

SB, BILL NO. 191

INTRODUCED BY *Hayward Chris Henry Ash Enns*
Willard

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF A RESORT AREA DISTRICT; PROVIDING AN ELECTION PROCESS BY WHICH A RESORT AREA DISTRICT MAY BE CREATED; PROVIDING FOR THE ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS OF A RESORT AREA DISTRICT; ENABLING THE ADMINISTRATION OF A RESORT AREA DISTRICT; ALLOWING THE BOARD OF DIRECTORS OF A RESORT AREA DISTRICT TO EXPEND REVENUE FROM A RESORT AREA TAX; AMENDING SECTIONS 7-6-4465 AND 7-6-4469, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definitions. For the purposes of [sections 1 through 20], unless the context requires otherwise, the following definitions apply:

- (1) "Board" means the board of directors of the resort area district.
- (2) "Resort area" means a resort area created under 7-6-4468.
- (3) "Resort area district" means a district created under [sections 1 through 20] that has been established as a resort area under 7-6-4468.

NEW SECTION. Section 2. Resort area district authorized. Electors residing within the boundaries of a resort area may create a resort area district by proceeding under the provisions of [sections 1 through 20].

NEW SECTION. Section 3. Petition to create resort area district. (1) Electors residing within a resort area may present, at a regular meeting, a petition requesting the establishment of a resort area district to the board of county commissioners of the county in which the proposed resort area district is located. The petition must be signed by at least 10% of the registered voters within the resort area.

(2) When the area to be included within the proposed resort area district lies in more than one county, the electors within a resort area shall present a petition to the board of county commissioners in

1 each county. Each petition must contain the signatures of at least 10% of the registered voters of the resort
2 area that lies within that county.

3 (3) The petition must include a description or map of the existing resort area boundaries. The
4 petition may not describe proposed resort area district boundaries that are different from the existing resort
5 area boundaries designated pursuant to 7-6-4468.

6

7 **NEW SECTION. Section 4. Notice of petition -- hearing required.** (1) The board of county
8 commissioners shall publish the text of the petition described in [section 3], as provided in 7-1-2121, in
9 each county in which the proposed resort area district lies and shall publish the date, time, and place that
10 a public hearing on the petition will be held.

11 (2) In addition to the requirements of subsection (1), the board of county commissioners shall
12 publish the text of the petition described in [section 3] in a newspaper of general circulation in the county
13 within which the proposed resort area district lies.

14 (3) A person wishing to comment on the creation of the proposed resort area district may file, by
15 first-class mail or otherwise, comments with the clerk and recorder of the county in which the proposed
16 resort area district lies.

17 (4) If the resort area lies within two or more counties, the provisions of this section apply to each
18 county.

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20 **NEW SECTION. Section 5. Hearing on petition.** (1) At the hearing for which notification has
21 occurred under [section 3], the board of county commissioners shall accept comments supporting and
22 opposing the petition. The board of county commissioners may adjourn the hearing from time to time, but
23 the hearing must be completed within 4 weeks of its commencement.

24 (2) Upon concluding the hearing on the petition, the board of county commissioners shall determine
25 whether the petition complies with the requirements of [sections 1 through 20] and enter its determination
26 into the minutes of a regularly scheduled meeting.

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28 **NEW SECTION. Section 6. Election required -- notice.** (1) Upon a determination that the petition
29 complies with the provisions of [sections 1 through 20], the board of county commissioners of each county
30 in which the resort area lies shall give notice of an election to be held in the proposed resort area district

1 for the purpose of determining whether a resort area district should be created. The election must be held
2 in conjunction with a regular or primary election.

3 (2) Notice of the election must be made as provided in 13-1-108 and must:

4 (a) describe the purpose of the proposed resort area district; and

5 (b) state the name of the proposed resort area district, which must include the words "resort area
6 district".

