. Reinstatement of delinquent assessment.
 3 (1) When ~~whenever~~ any special assessment or installment or
 4 ~~installments of special assessments have become~~ is
 5 ~~delinquent, are so~~ is declared to be delinquent by
 6 appropriate resolution by ~~of~~ the city or town council, and
 7 ~~have been~~ is certified to the county clerk and county
 8 treasurer for collection as herein provided, the city or
 9 town council may, nevertheless, at its option, by
 10 appropriate resolution, order the delinquent assessment to
 11 be withdrawn from the county treasurer, canceled from his
 12 records and proceedings, and reinstated in the office of the
 13 city treasurer and on the assessment book thereof upon the
 14 payment to the city treasurer of the assessment or the
 15 installment or installments of special assessments and
 16 interest up to date.

17 (2) The certified copy of the resolution of the
 18 council with reference to such payment, withdrawal, and
 19 reinstatement, filed with the county treasurer, ~~shall be~~ is
 20 ~~authority to end~~ for the county treasurer to cancel and
 21 ~~withdraw said the delinquent special assessments or any~~
 22 ~~installments thereof~~ assessment or installment.

23 (3) Said the withdrawal and reinstatement may be had
 24 and made at any time before or after sale of the property
 25 for delinquent taxes and before tax deed therefor ~~has been~~

1 is executed."

2 Section 12. Section 7-12-4206, MCA, is amended to
3 read:

4 "7-12-4206. Redemption of bonds and warrants. (1) Such
5 ~~The~~ warrants for bonds shall be redeemed by the treasurer
6 when there ~~are~~ funds is money in the special improvement
7 district fund against which ~~said the~~ warrants for bonds ~~are~~
8 ~~drawn~~, on presentation of the coupons belonging thereto, and
9 any funds money remaining shall be applied to the payment of
10 the principal and the redemption of the warrants for bonds
11 in the order of their registration.

12 (2) Whenever there ~~are~~ is any funds money in any
13 special improvement district fund after paying the interest
14 on ~~such the~~ warrants for bonds drawn against ~~said the~~ fund,
15 the treasurer shall call in for payment outstanding warrants
16 for bonds which, together with the interest thereon to the
17 date of redemption, will equal the amount of ~~said the~~ fund
18 on that date. The date of redemption shall be fixed by the
19 treasurer and ~~shall~~ may not be less than 10 days after the
20 date of publication or of service of notice, and on the date
21 so fixed, interest ~~shall cease ceases~~. The treasurer shall
22 give notice by publication once in a newspaper published in
23 the city or, at the option of the treasurer, by written
24 notice to the holders of ~~such the~~ warrants for bonds, if
25 their addresses be are known, of the number of warrants for

1 bonds and the date on which payment will be made."

2 Section 13. Section 7-12-4255, MCA, is amended to
3 read:

4 "7-12-4255. Contents of notice of hearing -- protest.
5 (1) The notice shall state the substance of the petition and
6 the time and place for hearing and that any interested
7 person interested or any person whose rights may be affected
8 by the issuance or sale of ~~said the~~ bonds or the levy of
9 ~~said the~~ special assessment, may, on or before the day fixed
10 for ~~the~~ hearing of ~~said on the~~ petition, ~~demur to or~~ answer
11 ~~said the~~ petition and may appear at ~~said the~~ hearing and
12 contest the granting of the prayer of ~~said the~~ petition and
13 the entry of any order of confirmation pursuant thereto.

14 (2) Any person ~~so notified~~ eligible to appear may
15 enter his appearance in ~~such the~~ proceedings and ~~demur to or~~
16 answer the petition and contest the granting of the prayer
17 of ~~said the~~ petition, and all provisions of the code of
18 civil procedure shall be applicable to ~~said the~~
19 proceedings."

20 Section 14. Section 7-12-4258, MCA, is amended to
21 read:

22 "7-12-4258. Cost of court proceedings. The cost of
23 ~~said the court~~ proceedings ~~shall be allotted or may be~~
24 apportioned between the parties, ~~in~~ at the discretion of the
25 court."

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1 Section 15. Section 7-12-4324, MCA, is amended to
2 read:

3 "7-12-4324. Assessment of costs -- frontage option.

4 (1) The city council shall assess the cost of such ~~the~~
5 improvements against the entire district, each lot or parcel
6 of land within such ~~the~~ district bordering or abutting upon
7 the ~~street or~~ streets whereon or wherein the improvement has
8 been ~~made to bear costs~~ in proportion to the lineal feet
9 abutting or bordering the ~~same~~ streets.

10 (2) The council, in its discretion, ~~shall have the~~
11 power to ~~may~~ pay the whole or any part of the cost of any
12 street, avenue, or alley intersection out of any funds in
13 its hands available for that purpose or to include the whole
14 or any part of such costs within the amount of the
15 assessment to be paid by the property in the district."

16 Section 16. Section 7-12-4337, MCA, is amended to
17 read:

18 "7-12-4337. Incorporation of procedures to correct
19 errors and omissions. All remedies, provisions, and means
20 provided by existing laws or by the ordinances of any city
21 availing itself of the provisions of this part ~~which are~~ for
22 the correction of errors or omissions in the adoption of any
23 resolution or proceeding or in the levy of any assessment or
24 for the collection thereof, ~~or~~ for the enforcement of any
25 such levy by ~~the~~ sale of the property against which any ~~the~~

1 assessment ~~shall be~~ ~~is~~ made, or for the redemption of such
2 ~~the~~ property from such sale or ~~which are~~ otherwise
3 applicable to the administration of this part ~~shall be~~ ~~are~~
4 available in the administration hereof, ~~the same to all~~
5 ~~intents and purposes as would be the case where~~ of this part
6 ~~as if~~ such remedies, provisions, and means ~~made a part~~
7 hereof ~~were contained in this part."~~

8 Section 17. Section 7-12-4426, MCA, is amended to
9 read:

10 "7-12-4426. Notice of resolution for assessment of
11 sprinkling costs. (1) A notice, signed by the city clerk,
12 stating that the resolution levying a special assessment to
13 defray the cost of sprinkling in the several districts is on
14 file in his office and subject to inspection for a period of
15 5 days, shall be published at least once in a newspaper
16 published in a ~~the~~ city or town.

17 (2) Such ~~the~~ notice shall state the time and place at
18 which objections to the final adoption of such ~~the~~
19 resolution will be heard by the council. The time for such
20 ~~the~~ hearing shall be not less than 5 days after the
21 publication of such ~~the~~ notice."

22 Section 18. Section 7-12-4503, MCA, is amended to
23 read:

24 "7-12-4503. Protest to abandonment of district. Unless
25 40% of the property owners owning property abutting such ~~the~~

1 district file written protests against ~~such the~~ abandonment
2 upon ~~by~~ the date set for the passage of ~~such the~~ resolution
3 of abandonment, ~~said the~~ council shall forthwith pass a
4 resolution declaring ~~such the~~ district abandoned."

5 Section 19. Section 7-13-155, MCA, is amended to read:

6 "7-13-155. Limitation on repayment of loan to reserve
7 fund. Nothing in 7-13-151 through 7-13-156 ~~shall--permit~~
8 ~~permits~~ the repayment of any loan to the reserve fund at any
9 time unless all interest theretofore accrued on the bonds
10 has been fully paid and all principal theretofore agreed to
11 be paid in accordance with such redemption schedule as may
12 be provided in the resolution or resolutions authorizing
13 such bonds has been paid."

14 Section 20. Section 7-13-214, MCA, is amended to read:

15 "7-13-214. Composition of board of directors. (1) The
16 board shall consist of not less than five members, ~~each--of~~
17 ~~whom--shall--be--property--owners--in--the--district.~~

18 (2) (a) The board shall consist of one county
19 commissioner, one member from each incorporated city or town
20 that is included in the district, and one member of the
21 county or city-county board of health.

22 (b) The rest of the board shall consist of interested
23 citizens, distributed equally throughout the district.

24 (3) In those counties where full-time city-county
25 health departments exist, the city-county board of health

1 may be designated as the board of directors for the refuse
2 disposal district."

3 Section 21. Section 7-13-241, MCA, is amended to read:

4 "7-13-241. Creation of joint refuse disposal
5 districts. (1) Joint refuse disposal districts are districts
6 which encompass two or more counties or parts thereof.

7 (2) A joint refuse disposal district may be created in
8 the following manner:

9 (a) The commissioners of each county affected will
10 create the district following the procedure as prescribed
11 under 7-13-203 through 7-13-212.

12 (b) The commissioners shall appoint a joint board of
13 directors composed of at least five members, ~~each--of--whom~~
14 ~~shall--be--property--owners--in--the--district.~~"

15 Section 22. Section 7-13-2220, MCA, is amended to
16 read:

17 "7-13-2220. Right-of-way across state lands. The
18 right-of-way is hereby given, dedicated, and set apart to
19 locate, construct, and maintain ~~said district~~ works over and
20 through any ~~of--the~~ lands which are now ~~or--may--be~~ the
21 property of this state, and to ~~have--the--same--rights--and~~
22 ~~privileges--appertaining--thereto--as--have--been--or--may--be~~ the
23 district has the same rights and privileges relating to the
24 right-of-way as are granted to the municipalities within the
25 state."

