

SB 55 INTRODUCED BY STORY
REVISING RESORT COMMUNITY DEFINITION
BY REQUEST OF JOINT INTERIM SUBCOMMITTEE ON
INFRASTRUCTURE

1/06 INTRODUCED
1/06 REFERRED TO TAXATION
1/07 REREFERRED TO LOCAL GOVERNMENT
1/13 HEARING
1/23 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/27 2ND READING PASSED 31 18
1/29 3RD READING PASSED 32 18

 TRANSMITTED TO HOUSE
2/04 REFERRED TO TAXATION
3/04 HEARING
4/09 TABLED IN COMMITTEE

1 SENATE BILL NO. 55
 2 INTRODUCED BY STORY
 3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
 4 ON INFRASTRUCTURE

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION
 7 OF A RESORT COMMUNITY FOR PURPOSES OF THE RESORT COMMUNITY
 8 TAX; AMENDING SECTION 7-6-4461, MCA; AND PROVIDING AN
 9 APPLICABILITY DATE AND AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 7-6-4461, MCA, is amended to read:
 13 "7-6-4461. Resort community tax -- definitions. As
 14 used in 7-6-4461 through 7-6-4467, the following definitions
 15 apply:

16 (1) "Luxuries" means any gift item, luxury item, or
 17 other item normally sold to the public or to transient
 18 visitors or tourists. The term does not include food
 19 purchased unprepared or unserved, medicine, medical supplies
 20 and services, or any necessities of life.

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

24 (3) "Medicine" means substances sold for curative or
 25 remedial properties, including both physician prescribed and

1 over-the-counter medications.
 2 (4) "Resort community" means a community that:
 3 (a) is an incorporated municipality;
 4 ~~(b) has a population of less than 2,500 according to~~
 5 ~~the most recent federal census or federal estimate;~~
 6 ~~(c)~~(b) derives the major portion of its economic
 7 well-being from businesses catering to the recreational and
 8 personal needs of persons traveling to or through the
 9 municipality for purposes not related to their income
 10 production; and
 11 ~~(d)~~(c) has been designated by the department of
 12 commerce as a resort community."
 13 NEW SECTION. Section 2. Applicability. This act
 14 applies to any community that applies to the department of
 15 commerce for designation as a resort community after January
 16 1, 1987.
 17 NEW SECTION. Section 3. Effective date. This act is
 18 effective July 1, 1987.

-End-



-2- INTRODUCED BILL
 SB-55

APPROVED BY COMM.
ON LOCAL GOVERNMENT

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4 ON INFRASTRUCTURE
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7 OF A RESORT COMMUNITY FOR PURPOSES OF THE RESORT COMMUNITY
8 TAX; PROVIDING FOR A RESORT TAX IN UNINCORPORATED AREAS;
9 EXTENDING THE TAX TO SKI RESORTS AND OTHER RECREATIONAL
10 FACILITIES; AMENDING SECTION SECTIONS 7-6-4461 AND 7-6-4463
11 THROUGH 7-6-4465, MCA; AND PROVIDING AN APPLICABILITY DATE
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3 remedial properties, including both physician prescribed and
4 over-the-counter medications.

5 (4) "RESORT AREA" MEANS AN AREA THAT:

6 (A) DERIVES A SUBSTANTIAL PORTION OF ITS ECONOMIC
7 WELL-BEING FROM BUSINESSES CATERING TO THE RECREATIONAL AND
8 PERSONAL NEEDS OF PERSONS TRAVELING TO OR THROUGH THE AREA
9 FOR PURPOSES NOT RELATED TO THEIR INCOME PRODUCTION;

10 (B) HAS BEEN DECLARED A RESORT AREA BY THE COUNTY
11 COMMISSIONERS AS PROVIDED IN [SECTION 2]; AND

12 (C) (I) IS AN UNINCORPORATED TOWN DEFINED IN THE MOST
13 RECENT DECENNIAL CENSUS CONDUCTED BY THE U.S. BUREAU OF THE
14 CENSUS AS A CENSUS DESIGNATED PLACE; OR

15 (II) IS AN AREA COMPRISING NOT MORE THAN 10 SQUARE
16 MILES THAT DOES NOT INCLUDE ANY PORTION OF AN INCORPORATED
17 CITY OR TOWN.

