

HOUSE BILL NO. 734

Introduced: 02/12/83

Referred to Committee on Local Government: 02/12/83

Hearing: 2/18/83

Died in Committee

1 *J. Janson* *House* BILL NO. *734*  
 2 INTRODUCED BY *M. Hart* *Spencer* *Menghan*  
 3 *Bertelsen* *Velt* *Spencer* *Long* *Walden*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE  
 5 ESTABLISHMENT OF COMMUNITY FACILITIES DISTRICTS, AFTER  
 6 HEARING, BY A VOTE ON THE QUESTION; TO PROVIDE FOR THE  
 7 APPOINTMENT OF COMMISSIONERS; TO AUTHORIZE A LEVY OF NOT  
 8 MORE THAN 3 MILLS FOR THE ESTABLISHMENT AND OPERATION OF  
 9 COMMUNITY FACILITIES; AND TO ALLOW THE ISSUANCE OF BONDS TO  
 10 DEVELOP FACILITIES FOR THE DISTRICT."  
 11

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

13 Section 1. Purpose. The purpose of [this act] is to  
 14 provide for the creation of community facilities districts  
 15 to provide for and administer public facilities for the  
 16 residents of the districts and other persons. [This act]  
 17 will alleviate the existing problem of the need for new  
 18 community facilities because the diverse ownership of  
 19 existing public facilities results in limited or restricted  
 20 use or access by the public.

21 Section 2. Definitions. As used in [this act], the  
 22 following definitions apply:

23 (1) "District" means a community facilities district  
 24 created or proposed for creation, wholly within a county, in  
 25 accordance with the provisions of [this act].

1 (2) "Public facility" means a structure or building or  
 2 any portion thereof and real property maintained primarily  
 3 for activities and events held for the benefit or enjoyment  
 4 of the general public.

5 Section 3. Creation of district. Proceedings for  
 6 creation of a district may be initiated:

7 (1) by a petition signed by not less than 10% of the  
 8 electors who reside within the proposed district; or

9 (2) by a resolution of the county governing body.

10 Section 4. Petition -- form and map. A petition to  
 11 initiate the creation of a community facilities district  
 12 must contain a statement of the purpose for which it is  
 13 circulated, and each signature must be followed by the  
 14 printed name of the signer, the address of the signer's  
 15 place of residence, and the date of signing. Each petition  
 16 must contain a map of the proposed district.

17 Section 5. Filing of petition with election  
 18 administrator -- certificate. (1) The complete petition must  
 19 be filed with the election administrator of the county where  
 20 the district is located.

21 (2) The election administrator shall, within 30 days  
 22 of receipt of the petition, examine the petition and attach  
 23 a certificate to it stating:

24 (a) the total number of electors who reside within the  
 25 proposed district;

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(b) which and how many of the names on the petition represent electors residing within the proposed district; and

(c) whether or not the total number of electors' signatures on the petition equals or exceeds 10% of the total number of electors residing within the proposed district.

Section 6. Effect of insufficient number of signatures. If the petition is found to contain fewer than 10% of the signatures of the electors residing within the proposed district, the election administrator shall, unless the necessary additional signatures are presented within 90 days of notification of the insufficiency by the election administrator, declare the petition void. A copy of the declaration that the petition is void must be attached to the petition.

Section 7. Presentation of petition to board of county commissioners. If the petition contains the qualified signatures of at least 10% of the electors residing within the proposed district, the county clerk shall present the petition and the certificate to the board of county commissioners at its first scheduled meeting after the certificate has been signed and certified by the election administrator.

Section 8. Hearing. Upon presentation of a valid

petition calling for the creation of a district or upon the initiative of the board of county commissioners, a public hearing date must be set regarding the creation of the district.

Section 9. Notice of hearing. (1) Notice of the public hearing must be published in a newspaper having general circulation within the proposed district at least once each week for at least 2 consecutive weeks prior to the hearing. If there is no newspaper of general circulation in the proposed district, the notice of public hearing must be posted in at least three public places within the proposed district for at least 2 weeks prior to the hearing.

(2) The notice must state the time, date, place, and purpose of the hearing and describe the boundaries of the proposed district.

Section 10. Hearing on petition or resolution. (1) At the time fixed for the public hearing, the county commissioners shall hear all testimony offered in support of and in opposition to the creation of the district.

(2) The hearing may be adjourned from time to time to facilitate additional testimony, but no adjournment may delay the hearing beyond 2 weeks after the hearing date originally set forth in the public notice of hearing.