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1 Section 23. Section 7-13-2223, MCA, is amended to
2 read:

3 "7-13-2223. Effect of informalities. (1) No
4 informality in conducting district elections ~~shall~~
5 ~~invalidate the same if they have been conducted by directors~~
6 to fill a vacancy, or appointed informality in an
7 appointment by a mayor ~~or by this part and part 23~~
8 invalidates the election or appointment.

9 (2) No informality in any proceeding or informality in
10 the conduct of any election not substantially affecting
11 adversely the legal rights of any citizen ~~shall be held to~~
12 may invalidate the incorporation of any district.

13 (3) No irregularities or informalities in conducting
14 an election on the question of incurring bonded indebtedness
15 ~~shall may~~ invalidate the ~~same~~ election if the election ~~shall~~
16 have is otherwise been fairly conducted."

17 Section 24. Section 7-13-2261, MCA, is amended to
18 read:

19 "7-13-2261. Recall of officers. Every incumbent of an
20 elective office, whether elected by popular vote for a full
21 term, or elected by the board of directors to fill a
22 vacancy, or appointed by a mayor or ~~setd~~ the board of
23 county commissioners for a full term, is subject to recall
24 by the voters of any district organized under the provisions
25 of this part and part 23 in accordance with the recall

1 provisions ~~applicable to officers under the~~
2 ~~commissioner manager plan~~ of Title 2, chapter 16, part 6."

3 Section 25. Section 7-13-4304, MCA, is amended to
4 read:

5 "7-13-4304. Authority to charge for services. (1) The
6 governing body of such a municipality operating a municipal
7 water or sewer system shall ~~have full power and authority~~
8 ~~and it is hereby made its duty to~~ fix and establish, by
9 ordinance or resolution, and collect rates, rentals, and
10 charges for the services, facilities, and benefits directly
11 or indirectly afforded by the system ~~on the basis of water~~
12 ~~consumed or any other equitable basis, taking into account~~
13 services provided and benefits received.

14 (2) Sewer charges may take into consideration the
15 quantity of sewage produced and its concentration and water
16 pollution qualities in general and the cost of disposal of
17 sewage and storm waters. The sewer charges may be fixed on
18 the basis of water consumption or any other equitable basis
19 the governing body ~~may deem~~ considers appropriate. The rates
20 for sewer charges may be fixed in advance or otherwise and
21 shall be uniform for like services in all parts of the
22 municipality. If the governing body determines that the
23 sewage treatment ~~and/or~~ or storm water disposal prevents
24 pollution of sources of water supply, the sewer charges may
25 be established as a surcharge on the water bills of water

1 consumers or on any other equitable basis of measuring the
2 use and benefits of such ~~the~~ facilities and services.

3 (3) An original charge for the connecting sewerline
4 between the lot line and the sewer main may be assessed when
5 such ~~the~~ connecting sewerline is installed.

6 (4) Such ~~the~~ water and sewer rates, charges, or
7 rentals shall be as nearly as possible equitable in
8 proportion to the services and benefits rendered."

-End-

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LC 0621

1979 Legislature
Code Commissioner Bill - Summary

Special Bill No. 337

AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO IMPROVEMENT DISTRICTS AND TO UTILITY SERVICES.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 7-12-2106. This section is rewritten for clarity. In subsection (1), "except otherwise" is changed to "except as otherwise" for grammatical purposes.

Section 2. 7-12-2121. This section is rewritten for clarity. As presently written, subsection (2) is ambiguous as to who appoints successor trustees: the board of county commissioners or the board of trustees. This subsection is rewritten to permit the county commissioners to make the appointment. Considering the authority of the trustees, see 7-12-2123, it would appear that the elected body should continue to make the appointments.

Section 3. 7-12-2122. A provision for the regular term of office of a trustee is added. By oversight no such provision was included in the law. Given the lengths of the staggered terms, it seems reasonable that a 3-year term of office was anticipated. Subsection (2) is rewritten for clarity.

Section 4. 7-12-2154. This section is rewritten for clarity. In subsection (2), "(of covering)" is deleted. The term is surplusage and has no apparent meaning.

Section 5. 7-12-2159. This section is rewritten for clarity.

Section 6. 7-12-2165. This section is rewritten for clarity. In subsection (1), "as it made" is changed to "as if made" to correct what appears to be a typographical error.

Section 7. 7-12-2301. This section is rewritten for clarity. The references to Chapter 133, Laws of 1929, are deleted as unnecessary, with certain language added at the end of the section because of these deletions.

Section 8. 7-12-4101. This section is rewritten for clarity and to achieve uniform terminology.

Section 9. 7-12-4170. This section is rewritten for clarity. In the introductory clause a reference to "section 5237" is deleted (the section has been repealed) and replaced with language which conveys the intent of the reference.

Section 10. 7-12-4179. This section is rewritten for clarity. In subsection (1), a reference to the two methods provided by 7-12-4162 and 7-12-4163 is rewritten to accommodate the additional methods of assessment which have been provided by legislative enactment since the language of 7-12-4179 was first enacted.

Section 11. 7-12-4184. This section is rewritten for clarity. In subsection (1), the phrase "order the delinquent assessment to" is added. There is obviously language missing in the sentence. The chosen terminology seems to mesh with the language of the remainder of the section.

Section 12. 7-12-4206. This section is rewritten for clarity. In subsection (1), the words "are drawn" are added to correct what appears to be an inadvertent omission of necessary terminology. To avoid confusion, "funds" is changed to "money" in several places.

Section 13. 7-12-4255. This section is rewritten for clarity. References to the "demurrer" are deleted as that term is no longer used in the modern rules of civil procedure.

Section 14. 7-12-4258. This section is rewritten for clarity, and in particular, "said" is changed to "the court" for clarity. This section was originally enacted as a portion of a larger section dealing with court proceedings; and the reference to "said" proceedings appears to refer to the court proceedings.

Section 15. 7-12-4324. In subsection (1), the words "to bear costs" are added to correct an omission of necessary terminology.

Section 16. 7-12-4337. The last part of this section is rewritten for clarity.

Section 17. 7-12-4426. In subsection (1), "a" is added for grammar.

Section 18. 7-12-4503. The word "upon" is changed to "by" for clarity. The protests must be received by the indicated date; they do not all need to arrive on that date as the present language seems to require.

Section 19. 7-13-155. At the end of the section "has been paid" is added to correct an omission of necessary terminology.

LC 0621

Sections 20 and 21. 7-13-214 and 7-13-241. In both sections, a property owner requirement for membership on the board of directors of a refuse district is deleted. This requirement appears to be unconstitutional under the holding of the Montana Supreme Court in Sadler v. Connolly, 575 P2d 51 (1978).

Section 22. 7-13-2220. This section is rewritten for clarity, especially the last part of the section.

Section 23. 7-13-2223. This section is rewritten for clarity.

Section 24. 7-13-2261. A reference to the recall provisions of the commission-manager form of government is changed to the provisions of the new recall law.

Section 25. 7-13-4304. Subsection (1) is rewritten to incorporate the language of subsection (2) with respect to the basis in determining the rates and charges.

Approved by Comm.
on Local Government

Senate BILL NO. 337

INTRODUCED BY *Carson*

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO IMPROVEMENT DISTRICTS AND TO UTILITY SERVICES."

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

Section 1. Section 7-12-2106, MCA, is amended to read:

"7-12-2106. General provisions related to notice. (1)

The notices, resolutions, orders, or other ~~matter~~ matters required to be published by the provisions of this part shall be published in a daily, semiweekly, or weekly newspaper, to be designated by the board of county commissioners, as often as the same is issued during the period specified for ~~said~~ publication, and no other statute ~~shall govern or be~~ is applicable to publications herein provided for. In case there is no daily, semiweekly, or weekly newspaper printed or circulated in ~~any such a~~ county, then ~~such~~ those notices, resolutions, orders, or other ~~matters~~ as are herein required to be published in a newspaper shall be posted ~~and kept posted~~, for the same length of time as required herein for the publication of ~~the~~ same in a daily, semiweekly, or weekly newspaper, in three

There are no changes in SB 337 and due to length will not be rerun. Please refer to white copy for complete text.

of the most public places in each voting precinct except as otherwise specifically provided herein.

(2) Proof of the publication or posting of any notice ~~provided for herein shall be~~ is made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the poster of the notice.

(3) No publication of notice other than that provided for in this part ~~shall be~~ is necessary to give validity to any of the proceedings provided therein.

(4) The word "twice", as used in this part, referring to the number of times notices, resolutions, orders, or other ~~matter~~ matters shall be published, ~~shall be held to~~ mean ~~means~~ publication of the same in two entire issues of the newspaper, one being on one day and the other issue being on a subsequent day of the same or subsequent week."

Section 2. Section 7-12-2121, MCA, is amended to read:

"7-12-2121. Administration of multicounty district.

(1) If a rural improvement district includes areas in more than one county, the board of county commissioners of each county in which any portion of the district is situated shall, upon the creation of ~~such the~~ district and at a joint session, appoint e ~~an initial~~ board of three trustees to administer the affairs of the district. ~~At least one trustee shall be appointed from each county within the district.~~

(2) At the end of the ~~respective terms of said~~

1 ~~trustees term of a trustee,~~ the then board of county
 2 ~~commissioners of the county represented by the trustee~~ shall
 3 appoint a new trustee ~~for a 3-year term.~~ In case of a
 4 vacancy by death, resignation, removal from the district, or
 5 otherwise, a trustee shall be appointed by the board of
 6 ~~county commissioners of the county represented by the~~
 7 ~~trustee~~ to fill ~~such the~~ vacancy.

