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House BILL NO. 611

INTRODUCED BY

Hayes

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE EXCLUSION OF THE TAXABLE VALUE OF PROPERTY UNDER A PROTEST PROCEEDING FROM THE TAXABLE VALUATION OF A COUNTY, MUNICIPALITY, OR A SCHOOL DISTRICT FOR THE PURPOSE OF SETTING PROPERTY TAX LEVIES IF THE TAXABLE VALUE OF THE PROPERTY UNDER PROTEST EXCEEDS 5 PERCENT OF THE TAXING JURISDICTION'S TAXABLE VALUATION; PROVIDING THAT PAYMENT TO THE COUNTY, MUNICIPALITY, AND SCHOOL DISTRICT FROM THE PROTEST FUND ON THE PROPERTY MUST BE USED TO LOWER SUBSEQUENT TAX LEVIES; AMENDING SECTIONS 7-6-604, 7-6-2321, 7-6-4232, 15-10-202, AND 20-9-142, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-6-604, MCA, is amended to read:

"7-6-604. Alternative accounting method -- requirements. A local government entity that adopts the alternative accounting method shall:

(1) prepare its accounting records and financial reports in accordance with generally accepted accounting principles established by the governmental accounting standards board or its generally recognized successor;

(2) adopt a fiscal year that commences on July 1 of each year;

(3) (a) compile an annual financial report covering the preceding fiscal year and submit a copy of the annual financial report or an annual audit, pursuant to subsection (3)(b), to the department of commerce within 6 months of the end of that reported fiscal year; or

(b) if the local government entity submits an audit report in lieu of an annual financial report, ensure that the audit report contains, at a minimum, the entity's general purpose financial statements and combining and individual fund and account group statements as defined under the principles described in subsection (1);

(4) cause an annual audit in accordance with the provisions of Title 2, chapter 7, part 5; and

(5) ensure that a budget is made each year that:

1 (a) shows the complete expenditure program for the local government entity for the coming fiscal
2 year and the sources by which it will be funded;

3 (b) must be completed by July 1 of the current fiscal year taking into consideration the provisions
4 of 7-6-2321(2) or 7-6-4232(4);

5 (c) must be approved or amended by the governing body in a regularly scheduled meeting;

6 (d) must be the subject of one or more advertised public hearings, pursuant to the provisions of
7 7-1-2121 or 7-1-4127, prior to approval or amendment; and

8 (e) must be submitted to the department of commerce by September 15."
9

10 **Section 2.** Section 7-6-2321, MCA, is amended to read:

11 **"7-6-2321. Fixing of tax levy -- ~~exception~~ exceptions.** (1) On or before the second Monday in
12 August and after the approval and adoption of the final budget, the board of county commissioners shall
13 fix the tax levy for each fund at a rate ~~which~~ that will raise the amount set out in the budget as the amount
14 necessary to be raised by tax levy for the fund during the current fiscal year. ~~The~~ Except as provided in
15 subsection (2), the taxable valuation of the county for the current fiscal year must be the basis for
16 determining the amount of the tax levy for each fund. Each tax levy must be at a rate not higher than is
17 required on that basis, without including any amount for anticipated tax delinquency, to produce the
18 amount set out in the budget, without including any amount for anticipated tax delinquency, that is the
19 amount to be raised by tax levy.

20 (2) (a) The taxable value of property that is the subject of a protest and that remains under protest
21 on the first Monday in August of the current year may be excluded from the county's taxable valuation if
22 the taxable value of the property remaining under protest exceeds 5% of the county's taxable valuation
23 in computing mill levies to fund the amounts necessary to be raised:

24 (i) under the provisions of subsection (1); or

25 (ii) under the provisions of law providing for a levy on the taxable valuation of the county or any
26 district or portion of a district.

27 (b) (i) If tax money that was collected on property excluded under subsection (2)(a) is not required
28 to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, then the
29 money must be used as provided in subsection (2)(b)(ii) to reduce subsequent property tax levies of the
30 appropriate funds or levies from which it was previously withheld in protest, except for mill levies imposed

1 under 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439.

2 (ii) The governing body of the county shall use the released protested tax revenue to reduce mill
 3 levies. The protested tax revenue may not be credited to cash reserves unless the revenue reduces to zero
 4 the amount necessary to be raised by tax levy. If there is excess revenue, then the excess may be credited
 5 to cash reserves.

6 ~~(2)(3)~~ The tax levy must be made in the manner provided by 15-10-201.

