

HOUSE BILL NO. 865

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A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING LOCAL GOVERNMENT EXPENDITURE GROWTH; PROVIDING THAT THE LIMIT IS EQUAL TO THE AVERAGE RATE OF INFLATION FOR THE PRIOR 3 YEARS PLUS THE AVERAGE POPULATION GROWTH OF A LOCAL GOVERNMENT ENTITY IN THE PRIOR 3 YEARS; PROVIDING EXCEPTIONS; PROVIDING MECHANISMS TO EXPEND AN AMOUNT ABOVE THE EXPENDITURE LIMITATION IN CERTAIN SITUATIONS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 7-6-4037, 7-6-4038, 15-10-420, AND 15-10-425, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Local government expenditure limitation -- exceptions. (1) Except as provided in subsection (4), total expenditures by a local government entity, as defined in 7-6-602, for fiscal years beginning July 1, 2024, may not exceed the greater of:

- (a) the total amount expended by the local government entity in the prior fiscal year; or
- (b) the sum of the average inflation rate of the prior 3 years plus the average population growth rate of the local government entity for the prior 3 years multiplied by the amount of money expended in the prior fiscal year. The rate of inflation must be calculated using the consumer price index as published by the United States department of labor. The population growth rate must be calculated using the most recent estimate published by the United States census bureau.

(2) For the purposes of the local government expenditure limitation, total expenditures include expenditures from all available sources of revenues collected during the prior year, including but not limited to revenue collected pursuant to Title 7 and Title 15, but not including:

- (a) money from the federal government;

- 1 (b) money from the state government in the form of a grant;
- 2 (c) payments of principal and interest on bonded indebtedness;
- 3 (d) grants, gifts, devises, or bequests made to the local government entity;
- 4 (e) enterprise funds, including but not limited to funds for airports, water and sewer systems,
- 5 landfills, street maintenance, and arterial construction;
- 6 (f) revenue collected from a mill levy election held pursuant to 15-10-425; and
- 7 (g) any funds collected, held, or expended on behalf of a special district.
- 8 (3) A local government entity is not required to expend the full amount allowed in subsection (1) in
- 9 a fiscal year.
- 10 (4) (a) A local government entity may expend an amount above the expenditure limitation provided
- 11 in this section:
- 12 (i) if the governor declares or renews a declaration of emergency or disaster pursuant to 10-3-303
- 13 in that fiscal year and the declaration includes all or part of the geographic territory of the local government
- 14 entity;
- 15 (ii) to deposit funds in an account for emergency savings that is to be expended only if the
- 16 revenue in a given year is below the expenditure limitation;
- 17 (iii) to service debt incurred prior to July 1, 2026; or
- 18 (iv) if the local government entity passes a resolution and submits to the electors the question to
- 19 approve an amount above the expenditure limitation. If the majority voting on the question is in favor of
- 20 expending an amount above the expenditure limitation, the local government entity shall apply the additional
- 21 amount to the budget of the fiscal year for which the resolution was passed and subsequent fiscal years until
- 22 revoked by the local government entity. An election allowed in this subsection (4)(a)(iv) must be held in
- 23 accordance with Title 13, chapter 1, part 4 or 5, and may be combined with a mill levy election conducted
- 24 pursuant to 15-10-425.
- 25 (b) Any amount expended above the expenditure limitation as allowed in subsection (4)(a) may
- 26 only be applied to:
- 27 (i) the fiscal year in which a declaration of emergency or disaster is declared or renewed pursuant
- 28 to subsection (4)(a)(i);

- 1 (ii) to service debt pursuant to subsection (4)(a)(iii); or
- 2 (iii) to the fiscal year for which a resolution is passed pursuant to subsection (4)(a)(iv).
- 3 (5) Except for an amount allowed in subsection (4), any revenue collected in excess of the
- 4 expenditure limitation provided in this section must be subtracted from the total amount of revenue authorized
- 5 to be raised by property tax collections pursuant to 15-10-420 for the subsequent year.

6 (6) If a local government entity fails to comply with the expenditure limitation provided for in this
 7 section, a cause of action may be brought against the local government entity pursuant to 7-6-4037.

8 (7) (a) This section applies only to cities of the first class and counties and consolidated city-
 9 counties with more than 20,000 residents.

10 (b) This section does not apply to a local government entity with self-governing powers that has a
 11 fixed mill levy in the government charter.