8 (3) At least one trustee shall be appointed from each
 9 county within the district."

10 Section 3. Section 7-12-2122, MCA, is amended to read:

11 "7-12-2122. Term of office of multicity district
 12 trustee. (1) The trustees appointed upon the creation of
 13 such district shall serve staggered terms of 1, 2, and 3
 14 years. ~~Thereafter, each trustee serves a term of 3 years.~~

15 (2) ~~The trustees so appointed shall hold a trustee~~
 16 ~~holds~~ office for the term of ~~their~~ his
 17 appointment or until ~~their~~ his successor is appointed and
 18 qualified."

19 Section 4. Section 7-12-2154, MCA, is amended to read:

20 "7-12-2154. Payment of damages incurred as a result of
 21 improvements. Whenever the owner or anyone interested in any
 22 property situated in the special improvement district, after
 23 ~~having filed~~ filing with the county clerk a written notice
 24 claiming that his property has been damaged, ~~shall be~~ is
 25 awarded or recover recovers any amount ~~on account~~ because of

1 damages sustained ~~to said by the~~ property ~~by the~~ reason
 2 ~~because~~ of the construction of any improvement in ~~said the~~
 3 special improvement district:

4 (1) before the resolution levying the assessment to
 5 defray the cost of making ~~such the~~ improvement in ~~said the~~
 6 district ~~has been~~ is passed and adopted by the board of
 7 county commissioners, the amount ~~so~~ ordered ~~as to be~~
 8 recovered shall be added to and constitute a part of making
 9 ~~such the~~ improvements; but

10 (2) if the resolution levying the assessment to defray
 11 the cost and expenses of making ~~said the~~ improvement has
 12 been passed and adopted by the board, it shall pass and
 13 adopt a supplemental resolution levying an additional
 14 assessment against the property in ~~said the~~ district for the
 15 purpose of paying the amount ~~so~~ awarded ~~(of covering)~~ and
 16 the supplemental resolution shall be made in the same manner
 17 and prepared and certified the same as the original
 18 resolution levying the assessment to defray the cost of
 19 making ~~such the~~ improvements."

20 Section 5. Section 7-12-2159, MCA, is amended to read:

21 "7-12-2159. Notice of resolution for levy and
 22 assessment of tax -- protest and hearing. (1) A notice,
 23 signed by the county clerk and stating that the resolution
 24 levying a special assessment to defray the cost of making
 25 ~~such the~~ improvements is on file in the office of the county

1 *Senate* BILL NO. 337
 2 INTRODUCED BY *Conover*
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO IMPROVEMENT
 7 DISTRICTS AND TO UTILITY SERVICES."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 7-12-2106, MCA, is amended to read:

11 "7-12-2106. General provisions related to notice. (1)
 12 The notices, resolutions, orders, or other ~~matter~~ matters
 13 required to be published by the provisions of this part
 14 shall be published in a daily, semiweekly, or weekly
 15 newspaper, to be designated by the board of county
 16 commissioners, as often as the same is issued during the
 17 period specified for ~~and~~ publication, and no other statute
 18 ~~shall-govern-or-be~~ is applicable to publications herein
 19 provided for. In case there is no daily, semiweekly, or
 20 weekly newspaper printed or circulated in ~~any-such~~ a county,
 21 then such ~~those~~ notices, resolutions, orders, or other
 22 matters as are herein required to be published in a
 23 newspaper shall be posted ~~and-kept-posted~~, for the same
 24 length of time as required herein for the publication ~~of-the~~
 25 same in a daily, semiweekly, or weekly newspaper, in three

1 of the most public places in each voting precinct except as
 2 otherwise specifically provided herein.

3 (2) Proof of the publication or posting of any notice
 4 ~~provided-for-herein-shall-be~~ is made by affidavit of the
 5 owner, publisher, printer, or clerk of the newspaper or of
 6 the poster of the notice.

7 (3) No publication of notice other than that provided
 8 for in this part ~~shall-be~~ is necessary to give validity to
 9 any of the proceedings provided therein.

10 (4) The word "twice", as used in this part, referring
 11 to the number of times notices, resolutions, ~~orders~~, or
 12 other ~~matter~~ matters shall be published, ~~shall-be-held-to~~
 13 ~~mean~~ mean publication of the same in two entire issues of
 14 the newspaper, one being on one day and the other issue
 15 being on a subsequent day of the same or subsequent week."

16 Section 2. Section 7-12-2121, MCA, is amended to read:

17 "7-12-2121. Administration of multicounty district.
 18 (1) If a rural improvement district includes areas in more
 19 than one county, the board of county commissioners of each
 20 county in which any portion of the district is situated
 21 shall, upon the creation of such ~~the~~ district and at a joint
 22 session, appoint a an initial board of three trustees to
 23 administer the affairs of the district. ~~At-least-one-trustee~~
 24 ~~shall-be-appointed-from-each-county-within-the-district.~~

25 (2) At the end of the ~~respective-terms-of-said~~

1 ~~trustees term of a trustee~~, the then board of county
 2 ~~commissioners of the county represented by the trustee~~ shall
 3 appoint a new trustee--for--a--3-year--term. In case of a
 4 vacancy by death, resignation, removal from the district, or
 5 otherwise, a trustee shall be appointed by the board of
 6 ~~county commissioners of the county represented by the~~
 7 ~~trustee~~ to fill such ~~the~~ vacancy.

8 ~~(3) At least one trustee shall be appointed from each~~
 9 ~~county within the district."~~

10 Section 3. Section 7-12-2122, MCA, is amended to read:

11 "7-12-2122. Term of office of multicounty district
 12 trustee. (1) The trustees appointed upon the creation of
 13 such district shall serve staggered terms of 1, 2, and 3
 14 years. ~~Thereafter, each trustee serves a term of 3 years.~~

15 ~~(2) The trustees so appointed shall hold a trustee~~
 16 ~~holds~~ office for the term of their---respective ~~his~~
 17 appointment or until their ~~his~~ successor is appointed and
 18 qualified."

19 Section 4. Section 7-12-2154, MCA, is amended to read:

20 "7-12-2154. Payment of damages incurred as a result of
 21 improvements. Whenever the owner or anyone interested in any
 22 property situated in the special improvement district, after
 23 ~~having-filed filing~~ with the county clerk a written notice
 24 claiming that his property has been damaged, ~~shall-be is~~
 25 awarded or recover ~~recovers~~ any amount on-account ~~because~~ of

1 damages sustained ~~to-said by the~~ property by--the--reason
 2 ~~because~~ of the construction of any improvement in said ~~the~~
 3 special improvement district:

4 (1) before the resolution levying the assessment to
 5 defray the cost of making such ~~the~~ improvement in said ~~the~~
 6 district ~~has-been is~~ passed and adopted by the board of
 7 county commissioners, the amount ~~so~~ ordered ~~as to be~~
 8 recovered shall be added to and constitute a part of making
 9 such ~~the~~ improvements; but

10 (2) if the resolution levying the assessment to defray
 11 the cost and expenses of making ~~said the~~ improvement has
 12 been passed and adopted by the board, it shall pass and
 13 adopt a supplemental resolution levying an additional
 14 assessment against the property in said ~~the~~ district for the
 15 purpose of paying the amount ~~so~~ awarded ~~{of--covering}~~ and
 16 the supplemental resolution shall be made in the same manner
 17 and prepared and certified the same as the original
 18 resolution levying the assessment to defray the cost of
 19 making such ~~the~~ improvements."

20 Section 5. Section 7-12-2159, MCA, is amended to read:

21 "7-12-2159. Notice of resolution for levy and
 22 assessment of tax -- protest and hearing. (1) A notice,
 23 signed by the county clerk and stating that the resolution
 24 levying a special assessment to defray the cost of making
 25 such ~~the~~ improvements is on file in the office of the county

1 clerk and is subject to inspection, shall be published at
2 least ~~one publication once~~ in a newspaper published nearest
3 to where the special improvement is to be made.

4 (2) ~~Such~~ The notice shall state the time at and place
5 in which objections to the final adoption of ~~such~~ the
6 resolution will be heard by the board of county
7 commissioners. The time for ~~such~~ the hearing ~~shall be~~ may
8 not ~~be~~ less than 5 days after the publication of ~~such~~ the
9 notice."

10 Section 6. Section 7-12-2165, MCA, is amended to read:

11 "7-12-2165. Procedure to correct assessment and relevy
12 and collect tax. (1) Whenever, by reason of any alleged
13 nonconformity to any law or by reason of any omission or
14 irregularity, any special tax or assessment is either
15 invalid or its validity is questioned, the board of county
16 commissioners may make all necessary orders and may take all
17 necessary steps to correct, ~~the same and to~~ reassess, and
18 relevy the same, including the ordering of work, with the
19 same force and effect as ~~it~~ if made at the time provided by
20 the law or resolution relating thereto. The board may
21 reassess and relevy the ~~same tax or assessment~~ with the same
22 force and effect as an original levy.

23 (2) Any special tax, upon reassessment or relevy,
24 shall, so far as ~~it is~~ practicable, be levied and collected
25 as the same as it would have been if the first levy had been

1 enforced. Any provision of any law specifying a time when or
2 order in which acts shall be done in a proceeding which may
3 result in a special tax ~~shall be taken to be~~ are subject to
4 the qualifications of this part.

