

SENATE BILL NO. 331

INTRODUCED BY M. PHILLIPS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MUNICIPALITY, A CONSOLIDATED
5 CITY-COUNTY, OR A COUNTY, BY VOTE OF THE ELECTORATE, TO ADOPT A LOCAL OPTION
6 INFRASTRUCTURE TAX ON LUXURY GOODS AND SERVICES; PROVIDING THAT LOCAL OPTION
7 INFRASTRUCTURE TAX REVENUE MAY BE USED FOR CRITICAL INFRASTRUCTURE PROJECTS;
8 DEFINING "LUXURY GOODS AND SERVICES" THAT MAY BE TAXED; PROVIDING THAT AN EXISTING
9 RESORT TAX IMPOSED BY A RESORT COMMUNITY, RESORT AREA, OR RESORT AREA DISTRICT MAY
10 REMAIN IN EFFECT OR MAY BE DISCONTINUED; PROVIDING FOR A PORTION OF LOCAL OPTION
11 INFRASTRUCTURE TAX REVENUE TO BE USED FOR PROPERTY TAX RELIEF FOR CLASS FOUR
12 PROPERTY TAXPAYERS; AMENDING SECTIONS 7-7-4424 AND 7-7-4428, MCA; AND PROVIDING AN
13 IMMEDIATE EFFECTIVE DATE."

14
15 WHEREAS, the state of Montana faces more than \$27 billion in critical infrastructure investment needs;
16 and

17 WHEREAS, the cities, towns, and counties in Montana bear the responsibility for the construction,
18 improvement, maintenance, and operation of most drinking water systems, wastewater treatment facilities, sewer
19 systems, streets, roads, and bridges; and

20 WHEREAS, local governments in Montana have limited tools for generating the necessary funding to
21 adequately construct, improve, maintain, and operate these critical infrastructure systems; and

22 WHEREAS, the Legislature seeks to address these critical infrastructure improvements through
23 public-private coordination and collaboration to construct, improve, maintain, and operate these systems in the
24 most cost-effective, experienced, and efficient manner possible to achieve the greatest benefit from increased
25 revenues targeted at critical infrastructure needs; and

26 WHEREAS, the Legislature acknowledges the value of private sector construction contractors,
27 engineering firms, land surveying firms, and architectural firms to Montana's state and local economies through
28 the contribution of knowledge and innovation, competitive bidding, tax revenue, and job creation; and

29 WHEREAS, the Legislature further acknowledges that many other Montana businesses, such as
30 suppliers, hotels, and fuel dealers, depend on private sector contractors and professional services firms; and



1 WHEREAS, the Legislature acknowledges that these private sector businesses provide the technical
2 expertise and local knowledge to efficiently deliver infrastructure projects; and

3 WHEREAS, the Legislature encourages municipalities and counties to take full advantage of private
4 sector design and construction capabilities to create jobs and to efficiently deliver critical infrastructure projects
5 funded in whole or in part with the revenues generated by local option infrastructure taxes.

6

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

8

9 NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Local Option
10 Infrastructure and Property Tax Relief Act".

11

12 NEW SECTION. **Section 2. Local option infrastructure tax -- definitions.** As used in [sections 1
13 through 9], the following definitions apply:

14 (1) "Critical infrastructure project" means the construction, improvement, maintenance, or operation of
15 local capital improvement and development that drives continued economic growth, including streets, roads, and
16 bridges and water supply, wastewater treatment, sewer, and other locally prioritized public facilities identified in
17 a petition provided for in [section 5(3)].

18 (2) (a) "Luxury goods and services" means a gift item, luxury item, rental motor vehicle, or other item or
19 a service normally sold to the public or to transient visitors or tourists.

20 (b) The term does not include food purchased unprepared or unserved, medicine, medical supplies or
21 services, appliances, hardware supplies or tools, sales of motor vehicles, or any necessities of life.

22 (3) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical
23 maintenance purposes, whether or not prescribed by a physician.

24 (4) "Medicine" means substances sold for curative or remedial properties, including both
25 physician-prescribed and over-the-counter medications.

26 (5) "Motor vehicle" means a self-propelled or towed vehicle designed for personal or commercial use,
27 including but not limited to an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile,
28 camper, boat, or personal watercraft or a trailer used to transport a motorcycle, boat, camper, or personal
29 watercraft.

