

1 HOUSE BILL NO. 865
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5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING LOCAL GOVERNMENT EXPENDITURE GROWTH;
 7 PROVIDING THAT THE LIMIT IS EQUAL TO THE AVERAGE RATE OF INFLATION FOR THE PRIOR 3
 8 YEARS PLUS THE AVERAGE POPULATION GROWTH OF A LOCAL GOVERNMENT ENTITY IN THE
 9 PRIOR 3 YEARS; PROVIDING EXCEPTIONS; PROVIDING MECHANISMS TO EXPEND AN AMOUNT
 10 ABOVE THE EXPENDITURE LIMITATION IN CERTAIN SITUATIONS; PROVIDING AN APPROPRIATION;
 11 AMENDING SECTIONS ~~7-6-4037, 7-6-4038~~, 15-10-420, AND 15-10-425, MCA; AND PROVIDING EFFECTIVE
 12 DATES AND AN APPLICABILITY DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
 16 **NEW SECTION. Section 1. Local government expenditure limitation -- exceptions.** (1) Except as
 17 provided in subsection (4), total expenditures by a local government entity, as defined in 7-6-602, for fiscal
 18 years beginning July 1, 2024, may not exceed the greater of:

- 19 (a) the total amount ~~expended of the applicable budgeted expenditures~~ by the local government
 20 entity in the prior fiscal year as determined in subsection (2); or
- 21 (b) the sum of the average inflation rate of the prior 3 years plus the average population growth
 22 rate of the local government entity for the prior 3 years multiplied by the amount of money expended in the prior
 23 fiscal year. The rate of inflation must be calculated using the consumer price index as published by the United
 24 States department of labor. The population growth rate must be calculated using the most recent estimate
 25 published by the United States census bureau.

26 (2) For the purposes of the local government expenditure limitation, total expenditures include
 27 expenditures from all available sources of revenues collected during the prior year, including but not limited to
 28 revenue collected pursuant to Title 7 and Title 15, but not including:

- 1 (a) money from the federal government;
- 2 (b) money from the state ~~government or other government entities~~ in the form of a grant ~~or other~~
- 3 ~~eligible reimbursements, including intergovernmental transfers of restricted funds;~~
- 4 (c) payments of principal and interest on bonded indebtedness;
- 5 (d) grants, gifts, devises, or bequests made to the local government entity;
- 6 (e) enterprise funds in existence prior to January 1, 2024, including but not limited to funds for
- 7 airports, water and sewer systems, and landfills, ~~street maintenance, and arterial construction;~~
- 8 (f) revenue collected from a mill levy election held pursuant to 15-10-425; and
- 9 (g) any funds collected, held, or expended on behalf of ~~a special district~~ any voter-authorized
- 10 special purpose districts;
- 11 (h) any planned expenditure funded by savings or by a capital improvement plan if the expenditure
- 12 was approved by voters by referendum.

13 (3) A local government entity is not required to expend the full amount allowed in subsection (1) in
 14 a fiscal year.

15 (4) (a) A local government entity may expend an amount above the expenditure limitation provided
 16 in this section:

17 (i) if the governor declares or renews a declaration of emergency or disaster pursuant to 10-3-303
 18 in that fiscal year and the declaration includes all or part of the geographic territory of the local government
 19 entity;

20 (ii) ~~to deposit funds in an account for emergency savings that is to be expended only if the~~
 21 ~~revenue in a given year is below the expenditure limitation~~ to establish adequate reserves as authorized by law;

22 (iii) to service debt incurred prior to July 1, 2026; or

23 (iv) if the local government entity passes a resolution and submits to the electors the question to
 24 approve an amount above the expenditure limitation. If the majority voting on the question is in favor of
 25 expending an amount above the expenditure limitation, the local government entity shall apply the additional
 26 amount to the budget of the fiscal year for which the resolution was passed and subsequent fiscal years until
 27 revoked by the local government entity. An election allowed in this subsection (4)(a)(iv) must be held in
 28 accordance with Title 13, chapter 1, part 4 or 5, and may be combined with a mill levy election conducted

1 pursuant to 15-10-425.

2 (b) The election required under subsection (4)(a)(iv) must:

3 (i) specify that the vote is to allow the local government entity to exceed the expenditure limitation
4 provided for in this section;

5 (ii) include in the notice of the election as required in 13-1-108 a statement:

6 (A) clearly stating the total budget of the previous year including the population and inflationary
7 increases allowed in this section and the total amount above the expenditure limitation the local government
8 intends to expend;

9 (B) defining the specific projects that the funds expended in excess of the expenditure limitation
10 will fund; and

11 (C) of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in
12 terms of actual dollars in additional property taxes that would be imposed on residences with those values as a
13 result of exceeding the expenditure limitation; and

14 (iii) include ballot language in a form similar to the following example:

15 "Shall the voters of (city or county name) authorize the planned expenditure in excess of the
16 limitations established in [section 1] for the annual operating budget covering (year or years)?"

17 ~~(b)(c)~~ Any amount expended above the expenditure limitation as allowed in subsection (4)(a) may
18 only be applied to:

19 (i) the fiscal year in which a declaration of emergency or disaster is declared or renewed pursuant
20 to subsection (4)(a)(i);

21 (ii) to service debt pursuant to subsection (4)(a)(iii); or

22 (iii) to the fiscal year for which a resolution is passed pursuant to subsection (4)(a)(iv).