5 (3) Whenever any apportionment or assessment is made
6 and any property is assessed too little or too much, the
7 ~~same assessment~~ may be corrected and reassessed for such
8 additional amount as ~~may be~~ is proper or the assessment may
9 be reduced even to the extent of refunding the tax
10 collected."

11 Section 7. Section 7-12-2301, MCA, is amended to read:

12 "7-12-2301. Rental provisions of municipal public
13 sewer law applicable to rural districts. ~~It is further~~
14 ~~provided that at the~~ The provisions of part 42 of chapter
15 13 referring to sewer rentals ~~shall~~ apply to special
16 improvement districts for the constructing and maintaining
17 and operating of sanitary sewers and storm sewers, as
18 ~~provided for in chapter 133, laws of 1929,~~ and the powers
19 conferred on councils in part 42 of chapter 13 ~~shall be and~~
20 ~~are hereby conferred on the several boards~~ each board of
21 county commissioners for the purposes of said ~~chapter 133~~
22 ~~laws of 1929, insofar as the same relates to sewers as far~~
23 as those powers relate to sewer rentals."

24 Section 8. Section 7-12-4101, MCA, is amended to read:

25 "7-12-4101. Definitions. Unless the context indicates

1 ~~otherwise, as used in this part and part 42, the following~~
2 ~~definitions apply:~~

3 ~~(1) The word "blocks", whether regular or irregular~~
4 ~~shall mean such "Blocks" means blocks, whether regular or~~
5 ~~irregular, that are bounded by main streets or partially by~~
6 ~~main streets and a boundary line of the city.~~

7 ~~(2) The word "city" and the word "municipality" as~~
8 ~~used in this part and part 42 shall be understood and so~~
9 ~~construed as to include "City" or "municipality" means all~~
10 ~~corporations heretofore organized and now existing and those~~
11 ~~hereafter organized for municipal purposes.~~

12 ~~(3) The terms "city clerk" and "clerk", as used in~~
13 ~~this part and part 42, include "City clerk" or "clerk" means~~
14 ~~any person or officer who shall be is clerk of the council.~~

15 ~~(4) The term "city council" includes "City council"~~
16 ~~means any body or board which, under the law, that is the~~
17 ~~legislative department of the government of the city.~~

18 ~~(5) The term "city engineer" as used in this part and~~
19 ~~part 42, includes "City engineer" means any person or~~
20 ~~officer whose duty it is, under the law, to have the care or~~
21 ~~charge who is responsible for the maintenance and~~
22 ~~improvement of the streets or the improvement thereof in any~~
23 ~~a city.~~

24 ~~(6) The term "city treasurer" as used in this part~~
25 ~~and part 42, "City treasurer" means and includes any person~~

1 who, under whatever name or title, is the custodian of the
2 funds of the municipality.

3 ~~(7) The term "incidental expenses", as used in this~~
4 ~~part and part 42, shall include "Incidental expenses" means~~
5 ~~the compensation of the city engineer for work done by him,~~
6 ~~also the cost of printing and advertising as provided in~~
7 ~~this part and part 42, the compensation of the persons~~
8 ~~appointed by the city engineer to take charge of and~~
9 ~~superintend any of the work mentioned in this part, or the~~
10 ~~expenses of making the assessment for any work authorized by~~
11 ~~this part.~~

12 ~~(8) The term "main street" "Main street" means such~~
13 ~~actually opened street or streets as bound bounds a block.~~

14 ~~(9) The words "paved" or "repaved" as used in this~~
15 ~~part and part 42, "Paved" or "repaved" means and includes~~
16 ~~pavement of stone (whether paving blocks or macadam), of~~
17 ~~bituminous rock or asphalt, or of wood, brick, or other~~
18 ~~material (whether patented or not) which the city council~~
19 ~~shall adopts by ordinance or resolution-adopt.~~

20 ~~(10) The term "quarter block" as used in this part and~~
21 ~~part 42, as "Quarter block", when used in reference to~~
22 ~~irregular blocks, includes means all lots or portions of~~
23 ~~lots having any frontage on either of two intersecting~~
24 ~~street streets halfway from such the intersection to the~~
25 ~~next main street or, when no main street intervenes, all the~~

1 way to a boundary line of the city.

2 (11) ~~The word "street" as used in this part and part~~
 3 ~~42, includes "Street" means~~ avenues, highways, lanes,
 4 alleys, crossings or intersections, courts, and places which
 5 have been dedicated and accepted according to the law or in
 6 common and undisputed use by the public for a period of not
 7 less than 5 years next preceding.

8 (12) ~~The term "street intersection" wherever used in~~
 9 ~~this part and part 42, shall be held to mean "Street~~
 10 ~~intersection" means~~ that parcel of land at the point of
 11 juncture or crossing of intersecting streets which lies
 12 between lines drawn from corner to corner of all lot lines
 13 immediately cornering at such juncture.

14 (13) ~~The words "work", "improved", and "improvement",~~
 15 ~~as used in this part and part 42, shall include "Work",~~
 16 ~~"improved", or "improvement" means~~ all work or the securing
 17 of property mentioned in this part and part 42 and also the
 18 construction, reconstruction, and repair of all or any
 19 portion of said work."

20 Section 9. Section 7-12-4170, MCA, is amended to read:

21 "7-12-4170. Payment of damages incurred as a result of
 22 improvements. Whenever the owner or ~~any one~~ anyone
 23 interested in any property situated within any special
 24 improvement district, after having ~~filed~~ filing with the
 25 clerk the a written notice required by ~~section 5237 of this~~

1 ~~code} claiming that his property has been damaged, shall be~~
 2 ~~is~~ awarded or recover recovers any amount on account ~~because~~
 3 of damages sustained to ~~such~~ by the property by ~~reason~~
 4 ~~because~~ of the construction of any improvement in ~~said the~~
 5 special improvement district:

6 (1) if the resolution levying ~~the~~ assessment to defray
 7 the cost of making ~~the~~ improvement in ~~said the~~ district
 8 has ~~is~~ not been passed and adopted by the city council, the
 9 amount ~~so awarded or to be~~ recovered shall be added to and
 10 constitute a part of the cost of making ~~such the~~
 11 improvement; but

12 (2) if the resolution levying ~~assessments the~~
 13 ~~assessment~~ to defray the costs and expenses of making ~~said~~
 14 ~~the~~ improvement has been passed and adopted by the council,
 15 it shall pass and adopt a supplemental resolution levying
 16 additional assessments against all the property in ~~said the~~
 17 district for the purpose of paying the amount so awarded or
 18 recovered, and ~~said the~~ supplemental resolution shall be
 19 made and in every ~~the same~~ manner and prepared and certified
 20 the same as the original resolution levying ~~assessments the~~
 21 ~~assessment~~ to defray the cost of making ~~such the~~
 22 improvement."

23 Section 10. Section 7-12-4179, MCA, is amended to
 24 read:

25 "7-12-4179. Payment of maintenance costs -- resolution

1 for assessment. (1) The ~~whole~~ cost of maintaining ~~and the~~
 2 improvements shall be paid by assessing the entire district
 3 ~~in either one of the two methods set forth in 7-12-4162 and~~
 4 ~~7-12-4163~~ under a permissible assessment option as provided
 5 in 7-12-4162 through 7-12-4165.

6 (2) It ~~shall be~~ is the duty of ~~and the~~ council to
 7 estimate, as near as practicable, the cost of maintaining
 8 the improvements in each district for the season. Before the
 9 first Monday in September of each year, the council shall
 10 pass and finally adopt a resolution levying and assessing
 11 all the property within the several districts with an amount
 12 equal to the whole cost of maintaining ~~and the~~ improvements
 13 within the several districts ~~and in the manner hereinabove~~
 14 provided.

15 (3) ~~Said the~~ resolution levying assessments to defray
 16 the cost of maintenance of ~~such the~~ improvement shall be ~~in~~
 17 ~~every manner~~ prepared and certified to in the same ~~manner~~ as
 18 a resolution levying assessments for making improvements in
 19 ~~said the~~ special improvement ~~districts~~ district.

20 (4) The council ~~shall have the power of changing~~ may
 21 change by resolution, not more than once ~~in~~ a year, the
 22 boundaries of any maintenance district, but ~~such the~~ change
 23 of boundaries ~~shall~~ may not affect indebtedness existing at
 24 the time of ~~such the~~ change."

25 Section 11. Section 7-12-4184, MCA, is amended to

1 read:

2 "7-12-4184. Reinstatement of delinquent assessment.
 3 (1) When ~~Whenever~~ any special assessment or installment or
 4 ~~installments of special assessments have become~~ is
 5 ~~delinquent, and so is~~ is declared to be delinquent by
 6 appropriate resolution ~~by~~ of the city or town council, and
 7 ~~have been~~ is certified to the county clerk and county
 8 treasurer for collection as herein provided, the city or
 9 town council may, nevertheless, at its option, by
 10 appropriate resolution, order the delinquent assessment to
 11 be withdrawn from the county treasurer, canceled from his
 12 records and proceedings, and reinstated in the office of the
 13 city treasurer and on the assessment book thereof upon the
 14 payment to the city treasurer of the assessment or the
 15 installment or installments of special assessments and
 16 interest up to date.

17 (2) The certified copy of the resolution of the
 18 council with reference to such payment, withdrawal, and
 19 reinstatement, filed with the county treasurer, ~~shall be~~ is
 20 authority ~~to and~~ for the county treasurer to cancel and
 21 withdraw ~~said the~~ delinquent special assessments ~~or any~~
 22 ~~installments thereof~~ assessment or installment.

