

1 SENATE BILL NO. 388
2 INTRODUCED BY G. HERTZ
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAX LAWS; REVISING
5 TARGETED ECONOMIC DEVELOPMENT DISTRICT LAWS; PROVIDING FOR INFRASTRUCTURE
6 THROUGH TAX INCREMENT FINANCING; PROVIDING THE TAX INCREMENT MAY NOT INCLUDE
7 CERTAIN STATE EQUALIZATION MILLS FOR ELEMENTARY AND HIGH SCHOOL EDUCATION; LIMITING
8 THE DURATION OF A FUTURE TAX INCREMENT PROVISION; AMENDING SECTIONS 7-15-4279, 7-15-
9 4283, 7-15-4286, 7-15-4288, AND 7-15-4292, ~~AND 7-15-4324~~, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE AND AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 7-15-4279, MCA, is amended to read:

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

19 (2) A targeted economic development district:

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

22 (b) must be zoned to permit the supported value-adding economic development uses for which the
23 district is intended or unzoned, provided development of the district is:

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

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

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

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

3 (e) must, prior to its creation, have in place a comprehensive development plan adopted by the local
4 governments that ensures that the district can host a diversified tenant base of multiple independent tenants;
5 and

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

8 (3) The local government may use tax increment financing pursuant to the provisions of 7-15-4282
9 through 7-15-4294 for the targeted economic development district. If the local government uses tax increment
10 financing, the use of and purpose for tax increment financing must be specified in the comprehensive
11 development plan required in subsection (2)(e). The plan must also describe how the expenditure of tax
12 increment will promote the development of infrastructure to encourage the location and retention of value-
13 adding projects in the targeted economic development district.

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

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

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

22

23 **Section 2.** Section 7-15-4283, MCA, is amended to read:

24 **"7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4277 through 7-
25 15-4280 and 7-15-4282 through 7-15-4294, the following definitions apply unless otherwise provided or
26 indicated by the context:

27 (1) "Actual taxable value" means the taxable value of all taxable property at any time, as calculated
28 from the property tax record.

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1 (2) "Base taxable value" means the actual taxable value of all taxable property within an urban
2 renewal area or targeted economic development district as it appears on the property tax record prior to the
3 effective date of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-
4 15-4293.

5 (3) "Incremental taxable value" means the amount, if any, by which the actual taxable value at any
6 time exceeds the base taxable value of all taxable property within an urban renewal area or targeted economic
7 development district.

8 (4) "Infrastructure" means tangible facilities and assets related to water, sewer, wastewater treatment,
9 storm water, solid waste and utilities systems, including natural gas, electrical and telecommunications systems
10 lines, fire protection, ambulance and law enforcement, workforce housing, streets, roads, curbs, gutters,
11 sidewalks, pedestrian malls, alleys, bridges, and other transportation needs, including but not limited to parking,
12 park and ride facilities and services, gondolas, and bus, air, and rail service.

13 (5) "Local government", for the purposes of a targeted economic development district, means any
14 incorporated city or town, a county, or a city-county consolidated local government.

15 (6) "Secondary value-added products or commodities" means products or commodities that are
16 manufactured, processed, produced, or created by changing the form of raw materials or intermediate products
17 into more valuable products or commodities that are capable of being sold or traded in interstate commerce.

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

22 ~~(5)(8)~~ "Targeted economic development district" means a district created pursuant to 7-15-4277
23 through 7-15-4280.

24 ~~(6)(9)~~ "Tax increment" means the collections realized from extending the tax levies, expressed in
25 mills, of all taxing bodies in which the urban renewal area or targeted economic development district or a part of
26 the area or district is located against the incremental taxable value.

27 ~~(7)(10)~~—"Tax increment provision" means a provision for the segregation and application of tax
28 increments as authorized by 7-15-4282 through 7-15-4294.

1 ~~(8)(11)~~— "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

2 ~~(9)(12)~~— "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,
4 that levies taxes against property within the urban renewal area or targeted economic development district.

5 (13) "Value-adding" means a project or a business that creates or increases economic opportunity in
6 an area through investment in facilities, land, improvements, or equipment, including but not limited to
7 manufacturing, technology, recreation, and tourism."

8

9 **Section 3.** Section 7-15-4286, MCA, is amended to read:

10 **"7-15-4286. Procedure to determine and disburse tax increment -- remittance of excess portion**
11 **of tax increment for targeted economic development district.** (1) Mill rates of taxing bodies for taxes levied
12 after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable
13 value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal
14 area or targeted economic development district and the base taxable value of all taxable property located within
15 the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all
16 taxable property located within as well as outside the area or district.

17 (2) (a) Except as provided in subsections (2)(b), ~~(2)(c)~~, and (3), the tax increment, if any, received in
18 each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental
19 taxable value within the area or district must be paid into a special fund held by the treasurer of the local
20 government and used as provided in 7-15-4282 through 7-15-4294.

21 (b) ~~The For targeted economic development districts in existence prior to July 1, 2021, and urban~~
22 ~~renewal areas, the combined mill rates used to calculate the tax increment may not include mill rates for:~~

23 (i) the university system mills levied pursuant to 15-10-109 and 20-25-439; and

24 (ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment
25 provision.

26 (c) ~~For targeted economic development districts created after June 30, 2021, the~~ combined mill rates
27 used to calculate the tax increment may not include mill rates for:

28 (i) the university system mills levied pursuant to 15-10-109 and 20-25-439; ~~and~~

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1 (ii)– one-half of the elementary, high school, and state equalization mills levied pursuant to 20-9-331,
2 20-9-333, and 20-9-360;

3 (iii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment
4 provision; and

5 (iv) any portion of an existing mill levy designated by the governing body of the local jurisdiction as
6 excluded from the tax increment.

