

HOUSE BILL NO. 654

Introduced: 02/05/83

Referred to Committee on Local Government: 02/05/83

Hearing: 2/15/83

Report: 02/17/83, Do Pass

2nd Reading: 02/19/83, Do Pass

3rd Reading: 02/22/83, Do Pass

Transmitted to Senate: 2/22/83

Referred to Committee on Taxation: 3/1/83

Hearing: 3/8/83

Died in Senate Committee

1 House BILL NO. 654
 2 INTRODUCED BY FAGG
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE ADDITIONAL
 5 ALTERNATIVES FOR THE ASSESSMENT OF COSTS FOR SPECIAL
 6 IMPROVEMENT DISTRICTS; AMENDING SECTIONS 7-12-4113,
 7 7-12-4161, 7-12-4162, AND 7-12-4164, MCA; REPEALING SECTION
 8 7-12-4163, MCA."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 7-12-4113, MCA, is amended to read:
 12 "7-12-4113. Sufficient protest to bar proceedings --
 13 exceptions. (1) Except as provided in subsections (2) and
 14 (3), no further proceedings shall be taken for a period of 6
 15 months from the date when said sufficient protest shall have
 16 been received by said clerk of the city or town council or
 17 commission when the protest is against the proposed work
 18 and:
 19 ~~(a) the cost thereof is to be assessed against~~
 20 ~~property fronting thereon and the council or commission~~
 21 ~~finds that such protest is made by the owners of more than~~
 22 ~~50% of the property fronting on the proposed work; or to be~~
 23 ~~assessed for the improvements within the district or~~
 24 ~~extended district. For the purposes of protests, "property~~
 25 ~~to be assessed" is the property fronting on the property~~

1 ~~under the frontage option, the area of the property under~~
 2 ~~the area option, the lots under the lot options, and the~~
 3 ~~taxable valuation under the taxable valuation option. Under~~
 4 ~~the combination option established under 7-12-4162(1)(a),~~
 5 ~~the 50% protest required to bar the proceedings is 50% of~~
 6 ~~the combined properties assessed under 7-12-4162(1)(a),~~
 7 ~~(b) the cost thereof is to be assessed upon the~~
 8 ~~property within an extended district and the council or~~
 9 ~~commission finds that such protest is made by the owners of~~
 10 ~~more than 50% of the area of the property to be assessed for~~
 11 ~~said improvements;~~
 12 (2) The council or commission shall have the right to
 13 overrule any and all objections and pave the proposed block
 14 with gravel and oil surface when the improvement proposed is
 15 the paving, with necessary incidentals, of not more than one
 16 cross block to connect with streets or avenues already paved
 17 for a continuous distance of three blocks or more running at
 18 a right angle (or substantially so) with the single cross
 19 block so proposed to be paved.
 20 (3) In case the improvement is the construction of a
 21 sanitary sewer, such protest may be overruled by an
 22 affirmative vote of a majority of the members of the council
 23 or commission unless such protest is made by the owners of
 24 more than 75% of the property affected, as herein provided,
 25 in which event the protest must be sustained as to the

construction of such sanitary sewer."

Section 2. Section 7-12-4161, MCA, is amended to read:

"7-12-4161. Choice in manner of assessing costs. (1)

Except as provided in subsection (2), to defray the cost of the making of any of the improvements provided for in this part, the city council or commission shall adopt, ~~in the resolution of intention and resolution creating the district,~~ one of the methods of assessment, where applicable, provided in 7-12-4162 through 7-12-4165.

(2) The method of assessment provided for in ~~7-12-4163~~

~~7-12-4162(1)(a)~~ shall not apply to assessments in improvement districts created under the provisions of 7-12-4109."

Section 3. Section 7-12-4162, MCA, is amended to read:

"7-12-4162. Assessment of costs -- ~~frontage area,~~

~~lot, and taxable valuation options~~ option. (1) The city council or commission shall assess the entire cost of such improvements against the entire district, ~~as follows:~~

~~(a) each lot or parcel of land within the district bordering or abutting a street or streets whereon or wherein the improvement has been made may be assessed in proportion to the lineal feet abutting or bordering on the street or streets;~~

~~(b) each lot or parcel of land within such district to may be assessed for that part of the whole cost which its~~

area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places;

~~(c) if the city council or commission determines that the benefits derived from the improvements by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the area of the lot or parcel;~~

~~(d) each lot or parcel of land, including the improvements thereon, may be assessed for that part of the whole cost of the district which its taxable valuation bears to the whole cost of the district; or~~

~~(e) by using any combination of the assessment options provided in subsections (1)(a) through (d). If a combination is used, the resolution of intention and resolution creating the district shall specify the combination of options under which the district is to be assessed.~~

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

(3) In order to equitably apportion the cost of any of the improvements herein provided for between that land

1 within the district which lies within 25 feet of the line of
 2 the street on which the improvement is to be made and all
 3 other land within the district, the council or commission
 4 may, in the resolution creating any improvement district,
 5 provide that the amount of the assessment against the
 6 property in such district to defray the cost of such
 7 improvements shall be so assessed that each square foot of
 8 land within the district lying within 25 feet of the line of
 9 the street on which the improvements therein provided for
 10 are made shall bear double the amount of cost of such
 11 improvements per square foot of such land that each square
 12 foot of any other land within the district shall bear."

13 Section 4. Section 7-12-4164, MCA, is amended to read:
 14 "7-12-4164. Assessment of costs -- combined
 15 area-frontage option. Where curbs, gutters, alley
 16 approaches, streets, crossings, and utility service
 17 connections are an integral part of the creation of storm
 18 sewer districts, sanitary sewer districts, or street
 19 pavement districts, the city council or commission may
 20 assess a portion of the improvements upon the area basis as
 21 set forth under ~~7-12-4162~~ 7-12-4162(1)(b), other portions of
 22 the improvements upon a lineal-foot basis as set forth under
 23 ~~7-12-4163~~ 7-12-4162(1)(a), and utility service connections
 24 upon a lump sum based on the bid price in the improvement
 25 district contract and assessed only against the lots,

1 tracts, or parcels of land served by the utility connection
 2 or connections, all within the same special improvement
 3 district, so long as such assessment is equitable."
 4 NEW SECTION. Section 5. Repealer. Section 7-12-4163,
 5 MCA, is repealed.

-End-

Approved by Comm.
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18 and:

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13 overrule any and all objections and pave the proposed block
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16 cross block to connect with streets or avenues already paved
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