23 (3) ~~Said the~~ withdrawal and reinstatement may be ~~had~~
 24 ~~and~~ made at any time before or after sale of the property
 25 for delinquent taxes and before tax deed therefor ~~has been~~

1 ~~is~~ executed."

2 Section 12. Section 7-12-4206, MCA, is amended to
3 read:

4 "7-12-4206. Redemption of bonds and warrants. (1) Such
5 ~~The~~ warrants ~~for bonds~~ shall be redeemed by the treasurer
6 when there are--funds ~~is money~~ in the special improvement
7 district fund against which ~~said the~~ warrants ~~for bonds~~ ~~are~~
8 ~~drawn~~, on presentation of the coupons belonging thereto, and
9 any funds ~~money~~ remaining shall be applied to the payment of
10 the principal and the redemption of the warrants ~~for bonds~~
11 in the order of their registration.

12 (2) Whenever there are ~~is~~ any funds ~~money~~ in any
13 special improvement district fund after paying the interest
14 on such ~~the~~ warrants ~~for bonds~~ drawn against ~~said the~~ fund,
15 the treasurer shall call in for payment outstanding warrants
16 ~~for bonds~~ which, together with the interest thereon to the
17 date of redemption, will equal the amount of ~~said the~~ fund
18 on that date. The date of redemption shall be fixed by the
19 treasurer and ~~shall may~~ not be less than 10 days after the
20 date of publication or of service of notice, and on the date
21 so fixed, interest ~~shall cease ceases~~. The treasurer shall
22 give notice by publication once in a newspaper published in
23 the city or, at the option of the treasurer, by written
24 notice to the holders of such ~~the~~ warrants ~~for bonds~~, if
25 their addresses be ~~are~~ known, of the number of warrants ~~for~~

1 bonds and the date on which payment will be made."

2 Section 13. Section 7-12-4255, MCA, is amended to
3 read:

4 "7-12-4255. Contents of notice of hearing -- protest.
5 (1) The notice shall state the substance of the petition and
6 the time and place for hearing and that any ~~interested~~
7 person interested or ~~any person~~ whose rights may be affected
8 by the issuance or sale of ~~said the~~ bonds or the levy of
9 ~~said the~~ special assessment, ~~may~~ on or before the day fixed
10 for ~~the~~ hearing ~~of said on the~~ petition, ~~demur to or~~ answer
11 ~~said the~~ petition and may appear at ~~said the~~ hearing and
12 contest the granting of the prayer of ~~said the~~ petition and
13 the entry of any order of confirmation pursuant thereto.

14 (2) Any person ~~so-notified~~ ~~eligible~~ to appear may
15 enter his appearance in such ~~the~~ proceedings and ~~demur to or~~
16 answer the petition and contest the granting of the prayer
17 of ~~said the~~ petition, and all provisions of the code of
18 civil procedure shall be applicable to ~~said the~~
19 proceedings."

20 Section 14. Section 7-12-4258, MCA, is amended to
21 read:

22 "7-12-4258. Cost of court proceedings. The cost of
23 ~~said the court~~ proceedings ~~shall be allotted or may be~~
24 apportioned between the parties, ~~in at~~ the discretion of the
25 court."

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1 Section 15. Section 7-12-4324, MCA, is amended to
2 read:

3 "7-12-4324. Assessment of costs -- frontage option.
4 (1) The city council shall assess the cost of such ~~the~~
5 improvements against the entire district, each lot or parcel
6 of land within such ~~the~~ district bordering or abutting upon
7 the street or streets whereon or wherein the improvement has
8 been made to bear costs in proportion to the lineal feet
9 abutting or bordering the ~~some streets~~.

10 (2) The council, in its discretion, ~~shall have the~~
11 power to ~~may~~ pay the whole or any part of the cost of any
12 street, avenue, or alley intersection out of any funds in
13 its hands available for that purpose or to include the whole
14 or any part of such costs within the amount of the
15 assessment to be paid by the property in the district."

16 Section 16. Section 7-12-4337, MCA, is amended to
17 read:

18 "7-12-4337. Incorporation of procedures to correct
19 errors and omissions. All remedies, provisions, and means
20 provided by existing laws or by the ordinances of any city
21 availing itself of the provisions of this part which are for
22 the correction of errors or omissions in the adoption of any
23 resolution or proceeding or in the levy of any assessment or
24 for the collection thereof, or for the enforcement of any
25 such levy by ~~the~~ sale of the property against which any ~~the~~

1 assessment ~~shall be~~ is made, or for the redemption of such
2 ~~the~~ property from such sale or which are otherwise
3 applicable to the administration of this part ~~shall be~~ are
4 available in the administration hereof, ~~the same to all~~
5 ~~intents and purposes as would be the case where~~ of this part
6 as if such remedies, provisions, and means ~~made a part~~
7 hereof were contained in this part."

8 Section 17. Section 7-12-4426, MCA, is amended to
9 read:

10 "7-12-4426. Notice of resolution for assessment of
11 sprinkling costs. (1) A notice, signed by the city clerk,
12 stating that the resolution levying a special assessment to
13 defray the cost of sprinkling in the several districts is on
14 file in his office and subject to inspection for a period of
15 5 days, shall be published at least once in a newspaper
16 published in a ~~the~~ city or town.

17 (2) Such ~~the~~ notice shall state the time and place at
18 which objections to the final adoption of such ~~the~~
19 resolution will be heard by the council. The time for such
20 ~~the~~ hearing shall be not less than 5 days after the
21 publication of such ~~the~~ notice."

22 Section 18. Section 7-12-4503, MCA, is amended to
23 read:

24 "7-12-4503. Protest to abandonment of district. Unless
25 40% of the property owners owning property abutting such ~~the~~

1 district file written protests against ~~such the~~ abandonment
 2 upon ~~by~~ the date set for the passage of ~~such the~~ resolution
 3 of abandonment, ~~and the~~ council shall forthwith pass a
 4 resolution declaring ~~such the~~ district abandoned."

5 Section 19. Section 7-13-155, MCA, is amended to read:
 6 "7-13-155. Limitation on repayment of loan to reserve
 7 fund. Nothing in 7-13-151 through 7-13-156 ~~shall permit~~
 8 ~~permits~~ the repayment of any loan to the reserve fund at any
 9 time unless all interest theretofore accrued on the bonds
 10 has been fully paid and all principal theretofore agreed to
 11 be paid in accordance with such redemption schedule as may
 12 be provided in the resolution or resolutions authorizing
 13 such bonds has been paid."

14 Section 20. Section 7-13-214, MCA, is amended to read:
 15 "7-13-214. Composition of board of directors. (1) The
 16 board shall consist of not less than five members, ~~each of~~
 17 ~~whom shall be property owners in the district.~~

18 (2) (a) The board shall consist of one county
 19 commissioner, one member from each incorporated city or town
 20 that is included in the district, and one member of the
 21 county or city-county board of health.

22 (b) The rest of the board shall consist of interested
 23 citizens, distributed equally throughout the district.

24 (3) In those counties where full-time city-county
 25 health departments exist, the city-county board of health

1 may be designated as the board of directors for the refuse
 2 disposal district."

3 Section 21. Section 7-13-241, MCA, is amended to read:
 4 "7-13-241. Creation of joint refuse disposal
 5 districts. (1) Joint refuse disposal districts are districts
 6 which encompass two or more counties or parts thereof.

7 (2) A joint refuse disposal district may be created in
 8 the following manner:

9 (a) The commissioners of each county affected will
 10 create the district following the procedure as prescribed
 11 under 7-13-203 through 7-13-212.

12 (b) The commissioners shall appoint a joint board of
 13 directors composed of at least five members, ~~each of whom~~
 14 ~~shall be property owners in the district.~~

15 Section 22. Section 7-13-2220, MCA, is amended to
 16 read:

17 "7-13-2220. Right-of-way across state lands. The
 18 right-of-way is hereby given, dedicated, and set apart to
 19 locate, construct, and maintain ~~said district~~ works over and
 20 through any ~~of the~~ lands which are ~~now or may be~~ the
 21 property of this state, and to ~~have the same rights and~~
 22 ~~privileges appertaining thereto as have been or may be the~~
 23 district has the same rights and privileges relating to the
 24 right-of-way as are granted to the municipalities within the
 25 state."

1 Section 23. Section 7-13-2223, MCA, is amended to
2 read:

3 "7-13-2223. Effect of informalities. (1) No
4 informality in conducting district elections shall
5 ~~invalidate the same if they have been conducted by directors~~
6 to fill a vacancy, or appointed informality in an
7 appointment by a mayor ~~or by this part and part 23~~
8 invalidates the election or appointment.

9 (2) No informality in any proceeding or informality in
10 the conduct of any election not substantially affecting
11 adversely the legal rights of any citizen shall ~~be held to~~
12 may invalidate the incorporation of any district.

13 (3) No irregularities or informalities in conducting
14 an election on the question of incurring bonded indebtedness
15 shall may invalidate the ~~same~~ election if the election shall
16 have is otherwise been fairly conducted."

