

1 HOUSE BILL NO. 288

2 INTRODUCED BY B. PHALEN

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR
5 PROPERTY TAX RELIEF FOR A BUSINESS WHEN A GOVERNMENT ENTITY IMPOSES A CURFEW OR
6 OCCUPANCY REDUCTION DURING A STATE OF EMERGENCY OR DISASTER; PROVIDING FOR
7 PERCENTAGE-BASED REDUCTIONS IN CLASS FOUR AND CLASS EIGHT PROPERTY TAX PAYMENTS
8 MADE BY A BUSINESS AGAINST THE BUDGET OF A LOCAL GOVERNMENT ENTITY AND THE STATE;
9 PROVIDING PROPERTY TAX INTEREST AND PENALTY WAIVERS FOR AN IMPACTED BUSINESS;
10 PROVIDING FOR A REDUCTION IN SPENDING BY GOVERNMENT ENTITIES; SUPERSEDING THE
11 UNFUNDED MANDATE LAWS; AMENDING SECTIONS 10-3-302, 10-3-303, 10-3-405, AND 15-16-102, MCA;
12 AND PROVIDING AN APPLICABILITY DATE."

13

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

15

16 **NEW SECTION. Section 1. Business property tax payment exemptions during emergency or**
17 **disaster.** (1) There is an initial property tax payment exemption for a business with class four property
18 described in 15-6-134 and class eight property business equipment described in 15-6-138 when the governor, a
19 local board of health, or a local governing body issues a directive, mandate, or order imposing a curfew or
20 occupancy reduction on customers of the businesses for greater than 14 consecutive days, as allowed in Title
21 10, chapter 3, or Title 50, chapters 1 and 2. There is an additional property tax payment exemption after a
22 business receives an initial exemption that is based on the daily duration of the curfew or occupancy reduction.

23 (2) In order to be eligible for the exemptions, the business must be open to the public and directly
24 impacted by the curfew or occupancy reduction.

25 (3) All businesses that satisfy the criteria of this section automatically qualify and an application is not
26 required as long as the curfew or occupancy reduction is enforced against the customers of the business with
27 class four property for 14 days prior to the property tax payment deadline.

28 (4) (a) The initial exemption for a business is equal to 25% of the portion of the property tax bill that is

1 attributable to the budget of the government entity that imposed the curfew or occupancy reduction. The initial
2 exemption may only be claimed once during the curfew or occupancy reduction.

3 (b) After receiving the initial exemption in subsection (4)(a), a qualifying business is entitled to an
4 extended exemption equal to a percentage that is calculated by dividing the daily duration of the curfew or
5 occupancy reduction during the applicable payment period by 365. The calculated percentage is the additional
6 exemption percentage that is applied toward the portion of the property tax bill that is attributable to the budget
7 of the government entity that imposed the curfew or occupancy reduction. The applicable payment period for
8 the extended exemption is the duration of time between the last property tax payment and the deadline for the
9 current property tax payment. The extended exemption may be claimed until the curfew or occupancy reduction
10 on customers of the business is terminated.

11 (c) The legislature intends to directly impact the general operating budget of the government entity
12 imposing the directive, mandate, or order. Any loss in property tax revenue based on the exemption provided in
13 this section is not reimbursable by increasing taxes on taxpayers in any other class, and the emergency levy
14 provisions of 10-3-405 do not apply. The government entity imposing the curfew or occupancy reduction on
15 customers of a business must reduce spending or operate with the reduction in revenue. If the state imposes
16 the curfew or occupancy reduction on customers of a business, the reduction in property tax revenue is applied
17 against revenue that would have been deposited in the state general fund by the business.

18 (5) If a business makes a property tax payment without subtracting the amount of the exemptions
19 provided in this section, the business may subtract the amount of the exemption on the next tax payment in
20 addition to any future exemption. The exemptions in this section apply to all property tax payments, including
21 annual and biannual payments. The county treasurer shall assist eligible business taxpayers in determining the
22 amount of the exemption.

23 (6) A business that qualifies for an exemption in this section is not subject to the penalty and interest
24 provisions provided in 15-16-102 if property taxes are paid within 30 calendar days of the date on which the
25 taxes were due. If a tax payment is made later than 30 days after the taxes were due, the penalty must be paid
26 and interest accrues from the date on which the taxes were due.

27 (7) As used in this section, the following definitions apply:

28 (a) "Curfew" means closing of a business establishment to the public during a stated time that is not

1 as long as the amount of time that a business is generally allowed to stay open to the public under state and
2 local law without regard to the directive, mandate, or order.

3 (b) "Occupancy reduction" means the number of people that are permitted to be in a building or an
4 outdoor venue at one time is fewer than the amount that is generally allowed under state and local law without
5 regard to the directive, mandate, or order.

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7 **Section 2.** Section 10-3-302, MCA, is amended to read:

8 **"10-3-302. Declaration of emergency -- effect and termination.** (1) A state of emergency may be
9 declared by the governor when the governor determines that an emergency as defined in 10-3-103 exists.

