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INTRODUCED BY Ken Beltrami ^{Senate} BILL NO. 248

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A COUNTY WATER OR SEWER DISTRICT AND A GOVERNING BODY OF A MUNICIPAL WATER OR SEWER SYSTEM FROM REQUIRING THE OWNERS OF REAL PROPERTY TO PAY OUTSTANDING CHARGES FOR SERVICES TO THE PROPERTY WHEN THE CHARGES HAVE BEEN INCURRED BY A RENTER AND NOT THE PROPERTY OWNER; AND AMENDING SECTIONS 7-13-2301, 7-13-4305, 7-13-4306, AND 7-13-4309, MCA."

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

Section 1. Section 7-13-2301, MCA, is amended to read:

"7-13-2301. Establishment of charges for services -- payment of charges. (1) The board of directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer charges and the charges for the sale and distribution of water to all users.

(2) The board, in furnishing water, sewer service, other services, and facilities, shall review, at least once every 2 years, and from time to time fix the rate, fee, toll, rent, or other charge for the services, facilities, and benefits directly afforded by the facilities, taking into account services provided and direct benefits received, that will be sufficient in each year to provide income and revenue adequate for:

- (a) the payment of the reasonable expense of operation and maintenance of the facilities;
- (b) administration of the district;
- (c) the payment of principal and interest on any bonded or other indebtedness of the district; and
- (d) the establishment or maintenance of any required reserves, including reserves needed for expenditures for depreciation and replacement of facilities, as may be determined necessary from time to time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the district.

(3) Except as provided in subsection (5), a A person or entity may not use any facility without paying the rate established for the facility. In the event of nonpayment, the board may order the discontinuance of water or sewer service or both to the property and may require that all delinquent charges, interest, penalties, and deposits be paid before restoration of the service.

1 (4) (a) Except as provided in subsection (5), if the board has ordered discontinuance of service,
 2 as provided in subsection (3), and the person or entity who received the service has not made full payment
 3 of all delinquent charges, interest, penalties, and deposits, then a district may elect to have its delinquent
 4 charges for water or sewer services collected as a tax against the property by following the procedures of
 5 this subsection (4). If a charge for services is due and payable in a fiscal year and is not paid by the end
 6 of the fiscal year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to the
 7 owners of the property to which the service was provided. The notice must be in writing and:

8 (i) must specify the charges owed, including any interest and penalty;

9 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against
 10 the property;

11 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover
 12 the amount due; and

13 (iv) may be served on the owner personally or by letter addressed to the post-office address of the
 14 owner as recorded in the county assessor's office.

15 (b) On September 1 of each year, the general manager shall certify and file with the county
 16 assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list must
 17 include the amount of each arrearage, including interest and penalty. The county assessor shall assess the
 18 amount owed as a tax against each lot or parcel with an arrearage. If the property on which arrearages
 19 remain unpaid contains a mobile home, the amount owed must be assessed as a tax against the owner of
 20 the mobile home. ~~If the mobile home for which arrearages remain unpaid is no longer on the property, the~~
 21 ~~amount owed must be assessed as a tax against the property.~~

22 (5) (a) The district may not collect any unpaid arrearages as a tax against real property if the
 23 arrearages are the result of delinquent charges, interest, penalties, and deposits incurred by a renter of the
 24 real property and not the owner of the real property.

25 (b) A board may not require that all delinquent charges, interest, penalties, and deposits incurred
 26 by a renter be paid by the owner of the property before restoration of service to that property.

27 ~~(6)~~ In addition to collecting delinquent charges in the same manner as a tax, a district may bring
 28 suit in any court of competent jurisdiction to collect amounts due as a debt owed to the district.

29 ~~(7)~~ Notwithstanding any other section of part 22 or this part or any limitation imposed in part
 30 22 or this part, when the board has applied for and received from the federal government any money for

1 the construction, operation, and maintenance of facilities, the board may adopt a system of charges and
 2 rates to require that each recipient of facility services pays its proportionate share of the costs of operation,
 3 maintenance, and replacement and may require industrial users of facilities to pay the portion of the cost
 4 of construction of the facilities that is allocable to the treatment of that industrial user's wastes."

