

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A CITY OR COUNTY TO ESTABLISH A STATEWIDE ECONOMIC IMPACT DISTRICT; AMENDING SECTION 17-7-502, MCA; PROVIDING A STATUTORY APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. To establish the "Statewide Economic Impact Districts Act" in order to:

(1) recognize the evolving economies and demographics of the state and its workforce needs and constraints, today and in the future, including the need to replace a significant number of retiring workers;

(2) enable the state's centers of business and industry to better promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of the state and all of its citizens;

(3) increase and diversify the volume of commerce throughout the state and grow and strengthen the state's overall economic base by strengthening its urban centers;

(4) attract, retain and train a strong workforce that will facilitate the attraction, retention and growth of commercial enterprises in the state's urban centers;

(5) cooperate and act in conjunction with other organizations and entities, public or private, in the development of commerce, services, recreation, tourism, health care, housing and other economic activity in the state;

(6) leverage strategies to attract private capital investment in businesses and industries, including investment in projects located in the state's federally-designated opportunity zones, which will benefit all areas of the state;

(7) build, operate and maintain necessary civic infrastructure that will support the creation, expansion, modernization, retention, and relocation from other states of businesses and industries into the state; and

(8) otherwise stimulate, assist in, and support the growth of economic activity that is expected to improve the fiscal stability and prosperity of the state overall and improve the standard of living of its citizens, today and for the next generation.

NEW SECTION. Section 2. Definitions. As used in this part, the following definitions apply:

(1) "Authorizing entity" means a municipality or county that has authorized a statewide economic impact district and certified it to the commissioner pursuant to the provisions of [this act].

(2) "Civic infrastructure costs" means the cost of a civic infrastructure project, including costs of demolition and removal of structures and acquisition, design, construction, improvement, operation, maintenance and financing costs.

(3) "Civic infrastructure project" includes the following projects within a statewide economic impact district:

(a) streets, roads, curbs, gutters, and sidewalks;

(b) parking lots and offstreet parking facilities;

- (c) sewers, sewer lines, storm sewers, waterlines, waterways, natural gas lines, electrical lines, and telecommunications lines;
- (d) parks, plazas (whether enclosed or open), atriums, pedestrian malls, public markets, and food halls;
- (e) regional convention and civic centers and other regional event, recreation or entertainment venues that are expected to draw tourism and visitation from outside the state and complement the municipality's existing civic and event facilities;
- (f) public infrastructure and civic amenities that support urban lifecycle housing options;
- (g) educational and workforce development and training facilities;
- (h) community health and wellness facilities with a regional impact, excluding those facilities owned by private health care providers, whether for profit or not-for profit;
- (i) publicly owned buildings, and any related public improvements;
- (j) related building infrastructure, mechanical systems, vertical circulation, central plant and security systems and functions;
- (k) items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;
- (l) assemblage of land for development or redevelopment by private enterprise, the authorizing entity, or other public agencies, including sale, initial leasing, or retention;
- (m) the compilation and analysis of pertinent information required to adequately determine the needs of the statewide economic impact district; and
- (n) other administrative costs associated with the management of the statewide economic impact district.

(4) "Commissioner" means the commissioner of the state [Department of Revenue].

(5) "Extended state payments" means payments made by the state for civic infrastructure costs pursuant to [section 9].

(6) "Private development project" means construction of privately-owned buildings and other improvements that are undertaken within a statewide economic impact district and that do not fall under the definition of civic infrastructure project.

(7) "Private expenditures" means expenditures made by an individual or private entity to pay for the capital cost of a private development project, including, but not limited to:

- (a) design and predesign costs, including architectural, engineering, and similar services, development costs, pre-opening costs, including finance costs, and the costs of other professional services related to the construction of the project;
- (b) legal, regulatory, and other compliance costs of the project;
- (c) land acquisition, demolition of existing improvements, and other site preparation costs;
- (d) construction costs, including all materials and supplies of the project; and
- (e) equipment, fixtures and furnishings for the real property.

Private expenditures exclude supplies and other items with a useful life of less than a year that are not used or consumed in constructing improvements to real property or are not otherwise chargeable to capital costs.

(8) "State availability payments" means all tier 1 availability payments, plus all tier 2 availability payments, plus all tier 3 availability payments.

(9) "Statewide economic impact district" means a defined geographical area established by a municipality or county pursuant to [section 3 and the other requirements of this act].

(10) “Tier 1 availability payment” means payments made by the state for civic infrastructure costs pursuant to [section 9].

(11) “Tier 1 private investment” means private expenditures and civic infrastructure costs in the amount of \$300,000,000.

(12) “Tier 1 private investment threshold” means that private expenditures and civic infrastructure costs, whether financed publicly or privately, for all years equal at least \$300,000,000.

(13) “Tier 2 availability payment” means payments made by the state for civic infrastructure costs pursuant to [section 9].

