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HOUSE BILL NO. 861

INTRODUCED BY B. PHALEN, J. HINKLE, C. HINKLE, T. SMITH, E. BUTCHER

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

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

NEW SECTION. Section 1. **Business property tax ~~payment~~ exemption-~~credits~~ credit during emergency or disaster.** (1) There is ~~an initial~~ a property tax ~~payment~~ exemption credit for a business with class four property described in 15-6-134 and class eight property business equipment described in 15-6-138 when the governor, ~~a local board of health, or~~ a local governing body, or an entity of a local governing body issues a directive, mandate, or order imposing a curfew or occupancy reduction on customers of the businesses for greater than 14 consecutive days of a property tax year, as allowed in Title 10, chapter 3, or Title 50, chapters 1 and 2. ~~There is an additional extended exemption credit after a business receives an initial exemption credit that is based on the daily duration of the curfew or occupancy reduction. The department, in consultation with the county treasurer, shall determine the amount of the exemption credit that the business is entitled to receive. The department shall provide the amount of the exemption credit for each business that submits a claim for the exemption credit to the county treasurer. The county treasurer shall send a revised tax bill to a qualifying business that provides the total amount of property taxes due after a reduction for the~~

1 ~~exemption credit. If the exemption credit is based on a decision of the governor, then the county treasurer shall~~
2 ~~decrease the amount of property taxes that would have been distributed to the state general fund by the~~
3 ~~amount of the exemption credit. If the exemption credit is based on a decision of a local government, then the~~
4 ~~county treasurer shall decrease the amount of property taxes that would have been distributed to the local~~
5 ~~government by the amount of the exemption credit.~~

6 (2) ~~— In order to be eligible for the exemption credit and extended exemption credit, the business~~
7 ~~must be open to the public and directly impacted by the curfew or occupancy reduction.~~

8 (3) ~~— All businesses that satisfy the criteria of this section qualify as long as the curfew or occupancy~~
9 ~~reduction is enforced against the customers of the business with class four property for 14 days prior to the~~
10 ~~property tax payment deadline. In order to claim the exemption credit, a business shall pay the full amount of~~
11 ~~property tax due and claim the exemption credit on a form promulgated by the department. A qualifying~~
12 ~~business is entitled to receive the exemption credit on the next tax bill based on the amount of the exemption~~
13 ~~credit determined by the department as provided in subsection (1).~~

14 (4)(2) (a) ~~The initial exemption credit for a business that receives a reduction of property taxes on the~~
15 ~~next property tax bill is equal to 25% of the portion of the property tax bill that is attributable to the budget of the~~
16 ~~property taxes assessed by the government entity that imposed the curfew or occupancy reduction and is~~
17 ~~available as a credit on the first property tax payment during the following tax year. If an entity of a local~~
18 ~~government, including but not limited to a local board of health, imposes a curfew or occupancy reduction, the~~
19 ~~calculation includes all property taxes assessed by the local government and is not limited to the property taxes~~
20 ~~attributable to the local government entity. If more than one government entity imposes a curfew or occupancy~~
21 ~~reduction, the exemption credit amount is based on the property taxes assessed by the first government entity~~
22 ~~to impose the curfew or occupancy reduction for greater than 14 consecutive days of a property tax year.~~

23 (3) ~~The initial exemption credit may only be claimed once during the curfew or occupancy~~
24 ~~reduction and must be provided on the tax bill that is received after a business claims the exemption credit if the~~
25 ~~business files a claim for the exemption credit with the department for any tax year in which there was a curfew~~
26 ~~or occupancy reduction and must be claimed by March 1 of the following tax year on a form promulgated by the~~
27 ~~department. In order to be eligible for the exemption credit, the business shall establish that property taxes are~~
28 ~~current and that the business was directly impacted by the curfew or occupancy reduction for greater than 14~~

1 days. If a business is sold or has a change in ownership after an exemption credit is granted by the department,
2 the credit is not extinguished and follows the property as a credit for the property owner.

3 ~~(b) After receiving the initial exemption credit in subsection (4)(a), a qualifying business is entitled~~
4 ~~to an extended exemption credit equal to a percentage that is calculated by dividing the daily duration of the~~
5 ~~curfew or occupancy reduction during the applicable payment period by 365. The calculated percentage is the~~
6 ~~additional exemption credit percentage that is applied toward the portion of the property tax bill that is~~
7 ~~attributable to the budget of the government entity that imposed the curfew or occupancy reduction. The~~
8 ~~applicable payment period for the extended exemption credit is the duration of time between the last property~~
9 ~~tax payment and the deadline for the current property tax payment. The extended exemption credit may be~~
10 ~~claimed until the curfew or occupancy reduction on customers of the business is terminated. In order to claim~~
11 ~~the extended exemption credit, a business shall pay the full amount of property tax due minus exemption~~
12 ~~credits received pursuant to this section and claim the extended exemption credit on a form promulgated by the~~
13 ~~department. A qualifying business is entitled to receive the extended exemption credit on the next tax bill based~~
14 ~~on the amount of the extended exemption credit determined by the department.~~

15 ~~(c)(4)~~ The legislature intends to directly impact the general operating budget of the government entity
16 imposing the directive, mandate, or order. Any loss in property tax revenue based on the exemption credit ~~and~~
17 ~~extended exemption credit~~ provided in this section is not reimbursable by increasing taxes on taxpayers in any
18 other class, and the emergency levy provisions of 10-3-405 do not apply. The government entity imposing the
19 curfew or occupancy reduction on customers of a business shall reduce spending or operate with the reduction
20 in revenue and may not increase mills pursuant to 15-10-420 to account for a decrease in tax revenue. If the
21 state imposes the curfew or occupancy reduction on customers of a business, the reduction in property tax
22 revenue is applied against revenue that would have been deposited in the state general fund treasury by the
23 business, but it does not include university system mills levied pursuant to 15-10-109 and 20-25-439.

