7-11-1002. Definitions. As used in this part, the following definitions apply:

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

(2) "Local government" means a city, town, county, or consolidated city-county government or any combination of these acting jointly.

(3) (a) "Special district" means a unit of local government that is authorized by law to perform a single function or a limited number of functions.

(b) The term includes but is not limited to cemetery districts, museum districts, park districts, fair districts, solid waste districts, local improvement districts, mosquito control districts, multijurisdictional districts, road districts, rodent control districts, television districts, and districts created for any public or governmental purpose not specifically prohibited by law. The term also includes any district or other entity formed to perform a single or limited number of functions by interlocal agreement.

(c) The term does not include business improvement districts, cattle protective districts, conservancy districts, conservation districts, water and sewer districts, planning and zoning districts, drainage districts, grazing districts, hospital districts, irrigation districts, library districts, livestock protective committees, parking districts, resort area districts, rural improvement districts, special improvement districts, lighting districts, rural fire districts, street maintenance districts, tax increment financing districts, urban transportation districts, water conservation and flood control projects, and weed management districts.

History: En. Sec. 2, Ch. 286, L. 2009.

Attorney General's Opinions

County Authorized to Appropriate Money for Museum — City Authorized to Appropriate Money for Public Purpose — Constitutionality Analyzed: Pursuant to 7-16-2202 (now repealed), a county, but not a city, is authorized to create a program to provide grants to private, nonprofit museums. However, pursuant to 7-1-4124, a city is allowed to grant money to public or private entities as long as the grant is for a public purpose, such as a museum that would enhance the education and enjoyment of the general public, but that would not be merely for the gain of a private entity. The Attorney General declined to opine regarding the constitutionality of 7-1-4124 or 7-16-2202 (now repealed), in light of the prohibition in Art. V, sec. 11(5), Mont. Const., against the appropriation of public funds for any private individual, private association, or private corporation not under control of the state, but did analyze that constitutional provision as it related to the question of county or city expenditures for grants to private museum programs, concluding that the constitutional prohibition applies only to the appropriation of public funds by the Legislature, not by local governmental entities. 48 A.G. Op. 12 (2000), overruling prior opinions to the contrary in 37 A.G. Op. 25 (1977), 37 A.G. Op. 105 (1978), and 39 A.G. Op. 25 (1981).

7-11-1003. Authorization to create special districts. (1) Whenever the public convenience and necessity may require:

(a) the governing body may:

(i) create a special district by resolution pursuant to 7-11-1007, 7-11-1008, and the provisions of 7-11-1009, if applicable; or

(ii) order a referendum on the creation of a special district to serve the inhabitants of the special district as provided in 7-11-1011 and the provisions of 7-11-1009, if applicable; or

(b) petitioners may initiate the creation of a special district to serve inhabitants of the special district as provided in subsection (2).

(2) (a) Upon receipt of a petition to institute the creation of a special district that is signed by at least 40% of the registered voters or by the owners of at least 40% of the real property within the boundary of the proposed special district and that is submitted to the clerk of the governing body, the governing body shall commence proceedings to create a special district as provided in subsection (1)(a).

(b) The form of the petition may be prescribed by the governing body, and the clerk of the governing body shall verify the signatures on the petition.

(c) Subject to subsection (2)(b), the petition must:

(i) require the printed name of each signatory;

(ii) specify whether the signatory is a property taxpayer or owner of real property within the proposed special district and either the street address or the legal description, whichever the signatory prefers, of that property;

(iii) describe the type of special district being proposed and the general character of any proposed improvements and program to be administered within the special district;

(iv) designate the method of financing any proposed improvements or maintenance program within the special district;

(v) include a description of the areas to be included in the proposed special district; and

(vi) specify whether the proposed special district would be administered by the local governing body or an appointed or elected board.

(3) Within 60 days of receipt of a petition to create a special district, the clerk of the governing body shall:

(a) certify that the petition is sufficient under the provisions of subsection (2) and present it to the governing body at its next meeting; or

(b) reject the petition if it is insufficient under the provisions of subsection (2).

(4) A defect in the contents of the petition or in its title, form of notice, or signatures may not invalidate the petition and subsequent proceedings as long as the petition has a sufficient number of qualified signatures attached.

