SENATE BILL NO. 27

INTRODUCED BY F. THOMAS

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TAX INCREMENT FINANCING LAWS; REQUIRING A PUBLIC HEARING BEFORE TAX INCREMENT MAY BE EXPENDED; REQUIRING LOCAL GOVERNMENT ANNUAL FINANCIAL REPORTS TO INCLUDE INFORMATION ON THE FINANCIAL ACTIVITIES OF DISTRICTS USING TAX INCREMENT FINANCING; REQUIRING A LOCAL GOVERNMENT THAT APPROVES TAX INCREMENT FINANCING TO PREPARE AN ANNUAL REPORT; AND AMENDING SECTIONS 2-7-503, 7-15-4236, 7-15-4237, 7-15-4254, 7-15-4279, 7-15-4282, 7-15-4288, AND 17-6-316, MCA."

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

Section 1. Section 2-7-503, MCA, is amended to read:

"2-7-503. Financial reports and audits of local government entities. (1) <u>(a)</u> The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the department for review within 6 months of the end of the reporting period.

<u>(b) The financial report of a local government that has authorized the use of tax increment financing pursuant to 7-15-4282 must include a report of the financial activities related to the tax increment financing provision.</u>

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of $500,000, regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the

last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the state treasurer and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517."

Section 2. Section 7-15-4236, MCA, is amended to read:

"7-15-4236. Conduct of business. The powers and responsibilities of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners ~~shall constitute~~ constitutes a quorum for the purpose of conducting business and exercising the powers and responsibilities of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present unless in any case the bylaws shall require a larger number.

(2) Meetings of the board of commissioners must be publicly noticed as provided in 7-1-4127 and must provide the opportunity for public comment on matters before the board."

Section 3. Section 7-15-4237, MCA, is amended to read:

"7-15-4237. Annual report. (1) An agency authorized to transact business and exercise powers under part 43 and this part shall file with the local governing body, on or before September 30 of each year, a report of its activities for the preceding fiscal year. A copy of the annual report must be made available upon request to the county and school districts that include municipal territory.

(2) The report must include a complete financial statement setting forth its assets, liabilities, income, and operating expenses and the amount of the tax increment as of the end of the fiscal year. <u>The report must describe the public purpose of expenditures of tax increment and must demonstrate how the expenditures will increase the tax base of the district.</u>

(3) At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that the report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk and in the office of the agency."

Section 4. Section 7-15-4254, MCA, is amended to read:

"7-15-4254. Municipal power in the preparation of various plans. (1) ~~Every~~ <u>Subject to subsection (3), every</u> municipality shall have power, within the municipality:

(a) to make or have made all plans necessary to the carrying out of the purposes of this part and to contract with any person, public or private, in making and carrying out such plans; and

(b) to adopt or approve, modify, and amend such plans.

(2) Such plans may include, without limitation:

(a) a comprehensive plan or parts thereof for the locality as a whole;

(b) urban renewal plans;

(c) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;

(d) plans for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and

(e) appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of urban renewal projects.

(3) (a) The municipality shall hold an annual public hearing with the opportunity for public comment on administrative costs associated with the management of an urban renewal area.

(b) Except as provided in subsection (3)(a), the municipality shall hold a public hearing with the opportunity for public comment before expending tax increment or entering into a contract that may lead to the expenditure of tax increment. At the time of the hearing, the municipality shall set forth the public purpose of the proposed expenditure of tax increment, in accordance with the provisions of 7-15-4288, and shall set forth how the expenditure will increase the tax base of the district."

Section 5. Section 7-15-4279, MCA, is amended to read:

"7-15-4279. Targeted economic development districts. (1) A local government may, by ordinance and following a public hearing, authorize the creation of a targeted economic development district in support of value-adding economic development projects. The purpose of the district is the development of infrastructure to encourage the location and retention of value-adding projects in the state.

