

1 SENATE BILL NO. 523

2 INTRODUCED BY G. HERTZ

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TAX INCREMENT FINANCING LAWS;

5 ~~REQUIRING THE QUALIFIED ELECTORS TO APPROVE A TAX INCREMENT FINANCING PROVISION;~~

6 ~~REQUIRING THE QUALIFIED ELECTORS TO APPROVE THE ISSUANCE OF BONDS PAID WITH TAX~~

7 ~~INCREMENT; ALLOWING THE QUALIFIED ELECTORS OF AN URBAN RENEWAL AREA OR TARGETED~~

8 ~~ECONOMIC DEVELOPMENT DISTRICT TO REQUEST AN ELECTION TO APPROVE PROVISIONS~~

9 ~~RELATED TO TAX INCREMENT FINANCING,~~ REMOVING SCHOOL LEVIES FROM THE CALCULATION OF

10 THE TAX INCREMENT; LIMITING TAX INCREMENT FINANCING PROVISIONS TO ~~20~~ 30 YEARS;

11 PROVIDING THAT EXISTING TAX INCREMENT FINANCING PROVISIONS THAT EXCEED ~~20~~ 30 YEARS

12 MAY ONLY RETAIN INCREMENT SUFFICIENT TO PAY BONDS; REQUIRING THE LOCAL GOVERNING

13 BODY TO APPROVE ALL EXPENDITURES OF TAX INCREMENT; PROHIBITING THE ADOPTION OF A

14 TAX INCREMENT FINANCING PROVISION IF THE INCREMENTAL TAXABLE VALUE OF ALL URBAN

15 RENEWAL AREAS THAT HAVE ADOPTED TAX INCREMENT FINANCING PROVISIONS EXCEEDS 7% OF

16 THE TOTAL TAXABLE VALUE OF THE TAXING JURISDICTION; LIMITING THE EXPENDITURE OF TAX

17 INCREMENT FOR ADMINISTRATIVE COSTS; ~~PROHIBITING THE USE OF TAX INCREMENT TO~~

18 ~~PURCHASE LAND;~~ ALLOWING THE USE OF TAX INCREMENT FOR ROAD CONSTRUCTION; REVISING

19 DEFINITIONS; AMENDING SECTIONS 7-15-4206, 7-15-4210, 7-15-4211, ~~7-15-4215,~~ 7-15-4221, 7-15-4232,

20 7-15-4233, ~~7-15-4258, 7-15-4259,~~ 7-15-4282, 7-15-4283, 7-15-4286, 7-15-4288, 7-15-4289, ~~7-15-4290,~~ 7-15-

21 4291, 7-15-4292, ~~7-15-4301, 7-15-4302,~~ 7-15-4324, 17-6-316, 70-30-102, AND 71-3-1506, MCA; AND

22 PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

23

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

25

26 NEW SECTION. **Section 1. Procedure for initiative or referendum election.** (1) (a) The electors of

27 an urban renewal area or targeted economic development district may, by petition, request an election on

28 whether to:

1 (i) amend an urban renewal plan or comprehensive development plan to adopt a tax increment
2 provision pursuant to 7-15-4282;

3 (ii) extend a tax increment provision pursuant to 7-15-4292;

4 (iii) issue bonds to finance the undertaking of any urban renewal project or targeted economic
5 development district project pursuant to 7-15-4301; or

6 (iv) use tax increment to purchase land.

7 (b) The form of the petition must be approved by the county election administrator. A petition
8 signed by at least 15% of the qualified electors of the urban renewal area or targeted economic development
9 district is sufficient to require an election.

10 (2) If an approved petition containing sufficient signatures is filed within 60 days of the public
11 hearing on the items provided for in subsection (1)(a), a petition requesting an election on whether to proceed
12 delays the effective date until the question is ratified by the electors.

13 (3) A petition or resolution for an election must:

14 (a) embrace only a single comprehensive subject; and

15 (b) be in the form prescribed in Title 13, chapter 27.

16 (4) An election held pursuant to this section must be conducted in conjunction with the next local
17 government election held in accordance with Title 13, chapter 1, part 4, except that if the petition asks for a
18 special election, specifies an election date that complies with 13-1-405, and is signed by at least 25% of the
19 qualified electors, a special election must be held on the date specified in the petition.

20 (5) If a majority of those voting on the question approve the proposal, it becomes effective when
21 the election results are officially declared, unless otherwise stated in the proposal.

22

23 **Section 2.** Section 7-15-4206, MCA, is amended to read:

24 **"7-15-4206. Definitions.** The following terms, wherever used or referred to in part 43 or this part,
25 have the following meanings unless a different meaning is clearly indicated by the context:

26 (1) "Agency" or "urban renewal agency" means a public agency created by 7-15-4232.

