

1 HOUSE BILL NO. 577

2 INTRODUCED BY D. FERN

3
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 revenue 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:

21 (i) food purchased unprepared or unserved;

22 (ii) medicine or medical supplies or services;

23 (iii) appliances, hardware supplies, or tools;

24 (iv) sales of motor vehicles;

25 (v) utility or utility-like services such as providing natural gas, electricity, water, telecommunications, or
26 cable television; or

27 (vi) any necessities of life.

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

30 (4) "Medicine" means substances sold for curative or remedial properties, including both

1 physician-prescribed and over-the-counter medications.

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

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

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

13
14 **NEW SECTION. Section 4. Limit on local option infrastructure tax rate -- goods and services**
15 **subject to tax.** (1) The rate of a local option infrastructure tax must be established by the election petition or
16 resolution provided for in [section 5], but the rate may not exceed 4%.

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

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

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

27
28 **NEW SECTION. Section 5. Local option infrastructure tax -- election required -- procedure --**
29 **notice.** (1) A municipality, consolidated city-county, or county may not impose or, except as provided in [section
30 6], amend or repeal a local option infrastructure tax unless the local option infrastructure tax question has been

1 submitted to the electorate of the municipality, consolidated city-county, or county and approved by a majority
2 of the electors voting on the question.

3 (2) The local option infrastructure tax question may be presented to the electors of:

4 (a) a municipality by a petition of the electors, as provided by 7-1-4130, 7-5-131 through 7-5-135, and
5 7-5-137, or by a resolution of the governing body of the municipality;

6 (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
7 resolution of the board of county commissioners; or

8 (c) a consolidated city-county by a petition of electors, as provided in 7-5-131 through 7-5-135 and
9 7-15-137, or by resolution of the governing body of the consolidated city-county.

10 (3) The petition or resolution referring the local option infrastructure tax question must state:

11 (a) the rate of the local option infrastructure tax;

12 (b) the duration of the local option infrastructure tax by:

13 (i) establishing an automatic sunset date of not more than 10 years;

14 (ii) referencing a revenue bond payoff schedule; or

15 (iii) referencing completion of a specified project or projects;

16 (c) the date the local option infrastructure tax becomes effective, which may not be earlier than 90 days
17 after the election; and

18 (d) the purposes that may be funded by the local option infrastructure tax revenue.

19 (4) Upon passage of a resolution or upon receipt of an adequate petition, the governing body may:

20 (a) call a special election on the local option infrastructure tax question; or

21 (b) place the local option infrastructure tax question on the ballot at the next regularly scheduled election.

22 (5) Notice of the election must be accomplished as provided in 13-1-108 and must include the
23 information contained in subsection (3) of this section.

24 (6) The question of the imposition of a local option infrastructure tax may not be placed before the
25 electors more than once every 2 years.

26

27 **NEW SECTION. Section 6. Local option infrastructure tax administration.** (1) As used in this
28 section, "governing body" means:

29 (a) if the local option infrastructure tax has been approved by the electors of a municipality, the governing
30 body of the municipality;

1 (b) if the local option infrastructure tax has been approved by the electors of a county, the board of
2 county commissioners; or

3 (c) if the local option infrastructure tax has been approved by the electors of a consolidated city-county,
4 the governing body of the consolidated city-county.

5 (2) Not less than 30 days prior to the date that the local option infrastructure tax becomes effective, the
6 governing body shall enact an administrative ordinance governing the collection and reporting of the local option
7 infrastructure tax. The administrative ordinance may be amended at any time as needed to effectively administer
8 the local option infrastructure tax.

9 (3) The administrative ordinance must specify:

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

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

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

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

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

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

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

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

25 (4) The administrative ordinance may include:

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

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

30 (i) withhold up to 5% of the local option infrastructure taxes collected to defray their costs of administering

1 the tax collection; or

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

5 (c) other administrative details needed to efficiently and effectively administer the tax.
6

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

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

13 (2) A municipality, consolidated city-county, or county may issue bonds to provide, install, or construct
14 any of the critical infrastructure projects authorized under subsection (3) as provided for under 7-7-4101,
15 7-7-4404, and 7-12-4102.

