

## HOUSE BILL NO. 226

INTRODUCED BY Z. PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE ABATEMENT FOR NEW OR EXPANDING INDUSTRY; AMENDING SECTION 15-24-1402, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

**Section 1.** Section 15-24-1402, MCA, is amended to read:

**"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at ~~50%~~ 25% of their taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the taxpayer must have applied by March 1 of the year during which the benefit is first applicable. The governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as provided in 7-1-2121 if a county or 7-1-4127 if an incorporated city or town and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body shall:

(i) publish due notice within 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this section; and

(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section and deny or approve it within 120 days of receiving the application as provided in subsection (2)(b)(i).

(c) If the governing body fails to hold a hearing or deny or approve the application within 120 days of receiving the application, the applicant may seek from the district court in the jurisdiction in which the county, city, or town is located a writ of mandamus to compel the governing body to make a determination.

1 (d) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time, but  
2 the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

3 (e) The resolution provided for in subsection (2)(a) must include a definition of the improvements or  
4 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The  
5 resolution may provide that real property other than land, personal property, improvements, or any combination  
6 thereof is eligible for the tax benefits described in subsection (1).

7 (f) Property taxes abated from the reduction in taxable value allowed by this section are subject to  
8 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
9 15-24-1401, this section, or the resolution required by subsections (2)(a) and (2)(e) of this section. The recapture  
10 is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided  
11 in 15-16-102, during any period in which an abatement under the provisions of this section was in effect. The  
12 amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts  
13 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this  
14 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary  
15 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body  
16 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control  
17 of the taxpayer.

18 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1). The  
19 application by the taxpayer must first be approved by the governing body of the appropriate local taxing  
20 jurisdiction, and the governing body shall indicate in its approval that the property of the applicant qualifies for the  
21 tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the  
22 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

23 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed  
24 for local high school district and elementary school district purposes and to the number of mills levied and  
25 assessed by the governing body approving the benefit over which the governing body has sole discretion. The  
26 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,  
27 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

28 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail  
29 all taxing jurisdictions affected by the tax benefit."  
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1         NEW SECTION. **Section 2. Applicability.** [This act] applies to new or expanding industry tax  
2 abatement granted on or after [the effective date of this act].  
3   - END -