27 (2) "Blighted area" means an area that ~~is conducive to ill health, transmission of disease, infant~~
28 ~~mortality, juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the locality~~

1 ~~or is detrimental to or constitutes a menace to public health, safety, or welfare.~~ city or its environs, that retards
2 the provision of housing accommodations, or that constitutes an economic or social liability or is detrimental or
3 constitutes a menace to the public health, safety, welfare, and morals in its present condition and use, by
4 reason of:

5 ~~(a) the substantial physical dilapidation, deterioration, age obsolescence, or defective construction,~~
6 ~~material, and arrangement of buildings or improvements, whether residential or nonresidential;~~

7 ~~(b) inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined~~
8 ~~by competent appraisers on the basis of an examination of the building standards of the municipality;~~

9 ~~(c) inappropriate or mixed uses of land or buildings;~~

10 ~~(d) high density of population and overcrowding;~~

11 ~~(e) defective or inadequate street layout;~~

12 ~~(f) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;~~

13 ~~(g) excessive land coverage;~~

14 ~~(h) unsanitary or unsafe conditions;~~

15 ~~(i) deterioration of site;~~

16 ~~(j) diversity of ownership;~~

17 ~~(k) tax or special assessment delinquency exceeding the fair value of the land;~~

18 ~~(l) defective or unusual conditions of title;~~

19 ~~(m) improper subdivision or obsolete platting;~~

20 ~~(n) the existence of conditions that endanger life or property by fire or other causes; or~~

21 ~~(o) any combination of the factors listed in this subsection (2).~~

22 (3) "Bonds" means any bonds, notes, or debentures, including refunding obligations, authorized to
23 be issued pursuant to part 43 or this part.

24 (4) "Clerk" means the clerk or other official of the municipality who is the custodian of the official
25 records of the municipality.

26 (5) "Elected" means chosen by vote or acclamation or appointed to a vacancy in an otherwise
27 elected position.

28 (6) "Federal government" means the United States of America or any agency or instrumentality,

1 corporate or otherwise, of the United States of America.

2 (7) "Local governing body" means the elected members of a council or other elected members of a
3 legislative body charged with governing a municipality or consolidated city-county.

4 (8) "Mayor" means the chief executive of a city or town.

5 (9) "Municipality" means any incorporated city or town in the state.

6 (10) "Neighborhood development program" means the yearly activities or undertakings of a
7 municipality in a blighted area of an urban renewal area ~~or areas~~ if the municipality elects to undertake activities
8 on an annual increment basis.

9 (11) "Obligee" means any bondholder or agent or trustee for any bondholder or lessor conveying to
10 the municipality property used in connection with an urban renewal project or any assignee or assignees of the
11 lessor's interest or any part of the interest and the federal government when it is a party to any contract with the
12 municipality.

13 (12) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock
14 association, or school district and includes any trustee, receiver, assignee, or other person acting in a similar
15 representative capacity.

16 (13) "Public body" means the state or any municipality, township, board, commission, district, or
17 other subdivision or public body of the state.

18 (14) "Public officer" means any officer who is in charge of any department or branch of the
19 government of the municipality relating to health, fire, building regulations, or other activities concerning
20 dwellings in the municipality.

21 (15) "Public use" means:

22 (a) a public use enumerated in 70-30-102; or

23 (b) a project financed by the method provided for in 7-15-4288.

24 (16) "Real property" means all lands, including improvements and fixtures on the land, all property
25 of any nature appurtenant to the land or used in connection with the land, and every estate, interest, right, and
26 use, legal or equitable, in the land, including terms for years and liens by way of judgment, mortgage, or
27 otherwise.

28 (17) "Redevelopment" may include:

Amendment - 1st Reading-white - Requested by: Greg Hertz - (S) Local Government

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

SB0523.001.005

- 1 (a) acquisition of a blighted area or portion of the area;
- 2 (b) demolition and removal of buildings and improvements in a blighted area;
- 3 (c) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other
- 4 improvements necessary for carrying out in the blighted area the urban renewal provisions of this part in
- 5 accordance with the urban renewal plan; and
- 6 (d) making the land available in a blighted area for development or redevelopment by private
- 7 enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself, at its fair value
- 8 for uses in accordance with the urban renewal plan. If the property is condemned pursuant to Title 70, chapter
- 9 30, the private enterprise or public agencies may not develop the condemned area in a way that is not for a
- 10 public use.
- 11 (18) (a) "Rehabilitation" ~~may include~~ means the restoration and renewal of a blighted area or portion
- 12 of the area in accordance with an urban renewal plan by:
- 13 (i) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of
- 14 buildings or other improvements;
- 15 (ii) acquisition of real property and demolition or removal of buildings and improvements on the
- 16 property when necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen density, to reduce
- 17 traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or
- 18 prevent the spread of blight or deterioration, or to provide land for needed public facilities;
- 19 (iii) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other
- 20 improvements necessary for carrying out in the area the urban renewal provisions of this part; and
- 21 (iv) subject to 7-15-4259(4), the disposition of any property acquired in the urban renewal area,
- 22 including sale, initial leasing, or retention by the municipality itself, at its fair value for uses in accordance with
- 23 the urban renewal plan.
- 24 (b) Rehabilitation may not include the development of the condemned area in a way that is not for
- 25 a public use if the property is condemned pursuant to Title 70, chapter 30.
- 26 (19) "Urban renewal area" means a blighted area that the local governing body designates as
- 27 appropriate for an urban renewal project or projects.
- 28 (20) "Urban renewal plan" means a plan for one or more urban renewal areas or for an urban

