SENATE JOINT RESOLUTION NO. 23

INTRODUCED BY J. ESSMANN

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA FOR AN INTERIM STUDY ON THE EXEMPTION OF NONPROFIT CORPORATIONS OR ORGANIZATIONS FROM PROPERTY TAXES AND OTHER TAXES.

WHEREAS, the number of nonprofit corporations or organizations in Montana has continued to increase; and

WHEREAS, nonprofit corporations or organizations vary in function from some that are purely charitable and operate solely through the receipt of donations and some that function based upon receipt of fees for services or government appropriations and contracts; and

WHEREAS, under Montana law, nonprofit corporations or organizations are largely exempt from the payment of income taxes and property taxes that are paid by for-profit organizations that may provide the same or similar services; and

WHEREAS, Montana nonprofit corporations or organizations are increasingly purchasing office buildings and other real estate investments and removing them from the property tax rolls, thereby shifting the property tax burden to the small businesses and homeowners who remain on the tax rolls under the operation of section 15-10-420, MCA, that allows the local government taxing jurisdiction to levy the same dollars from fewer taxpayers; and

WHEREAS, in the City of Billings alone, more than $1 billion of taxable property has been removed from the tax rolls attributable to exempting nonprofit corporations or organizations from property taxes; and

WHEREAS, in rural Montana counties, there is an increasing pattern of land purchases by nonprofit corporations or organizations that could result in the removal of productive agricultural lands from production, from supporting the local dominant agricultural economy, and from the tax rolls.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or committees, pursuant to section 5-5-217, MCA, to study the following:

(1) the valuation of property in each of Montana's seven most populous counties that does not appear on the tax rolls because of the nonprofit exemption from property taxes in those counties and in each city in those counties;

(2) the amount of business equipment in each of Montana's counties that has been removed from the tax rolls because of the nonprofit exemption from property tax;

(3) the amount of tax shifting that has occurred because nonprofit corporations or organizations have acquired property that has been removed from the tax rolls;

(4) the appropriateness of allowing nonprofit corporations or organizations to acquire investment property not related to their charitable goals and to pay taxes at a reduced rate compared to for-profit investors;

(5) the effects of allowing private parks that were created to comply with subdivision standards and that are not open to the general public to be removed from the tax rolls;

(6) the impact of competition by nonprofit corporations or organizations offering essentially the same services as for-profit entities and the competitive advantage that lack of income tax and property tax provides; for example, nonprofit medical clinics owned by nonprofit hospitals compared to medical clinics owned by physicians and health clubs owned by colleges or hospitals compared to investor-owned health clubs;

(7) the impact of limiting income tax exemptions and property tax exemptions to reflect the percentage of gross receipts of the nonprofit corporation or organization that represent charitable donations compared to the percentage of fee-for-service or government appropriations or contracts;

(8) how the other 49 states treat nonprofit corporations or organizations for income tax and property tax purposes and how they differentiate from for-profit and purely charitable organizations;

(9) the nonprofit corporations or organizations that own farmland or ranchland for purposes of preserving unique historical, archaeological, or environmental resources. The study should:

(a) determine the extent to which farming or ranching is essential to a nonprofit corporation's or organization's charitable purposes;

(b) examine how the land acquired or leased only for the purpose of conserving natural areas and habitats for biota was maintained and managed for the purpose of conserving natural areas and habitat for biota;

(c) summarize any agricultural use of the land in accordance with the management of the land for conservation and agricultural use;

(d) examine any land acquired for the preservation of unique historical, archaeological, or environmental resources that was conveyed to the United States or any agency or instrumentality of the United States;

(e) examine the percentage of the annual average gross income of the nonprofit corporation or organization that has been derived from farming or ranching operations on the land over the previous 5 years or for each year of farming or ranching operations if those operations have occurred for less than 5 years;

(f) examine the percentage of gross income of the nonprofit corporation or organization that has been derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report for land owned;

(g) analyze the effect that nonprofit land ownership has had on the local tax base; and

(h) determine if taxes are paid on that land and how that compares to similar land classifications in the area.

(10) legal restrictions or limitations on nonprofit land ownership in other states.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2012.

BE IT FURTHER RESOLVED, that the final results of the studies, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 63rd Legislature.

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