12

13 **Section 2.** Section 7-6-4037, MCA, is amended to read:

14 **"7-6-4037. Cause of action -- failure to adopt or submit an annual operating budget.** (1) If a
 15 local government entity fails to adopt or submit an annual operating budget as required by Title 7, chapter 6,
 16 part 40, within 2 years of the applicable deadline or fails to comply with the expenditure limitation provided for in
 17 [section 1], a person identified in subsection (2) of this section who has received a written determination from
 18 the department under 7-6-4038(3)(c) or (4)(b) may bring a cause of action against the local government entity
 19 for failure to comply with the local government entity's fiduciary requirements.

20 (2) The following parties may bring a cause of action under the provisions of subsection (1):

21 (a) any person who pays property taxes to the local government entity;

22 (b) any elected officer of any local taxing jurisdiction that collects revenue from or distributes
 23 revenue to the local government entity;

24 (c) any person residing within the jurisdictional boundaries of the local government entity who can
 25 demonstrate a specific personal and legal interest, as distinguished from a general interest, and has been or is
 26 likely to be specially and injuriously affected by the local government entity's failure to meet the requirements as
 27 set forth in subsection (1).

28 (3) The cause of action must be filed in the district court in the county where the local government

1 entity is located.

2 (4) In addition to any other penalty provided by law, the court may grant relief that it considers
3 appropriate, including but not limited to providing declaratory relief, appointing a financial receiver for the local
4 government entity, or compelling a mandatory duty required under this part that is imposed on a state or local
5 government officer or local government entity. If a party identified in subsection (2) prevails in an action brought
6 under this section, that party must be awarded costs and reasonable attorney fees."

7

8 **Section 3.** Section 7-6-4038, MCA, is amended to read:

9 **"7-6-4038. Filing of claims against local government entity -- disposition by department as**
10 **prerequisite.** (1) All claims against a local government entity for failure to adopt or submit an annual operating
11 budget as required by Title 7, chapter 6, part 40, within 2 years of the applicable deadline or for failure to
12 comply with the expenditure limitation provided for in [section 1] must be presented in writing to the department.

13 (2) A complaint based on a claim subject to the provisions of subsection (1) may not be filed in
14 district court unless the claimant has first presented the claim to the department and submitted a copy of the
15 claim to the local government entity. Upon the department's receipt of the claim, the statute of limitations on the
16 claim is tolled until a written determination is issued under subsection (3).

17 (3) The department must review the claim and issue one of the following determinations in writing
18 within 60 days after the claim is presented to the department:

19 (a) the local government entity has not violated the requirements of this part for a period of 2 years
20 from the applicable deadlines;

21 (b) there is sufficient evidence of the violations of the requirements of this part for a period of 2
22 years from the applicable deadlines, and the department will initiate further technical assistance to help the
23 local government entity come into compliance with this part within 6 months; or

24 (c) there is sufficient evidence of the violations of the requirements of this part for a period of 2
25 years from the applicable deadlines.

26 (4) If the department issues a written determination under subsection (3)(b), within 6 months the
27 department must provide the complainant with a final determination that either:

28 (a) the local government entity has come into compliance with the provisions of this part; or

1 (b) there is sufficient evidence of the violations of the requirements of this part.

2 (5) A complainant must receive a written determination from the department under subsection
3 (3)(c) or (4)(b) before proceeding to district court under 7-6-4037.

4 (6) The failure of the department to issue a written determination of a claim within 60 days after the
5 claim is presented to the department must be considered a written determination under subsection (3)(c) for
6 purposes of this section."

7

8 **Section 4.** Section 15-10-420, MCA, is amended to read:

9 **"15-10-420. Procedure for calculating levy.** (1) (a) ~~Subject~~ Except as provided in [section 1(5)] and
10 subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a
11 mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of
12 the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may
13 impose is established by calculating the number of mills required to generate the amount of property tax
14 actually assessed in the governmental unit in the prior year based on the current year taxable value, less the
15 current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

16 (b) A governmental entity that does not impose the maximum number of mills authorized under
17 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
18 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill
19 authority carried forward may be imposed in a subsequent tax year.

20 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average
21 rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers,
22 using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of
23 labor.

24 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any
25 additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit,
26 including newly taxable property.

27 (3) (a) For purposes of this section, newly taxable property includes:

28 (i) annexation of real property and improvements into a taxing unit;

1 (ii) construction, expansion, or remodeling of improvements;

2 (iii) transfer of property into a taxing unit;

3 (iv) subdivision of real property; and

4 (v) transfer of property from tax-exempt to taxable status.

5 (b) Newly taxable property does not include an increase in value:

6 (i) that arises because of an increase in the incremental value within a tax increment financing
7 district; or

8 (ii) caused by the termination of an exemption that occurs due to the American Rescue Plan Act,
9 Public Law 117-2, and section 14, Chapter 506, Laws of 2021.

