

HOUSE BILL NO. 804

2/12 Introduced
2/12 Referred to Local Government
2/21 Hearing
3/27 Committee Report-Bill Pass As Amended
3/27 Statement of Intent Attached
3/30 2nd Reading Pass As Amended
4/02 3rd Reading Do Not Pass
4/02 Bill Killed

1 and

2 (b) civil penalties that are monetary amounts, either
3 fixed or by percentages, enforceable in justice's, city, or
4 municipal court.

5 (6) The proceeds of a tax authorized by the electorate
6 under this section may be used for the administration of the
7 tax and, unless otherwise provided in the enabling
8 authorization, may be used for any lawful purpose by the
9 local government.

10 (7) The governing body may contract or enter into
11 interlocal agreements with other local governments or state
12 agencies for the administration of a tax authorized by this
13 section.

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 STATEMENT OF INTENT

2 HOUSE BILL 804

3 House Local Government Committee

4
5 A statement of intent is required on this bill because
6 rulemaking authority is granted to the department of revenue
7 in section 2.

8 It is intended that the rules promulgated by the
9 department of revenue would provide maximum compatibility
10 with rules adopted by the department for administering state
11 income taxes. In achieving this goal the department should
12 strive for simplicity for taxpayers, and if burdens are
13 necessary, the department should bear them. In administering
14 the program, the primary objective should be efficiency for
15 both the state and the concerned local governments. It is
16 contemplated that the rules will address reporting forms,
17 payments to local governments, and other procedures
18 necessary for the proper administration of the local income
19 tax.

HOUSE BILL NO. 804

INTRODUCED BY ADDY, KEYSER, RAMIREZ, ANDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL GOVERNMENT TO IMPOSE ~~ANY--TYPE--OF--TAX--NOT--OTHERWISE AUTHORIZED--OR--PROHIBITED~~ CERTAIN LOCAL OPTION TAXES IF SUCH ~~TAX--IS~~ APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT; PROVIDING FOR ESTABLISHING THE ADMINISTRATION OF SUCH TAX; PROVIDING FOR ESTABLISHING CRIMINAL AND CIVIL PENALTIES NECESSARY FOR THE ADMINISTRATION OF THE TAX."

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

Section 1. Local option taxes. ~~{}~~ A local government may impose ONE OR MORE OF THE ~~taxes on-income-or-on-the-sale of--goods--or--services--or-may-impose-any-other-type-of-tax that-is-not-otherwise-authorized-or-prohibited--by--law~~ SET FORTH IN [SECTION 2] upon its residents and upon transactions occurring within its jurisdiction if the authority enabling the imposition of such tax is approved by the electorate of the local government as provided in ~~this section~~ [SECTION 3].

SECTION 2. TYPES OF TAXES THAT MAY BE IMPOSED. AS PROVIDED IN [THIS ACT], A LOCAL GOVERNMENT MAY IMPOSE ONE OR MORE OF THE FOLLOWING TAXES:

(1) A LOCAL PAYROLL TAX, WHICH MAY BE A FLAT RATE OR A

SCHEDULE OF FLAT RATES LEVIED FOR SPECIFIC TIME PERIODS ON EMPLOYEES OF LICENSED BUSINESSES OR PUBLIC EMPLOYERS OPERATING WITHIN THE JURISDICTION WHO ARE COVERED UNDER THE WORKERS' COMPENSATION LAWS OF THE STATE OR FOR WHOM THERE MUST BE WITHHOLDINGS FOR STATE OR FEDERAL TAXES;

(2) A FEE ON LIGHT MOTOR VEHICLES WHICH IS IN ADDITION TO THE FEES REQUIRED UNDER TITLE 61, CHAPTER 3, PART 5. A LOCAL GOVERNMENT MAY IMPOSE A FEE ON LIGHT VEHICLES, AS DEFINED IN 61-3-531, IN AN AMOUNT NOT TO EXCEED \$10 PER VEHICLE. SUCH FEES ARE PAYABLE AT THE SAME TIME ON THE SAME VEHICLES AS THE FEES PROVIDED FOR IN 61-3-532 AND 61-3-533. FOR THE PURPOSES OF [THIS ACT], THE FEE PROVIDED IN THIS SUBSECTION IS CONSIDERED A TAX. THE DISTRIBUTION OF SUCH FEES, IF NOT PROVIDED FOR BY AGREEMENT, WILL BE BASED UPON THE REGISTRATION ADDRESS OF THE OWNER OF THE MOTOR VEHICLE.

