

SENATE BILL NO. 483
INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE USE OF TAX INCREMENT FINANCING TO URBAN RENEWAL; PROVIDING THAT INDUSTRIAL DISTRICTS, TECHNOLOGY DISTRICTS, AND AEROSPACE TRANSPORTATION AND TECHNOLOGY DISTRICTS MAY CONTINUE TO USE TAX INCREMENT FINANCING IF THE DISTRICTS WERE USING TAX INCREMENT FINANCING PRIOR TO THE EFFECTIVE DATE OF THIS ACT; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4284, 7-15-4288, 7-15-4290, 7-15-4295, 7-15-4296, 7-15-4298, 7-15-4299, AND 7-15-4301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 7-15-4282, MCA, is amended to read:

"7-15-4282. Authorization for tax increment financing. ~~(1) Any~~ An urban renewal plan, as defined in 7-15-4206, may contain a provision or be amended to contain a provision for the segregation and application of tax increments as provided in 7-15-4283 through 7-15-4292 and this section.

(2) An industrial district ordinance; adopted pursuant to 7-15-4299 before [the effective date of this act], or a technology district ordinance; adopted pursuant to 7-15-4295 before [the effective date of this act], or an aerospace transportation and technology district ordinance adopted pursuant to 7-15-4296 before [the effective date of this act] may contain a provision adopted before [the effective date of this act] or be amended to contain a provision for the segregation and application of tax increments, as provided in ~~7-15-4282~~ 7-15-4283 through 7-15-4292 and this section. After [the effective date of this act], an industrial district, technology district, or aerospace transportation and technology district may not use tax increment financing unless the provision was adopted before [the effective date of this act]."

Section 2. Section 7-15-4283, MCA, is amended to read:

"7-15-4283. Definitions related to tax increment financing. For purposes of 7-15-4282 through 7-15-4292 and 7-15-4297 through 7-15-4299, the following definitions apply unless otherwise provided or indicated by the context:

(1) "Actual taxable value" means the taxable value of taxable property at any time, as calculated from

the assessment roll last equalized.

(2) "Aerospace transportation and technology district" means ~~a tax increment financing~~ an aerospace transportation and technology district created pursuant to 7-15-4296.

(3) "Aerospace transportation and technology infrastructure development project" means a project undertaken within or for an aerospace transportation and technology district that consists of any of the activities authorized by 7-15-4288.

(4) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area; or a qualified industrial district, technology district, or aerospace transportation and technology district prior to the effective date of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-15-4293.

(5) "Incremental taxable value" means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all property within an urban renewal area; or a qualified industrial district, technology district, or aerospace transportation and technology district subject to taxation.

(6) "Industrial district" means ~~a tax increment financing~~ an industrial district created pursuant to 7-15-4299.

(7) "Industrial infrastructure development project" means a project undertaken within or for an industrial district that consists of any of the activities authorized by 7-15-4288.

(8) "Municipality", for the purpose of an industrial district created pursuant to 7-15-4297 through 7-15-4299 and operating pursuant to 7-15-4282 through 7-15-4293 and part 43 of this chapter, means any incorporated city or town, county, or city-county consolidated local government.

(9) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the urban renewal area; or qualified industrial district, technology district, aerospace transportation and technology district, or a part of an area or qualified district is located against the incremental taxable value.

(10) "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4292.

(11) "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

(12) "Taxing body" means any city, town, county, school district, or other political subdivision or governmental unit of the state, including the state, that levies taxes against property within the urban renewal area, industrial district, technology district, or ~~an~~ aerospace transportation and technology district.

(13) "Technology district" means ~~a tax increment financing district~~ technology district created pursuant

to 7-15-4295.

(14) "Technology infrastructure development project" means a project undertaken within or for a technology district that consists of any of the activities authorized by 7-15-4288."