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

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

28 (5) Bonds may not be issued that pledge proceeds of the local option infrastructure tax for repayment
29 unless the municipality, consolidated city-county, or county in the resolution authorizing issuance of the bonds
30 determines that in any fiscal year the annual revenue expected to be derived from the local option infrastructure

1 tax less the amount required to provide rebates pursuant to [section 8] equals at least 125% of the average
2 amount of the principal and interest payable from the local option infrastructure tax on the bonds and any other
3 outstanding bonds payable from the local option infrastructure tax, except any bonds to be refunded upon the
4 issuance of the proposed bonds.

5
6 **NEW SECTION. Section 8. Property tax relief.** (1) A municipality, a consolidated city-county, or a
7 county that authorizes a local option infrastructure tax pursuant to [sections 1 through 9] shall provide rebates
8 for property taxes paid on class four property as provided for in 15-6-134. The rebates must total 25% or more
9 of the local option infrastructure tax revenue collected during the preceding tax year.

10 (2) The rebates must be calculated by:

11 (a) determining the ratio of class four residential property taxable value to the total class four taxable
12 value of the municipality, consolidated city-county, or county and determining the ratio of class four commercial
13 property taxable value to the total class four taxable value of the municipality, consolidated city-county, or county;

14 (b) applying the ratios determined pursuant to subsection (2)(a) to the amount of local option
15 infrastructure tax revenue designated for rebates to determine the amount of tax revenue available for class four
16 residential property rebates and the amount of tax revenue available for class four commercial property rebates;

17 (c) dividing the amount of tax revenue available for class four residential property rebates by the number
18 of class four residential parcels and dividing the amount of tax revenue available for class four commercial
19 property rebates by the number of class four commercial parcels. The dollar amount of the rebate for each class
20 four residential parcel must be equal and the dollar amount of the rebate for each class four commercial parcel
21 must be equal.

22 (3) Except as provided in subsection (4), the rebate must be a credit against property taxes due for the
23 current tax year to the municipality, consolidated city-county, or county that authorizes the local option
24 infrastructure tax.

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

26
27 **NEW SECTION. Section 9. Coordination with other local option taxes.** (1) To coordinate two or
28 more local option infrastructure taxes imposed within the same area, the rate of the local option infrastructure tax,
29 the goods and services to be taxed, the duration of the tax, and restrictions on the use of tax revenue may be
30 changed by submitting the question to the electorate of the local government that has an existing local option

1 infrastructure tax. The ballot question may be submitted contingent on adoption of a local option infrastructure
 2 tax by another entity. The governing bodies of the municipality, consolidated city-county, and county may, by
 3 agreement, establish common administrative procedures for the administration and collection of the tax.

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

8

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

10 **"7-7-4424. Undertakings to be self-supporting.** (1) (a) Except as provided in subsections (1)(b) and
 11 (1)(c), the governing body of a municipality issuing bonds pursuant to this part shall prescribe and collect
 12 reasonable rates, fees, or charges for the services, facilities, and commodities of the undertaking and shall revise
 13 the rates, fees, or charges from time to time whenever necessary so that the undertaking is and remains
 14 self-supporting.

15 (b) The property taxes specifically authorized to be levied for the general purpose served by an
 16 undertaking ~~or, any~~ resort taxes approved, levied, and appropriated to an undertaking in compliance with
 17 7-6-1501 through 7-6-1509, or any local option infrastructure taxes approved, levied, and appropriated to an
 18 undertaking in compliance with [sections 1 through 9] constitute revenue of the undertaking and may not result
 19 in an undertaking being considered not self-supporting.

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

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

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

26 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."
 27

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

29 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions
 30 authorizing the issuance of bonds under this part may contain covenants as to:

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

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

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

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

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

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

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

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

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

17 (b) operate and maintain the undertaking;

18 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and

19 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner
20 as the municipality itself might do."

21
22 **NEW SECTION. Section 12. Codification instruction.** [Sections 1 through 9] are intended to be
23 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1
24 through 9].

25
26 **NEW SECTION. Section 13. Saving clause.** [This act] does not affect rights and duties that matured,
27 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

28
29 **NEW SECTION. Section 14. Effective date.** [This act] is effective on passage and approval.

30 - END -