17 Section 24. Section 7-13-2261, MCA, is amended to
18 read:

19 "7-13-2261. Recall of officers. Every incumbent of an
20 elective office, whether elected by popular vote for a full
21 term, or elected by the board of directors to fill a
22 vacancy, or appointed by a mayor or ~~by said~~ the board of
23 county commissioners for a full term, is subject to recall
24 by the voters of any district organized under the provisions
25 of this part and part 23 in accordance with the recall

1 provisions ~~applicable to officers under the~~
2 ~~commissioner-manager plan of Title 2, chapter 16, part 6."~~

3 Section 25. Section 7-13-4304, MCA, is amended to
4 read:

5 "7-13-4304. Authority to charge for services. (1) The
6 governing body of such a municipality operating a municipal
7 water or sewer system shall ~~have full power and authority~~
8 ~~and it is hereby made its duty to~~ fix and establish, by
9 ordinance or resolution, and collect rates, rentals, and
10 charges for the services, facilities, and benefits directly
11 or indirectly afforded by the system ~~on the basis of water~~
12 ~~consumed or any other equitable basis, taking into account~~
13 services provided and benefits received.

14 (2) Sewer charges may take into consideration the
15 quantity of sewage produced and its concentration and water
16 pollution qualities in general and the cost of disposal of
17 sewage and storm waters. The sewer charges may be fixed on
18 the basis of water consumption or any other equitable basis
19 the governing body ~~may deem~~ considers appropriate. The rates
20 for sewer charges may be fixed in advance or otherwise and
21 shall be uniform for like services in all parts of the
22 municipality. If the governing body determines that the
23 sewage treatment ~~and/or~~ or storm water disposal prevents
24 pollution of sources of water supply, the sewer charges may
25 be established as a surcharge on the water bills of water

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1 consumers or on any other equitable basis of measuring the
2 use and benefits of such the facilities and services.

3 (3) An original charge for the connecting sewerline
4 between the lot line and the sewer main may be assessed when
5 such the connecting sewerline is installed.

6 (4) Such the water and sewer rates, charges, or
7 rentals shall be as nearly as possible equitable in
8 proportion to the services and benefits rendered."

-End-

SB 337

SENATE BILL NO. 337

INTRODUCED BY CONOVER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO IMPROVEMENT DISTRICTS AND TO UTILITY SERVICES."

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

Section 1. Section 7-12-2106, MCA, is amended to read:

"7-12-2106. General provisions related to notice. (1)

The notices, resolutions, orders, or other ~~matter matters~~ required to be published by the provisions of this part shall be published in a daily, semiweekly, or weekly newspaper, to be designated by the board of county commissioners, as often as the same is issued during the period specified for said publication, and no other statute ~~shall-govern-or-be is~~ applicable to publications herein provided for. In case there is no daily, semiweekly, or weekly newspaper printed or circulated in any-such a county, then such ~~those~~ notices, resolutions, orders, or other matters as are herein required to be published in a newspaper shall be posted ~~and--kept--posted~~, for the same length of time as required herein for the publication of-the same in a daily, semiweekly, or weekly newspaper, in three

of the most public places in each voting precinct except as otherwise specifically provided herein.

(2) Proof of the publication or posting of any notice ~~provided-for-herein-shall-be is~~ made by affidavit of the owner, publisher, printer, or clerk of the newspaper or of the poster of the notice.

(3) No publication of notice other than that provided for in this part ~~shall-be is~~ necessary to give validity to any of the proceedings provided therein.

(4) The word "twice", as used in this part, referring to the number of times notices, resolutions, ~~orders,~~ or other ~~matter matters~~ shall be published, ~~shall--be--held--to mean means~~ publication of the same in two entire issues of the newspaper, one being on one day and the other issue being on a subsequent day of the same or subsequent week."

Section 2. Section 7-12-2121, MCA, is amended to read:

"7-12-2121. Administration of multicounty district.

(1) If a rural improvement district includes areas in more than one county, the board of county commissioners of each county in which any portion of the district is situated shall, upon the creation of such ~~the~~ district and at a joint session, appoint a ~~an~~ initial board of three trustees to administer the affairs of the district. ~~At-least-one-trustee shall-be-appointed-from-each-county-within-the-district.~~

(2) At the end of the respective--terms--of--said

1 trustees ~~term of a trustee~~, the then board of county
 2 ~~commissioners of the county represented by the trustee~~ shall
 3 appoint a new trustee ~~for a 3-year term~~. In case of a
 4 vacancy by death, resignation, removal from the district, or
 5 otherwise, a trustee shall be appointed by the board of
 6 ~~county commissioners of the county represented by the~~
 7 ~~trustee~~ to fill such ~~the~~ vacancy.

8 ~~(3) At least one trustee shall be appointed from each~~
 9 ~~county within the district."~~

10 Section 3. Section 7-12-2122, MCA, is amended to read:

11 "7-12-2122. Term of office of multicounty district
 12 trustee. (1) The trustees appointed upon the creation of
 13 such district shall serve staggered terms of 1, 2, and 3
 14 years. ~~Hereafter, each trustee serves a term of 3 years.~~

15 ~~(2) The trustees so appointed shall hold a trustee~~
 16 ~~holds~~ office for the term of their ~~respective his~~
 17 appointment or until their ~~his~~ successor is appointed and
 18 qualified."

19 Section 4. Section 7-12-2154, MCA, is amended to read:

20 "7-12-2154. Payment of damages incurred as a result of
 21 improvements. Whenever the owner or anyone interested in any
 22 property situated in the special improvement district, after
 23 ~~having filed filing~~ with the county clerk a written notice
 24 claiming that his property has been damaged, ~~shall be is~~
 25 awarded or recover ~~recovers~~ any amount on account ~~because~~ of

1 damages sustained ~~to said by the~~ property by ~~the reason~~
 2 ~~because~~ of the construction of any improvement in said ~~the~~
 3 special improvement district:

4 (1) before the resolution levying the assessment to
 5 defray the cost of making such ~~the~~ improvement in said ~~the~~
 6 district has been ~~is~~ passed and adopted by the board of
 7 county commissioners, the amount so ordered as to ~~be~~
 8 recovered shall be added to and constitute a part of making
 9 such ~~the~~ improvements; but

10 (2) if the resolution levying the assessment to defray
 11 the cost and expenses of making said ~~the~~ improvement has
 12 been passed and adopted by the board, it shall pass and
 13 adopt a supplemental resolution levying an additional
 14 assessment against the property in said ~~the~~ district for the
 15 purpose of paying the amount so awarded ~~(if covering)~~ and
 16 the supplemental resolution shall be made in the same manner
 17 and prepared and certified the same as the original
 18 resolution levying the assessment to defray the cost of
 19 making such ~~the~~ improvements."

20 Section 5. Section 7-12-2159, MCA, is amended to read:

21 "7-12-2159. Notice of resolution for levy and
 22 assessment of tax -- protest and hearing. (1) A notice,
 23 signed by the county clerk and stating that the resolution
 24 levying a special assessment to defray the cost of making
 25 such ~~the~~ improvements is on file in the office of the county

1 clerk and is subject to inspection, shall be published at
2 least ~~one-publication once~~ in a newspaper published nearest
3 to where the special improvement is to be made.

4 (2) Such ~~the~~ notice shall state the time ~~at~~ and place
5 in which objections to the final adoption of ~~such the~~
6 resolution will be heard by the board of county
7 commissioners. The time for ~~such the~~ hearing ~~shall--be may~~
8 not ~~be~~ less than 5 days after the publication of ~~such the~~
9 notice."

10 Section 6. Section 7-12-2165, MCA, is amended to read:

11 "7-12-2165. Procedure to correct assessment and relevy
12 and collect tax. (1) Whenever, by reason of any alleged
13 nonconformity to any law or by reason of any omission or
14 irregularity, any special tax or assessment is either
15 invalid or its validity is questioned, the board of county
16 commissioners may make all necessary orders and may take all
17 necessary steps to correct, ~~the some and--to~~ reassess, and
18 relevy the same, including the ordering of work, with the
19 same force and effect as ~~it if~~ made at the time provided by
20 ~~the~~ law or resolution relating thereto. The board may
21 reassess and relevy the ~~some tax or assessment~~ with the same
22 force and effect as an original levy.

23 (2) Any special tax, upon reassessment or relevy,
24 shall, so far as ~~it-is~~ practicable, be levied and collected
25 as the same ~~as it~~ would have been if the first levy had been

1 enforced. Any provision of any law specifying a time when or
2 order in which acts shall be done in a proceeding which may
3 result in a special tax ~~shall-be-taken-to-be~~ are subject to
4 the qualifications of this part.

5 (3) Whenever any apportionment or assessment is made
6 and any property is assessed too little or too much, the
7 ~~some assessment~~ may be corrected and reassessed for such
8 additional amount as ~~may-be is~~ proper or the assessment may
9 be reduced even to the extent of refunding the tax
10 collected."

11 Section 7. Section 7-12-2301, MCA, is amended to read:

12 "7-12-2301. Rental provisions of municipal public
13 sewer law applicable to rural districts. ~~it-is-further~~
14 ~~provided--that--at--the~~ ~~the~~ provisions of part 42 of chapter
15 13 referring to sewer rentals shall apply to special
16 improvement districts for the constructing and maintaining
17 and operating of sanitary sewers and storm sewers, ~~as~~
18 ~~provided--for--in--chapter-133--laws-of-1929,~~ and the powers
19 conferred on councils in part 42 of chapter 13 shall be ~~and~~
20 are hereby conferred on ~~the severel boards~~ ~~each board~~ of
21 county commissioners for ~~the purposes of said--chapter--133~~
22 ~~laws--of--1929--insofar-as-the-same-relates-to-sewers as far~~
23 as those powers relate to sewer rentals."