(2) A targeted economic development 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:

(i) for uses by a local government under Title 76, chapter 2, part 2 or 3, in accordance with the area growth policy, as defined in 76-1-103; or

(ii) if a county has not adopted a growth policy, then for uses in accordance with the development pattern and zoning regulations or the development district adopted under Title 76, chapter 2, part 1;

(c) may not comprise any property included within an existing tax increment financing district;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under 7-15-4280;

(e) must, prior to its creation, have in place a comprehensive development plan adopted by the local governments 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) The local government may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4294 for the targeted economic development district. If the local government uses tax increment financing, the use of and purpose for tax increment financing must be specified in the comprehensive

development plan required in subsection (2)(e). The plan must also demonstrate how the expenditure of tax increment will promote the development of infrastructure to encourage the location and retention of value-adding projects in the targeted economic development district.

(4) (a) The local government shall hold an annual public hearing with the opportunity for public comment on administrative costs associated with the management of the targeted economic development district.

(b) Except as provided in this subsection (4)(b), the local government shall hold a public hearing with the opportunity for public comment before expending tax increment or entering into a contract that may lead to the expenditure of tax increment. At the time of the hearing, the local government shall set forth the public purpose of the proposed expenditure of tax increment, in accordance with the provisions of 7-15-4288, and shall set forth how the expenditure will promote the development of infrastructure to encourage the location and retention of value-adding projects in the district.

~~(4)~~(5) For the purposes of 7-15-4277 through 7-15-4280:

(a) "secondary value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce;

(b) "secondary value-adding industry" means a business that produces secondary value-added products or commodities or a business or organization that is engaged in technology-based operations within Montana that, through the employment of knowledge or labor, adds value to a product, process, or export service resulting in the creation of new wealth."

Section 6. Section 7-15-4282, MCA, is amended to read:

"7-15-4282. Authorization for tax increment financing. (1) An urban renewal plan as defined in 7-15-4206 or a targeted economic development district comprehensive development plan created as provided in 7-15-4279 may contain a provision or be amended to contain a provision for the segregation and application of tax increments as provided in 7-15-4282 through 7-15-4294.

(2) The tax increment financing provision must take into account the effect on the county and school districts that include local government territory.

(3) The local governing body of an urban renewal district or targeted economic development district that authorizes a tax increment financing provision must prepare an annual report that meets the requirements of 7-15-4237. If urban renewal powers are assigned to an urban renewal agency as provided in 7-15-4232, the

urban renewal agency is required to prepare the annual report as provided in 7-15-4237."

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

"7-15-4288. Costs that may be paid by tax increment financing -- public hearing. (1) The tax increments may be used by the local government to pay the following costs of or incurred in connection with an urban renewal area or targeted economic development district as identified in the urban renewal plan or targeted economic development district comprehensive development plan:

~~(1)~~(a) land acquisition;

~~(2)~~(b) demolition and removal of structures;

~~(3)~~(c) relocation of occupants;

~~(4)~~(d) the acquisition, construction, and improvement of public improvements or infrastructure, including 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, publicly owned buildings, and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;

~~(5)~~(e) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

~~(6)~~(f) acquisition of infrastructure-deficient areas or portions of areas;

~~(7)~~(g) administrative costs associated with the management of the urban renewal area or targeted economic development district;

~~(8)~~(h) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the local government itself at its fair value;

~~(9)~~(i) the compilation and analysis of pertinent information required to adequately determine the needs of the urban renewal area or targeted economic development district;

~~(10)~~(j) the connection of the urban renewal area or targeted economic development district to existing infrastructure outside the area or district;

~~(11)~~(k) the provision of direct assistance to secondary value-adding industries to assist in meeting their infrastructure and land needs within the area or district; and

~~(12)~~(l) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution.

(2) The local government shall hold a public hearing with the opportunity for public comment, as provided in 7-15-4254 or 7-15-4279, before expending tax increment or entering into a contract that may lead to the expenditure of tax increment. At the time of the hearing, the local government shall set forth the public purpose of the proposed expenditure of tax increment, in accordance with the provisions of this section, and shall set forth how the expenditure will expand the tax base or promote the development of infrastructure to encourage the location and retention of value-adding projects in the district."

Section 8. Section 17-6-316, MCA, is amended to read:

"17-6-316. Economic development loan -- infrastructure tax credit. (1) A loan made pursuant to 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288~~(4)~~(1)(d), such as water systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation of a business in Montana. The loan must be made to a local government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business creating the jobs.

(2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received pursuant to subsection (3) of this section must be returned to the state.

(3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax years."

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