1 renewal project. The plan:

2 (a) must conform to the growth policy if one has been adopted pursuant to Title 76, chapter 1; and

3 (b) must be sufficiently complete to indicate, on a yearly basis or otherwise:

4 (i) any land acquisition, demolition, and removal of structures; redevelopment; improvements; and
5 rehabilitation that is proposed to be carried out in the urban renewal area;

6 (ii) zoning and planning changes, if any, including changes to the growth policy if one has been
7 adopted pursuant to Title 76, chapter 1;

8 (iii) land uses, maximum densities, building requirements; and

9 (iv) the plan's relationship to definite local objectives respecting appropriate land uses, improved
10 traffic, public transportation, public utilities, recreational and community facilities, and other public
11 improvements.

12 (21) (a) "Urban renewal project" may include undertakings or activities of a municipality in an urban
13 renewal area for the elimination ~~and for the prevention of the development or spread of~~ blight and may involve
14 redevelopment in an urban renewal area, rehabilitation ~~or conservation~~ in an urban renewal area, or any
15 combination or part of redevelopment, ~~or rehabilitation, or conservation~~ in accordance with an urban renewal
16 plan.

17 (b) An urban renewal project may not include using property that was condemned pursuant to Title
18 70, chapter 30, for anything other than a public use."

19

20 **Section 3.** Section 7-15-4210, MCA, is amended to read:

21 **"7-15-4210. Resolution of necessity required to utilize provisions of part.** A municipality may not
22 exercise any of the powers authorized by part 43 and this part until after its local governing body has adopted a
23 resolution finding that:

24 (1) one or more blighted areas exist in the municipality ~~by finding that at least three of the factors~~
25 ~~listed in 7-15-4206(2) apply to the area or a part of the area;~~ and

26 (2) the rehabilitation, redevelopment, or both of an area or areas are necessary in the interest of
27 the public health, safety, morals, or welfare of the residents of the municipality."

28

1 **Section 4.** Section 7-15-4211, MCA, is amended to read:

2 **"7-15-4211. Preparation of comprehensive development plan for municipality.** For the purpose
3 of approving an urban renewal plan and other municipal purposes, a municipality may:

4 (1) prepare, adopt, and revise from time to time a comprehensive plan or parts of a plan for the
5 physical development of the municipality as a whole, with consideration for the county and school districts that
6 include municipal territory;

7 (2) establish and maintain a planning commission for that purpose and related municipal planning
8 activities; and

9 (3) make available and appropriate necessary funds for municipal planning activities to address
10 blight."

11

12 ~~**Section 4.** Section 7-15-4215, MCA, is amended to read:~~

13 ~~**"7-15-4215.— Notice of hearing on urban renewal plan.** (1) The notice required by 7-15-4214(1) must~~
14 ~~be given by publication as provided in 7-1-4127 and by mailing a notice of the hearing, not less than 10 days~~
15 ~~prior to the date of the hearing, to the persons whose names appear on the county treasurer's tax records as~~
16 ~~the owners, reputed owners, or purchasers under contracts for deed of the property, at the address shown on~~
17 ~~the tax record.~~

18 ~~(2) The notice must:~~

19 ~~(a) describe the time, date, place, and purpose of the hearing;~~

20 ~~(b) specify the proposed boundary of the urban renewal area affected;~~

21 ~~(c) outline the general scope of the urban renewal plan under consideration;~~

22 ~~(d) specify the goals the municipality has in the rehabilitation and renewal of the area; and~~

23 ~~(e) indicate the method of financing the urban renewal area and whether the municipality intends~~
24 ~~to use tax increment financing and request voter approval for bonds to be paid from tax increment financing."~~

25

26 **Section 5.** Section 7-15-4221, MCA, is amended to read:

27 **"7-15-4221. Modification of urban renewal project plan.** (1) An urban renewal project plan may be
28 modified at any time by the local governing body. If modified after the lease or sale by the municipality of real

1 necessary to prepare for the undertaking of urban renewal projects;

2 (o) to negotiate for the acquisition of land;

3 (p) to study the closing, vacating, planning, or replanning of streets, roads, sidewalks, ways, or

4 other places and to make recommendations with respect thereto;

5 (q) to organize, coordinate, and direct the administration of the provisions of this part and part 43;

6 (r) to perform duties as directed by the local governing body to make the necessary arrangements

7 for the exercise of the powers and performance of the duties and responsibilities entrusted to the local

8 governing body.