(3) A TAX ON THE RETAIL SALE OF GOODS AND SERVICES WITHIN THE JURISDICTION, TO BE A PERCENTAGE OF THE RETAIL SALES PRICE OF THE GOODS OR SERVICES SOLD WITHIN THE JURISDICTION. THE RATE OF SUCH A SALES TAX MAY NOT EXCEED 1% OF THE SALES PRICE. IN ENACTING THE AUTHORIZATION FOR THE IMPOSITION OF A SALES TAX, THE ELECTORATE MAY ESTABLISH CATEGORIES OF GOODS AND SERVICES THAT ARE NOT SUBJECT TO A SALES TAX.

(4) A LOCAL INCOME TAX AS A PERCENTAGE OF THE STATE INCOME TAX LIABILITY ON ITS RESIDENTS AND ALL OTHER PERSONS

1 EARNING OR RECEIVING INCOME FROM ACTIVITIES CARRIED OUT IN
 2 THE MUNICIPALITY OR COUNTY. THE RATE OF THE TAX MAY NOT
 3 EXCEED 20% OF THE PERSON'S STATE INCOME TAX LIABILITY. IN
 4 ADDITION TO OTHER PROVISIONS RELATING TO THE IMPOSITION OF A
 5 LOCAL OPTION TAX PURSUANT TO [THIS ACT], THE FOLLOWING
 6 PROVISIONS APPLY TO THE IMPOSITION OF A LOCAL INCOME TAX:

7 (A) THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY
 8 IMPOSING AN INCOME TAX MAY SUSPEND THE COLLECTION OF THE TAX
 9 FOR ANY CALENDAR YEAR ONLY AFTER GIVING 150 DAYS' NOTICE TO
 10 THE DEPARTMENT OF REVENUE. THE SUSPENSION TAKES EFFECT THE
 11 FIRST DAY OF THE NEXT CALENDAR YEAR. SUSPENSION OF THE TAX
 12 DOES NOT IMPAIR THE AUTHORITY OF THE GOVERNING BODY TO
 13 IMPOSE THE TAX IN SUBSEQUENT CALENDAR YEARS WITHOUT ELECTOR
 14 APPROVAL.

15 (B) THE LOCAL OPTION INCOME TAX MUST BE ADMINISTERED
 16 BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT SHALL ADOPT
 17 RULES FOR THE ADMINISTRATION OF THE TAX.

18 (C) MONEY COLLECTED BY THE DEPARTMENT MUST BE
 19 ACCOUNTED FOR SEPARATELY AND MUST BE CREDITED TO A LOCAL
 20 INCOME TAX ACCOUNT IN THE FIDUCIARY FUND OF THE STATE
 21 TREASURY.

22 (D) FOR THE PURPOSE OF ADMINISTRATION, THE DEPARTMENT
 23 MAY DEDUCT AN AMOUNT NOT TO EXCEED 1% OF THE AMOUNT
 24 COLLECTED IN EACH JURISDICTION.

25 (E) THE DEPARTMENT MUST RETURN THE PROCEEDS FROM THE

1 TAX TO THE JURISDICTION IN WHICH THEY WERE COLLECTED,
 2 EXCEPT:

3 (I) THE AMOUNT FOR REFUNDS;

4 (II) A RESERVE FOR ANTICIPATED REFUNDS; AND

5 (III) THE COSTS OF ADMINISTERING THE TAX.

6 (F) IF A COUNTY LEVIES A LOCAL INCOME TAX, THE
 7 DISTRIBUTION OF THE PROCEEDS MUST BE MADE ON THE BASIS OF
 8 INCOME TAX COLLECTIONS IN EACH JURISDICTION. FOR THIS
 9 PURPOSE, THE COUNTY JURISDICTION DOES NOT INCLUDE TAXPAYERS
 10 RESIDING IN MUNICIPALITIES.

11 (G) ONLY MUNICIPALITIES IN COUNTIES THAT DO NOT IMPOSE
 12 AN INCOME TAX MAY IMPOSE A LOCAL OPTION INCOME TAX. THE TAX
 13 IS APPLICABLE TO RESIDENTS AND OTHER PEOPLE EARNING AN
 14 INCOME WITHIN THE MUNICIPAL BOUNDARIES.

