

1 HOUSE BILL NO. 443

2 INTRODUCED BY R. COOK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR TERMINATION OF TAX INCREMENT FINANCING
5 AND THE AUTHORIZATION OF SUBSEQUENT TAX INCREMENT FINANCING FOR NEW PROJECTS;
6 REVISING TAX INCREMENT FINANCING DEFINITIONS; REQUIRING BONDS TO MATURE BY THE 15TH
7 ANNIVERSARY OF A TAX INCREMENT PROVISION; PROVIDING RULEMAKING AUTHORITY; AMENDING
8 SECTIONS 7-15-4283, 7-15-4284, 7-15-4285, 7-15-4292, 7-15-4293, 7-15-4294, 7-15-4295, 7-15-4296,
9 7-15-4299, AND 7-15-4324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
10 APPLICABILITY DATE."

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

13
14 **Section 1.** Section 7-15-4283, MCA, is amended to read:

15 **"7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4282 through
16 7-15-4299, the following definitions apply unless otherwise provided or indicated by the context:

17 (1) "Actual taxable value" means the taxable value of taxable property at any time, as calculated from
18 the last equalized assessment roll.

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

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

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

27 (5) "Department" means the department of revenue provided for in 2-15-1301.

28 ~~(5)(6)~~ "Incremental taxable value" means the amount, if any, by which the actual taxable value at any
29 time exceeds the base taxable value of all property within an urban renewal area, industrial district, technology
30 district, or aerospace transportation and technology district subject to taxation.

1 ~~(6)~~(7) "Industrial district" means a tax increment financing industrial district created pursuant to 7-15-4297
2 through 7-15-4299.

3 ~~(7)~~(8) "Industrial infrastructure development project" means a project undertaken within or for an
4 industrial district that consists of any of the activities authorized by 7-15-4288.

5 ~~(8)~~(9) "Municipality" means any incorporated city or town, county, or city-county consolidated local
6 government for the purposes of:

7 (a) an industrial district operating pursuant to 7-15-4282 through 7-15-4294 and Title 7, chapter 15, part
8 43;

9 (b) a technology district operating pursuant to 7-15-4282 through 7-15-4294 and Title 7, chapter 15, part
10 43; or

11 (c) an aerospace transportation and technology district operating pursuant to 7-15-4282 through
12 7-15-4294 and Title 7, chapter 15, part 43.

13 (10) "New projects" means:

14 (a) any of the activities in a currently established tax increment financing district authorized by 7-15-4288,
15 7-15-4295, 7-15-4296, and 7-15-4299 that were not constructed:

16 (i) using financing from another tax increment provision; and

17 (ii) prior to the adoption of a tax increment provision.

18 (b) Nothing in this subsection (10) prevents the use of a subsequent tax increment provision to complete
19 unfinished projects in a tax increment financing district that were part of a previously approved tax increment
20 provision as long as the financing is used on unfinished projects.

21 ~~(9)~~(11) "Tax increment" means the collections realized from extending the tax levies, expressed in mills,
22 of all taxing bodies in which the urban renewal area, industrial district, technology district, aerospace
23 transportation and technology district, or a part of an area or district is located against the incremental taxable
24 value.

25 (12) "Tax increment financing district" means the area within the external boundaries of an urban renewal
26 area, industrial district, technology district, or aerospace transportation and technology district that:

27 (a) has been legally created pursuant to the provisions of Title 7, chapter 15, parts 42 and 43; and

28 (b) contains a provision for the use of tax increment financing.

29 ~~(10)~~(13) "Tax increment provision" means a provision for the segregation and application of tax
30 increments as authorized by 7-15-4282 through 7-15-4299.

1 ~~(11)~~(14) "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

2 ~~(12)~~(15) "Taxing body" means any incorporated city or town, county, city-county consolidated local
3 government, school district, or other political subdivision or governmental unit of the state, including the state, that
4 levies taxes against property within the urban renewal area, industrial district, technology district, or an aerospace
5 transportation and technology district.

6 ~~(13)~~(16) "Technology district" means a tax increment financing district created pursuant to 7-15-4295.

7 ~~(14)~~(17) "Technology infrastructure development project" means a project undertaken within or for a
8 technology district that consists of any of the activities authorized by 7-15-4288."

