

## 1 SENATE BILL NO. 189

2 INTRODUCED BY K. REGIER

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROTEST PROCEDURES FOR CREATION OF A  
 5 SPECIAL PURPOSE DISTRICT; REMOVING THE REQUIREMENT THAT A SPECIAL PURPOSE DISTRICT  
 6 FORM SPECIFY THAT A PROPERTY OWNER'S LACK OF ACTION BE CONSTRUED AS SUPPORT FOR  
 7 CREATION OF THE DISTRICT; CLARIFYING THAT ONLY FORMS RETURNED WITH SUPPORT FOR OR  
 8 OPPOSITION AGAINST CREATION OF THE DISTRICT MAY BE USED IN DETERMINING SUFFICIENCY OF  
 9 PROTEST; AND AMENDING SECTION 7-11-1008, MCA."

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

12  
 13 **Section 1.** Section 7-11-1008, MCA, is amended to read:

14 **"7-11-1008. Right to protest -- procedure -- hearing.**

15 (1) An owner of property that is liable to be assessed for the program or improvements in the proposed special  
 16 district has 60 days from either the date of the first publication of the notice of passage of the resolution of  
 17 intention or the date the protest form provided for in subsection (2)(c) was sent to property owners, whichever  
 18 is later, to make a written protest against the proposed program or improvements.

19 (2) (a) A property owner may register a written protest under either subsection (2)(b) or (2)(c).

20 (b) A property owner may register a written protest in any format in conformity with this section. The  
 21 protest must identify the property in the district owned by the protestor by either its street address or its legal  
 22 description, whichever the property owner prefers, be signed by a majority of the owners of that property, and  
 23 be delivered to the clerk of the governing body, who shall endorse on the protest the date of receipt.

24 (c) The governing body shall send each person referred to in 7-11-1007(3)(c) a protest form with space  
 25 for any information required under subsection (2)(b) of this section, mailing instructions, and the date the form  
 26 must be returned to the governing body. ~~The form must specify that if it is not returned, the owner's lack of action~~  
 27 ~~must be construed as support of the creation of the special district.~~ The form must allow a property owner to  
 28 select either support for or opposition against the creation of the district. ~~However, if an owner does not make a~~  
 29 ~~selection of support or opposition and returns the form to the governing body, it must be construed as a protest~~  
 30 ~~of the creation of the special district.~~ Failure to return a form may not be construed as either support for or

1 opposition against the creation of the district and only the forms returned with an indication of either support for  
 2 or opposition against the creation of the district may be used, along with written protests submitted under  
 3 subsection (2)(b), in determining whether sufficient protest has been filed to prevent further proceedings.

4 (3) (a) For purposes of this section, "owner" means, as of the date a protest is filed, a record owner of  
 5 fee simple title to the property or a contract buyer on file with the county clerk and recorder.

6 (b) The term does not include a tenant of or other holder of a leasehold interest in the property.

7 (4) An owner of property created as a condominium may protest pursuant to the provisions in 7-11-1027.

8 (5) (a) At the hearing provided for in 7-11-1007, the governing body shall consider all protests.

9 (b) If the protest is made by the owners of property in the proposed district to be assessed for:

10 (i) 50% or more of the cost of the proposed program or improvements, in accordance with the method  
 11 or methods of assessment, further proceedings may not be taken by the governing body for at least 12 months;  
 12 or

13 (ii) more than 10% but less than 50% of the cost of the proposed program or improvements, in  
 14 accordance with the method or methods of assessment, and if the governing body decides to proceed with  
 15 proposing the district, the governing body shall order a referendum in accordance with 7-11-1011.

16 (c) In determining whether or not sufficient protests have been filed in the proposed special district to  
 17 prevent further proceedings, property owned by a governmental entity must be considered the same as any other  
 18 property in the district.

19 (d) The decision of the governing body is final and conclusive.

20 (e) The governing body may adjourn the hearing from time to time."

21 - END -