7 ~~(3)(4)~~ (a) This section does not apply to a county that has adopted the alternative accounting
 8 method provided for in Title 7, chapter 6, part 6.

9 (b) Subsection (2) does not apply to a county that has demanded payment on the protested
 10 property from the protested tax fund under the provisions of 15-1-402."

11

12 **Section 3.** Section 7-6-4232, MCA, is amended to read:

13 **"7-6-4232. Fixing of tax levy -- ~~exception~~ exceptions.** (1) On or before the second Monday in
 14 August and after the approval and adoption of the final budget, the council shall fix the tax levy for each
 15 fund at a rate, not exceeding limits prescribed by law, that will raise the amount set out in the budget as
 16 the amount necessary to be raised by tax levy for that fund during the current fiscal year. ~~The~~ Except as
 17 provided in subsections (2) and (4), the taxable valuation of the city for the current fiscal year must be the
 18 basis for determining the amount of the tax levy for each fund, and each tax levy must be at a rate not
 19 higher than is required on that basis, without including any amount for anticipated tax delinquency, to raise
 20 the amount set out in the budget.

21 (2) If the council considers that a levy made for a bond sinking or interest fund will not provide a
 22 sufficient amount to pay all bond principal and interest becoming due during the current fiscal year or within
 23 6 months after the current fiscal year because of anticipated tax delinquency, the council may fix the levy
 24 at a rate it considers necessary to raise the amount for making the payments of principal and interest over
 25 and above the anticipated tax delinquency.

26 (3) Each levy must be made in the manner provided by 15-10-201.

27 (4) (a) The taxable value of property that is the subject of a protest and that remains under protest
 28 on the first Monday in August of the current year may be excluded from the city's taxable valuation if the
 29 taxable value of the property remaining under protest exceeds 5% of the city's taxable valuation in
 30 computing mill levies to fund the amounts necessary to be raised under the provisions of subsection (1).

1 (b) (i) If tax money that was collected on property excluded under subsection (4)(a) is not required
2 to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, then the
3 money must be used as provided in subsection (2)(b)(ii) to reduce subsequent property tax levies of the
4 appropriate funds or levies from which it was previously withheld in protest.

5 (ii) The governing body of the city shall use the released protested tax revenue to reduce mill levies.
6 The protested tax revenue may not be credited to cash reserves unless the revenue reduces to zero the
7 amount necessary to be raised by tax levy. If there is excess revenue, then the excess may be credited to
8 cash reserves.

9 ~~(4)(5)~~ (a) This section does not apply to a municipality that has adopted the alternative accounting
10 method provided for in Title 7, chapter 6, part 6.

11 (b) Subsection (4) does not apply to a city that has demanded payment on the protested property
12 from the protested tax fund under the provisions of 15-1-402."

13
14 **Section 4.** Section 15-10-202, MCA, is amended to read:

15 "**15-10-202. Certification of taxable values and millage rates.** (1) By the second Monday in July,
16 the department shall certify to each taxing authority the taxable value within the jurisdiction of the taxing
17 authority. The department shall also send to each taxing authority a written statement of its best estimate
18 of the total assessed value of all new construction and improvements not included on the previous property
19 tax record and the value of deletions from the previous property tax record. Exclusive of new construction,
20 improvements, and deletions, and the taxable value of property that is the subject of a protest and that
21 remains under protest on the first Monday in August of the current year if the taxable value of the property
22 remaining under protest exceeds 5% of a taxing jurisdiction's taxable valuation, and if requested to do so
23 by the county commissioners, the department shall certify to each taxing authority a millage rate that will
24 provide the same ad valorem revenue for each taxing authority as was levied during the prior year. For the
25 purpose of calculating the certified millage, the department shall use 95% of the taxable value appearing
26 on the property tax record, exclusive of properties appearing for the first time in the property tax record.

27 (2) The county commissioners shall inform the department in writing by July 15 as to whether the
28 county wishes to exclude protested values from the tax base for the purpose of calculating certified mill
29 levies. The decision of the county commissioners applies to all affected taxing jurisdictions within the
30 county."

1 **Section 5.** Section 20-9-142, MCA, is amended to read:

2 **"20-9-142. Fixing and levying taxes by board of county commissioners -- exceptions.** (1) On the
3 fourth Monday in August, the county superintendent shall place before the board of county commissioners
4 the final adopted budget of the district. Except as provided in subsection (2), it is the duty of the board
5 of county commissioners to fix and levy on all the taxable value of all the real and personal property within
6 the district all district and county taxation required to finance, within the limitations provided by law, the
7 final budget.