9

10 **Section 2.** Section 7-15-4284, MCA, is amended to read:

11 **"7-15-4284. Filing of tax increment provisions plan or district ordinance.** (1) The clerk of the
12 municipality shall file a certified copy of each urban renewal plan, industrial district ordinance, technology district
13 ordinance, or aerospace transportation and technology district ordinance or an amendment to any of them
14 containing a tax increment provision with the department of revenue.

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

17

18 **Section 3.** Section 7-15-4285, MCA, is amended to read:

19 **"7-15-4285. Determination and report of original, actual, and incremental taxable values --**
20 **rulemaking.** (1) The department of revenue shall, upon receipt of a qualified tax increment provision and each
21 succeeding year, calculate and report to the municipality and to any other affected taxing body in accordance with
22 Title 15, chapter 10, part 2, the base, actual, and incremental taxable values of the property.

23 (2) The department may adopt rules to implement and administer the revenue and taxation provisions
24 of 7-15-4282 through 7-15-4299."

25

26 **Section 4.** Section 7-15-4292, MCA, is amended to read:

27 **"7-15-4292. Termination of tax increment financing -- exception -- authorization of new projects.**

28 (1) The tax increment provision terminates upon the ~~later~~ earlier of:

29 (a) the 15th year following its adoption; or

30 (b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has

1 been pledged and the interest on the bonds.

2 (2) (a) ~~Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve~~
 3 ~~fund after termination of the tax increment provision must be distributed among the various taxing bodies in~~
 4 ~~proportion to their property tax revenue from the area or district.~~

5 ~~_____ (b) Upon termination of the tax increment provision, the funds are distributed pursuant to this subsection~~
 6 ~~(2). a A municipality may shall~~ retain and use in accordance with the provisions of the urban renewal plan:

7 (i) funds remaining in the special fund or a reserve fund related to a binding loan commitment,
 8 construction contract, or development agreement for an approved urban renewal project that a municipality
 9 entered into before the termination of a tax increment provision;

10 (ii) loan repayments received after the date of termination of the tax increment provision from loans made
 11 pursuant to a binding loan commitment; or

12 (iii) funds from loans previously made pursuant to a loan program established under an urban renewal
 13 plan.

14 ~~(b) Any amounts remaining in the special fund or any reserve fund after satisfying the obligations in~~
 15 ~~subsection (2)(a) revert to the tax increment financing district for new projects if the new projects are approved~~
 16 ~~by the local governing body and the department.~~

17 ~~(c) If new projects are not approved by the local governing body or the department, any amounts~~
 18 ~~remaining in the special fund or any reserve fund after satisfying the obligations in subsection (2)(a) must be~~
 19 ~~distributed among the various taxing bodies in proportion to their property tax revenue from the area or district.~~

20 (3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value
 21 of the taxable property in the urban renewal area, the industrial district, the technology district, or the aerospace
 22 transportation and technology district and must be paid to each of the taxing bodies as provided by law.

23 (4) Bonds secured in whole or in part by a tax increment provision ~~may not be issued after~~ must mature
 24 by the 15th anniversary of the tax increment provisions provision. ~~However, if bonds secured by a tax increment~~
 25 ~~provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision~~
 26 ~~may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then~~
 27 ~~outstanding and secured by the tax increment provision.~~

28 ~~(5) Subject to the conditions in subsections (6) and (7), a local governing body may, by ordinance,~~
 29 ~~authorize tax increment financing for new projects in the year that a tax increment provision terminates under~~
 30 ~~subsection (1). If the use of tax increment financing for new projects is approved by a local governing body and~~

1 the department, the new projects are treated in the same manner as a new tax increment provision and are
2 subject to the provisions of 7-15-4282 through 7-15-4299.

3 (6) Prior to authorizing tax increment financing for new projects, a local governing body shall:

4 (a) provide notice of a public hearing prior to adoption;

5 (b) conduct a public hearing pursuant to the provisions of 7-1-4131; and

6 (c) adopt a resolution finding that further infrastructure development, rehabilitation, or redevelopment
7 in a tax increment financing district is necessary in the interest of the economy, public health, safety, morals, or
8 welfare of the residents of the local government.

9 (7) After a local governing body authorizes tax increment financing for new projects, the department shall
10 certify the new base taxable value of property within a tax increment financing district if the following information
11 exists and has been provided to the department:

12 (a) a copy of the notice of public hearing required under subsection (6)(a);

13 (b) a copy of the local government's resolution required under subsection (6)(c);

14 (c) evidence that the zoning within the tax increment financing district is in accordance with the local
15 government's growth policy;

16 (d) an updated plan that describes the projects that were completed in the tax increment financing district
17 using a previous tax increment provision, projects that were canceled, projects that are unfinished, and the new
18 projects that will utilize tax increment financing;

19 (e) a certified copy of the ordinance authorizing tax increment financing for new projects; and

20 (f) any further information necessary for the department to administer the provisions of this section.