History: En. Sec. 3, Ch. 286, L. 2009; amd. Sec. 1, Ch. 171, L. 2013; amd. Sec. 2, Ch. 500, L. 2021.

Compiler's Comments

2021 Amendment: Chapter 500 in (1)(a)(i) at end inserted "pursuant to 7-11-1007, 7-11-1008, and the provisions of 7-11-1009, if applicable"; in (1)(a)(ii) at end inserted "and the provisions of 7-11-1009, if applicable"; in (2)(a) in two places increased percentage from 25% to 40% and at end substituted "commence proceedings to create a special district as provided in subsection (1)(a)" for "order a referendum on the creation of the special district pursuant to 7-11-1011"; deleted former (2)(a)(ii) and (2)(b) (see 2021 Session Law for former text); and made minor changes in style. Amendment effective July 1, 2021.

2013 Amendment: Chapter 171 in (1)(a)(i) at end inserted "by resolution"; in (1)(a)(ii) at beginning inserted "order a referendum on the creation of a special district" and at end inserted "as provided in 7-11-1011"; in (1)(b) at end inserted "as provided in subsection (2)"; in (2)(a)(i) at beginning substituted "Upon receipt of" for "Subject to subsection (2)(b)", substituted "that is signed by at least 25% of the registered voters or by the owners of at least 25% of the real property" for "must be signed by 40% of registered voters or 40% of owners of real property", and at end inserted requirement to order a referendum pursuant to 7-11-1011; inserted (2)(a)(ii) regarding petitions signed by more than 50% of registered voters or property owners; in (2)(b) in two places before "40%" inserted "at least"; in (3)(c) at end inserted requirement for clerk to verify signatures; in (2)(d)(ii) substituted "either the street address or the legal description, whichever the signatory prefers" for "the address"; in (2)(d)(iv) after "improvements" substituted "or maintenance" for "and"; in (2)(d)(v) before "description" deleted "general"; in (3) extended deadline from 30 days to 60 days; and made minor changes in style. Amendment effective April 9, 2013.

Saving Clause: Section 10, Ch. 171, L. 2013, was a saving clause.

Severability: Section 11, Ch. 171, L. 2013, was a severability clause.

Applicability: Section 13, Ch. 171, L. 2013, provided: "[This act] applies to special districts created on or after [the effective date of this act]." Effective April 9, 2013.

7-11-1007. Public hearing — resolution of intention to create special district. (1) The governing body shall hold at least one public hearing concerning the creation of a proposed special district prior to the passage of a resolution of intention to create the special district. A resolution of intention to create a special district may be based upon a decision of the governing body as provided in 7-11-1003(1)(a) or upon a petition that contains the required number of signatures as provided in 7-11-1003(1)(b).

(2) The resolution must designate, consistent with the requirements of 7-11-1009 and 7-11-1024:

(a) the proposed name of the special district;

(b) the necessity for the proposed special district;

(c) a general description of the territory or lands to be included within the proposed special district, giving the boundaries of the proposed special district;

(d) the general character of any proposed improvements and the proposed location for the proposed program or improvements;

(e) the maximum rate or amount of the initial proposed assessments or fees that would be imposed;

(f) the method of financing the proposed program or improvements;
(g) any requirements specifically applicable to the type of special district;
(h) whether the proposed special district would be administered by the governing body or an appointed or elected board; and
(i) the duration of the proposed special district.
(3) (a) The governing body shall publish notice of passage of the resolution of intention to create a special district as provided in 7-1-2121 and 7-1-2122 or 7-1-4127 and 7-1-4129, as applicable. The notice must contain a notice of a hearing and the time and place where the hearing will be held.
(b) At the same time that notice is published pursuant to subsection (3)(a), the governing body shall provide a list of those properties subject to potential assessment, fees, or taxation under the creation of the proposed special district. The list may not be distributed or sold for use as a distribution list in accordance with 2-6-1017.
(c) A copy of the notice described in subsection (3)(a) must be mailed to each owner or purchaser under contract for deed of the property included on the list referred to in subsection (3)(b) as shown by the current property tax record maintained by the department of revenue for the county.

History: En. Sec. 5, Ch. 286, L. 2009; amd. Sec. 3, Ch. 171, L. 2013; amd. Sec. 37, Ch. 348, L. 2015; amd. Sec. 3, Ch. 500, L. 2021.

