

HOUSE BILL 479

Introduced by Addy, et al.

1/27	Introduced
1/28	Referred to Taxation
2/10	Hearing
3/07	Tabled in Committee
3/15	Taken From Table By Committee
3/16	Committee Report--Bill Passed as Amended
3/29	2nd Reading Do Pass as Amended Failed

1 *Hausa* BILL NO. *479*
 2 INTRODUCED BY *Adley Hager Blaylock Ramon Delberg*
 3 *Spatt Dwyer J. Brannan Kados Hamble*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
 5 GOVERNMENT TO IMPOSE ANY TYPE OF TAX NOT PROHIBITED BY LAW
 6 IF IT IS APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
 7 PROVIDING FOR ADMINISTRATION OF THE TAX; AND PROVIDING CIVIL
 8 AND CRIMINAL PENALTIES NECESSARY FOR ADMINISTRATION OF THE
 9 TAX."

10
 11 STATEMENT OF INTENT

12 A statement of intent is required for this bill because
 13 the department of revenue is granted rulemaking authority
 14 under [section 3] for the administration of a local option
 15 income tax. The legislature intends that the department of
 16 revenue adopt rules that:

17 (1) define income subject to the local income tax;

18 (2) specify the conditions under which a taxpayer who
 19 resides in a jurisdiction that imposes a local income tax is
 20 liable for the tax;

21 (3) specify the conditions under which a taxpayer who
 22 is not a resident of the jurisdiction imposing a local
 23 income tax but whose principal place of business or
 24 employment is in the jurisdiction is liable for the local
 25 income tax;

1 (4) provide for the necessary forms and required
 2 procedures for reporting taxes;

3 (5) establish procedures for the efficient
 4 administration of a local income tax, including the
 5 collection and timely remittance of the proceeds from the
 6 income tax to the jurisdiction imposing the tax.

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. **Section 1. Definitions.** In [sections 1
 10 through 6], the following definitions apply:

11 (1) "Local government" means the government of a
 12 county or a municipality.

13 (2) "Municipality" means an incorporated city, town,
 14 or city-county consolidated government.

15 NEW SECTION. **Section 2. Authorization of local option**
 16 **tax.** (1) If the enabling authority is approved by the
 17 electorate, as provided in this section, a local government
 18 may impose upon its residents and upon transactions
 19 occurring within its jurisdiction:

20 (a) taxes on income;

21 (b) taxes on the sale of goods or services; or

22 (c) any other type of tax not prohibited by law.

23 (2) The proposal to enable a local government to
 24 impose a tax authorized by this section may be initiated by
 25 a petition of the electorate, as provided in 7-5-131 through

1 7-5-135, or by a resolution of the governing body.

2 (3) The proposal must state:

3 (a) the specific type of tax the local government

4 proposes to impose;

5 (b) the proposed tax rate;

6 (c) proposed exclusions and exemptions, if any;

7 (d) the proposed duration of the tax; and

8 (e) the purpose for which the proceeds of the proposed

9 tax would be used.

10 (4) In addition to the provisions required by

11 subsection (3), the proposal must grant the governing body

12 authority to establish administrative procedures, rules,

13 penalties, and other powers not inconsistent with the

14 approved enabling authority.

15 (5) Upon approval by the electorate in accordance with

16 7-5-136, the proposal becomes the local governing body's

17 enabling authority to impose the specified tax, subject to

18 all provisions of the enabling authority.

19 (6) Except as provided in [section 6], the enabling

20 authority may not be amended or repealed by the governing

21 body without a vote of the electorate.

22 **NEW SECTION. Section 3. Local option income tax --**

23 **administration -- nonresident.** If the tax authorized by

24 [section 2] is a percentage of the state income tax

25 liability of residents of a county or municipality or of

1 persons earning or receiving income from activity in the

2 county or municipality, the following provisions apply:

3 (1) The local option income tax must be administered

4 by the department of revenue, and the department shall adopt

5 rules for the administration of the tax.

6 (2) Money collected by the department must be credited

7 to a local income tax account in the fiduciary fund of the

8 state treasury.

9 (3) The department shall return the tax proceeds to

10 the jurisdiction where they were collected, except:

11 (a) the amount of refunds;

12 (b) a reserve for anticipated refunds; and

13 (c) an amount for administering the tax, not to exceed

14 1% of the proceeds collected in each jurisdiction.

15 (4) A taxpayer whose principal place of business or

16 employment is in a jurisdiction with a local income tax but

17 who lives outside the boundaries of that jurisdiction is

18 liable for one-half the rate of the income tax.

19 **NEW SECTION. Section 4. Enforcement -- penalties for**

20 **nonpayment.** (1) Subject to any restrictions in the enabling

21 authority, a governing body may enforce its provisions

22 pertaining to the imposition and collection of the tax by

23 establishing:

24 (a) criminal penalties, not to exceed the penalties

25 for violating an ordinance as set forth in 7-5-109; and

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

(2) A governing body may contract or enter into interlocal agreements with other local governments or state agencies for the administration of a tax authorized by [section 2].

