

HOUSE BILL NO. 616

INTRODUCED BY J. BROWN, MAZUREK, SIMON

IN THE HOUSE

February 1, 1985 Introduced and referred to
 Committee on Business and Labor.

February 2, 1985 Rereferred to Committee on Local
 Government.

February 26, 1985 Committee recommend bill do pass
 as amended. Report adopted.

 Bill printed and placed on
 members' desks.

February 27, 1985 Second reading, do pass as
 amended.

 On motion, rules suspended and
 bill placed on third reading this
 day.

 Third reading, passed.

 Transmitted to Senate.

IN THE SENATE

March 5, 1985 Introduced and referred to
 Committee on Taxation.

March 27, 1985 Committee recommend bill be
 concurred in as amended. Report
 adopted.

March 29, 1985 Second reading, concurred in as
 amended.

April 1, 1985 Third reading, concurred in.
 Ayes, 48; Noes, 0.

 Returned to House with
 amendments.

IN THE HOUSE

| | |
|----------------|---|
| April 2, 1985 | Received from Senate. |
| April 8, 1985 | Second reading, amendments not concurred in. On motion, Free Conference Committee requested. |
| April 9, 1985 | Free Conference Committee appointed. |
| April 22, 1985 | Free Conference Committee reported. |
| April 23, 1985 | Second reading, Free Conference Committee report adopted. Third reading, Free Conference Committee report adopted. |
| | Free Conference Committee report adopted by Senate. |
| April 24, 1985 | Sent to enrolling. Reported correctly enrolled. |

1 HOUSE BILL NO. 616
2 INTRODUCED BY J. Brown / Reginald Simon
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF
5 BUSINESS IMPROVEMENT DISTRICTS; PROVIDING PROCEDURES FOR
6 CREATION; PROVIDING FOR ORGANIZATION, OPERATION,
7 APPOINTMENT, TERMS, AND REMOVAL OF A BOARD OF TRUSTEES;
8 ESTABLISHING POWERS OF THE BOARD OF TRUSTEES; PROVIDING FOR
9 A BUDGET AND AN ANNUAL WORK PLAN; PROVIDING FOR A MANNER OF
10 ASSESSING COSTS; PROVIDING FOR A TAX LEVY UPON THE DISTRICT;
11 PROVIDING FOR THE DURATION OF THE DISTRICT; PROHIBITING
12 DECREASE IN SERVICES; AND PROVIDING AN IMMEDIATE EFFECTIVE
13 DATE."
14

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

16 Section 1. Short title. [This act] may be cited as the
17 "Business Improvement District Act".

18 Section 2. Purpose. (1) The purpose of [this act] is
19 to provide for the creation of business improvement
20 districts having the purposes and powers provided in [this
21 act] that will serve a public use; will promote the health,
22 safety, prosperity, security, and general welfare of the
23 inhabitants thereof and of the people of this state; and
24 will be of special benefit to the property within the
25 boundaries of any district created pursuant to the

1 provisions of [this act].

2 (2) The legislature declares that because of a number
3 of atypical factors and special conditions concerning
4 business development unique to each locality, the rule of
5 strict construction has no application to [this act], which
6 shall be liberally construed to effect the purposes and
7 objects for which it is intended.

8 Section 3. Definitions. As used in [this act], the
9 following definitions apply:

10 (1) "Board" means the board of trustees created in
11 [section 5].

12 (2) "Business" means all types of business, including
13 professions.

14 (3) "Chief executive officer" means the mayor in the
15 case of a municipality or the chief executive of a
16 consolidated city-county government.

17 (4) "District" means a business improvement district
18 created under [this act].

19 (5) "Governing body" means the legislative body of a
20 local government.

21 (6) "Local government" means a municipality or a
22 consolidated city-county government.

23 Section 4. Establishment of a district. (1) Upon
24 receipt of a petition signed by the owners of more than 60%
25 of the area of the property proposed in the petition to be



1 included in a district, a governing body shall establish a
 2 district in the same manner as the establishment of a
 3 special improvement district pursuant to Title 7, chapter
 4 12, part 41, except as otherwise provided in [this act].

5 (2) If there is sufficient protest to bar the
 6 establishment of a district, as provided in 7-12-4113(1)(b),
 7 a governing body may take no further proceedings on the
 8 establishment of the district for a period of 1 year from
 9 the date the sufficient protest was received by the clerk of
 10 the governing body.

11 Section 5. Board of trustees -- appointment -- number.

12 (1) When the governing body of a local government adopts an
 13 ordinance creating a business improvement district, the
 14 chief executive officer, with the approval of the governing
 15 body, shall appoint not less than five or more than seven
 16 owners of property within the district to comprise the board
 17 of trustees of the district.

18 (2) The number of members of the board, once
 19 established, may be changed within these limits from time to
 20 time by subsequent resolutions of the governing body of the
 21 local government. A resolution to reduce board membership
 22 may not require resignation of any member prior to
 23 completion of his appointed term.

24 Section 6. Term of office. (1) Three of the members
 25 who are first appointed must be designated to serve for

1 terms of 1, 2, and 3 years, respectively, from the date of
 2 their appointments, and two must be designated to serve for
 3 terms of 4 years from the date of their appointment. For a
 4 seven-member commission, there must be two additional
 5 appointments for terms of 2 years and 3 years, respectively.

6 (2) After initial appointment, members must be
 7 appointed for a term of office of 4 years, except that a
 8 vacancy occurring during a term must be filled for the
 9 unexpired term. A member shall hold office until his
 10 successor has been appointed and qualified.

11 Section 7. Removal of board member. A member of a
 12 board of trustees may be removed by the chief executive
 13 officer with the consent of the governing body.

14 Section 8. Organization of board of trustees -- no
 15 compensation. (1) The chief executive officer shall
 16 designate which member of the board is to be the first
 17 chairman. When the office of chairman of the board becomes
 18 vacant thereafter, the board shall elect a chairman from
 19 among its members. The term of office as chairman of the
 20 board, unless otherwise prescribed by the governing body,
 21 must be for 1 calendar year or for that portion thereof
 22 remaining after each chairman is designated or elected.

23 (2) Members may receive no compensation.

24 Section 9. Powers of board in administering district.
 25 The board in administering a district has all powers

1 necessary to carry out the functions of the district
2 contained in the ordinance creating it, including the power
3 to:

4 (1) sue and be sued, enter into contracts, and hire
5 and terminate personnel needed for its purposes;

6 (2) provide special police, maintenance, or cleaning
7 personnel for the protection and enjoyment of the property
8 owners' businesses and the general public using the business
9 district;

10 (3) landscape and beautify public areas and to
11 maintain those areas;

12 (4) contract with the governing body to maintain,
13 operate, or repair public parking facilities;

14 (5) contract with the governing body to maintain
15 streets, alleys, malls, bridges, ramps, tunnels,
16 landscaping, and other public facilities as mutually agreed
17 upon;

18 (6) promote private investment and business expansion
19 in the district;

20 (7) provide for the management and administration of
21 the affairs of the district;

22 (8) promote business activity by advertising,
23 decorating, marketing, and promoting and managing events and
24 other actions designed for the general promotion of business
25 activities in the district; and

1 (9) perform such other functions as are necessary to
2 carry out the purposes of [this act] and to further the
3 objectives of the district.

4 Section 10. Annual budget and work plan -- approval --
5 procedure -- tax. (1) At a time determined by the governing
6 body, the board shall submit to the governing body for
7 approval a work plan and budget for the ensuing fiscal year.

8 (2) Following public notice that a work plan and
9 budget have been submitted and that the governing body will
10 assess a tax to defray the cost of the work plan and budget,
11 the governing body shall hold a public hearing on objections
12 to the work plan and budget. After the hearing, the
13 governing body may modify the work plan and budget as it
14 considers necessary and appropriate.

15 (3) After approval of the work plan and budget and to
16 defray the cost thereof for the next fiscal year, the
17 governing body shall by resolution levy and assess a tax
18 upon all of the property in the district using as a basis
19 one of the methods prescribed in [section 11].

20 (4) A copy of the resolution shall be delivered to the
21 treasurer of the local government to be placed on the tax
22 roll and collected in the same manner as other taxes.

23 Section 11. Manner of assessing costs. The governing
24 body shall adopt one of the following methods of assessing
25 costs for the purpose of defraying the costs of carrying out

1 the functions of the district:

2 (1) The governing body may assess the entire cost of
3 the district against the entire district, each parcel of
4 land within the district to be assessed for that part of the
5 whole cost which its area bears to the area of the entire
6 district, exclusive of streets, alleys, and public places.