5
 6 **Section 2.** Section 7-13-4305, MCA, is amended to read:

7 **"7-13-4305. Consumers required to pay for services.** (1) ~~No~~ A person, firm, or corporation ~~shall~~
 8 ~~be permitted to~~ may not use ~~said~~ a water or sewer system unless ~~they pay~~ it pays the full ~~and established~~
 9 rate for ~~said~~ the service.

10 (2) Except as provided in 7-13-4306(2), ~~a~~ No person, firm, or corporation may not have service
 11 reestablished after it is discontinued pursuant to 7-13-4306 unless ~~they have~~ it has paid the full amount
 12 past due, any interest or penalty on ~~such~~ the past-due amount, and any required reestablishment deposit."

13
 14 **Section 3.** Section 7-13-4306, MCA, is amended to read:

15 **"7-13-4306. Effect of failure to pay charges.** (1) Except as provided in subsection (2), ~~in~~ the
 16 event of nonpayment of charges for either water or sewer service and benefits to any premises, the
 17 governing body may direct that the supply of water or provision of sewer service to ~~such~~ the premises ~~to~~
 18 be discontinued until ~~such~~ the charges are paid.

19 (2) A governing body may not require that all delinquent charges, interest, penalties, and deposits
 20 incurred by a renter be paid by the owner of the property before restoration of service to that property."

21
 22 **Section 4.** Section 7-13-4309, MCA, is amended to read:

23 **"7-13-4309. Procedure to collect sewer charges.** (1) The sewer charges must be collected by the
 24 treasurer.

25 (2) Except as provided in subsection (5), ~~on~~ On or before July 15 of each year, notice must be
 26 given by the city treasurer or town clerk to the owners of all lots or parcels of real estate to which sewer
 27 service has been furnished prior to July 1 by the city or town. The notice must specify the assessment
 28 owing and in arrears at the time of giving notice. The notice must be in writing and must state the amount
 29 of arrearage, including any penalty and interest assessed pursuant to the provisions of the city or town
 30 ordinance, and that unless the amount is paid by August 15, the amount will be levied as a tax against the

1 lot or parcel of real estate to which sewer service was furnished and for which payment is delinquent. The
2 notice must also state that the city or town may by suit collect past-due assessments, interest, and
3 penalties, as a debt owing the city or town, in any court of competent jurisdiction, including city court. The
4 notice may be delivered to the owner personally or by letter addressed to the owner at the post-office
5 address of the owner as shown in property tax records maintained by the department of revenue.

6 (3) (a) Except as provided in ~~subsection~~ subsections (3)(b) and (5), on September 1, the city
7 treasurer or town clerk shall certify and file with the department of revenue a list of all lots or parcels of
8 real estate, giving the legal description of the lot or parcel, to the owners of which notices of arrearage in
9 payments were given and which arrearage remains unpaid and stating the amount of the arrearage,
10 including any penalty and interest. The department of revenue shall insert the amount as a tax against the
11 lot or parcel of real estate.

12 (b) Except as provided in subsection (5), in cities where the council has provided by ordinance
13 for the collection of taxes, the city treasurer shall collect the delinquent amount, including penalty and
14 interest, as a tax against the lot or parcel of real estate to which sewer service was furnished and payment
15 for which is delinquent.

16 (4) Except as provided in subsection (5), a city or town may, in addition to pursuing the
17 collection of assessments in the same manner as a tax, bring suit in any court of competent jurisdiction,
18 including city court, to collect the amount due and owing, including penalties and interest, as a debt owing
19 the city or town.

20 (5) A city or town may not collect any unpaid arrearages as a tax against real property if the
21 arrearages are the result of delinquent charges, interest, penalties, and deposits incurred by a renter of the
22 real property and not the owner of the real property."

23 -END-