9 (2) The exercise of any powers provided for in subsection (1) that require the expenditure of

10 revenue from tax increment financing must be approved by the local governing body.

11 (3) Any powers granted in this part or part 43 that are not included in subsection (1) as powers of

12 the urban renewal agency or a department or other officers of a municipality in lieu of the local governing body

13 may only be exercised by the local governing body or other officers, boards, and commissions as provided

14 under existing law."

15

16 **Section 8. Section 7-15-4258, MCA, is amended to read:**

17 ~~**"7-15-4258. Acquisition and administration of real and personal property. (1) A municipality may:**~~

18 ~~(a) acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain pursuant to~~

19 ~~Title 70, chapter 30, or otherwise any real property and personal property that may be necessary for the~~

20 ~~administration of the provisions contained in part 43 and this part, together with any improvements on the real~~

21 ~~property;~~

22 ~~(b) hold, improve, clear, or prepare for redevelopment property acquired pursuant to subsection~~

23 ~~(1)(a);~~

24 ~~(c) dispose of real or personal property;~~

25 ~~(d) insure or provide for the insurance of real or personal property or the operations of the~~

26 ~~municipality against any risks or hazards, including the power to pay premiums on any insurance; and~~

27 ~~(e) enter into a development agreement with the owner of real property within an urban renewal~~

28 ~~area and undertake activities, including the acquisition, removal, or demolition of structures, improvements, or~~

1 ~~personal property located on the real property, to prepare the property for redevelopment.~~

2 ~~(2) — A development agreement entered into in accordance with subsection (1)(e) must contain~~
3 ~~provisions obligating the owner to redevelop the real property for a specified use consistent with the urban~~
4 ~~renewal plan and offering recourse to the municipality if the redevelopment is not completed as determined by~~
5 ~~the local governing body. The development agreement may not constitute the acquisition of an interest in real~~
6 ~~property by the municipality within the meaning of 7-15-4262 or 7-15-4263.~~

7 ~~(3) — Except as provided in 7-15-4204(2), 7-15-4206, 7-15-4233(2), and 7-15-4259, statutory~~
8 ~~provisions with respect to the acquisition, clearance, or disposition of property by public bodies may not restrict~~
9 ~~a municipality in the exercise of functions with respect to an urban renewal project.~~

10 ~~(4) — A municipality may not acquire real property for an urban renewal project or enter into a~~
11 ~~development agreement, as provided in subsection (1)(e), unless the local governing body has approved the~~
12 ~~urban renewal project plan in accordance with 7-15-4216(2) and 7-15-4217.~~

13 ~~(5) — A municipality may not use tax increment to acquire land."~~

14
15 **Section 9.** Section 7-15-4259, MCA, is amended to read:

16 **"7-15-4259. — Exercise of power of eminent domain.** (1) After the adoption by the local governing
17 body of a resolution declaring that the acquisition of the real property described in the resolution is necessary
18 for an urban renewal project under this part, a municipality may acquire by condemnation, as provided in Title
19 70, chapter 30, any interest in real property that it considers necessary for urban renewal.

20 (2) — Condemnation for urban renewal of blighted areas, as defined in 7-15-4206(2)(a), (2)(h), (2)(k),
21 or (2)(n), is a public use, and property already devoted to any other public use or acquired by the owner or the
22 owner's predecessor in interest by eminent domain may be condemned for the purposes of this part.

23 (3) — The award of compensation for real property taken for an urban renewal project may not be
24 increased by reason of any increase in the value of the real property caused by the assembly, clearance, or
25 reconstruction or proposed assembly, clearance, or reconstruction in the project area. An allowance may not be
26 made for the improvements begun on real property after notice to the owner of the property of the institution of
27 proceedings to condemn the property. Evidence is admissible bearing upon the unsanitary, unsafe, or
28 substandard condition of the premises or the unlawful use of the premises.

~~(4) — A city or town may not serve as a pass-through entity by using its power of eminent domain, as provided in Title 70, chapter 30, to obtain property with the intent to sell, lease, or provide the property to a private entity.~~

~~(5) — A municipality may not use tax increment to acquire land."~~

Section 8. Section 7-15-4282, MCA, is amended to read:

"7-15-4282. Authorization for tax increment financing. (1) ~~An~~ Except as provided in subsection (2) and subject to subsection (5), an urban renewal plan as defined in 7-15-4206 or a targeted economic development district comprehensive development plan created as provided in 7-15-4279 may contain a provision or be amended to contain a tax increment provision as provided in 7-15-4282 through 7-15-4294. The local governing body shall ~~approve~~ submit the question of the adoption of a tax increment provision included in an urban renewal plan. The legislative body of a local government shall approve the adoption of a tax increment provision included in a targeted economic development district comprehensive development plan to the qualified electors of the local government. approve the adoption of a tax increment provision included in an urban renewal plan. The legislative body of a local government shall approve the adoption of a tax increment provision included in a targeted economic development district comprehensive development plan. The local governing body shall approve all expenditures of revenue from tax increment financing.