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8 **NEW SECTION. Section 7. Conduct of election on question of creating resort area district.** The
9 election on the question of creating a resort area district must be conducted as provided by Title 13 with
10 respect to general and school elections, except as otherwise provided by [sections 1 through 20].

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12 **NEW SECTION. Section 8. Qualifications to vote on question of creating resort area district.** A
13 person is not entitled to vote at an election authorized by [sections 1 through 20] unless the person
14 possesses all of the qualifications required of electors under the general election laws of the state and is
15 a resident of the proposed resort area district.

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17 **NEW SECTION. Section 9. Resolution creating resort area district upon favorable vote.** (1) If a
18 majority of the votes cast on the question of creating the resort area district are in favor of creating the
19 resort area district, the board of county commissioners shall enter into its minutes an order, by resolution,
20 creating the resort area district.

21 (2) Immediately following adoption of the resolution creating the resort area district, the board of
22 county commissioners shall file with the secretary of state and the county clerk and recorder a copy of the
23 resolution.

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25 **NEW SECTION. Section 10. Certificate of incorporation from secretary of state.** Within 10 days
26 of receiving a copy of the resolution described in [section 9], the secretary of state shall issue a certificate
27 stating that the resort area district has been established under the laws of the state of Montana. The
28 secretary of state shall file a copy of the certificate with the clerk and recorder in each county in which the
29 resort area district is located.

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1 **NEW SECTION. Section 11. General powers of resort area district.** (1) A resort area district
2 created under [sections 1 through 20] may:

3 (a) have perpetual succession;

4 (b) sue and be sued in any court of competent jurisdiction;

5 (c) acquire by any legal means real and personal property necessary to the full exercise of its
6 powers; and

7 (d) make contracts, employ labor, and do all acts necessary for the full exercise of its powers.

8 (2) The board shall exercise the powers described in [sections 1 through 20].

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10 **NEW SECTION. Section 12. Board powers related to administration and expenditure of resort tax**
11 **revenue.** The board of a resort area district created under [sections 1 through 20] may:

12 (1) appropriate and expend revenue from a resort tax for any activity, undertaking, or
13 administrative service authorized in the resolution creating a resort area and adopting a resort tax; and

14 (2) adopt administrative ordinances necessary to aid in the collection or reporting of resort taxes
15 and in the expenditure of resort tax revenue.

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17 **NEW SECTION. Section 13. Resort area district to be governed by board -- composition --**
18 **qualifications -- term of office.** (1) The board is the governing body of the resort area district and is
19 composed of five members, to be elected as provided in [section 14].

20 (2) To qualify for the board, a person must be a resident of the resort area district.

21 (3) Directors shall serve for a term of 4 years from the date of their election, except, of the
22 directors elected at the first regular election, three directors shall serve for a term of 2 years and two shall
23 serve for a term of 4 years.

24 (4) At the first meeting of the board, the directors shall determine by lot which of them shall serve
25 the terms less than 4 years. Each succeeding term is 4 years.

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27 **NEW SECTION. Section 14. Board -- election -- term.** (1) The first election of the board must be
28 held at the next regular, primary, or school election immediately succeeding the creation of the resort area
29 district. Each succeeding election must be held every 2 years to coincide with the election for local
30 government officials as provided in 13-1-104(2).

1 (2) A petition of nomination, signed by at least five electors from within the resort area district,
2 may be filed with the election administrator in any county containing a portion of the resort area district.
3 A nominating petition must be filed at least 135 days and not fewer than 75 days before the election.
4

5 **NEW SECTION. Section 15. Canvass of vote.** (1) The board of county commissioners shall
6 canvass the returns of the first election of the board. After the first election and canvass, the board shall
7 meet as a canvassing board for resort area district elections and shall canvass the returns within 4 days
8 after any resort area district election.