21 (8) As used in this section, "notice of a public hearing" means a notice that:

22 (a) is published pursuant to the provisions of 7-1-4127 and mailed pursuant to the provisions of 7-1-4129;

23 (b) is given to property owners of the tax increment financing district;

24 (c) describes the time, date, place, and purpose of the hearing;

25 (d) outlines the general scope of the new projects under consideration in the tax increment financing
26 district and the scope of projects that were completed under existing tax increment financing;

27 (e) specifies the goals the local governing body has in the tax increment financing district; and

28 (f) indicates the method of financing the new projects in the tax increment financing district and whether
29 the local governing body intends to use tax increment financing and bonds to be paid from tax increment
30 financing."

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Section 5. Section 7-15-4293, MCA, is amended to read:

"7-15-4293. Adjustment of base taxable value following change of law or local disaster. (1) If the base taxable value of an urban renewal area, an industrial district, a technology district, or an aerospace transportation and technology district is affected after its original determination by a statutory, administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on conditions existing at the time the base year was established, the governing body of the municipality may request the department of revenue to estimate the base taxable value so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and interest on the bonds as those payments become due.

(2) If a tax increment financing district created after January 1, 2002, has not issued bonds, the governing body of a municipality may request the department of revenue to adjust the base taxable value to account for a loss of taxable revenue resulting from the state granting property in the area or district tax-exempt status within the first year of creation of the tax increment financing district. The municipality shall give notice of and hold a public hearing on the proposed change.

(3) (a) If an urban renewal area, an industrial district, a technology district, or an aerospace transportation and technology district suffers a loss of property value directly related to a disaster for which the principal executive officer of the local jurisdiction has made a disaster declaration pursuant to 10-3-402, the department of revenue shall decrease the base taxable value of the area or district by the amount of the base taxable value lost because of the disaster in the tax year in which the disaster is declared. The principal executive officer shall forward a copy of the disaster declaration to the department of revenue.

(b) The taxable value removed from the base taxable value of the area or district under subsection (3)(a) must be added to the base taxable value of the area or district upon reconstruction of the property in the tax year of reconstruction. If reconstruction of the property is only partially completed as of January 1 of the tax year, the department of revenue shall determine the base taxable value of the property for that tax year by multiplying the percentage of completion, expressed as a decimal equivalent, of reconstruction of the property by the original base taxable value of the property. The addition to the base taxable value under this subsection (3)(b) is limited to the amount of the original base taxable value of each parcel before the disaster occurred."

Section 6. Section 7-15-4294, MCA, is amended to read:

1 **"7-15-4294. Assessment agreements.** (1) A municipality may enter into a written agreement with any
2 private person:

3 (a) establishing a minimum market value of land, existing improvements, or improvements or equipment
4 to be constructed or acquired; and

5 (b) requiring the individual to pay an annual tax deficiency fee whenever the property that is the subject
6 of the agreement is valued by the department of revenue for property tax purposes at a market value that is less
7 than the value established by the agreement. The amount of the deficiency fee may not exceed the difference
8 between the property taxes that would have been imposed on the property based on the minimum value of the
9 property expressed in the agreement and the property taxes that are imposed on the property based on the
10 market value established by the department of revenue.

11 (2) The property that is the subject of the agreement must be located or installed in an urban renewal
12 area, an industrial district, a technology district, an aerospace transportation and technology district, or any other
13 area or district that is subject to a tax increment financing provision.

14 (3) The minimum value established by the agreement may be fixed or may increase or decrease in later
15 years from the initial minimum value as provided in the agreement.

16 (4) The agreement creates a lien on the property pursuant to 71-3-1506 and must be filed and recorded
17 in the office of the county clerk and recorder in each county in which the property or any part of the property is
18 located. Recording an agreement constitutes notice of the agreement to anyone who acquires any interest in the
19 property that is the subject of the agreement, and the agreement is binding upon the person acquiring the interest.

20 (5) An agreement made pursuant to subsection (1) may be modified or terminated by mutual consent
21 of the current parties to the agreement. Modification or termination of an agreement must be approved by the
22 governing body of the municipality. A document modifying or terminating an agreement must be filed in the office
23 of the county clerk and recorder in each county in which the property or any part of the property is located.