23 (5) Except for an amount allowed in subsection (4), any revenue collected in excess of the
24 expenditure limitation provided in this section must be subtracted from the total amount of revenue authorized
25 to be raised by property tax collections pursuant to 15-10-420 for the subsequent year.

26 (6) If a local government entity fails to comply with the expenditure limitation provided for in this
27 section, a cause of action may be brought against the local government entity pursuant to 7-6-4037.

28 (7) (a) This section applies only to cities of the first class and counties and consolidated city-

1 counties with more than 20,000 residents.

2 (b) This section does not apply to a local government entity with self-governing powers that has a
3 fixed mill levy in the government charter.

4

5 **Section 2.** Section 7-6-4037, MCA, is amended to read:

6 ~~"7-6-4037. Cause of action -- failure to adopt or submit an annual operating budget. (1) If a
7 local government entity fails to adopt or submit an annual operating budget as required by Title 7, chapter 6,
8 part 40, within 2 years of the applicable deadline or fails to comply with the expenditure limitation provided for in
9 [section 1], a person identified in subsection (2) of this section who has received a written determination from
10 the department under 7-6-4038(3)(c) or (4)(b) may bring a cause of action against the local government entity
11 for failure to comply with the local government entity's fiduciary requirements.~~

12 (2) ~~The following parties may bring a cause of action under the provisions of subsection (1):~~

13 (a) ~~any person who pays property taxes to the local government entity;~~

14 (b) ~~any elected officer of any local taxing jurisdiction that collects revenue from or distributes
15 revenue to the local government entity;~~

16 (c) ~~any person residing within the jurisdictional boundaries of the local government entity who can
17 demonstrate a specific personal and legal interest, as distinguished from a general interest, and has been or is
18 likely to be specially and injuriously affected by the local government entity's failure to meet the requirements as
19 set forth in subsection (1).~~

20 (3) ~~The cause of action must be filed in the district court in the county where the local government
21 entity is located.~~

22 (4) ~~In addition to any other penalty provided by law, the court may grant relief that it considers
23 appropriate, including but not limited to providing declaratory relief, appointing a financial receiver for the local
24 government entity, or compelling a mandatory duty required under this part that is imposed on a state or local
25 government officer or local government entity. If a party identified in subsection (2) prevails in an action brought
26 under this section, that party must be awarded costs and reasonable attorney fees."~~

27

28 **Section 3.** Section 7-6-4038, MCA, is amended to read:

~~"7-6-4038.— Filing of claims against local government entity— disposition by department as prerequisite. (1) All claims against a local government entity for failure to adopt or submit an annual operating budget as required by Title 7, chapter 6, part 40, within 2 years of the applicable deadline or for failure to comply with the expenditure limitation provided for in [section 1] must be presented in writing to the department.~~

~~(2) — A complaint based on a claim subject to the provisions of subsection (1) may not be filed in district court unless the claimant has first presented the claim to the department and submitted a copy of the claim to the local government entity. Upon the department's receipt of the claim, the statute of limitations on the claim is tolled until a written determination is issued under subsection (3).~~

~~(3) — The department must review the claim and issue one of the following determinations in writing within 60 days after the claim is presented to the department:~~

~~(a) — the local government entity has not violated the requirements of this part for a period of 2 years from the applicable deadlines;~~

~~(b) — there is sufficient evidence of the violations of the requirements of this part for a period of 2 years from the applicable deadlines, and the department will initiate further technical assistance to help the local government entity come into compliance with this part within 6 months; or~~

~~(c) — there is sufficient evidence of the violations of the requirements of this part for a period of 2 years from the applicable deadlines.~~

~~(4) — If the department issues a written determination under subsection (3)(b), within 6 months the department must provide the complainant with a final determination that either:~~

~~(a) — the local government entity has come into compliance with the provisions of this part; or~~

~~(b) — there is sufficient evidence of the violations of the requirements of this part.~~

~~(5) — A complainant must receive a written determination from the department under subsection (3)(c) or (4)(b) before proceeding to district court under 7-6-4037.~~

~~(6) — The failure of the department to issue a written determination of a claim within 60 days after the claim is presented to the department must be considered a written determination under subsection (3)(c) for purposes of this section."~~

Section 2. Section 15-10-420, MCA, is amended to read:

1 (5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year
2 without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills
3 approved in the election. However, nothing in this subsection authorizes a governing body to impose more than
4 the approved levy in any fiscal year or to extend the duration of the approved levy."

5
6 **NEW SECTION. Section 4. Appropriation.** There is appropriated \$20,000 from the general fund to
7 the department of revenue for the biennium beginning July 1, 2023, to develop a curriculum and explain the
8 expenditure limitation provided for in [section 1] to applicable local government entities.

9
10 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
11 integral part of Title 7, chapter 6, part 40, and the provisions of Title 7, chapter 6, part 40, apply to [section 1].

12
13 **NEW SECTION. Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are
14 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
15 the part remains in effect in all valid applications that are severable from the invalid applications.

16
17 **NEW SECTION. Section 7. Effective dates.** (1) Except as provided in subsection (2), [this act] is
18 effective July 1, 2024.

19 (2) [Sections ~~6 and 8~~ 4 and 6] and this section are effective July 1, 2023.

20
21 **NEW SECTION. Section 8. Applicability.** [This act] applies to local government entity budgets
22 adopted on or after July 1, 2024.

23 - END -