

House Bill 109

In The House

January 7, 1981	Introduced and referred to Committee on Taxation.
January 23, 1981	Committee recommend bill do not pass.

HOUSE BILL NO. 109
called for by

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A DEFINED
5 RESORT COMMUNITY TO ESTABLISH A RESORT TAX AFTER A VOTE OF
6 ITS ELECTORS; ESTABLISHING CATEGORIES OF GOODS AND SERVICES
7 EXEMPT FROM THE TAX; PROVIDING RESORT COMMUNITY PROPERTY TAX
8 RELIEF; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10 WHEREAS, many municipalities in the State of Montana
11 rely upon tourism for the bulk of their livelihood, but the
12 tourist industry tends to be seasonably cyclical; and

13 WHEREAS, such cycles are reflected in demands for
14 services and capital expenditures that for a community on a
15 steady economy do not occur; and

16 WHEREAS, tourist income, tending to be spent for
17 services and consumables originating in communities other
18 than the resort community, is not translated into taxable
19 real property; and

20 WHEREAS, the resort community must provide services not
21 only for tourists but for its own residents, and those
22 services are not commensurate with the taxable value of the
23 resort community as compared with steady income
24 municipalities of similar populations.

25 THEREFORE, it is the intent of this act to rectify this

1 inequity by providing for a resort tax that may be locally
2 enacted which would tax tourists to reimburse the resort
3 community for the services provided the tourist.

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

6 Section 1. Definitions. As used in [this act] the
7 following definitions apply:

8 (1) "Agricultural supplies" mean all implements and
9 items of husbandry, both capital and expendable items, used
10 either for farm, ranch, or home crop or livestock
11 production, including seed, feed, fertilizer, hand
12 implements or tools, irrigation systems, insecticides,
13 herbicides, medicine, irrigation systems, fuel, and other
14 necessary accessories and supplies for crop or livestock
15 production.

16 (2) "Farm machinery" means motor propelled farm or
17 ranch implements and attachments used primarily for crop or
18 livestock production.

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

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

25 (5) "Motor vehicle" means any type of vehicle using

1 other than muscle, gravity, or air displacement or movement
 2 for locomotion.

3 (6) "Resort community" means a community that:

4 (a) is an incorporated municipality;

5 (b) has a population of less than 10,000 according to
 6 the most recent federal census or official population
 7 estimate prepared by the state of Montana; and

8 (c) derives the major portion of its economic
 9 well-being from businesses catering to the recreational and
 10 personal needs of persons traveling to or through the
 11 municipality for purposes not related to that person's
 12 income production.

13 Section 2. Taxing authority -- specific delegation. As
 14 required by 7-1-112, [this act] specifically delegates to
 15 the electors of each respective resort community the power
 16 to authorize their municipality to impose a resort tax
 17 within the corporate boundary of the municipality as
 18 provided in [this act].

19 Section 3. Limit on tax rate -- exemption from tax. (1)
 20 The rate of the resort tax shall be established by the
 21 election petition or resolution provided for in [section 4],
 22 but the rate may not exceed 2%.

23 (2) The resort tax is a tax on the retail value of all
 24 goods and services sold within the resort community. The
 25 following categories of goods and services are exempt from

1 such taxation:

2 (a) foodstuffs;

3 (b) medicine and medical supplies;

4 (c) medical care;

5 (d) motor vehicles;

6 (e) agricultural supplies and farm machinery; and
 7 (f) liquor purchased at state-owned liquor outlets.

8 Section 4. Election required -- procedure. (1) A resort
 9 community may not impose or, except as provided in [section
 10 5], amend or repeal a resort tax unless the resort tax
 11 question has been submitted to the electorate of the resort
 12 community and approved by a majority of the electors voting
 13 on the question.