24 (6) An agreement entered into pursuant to subsection (1) or modified pursuant to subsection (5)
25 terminates on the earliest of:

26 (a) the date on which conditions in the agreement for termination are satisfied;

27 (b) the termination date specified in the agreement; or

28 (c) the date when the tax increment is no longer paid to the municipality under 7-15-4292.

29 (7) This section does not limit a municipality's authority to enter into contracts other than tax deficiency
30 agreements as described in this section."

1

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

3 **"7-15-4295. Technology districts.** (1) A local governing body, by ordinance and following a public
4 hearing, may authorize the creation of a technology district for technology infrastructure development projects
5 and the creation of new projects as provided in 7-15-4292(5).

6 (2) The purpose of a technology district is the development of infrastructure to encourage the location
7 and retention of technology infrastructure development projects in the state. The tenants of a technology district
8 must be businesses or organizations engaged in technology-based operations within Montana that through the
9 employment of knowledge or labor add value to a product, process, or export service that results in the creation
10 of new wealth and for which at least 50% of the sales of the business or organization occur outside of Montana
11 or the business or organization is a manufacturing company with at least 50% of its sales to other Montana
12 companies that have 50% of their sales occurring outside of Montana.

13 ~~(2)~~(3) A technology district:

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

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

17 (c) may not comprise any property included within an existing urban renewal area, industrial district, or
18 aerospace transportation and technology district created pursuant to this part;

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

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

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

24 ~~(3)~~(4) A technology district may use tax increment financing pursuant to the provisions of 7-15-4282
25 through 7-15-4294."

26

27 **Section 8.** Section 7-15-4296, MCA, is amended to read:

28 **"7-15-4296. Aerospace transportation and technology districts.** (1) A local governing body, by
29 ordinance and following a public hearing, may authorize the creation of an aerospace transportation and
30 technology district for aerospace transportation and technology infrastructure development projects and the

1 creation of new projects as provided in 7-15-4292(5) if the proposed aerospace transportation and technology
2 district:

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

4 (b) is zoned for use in accordance with the area growth policy document;

5 (c) does not include any property included within an existing urban renewal area, industrial district, or
6 technology district created pursuant to this part;

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

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

10 (2) An aerospace transportation and technology district may use tax increment financing pursuant to the
11 provisions of 7-15-4282 through 7-15-4294."

12

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

14 **"7-15-4299. Industrial districts.** (1) A local governing body, by ordinance and following a public hearing,
15 may authorize the creation of an industrial district for industrial infrastructure development projects and the
16 creation of new projects as provided in 7-15-4292(5) if the proposed industrial district:

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

18 (b) is zoned for light or heavy industrial use in accordance with the area growth policy document;

19 (c) does not include any property included within an existing urban renewal area, technology district, or
20 aerospace transportation and technology district created pursuant to this part;

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

22 (e) has as its purpose the development of infrastructure to encourage the growth and retention of
23 secondary, value-adding industries.

24 (2) An industrial district may use tax increment financing pursuant to the provisions of 7-15-4282 through
25 7-15-4294."

26

27 **Section 10.** Section 7-15-4324, MCA, is amended to read:

28 **"7-15-4324. Special bond provisions when tax increment financing is involved.** (1) Bonds issued
29 under this part for which a tax increment is pledged pursuant to 7-15-4282 through 7-15-4299 must be designed
30 to mature ~~not later than 25 years from their date of issue~~ by the 15th anniversary of the tax increment provision

1 and must mature in years and amounts so that the principal and interest due on the bonds in each year may not
2 exceed the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property
3 owners in a district, and other estimated revenue, including proceeds of the bonds available for payment of
4 interest on the bonds, pledged to their payment to be received in that year.

5 (2) The governing body, in the resolution or ordinance authorizing the bonds, shall determine the
6 estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners
7 in an area or district, and other revenue, if any, for each year the bonds are to be outstanding. In calculating the
8 costs under 7-15-4288 for which the bonds are issued, the municipality may include an amount sufficient to pay
9 interest on the bonds prior to receipt of tax increments pledged and sufficient for the payment of the bonds and
10 to fund any reserve fund in respect of the bonds."

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

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

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17 **NEW SECTION. Section 13. Applicability.** [This act] applies to tax increment financing provisions
18 approved by a local governing body after [the effective date of this act].

19 - END -