10 (2) An executive order or proclamation of a state of emergency activates the emergency response
11 and disaster preparation aspects of the state disaster and emergency plan and program applicable to the
12 political subdivision or area and is authority for the deployment and use of any forces to which the plans apply
13 and for the distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled,
14 or arranged to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law
15 pertaining to disasters and disaster-related emergencies. An executive order or proclamation may authorize the
16 practice of disaster medicine. The provisions of 10-3-110 do not apply to the state of emergency unless the
17 order or proclamation includes a provision authorizing the practice of disaster medicine.

18 (3) A state of emergency may not continue for longer than 30 days unless continuing conditions of the
19 state of emergency exist, which must be determined by a declaration of an emergency by the president of the
20 United States or by a declaration of the legislature by joint resolution of continuing conditions of the state of
21 emergency.

22 (4) When a state of emergency is called, a portion of class four and class eight property tax
23 collections from an impacted business are exempt as provided in [section 1]."

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25 **Section 3.** Section 10-3-303, MCA, is amended to read:

26 **"10-3-303. Declaration of disaster -- effect and termination.** (1) A state of disaster may be
27 declared by the governor when the governor determines that a disaster has occurred.

28 (2) An executive order or proclamation of a state of disaster activates the disaster response and

1 recovery aspects of the state disaster and emergency plan and program applicable to the political subdivision
 2 or area and is authority for the deployment and use of any forces to which the plans apply and for the
 3 distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged
 4 to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to
 5 disaster and disaster-related emergencies. The executive order or proclamation may authorize the practice of
 6 disaster medicine. The provisions of 10-3-110 do not apply to the state of disaster unless the order or
 7 proclamation includes a provision authorizing the practice of disaster medicine.

8 (3) A state of disaster may not continue for longer than 45 days unless continuing conditions of the
 9 state of disaster exist, which must be determined by a declaration of a major disaster by the president of the
 10 United States or by the declaration of the legislature by joint resolution of continuing conditions of the state of
 11 disaster.

12 (4) The governor shall terminate a state of emergency or disaster when:

13 (a) the emergency or disaster has passed;

14 (b) the emergency or disaster has been dealt with to the extent that emergency or disaster conditions
 15 no longer exist; or

16 (c) at any time the legislature terminates the state of emergency or disaster by joint resolution.

17 However, after termination of the state of emergency or disaster, disaster and emergency services required as
 18 a result of the emergency or disaster may continue.

19 (5) When a state of disaster is called, a portion of class four and class eight property tax collections
 20 from an impacted business are exempt as provided in [section 1]."

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22 **Section 4.** Section 10-3-405, MCA, is amended to read:

23 **"10-3-405. Levying emergency tax -- disposition of surplus.** (1) The governing body of the city or
 24 town or the governing body of the county, or both, shall estimate expenditures and levy an emergency millage
 25 to cover the expenditures. The millage levied by the governing body of the city or town shall not exceed 2 mills
 26 on the municipality's taxable valuation. The millage levied by the governing body of the county shall not exceed
 27 2 mills on the taxable valuation of the county outside the municipalities.

28 (2) No expenditure of revenue received from the millage shall be made without approval of the

1 appropriate levying body.

2 (3) An additional levy or levies may be made by the appropriate levying body, providing that the sum
3 of the levies for emergencies as set forth in this section shall not exceed 2 mills in any one year.

4 (4) All levies under this section may be passed only by a unanimous vote of the appropriate body.

5 (5) Funds levied for an emergency and remaining when no further expenditures are necessary shall
6 remain in a separate emergency fund and shall be used only for expenditures arising from future emergencies.

7 (6) Any loss in property tax revenue based on the business exemption provided in [section 1] is not
8 reimbursable by increasing taxes on taxpayers in any other class, and the emergency levy provisions of this
9 section do not apply."

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11 **Section 5.** Section 15-16-102, MCA, is amended to read:

12 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the
13 provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,
14 except assessments made for special improvements in cities and towns payable under 15-16-103, are payable
15 as follows:

16 (1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30
17 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May
18 31 of each year.

19 (2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within
20 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws
21 interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the
22 delinquent taxes as a penalty.

23 (3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw
24 interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the
25 delinquent taxes as a penalty.

26 (4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without
27 penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

28 (b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-305

1 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty
2 or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and
3 interest accrues from the date on which the taxes were due.

4 (c) If taxes on property qualifying under one of the property tax payment exemptions for class four
5 and class eight property owned by a business and described in [section 1] are paid within 30 calendar days of
6 the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made
7 later than 30 days after the taxes were due, the penalty must be paid and interest accrues from the date on
8 which the taxes were due.

9 (5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer
10 shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full
11 tax years if taxes currently due for the current tax year have been paid. Payment of taxes for delinquent taxes
12 must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax
13 year is not a redemption of the property tax lien for any delinquent tax year.

14 (b) A payment by a co-owner of an undivided ownership interest that is subject to a separate
15 assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

16 (6) The penalty and interest on delinquent assessment payments for specific parcels of land may be
17 waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

18 (7) If the department revises an assessment that results in an additional tax of \$5 or less, an
19 additional tax is not owed and a new tax bill does not need to be prepared.

20 (8) The county treasurer may accept a partial payment of centrally assessed property taxes as
21 provided in 76-3-207."

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23 NEW SECTION. Section 6. Unfunded mandate laws superseded. The provisions of [this act]
24 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

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26 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
27 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

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