

1 HOUSE BILL NO. 152

2 INTRODUCED BY S. FITZPATRICK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING DEADLINES FOR GOVERNING BODIES TO
5 APPROVE OR DISAPPROVE VARIOUS PROPERTY TAX ABATEMENTS AND PROPERTY TAX
6 EXEMPTIONS; PROVIDING DEADLINES FOR GOVERNING BODIES TO REVIEW APPLICATIONS, NOTICE
7 PUBLIC MEETINGS, CONDUCT PUBLIC HEARINGS, AND ISSUE DECISIONS; PROVIDING THAT
8 APPLICATIONS FOR VARIOUS PROPERTY TAX ABATEMENTS OR PROPERTY TAX EXEMPTIONS ARE
9 CONSIDERED APPROVED WHEN GOVERNING BODIES DO NOT MAKE TIMELY DECISIONS; AMENDING
10 SECTIONS 15-24-1402, 15-24-1501, 15-24-1502, 15-24-1603, 15-24-1605, 15-24-1802, 15-24-1902, AND
11 15-24-2002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

12

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

14

15 **Section 1.** Section 15-24-1402, MCA, is amended to read:

16 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
17 a construction permit is issued, qualifying improvements or modernized processes that represent new industry
18 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their
19 taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal
20 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be
21 taxed at 100% of its taxable value.

22 (2) (a) ~~In~~ Except as provided in subsection (2)(c), in order for a taxpayer to receive the tax benefits
23 described in subsection (1), the governing body of the affected county or the incorporated city or town must have
24 approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public
25 hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body
26 may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under
27 protest do not preclude approval.

28 (b) The governing body shall:

29 (i) publish due notice for the first time within 30 days of receiving a taxpayer's complete application for
30 the tax treatment provided for in this section;

1 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;
 2 and

3 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
 4 within 30 days of the second due notice publication.

5 (c) If the applicant's taxes have been paid in full and the governing body fails to make a decision within
 6 30 days of the public hearing provided for in subsection (2)(b)(iii), the application is considered approved. For the
 7 purpose of this subsection (2)(c), the failure of a governing body to conduct a public hearing within 90 days of
 8 receiving a taxpayer's completed application results in the application being considered approved. If an
 9 application is considered approved, the governing body is precluded from making a determination.

10 ~~(b)~~(d) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time,
 11 but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

12 ~~(c)~~(e) The resolution provided for in subsection (2)(a) must include a definition of the improvements or
 13 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The
 14 resolution may provide that real property other than land, personal property, improvements, or any combination
 15 thereof is eligible for the tax benefits described in subsection (1).

16 ~~(d)~~(f) Property taxes abated from the reduction in taxable value allowed by this section are subject to
 17 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
 18 15-24-1401, this section, or the resolution required by subsections (2)(a) and ~~(2)(e)~~ (2)(e) of this section. The
 19 recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes
 20 provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect.
 21 The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts
 22 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this
 23 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary
 24 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body
 25 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control
 26 of the taxpayer.

27 (3) (a) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1).
 28 The application by the taxpayer must ~~first~~ be approved by the governing body of the appropriate local taxing
 29 jurisdiction, ~~and the~~ or be considered approved as provided under subsection (2)(c).

30 (b) The governing body shall indicate in its approval that the property of the applicant qualifies for the tax

1 treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the
 2 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

3 (c) If an application is considered approved as provided under subsection (2)(c), the applicant shall
 4 provide the department with a copy of the application for the tax treatment provided for in this section,
 5 documentation regarding when the application was submitted to the governing body, the publication dates of any
 6 notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by
 7 this subsection (3)(c), the department shall make a determination regarding whether the application satisfies the
 8 criteria under subsection (2)(c). If the department determines the applicant satisfies the criteria, it shall make the
 9 assessment change pursuant to this section.