14 (2) The resort tax question may be presented to the
 15 electors of the resort community by:

16 (a) a petition of the electors as provided by 7-1-4130,
 17 7-5-132, and 7-5-134 through 7-5-137; or

18 (b) a resolution of the governing body of the resort
 19 community.

20 (3) The petition or resolution referring the taxing
 21 question:

22 (a) shall state the exact rate of the resort tax;

23 (b) shall state the duration of the resort tax;

24 (c) shall state the date when the tax becomes
 25 effective, which date may not be earlier than 35 days after

1 the election; and

2 (d) may specify the purposes that may be funded by the
3 resort tax revenue.

4 (4) Upon receipt of an adequate petition the governing
5 body may:

6 (a) call a special election on the resort tax question;
7 or

8 (b) have the resort tax question placed on the ballot
9 at the next regularly scheduled election.

10 (5) The question of the imposition of a resort tax may
11 not be placed before the electors more than once in any 1
12 fiscal year.

13 Section 5. Tax administration. (1) Not less than 30
14 days prior to the date the resort tax becomes effective, the
15 governing body of the resort community shall enact an
16 administrative ordinance governing the collection and
17 reporting of the resort taxes. This administrative ordinance
18 may be amended at anytime thereafter as may be necessary to
19 effectively administer the resort tax.

20 (2) The administrative ordinance shall specify:

21 (a) the times taxes collected by business are to be
22 remitted to the resort community;

23 (b) the local government office, officer, or employee
24 responsible for receiving and accounting for the resort tax
25 receipts;

1 (c) the local government office, officer, or employee
2 responsible for enforcing the collection of resort taxes and
3 the methods and procedures to be used in enforcing the
4 collection of resort taxes due;

5 (d) the penalties for failure to report taxes due,
6 failure to remit taxes due, and violations of the
7 administrative ordinance. The penalties may include:

8 (i) criminal penalties not to exceed a fine of \$1,000
9 or 6 months imprisonment or both the fine and imprisonment;

10 (ii) civil penalties if the resort community prevails in
11 a suit for the collection of resort taxes not to exceed 50%
12 of the resort taxes found due plus the costs and attorney
13 fees incurred by the resort community in the action;

14 (iii) revocation of the offender's municipal business
15 license; and

16 (iv) any other penalties that may be applicable for
17 violation of an ordinance.

18 (3) The administrative ordinance may include:

19 (a) further clarification and specificity in the
20 categories of goods and services that are exempt from the
21 resort tax consistent with [sections 1 and 3];

22 (b) authorization for business administration and
23 prepayment discounts. The discount authorization may allow
24 each vendor and commercial establishment:

25 (i) to withhold up to 5% of the resort taxes collected

1 to defray their costs for the administration of the tax
2 collection; and

3 (ii) to receive a refund of up to 5% of the resort tax
4 payment received from them by the resort community 10 days
5 prior to the collection due date established by the
6 administrative ordinance.

7 (c) other administrative details necessary for the
8 efficient and effective administration of the tax.

9 Section 6. Use of tax revenues. Unless otherwise
10 restricted by the voter approved tax authorization provided
11 for in [section 4], a resort community may appropriate and
12 expend revenues derived from a resort tax for any activity,
13 undertaking, or administrative service that the municipality
14 is authorized by law to perform, including costs resulting
15 from the imposition of the tax.

16 Section 7. Property tax relief. (1) Annually
17 anticipated receipts from the resort tax shall be applied to
18 reduce the municipal property tax levy for the fiscal year
19 in an amount equal to at least 5% of the resort tax revenues
20 derived during the preceding fiscal year.

21 (2) A resort community that received more resort tax
22 revenues than had been included in the annual municipal
23 budget shall establish a municipal property tax relief fund.
24 All resort tax revenues received in excess of the budget
25 amount shall be placed in the fund. The entire fund shall be

1 used to replace municipal property taxes in the ensuing
2 fiscal year.

3 Section 8. Effective date. This act is effective on
4 passage and approval.

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