

1 SENATE BILL NO. 257

2 INTRODUCED BY J. SMALL, D. ANKNEY, S. FITZPATRICK, J. WELBORN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING LOCAL GOVERNMENTS FROM ENACTING
5 CERTAIN FEES, TAXES, OR PENALTIES REGARDING CARBON USE; AMENDING SECTION 7-1-111,
6 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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10 NEW SECTION. Section 1. Carbon fees, taxation, or penalties -- prohibition. (1) A local

11 government may not enact, adopt, implement, enforce, or refer to the electorate a rule, order, ordinance, or
12 policy that includes fees, taxation, or penalties based on carbon or carbon use.

13 (2) (a) Fees, taxation, or penalties based on carbon or carbon use include formal or informal rules,
14 orders, ordinances, or policies, including but not limited to:

15 (i) charges placed on resident or business electrical, natural gas, propane, or other energy bills or
16 statements based on usage or carbon content; or

17 (ii) any other method, tax, or fee levied on the carbon content of fuels or electricity in the transportation
18 or energy sector.

19 (b) This subsection (2)(b) does not include energy conservation bonds as provided in 7-7-141 or
20 energy performance contracts pursuant to Title 90, chapter 4, part 11.

21 (3) NOTHING IN THIS SECTION PROHIBITS A LOCAL GOVERNMENT FROM PARTICIPATING IN A SERVICE OFFERED
22 THROUGH A TARIFF APPROVED BY THE PUBLIC SERVICE COMMISSION.

23 ~~(3)~~(4) For the purposes of this section, "local government" includes a county, a consolidated
24 government, an incorporated city or town, or a special district.

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26 **Section 2.** Section 7-1-111, MCA, is amended to read:

27 **"7-1-111. (Subsection (21) effective October 1, 2021) Powers denied.** A local government unit with
28 self-government powers is prohibited from exercising the following:

- 1 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
2 exercise of an independent self-government power;
- 3 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to
4 those provisions, it may exercise any power of a public employer with regard to its employees;
- 5 (3) any power that applies to or affects the public school system, except that a local unit may impose
6 an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall
7 exercise any power that it is required by law to exercise regarding the public school system;
- 8 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public
9 convenience and necessity pursuant to Title 69, chapter 12;
- 10 (5) any power that establishes a rate or price otherwise determined by a state agency;
- 11 (6) any power that applies to or affects any determination of the department of environmental quality
12 with regard to any mining plan, permit, or contract;
- 13 (7) any power that applies to or affects any determination by the department of environmental quality
14 with regard to a certificate of compliance;
- 15 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
16 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6
17 months' imprisonment, or both, except as specifically authorized by statute;
- 18 (9) any power that applies to or affects the right to keep or bear arms;
- 19 (10) any power that applies to or affects a public employee's pension or retirement rights as
20 established by state law, except that a local government may establish additional pension or retirement
21 systems;
- 22 (11) any power that applies to or affects the standards of professional or occupational competence
23 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;
- 24 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
25 75, chapter 7, part 1, or Title 87;
- 26 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is
27 intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title
28 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require

1 landlords to comply with ordinances or provisions that are applicable to all other businesses or residences
2 within the local government's jurisdiction.

3 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

4 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
5 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government
6 may enter into a cooperative agreement with the department of agriculture concerning the use and application
7 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
8 government from adopting or implementing zoning regulations or fire codes governing the physical location or
9 siting of fertilizer manufacturing, storage, and sales facilities.

10 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production, processing,
11 sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or vegetable
12 seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local government from
13 adopting or implementing zoning regulations or building codes governing the physical location or siting of
14 agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or distribution
15 facilities.

16 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
17 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
18 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
19 communications commission of the United States;

20 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio
21 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a
22 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,
23 "technician" or higher class, issued by the federal communications commission of the United States;

24 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
25 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
26 highway that is under the jurisdiction of an entity other than the local government unit;

27 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in
28 relation to a wildfire;

1 (21) any power to prohibit completely adult-use providers, adult-use marijuana-infused products
2 providers, and adult-use dispensaries from being located within the jurisdiction of the local government except
3 as allowed in Title 16, chapter 12; and

4 (22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in
5 accordance with [section 1]."

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7 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
8 integral part of Title 7, and the provisions of Title 7 apply to [section 1].

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10 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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