10 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
11 release of taxable value from the incremental taxable value of a tax increment financing district because of:

12 (i) a change in the boundary of a tax increment financing district;

13 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

14 (iii) the termination of a tax increment financing district.

15 (b) If a tax increment financing district terminates prior to the certification of taxable values as
16 required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax
17 increment financing district terminates. If a tax increment financing district terminates after the certification of
18 taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the
19 following tax year.

20 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
21 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
22 year market value of that property less the previous year market value of that property.

23 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale
24 of real property that results in the property being taxable as class four property under 15-6-134 or as
25 nonqualified agricultural land as described in 15-6-133(1)(c).

26 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

27 (a) school district levies established in Title 20; or

28 (b) a mill levy imposed for a newly created regional resource authority.

1 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes
2 received under 15-6-131 and 15-6-132.

3 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

4 (a) may increase the number of mills to account for a decrease in reimbursements; and

5 (b) may not increase the number of mills to account for a loss of tax base because of legislative
6 action that is reimbursed under the provisions of 15-1-121(7).

7 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
8 purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated
9 by the department may not exceed the mill levy limits established in those sections. The mill calculation must
10 be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
11 calculation must be rounded up to the nearest tenth of a mill.

12 (9) (a) The provisions of subsection (1) do not prevent or restrict:

13 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

14 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

15 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

16 (iv) a levy for the support of a study commission under 7-3-184;

17 (v) a levy for the support of a newly established regional resource authority;

18 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's
19 property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

20 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an
21 adjoining county under 7-2-2807 upon relocation of a county boundary;

22 (viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

23 (ix) a governmental entity from levying mills for the support of an airport authority in existence prior
24 to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past.
25 The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

26 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
27 actually assessed in a subsequent year.

28 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-

1 11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
 2 authority in either of the previous 2 years and the airport or airport authority has not been appropriated
 3 operating funds by a county or municipality during that time.

4 (11) The department may adopt rules to implement this section. The rules may include a method for
 5 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
 6 improvements, or newly taxable value in a governmental unit. (Subsection (3)(b)(ii) terminates December 31,
 7 2025--sec. 13(5), Ch. 506, L. 2021.)"

8

9 **Section 5.** Section 15-10-425, MCA, is amended to read:

10 **"15-10-425. Mill levy election.** (1) A county, consolidated government, incorporated city,
 11 incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is
 12 required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an
 13 election as provided in this section. An election pursuant to this section may be combined with a question to
 14 approve an amount above the expenditure limitation provided for in [section 1].

15 (2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4
 16 or 5, or Title 20 for school elections, whichever is appropriate to the taxing entity. The governing body shall
 17 pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to
 18 impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on
 19 the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or
 20 petition must include:

- 21 (a) the specific purpose for which the additional money will be used;
- 22 (b) either:
 - 23 (i) the specific amount of money to be raised and the approximate number of mills to be imposed;
 - 24 or
 - 25 (ii) the specific number of mills to be imposed and the approximate amount of money to be raised;
 - 26 and
 - 27 (c) whether the levy is permanent or the durational limit on the levy.
- 28 (3) Notice of the election must be prepared by the governing body and given as provided in 13-1-

1 108. The form of the ballot must reflect the content of the resolution or charter amendment and must include a
2 statement of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the
3 district in terms of actual dollars in additional property taxes that would be imposed on residences with those
4 values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on
5 homes of any other value in the district, if appropriate.

6 (4) If the majority voting on the question are in favor of the additional levy, the governing body is
7 authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter
8 amendment.

9 (5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year
10 without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills
11 approved in the election. However, nothing in this subsection authorizes a governing body to impose more than
12 the approved levy in any fiscal year or to extend the duration of the approved levy."
13

14 NEW SECTION. Section 6. Appropriation. There is appropriated \$20,000 from the general fund to
15 the department of revenue for the biennium beginning July 1, 2023, to develop a curriculum and explain the
16 expenditure limitation provided for in [section 1] to applicable local government entities.
17

18 NEW SECTION. Section 7. Codification instruction. [Section 1] is intended to be codified as an
19 integral part of Title 7, chapter 6, part 40, and the provisions of Title 7, chapter 6, part 40, apply to [section 1].
20

21 NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are
22 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
23 the part remains in effect in all valid applications that are severable from the invalid applications.
24

25 NEW SECTION. Section 9. Effective dates. (1) Except as provided in subsection (2), [this act] is
26 effective July 1, 2024.

27 (2) [Sections 6 and 8] and this section are effective July 1, 2023.
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