18 (4)(5) "Resort community" means a community that:

19 (a) is an incorporated municipality; AND

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21 ~~the most recent federal census or federal estimate;~~

22 (c)(b) derives ~~the major~~ A SUBSTANTIAL portion of its
23 economic well-being from businesses catering to the
24 recreational and personal needs of persons traveling to or
25 through the municipality for purposes not related to their

1 income production; and.
2 ~~(d)(c)~~--has--been--designated--by--the--department--of
3 commerce-as-a-resort-community:"

4 NEW SECTION. SECTION 2. RESORT AREA -- TAXING
5 AUTHORITY. (1) THE BOARD OF COUNTY COMMISSIONERS, UPON
6 RECEIVING A WRITTEN PETITION CONTAINING A DESCRIPTION OF THE
7 PROPOSED RESORT AREA AND SIGNED BY AT LEAST 10 REGISTERED
8 VOTERS RESIDING IN THE PROPOSED DISTRICT, SHALL BY
9 RESOLUTION ESTABLISH A RESORT AREA.

10 (2) THE PETITION MUST INCLUDE A PROPOSAL TO IMPOSE A
11 RESORT TAX WITHIN THE PROPOSED RESORT AREA, INCLUDING THE
12 RATE, DURATION, EFFECTIVE DATE, AND PURPOSE OF THE TAX AS
13 PROVIDED IN 7-6-4464.

14 SECTION 3. SECTION 7-6-4463, MCA, IS AMENDED TO READ:

15 "7-6-4463. Limit on resort community tax rate -- goods
16 and services subject to tax. (1) The rate of the resort tax
17 must be established by the election petition or resolution
18 provided for in 7-6-4464, but the rate may not exceed 3%.

19 (2) (a) The resort tax is a tax on the retail value of
20 all goods and services sold within the resort community or
21 area by the following establishments:

22 (i) hotels, motels, and other lodging or camping
23 facilities;

24 (ii) restaurants, fast food stores, and other food
25 service establishments;

1 (iii) taverns, bars, night clubs, lounges, and other
2 public establishments that serve beer, wine, liquor, or
3 other alcoholic beverages by the drink; and

4 (iv) ski resorts and other recreational facilities.

5 (b) ~~establishments~~ Establishments that sell luxuries
6 must collect a tax on such luxuries."

7 SECTION 4. SECTION 7-6-4464, MCA, IS AMENDED TO READ:

8 "7-6-4464. Resort community tax -- election required
9 -- procedure. (1) A resort community may not impose or,
10 except as provided in 7-6-4465, amend or repeal a resort tax
11 unless the resort tax question has been submitted to the
12 electorate of the resort community and approved by a
13 majority of the electors voting on the question.

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

16 (a) a resort community by:

17 ~~(a)~~ a petition of the electors as provided by
18 7-1-4130, 7-5-132, and 7-5-134 through 7-5-137; or

19 ~~(b)~~ a resolution of the governing body of the resort
20 community; or

21 (b) A resort area by a resolution of the board of
22 county commissioners following receipt of a petition of
23 electors as provided in [section 2].

24 (3) The petition or resolution referring the taxing
25 question must state:

- 1 (a) ~~must-state~~ the exact rate of the resort tax;
- 2 (b) ~~must-state~~ the duration of the resort tax;
- 3 (c) ~~must---state~~ the date when the tax becomes
- 4 effective, which date may not be earlier than 35 days after
- 5 the election; and
- 6 (d) ~~may-specify~~ the purposes that may be funded by the
- 7 resort tax revenue.

8 (4) The petition or resolution referring the resort
 9 tax question may provide for a seasonal tax, which would be
 10 effective for a period of at least 3 but less than 12 months
 11 of each calendar year.

12 ~~(4)(5)~~ Upon receipt of an adequate petition the
 13 governing body may:

- 14 (a) call a special election on the resort tax
- 15 question; or
- 16 (b) have the resort tax question placed on the ballot
- 17 at the next regularly scheduled election.

18 ~~(5)(6)~~ The question of the imposition of a resort tax
 19 may not be placed before the electors more than once in any
 20 fiscal year."

21 SECTION 5. SECTION 7-6-4465, MCA, IS AMENDED TO READ:
 22 "7-6-4465. Resort community tax administration. (1) In
 23 this section, "governing body" means the governing body of
 24 an incorporated resort community or, if the resort tax has
 25 been approved by the electors of an unincorporated resort

1 area, the board of county commissioners.