(2) ~~The question of amending an~~ An urban renewal plan may not be amended to contain a tax increment provision may not be submitted to the qualified electors if the total incremental taxable value of all urban renewal areas that have adopted a tax increment provision within the taxing jurisdiction exceeds 7% of the total taxable value of the taxing jurisdiction.

~~(2)(3)~~ (a) ~~Before adopting a~~ submitting the question of whether to adopt adopting a tax increment financing provision as part of an urban renewal plan or a comprehensive development plan to the qualified electors, a municipality shall provide notice to the county ~~and the school district~~ in which the urban renewal district area or targeted economic development district is located and provide the county ~~and school district~~ with the opportunity to meet and consult in a public meeting with the opportunity for public comment regarding the proposed tax increment financing provision and its effect on the county ~~or school district~~.

~~(b) — Before adopting a tax increment financing provision as part of a comprehensive development plan,~~

1 a county shall provide notice to the school district in which the targeted economic development district is
2 located and provide the school district with the opportunity to meet and consult in a public meeting with the
3 opportunity for public comment regarding the proposed tax increment financing provision and its effect on the
4 school district.

5 ~~(3)~~(4) The tax increment financing provision must take into account the effect on the county and
6 school districts that include includes local government territory.

7 (5) The local governing body shall hold a public hearing before adopting a tax increment provision.
8 Pursuant to [section 1], the qualified electors of the urban renewal area or targeted economic development
9 district may, by petition, request an election on whether to adopt a tax increment provision."

10

11 **Section 9.** Section 7-15-4283, MCA, is amended to read:

12 **"7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4277 through 7-
13 15-4280 and 7-15-4282 through 7-15-4294, the following definitions apply unless otherwise provided or
14 indicated by the context:

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

17 (2) "Base taxable value" means the actual taxable value of all taxable property within an urban
18 renewal area or targeted economic development district as it appears on the property tax record prior to the
19 effective date of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-
20 15-4293.

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

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

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

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

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

7 (ii) the cost of issuing bonds; or

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

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

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

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

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

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

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

22

23 **Section 11.** Section 7-15-4288, MCA, is amended to read:

24 **"7-15-4288. Costs that may be paid by tax increment financing.** ~~The tax increments may be used~~
25 ~~by the (1) The~~ local government shall approve the use of tax increments to pay the following costs of or
26 incurred in connection with an urban renewal area or targeted economic development district as identified in the
27 urban renewal plan or targeted economic development district comprehensive development plan:

28 (1) ~~land acquisition;~~

Amendment - 1st Reading-white - Requested by: Greg Hertz - (S) Local Government

- 2023

68th Legislature 2023

Drafter: Megan Moore, 406-444-4496

SB0523.001.005

- 1 ~~(2)(a)~~ demolition and removal of structures;
- 2 ~~(3)(b)~~ relocation of occupants;
- 3 ~~(4)(c)~~ the acquisition, construction, and improvement of public improvements or infrastructure,
- 4 publicly owned buildings, and any public improvements authorized by Title 7, chapter 12, parts 41 through 45;
- 5 Title 7, chapter 13, parts 42 and 43; and Title 7, chapter 14, part 47, and items of personal property to be used
- 6 in connection with improvements for which the foregoing costs may be incurred;
- 7 ~~(5)(d)~~ costs incurred in connection with the redevelopment activities allowed under 7-15-4233;
- 8 ~~(6)~~ acquisition of infrastructure deficient areas or portions of areas;
- 9 ~~(7)(e)~~ administrative costs associated with the management of the urban renewal area or targeted
- 10 economic development district, which may not exceed 5% of the tax increment for each year;
- 11 ~~(8)(f)~~ assemblage of land for development or redevelopment by private enterprise or public agencies,
- 12 including sale, initial leasing, or retention by the local government itself at its fair value;
- 13 ~~(9)(g)~~ the compilation and analysis of pertinent information required to adequately determine the
- 14 needs of the urban renewal area or targeted economic development district;
- 15 ~~(10)(h)~~ the connection of the urban renewal area or targeted economic development district to existing
- 16 infrastructure outside the area or district;
- 17 ~~(11)(i)~~ the provision of direct assistance to secondary value-adding industries to assist in meeting their
- 18 infrastructure and land needs within the area or district; ~~and~~
- 19 ~~(12)(j)~~ the acquisition, construction, or improvement of facilities or equipment for reducing, preventing,
- 20 abating, or eliminating pollution; ~~and~~
- 21 ~~(k)~~ the construction or reconstruction of roads; and
- 22 ~~(l)~~ land acquisition.
- 23 ~~(2)~~ Tax increment may not be used for land acquisition.
- 24 ~~(2)~~ Pursuant to [section 1], the qualified electors of the urban renewal area or targeted economic
- 25 development district may, by petition, request an election on whether to use tax increment to acquire land."

