

## SENATE BILL NO. 539

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAXATION AND SPECIAL ASSESSMENTS; PROVIDING CRITERIA FOR THE DETERMINATION OF WHETHER A LOCAL GOVERNMENT PROPOSAL TO COLLECT REVENUE FROM AN ASSESSMENT ON PROPERTY IS A TAX OR A FEE; PROVIDING THAT CERTAIN PROPERTY IS NOT SUBJECT TO RURAL SPECIAL DISTRICT ASSESSMENTS; PROVIDING FOR DIRECT APPEAL TO THE MONTANA TAX APPEAL BOARD FOR DEPARTMENT OF REVENUE FINAL DECISIONS INVOLVING PROPERTY TAX EXEMPTIONS; PROVIDING A DEFINITION; AMENDING SECTIONS 7-12-2108 AND 15-2-302, MCA; AND PROVIDING EFFECTIVE DATES, A RETROACTIVE APPLICABILITY DATE, AND AN APPLICABILITY DATE."

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

**NEW SECTION. Section 1. Assessment and fees -- distinction between special assessment and tax -- definition.** (1) In addition to assessing taxes, local governments are authorized to impose various charges, fees, and assessments for designated purposes defined by statute and ordinance.

(2) Except as provided in subsections (3) and (5), an assessment is presumed to be a tax that must be assessed based on taxable value pursuant to the provisions of Title 15, chapter 10.

(3) Subject to subsection (4), to qualify as a special assessment:

(a) the charges collected from the assessment must compensate the government entity for providing the services to the specific property that is assessed;

(b) the benefit received by the property assessed must be commensurate with the amount of the assessment imposed on the property; and

(c) the benefit received from the assessment will be realized by the property assessed in a reasonable time in the future and is not contingent on any conditions other than payment of the assessment.

(4) An assessment levied for the general public good or without regard to whether it confers a special benefit on assessed property is a tax.

(5) An assessment imposed by a special district, special improvement district, or rural improvement district that is created through a petition by owners within a proposed district is presumed to be a special assessment unless a property owner establishes that the requirements of this section are not satisfied.

(6) Nothing in this section confers rights on a local government to impose an assessment, and any assessment imposed must comply with the applicable legal requirements for imposition of the assessment.

(7) For the purposes this section, the term "assessment" means any charge or assessment on property by a local government, except property taxes authorized by Title 15 and Title 20 and fees for services provided for in 7-6-4013.

**Section 2.** Section 7-12-2108, MCA, is amended to read:

**"7-12-2108. Extension of proposed district -- definition.** (1) ~~(a) Whenever Except as provided in subsection (2), when the board of county commissioners determines that a contemplated work or improvement, in the opinion of the board of county commissioners, is of provides~~ more than local or ordinary public benefit or, ~~when, according to subject to subsection (1)(b), when~~ the estimates furnished by the county surveyor or the engineer, ~~the provide that total estimated cost and expenses thereof would exceed one-half of the total assessed value of the lots and lands assessed (if assessed upon the lots and lands fronting upon such proposed work or improvement according to the valuation fixed by the last assessment roll whereon it was assessed for taxes), the board may make the expense of such the work chargeable upon on the lots and lands fronting upon such the proposed improvement and upon on other lots and lands not fronting on the improvement and which the~~ When making a determination, the board shall, in a resolution of intention, declare, in its resolution of intention, to be the what property is benefited by said the work or improvement and to that must be assessed to pay the cost and expense thereof of the work or improvement.

(b) The total assessed value is determined based on the lots and lands fronting the proposed work or improvement using the valuation fixed by the last assessment roll.

(2) For the purpose of this section, "property benefited" does not include a parcel that is classified as class three property pursuant to 15-6-133 when the property:

(a) contains no residential structures;

(b) is not contiguous to the district; and

1           (c) has legal access to a public road that is not within the district."

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3           **Section 3.** Section 15-2-302, MCA, is amended to read:

4           **"15-2-302. Direct appeal from department decision to Montana tax appeal board -- hearing. (1)**

5           (a) An appeal of a final decision of the department of revenue involving one of the matters provided for in  
6           subsection (1)(b) must be made to the Montana tax appeal board.

7           (b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final  
8           decisions involving:

9           (i) property centrally assessed under chapter 23;

10          (ii) classification of property as new industrial property;

11          (iii) any other tax, other than the property tax, imposed under this title; or

12          (iv) property tax exemptions; or

13          ~~(iv)~~(v) any other matter in which the appeal is provided by law.

14          (2) A person may appeal the department's annual assessment of an industrial property to the  
15          Montana board as provided in this section or to the county tax appeal board for the county in which the property  
16          is located as provided in Title 15, chapter 15, part 1.

17          (3) The appeal is made by filing a complaint with the Montana board within 30 days following  
18          receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the  
19          nature of relief demanded. The Montana board shall immediately transmit a copy of the complaint to the  
20          department.

21          (4) The department shall file with the Montana board an answer within 30 days following filing of a  
22          complaint.

23          (5) The Montana board shall conduct the appeal in accordance with the contested case provisions  
24          of the Montana Administrative Procedure Act. Parties to an appeal shall attempt to attain the objectives of  
25          discovery through informal consultation or communication before utilizing formal discovery procedures. Formal  
26          discovery procedures may not be utilized by a taxpayer or the department unless reasonable informal efforts to  
27          obtain the needed information have not been successful.

28          (6) The decision of the Montana board is final and binding on all interested parties and not subject

1 to a rehearing unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the  
2 Montana board under this section are subject to the provisions of 15-2-303 and the Montana Administrative  
3 Procedure Act to the extent that it does not conflict with 15-2-303."

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5 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
6 integral part of Title 7, chapter 6, part 40, and the provisions of Title 7, chapter 6, part 40, apply to [section 1].

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8 NEW SECTION. **Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
9 effective October 1, 2025.

10 (2) [Section 2] and this section are effective on passage and approval.

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12 NEW SECTION. **Section 6. Retroactive applicability.** [Section 2] applies retroactively, within the  
13 meaning of 1-2-109, to board of county commissioner determinations regarding public benefits that were made  
14 before [the effective date of this act] as applied toward rural improvement district assessments imposed after  
15 December 31, 2025.

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17 NEW SECTION. **Section 7. Applicability.** (1) [Section 1] applies to assessments imposed by a local  
18 government after December 31, 2026.

19 (2) [Section 3] applies to the final decision of the department of revenue involving property tax  
20 exemptions made on or after [the effective date of this act].

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