

HOUSE BILL 844

Introduced by Wanzenried

2/14	Fiscal Note Printed [sic.]
2/14	Introduced
2/14	Referred to Natural Resources
2/14	First Reading
2/14	Fiscal Note Requested
2/18	Hearing
2/18	Fiscal Note Received
3/20	Tabled in Committee

1 House BILL NO. 844
 2 INTRODUCED BY WANDERLISE
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE DEFINITION
 5 OF "SUBDIVISION"; REMOVING THE OCCASIONAL SALE EXEMPTION;
 6 LIMITING THE FAMILY SALE EXEMPTION; AMENDING SECTIONS
 7 76-3-103, 76-3-104, 76-3-207, 76-4-102, AND 76-4-103, MCA;
 8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 76-3-103, MCA, is amended to read:

12 **"76-3-103. Definitions.** As used in this chapter, unless
13 the context or subject matter clearly requires otherwise,
14 the following words or phrases shall have the following
15 meanings:

16 (1) "Certificate of survey" means a drawing of a field
17 survey prepared by a registered surveyor for the purpose of
18 disclosing facts pertaining to boundary locations.

19 (2) "Dedication" means the deliberate appropriation of
20 land by an owner for any general and public use, reserving
21 to himself no rights which are incompatible with the full
22 exercise and enjoyment of the public use to which the
23 property has been devoted.

24 (3) "Division of land" means the segregation of one or
25 more parcels of land from a larger tract held in single or

1 undivided ownership by transferring or contracting to
2 transfer title to or possession of a portion of the tract or
3 properly filing a certificate of survey or subdivision plat
4 establishing the identity of the segregated parcels pursuant
5 to this chapter.

6 (4) " Dwelling" means a structure or portion of a
7 structure that is used for human habitation.

8 ~~(4)~~(5) "Examining land surveyor" means a registered
9 land surveyor duly appointed by the governing body to review
10 surveys and plats submitted for filing.

11 ~~(5)~~(6) "Governing body" means a board of county
12 commissioners or the governing authority of any city or town
13 organized pursuant to law.

14 ~~(6)~~(7) "Irregularly shaped tract of land" means a
15 parcel of land other than an aliquot part of the United
16 States government survey section or a United States
17 government lot, the boundaries or areas of which cannot be
18 determined without a survey or trigonometric calculation.

19 ~~(7) "Occasional sale" means one sale of a division of~~
20 ~~land within any 12-month period.~~

21 (8) "Planned unit development" means a land development
22 project consisting of residential clusters, industrial
23 parks, shopping centers, office building parks, or any
24 combination thereof which comprises a planned mixture of
25 land uses built in a prearranged relationship to each other



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1 and having open space and community facilities in common
2 ownership or use.

3 (9) "Plat" means a graphical representation of a
4 subdivision showing the division of land into lots, parcels,
5 blocks, streets, alleys, and other divisions and
6 dedications.

7 (10) "Preliminary plat" means a neat and scaled drawing
8 of a proposed subdivision showing the layout of streets,
9 alleys, lots, blocks, and other elements of a subdivision
10 which furnish a basis for review by a governing body.

11 (11) "Final plat" means the final drawing of the
12 subdivision and dedication required by this chapter to be
13 prepared for filing for record with the county clerk and
14 recorder and containing all elements and requirements set
15 forth in this chapter and in regulations adopted pursuant
16 thereto.

17 (12) "Registered land surveyor" means a person licensed
18 in conformance with Title 37, chapter 67, to practice
19 surveying in the state of Montana.

20 (13) "Registered professional engineer" means a person
21 licensed in conformance with Title 37, chapter 67, to
22 practice engineering in the state of Montana.

23 (14) "Subdivider" means any person who causes land to be
24 subdivided or who proposes a subdivision of land.

25 (15) "Subdivision" means a division of land or land se

1 divided which in a manner that creates one or more parcels
2 ~~containing less than 20 acres~~, exclusive of public roadways,
3 in order that the title to or possession of the parcels may
4 be sold, rented, leased, or otherwise conveyed. ~~and shall~~
5 include The term includes any resubdivision and ~~shall~~
6 ~~further include~~ any condominium or area, regardless of its
7 size, which that provides or will provide multiple space
8 spaces for dwellings, recreational camping vehicles, or
9 mobile-homes work camp structures to exist for more than 1
10 year."