10 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
 11 for local high school district and elementary school district purposes and to the number of mills levied and
 12 assessed by the governing body approving the benefit over which the governing body has sole discretion. The
 13 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,
 14 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

15 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail
 16 all taxing jurisdictions affected by the tax benefit."
 17

18 **Section 2.** Section 15-24-1501, MCA, is amended to read:

19 **"15-24-1501. Remodeling, reconstruction, or expansion of buildings or structures -- assessment**
 20 **provisions -- levy limitations.** (1) Subject to 15-10-420 and the authority contained in subsection ~~(4)~~ (5) of this
 21 section, remodeling, reconstruction, or expansion of existing buildings or structures, which increases their taxable
 22 value by at least 2 1/2% as determined by the department, may receive tax benefits during the construction period
 23 and for the following 5 years in accordance with subsections ~~(2), through (4), and (5)~~ and the following schedule.
 24 The percentages must be applied as provided in subsections ~~(3) (4) and (4) (5)~~ and are limited to the increase
 25 in taxable value caused by remodeling, reconstruction, or expansion:

26 Construction period	0%
27 First year following construction	20%
28 Second year following construction	40%
29 Third year following construction	60%
30 Fourth year following construction	80%

1 Fifth year following construction 100%

2 Following years 100%

3 (2) ~~In~~ Except as provided in subsection (3)(b), in order to confer the tax benefits described in subsection
4 (1), the governing body of the affected county or, if the construction will occur within an incorporated city or town,
5 the governing body of the incorporated city or town shall, following due notice as defined in 76-15-103 and a
6 public hearing, approve by resolution for each remodeling, reconstruction, or expansion project the use of the
7 schedule provided for in subsection (1) or a schedule adopted pursuant to subsection ~~(4)~~ (5).

8 (3) (a) The governing body shall:

9 (i) publish due notice for the first time within 30 days of receiving a taxpayer's complete application for
10 the tax treatment provided for in this section;

11 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;
12 and

13 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
14 within 30 days of the second due notice publication.

15 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within
16 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the
17 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of
18 receiving a taxpayer's completed application results in the application being considered approved. If an
19 application is considered approved, the governing body is precluded from making a determination.

20 ~~(3)~~(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed
21 for high school district and elementary school district purposes and to the number of mills levied and assessed
22 by the local governing body approving the benefit. The benefit described in subsection (1) may not apply to
23 statewide levies.

24 ~~(4)~~(5) A local government may, in the resolution required by subsection (2), modify the percentages
25 contained in subsection (1) that apply to the first year following construction through the fourth year following
26 construction. A local government may not modify the percentages contained in subsection (1) that apply to the
27 fifth year following construction or years following the fifth year. A local government may not modify the time limits
28 contained in subsection (1). The modifications to the percentages in subsection (1) adopted by a local
29 government apply uniformly to each remodeling, reconstruction, or expansion project approved by the governing
30 body.

1 ~~(5)~~(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
 2 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
 3 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,
 4 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which
 5 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and
 6 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio
 7 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property
 8 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may
 9 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the
 10 requirements is a result of circumstances beyond the control of the taxpayer."

11
 12 **Section 3.** Section 15-24-1502, MCA, is amended to read:

13 **"15-24-1502. Tax exemption and abatement for remodeling, reconstruction, or expansion of**
 14 **certain commercial property -- approval.** (1) (a) Subject to the conditions of this section, remodeling,
 15 reconstruction, or expansion of an existing commercial building or structure that increases its taxable value by
 16 at least 5%, as determined by the department, may receive a property tax exemption during the construction
 17 period, not to exceed 12 months, and for up to 5 years following completion of construction. The property tax
 18 exemption is limited to 100% of the increase in taxable value caused by remodeling, reconstruction, or expansion.

19 (b) (i) In addition to the property tax exemption described in subsection (1)(a), the buildings and
 20 structures may receive a property tax reduction for 4 years following the exemption period as provided in this
 21 subsection (1)(b). The percentages must be applied to the increase in taxable value caused by remodeling,
 22 reconstruction, or expansion according to the following schedule:

23	First year following the exemption period	20%
24	Second year following the exemption period	40%
25	Third year following the exemption period	60%
26	Fourth year following the exemption period	80%
27	Fifth year following the exemption period	100%
28	Following years	100%

29 (ii) Mill levies are assessed against the reduced taxable value of the remodeling, reconstruction, or
 30 expansion determined under subsection (1)(b)(i).

