SENATE BILL NO. 3

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING MILL LEVY ELECTION LAWS; LIMITING THE DURATION OF MILL LEVIES SUBMITTED TO VOTERS TO 10 YEARS WITHOUT VOTER REAPPROVAL; TERMINATING EXISTING VOTED MILL LEVIES UNLESS THEY ARE EXTENDED BEFORE THE TERMINATION DATE; PROVIDING DATES ON WHICH LEVIES TERMINATE; AMENDING SECTIONS 7-15-4286, 15-10-425, AND 20-9-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.”

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

Section 1. Section 7-15-4286, MCA, is amended to read:

"**7-15-4286. Procedure to determine and disburse tax increment -- remittance of excess portion of tax increment for targeted economic development district.** (1) (a) Except as provided in subsection (1)(b), mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or targeted economic development district and the base taxable value of all taxable property located within the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the area or district.

(b) If a mill levy is excluded from the tax increment calculation pursuant to subsections (2)(b) through (2)(d), the calculation pursuant to subsection (1)(a) must use the total taxable value of all property located within the area or district.

(2) (a) Except as provided in 15-6-162 and subsections (2)(b) through (2)(d) and (3) of this section, the tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the area or district must be paid into a special fund held by the treasurer of the local government and used as provided in 7-15-4282 through 7-15-4294.

(b) For targeted economic development districts and urban renewal areas created before April 6, 2017, the combined mill rates used to calculate the tax increment may not include the mill rates for the university system mills levied pursuant to 15-10-109 and 20-25-439.

(c) For targeted economic development districts created on or after April 6, 2017, and before July 1, 2022, and urban renewal areas created on or after April 6, 2017, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439; and

(ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision.

(d) For targeted economic development districts created after June 30, 2022, the combined mill rates used to calculate the tax increment may not include mill rates for:

(i) the university system mills levied pursuant to 15-10-109 and 20-25-439;

(ii) one-half of the elementary, high school, and state equalization mills levied pursuant to 20-9-331, 20-9-333, and 20-9-360;

(iii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment provision; and

(iv) any portion of an existing mill levy designated by the local government as excluded from the tax increment.

(3) (a) Subject to 7-15-4287 and subsection (3)(b) of this section, a targeted economic development district with a tax increment provision adopted after October 1, 2019, may expend or accumulate tax increment for:

(i) the payment of the costs listed in 7-15-4288;

(ii) the cost of issuing bonds; or

(iii) any pledge to the payment of the principal of any premium, if any, and interest on the bonds issued pursuant to 7-15-4289 and sufficient to fund any reserve fund in respect of the bonds in an amount not to exceed 125% of the maximum principal and interest on the bonds in any year during the term of the bonds.

(b) Any excess tax increment remaining after the use or accumulation of funds as set forth in subsection (3)(a) must be:

(i) remitted to each taxing jurisdiction for which the mill rates are included in the calculation of the tax increment as provided in subsections (1) and (2); and

(ii) proportional to the taxing jurisdiction's share of the total mills levied.

(c) A targeted economic development district is not subject to the provisions of this subsection (3) if bonds have not been issued to finance the project.

(4) Any portion of the excess tax increment remitted to a school district pursuant to subsection (3) is subject to the provisions of 7-15-4291(2) through (5).

(5) The balance of the taxes collected in each year must be paid to each of the taxing bodies as otherwise provided by law.

(6) For the purposes of subsections (2)(c)(ii) and (2)(d)(iii), a mill levy reapproved as provided in 15-10-425 is not considered a new mill levy."

Section 2. Section 15-10-425, MCA, is amended to read:

"**15-10-425. Mill levy election -- termination of existing levies.** (1) ~~A~~ Subject to subsection (7), a county, consolidated government, incorporated city, incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an election as provided in this section. This section does not apply to bond elections.

(2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4 or 5, or Title 20 for school elections, whichever is appropriate to the taxing entity. The governing body shall pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on the approval of a majority of the qualified electors voting in the election.

(a) The resolution, charter amendment, or petition must include:

(i) the specific purpose for which the additional money will be used;

(ii) the specific amount of money to be raised and the approximate number of mills to be imposed; and

(iii) ~~whether the levy is permanent or~~ the durational limit ~~on~~ of the levy, which may not exceed 10

years.

(b) Except for a school district levy established in Title 20, the resolution, charter amendment, or petition may provide that the mill levy is subject to the provisions of 15-10-420(1)(a).

(3) Notice of the election must be prepared by the governing body and given as provided in 13-1-108. The form of the ballot must reflect the content of the resolution or charter amendment and must include:

(a) the statement that "an increase in property taxes may lead to an increase in rental costs"; and

(b) a statement of the impact of the election on homes valued at $100,000, $300,000, and $600,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.

(4) If the majority of voters voting on the question are in favor of the additional levy, the governing body is authorized to impose the levy in the amount specified in the resolution or charter amendment.