7 (2) The governing body may assess the entire cost of
8 the district against the entire district, each lot or parcel
9 of land and improvements within the district to be assessed
10 for that part of the whole cost which its assessed value
11 bears to the assessed value of the entire district,
12 exclusive of streets, alleys, and public places.

13 (3) The governing body may use a combination of the
14 two methods of assessment of costs provided in subsections
15 (1) and (2).

16 Section 12. Duration of district. The period of
17 duration of a business improvement district is perpetual or
18 until dissolved by the governing body.

19 Section 13. Governing body not to decrease public
20 services. The governing body may not decrease the level of
21 public services in the district existing prior to the
22 creation of the district unless the services at the same
23 time are decreased throughout the jurisdictional area of the
24 governing body, nor may it transfer the financial burden of
25 providing those services to the district. The governing body

1 may not discriminate in the provision of publicly funded
2 services between areas included in such district and areas
3 not so included.

4 Section 14. Limitation on local government liability.
5 An obligation or debt of any nature of a district is not an
6 obligation or debt of the local government that established
7 the district, and in no event is a debt or obligation of a
8 district payable out of any funds or properties of the local
9 government. The debts and obligations of a district are
10 payable solely from the funds and properties of the
11 district.

12 Section 15. Effective date. This act is effective on
13 passage and approval.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 616

INTRODUCED BY J. BROWN, MAZUREK, SIMON

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS; PROVIDING PROCEDURES FOR CREATION; PROVIDING FOR ORGANIZATION, OPERATION, APPOINTMENT, TERMS, AND REMOVAL OF A BOARD OF TRUSTEES; ESTABLISHING POWERS OF THE BOARD OF TRUSTEES; PROVIDING FOR A BUDGET AND AN ANNUAL WORK PLAN; PROVIDING FOR A MANNER OF ASSESSING COSTS; PROVIDING FOR A TAX LEVY UPON THE DISTRICT; PROVIDING FOR THE DURATION OF THE DISTRICT; PROHIBITING DECREASE IN SERVICES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the "Business Improvement District Act".

Section 2. Purpose. {1} The purpose of [this act] is to provide for the creation of business improvement districts having the purposes and powers provided in [this act] that will serve a public use; will promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof and of the people of this state; and will be of special benefit to the property within the boundaries of any district created pursuant to the

provisions of [this act].

~~{2}--The--legislature--declares--that--because--of--a--number--of--atypical--factors--and--special--conditions--concerning--business--development--unique--to--each--locality,--the--rule--of--strict--construction--has--no--application--to--[this--act];--which--shall--be--liberally--construed--to--effect--the--purposes--and--objects--for--which--it--is--intended;~~

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of trustees created in [section 5].

(2) "Business" means all types of business, including professions.

(3) "Chief executive officer" means the mayor in the case of a municipality, THE BOARD OF COUNTY COMMISSIONERS IN THE CASE OF A COUNTY, or the chief executive of a consolidated city-county government.

(4) "District" means a business improvement district created under [this act].

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(6) "Local government" means a municipality, A COUNTY, or a consolidated city-county government.

Section 4. Establishment of a district. (1) Upon receipt of a petition signed by the owners of more than 60%



1 of the area of the property proposed in the petition to be
 2 included in a district, a governing body shall establish a
 3 district in the same manner as the establishment of a
 4 special improvement district pursuant to Title 7, chapter
 5 12, part 41, except as otherwise provided in [this act].

6 (2) THE BOUNDARIES OF A DISTRICT MUST COMPLY WITH
 7 APPLICABLE ZONING REGULATIONS AND THE DISTRICT MAY NOT
 8 INCLUDE AREAS THAT ARE ZONED PRIMARILY AS RESIDENTIAL AREAS.

9 {2}(3) If there is sufficient protest to bar the
 10 establishment of a district, as provided in 7-12-4113(1)(b),
 11 a governing body may take no further proceedings on the
 12 establishment of the district for a period of 1 year from
 13 the date the sufficient protest was received by the clerk of
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 17 ordinance creating a business improvement district, the
 18 chief executive officer, with the approval of the governing
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 20 owners of property within the district to comprise the board
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22 (2) The number of members of the board, once
 23 established, may be changed within these limits from time to
 24 time by subsequent resolutions of the governing body of the
 25 local government. A resolution to reduce board membership

1 may not require resignation of any member prior to
 2 completion of his appointed term.

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 4 who are first appointed must be designated to serve for
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 8 seven-member commission, there must be two additional
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 22 vacant thereafter, the board shall elect a chairman from
 23 among its members. The term of office as chairman of the
 24 board, unless otherwise prescribed by the governing body,
 25 must be for 1 calendar year or for that portion thereof

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4 The board in administering a district has all powers
5 necessary to carry out the functions of the district
6 contained in the ordinance creating it, including the power
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8 (1) sue and be sued, enter into contracts, and hire
9 and terminate personnel needed for its purposes;

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11 personnel for the protection and enjoyment of ~~the--property~~
12 ~~owners--businesses--and~~ the general public using the business
13 district;

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15 maintain those areas;

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17 operate, or repair public parking facilities;

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19 streets, alleys, malls, bridges, ramps, tunnels,
20 landscaping, and other public facilities as mutually agreed
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23 in the district;

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25 the affairs of the district;

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16 to the work plan and budget. After the hearing, the
17 governing body may modify the work plan and budget as it
18 considers necessary and appropriate.

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20 defray the cost thereof for the next fiscal year, the
21 governing body shall by resolution levy and assess a tax
22 upon all of the property in the district ~~using-as-a-basis~~
23 ~~one-of-the-methods~~ THE METHOD prescribed in [section 11].

24 (4) A copy of the resolution shall be delivered to the
25 treasurer of the local government to be placed on the tax

1 roll and collected in the same manner as other taxes.

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8 ~~land within the district to be assessed for that part of the~~
9 ~~whole cost which its area bears to the area of the entire~~
10 ~~district, exclusive of streets, alleys, and public places.~~

11 ~~{2}--The, THE governing body may SHALL assess the~~
12 ~~entire cost of the district against the entire district,~~
13 ~~each lot or parcel of land and improvements within the~~
14 ~~district to be assessed for that part of the whole cost~~
15 ~~which its assessed value bears to the assessed value of the~~
16 ~~entire district, exclusive of streets, alleys, and public~~
17 ~~places IF THE BOARD DETERMINES SUCH ASSESSMENT TO BE~~
18 ~~EQUITABLE IN PROPORTION TO AND NOT EXCEEDING THE BENEFITS~~
19 ~~RECEIVED FROM THE IMPROVEMENTS BY THE LOT, TRACT, OR PARCEL.~~

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21 ~~two methods of assessment of costs provided in subsections~~
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24 duration of a business improvement district is perpetual or
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4 creation of the district unless the services at the same
5 time are decreased throughout the jurisdictional area of the
6 governing body, nor may it transfer the financial burden of
7 providing those services to the district. The governing body
8 may not discriminate in the provision of publicly funded
9 services between areas included in such district and areas
10 not so included.

11 SECTION 14. LIABILITY INSURANCE REQUIRED. THE
12 GOVERNING BODY MAY NOT APPROVE THE ANNUAL BUDGET OR THE WORK
13 PLAN SUBMITTED TO IT BY THE BOARD UNLESS THE ANNUAL BUDGET
14 AND THE WORK PLAN PROVIDE FOR LIABILITY INSURANCE COVERAGE
15 INSURING THE DISTRICT, THE BOARD, AND THE LOCAL GOVERNMENT
16 AGAINST LEGAL LIABILITY FOR PERSONAL INJURY AND PROPERTY
17 DAMAGE IN AN AMOUNT DETERMINED SUFFICIENT FOR THAT PURPOSE
18 BY THE GOVERNING BODY.

19 Section 15. Limitation on local government liability.
20 An obligation or debt of any nature of a district is not an
21 obligation or debt of the local government that established
22 the district, and in no event is a debt or obligation of a
23 district payable out of any funds or properties of the local
24 government. The debts and obligations of a district are
25 payable solely from the funds and properties of the

1 district.

2 Section 16. Effective date. This act is effective on

3 passage and approval.

