

HOUSE BILL NO. 452

INTRODUCED BY R. COOK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN LOCAL GOVERNMENTS TO ADDRESS
5 INFRASTRUCTURE IMPACTS; ALLOWING FOR THE ESTABLISHMENT OF AN INFRASTRUCTURE IMPACT
6 AREA; ALLOWING FOR THE COLLECTION OF AN INFRASTRUCTURE IMPACT FEE; ESTABLISHING
7 FACILITIES SUBJECT TO THE FEE; LIMITING THE AMOUNT OF THE FEE; PROVIDING FOR THE
8 DISTRIBUTION AND USE OF A FEE BY A GOVERNING BODY; PROVIDING FOR THE DISSOLUTION OF AN
9 INFRASTRUCTURE IMPACT AREA; ALLOWING FOR BONDING; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."

11
12 WHEREAS, the oil and gas industry tends to be cyclical and rely on temporary employees and residents;
13 and

14 WHEREAS, such cycles are reflected in demands for services and capital expenditures that do not occur
15 for a community with a stable economy; and

16 WHEREAS, the community must provide services not only for temporary employees and residents but
17 for its own residents, and those services are not commensurate with the taxable value of the community as
18 compared with the steady income in communities of similar populations.

19 THEREFORE, it is the intent of this legislation to rectify this inequity by providing for an infrastructure
20 impact fee that may be locally enacted and that would require temporary employees and residents to reimburse
21 the community for the services provided.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 NEW SECTION. Section 1. Definitions. For purposes of [sections 1 through 7], the following definitions
26 apply:

27 (1) "Campground" means a place, publicly or privately owned, used for public camping where persons
28 may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

29 (2) (a) "Facility" means a building containing individual sleeping rooms or suites that provides overnight
30 lodging facilities for compensation. The term includes a facility represented to the public as a hotel, motel,

1 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse,
2 temporary employee housing, or bed and breakfast.

3 (b) The term does not include any health care facility, as defined in 50-5-101, any facility owned by a
4 corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years
5 for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast at which the average
6 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
7 2-18-501 for the actual cost of lodging for travel within the state of Montana.

8 (3) "Infrastructure impact area" is a consolidated city-county or a county:

9 (a) where the exploration and development of oil, gas, or both is occurring; or

10 (b) adjacent to a consolidated city-county or county where exploration and development of oil, gas, or
11 both is occurring.

12 (4) "Infrastructure impact fee" means a fee collected by the owner or operator of a facility for use of the
13 facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment,
14 or any other similar charges.

15 (5) "Infrastructure impact project" means:

16 (a) drinking water systems;

17 (b) wastewater treatment;

18 (c) sanitary sewer or storm sewer systems;

19 (d) solid waste disposal and separation systems, including site acquisition, preparation, or monitoring;

20 (e) roads;

21 (f) streets;

22 (g) sidewalks;

23 (h) bridges; or

24 (i) facilities for government administration, fire protection, law enforcement, and emergency services.

25 (6) "Temporary employee housing" means two or more temporary, self-contained, mobile housing units
26 used exclusively for temporary housing for oil or gas field workers or support for related jobs.

27

28 **NEW SECTION. Section 2. Limit on infrastructure impact fee -- double taxation prohibited.** (1) The
29 rate of an infrastructure impact fee must be established by the resolution provided for in [section 3], but the rate
30 may not exceed \$5 per day for use of a facility.

1 (2) If a consolidated city-county or county establishes an infrastructure impact fee, the fee is imposed
2 countywide, including in all municipalities within the county, but not within any resort community, resort area, or
3 resort area district that is imposing a resort tax under Title 7, chapter 6, part 15.

4
5 **NEW SECTION. Section 3. Infrastructure impact area -- establishment.** (1) The governing body of
6 a consolidated city-county or a county may establish an infrastructure impact area. The purpose of an
7 infrastructure impact area is to allow for the collection of an infrastructure impact fee to fund infrastructure impact
8 projects.

9 (2) The boundaries of an infrastructure impact area must coincide with the legal boundaries of the
10 consolidated city-county or the county creating the area.

11 (3) The governing body shall:

12 (a) hold at least one public hearing concerning the establishment of an infrastructure impact area prior
13 to the passage of a resolution to establish the area;

14 (b) notify any municipalities lying within the boundaries of the proposed infrastructure impact area; and

15 (c) publish notice of intent to create the infrastructure impact area as provided in 7-1-2121. The notice
16 must contain the time and place where the hearing will be held.

17 (4) A resolution establishing an infrastructure impact area must designate:

18 (a) the necessity for the proposed area and the infrastructure impact projects needed in the area;

19 (b) a general description of the territory or lands to be included within the area, including the boundaries
20 of the proposed area; and

21 (c) the amount of the infrastructure impact fee that will be collected in the area.

22 (5) After the hearing held in accordance with subsection (3), the resolution establishing the infrastructure
23 impact area must be approved by a majority decision of the governing body.

24
25 **NEW SECTION. Section 4. Infrastructure impact fee -- administration.** (1) At least 30 days before
26 the date that the infrastructure impact fee becomes effective, the governing body shall enact an administrative
27 ordinance governing the collection and reporting of an infrastructure impact fee within the infrastructure impact
28 area established pursuant to [section 3].

