

Montana Code Annotated 2011

Table of Contents

TITLE 07. LOCAL GOVERNMENT CHAPTER 12. IMPROVEMENT DISTRICTS

Part 11. Business Improvement Districts

7-12-1101. Short title. This part may be cited as the "Business Improvement District Act".

History: En. Sec. 1, Ch. 656, L. 1985.

7-12-1102. Purpose. The purpose of this part is to provide for the creation of business improvement districts having one or more of the purposes and powers provided in this part that will:

- (1) serve a public use;
- (2) promote the health, safety, prosperity, security, and general welfare of the inhabitants of the district and of the people of this state;
- (3) be of special benefit to the property within the boundaries of any district created pursuant to the provisions of this part; or
- (4) aid in tourism, promotion, and marketing within the district.

History: En. Sec. 2, Ch. 656, L. 1985; amd. Sec. 1, Ch. 253, L. 2007.

7-12-1103. Definitions. As used in this part, 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.
- (2) "Board" means the board of trustees created in [7-12-1121](#).
- (3) "Business" means all types of business, including professions.
- (4) "District" means a business improvement district created under this part.
- (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 title to real property by deed recorded in the county records or a person in possession of real property under claim of ownership for the person or as the personal representative, agent, or guardian of the owner.

History: En. Sec. 3, Ch. 656, L. 1985; amd. Sec. 17, Ch. 370, L. 1987; amd. Sec. 527, Ch. 61, L. 2007.

7-12-1104 through 7-12-1110 reserved.

7-12-1111. Establishment or expansion of district. (1) Upon receipt of a petition signed by the owners of more than 60% of the area of the property proposed in the petition to be included in a district or in the expansion of a district, a governing body shall establish a district or expand a district as provided in this part.

(2) The boundaries of a district must comply with applicable zoning regulations.

(3) The district may not include areas that are zoned primarily as residential areas.

(4) (a) A district may be composed of noncontiguous areas if the properties in a district have a common purpose of providing overnight stays at lodging facilities.

(b) The boundaries of a district with noncontiguous areas must encompass all properties in the district with the same identified purpose.

History: En. Sec. 4, Ch. 656, L. 1985; amd. Sec. 1, Ch. 79, L. 1991; amd. Sec. 2, Ch. 253, L. 2007.

7-12-1112. Resolution of intention to create or expand district -- notice. (1) Before creating or expanding a district, the governing body shall pass a resolution of intention to do so, designating the boundaries of the district.

(2) Notice of passage of the resolution must be published as provided in [7-1-2121](#). A copy of the notice must be mailed to every owner of real property within the proposed district or within the proposed area of expansion 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 or the general reason for the expansion 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 the district or the expansion of the existing district. The notice must refer to the resolution on file with the governing body or clerk, if any, for the description of the boundaries.

(4) The resolution to expand a district deals only with the question of the expanded area, and the existing district does not have to be reestablished.

History: En. Sec. 5, Ch. 656, L. 1985; amd. Sec. 2, Ch. 79, L. 1991; amd. Sec. 20, Ch. 354, L. 2001.

7-12-1113. 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.

History: En. Sec. 6, Ch. 656, L. 1985.

7-12-1114. 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 action shall be taken upon the proposed district or proposed expansion of an existing 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 or area of a proposed expansion having a taxable valuation, when aggregated, representing not less than 50% of the total taxable valuation of property within the district or within the area of a proposed expansion;

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

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

History: En. Sec. 7, Ch. 656, L. 1985; amd. Sec. 3, Ch. 79, L. 1991.

7-12-1115. Resolution creating or expanding 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 or proposed expansion of a district has been heard and denied, the governing body has jurisdiction to order the creation or expansion of the district and shall pass a resolution creating or expanding the district in accordance with the resolution of intention.

History: En. Sec. 8, Ch. 656, L. 1985; amd. Sec. 4, Ch. 79, L. 1991.

7-12-1116 through 7-12-1120 reserved.

7-12-1121. Board of trustees -- appointment -- number -- term of office. (1) When the governing body of a local government adopts an ordinance creating a business improvement district, the appointing authority, with the approval of the governing body, shall appoint not less than five or more than seven owners of property within the district or their assignees to compose the board of trustees of the district. The director for a business improvement district created for the purpose of [7-12-1102](#)(4) must be the executive director of a nonprofit convention and visitors bureau, as defined in [15-65-101](#), if a nonprofit convention and visitors bureau is operating within the governing body's jurisdiction.

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

(3) Three of the members who are first appointed must be designated to serve for terms of

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

(4) After initial appointment, members must be appointed for a term of office of 4 years, except that a vacancy occurring during a term must be filled for the unexpired term. A member holds office until a successor has been appointed and qualified.

History: En. Secs. 9, 10, Ch. 656, L. 1985; amd. Sec. 528, Ch. 61, L. 2007; amd. Sec. 3, Ch. 253, L. 2007.

7-12-1122. Organization of board of trustees -- no compensation. (1) The appointing authority shall designate which member of the board is to be the first presiding officer. When the office of presiding officer of the board becomes vacant, the board shall elect a presiding officer from among its members. The term of office as presiding officer of the board, unless otherwise prescribed by the governing body, must be for 1 calendar year or for that portion of a year remaining after each presiding officer is designated or elected. (2) Members may not receive compensation.

History: En. Sec. 12, Ch. 656, L. 1985; amd. Sec. 529, Ch. 61, L. 2007.

7-12-1123. Removal of board member. A member of a board of trustees may be removed by the appointing authority with the consent of the governing body.

History: En. Sec. 11, Ch. 656, L. 1985.

7-12-1124 through 7-12-1130 reserved.