8 (2) (a) The taxable value of property that is the subject of a protest and that remains under protest
9 on the first Monday in August of the current year may be excluded from the district's taxable valuation if
10 the taxable value of the property remaining under protest exceeds 5% of the district's taxable valuation in
11 computing mill levies to fund the amounts necessary to be raised under the provisions of subsection (1).

12 (b) (i) If tax money that was collected on property excluded under subsection (2)(a) is not required
13 to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, then the
14 money must be used as provided in subsection (2)(b)(ii) to reduce subsequent property tax levies of the
15 appropriate funds or levies from which it was previously withheld in protest.

16 (ii) The school board of the district shall use the released protested tax revenue to reduce mill levies
17 of the district. The protested tax revenue may not be credited to cash reserves unless the revenue reduces
18 to zero the amount necessary to be raised by tax levy. If there is excess revenue, then the excess may be
19 credited to cash reserves.

20 (3) Subsection (2) does not apply to a school that has demanded payment on the protested
21 property from the protested tax fund under the provisions of 15-1-402."

22

23 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 1997.

24

-END-

HOUSE BILL NO. 611

INTRODUCED BY HARPER

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE EXCLUSION OF THE TAXABLE VALUE OF PROPERTY UNDER A PROTEST PROCEEDING FROM THE TAXABLE VALUATION OF A COUNTY, MUNICIPALITY, OR A SCHOOL DISTRICT FOR THE PURPOSE OF SETTING PROPERTY TAX LEVIES IF THE TAXABLE VALUE OF THE PROPERTY UNDER PROTEST EXCEEDS 5 PERCENT OF THE TAXING JURISDICTION'S TAXABLE VALUATION; PROVIDING THAT PAYMENT TO THE COUNTY, MUNICIPALITY, AND SCHOOL DISTRICT FROM THE PROTEST FUND ON THE PROPERTY MUST BE USED TO LOWER SUBSEQUENT TAX LEVIES; AMENDING SECTIONS 7-6-604, 7-6-2321, 7-6-4232, 15-10-202, AND 20-9-142, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 7-6-604, MCA, is amended to read:

"7-6-604. Alternative accounting method -- requirements. A local government entity that adopts the alternative accounting method shall:

(1) prepare its accounting records and financial reports in accordance with generally accepted accounting principles established by the governmental accounting standards board or its generally recognized successor;

(2) adopt a fiscal year that commences on July 1 of each year;

(3) (a) compile an annual financial report covering the preceding fiscal year and submit a copy of the annual financial report or an annual audit, pursuant to subsection (3)(b), to the department of commerce within 6 months of the end of that reported fiscal year; or

(b) if the local government entity submits an audit report in lieu of an annual financial report, ensure that the audit report contains, at a minimum, the entity's general purpose financial statements and combining and individual fund and account group statements as defined under the principles described in subsection (1);

(4) cause an annual audit in accordance with the provisions of Title 2, chapter 7, part 5; and

(5) ensure that a budget is made each year that:

1 (a) shows the complete expenditure program for the local government entity for the coming fiscal
2 year and the sources by which it will be funded;

3 (b) must be completed by July 1 of the current fiscal year taking into consideration the provisions
4 of 7-6-2321(2) or 7-6-4232(4);

5 (c) must be approved or amended by the governing body in a regularly scheduled meeting;

6 (d) must be the subject of one or more advertised public hearings, pursuant to the provisions of
7 7-1-2121 or 7-1-4127, prior to approval or amendment; and

8 (e) must be submitted to the department of commerce by September 15."
9

10 **Section 2.** Section 7-6-2321, MCA, is amended to read:

11 **"7-6-2321. Fixing of tax levy -- ~~exception~~ exceptions.** (1) On or before the second Monday in
12 August and after the approval and adoption of the final budget, the board of county commissioners shall
13 fix the tax levy for each fund at a rate ~~which~~ that will raise the amount set out in the budget as the amount
14 necessary to be raised by tax levy for the fund during the current fiscal year. ~~The~~ Except as provided in
15 subsection (2), the taxable valuation of the county for the current fiscal year must be the basis for
16 determining the amount of the tax levy for each fund. Each tax levy must be at a rate not higher than is
17 required on that basis, without including any amount for anticipated tax delinquency, to produce the
18 amount set out in the budget, without including any amount for anticipated tax delinquency, that is the
19 amount to be raised by tax levy.

