

HOUSE BILL 823

Introduced by Whalen, et al.

2/13	Introduced
2/13	Referred to Local Government
2/14	First Reading
2/21	Hearing
2/21	Tabled in Committee

1 HOUSE BILL NO. 822  
 2 INTRODUCED BY Whalen McCullough Blaylock  
 3 Southwest Timberley Backer  
 4 Alford

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 6 Forests PORT AUTHORITY LAWS; REQUIRING THE GOVERNOR TO APPOINT THE  
 7 COMMISSIONERS; REQUIRING THE COMMISSIONERS TO REPRESENT  
 8 BUSINESS, LABOR, AND CITIZEN GROUPS; REQUIRING THE AUTHORITY  
 9 TO SUBMIT ITS BUDGET TO THE LOCAL GOVERNING BODY AND REQUEST  
 10 A TAX LEVY; REQUIRING AN ELECTION BEFORE AN AUTHORITY MAY  
 11 ISSUE BONDS; AND AMENDING SECTIONS 7-14-1101, 7-14-1102,  
 12 7-14-1111, 7-14-1131, 7-14-1132, AND 7-14-1133, MCA."

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

14 **Section 1.** Section 7-14-1101, MCA, is amended to read:

15 "7-14-1101. Local port authority. (1) As used in this  
 16 section, "community public interest group" means an  
 17 organization established in a community to represent the  
 18 interests and concerns of that community's citizens. A  
 19 community public interest group does not mean a labor  
 20 organization or an organization representing business  
 21 interests.

22 ~~(1)~~(2) Any county or municipality may, by resolution of  
 23 its governing body, create a public body, corporate and  
 24 politic, to be known as a local port authority, authorized  
 25 to exercise its functions upon the appointment and

1 qualification of the first commissioners thereof. Such a  
 2 governing body may by resolution determine to exercise any  
 3 or all powers granted to such authorities in this part,  
 4 unless such powers have been conferred upon a local or  
 5 regional port authority.

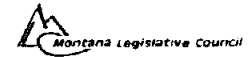
6 ~~(2)~~(3) Upon the adoption of a resolution creating a  
 7 local port authority, the governing body of the county or  
 8 municipality shall, pursuant to the resolution, inform the  
 9 governor who shall appoint not less than five six persons as  
 10 commissioners of the authority. The appointment of  
 11 commissioners must be apportioned as follows:

- 12 (a) one-third from the local business community;
- 13 (b) one-third from local labor organizations; and
- 14 (c) one-third from community public interest groups.

15 (4) The Two of the commissioners who are first  
 16 appointed must be designated to serve for ~~terms of 17-27-37~~  
 17 ~~47-and-5-years,-respectively,-but-thereafter~~ a term of 2  
 18 years, two must be designated to serve for a term of 3  
 19 years, and two must be designated to serve for a term of 3  
 20 years. Thereafter each commissioner must be appointed by the  
 21 governor for a term of 5 4 years, except that vacancies  
 22 occurring other than by expiration of a term must be filled  
 23 for the unexpired term by the governing body."

24 **Section 2.** Section 7-14-1102, MCA, is amended to read:

25 "7-14-1102. Regional port authority. (1) Two or more



1 local governments may by joint resolution create a public  
 2 body, corporate and politic, to be known as a regional port  
 3 authority. The resolution creating a regional port authority  
 4 must create a board of not less than ~~five~~ six commissioners  
 5 to be appointed by the governor in the same proportion as  
 6 provided in 7-14-1101(3). ~~The number to be appointed,--their~~  
 7 Their term, and their compensation, if any, must be provided  
 8 for in the resolution. Each such regional port authority  
 9 shall organize, select officers for terms to be fixed by  
 10 agreement, and adopt and amend from time to time rules for  
 11 its own procedure.

12 (2) A regional port authority may be increased from  
 13 time to time to serve one or more additional counties or  
 14 municipalities if each additional local government, each of  
 15 the local governments then included in the regional  
 16 authority, and the commissioners of the regional authority,  
 17 respectively, adopt a joint resolution consenting thereto.  
 18 However, if a local port authority for any local government  
 19 seeking to be included in the regional authority is then in  
 20 existence, the commissioners of the local authority must  
 21 consent to the inclusion of the county or municipality in  
 22 the regional authority; upon the inclusion of such local  
 23 government in the regional authority, all rights, contracts,  
 24 obligations, and real and personal property of the local  
 25 authority must be in the name of and vest in the regional

1 authority.