26

27 **Section 12.** Section 7-15-4289, MCA, is amended to read:

28 **"7-15-4289. Use of tax increments for bond payments.** (1) The tax increment may be pledged to

1 the payment of the principal of premiums, if any, and interest on bonds that the local government may issue for
2 the purpose of providing funds to pay those costs.

3 ~~(2) The question of pledging tax increment to the payment of the principal of premiums and~~
4 ~~interest on bonds must be submitted to the qualified electors of the local government.~~

5 ~~(2) The local governing body shall hold a public hearing before pledging tax increment to the~~
6 ~~payment of the principal of premiums and interest on bonds. Pursuant to [section 1], the qualified electors of the~~
7 ~~urban renewal area or targeted economic development district may, by petition, request an election on whether~~
8 ~~to pledge tax increment to the payment of the principal of premiums, if any, and interest on bonds."~~

9

10 **Section 15.** Section 7-15-4290, MCA, is amended to read:

11 ~~"7-15-4290. Use of property taxes and other revenue for payment of bonds. (1) (a) The On an~~
12 ~~affirmative vote of the qualified electors of the local government, the tax increment derived from an urban~~
13 ~~renewal area may be pledged for the payment of revenue bonds issued for urban renewal projects or of general~~
14 ~~obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs described in~~
15 ~~7-15-4288 and 7-15-4289.~~

16 ~~(b) The On an affirmative vote of the qualified electors of the local government, the tax increment~~
17 ~~derived from a targeted economic development district may be pledged for the payment of revenue bonds~~
18 ~~issued for targeted economic development district projects or of general obligation bonds, revenue bonds, or~~
19 ~~special assessment bonds issued to pay targeted economic development district costs described in 7-15-4288~~
20 ~~and 7-15-4289.~~

21 ~~(c) When submitting to the qualified electors the question of pledging tax increment to the payment~~
22 ~~of bonds, a local government may also submit the question of extending the time period of the tax increment~~
23 ~~provision to the date on which the bonds mature. The total term of the tax increment provision may not exceed~~
24 ~~the period allowed in 7-15-4292.~~

25 ~~(2) A local government issuing approved to issue bonds pursuant to subsection (1) may, by~~
26 ~~resolution of its governing body, enter into a covenant for the security of the bondholders, detailing the~~
27 ~~calculation and adjustment of the tax increment and the taxable value on which it is based and, after a public~~
28 ~~hearing, pledging or appropriating other revenue of the local government, except property taxes prohibited by~~

1 ~~subsection (3), to the payment of the bonds if collections of the tax increment are insufficient.~~
 2 ~~(3) — Property taxes, except the tax increment derived from property within the area or district and~~
 3 ~~tax collections used to pay for services provided to the local government by a project, may not be applied to the~~
 4 ~~payment of bonds issued pursuant to 7-15-4301 for which a tax increment has been pledged.~~
 5 ~~(4) — If applicable, the local government shall specify whether the bonds are tax credit bonds as~~
 6 ~~provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided~~
 7 ~~in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141."~~

9 **Section 13.** Section 7-15-4291, MCA, is amended to read:

10 **"7-15-4291. Voluntary agreement to remit unused portion of urban renewal district area tax**
 11 **increments.** (1) Subject to subsections (2) through (5), a local government with an urban renewal district area
 12 containing a tax increment provision may enter into an agreement to remit any portion of the annual tax
 13 increment not currently required for the payment of the costs listed in 7-15-4288 or pledged to the payment of
 14 the principal of premiums, if any, and interest on the bonds referred to in 7-15-4289. The remittance agreement
 15 must:

- 16 (a) provide for remittance to each taxing jurisdiction for which the mill rates are included in the
- 17 calculation of the tax increment as provided in 7-15-4286(1) and (2); and
- 18 (b) require that the remittance be proportional to the taxing jurisdiction's share of the total mills
- 19 levied.
- 20 (2) Any portion of the increment remitted to a school district pursuant to 7-15-4286(3) or this
- 21 section:
- 22 (a) must be used to reduce property taxes or designated as operating reserve pursuant to 20-9-
- 23 104 for the fiscal year following the fiscal year in which the remittance was received;
- 24 (b) must be deposited in one or more of the following funds that has a mill levy for the current
- 25 school year, subject to the provisions of Title 20 and this section:
- 26 (i) general fund;
- 27 (ii) bus depreciation reserve fund;
- 28 (iii) debt service fund;

1 (iv) building reserve fund;

2 (v) technology acquisition and depreciation fund; and

3 (c) may not be transferred to any fund.