(5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year without losing the authority to impose in a subsequent fiscal year up to the maximum amount approved in the election. However, nothing in this subsection authorizes a governing body to impose more than the approved levy in any fiscal year or to extend the duration of the approved levy.

(6) A mill levy approved pursuant to this section before [the effective date of this act] terminates as provided in this subsection (6) unless reapproved by voters before the termination date. If the mill levy was last approved by voters:

(a) more than 5 years ago, the mill levy terminates on December 31, 2030;

(b) 5 years ago or less, the mill levy terminates on December 31, 2032.

(7) A mill levy approved pursuant to this section after [the effective date of this act] or reapproved pursuant to subsection (6) must include a termination date of 10 years or less.

(8) Beginning in the year 3 years before the termination date, a governing body may submit once a year to the qualified electors a terminating levy for reapproval."

Section 3. Section 20-9-502, MCA, is amended to read:

"**20-9-502. Purpose and authorization of building reserve fund -- subfund structure.** (1) The

trustees of any district may establish a building reserve fund to budget for and expend funds for any of the purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

(2) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(i) the purpose or purposes for which the new or addition to the building reserve will be used;

(ii) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(iii) the total amount of money that will be raised during the duration of time specified for the levy; and

(iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

(b) Except as provided in subsection (4)(b), a building reserve tax authorization may not be for more than ~~20~~ 10 years.

(c) The election must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425.

(d) The building reserve proposition is approved if a majority of those electors voting at the election approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of the trustees for a building reserve is computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve must be used for the purpose or purposes before any money realized by the bond issue is used.

(3) (a) A subfund must be created to account for revenue and expenditures for school major maintenance and repairs authorized under this subsection (3). The trustees of a district may authorize and impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that school fiscal year for the purposes of raising revenue for identified improvements or projects meeting the requirements of 20-9-525. The 10-mill limit under this subsection (3) must be calculated using the district's total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525 may not exceed the district's school major maintenance amount as defined in 20-9-525. To authorize and impose a levy under this subsection (3), the trustees shall:

(i) following public notice requirements pursuant to 20-9-116, adopt no later than March 31 of each fiscal year a resolution:

(A) identifying the anticipated improvements or projects for which the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525 will be used; and

(B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525, and the resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by the department of revenue under 15-10-202; and

(ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in compliance with 20-9-131.

(b) Proceeds from the levy may be expended only for the purposes under 20-9-525, and the expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

(c) Whenever the trustees of a district impose a levy pursuant to this subsection (3) during the current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525 in the district's building reserve fund budget. Any expenditures of the funds must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(d) When a tax levy pursuant to this subsection (3) is included as a revenue item on the final

building reserve fund budget, the county superintendent shall report the levy requirement to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-142.

(e) A subfund in the building reserve fund must be created for the deposit of proceeds from the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525.

(f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may deposit additional funds from any lawfully available revenue source and may transfer additional funds from any lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school major maintenance aid pursuant to 20-9-525 consists of the combined total of funds raised from the imposition of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

(4) (a) A voted levy may be imposed and a subfund must be created with the approval of the qualified electors of the district to provide funding for transition costs incurred when the trustees:

(i) open a new school under the provisions of Title 20, chapter 6;

(ii) close a school;

(iii) replace a school building;

(iv) reorganize with or annex another district under the provisions of Title 20, chapter 6; or

(v) receive approval from voters to expand an elementary district into a K-12 district pursuant to 20-6-326.

(b) Except as provided in subsection (4)(c), the total amount the trustees may submit to the electorate for transition costs may not exceed the number of years specified in the proposition times the greater of 5% of the district's maximum general fund budget for the current year or $250 per ANB for the current year. The duration of the levy for transition costs may not exceed 6 years.

(c) If the levy for transition costs is for reorganization under 20-6-423 or annexation under 20-6-

422:

(i) the limitation on the amount levied is calculated using the ANB and the maximum general fund budget for the districts that are being combined; and

(ii) the proposition must be submitted to the qualified electors in the combined district.

(d) The levy for transition costs may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406.

(5) (a) A subfund in the building reserve fund must be created for:

(i) the funds transferred to the building reserve fund for school safety and security pursuant to 20-9-236; and

(ii) funds generated by a voter-approved levy for school and student safety and security pursuant to subsection (5)(b) of this section.

(b) A voted levy may be imposed with the approval of the qualified electors of the district to provide funding for improvements to school and student safety and security that meet any of the criteria set forth in 20-9-236(1). A voted levy for school and student safety and security may not be considered as outstanding indebtedness for the purpose of calculating the limitation in 20-9-406. The election for a voted levy for school and student safety and security must be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition must be substantially in compliance with 15-10-425."

NEW SECTION. **Section 4. Effective date.** [This act] is effective January 1, 2028.

NEW SECTION. **Section 5. Applicability.** The durational limit provided for in [section 2(2)(a)(iii)] applies to a mill levy election held on or after [the effective date of this act].

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