2 (3) A regional port authority may be decreased if each  
 3 of the local governments then included in the regional  
 4 authority and the commissioners of the regional authority  
 5 consent to the decrease and make provisions for the  
 6 retention or disposition of its assets and liabilities.

7 (4) A county or municipality may not adopt any  
 8 resolution authorized by this section without a public  
 9 hearing thereon. Notice must be given at least 10 days prior  
 10 to the hearing in a newspaper published in the county or  
 11 municipality or, if there is no newspaper published therein,  
 12 in a newspaper having general circulation in the county or  
 13 municipality.

14 (5) For the purpose of this part, a regional port  
 15 authority has the same powers as all other political  
 16 subdivisions in the adoption and enforcement of  
 17 comprehensive port zoning regulations, as provided by the  
 18 laws of this state."

19 **Section 3.** Section 7-14-1111, MCA, is amended to read:  
 20 "7-14-1111. **General powers of authority.** An authority  
 21 has all the powers necessary or convenient to carry out the  
 22 purposes of this part, including but not limited to the  
 23 power to:

24 (1) ~~certify--annually--to-the-governing-bodies-creating~~  
 25 ~~it-the-amount-of-tax-to-be-levied-by--the--governing--bodies~~

1 ~~for--port--purposes~~ prepare an annual budget and request  
 2 special levies for funding the budget from the governing  
 3 bodies creating the authority;

4 (2) sue and be sued, have a seal, and have perpetual  
 5 succession;

6 (3) execute such contracts and other instruments and  
 7 take such other action as may be necessary or convenient to  
 8 carry out the purposes of this part;

9 (4) plan, establish, acquire, develop, construct,  
 10 purchase, enlarge, improve, maintain, equip, operate,  
 11 regulate, and protect ports and transportation and storage  
 12 facilities. For such purposes an authority may, by purchase,  
 13 gift, devise, lease, or otherwise, acquire real or personal  
 14 property or any interest therein, including easements.

15 (5) establish comprehensive port zoning regulations in  
 16 accordance with the laws of this state;

17 (6) acquire, by purchase, gift, devise, lease, or  
 18 otherwise, existing ports and transportation and storage  
 19 facilities. However, an authority may not acquire or take  
 20 over any port or transportation and storage facility owned  
 21 or controlled by another authority, county, municipality, or  
 22 public agency without the consent of such authority, county,  
 23 municipality, or public agency.

24 (7) provide financial and other support to  
 25 organizations in its jurisdiction, including corporations

1 organized under the provisions of the development  
 2 corporation act in Title 32, chapter 4, whose purpose is to  
 3 promote, stimulate, develop, and advance the general  
 4 welfare, economic development, and prosperity of its  
 5 jurisdiction and of the state and its citizens by  
 6 stimulating, assisting in, and supporting the growth of all  
 7 kinds of economic activity, including the creation,  
 8 expansion, modernization, retention, and relocation of new  
 9 and existing businesses and industry in the state, all of  
 10 which will tend to promote business development, maintain  
 11 the economic stability and prosperity of the state, and thus  
 12 provide maximum opportunities for employment and improvement  
 13 in the standards of living of citizens of the state."

14 **Section 4.** Section 7-14-1131, MCA, is amended to read:

15 "7-14-1131. **Municipal tax levy.** The port authority may  
 16 ~~certify--annually~~ shall submit an annual budget to the  
 17 governing bodies ~~the amount of tax to be levied by~~ of each  
 18 municipality participating in the creation of the port  
 19 authority, and the municipality may levy ~~the---amount~~  
 20 certified, a tax pursuant to provisions of law authorizing  
 21 cities and other political subdivisions of this state to  
 22 levy taxes. The levy made may not exceed the maximum levy  
 23 permitted by 67-10-402 for port purposes or any lower limit  
 24 that may have been established by the municipality or  
 25 municipalities in the resolution creating the authority. The

1 municipality shall collect the taxes ~~certified--by--a--port~~  
 2 ~~authority~~ in the same manner as other taxes are levied and  
 3 collected and make payment to the port authority. The  
 4 proceeds of such taxes when and as paid to the port  
 5 authority must be deposited in a special account or accounts  
 6 in which other revenues of the authority are deposited and  
 7 may be expended by the authority as provided for in this  
 8 part. Prior to the issuance of bonds under 7-14-1133 and  
 9 7-14-1134, the port authority or the municipality may by  
 10 resolution covenant and agree that the total amount of such  
 11 taxes then authorized by law, or such portion thereof as may  
 12 be specified by the resolution, will be ~~certified~~, levied,  
 13 and deposited annually as provided in this section until the  
 14 bonds and interest thereon are fully paid."