20 (2) (a) The PORTION OF THE taxable value of property that is the subject of a protest and that
21 remains under protest on the first Monday in August of the current year may, UPON APPROVAL OF THE
22 GOVERNING BODY, be excluded from the county's taxable valuation if the taxable value of the property
23 remaining under protest exceeds 5% of the county's taxable valuation in computing mill levies to fund the
24 amounts necessary to be raised:

25 (i) under the provisions of subsection (1); or

26 (ii) under the provisions of law providing for a levy on the taxable valuation of the county or any
27 district or portion of a district.

28 (b) (i) If tax money that was collected on property excluded under subsection (2)(a) is not required
29 to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, then the
30 money must be used as provided in subsection (2)(b)(ii) to reduce subsequent property tax levies of the

1 appropriate funds or levies from which it was previously withheld in protest, except for mill levies imposed
 2 under 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439.

3 (ii) The governing body of the county shall use the released protested tax revenue to reduce mill
 4 levies. The protested tax revenue may not be credited to cash reserves unless the revenue reduces to zero
 5 the amount necessary to be raised by tax levy. If there is excess revenue, then the excess may be credited
 6 to cash reserves.

7 ~~(2)(3)~~ The tax levy must be made in the manner provided by 15-10-201.

8 ~~(3)(4)~~ (a) This section does not apply to a county that has adopted the alternative accounting
 9 method provided for in Title 7, chapter 6, part 6.

10 (b) Subsection (2) does not apply to a county that has demanded payment on the protested
 11 property from the protested tax fund under the provisions of 15-1-402."

12

13 **Section 3.** Section 7-6-4232, MCA, is amended to read:

14 **"7-6-4232. Fixing of tax levy -- ~~exception~~ exceptions.** (1) On or before the second Monday in
 15 August and after the approval and adoption of the final budget, the council shall fix the tax levy for each
 16 fund at a rate, not exceeding limits prescribed by law, that will raise the amount set out in the budget as
 17 the amount necessary to be raised by tax levy for that fund during the current fiscal year. ~~The~~ Except as
 18 provided in subsections (2) and (4), the taxable valuation of the city for the current fiscal year must be the
 19 basis for determining the amount of the tax levy for each fund, and each tax levy must be at a rate not
 20 higher than is required on that basis, without including any amount for anticipated tax delinquency, to raise
 21 the amount set out in the budget.

22 (2) If the council considers that a levy made for a bond sinking or interest fund will not provide a
 23 sufficient amount to pay all bond principal and interest becoming due during the current fiscal year or within
 24 6 months after the current fiscal year because of anticipated tax delinquency, the council may fix the levy
 25 at a rate it considers necessary to raise the amount for making the payments of principal and interest over
 26 and above the anticipated tax delinquency.

27 (3) Each levy must be made in the manner provided by 15-10-201.

28 (4) (a) The PORTION OF THE taxable value of property that is the subject of a protest and that
 29 remains under protest on the first Monday in August of the current year may, UPON APPROVAL OF THE
 30 COUNCIL, be excluded from the city's taxable valuation if the taxable value of the property remaining under

1 protest exceeds 5% of the city's taxable valuation in computing mill levies to fund the amounts necessary
2 to be raised under the provisions of subsection (1).

3 (b) (i) If tax money that was collected on property excluded under subsection (4)(a) is not required
4 to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, then the
5 money must be used as provided in subsection (2)(b)(ii) to reduce subsequent property tax levies of the
6 appropriate funds or levies from which it was previously withheld in protest.

7 (ii) The governing body of the city shall use the released protested tax revenue to reduce mill levies.
8 The protested tax revenue may not be credited to cash reserves unless the revenue reduces to zero the
9 amount necessary to be raised by tax levy. If there is excess revenue, then the excess may be credited to
10 cash reserves.

11 (4)(5) (a) This section does not apply to a municipality that has adopted the alternative accounting
12 method provided for in Title 7, chapter 6, part 6.

13 (b) Subsection (4) does not apply to a city that has demanded payment on the protested property
14 from the protested tax fund under the provisions of 15-1-402."