24 ~~(5) The exemption credit and extended exemption credit in this section apply to all property tax~~
25 ~~payments, including annual and biannual payments.~~

26 ~~(6) A business that qualifies for an exemption credit or extended exemption credit in this section is~~
27 ~~not subject to the penalty and interest provisions as provided in 15-16-102 if property taxes are paid within 30~~
28 ~~calendar days of the date on which the taxes were due. If a tax payment is made later than 30 days after the~~

1 ~~taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

2 ~~(7)(5)~~ As used in this section, the following definitions apply:

3 (a) "Curfew" means the closing of a business establishment to the public during a stated time that
4 is not as long as the amount of time that a business is generally allowed to stay open to the public under state
5 and local law without regard to the directive, mandate, or order.

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

9

10 **Section 2.** Section 10-3-303, MCA, is amended to read:

11 **"10-3-303. Declaration of emergency or disaster -- effect and termination.** (1) A state of
12 emergency may be declared by the governor when the governor determines that an emergency as defined in
13 10-3-103 exists. A state of disaster may be declared by the governor when the governor determines that a
14 disaster, as defined in 10-3-103, has occurred. The governor may not declare another state of emergency or
15 disaster based on the same or substantially similar facts and circumstances without legislative approval.

16 (2) (a) An executive order or proclamation of a state of emergency activates the emergency
17 response and disaster preparation aspects of the state disaster and emergency plan.

18 (b) An executive order or proclamation of a state of disaster activates the disaster response and
19 recovery aspects of the state disaster and emergency plan.

20 (c) Both the disaster preparation aspects and disaster response and recovery aspects of the plans
21 in subsections (2)(a) and (2)(b) are the programs applicable to the political subdivision or area and are authority
22 for the deployment and use of any forces to which the plans apply and for the distribution and use of any
23 supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available
24 pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to disaster and disaster-
25 related emergencies. An executive order or proclamation may authorize the practice of disaster medicine. The
26 provisions of 10-3-110 do not apply to the state of emergency or disaster unless the order or proclamation
27 includes a provision authorizing the practice of disaster medicine.

28 (3) (a) Except as provided in subsection (3)(b), a state of emergency or disaster may not continue

1 for longer than 45 days unless continuing conditions of the state of emergency or disaster exist, which must be
2 determined through a poll of the legislature as provided in 10-3-122 or by the declaration of the legislature by
3 joint resolution of continuing conditions of the state of emergency or disaster.

4 (b) A state of emergency or disaster may continue for a drought, an earthquake, flooding, or a
5 wildfire as long as continuing conditions of the state of emergency or disaster exist unless terminated by the
6 declaration of the legislature by joint resolution of termination of the state of emergency or disaster.

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

8 (a) the emergency or disaster has passed;

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

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

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

14 (5) The legislature may, by joint resolution in a regular or special session:

15 (a) terminate a state of emergency or disaster as provided in subsection (4)(c);

16 (b) extend a state of disaster;

17 (c) provide conditions or limits on the governor's actions taken pursuant to 10-3-104; and

18 (d) approve or disapprove the continuation of any executive order, proclamation, or regulation that
19 was enacted based on a state of emergency or disaster.

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

22

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

24 **"10-3-405. Levying emergency tax -- disposition of surplus.** (1) The governing body of the city or
25 town or the governing body of the county, or both, shall estimate expenditures and levy an emergency millage
26 to cover the expenditures. The millage levied by the governing body of the city or town shall not exceed 2 mills
27 on the municipality's taxable valuation. The millage levied by the governing body of the county shall not exceed
28 2 mills on the taxable valuation of the county outside the municipalities.

1 (2) No expenditure of revenue received from the millage shall be made without approval of the
2 appropriate levying body.

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

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

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

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

13 **Section 4.** ~~Section 15-16-102, MCA, is amended to read:~~

14 ~~"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or cancelled under~~
15 ~~the provisions of 10-1-606, 15-23-708, or Title 15, chapter 24, part 17, all taxes levied and assessed in the state~~
16 ~~of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103,~~
17 ~~are payable as follows:~~

18 (1) ~~One half of the taxes are payable on or before 5 p.m. on November 30 of each year or within~~
19 ~~30 days after the tax notice is postmarked, whichever is later, and one half are payable on or before 5 p.m. on~~
20 ~~May 31 of each year.~~

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

25 (3) ~~All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw~~
26 ~~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~~
27 ~~delinquent taxes as a penalty.~~

28 (4) ~~(a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without~~

1 ~~penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.~~

2 ~~(b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-~~
3 ~~305 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without~~
4 ~~penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be~~
5 ~~paid and interest accrues from the date on which the taxes were due.~~

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

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

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

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

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

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

24
25 **NEW SECTION. Section 4. Unfunded mandate laws superseded.** The provisions of [this act]
26 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

27
28 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

2

3 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

4

5 NEW SECTION. **Section 7. Applicability.** [This act] applies to class four and class eight property tax
6 payments from a business impacted by a state of emergency or disaster that are due after [the effective date of
7 this act].

8

- END -

AMEND