(14) “Tier 2 private investment” means private expenditures and civic infrastructure costs in the amount of \$450,000,000.

(15) “Tier 2 private investment threshold” means that private expenditures and civic infrastructure costs, whether financed publicly or privately, for all years equal at least \$450,000,000.

(16) “Tier 3 availability payment” means payments made by the state for civic infrastructure costs pursuant to [section 9].

(17) “Tier 3 private investment” means private expenditures and civic infrastructure costs in the amount of \$650,000,000.

(18) “Tier 3 private investment threshold” means that private expenditures and civic infrastructure costs, whether financed publicly or privately, for all years equal at least \$650,000,000.

NEW SECTION. Section 3. Formation. Until June 30, 2023, a municipality or county is authorized to establish, by written resolution of its governing body, a statewide economic Impact district within its boundaries subject to the requirements [of this act], including adoption of a development plan. The adoption of a development plan and formation of the statewide economic impact district must be certified by the municipality or county to the commissioner.

NEW SECTION. Section 4. Development plan requirement. An authorizing entity must establish and adopt, by written resolution of its governing body, a development plan for a statewide economic impact district. The development plan must be sufficiently complete to indicate:

- (1) policy goals consistent with the purposes of [the act];
- (2) targeted parcels for civic infrastructure projects to be carried out by the authorizing entity, or by another public or private organization or entity designated by the authorizing entity, in the statewide economic impact district;
- (3) land use planning, including zoning and planning changes, if any;
- (4) projections of private development projects that are reasonably expected to be undertaken in conjunction with one or more civic infrastructure projects in the statewide economic impact district as catalytic projects that will meet enumerated policy goals consistent with the purposes of [the act];
- (5) independent third-party estimates of 30-year economic impacts resulting from the combined private development projects and civic infrastructure projects in the statewide economic impact district, including new spending, construction jobs, which shall not be less than [3,000] total jobs, and permanent, full-time equivalent jobs, which shall not be less than [6,500] total jobs;
- (6) independent third-party estimates of 30-year fiscal impacts, including new tax revenues by type and for each taxing jurisdiction of the state, which total fiscal impacts to the authorizing entity shall not be less than ___ times the previous year’s [adopted budget] of the authorizing entity and which total fiscal impacts to the state shall not be less than ___ times the previous year’s [adopted budget] of the state;

(7) a framework to identify and prioritize short- and long-term public investment, private investment and quasi-public funding sources for civic infrastructure project development and to facilitate private investment and development of public development projects, which private to public investment ratios projected over the term of the statewide economic impact district for combined civic infrastructure projects and public development projects shall not be less than 5:1;

(8) the development plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and civic facilities, available lifecycle housing options, workforce goals and initiatives, and other public improvements and policy goals; and

(9) a process and procedure and list of agreements that the authorizing entity intends to utilize in administering the statewide economic impact district, including requirements for project design and specifications, project budgets, terms for transfer of public funds, default provisions, and other project requirements.

An authorizing entity may modify the development plan at any time consistent with the provisions for adoption of any original development plan pursuant to this section.

NEW SECTION. Section 5. Encouragement of private enterprise. An authorizing entity, to the greatest extent it determines to be feasible in carrying out the provisions of [the act], shall afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development of private development projects and civic infrastructure projects by private enterprise. An authorizing entity shall give consideration to this objective in exercising its powers under [the act], including the formulation and approval of statewide economic impact district's development plans; the exercise of its zoning powers; enlisting any local port authority to assist in the administration and exercise of the authorizing entity's powers under [this act]; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the disposition of any property acquired; the provision and funding of necessary civic infrastructure improvements; and the execution of joint development agreements, as further provided in [the act].

NEW SECTION. Section 6. Alternate procurement provisions permitted. (1) Notwithstanding [LIST RELEVANT PROCUREMENT CITATIONS], the authorizing entity may enter into an agreement with a private individual or entity relating to the design, construction, financing, operation, maintenance, and use of a civic infrastructure project.

(2) The authorizing entity or public body may employ or contract with private individuals or entities to perform one or more or all of the functions of architect, engineer, construction manager, or program manager with respect to all or any part of the design, construction, financing, operation, maintenance, and use of a civic infrastructure project under integrated design-build, construction manager at risk, build-operate-transfer or other alternative delivery and finance methods, or a combination thereof.

(3) The authorizing entity may receive and engage a private individual or entity based upon an unsolicited civic infrastructure project proposal consistent with a development plan.

(4) An authorizing entity also may prepare a request for proposals for one or more of the functions described above and prequalify offerors by issuing a request for qualifications and select a short list of responsible offerors for discussions and evaluations. The authorizing entity or public body may conduct

discussions and negotiations with responsible offerors in order to determine which proposal is most advantageous to the authorizing entity and to negotiate the terms of an agreement.