NEW SECTION. Section 5. Distribution of tax proceeds.

(1) The proceeds of a tax authorized by [section 2] must be used for the purpose stated in the enabling authority, except that a governing body may use a portion of the proceeds, commensurate with the cost, for administering the tax.

(2) A local option tax imposed by a county must be levied countywide, and unless otherwise provided by agreement with municipalities, the county shall distribute the proceeds based on the point of origin of the tax revenue. After a pro rata deduction for its administrative expenses, the county shall distribute tax revenue collected within each municipality to the municipality and shall retain tax revenue not collected within any municipality.

NEW SECTION. Section 6. Double taxation prohibited.

(1) A local option tax may not be levied on the same person or transaction by more than one local government.

(2) If the electorate of a county approves a local

option tax after the electorate of a municipality in the county has approved a local option tax on the same person or transaction and the tax is the same or a higher rate, persons and transactions in the municipality are exempt from the county tax as long as the municipal tax is in effect. If the municipal tax is at a lower rate than the county tax, the governing body of the municipality shall repeal its tax without a vote of the electorate.

NEW SECTION. Section 7. Codification instruction.

[Sections 1 through 6] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1 through 6].

-End-

APPROVED BY COMMITTEE
ON TAXATION

1 HOUSE BILL NO. 479
2 INTRODUCED BY ADDY, HAGER, BLAYLOCK, RAMIREZ,
3 REHBERG, SPAETH, THAYER, J. BROWN, KADAS, HARRINGTON
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A LOCAL
6 GOVERNMENT TO IMPOSE ANY-TYPE-OF-TAX-NOT-PROHIBITED-BY-LAW
7 AN EXCISE TAX ON THE SALE OF CERTAIN GOODS AND SERVICES IF
8 IT IS APPROVED BY THE ELECTORATE OF THE LOCAL GOVERNMENT;
9 PROVIDING FOR ADMINISTRATION OF THE TAX; AND PROVIDING CIVIL
10 AND CRIMINAL PENALTIES NECESSARY FOR ADMINISTRATION OF THE
11 TAX."

12
13 STATEMENT-OF-INTENT

14 A-statement-of-intent-is-required-for-this-bill-because
15 the--department--of--revenue-is-granted-rulemaking-authority
16 under-{section-3}-for-the-administration-of-a--local--option
17 income--tax;--The-legislature-intends-that-the-department-of
18 revenue-adopt-rules-that:

- 19 {1}--define-income-subject-to-the-local-income-tax;
20 {2}--specify-the-conditions-under-which-a-taxpayer--who
21 resides-in-a-jurisdiction-that-imposes-a-local-income-tax-is
22 liable-for-the-tax;
23 {3}--specify--the-conditions-under-which-a-taxpayer-who
24 is-not-a-resident--of--the--jurisdiction--imposing--a--local
25 income--tax--but--whose--principal--place--of--business--or

1 employment-is-in-the-jurisdiction-is-liable--for--the--local
2 income-tax;
3 {4}--provide--for--the--necessary--forms--and--required
4 procedures-for-reporting-taxes;
5 {5}--establish---procedures---for---the---efficient
6 administration---of---a--local--income--tax;--including--the
7 collection-and-timely-remittance-of-the--proceeds--from--the
8 income-tax-to-the-jurisdiction-imposing-the-tax;--
9

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

11 NEW SECTION. Section 1. Definitions. In [sections 1
12 through 6 5], the following definitions apply:

- 13 (1) "Local government" means the government of a
14 county or a municipality.
15 (2) "Municipality" means an incorporated city, town,
16 or city-county consolidated government.

17 NEW SECTION. Section 2. Authorization of local option
18 tax. (1) If the enabling authority is approved by the
19 electorate, as provided in this section, a local government
20 may impose upon--its--residents--and---upon---transactions
21 occurring-within-its-jurisdiction;

- 22 {a}--taxes-on-income;
23 {b}--taxes-on-the-sale-of-goods-or-services;--or
24 {c}--any--other--type--of--tax-not-prohibited-by-law AN
25 EXCISE TAX, NOT TO EXCEED 2%, ON THE RETAIL VALUE OF ALL

1 GOODS AND SERVICES SOLD WITHIN ITS JURISDICTION BY THE
2 FOLLOWING ESTABLISHMENTS:

3 (A) HOTELS, MOTELS, AND OTHER LODGING OR CAMPING
4 FACILITIES;

5 (B) RESTAURANTS, FAST-FOOD STORES, AND OTHER FOOD
6 SERVICE ESTABLISHMENTS;

7 (C) TAVERNS, BARS, NIGHT CLUBS, LOUNGES, AND OTHER
8 PUBLIC ESTABLISHMENTS THAT SERVE BEER, WINE, LIQUOR, OR
9 OTHER ALCOHOLIC BEVERAGES BY THE DRINK;

10 (D) SKI RESORTS AND OTHER RECREATIONAL FACILITIES; AND

11 (E) ESTABLISHMENTS, EXCEPT THOSE OPERATED BY NONPROFIT
12 ORGANIZATIONS, THAT CHARGE ADMISSION FOR MOVIES, CONCERTS,
13 THEATRICAL PERFORMANCES, SPORTING EVENTS, OR OTHER
14 ENTERTAINMENT.

