

HOUSE BILL 214

Introduced by Connelly, et al.

1/16	Introduced
1/16	Referred to Local Government
1/17	First Reading
1/17	Fiscal Note Requested
1/21	Fiscal Note Received
1/23	Fiscal Note Printed
1/31	Hearing
1/31	Tabled in Committee

1 *House* BILL NO. *214*
 2 INTRODUCED BY *Connelly Kennedy*
 3 *J. Brown*

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING LIMITS ON THE
 5 LENGTH OF TIME A CITIZEN MEMBER MAY SERVE ON CITY,
 6 CITY-COUNTY, OR COUNTY PLANNING BOARDS; REQUIRING THAT
 7 NOTICE OF PUBLIC HEARING FOR ZONING REGULATIONS BE SENT TO
 8 ALL FREEHOLDERS WITHIN A PROPOSED ZONING DISTRICT; AMENDING
 9 SECTIONS 76-1-201, 76-1-211, 76-1-221, AND 76-2-205, MCA;
 10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 11

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

13 **Section 1.** Section 76-1-201, MCA, is amended to read:

14 **"76-1-201. Membership of city-county planning board.**

15 (1) Except as provided in subsection (2), a city-county
 16 planning board shall consist of not less than nine members
 17 to be appointed as follows:

18 (a) two official members who reside outside the city
 19 limits but within the jurisdictional area of the city-county
 20 planning board to be appointed by the board of county
 21 commissioners, who may in the discretion of the board of
 22 county commissioners be employed by or hold public office in
 23 the county;

24 (b) two official members who reside within the city
 25 limits to be appointed by the city council, who may in the

1 discretion of the city council be employed by or hold public
 2 office in the city;

3 (c) two citizen members who reside within the city
 4 limits to be appointed by the mayor of the city;

5 (d) two citizen members who reside within the
 6 jurisdictional area of the city-county planning board to be
 7 appointed by the board of county commissioners;

8 (e) the ninth member to be selected by the eight
 9 officers and citizen members hereinabove provided for from
 10 the members of the board of supervisors of a conservation
 11 district provided for in 76-15-311.

12 (2) Subsection (1)(e) does not apply if there is no
 13 member of the board of supervisors of a conservation
 14 district who is able or willing to serve on the city-county
 15 planning board. In such case, the ninth member of the
 16 city-county planning board shall be selected by the eight
 17 officers and citizen members hereinabove provided for with
 18 the consent and approval of the board of county
 19 commissioners and the city council.

20 (3) The term of a city-county planning board member may
 21 not exceed 3 years, and a citizen member may not serve more
 22 than two terms on a city-county planning board."

23 **Section 2.** Section 76-1-211, MCA, is amended to read:

24 **"76-1-211. Membership of county planning board. (1)**
 25 **County planning boards shall consist of not less than five**



1 members appointed by the board of county commissioners. At
2 least one member of any county planning board existing on or
3 formed after July 1, 1973, shall be a member of the
4 governing board of a conservation district as provided for
5 in chapter 15 or a state cooperative grazing district if
6 officers of either reside in said county.

7 (2) In the event that any city or town subsequently
8 becomes represented on the county planning board pursuant to
9 76-1-111, additional members of the planning board
10 representing such cities or towns shall be appointed by the
11 respective city councils.

12 (3) The term of a county planning board member may not
13 exceed 3 years, and a citizen member may not serve more than
14 two terms on a county planning board."

15 **Section 3.** Section 76-1-221, MCA, is amended to read:

16 "76-1-221. Membership of city planning board. (1) A
17 city planning board shall consist of not less than seven
18 members to be appointed as follows:

19 (a) one member to be appointed by the city council from
20 its membership;

21 (b) one member to be appointed by the city council, who
22 may in the discretion of the city council be an employee or
23 hold public office in the city or county in which the city
24 is located;

25 (c) one member to be appointed by the mayor upon the

1 designation by the county commissioners of the county in
2 which the city is located;

3 (d) four citizen members to be appointed by the mayor,
4 two of whom shall be resident freeholders within the urban
5 area, if any, outside of the city limits over which the
6 planning board has jurisdiction under this chapter and two
7 of whom shall be resident freeholders within the city
8 limits.

9 (2) The clerk of the city council shall certify members
10 appointed by its body. The certificates shall be sent to and
11 become a part of the records of the planning board. The
12 mayor shall make similar certification for the appointment
13 of citizen members.

14 (3) The term of a city planning board member may not
15 exceed 3 years, and a citizen member may not serve more than
16 two terms on a city planning board."