15 (H) A TAXPAYER WHOSE PRINCIPAL PLACE OF BUSINESS OR
 16 EMPLOYMENT IS IN A JURISDICTION WITH AN INCOME TAX BUT WHO
 17 LIVES OUTSIDE THE BOUNDARIES OF THAT JURISDICTION IS LIABLE
 18 FOR ONE-HALF THE RATE OF THE INCOME TAX.

19 SECTION 3. ENABLING AUTHORITY FOR IMPOSITION OF TAX.

20 {2}(1) (a) The proposal to enable a local government to
 21 impose such taxes AUTHORIZED BY [THIS ACT] may be initiated
 22 by a petition of the electorate as provided in 7-5-131
 23 through 7-5-135 or by a resolution of the governing body.

24 (b) The proposal must state the specific type or types
 25 of taxes the local government proposes to impose.

1 (c) The proposal may MUST contain provisions that upon
2 approval:

3 (i) limit the authority of the governing body in the
4 imposition and use of the tax, such as percentages,
5 duration, exclusions, use of proceeds, and similar
6 limitations; and

7 (ii) grant the governing body authority to establish
8 administrative procedures, rates, penalties, and other
9 powers not inconsistent with the approved enabling
10 authority.

11 ~~†3†~~(2) (A) Upon approval by the electorate in
12 accordance with the provisions of SUBSECTION (2)(B) AND
13 7-5-136, the proposal becomes the local government body's
14 enabling authority to impose the specified tax subject to
15 all restrictions and provisions of the enabling authority.

16 (B) APPROVAL OF THE PROPOSAL BY THE ELECTORATE IS NOT
17 VALID UNLESS AT LEAST 40% OF THE REGISTERED VOTERS OF THE
18 LOCAL GOVERNMENT VOTE AT THE ELECTION IN WHICH THE QUESTION
19 ON THE PROPOSITION IS PRESENTED AS DETERMINED BY THE NUMBER
20 OF ELECTORS SIGNING PRECINCT REGISTERS AND THE NUMBER OF
21 DELIVERED ABSENTEE BALLOTS.

22 ~~†4†~~(3) Unless the enabling authority contains a
23 provision stating otherwise, it may be amended or repealed
24 without a vote of the electorate.

25 SECTION 4. PROHIBITION AGAINST DOUBLE TAXATION --

1 ALLOCATIONS OF COLLECTIONS. A LOCAL OPTION TAX MAY NOT BE
2 LEVIED ON THE SAME PERSONS OR TRANSACTIONS BY MORE THAN ONE
3 LOCAL GOVERNMENT. IF A COUNTY IMPOSES A LOCAL OPTION TAX,
4 THE TAX MUST BE LEVIED COUNTYWIDE AND, UNLESS OTHERWISE
5 PROVIDED BY AGREEMENT WITH MUNICIPALITIES WITHIN THE COUNTY,
6 THE PROCEEDS OF THE TAX WILL BE DISTRIBUTED BY THE COUNTY
7 BASED UPON THE POINT OF ORIGIN OF THE REVENUE OF THE TAX.
8 AFTER A PRO RATA DEDUCTION FOR ITS ADMINISTRATIVE EXPENSES,
9 A COUNTY SHALL DISTRIBUTE TAXES COLLECTED WITHIN EACH
10 MUNICIPALITY TO THE MUNICIPALITY AND SHALL RETAIN
11 COLLECTIONS NOT COLLECTED WITHIN ANY MUNICIPALITY.

12 SECTION 5. ADMINISTRATION OF TAX -- PENALTY. †5†(1)
13 Subject to any restrictions set forth in the enabling
14 authority, the governing body, for the enforcement of
15 provisions relating to the imposition and collection of a
16 tax under this section, may establish:

17 (a) criminal penalties, not to exceed the penalties
18 for the violation of an ordinance as set forth in 7-5-109;
19 and

20 (b) civil penalties that are monetary amounts, either
21 fixed or by percentages, enforceable in justice's, city, or
22 municipal court.

23 ~~†6†~~(2) The proceeds of a tax authorized by the
24 electorate under this section may be used for the
25 administration of the tax and, unless otherwise provided in

1 the enabling authorization, may be used for any lawful
2 purpose by the local government.

3 ~~(7)~~(3) The governing body may contract or enter into
4 interlocal agreements with other local governments or state
5 agencies for the administration of a tax authorized by this
6 section.