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24 ~~one-of-the-methods~~ USING AS A BASIS THE METHOD prescribed in
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 18 entire district, exclusive of streets, alleys, and public
 19 places IF THE BOARD DETERMINES SUCH ASSESSMENT TO BE
 20 EQUITABLE IN PROPORTION TO AND NOT EXCEEDING THE BENEFITS
 21 RECEIVED FROM THE IMPROVEMENTS BY THE LOT, TRACT, OR PARCEL.

22 ~~{3}--The governing body may use a combination of the~~
 23 ~~two methods of assessment of costs provided in subsections~~
 24 ~~{1} and {2}.~~

25 Section 12. Duration of district. The period of

1 duration of a business improvement district is perpetual or
 2 until dissolved by the governing body.

3 Section 13. Governing body not to decrease public
 4 services. The governing body may not decrease the level of
 5 public services in the district existing prior to the
 6 creation of the district unless the services at the same
 7 time are decreased throughout the jurisdictional area of the
 8 governing body, nor may it transfer the financial burden of
 9 providing those services to the district. The governing body
 10 may not discriminate in the provision of publicly funded
 11 services between areas included in such district and areas
 12 not so included.

13 SECTION 14. LIABILITY INSURANCE REQUIRED. THE
 14 GOVERNING BODY MAY NOT APPROVE THE ANNUAL BUDGET OR THE WORK
 15 PLAN SUBMITTED TO IT BY THE BOARD UNLESS THE ANNUAL BUDGET
 16 AND THE WORK PLAN PROVIDE FOR LIABILITY INSURANCE COVERAGE
 17 INSURING THE DISTRICT, THE BOARD, AND THE LOCAL GOVERNMENT
 18 AGAINST LEGAL LIABILITY FOR PERSONAL INJURY AND PROPERTY
 19 DAMAGE IN AN AMOUNT DETERMINED SUFFICIENT FOR THAT PURPOSE
 20 BY THE GOVERNING BODY.

21 Section 15. Limitation on local government liability.
 22 An obligation or debt of any nature of a district is not an
 23 obligation or debt of the local government that established
 24 the district, and in no event is a debt or obligation of a
 25 district payable out of any funds or properties of the local

1 government. The debts and obligations of a district are
2 payable solely from the funds and properties of the
3 district.

4 Section 16. Effective date. This act is effective on
5 passage and approval.

-End-

FREE CONFERENCE COMMITTEE REPORT
HB 616
PAGE 2 OF 2.

3. Page 5, lines 13 through 17.

Strike: subsection (3) in its entirety.

Insert: "(3) No further action shall be taken upon the proposed district for 1 year if a written protest against passage of the proposed ordinance is filed by:

(a) owners of property within the proposed district having a taxable valuation, when aggregated, representing not less than 50% of the total taxable valuation of property within the district;

(b) not less than 50% of the owners of property within the district; or

(c) owners of property within the proposed district having projected assessments, when aggregated, representing not less than 50% of the total projected assessments for property within the district."

4. Page 6, line 7.

Strike: "chief executive officer"

Insert: "appointing authority"

5. Page 7, lines 5 and 6.

Strike: "chief executive officer"

Insert: "appointing authority"

6. Page 7, line 8.

Strike: "chief executive officer"

Insert: "appointing authority"

7. Page 9, line 25.

Following: "SHALL"

Insert: "annually"

CONFERENCE COMMITTEE REPORT

Report No. 1

April 22, 1985

MR. SPEAKER

We, your FREE Conference Committee on

HOUSE BILL 616, reference copy - salmon

met and considered

Taxation Report of 3-27-85 and Mazurek's amendments of 3-29-85

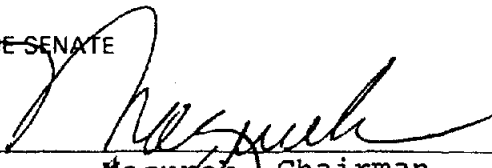
We recommend as follows:

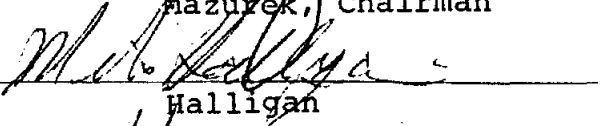
1. Page 2, following line 9.
Insert: "(1) "Appointing authority" means the mayor in the case of a municipality, the board of county commissioners in the case of a county, or the chief executive of a consolidated city-county government."
Re-number: subsequent subsections
2. Page 2, lines 14 through 18.
Strike: subsection (3) in its entirety.
Re-number: subsequent subsections

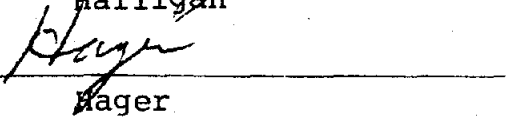
(CONTINUED)
PAGE 1 OF 2

And that this Conference Committee report be adopted.

FOR THE SENATE

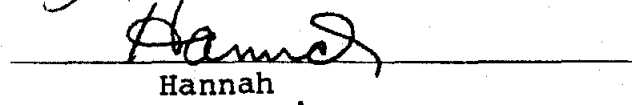

Mazurek, Chairman

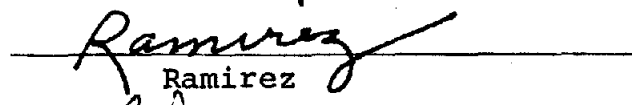

Halligan


Hager

FOR THE HOUSE


Jan Brown


Hannah


Ramirez

SENATE STANDING COMMITTEE REPORT

Page 1 of 4

HB 616 Page 2 of 4

March 27, 1985

March 27, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 616

third reading copy (blue color)

(Senator Mazurek)

AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS.

Respectfully report as follows: That House Bill No. 616

be amended as follows:

1. Page 2, lines 15 and 16.

Following: "municipality,"

Strike: "CITY MANAGER IN CITY COMMISSION FORM OF GOVERNMENT,"

2. Page 2.

Following: line 24

Insert: "(7) 'Owner' means a person in whom appears the legal title to real property by deed duly recorded in the county records or a person in possession of real property under claim of ownership for himself or as the personal representative, agent, or guardian of the owner."

3. Page 3, lines 4 through 6.

Following: "district" on line 4

Strike: remainder of line 4 through "except" on line 6

Following: "as" on line 6

Strike: "otherwise"

4. Page 3, lines 10 through 15.

Strike: lines 10 through 15 in their entirety.

Insert: "Section 5. Resolution of intention to create business improvement district--notice. (1) Before creating a district the governing body shall pass a resolution of intention to do so designating the boundaries thereof.

(2) Notice of passage of the resolution must be published for five days in a daily newspaper or in one issue of a weekly paper published in the municipality or county or, in case no newspaper is published in the municipality or county, then by

RRRASS

RRNRKRASS

continued

TET

Chairman.

posting for 5 days in three public places in the municipality or county. A copy of the notice shall be mailed to every owner of real property within the proposed district listed on the last completed assessment roll for state, county, and school district taxes, at the owner's last-known address, on the same day the notice is first published or posted.

(3) The notice must describe the general purpose of the district and designate the time when and the place where the governing body will hear and pass upon all protests that may be made against the creation of such district. The notice shall refer to the resolution on file with the governing body or clerk, if any, for the description of the boundaries.

Section 6. Protest against proposed district. (1) Any owner of property liable to be assessed may make written protest against the extent or creation of the district to be assessed or both.

(2) The protest must be in writing and must be delivered to the governing body or its clerk, if any, not later than 5 p.m. of the last day within 15 days after the date of the first publication of the notice of the resolution of intention. The date and hour of receipt of the protest shall be endorsed thereon.

Section 7. Hearing on protest--sufficient protest to bar proceedings. (1) At a regular meeting of the governing body after the expiration of the time within which protest may be made, the governing body shall proceed to hear and pass upon all protests. Its decision shall be final and conclusive.

(2) The governing body may adjourn the hearing from time to time. A protestant shall have the right to withdraw a protest at any time before final action thereon by the council or commission.

(3) No further proceedings may be taken for a period of one year from the date when protest has been received by the governing body by owners of more than 50% of the property to be assessed for the district.

Section 8. Resolution creating business improvement district. When no protests have been delivered to the governing body within 15 days after the date of the first publication of the notice of the passing of the resolution of intention, when a protest shall have been found by the governing body to be insufficient or has been overruled, or when a protest against the extent of the proposed district has been heard and denied, the governing body has jurisdiction to order the creation of the district and shall pass a resolution creating the district in accordance with the resolution of intention."

