



AN ACT GENERALLY REVISING PROPERTY TAX LAWS; REVISING TARGETED ECONOMIC DEVELOPMENT DISTRICT LAWS; PROVIDING FOR INFRASTRUCTURE THROUGH TAX INCREMENT FINANCING; PROVIDING THE TAX INCREMENT MAY NOT INCLUDE CERTAIN STATE EQUALIZATION MILLS FOR ELEMENTARY AND HIGH SCHOOL EDUCATION; LIMITING THE DURATION OF A FUTURE TAX INCREMENT PROVISION; AMENDING SECTIONS 7-15-4279, 7-15-4283, 7-15-4286, 7-15-4288, AND 7-15-4292, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 7-15-4279, MCA, is amended to read:

"7-15-4279. Targeted economic development districts. (1) A local government may, by ordinance and following a public hearing, authorize the creation of a targeted economic development district in support of value-adding economic development projects. The purpose of the district is the development of infrastructure to encourage the location and retention of value-adding projects in the state.

(2) A targeted economic development district:

(a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;

(b) must be zoned to permit the supported value-adding economic development uses for which the district is intended or unzoned, provided development of the district is:

(i) for uses by a local government under Title 76, chapter 2, part 2 or 3, in accordance with the area growth policy, as defined in 76-1-103; or

(ii) if a county has not adopted a growth policy, then for uses in accordance with the development pattern and zoning regulations or the development district adopted under Title 76, chapter 2, part 1;

(c) may not comprise any property included within an existing tax increment financing district;

(d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in the resolution of necessity adopted under 7-15-4280;

(e) must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base of multiple independent tenants; and

(f) may not be designed to serve the needs of a single district tenant or group of nonindependent tenants.

(3) The local government may use tax increment financing pursuant to the provisions of 7-15-4282 through 7-15-4294 for the targeted economic development district. If the local government uses tax increment financing, the use of and purpose for tax increment financing must be specified in the comprehensive development plan required in subsection (2)(e). The plan must also describe how the expenditure of tax increment will promote the development of infrastructure to encourage the location and retention of value-adding projects in the targeted economic development district.

~~(4) For the purposes of 7-15-4277 through 7-15-4280:~~

~~(a) "secondary value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce;~~

~~(b) "secondary value-adding industry" means a business that produces secondary value-added products or commodities or a business or organization that is engaged in technology-based operations within Montana that, through the employment of knowledge or labor, adds value to a product, process, or export service resulting in the creation of new wealth."~~

Section 2. Section 7-15-4283, MCA, is amended to read:

"7-15-4283. Definitions related to tax increment financing. For purposes of 7-15-4277 through 7-15-4280 and 7-15-4282 through 7-15-4294, the following definitions apply unless otherwise provided or indicated by the context:

(1) "Actual taxable value" means the taxable value of all taxable property at any time, as calculated from the property tax record.

(2) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal area or targeted economic development district as it appears on the property tax record prior to the effective date of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-15-4293.

(3) "Incremental taxable value" means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all taxable property within an urban renewal area or targeted economic development district.

(4) "Infrastructure" means tangible facilities and assets related to water, sewer, wastewater treatment, storm water, solid waste and utilities systems including natural gas, hydrogen, electrical and telecommunications lines, fire protection, ambulance and law enforcement, workforce housing, streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, bridges, and other transportation needs, including but not limited to parking, park and ride facilities and services, and bus, air, and rail service.

(5) "Local government", for the purposes of a targeted economic development district, means any incorporated city or town, a county, or a city-county consolidated local government.

(6) "Secondary value-added products or commodities" means products or commodities that are manufactured, processed, produced, or created by changing the form of raw materials or intermediate products into more valuable products or commodities that are capable of being sold or traded in interstate commerce.

(7) "Secondary value-adding industry" means a business that produces secondary value-added products or commodities or a business or organization that is engaged in technology-based operations within the state that, through the employment of knowledge or labor, adds value to a product, process, or export service resulting in the creation of new wealth.

~~(5)~~(8) "Targeted economic development district" means a district created pursuant to 7-15-4277 through 7-15-4280.

~~(6)~~(9) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the urban renewal area or targeted economic development district or a part of the area or district is located against the incremental taxable value.

~~(7)~~(10) — "Tax increment provision" means a provision for the segregation and application of tax increments as authorized by 7-15-4282 through 7-15-4294.

~~(8)(11)~~— "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

~~(9)(12)~~— "Taxing body" means any incorporated city or town, county, city-county consolidated local government, school district, or other political subdivision or governmental unit of the state, including the state, that levies taxes against property within the urban renewal area or targeted economic development district.