4 (3) The remittance will not reduce the levy authority of the school district receiving the remittance
5 in years subsequent to the time period established by subsection (2)(a).

6 (4) Any portion of the increment remitted to a school district and deposited into the general fund
7 must be designated as operating reserve pursuant to 20-9-104 or used to reduce the BASE budget levy or the
8 over-BASE budget levy in the following fiscal year.

9 (5) If a school district does not utilize the remitted portion to reduce property taxes or designate the
10 remittance as operating reserve within the time period established by subsection (2)(a), the unused portion
11 must be remitted as follows:

12 (a) if the area or district is in existence at the time of the remittance, the portion is distributed to the
13 special fund in 7-15-4286(2)(a) and used as provided in 7-15-4282 through 7-15-4294; or

14 (b) if the area or district is not in existence at the time of the remittance, the portion is distributed
15 pursuant to 7-15-4292(2)(a) 7-15-4292(3)(a)."

16

17 **Section 14.** Section 7-15-4292, MCA, is amended to read:

18 **"7-15-4292. Termination of tax increment financing -- exception.** (1) (a) The Except as provided in
19 subsection (2), the tax increment provision contained in an urban renewal plan or a targeted economic
20 development district comprehensive development plan terminates upon the later of:

21 (a)(i) except as provided in subsection (1)(b), the 15th ~~10th-20th~~ year following its adoption; or

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

27 (b) The time period provided for in subsection (1)(a)(i) may be extended for up to an additional 10
28 years ~~by submitting the question of extending the time period to the qualified electors of the local government~~

1 after holding a public hearing on the extension. Pursuant to [section 1], the qualified electors of the urban
2 renewal area or targeted economic development district may, by petition, request an election on whether to
3 extend the tax increment provision.

4 (2) On the ~~20th~~ 30th year following adoption, a district that adopted a tax increment provision
5 before [the effective date of this act] may only retain sufficient tax increment to pay the principal of premiums
6 and interest on bonds. Any remaining increment must be distributed among the various taxing bodies in
7 proportion to their property tax revenue from the area or district.

8 (3) (a) Except as provided in subsection ~~(2)(b)~~ (3)(b), any amounts remaining in the special fund or
9 any reserve fund after termination of the tax increment provision must be distributed among the various taxing
10 bodies in proportion to their property tax revenue from the area or district.

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

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

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

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

21 ~~(3)~~(4) After termination of the tax increment provision, all taxes must be levied upon the actual
22 taxable value of the taxable property in the urban renewal area or targeted economic development district and
23 must be paid to each of the taxing bodies as provided by law.

24 ~~(4)~~(5) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th
25 anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are
26 outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be
27 issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then
28 outstanding and secured by the tax increment provision."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

~~Section 18. Section 7-15-4301, MCA, is amended to read:~~

~~"7-15-4301. Authorization to issue urban renewal bonds, targeted economic development bonds, and refunding bonds. (1) A local government or municipality may, on an affirmative vote of the qualified electors:~~

~~(a) issue bonds from time to time, in its discretion, to finance the undertaking of any urban renewal project or targeted economic development district project under Title 7, chapter 15, part 42, and this part, including, without limiting the generality of projects, the payment of principal and interest upon any advances for surveys and plans for the projects; and~~

~~(b) issue refunding bonds for the payment or retirement of bonds previously issued by it.~~

~~(2) Except as provided in 7-15-4302, bonds may not pledge the general credit of the local government or municipality and must be made payable, as to both principal and interest, solely from the income, proceeds, revenue, and funds of the local government or municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects or targeted economic development district projects under Title 7, chapter 15, part 42, and this part, including the tax increment received and pledged by the local government or municipality pursuant to 7-15-4282 through 7-15-4294, and, if the income, proceeds, revenue, and funds of the local government or municipality are insufficient for the payment, from other revenue of the local government or municipality pledged to the payment. Payment of the bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source in aid of any urban renewal projects or targeted economic development district projects of the local government or municipality under Title 7, chapter 15, part 42, and this part or by a mortgage on all or part of any projects.~~

~~(3) Bonds issued The question of issuing bonds under this section must be authorized by resolution or ordinance submitted to the qualified electors of the local governing body.~~

~~(4) If applicable, the governing body of the local government or municipality shall specify whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141."~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

~~Section 19. Section 7-15-4302, MCA, is amended to read:~~

~~"7-15-4302. Authorization to issue general obligation bonds. (1) For the purpose of 7-15-4267 or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project or targeted economic development district project, the local government or municipality, in addition to any authority to issue bonds pursuant to 7-15-4301, may issue bonds on an affirmative vote of the qualified electors and sell its general obligation bonds.~~

