SENATE BILL NO. 172

INTRODUCED BY D. FERN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RESORT TAX LAWS; PROVIDING THAT THE ADDITIONAL 1% RESORT TAX MAY BE USED FOR WORKFORCE HOUSING; ~~PROVIDING DEFINITIONS;~~ AND AMENDING SECTIONS ~~7-6-1501,~~ 7-6-1503, 7-6-1504, 7-6-1541, AND 7-6-1542, MCA."

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

~~Section 1. Section 7-6-1501, MCA, is amended to read:~~

~~"7-6-1501. Definitions. As used in this part, the following definitions apply:~~

~~(1) "Board of directors" means the board of directors of the resort area district.~~

~~(2) "Gross household income" has the same meaning as provided in 15-30-2337.~~

~~(3) "Household" has the same meaning as provided in 15-30-2337.~~

~~(4) "Income" has the same meaning as provided in 15-30-2337.~~

~~(2)~~(5) ~~"Infrastructure" means tangible facilities and assets related to water, sewer, wastewater treatment, storm water, solid waste and utilities systems, fire protection, ambulance and law enforcement, roads, bridges, and other transportation needs.~~

~~(3)~~(6) ~~"Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical supplies and services, appliances, hardware supplies and tools, or any necessities of life.~~

~~(4)~~(7) ~~"Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.~~

~~(5)~~(8) ~~"Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.~~

~~(6)~~(9) ~~"Qualified elector" means a person who is qualified to vote under 13-1-111 and is a resident of a resort community, resort area, or proposed or established resort area district.~~

~~(10) "Rent-restricted" means housing for which the tenant's gross household income is between~~

~~60% and 120% of area median income for the county and the tenant's rent is 35% or less of gross household income.~~

~~(7)~~(11) ~~"Resort area" means an area that:~~

~~(a) is an unincorporated area and is a defined contiguous geographic area;~~

~~(b) has a population of less than 2,500 3,500 according to the most recent federal census;~~

~~(c) derives more than 50% of its economic well-being from businesses catering to the recreational and personal needs of persons traveling to or through the area for purposes not related to their income production and excluding economic activity from health care, schools, government, and other services that primarily benefit residents; and~~

~~(d) has been designated by the department of commerce as a resort area not more than 2 years prior to its establishment by the county commissioners as provided in 7-6-1508.~~

~~(8)~~(12) ~~"Resort area district" means a district created under 7-6-1532 through 7-6-1536, 7-6-1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and 7-6-1550 that has been established as a resort area under 7-6-1508.~~

~~(9)~~(13) ~~"Resort community" means a community that:~~

~~(a) is an incorporated municipality;~~

~~(b) is a city of the second class or third class as provided in 7-1-4111 or has a population of less than 5,500 according to the most recent federal census;~~

~~(c) derives more than 50% of its economic well-being related to current employment from businesses catering to the recreational and personal needs of persons traveling to or through the municipality for purposes not related to their income production and excluding economic activity from health care, schools, government, and other services that primarily benefit residents; and~~

~~(d) has been designated by the department of commerce as a resort community not more than 2 years before the petition of the electors or resolution of the governing body.~~

~~(14) "Workforce housing" means rental housing for which 20% or more of the units are rent-restricted housing."~~

Section 1. Section 7-6-1503, MCA, is amended to read:

"**7-6-1503. Limit on resort tax rate -- goods and services subject to tax.** (1) (a) Except as provided in subsection (1)(b), the rate of the resort tax must be established by the election petition or resolution provided for in 7-6-1504, but the rate may not exceed 3%.

(b) ~~(i) Subject to subsection (1)(b)(ii), an~~ An SUBJECT TO SUBSECTION (1)(B)(II), AN election petition or resolution provided for in 7-6-1504 may provide for an additional resort tax levy at the rate of up to 1%. The revenue from the additional tax must be used to provide funding for infrastructure or workforce housing.