7 (3) (a) Subject to 7-15-4287 and subsection (3)(b) of this section, a targeted economic development
8 district with a tax increment provision adopted after October 1, 2019, may expend or accumulate tax increment
9 for:

10 (i) the payment of the costs listed in 7-15-4288;

11 (ii) the cost of issuing bonds; or

12 (iii) any pledge to the payment of the principal of any premium, if any, and interest on the bonds issued
13 pursuant to 7-15-4289 and sufficient to fund any reserve fund in respect of the bonds in an amount not to
14 exceed 125% of the maximum principal and interest on the bonds in any year during the term of the bonds.

15 (b) Any excess tax increment remaining after the use or accumulation of funds as set forth in
16 subsection (3)(a) must be:

17 (i) remitted to each taxing jurisdiction for which the mill rates are included in the calculation of the tax
18 increment as provided in subsections (1) and (2); and

19 (ii) proportional to the taxing jurisdiction's share of the total mills levied.

20 (c) A targeted economic development district is not subject to the provisions of this subsection (3) if
21 bonds have not been issued to finance the project.

22 (4) Any portion of the excess tax increment remitted to a school district pursuant to subsection (3) is
23 subject to the provisions of 7-15-4291(2) through (5).

24 (5) The balance of the taxes collected in each year must be paid to each of the taxing bodies as
25 otherwise provided by law."
26

27 **Section 4.** Section 7-15-4288, MCA, is amended to read:

28 **"7-15-4288. Costs that may be paid by tax increment financing.** The tax increments may be used

1 by the local government to pay the following costs of or incurred in connection with an urban renewal area or
2 targeted economic development district as identified in the urban renewal plan or targeted economic
3 development district comprehensive development plan:

- 4 (1) land acquisition;
- 5 (2) demolition and removal of structures;
- 6 (3) relocation of occupants;
- 7 (4) the acquisition, construction, and improvement of public improvements or infrastructure, ~~including~~
8 ~~streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities,~~
9 ~~sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment~~
10 ~~facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges,~~ publicly
11 owned buildings, and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7,
12 chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in
13 connection with improvements for which the foregoing costs may be incurred;
- 14 (5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- 15 (6) acquisition of infrastructure-deficient areas or portions of areas;
- 16 (7) administrative costs associated with the management of the urban renewal area or targeted
17 economic development district;
- 18 (8) assemblage of land for development or redevelopment by private enterprise or public agencies,
19 including sale, initial leasing, or retention by the local government itself at its fair value;
- 20 (9) the compilation and analysis of pertinent information required to adequately determine the needs
21 of the urban renewal area or targeted economic development district;
- 22 (10) the connection of the urban renewal area or targeted economic development district to existing
23 infrastructure outside the area or district;
- 24 (11) the provision of direct assistance to secondary value-adding industries to assist in meeting their
25 infrastructure and land needs within the area or district; and
- 26 (12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing,
27 abating, or eliminating pollution."

28

1 **Section 5.** Section 7-15-4292, MCA, is amended to read:

2 **"7-15-4292. Termination of tax increment financing -- exception.** (1) The tax increment provision
3 contained in an urban renewal plan or a targeted economic development district comprehensive development
4 plan terminates upon the later of:

- 5 (a) the 15th year following its adoption; or
- 6 (b) the payment or provision for payment in full or discharge of all bonds for which the tax increment
7 has been pledged and the interest on the bonds, ~~but in no event may.~~ For targeted economic development
8 districts created after June 30, 2021, the combined term of the original bonds or any refunding bonds may not
9 extend the life of the tax increment provision longer than ~~20~~ 25 years.

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

13 (b) Upon termination of the tax increment provision, a local government may retain and use in
14 accordance with the provisions of the urban renewal plan:

15 (i) funds remaining in the special fund or a reserve fund related to a binding loan commitment,
16 construction contract, or development agreement for an approved urban renewal project or targeted economic
17 development district project that a local government entered into before the termination of a tax increment
18 provision;

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

21 (iii) funds from loans previously made pursuant to a loan program established under an urban renewal
22 plan or targeted economic development district comprehensive development plan.

23 (3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable
24 value of the taxable property in the urban renewal area or targeted economic development district and must be
25 paid to each of the taxing bodies as provided by law.

26 (4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th
27 anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are
28 outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be

1 issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then
2 outstanding and secured by the tax increment provision."

3

4 **Section 6.** Section 7-15-4324, MCA, is amended to read:

5 ~~"7-15-4324. **Special bond provisions when tax increment financing is involved.** (1) Bonds issued~~
6 ~~under this part for which a tax increment is pledged pursuant to 7-15-4282 through 7-15-4294 must be~~
7 ~~designed to mature not later than 25 20 years from their date of issue and must mature in years and amounts~~
8 ~~so that the principal and interest due on the bonds in each year may not exceed the estimated tax increment,~~
9 ~~payments in lieu of taxes or other amounts agreed to be paid by the property owners in a district, and other~~
10 ~~estimated revenue, including proceeds of the bonds available for payment of interest on the bonds, pledged to~~
11 ~~their payment to be received in that year.~~

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

18

19 **NEW SECTION. Section 6. Saving clause.** [This act] does not affect rights and duties that matured,
20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

21

22 **NEW SECTION. Section 7. Effective date.** [This act] is effective on passage and approval.

23

24 **NEW SECTION. Section 8. Applicability.** [This act] applies to targeted economic development
25 districts created after June 30, 2021.

26

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