

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 PERCENTAGE-BASED REDUCTIONS 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, 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 during

emergency or disaster. (1) There is an initial 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 issues a directive, mandate, or order imposing a curfew or occupancy reduction on customers of the businesses for greater than 14 consecutive days, 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 exemption credit. If the exemption credit is based on a decision of the governor, then the county treasurer shall decrease the amount of property taxes that would have been

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

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

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

12 (4) (a) The initial exemption credit for a business that receives a reduction of property taxes on the
13 next property tax bill is equal to 25% of the portion of the property tax bill that is attributable to the budget of the
14 government entity that imposed the curfew or occupancy reduction. The initial exemption credit may only be
15 claimed once during the curfew or occupancy reduction and must be provided on the tax bill that is received
16 after a business claims the exemption credit if the business files a claim for the exemption credit with the
17 department.

18 (b) After receiving the initial exemption credit in subsection (4)(a), a qualifying business is entitled
19 to an extended exemption credit equal to a percentage that is calculated by dividing the daily duration of the
20 curfew or occupancy reduction during the applicable payment period by 365. The calculated percentage is the
21 additional exemption credit percentage that is applied toward the portion of the property tax bill that is
22 attributable to the budget of the government entity that imposed the curfew or occupancy reduction. The
23 applicable payment period for the extended exemption credit is the duration of time between the last property
24 tax payment and the deadline for the current property tax payment. The extended exemption credit may be
25 claimed until the curfew or occupancy reduction on customers of the business is terminated. In order to claim
26 the extended exemption credit, a business shall pay the full amount of property tax due minus exemption
27 credits received pursuant to this section and claim the extended exemption credit on a form promulgated by the
28 department. A qualifying business is entitled to receive the extended exemption credit on the next tax bill based

1 on the amount of the extended exemption credit determined by the department.

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

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

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

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

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

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

23

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

25 **"10-3-303. Declaration of emergency or disaster -- effect and termination.** (1) A state of
26 emergency may be declared by the governor when the governor determines that an emergency as defined in
27 10-3-103 exists. A state of disaster may be declared by the governor when the governor determines that a
28 disaster, as defined in 10-3-103, has occurred. The governor may not declare another state of emergency or

1 disaster based on the same or substantially similar facts and circumstances without legislative approval.

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

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

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

14 (3) (a) Except as provided in subsection (3)(b), a state of emergency or disaster may not continue
15 for longer than 45 days unless continuing conditions of the state of emergency or disaster exist, which must be
16 determined through a poll of the legislature as provided in 10-3-122 or by the declaration of the legislature by
17 joint resolution of continuing conditions of the state of emergency or disaster.

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

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

22 (a) the emergency or disaster has passed;

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

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

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

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

- 1 (a) terminate a state of emergency or disaster as provided in subsection (4)(c);
- 2 (b) extend a state of disaster;
- 3 (c) provide conditions or limits on the governor's actions taken pursuant to 10-3-104; and
- 4 (d) approve or disapprove the continuation of any executive order, proclamation, or regulation that
- 5 was enacted based on a state of emergency or disaster.

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

8

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

10 **"10-3-405. Levying emergency tax -- disposition of surplus.** (1) The governing body of the city or
 11 town or the governing body of the county, or both, shall estimate expenditures and levy an emergency millage
 12 to cover the expenditures. The millage levied by the governing body of the city or town shall not exceed 2 mills
 13 on the municipality's taxable valuation. The millage levied by the governing body of the county shall not exceed
 14 2 mills on the taxable valuation of the county outside the municipalities.

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

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

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

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

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

26

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

28 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or cancelled under

1 the provisions of 10-1-606, 15-23-708, or Title 15, chapter 24, part 17, all taxes levied and assessed in the state
2 of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103,
3 are payable as follows:

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

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

11 (3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw
12 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
13 delinquent taxes as a penalty.

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

16 (b) If taxes on property qualifying under the property tax assistance program provided for in 15-6-
17 305 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without
18 penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be
19 paid and interest accrues from the date on which the taxes were due.

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

25 (5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county
26 treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or
27 more full tax years if taxes currently due for the current tax year have been paid. Payment of taxes for
28 delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for

1 the current tax year is not a redemption of the property tax lien for any delinquent tax year.

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

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

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

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

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11 NEW SECTION. Section 5. Unfunded mandate laws superseded. The provisions of [this act]
12 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

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14 NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an
15 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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17 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

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19 NEW SECTION. Section 8. Applicability. [This act] applies to class four and class eight property tax
20 payments from a business impacted by a state of emergency or disaster that are due after [the effective date of
21 this act].

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