30 (6) "Rental motor vehicle" means the rental of a motor vehicle as defined in subsection (5).

1
2 **NEW SECTION. Section 3. Local option taxing authority -- specific delegation.** As required by
3 7-1-112, [sections 1 through 9] specifically delegate to the qualified electors of each respective municipality,
4 consolidated city-county, or county the power to authorize their municipality, consolidated city-county, or county
5 to impose a local option infrastructure tax within the corporate boundary of the municipality or within the boundary
6 of the consolidated city-county or county.

7
8 **NEW SECTION. Section 4. Limit on local option infrastructure tax rate -- goods and services**
9 **subject to tax.** (1) The rate of a local option infrastructure tax must be established by the election petition or
10 resolution provided for in [section 5], but the rate may not exceed 4%.

11 (2) (a) A local option infrastructure tax is a tax on the retail value of all goods and services sold, except
12 for goods and services sold for resale, within a municipality, consolidated city-county, or county by the following
13 establishments:

- 14 (i) hotels, motels, and other lodging or camping facilities;
15 (ii) restaurants, fast food stores, and other food service establishments;
16 (iii) taverns, bars, nightclubs, lounges, and other public establishments that serve beer, wine, liquor, or
17 other alcoholic beverages by the drink; and
18 (iv) destination ski resorts and other destination recreational services and facilities.

19 (b) Establishments that sell luxury goods and services shall collect a tax on the luxury goods and
20 services.

21
22 **NEW SECTION. Section 5. Local option infrastructure tax -- election required -- procedure --**
23 **notice.** (1) A municipality, consolidated city-county, or county may not impose or, except as provided in [section
24 6], amend or repeal a local option infrastructure tax unless the local option infrastructure tax question has been
25 submitted to the electorate of the municipality, consolidated city-county, or county and approved by a majority
26 of the electors voting on the question.

- 27 (2) The local option infrastructure tax question may be presented to the electors of:
28 (a) a municipality by a petition of the electors, as provided by 7-1-4130, 7-5-131 through 7-5-135, and
29 7-5-137, or by a resolution of the governing body of the municipality;
30 (b) a county by a petition of electors, as provided in 7-5-131 through 7-5-135 and 7-5-137, or by a

- 1 resolution of the board of county commissioners; or
- 2 (c) a consolidated city-county by a petition of electors, as provided in 7-5-131 through 7-5-135 and
- 3 7-15-137, or by resolution of the governing body of the consolidated city-county.
- 4 (3) The petition or resolution referring the local option infrastructure tax question must state:
- 5 (a) the rate of the local option infrastructure tax;
- 6 (b) the duration of the local option infrastructure tax by:
- 7 (i) establishing an automatic sunset date;
- 8 (ii) referencing a revenue bond payoff schedule; or
- 9 (iii) referencing completion of a specified project or projects;
- 10 (c) the date the local option infrastructure tax becomes effective, which may not be earlier than 90 days
- 11 after the election; and
- 12 (d) the purposes that may be funded by the local option infrastructure tax revenue.
- 13 (4) Upon passage of a resolution or upon receipt of an adequate petition, the governing body may:
- 14 (a) call a special election on the local option infrastructure tax question; or
- 15 (b) place the local option infrastructure tax question on the ballot at the next regularly scheduled election.
- 16 (5) Notice of the election must be accomplished as provided in 13-1-108 and must include the
- 17 information contained in subsection (3) of this section.
- 18 (6) The question of the imposition of a local option infrastructure tax may not be placed before the
- 19 electors more than once in a fiscal year.

20

21 **NEW SECTION. Section 6. Local option infrastructure tax administration.** (1) As used in this

22 section, "governing body" means:

- 23 (a) if the local option infrastructure tax has been approved by the electors of a municipality, the governing
- 24 body of the municipality;
- 25 (b) if the local option infrastructure tax has been approved by the electors of a county, the board of
- 26 county commissioners; or
- 27 (c) if the local option infrastructure tax has been approved by the electors of a consolidated city-county,
- 28 the governing body of the consolidated city-county.
- 29 (2) Not less than 30 days prior to the date that the local option infrastructure tax becomes effective, the
- 30 governing body shall enact an administrative ordinance governing the collection and reporting of the local option

1 infrastructure tax. The administrative ordinance may be amended at any time as needed to effectively administer
2 the local option infrastructure tax.

