

HOUSE BILL NO. 602

INTRODUCED BY S. STAFFANSON

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

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

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

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

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

21

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

23

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

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

28 (2) (a) "Facility" means a building containing individual sleeping rooms or suites that provides overnight
29 lodging facilities for compensation. The term includes a facility represented to the public as a hotel, motel,
30 campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse,

1 temporary employee housing, or bed and breakfast.

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

7 (3) "Impact area" is a municipality, consolidated city-county, or county:

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

9 (b) where oil or gas is being transported through pipelines or on railroads in the municipality,
10 consolidated city-county, or county; or

11 (c) adjacent to a municipality, consolidated city-county, or county where the exploration and development
12 or the transportation of oil, gas, or both is occurring.

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

16 (5) "Impact project" means:

17 (a) drinking water systems;

18 (b) wastewater treatment;

19 (c) sanitary sewer or storm sewer systems;

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

21 (e) roads;

22 (f) streets;

23 (g) sidewalks;

24 (h) bridges; or

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

26 (5) "Municipality" means an entity that incorporates as a city or town.

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

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30 **NEW SECTION. Section 2. Limit on impact fee -- double taxation prohibited.** (1) The rate of an

1 impact fee must be established by the resolution provided for in [section 3], but the rate may not exceed \$5 per
2 day for use of a facility.

3 (2) (a) Except as provided in subsection (2)(b), if a consolidated city-county or county establishes an
4 impact fee, the fee is imposed countywide, including in all municipalities within the county, but not within any
5 resort community, resort area, or resort area district that is imposing a resort tax under Title 7, chapter 6, part 15.

6 (b) An impact fee established by a consolidated city-county or a county may not be imposed in a
7 municipality that imposes an impact fee provided for in [sections 1 through 7].

8 (c) A municipality that is also a resort community imposing a resort tax under Title 7, chapter 6, part 15,
9 may not establish an impact fee.

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11 **NEW SECTION. Section 3. Impact area -- establishment.** (1) The governing body of a municipality,
12 a consolidated city-county, or a county may establish an impact area. The purpose of an impact area is to allow
13 for the collection of an impact fee to fund impact projects and fire and police services.

14 (2) The boundaries of an impact area must coincide with the legal boundaries of the municipality, the
15 consolidated city-county, or the county creating the area.

16 (3) The governing body shall:

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

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

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

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

23 (a) the necessity for the proposed area and the types of impact projects and additional fire and police
24 services needed in the area;

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

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

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

30

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

4 (2) The administrative ordinance must specify:

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

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

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

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

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

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

15 (iii) revocation of a municipality or county business license held by the offender; and

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

17 (4) The administrative ordinance may include:

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

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

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

22 or

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

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

26

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

30 (a) 50% of the amount of impact fee revenue received by the county must be distributed to municipalities

1 within the county based on population by calculating the ratio of the population of each municipality to the total
2 population of the municipalities in the county as derived from the most recent estimates by the U.S. bureau of the
3 census or, if estimates are not available, derived from the most recent federal decennial census; and

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

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

7 (3) For purposes of revenue distribution under this section, a municipality that has established an impact
8 fee and a resort community, resort area, or resort area district that has imposed a tax pursuant to Title 7, chapter
9 6, part 15, must be excluded from the revenue distribution and population calculations.

10 (4) (a) The governing body of a local government receiving an impact fee shall establish an impact
11 fund. Impact fees must be deposited to this fund and may be used only for impact projects and fire and police
12 services.

13 (b) If the impact fee is established by a consolidated city-county or a county, the fund must be maintained
14 by the county treasurer in accordance with 7-6-2111 and must be invested with all interest accruing to the fund.
15 If the impact fee is established by a municipality, the fund must be maintained by the finance officer.

16
17 **NEW SECTION. Section 6. Use of impact fee.** (1) A local government may appropriate and expend
18 revenue derived from an impact fee for impact projects and fire and police services.

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

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

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

1 interest when due.

2 (c) Bonds may not be issued pledging proceeds of the impact fee for repayment unless the municipality,
3 consolidated city-county, or county in the resolution authorizing the issuance of the bonds determines that in any
4 fiscal year the annual revenue expected to be derived from the fee equals at least 125% of the average amount
5 of the principal and interest payable from the revenue on the bonds and any other outstanding bonds payable
6 from the fee except any bonds to be refunded upon the issuance of the proposed bonds.

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8 **NEW SECTION. Section 7. Impact area -- dissolution.** (1) An impact area may be dissolved if it is
9 considered to be in the best interest of a municipality, consolidated city-county, or county or if the purpose for
10 establishing the area has been fulfilled and the area is not needed in perpetuity.

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

12 (b) After the passage of the resolution, the governing body shall publish a notice, as provided in
13 7-1-2121, of the intention to dissolve the impact area.

14 (c) The notice must specify the boundaries of the impact area to be dissolved, the date of the passage
15 of the resolution of intention to dissolve the area, and the date set for the consideration of the resolution of
16 dissolution.

17 (3) If the resolution of dissolution is approved by a majority decision of the governing body, the governing
18 body shall immediately discontinue collection of the impact fee.

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20 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified
21 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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23 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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