1 (c) To be eligible for the property tax exemption and the property tax reduction, the commercial building
 2 or structure may not have been used in a business for at least 6 months immediately preceding the date of
 3 application to the governing body for approval under subsection (2).

4 (2) (a) ~~Except as provided in subsection (3)(b), in~~ order to confer the tax benefits described in
 5 subsection (1), the governing body of the affected county or consolidated government or, if the construction will
 6 occur within an incorporated city or town, the governing body of the incorporated city or town shall, following due
 7 notice as defined in 76-15-103 and a public hearing, approve by resolution for each remodeling, reconstruction,
 8 or expansion project the use of the property tax exemption and property tax reduction.

9 (b) The governing body may not grant the property tax benefits described in subsection (1) if property
 10 taxes on the buildings or structures are delinquent.

11 (3) (a) The governing body shall:

12 (i) publish due notice for the first time within 30 days of receiving a taxpayer's complete application for
 13 the tax treatment provided for in this section;

14 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;
 15 and

16 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
 17 within 30 days of the second due notice publication.

18 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within
 19 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the
 20 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of
 21 receiving a taxpayer's completed application results in the application being considered approved. If an
 22 application is considered approved, the governing body is precluded from making a determination.

23 ~~(3)~~(4) Property taxes abated from the reduction in property taxes allowed by this section are subject to
 24 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
 25 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,
 26 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which
 27 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and
 28 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio
 29 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property
 30 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may

1 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the
 2 requirements is a result of circumstances beyond the control of the taxpayer."

3

4 **Section 4.** Section 15-24-1603, MCA, is amended to read:

5 **"15-24-1603. Historic property tax abatement -- levy limitations.** (1) Subject to 15-10-420, a historic
 6 property undergoing rehabilitation, restoration, expansion, or new construction that meets criteria established by
 7 the review process described in 15-24-1605 or 15-24-1606 may receive a tax abatement during the construction
 8 period, not to exceed 12 months, and for up to 5 years following completion of the construction in accordance
 9 with subsections (2) and ~~(3)~~ (4). The tax abatement is limited to 100% of the increase in taxable value caused
 10 by the rehabilitation, restoration, expansion, or new construction.

11 (2) In order to confer the tax benefits described in subsection (1), the governing body of the county or
 12 incorporated city or town where the improvement occurs shall establish by resolution the process for the use of
 13 the tax abatement provisions described in subsection (1). Except as provided in subsection (3)(b), in order for
 14 a taxpayer to receive the tax benefits described in subsection (1), the governing body must have approved by
 15 separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use
 16 of the property tax abatement.

17 (3) (a) The governing body shall:

18 (i) publish due notice for the first time within the lesser of:

19 (A) 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this
 20 section; or

21 (B) 30 days of receiving the board's recommendation under 15-24-1605(3);

22 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;

23 and

24 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
 25 within 30 days of the second due notice publication.

26 (b) If the governing body fails to make a decision within 30 days of the public hearing provided for in
 27 subsection (3)(b)(iii), the application is considered approved. For the purpose of this subsection (3)(b), the failure
 28 of a governing body to conduct a public hearing within 120 days of receiving a taxpayer's completed application
 29 results in the application being considered approved. If an application is considered approved, the governing body
 30 is precluded from making a determination.

1 ~~(3)~~(4) Property that receives a tax benefit under this part is not entitled to any other exemption or special
2 valuation provided by Montana law during the period of the abatement.

3 ~~(4)~~(5) (a) The tax abatement applies only to the number of mills levied:

4 (i) for high school and elementary school district purposes; and

5 (ii) by the local governing body approving the abatement.

