

SENATE BILL NO. 240

INTRODUCED BY L. MOSS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MUNICIPAL GOVERNING BODY TO REQUIRE
5 CERTAIN PUBLIC UTILITIES TO BILL PROPERTY OWNERS IN SPECIAL IMPROVEMENT LIGHTING
6 DISTRICTS AND TO USE A UTILITY'S POLES FOR ENERGY-EFFICIENT LIGHTING; PROVIDING WHAT A
7 GOVERNING BODY MAY REQUIRE TO BE INCLUDED ON A BILL; ALLOWING PROPERTY OWNERS IN A
8 LIGHTING DISTRICT TO PETITION FOR A VOTE TO BE HELD ON REQUIRING INSTALLATION OF
9 ENERGY-EFFICIENT LIGHTING; ALLOWING THE PUBLIC SERVICE COMMISSION TO ADOPT RULES
10 RESTRICTING A MUNICIPAL GOVERNING BODY'S AUTHORITY TO REQUIRE BILLING AND PAYMENT FOR
11 USE OF POLES OR TO COVER COSTS; AND AMENDING SECTIONS 7-12-4333 AND 69-3-103, MCA."

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

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15 **Section 1.** Section 7-12-4333, MCA, is amended to read:

16 **"7-12-4333. Procedure for resolution for assessment of maintenance costs -- option to require**
17 **utility to bill property owners in district -- contents of bill.** ~~Said~~ (1) The resolution levying and assessing
18 said the portion of the cost of maintenance and for furnishing electrical current therefor shall for the district must
19 be prepared and certified to in the same manner as the resolution provided for in 7-12-4328 through 7-12-4330,
20 and the same notice and hearing shall must be given thereon.

21 (2) This The resolution shall must be adopted and certified and, except as provided in subsection (3), the
22 assessment must be collected in as nearly the same manner, ~~as nearly as may be, in the case of~~ as possible as
23 the manner for collection of assessments provided in the resolution ~~provided for in~~ adopted under 7-12-4328
24 through 7-12-4331.

25 (3) In lieu of the assessments provided for in this part appearing as part of a property tax statement, a
26 municipal governing body may require an investor-owned public utility regulated by the public service commission
27 to directly bill a property owner who has been assessed for the costs in the lighting district for the property owner's
28 share of the:

29 (a) ownership charge;30 (b) energy charge, which is the cost of the energy supplied to the district; and

- 1 (c) costs for maintaining the equipment and any other charges for street lighting service.
- 2 (4) Subject to subsection (7), the governing body may require the utility to bill property owners on a
3 monthly, quarterly, semiannual, or annual basis, as an addition to an existing energy bill or as a separate bill for
4 property owners who are not utility customers.
- 5 (5) If a governing body decides to require a utility to bill property owners as provided in subsection (3),
6 the bill must, subject to subsection (7), contain the following separately itemized elements:
- 7 (a) a notation of the amount of the original costs of street lighting in the lighting district, the original cost
8 of any additions to the infrastructure, and the amount of return to the utility calculated using the allowed rate of
9 return on the financing for the infrastructure;
- 10 (b) the allowed rate of return on the financing for the infrastructure as determined by the public service
11 commission;
- 12 (c) the amount that remains to be defrayed by the ownership charge on the total cost of the infrastructure
13 plus allowed return on that utility investment;
- 14 (d) the number of lights in the lighting district;
- 15 (e) the date when the ownership charge will cease; and
- 16 (f) the charges specified in subsection (3).
- 17 (6) For the purposes of this section, "ownership charge" means that component part of an electric rate
18 that is meant to defray the costs plus allowed rate of return of the infrastructure associated with providing
19 electricity service to a street light. The infrastructure includes the street light luminaire, the cross arms, the poles
20 and base supporting the luminaire, the wiring and cable casing from the utility distribution system to the luminaire,
21 any meter involved in measuring energy usage, and any photocell or other device used to control when the
22 luminaire provides light.
- 23 (7) Rules adopted by the public service commission under 69-3-103(2)(d) may restrict the authority
24 provided in subsections (4) and (5)."

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- 26 **NEW SECTION. Section 2. Use of poles for energy-efficient lighting -- petition -- election.** (1) (a)
- 27 If a lighting district's infrastructure has been paid for by previously assessed ownership charges, a municipal
- 28 governing body may use the poles of an investor-owned public utility regulated by the Montana public service
- 29 commission to support local government-owned, energy-efficient street lighting chosen by the governing body.
- 30 (b) Subject to subsection (3), if a lighting district's infrastructure has not been paid for by previously

1 assessed ownership charges, the governing body may use poles of a utility to support local government-owned,
 2 energy-efficient street lighting if the property owners continue to be assessed for the ownership charge until the
 3 remaining original cost plus allowed rate of return of existing poles and the remaining cost plus allowed rate of
 4 return of the street lights are paid.

5 (2) (a) If a municipal governing body has not used the poles to support energy-efficient street lighting
 6 as provided in subsection (1), the owners of at least 5% of the property within the district may submit a petition
 7 to the municipal governing body requesting the governing body to order an election, to be held in conjunction with
 8 the next primary or regular election, on the question of requiring installation of energy-efficient lighting. The
 9 petition must include the type of energy-efficient lighting requested by the property owners and the approximate
 10 cost.

11 (b) Upon receipt of a petition submitted as provided in subsection (2)(a), the municipal governing body
 12 shall order the question of whether to install energy-efficient street lighting using the utility's poles as provided
 13 in subsection (1) to be placed on the ballot. Owners of property in the lighting district are entitled to vote on the
 14 question.

15 (c) If a majority of the owners of property vote in favor of installing energy-efficient street lighting, the
 16 governing body shall, subject to subsection (3), obtain and install the lights on the utility's poles and shall assess
 17 the property owners for the cost of the lights in addition to any continuing assessments required under subsection
 18 (1)(b).

19 (3) Rules adopted by the public service commission under 69-3-103(2)(d) may direct how the cost
 20 provisions of subsections (1)(b) and (2)(c) may be implemented.

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22 **Section 3.** Section 69-3-103, MCA, is amended to read:

23 **"69-3-103. General powers and rulemaking authority of commission.** (1) In addition to the ~~modes~~
 24 ~~of procedure hereinafter prescribed~~ procedures provided for in particular cases and classes of cases, ~~said the~~
 25 ~~commission shall have~~ has the power to prescribe rules of procedure and to do all things necessary and
 26 convenient in the exercise of the powers conferred by this chapter upon the commission; ~~provided that however,~~
 27 nothing in this chapter ~~shall~~ may be construed as vesting judicial powers on ~~said the~~ the commission or as denying
 28 to any person, firm, association, corporation, municipality, county, town, or village the right to test in a court of
 29 competent jurisdiction the legality or reasonableness of any fixed order made by the commission in the exercise
 30 of its duties or powers.