~~(ii) A resort community with a population that exceeds the population limit for a resort community in 7-6-1501 may not levy the additional resort tax provided for in subsection (1)(b)(i).~~

(II) A RESORT COMMUNITY WITH A POPULATION THAT EXCEEDS THE POPULATION LIMIT FOR A RESORT COMMUNITY IN 7-6-1501 MAY NOT LEVY THE ADDITIONAL RESORT TAX PROVIDED FOR IN SUBSECTION (1)(B)(I) UNLESS THE RESORT COMMUNITY WAS ESTABLISHED BEFORE JANUARY 1, 2025.

(2) (a) The resort tax is a tax on the retail value of all goods and services sold, except for goods and services sold for resale, within the resort community or area by the following establishments:

(i) hotels, motels, and other lodging or camping facilities;

(ii) restaurants, fast food stores, and other food service establishments;

(iii) taverns, bars, night clubs, lounges, and other public establishments that serve beer, wine, liquor, or other alcoholic beverages by the drink; and

(iv) destination ski resorts and other destination recreational facilities.

(b) Establishments that sell luxuries shall collect a tax on such luxuries."

Section 2. Section 7-6-1504, MCA, is amended to read:

"**7-6-1504. Resort tax -- election required -- procedure -- notice.** (1) A resort community, resort area, or resort area district may not impose or, except as provided in 7-6-1505, amend or repeal a resort tax unless the resort tax question has been approved by a majority of the qualified electors voting on the question.

(2) The resort tax question may be presented to the qualified electors of:

(a) a resort community by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a resolution of the governing body of the resort community;

(b) a resort area by a resolution of the board of county commissioners, following receipt of a

petition of electors as provided in 7-6-1508;

(c) an existing resort area district by a resolution of the board of directors of the resort area district in accordance with special district election procedures provided in 13-1-501 through 13-1-505.

(3) If a proposed resort area is in more than one county, the resort tax question must be presented to and approved by the qualified electors in the resort area of each county.

(4) The petition or resolution referring the taxing question must state:

(a) the rate of the resort tax;

(b) the duration of the resort tax;

(c) the date when the tax becomes effective, which date may not be earlier than 35 days after the election; and

(d) the purposes that may be funded by the resort tax revenue. If the petition or resolution includes the additional tax provided for in 7-6-1503(1)(b)~~(i)~~, the revenue from the additional tax must be designated for infrastructure or workforce housing and the specific uses must be identified in the petition or resolution. The additional levy for infrastructure authorized under this subsection (4)(d) terminates when the specified infrastructure debts and project costs are paid unless the board submits and the qualified electors approve another levy for infrastructure.

(5) On receipt of an adequate petition, the governing body shall hold an election in accordance with Title 13, chapter 1, part 5.

(6) (a) Before the resort tax question is submitted to the electorate of a resort community or resort area, the governing body of the resort community or the board of county commissioners in the county in which the resort area is located shall provide notice of the goods and services subject to the resort tax by a method described in 13-1-108.

(b) The notice must be given two times, with at least 6 days separating the notices. The first notice must be no more than 45 days prior to the election, and the last notice must be no less than 30 days prior to the election.

(7) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (4) of this section.

(8) The question of the imposition of a resort tax may not be placed before the qualified electors

more than once in any fiscal year.

(9) The governing body, as defined in 7-6-1505, of a resort area, resort area district, or resort community that already imposes a resort tax may submit to the qualified electors of the resort area, resort area district, or resort community the question of whether to levy the additional resort tax provided for in 7-6-1503(1)(b)~~(i)~~. The election must be noticed as provided in this section and conducted as provided in 13-1-501 through 13-1-505."

Section 3. Section 7-6-1541, MCA, is amended to read:

"**7-6-1541. General powers of resort area district.** (1) A resort area district may:

(a) have perpetual succession;

(b) sue and be sued in any court of competent jurisdiction;

(c) acquire by any legal means real and personal property necessary to the full exercise of its powers;

(d) make contracts, employ labor, and do all acts necessary for the full exercise of its powers; and

(e) issue and repay bonds as provided in 7-6-1542.