6 (b) The abatement may not apply to statewide levies."
7

8 **Section 5.** Section 15-24-1605, MCA, is amended to read:

9 **"15-24-1605. Responsibilities of local governing bodies -- local review board -- design review**
10 **process.** (1) A local governing body that approves the tax benefit may designate a local review board to establish
11 an application and review process to certify eligible properties. The review process must include design review
12 criteria based on the secretary of the interior's standards for preservation projects or other standards approved
13 by the state historic preservation office.

14 (2) The board shall include:

15 (a) at least three members with professional expertise in history, planning, archaeology, architectural
16 history, historic archaeology, or another historic preservation-related discipline;

17 (b) at least one architect; and

18 (c) up to two members of the general public.

19 (3) The board shall determine whether a property is eligible under 15-24-1604 and is qualified for the
20 tax abatement. The board shall approve or deny an application for the tax abatement within 30 days of receiving
21 a taxpayer's complete application and report its recommendation to the local governing body."
22

23 **Section 6.** Section 15-24-1802, MCA, is amended to read:

24 **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
25 leased and operated by a local economic development organization is eligible for an exemption from property
26 taxes as provided in this section.

27 (2) ~~In~~ Except as provided in subsection (3)(b), in order to qualify for the tax exemption described in this
28 section, the governing body of the county, consolidated government, incorporated city or town, or school district
29 in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in
30 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in

1 subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each
 2 business incubator in its respective jurisdiction. The governing body may not grant approval for the business
 3 incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business
 4 incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under protest
 5 do not preclude approval. Prior to holding the hearing, the governing body shall determine that the local economic
 6 development organization:

7 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under
 8 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

9 (b) is engaged in economic development and business assistance work in the area; and

10 (c) owns or leases and operates or will operate the business incubator.

11 (3) (a) The governing body shall:

12 (i) publish due notice for the first time within 30 days of receiving a taxpayer's complete application for
 13 the tax treatment provided for in this section;

14 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;

15 and

16 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
 17 within 30 days of the second due notice publication.

18 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within
 19 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the
 20 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of
 21 receiving a taxpayer's completed application results in the application being considered approved. If an
 22 application is considered approved, the governing body is precluded from making a determination.

23 (3)(4) (a) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the
 24 department shall make the assessment change for the tax exemption provided for in this section.

25 (b) If an application is considered approved as provided under subsection (3)(b), the applicant shall
 26 provide the department with a copy of the application for the tax treatment provided for in this section,
 27 documentation regarding when the application was submitted to the governing body, the publication dates of any
 28 notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by
 29 this subsection (4)(b), the department shall make a determination regarding whether the application satisfies the
 30 criteria under subsection (3)(b). If the department determines the applicant satisfies the criteria, it shall make the

1 assessment change pursuant to this section.

2 ~~(4)~~(5) The tax exemption described in subsection (1) applies only to the number of mills levied and
3 assessed by the governing body approving the exemption over which the governing body has sole discretion.
4 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
5 the exemption applies to levies and assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or
6 otherwise required under state law.

7 ~~(5)~~(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to
8 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
9 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
10 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
11 during any period in which an abatement under the provisions of this section was in effect. The amount
12 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
13 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
14 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
15 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
16 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
17

18 **Section 7.** Section 15-24-1902, MCA, is amended to read:

19 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned
20 and operated by a local economic development organization or a port authority is eligible for an exemption from
21 property taxes as provided in this section.

22 (2) ~~In~~ Except as provided in subsection (3)(b), in order to qualify for the tax exemption described in this
23 section, the governing body of the county, consolidated government, incorporated city or town, or school district
24 in which the property is located shall approve the tax exemption by resolution, after due notice, as defined in
25 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for in
26 subsection (1). If a tax exemption is approved, the governing body shall do so by a separate resolution for each
27 industrial park in its respective jurisdiction. The governing body may not grant approval for the industrial park until
28 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to
29 holding the hearing, the governing body shall determine that:

30 (a) the local economic development organization:

1 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under
2 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

3 (ii) is engaged in economic development and business assistance work in the area; and

4 (iii) owns and operates or will own and operate the industrial development park; or

5 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

6 (3) (a) The governing body shall:

7 (i) publish due notice for the first time within 30 days of receiving a taxpayer's complete application for
8 the tax treatment provided for in this section;

9 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;

10 and

11 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
12 within 30 days of the second due notice publication.

