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Revenue and Transportation Interim Committee
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HJ 18: BONDS SECURED WITH TAX INCREMENT

This overview provides information on the guarantee of bonds secured with tax increment for the committee's [House Joint Resolution No. 18](#) study of tax increment financing.

Use of Bonds for Urban Renewal and Economic Development Projects

[Title 7, chapter 15](#), parts 42 and 43, contain sections of law authorizing the issuance of bonds for urban renewal projects and targeted economic development district projects and providing for payment of the bonds. The sections of law addressing these topics are somewhat duplicative and may benefit from clarification.

Section 7-15-4289, MCA

The Legislature enacted this [section](#) in 1974 and it was split into multiple sections during the 1978 recodification of the Montana Code Annotated. The section is now one sentence allowing tax increment to be pledged for bond payments.

Section 7-15-4290, MCA

Section [7-15-4290](#) provides that tax increment may be pledged for the payment of revenue bonds issued for urban renewal projects or targeted economic development district projects or for general obligation bonds, revenue bonds, or special assessment bonds issued to pay urban renewal costs or targeted economic development district costs described in [7-15-4288](#) and [7-15-4289](#).

The section also allows a local government to pass a resolution pledging or appropriating other revenue to the bonds if tax increment is insufficient. Property taxes may not be pledged to bond payments, except for the tax increment derived from property within the district and collections from services provided to the local government by a project.

Section 7-15-4301, MCA

The previous two sections allow a local government to pledge tax increment to bond payments. The authority for a local government to issue bonds to finance an urban renewal project or a targeted economic development district project is contained in section [7-15-4301](#). Subsection (2) of the section states that the bonds may not pledge the general credit of the local government and must be made payable from income derived from or held in connection with urban renewal projects or targeted economic development district projects, including tax increment pledged by the local government.

The subsection also includes a provision allowing a local government to pledge other revenue to bond payments if the tax increment and income from the projects is insufficient. Additionally, the bonds may be further secured with a loan, grant, or contribution from the federal government or other source in aid or by a mortgage on a project.

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The section requires bonds issued under this section to be authorized by resolution or ordinance.

Exception to Prohibition on General Obligation Bonds

While section [7-15-4301](#) prohibits pledging the general credit of the local government to bond payments, there is an exception for bonds issued pursuant to section [7-15-4302](#). That section allows a local government to issue and sell general obligation bonds for an urban renewal project or targeted economic development project.

Section [7-15-4218](#) includes additional detail about the process for issuing general obligation bonds for an urban renewal project. The question of approving a modification to the urban renewal plan to allow for the issuance of general obligation bonds must be submitted to the voters as provided in [Title 7, chapter 7, part 42](#).

There is no corresponding section of law outlining this process for issuing general obligation bonds for a targeted economic development project but section [7-15-4302](#) requires that bonds issued pursuant to that section “be issued in the manner and within the limitation prescribed by the laws of this state for the issuance and authorization of bonds by the local government or municipality for public purposes generally.” [Title 7, chapter 7, part 22](#), contains laws about county general obligation bonds.

Conclusion

The laws authorizing the issuance of bonds for urban renewal projects and targeted economic development district projects clearly prohibit pledging the general credit of the local government. Tax increment may be pledged to bond payments, and if the tax increment is insufficient, the local government may pledge other revenue or appropriate other funds, but not property tax revenue unless the property tax revenue is derived from services provided by the project.

A local government may issue general obligation bonds for an urban renewal project or a targeted economic development district project under the processes established in [Title 7, chapter 7](#), which includes submission to and approval by the voters.