(13) "Value-adding" means a project or a business that creates or increases economic opportunity in an area through investment in facilities, land, improvements, or equipment, including but not limited to manufacturing, technology, recreation, and tourism."

Section 3. Section 7-15-4286, MCA, is amended to read:

"7-15-4286. Procedure to determine and disburse tax increment -- remittance of excess portion of tax increment for targeted economic development district. (1) Mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or targeted economic development district and the base taxable value of all taxable property located within the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the area or district.

(2) (a) Except as provided in subsections (2)(b), (2)(c), and (3), the tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the area or district must be paid into a special fund held by the treasurer of the local government and used as provided in 7-15-4282 through 7-15-4294.

(b) The For targeted economic development districts in existence prior to July 1, 2022, and urban renewal areas, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439; and

(ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision.

(c) For targeted economic development districts created after June 30, 2022, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439; and

(ii)– one-half of the elementary, high school, and state equalization mills levied pursuant to 20-9-331, 20-9-333, and 20-9-360;

(iii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision; and

(iv) any portion of an existing mill levy designated by the local government as excluded from the tax increment.

(3) (a) Subject to 7-15-4287 and subsection (3)(b) of this section, a targeted economic development district with a tax increment provision adopted after October 1, 2019, may expend or accumulate tax increment for:

(i) the payment of the costs listed in 7-15-4288;

(ii) the cost of issuing bonds; or

(iii) any pledge to the payment of the principal of any premium, if any, and interest on the bonds issued pursuant to 7-15-4289 and sufficient to fund any reserve fund in respect of the bonds in an amount not to exceed 125% of the maximum principal and interest on the bonds in any year during the term of the bonds.

(b) Any excess tax increment remaining after the use or accumulation of funds as set forth in subsection (3)(a) must be:

(i) remitted to each taxing jurisdiction for which the mill rates are included in the calculation of the tax increment as provided in subsections (1) and (2); and

(ii) proportional to the taxing jurisdiction's share of the total mills levied.

(c) A targeted economic development district is not subject to the provisions of this subsection (3) if bonds have not been issued to finance the project.

(4) Any portion of the excess tax increment remitted to a school district pursuant to subsection (3) is subject to the provisions of 7-15-4291(2) through (5).

(5) The balance of the taxes collected in each year must be paid to each of the taxing bodies as otherwise provided by law."

Section 4. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. Costs that may be paid by tax increment financing. The tax increments may be used

by the local government to pay the following costs of or incurred in connection with an urban renewal area or targeted economic development district as identified in the urban renewal plan or targeted economic development district comprehensive development plan:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;
- (4) the acquisition, construction, and improvement of public improvements or infrastructure, ~~including streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunications lines, rail lines, rail spurs, bridges,~~ publicly owned buildings, and any public improvements authorized by Title 7, chapter 12, parts 41 through 45; Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;
- (5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- (6) acquisition of infrastructure-deficient areas or portions of areas;
- (7) administrative costs associated with the management of the urban renewal area or targeted economic development district;
- (8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the local government itself at its fair value;
- (9) the compilation and analysis of pertinent information required to adequately determine the needs of the urban renewal area or targeted economic development district;
- (10) the connection of the urban renewal area or targeted economic development district to existing infrastructure outside the area or district;
- (11) the provision of direct assistance to secondary value-adding industries to assist in meeting their infrastructure and land needs within the area or district; and
- (12) the acquisition, construction, or improvement of facilities or equipment for reducing, preventing, abating, or eliminating pollution."

Section 5. Section 7-15-4292, MCA, is amended to read:

"7-15-4292. Termination of tax increment financing -- exception. (1) The tax increment provision contained in an urban renewal plan or a targeted economic development district comprehensive development plan terminates upon the later of:

(a) the 15th year following its adoption; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds. For targeted economic development districts created after June 30, 2022, the combined term of the original bonds or any refunding bonds may not extend the life of the tax increment provision longer than the 30th year following the original adoption of the tax increment provision.

(2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the area or district.

(b) Upon termination of the tax increment provision, a local government may retain and use in accordance with the provisions of the urban renewal plan:

(i) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project or targeted economic development district project that a local government entered into before the termination of a tax increment provision;

(ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or

(iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan or targeted economic development district comprehensive development plan.

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area or targeted economic development district and must be paid to each of the taxing bodies as provided by law.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be

issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision."

Section 6. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 7. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 388, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 388

INTRODUCED BY G. HERTZ, M. BLASDEL

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