

HOUSE BILL NO. 235
INTRODUCED BY E. DUTTON

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING BUSINESS IMPROVEMENT DISTRICT PURPOSES TO INCLUDE TOURISM, PROMOTION, AND MARKETING, ~~AND SALES~~; REVISING OPTIONS FOR ASSESSMENT OF COSTS TO INCLUDE FLAT-FEE OPTIONS; PROVIDING FOR DISTRICTS COMPOSED OF NONCONTIGUOUS AREAS IF PROPERTY IS RELATED BY PURPOSE; ALLOWING CLASSIFICATION CRITERIA TO BE USED IN ASSESSING COSTS; AND AMENDING SECTIONS 7-12-1102, 7-12-1111, 7-12-1121, 7-12-1132, AND 7-12-1133, MCA."

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

Section 1. Section 7-12-1102, MCA, is amended to read:

"7-12-1102. Purpose. The purpose of this part is to provide for the creation of business improvement districts having one or more of the purposes and powers provided in this part that will:

- (1) serve a public use; will
- (2) promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof of the district and of the people of this state; and will
- (3) be of special benefit to the property within the boundaries of any district created pursuant to the provisions of this part; or
- (4) aid in tourism, promotion, AND marketing, and sales within the district."

Section 2. Section 7-12-1111, MCA, is amended to read:

"7-12-1111. Establishment or expansion of district. (1) Upon receipt of a petition signed by the owners of more than 60% of the area of the property proposed in the petition to be included in a district or in the expansion of a district, a governing body shall establish a district or expand a district as provided in this part.

- (2) The boundaries of a district must comply with applicable zoning regulations, ~~and the~~
- (3) The district may not include areas that are zoned primarily as residential areas.
- (4) (a) A district may be composed of noncontiguous areas if the properties in a district have a common purpose, including but not limited to lodging, recreation, sales, or other activities related to the purposes listed in 7-12-1102 OF PROVIDING OVERNIGHT STAYS AT LODGING FACILITIES.

(b) The boundaries of a district with noncontiguous areas must encompass all properties in the district with the same identified purpose."

SECTION 3. SECTION 7-12-1121, MCA, IS AMENDED TO READ:

"7-12-1121. Board of trustees -- appointment -- number -- term of office. (1) When the governing body of a local government adopts an ordinance creating a business improvement district, the appointing authority, with the approval of the governing body, shall appoint not less than five or more than seven owners of property, or their assignees, within the district to comprise the board of trustees of the district. The membership of a board of trustees DIRECTOR for a business improvement district created for the purpose of 7-12-1102(4) must include BE the EXECUTIVE director of a nonprofit convention and visitors bureau, as defined in 15-65-101, if a nonprofit convention and visitors bureau is operating within the governing body's jurisdiction.

(2) The number of members of the board, once established, may be changed within these limits from time to time by subsequent resolutions of the governing body of the local government. A resolution to reduce board membership may not require resignation of any member prior to completion of his the member's appointed term.

(3) Three of the members who are first appointed must be designated to serve for terms of 1, 2, and 3 years, respectively, from the date of their appointments, and two must be designated to serve for terms of 4 years from the date of their appointments. For a seven-member commission, there must be two additional appointments for terms of 2 years and 3 years, respectively.

(4) After initial appointment, members must be appointed for a term of office of 4 years, except that a vacancy occurring during a term must be filled for the unexpired term. A member ~~shall hold~~ holds office until his the member's successor has been appointed and qualified."

SECTION 4. SECTION 7-12-1132, MCA, IS AMENDED TO READ:

"7-12-1132. Annual budget and work plan -- approval -- procedure -- tax. (1) At a time determined by the governing body, the board shall submit to the governing body for approval a work plan and budget for the ensuing fiscal year.

(2) A board created for the purpose of 7-12-1102(4) in a municipality or county where a nonprofit convention and visitors bureau, as defined in 15-65-101, is operating shall consult with the nonprofit convention and visitors bureau in developing a work plan and budget for the ensuing fiscal year.

~~(2)~~(3) Following public notice that a work plan and budget have been submitted and that the governing

body will levy an assessment to defray the cost of the work plan and budget, the governing body shall hold a public hearing on objections to the work plan and budget. After the hearing, the governing body may modify the work plan and budget as it considers necessary and appropriate.

~~(3)~~(4) After approval of the work plan and budget and to defray the cost ~~thereof~~ of the work plan and budget for the next fiscal year, the governing body shall by resolution levy an assessment upon all of the property in the district using as a basis one of the methods prescribed in 7-12-1133.

~~(4)~~(5) A copy of the resolution ~~shall~~ must be delivered to the treasurer of the local government to be placed on the tax roll and collected in the same manner as other taxes."

Section 5. Section 7-12-1133, MCA, is amended to read:

"7-12-1133. Assessment of costs -- area, lot, taxable valuation, and square footage, and flat-fee options -- PROVISIONS FOR PROPERTY CLASSIFICATIONS. (1) At the same time ~~that~~ the board submits the annual budget and work plan to the governing body as provided in 7-12-1132, the board shall also recommend to the governing body a method of levying an assessment on the property within the district ~~which~~ that will best ensure that the assessment on each lot or parcel is equitable in proportion to the benefits to be received.

(2) The governing body shall annually assess the entire cost of the district against the entire district using a method ~~which~~ that best ensures that the assessment on each lot or parcel is equitable in proportion to the benefits to be received. In determining the method of assessment to be used, the governing body shall consider the recommendations of the board. The governing board shall levy the assessment using one of the following methods:

(a) each lot or parcel of land within ~~such~~ the district may be assessed for that part of the whole cost ~~which~~ that its area bears to the area of the entire district, exclusive of streets, avenues, alleys, and public places;

(b) if the governing body determines that the benefits derived by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the area of the lot or parcel;

(c) if the governing body determines that benefits derived by each lot or parcel are proportional, the governing body may use a standard criteria, such as individual occupancy or daily use, and make the assessment on a flat-fee basis based on the criteria;

~~(e)~~(d) each lot or parcel of land, including the improvements ~~thereon~~ on the lot or parcel, may be assessed for that part of the whole cost of the district ~~which~~ that its taxable valuation bears to the total taxable valuation of the property of the district;

~~(d)~~(e) each building may be assessed for that part of the whole cost of the district that the occupied or income-producing area of the building above the first floor bears to the area of the entire district; ~~or~~

(F) IF THE GOVERNING BODY DETERMINES THAT BENEFITS DERIVED BY EACH LOT OR PARCEL ARE DISPROPORTIONAL, THE GOVERNING BODY MAY USE CLASSIFICATION CRITERIA, SUCH AS LOCATION WITHIN THE DISTRICT, ECONOMIC IMPACT, OR ANY OTHER MEASURABLE CRITERIA, IN CONJUNCTION WITH METHODS OF ASSESSING FEES OUTLINED IN THIS SUBSECTION (2). EACH CLASSIFICATION MUST HAVE ITS OWN RATE. THERE MAY NOT BE MORE THAN SIX CLASSIFICATIONS UPON WHICH A CHARGE IS IMPOSED.

~~(e)~~~~(f)~~(G) by using any combination of the assessment options provided in subsections (2)(a) through (2)(d) ~~(2)(e)~~ (2)(F).

(3) If a district is expanded, the land within the expanded area or property with a similar purpose in the district must be assessed as provided for in subsection (2) for the duration of the district."

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