11 **Section 2.** Section 76-3-104, MCA, is amended to read:

12 *76-3-104. **What constitutes subdivision.** A subdivision
13 ~~shall comprise~~ comprises only those parcels ~~less than 20~~
14 acres which have been that would be segregated from the
15 original tract, and the plat ~~thereof shall~~ of the
16 subdivision must show all such the parcels, whether
17 contiguous or not."

18 **Section 3.** Section 76-3-207, MCA, is amended to read:

19 *76-3-207. **Subdivisions exempted from review but**
20 **subject to survey requirements -- exceptions.** (1) Except as
21 provided in subsection (2), unless the method of disposition
22 is adopted for the purpose of evading this chapter, the
23 following divisions of land are not subdivisions under this
24 chapter but are subject to the surveying requirements of
25 76-3-401 for divisions of land not amounting to

1 subdivisions:

2 (a) divisions made outside of platted subdivisions for
3 the purpose of relocating common boundary lines between
4 adjoining properties;

5 (b) if the landowner is an agricultural producer,
6 divisions made outside of platted subdivisions for the
7 purpose of a gift or sale to any member of the landowner's
8 immediate family; for the purpose of maintaining the
9 agricultural operation if the gift or sale is limited to a
10 single gift or sale to each family member. For the purpose
11 of this subsection (b), "agricultural producer" means any
12 person primarily engaged in the production of agricultural
13 products.

14 (c) divisions made outside of platted subdivisions by
15 sale or agreement to buy and sell where the parties to the
16 transaction enter a covenant running with the land and
17 revocable only by mutual consent of the governing body and
18 the property owner that the divided land will be used
19 exclusively for agricultural purposes;

20 ~~(d) -- a single division of a parcel -- outside of -- platted~~
21 ~~subdivisions when the transaction is an occasional sale;~~

22 ~~(e) (d)~~ for five or fewer lots within a platted
23 subdivision, relocation of common boundaries and the
24 aggregation of lots; and

25 ~~(f) (e)~~ divisions made for the purpose of relocating a

1 common boundary line between a single lot within a platted
2 subdivision and adjoining land outside a platted
3 subdivision. Any restrictions or requirements on the
4 original platted lot or original unplatted parcel continue
5 to apply to those areas.

6 (2) Notwithstanding the provisions of subsection (1):

7 (a) within a platted subdivision filed with the county
8 clerk and recorder, any division of lots which results in an
9 increase in the number of lots or which redesigns or
10 rearranges six or more lots must be reviewed and approved by
11 the governing body, and an amended plat must be filed with
12 the county clerk and recorder;

13 (b) any change in use of the land exempted under
14 subsection (1)(c) for anything other than agricultural
15 purposes subjects the division to the provisions of this
16 chapter.

17 (3) No division of land may be made under this section
18 unless the county treasurer has certified that no real
19 property taxes assessed and levied on the land to be divided
20 are delinquent."

21 **Section 4.** Section 76-4-102, MCA, is amended to read:

22 "76-4-102. Definitions. As used in this part, unless
23 the context clearly indicates otherwise, the following words
24 or phrases have the following meanings:

25 (1) "Board" means the board of health and environmental

1 sciences.

2 (2) "Department" means department of health and
3 environmental sciences.

4 (3) "Extension of public sewage disposal system" means
5 a sewer line that connects two or more sewer service lines
6 to a sewer main.

7 (4) "Extension of public water supply system" means a
8 water line that connects two or more water service lines to
9 a water main.

10 (5) "Facilities" means public or private facilities for
11 the supply of water or disposal of sewage or solid waste and
12 any pipes, conduits, or other stationary method by which
13 water, sewage, or solid wastes might be transported or
14 distributed.

15 (6) "Public water supply system" or "public sewage
16 disposal system" means, respectively, a water supply or
17 sewage disposal system that serves 10 or more families or 25
18 or more persons for at least 60 days out of the calendar
19 year.

20 (7) "Registered professional engineer" means a person
21 licensed to practice as a professional engineer under Title
22 37, chapter 67.

23 (8) "Registered sanitarian" means a person licensed to
24 practice as a sanitarian under Title 37, chapter 40.

25 (9) "Reviewing authority" means the department or a

1 local department or board of health certified to conduct
2 review under 76-4-104.

3 (10) "Sanitary restriction" means a prohibition against
4 the erection of any dwelling, shelter, or building requiring
5 facilities for the supply of water or the disposition of
6 sewage or solid waste or the construction of water supply or
7 sewage or solid waste disposal facilities until the
8 department has approved plans for those facilities.