7-12-1131. Powers of board in administering district. The board in administering a district has all powers necessary to carry out the functions of the district contained in the ordinance creating it, including the power to:

- (1) sue and be sued, enter into contracts, and hire and terminate personnel needed for its purposes;
- (2) provide special police, maintenance, or cleaning personnel for the protection and enjoyment of the general public using the business district;
- (3) landscape and beautify public areas and to maintain those areas;
- (4) contract with the governing body to maintain, operate, or repair public parking facilities;
- (5) contract with the governing body to maintain streets, alleys, malls, bridges, ramps, tunnels, landscaping, and other public facilities as mutually agreed upon;
- (6) promote private investment and business expansion in the district;
- (7) provide for the management and administration of the affairs of the district;
- (8) promote business activity by advertising, decorating, marketing, and promoting and managing events and other actions designed for the general promotion of business activities in the district; and
- (9) perform such other functions as are necessary to carry out the purposes of this part and to further the objectives of the district.

History: En. Sec. 13, Ch. 656, L. 1985.

7-12-1132. Annual budget and work plan -- approval -- procedure -- tax. (1) At a time determined by the governing body, the board shall submit to the governing body for approval a work plan and budget for the ensuing fiscal year.

(2) A board created for the purpose of [7-12-1102](#)(4) in a municipality or county where a nonprofit convention and visitors bureau, as defined in [15-65-101](#), is operating shall consult with the nonprofit convention and visitors bureau in developing a work plan and budget for the ensuing fiscal year.

(3) Following public notice that a work plan and budget have been submitted and that the governing body will levy an assessment to defray the cost of the work plan and budget, the governing body shall hold a public hearing on objections to the work plan and budget. After the hearing, the governing body may modify the work plan and budget as it considers necessary and appropriate.

(4) After approval of the work plan and budget and to defray the cost of the work plan and budget for the next fiscal year, the governing body shall by resolution levy an assessment upon all of the property in the district using as a basis one of the methods prescribed in [7-12-1133](#).

(5) A copy of the resolution must be delivered to the treasurer of the local government to be placed on the tax roll and collected in the same manner as other taxes.

History: En. Sec. 14, Ch. 656, L. 1985; amd. Sec. 4, Ch. 253, L. 2007.

7-12-1133. Assessment of costs -- area, lot, taxable valuation, square footage, and flat-fee options -- provisions for property classifications. (1) At the same time that the board submits the annual budget and work plan to the governing body as provided in [7-12-1132](#), the board shall also recommend to the governing body a method of levying an assessment on the property within the district that 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 annually assess the entire cost of the district against the entire district using a method that 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 the district may be assessed for that part of the whole cost that 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) if the governing body determines that benefits derived by each lot or parcel are proportional, the governing body may use standard criteria, such as individual occupancy or daily use, and make the assessment on a flat-fee basis based on the criteria;

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

(e) each building may be assessed for that part of the whole cost of the district that the occupied or income-producing area of the building above the first floor bears to the area of the entire district;

(f) if the governing body determines that benefits derived by each lot or parcel are disproportional, the governing body may use classification criteria, such as location within the district, economic impact, or any other measurable criteria, in conjunction with methods of assessing fees outlined in this subsection (2). Each classification must have its own rate. There may not be more than six classifications upon which a charge is imposed.

(g) by using any combination of the assessment options provided in subsections (2)(a) through (2)(f).

(3) If a district is expanded, the land within the expanded area or property with a similar purpose in the district must be assessed as provided for in subsection (2) for the duration of the district.

History: En. Sec. 15, Ch. 656, L. 1985; amd. Sec. 1, Ch. 450, L. 1989; amd. Sec. 5, Ch. 79, L. 1991; amd. Sec. 5, Ch. 253, L. 2007.

7-12-1134 through 7-12-1140 reserved.

7-12-1141. Duration of district. The period of duration of a business improvement district is for the period specified in the resolution of the governing body creating the district but shall not be for a period longer than 10 years unless the duration of the district is extended in compliance with the provisions of this part for the creation of a district.

History: En. Sec. 16, Ch. 656, L. 1985.

7-12-1142. Governing body not to decrease public services. The governing body may not decrease the level of public services in the district existing prior to the creation of the district unless the services at the same time are decreased throughout the jurisdictional area of the governing body, nor may it transfer the financial burden of providing those services to the district. The governing body may not discriminate in the provision of publicly funded services between areas included in such district and areas not so included.

History: En. Sec. 17, Ch. 656, L. 1985.

7-12-1143. Liability insurance required. The governing body may not approve the annual budget or the work plan submitted to it by the board unless the annual budget and the work plan provide for liability insurance coverage insuring the district, the board, and the local government against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the governing body.

History: En. Sec. 18, Ch. 656, L. 1985.

7-12-1144. Obligations of district not obligations of local government. An obligation or debt of any nature of a district is not an obligation or debt of the local government that established the district, and in no event is a debt or obligation of a district payable out of

any funds or properties of the local government. The debts and obligations of a district are payable solely from the funds and properties of the district.

History: En. Sec. 19, Ch. 656, L. 1985.

7-12-1145 through 7-12-1150 reserved.

7-12-1151. Water user entities exempt from special assessments. Rights-of-way, ditches, flumes, pipelines, dams, water rights, reservoirs, equipment, machinery, motor vehicles, and other personal property owned by a nonprofit water company, water users' association, irrigation company, canal company, ditch company, reservoir company, or similar nonprofit water user entity are exempt from every special assessment imposed by any improvement or maintenance district created under Title 7, chapter 12.

History: En. Sec. 1, Ch. 276, L. 1987.