24 Section 8. Section 7-12-4101, MCA, is amended to read:

25 "7-12-4101. Definitions. Unless the context indicates

1 otherwise, as used in this part and part 42, the following
2 definitions apply:

3 (1) ~~The word "blocks" whether regular or irregular~~
4 ~~shall mean such "Blocks" means blocks, whether regular or~~
5 ~~irregular, that are bounded by main streets or partially by~~
6 ~~main streets and a boundary line of the city.~~

7 (2) ~~The word "city" and the word "municipality" as~~
8 ~~used in this part and part 42 shall be understood and so~~
9 ~~construed as to include "City" or "municipality" means all~~
10 ~~corporations heretofore organized and now existing and those~~
11 ~~hereafter organized for municipal purposes.~~

12 (3) ~~The terms "city clerk" and "clerk" as used in~~
13 ~~this part and part 42 include "City clerk" or "clerk" means~~
14 ~~any person or officer who shall be is clerk of the council.~~

15 (4) ~~The term "city council" includes "City council"~~
16 ~~means any body or board which under the law that is the~~
17 ~~legislative department of the government of the city.~~

18 (5) ~~The term "city engineer" as used in this part and~~
19 ~~part 42 includes "City engineer" means any person or~~
20 ~~officer whose duty it is under the law to have the care or~~
21 ~~charge who is responsible for the maintenance and~~
22 ~~improvement of the streets or the improvement thereof in any~~
23 ~~a city.~~

24 (6) ~~The term "city treasurer" as used in this part~~
25 ~~and part 42 "City treasurer" means and includes any person~~

1 who, under whatever name or title, is the custodian of the
2 funds of the municipality.

3 (7) ~~The term "incidental expenses" as used in this~~
4 ~~part and part 42 shall include "Incidental expenses" means~~
5 ~~the compensation of the city engineer for work done by him,~~
6 ~~also the cost of printing and advertising as provided in~~
7 ~~this part and part 42, the compensation of the persons~~
8 ~~appointed by the city engineer to take charge of and~~
9 ~~superintend any of the work mentioned in this part, or the~~
10 ~~expenses of making the assessment for any work authorized by~~
11 ~~this part.~~

12 (8) ~~The term "main street" "Main street" means such~~
13 ~~actually opened street or streets as bound bounds a block.~~

14 (9) ~~The words "paved" or "repaved" as used in this~~
15 ~~part and part 42 "Paved" or "repaved" means and includes~~
16 ~~pavement of stone (whether paving blocks or macadam), of~~
17 ~~bituminous rock or asphalt, or of wood, brick, or other~~
18 ~~material (whether patented or not) which the city council~~
19 ~~shall adopts by ordinance or resolution adopt.~~

20 (10) ~~The term "quarter block" as used in this part and~~
21 ~~part 42 as "Quarter block", when used in reference to~~
22 ~~irregular blocks, includes means all lots or portions of~~
23 ~~lots having any frontage on either of two intersecting~~
24 ~~street streets halfway from such the intersection to the~~
25 ~~next main street or, when no main street intervenes, all the~~

1 way to a boundary line of the city.

2 (11) The word "street", as used in this part and part
3 42, includes "Street" means avenues, highways, lanes,
4 alleys, crossings or intersections, courts, and places which
5 have been dedicated and accepted according to the law or in
6 common and undisputed use by the public for a period of not
7 less than 5 years next preceding.

8 (12) The term "street intersection" wherever used in
9 this part and part 42 shall be held to mean "Street
10 intersection" means that parcel of land at the point of
11 juncture or crossing of intersecting streets which lies
12 between lines drawn from corner to corner of all lot lines
13 immediately cornering at such juncture.

14 (13) The words "work", "improved" and "improvement"
15 as used in this part and part 42 shall include "Work",
16 "improved", or "improvement" means all work or the securing
17 of property mentioned in this part and part 42 and also the
18 construction, reconstruction, and repair of all or any
19 portion of said work."

20 Section 9. Section 7-12-4170, MCA, is amended to read:

21 "7-12-4170. Payment of damages incurred as a result of
22 improvements. Whenever the owner or any one anyone
23 interested in any property situated within any special
24 improvement district, after having filed filing with the
25 clerk the a written notice required by [section 5237 of this

1 code) claiming that his property has been damaged, shall be
2 is awarded or recover recovers any amount on account because
3 of damages sustained to such by the property by reason
4 because of the construction of any improvement in said the
5 special improvement district:

6 (1) if the resolution levying the assessment to defray
7 the cost of making such the improvement in said the district
8 has is not been passed and adopted by the city council, the
9 amount so awarded or to be recovered shall be added to and
10 constitute a part of the cost of making such the
11 improvement; but

12 (2) if the resolution levying assessments the
13 assessment to defray the costs and expenses of making said
14 the improvement has been passed and adopted by the council,
15 it shall pass and adopt a supplemental resolution levying
16 additional assessments against all the property in said the
17 district for the purpose of paying the amount so awarded or
18 recovered, and said the supplemental resolution shall be
19 made and in every the same manner and prepared and certified
20 the same as the original resolution levying assessments the
21 assessment to defray the cost of making such the
22 improvement."

23 Section 10. Section 7-12-4179, MCA, is amended to
24 read:

25 "7-12-4179. Payment of maintenance costs -- resolution

1 for assessment. (1) The whole cost of maintaining said ~~the~~
 2 improvements shall be paid by assessing the entire district
 3 ~~in either one of the two methods set forth in 7-12-4162 and~~
 4 ~~7-12-4163~~ under a permissible assessment option as provided
 5 in 7-12-4162 through 7-12-4165.

6 (2) It ~~shall be~~ is the duty of said ~~the~~ council to
 7 estimate, as near as practicable, the cost of maintaining
 8 the improvements in each district for the season. Before the
 9 first Monday in September of each year, the council shall
 10 pass and finally adopt a resolution levying and assessing
 11 all the property within the several districts with an amount
 12 equal to the whole cost of maintaining said ~~the~~ improvements
 13 within the several districts ~~and in the manner hereinabove~~
 14 provided.

15 (3) Said ~~the~~ resolution levying assessments to defray
 16 the cost of maintenance of such ~~the~~ improvement shall be in
 17 every manner prepared and certified to in the same manner as
 18 a resolution levying assessments for making improvements in
 19 said ~~the~~ special improvement districts district.

20 (4) The council ~~shall have the power of changing~~ may
 21 change by resolution, not more than once in a year, the
 22 boundaries of any maintenance district, but such ~~the~~ change
 23 of boundaries ~~shall may~~ not affect indebtedness existing at
 24 the time of such ~~the~~ change."

25 Section 11. Section 7-12-4184, MCA, is amended to

1 read:

2 "7-12-4184. Reinstatement of delinquent assessment.
 3 (1) When ~~whenever~~ any special assessment or installment or
 4 ~~installments--of--special--assessments--have--become~~ is
 5 delinquent, are--so is declared to be delinquent by
 6 appropriate resolution by of the city or town council, and
 7 ~~have--been is~~ certified to the county clerk and county
 8 treasurer for collection as herein provided, the city or
 9 town council may, nevertheless, at its option, by
 10 appropriate resolution, order the delinquent assessment to
 11 be withdrawn from the county treasurer, canceled from his
 12 records and proceedings, and reinstated in the office of the
 13 city treasurer and on the assessment book thereof upon the
 14 payment to the city treasurer of the assessment or the
 15 installment or--installments--of--special--assessments and
 16 interest up to date.

17 (2) The certified copy of the resolution of the
 18 council with reference to such payment, withdrawal, and
 19 reinstatement, filed with the county treasurer, ~~shall be is~~
 20 authority ~~to--end~~ for the county treasurer to cancel and
 21 withdraw said ~~the~~ delinquent special assessments ~~or any~~
 22 installments--thereof assessment or installment.

23 (3) Said ~~the~~ withdrawal and reinstatement may be had
 24 and made at any time before or after sale of the property
 25 for delinquent taxes and before tax deed therefor ~~has--been~~

1 is executed."

2 Section 12. Section 7-12-4206, MCA, is amended to
3 read:

4 "7-12-4206. Redemption of bonds and warrants. (1) Such
5 ~~the~~ warrants for bonds shall be redeemed by the treasurer
6 when there are--funds ~~is money~~ in the special improvement
7 district fund against which ~~the~~ warrants for bonds are
8 drawn, on presentation of the coupons belonging thereto, and
9 any funds ~~money~~ remaining shall be applied to the payment of
10 the principal and the redemption of the warrants for bonds
11 in the order of their registration.

12 (2) Whenever there are ~~is~~ any funds ~~money~~ in any
13 special improvement district fund after paying the interest
14 on such ~~the~~ warrants for bonds drawn against ~~the~~ fund,
15 the treasurer shall call in for payment outstanding warrants
16 for bonds which, together with the interest thereon to the
17 date of redemption, will equal the amount of ~~the~~ fund
18 on that date. The date of redemption shall be fixed by the
19 treasurer and ~~shall~~ ~~may~~ not be less than 10 days after the
20 date of publication or of service of notice, and on the date
21 so fixed, interest ~~shall~~-~~cease~~ ~~ceases~~. The treasurer shall
22 give notice by publication once in a newspaper published in
23 the city or, at the option of the treasurer, by written
24 notice to the holders of such ~~the~~ warrants for bonds, if
25 their addresses be ~~are~~ known, of the number of warrants for

1 bonds and the date on which payment will be made."