(2) (a) Subject to subsection (2)(b), the board of directors for a resort area district that does not have perpetual succession may submit the question of extension of the term of the resort area district directly to the qualified electors in an election conducted in accordance with Title 13, chapter 1, part 5. If the electorate extends the term of the resort area district, the provisions of this part continue to apply.

(b) The board of directors may not submit a question to the qualified electors to extend the term of a resort area district until the expiration of at least one-half of the existing term of the resort tax, as provided for in 7-6-1504. If a vote to extend the term fails, successive votes to extend the term may be taken no more than once each year.

(3) The board of directors may submit to the qualified electors of the resort area district the question of whether to levy the additional resort tax provided for in 7-6-1503(1)(b)~~(i)~~ for infrastructure or workforce housing. The election must be noticed as provided in 7-6-1504 and conducted as provided in 13-1-501 through 13-1-505.

(4) The board of directors shall exercise the powers described in 7-6-1533 through 7-6-1536, 7-6-

1539 through 7-6-1544, 7-6-1546 through 7-6-1548, and 7-6-1550."

Section 4. Section 7-6-1542, MCA, is amended to read:

"**7-6-1542. Resort area district board powers related to resort tax revenue -- bonds -- election -- restrictions.** (1) The board of directors may:

(a) appropriate and expend revenue from a resort tax for any activity, undertaking, or administrative service authorized in the resolution creating a resort area and adopting a resort tax;

(b) adopt administrative ordinances necessary to aid in the collection or reporting of resort taxes and in the expenditure of resort tax revenue;

(c) except as provided in subsection (2), if approved by four of the five board members, issue bonds to provide, install, or construct any of the public facilities, improvements, or capital projects authorized as provided in subsection (1)(a) and pledge for repayment of the bonds the revenue derived from the resort tax; and

(d) submit to the qualified electors of the resort area district the question of whether to levy the additional resort tax provided for in 7-6-1503(1)(b)~~(i)~~ for infrastructure or workforce housing.

(2) Except for bonds pledging resort tax revenue raised from an additional resort tax levy for infrastructure provided for in 7-6-1503(1)(b)~~(i)~~, a resort area district may not issue bonds to construct any single-purpose public facility, improvement, or capital project in an amount exceeding $500,000 without the approval of a majority of the qualified electors voting at an election conducted in accordance with Title 13, chapter 1, part 5.

(3) The provisions of 7-6-1506(3) apply to the issuance of bonds by a resort area district, and the board of directors shall conclude that the projected useful life of the public facilities, improvements, or capital projects will be greater than the term of the bonds that were issued to construct the public facilities, improvements, or capital projects.

(4) Resort tax revenue that is pledged by a resort area district to the repayment of bonds must be sufficient to pay the principal and interest on the bonds in each year when the principal and interest is due. Bonds do not constitute debt for the purpose of any statutory debt limitation. Except for bonds pledging resort tax revenue raised from an additional resort tax levy for infrastructure, a resort area district may not issue bonds

pledging proceeds of the resort tax for repayment unless the board of directors in the resolution authorizing issuance of the bonds determines that the annual principal and interest payment on the bonds issued will not cumulatively exceed 25% of the average of resort tax revenue received by the district during the preceding 5 years. Bonds may not be issued for a term longer than the remaining duration of the resort area district.

(5) A resort area district may not commit cumulative annual debt service payments that exceed 70% of the revenue raised from an additional resort tax levy for infrastructure provided for in 7-6-1503(1)(b)~~(i)~~. Debt service payments do not constitute debt for the purpose of any statutory debt limit. The additional resort tax levy for infrastructure may not be collected when the bonded obligation ceases unless the board submits and the qualified electors approve the additional levy for infrastructure as provided in 7-6-1504 and 13-1-501 through 13-1-505.

(6) Debt service payments may not be issued for a term longer than the remaining duration of the resort area district."

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