Section 3. Section 7-15-4284, MCA, is amended to read:

"7-15-4284. Filing of tax increment provisions plan or district ordinance. (1) The clerk of the municipality shall file with the department of revenue a certified copy of each urban renewal plan and, if adopted before [the effective date of this act], an industrial district ordinance, or a technology district ordinance, an aerospace transportation and technology ordinance, or an amendment to ~~any of them~~ an urban renewal plan containing a tax increment provision ~~with the department of revenue.~~

(2) A certified copy of each plan, ordinance, or amendment must also be filed with the clerk or other appropriate officer of each of the affected taxing bodies."

Section 4. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. Costs that may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project and, if qualified to use tax increment financing under 7-15-4282, by an industrial infrastructure development project, technology infrastructure development project, or aerospace transportation and technology infrastructure development project:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;

(4) the acquisition, construction, and improvement of infrastructure, industrial infrastructure, technology infrastructure, or aerospace transportation and technology infrastructure that includes streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges, spaceports for reusable launch vehicles with associated runways and launch, recovery, fuel manufacturing, and cargo holding facilities, publicly owned buildings, and any public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to be used in connection with improvements for which the ~~foregoing~~ costs in this subsection may be incurred;

- (5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- (6) acquisition of infrastructure-deficient areas or portions of areas;
- (7) administrative costs associated with the management of the urban renewal area, industrial district, technology district, or aerospace transportation and technology district;
- (8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;
- (9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district, the needs of a technology infrastructure development project in the technology district, or the needs of an aerospace transportation and technology infrastructure development project in the aerospace transportation and technology district;
- (10) the connection of the urban renewal area, industrial district, technology district, or aerospace transportation and technology district to existing infrastructure outside the area or district;
- (11) the provision of direct assistance, through industrial infrastructure development projects, technology development projects, or aerospace transportation and technology infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the district; and
- (12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution."

Section 5. Section 7-15-4290, MCA, is amended to read:

"7-15-4290. Use of property taxes and other revenue for payment of bonds. (1) (a) The tax increment derived from an urban renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in 7-15-4288 and 7-15-4289.

(b) ~~The~~ If qualified to use tax increment financing under 7-15-4282, the tax increment derived from an industrial district may be pledged for the payment of revenue bonds issued for industrial infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay industrial district costs described in 7-15-4288 and 7-15-4289.

(c) ~~The~~ If qualified to use tax increment financing under 7-15-4282, the tax increment derived from a technology district may be pledged for the payment of revenue bonds issued for technology infrastructure development projects or of general obligation bonds, revenue bonds, or special assessment bonds issued to pay technology district costs described in 7-15-4288 and 7-15-4289.

(2) A municipality issuing bonds pursuant to subsection (1) may, by resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public hearing, pledging or appropriating other revenue of the municipality, except property taxes prohibited by subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.

(3) Property taxes, except the tax increment derived from property within the area or district and tax collections used to pay for services provided to the municipality by a project, may not be applied to the payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged."

Section 6. Section 7-15-4295, MCA, is amended to read:

"7-15-4295. Technology districts. (1) A local governing body, by ordinance and following a public hearing, may authorize the creation of a technology district for technology infrastructure development projects. The purpose of a technology district is for the development of infrastructure to encourage the location and retention of technology development projects in the state. The tenants of a technology district must be businesses or organizations engaged in technology-based operations within Montana that through the employment of knowledge or labor add value to a product, process, or export service that results in the creation of new wealth and for which at least 50% of the sales of the business or organization occur outside of Montana or the business or organization is a manufacturing company with at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana.