Section 11. Election referral and date. (1) The county commissioners, upon completion of the public hearing,

shall proceed by resolution to refer the creation of the district to the electors of the proposed district.

(2) The county commissioners shall designate by resolution the date for holding a special election on the creation of the district. The special election may be held in conjunction with a primary, general, or school election.

Section 12. Conduct of election. (1) The election must be conducted in accordance with general election laws.

(2) The question of creating a district must be presented to the electors in substantially the following form:

☐ FOR the creation of a community facilities district.

☐ AGAINST the creation of a community facilities district.

Section 13. District governing board -- term, compensation, and powers. (1) A district is governed by a facilities board consisting of five members appointed by the board of county commissioners. All facilities board members must reside within the district.

(2) Facilities board members shall serve staggered 3-year terms. Facilities board members may serve more than one term and may be removed from office by the board of county commissioners for cause. A person appointed by the board of county commissioners to fill a vacancy is appointed to complete the unexpired term of his predecessor.

(3) The members serve without pay except for reimbursement for necessary and approved expenses incurred when representing the facilities board on official business.

(4) The facilities board has all powers necessary and proper for the acquisition, purchase, construction, renovation, establishment, operation, improvement, maintenance, and administration of public facilities controlled by the district. The board may lease facilities on a nondiscriminatory basis for purposes not contrary to the public interest. The board has authority to obtain funds or property through grants or gifts.

(5) The facilities board may employ a qualified administrative officer for the facilities district.

Section 14. Facilities district budget. The facilities board shall annually present its budget to the county commissioners at the regular budget meetings as prescribed by county budget law and shall certify the amount of money necessary for district operation during the ensuing year.

Section 15. Mill levy authorized -- limitation. (1) Subject to the limitations of this section, the county commissioners shall annually, at the time of levying county taxes, fix and levy a tax, not to exceed 3 mills, on all taxable property within the district sufficient to raise the amount of money certified by the facilities board of commissioners.

(2) The facilities board may include in the annual district budget an amount to be placed into a capital improvements fund, including the amount of money necessary to meet anticipated needs for maintenance, renovation, or improvement of public facilities commensurate with the public need as determined by the facilities board. Any money remaining in the capital improvements fund at the end of the county's fiscal year may be carried over into the following year.

Section 16. Disposition of tax -- role of county treasurer. (1) The money collected under the district tax levy must be deposited in a district fund administered by the county treasurer.

(2) The county treasurer is ex officio treasurer for the district and shall keep a detailed account of:

(a) all tax money paid into the fund;

(b) all other money, from whatever source, received by the district; and

(c) all payments and disbursements from the district fund for whatever purpose.

Section 17. Warrants or checks to be used for payments. Funds must be paid out on warrants or checks issued under the direction of the facilities board and signed by a majority of the members.

Section 18. Facilities district bonds authorized. A

facilities district may borrow money by the issuance of general obligation or revenue bonds or a combination of general obligation and revenue bonds to provide funds for the district in the same manner as provided for such county bonds.

Section 19. Limitation on bonded indebtedness. The amount of general obligation bonds issued and outstanding at any time to provide funds for the district may not exceed 25% of the taxable value of the taxable property in the district as determined by the last assessment for state and county taxes before the issuance of such bonds.

Section 20. Dissolution of district -- petition or resolution -- election. (1) The dissolution of a district may be initiated by presentation of a petition to the board of county commissioners requesting dissolution and signed by at least 10% of the electors of the district or by resolution of the board of county commissioners.

(2) A notice of a hearing on the question of whether to dissolve shall be given in the manner prescribed in [section 9]. The notice shall state the time, date, place, and purpose of the hearing.

(3) If upon such hearing the board of county commissioners finds that the district is not indebted beyond funds immediately available to extinguish all of its debts and obligations and that there is good reason for the

dissolution of the district, the board of county commissioners shall order an election on the dissolution of the district.

(4) If the election results favor dissolution, the board of county commissioners shall order dissolution of the district. The order shall be filed with the county clerk and recorder, and the dissolution is effective the later of:

(a) 6 months after the date of filing the order; or

(b) the date the facilities board of the district certifies to the county commissioners that all debts and obligations of the district have been paid, discharged, or irrevocably settled and provides proof of all such payments, discharges, or settlements.

(5) Assets of the district remaining after all debts and obligations of the district have been paid, discharged, or irrevocably settled must be divided among the county and municipalities within or partially within the dissolved district based proportionally upon the taxable valuation of each county or municipality.

Section 21. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.