2 Section 13. Section 7-12-4255, MCA, is amended to
3 read:

4 "7-12-4255. Contents of notice of hearing -- protest.
5 (1) The notice shall state the substance of the petition and
6 the time and place for hearing and that any interested
7 person interested or any person whose rights may be affected
8 by the issuance or sale of ~~the~~ bonds or the levy of
9 ~~the~~ special assessment, may, on or before the day fixed
10 for ~~the~~ hearing of ~~the~~ petition, demur-to-or answer
11 ~~the~~ petition and may appear at ~~the~~ hearing and
12 contest the granting of the prayer of ~~the~~ petition and
13 the entry of any order of confirmation pursuant thereto.

14 (2) Any person so-notified eligible to appear may
15 enter his appearance in such ~~the~~ proceedings and demur-to-or
16 answer the petition and contest the granting of the prayer
17 of ~~the~~ petition, and all provisions of the code of
18 civil procedure shall be applicable to ~~the~~
19 proceedings."

20 Section 14. Section 7-12-4258, MCA, is amended to
21 read:

22 "7-12-4258. Cost of court proceedings. The cost of
23 ~~the~~ court proceedings shall--be--~~settled~~-or may be
24 apportioned between the parties, ~~in~~ at the discretion of the
25 court."

1 Section 15. Section 7-12-4324, MCA, is amended to
2 read:

3 "7-12-4324. Assessment of costs -- frontage option.
4 (1) The city council shall assess the cost of such ~~the~~
5 improvements against the entire district, each lot or parcel
6 of land within such ~~the~~ district bordering or abutting upon
7 the street or streets whereon or wherein the improvement has
8 been made ~~to bear costs~~ in proportion to the lineal feet
9 abutting or bordering the ~~same streets~~.

10 (2) The council, in its discretion, ~~shall have the~~
11 power to ~~may~~ pay the whole or any part of the cost of any
12 street, avenue, or alley intersection out of any funds in
13 its hands available for that purpose or to include the whole
14 or any part of such costs within the amount of the
15 assessment to be paid by the property in the district."

16 Section 16. Section 7-12-4337, MCA, is amended to
17 read:

18 "7-12-4337. Incorporation of procedures to correct
19 errors and omissions. All remedies, provisions, and means
20 provided by existing laws or by the ordinances of any city
21 availing itself of the provisions of this part ~~which are~~ for
22 the correction of errors or omissions in the adoption of any
23 resolution or proceeding or in the levy of any assessment or
24 for the collection thereof, or for the enforcement of any
25 such levy by ~~the~~ sale of the property against which ~~any the~~

1 assessment ~~shall be~~ is made, or for the redemption of such
2 ~~the~~ property from such sale or ~~which are~~ otherwise
3 applicable to the administration of this part ~~shall be~~ are
4 available in the administration hereof--~~the same--to--att~~
5 intents and purposes as would be the case where ~~of this part~~
6 as if such remedies, provisions, and means ~~made a part~~
7 hereof ~~were contained in this part~~."

8 Section 17. Section 7-12-4426, MCA, is amended to
9 read:

10 "7-12-4426. Notice of resolution for assessment of
11 sprinkling costs. (1) A notice, signed by the city clerk,
12 stating that the resolution levying a special assessment to
13 defray the cost of sprinkling in the several districts is on
14 file in his office and subject to inspection for a period of
15 5 days, shall be published at least once in a newspaper
16 published in ~~e the~~ city or town.

17 (2) Such ~~the~~ notice shall state the time and place at
18 which objections to the final adoption of such ~~the~~
19 resolution will be heard by the council. The time for such
20 ~~the~~ hearing shall be not less than 5 days after the
21 publication of such ~~the~~ notice."

22 Section 18. Section 7-12-4503, MCA, is amended to
23 read:

24 "7-12-4503. Protest to abandonment of district. Unless
25 40% of the property owners owning property abutting such ~~the~~

1 district file written protests against such ~~the~~ abandonment
 2 upon ~~by~~ the date set for the passage of such ~~the~~ resolution
 3 of abandonment, said ~~the~~ council shall forthwith pass a
 4 resolution declaring such ~~the~~ district abandoned."

5 Section 19. Section 7-13-155, MCA, is amended to read:
 6 "7-13-155. Limitation on repayment of loan to reserve
 7 fund. Nothing in 7-13-151 through 7-13-156 ~~shall--permit~~
 8 ~~permits~~ the repayment of any loan to the reserve fund at any
 9 time unless all interest theretofore accrued on the bonds
 10 has been fully paid and all principal theretofore agreed to
 11 be paid in accordance with such redemption schedule as may
 12 be provided in the resolution or resolutions authorizing
 13 such bonds has been paid."

14 Section 20. Section 7-13-214, MCA, is amended to read:
 15 "7-13-214. Composition of board of directors. (1) The
 16 board shall consist of not less than five members--~~each--of~~
 17 ~~whom--shall--be--property--owners--in--the--district.~~

18 (2) (a) The board shall consist of one county
 19 commissioner, one member from each incorporated city or town
 20 that is included in the district, and one member of the
 21 county or city-county board of health.

22 (b) The rest of the board shall consist of interested
 23 citizens, distributed equally throughout the district.

24 (3) In those counties where full-time city-county
 25 health departments exist, the city-county board of health

1 may be designated as the board of directors for the refuse
 2 disposal district."

3 Section 21. Section 7-13-241, MCA, is amended to read:

4 "7-13-241. Creation of joint refuse disposal
 5 districts. (1) Joint refuse disposal districts are districts
 6 which encompass two or more counties or parts thereof.

7 (2) A joint refuse disposal district may be created in
 8 the following manner:

9 (a) The commissioners of each county affected will
 10 create the district following the procedure as prescribed
 11 under 7-13-203 through 7-13-212.

12 (b) The commissioners shall appoint a joint board of
 13 directors composed of at least five members--~~each--of--whom~~
 14 ~~shall--be--property--owners--in--the--district.~~

15 Section 22. Section 7-13-2220, MCA, is amended to
 16 read:

17 "7-13-2220. Right-of-way across state lands. The
 18 right-of-way is hereby given, dedicated, and set apart to
 19 locate, construct, and maintain ~~said district~~ works over and
 20 through any ~~of--the~~ lands which are now--~~or--may--be~~ the
 21 property of this state, and to--~~have--the--same--rights--and~~
 22 ~~privileges--appertaining--thereto--as--have--been--or--may--be~~ the
 23 district has the same rights and privileges relating to the
 24 right-of-way as are granted to the municipalities ~~withn~~ the
 25 state."

1 Section 23. Section 7-13-2223, MCA, is amended to
2 read:

3 "7-13-2223. Effect of informalities. (1) No
4 informality in conducting district elections shall
5 ~~invalidate the same if they have been conducted by directors~~
6 to fill a vacancy or appointed informality in an
7 appointment by a mayor or ~~by this part and part 23~~
8 invalidates the election or appointment.

9 (2) No informality in any proceeding or informality in
10 the conduct of any election not substantially affecting
11 adversely the legal rights of any citizen shall ~~be held to~~
12 may invalidate the incorporation of any district.

13 (3) No irregularities or informalities in conducting
14 an election on the question of incurring bonded indebtedness
15 shall may invalidate the same election if the election shall
16 have is otherwise been fairly conducted."

17 Section 24. Section 7-13-2261, MCA, is amended to
18 read:

19 "7-13-2261. Recall of officers. Every incumbent of an
20 elective office, whether elected by popular vote for a full
21 term, or elected by the board of directors to fill a
22 vacancy, or appointed by a mayor or ~~by said the~~ board of
23 county commissioners for a full term, is subject to recall
24 by the voters of any district organized under the provisions
25 of this part and part 23 in accordance with the recall

1 provisions ~~applicable to officers under the~~
2 ~~commissioner-manager part~~ of Title 2, chapter 16, part 6."

3 Section 25. Section 7-13-4304, MCA, is amended to
4 read:

5 "7-13-4304. Authority to charge for services. (1) The
6 governing body of such a municipality operating a municipal
7 water or sewer system shall ~~have full power and authority~~
8 ~~and it is hereby made its duty to~~ fix and establish, by
9 ordinance or resolution, and collect rates, rentals, and
10 charges for the services, facilities, and benefits directly
11 or indirectly afforded by the system ~~on the basis of water~~
12 ~~consumed or any other equitable basis, taking into account~~
13 services provided and benefits received.

14 (2) Sewer charges may take into consideration the
15 quantity of sewage produced and its concentration and water
16 pollution qualities in general and the cost of disposal of
17 sewage and storm waters. The sewer charges may be fixed on
18 the basis of water consumption or any other equitable basis
19 the governing body ~~may deem~~ considers appropriate. The rates
20 for sewer charges may be fixed in advance or otherwise and
21 shall be uniform for like services in all parts of the
22 municipality. If the governing body determines that the
23 sewage treatment ~~and/or~~ or storm water disposal prevents
24 pollution of sources of water supply, the sewer charges may
25 be established as a surcharge on the water bills of water

1 consumers or on any other equitable basis of measuring the
2 use and benefits of such ~~the~~ facilities and services.

3 (3) An original charge for the connecting sewerline
4 between the lot line and the sewer main may be assessed when
5 such ~~the~~ connecting sewerline is installed.

6 (4) Such ~~the~~ water and sewer rates, charges, or
7 rentals shall be as nearly as possible equitable in
8 proportion to the services and benefits rendered."

-End-