3 (3) The administrative ordinance must specify:

4 (a) the times that local option infrastructure taxes collected by businesses are to be remitted to the
5 governing body;

6 (b) the office, officer, or employee of the governing body responsible for receiving and accounting for
7 the local option infrastructure tax receipts;

8 (c) the office, officer, or employee of the governing body responsible for enforcing the collection of the
9 local option infrastructure taxes and the methods and procedures to be used in enforcing the collection of local
10 option infrastructure taxes due; and

11 (d) the penalties for failure to report local option infrastructure taxes due, failure to remit taxes due, and
12 violations of the administrative ordinance. The penalties may include:

13 (i) criminal penalties not to exceed a fine of \$1,000 or 6 months imprisonment, or both;

14 (ii) if the governing body prevails in a suit for the collection of local option infrastructure taxes, civil
15 penalties not to exceed 50% of the local option infrastructure taxes found due plus the costs and attorney fees
16 incurred by the governing body in the action;

17 (iii) revocation of a county or municipal business license held by the offender; and

18 (iv) any other penalties that may apply for violation of an ordinance.

19 (4) The administrative ordinance may include:

20 (a) further clarification and specificity in the categories of goods and services that are subject to the local
21 option infrastructure tax consistent with [section 4];

22 (b) authorization for business administration and prepayment discounts. The discount authorization may
23 allow each vendor and commercial establishment to:

24 (i) withhold up to 5% of the local option infrastructure taxes collected to defray their costs of administering
25 the tax collection; or

26 (ii) receive a refund of up to 5% of the local option infrastructure tax payment received from the vendor
27 or establishment by the governing body 10 days prior to the collection due date established by the administrative
28 ordinance.

29 (c) other administrative details needed to efficiently and effectively administer the tax.
30

1 **NEW SECTION. Section 7. Use of local option infrastructure tax revenue -- bond issue -- pledge.**

2 (1) Unless otherwise restricted by the voter-approved tax authorization provided for in [section 5], a municipality,
3 consolidated city-county, or county may appropriate and expend revenue derived from a local option infrastructure
4 tax for any critical infrastructure project and any costs resulting from the imposition of the tax. The municipality,
5 consolidated city-county, or county may share local option infrastructure tax revenue with another municipality,
6 consolidated city-county, or county through an interlocal agreement.

7 (2) A municipality, consolidated city-county, or county may issue bonds to provide, install, or construct
8 any of the critical infrastructure projects authorized under subsection (3) as provided for under 7-7-4101,
9 7-7-4404, and 7-12-4102.

10 (3) Bonds issued under this section must be authorized by a resolution of the governing body stating the
11 purposes, amounts, terms, conditions, and covenants of the municipality, consolidated city-county, or county that
12 the governing body considers appropriate. The bonds may be sold at a discount at a public or private sale.

13 (4) For repayment of bonds issued under this section, a municipality, consolidated city-county, or county
14 may pledge the revenue derived from a local option infrastructure tax, special assessments levied for and
15 revenue collected from the critical infrastructure projects for which the bonds are issued, or any other source of
16 revenue authorized by the legislature to be imposed or collected by the municipality, consolidated city-county,
17 or county. The bonds do not constitute debt for purposes of any statutory debt limitation provided that, in the
18 resolution authorizing the issuance of the bonds, the municipality, consolidated city-county, or county determines
19 that the local option infrastructure tax revenue, special assessments levied for and revenue from the critical
20 infrastructure projects, or other sources of revenue, if any, pledged to the payment of the bonds will be sufficient
21 in each year to pay the principal and interest of the bonds when due.

22 (5) Bonds may not be issued that pledge proceeds of the local option infrastructure tax for repayment
23 unless the municipality, consolidated city-county, or county in the resolution authorizing issuance of the bonds
24 determines that in any fiscal year the annual revenue expected to be derived from the local option infrastructure
25 tax less the amount required to provide rebates pursuant to [section 8] equals at least 125% of the average
26 amount of the principal and interest payable from the local option infrastructure tax on the bonds and any other
27 outstanding bonds payable from the local option infrastructure tax, except any bonds to be refunded upon the
28 issuance of the proposed bonds.