~~(2) Any bonds issued pursuant to this section must be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds by the local government or municipality for public purposes generally.~~

~~(3) Aiding in the planning, undertaking, or carrying out of an approved urban renewal project or targeted economic development district project is considered a single purpose for the issuance of general obligation bonds, and the proceeds of the bonds authorized for a project may be used to finance the exercise of the powers conferred upon the local government or municipality by Title 7, chapter 15, part 42, and this part that are necessary or proper to complete the project in accordance with the approved plan or ordinance and any modification to the ordinance that is duly adopted by the local governing body.~~

~~(4) If applicable, the local government or municipality shall specify whether the bonds are tax credit bonds as provided in 17-5-117, recovery zone economic development bonds or recovery zone facility bonds as provided in 7-7-140, or qualified energy conservation bonds as provided in 7-7-141."~~

Section 15. Section 7-15-4324, MCA, is amended to read:

"7-15-4324. Special bond provisions when tax increment financing is involved. (1) Bonds issued under this part for which a tax increment is pledged pursuant to 7-15-4282 through 7-15-4294 must be designed to mature not later than 25 years from their date of issue the term of the tax increment provision provided for in 7-15-4292 and must mature in years and amounts so that the principal and interest due on the bonds in each year may not exceed the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property owners in a district, and other estimated revenue, including proceeds of the bonds available for payment of interest on the bonds, pledged to their payment to be received in that year.

1 (2) The governing body, ~~in the resolution or ordinance authorizing the bonds,~~ in the resolution or
2 ordinance authorizing the bonds, shall, ~~prior to submitting to the qualified electors the bond question,~~ determine
3 the estimated tax increment, payments in lieu of taxes or other amounts agreed to be paid by the property
4 owners in an area or district, and other revenue, if any, for each year the bonds are to be outstanding. In
5 calculating the costs under 7-15-4288 for which the bonds are issued, the local government or municipality may
6 include an amount sufficient to pay interest on the bonds prior to receipt of tax increments pledged and
7 sufficient for the payment of the bonds and to fund any reserve fund in respect of the bonds."
8

9 **Section 16.** Section 17-6-316, MCA, is amended to read:

10 **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to
11 17-6-309(2) must be used to build infrastructure, as provided for in ~~7-15-4288(4)~~ 7-15-4288(1)(c), such as water
12 systems, sewer systems, water treatment facilities, sewage treatment facilities, and roads, that allows the
13 location or creation of a business in Montana. The loan must be made to a local government or an Indian tribal
14 government that will create the necessary infrastructure. The infrastructure may serve as collateral for the loan.
15 The local government or Indian tribal government receiving the loan may charge fees to the users of the
16 infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to
17 charge fees for the use of the services of the infrastructure. Loans made pursuant to 17-6-309(2) qualify for the
18 job credit interest rate reductions under 17-6-318 if the interest rate reduction passes through to the business
19 creating the jobs.

20 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied
21 that the condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits
22 received pursuant to subsection (3) of this section must be returned to the state.

23 (3) A business that is created or expanded as the result of a loan made pursuant to 17-6-309(2)
24 and subsection (1) of this section is entitled to a credit against taxes due under Title 15, chapter 30 or 31, for
25 the portion of the fees attributable to the use of the infrastructure. The total amount of tax credit claimed may
26 not exceed the amount of the loan. The credit may be carried forward for 7 tax years or carried back for 3 tax
27 years."
28

1 not reclaimed in accordance with Title 82, chapter 4, part 2, and to abate or control adverse effects of strip or
2 underground mining on those lands."

3

4 **Section 18.** Section 71-3-1506, MCA, is amended to read:

5 **"71-3-1506. Tax deficiency lien.** A municipality has a lien for tax deficiency payments as described in
6 a properly filed agreement for tax deficiency payment pursuant to 7-15-4294. The lien has the same priority as
7 a lien for general property taxes. Lien proceeds must be disbursed pursuant to 7-15-4286(2)(a)."

8

9 NEW SECTION. **Section 19. Effective date.** [This act] is effective January 1, 2024.

10

11 NEW SECTION. **Section 20. Codification instruction.** [Section 1] is intended to be codified as an
12 integral part of Title 7, chapter 15, part 43, and the provisions of Title 7, chapter 15, part 43, apply to [section 1].

13

14 NEW SECTION. **Section 21. Applicability.** ~~(1) Except as provided in subsections (2) and (3), [this~~
15 ~~[This act] applies to all urban renewal areas and targeted economic development districts that have adopted a~~
16 ~~tax increment financing provision.~~

17 ~~(2) [Section 10] applies to urban renewal plans or targeted economic development district~~
18 ~~comprehensive development plans amended to contain a tax increment provision after [the effective date of this~~
19 ~~act].-~~

20 ~~(3) [Section 15] applies to the issuance of bonds after [the effective date of this act].-~~

21

- END -