(2) A technology district:

(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned for use in accordance with the area growth policy, as defined in 76-1-103;

(c) may not comprise any property included within an existing urban renewal area ~~district~~ or industrial infrastructure development district created pursuant to this part;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements necessary for technology development;

(e) must, prior to its creation, have in place a formally adopted comprehensive development plan that ensures that the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

~~(3) A technology district may use tax increment financing pursuant to the provisions of 7-15-4282 through~~

~~7-15-4293."~~

Section 7. Section 7-15-4296, MCA, is amended to read:

"7-15-4296. Aerospace transportation and technology districts. ~~(1)~~ A local governing body, by ordinance and following a public hearing, may authorize the creation of an aerospace transportation and technology district for aerospace transportation and technology infrastructure development projects if the proposed aerospace transportation and technology district:

~~(a)~~(1) consists of a continuous area with an accurately described boundary;

~~(b)~~(2) is zoned for use in accordance with the area master planning document;

~~(c)~~(3) does not include any property included within an existing urban renewal area ~~district~~ or industrial infrastructure development district created pursuant to this part;

~~(d)~~(4) is found to be deficient in infrastructure improvements for industrial development; and

~~(e)~~(5) has as its purpose the development of infrastructure to encourage the location and retention of aerospace transportation and technology infrastructure development projects in the state.

~~(2) An aerospace transportation and technology district may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4293."~~

Section 8. Section 7-15-4298, MCA, is amended to read:

"7-15-4298. Legislative findings. The legislature finds and declares that:

(1) infrastructure-deficient areas exist in the municipalities of the state and constitute a serious impediment to the development of infrastructure-intensive, secondary, value-adding economic development in Montana;

(2) municipalities lack sufficient capital to rectify the infrastructure shortage in infrastructure-deficient areas, thus impeding the ability of municipalities to achieve economic growth through the development of secondary, value-adding industries; and

(3) the creation of industrial infrastructure is a matter of state policy and state concern because the state and its municipalities will continue to suffer economic dislocation due to the lack of secondary, value-adding industries; and

~~———(4) the state's tax increment financing laws should be used to encourage the creation of areas in which needed industrial infrastructure for secondary, value-adding industries could be developed."~~

Section 9. Section 7-15-4299, MCA, is amended to read:

"7-15-4299. Industrial districts. ~~(1)~~ A local governing body, by ordinance and following a public hearing, may authorize the creation of an industrial district for industrial infrastructure development projects if the proposed industrial district:

- ~~(a)~~(1) consists of a continuous area with an accurately described boundary;
- ~~(b)~~(2) is zoned for light or heavy industrial use in accordance with the area master planning document;
- ~~(c)~~(3) does not include any property included within an existing urban renewal area ~~district~~ created pursuant to this part;
- ~~(d)~~(4) is found to be deficient in infrastructure improvements for industrial development; and
- ~~(e)~~(5) has as its purpose the development of infrastructure to encourage the growth and retention of secondary, value-adding industries.

~~(2) An industrial district may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4293."~~

Section 10. Section 7-15-4301, MCA, is amended to read:

"7-15-4301. Authorization to issue urban renewal bonds, industrial infrastructure development bonds, aerospace transportation and technology infrastructure development bonds, technology infrastructure development bonds, and refunding bonds. (1) A municipality may:

(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project, and, if qualified to use tax increment financing under 7-15-4282, the undertakings of an industrial infrastructure development project, aerospace transportation and technology infrastructure development project, or technology infrastructure development project under part 42 and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and

(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.

(2) The bonds may not pledge the general credit of the municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects, industrial infrastructure development projects, aerospace transportation and technology infrastructure development projects, or technology infrastructure development projects under part 42 and this part, including, subject to 7-15-4282, the tax increment received and pledged by the municipality pursuant to 7-15-4282 through 7-15-4292, and, if the

income, proceeds, revenue, and funds of the municipality are insufficient for the payment, from other revenue of the municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects, industrial infrastructure development projects, aerospace transportation and technology infrastructure development projects, or technology infrastructure development projects of the municipality under part 42 and this part or by a mortgage on all or part of any projects.

(3) Bonds issued under this section must be authorized by resolution or ordinance of the local governing body."

NEW SECTION. **Section 11. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

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