9 (2) If the resort area district lies in more than one county, the board of county commissioners
10 whose county contains the largest percentage of the territory of the resort area district shall canvass the
11 returns of the first election.
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13 **NEW SECTION. Section 16. Board -- vacancy.** If a vacancy on the board occurs by death,
14 resignation, or removal from the resort area district, the remaining directors shall appoint a director to fill
15 the vacancy. The term of the appointment coincides with the term that became vacant.
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17 **NEW SECTION. Section 17. Board -- meetings.** (1) The board shall meet at a regularly scheduled
18 time and place. The board shall provide public notice of any change in the time and place of the board
19 meetings.

20 (2) All board meetings are open to the public unless, under the terms of Article II, section 9, of the
21 Montana constitution or 2-3-203, the presiding officer determines that the demands of individual privacy
22 clearly exceed the merits of public disclosure.

23 (3) A majority of the board constitutes a quorum for the transaction of business.

24 (4) The board may act only by ordinance or resolution.
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26 **NEW SECTION. Section 18. Referendum to dissolve resort area district.** (1) Upon receipt of a
27 petition to dissolve the resort area district, signed by more than 50% of the electors of the resort area
28 district, the board shall set a date for a public hearing on dissolution of the resort area district. The hearing
29 date may not be fewer than 45 days or more than 60 days after the date on which the board schedules
30 the date of the hearing. A notice of the public hearing on dissolution must be published as provided in

1 7-1-2121. The published notice must include notice to creditors of the resort area district to present claims
2 owed by the resort area district to the board prior to the date set for the dissolution hearing.

3 (2) After the hearing, the board shall submit the question of the resort area district's dissolution
4 to a vote of the electors.

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6 **NEW SECTION. Section 19. Conduct of election on question of dissolving resort area district --**
7 **qualification of electors.** (1) The election on the question of dissolving the resort area district must be
8 conducted as provided by Title 13 with respect to general and school elections, except as otherwise
9 provided by [sections 1 through 20].

10 (2) The qualifications for electors described in [section 8] apply for electors on the question of
11 dissolution.

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13 **NEW SECTION. Section 20. Resolution dissolving resort area district upon favorable vote.** (1) If
14 a majority of the votes cast on the question of dissolving the resort area district are in favor of dissolving
15 the resort area district, the board of county commissioners shall enter into its minutes an order, by
16 resolution, dissolving the resort area district. The resolution must contain, explicitly or by reference, an
17 orderly plan of dissolution.

18 (2) Immediately following adoption of the resolution dissolving the resort area district, the board
19 of county commissioners shall file with the secretary of state and the county clerk and recorder a copy of
20 the resolution.

21 (3) The resort area district is dissolved as provided in the plan of dissolution.

22

23 **Section 21.** Section 7-6-4465, MCA, is amended to read:

24 **"7-6-4465. Resort tax administration.** (1) In this section, "governing body" means:

25 (a) the governing body of a resort community ~~or~~;

26 (b) if the resort tax has been approved by the electors of a resort area, the board of county
27 commissioners; ~~or~~

28 (c) if the electors of the resort area establish a resort area district, the district board of directors.

29 (2) Not less than 30 days prior to the date that the resort tax becomes effective, the governing
30 body shall enact an administrative ordinance governing the collection and reporting of the resort taxes. This

1 administrative ordinance may be amended at any time as may be necessary to effectively administer the
2 resort tax.

3 (3) The administrative ordinance must specify:

4 (a) the times that taxes collected by businesses are to be remitted to the governing body;

5 (b) the office, officer, or employee of the governing body responsible for receiving and accounting
6 for the resort tax receipts;

7 (c) the office, officer, or employee of the governing body responsible for enforcing the collection
8 of resort taxes and the methods and procedures to be used in enforcing the collection of resort taxes due;
9 and

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

12 (i) criminal penalties not to exceed a fine of \$1,000 or 6 months' imprisonment, or both;

13 (ii) civil penalties if the governing body prevails in a suit for the collection of resort taxes, not to
14 exceed 50% of the resort taxes found due plus the costs and attorney fees incurred by the governing body
15 in the action;

16 (iii) revocation of a county or municipal business license held by the offender; and

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

18 (4) The administrative ordinance may include:

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

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

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

25 (ii) receive a refund of up to 5% of the resort tax payment received from them by the governing
26 body 10 days prior to the collection due date established by the administrative ordinance.