7 SECTION 6. EXEMPTION FOR REGULATED PUBLIC UTILITIES.
8 NO PUBLIC UTILITY SUBJECT TO RATE REGULATION BY THE MONTANA
9 PUBLIC SERVICE COMMISSION IS SUBJECT TO A TAX LEVIED UNDER
10 [THIS ACT].

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 804

3 House Local Government Committee

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5 A statement of intent is required on this bill because
6 rulemaking authority is granted to the department of revenue
7 in section 2.

8 It is intended that the rules promulgated by the
9 department of revenue would provide maximum compatibility
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11 income taxes. In achieving this goal the department should
12 strive for simplicity for taxpayers, and if burdens are
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14 ~~of--goods--or--services--or--may-impose-any-other-type-of-tax~~
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16 FORTH IN [SECTION 2] upon its residents and upon
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5 MUST BE WITHHOLDINGS FOR STATE OR FEDERAL TAXES;

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9 DEFINED IN 61-3-531, IN AN AMOUNT NOT TO EXCEED \$10 PER
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22 CATEGORIES OF GOODS AND SERVICES THAT ARE NOT SUBJECT TO A
23 SALES TAX. THE TAX MAY NOT BE IMPOSED ON USED GOODS, MEANING
24 GOODS WHICH HAVE BEEN SOLD, BARGAINED, EXCHANGED, GIVEN
25 AWAY, OR TITLE TRANSFERRED FROM THE PERSON WHO FIRST TOOK

1 TITLE OF THE GOODS FROM A SELLER OF THE GOODS, AND SO USED
 2 BY THAT ORIGINAL OWNER THAT IT HAS BECOME WHAT IS COMMONLY
 3 KNOWN AS "SECOND HAND".

4 (4) A LOCAL INCOME TAX AS A PERCENTAGE OF THE STATE
 5 INCOME TAX LIABILITY ON ITS RESIDENTS AND ALL OTHER PERSONS
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3 through 7-5-135 or by a resolution of the governing body.

4 (b) The proposal must state the specific type or types
5 of taxes the local government proposes to impose.

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10 duration, exclusions, use of proceeds, and similar
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12 (ii) grant the governing body authority to establish
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14 powers not inconsistent with the approved enabling
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18 7-5-136, the proposal becomes the local government body's
19 enabling authority to impose the specified tax subject to
20 all restrictions and provisions of the enabling authority.

21 (B) APPROVAL OF THE PROPOSAL BY THE ELECTORATE IS NOT
22 VALID UNLESS AT LEAST 40% OF THE REGISTERED VOTERS OF THE
23 LOCAL GOVERNMENT VOTE AT THE ELECTION IN WHICH THE QUESTION
24 ON THE PROPOSITION IS PRESENTED AS DETERMINED BY THE NUMBER
25 OF ELECTORS SIGNING PRECINCT REGISTERS AND THE NUMBER OF

1 DELIVERED ABSENTEE BALLOTS.

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4 without a vote of the electorate.

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16 COLLECTIONS NOT COLLECTED WITHIN ANY MUNICIPALITY.

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19 authority, the governing body, for the enforcement of
20 provisions relating to the imposition and collection of a
21 tax under this section, may establish:

22 (a) criminal penalties, not to exceed the penalties
23 for the violation of an ordinance as set forth in 7-5-109;

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25 (b) civil penalties that are monetary amounts, either

1 fixed or by percentages, enforceable in justice's, city, or
2 municipal court.

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4 electorate under this section may be used for the
5 administration of the tax and, unless otherwise provided in
6 the enabling authorization, may be used for any lawful
7 purpose by the local government.

8 ~~(7)~~(3) The governing body may contract or enter into
9 interlocal agreements with other local governments or state
10 agencies for the administration of a tax authorized by this
11 section.

12 SECTION 6. EXEMPTION FOR REGULATED PUBLIC UTILITIES.
13 NO PUBLIC UTILITY SUBJECT TO RATE REGULATION BY THE MONTANA
14 PUBLIC SERVICE COMMISSION OR OWNED BY A GOVERNMENTAL ENTITY,
15 INCLUDING A RURAL COOPERATIVE UTILITY ORGANIZED UNDER TITLE
16 35, CHAPTER 18, IS SUBJECT TO A TAX LEVIED UNDER [THIS ACT].

-End-