15
16 **Section 4.** Section 15-10-202, MCA, is amended to read:

17 **"15-10-202. Certification of taxable values and millage rates. (1)** By the second Monday in July,
18 the department shall certify to each taxing authority the taxable value within the jurisdiction of the taxing
19 authority. The department shall also send to each taxing authority a written statement of its best estimate
20 of the total assessed value of all new construction and improvements not included on the previous property
21 tax record and the value of deletions from the previous property tax record. Exclusive of new construction,
22 improvements, and deletions, and the PORTION OF THE taxable value of property that is the subject of a
23 protest and that remains under protest on the first Monday in August of the current year if the taxable value
24 of the property remaining under protest exceeds 5% of a taxing jurisdiction's taxable valuation, and if
25 requested to do so by the county commissioners, the department shall certify to each taxing authority a
26 millage rate that will provide the same ad valorem revenue for each taxing authority as was levied during
27 the prior year. For the purpose of calculating the certified millage, the department shall use 95% of the
28 taxable value appearing on the property tax record, exclusive of properties appearing for the first time in
29 the property tax record.

30 (2) The county commissioners shall inform the department in writing by July 15 as to whether the

1 county wishes to exclude protested values from the tax base for the purpose of calculating certified mill
2 levies. The decision of the county commissioners applies to all affected taxing jurisdictions within the
3 county."

4

5 **Section 5.** Section 20-9-142, MCA, is amended to read:

6 **"20-9-142. Fixing and levying taxes by board of county commissioners -- exceptions.** (1) On the
7 fourth Monday in August, the county superintendent shall place before the board of county commissioners
8 the final adopted budget of the district. ~~It~~ Except as provided in subsection (2), it is the duty of the board
9 of county commissioners to fix and levy on all the taxable value of all the real and personal property within
10 the district all district and county taxation required to finance, within the limitations provided by law, the
11 final budget.

12 (2) (a) The taxable value of property that is the subject of a protest and that remains under protest
13 on the first Monday in August of the current year may be excluded from the district's taxable valuation if
14 the taxable value of the property remaining under protest exceeds 5% of the district's taxable valuation in
15 computing mill levies to fund the amounts necessary to be raised under the provisions of subsection (1).

16 (b) (i) If tax money that was collected on property excluded under subsection (2)(a) is not required
17 to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, then the
18 money must be used as provided in subsection (2)(b)(ii) to reduce subsequent property tax levies of the
19 appropriate funds or levies from which it was previously withheld in protest.

20 (ii) The school board of the district shall use the released protested tax revenue to reduce mill levies
21 of the district. The protested tax revenue may not be credited to cash reserves unless the revenue reduces
22 to zero the amount necessary to be raised by tax levy. If there is excess revenue, then the excess may be
23 credited to cash reserves.

24 (3) Subsection (2) does not apply to a school that has demanded payment on the protested
25 property from the protested tax fund under the provisions of 15-1-402."

26

27 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 1997.

28

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0611, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing the exclusion of the taxable value of property under protest proceeding from the taxable valuation of a county, municipality, or a school district for the purpose of setting property tax levies if the taxable value of the property under protest exceeds 5 percent of the taxing jurisdiction's taxable valuation; providing that payment to the county, municipality, and school district from the protest fund on the property must be used to lower subsequent tax levies; and providing an effective date.

FISCAL IMPACT:

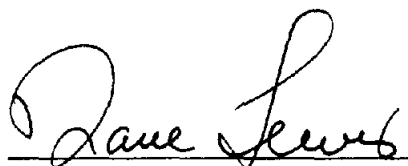
The proposal does not impact state revenues or expenditures (see technical note #2).

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal could impact the level of mills levied for a taxing jurisdiction. This would occur only if the amount of the taxable value of property that is subject of a protest exceeds 5% of the jurisdiction's taxable valuation and if the county commissioners request the protested value be excluded from the jurisdiction's total taxable value (section 4 of the proposal).

TECHNICAL NOTES:

- 1) The proposal contains a timing inconsistency. The county commissioners have until July 15 to inform the Department of Revenue as to whether the county wishes to exclude protested values from the tax base. However, the department is required to provide a certified taxable value to the counties by the second Monday in July. This is before the deadline for the county commissioners to inform the department to exclude protested values from the tax base.
- 2) The bill does not specify whether or not the tax levies for university millage, state equalization, county equalization for elementary and high schools, state school equalization, state assumed welfare accounts, county wide levies for elementary and high school retirement and transportation would be subject to the reduced taxable valuation of the county when the county opts to remove the taxable value of property subject to a protest proceeding exceeding 5% of the taxable valuation of the county.

 3.24.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0611, as introduced
HB611