27 (c) other administrative details necessary for the efficient and effective administration of the tax."
28

29 **Section 22.** Section 7-6-4469, MCA, is amended to read:

30 **"7-6-4469. Use of resort area tax.** (1) ~~Unless~~ Except as provided in subsection (1)(b) or unless

1 otherwise provided by the resolution approved by the electors under 7-6-4464, the board of county
2 commissioners shall appropriate and spend revenue derived from a resort area tax for the purpose stated
3 in the resolution.

4 (b) If the electors of a resort area have established a resort area district, the district board of
5 directors shall appropriate and spend revenue derived from a resort area tax for the purpose stated in the
6 resolution.

7 (2) ~~The~~ If the electors of a resort area have not established a resort area district, the resort area
8 shall reimburse the board of county commissioners for costs associated with the collection, administration,
9 and litigation of the resort area tax."

10

11 NEW SECTION. Section 23. Codification instruction. [Sections 1 through 20] are intended to be
12 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections
13 1 through 20].

14

15 NEW SECTION. Section 24. Saving clause. [This act] does not affect rights and duties that
16 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
17 act].

18

19 NEW SECTION. Section 25. Effective date. [This act] is effective on passage and approval.

20

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0191, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill authorizing the creation of a resort area district, and providing an election process by which a resort area district may be created.

FISCAL IMPACT:

Passage of SB0191 will have no fiscal impact on the state.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If a resort area district is created, the district will control the collection, appropriation, and expenditure of resort tax revenue collected within the resort area.

Dave Lewis 1-22-97

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

Don Hargrove 1/22/97

DON HARGROVE, PRIMARY SPONSOR DATE

Fiscal Note for SB0191, as introduced

SB 191

APPROVED BY COM ON
LOCAL GOVERNMENT

SB BILL NO. 191

1
2 INTRODUCED BY

*Hayward Chris Henry, Keith Coover
Willard Eugene and Eck Chad*

3
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7 DISTRICT; ENABLING THE ADMINISTRATION OF A RESORT AREA DISTRICT; ALLOWING THE BOARD OF
8 DIRECTORS OF A RESORT AREA DISTRICT TO EXPEND REVENUE FROM A RESORT AREA TAX;
9 AMENDING SECTIONS 7-6-4465 AND 7-6-4469, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
10 DATE."
11

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

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

SB BILL NO. 191

INTRODUCED BY Hayden Chris Thomas, Keith Coar
Willard Suggs and Eck Chad

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INTRODUCED BY *Hayward Chris Thomas, Josh Coar*
Willard, Duggan and Eck

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SENATE BILL NO. 191

INTRODUCED BY HARGROVE, OHS, STANG, TASH, EWER, HIBBARD, SWYSGOOD, ECK, VICK

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF A RESORT AREA DISTRICT; PROVIDING AN ELECTION PROCESS BY WHICH A RESORT AREA DISTRICT MAY BE CREATED; PROVIDING FOR THE ELECTION OF MEMBERS TO THE BOARD OF DIRECTORS OF A RESORT AREA DISTRICT; ENABLING THE ADMINISTRATION OF A RESORT AREA DISTRICT; ALLOWING THE BOARD OF DIRECTORS OF A RESORT AREA DISTRICT TO EXPEND REVENUE FROM A RESORT AREA TAX; AMENDING SECTIONS 7-6-4465 AND 7-6-4469, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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1 each county. Each petition must contain the signatures of at least 10% of the registered voters of the resort
2 area that lies within that county.