Compiler's Comments

2021 Amendment: Chapter 500 in (2) at end of introductory clause inserted "consistent with the requirements of 7-11-1009 and 7-11-1024"; in (2)(e) substituted "maximum rate or amount of the initial proposed assessments or fees that would be imposed" for "estimated cost and"; and made minor changes in style. Amendment effective July 1, 2021.

2015 Amendment: Chapter 348 in (3)(b) substituted "distribution list" for "mailing list" and substituted "2-6-1017" for "2-6-109". Amendment effective October 1, 2015.

Severability: Section 72, Ch. 348, L. 2015, was a severability clause.

2013 Amendment: Chapter 171 in (1) in second sentence after "body" inserted "as provided in 7-11-1003(1)(a)" and after "signatures" inserted "as provided in 7-11-1003(1)(b)"; inserted (2)(h) regarding duration; in (3)(c) near middle substituted "each owner or purchaser under contract for deed" for "the owners" and at end inserted "as shown by the current property tax record maintained by the department of revenue for the county"; and made minor changes in style. Amendment effective April 9, 2013.

Saving Clause: Section 10, Ch. 171, L. 2013, was a saving clause.

Severability: Section 11, Ch. 171, L. 2013, was a severability clause.

Applicability: Section 13, Ch. 171, L. 2013, provided: "[This act] applies to special districts created on or after [the effective date of this act]." Effective April 9, 2013.

7-11-1024. Financing for special district. (1) The governing body shall make assessments or impose fees for the costs and expenses of the special district based upon a budget proposed by the governing body or separate board administering the district pursuant to 7-11-1021.
(2) For the purposes of this section, "assessable area" means the portion of a lot or parcel of land that is benefited by the special district. The assessable area may be less than but may not exceed the actual area of the lot or parcel.
(3) The governing body shall assess the percentage of the cost of the program or improvements:
(a) against the entire district as follows:
(i) each lot or parcel of land within the special district may be assessed for that part of the cost that its assessable area bears to the assessable area of the entire special district, exclusive of roads, streets, avenues, alleys, and public places;
(ii) if the governing body determines that the benefits derived from the program or improvements by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the special district without regard to the assessable area of the lot or parcel;
(iii) each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the special district that its taxable valuation bears to the total taxable valuation of the property of the district;

(iv) each lot or parcel of land may be assessed based on the lineal front footage of any part of the lot or parcel that is in the district and abuts the area to be improved or maintained;

(v) each lot or parcel of land within the district may be assessed for that part of the cost that the reasonably estimated vehicle trips generated for a lot or parcel of its size in its zoning classification bear to the reasonably estimated vehicle trips generated for all lots in the district based on their size and zoning classification;

(vi) each lot or parcel of land within the district may be assessed based on each family residential unit or one or more business units; or

(vii) any combination of the assessment options provided in subsections (3)(a)(i) through (3)(a)(vi) may be used for the special district as a whole; or

(b) based upon the character, kind, and quality of service for a residential or commercial unit, taking into consideration:

(i) the nature of the property or entity assessed;

(ii) a calculated basis for the program or service, including volume or weight;

(iii) the cost, incentives, or penalties applicable to the program or service practices; or

(iv) any combination of these factors.

(4) If property created as a condominium is subject to assessment, each unit within the condominium is considered a separate parcel of real property subject to separate assessment and the lien of the assessment. Each unit must be assessed for the unit's percentage of undivided interest in the common elements of the condominium. The percentage of the undivided ownership interest must be as set forth in the condominium declaration.

(5) A governing body may, by resolution, instruct the state or any applicable federal agency to designate a special district as the recipient of federal funds to be used for the costs and expenses of the special district.

History: En. Sec. 15, Ch. 286, L. 2009; amd. Sec. 14, Ch. 262, L. 2015; amd. Sec. 2, Ch. 133, L. 2021.

Compiler's Comments

2021 Amendment: Chapter 133 inserted (5) allowing a governing body to pass a resolution that instructs the state or any applicable federal agency to designate a special district as the recipient of federal funds. Amendment effective July 1, 2021.

2015 Amendment: Chapter 262 inserted (3)(a)(vi) concerning family residential unit and business unit assessments; and made minor changes in style. Amendment effective July 1, 2015.

Cross-References

Special districts — authority to receive federal funds, 17-3-202.