9 (11) "Sewer service line" means a sewer line that
10 connects a single building or living unit to a public sewer
11 system or extension of such a system.

12 (12) "Solid wastes" means all putrescible and
13 nonputrescible solid wastes (except body wastes), including
14 garbage, rubbish, street cleanings, dead animals, yard
15 clippings, and solid market and solid industrial wastes.

16 (13) "Subdivision" means ~~a division of land or land so~~
17 ~~divided which creates one or more parcels containing less~~
18 ~~than 20 acres, exclusive of public roadways, in order that~~
19 ~~the title to or possession of the parcels may be sold,~~
20 ~~rented, leased, or otherwise conveyed and includes any~~
21 ~~resubdivision and any condominium or area, regardless of~~
22 ~~size which provides permanent multiple space for~~
23 ~~recreational camping vehicles or mobile homes~~ has the
24 meaning given in 76-3-103.

25 (14) "Water service line" means a water line that

1 connects a single building or living unit to a public water
2 system or extension of such a system."

3 **Section 5.** Section 76-4-103, MCA, is amended to read:

4 "76-4-103. **What constitutes subdivision.** A subdivision
5 ~~shall--comprise~~ comprises only those parcels ~~of-less-than-20~~
6 ~~acres-which~~ that have been created by a division of land,
7 and the plat ~~thereof-shall~~ of the subdivision must show all
8 ~~such~~ the parcels, whether contiguous or not. The rental or
9 lease of one or more parts of a building, structure, or
10 other improvement, whether existing or proposed, is not a
11 subdivision, as that term is defined in this part, and is
12 not subject to the requirements of this part."

13 NEW SECTION. **Section 6.** **Effective date.** [This act] is
14 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 HB0844, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill to change the definition of "subdivision"; removing the occasional sale and limiting the family sale exemptions.

ASSUMPTIONS:

1. HB0844 would revise the definition of a subdivision for purposes of the Sanitation in Subdivisions Act. The number of minor subdivisions reviewed by the Department of Health and Environmental Sciences under the Sanitation in Subdivisions Act would approximately double over what are currently reviewed. The number of lots in minor subdivisions shall approximately double over those currently reviewed.
2. This will require 1.00 FTE review environmental specialist, grade 15, and 0.75 FTE program assistant, grade 8.
3. Reimbursements to local governments on contract for minor subdivisions under the Sanitation in Subdivisions Act would be proportional to current levels.
4. Current review fees per lot under the Sanitation in Subdivisions Act would remain the same as under current law.
5. Increases in workload for the Department of Commerce program which provides technical assistance to local governments associated with the Subdivision and Platting Act would be minor and could be absorbed within the program's current level budget.

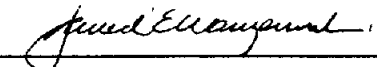
FISCAL IMPACT:Department of Health and Environmental Sciences:

	FY92			FY93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	3.30	5.05	1.75	3.30	5.05	1.75
Personal Services	90,877	136,077	45,200	90,690	137,540	46,850
Operating Expenses	16,789	48,429	31,640	17,015	49,815	32,800
Grants	45,000	60,000	15,000	45,000	60,000	15,000
Total	152,666	244,506	91,840	152,705	247,355	94,650
<u>Funding:</u>						
General Fund (01)	152,666	244,506	91,840	152,705	247,355	94,650
<u>Revenues:</u>						
General Fund (01)	139,500	199,500	60,000	139,500	199,500	60,000
<u>General Fund Impact:</u>			(31,840)			(34,650)


 ROD SUNDSTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE

2-18-91


 DAVID E. WANZENRIED, PRIMARY SPONSOR

DATE

2-19-91

Fiscal Note for HB0844, as introduced.

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Fiscal Note Request, HB0844, as introduced.

Form BD-15

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EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Local government entities which contract with DHES for review of subdivisions under the Sanitation in Subdivisions Act would experience an increase in workload. Compensation currently ranges from \$5 to \$35 per lot reviewed, depending on time involved.

Local governments reviewing subdivisions pursuant to the Subdivision and Platting Act would experience a significant increase in workload. The fiscal impact to local entities cannot be determined at this time. The governing body is authorized under 76-3-602, MCA, to charge reasonable fees to defray the expenses of reviewing subdivision plats. The average annual salary for a staff planner or consultant is approximately \$24,000. Lot fees charged to subdividers may range from \$50 to several hundred dollars per lot.

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