15 (2) The proposal to enable a local government to
16 impose a THE EXCISE tax authorized by this section may be
17 initiated by a petition of the electorate, as provided in
18 7-5-131 through 7-5-135, or by a resolution of the governing
19 body.

20 (3) The proposal must state:

21 ~~{a}--the--specific--type--of--tax--the--local--government~~
22 ~~proposes-to-impose;~~

23 ~~{b}{A}~~ the proposed tax rate;

24 ~~{c}{B}~~ proposed exclusions and exemptions, if any;

25 ~~{d}{C}~~ the proposed duration of the tax, INCLUDING THE

1 DATE ON WHICH THE TAX BECOMES EFFECTIVE AND THE DATE ON
2 WHICH THE TAX TERMINATES; and

3 ~~{e}{D}~~ the purpose for which the proceeds of the
4 proposed tax would be used.

5 (4) In addition to the provisions required by
6 subsection (3), the proposal must grant the governing body
7 authority to establish administrative procedures, rules,
8 penalties, and other powers not inconsistent with the
9 approved enabling authority.

10 (5) Upon approval by the electorate in accordance with
11 7-5-136, the proposal becomes the local governing body's
12 enabling authority to impose the specified EXCISE tax,
13 subject to all provisions of the enabling authority.

14 (6) Except as provided in [section 6 5], the enabling
15 authority may not be amended or repealed by the governing
16 body without a vote of the electorate.

17 ~~NEW-SECTION--Section 3--Local-option--income--tax--~~
18 ~~administration-----nonresident-----If--the--tax--authorized--by~~
19 ~~{section--2}--is--a--percentage--of--the--state--income--tax~~
20 ~~liability--of--residents--of--a--county--or--municipality--or--of~~
21 ~~persons--earning--or--receiving--income--from--activity--in--the~~
22 ~~county--or--municipality;--the--following--provisions--apply:~~
23 ~~{i}--The--local--option--income--tax--must--be--administered~~
24 ~~by--the--department--of--revenue;--and--the--department--shall--adopt~~
25 ~~rules--for--the--administration--of--the--tax.~~

~~(2) Money collected by the department must be credited to a local income tax account in the fiduciary fund of the state treasury.~~

~~(3) The department shall return the tax proceeds to the jurisdiction where they were collected, except:~~

~~(a) the amount of refunds;~~

~~(b) a reserve for anticipated refunds; and~~

~~(c) an amount for administering the tax, not to exceed 1% of the proceeds collected in each jurisdiction.~~

~~(4) A taxpayer whose principal place of business or employment is in a jurisdiction with a local income tax but who lives outside the boundaries of that jurisdiction is liable for one-half the rate of the income tax.~~

NEW SECTION. Section 3. Enforcement -- penalties for nonpayment. (1) Subject to any restrictions in the enabling authority, a governing body may enforce its provisions pertaining to the imposition and collection of the EXCISE tax by establishing:

(a) criminal penalties, not to exceed the penalties for violating an ordinance as set forth in 7-5-109; and

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

(2) A governing body may contract or enter into interlocal agreements with other local governments or state

agencies for the administration of a AN EXCISE tax authorized by [section 2].

NEW SECTION. Section 4. Distribution of tax proceeds.

(1) The proceeds of a AN EXCISE tax authorized by [section 2] must be used for the purpose stated in the enabling authority, except that a governing body may use a portion of the proceeds, commensurate with the cost, for administering the tax.

(2) A local option EXCISE tax imposed by a county must be levied countywide, and unless otherwise provided by agreement with municipalities, the county shall distribute the proceeds based on the point of origin of the tax revenue. After a pro rata deduction for its administrative expenses, the county shall distribute EXCISE tax revenue collected within each municipality to the municipality and shall retain EXCISE tax revenue not collected within any municipality.

NEW SECTION. Section 5. Double taxation prohibited.

(1) A local option EXCISE tax may not be levied on the same person or transaction by more than one local government.

(2) If the electorate of a county approves a local option EXCISE tax after the electorate of a municipality in the county has approved a local option EXCISE tax on the same person or transaction and the EXCISE tax APPROVED BY THE ELECTORATE OF THE COUNTY is the same RATE or a higher

1 rate THAN THE RATE APPROVED BY THE ELECTORATE OF THE
2 MUNICIPALITY, persons and transactions in the municipality
3 are exempt from the county EXCISE tax as long as the
4 municipal tax is in effect. If the municipal EXCISE tax is
5 at a lower rate than the county EXCISE tax, the governing
6 body of the municipality shall repeal its EXCISE tax without
7 a vote of the electorate.

8 NEW SECTION. Section 6. Codification instruction.
9 [Sections 1 through 6 5] are intended to be codified as an
10 integral part of Title 7, chapter 6, and the provisions of
11 Title 7, chapter 6, apply to [sections 1 through 6 5].

-End-