13 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within
14 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the
15 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of
16 receiving a taxpayer's completed application results in the application being considered approved. If an
17 application is considered approved, the governing body is precluded from making a determination.

18 ~~(3)~~(4) (a) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the
19 department shall make the assessment change for the tax exemption provided for in this section.

20 (b) If an application is considered approved as provided under subsection (3)(b), the applicant shall
21 provide the department with a copy of the application for the tax treatment provided for in this section,
22 documentation regarding when the application was submitted to the governing body, the publication dates of any
23 notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by
24 this subsection (4)(b), the department shall make a determination regarding whether the application satisfies the
25 criteria under subsection (3)(b). If the department determines the applicant satisfies the criteria, it shall make the
26 assessment change pursuant to this section.

27 ~~(4)~~(5) The tax exemption described in subsection (1) applies only to the number of mills levied and
28 assessed by the governing body approving the exemption over which the governing body has sole discretion.
29 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,
30 the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or

1 otherwise required under state law.

2 ~~(5)~~(6) If a local economic development organization sells, leases, or otherwise disposes of the exempt
3 property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state,
4 or local government, the tax exemption provided in this section terminates. The termination of the exemption
5 applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property.
6 Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

7 ~~(6)~~(7) Property taxes abated from the reduction in property taxes allowed by this section are subject to
8 recapture by the local governing body if the ownership or use of the property does not meet the requirements of
9 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to
10 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,
11 during any period in which an abatement under the provisions of this section was in effect. The amount
12 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to
13 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is
14 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.
15 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that
16 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."
17

18 **Section 8.** Section 15-24-2002, MCA, is amended to read:

19 **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
20 owned by a local economic development organization that the local economic development organization intends
21 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property
22 taxes as provided in this section.

23 (2) ~~It~~ Except as provided in subsection (3)(b), in order to qualify for the tax exemption described in this
24 section, the governing body of the affected county, consolidated government, incorporated city or town, or school
25 district in which the building and land are located shall approve the tax exemption by resolution, after due notice,
26 as defined in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption
27 provided for in subsection (1). The governing body shall approve a tax exemption by a separate resolution. The
28 governing body may not grant approval for the building and land until all of the applicant's taxes have been paid
29 in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall
30 determine that the local economic development organization:

1 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation
2 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

3 (b) is engaged in economic development and business assistance work in the area; and

4 (c) owns or will own the building and land.

5 (3) (a) The governing body shall:

6 (i) publish due notice for the first time within 30 days of receiving a taxpayer's complete application for
7 the tax treatment provided for in this section;

8 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;

9 and

10 (iii) conduct a public hearing regarding an application for the tax treatment provided for in this section
11 within 30 days of the second due notice publication.

12 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within
13 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the
14 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of
15 receiving a taxpayer's completed application results in the application being considered approved. If an
16 application is considered approved, the governing body is precluded from making a determination.

17 ~~(3)(4)~~ (a) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the
18 department shall make the assessment change for the tax exemption provided for in this section.

19 (b) If an application is considered approved as provided under subsection (3)(b), the applicant shall
20 provide the department with a copy of the application for the tax treatment provided for in this section,
21 documentation regarding when the application was submitted to the governing body, the publication dates of any
22 notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by
23 this subsection (4)(b), the department shall make a determination regarding whether the application satisfies the
24 criteria under subsection (3)(b). If the department determines the applicant satisfies the criteria, it shall make the
25 assessment change pursuant to this section.

26 ~~(4)(5)~~ The tax exemption described in subsection (1) applies only to the number of mills levied and
27 assessed by the governing body approving the exemption over which the governing body has sole discretion.
28 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption
29 or it is considered approved under subsection (3)(b), the exemption applies to levies or assessments required
30 under Title 15, chapter 10, 20-9-331, or 20-9-333 and other levies required under state law.