17 **Section 4.** Section 76-2-205, MCA, is amended to read:

18 "76-2-205. Procedure for adoption of regulations and
19 boundaries. The board of county commissioners shall observe
20 the following procedures in the establishment or revision of
21 boundaries for zoning districts and in the adoption or
22 amendment of zoning regulations:

23 (1) Notice of a public hearing on the proposed zoning
24 district boundaries and of regulations for the zoning
25 district shall be published once a week for 2 weeks in a

1 newspaper of general circulation within the county and shall
 2 be mailed immediately prior to the public hearing to each
 3 freeholder in the proposed district at the address used for
 4 tax notices. The notice shall state:

- 5 (a) the boundaries of the proposed district;
 6 (b) the general character of the proposed zoning
 7 regulations;
 8 (c) the time and place of the public hearing;
 9 (d) that the proposed zoning regulations are on file
 10 for public inspection at the office of the county clerk and
 11 recorder.

12 (2) At the public hearing, the board of county
 13 commissioners shall give the public an opportunity to be
 14 heard regarding the proposed zoning district and
 15 regulations.

16 (3) After the public hearing, the board of county
 17 commissioners shall review the proposals of the planning
 18 board and shall make such revisions or amendments as it may
 19 deem proper.

20 (4) The board of county commissioners may pass a
 21 resolution of intention to create a zoning district and to
 22 adopt zoning regulations for the district.

23 (5) The board of county commissioners shall publish
 24 notice of passage of the resolution of intention once a week
 25 for 2 weeks in a newspaper of general circulation within the

1 county. The notice shall state:

- 2 (a) the boundaries of the proposed district;
 3 (b) the general character of the proposed zoning
 4 regulations;
 5 (c) that the proposed zoning regulations are on file
 6 for public inspection at the office of the county clerk and
 7 recorder;
 8 (d) that for 30 days after first publication of this
 9 notice, the board of county commissioners will receive
 10 written protests to the creation of the zoning district or
 11 to the zoning regulations from persons owning real property
 12 within the district whose names appear on the last completed
 13 assessment roll of the county.

14 (6) Within 30 days after the expiration of the protest
 15 period, the board of county commissioners may in its
 16 discretion adopt the resolution creating the zoning district
 17 and/or establishing the zoning regulations for the district;
 18 but if 40% of the freeholders within such district whose
 19 names appear on the last completed assessment roll shall
 20 have protested the establishment of the district or adoption
 21 of the regulations, the board of county commissioners shall
 22 not adopt the resolution and no further zoning resolution
 23 shall be proposed for the district for a period of 1 year.

24 (7) A parcel of land may not be added to the proposed
 25 zoning district unless the owner of the parcel received the

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1 notice required in subsection (1) or agrees in writing that
2 his land may be included in the proposed zoning district."

3 NEW SECTION. Section 5. Effective date. [This act] is
4 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0214, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating limits on the length of time a citizen member may serve on city, city-county, or county planning boards; requiring that notice of public hearing for zoning regulations be sent to all freeholders within a proposed zoning district, amending sections 76-1-201, 76-1-211, 76-1-221, and 76-2-205, MCA; and providing an immediate effective date.

ASSUMPTIONS:


1. There is no impact on revenues or expenditures of state agencies.

FISCAL IMPACT:

None

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. Local governments would incur a fiscal impact in the identification of freeholders within a specific zoning district, which may involve costs for title searches.
2. Requirements for additional notices would increase the postage and communication expenses.

 1-22-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-23-91
MARY ELLEN CONNELLY, PRIMARY SPONSOR DATE

Fiscal Note for HB0214, as introduced.

