

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING AN ADDITIONAL RESORT TAX OF UP TO 1% TO BE DESIGNATED FOR INFRASTRUCTURE; REQUIRING THE ADDITIONAL RESORT TAX TO BE APPROVED BY THE QUALIFIED ELECTORS; PROHIBITING A TAX INCREASE FOR A RESORT COMMUNITY WITH A POPULATION IN EXCESS OF THE AMOUNT REQUIRED FOR FORMATION OF A RESORT COMMUNITY; AMENDING SECTIONS 7-6-1501, 7-6-1503, 7-6-1504, 7-6-1541, AND 7-6-1542, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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) "Infrastructure" has the meaning specifically provided in the petition or resolution submitting the question of the additional resort tax to qualified electors as required by 7-6-1504(4)(e).

~~(2)~~(3) "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.

~~(3)~~(4) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical maintenance purposes, whether or not prescribed by a physician.

~~(4)~~(5) "Medicine" means substances sold for curative or remedial properties, including both physician prescribed and over-the-counter medications.

~~(5)~~(6) "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.

~~(6)~~(7) "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 according to the most recent federal census;

(c) derives the major portion 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

(d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508.

~~(7)~~(8) "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.

~~(8)~~(9) "Resort community" means a community that:

(a) is an incorporated municipality;

(b) has a population of less than 5,500 according to the most recent federal census;

(c) derives the primary portion 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

(d) has been designated by the department of commerce as a resort community.

Section 2. Section 7-6-1503, MCA, is amended to read:

"7-6-1503. Limit on resort tax rate -- goods and services subject to tax. (1) The (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 election petition or resolution may provide for an additional resort tax at a rate of up to 1%. The revenue from the additional resort tax must be used to provide infrastructure.

(ii) A resort community with a population of more than the amount provided in 7-6-1501(9)(b) may not levy an additional resort tax under the provisions of subsection (1)(b)(i) of this section.

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

**"7-6-1504. Resort tax -- election required -
- amendment procedure -- notice.** (1) A resort community,
~~or~~ 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 by 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; or

(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.

(3) If a 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.

(e) If the petition or resolution presented to the qualified
electors designates up to 1% of resort tax revenue for
infrastructure, as provided in 7-6-1503(1)(b), the revenue raised
must be appropriated and expended only to provide 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) Notice of the election must be accomplished as provided in 13-1-108 and include the information listed in subsection (4) of this section.

(7) The question of the imposition of a resort tax may not be placed before the qualified electors more than once in any fiscal year.

(8) Subject to 7-6-1503(1)(b)(II), a resort community, resort area, or resort area district may amend the rate of a resort tax to designate up to an additional 1% over what was previously approved by the qualified electors by submitting the question of the additional resort tax directly to the qualified electors in an election conducted in accordance with 13-1-501 through 13-1-505. The revenue raised from the additional resort tax may be used only to provide infrastructure."

Section 4. 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~~ a 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 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.

(4) The board of directors may amend by petition or resolution the rate of the resort tax to designate up to an additional 1% over what was previously approved by the qualified electors by submitting the question of the additional resort tax directly to the qualified electors in an election conducted in accordance with 13-1-501 through 13-1-505. The revenue raised from the additional resort tax may be used only for infrastructure. If the qualified electors approve the petition or resolution, the provisions of this part continue to apply."

Section 5. 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 ~~of a resort area district~~ 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; ~~and~~

(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) amend the rate of the resort tax to designate up to an additional 1% over what was previously approved by the qualified electors by submitting the question of the additional resort tax directly to the qualified electors in an election conducted in accordance with 13-1-501 through 13-1-505. The revenue raised from the additional resort tax may be used only to provide infrastructure.

(2) A Except for bonds pledging proceeds of resort tax revenue raised from up to an additional 1% resort tax designated for infrastructure as provided in 7-6-1503(1)(b), 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. A Except for bonds pledging proceeds of resort tax revenue raised from up to an additional 1% resort tax designated for infrastructure as provided in 7-6-1503(1)(b), 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 to exceed 70% of the revenue raised from up to an additional 1% resort tax designated for infrastructure. Debt service payments do not constitute debt for the purpose of any statutory debt limit. When the bonded obligation ceases, the collection and appropriation by the board for up to the additional 1% resort tax shall also cease until another qualifying project is approved by the board and submitted to the qualified electors.

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

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.