3 (3) The petition must include a description or map of the existing resort area boundaries. The
4 petition may not describe proposed resort area district boundaries that are different from the existing resort
5 area boundaries designated pursuant to 7-6-4468.

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8 commissioners shall publish the text of the petition described in [section 3], as provided in 7-1-2121, in
9 each county in which the proposed resort area district lies and shall publish the date, time, and place that
10 a public hearing on the petition will be held.

11 (2) In addition to the requirements of subsection (1), the board of county commissioners shall
12 publish the text of the petition described in [section 3] in a newspaper of general circulation in the county
13 within which the proposed resort area district lies.

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23 the hearing must be completed within 4 weeks of its commencement.

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17 orderly plan of dissolution.

18 (2) Immediately following adoption of the resolution dissolving the resort area district, the board
19 of county commissioners shall file with the secretary of state and the county clerk and recorder a copy of
20 the resolution.

21 (3) The resort area district is dissolved as provided in the plan of dissolution.

22

23 **Section 21.** Section 7-6-4465, MCA, is amended to read:

24 **"7-6-4465. Resort tax administration.** (1) In this section, "governing body" means:

25 (a) the governing body of a resort community ~~or;~~

26 (b) if the resort tax has been approved by the electors of a resort area, the board of county
27 commissioners; or

28 (c) if the electors of the resort area establish a resort area district, the district board of directors.

29 (2) Not less than 30 days prior to the date that the resort tax becomes effective, the governing
30 body shall enact an administrative ordinance governing the collection and reporting of the resort taxes. This

1 administrative ordinance may be amended at any time as may be necessary to effectively administer the
2 resort tax.

3 (3) The administrative ordinance must specify:

4 (a) the times that taxes collected by businesses are to be remitted to the governing body;

5 (b) the office, officer, or employee of the governing body responsible for receiving and accounting
6 for the resort tax receipts;

7 (c) the office, officer, or employee of the governing body responsible for enforcing the collection
8 of resort taxes and the methods and procedures to be used in enforcing the collection of resort taxes due;
9 and

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

12 (i) criminal penalties not to exceed a fine of \$1,000 or 6 months' imprisonment, or both;

13 (ii) civil penalties if the governing body prevails in a suit for the collection of resort taxes, not to
14 exceed 50% of the resort taxes found due plus the costs and attorney fees incurred by the governing body
15 in the action;

16 (iii) revocation of a county or municipal business license held by the offender; and

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

18 (4) The administrative ordinance may include:

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

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

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

25 (ii) receive a refund of up to 5% of the resort tax payment received from them by the governing
26 body 10 days prior to the collection due date established by the administrative ordinance.

27 (c) other administrative details necessary for the efficient and effective administration of the tax."
28

29 **Section 22.** Section 7-6-4469, MCA, is amended to read:

30 **"7-6-4469. Use of resort area tax.** (1) ~~Unless~~ (a) Except as provided in subsection (1)(b) or unless

1 otherwise provided by the resolution approved by the electors under 7-6-4464, the board of county
2 commissioners shall appropriate and spend revenue derived from a resort area tax for the purpose stated
3 in the resolution.

4 (b) If the electors of a resort area have established a resort area district, the district board of
5 directors shall appropriate and spend revenue derived from a resort area tax for the purpose stated in the
6 resolution.

7 (2) ~~The~~ If the electors of a resort area have not established a resort area district, the resort area
8 shall reimburse the board of county commissioners for costs associated with the collection, administration,
9 and litigation of the resort area tax."
10

11 NEW SECTION. Section 23. Codification instruction. [Sections 1 through 20] are intended to be
12 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections
13 1 through 20].
14

15 NEW SECTION. Section 24. Saving clause. [This act] does not affect rights and duties that
16 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
17 act].
18

19 NEW SECTION. Section 25. Effective date. [This act] is effective on passage and approval.
20

-END-