(5) In conducting discussions described in this section, there shall be no disclosure of any information derived from proposals or qualifications submitted by offerors and the content of all proposals is [nonpublic data] until such time as a notice to award a contract is given by the authorizing entity.

NEW SECTION. Section 7. Development agreements authorized. Following the process set forth in [section 6], the authorizing entity may enter into development agreements with private individuals or entities for civic infrastructure projects, which may provide for the design and construction, financing, operation, maintenance, and use on the terms the parties deem reasonable and consistent with the development plan. Such agreements may be adopted only after notice and a public hearing. Any civic infrastructure projects that are owned in fee title by a private individual or entity must be transferred to the authorizing entity, or another public body designated by the authorizing entity, at the end of the term of the development agreement.

NEW SECTION. Section 8. Certification of expenditures. (1) To be eligible to receive the initial state availability payment for a new tier of private investment pursuant to [section 9], the authorizing entity must compile and certify to the commissioner the amount of private expenditures made in the statewide economic impact district and the amount of civic infrastructure costs, whether financed publicly or privately, in the preceding years.

(2) The certification must be made in the form prescribed by the development agreement. The commissioner shall recognize private expenditures that are consistent with the total project budget submitted by the developer consistent with the development agreement.

(3) No later than _____ 1 of the same year, the commissioner shall certify the amount of such expenditures and costs for the preceding year.

NEW SECTION. Section 9. State availability payments. (1) The authorizing entity is eligible for an annual tier 1 availability payment for civic infrastructure costs within the statewide economic impact district when the tier 1 private investment threshold is met and certified by the commissioner. The tier 1 availability payment equals the tier 1 private investment multiplied by 0.25 plus civic infrastructure project financing costs amortized over 20 years.

(2) The authorizing entity is eligible for an additional annual tier 2 availability payment for civic infrastructure costs within the statewide economic impact district when the tier 2 private investment threshold is met and certified by the commissioner. The tier 2 availability payments equals the tier 2 private investments multiplied by 0.056 plus civic infrastructure project financing costs amortized over 20 years.

(3) The authorizing entity is eligible for an additional annual tier 3 availability payment for civic infrastructure costs within the statewide economic impact district when the tier 3 private investment threshold is met and certified by the commission. The tier 3 availability payment equals the tier 3 private investment multiplied by 0.0385 plus civic infrastructure project financing costs amortized over 20 years.

(4) In the event that the cumulative private expenditures and cumulative civic infrastructure costs, whether financed publicly or private, for all years equal at least \$1,000,000,000 within 11 years following the date of certification of a statewide economic impact district, all state availability payments to be paid in future years shall continue for 10 additional years (the “extended state payments”), but not to exceed __ years.

(5) In addition to the private expenditures and civic infrastructure costs outlined [in paragraphs (1) through (4) above], if the authorizing entity has made the required matching contribution under [section 10], the state must transfer to the authorizing entity the amount of the annual tier 1 availability payment, plus, if applicable, the annual tier 2 availability payment, the tier 3 availability payment, and the annual portion of the extended state payments for each year by _____ 1 (i) for reimbursement of civic infrastructure costs and financing costs paid by the municipality or the authorizing entity, or (ii) as fiscal agent for reimbursement of civic infrastructure costs and financing costs paid by a private individual or entity.

(6) State availability payments and extended state payments are not a debt of the state or any political subdivision thereof.

NEW SECTION. Section 10. Local matching contribution. The amount of any payments from the state pursuant to [section 9] must be matched by a local contribution of the authorizing entity in an amount equal to the state’s payment for such year, plus financing costs for civic infrastructure costs within the statewide economic impact district. The local contribution may be in the form of a direct appropriation from the authorizing entity, or proceeds of the municipality’s or county’s municipal bonds, tax increment financing, or a special improvement district assessment.

NEW SECTION. Section 11. Reporting requirements. An authorizing entity authorized to transact business and exercise powers under this Act shall file with the authorizing entity’s governing body and the commissioner, on or before [September 30] of each year, a report of its activities for the preceding fiscal year. The report must describe the expenditures of the public payments and local matching contributions in the preceding fiscal year and how the expenditures comply with the approved development plan for the statewide economic impact district. At the time of filing the report, the authorizing entity shall publish in a newspaper of general circulation in the authorizing entity’s jurisdiction a notice to the effect that the report has been filed with the authorizing entity and that the report is available for inspection during business hours in the public offices of the authorizing entity.

NEW SECTION. Section 12. Downtown Billings statewide economic impact district authorization and approval. The requirements of [this act] for establishment of a development plan have been satisfied by the city of Billings, and the commissioner is hereby authorized to certify the ONE Big Sky statewide economic impact district consistent with the provisions of [this act] as of its effective date.

Section 13. Statutory appropriation. Section 17-7-502(3), MCA, is amended to read:

[AMEND TO CITE THIS PROVISION AUTHORIZING THE STANDING APPROP.]

NEW SECTION. Section 14. Effective date. On the date of enactment.