Renumber: subsequent sections

5. Page 6, line 15.

Following: line 14

Strike: "assess a tax"

Insert: "levy an assessment"

continued

TET

March 27, 1985

March 27, 1985

6. Page 6, line 22.

Following: "levy"

Strike: "and assess a tax"

Insert: "an assessment"

7. Page 6, line 24.

Following: "BASIS"

Strike: "THE METHOD"

Insert: "One of the methods"

8. Page 6, line 25.

Following: "section"

Strike: "11"

Insert: "15"

9. Page 7, lines 4 through 24.

Following: line 3

Strike: Section 11 in its entirety

Insert: "Section 15. Assessment of costs--area, lot, and taxable valuation

options. (1) At the same time the board submits the annual budget and work plan to the governing body as provided in [section 14], the board shall also recommend to the governing body a method of levying an assessment on the property within the district which will best ensure that the assessment on each lot or parcel is equitable in proportion to the benefits to be received.

(2) The governing body shall assess the entire cost of the district against the entire district using a method which best ensures that the assessment on each lot or parcel is equitable in proportion to the benefits to be received. In determining the method of assessment to be used the governing body shall consider the recommendations of the board. The governing board shall levy the assessment using one of the following methods:

(a) each lot or parcel of land within such district 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;

(b) if the governing body determines that the benefits derived 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;

(c) 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 total taxable valuation of the property of the district; or

(d) by using any combination of the assessment options provided in subsections (a) through (c)."

10. Page 8, lines 1 and 2.

Following: "is" on line 1

Strike: remainder of line 1 through line 2

Insert: "for the period specified in the resolution of the governing body creating the district but shall not be for a period

.....continued TET

longer than 10 years unless the duration of the district is extended in compliance with the provisions of [this act] for the creation of a district."

KB
AND AS AMENDED
BE CONCURRED IN

Thomas E. Davis

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

Mar 29, 1985
DATE

4:50
TIME

SENATE TAXATION COMMITTEE REPORT

MR. CHAIRMAN: I MOVE TO AMEND OF 3/27/85 to HOUSE BILL No. 616

~~XXXXXXXXXX~~ () as follows:

~~Editor~~

Amendment No. 4.
Section 7, line 3 of subsection (3)
Following: "property"
Insert: ", determined by taxable valuation,"

PC3HB616.681

ADOPT
REJECT


MAZUREK

HOUSE BILL NO. 616

INTRODUCED BY J. BROWN, MAZUREK, SIMON

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS; PROVIDING PROCEDURES FOR CREATION; PROVIDING FOR ORGANIZATION, OPERATION, APPOINTMENT, TERMS, AND REMOVAL OF A BOARD OF TRUSTEES; ESTABLISHING POWERS OF THE BOARD OF TRUSTEES; PROVIDING FOR A BUDGET AND AN ANNUAL WORK PLAN; PROVIDING FOR A MANNER OF ASSESSING COSTS; PROVIDING FOR A TAX LEVY UPON THE DISTRICT; PROVIDING FOR THE DURATION OF THE DISTRICT; PROHIBITING DECREASE IN SERVICES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the "Business Improvement District Act".

Section 2. Purpose. {+} The purpose of [this act] is to provide for the creation of business improvement districts having the purposes and powers provided in [this act] that will serve a public use; will promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof and of the people of this state; and will be of special benefit to the property within the boundaries of any district created pursuant to the

provisions of [this act].

{2}--The--legislature--declares--that--because--of--a--number--of--atypical--factors--and--special--conditions--concerning business--development--unique--to--each--locality,--the--rule--of--strict--construction--has--no--application--to--{this--act};--which shall--be--liberally--construed--to--effect--the--purposes--and objects--for--which--it--is--intended:

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "Board" means the board of trustees created in [section 5].

(2) "Business" means all types of business, including professions.

(3) "Chief executive officer" means the mayor in the case of a municipality, CITY-MANAGER-IN-CITY-COMMISSION-FORM-OF-GOVERNMENT, THE BOARD OF COUNTY COMMISSIONERS IN THE CASE OF A COUNTY, or the chief executive of a consolidated city-county government.

(4) "District" means a business improvement district created under [this act].

(5) "Governing body" means the legislative body of a local government.

(6) "Local government" means a municipality, A COUNTY, or a consolidated city-county government.

(7) "OWNER" MEANS A PERSON IN WHOM APPEARS THE LEGAL



1 TITLE TO REAL PROPERTY BY DEED DULY RECORDED IN THE COUNTY
 2 RECORDS OR A PERSON IN POSSESSION OF REAL PROPERTY UNDER
 3 CLAIM OF OWNERSHIP FOR HIMSELF OR AS THE PERSONAL
 4 REPRESENTATIVE, AGENT, OR GUARDIAN OF THE OWNER.

5 Section 4. Establishment of a district. (1) Upon
 6 receipt of a petition signed by the owners of more than 60%
 7 of the area of the property proposed in the petition to be
 8 included in a district, a governing body shall establish a
 9 district ~~in the same manner as the establishment of a~~
 10 ~~special improvement district pursuant to Title 77, chapter~~
 11 ~~127, part 41, except as otherwise provided in [this act].~~

12 (2) THE BOUNDARIES OF A DISTRICT MUST COMPLY WITH
 13 APPLICABLE ZONING REGULATIONS AND THE DISTRICT MAY NOT
 14 INCLUDE AREAS THAT ARE ZONED PRIMARILY AS RESIDENTIAL AREAS.

15 ~~{2}{3} If there is sufficient protest to bar the~~
 16 ~~establishment of a district, as provided in 7-12-4113(1)(b),~~
 17 ~~a governing body may take no further proceedings on the~~
 18 ~~establishment of the district for a period of 1 year from~~
 19 ~~the date the sufficient protest was received by the clerk of~~
 20 ~~the governing body.~~

21 SECTION 5. RESOLUTION OF INTENTION TO CREATE BUSINESS
 22 IMPROVEMENT DISTRICT -- NOTICE. (1) BEFORE CREATING A
 23 DISTRICT, THE GOVERNING BODY SHALL PASS A RESOLUTION OF
 24 INTENTION TO DO SO DESIGNATING THE BOUNDARIES THEREOF.

25 (2) NOTICE OF PASSAGE OF THE RESOLUTION MUST BE

1 PUBLISHED FOR 5 DAYS IN A DAILY NEWSPAPER OR IN ONE ISSUE OF
 2 A WEEKLY PAPER PUBLISHED IN THE MUNICIPALITY OR COUNTY OR,
 3 IN CASE NO NEWSPAPER IS PUBLISHED IN THE MUNICIPALITY OR
 4 COUNTY, THEN BY POSTING FOR 5 DAYS IN THREE PUBLIC PLACES IN
 5 THE MUNICIPALITY OR COUNTY. A COPY OF THE NOTICE SHALL BE
 6 MAILED TO EVERY OWNER OF REAL PROPERTY WITHIN THE PROPOSED
 7 DISTRICT LISTED ON THE LAST COMPLETED ASSESSMENT ROLL FOR
 8 STATE, COUNTY, AND SCHOOL DISTRICT TAXES, AT THE OWNER'S
 9 LAST-KNOWN ADDRESS, ON THE SAME DAY THE NOTICE IS FIRST
 10 PUBLISHED OR POSTED.

11 (3) THE NOTICE MUST DESCRIBE THE GENERAL PURPOSE OF
 12 THE DISTRICT AND DESIGNATE THE TIME WHEN AND THE PLACE WHERE
 13 THE GOVERNING BODY WILL HEAR AND PASS UPON ALL PROTESTS THAT
 14 MAY BE MADE AGAINST THE CREATION OF SUCH DISTRICT. THE
 15 NOTICE SHALL REFER TO THE RESOLUTION ON FILE WITH THE
 16 GOVERNING BODY OR CLERK, IF ANY, FOR THE DESCRIPTION OF THE
 17 BOUNDARIES.

18 SECTION 6. PROTEST AGAINST PROPOSED DISTRICT. (1) ANY
 19 OWNER OF PROPERTY LIABLE TO BE ASSESSED MAY MAKE WRITTEN
 20 PROTEST AGAINST THE EXTENT OR CREATION OF THE DISTRICT TO BE
 21 ASSESSED, OR BOTH.