29

30 **NEW SECTION. Section 8. Property tax relief.** (1) A municipality, a consolidated city-county, or a

1 county that authorizes a local option infrastructure tax pursuant to [sections 1 through 9] shall provide rebates
 2 for property taxes paid on class four property as provided for in 15-6-134. The rebates must total 10% or more
 3 of the local option infrastructure tax revenues collected during the preceding tax year.

4 (2) A rebate must be calculated by dividing the total amount of revenue available for rebates by the
 5 number of class four properties in the municipality, consolidated city-county, or county.

6 (3) Except as provided in subsection (4), the rebate must be a credit against property taxes due for the
 7 current tax year.

8 (4) If taxes are delinquent, the rebate must be applied to the delinquent taxes.

9

10 **NEW SECTION. Section 9. Coordination with other local option taxes.** (1) To coordinate two or
 11 more local option infrastructure taxes imposed within the same area, the rate of the local option infrastructure tax,
 12 the goods and services to be taxed, the duration of the tax, and restrictions on the use of tax revenue may be
 13 changed by submitting the question to the electorate of the local government that has an existing local option
 14 infrastructure tax. The ballot question may be submitted contingent on adoption of a local option infrastructure
 15 tax by another entity. The governing bodies of the municipality, consolidated city-county, and county may, by
 16 agreement, establish common administrative procedures for the administration and collection of the tax.

17 (2) A municipal, consolidated city-county, or county local option infrastructure tax may not be imposed
 18 in a resort community, resort area, or resort area district that existed before [the effective date of this act].
 19 However, an existing resort community, resort area, or resort area district may elect to terminate its tax and
 20 implement a municipal, consolidated city-county, or county local option infrastructure tax.

21

22 **Section 10.** Section 7-7-4424, MCA, is amended to read:

23 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b) and
 24 (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect
 25 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise
 26 the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains
 27 self-supporting.

28 (b) The property taxes specifically authorized to be levied for the general purpose served by an
 29 undertaking ~~or~~ any resort taxes approved, levied, and appropriated to an undertaking in compliance with
 30 7-6-1501 through 7-6-1509, or any local option infrastructure taxes approved, levied, and appropriated to an

1 undertaking in compliance with [sections 1 through 9] constitute revenue of the undertaking and may not result
 2 in an undertaking being considered not self-supporting.

3 (c) Revenue from assessments and fees enacted by local ordinance constitutes revenue of the
 4 undertaking and may not result in an undertaking being considered not self-supporting.

5 (2) The rates, fees, or charges prescribed, along with any appropriated property tax collections, local
 6 option infrastructure tax collections, or resort tax collections, must produce revenue at least sufficient to:

7 (a) pay when due all bonds and interest on the bonds for the payment of which the revenue has been
 8 pledged, charged, or otherwise encumbered, including reserves for the bonds; and

9 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."
 10

11 **Section 11.** Section 7-7-4428, MCA, is amended to read:

12 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions
 13 authorizing the issuance of bonds under this part may contain covenants as to:

14 (1) the purpose or purposes to which the proceeds of sale of the bonds may be applied and the
 15 disposition of the proceeds;

16 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,
 17 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
 18 of the property and resort tax revenue referred to in 7-7-4424 or the local option infrastructure tax revenue
 19 referred to in [section 7];

20 (3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking,
 21 of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with
 22 the services, facilities, or commodities of the undertaking;

23 (4) the issuance of other or additional bonds payable from the revenue of the undertaking;

24 (5) the operation and maintenance of the undertaking;

25 (6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

26 (7) books of account and the inspection and audit of the books; and

27 (8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the
 28 bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

29 (a) enter and take possession of the undertaking;

30 (b) operate and maintain the undertaking;

1 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and
2 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner
3 as the municipality itself might do."
4

5 NEW SECTION. **Section 12. Codification instruction.** [Sections 1 through 9] are intended to be
6 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1
7 through 9].
8

9 NEW SECTION. **Section 13. Saving clause.** [This act] does not affect rights and duties that matured,
10 penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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12 NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.
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- END -