29 (2) The administrative ordinance must specify:

30 (a) the times that fees collected by facilities are to be remitted to the governing body;

1 (b) the office, officer, or employee of the governing body responsible for receiving and accounting for
2 the fee receipts;

3 (c) the office, officer, or employee of the governing body responsible for enforcing the collection of the
4 fee and the methods and procedures to be used in enforcing the collection of fees due; and

5 (d) the penalties for failure to report fees due, failure to remit fees due, and violations of the
6 administrative ordinance. The penalties may include:

7 (i) criminal penalties not to exceed a fine of \$1,000 or imprisonment for up to 6 months, or both;

8 (ii) civil penalties if the governing body prevails in a suit for the collection of the infrastructure impact fee,
9 not to exceed 10% of the fees found due plus the costs and attorney fees incurred by the governing body in the
10 action;

11 (iii) revocation of a county business license held by the offender; and

12 (iv) any other penalties that may be applicable for violation of a resolution.

13 (4) The administrative ordinance may include:

14 (a) further clarification and specificity regarding the facilities that are subject to the infrastructure impact
15 fee;

16 (b) authorization for administration and prepayment discounts. The discount authorization may allow
17 each facility to:

18 (i) withhold up to 5% of the fee collected to defray its costs for the administration of the fee collection;

19 or

20 (ii) receive a refund of up to 5% of the fee payment received from the facility by the governing body 10
21 days prior to the collection due date established by the resolution.

22 (c) other administrative details necessary for the efficient and effective administration of the fee.

23
24 **NEW SECTION. Section 5. Distribution of infrastructure impact fee -- fund.** (1) Unless otherwise
25 provided by agreements with municipalities, the consolidated city-county or county shall, at least quarterly,
26 distribute infrastructure impact fees to the municipalities within the county in the following manner:

27 (a) 50% of the amount of infrastructure impact fee revenue received by the county must be distributed
28 based on population by calculating the ratio of the population of each municipality in the county to the population
29 of the county as derived from the most recent estimates by the U.S. bureau of the census or, if estimates are not
30 available, derived from the most recent federal decennial census; and

1 (b) the remaining 50% of the amount is retained by the county.

2 (2) The distribution to municipalities under subsection (1) must be used by the governing body as
3 provided in [section 6].

4 (3) For purposes of revenue distribution under this section, a resort community, resort area, or resort
5 area district that has imposed a tax pursuant to Title 7, chapter 6, part 15, must be excluded from the revenue
6 distribution and population calculations.

7 (4) (a) The governing body of a local government receiving an infrastructure impact fee shall establish
8 an infrastructure impact fund. Infrastructure impact fees must be deposited to this fund and may be used only for
9 infrastructure impact projects.

10 (b) The fund must be maintained by the county treasurer in accordance with 7-6-2111 and must be
11 invested with all interest accruing to the fund.

12

13 **NEW SECTION. Section 6. Use of infrastructure impact fee.** (1) A local government may appropriate
14 and expend revenue derived from an infrastructure impact fee for infrastructure impact projects.

15 (2) A local government may issue bonds for infrastructure impact projects. Bonds issued under this
16 section must be authorized by a resolution of the governing body, stating the terms, conditions, and covenants
17 of the consolidated city-county, county, or municipality as the governing body considers appropriate. The bonds
18 may be sold at a discount at a public or private sale.

19 (3) (a) A local government may pledge for repayment of bonds issued under this section the revenue
20 derived from an infrastructure impact fee, special assessments levied for and revenue from the infrastructure
21 impact projects for which the bonds are issued, and any other source of revenue authorized by the legislature
22 to be imposed or collected by the consolidated city-county, county, or municipality.

23 (b) The bonds do not constitute debt for purposes of any statutory debt limitation if in the resolution
24 authorizing the issuance of the bonds the consolidated city-county, county, or municipality determines that the
25 infrastructure impact fee revenue, special assessments levied for and revenue from those infrastructure impact
26 projects, or other sources of revenue, if any, pledged to the payment of the bonds will be sufficient in each year
27 to pay the principal and interest when due.

28 (c) Bonds may not be issued pledging proceeds of the infrastructure impact fee for repayment unless
29 the consolidated city-county, county, or municipality in the resolution authorizing issuance of the bonds
30 determines that in any fiscal year the annual revenue expected to be derived from the fee equals at least 125%

1 of the average amount of the principal and interest payable from the revenue on the bonds and any other
2 outstanding bonds payable from the fee except any bonds to be refunded upon the issuance of the proposed
3 bonds.

4
5 **NEW SECTION. Section 7. Infrastructure impact area -- dissolution.** (1) An infrastructure impact
6 area may be dissolved if it is considered to be in the best interest of a consolidated city-county or county or if the
7 purpose for establishing the area has been fulfilled and the area is not needed in perpetuity.

8 (2) (a) The governing body may pass a resolution of intention to dissolve an infrastructure impact area.

9 (b) After the passage of the resolution, the governing body shall publish a notice, as provided in
10 7-1-2121, of the intention to dissolve the area.

11 (c) The notice must specify the boundaries of the infrastructure impact area to be dissolved, the date of
12 the passage of the resolution of intention to dissolve the area, and the date set for the passage of the resolution
13 of dissolution.

14 (3) If the infrastructure impact area is dissolved, the governing body shall immediately discontinue
15 collection of the infrastructure impact fee.

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17 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified
18 as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 7].

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20 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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