22 (2) THE PROTEST MUST BE IN WRITING AND MUST BE
 23 DELIVERED TO THE GOVERNING BODY OR ITS CLERK, IF ANY, NOT
 24 LATER THAN 5 P.M. OF THE LAST DAY WITHIN 15 DAYS AFTER THE
 25 DATE OF THE FIRST PUBLICATION OF THE NOTICE OF THE

1 RESOLUTION OF INTENTION. THE DATE AND HOUR OF RECEIPT OF THE
2 PROTEST SHALL BE ENDORSED THEREON.

3 SECTION 7. HEARING ON PROTEST -- SUFFICIENT PROTEST TO
4 BAR PROCEEDINGS. (1) AT A REGULAR MEETING OF THE GOVERNING
5 BODY AFTER THE EXPIRATION OF THE TIME WITHIN WHICH PROTEST
6 MAY BE MADE, THE GOVERNING BODY SHALL PROCEED TO HEAR AND
7 PASS UPON ALL PROTESTS. ITS DECISION SHALL BE FINAL AND
8 CONCLUSIVE.

9 (2) THE GOVERNING BODY MAY ADJOURN THE HEARING FROM
10 TIME TO TIME. A PROTESTANT SHALL HAVE THE RIGHT TO WITHDRAW
11 A PROTEST AT ANY TIME BEFORE FINAL ACTION THEREON BY THE
12 COUNCIL OR COMMISSION.

13 (3) NO FURTHER PROCEEDINGS MAY BE TAKEN FOR A PERIOD
14 OF 1 YEAR FROM THE DATE WHEN PROTEST HAS BEEN RECEIVED BY
15 THE GOVERNING BODY BY OWNERS OF MORE THAN 50% OF THE
16 PROPERTY, DETERMINED BY TAXABLE VALUATION, TO BE ASSESSED
17 FOR THE DISTRICT.

18 SECTION 8. RESOLUTION CREATING BUSINESS IMPROVEMENT
19 DISTRICT. WHEN NO PROTESTS HAVE BEEN DELIVERED TO THE
20 GOVERNING BODY WITHIN 15 DAYS AFTER THE DATE OF THE FIRST
21 PUBLICATION OF THE NOTICE OF THE PASSING OF THE RESOLUTION
22 OF INTENTION, WHEN A PROTEST SHALL HAVE BEEN FOUND BY THE
23 GOVERNING BODY TO BE INSUFFICIENT OR HAS BEEN OVERRULED, OR
24 WHEN A PROTEST AGAINST THE EXTENT OF THE PROPOSED DISTRICT
25 HAS BEEN HEARD AND DENIED, THE GOVERNING BODY HAS

1 JURISDICTION TO ORDER THE CREATION OF THE DISTRICT AND SHALL
2 PASS A RESOLUTION CREATING THE DISTRICT IN ACCORDANCE WITH
3 THE RESOLUTION OF INTENTION.

4 Section 9. Board of trustees -- appointment -- number.
5 (1) When the governing body of a local government adopts an
6 ordinance creating a business improvement district, the
7 chief executive officer, with the approval of the governing
8 body, shall appoint not less than five or more than seven
9 owners of property within the district to comprise the board
10 of trustees of the district.

11 (2) The number of members of the board, once
12 established, may be changed within these limits from time to
13 time by subsequent resolutions of the governing body of the
14 local government. A resolution to reduce board membership
15 may not require resignation of any member prior to
16 completion of his appointed term.

17 Section 10. Term of office. (1) Three of the members
18 who are first appointed must be designated to serve for
19 terms of 1, 2, and 3 years, respectively, from the date of
20 their appointments, and two must be designated to serve for
21 terms of 4 years from the date of their appointment. For a
22 seven-member commission, there must be two additional
23 appointments for terms of 2 years and 3 years, respectively.

24 (2) After initial appointment, members must be
25 appointed for a term of office of 4 years, except that a

1 vacancy occurring during a term must be filled for the
 2 unexpired term. A member shall hold office until his
 3 successor has been appointed and qualified.

4 Section 11. Removal of board member. A member of a
 5 board of trustees may be removed by the chief executive
 6 officer with the consent of the governing body.

7 Section 12. Organization of board of trustees -- no
 8 compensation. (1) The chief executive officer shall
 9 designate which member of the board is to be the first
 10 chairman. When the office of chairman of the board becomes
 11 vacant thereafter, the board shall elect a chairman from
 12 among its members. The term of office as chairman of the
 13 board, unless otherwise prescribed by the governing body,
 14 must be for 1 calendar year or for that portion thereof
 15 remaining after each chairman is designated or elected.

16 (2) Members may receive no compensation.

17 Section 13. Powers of board in administering district.
 18 The board in administering a district has all powers
 19 necessary to carry out the functions of the district
 20 contained in the ordinance creating it, including the power
 21 to:

22 (1) sue and be sued, enter into contracts, and hire
 23 and terminate personnel needed for its purposes;

24 (2) provide special police, maintenance, or cleaning
 25 personnel for the protection and enjoyment of the--property

1 ~~owners--businesses--and~~ the general public using the business
 2 district;

3 (3) landscape and beautify public areas and to
 4 maintain those areas;

5 (4) contract with the governing body to maintain,
 6 operate, or repair public parking facilities;

7 (5) contract with the governing body to maintain
 8 streets, alleys, malls, bridges, ramps, tunnels,
 9 landscaping, and other public facilities as mutually agreed
 10 upon;

11 (6) promote private investment and business expansion
 12 in the district;

13 (7) provide for the management and administration of
 14 the affairs of the district;

15 (8) promote business activity by advertising,
 16 decorating, marketing, and promoting and managing events and
 17 other actions designed for the general promotion of business
 18 activities in the district; and

19 (9) perform such other functions as are necessary to
 20 carry out the purposes of [this act] and to further the
 21 objectives of the district.

22 Section 14. Annual budget and work plan -- approval --
 23 procedure -- tax. (1) At a time determined by the governing
 24 body, the board shall submit to the governing body for
 25 approval a work plan and budget for the ensuing fiscal year.

1 (2) Following public notice that a work plan and
 2 budget have been submitted and that the governing body will
 3 ~~assess-a-tax~~ LEVY AN ASSESSMENT to defray the cost of the
 4 work plan and budget, the governing body shall hold a public
 5 hearing on objections to the work plan and budget. After the
 6 hearing, the governing body may modify the work plan and
 7 budget as it considers necessary and appropriate.

8 (3) After approval of the work plan and budget and to
 9 defray the cost thereof for the next fiscal year, the
 10 governing body shall by resolution levy ~~and-assess-a-tax~~ AN
 11 ASSESSMENT upon all of the property in the district ~~using-as~~
 12 ~~a-basis--one-of-the-methods~~ USING AS A BASIS THE-METHOD ONE
 13 OF THE METHODS prescribed in [section ~~ii~~ 15].

14 (4) A copy of the resolution shall be delivered to the
 15 treasurer of the local government to be placed on the tax
 16 roll and collected in the same manner as other taxes.

17 SECTION 15. ASSESSMENT OF COSTS -- AREA, LOT, AND
 18 TAXABLE VALUATION OPTIONS. (1) AT THE SAME TIME THE BOARD
 19 SUBMITS THE ANNUAL BUDGET AND WORK PLAN TO THE GOVERNING
 20 BODY AS PROVIDED IN [SECTION 14], THE BOARD SHALL ALSO
 21 RECOMMEND TO THE GOVERNING BODY A METHOD OF LEVYING AN
 22 ASSESSMENT ON THE PROPERTY WITHIN THE DISTRICT WHICH WILL
 23 BEST ENSURE THAT THE ASSESSMENT ON EACH LOT OR PARCEL IS
 24 EQUITABLE IN PROPORTION TO THE BENEFITS TO BE RECEIVED.