2 ~~(2)~~ Not less than 30 days prior to the date the resort
 3 tax becomes effective, the governing body ~~of--the--resort~~
 4 ~~community~~ shall enact an administrative ordinance governing
 5 the collection and reporting of the resort taxes. This
 6 administrative ordinance may be amended at any time
 7 thereafter as may be necessary to effectively administer the
 8 resort tax.

9 ~~(2)(3)~~ The administrative ordinance shall specify:

10 (a) the times taxes collected by business are to be
 11 remitted to the ~~resort-community governing body~~;

12 (b) the local government office, officer, or employee
 13 responsible for receiving and accounting for the resort tax
 14 receipts;

15 (c) the local government office, officer, or employee
 16 responsible for enforcing the collection of resort taxes and
 17 the methods and procedures to be used in enforcing the
 18 collection of resort taxes due; and

19 (d) the penalties for failure to report taxes due,
 20 failure to remit taxes due, and violations of the
 21 administrative ordinance. The penalties may include:

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

24 (ii) civil penalties if the ~~resort-community governing~~
 25 ~~body~~ prevails in a suit for the collection of resort taxes,

1 not to exceed 50% of the resort taxes found due plus the
 2 costs and attorney fees incurred by the ~~resort--community~~
 3 governing body in the action;

4 (iii) revocation of the offender's county or municipal
 5 business license; and

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

8 ~~(3)~~(4) The administrative ordinance may include:

9 (a) further clarification and specificity in the
 10 categories of goods and services that are subject to the
 11 resort tax consistent with 7-6-4463;

12 (b) authorization for business administration and
 13 prepayment discounts. The discount authorization may allow
 14 each vendor and commercial establishment to:

15 (i) withhold up to 5% of the resort taxes collected to
 16 defray their costs for the administration of the tax
 17 collection; or

18 (ii) receive a refund of up to 5% of the resort tax
 19 payment received from them by the ~~resort-community county~~
 20 governing body 10 days prior to the collection due date
 21 established by the administrative ordinance; and

22 (c) other administrative details necessary for the
 23 efficient and effective administration of the tax."

24 NEW SECTION. SECTION 6. USE OF RESORT AREA TAX --
 25 PROPERTY TAX RELIEF. (1) UNLESS OTHERWISE PROVIDED BY THE

1 AUTHORIZATION APPROVED BY THE ELECTORS UNDER 7-6-4464, THE
 2 BOARD OF COUNTY COMMISSIONERS MAY APPROPRIATE AND EXPEND
 3 REVENUES DERIVED FROM A RESORT AREA TAX FOR THE PURPOSE
 4 STATED IN THE RESOLUTION APPROVED BY THE ELECTORS.

5 (2) (A) ANTICIPATED REVENUES FROM A RESORT AREA TAX
 6 MUST BE APPLIED TO REDUCE THE TAX LEVY ON PROPERTY WITHIN
 7 THE RESORT AREA FOR THE FISCAL YEAR IN AN AMOUNT EQUAL TO AT
 8 LEAST 5% OF THE RESORT TAX REVENUES DERIVED DURING THE
 9 PRECEDING FISCAL YEAR.

10 (B) WHEN REVENUES FROM A RESORT AREA TAX EXCEED THE
 11 ANTICIPATED AMOUNT, THE BOARD OF COUNTY COMMISSIONERS SHALL
 12 ESTABLISH A PROPERTY TAX RELIEF FUND FOR THE RESORT AREA.
 13 ALL RESORT AREA TAX REVENUES RECEIVED IN EXCESS OF THE
 14 ANTICIPATED AMOUNT MUST BE PLACED IN THE FUND, AND THE
 15 ENTIRE FUND MUST BE USED TO REPLACE THE EQUIVALENT AMOUNT OF
 16 PROPERTY TAXES IN THE RESORT AREA IN THE ENSUING FISCAL
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 19 applies to any community that ~~applies to the department of~~
 20 commerce for designation as a resort community THAT ADOPTS A
 21 RESORT TAX AND TO ANY UNINCORPORATED AREA DECLARED A RESORT
 22 AREA BY THE BOARD OF COUNTY COMMISSIONERS after January 1,
 23 1987.

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