15 **Section 5.** Section 7-14-1132, MCA, is amended to read:

16 "7-14-1132. County tax levy. In counties supporting  
 17 ports of port authorities, the authority shall submit an  
 18 annual budget to the governing body of the county. a A levy  
 19 authorized in 67-10-402 may be made by the county for such  
 20 purposes."

21 **Section 6.** Section 7-14-1133, MCA, is amended to read:

22 "7-14-1133. Bonds and obligations. (1) Except for  
 23 providing financial support to a private development  
 24 organization, including a corporation organized under Title  
 25 32, chapter 4, whose purpose is to advance the economic

1 development of its jurisdiction and of the state and its  
 2 citizens, an authority may borrow money for any of its  
 3 corporate purposes and issue bonds therefor, including  
 4 refunding bonds, in such form and upon such terms as it  
 5 determines, payable out of any revenues of the authority,  
 6 including revenues derived from:

- 7 (a) any port or transportation and storage facility;  
 8 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;  
 9 (c) grants or contributions from the federal  
 10 government; or  
 11 (d) other sources.

12 (2) Bonds for any purpose other than refunding may not  
 13 be issued until the question of their approval has been  
 14 submitted to the qualified electors of the local government  
 15 at a general or special election called for that purpose by  
 16 the governing body of the local government and a majority of  
 17 the electors voting on the question have voted in favor of  
 18 it. The notice and conduct of the election is governed, to  
 19 the extent applicable, as provided for municipal general  
 20 obligation bonds in Title 7, chapter 7, part 42, for an  
 21 election called by a city or town and as provided for county  
 22 general obligation bonds in Title 7, chapter 7, part 22, for  
 23 an election called by a county.

24 ~~(2)(3)~~ The bonds may be issued ~~by resolution of the~~  
 25 ~~authority, without an election and~~ without any limitation of

1 amount, except that no bonds may be issued at any time if  
 2 the total amount of principal and interest to become due in  
 3 any year on such bonds and on any then outstanding bonds for  
 4 which revenues from the same source are pledged exceeds the  
 5 amount of such revenues to be received in that year, as  
 6 estimated in the resolution authorizing the issuance of the  
 7 bonds. The authority shall take all action necessary and  
 8 possible to impose, maintain, and collect rates, charges,  
 9 rentals, and taxes, if any are pledged, sufficient to make  
 10 the revenues from the pledged source in such year at least  
 11 equal to the amount of principal and interest due in that  
 12 year.

13 ~~(3)~~(4) The bonds may be sold at public or private sale  
 14 and may bear interest as provided in 17-5-102. Except as  
 15 otherwise provided in this part, any bonds issued pursuant  
 16 to this part by an authority may be payable as to principal  
 17 and interest solely from revenues of the authority and shall  
 18 state on their face the applicable limitations or  
 19 restrictions regarding the source from which such principal  
 20 and interest are payable.

21 ~~(4)~~(5) Bonds issued by an authority, county, or  
 22 municipality pursuant to the provisions of this part are  
 23 declared to be issued for an essential public and  
 24 governmental purpose by a political subdivision within the  
 25 meaning of 15-30-111(2)(a).

1 ~~(5)~~(6) For the security of any such bonds, the  
 2 authority, county, or municipality may by resolution make  
 3 and enter into any covenant, agreement, or indenture and may  
 4 exercise any additional powers authorized to be exercised by  
 5 a municipality under Title 7, chapter 7, parts 44 and 45.  
 6 The sums required from time to time to pay principal and  
 7 interest and to create and maintain a reserve for the bonds  
 8 may be paid from any revenues referred to in this part,  
 9 prior to the payment of current costs of operation and  
 10 maintenance of the facilities.

11 ~~(6)~~(7) Nothing in this section or 7-14-1134 may be  
 12 construed to limit the use of port authority revenues,  
 13 including federal and state money as described in 7-14-1136,  
 14 to make grants and loans or to otherwise provide financial  
 15 and other support to private development organizations,  
 16 including corporations organized under the provisions of the  
 17 development corporation act in Title 32, chapter 4. Under no  
 18 circumstances may the credit of the state, county, or  
 19 municipal governments or their agencies or authorities be  
 20 pledged to provide financial support to such development  
 21 organizations."

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