25 (2) THE GOVERNING BODY SHALL ASSESS THE ENTIRE COST OF

1 THE DISTRICT AGAINST THE ENTIRE DISTRICT USING A METHOD
 2 WHICH BEST ENSURES THAT THE ASSESSMENT ON EACH LOT OR PARCEL
 3 IS EQUITABLE IN PROPORTION TO THE BENEFITS TO BE RECEIVED.
 4 IN DETERMINING THE METHOD OF ASSESSMENT TO BE USED, THE
 5 GOVERNING BODY SHALL CONSIDER THE RECOMMENDATIONS OF THE
 6 BOARD. THE GOVERNING BOARD SHALL LEVY THE ASSESSMENT USING
 7 ONE OF THE FOLLOWING METHODS:

8 (A) EACH LOT OR PARCEL OF LAND WITHIN SUCH DISTRICT
 9 MAY BE ASSESSED FOR THAT PART OF THE WHOLE COST WHICH ITS
 10 AREA BEARS TO THE AREA OF THE ENTIRE DISTRICT, EXCLUSIVE OF
 11 STREETS, AVENUES, ALLEYS, AND PUBLIC PLACES;

12 (B) IF THE GOVERNING BODY DETERMINES THAT THE BENEFITS
 13 DERIVED BY EACH LOT OR PARCEL ARE SUBSTANTIALLY EQUIVALENT,
 14 THE COST MAY BE ASSESSED EQUALLY TO EACH LOT OR PARCEL
 15 LOCATED WITHIN THE DISTRICT WITHOUT REGARD TO THE AREA OF
 16 THE LOT OR PARCEL;

17 (C) EACH LOT OR PARCEL OF LAND, INCLUDING THE
 18 IMPROVEMENTS THEREON, MAY BE ASSESSED FOR THAT PART OF THE
 19 WHOLE COST OF THE DISTRICT WHICH ITS TAXABLE VALUATION BEARS
 20 TO THE TOTAL TAXABLE VALUATION OF THE PROPERTY OF THE
 21 DISTRICT; OR

22 (D) BY USING ANY COMBINATION OF THE ASSESSMENT OPTIONS
 23 PROVIDED IN SUBSECTIONS (A) THROUGH (C).

24 ~~Section-ii--Manner-of-assessing-costs: The--governing~~
 25 ~~body--shall--adopt-one-of-the-following-methods-of-assessing~~

1 costs for FOR the purpose of defraying the costs of carrying
2 out the functions of the district:

3 (1) ~~The governing body may assess the entire cost of~~
4 ~~the district against the entire district, each parcel of~~
5 ~~land within the district to be assessed for that part of the~~
6 ~~whole cost which its area bears to the area of the entire~~
7 ~~district, exclusive of streets, alleys, and public places.~~

8 (2) ~~The~~ THE governing body may SHALL assess the
9 entire cost of the district against the entire district,
10 each lot or parcel of land and improvements within the
11 district to be assessed for that part of the whole cost
12 which its assessed value bears to the assessed value of the
13 entire district, exclusive of streets, alleys, and public
14 places IF THE BOARD DETERMINES SUCH ASSESSMENT TO BE
15 EQUITABLE IN PROPORTION TO AND NOT EXCEEDING THE BENEFITS
16 RECEIVED FROM THE IMPROVEMENTS BY THE LOT, TRACT, OR PARCEL.

17 (3) ~~The governing body may use a combination of the~~
18 ~~two methods of assessment of costs provided in subsections~~
19 ~~(1) and (2).~~

20 Section 16. Duration of district. The period of
21 duration of a business improvement district is perpetual or
22 until dissolved by the governing body. FOR THE PERIOD
23 SPECIFIED IN THE RESOLUTION OF THE GOVERNING BODY CREATING
24 THE DISTRICT BUT SHALL NOT BE FOR A PERIOD LONGER THAN 10
25 YEARS UNLESS THE DURATION OF THE DISTRICT IS EXTENDED IN

1 COMPLIANCE WITH THE PROVISIONS OF [THIS ACT] FOR THE
2 CREATION OF A DISTRICT.

3 Section 17. Governing body not to decrease public
4 services. The governing body may not decrease the level of
5 public services in the district existing prior to the
6 creation of the district unless the services at the same
7 time are decreased throughout the jurisdictional area of the
8 governing body, nor may it transfer the financial burden of
9 providing those services to the district. The governing body
10 may not discriminate in the provision of publicly funded
11 services between areas included in such district and areas
12 not so included.

13 SECTION 18. LIABILITY INSURANCE REQUIRED. THE
14 GOVERNING BODY MAY NOT APPROVE THE ANNUAL BUDGET OR THE WORK
15 PLAN SUBMITTED TO IT BY THE BOARD UNLESS THE ANNUAL BUDGET
16 AND THE WORK PLAN PROVIDE FOR LIABILITY INSURANCE COVERAGE
17 INSURING THE DISTRICT, THE BOARD, AND THE LOCAL GOVERNMENT
18 AGAINST LEGAL LIABILITY FOR PERSONAL INJURY AND PROPERTY
19 DAMAGE IN AN AMOUNT DETERMINED SUFFICIENT FOR THAT PURPOSE
20 BY THE GOVERNING BODY.

21 Section 19. Limitation on local government liability.
22 An obligation or debt of any nature of a district is not an
23 obligation or debt of the local government that established
24 the district, and in no event is a debt or obligation of a
25 district payable out of any funds or properties of the local

1 government. The debts and obligations of a district are
2 payable solely from the funds and properties of the
3 district.

4 Section 20. Effective date. This act is effective on
5 passage and approval.

-End-

HOUSE BILL NO. 616

INTRODUCED BY J. BROWN, MAZUREK, SIMON

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING CREATION OF BUSINESS IMPROVEMENT DISTRICTS; PROVIDING PROCEDURES FOR CREATION; PROVIDING FOR ORGANIZATION, OPERATION, APPOINTMENT, TERMS, AND REMOVAL OF A BOARD OF TRUSTEES; ESTABLISHING POWERS OF THE BOARD OF TRUSTEES; PROVIDING FOR A BUDGET AND AN ANNUAL WORK PLAN; PROVIDING FOR A MANNER OF ASSESSING COSTS; PROVIDING FOR A TAX LEVY UPON THE DISTRICT; PROVIDING FOR THE DURATION OF THE DISTRICT; PROHIBITING DECREASE IN SERVICES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the "Business Improvement District Act".

Section 2. Purpose. (1) The purpose of [this act] is to provide for the creation of business improvement districts having the purposes and powers provided in [this act] that will serve a public use; will promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof and of the people of this state; and will be of special benefit to the property within the boundaries of any district created pursuant to the

provisions of [this act].

(2) ~~The legislature declares that because of a number of atypical factors and special conditions concerning business development unique to each locality, the rule of strict construction has no application to [this act], which shall be liberally construed to effect the purposes and objects for which it is intended.~~

Section 3. Definitions. As used in [this act], the following definitions apply:

(1) "APPOINTING AUTHORITY" MEANS THE MAYOR IN THE CASE OF A MUNICIPALITY, THE BOARD OF COUNTY COMMISSIONERS IN THE CASE OF A COUNTY, OR THE CHIEF EXECUTIVE OF A CONSOLIDATED CITY-COUNTY GOVERNMENT.

(1)(2) "Board" means the board of trustees created in [section 5].

(2)(3) "Business" means all types of business, including professions.

(3) ~~"Chief executive officer" means the mayor in the case of a municipality, CITY MANAGER IN CITY COMMISSION FORM OF GOVERNMENT, THE BOARD OF COUNTY COMMISSIONERS IN THE CASE OF A COUNTY, or the chief executive of a consolidated city-county government.~~

(4) "District" means a business improvement district created under [this act].

(5) "Governing body" means the legislative body of a

1 local government.

2 (6) "Local government" means a municipality, A COUNTY,
3 or a consolidated city-county government.

4 (7) "OWNER" MEANS A PERSON IN WHOM APPEARS THE LEGAL
5 TITLE TO REAL PROPERTY BY DEED DULY RECORDED IN THE COUNTY
6 RECORDS OR A PERSON IN POSSESSION OF REAL PROPERTY UNDER
7 CLAIM OF OWNERSHIP FOR HIMSELF OR AS THE PERSONAL
8 REPRESENTATIVE, AGENT, OR GUARDIAN OF THE OWNER.

9 Section 4. Establishment of a district. (1) Upon
10 receipt of a petition signed by the owners of more than 50%
11 of the area of the property proposed in the petition to be
12 included in a district, a governing body shall establish a
13 district ~~in--the--same--manner--as--the--establishment--of--a~~
14 ~~special-improvement-district-pursuant-to--Title--7,--chapter~~
15 ~~12,--part--4,--except as otherwise provided in [this act].~~

16 (2) THE BOUNDARIES OF A DISTRICT MUST COMPLY WITH
17 APPLICABLE ZONING REGULATIONS AND THE DISTRICT MAY NOT
18 INCLUDE AREAS THAT ARE ZONED PRIMARILY AS RESIDENTIAL AREAS.