HB 214

1 SENATE BILL NO. 214

2 INTRODUCED BY TOWE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE DOLLAR
5 AMOUNTS SUBJECT TO CIVIL JURISDICTION IN JUSTICES' COURTS,
6 ~~AND IN THE SMALL CLAIMS DIVISION OF JUSTICES' COURTS, AND~~
7 CITY COURTS; AND AMENDING SECTIONS 3-10-301 ~~AND~~, 3-10-1004,
8 AND 3-11-103, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 **Section 1.** Section 3-10-301, MCA, is amended to read:12 "3-10-301. Civil jurisdiction. (1) Except as provided
13 in subsection (2) and in 3-11-103, the justices' courts have
14 jurisdiction:15 (a) in actions arising on contract for the recovery of
16 money only if the sum claimed does not exceed ~~\$3,500~~ \$5,000,
17 exclusive of court costs;18 (b) in actions for damages not exceeding ~~\$3,500~~ \$5,000,
19 exclusive of court costs, for taking, detaining, or injuring
20 personal property or for injury to real property when no
21 issue is raised by the verified answer of the defendant
22 involving the title to or possession of the real property;23 (c) in actions for damages not exceeding ~~\$3,500~~ \$5,000,
24 exclusive of court costs, for injury to the person, except
25 that, in actions for false imprisonment, libel, slander,1 criminal conversation, seduction, malicious prosecution,
2 determination of paternity, and abduction, the justice of
3 the peace does not have jurisdiction;4 (d) in actions to recover the possession of personal
5 property if the value of the property does not exceed ~~\$3,500~~
6 \$5,000;7 (e) in actions for a fine, penalty, or forfeiture not
8 exceeding ~~\$3,500~~ \$5,000, imposed by a statute or an
9 ordinance of an incorporated city or town when no issue is
10 raised by the answer involving the legality of any tax,
11 impost, assessment, toll, or municipal fine;12 (f) in actions upon bonds or undertakings conditioned
13 for the payment of money when the sum claimed does not
14 exceed ~~\$3,500~~ \$5,000, though the penalty may exceed that
15 sum;16 (g) to take and enter judgment for the recovery of
17 money on the confession of a defendant when the amount
18 confessed does not exceed ~~\$3,500~~ \$5,000, exclusive of court
19 costs;20 (h) to issue temporary restraining orders as provided
21 in 40-4-121(3).22 (2) Justices' courts do not have jurisdiction in civil
23 actions that might result in a judgment against the state
24 for the payment of money."25 **Section 2.** Section 3-10-1004, MCA, is amended to read:**SECOND READING**

1 **"3-10-1004. Jurisdiction -- removal from district**
 2 **court.** (1) The small claims court has jurisdiction over all
 3 actions for the recovery of money or specific personal
 4 property when the amount claimed does not exceed ~~\$2,500~~
 5 \$3,000, exclusive of costs, and the defendant can be served
 6 within the county where the action is commenced.

7 (2) A district court judge may require any action filed
 8 in district court to be removed to the small claims court if
 9 the amount in controversy does not exceed ~~\$2,500~~ \$3,000. The
 10 small claims court shall hear any action so removed from the
 11 district court."

12 **SECTION 3. SECTION 3-11-103, MCA, IS AMENDED TO READ:**

13 **"3-11-103. Exclusive jurisdiction.** Except as provided
 14 in 3-11-104, the city court has exclusive jurisdiction of:

15 (1) proceedings for the violation of an ordinance of
 16 the city or town, both civil and criminal;

17 (2) when the amount of the taxes or assessments sought
 18 does not exceed ~~\$2,500~~ \$5,000, actions for the collection of
 19 taxes or assessments levied for any of the following
 20 purposes, except that no lien on the property taxed or
 21 assessed for the nonpayment of the taxes or assessments may
 22 be foreclosed in any such action:

- 23 (a) city or town purposes;
- 24 (b) the erection or improvement of public buildings;
- 25 (c) the laying out, opening, or improving of a public

1 street, sidewalk, alley, or bridge;
 2 (d) the acquisition or improvement of any public
 3 grounds; and

4 (e) public improvements made or ordered by the city or
 5 town within its limits;

6 (3) actions for the collection of money due to the city
 7 or town or from the city or town to any person when the
 8 amount sought, exclusive of interest and costs, does not
 9 exceed ~~\$2,500~~ \$5,000;

10 (4) when the amount claimed, exclusive of costs, does
 11 not exceed ~~\$2,500~~ \$5,000, actions for:

12 (a) the breach of an official bond given by a city or
 13 town officer;

14 (b) the breach of any contract when the city or town is
 15 a party or is in any way interested;

16 (c) damages when the city or town is a party or is in
 17 any way interested;

18 (d) the enforcement of forfeited recognizances given
 19 to, for the benefit of, or on behalf of the city or town;
 20 and

21 (e) collection on bonds given upon an appeal taken from
 22 the judgment of the court in any action mentioned in
 23 subsections (4)(a) through (4)(d);

24 (5) actions for the recovery of personal property
 25 belonging to the city or town when the value of the

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1 property, exclusive of the damages for the taking or
2 detention, does not exceed ~~\$2,500~~ \$5,000; and

3 (6) actions for the collection of a license fee
4 required by an ordinance of the city or town."

-End-