19 ~~(2)(3) If--there--is--sufficient--protest--t--bar--the~~
20 ~~establishment--of--a--district,--as--provided--in--7-12-4113(1)(b),~~
21 ~~a--governing--body--may--take--no--further--proceedings--on--the~~
22 ~~establishment--of--the--district--for--a--period--of--1--year--from~~
23 ~~the--date--the--sufficient--protest--was--received--by--the--clerk--of~~
24 ~~the--governing--body.~~

25 SECTION 5. RESOLUTION OF INTENTION TO CREATE BUSINESS

1 IMPROVEMENT DISTRICT -- NOTICE. (1) BEFORE CREATING A
2 DISTRICT, THE GOVERNING BODY SHALL PASS A RESOLUTION OF
3 INTENTION TO DO SO DESIGNATING THE BOUNDARIES THEREOF.

4 (2) NOTICE OF PASSAGE OF THE RESOLUTION MUST BE
5 PUBLISHED FOR 5 DAYS IN A DAILY NEWSPAPER OR IN ONE ISSUE OF
6 A WEEKLY PAPER PUBLISHED IN THE MUNICIPALITY OR COUNTY OR,
7 IN CASE NO NEWSPAPER IS PUBLISHED IN THE MUNICIPALITY OR
8 COUNTY, THEN BY POSTING FOR 5 DAYS IN THREE PUBLIC PLACES IN
9 THE MUNICIPALITY OR COUNTY. A COPY OF THE NOTICE SHALL BE
10 MAILED TO EVERY OWNER OF REAL PROPERTY WITHIN THE PROPOSED
11 DISTRICT LISTED ON THE LAST COMPLETED ASSESSMENT ROLL FOR
12 STATE, COUNTY, AND SCHOOL DISTRICT TAXES, AT THE OWNER'S
13 LAST-KNOWN ADDRESS, ON THE SAME DAY THE NOTICE IS FIRST
14 PUBLISHED OR POSTED.

15 (3) THE NOTICE MUST DESCRIBE THE GENERAL PURPOSE OF
16 THE DISTRICT AND DESIGNATE THE TIME WHEN AND THE PLACE WHERE
17 THE GOVERNING BODY WILL HEAR AND PASS UPON ALL PROTESTS THAT
18 MAY BE MADE AGAINST THE CREATION OF SUCH DISTRICT. THE
19 NOTICE SHALL REFER TO THE RESOLUTION ON FILE WITH THE
20 GOVERNING BODY OR CLERK, IF ANY, FOR THE DESCRIPTION OF THE
21 BOUNDARIES.

22 SECTION 6. PROTEST AGAINST PROPOSED DISTRICT. (1) ANY
23 OWNER OF PROPERTY LIABLE TO BE ASSESSED MAY MAKE WRITTEN
24 PROTEST AGAINST THE EXTENT OR CREATION OF THE DISTRICT TO BE
25 ASSESSED, OR BOTH.

1 (2) THE PROTEST MUST BE IN WRITING AND MUST BE
 2 DELIVERED TO THE GOVERNING BODY OR ITS CLERK, IF ANY, NOT
 3 LATER THAN 5 P.M. OF THE LAST DAY WITHIN 15 DAYS AFTER THE
 4 DATE OF THE FIRST PUBLICATION OF THE NOTICE OF THE
 5 RESOLUTION OF INTENTION. THE DATE AND HOUR OF RECEIPT OF THE
 6 PROTEST SHALL BE ENDORSED THEREON.

7 SECTION 7. HEARING ON PROTEST -- SUFFICIENT PROTEST TO
 8 BAR PROCEEDINGS. (1) AT A REGULAR MEETING OF THE GOVERNING
 9 BODY AFTER THE EXPIRATION OF THE TIME WITHIN WHICH PROTEST
 10 MAY BE MADE, THE GOVERNING BODY SHALL PROCEED TO HEAR AND
 11 PASS UPON ALL PROTESTS. ITS DECISION SHALL BE FINAL AND
 12 CONCLUSIVE.

13 (2) THE GOVERNING BODY MAY ADJOURN THE HEARING FROM
 14 TIME TO TIME. A PROTESTANT SHALL HAVE THE RIGHT TO WITHDRAW
 15 A PROTEST AT ANY TIME BEFORE FINAL ACTION THEREON BY THE
 16 COUNCIL OR COMMISSION.

17 ~~(3) --NO--FURTHER--PROCEEDINGS--MAY--BE--TAKEN--FOR--A--PERIOD~~
 18 ~~OF--1--YEAR--FROM--THE--DATE--WHEN--PROTEST--HAS--BEEN--RECEIVED--BY~~
 19 ~~THE--GOVERNING--BODY--BY--OWNERS--OF--MORE--THAN--50%--OF--THE~~
 20 ~~PROPERTY,--DETERMINED--BY--TAXABLE--VALUATION,--TO--BE--ASSESSED~~
 21 ~~FOR--THE--DISTRICT.~~

22 (3) NO FURTHER ACTION SHALL BE TAKEN UPON THE PROPOSED
 23 DISTRICT FOR 1 YEAR IF A WRITTEN PROTEST AGAINST PASSAGE OF
 24 THE PROPOSED ORDINANCE IS FILED BY:

25 (A) OWNERS OF PROPERTY WITHIN THE PROPOSED DISTRICT

1 HAVING A TAXABLE VALUATION, WHEN AGGREGATED, REPRESENTING
 2 NOT LESS THAN 50% OF THE TOTAL TAXABLE VALUATION OF PROPERTY
 3 WITHIN THE DISTRICT;

4 (B) NOT LESS THAN 50% OF THE OWNERS OF PROPERTY WITHIN
 5 THE DISTRICT; OR

6 (C) OWNERS OF PROPERTY WITHIN THE PROPOSED DISTRICT
 7 HAVING PROJECTED ASSESSMENTS, WHEN AGGREGATED, REPRESENTING
 8 NOT LESS THAN 50% OF THE TOTAL PROJECTED ASSESSMENTS FOR
 9 PROPERTY WITHIN THE DISTRICT.

10 SECTION 8. RESOLUTION CREATING BUSINESS IMPROVEMENT
 11 DISTRICT. WHEN NO PROTESTS HAVE BEEN DELIVERED TO THE
 12 GOVERNING BODY WITHIN 15 DAYS AFTER THE DATE OF THE FIRST
 13 PUBLICATION OF THE NOTICE OF THE PASSING OF THE RESOLUTION
 14 OF INTENTION, WHEN A PROTEST SHALL HAVE BEEN FOUND BY THE
 15 GOVERNING BODY TO BE INSUFFICIENT OR HAS BEEN OVERRULED, OR
 16 WHEN A PROTEST AGAINST THE EXTENT OF THE PROPOSED DISTRICT
 17 HAS BEEN HEARD AND DENIED, THE GOVERNING BODY HAS
 18 JURISDICTION TO ORDER THE CREATION OF THE DISTRICT AND SHALL
 19 PASS A RESOLUTION CREATING THE DISTRICT IN ACCORDANCE WITH
 20 THE RESOLUTION OF INTENTION.

21 Section 9. Board of trustees -- appointment -- number.
 22 (1) When the governing body of a local government adopts an
 23 ordinance creating a business improvement district, the
 24 ~~chief--executive--officer~~ APPOINTING AUTHORITY, with the
 25 approval of the governing body, shall appoint not less than

1 five or more than seven owners of property within the
 2 district to comprise the board of trustees of the district.

3 (2) The number of members of the board, once
 4 established, may be changed within these limits from time to
 5 time by subsequent resolutions of the governing body of the
 6 local government. A resolution to reduce board membership
 7 may not require resignation of any member prior to
 8 completion of his appointed term.

9 Section 10. Term of office. (1) Three of the members
 10 who are first appointed must be designated to serve for
 11 terms of 1, 2, and 3 years, respectively, from the date of
 12 their appointments, and two must be designated to serve for
 13 terms of 4 years from the date of their appointment. For a
 14 seven-member commission, there must be two additional
 15 appointments for terms of 2 years and 3 years, respectively.

16 (2) After initial appointment, members must be
 17 appointed for a term of office of 4 years, except that a
 18 vacancy occurring during a term must be filled for the
 19 unexpired term. A member shall hold office until his
 20 successor has been appointed and qualified.

21 Section 11. Removal of board member. A member of a
 22 board of trustees may be removed by the ~~chief--executive~~
 23 ~~officer~~ APPOINTING AUTHORITY with the consent of the
 24 governing body.

25 Section 12. Organization of board of trustees -- no

1 compensation. (1) The ~~chief--executive-officer~~ APPOINTING
 2 AUTHORITY shall designate which member of the board is to be
 3 the first chairman. When the office of chairman of the board
 4 becomes vacant thereafter, the board shall elect a chairman
 5 from among its members. The term of office as chairman of
 6 the board, unless otherwise prescribed by the governing
 7 body, must be for 1 calendar year or for that portion
 8 thereof remaining after each chairman is designated or
 9 elected.

10 (2) Members may receive no compensation.

11 Section 13. Powers of board in administering district.
 12 The board in administering a district has all powers
 13 necessary to carry out the functions of the district
 14 contained in the ordinance creating it, including the power
 15 to:

16 (1) sue and be sued, enter into contracts, and hire
 17 and terminate personnel needed for its purposes;

18 (2) provide special police, maintenance, or cleaning
 19 personnel for the protection and enjoyment of ~~the--property~~
 20 ~~owners--businesses--and~~ the general public using the business
 21 district;

22 (3) landscape and beautify public areas and to
 23 maintain those areas;

24 (4) contract with the governing body to maintain,
 25 operate, or repair public parking facilities;

1 (5) contract with the governing body to maintain
 2 streets, alleys, malls, bridges, ramps, tunnels,
 3 landscaping, and other public facilities as mutually agreed
 4 upon;

5 (6) promote private investment and business expansion
 6 in the district;

7 (7) provide for the management and administration of
 8 the affairs of the district;

9 (8) promote business activity by advertising,
 10 decorating, marketing, and promoting and managing events and
 11 other actions designed for the general promotion of business
 12 activities in the district; and

13 (9) perform such other functions as are necessary to
 14 carry out the purposes of [this act] and to further the
 15 objectives of the district.

16 Section 14. Annual budget and work plan -- approval --
 17 procedure -- tax. (1) At a time determined by the governing
 18 body, the board shall submit to the governing body for
 19 approval a work plan and budget for the ensuing fiscal year.

20 (2) Following public notice that a work plan and
 21 budget have been submitted and that the governing body will
 22 ~~assess-a-tax~~ LEVY AN ASSESSMENT to defray the cost of the
 23 work plan and budget, the governing body shall hold a public
 24 hearing on objections to the work plan and budget. After the
 25 hearing, the governing body may modify the work plan and

1 budget as it considers necessary and appropriate.

2 (3) After approval of the work plan and budget and to
 3 defray the cost thereof for the next fiscal year, the
 4 governing body shall by resolution levy ~~and-assess-a-tax~~ AN
 5 ASSESSMENT upon all of the property in the district ~~using-as~~
 6 ~~a--basis--one-of-the-methods~~ USING AS A BASIS ~~THE-METHOD~~ ONE
 7 OF THE METHODS prescribed in [section ~~11~~ 15].

8 (4) A copy of the resolution shall be delivered to the
 9 treasurer of the local government to be placed on the tax
 10 roll and collected in the same manner as other taxes.

11 SECTION 15. ASSESSMENT OF COSTS -- AREA, LOT, AND
 12 TAXABLE VALUATION OPTIONS. (1) AT THE SAME TIME THE BOARD
 13 SUBMITS THE ANNUAL BUDGET AND WORK PLAN TO THE GOVERNING
 14 BODY AS PROVIDED IN [SECTION 14], THE BOARD SHALL ALSO
 15 RECOMMEND TO THE GOVERNING BODY A METHOD OF LEVYING AN
 16 ASSESSMENT ON THE PROPERTY WITHIN THE DISTRICT WHICH WILL
 17 BEST ENSURE THAT THE ASSESSMENT ON EACH LOT OR PARCEL IS
 18 EQUITABLE IN PROPORTION TO THE BENEFITS TO BE RECEIVED.

19 (2) THE GOVERNING BODY SHALL ANNUALLY ASSESS THE
 20 ENTIRE COST OF THE DISTRICT AGAINST THE ENTIRE DISTRICT
 21 USING A METHOD WHICH BEST ENSURES THAT THE ASSESSMENT ON
 22 EACH LOT OR PARCEL IS EQUITABLE IN PROPORTION TO THE
 23 BENEFITS TO BE RECEIVED. IN DETERMINING THE METHOD OF
 24 ASSESSMENT TO BE USED, THE GOVERNING BODY SHALL CONSIDER THE
 25 RECOMMENDATIONS OF THE BOARD. THE GOVERNING BOARD SHALL LEVY

1 THE ASSESSMENT USING ONE OF THE FOLLOWING METHODS:

2 (A) EACH LOT OR PARCEL OF LAND WITHIN SUCH DISTRICT
3 MAY BE ASSESSED FOR THAT PART OF THE WHOLE COST WHICH ITS
4 AREA BEARS TO THE AREA OF THE ENTIRE DISTRICT, EXCLUSIVE OF
5 STREETS, AVENUES, ALLEYS, AND PUBLIC PLACES;

6 (B) IF THE GOVERNING BODY DETERMINES THAT THE BENEFITS
7 DERIVED BY EACH LOT OR PARCEL ARE SUBSTANTIALLY EQUIVALENT,
8 THE COST MAY BE ASSESSED EQUALLY TO EACH LOT OR PARCEL
9 LOCATED WITHIN THE DISTRICT WITHOUT REGARD TO THE AREA OF
10 THE LOT OR PARCEL;

11 (C) EACH LOT OR PARCEL OF LAND, INCLUDING THE
12 IMPROVEMENTS THEREON, MAY BE ASSESSED FOR THAT PART OF THE
13 WHOLE COST OF THE DISTRICT WHICH ITS TAXABLE VALUATION BEARS
14 TO THE TOTAL TAXABLE VALUATION OF THE PROPERTY OF THE
15 DISTRICT; OR

16 (D) BY USING ANY COMBINATION OF THE ASSESSMENT OPTIONS
17 PROVIDED IN SUBSECTIONS (A) THROUGH (C).

18 Section 11. Manner of assessing costs. The governing
19 body shall adopt one of the following methods of assessing
20 costs for the purpose of defraying the costs of carrying
21 out the functions of the district:

22 (1) The governing body may assess the entire cost of
23 the district against the entire district, each parcel of
24 land within the district to be assessed for that part of the
25 whole cost which its area bears to the area of the entire

1 district, exclusive of streets, alleys, and public places;

2 (2) The governing body may assess the
3 entire cost of the district against the entire district,
4 each lot or parcel of land and improvements within the
5 district to be assessed for that part of the whole cost
6 which its assessed value bears to the assessed value of the
7 entire district, exclusive of streets, alleys, and public
8 places if the board determines such assessment to be
9 equitable in proportion to and not exceeding the benefits
10 received from the improvements by the lot, tract, or parcel;

11 (3) The governing body may use a combination of the
12 two methods of assessment of costs provided in subsections
13 (1) and (2);

14 Section 16. Duration of district. The period of
15 duration of a business improvement district is perpetual or
16 until dissolved by the governing body. For the period
17 specified in the resolution of the governing body creating
18 the district but shall not be for a period longer than 10
19 years unless the duration of the district is extended in
20 compliance with the provisions of [THIS ACT] for the
21 creation of a district.

22 Section 17. Governing body not to decrease public
23 services. The governing body may not decrease the level of
24 public services in the district existing prior to the
25 creation of the district unless the services at the same

1 time are decreased throughout the jurisdictional area of the
2 governing body, nor may it transfer the financial burden of
3 providing those services to the district. The governing body
4 may not discriminate in the provision of publicly funded
5 services between areas included in such district and areas
6 not so included.

7 SECTION 18. LIABILITY INSURANCE REQUIRED. THE
8 GOVERNING BODY MAY NOT APPROVE THE ANNUAL BUDGET OR THE WORK
9 PLAN SUBMITTED TO IT BY THE BOARD UNLESS THE ANNUAL BUDGET
10 AND THE WORK PLAN PROVIDE FOR LIABILITY INSURANCE COVERAGE
11 INSURING THE DISTRICT, THE BOARD, AND THE LOCAL GOVERNMENT
12 AGAINST LEGAL LIABILITY FOR PERSONAL INJURY AND PROPERTY
13 DAMAGE IN AN AMOUNT DETERMINED SUFFICIENT FOR THAT PURPOSE
14 BY THE GOVERNING BODY.

15 Section 19. Limitation on local government liability.
16 An obligation or debt of any nature of a district is not an
17 obligation or debt of the local government that established
18 the district, and in no event is a debt or obligation of a
19 district payable out of any funds or properties of the local
20 government. The debts and obligations of a district are
21 payable solely from the funds and properties of the
22 district.

23 Section 20. Effective date. This act is effective on
24 passage and approval.

-End-